



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

*Regulation Gazette*

**No. 7020**

*Regulasiekoerant*

**Vol. 429**

**Pretoria, 2 March  
Maart 2001**

**No. 22105**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

---

**CONTENTS • INHOUD**

No.	Page No.	Gazette No.
<b>GOVERNMENT NOTICE</b>		
<b>South African Revenue Service</b>		
<i>Government Notice</i>		
R. 210 Customs and Excise Act (91/1964): Amendment of Rules (No. DAR/29) .....	3	22105

---

---

## GOVERNMENT NOTICE

---

### **SOUTH AFRICAN REVENUE SERVICE**

**No. R. 210****2 March 2001**

#### **CUSTOMS AND EXCISE ACT, 1964 AMENDMENT OF RULES (No. DAR/29)**

Under sections 13, 46A and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto.

No visas will be issued under this amendment until the United States Trade Representative has determined that the Republic of South Africa has satisfied the requirements of the African Growth and Opportunity Act and such determination is published in the Federal Register.

**PJ GORDHAN**

**COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

**SCHEDULE**

- (a) By the addition of the following rule to the rules for section 13:

"13.05 Any textile and apparel articles exported by post for the purposes of obtaining preferential tariff treatment on importation into the United States of America as contemplated in the African Growth and Opportunity Act referred to in Part 1 of the rules for section 46A, shall be entered for export at the office of the Controller nearest to the post office where they are posted and shall be subject to the provisions of the rules of the said Part 1 of the rules for section 46A."

- (b) By the insertion of rule 46A after rule 46 and before Rule 49A:

**" Rules for section 46A of the Act**

Non-reciprocal preferential tariff treatment of goods exported from the Republic on compliance with the provisions of origin and other requirements specified in any enactment defined in section 46A(1).

**Part 1**

Preferential tariff treatment of textile and apparel articles imported directly into the territory of the United States of America from the Republic as contemplated in the African Growth and Opportunity Act (the AGOA).

- 46A1.01 (a) The rules numbered 46A1 are rules contemplated in section 46A(4)(b) in respect of textile and apparel articles exported from the Republic and imported into the customs territory of the United States of America in accordance with the provisions of sections 112 and 113 of the African Growth and Opportunity Act contained in Title 1 – Extension of Certain Trade Benefits to Sub-Saharan Africa - of the Trade and Development Act of 2000 of the United States of America and any other relevant enactment contemplated in the definition thereof in section 46A(1).

(b) Any expression used in these rules with reference to the African Growth and Opportunity Act (the AGOA) or other relevant enactment shall, unless the context otherwise indicates, have the meaning assigned thereto in the said AGOA or enactment or relevant provisions of the Act or as defined in these rules.

(c) The expression –

“beneficiary sub-Saharan African countries”, means the following countries and any other countries that may be designated as ‘beneficiary sub-Saharan African countries’ for the purposes of the AGOA by the President of the United States of America:

Republic of Benin  
Republic of Botswana  
Republic of Cape Verde  
Republic of Cameroon  
Central African Republic  
Republic of Chad  
Republic of Congo  
Republic of Djibouti  
State of Eritrea  
Ethiopia  
Gabonese Republic  
Republic of Ghana  
Republic of Guinea  
Republic of Guinea-Bissau  
Republic of Kenya  
Kingdom of Lesotho  
Republic of Madagascar  
Republic of Malawi  
Republic of Mali  
Islamic Republic of Mauritania  
Republic of Mauritius  
Republic of Mozambique

Republic of Namibia  
Republic of Niger  
Federal Republic of Nigeria  
Republic of Rwanda  
Democratic Republic of São Tomé and Príncipe  
Republic of Senegal  
Republic of Seychelles  
Republic of Sierra Leone  
Republic of South Africa  
Kingdom of Swaziland  
United Republic of Tanzania  
Republic of Uganda  
Republic of Zambia;

"certificate of origin", means the certificate of origin, used for the purposes of preferential tariff treatment under the African Growth and Opportunity Act prescribed in 19 CFR 10.214 and item 202.00 of the Schedule to the Rules which, in the case of the form prescribed in the Schedule to the Rules, is numbered DA 46A1.01 in the column reserved for the official use of the South African Revenue Service;

"customs authorities", means in respect of the Republic, the Commissioner, or according to any delegation in these rules, the Manager: Origin Administration, the Controller or any other officer;

"customs territory of the US", means the 50 States and the District of Columbia and Puerto Rico;

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

"enactment", means enactment as defined in section 46A(1) and includes the AGOA;



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

**"goods", except if the context otherwise indicates, includes the textile and apparel articles referred to in the AGOA;**

**"Harmonized Tariff Schedule of the US" or "HTS", means, for the purposes of establishing the equivalent tariff subheading (to the 6-digit level) in Part 1 of Schedule No. 1, subject to 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);**

**"headings and subheadings", means the headings (4-digit code) and subheadings (5- or 6-digit code) of Part 1 of Schedule No. 1;**

**"lesser developed beneficiary sub-Saharan African countries", means the following countries and any other countries that may be designated as 'lesser developed' for the purposes of the AGOA by the President of the United States of America:**

Republic of Benin  
Republic of Cape Verde  
Republic of Cameroon  
Central African Republic  
Republic of Chad  
Republic of Congo  
Republic of Djibouti  
State of Eritrea  
Ethiopia

Republic of Ghana  
Republic of Guinea  
Republic of Guinea-Bissau  
Republic of Kenya  
Kingdom of Lesotho  
Republic of Madagascar  
Republic of Malawi  
Republic of Mali  
Islamic Republic of Mauritania  
Republic of Mozambique  
Republic of Niger  
Federal Republic of Nigeria  
Republic of Rwanda  
Democratic Republic of São Tomé and Príncipe  
Republic of Senegal  
Republic of Sierra Leone  
Kingdom of Swaziland  
United Republic of Tanzania  
Republic of Uganda  
Republic of Zambia;

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

"NAFTA", referred to in section 113(b)(1) of the AGOA, means the North American Free Trade Agreement entered into between the United States, Mexico and Canada on 17 December 1992 as defined in section 112(e) of the AGOA;

"19 CFR 10", refers to part 10 of the customs regulations contained in the Code of Federal Regulations published by the Department of the Treasury in the Federal Register, Volume 65, No. 194 on 5 October 2000, of which sections 211 to 217 and supplementary information thereon contained in the said Part 10 and sections 112 and 113 of the AGOA specifically



relate to textile and apparel articles which may be allowed preferential tariff treatment under the AGOA;

"origin", "originate" and/or "originating status", relates to, unless the context otherwise indicates, the origin of goods determined in terms of any provision of origin contemplated in any enactment, including the AGOA, 19 CFR 10, Annex 401 to NAFTA, section 334 of the Uruguay Round Agreement Act of the US, and the application of provisions of Customs Regulations 19 CFR 102.21 which implemented section 334;

"producer", when used in connection with the AGOA and any document required by the US, includes a person that grows, mines, harvests, manufactures, processes or assembles goods or any combination thereof (Article 519 of NAFTA);

"shipment", includes any consignment of textile or apparel articles exported to an importer in the US by post;

"textile and apparel articles", refers to the textile and apparel articles to which the provisions for preferential tariff treatment in section 112 of the AGOA and customs regulations 19 CFR 10 relate;

"US", means the United States of America; and in relation to imports of textiles and apparel articles from the Republic, includes the customs territory of the United States of America;

"visa stamp", means the AGOA Textile and Apparel Visa Stamp used to issue the visa and of which a specimen imprint is contained in rule 46A1.05;

"visa system", means, for the purposes of section 113(a)(1) of the AGOA, the procedures prescribed in these rules in respect of the issuance of a visa.

- (d) Subject to section 3(2), any power, duty or function contemplated in section 46A(4), is delegated in terms of section 46A(4)(b)(v) to the extent specified in these rules to the Manager: Origin Administration, the Controller or the Officer: Origin Administration or any officer designated to exercise such power or perform such duty or function.
- (e) Any insertion in brackets below any rule refers to a provision in the enactment on which the rule is based.
- (f) Determinations by the United States Trade Representative (the USTR) of countries that satisfy the requirements of sections 113(a) and 113(b)(1)(B) of the AGOA which the USTR has caused to be published in the Federal Register as contemplated in paragraph (4) of Proclamation 7350 of 2 October 2000 published in Federal Register Volume 65, No. 193 on 4 October 2000 are the following countries and any other countries in respect of which the USTR may cause such determinations to be so published from time to time:  
Republic of Kenya  
Republic of Mauritius

**46A1.02 Certificate of origin and application for visa forms**

- (a) (i) The certificate of origin and the application for a visa, respectively numbered DA 46A.01 and DA 46A1.01(a), which must be completed by exporters when exporting goods for the purposes of the AGOA, are inserted in the Schedule to the Rules.
- (ii) The certificate of origin and the application for a visa, the export bill of entry and supporting documents shall be delivered for processing at the office of the Controller at any place prescribed in item 200.03 (paragraphs (g) and (h)) of the Schedule to the Rules, provided it is a place nearest to the place of business of the exporter unless the Manager: Origin Administration

otherwise determines.

- (iii) The following codes are used in the lettering of the visa stamp in respect of the places prescribed in paragraphs (g) and (h) of item 200.03 of the Schedule to the Rules:

Place	Codes
Beit Bridge	BBR
Bloemfontein	BFN
Cape Town	CTN
Cape Town International Airport	DFM
Durban	DBN
Durban International Airport	LBA
East London	ELN
Germiston	GMR
Johannesburg	JHB
Johannesburg International Airport	JSA
Kimberley	KBY
Lanseria International Airport	LSA
Lebombo	KOM
Mossel Bay	MOS
Paarl	PRL
Pietermaritzburg	PMB
Port Elizabeth	PEZ
Port Elizabeth International Airport	HFV
Pretoria	PTA
Richards Bay	RIC
Uptington	UPT

- (iv) The numerical sequence (1 to 9) which is used in the visa stamp for the designated preference grouping has been inserted on the application for a visa next to each alphabetical sequence (A to I) used for the preference grouping on the certificate of origin.

- (b) (i) The provisions in these rules in respect of the certificate of origin and the issuance of a visa apply only to textile and

apparel articles which originate in, and are exported from, the Republic.

(ii) Where an exporter imports for export any such textile or apparel articles which are claimed to have originated in any other beneficiary country or lesser-developed beneficiary country the certificate of origin and the visa must be issued in such country.

#### 46A1.03 Registration of exporter or manufacturer

(a) Every exporter and manufacturer of textile and apparel articles for the purposes of the AGOA shall be registered and shall submit a completed form DA 163 together with –

(i) in the case of the exporter, a completed exporter's application for registration (form DA 46A1.02); and

(ii) in the case of the manufacturer, a completed manufacturer's application for registration (form DA 46A1.03).

(b) If the exporter is also the manufacturer of the goods concerned both the forms DA 46A1.02 and DA 46A1.03 must be completed.

(c) The completed and signed application shall be submitted to the Manager: Origin Administration, to whom the powers under section 46A(6) are delegated.

#### 46A1.04 Exportation of goods for the purposes of the AGOA

(a) (i) The certificate of origin shall be completed and signed in accordance with the instructions specified on the reverse of the form.

(ii) Completion of a certificate of origin and application for a visa is conditional on the exporter holding and being able to produce on demand all necessary evidence that the goods comply with the provisions of origin for the preference group declared on the certificate.

(iii) In terms of 19 CFR 10.216(b)(1) to (3) it is required that the certificate must be –

(aa) in writing or must be transmitted electronically pursuant to any electronic data interchange system authorised by US customs for that purpose;

(bb) signed by the exporter or by the exporter's authorised agent having knowledge of the relevant facts;

(cc) completed either in the English language or in the language of the country from which it is exported. If the certificate is completed in a language other than English, the importer must provide to Customs upon request a written English translation of the certificate.

(iv) 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.

(v) (aa) Subject to the provisions of rules 46A1.06 and 46A1.08, the exporter shall complete and sign a certificate of origin in respect of every shipment and each preference group of textile and apparel articles for which an importer in the US intends claiming preferential tariff treatment under the AGOA.

- (bb) The customs code number of the exporter and the producer (manufacturer) must be inserted in the block for official use, by the exporter.
- (vi) Where the exporter is not the producer of the article, that exporter may complete and sign a certificate of origin on the basis of:
  - (aa) reasonable reliance on the producer's written representation that the article qualifies for preferential treatment, or
  - (bb) a completed and signed certificate of origin for the article voluntarily provided to the exporter by the producer.  
(19CFR10.214(a), AGOA section 113(b)(1) and Article 501 of NAFTA).
- (vii) The descriptions in respect of the preference groups on the certificate of origin and the application for a visa are merely summaries of the US provisions and it is the duty of the exporter to ascertain the precise qualifying requirements from the various enactments, in particular Customs Regulations 19 CFR 10 and the relevant origin provisions, and if necessary, from the importer in the US or the US Customs Service.
- (viii) (aa) The certificate of origin and the visa will be allocated different numbers electronically when the export documents are processed.
- (bb) The Officer: Origin Administration must insert the certificate of origin number on the certificate and both numbers on the application for a visa in the respective blocks for official use printed on the forms.



(b) (i) An exporter may authorise only a licensed clearing agent to complete and sign the certificate of origin and application for a visa.

(ii) The authorisation must be completed on the exporter's own letter headed paper and confirm full details of the agent's name, physical and postal address, telephone and facsimile numbers and full name(s) of the staff who will complete and sign the said forms.

(iii) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each shipment 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 and other requirements for the preference group concerned.

(iv) The letter of authority shall be submitted together with each completed certificate of origin and application for a visa and will be retained by the Controller.

(c) Commercial invoices must –

(i) be serially numbered and the number and date quoted in Block 4 of the certificate of origin and application for a visa;

(ii) describe the goods with sufficient detail to enable them to be identified and for the purposes of determination of the tariff subheading to the 6-digit level;

(iii) reflect the applicable tariff subheading which must correspond with the subheading (up to the 6-digit level) on the export bill of entry;

- (iv) contain reference numbers or other particulars according to which the goods can be readily identified in the exporter's records;
  - (v) state the preference group number according to the application for a visa;
  - (vi) when both preference group goods and other goods are packed together, contain –
    - (aa) a full description and the tariff subheading in respect of the other goods which must be marked with an asterisk; and
    - (bb) the following statement: 'Goods marked \* on the invoice are not AGOA preference group goods and are not covered by the visa';
  - (viii) be completed in respect of each preference group of textile and apparel articles contained in a shipment.
- (d) Where a consignment consists of various preference groupings the commercial invoice for each grouping which is required to be completed in terms of rule 46A1.04(c)(viii), must reflect appropriate cross references to the other invoices for the goods comprising the shipment.

**46A1.05 Application for and issuance of a visa**

- (a) (i) The following documents must be submitted with the completed application for a visa:
  - (aa) completed bill of entry export, bill of lading, air waybill or other transport document, the commercial invoice, and the certificate of origin (where applicable) completed and signed by the

exporter or the duly authorised agent as contemplated in rule 46A1.04; and

(bb) copies of such documents for retention by the Controller in addition to any copies required in terms of other export clearing procedures as the Controller may determine.

(ii) Where a certificate of origin is issued, the application for a visa must reflect the same original signature and contain the same particulars in the corresponding blocks as the certificate of origin, except that –

(aa) Block 5 must contain the numerical equivalent of the alphabetical preference grouping and the line reference on the export bill of entry;

(bb) the total quantity and unit of quantity in the shipment must be inserted in brackets below the description of the goods in Block 4, for example, 510 doz.

(iii) A visa is required and an application must be completed in respect of each preference group of textile and apparel articles contained in a shipment exported for the purposes of claiming any preferential tariff treatment under the AGOA.

(iv) Whenever a certificate of origin is issued for multiple shipments as contemplated in rule 46A1.06 the exporter must –

(aa) submit a copy of the certificate of origin with the application for a visa in respect of each shipment exported subsequently to the first shipment for which the original certificate of origin was produced;

(bb) endorse the number of the certificate of origin in the block for official use on the application form.

(v) Specimen imprint of visa

**JHB**

**AGOA VISA**


Visa No: - ZA \_\_\_\_\_

Grouping: \_\_\_\_\_

08 March 2000

Quantity: \_\_\_\_\_

Signature: \_\_\_\_\_

 **SARS**

(b) (i) If the application is approved by the Officer: Origin Administration the officer shall stamp the front of the original and a copy of the commercial invoice with the visa stamp and insert within the visa stamp impression, which shall be in blue ink, the following –

(aa) the visa number which will consist of one numeric digit for the applicable preference group according to the designated preference groups numbered 1 – 9 (which each sequentially corresponds with the alphabetically identified groups A – I of the certificate of origin), the two-character alpha code ZA, followed by a six-digit numerical serial number

identifying the shipment which is electronically allocated at the office of the Controller where the goods are entered for export; and

(bb) the correct grouping, the total quantity in whole numbers and unit of quantity, for example, 'grouping 5 - 510 doz'.

(ii) Decimals or fractions of quantities are not acceptable.

(iii) Such officer must sign the visa in the space provided thereon.

(iii) The visa must be properly completed and no amendments are allowed, as specified in paragraph (d)(ii)(cc).

(c) (i) The particulars entered on the visa must agree with the corresponding particulars entered on the application for a visa and on the certificate of origin whenever the certificate or a copy thereof is required to be submitted in terms of these rules.

(ii) The visa stamp must be used only to stamp the commercial invoice for goods exported for claiming preferential tariff treatment in terms of the AGOA and only such stamp shall be used for such purpose.

(d) (i) The original visaed commercial invoice and the certificate of origin (where applicable) will be returned for submission to the importer in the US while the copy of the visaed invoice will be retained by the Controller. The original visaed invoice is required to enter the shipment in the US when claiming preferential tariff treatment as contemplated in the AGOA.

(ii) Any visa issued is subject to the following conditions and procedures prescribed by the US Customs Service:

(aa) if the quantity indicated on the visa is less than that of the shipment, only the quantity shown on the visa will be eligible for preferential tariff treatment;

(bb) if the quantity indicated on the visa is more than that of the shipment, only the quantity of the shipment will be eligible for preferential tariff treatment and the excess cannot be applied to any other shipment;

(cc) the visa will not be accepted and preferential tariff treatment will not be permitted if the visa number, date of issuance, authorised signature, preference group, quantity and the unit of measure are missing, incorrect, illegible or have been crossed out or altered in any way;

(dd) if the visa is not acceptable, then a new visa must be obtained;

(ee) if the visaed invoice is deemed invalid, the US customs service will not return it after entry, but will provide a certified copy thereof for use in obtaining a correct original visaed invoice.

(iii) (aa) Any application for a corrected visa must be submitted together with the copy of the incorrect visa and copies of all export documents to the Officer: Origin Administration.

(bb) The Officer: Origin Administration may, after such examination as he deems necessary,



issue a corrected visa unless evidence is obtained of the commission of an offence contemplated in section 46A(8) in which case the officer shall submit the application and a report on the results of the examination, to the Manager: Origin Administration for a decision.

- (iv) Where the Officer: Origin Administration has reasonable doubts about the correctness of the statements made on the application for a visa, such officer, may –
  - (aa) request the exporter or manufacturer to produce documentary proof of origin;
  - (bb) detain and examine the goods entered for export;
  - (cc) investigate the books, accounts and other documents required to be kept for the purposes of the information contained in the application for a visa; and
  - (dd) refuse to issue a visa.
- (v) The Manager: Origin Administration may, for such time as he may determine, refuse issuance of a visa if –
  - (aa) the exporter or manufacturer fails to keep or produce books, accounts and other documents as contemplated in section 46A(3)(b)(i) and rule 46A1.12;
  - (bb) the exporter or manufacturer refuses the investigation or assistance contemplated in section 46A(3)(b)(ii);

- (cc) the application for a visa is found to be false; or
- (dd) the particulars on a visaed commercial invoice are altered in any way after issuance by the Officer: Origin Administration.

- (vi) The Manager: Origin Administration shall report monthly to the US Customs Service in respect of each exportation:

name of manufacturer

visa number

date of issuance

grouping number

export value of goods

quantity / unit of measure

US consignee (if known)

subheading to the 6-digit level

port of loading

mode of transport

port of destination

gross weight

#### 46A1.06 Certificates of origin and visas for multiple shipments

- (a) (i) The certificate of origin may be applicable to a single importation into the US, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or

- (ii) multiple importations of identical articles within a specified blanket period of not exceeding one year as stated in the instructions for completion of Block 16(b) of the certificate of origin.

- (b) For the purposes of completion of Block 16(b) (multiple shipments of identical articles), "identical articles" means articles that are the same in all material respects, including physical characteristics, quality and reputation.

(19CFR10.216(b)(4))

- (c) (i) The certificate of origin number and date for multiple shipments shall be endorsed on all documents for goods exported on the basis of such certificate.
- (ii) The exporter of such shipments shall apply for a visa in respect of each shipment as contemplated in rule 46A1.05(a)(iii).

46A1.07 Incorrect certificates of origin and issue of corrected certificate

- (a) (i) 19 CFR 10.216(c) provides in respect of "correction and non-acceptance of a certificate" on importation of the goods concerned that -

(aa) "If the port director" (in the US) "determines that a Certificate of Origin is illegible or defective or has not been completed in accordance with paragraph (b) of this section", (paragraph (a)(iii) of rule 46A1.04 and paragraph (a) of rule 46A1.06), "the importer will be given a period of not less than five working days to submit a corrected certificate."

(bb) "A Certificate will not be accepted in connection with subsequent importations during a period referred to in paragraph (b)(4)(ii) of this section", (up to one year as provided in the rule for preparation of Block 16(b) on the certificate) "if the port director determined that a previously imported identical article covered by the

certificate did not qualify for preferential treatment."

(b) Where a certificate of origin is not accepted as contemplated in the provisions contained in paragraph (a)(i)(aa) the exporter shall furnish to the Officer: Origin Administration at the office where the rejected certificate was issued –

(i) a written statement supported by the request from the importer giving reasons why a corrected certificate of origin is required and the number and date of the original certificate of origin;

(ii) a completed certificate of origin endorsed in the space for official use: "Corrected certificate in substitution of certificate No. ....";

(iii) copies of the bill of entry export, commercial invoice, bill of lading, air waybill or other transport documents together with any other documents produced when the original certificate was issued.

(iv) (aa) The Officer: Origin Administration shall keep a copy of the corrected certificate of origin and a copy of the written statement with the visa application and other export documentation.

(bb) If the visa is also incorrect, any application for a corrected visa shall be subject to the provisions of rule 46A1.05(d)(iii).

(v) (aa) Where a certificate of origin is not accepted in terms of a determination that a previously imported identical article covered by the certificate for multiple shipments did not qualify for preferential treatment, the exporter

shall not export any further goods on the basis of such certificate, unless the Manager: Origin Administration otherwise determines;

(bb) the Manager: Origin Administration shall cause all books, accounts and other documents relating to the exportation of the goods covered by such certificate to be investigated and shall take the necessary steps for enforcement of the provisions of the Act where any goods exported are found not to have qualified for preferential tariff treatment;

(cc) subject to any action that is taken in terms of the provisions of sections 46A(6)(d) or (8)(b), the Manager: Origin Administration may, for such period as he may determine, refuse to issue any visa for any goods exported by such exporter unless the exporter produces sufficient proof in respect of each shipment that the goods concerned qualify for preferential tariff treatment.

(dd) The Manager: Origin Administration may call for evidence from, and furnish a report on the results of any investigation to, the US Customs Service.

(c) (i) Any exporter or producer that has completed and signed a certificate of origin and that has reason to believe that the certificate contains information that is not correct, shall promptly notify the Manager: Origin Administration, the importer in the US and any other person to whom the certificate was given, of any change that could affect the accuracy or validity of the certificate;

- (ii) any exporter or producer who voluntarily provides written notification pursuant to subparagraph (i), shall not be subject to any penalty with respect to the making of any incorrect certification.

(Article 504(d) – (e) of NAFTA)

**46A.1.08 Certificate of origin not required**

- (a) 19 CFR 10.216(d) provides as follows in respect of the importations into the US for which and the conditions on which a certificate of origin is not required:

“(1) Except as otherwise provided in paragraph (d)(2) of this section, an importer is not required to have a Certificate of Origin in his possession for:

- (i) an importation of an article for which the port director has in writing waived the requirement for a Certificate of Origin because the port director is otherwise satisfied that the article qualifies for preferential treatment;

- (ii) a non-commercial importation of an article; or

- (iii) a commercial importation of an article whose value does not exceed US\$ 2 500, provided that, unless waived by the port director, the producer, exporter, importer or authorized agent includes on, or attaches to, the invoice or other document accompanying the shipment the following signed statement:

I hereby certify that the article covered by this shipment qualifies for preferential treatment under the AGOA.

Check One:



(.....) Producer

(.....) Exporter

(.....) Importer

(.....) Agent

.....  
Name

.....  
Title

.....  
Address

.....  
Signature & Date

(2) Exception: If the port director determines that an importation described in paragraph (d)(1) of this section forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding a Certificate of Origin requirement under §§10.214 through 10.216, the port director will notify the importer in writing that for that importation the importer must have in his possession a valid Certificate of Origin to support the claim for preferential treatment. The importer will have 30 calendar days from the date of the written notice to obtain a valid Certificate of Origin, and a failure to timely obtain the Certificate of Origin will result in denial of the claim for preferential treatment. For purposes of this paragraph, a "series of importations" means two or more entries covering articles arriving on the same day from the same exporter and consigned to the same person."

(b) For the purposes of implementing the provisions specified in paragraph (a) in respect of a commercial exportation for which a certificate of origin is not required every exporter shall:

(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 commercial invoices;

(iv) insert a reference number or other particulars on any invoice, delivery note or other 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 other commercial document with sufficient detail to enable them to be identified and for the purposes of determination of the tariff subheading to the 6-digit level;

(vi) insert on any such document the applicable tariff subheading which must correspond with the subheading on the export bill of entry;

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

(viii) insert on the commercial invoice and such other documents and the copies thereof the declaration specified in paragraph (a), which shall bear the original signature of the exporter.

(c) The commercial invoice concerned and the copy thereof, which are required to be submitted with the application for a visa as contemplated in rule 46A1.05, shall in addition contain, where applicable, a statement that the article is non-commercial.

(d) (i) Where a certificate of origin is required in the circumstances specified in 19 CFR 10.216(d)(2) –

(aa) the exporter shall furnish to the Officer: Origin Administration an explanation of the circumstances which resulted in the United States Customs Service requiring a certificate of origin;

(bb) the provisions of rule 46A1.07(b)(v)(bb), (cc) and (dd) shall *mutatis mutandis* apply if the articles exported in terms of the provisions of this rule are found not to have qualified for preferential tariff treatment.

**46A1.09 Certificate of origin and visa issued retrospectively**

(a) (i) If any goods that require a certificate of origin and visa to qualify for preferential tariff treatment on importation into the US are imported without a certificate of origin and a visaed invoice having been issued in other circumstances than those specified elsewhere in these rules and the exporter following upon a request from the importer prepares a certificate of origin and applies for the issue of a visa in respect of such goods, such exporter shall submit the application for the issue of a visa in writing to the office of the Controller where the goods were exported, stating fully the circumstances in which the goods were exported without a certificate of origin and a visaed invoice.

(ii) Such application shall be supported by –

(aa) a completed certificate of origin and an application for a visa;

- (bb) a fresh commercial invoice and a copy thereof certified by the exporter to be true copies of the invoice issued when the goods were exported;
  - (cc) copies of the bill of entry export, commercial invoice, bill of lading or air waybill or other transport document relating to the shipment and proof of the identity of the goods ordered and received in the US;
  - (dd) proof that the goods comply with the provisions of origin and other requirements of the relevant US enactments;
  - (ee) the request from the importer and a copy of the directive from the US Customs Service stating the circumstances in which a certificate of origin and a visaed invoice will be accepted retrospectively.
- (b) (i) The Officer: Origin Administration may investigate the books, accounts and other documents kept by the exporter and manufacturer and may conduct such other investigations he deems necessary for the purposes of determining whether the goods exported qualified for the issue of a visa.
- (ii) If the officer decides to issue the visa, he shall stamp and sign the original and duplicate of the fresh set of commercial invoices as prescribed in rule 46A1.05, but shall endorse in capital letters below the impression the words "ISSUED RETROSPECTIVELY", and affix his signature thereto;
- (iii) the certificate of origin and the application for a visa must also be endorsed "ISSUED RETROSPECTIVELY" in the block for official use.

**46A.1.10 Issue of a duplicate in the event of theft, loss or destruction of a visa**

(a) In the event of theft, loss or destruction of a visa, the exporter shall, for the purposes of the issuance of a duplicate visa, furnish to the Officer: Origin Administration at the office of the Controller where the original visa was issued –

(i) a written statement giving reasons why a duplicate is required;

(ii) an application form for a visa and a fresh set of commercial invoices, both endorsed with the word 'Duplicate' and the number and date of the original visa;

(iii) copies of the bill of entry export, commercial invoice, bill of lading, air waybill or other transport documents together with any other supporting evidence submitted when the original visa was issued.

(b) The Officer: Origin Administration shall attach a copy of the original application form to the application form for a duplicate and shall take into account the facts and circumstances considered when the original visa was issued.

(c) If the officer decides to issue the duplicate visa, he shall stamp and sign the original and duplicate of the fresh set of invoices as prescribed in rule 46A1.05, but shall endorse in capital letters below the impression the words "DUPLICATE OF VISA NO. .... DATE .....", and affix his signature thereto.

**46A.1.11 Origin verifications by US Customs Service**

(a) For the purposes of section 46A(3)(b), the US Customs Service may, to determine whether goods imported into the US from the Republic or any other beneficiary country qualify for preferential tariff treatment, conduct a verification by means of –

- (i) written questionnaires to an exporter or producer;
- (ii) visits to the premises of an exporter or producer to review the records and observe the facilities used in production of the articles; or
- (iii) such other procedure as the Commissioner and the US Customs Service may agree. (Article 506(1) of NAFTA)

(b) Such verification of a claim for preferential treatment may involve, but need not be limited to, a review of:

- (i) documentation and other information in a beneficiary country regarding the country of origin of an article and its constituent materials, including but not limited to, production records, information relating to the place of production, the number and identification of the types of machinery used in the production, and the number of workers employed in production; and
- (ii) evidence in a beneficiary country to document the use of US materials and materials of other origin in the production of the articles in question, such as purchase orders, invoices, bills of lading and other shipping documents, and customs import and export clearance documents.

(19 CFR 10.217(a))



- (c) The Manager: Origin Administration shall for the purposes of giving effect to any enactment be responsible for rendering assistance to US Customs Service in respect of such verifications and in accordance with the Agreement between the Government of the Republic of South Africa and the Government of the United States of America regarding Mutual Assistance between their Customs Administrations.

**46A1.12 Keeping of books, accounts and other documents**

- (a) Every exporter or producer as contemplated in section 46A(3)(b) shall maintain and keep for a period of five 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, 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 contemplated in rule 46A1.11(b);
  - (iii) any goods imported from any beneficiary country or the US, 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 US.

(b) (i) 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 proving the originating status of the goods and for fulfilling the other requirements of the AGOA and related enactments;

(ii) such books, accounts and other documents shall include –

(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; and

(dd) costing records showing the calculation of the ex-factory price.

(iii) All production and other documents shall contain reference numbers or other particulars for identifying the goods in the producer's or exporter's records

#### 46A1.13 Internal appeal

(a) Any person involved in a dispute with the South African Revenue Service concerning any decision or determination in respect of the application or interpretation of any provision of any enactment or section 46A and these rules or any other provision of this Act may submit an internal appeal to the

Commissioner within 3 months of the decision or determination concerned.

- (b) Application for internal appeal shall be made on the appeal form obtainable from the Manager: Origin Administration and shall state all the facts and circumstances relating to the dispute in such form which shall be supported by available documentary evidence including the documents in respect of the relevant customs and excise procedure and legal argument to substantiate the viewpoint expressed in the application.

**46A.1.14      The requirement of "imported directly"**

- (a) In terms of section 112(a) of the AGOA the preferential tariff treatment applies to textile and apparel articles described in section 112(b) which are imported directly from a beneficiary sub-Saharan country and for this purpose "imported directly" is defined in 19 CFR 10.213(c) as meaning:
  - (i) direct shipment from any beneficiary country to the United States without passing through the territory of any non-beneficiary country;
  - (ii) if the shipment is from any beneficiary country to the United States through the territory of any non-beneficiary country, the articles in the shipment do not enter into the commerce of any non-beneficiary country while en route to the United States and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or
  - (iii) if the shipment is from any beneficiary country to the United States through the territory of any non-beneficiary country, and the invoices and other documents do not show the United States as the final destination, the articles in the shipment upon arrival in the United States are imported directly only if they –

- (aa) remained under the control of the customs authority of the intermediate country;
  - (bb) did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the port director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the producer's sales agent; and
  - (cc) were not subjected to operations other than loading or unloading, and other activities necessary to preserve the articles in good condition.
- (b) The exporter must provide the importer with the necessary documentation relating to the movement of the article to the US to enable the importer to comply with the provisions of 19 CFR 10.217(b)(3), which require that the importer –
- “must have shipping papers that show how the article moved from the beneficiary country to the United States. If the imported article was shipped through a country other than a beneficiary country and the invoices and other documents from the beneficiary country do not show the United States as the final destination, the importer also must have documentation that demonstrates that the conditions set forth in §10.213(c)(3)(i) through (iii)”, (paragraph (a)(iii) of this rule), “were met.” “
- (c) By the insertion of the forms DA 46A1.01, DA 46A1.01(a), DA 46A1.02 and DA 46A1.03 in item 202.00
-

# Dog ate your Gazette? ... read it online



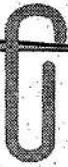
**www.SA Gazettes.co.za**  
\*\*\*\*\*

**A new information Portal keeping you up to date with news, legislation, the Parliamentary programme and which is the largest pool of SA Gazette information available on the Web.**

- Easily accessible through the www!
  - Government Gazettes - from January 1993
  - Compilations of all Indexes pertaining to the past week's Government Gazettes
  - All Provincial Gazettes - from September 1995
  - Parliamentary Bills - as of January 1999
- Available in full-text, with keyword searching
- SABINET Online scans, formats, edits and organize information for you. Diagrams and forms included as images.
- No stacks of printed gazettes - all on computer. Think of the storage space you save.

**For easy electronic access to full-text gazette info, subscribe to the SA Gazettes from SABINET Online. Please visit us at [www.sagazettes.co.za](http://www.sagazettes.co.za)**





*Looking for back copies and out of print issues of  
the Government Gazette and Provincial Gazettes?*

## **The National Library of SA has them!**

Let us make your day with the information you need ...

National Library of SA, Pretoria Division

PO Box 397

0001 PRETORIA

Tel.:(012) 321-8931, Fax: (012) 325-5984

E-mail: [infodesk@nlsa.ac.za](mailto:infodesk@nlsa.ac.za)



*Soek u ou kopieë en uit druk uitgawes van die  
Staatskoerant en Provinsiale Koerante?*

## **Die Nasionale Biblioteek van SA het hulle!**

Met ons hoef u nie te sukkel om inligting te bekom nie ...

Nasionale Biblioteek van SA, Pretoria Divisie

Posbus 397

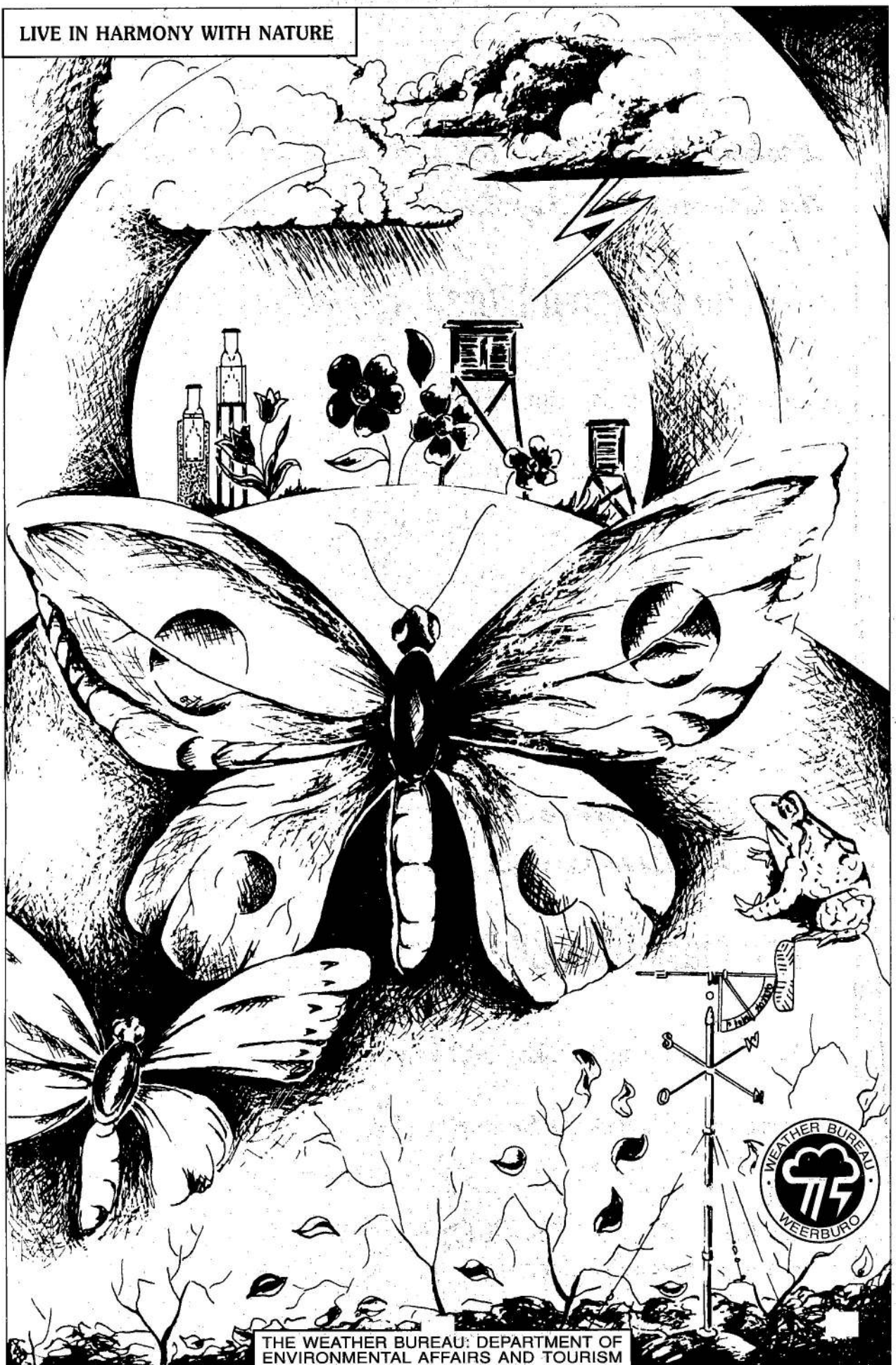
0001 PRETORIA

Tel.:(012) 321-8931, Faks: (012) 325-5984

E-pos: [infodesk@nlsa.ac.za](mailto:infodesk@nlsa.ac.za)



LIVE IN HARMONY WITH NATURE



THE WEATHER BUREAU: DEPARTMENT OF  
ENVIRONMENTAL AFFAIRS AND TOURISM





Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001

Publications: Tel: (012) 334-4508, 334-4509, 334-4510

Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504

Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737

Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001

Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510

Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504

Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737

Kaapstad-tak: Tel: (021) 465-7531