

## **Cabinet Decision No. 43/2022**

### **Issuing the Executive Regulation of Federal Law No. 11/2019 on the Rules and Certificates of Origin**

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The Council of Ministers

Pursuant to the perusal of the Constitution;

Federal Law No. 1/1972 on Competencies of the Ministries and Powers of the Ministers and its amendments;

Federal Law No. 11/2019 on Rules and Certificates of Origin;

Federal Decree-Law No. 14/2021 on the Establishment of the Federal Authority for Identity, Nationality, Customs, and Ports Security;

Federal Decree No. 33/2010 on the State's Accession to the amended Kyoto Convention on the Simplification and Harmonisation of Customs Procedures;

Federal Decree No. 15/2022 ratifying the Unified Customs Regulation (Law) for the Countries of the Cooperation Council for the Arab States of the Gulf and its Implementing Regulation; and

Acting upon the proposal of the Minister of Economy and the approval of the Council of Ministers,

Hereby decides as follows:

### **Article 1 - Definitions**

The definitions set out in the aforementioned Federal Law No. 11/2019 shall apply to this Decision. However, the following terms and expressions shall have the meanings assigned against each of them, unless the context requires otherwise:

- **Competent Authorities:** The Ministry of Industry and Advanced Technology and the local authorities concerned with industrial affairs in the State.
- **Authority:** The Federal Authority for Identity, Nationality, Customs, and Ports Security.
- **Electronic System of Certificates of Origin:** The automated information system in place by the Department to deal with applications for certificates of origin in terms of data submission and processing, issuance of certificates of origin, and any other procedures that can be carried out through the electronic system of certificates of origin.
- **Law:** Federal Law No. 11/2019 on the Rules and Certificates of Origin.

### **Article 2 - Wholly produced goods**

1- Goods are considered to be of origin of a particular country if they are wholly produced in that country in the case of marine fishing products and other products produced outside the territorial waters of the country by ships of that country, and products manufactured on board these ships, in accordance with the following controls:

- a- They have been registered or registered in that country.
- b- They sailed under the flag of that country.

2- The provisions and rules stipulated in Federal Law No. (26) of 1981 on the Maritime Commercial Law and its amendments shall apply to the determination of the nationality of the ship mentioned in paragraph (1) hereabove.

### **Article 3 - Goods that have been fully processed, operated, or manufactured**

Products are considered to be of origin of a particular country if they are produced in that country, and contain materials that have not wholly produced, in accordance with the following standards and controls:

- 1- The agreements shall specify the conditions and controls for the consideration of goods as having been adequately processed, operated, or manufactured within the country with regard to determining the preferential origin.
- 2- Adequate processing, operation, or manufacturing processes shall have been carried out on these materials within the country with regard to determining the non-preferential origin.
- 3- Products that have been adequately processed, operated, or manufactured shall be specified with regard to determining the non-preferential origin for the purposes of applying customs tariffs and foreign trade statistics and applying anti-dumping duties, support, and prevention, or for the purposes of applying quantitative restrictions or other procedures related to foreign trade.

### **Article 4 - Standards and controls necessary for considering goods to be adequately processed, operated, or manufactured**

Products are considered to be adequately processed, operated, or manufactured with regard to determining the non-preferential origin, in accordance with the following standards and controls:

- 1- The country in which the product has undergone the last major operation or processing, in compliance with the following requirements:
  - a- These operations shall be economically justified.
  - b- These operations shall be conducted inside a facility that is equipped for this purpose.

- c- These operations shall result in the manufacture of a new product or represent an important stage of manufacturing, by changing the customs item or through specific manufacturing operations.
- d- The operations shall not be among those stipulated in Article (4) of the Law.
- 2- The operation shall not be considered economically justified if it appears, based on the available data, that it aims to avoid the application of the procedures related to anti-dumping, support, and prevention duties, and other procedures stipulated in Paragraph (3) of Article (3) of this Decision.
- 3- In order to verify whether or not the operation is economically justified, all elements related to the last processing operations that were carried out and their purpose in the country in which the product underwent the last operation or basic treatment shall be taken into consideration.
- 4- In the event that the last operation or basic process is treated as not economically justified, the products shall be considered to have undergone the last operation or basic process and resulted in a new product or represent an important stage of manufacturing in the country in which the highest value of the materials used for manufacturing has been produced.

### **Article 5 - Cases of proof of country of origin**

Proof of the country of origin of goods imported into the State shall be subject to the following:

- 1- The preferential country of origin of goods imported into the State shall be established in accordance with the rules agreed upon in the framework of the agreements, in order to obtain the preferential treatment specified in these agreements.
- 2- The non-preferential country of origin of goods imported into the State shall be established through any of the following:
  - a- A non-preferential certificate of origin.
  - b- A commercial invoice issued by the competent authority of the country of export with proven origin.
  - c- The presence of an indication of origin on the product that cannot be removed.
  - d- Any other documents required by the Department in order to verify the non-preferential country of origin.
- 3- When submitting a certificate of origin to prove the non-preferential country of origin, the data contained in the certificate shall match the data to be included in the commercial invoice.
- 4- The certificate of origin to prove the non-preferential country of origin shall include the number and type of parcels, their marks and numbers, the type of goods, their gross and net weight, their origin, the name of the sender and the name of the consignee.

### **Article 6 - Cases of exemption from submitting proof of origin**

Goods imported into the State may be exempted from submitting a certificate or documents to prove the country of origin, according to the following:

- 1- Goods imported into the State are exempted from submitting a certificate or documents to prove the preferential country of origin in accordance with the provisions of the agreements.
- 2- Goods imported into the State may be exempted from submitting a certificate or documents to prove the non-preferential country of origin, according to any of the following cases:
  - a- Products sent in small parcels from one person to another, or products that are considered part of the traveller's personal effects on the basis that these products are not imported for trade.
  - b- If it is clear from the nature and quantity of the products that they are not for commercial purposes, as if they are done on a non-periodical basis or contain only products for the personal use of the recipient, travellers, or their families.
  - c- Branded advertising materials that are not intended for sale.
  - d- Samples and forms of goods received without a commercial character.
  - e- Personal effects and used household items brought in by nationals residing abroad and foreigners coming to reside in the country for the first time.
  - f- Newspapers, magazines, books, periodicals, and catalogues.
  - g- Wastes of ships anchored in the State's ports.
  - h- Used cars and motorcycles of a personal character.
  - i- Gifts and donations received for ministries, government departments and institutions.
  - j- Goods sold by public auction.
  - k- Wastes of factories and warehouses located in free zones.
  - l- Goods under temporary admission status.
  - m- Transit goods.

## **Article 7 - Issuance of preferential certificates of origin for national goods**

1- The Ministry shall issue preferential certificates of origin for national goods exported abroad, in accordance with the rules and forms specified in the agreements.

2- Subject to Paragraph (1) of this Article, the Ministry shall issue preferential certificates of origin for national goods exported abroad based on an application submitted by the exporter or his representative through the Electronic System of Certificates of Origin.

3- In order to apply for the issuance of a preferential certificate of origin, the exporter or his representative shall register in the exporter's registration service through the Electronic System of Certificates of Origin, by filling in the data related to the following:

- a- Data about the company.
- b- Data about the activity.
- c- Data about the capital.
- d- Data about the employees.
- e- Data about the inputs and quantities used in production.
- f- Data about the origin of production inputs.
- g- Data about the product.
- h- Data about production and sales.
- i- Any other data specified by the Ministry.

4- The exporter or his representative shall, during registration in the exporter's registration service through the Electronic System of Certificates of Origin, attach the documents required for registration, including:

- a- The company's licence.
- b- A map of the company's site.

5- The exporter or his representative, after being registered by the Department through the Electronic System of Certificates of Origin, shall apply for the issuance of a preferential certificate of origin by filling in the required data and attaching the documents related to the application.

6- The Department shall verify the data and documents attached to the application for the issuance of a preferential certificate of origin, including the payment of the due fee by the exporter or his representative, and in light thereof:

- a- The issuance of a preferential certificate of origin shall be approved.
- b- The issuance of a preferential certificate of origin shall be refused.
- c- The submission of any incomplete data or documents deemed necessary by the Department shall be requested.

7- The preferential certificate of origin shall include an electronic link or a QR code or both in order to verify that the certificate is original, unless the agreements stipulate otherwise.

8- If the agreements stipulate the rules of preferential certificates of origin upon import, the provisions stipulated in the agreements shall prevail.

## **Article 8 - The Ministry's issuance of non-preferential certificates of origin for national goods**

1- The Ministry shall issue non-preferential certificates of origin for national goods exported abroad, in accordance with the criteria stipulated in Article (4) of this Decision, and for the following procedures:

- a- The Ministry shall issue non-preferential certificates of origin for national goods exported abroad based on an application submitted by the exporter or his representative through the Electronic System of Certificates of Origin.
- b- In order to apply for the issuance of a non-preferential certificate of origin, the exporter or his representative shall register in the exporter's registration service through the Electronic System of Certificates of Origin, by filling in the data and attaching the documents required for registration in accordance with the provisions of paragraphs (3) and (4) of the Article (7) of this Decision.

2- The exporter or his representative, after being registered by the Department through the Electronic System of Certificates of Origin, shall apply for the issuance of a non-preferential certificate of origin by filling in the required data and attaching the documents related to the application.

3- The Department shall verify the data and documents attached to the application for the issuance of a preferential certificate of origin, including the payment of the due fee by the exporter or his representative, and in light thereof:

- a- The issuance of a non-preferential certificate of origin shall be approved.

- b- The issuance of a non-preferential certificate of origin shall be refused.
- c- The submission of any incomplete data or documents deemed necessary by the Department shall be requested.

4- The non-preferential certificate of origin issued by the Ministry shall include an electronic link or a QR code or both in order to verify that the certificate is original.

5- The Department may, during the period of verifying the data and documents related to the application for the issuance of a non-preferential certificate of origin, request the submission of the incomplete data or documents that it deems necessary.

#### **Article 9 - Issuance by the Chamber of non-preferential certificates of origin for national goods**

1- The Chamber, in coordination with the Ministry, shall issue non-preferential certificates of origin for national goods exported abroad, in accordance with the criteria stipulated in Article (4) of this Decision, and for the following procedures:

- a- The exporter or his representative may submit an application for the issuance of a non-preferential certificate of origin for national goods to the Chamber in accordance with the procedures adopted by it in this regard.
- b- The Chamber shall verify the data and documents attached to the application for the issuance of a non-preferential certificate of origin for national goods, including the payment of the due fee by the exporter or his representative in accordance with the provisions of Article (9) of this Decision.
- c- The Chamber shall issue a non-preferential certificate of origin for national goods or refuse to issue it or instruct the exporter to complete any data or documents it deems necessary to issue the certificate.

2- The Chamber shall coordinate with the Department to provide it with a copy of the non-preferential certificates of origin for national goods that it has issued by providing an electronic link that ensures the Department has access to the non-preferential certificates of origin for national goods issued by the Chamber or any other method used for exchanging information and data.

3- The non-preferential certificate of origin issued by the Chamber shall include an electronic link or a QR code or both in order to verify that the certificate is original.

#### **Article 10 - Coordination between the Ministry and the competent authorities**

1- Subject to the provisions of Articles (7), (8) and (9) of this Decision, certificates of origin for industrial national goods shall be granted to exporters who own industrial facilities holding an industrial licence issued by the competent authorities in the State. In the event that the exporter is not an industrial facility, a copy of the industrial licence of the concerned industrial facility shall be attached to the application for a certificate of origin.

2- The Department shall coordinate with the competent authorities in the procedures for issuing certificates of origin for industrial national goods in accordance with the mechanism agreed upon between the Ministry and the competent authorities in order to verify all data related to the industrial facility.

#### **Article 11 - Validity of the certificate of origin**

1- The preferential certificate of origin shall be valid for (6) six months unless the agreements specify another validity period.

2- The non-preferential certificate of origin for national goods exported abroad shall be valid for a period of (6) six months from the date of its issuance in the State. The Department or the Chamber, as the case may be, may extend the validity for a period of (4) four months at the request of the exporter or his representative in a manner that does not conflict with the validity period of the products, if any.

#### **Article 12 - Register of the certificate of origin**

1- A register called the "Electronic Register of Certificates of Origin" shall be established at the Department to record all preferential and non-preferential certificates of origin for national goods exported outside the State

2- All data entered in the Electronic System of Certificates of Origin for obtaining preferential and non-preferential certificates of origin for national goods shall be entered in the Electronic Register of Certificates of Origin.

3- A copy of all preferential and non-preferential certificates of origin for national goods issued by the Department shall be kept in the Electronic Register of Certificates of Origin, for a period of no less than (3) three years.

4- Subject to the provisions of Article (9) of this Decision, the Department shall keep the data of non-preferential certificates of origin for national goods issued by the Chamber.

5- In applying the provisions stipulated in the Electronic Register of Certificates of Origin, the rules stipulated in the agreements shall be taken into consideration.

#### **Article 13 - Reasons and procedures for verification of authenticity of origin**

1- For the purposes of implementing Paragraph (2) of Article (9) of the Law, the Department shall, in the event of refusal to grant preferential treatment to products imported to the State, return the certificate of origin with the documents related to it to the authority concerned with issuing the certificate of origin in the country of export for the purpose of requesting verification of the authenticity of origin, with the justifications for the verification request.

2- Verification shall be made based on the existence of serious doubts regarding the following:

- a- Validity of documents.
- b- Authenticity of the origin of the products.
- c- Validity of the data and information provided to prove the country of origin.

3- The Department shall send any documents or information obtained and indicating the possibility that the information given in the certificate of origin is incorrect, in order to support the request to verify the validity of the data.

4- The request shall be verified by the competent governmental authorities in the country of export, and for this purpose, they may request any evidence, data, or any other review they deem appropriate.

5- The competent governmental authority in the country of export shall inform the Department of the results of the verification process as soon as possible. The verification results shall indicate the validity of the certificate of origin, or the origin of the products concerned.

6- If the agreements stipulate the reasons and procedures for verifying the validity of the preferential certificates of origin upon import, the provisions set out in these agreements shall prevail.

#### **Article 14 - Reviewing the documents of the country of origin**

1- The Department may carry out a selective review subsequent to the documents proving the country of origin when it has serious doubts about the authenticity of these documents or the origin of the relevant products or the data and information provided to prove the country of origin or other relevant reasons regarding the true origin of the good.

2- For the purposes of implementing Paragraph (1) of this Article, the Department shall return the certificate of origin along with the documents that were submitted to the authority competent to issue certificates of origin in the country of export for the purpose of verifying the authenticity of the origin, with the justifications for the verification request.

3- The Department shall send any documents or information obtained indicating the possibility that the information submitted to prove the origin is incorrect in order to support the request to verify the validity of the data.

4- The request shall be verified by the competent governmental authorities in the country of export, and for this purpose, they may request any evidence, data, or any other review they deem appropriate

5- The competent governmental authority in the country of export shall inform the Department of the results of the verification process as soon as possible. The verification results shall indicate the validity of the certificate of origin, or the origin of the products concerned.

6- If the agreements stipulate the reasons and procedures for verifying the validity of the preferential certificates of origin upon import, the provisions set out in these agreements shall prevail.

#### **Article 15 - Controls and procedures for the subsequent review of the documents of the country of origin**

1- The customs departments shall provide the Department with copies of the preferential certificates of origin upon importation into the State at the request of the Department, to enable it to view copies of the preferential certificates of origin that have been submitted to the customs departments for obtaining preferential treatment for the purposes of conducting a selective review of the validity of the documents of proof of the country of origin or origin of the products concerned or the data and information produced to prove the country of origin in accordance with the requirements of paragraph (1) of Article (10) of the Law.

2- The customs departments shall, on their own and periodically, or at the request of the Department, provide the Ministry with copies of the preferential certificates of origin upon importation into the State to carry out a selective subsequent review of the validity of the certificate of origin or the real country of origin of the imported products.

3- The customs departments shall provide the Department with copies of the preferential certificates of origin upon importation into the State in accordance with the mechanism and the period to be determined in coordination between the Ministry, the Authority, and the customs departments.

4- The Department shall inform the customs departments through the Authority of the verification results and any procedures resulting from such verification.

5- If the agreements provide for the subsequent selective review of the validity of the preferential certificate of origin upon import, or the real country of origin of the imported products, or cases of stopping the granting of preferential treatment to products subject to verification, the provisions of the agreements shall prevail.

#### **Article 16 - Minor and formal differences**

1- The discovery of minor differences between the data contained in the certificate of origin and customs clearance documents with respect to non-preferential certificates of origin shall not result in considering the certificate of origin being as void de facto, when it is proven that:

- a- These documents are specific to the products offered.
- b- These differences do not have an effect or violate the legislation in force, and this is subject to the discretion of the customs office.

2- Minor differences between the data contained in the certificate of origin and customs clearance documents for preferential certificates of origin shall be determined in accordance with the rules agreed upon in the framework of the agreements. Otherwise, the provisions of Paragraph (1) of this Article shall be applied.

#### **Article 17 - Abrogation**

Every provision that contradicts or contravenes the provisions of this Decision shall be abrogated.

#### **Article 18 - Publication and entry into force of the Decision**

This Decision shall be published in the Official Gazette and shall come into force thirty (30) days after the date of its publication.