

PART XI: SPECIFIC ANNEX K
Introduction to Specific Annex K

Specific Annex K is divided into three chapters. The first chapter covers rules of origin and contains 4 standards and 9 recommended practices. The second chapter covers documentary evidence of origin and contains 3 standards and 10 recommended practices. The third chapter covers control of documentary evidence of origin and contains 12 standards and 1 recommended practice.

Pakistan has not yet acceded to any aspect of Annex K.

Table 23 summarizes the subject matter and number of standards and recommended practices covered by each chapter of Specific Annex K.

Ch. No.	Subject	Standards	Recommended Practices	Total
1	Rules of origin	4	9	13
2	Re-importation in the same state	3	10	13
3	Relief from import duties and taxes	12	1	13
Total		19	20	39

And Table 24 summarizes the overall results of the compliance assessments for each chapter of Annex K, using the scoring system described in Table 1, which may be found in the Executive Summary.

Ch. No.	Category	Compliant	Substantially Compliant	Partially Compliant	Marginally Compliant	Non-Compliant	NA	Total
1	Standards			1		2		4
	Recommended Practices	1		5		3		9
2	Standards	1				1	1	3
	Recommended Practices	3		5		2		10
3	Standard	3	1	7			1	12
	Recommended Practice	1						1
Total		9	1	18		8	2	39

As indicated by Table 24, the gap analysis has determined that Pakistan's customs regime appears to be in full compliance with approximately 25% of the standards and recommended practices of Annex k (without taking into account the three standards for which a compliance rating is not applicable). With respect to a standard or recommended practice that has been identified as presenting compliance issues, recommendations are made in the individual assessment for that standard with respect to measures that may be taken to bring the customs regime into compliance. Many of the recommendations relate to suggested changes in national legislation; and others relate to suggested modifications to customs practice. If any aspect of the customs regime is modified, some type of training will need to be provided to the concerned customs personnel.

Chapter 1 Rules of Origin

Definitions:

Three defined terms are provided at the beginning of Chapter 1 of Specific Annex A, and are to be used to properly understand the meaning of the standards and recommended practices contained in that chapter. As explained in the general discussion of the use of definitions, which is provided in the analysis of Chapter 2 of the General Annex, there is no explicit requirement in the RKC requiring a Contracting Party to adopt into its national legislation the terms and assigned meanings specified in the RKC. However, we note that in some cases it may be difficult for Pakistan to comply with its obligations under the RKC if certain of the customs-specific terms defined in the RKC are not used in Pakistan's customs legislation, or - if such a term is used - it is assigned a meaning that differs materially from that specified in the RKC, which reflects the generally accepted meaning of the term in international practice.

With regard to many of the other terms defined in the RKC that are not customs-specific (or are unique to the RKC), the question is not whether Pakistan's customs legislation uses the same terminology. The question is whether - when reviewing compliance with a specific standard or recommended practice that uses a term defined by the RKC - Pakistan's customs legislation and practice, as a matter of substance, complies with the requirements of such standard or recommended practice, regardless of whether Pakistan's customs legislation and practice uses the same terminology

The three defined terms and associated meanings provided in Chapter 1 of Specific Annex k (and our notes with respect to each) are:

- "country of origin of goods" means the country in which the goods have been produced or manufactured, according to the criteria laid down for the purposes of application of the Customs tariff, of quantitative restrictions or of any other measure related to trade.

Note: Neither The Customs Act nor the Customs Rules contain a definition of the term "country of origin of goods". The Ministry of Commerce has issued Rules of Origin in SRO 2(13) 71-GATT dated 27 February 1973; however, these rules do not contain a specific definition of the term. These rules define in detail when, where and which goods will receive the benefit of preferential tariff treatment based on country of origin. This is provided in Rules 2 and 3 of the referenced SRO.

- "rules of origin" means the specific provisions, developed from principles established by national legislation or international agreements ("origin criteria"), applied by a country to determine the origin of goods;

Note: Neither The Customs Act nor the Customs Rules contain a definition of the term "rules of origin." Nor does the Imports and Exports (Control) Act contain such a definition. However, the Ministry of Commerce has, as mentioned immediately above issued Rules of Origin in SRO 2(13) 71-GATT. Therefore, in Pakistan, the term "rules of origin" refers to the rules established by this SRO.

- "substantial transformation criterion" means the criterion according to which origin is determined by regarding as the country of origin the country in which the last substantial manufacturing or processing, deemed sufficient to give the commodity its essential character, has been carried out.

Note: Neither The Customs Act nor the Customs Rules use or contain a definition of the term “substantial transformation.” Nor does the Imports and Exports (Control) Act contain such a definition. It is also not specifically included in the Rules of Origin issued by the Ministry of Commerce in SRO 2(13) 71-GATT; however certain provisions of those rules utilize the substantial transformation concept.

1.Standard	The rules of origin necessary for the implementation of the measures which the Customs are responsible for applying both at importation and at exportation shall be laid down in accordance with the provisions of this Chapter and, insofar as applicable, by the provisions in the General Annex.
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Overall Assessment: Partially Compliant.

Relevant Law:

- The Customs Act
- The Customs Rules
- SRO 2(13) 71-GATT dated 27 February 1973 (herein referred to as “Rules of Origin”)

Discussion:

Although Standard 1 establishes a general obligation on the content of national legislation, it does not specifically provide the details of that obligation but refers to the other provisions of Chapter 1 of Annex K and the applicable provisions of the General Annex. Therefore, the extent to which a customs regime complies with Standard 1 is determined by the overall extent to which it complies with those other provisions.

It is important to note that the words “shall be laid down” in the standard clearly indicate that the standard applies to the content of generally applicable national legislation. Therefore, although bilateral agreements with other countries may contain provisions with respect to rules of origin, the existence of such bilaterals is not of direct relevance to Standard 1 or the other provisions of Chapter 1 of Annex K.

Conclusion: The above overall assessment rating is based on our review of the individual compliance assessments done for the other standards and recommended practices of Chapter 1.

Recommendations: Recommendations are provided in the context of those individual compliance assessments.

2. Standard	<p>Goods produced wholly in a given country shall be taken as originating in that country. The following only shall be taken to be produced wholly in a given country :</p> <p>(a) mineral products extracted from its soil, from its territorial waters or from its sea-bed;</p> <p>(b) vegetable products harvested or gathered in that country;</p> <p>(c) live animals born and raised in that country;</p> <p>(d) products obtained from live animals in that country;</p> <p>(e) products obtained from hunting or fishing conducted in that country;</p> <p>(f) products obtained by maritime fishing and other products taken from the sea by a vessel of that country;</p> <p>(g) products obtained aboard a factory ship of that country solely from products of the kind covered by paragraph (f) above;</p> <p>(h) products extracted from marine soil or subsoil outside that country's territorial waters, provided that the country has sole rights to work that soil or subsoil;</p> <p>(i) scrap and waste from manufacturing and processing operations, and used articles, collected in that country and fit only for the recovery of raw materials;</p> <p>(j) goods produced in that country solely from the products referred to in paragraphs (a) to (j) above.</p>
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Overall Assessment: Partially Compliant

Relevant Law:

- Rules of Origin; Rules 2, 3 and 5

Discussion:

Law: Rule 2 of the Rules of Origin provides a description of products that will be considered as originating in a country receiving preferential tariff treatment if they have been transported directly, within the meaning of Rule 5, to Pakistan:

- (a) products wholly produced and/or manufactured in that country; and
- (b) goods produced and/or manufactured in that country in the manufacture of which products other than those referred to in category (a) are used, provided that the cost of such products is not more than 50 per cent of the F.O.B. value.

However, the products enumerated in the standard are not fully provided for in Rule 3. In particular, while the products described in items (a)-(f) of the standard have been substantially (but not fully) included, the products described in items (g)-(k) have not been included.

Practice: The practice is as per law.

Resource Persons:

- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
- Mr. Nasir Chandna, Custom House Agent, Karachi.

Conclusion: The law and practice are substantially in compliance with the Standard.

Recommendations: It is suggested that amendments to the rules of origin be made that reflect the requirements of the standard.

3.Recommended Practice	Where two or more countries have taken part in the production of the goods, the origin of the goods should be determined according to the substantial transformation criterion.
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Overall Assessment: Partially Compliant

Relevant Law:

- Rules of Origin

Discussion:

Law: The Rules of Origin do not contain detailed substantial transformation criteria. Therefore, without such detailed substantial transformation criteria, compliance with the standard is not achievable. The WTO’s Rules of Origin are useful in understanding the generally accepted criteria governing the concept of “substantial transformation”; however, it should be noted that those rules only have effect in a specific country if they have been incorporated into national legislation.

Practice: The practice follows the Rules of Origin.

Resource Persons:

- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
- Mr. Nasir Chandna, Custom House Agent, Karachi.

Conclusion: The law and practice are partially in compliance with the ‘Recommended Practice’.

Recommendations: FBR may take up the matter with the Ministry of Commerce for incorporating that where two or more countries have taken part in the production of the goods, the origin of the goods should be determined according to the substantial transformation criterion in the proposed new ‘rules of origin’. The same provisions may also be added in the Customs Act.

4.Recommended Practice	In applying the substantial transformation criterion, use should be made of the International Convention on the Harmonized Commodity Description and Coding System.
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Overall Assessment: Partially Compliant

Relevant Law:

- Rules of Origin

Discussion:

Law: This Recommended Practice is directly related to the principle of substantial/sufficient transformation principle (Recommended Practice No. 3) above and other provisions of Annex K. The Rules of Origin, 1973 and the FTAs do not contain the principle of substantial transformation to be based on HS code. However the criteria for substantial transformation are described in the FTAs as explained in Recommended Practice No. 3 above but basing it on HS code is not fully explained. The proposed new Rules of Origin need to include this provision.

Practice: Practice is as per law and FTAs.

Resource Persons:

- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
- Mr. Nasir Chandna, Custom House Agent, Karachi.

Conclusion: The law and practice are partially in compliance with the 'Recommended Practice'.

Recommendations: FBR may take up the matter with the Ministry of Commerce that the proposed new rules of origin should contain the provision that where two or more countries have taken part in the production of the goods, the origin of the goods should be determined according to the substantial transformation criterion on the basis of the HS Code. The same provisions may also be added in the Customs Act.

5. Recommended Practice	<p>Where the substantial transformation criterion is expressed in terms of the ad valorem percentage rule, the values to be taken into consideration should be :</p> <ul style="list-style-type: none"> - For the materials imported, the dutiable value at importation or, in the case of materials of undetermined origin, the first ascertainable price paid for them in the territory of the country in which manufacture took place; and - For the goods produced either the ex-works price or the price at exportation, according to the provisions of national legislation.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- Rules of Origin; Rules 2 and 4

Discussion:

Law: Rules 2 and 4 of the Rules of Origin provide for the criterion of value to be applied for determining the country of origin for any product. The criterion of substantial transformation is not specifically provided for in the said rules or in the Customs Act or the Customs Rules. The law is, therefore, not in compliance with this Recommended Practice.

Practice: Practice is according to the law and FTAs.

Resource Persons:

- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi. In the proposed new Rules of Origin as recommended above, the principle of substantial transformation should be based on ad-valorem percentage basis as provided in this Recommended Practice, may be included.
- Mr. Nasir Chandna, Custom House Agent, Karachi.

Conclusion: The law and practice are partially in compliance with the 'Recommended Practice'.

Recommendations: FBR may take up the matter with Ministry of Commerce for formulating new Rules of Origin, with the provision that when the substantial transformation criterion is expressed in terms of the ad valorem percentage rule, the values to be taken into consideration are consistent with international practice.

For the materials imported in the country of Origin, the dutiable value at importation, or In the case of materials of undetermined origin, the first ascertainable price paid for them in the Customs territory in which manufacture took place; And for the goods produced either the ex-works price or the price at exportation, according to the provisions of the Customs Act.

6.Recommended Practice	<p>Operations which do not contribute or which contribute to only a small extent to the essential characteristics or properties of the goods, and in particular operations confined to one or more of those listed below, should not be regarded as constituting substantial manufacturing or processing:</p> <p>(a) Operations necessary for the preservation of goods during transportation or storage;</p> <p>(b) Operations to improve the packaging or the marketable quality of the goods or to prepare them for shipment, such as breaking bulk, grouping of packages, sorting and grading, repacking;</p> <p>(c) Simple assembly operations;</p> <p>(d) Mixing of goods of different origin, provided that the characteristics of the resulting product are not essentially different from the characteristics of the goods which have been mixed.</p>
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- Rules of Origin

Discussion:

Law: The 'Rules of Origin, 1973 (the Rules), do not provide for the requirements contained in this 'Recommended Practice'. The Customs Act, 1969, and the rules made thereunder also do not contain any provision to this effect. However the FTAs have referred to this provision albeit with the different wordings viz-a-viz this Recommended Practice.

Practice: There is no such provision in the law but similar provisions are contained in the FTAs. The practice is as per FTAs.

Resource Persons:

- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
- Mr. Nasir Chandna, Custom House Agent, Karachi.

Conclusion:

The law and practice (for FTAs) are partially in compliance with the 'Recommended Practice'.

Recommendations:

FBR may take up the matter with the Ministry of Commerce for formulating new Rules of Origin incorporating therein that 'operations which do not contribute or which contribute to only a small extent to the essential characteristics or properties of the goods, and in particular operations confined to one or more of those listed below, should not be regarded as constituting substantial manufacturing or processing:

- Operations necessary for the preservation of goods during transportation or storage;
- Operations to improve the packaging or the marketable quality of the goods or to prepare them for shipment, such as breaking bulk, grouping of packages, sorting and grading, repacking;
- Simple assembly operations
- Mixing of goods of different origin provided that the characteristics of the resulting product are not essentially different from the characteristics of the goods which have been mixed'.

7. Recommended Practice	Accessories, spare parts and tools for use with a machine, appliance, apparatus or vehicle should be deemed to have the same origin as the machine, appliance, apparatus or vehicle, provided that they are imported and normally sold therewith and correspond, in kind and number, to the normal equipment thereof.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin

Discussion:

Law: There is no such provision in the Rules of Origin or the Customs Act. Therefore, a new set of Rules of Origin needs to be issued based on Annex K including the provisions contained in this Recommended Practice. Other FTAs use different wordings for the same provision.

Practice:

In practice such spare parts and tools are classified with the machine/appliance apparatus or vehicle etc. and therefore are released along with the same. This is not provided in the Rules of Origin, 1973, however, in some FTAs it is provided but differently.

Resource Persons:

- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
- Mr. Nasir Chandna, Custom House Agent, Karachi.

Conclusion: The law and practice are partially in compliance with this 'Recommended Practice'.

Recommendations: In the proposed new Rules of Origin, a provision should be made, that accessories, spare parts and tools for use with a machine, appliance, apparatus or vehicle should be deemed to have the same origin as the machine, appliance, apparatus or vehicle, provided that they are imported and normally sold therewith and correspond, in kind and number, to the normal equipment.

8. Recommended Practice	An unassembled or disassembled article which is imported in more than one consignment because it is not feasible, for transport or production reasons, to import it in a single consignment should, if the importer so requests, be treated as one article for the purpose of determining origin.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin

Discussion:

Law: This Recommended Practice is based on Rule 2 (a) of the rules of interpretation of the Customs Cooperation Council (WCO) “Harmonized Commodity Description and Coding System”, which is also incorporated in the first schedule of the Customs Act 1969 (Pakistan Customs Tariff), in the General Rules For Interpretation of The First Schedule:

General Rules for Interpretation of this Schedule

2 (a): Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished provided that as presented the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or failing to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

The current Rules of Origin make no reference to such goods. Likewise there is no reference to such consignments imported, disassembled or unassembled. Therefore, the new Rules of Origin will need to incorporate such imports in two or more consignments. The proposed Rules of Origin will therefore need to be based on the Customs Tariff and the Rules of Interpretation as mentioned above.

Practice: In practice disassembled articles are generally classified as one article or machine and are released as one article or machine etc. However this is not provided in the Rules of Origin.

Resource Persons:

- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Karachi.
- Mr. Nasir Chandna, Custom House Agent (CHAL 601), Custom House, Karachi.

Conclusion: The law and practice are not in compliance with the ‘Recommended Practice’.

Recommendations: In the proposed new Rules of Origin a provision should be made that unassembled or disassembled articles imported in more than one consignment, if the importer so requests, be treated as one article for the purpose of determining origin. This provision may also require addition of an explanation under the Rules of Interpretation of the Harmonized Commodity Description and Coding System. This is necessary to bring transparency and consistency in handling such consignments by field officers of customs.

9. Recommended Practice	For the purpose of determining origin, packings should be deemed to have the same origin as the goods they contain unless the national legislation of the country of importation requires them to be declared separately for tariff purposes, in which case their origin should be determined separately from that of the goods.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin; Rule 4
- General Rules for the Interpretation of the First Schedule of the Pakistan Customs Tariff; Rule 5

Discussion:

The Rules of Origin do not specifically describe that the packings shall be considered as of same origin as the goods they contain. Nevertheless, the expression ‘container’, specified in rule 4 of the said Rules does imply that this expression refers to the packings. This view further finds support from rule 5 of the General Rules for Interpretation of Pakistan Customs Tariff. The said provisions are as under:

Rules of Origin

Rule 4: For the purpose of category (b) in rule 2 “cost of such products” means the cost to the manufacturer, of the products other than those referred to in category (a) in rule 2, at the factory or works, including containers.

General Rules for Interpretation of Pakistan Customs Tariff

Rule 5: In addition to the foregoing provisions, the following rules shall apply in respect of the goods refer to therein:

1. Cameras cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain as specific article or set of articles, suitable for long-term used and presented with the articles for which they are intended shall be classified with such articles when of a kind normally sold therewith. This Rule does not, however, apply to containers which give the whole its essential character;
2. Subject to the provisions of Rule 5 (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if there of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive used.

In view of the above, the classification of goods by Customs includes the containers and packing material as provided in the rule 5 of the Rules of Interpretation. In this manner the goods’ Origin is also treated the same as the goods themselves. However the Rules of Origin 1973, or the Customs law do not specify this.

Practice: In practice the goods are treated the way the FTAs are structured and these are partially in compliance with the Recommended Practice.

Resource Persons:

- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Karachi.
- Mr. Nasir Chandna, Custom House Agent (CHAL 601), Custom House, Karachi.

Conclusion: The law and practice are not in compliance with the ‘Recommended Practice’.

Recommendations: In the proposed new Rules of Origin it may be provided that "packings should be deemed to have the same origin as the goods they contain, unless the Customs Tariff requires them to be declared separately for tariff purposes, in which case their origin will be determined separately from that of the goods". This provision may be added in the Customs Act, 1969, as various Customs officers may interpret this provision differently.

10. Recommended Practice	For the purpose of determining the origin of goods, where packings are deemed to have the same origin as the goods, account should be taken, in particular where a percentage method is applied, only of packings in which the goods are ordinarily sold by retail.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin
- General Rules for the Interpretation of the First Schedule of the Pakistan Customs Tariff; Rule 5

Discussion:

Law: The Rules of Origin do not specifically describe that the packing shall be considered as of same origin as the goods they contain. There is however a specific provision for packing and containers in Rule 5 of General Rules for Interpretation of Pakistan Customs Tariff, which is quoted above under Recommended Practice 9.

In view of the above, it is evident that the classification of goods by Customs includes the containers and packing material as provided in the rule 5 of the Rules of Interpretation. This Recommended Practice simply states that in case the packing materials are treated to be of the same origin as the goods they contain, then in determining the value of the goods the value of only those containers should be included in which these are ordinarily sold in retail.

Practice: There is no specific law on the subject. Therefore there is no such practice.

Resource Persons:

- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Karachi.
- Mr. NasirChandna, Custom House Agent (CHAL 601), Custom House, Karachi.

Conclusion: The law and practice are not in compliance with the Recommended Practice.

Recommendations: In the proposed new Rules of Origin, a provision may be made that if packing materials are treated to be of the same origin as the goods they contain, then in determining the value of the goods the value of only those containers should be included in which these goods are ordinarily sold in retail. This provision may also be added in the Customs Act, 1969, to bring consistency and transparency in the interpretation and operation of this provision.

11. Standard	For the purpose of determining the origin of goods, no account shall be taken of the origin of the energy, plant, machinery and tools used in the manufacturing or processing of the goods.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin; Rules 2 and 5

Discussion:

Law: The Rules of Origin, 1973, provide for the criteria to calculate the value of component parts of the goods, in the production or manufacture, without taking into consideration the origin of the energy, plant, machinery and tools used in the manufacture or processing of such goods. In fact, there is no provision either way and no reference is made to the use of energy, plant, machinery and tools used in manufacturing or processing of the goods. In the FTAs, however, there are similar provisions but these are not consistent. This has resulted in conflicting provisions e.g. the provisions in the FTA with Malaysia and FTA with China are opposed to each other. Whereas the FTA with Malaysia accounts for such goods as energy, plant and machinery, the FTA with China does not permit such method of accounting.

Practice: The practice is as per law.

Resource Persons:

- Mr. Mohammad Irfan Khan, Deputy Chief, Ministry of Commerce, Government of Pakistan, Block-A, Pak Secretariat, F-5, Islamabad
- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Karachi.

Conclusion: The law and practice are not in compliance with this Standard.

Recommendations: In the proposed new Rules of Origin it should be provided that in determining origin of the goods, the origin of energy, plant, machinery and tools used in the manufacturing or processing shall not be considered. This provision may also be added in the Customs Act, 1969, for the sake of transparency and facilitation.

12. Recommended Practice	Where provisions requiring the direct transport of goods from the country of origin are laid down, derogations therefrom should be allowed, in particular for geographical reasons (for example, in the case of landlocked countries) and in the case of goods which remain under Customs control in third countries (for example, in the case of goods displayed at fairs or exhibitions or placed in Customs warehouses).
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act
- Rules of Origin; Rule 5b.

Discussion:

Law: The Rules of Origin meet the requirements of this Recommended Practice. Rule 5(b) of the Rules of Origin requires that in the ordinary course, products shall be considered to have been directly transported from beneficiary country to importing country when these have been directly transported from the former. However, the said rule also provides exceptions which include the conditions specified in this Recommended Practice.

Practice: Practice is as per law.

Resource Persons:

- Mr. Mohammad Irfan Khan, Deputy Chief, Ministry of Commerce, Government of Pakistan, Block-A, Pak Secretariat, F-5, Islamabad.
- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Karachi.

Conclusion: The law and practice are in compliance with this Recommended Practice.

Recommendations: The Rules of Origin are in compliance with this recommended practice. However, it is proposed that a similar provision may be retained in the proposed new Rules of Origin but the wording should be made consistent to this Recommended Practice.

13. Standard	Changes in the rules of origin or in the procedures for their application shall enter into force only after sufficient notice has been given to enable the interested persons, both in export markets and in supplying countries, to take account of the new provisions.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin
- Imports and Exports (Control) Act

Discussion:

Law: There is no specific provision in the Rules of Origin, 1973, requiring the authorities that if there is a change or amendment in the said Rules, appropriate time of transition shall be given to the persons concerned before enforcement of the change/s. A perusal of the statutes, it is found that there is no such provision either in the Imports and Exports (Control) Act, the Trade Policy or any regulations issued under the Customs Act.

Practice: There is no law and therefore no such practice.

Resource Persons:

- Mr. Mohammad Irfan Khan, Deputy Chief, Ministry of Commerce, Government of Pakistan, Block-A, Pak Secretariat, F-5, Islamabad.
- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Karachi.

Conclusion: The law and practice are not in compliance with the Standard.

Recommendations: A provision may be provided in the proposed new Rules of Origin that any changes in the Rules of origin or in the procedures for their application shall enter into force only after sufficient notice has been given to enable the interested persons, both in export markets and in supplying countries, to take account of the new provisions. This provision may also be added in the Imports and Exports (Control) Act, 1950 and the Customs Act.

Chapter 2: Documentary evidence of origin

Definitions

Five defined terms are provided at the beginning of Chapter 2 of Specific Annex K, and are to be used to properly understand the meaning of the standards and recommended practices contained in that chapter. As explained in the general discussion of the use of definitions provided under Chapter 2 of the General Annex of this report, there is no explicit requirement in the RKC requiring a Contracting Party to adopt into its national legislation the terms and assigned meanings specified in the RKC. However, we note that in some cases it may be difficult for Pakistan to comply with its obligations under the RKC if certain of the customs-specific terms defined in the RKC are not used in Pakistan's customs legislation, or - if such a term is used - it is assigned a meaning that differs materially from that specified in the RKC, which reflects the generally accepted meaning of the term in international practice.

The five defined terms and associated meanings provided in Chapter 2 of Specific Annex K (and our notes with respect to each) are:

- "certificate of origin" means a specific form identifying the goods, in which the authority or body empowered to issue it certifies expressly that the goods to which the certificate relates originate in a specific country. This certificate may also include a declaration by the manufacturer, producer, supplier, exporter or other competent person;

Note: The term "certificate of origin" is provided in the Rules of Origin. Rules 13 to 20 of Part-B of the said Rules require the beneficiary country to issue a Certificate of Origin for which a form has been prescribed in Annex 1 of the rules. The entries of Annex 1 correspond to the definition of the standard. A detailed procedure is also provided for the issuance of Certificate of Origin in the same part B of the Rules of Origin. The Certificate of Origin is also provided in the FTAs. The provisions however, are not consistent and need harmonization. To make the law fully compliant with the RKC provisions, this definition of the expression "certificate of origin" should be included in the proposed new Rules of Origin.

- "certified declaration of origin" means a "declaration of origin" certified by an authority or body empowered to do so;

Note: The only document required for certifying origin included in Rules of Origin, 1973 is the Certificate of Origin. The second document which also certifies origin is a self-declaration by the exporter, manufacturer, producer, supplier, importer or any other authorized person, of the beneficiary country on a commercial document e.g. invoice. However this document needs to be certified by a competent Government or private sector authority (Chamber of Commerce). This certified declaration is provided in the Rules of Origin, 1973 however this is done indirectly and mentioned in the body of the form for Certificate of Origin. Where mentioned, 'Certificate of Origin', the words "combined declaration and certificate" have been mentioned.

- "declaration of origin" means an appropriate statement as to the origin of the goods made, in connection with their exportation, by the manufacturer, producer, supplier, exporter or other competent person on the commercial invoice or any other document relating to the goods.

Note: A self-declaration of origin by the exporter, manufacturer, producer, supplier, importer or any other authorized person, of the beneficiary country on a commercial document e.g. invoice, is the 'declaration of origin'. This document needs to be provided in the proposed Rules of Origin as it is not provided

separately in the existing Rules of Origin, the Customs Act or the Imports and Exports (Control) Act etc. This Declaration of Origin is also not provided specifically in the FTAs Rules of Origin.

- "documentary evidence of origin" means a certificate of origin, a certified declaration of origin or a declaration of origin

Note: The existing Rules of Origin, the Customs Act the Imports and Exports (Control) Act, 1950 etc. do not provide any comprehensive list of documentary evidence of origin which includes the certificate of origin, the certified declaration of origin and the declaration of origin on a commercial document. The existing rules provide only for a certificate of origin and a reference to a Certified Declaration of Origin. These documents need to be defined in the proposed new Rules of Origin. The FTAs Rules of Origin also do not provide the comprehensive list of the three documents mentioned in this definition. These need to be so provided in the FTAs as well in a harmonized manner.

- "regional appellation certificate" means a certificate drawn up in accordance with the rules laid down by an authority or approved body, certifying that the goods described therein qualify for a designation specific to the given region (e.g. Champagne, Port wine, Parmesan cheese).

Note: The existing Rules of Origin do not have any provision for a certificate which has reference to a particular geographic region based on the geographical indication of the product, certified by the relevant authority of the country of origin. In the case of Pakistan it could be "Basmati Rice" and other similar products which are produced in a particular area of Pakistan. This Regional appellation is also not provided the FTAs Rules of Origin and should be provided wherever relevant in a consistent manner.

1. Standard	The requirement, establishment and issue of documentary evidence relating to the origin of goods shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.
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Overall Assessment: Not Applicable

Relevant Law:

- [None]

Discussion:

Standard 1 does not establish a requirement that a national customs regime must comply with. It only provides that the requirement, establishment and issue of documentary evidence relating to the origin of goods customs is to be governed by Chapter 2 of Annex K and the applicable provisions of the General Annex.

Conclusion: Any compliance issues with respect to Standard 1 will be identified in the individual compliance assessments for the standards and recommended practices of Chapter 2.

Recommendations: Recommendations are provided in the context of the individual assessments for Chapter 2 whenever compliance with Standard 1 is implicated.

2. Recommended Practice	Documentary evidence of origin should be required only when it is necessary for the application of preferential Customs duties, of economic or trade measures adopted unilaterally or under bilateral or multilateral agreements or of measures adopted for reasons of health or public order.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- Rules of Origin
- Imports and Exports (Control) Act

Discussion:

Law: In the Rules of Origin, 1973, the Certificate of Origin is required to be produced with every import consignment where some concession in Customs duties is demanded by an exporter of the beneficiary country or importer of the destination country. This is a requirement of the standard also. However the Rules of Origin do not require these for economic or trade measures, statistics or measures adopted for reasons of health or public order. In fact there is no provision in the rules for issuance or submission of the Certificate of Origin for anything other than the claim of concessional rates of duty. Obviously the Rules of Origin have to be issued afresh. The current Rules are deficient in many ways as these are outdated. These need to be reissued, keeping in view the provisions of Annex K. In the FTAs also the position is the same as in Rules of Origin, 1973. This is of course for obvious reason that these relate to concessions of Customs Duties. Later when these turn into agreements on a broader scale and include other Economic activities like Investment etc., some such provisions for Statistics, Trade measures and other reasons may be introduced.

Practice: The practice is partially in compliance with the Rules.

Resource Persons:

1. Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
2. Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Karachi
3. Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.

Conclusion: The law and practice are partially in compliance with the 'Recommended Practice'.

Recommendations: The existing 'Rules of Origin' issued in 1973, need to be updated based on the provisions of Annex K. The same may also be provided in the Act and the Imports and Exports (Control) Act, 1950.

<p>3. Recommended Practice</p>	<p>Documentary evidence of origin should not be required in the following cases:</p> <p>(a) Goods sent in small consignments addressed to private individuals or carried in travelers' baggage, provided that such importations are of a non-commercial nature and the aggregate value of the importation does not exceed an amount which shall not be less than US \$100;</p> <p>(b) Commercial consignments the aggregate value of which does not exceed an amount which shall not be less than US \$60;</p> <p>(c) Goods granted temporary admission;</p> <p>(d) Goods carried in Customs transit;</p> <p>(e) Goods accompanied by a regional appellation certificate as well as certain specific goods, where the conditions to be met by the supplying countries under bilateral or multilateral agreements relating to those goods are such that documentary evidence need not be required.</p> <p>Where several consignments of the kind referred to in (a) or (b) are sent at the same time, by the same means, to the same consignee, by the same consignor, the aggregate value shall be taken to be the total value of those consignments.</p>
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- Rules of Origin; Rules 8 and 9

Discussion:

Law: Rules 8 and 9 of the Rules of Origin, 1973, relate to the requirements of the instant 'Recommended Practice'. Rule 8 provides that postal consignments of small quantities not exceeding Rs.1000 in aggregate value shall not need a separate certificate of origin if the accompanying Customs declaration or the label affixed on the package contains a declaration in relation to origin of the goods. Similarly rule 9 ibid lays down that in case of small consignments which are occasional in nature, not in commercial quantity and intended for personal or family use shall not need a separate certificate of origin, whether imported as a baggage or otherwise provided the value of the of the small package does not exceed Rs.60 or the aggregate value of passenger's baggage does not exceed Rs.200. In sum, the above small consignments are eligible for preferential tariff treatment without a separate certificate of origin. In the case of goods granted temporary admission or those goods in transit, the certificate of origin is also not required. However in the Rules of Origin attached to various FTAs and PTAs the aforesaid amount in is much higher than that specified in the Rules of Origin, 1973. In view of above the existing Rules of Origin, 1973 are partially compliant to the instant 'Recommended Practice'.

Rules 8 and 9 of the Rules of Origin, 1973, are reproduced below for ease of reference:

8. Postal Consignment.--"Originating" products within the meaning of these Rules which form part of postal consignments (including parcels), shall, provided that the consignments contain only such products and their value does not exceed Rs.1,000 per consignment, be eligible for preferential tariff treatment without requiring the production of a separate certificate of origin. No claim that such products are chargeable with a preferential rate of duty shall however be considered unless:--

(a) at the time of arrival in Pakistan such goods are covered by a declaration as to the country of origin entered in the Customs declaration form or in the absence of the form on the wrapper of the package;

9. Consignments of small value: (1) Pakistan shall admit as 'Originating' products benefiting from the preferential tariff treatment, without requiring the production of a certificate of origin, goods sent as small packages to private persons or forming part of a passenger' s personal baggage, in so as far as such goods are not imported by way

of trade and have been delivered as meeting the conditions required for according preferential tariff treatment, and where there is no doubt as to the sincerity of such declaration.

(2) Importations not by way of trade shall be importations which are occasional and consist solely of goods for the personal use of the addressee or passenger or his family, it being evident from the nature and quantity of the goods that no commercial purpose is in view. Furthermore the total value of these goods must not exceed Rs60 in the case of small packages or Rs.200 in the case of the contents of a passenger's personal baggage.

In the FTAs there are also provisions of this nature but these are inconsistent and require changes as mentioned above.

Practice: The practice is in accordance with the existing rules.

Resource Persons:

1. Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
2. Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
3. Mr. Nasir Chandna, Custom House Agent, Karachi.

Conclusion: The law and practice are in partial compliance with the 'Recommended Practice'.

Recommendations: The proposed new Rules of Origin should be issued and incorporate the provisions of Annex K, including this Recommended Practice and the provisions of General Annex.

4.Recommended Practice	When rules relating to the requirement of documentary evidence of origin have been laid down unilaterally, they should be reviewed at least every three years to ascertain whether they are still appropriate in the light of changes in the economic and commercial conditions under which they were imposed.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act
- Rules of Origin.

Discussion:

Law: The Rules of Origin, 1973, were notified under the auspices of GATT, contained in the Protocol relating to trade negotiations among developing countries which was finalized on 8th December 1971. These rules are preferential Rules of Origin and relate only to tariff concessions. These have not been revised since 27th February 1973. Therefore these are obviously non-compliant with the Recommended Practice.

From the above, it is apparent that the said Rules issued in 1973, have not been revised ever since. The law is thus not in compliance with 'Recommended Practice' of Annex K.

Practice: Not Applicable

Resource Persons:

1. Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
2. Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
3. Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.

Conclusion: Not Applicable

Recommendations: The new proposed Rules of Origin should be issued as required by this Recommended Practice. A provision may also be added that these rules will be reviewed every three years.

5.Recommended Practice	Documentary evidence from the competent authorities of the country of origin should be required only in cases where the Customs of the country of importation have reason to suspect fraud.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- Rules of Origin; Rule 12 (1 and 2)
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: According to sub-rules (1 and 2) of Rule 12 of the Rules of Origin, 1973, 'retroactive checks on certificates of origin shall be carried out at random and also whenever the Custom authorities in Pakistan have reasonable doubt about the authenticity of the document or the accuracy of the information regarding origin of the goods in question or parts thereof.

The Certificate of Origin is returned to the importer in Pakistan to get the clarifications and resolve the objections raised by Customs from the relevant Government Authority or authorized non-governmental body of the exporting beneficiary country. The Customs give substantive/formal reasons for the inquiry.

The FTAs also have similar provisions but these are inconsistent and need harmonization and improvement in line with the provisions of Annex K.

Practice: The practice is partially as per law.

Resource Person:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Karachi.

Conclusion: The Rules of Origin, 1973, are in partial compliance with the 'Recommended Practice'.

Recommendations: In the proposed new Rules of Origin this provision of the Rules of Origin, 1973 should be replaced by the specific wordings of this Recommended Practice about fraud.

6.Recommended Practice	<p>When revising present forms or preparing new forms of certificates of origin, Contracting Parties should use the model form in Appendix I to this Chapter, in accordance with the Notes in Appendix II, and having regard to the Rules in Appendix III.</p> <p>Contracting Parties which have aligned their forms of certificate of origin on the model form in Appendix I to this Chapter should notify the Secretary General of the Council accordingly.</p>
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act
- Rules of Origin; Appendix 1

Discussion:

Law: This 'Recommended Practice' has nexus with the 'Recommended Practice' number 4 already discussed. The Rules of Origin, 1973, have not been revised ever since they were issued in 1973. Therefore the form of 'Certificate of Origin' has not been revised to frame it in the model form in Appendix 1 to this 'Recommended Practice', Notes in Appendix II and the Rules in Appendix III of this standard. The rules of origin which have been notified under different FTAs and PTAs are also not consistent with the form given in the said Appendix 1, Notes in Appendix II and the rules in Appendix III. As the Appendix 1 to this Recommended Practice has not been aligned with Appendix I of the Rules of Origin the same has not been notified to the Secretary General of WCO.

Practice: The practice is as per law.

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Nasir Chandna, Custom House Agent, Karachi.

Conclusion: The Rules of Origin, 1973, are not in compliance with the 'Recommended Practice'.

Recommendations: The proposed new Rules of Origin should be issued as required by this Recommended Practice. A provision may also be added that these rules will use the model form in Appendix I to this Chapter, in accordance with the Notes in Appendix II, and having regard to the Rules in Appendix III.

7. Recommended Practice	Certificate of origin forms should be printed in the language(s) selected by the country of exportation and, if these languages are neither English nor French, also in English or French.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act
- Rules of Origin
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: The Certificate of Origin relating to goods imported into Pakistan are printed in English. The requirements of the 'Recommended Practice' are, therefore, satisfied. In the FTAs also the requirement is to print the forms in English.

Practice: The practice is as per law.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Nasir Chandna, Custom House Agent, Karachi.

Conclusion: The Rules of Origin, 1973, are in compliance with the 'Recommended Practice'.

Recommendations: The proposed new Rules of Origin should be issued as required by the Recommended Practice 6. A provision may be added that these rules will use the model form in Appendix I in English language.

8.Recommended Practice	Where the certificate of origin is made out in a language that is not a language of the country of importation, the Customs of that country should not require, as a matter of course, a translation of the particulars given in the certificate of origin.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act
- Rules of Origin
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: The Certificate of Origin relating to goods imported into Pakistan are printed in English. The requirements of the 'Recommended Practice' are, therefore, satisfied as this situation does not arise. It is extremely rare that a translation of the Certificate of Origin is required. The position is the same in the FTAs.

Practice: The practice is as per law.

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.

Conclusion: The Rules of Origin, 1973, are in compliance with the 'Recommended Practice'.

Recommendations: The proposed new Rules of Origin should be issued as required by the Recommended Practice 6. A provision may also be added that these rules will use the model form in Appendix I in English language and that no translation will be required.

9. Standard	Contracting Parties accepting this Chapter shall indicate, either in their notification of acceptance or subsequently, the authorities or bodies empowered to issue certificates of origin.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act
- Rules of Origin

Discussion:

Law: Since Pakistan has not acceded to Annex K of RKC, therefore there is no obligation on Pakistan to notify the authorities or bodies empowered to issue the certificates of origin. However in Pakistan Certificate of Origin is issued by the Trade Development Authority of Pakistan (TDAP).

In the FTAs of Pakistan also TDAP has is notified as the authority to issue the Certificate of Origin.

Practice: The Certificate of Origin is issued by the TDAP.

Resource Persons:

- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Karachi
- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Mujeeb Khan Director General, TDAP
- Mr. M. Wasif Memon, Collector of Customs Exports, Custom House Karachi.

Conclusion: The law is not in compliance with the standard while the practice is in compliance.

Recommendations: Since Pakistan has not acceded to Annex K of RKC, therefore there is no obligation on Pakistan to notify the authorities or bodies empowered to issue the certificates of origin. It is however recommended that Pakistan Customs may accede to Annex K and FBR/Customs may notify the Secretary General about the issuing authority for the Certificate of Origin.

10.Recommended Practice	Where goods are not imported directly from the country of origin but are forwarded through the territory of a third country, certificates of origin should be allowed to be drawn up by the authorities or bodies empowered to issue such certificates in that third country, on the basis of a certificate of origin previously issued in the country of origin of the goods.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- Rules of Origin; Rules 5 and 6

Discussion:

Law: Rules 5 and 6 of the Rules of Origin indirectly and partially meet the requirements of this recommended practice. The rules are reproduced below:

5. The following products shall be considered as directly consigned from the exporting beneficiary country to Pakistan:

b) products whose transport involves transit through the territory of one or more countries other than the exporting beneficiary country, with or without transshipment or temporary storage in such countries, provided that the transit in question is justified by geographical factors or by considerations related exclusively to transport requirements and that the goods remain under the control of the Customs authorities of the country of transit or storage, have not entered into trade or consumption there, and have not there undergone any operation other than unloading and reloading or any operation required to keep them in good condition.

6. Evidence that the conditions set out in category (b) in rule 5 have been fulfilled shall be provided by production to the Customs authorities in Pakistan of the following:

- (a) A single movement certificate issued in the exporting beneficiary country and under which the journey across the transit country has been effected;
- (b) A certificate issued by the Customs authorities of the transit country containing an exact description of the goods; the date of unloading and of reloading of the goods or of their shipment or landing with identification of the ships concerned; certification of the conditions under which the goods have remained in the transit country;
- (c) Failing the foregoing, any substantiating document

Practice: None, as such a situation has not arisen in Pakistan.

Resource Person:

- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Karachi.
- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Nasir Chandna, Custom House Agent, Karachi.

Conclusion: The Rules of Origin are in partial compliance with the recommended practice.

Recommendations: This situation where the goods of a beneficiary country pass in transit through a third country does not exist at present and therefore there is no such provision in the Rules of Origin, 1973, to demand such a certificate or document from the third country. The proposed new Rules of Origin should however provide for such a situation that may arise in future and incorporate the provision of this Recommended Practice.

11.Recommended Practice	Authorities or bodies empowered to issue certificates of origin should retain for not less than two years the applications for, or control copies of, the certificates of origin issued by them.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act
- Rules of Origin; Rule 22(2)

Discussion:

Law: The Authorities or bodies empowered to issue certificates of origin are required in the Rules of Origin, 1973, to retain copies of certificates of origin in their custody for not less than three years in accordance with provisions of under sub-rule (2) of 22 of the Rules of Origin, 1973. The requirements of the 'Recommended Practice' are thus satisfied. The said sub-rule of rule 22 *ibid* is reproduced below.

22(2) For the purpose of the retroactive check on certificates of origin, the relevant Government, authority or the authorized non-Governmental body of the beneficiary exporting country must keep export documents, or copies of certificates used in place thereof, for a period of three years.

Practice: Practice is as per law.

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Karachi.

Conclusion: The law and practice are in compliance with the 'Recommended Practice'.

Recommendations: The proposed Rules of Origin should retain this provision (Rule 22(2)) of the Rules of Origin, 1973, and the wordings should be as provided in this Recommended Practice.

12.Recommended Practice	<p>Where documentary evidence of origin is required, a declaration of origin should be accepted in the following cases :</p> <p>(a) Goods sent in small consignments addressed to private individuals or carried in travelers' baggage, provided that such importations are of a non-commercial nature and the aggregate value of the importation does not exceed an amount which shall not be less than US\$500;</p> <p>(b) Commercial consignments the aggregate value of which does not exceed an amount which shall not be less than US\$300.</p> <p>Where several consignments of the kind referred to in (a) or (b) are sent at the same time, by the same means, to the same consignee, by the same consignor, the aggregate value shall be taken to be the total value of those consignments.</p>
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- Rules of Origin; Rule 9
- Baggage Rules

Discussion:

Law: This recommended practice is related to Recommended Practice 3 discussed above. In the case of accompanied baggage of travelers the verbal declarations of the traveler is accepted. However, rule 9 of the Rules of the Origin, 1973 the value of baggage prescribed is not exceeding Rs200 only which is much less than the value of US \$ 500 as given in the instant Recommended Practice. In the case of commercial consignments the maximum value prescribed for postal parcels as prescribed under rule 8 is Rs.1000 which is much less than the value mentioned in this Recommended Practice i.e. US \$ 300.

It is worth noting that the ceiling of value for import of articles in baggage admissible under the Baggage Rules, 2006 (notified vide SRO 666(I)/2006 dated 28-06-2006) to passengers returning from abroad as well as tourists is in excess of US \$ 500.

The Rules of Origin of 1973 do not meet the requirements of the 'Recommended Practice' properly.

Practice: The practice is as per law.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (East Wharf), Custom House, Karachi.
- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Karachi.

Conclusion: The Rules of Origin, 1973, are in partial compliance with the recommended practice.

Recommendations: The proposed new Rules of Origin should include the provisions of this standard regarding the values in different cases and that the declaration of origin by the exporter/traveler will be accepted up to the values mentioned in this Recommended Practice. This should also be provided in the Customs Rules and the Imports and Exports (Control) Act, 1950.

13.Standard	Provision shall be made for sanctions against any person who prepares, or causes to be prepared, a document containing false information with a view to obtaining documentary evidence of origin.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Section 32 and 156 (1-14).
- Rules of Origin

Discussion:

Law: Provisions exist under section 32 of the Customs Act when a deliberate attempt is made by a person who prepares or causes to be prepared, a document containing false information with a view to obtaining documentary evidence of origin and having obtained a certificate of origin on that basis and/or files before Customs a false or incorrect certificate. The penalties provided for such act or attempted act are contained in clause 14 of the Table under sub-section (1) of section 156 of the Customs Act, 1969. The said section 32 and the relevant clause 14 of section 156 of the said Act are reproduced below:

32. [False] statement, error, etc.

(1) If any person, in connection with any matter of customs

- a) Makes or signs or causes to be made or signed, or delivers or causes to be delivered to an officer of customs any declaration, notice, certificate or other document whatsoever, or
- b) Makes any statement in answer to any question put to him by an officer of customs which he is required by or under this Act to answer,
- c) Submits any false statement or document electronically through automated clearance system regarding any matter of Customs.
- d) Knowing or having reason to believe that such document or statement is false in any material particular, he shall be guilty of an offence under this section.

(2) Where, by reason of any such document or statement as aforesaid or by reason of some collusion, any duty or charge has not been levied or has been short-levied or has been erroneously refunded, the person liable to pay any amount on that account shall be served with a notice within [five] years of the relevant date, requiring him to show cause why he should not pay the amount specified in the notice.

156. Punishment for offences

(1) Whoever commits any offence described in column 1 of the Table below shall, in addition to and not in derogation of any punishment to which he may be liable under any other law, be liable to the punishment mentioned against that offence in column 2 thereof.

TABLE

Offences	Penalties	Section of this Act to which offence has reference.
(1)	(2)	(3)
If any person commits an offence under section 32,	such person shall be liable to a penalty not exceeding ¹ [twenty five thousand] rupees or three times the value of the goods in respect of which such offence is committed, whichever be greater; and such goods shall also be liable to confiscation ¹³ [;] ¹⁴ [and upon conviction by a ¹⁵ [Special Judge] he shall further be liable to imprisonment for a term not exceeding three years, or to fine, or to both].	32”

Practice: The practice is as per law.

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Qurban Ali Khan, Additional Collector of Customs (AFU), MCC, Islamabad.
- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.

Conclusion: The law and practice are in compliance with the ‘Recommended Practice’.

Recommendations: The reference to such penalties and sanctions should be made in the proposed new Rules of Origin.

Chapter 3: Control of Documentary Evidence of Origin

Definitions:

Four defined terms are provided at the beginning of Chapter 3 of Specific Annex K, and are to be used to properly understand the meaning of the standards and recommended practices contained in that chapter. As explained in the general discussion of the use of definitions provided under Chapter 2 of the General Annex of this report, there is no explicit requirement in the RKC requiring a Contracting Party to adopt into its national legislation the terms and assigned meanings specified in the RKC. However, we note that in some cases it may be difficult for Pakistan to comply with its obligations under the RKC if certain of the customs-specific terms defined in the RKC are not used in Pakistan's customs legislation, or - if such a term is used – it is assigned a meaning that differs materially from that specified in the RKC, which reflects the generally accepted meaning of the term in international practice.

The four defined terms and associated meanings provided in Chapter 3 of Specific Annex K (and our notes with respect to each) are:

- "Certificate of origin" means a specific form identifying the goods, in which the authority or body empowered to issue it certifies expressly that the goods to which the certificate relates originate in a specific country. This certificate may also include a declaration by the manufacturer, producer, supplier, exporter or other competent person;

Note: The term 'certificate of origin' is provided in the Rules of Origin, 1973, notified by the Ministry of Commerce, Government of Pakistan, vide Notification No. 2(13) 71-GATT-Notification, dated 27-02-1973. Rules 13 to 20 of Part-B of the said Rules require the beneficiary country to issue a 'Certificate of Origin' for which a form has been prescribed in the Annex 1 of the rules. The entries of Annex 1 correspond to the definition of the standard. Detailed procedure is also provided for the issuance of Certificate of Origin in the same part B of the Rules of Origin, 1973.

The Certificate of Origin is also provided in the FTAs. The provisions however, are not consistent and need harmonization.

- "certified declaration of origin" means a "declaration of origin" certified by an authority or body empowered to do so;

Note: The only document required for certifying origin included in Rules of Origin, 1973 is the Certificate of Origin. The second document which also certifies origin is a self-declaration by the exporter, manufacturer, producer, supplier, importer or any other authorized person, of the beneficiary country on a commercial document e.g. invoice. However this document needs to be certified by a competent Government or private sector authority (Chamber of Commerce). This certified declaration is provided in the Rules of Origin, 1973 however this is done indirectly and mentioned in the body of the form for Certificate of Origin. Where under the words, 'Certificate of Origin', the words "combined declaration and certificate", have been mentioned;

Reference No.
PREFERENTIAL ARRANGEMENTS AMONG
DEVELOPING COUNTRIES NEGOTIATED IN GATT

CERTIFICATE OF ORIGIN

(combined declaration and certificate)

FORM A
Issued
in.....
(country)

See Instructions over leaf
4. For official use

The Certificate of Origin is also provided in FTAs. However the provisions are not consistent and need harmonization and improvement in line with Annex K.

The Certificate of Origin in the Rules of Origin, 1973, therefore acts as the Declaration of Origin by the exporter, as well. This needs to be provided separately in the new proposed Rules of Origin.

- "Declaration of origin" means an appropriate statement as to the origin of the goods made, in connection with their exportation, by the manufacturer, producer, supplier, exporter or other competent person on the commercial invoice or any other document relating to the goods;

Note: A self-‘declaration of origin’ by the exporter, manufacturer, producer, supplier, importer or any other authorized person, of the beneficiary country on a commercial document e.g. invoice, is the ‘declaration of origin’. This document needs to be provided in the proposed Rules of Origin as it is not provided separately in the existing Rules of Origin, the Customs Act or the Imports and Exports (Control) Act etc. This Declaration of Origin is also not provided specifically in the FTAs Rules of Origin.

- "Documentary evidence of origin" means a certificate of origin, a certified declaration of origin or a declaration of origin;

Note: The existing Rules of Origin, the Customs Act 1969 (the Act), the Imports and Exports (Control) Act, 1950 etc. do not provide any comprehensive list of documentary evidence of origin which includes the certificate of origin, the certified declaration of origin and the declaration of origin on a commercial document. The existing rules provide only for a certificate of origin and a reference to a Certified Declaration of Origin. These documents need to be defined in the proposed new Rules of Origin.

The FTAs Rules of Origin also do not provide the comprehensive list of the three documents mentioned in this definition. These need to be so provided in the FTAs as well in a harmonized manner.

1.Standard	Administrative assistance for the control of documentary evidence of origin shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.
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Overall Assessment: Not Applicable

Relevant Law:

- [None]

Discussion:

Standard 1 does not establish a requirement that a national customs regime must comply with. It only provides that administrative assistance for the control of documentary evidence of origin is to be governed by Chapter 3 of Annex K and the applicable provisions of the General Annex.

Conclusion: Any compliance issues with respect to Standard 1 will be identified in the individual compliance assessments for the standards and recommended practices of Chapter 3.

Recommendations: Recommendations are provided in the context of the individual assessments for Chapter 3 whenever compliance with Standard 1 is implicated.

2. Standard	The competent authority of the Contracting Party which has received a request for control need not comply with it if the competent authority of the requesting Contracting Party would be unable to furnish that assistance if the positions were reversed.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: The Customs Act Customs Rules, 2001 and the Rules of Origin, 1973 do not provide for a situation where the FBR/Customs may refuse to comply with a request for control from another country, given that ostensibly the requesting country would be unable to provide a similar assistance when FBR/Customs would submit a similar request if the need arises.

Free Trade Agreements (FTAs) and Preferential Trade Agreements (PTAs) are based on the rule of reciprocity. There has to be mutual cooperation in appropriate manner on the touch stone of equality. However the Rules of Origin 1973 and those of the FTAs do not provide the requirements of this standard.

Practice: No such situation has ever occurred in Pakistan, as there is no such provision in the law/Customs Rules or Rules of Origin 1973.

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Lahore.

Conclusion: The law and practice are not in compliance with the Standard.

Recommendations: In the proposed new Rules of Origin it should be provided that the FBR/Customs may refuse to comply with a request for control from another country, given that it is clear that the requesting country would be unable to provide a similar assistance when FBR/Customs submits a similar request when the need arises.

<p>3. Recommended Practice</p>	<p>The Customs administration of a Contracting Party which has accepted this Chapter may request the competent authority of a Contracting Party which has accepted this Chapter and in whose territory documentary evidence of origin has been established to carry out control of such evidence:</p> <ol style="list-style-type: none"> a) Where there are reasonable grounds to doubt the authenticity of the document; b) Where there are reasonable grounds to doubt the accuracy of the particulars given therein; c) On a random basis.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin; Rule 12(1 & 2).
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius.

Discussion:

Law: This Recommended Practice suggests that trading partners may ask each other to carry out control of evidence of certificate of Origin if:

- a) Both countries have acceded to Annex K
- b) And where there are reasonable grounds to doubt; authenticity of the document, accuracy of the provided particulars or
- c) The certificate of origin is selected at random.

As Pakistan has not acceded to Annex K of RKC, it will be obliged to follow the standards or Recommended Practices of this Annex after its accession. However rule 12 of the Rules of Origin, 1973, provides for the requirements of this 'Recommended Practice'. For ease of reference the said rule is reproduced below:

- 1) Retroactive checks on certificates of origin shall be carried out at random and also whenever the Customs authorities in Pakistan have reasonable doubt as to the authenticity of the documents or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof.
- 2) For the purpose of implementing sub-rule (1) above, the Customs authorities in Pakistan shall return the certificate of origin to the relevant Government authority or authorized non-Governmental body of the exporting beneficiary country, giving the formal or substantive reasons for an enquiry.

Sub-rule (2) of rule above provides that in case of reasonable doubt regarding authenticity of a certificate of origin or randomly, the Customs authorities in Pakistan return the certificate of origin to the relevant Government authority of the exporting beneficiary country, giving reasons for carrying out a control operation.

In FTAs also provisions have been made for administrative cooperation (assistance). The procedures prescribed and the FTAs wordings are however not consistent with each other and with this "Recommended Practice" and need to be harmonized.

It is evident from the provisions of the Rules of Origin, 1973, that the requirements of the Recommended Practice are partially met.

Practice: Practice is as per law.

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisement), East Wharf, Karachi.
- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Lahore.

Conclusion: The law and practice are partially in compliance with the 'Recommended Practice'.

Recommendations: This provision of the Rules of Origin, 1973, should be re-phrased as per the Recommended Practice providing clearly the following three conditions for carrying out control of evidence; Where there are reasonable grounds to doubt the authenticity of the document; Where there are reasonable grounds to doubt the accuracy of the particulars given therein; Certificates of origin are selected on a random basis. Carrying out of such control would be done if the requesting party has also acceded to this chapter of Annex K.

4. Standard	Requests for control on a random basis, as provided for in Recommended Practice 3 (c) above, shall be identified as such and be kept to the minimum necessary to ensure adequate control.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin; Rule 12(1 & 2)
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: Rule 12 of the Rules of Origin, 1973, does not provide that the random selection of a certificate of origin for Customs control requiring preferential tariff treatment shall be made sparingly. However in practice this random Customs control is conducted rarely.

The said rule is reproduced below for ease of reference:

- 1) 12. Retroactive checks on certificates of origin shall be carried out at random and also whenever the Customs authorities in Pakistan have reasonable doubt as to the authenticity of the documents or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof.
- 2) For the purpose of implementing sub-rule (1) above, the Customs authorities in Pakistan shall return the certificate of origin to the relevant Government authority or authorized non-Governmental body of the exporting beneficiary country, giving the formal or substantive reasons for an enquiry.

The FTAs do not have such a provision and need improvement.

Practice: Practice is as stated above.

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Muhammad AsifJah, Additional Collector of Customs (AFU), Lahore.

Conclusion: The law is partially compliant with the standard however the practice is in compliance with the Standard.

Recommendations: This provision of the Rules of Origin, 1973, should be re-cast as provided in this standard while preparing the proposed new Rules of Origin, that this authority will be used randomly.

5. Standard	<p>Requests for control shall:</p> <ol style="list-style-type: none"> a) Specify the reasons for the requesting Customs administration's doubts about the authenticity of the document produced or the accuracy of the particulars given therein, unless the control is requested on a random basis; b) Specify, where appropriate, the rules of origin applicable to the goods in the country of importation and any additional information requested by that country; c) Be accompanied by the documentary evidence of origin to be checked, or a photocopy thereof, and where appropriate any other documents such as invoices, correspondence, etc. that might facilitate control.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius
- The Imports and Exports (Control) Act

Discussion:

Law: Whenever Customs send a request for control to an authority or authorized non-government body for control/investigation of certificate of origin, it follows the rule 12 of the Rules of Origin, 1973, as well as the specific provisions of those rules of origin which are notified under a specific FTA of PTA. Even in practice, these requests for Customs control;

- a) Specify the reasons for the requesting Customs administration's doubts about the authenticity of the document produced or the accuracy of the particulars given therein, unless the control is requested on a random basis;
- b) Specify, where appropriate, the rules of origin applicable to the goods in the country of importation and any additional information requested by that country; and
- c) Are accompanied by the documentary evidence of origin to be checked, and other documents such as invoices, correspondence, etc. that might facilitate control.

The requirements of the Standard are partially met in practice. However the objections are handed over to the importer who is required to get the objections rectified from the authority or body issuing the Certificate of Origin. (The actual documents pertaining to a control request are confidential and could not be procured from Customs)

Practice: Practice is as stated above.

Resource Persons:

- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Muhammad AsifJah, Additional Collector of Customs (AFU), Lahore.
- Mr. Muhammad Irfan Khan, Deputy Chief, Ministry of Commerce, Government of Pakistan, 431, Block A, Pak Secretariat, Islamabad.

Conclusion: There is no provision in the Rules of Origin, 1973 about the procedure to be adopted for a control operation. In practice, however, the control procedure mentioned in the standard is applied.

Recommendations: In the proposed new Rules of Origin, the control procedure should be provided in detail in accordance with this standard. This provision should also be provided in the Act and the Imports and Exports (Control) Act, 1950.

6. Standard	Any competent authority receiving a request for control from a Contracting Party having accepted this Chapter shall reply to the request after having carried out the necessary controls itself or having had the necessary investigations made by other administrative authorities or by bodies authorized for the purpose.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: The Rules of Origin, 1973 do not provide for carrying out necessary controls by the authority or body issuing the Certificate of Origin or other administrative authorities etc. There is a reference in rule 12 but is sketchy and not very detailed. However, Pakistan has signed several FTA's/PTA's and there are Rules of Origin provided in all these agreements. The provisions of this standard are substantially complied in the above mentioned FTAs' Rules of Origin regarding administrative cooperation/ assistance.

However these rules in various FTAs are not consistent with each other and not very detailed. These need to be reviewed and refined, based on this standard.

Practice: The practice is as per the FTAs.

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Lahore.

Conclusion: The law and practice are in partial compliance with the Standard.

Recommendations: In the proposed new Rules of Origin the provisions of this standard about carrying out necessary controls by the authority or body issuing the Certificate of Origin or other administrative authorities' etc. should be provided.

7.Standard	An authority receiving a request for control shall answer the questions put by the requesting Customs administration and furnish any other information it may consider relevant
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin; Rule 12
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: This Standard has nexus with Standard 6. The Trade Development Authority of Pakistan (TDAP) which is authorized to issue certificates of origin receives requests from authorities of other Contracting Parties. On receipt of a request for Customs control, TDAP answers the questions put to it by the requesting Customs administration in accordance with the provisions of the Rules of Origin of 1973 read with the relevant rules of origin notified under the particular applicable FTA or PTA. Such control operations are provided in Rule 12 of the Rules of Origin, 1973 but these are sketchy and not consistent with this standard. These need to be harmonized and refined based on this standard.

The requirements of the Standard are partially satisfied.

Practice: Practice is as per FTAs.

Resource Persons:

- Mr. AbdurRasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Muhammad Irfan Khan, Deputy Chief, Ministry of Commerce, Government of Pakistan, 431, Block A, Pak Secretariat, Islamabad.
- Mr. Muhammad AsifJah, Additional Collector of Customs (AFU), Lahore.

Conclusion: The law and practice are in partial compliance with the Standard.

Recommendations: In the proposed new Rules of Origin provision may be made that 'an authority receiving a request for control shall answer the questions put by the requesting Customs administration and furnish any other information it may consider relevant.

8. Standard	Replies to requests for control shall be furnished within a prescribed period not exceeding six months. If the authority receiving the request cannot reply within six months, it shall so inform the requesting Customs administration.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin; Rule 22(1).
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius.

Discussion:

Law: Trade Development Authority of Pakistan (TDAP) is designated as the authority to issue certificates of origin and also to exercise Customs control on request of counterpart authorities of other Contracting Parties. TDAP performs the certification function for ascertaining the facts necessary for determining the country of origin, with appropriate responsibility within the framework of the general principles contained in the Rules of Origin of 1973, and other relevant FTAs or PTAs. These verification are required to be completed within three months as prescribed under rule 22 (1) of the Rules of Origin, 1973. This standard however provides a time limit of six months making the rule quoted below partially compliant. This could be construed to provide additional facility as per article 2 of the Convention. However this cannot be assumed for Pakistan's trading partners.

- 1) 22. When a retroactive check is requested pursuant to the provisions of rule 12(1), this check shall be carried out and the Customs authorities in Pakistan shall be informed of its results within a maximum time-limit of three months. The results must be such as to make it possible to determine whether the contested certificate of origin applies to the goods actually exported, and whether the goods can, in fact, qualify for the preferential tariff treatment.

In view of the above, GOP may pursue its FTAs trading partners to also put a provision in the respective FTAs.

Practice: Practice is as per law.

Resource Persons:

- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Muhammad AsifJah, Additional Collector of Customs (AFU), Lahore.
- Mr. Muhammad Irfan Khan, Deputy Chief, Ministry of Commerce, Government of Pakistan, 431, Block A, Pak Secretariat, Islamabad.

Conclusion: The law and practice are in partial compliance with the Standard.

Recommendations: A new provision needs to be added in the proposed new Rules of Origin for Pakistan's trading partners that they will perform this control operation as per the requirements of the FTAs.

9. Standard	Requests for control shall be made within a prescribed period which, except in special circumstances, should not exceed one year, commencing with the date on which the document was produced to the Customs office of the Contracting Party making the request.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin; Rule 22(1)
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: Request for Customs control is made by Customs authorities who have to determine eligibility for grant of preferential tariff treatment. The Rules of Origin 1973 do not prescribe time within which a request for Customs control may be sent to the authority or non-government body of beneficiary exporting country. Likewise there is no provision in the respective rules of origin of specific FTAs and PTAs requiring a request for Customs Control within one year. To this extent the requirements of the Standard are not met as the respective timelines prescribed in the Rules of origin 1973 and other FTAs rules of origin are shorter than the period of one year stipulated in this Standard and are also not well worded.

Nonetheless, the requests are generally sent within a few months of arrival of the goods and the process of verification is completed within the time limit of three months as prescribed in rule 22(1) of the Rules of Origin 1973.

Practice: Practice follows the rules.

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi
- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Lahore
- Mr. Muhammad Irfan Khan, Deputy Chief, Ministry of Commerce, Government of Pakistan, 431, Block A, Pak Secretariat, Islamabad

Conclusion: The law and practice are partially in compliance with the provisions of the Standard.

Recommendation: The proposed new Rules of Origin should include the requirements of this standard i.e. the requests for control should be made within one year, except in very special circumstances. The rules provided in FTAs also need to be reviewed, harmonized and refined.

10.Standard	A request for control shall not prevent the release of the goods, provided that they are not held to be subject to import prohibitions or restrictions and there is no suspicion of fraud.
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Overall Assessment: Substantially Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin; Rule 12
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: Rule 12 of the Rules of Origin 1973, meets the requirements of this Standard. It reads as under:

- 1) 12. Retroactive checks on certificates of origin shall be carried out at random and also whenever the Customs authorities in Pakistan have reasonable doubt as to the authenticity of the documents or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof.
- 2) (2) For the purpose of implementing sub-rule (1) above, the Customs authorities in Pakistan shall return the certificate of origin to the relevant Government authority or authorized non-Governmental body of the exporting beneficiary country, giving the formal or substantive reasons for an enquiry.
- 3) (3) Pending the results of the check, the Customs authorities in Pakistan shall levy and collect the duty at the standard rate and if as a result of the check, they are duly satisfied that the goods are entitled to entry at the preferential rate, they shall make a refund of the extra duty levied.

This provision enables the importer to take the goods out of Customs control but retain his title to receive preferential treatment in tariff. As and when the Customs control in respect of certificate of origin is decided in his favor, he is refunded duties and taxes. However, the relevant Rules of Origin 1973 or those provided in the FTAs do not refer to the exception of goods which are in contravention of some restriction, prohibition or suspected to be fraudulent.

Practice: Practice is in substantial compliance with the standard.

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisal), East Wharf, Karachi.
- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Lahore.

Conclusion: The law and practice are in substantial compliance with the Standard.

Recommendations: The proposed new Rules of Origin should include the requirements of this standard including the reference to restrictions, prohibitions or suspicion of fraud and also provide for a procedure in such cases of restrictions, prohibitions and fraud.

11. Standard	Any information communicated in accordance with the provisions of this Chapter shall be treated as confidential and used for Customs purposes only.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: The Rules of Origin 1973 do not contain specific provisions requiring the confidentiality of record of certificates of origin and the verification thereof. However such record is always kept confidential as it involves information related to private business practices of the importers and exporters. Any leakage will raise questions about the Customs ability/credibility to maintain confidentiality and is likely to hurt the private business interests. In the FTAs related rules of origin also there is no specific provision regarding confidentiality.

Practice: Practice is as stated above.

Resource Persons:

- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Lahore.

Conclusion: The law and practice are partially in compliance with the 'Recommended Practice'.

Recommendations: As recommended earlier, the FBR/Customs may consider recommending to the Ministry of Commerce to issue new Rules of Origin and incorporate the requirements of this standard regarding confidentiality, and similar provisions may also be provided to the rules of origin agreed in various FTAs, as provided in this standard.

12. Standard	The documents needed for control of documentary evidence of origin issued by the competent authorities or authorized bodies shall be retained by them for an adequate period which should not be less than two years following the date on which the documentary evidence was issued.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin; Rule 22(2)
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: Rule 22(2) of the Rules of Origin, 1973, requires that the documents needed for control of documentary evidence of origin issued by the competent authorities or authorized bodies must be kept for a period of three years. The said sub-rule (2) of rule 22 is reproduced below:

22. (2) For the purpose of the retroactive check on certificates of origin, the relevant Government, authority or the authorized non-Governmental body of the beneficiary exporting country must keep export documents, or copies of certificates used in place thereof, for a period of three years.

Practice: The practice is as per law.

Resource Persons:

- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Lahore.
- Mr. Muhammad Irfan Khan, Deputy Chief, Ministry of Commerce, Government of Pakistan, 431, Block A, Pak Secretariat, Islamabad.

Conclusion: The law and practice are in compliance with the Standard.

Recommendations: As already recommended, new rules of origin may be formulated and this provision may be retained concerning the retention of such record for three years for all the documents relating to the Rules of Origin

13. Standard	The Contracting Parties that accept this Chapter shall specify the authorities which are competent to receive requests for control and communicate their address to the Secretary General of the Council who will transmit such information to the other Contracting Parties having accepted this Chapter.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act
- The Rules of Origin
- Rules of Origins provided in FTAs of Pakistan with SAFTA, Malaysia, China, Sri Lanka and Mauritius

Discussion:

Law: The Contracting Parties are required to specify the authorities which are competent to receive requests for Customs control relating to certificate of origin. Since Pakistan has not yet acceded to any of the chapters of Specific Annex K, it was not obliged to specify and communicate the authorities to the Secretary General. But keeping in view the fact that Free Trade Agreements (FTAs) and Preferential Trade Agreements (PTAs) have been signed and the authorities competent to deal with such matters of control operations have been notified these may be notified to the Secretary General of the WCO Council.

Practice: Not Applicable

Resource Persons:

- Mr. Abdur Rasheed Sheikh, Collector of Customs, MCC (Appraisalment), East Wharf, Karachi.
- Mr. Muhammad Saleem, Collector of Customs, MCC West Wharf, Customs House, Karachi.
- Mr. Muhammad Asif Jah, Additional Collector of Customs (AFU), Lahore.

Conclusion: Not Applicable.

Recommendation: The FBR/Customs may consider legal and administrative implications of communicating names of authorities declared competent in relation to issuance of certificates of origin and to perform control operations to the Secretary General of the General Council of the WCO, even if Pakistan does not accede to this Chapter of Annex K.