

08 OCTOBER 2004

CUSTOMS MEMORANDUM ORDER

NO. 27-2004

SUBJECT: Consolidated Procedures in the Issuance of Certificate of Origin (CO) With or Without Preferential Tariff Treatment, and the Conduct of Retroactive Verification (on CO Form D & Form E) by the Import Group.

I. Objectives:

1. To consolidate and simplify the existing procedures in the issuance of Certificate of Origin (CO), with preferential tariff treatment, (GSP Form A, ASEAN-CEPT Form D & ASEAN-CHINA Free Trade Area (ACFTA) Form E, and without preferential tariff treatment or CO for General Merchandise (White CO).
2. To plug loopholes in the system and prevent the use of spurious documents.
3. To serve as Exporters guide, and, encourage export-oriented industries to avail of the preferential treatment under the simplified procedures in the issuance of CO GSP Form A/ASEAN CEPT Form D / ASEAN-CHINA FTA Form E.
4. To verify imported goods covered by CO Form D & Form E from ASEAN Member States, as to whether or not they satisfy the conditions under the Rules of Origin of ASEAN-CEPT & ACFTA, respectively.

II. Definition of Terms/Administrative Provisions:

1. Preferential Tariff Treatment under the GSP, the ASEAN CEPT & ACFTA Schemes are systems whereby reduced or total elimination of tariff are granted.
  - 1.a) For GSP – by the importing developed countries (known as preference-giving or donor countries) to certain eligible products exported by the Philippines as a beneficiary country.

GSP Form A shall be issued for products that are eligible under the GSP Scheme and are destined to either of the following countries:

Australia  
Switzerland  
Turkey

Norway  
Japan

Estonia  
New Zealand

People's Republic of Bulgaria  
Czechoslovak Socialist Republic  
Hungarian People's Republic

Polish People's Republic  
Union of Soviet Socialist Republics

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**European Union:**

|                             |                           |
|-----------------------------|---------------------------|
| Austria                     | Luxembourg                |
| Belgium                     | Netherlands               |
| Denmark                     | Portugal                  |
| Federal Republic of Germany | Spain                     |
| France                      | Sweden                    |
| Greece                      | United Kingdom            |
| Finland                     | Including French overseas |
| Ireland                     | departments.              |
| Italy                       | Guadaloupe                |
|                             | Martinique                |

For Canada and United States of America (USA), the issuance of Form A is covered by the guidelines under CMC No. 182-96 dated April 16, 1996 and CMC 170-2000, dated April 10, 2000, supplemented by CMC No. 240-2003 dated July 7, 2003, respectively.

- 1.b) For ASEAN CEPT – among the ASEAN Member States to certain eligible products exported by the Philippines, as signatory and regional member thereof.

ASEAN-CEPT Form D shall be issued for products that are eligible under the ASEAN CEPT scheme, and is destined to either of the following countries:

|                   |             |
|-------------------|-------------|
| Brunei Darussalam | Myanmar ✓   |
| Cambodia          | Philippines |
| Indonesia         | Singapore   |
| Lao PDR           | Thailand    |
| Malaysia          | Vietnam     |

- 1.c) For ASEAN-CHINA Free Trade Area (ACFTA) – among the ASEAN Member States and the People's Republic of China to certain eligible products exported by the Philippines, as signatory and member thereof pursuant to the Framework Agreement on Comprehensive Co-operation.

Member States which accept Form E for the purpose of preferential treatment under the ACFTA are:

|                   |             |           |
|-------------------|-------------|-----------|
| Brunei Darussalam | Cambodia    | China     |
| Indonesia         | Lao PDR     | Malaysia  |
| Myanmar           | Philippines | Singapore |
| Thailand          | Vietnam     |           |

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2. CO for General Merchandise (White CO) – shall be issued for products that do not qualify or not eligible under the GSP or the ASEAN-CEPT scheme, or any other schemes with preferential tariff treatment.
3. To qualify for GSP treatment
  - 3.a) The product must be included in the GSP product list of the importing preference-giving country;
  - 3.b) The Philippines must be eligible for GSP treatment with respect to the product in question; and
  - 3.c) The origin rules of the importing preference-giving country applicable to the product must be complied with.
4. To qualify for ASEAN-CEPT treatment:
  - 4.a) The Product must be included in the positive list of the importing ASEAN member state; and
  - 4.b) The origin rule for process goods under the ratio of 60% imported and 40% local have been complied with.
5. To qualify for ACFTA treatment, the goods:
  - 5.a) must fall within a description of products eligible for concessions in the country of destination;
  - 5.b) must comply with the consignment conditions that the goods must be consigned directly from any ACFTA Member State to the importing Member State but transport that involves passing through one or more intermediate non-ACFTA Member States is also accepted provided that any intermediate transit, transshipment or temporary storage arises only for geographic reasons or transportation requirements; and
  - 5.c) must comply with the origin criteria, i. e. that the origin rule for process goods under the ratio of 60% parts originating from non-ACFTA Member States, and the aggregate ACFTA content is not less than 40% have been complied with.
6. To qualify for CO for General Merchandise (White CO)

The export goods shall be categorized under any of the following circumstances:

  - 6.a) The articles are wholly grown, produced or manufactured in the Philippines.
  - 6.b) The foreign material content of the articles is ascertainable and therefore it shall be indicated.

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- 6.c) The exact foreign material content is not ascertainable. However, its estimated value in relation to the ex-factory price should be indicated.
- 7. The Bureau's Export Coordination Division, OCOM / Export Division of the Port/Subport concerned shall evaluate on whether or not the export product will qualify for the issuance of CO under any of the above schemes.
- 8. If the product is found qualified, the same may, upon request of the exporter concerned, be issued CO, with or without preferential tariff treatment, in accordance with GSP/ASEAN CEPT/ACFTA scheme, and Customs rules, regulations and procedures.
- 9. Under no circumstances, however, shall a CO be issued for products that passed through the Philippine soil merely for transit purposes.

III. Operational Provisions:

A. Procedure in the Issuance of CO (with Preferential Treatment)

- 1. Exporter or would be exporters are advised to request for the evaluation of their export products, officially in writing, at least five (5) working days prior to the exportation of the products, so that the Office concerned, where necessary may conduct inspection of said products. The request may be addressed to:

Chief, Export Coordination Division  
Office of the Commissioner  
Bureau of Customs, Port of Manila

OR

Chief, Export Division  
Port of \_\_\_\_\_

- 2. The Export Coordination Division (ECD) /Export Division (ED) shall, upon request/application of the exporter, issue the Form A/Form D, if the origin of the product can be easily ascertained by its own nature (e.g. handwoven abaca placemat), otherwise, the product shall be subject to pre-exportation verification, and for which purpose ECD/ED shall furnish the exporter with checklist (copy is attached as Annex A), together with its attachments, for guidance of the exporters.
- 3. The ECD/ED may also take any step necessary, including plant visits and examination of office books of account and records, in order to verify the origin of the products in accordance with the respective GSP/ASEAN CEPT/ACFTA Schemes.

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4. The Supporting evidence/papers used for the pre-exportation verification, especially the cost breakdown, shall be subject to periodic review consistent with the prevailing economic conditions. While said evidence may be used as basis for the issuance of Form A/Form D/Form E for particular shipment on a particular time, the same shall not always be construed as also applicable and binding for another subsequent shipment at a different future time.
5. In general, the Office which processed the Export Declarations issues the corresponding CO. Thus, export products for:

Manila Loading:

1. Export Division, Port of Manila/ Manila International Container Port/ Ninoy Aquino International Airport.
2. Export Coordination Division, if the ED's were processed at the GTEB-BOC Unit or at the OSEDC, Philtrade.

Provincial Loading:

- a. Export Division/Unit of the Port of Loading concerned
- b. Export Coordination Division, if the ED's were processed by the same Division.

6. Form A/Form D/Form E shall be issued by the ECD/ED at the time of exportation or as soon thereafter if the product has been found to be eligible for preferential treatment.
7. The declaration of the exporter or his authorized signatory on Form A/Form D/Form E shall be supported by competent and valid documents.

B. Required Documents in the issuance of CO (with or without Preferential Treatment):

- a.) Clear Exporter's copy of the Export Declaration (ED) bearing the AUTHORITY TO LOAD and the Control No. of the Office that processed the said ED.
- b.) Clear copy of the Commodity Clearance/Permit to Export issued by the Government Agency which clearance to export the commodity is required. (e.g. BFAR/GTEB/BOI/SRA).
- c.) Inspector's Certificate of Loading (ICL) \*

\* The original processed ICL shall be forwarded by the CCCD/AOD to the Export Office concerned, within five (5) working days after loading of the export goods have been effected.

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- d.) Commercial Invoice
- e.) Original Duplicate Non-Negotiable copy of Master Bill of Loading/AWB.
- f.) Additional requirements:
  - f.1) For CO Form A – documents which may be required by the Export Office to prove the originating status of the product.
  - f.2) For CO Form D – documents to show that the 60/40 requirements have been complied with.

C. Procedure in the Retroactive Verification of Imported Products covered by ASEAN CEPT Form D:

1. Pursuant to the Revised CEPT Rules of Origin, the Philippines, as importing Member State may request a retroactive check at random and or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the products in question or of certain parts thereof.
  - 1.a) The request for retroactive check shall be accompanied with the Certificate of Origin (CO) concerned and shall specify the reasons and any additional information suggesting that the particulars given on the said CO may be inaccurate, unless the retroactive check is requested on a random basis.
  - 1.b) Import Office concerned may suspend the provisions on preferential treatment while awaiting the result of verification. However, it may release the products to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.
  - 1.c) The retroactive check process, including the actual process and the determination of whether the subject product is originating or not, should be completed within six months. While awaiting the results of the retroactive check, Rule 1.b shall be applied.
2. If the Import Office concerned is not satisfied with the outcome of the retroactive check, it may, under exceptional cases, request for verification visits to the exporting Member State.
  - 2.a) Prior to the conduct of a verification visit, the Import Office concerned shall:
    - (i) Deliver a written notification of its intention to conduct the verification visit to:

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- (a) the exporter/producer whose premises are to be visited;
  - (b) the Issuing Authority of the Member State in whose territory the verification visit is to occur;
  - (c) the customs administration of the Member State in whose territory the verification visit is to occur; and
  - (d) The importer of the product subject of the verification visit.
- (ii) The written notification mentioned in paragraph 2(a)(i) shall be as comprehensive as possible including, among others:
- (a) the name of the customs administration issuing the notification;
  - (b) the name of the exporter/producer whose premises are to be visited;
  - (c) the proposed date for the verification visit;
  - (d) the coverage of the proposed verification visit, including reference to the product subject of the verification; and
  - (e) The names and designation of the officials performing the verification visit.
- (iii) Obtain the written consent of the exporter/producer whose premises are to be visited.
- 2.b) When a written consent from the exporter/producer is not obtained within 30 days upon receipt of the notification pursuant to paragraph 2(a)(i), the notifying Import Office may deny preferential treatment to the product that would have been subject of the verification visit.
- 2.c) The Import Office conducting the verification visit shall provide the exporter/producer whose product is the subject of the verification and the relevant Issuing Authority with a written determination of whether or not the subject product qualifies as an originating product.
- (i) The determination of whether the product qualifies as an originating product shall take effect upon receipt of the written notification by both exporter and producer, and the relevant Issuing Authority. Any suspended preferential treatment shall be reinstated upon the effectivity of the determination.

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(ii) The exporter/producer will be allowed 30 days from receipt of the written determination to provide in writing comments or additional information regarding the eligibility of the product. If the product is still found to be non-originating, the final written determination will be communicated to the Issuing Authority within 30 days from receipt of the comments/additional information from the exporter/producer.

2.d) The verification visit process, including the actual visit and determination of whether the subject product is originating or not, shall be carried out and its results communicated to the Issuing Authorities within a maximum of six months. While awaiting the results of the verification visit, Rule under Paragraph C.1.b on the suspension of preferential treatment shall be applied.

3. The BOC office concerned shall maintain, in accordance with its laws, the confidentiality of classified business information collected in the process of verification and shall protect that information from disclosure that could prejudice the competitive position of the person who provided the information. The classified business information may only be disclosed to those authorities responsible for the administration and enforcement of origin determination.

D. Procedure in the Retroactive Verification of Imported Products Covered by ACFTA Form E.

Pursuant to the ACFTA Rules of Origin, the Philippines as importing Member State may request a retroactive check at random and or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the products in question or of certain parts thereof.

The rest of the procedure follow those stated under Paragraph C.1.a to 1.c.

IV. Repealing Clause

The Notice to Exporters dated Feb.12, 2002, and all other rules, regulations, orders, circulars, etc., inconsistent herewith are hereby repealed and revoked.



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V. **Effectivity**

This Order shall take effect immediately.

  
GEORGE M. JEREOS  
Commissioner

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