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BUREAU OF CUSTOMS

AOCG MEMORANDUM

NO. 033A - 2016

To : DISTRICT COLLECTORS AND SUB-PORT COLLECTORS
CHIEF OF EXPORT COORDINATION DIVISION
CHIEFS OF EXPORT DIVISIONS AND UNITS
ALL CONCERNED

From : **JUVY DANOFRATA**
 OIC-Deputy Commissioner, AOCG

Subject : Guidelines in the Issuance of Certificate of Origin Form A Under the EU
 Generalized System of Preference.

Date : 12 April 2016

In line with the observation report of the EU Monitoring Team that visited the Bureau of Customs last January 2016 to ensure that the Philippines will comply with the provisions of the Commission Implementing Regulation (EU) 2015/428 of 10 March 2015 amending Regulation (EEC) No 2454/93 and Regulation (EU) No 1063/2010 as regards the rules of origin relating to the scheme of generalized tariff preferences and preferential tariff measures for certain countries or territories, the following guidelines are hereby promulgated:

1. The Exporter shall apply for the issuance of a Certificate of Origin Form A at the time when the goods can still be subject to physical examination by the Bureau of Customs, hence, before the date of filing of the Export Entry Declaration or prior to the issuance of Authority to Load.
2. The date on "box 12" (Exporter Declaration) in the Certificate of Origin Form A must be earlier than the date of shipment in the bill of lading/airway bill.
3. The date on "box 11" (Certification) should be on or before the actual date of shipment as indicated in the bill of lading/airway bill.
4. The Certificate of Origin shall be released to the exporter on or after the date of shipment as indicated in the bill of lading/airway bill.
5. The Documentary Stamp shall be appended to the customs copy of the Certificate of Origin Form A.



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6. A Certificate of Origin Form A may be issued retrospectively by the Bureau of Customs under any of the following conditions:

- (a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
- (b) it is demonstrated to the satisfaction of the competent authorities that a certificate of origin Form A was issued but was not accepted at importation for technical reasons; or
- (c) the final destination of the products concerned was determined during their Transportation or storage and after possible splitting of a consignment.

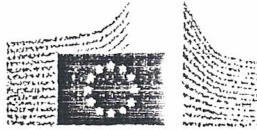
7. A certificate of origin Form A may only be "issued retrospectively" after verifying that the information supplied in the exporter's application for a certificate of origin Form A issued retrospectively is in accordance with that in the corresponding export file and that a certificate of origin Form A was not issued when the products in question were exported. The words "Issued Retrospectively" shall be indicated in box 4 of the certificate of origin Form A issued retrospectively.

This order shall take effect immediately.


JOVY DANOFRATA

OIC - Deputy Commissioner, AOCG





EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION

The Director-General

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- 9 MARS 2016

Ms Juvy Danofrata
Deputy Commissioner
Assessment and Operations
Coordination Group
Republic of the Philippines
Department of Finance
Bureau of Customs

**Subject: Monitoring of preferential arrangements –
Follow-up to the monitoring visit in January 2016**

Dear Ms Danofrata,

Thank you for the good and constructive cooperation during the monitoring visit on preferential trade arrangements in January 2016.

As agreed in the joint report, certain issues need more detailed clarifications and follow-up.

(i) Certificates of origin FORM A issued retrospectively

The regular procedure set out under Article 971 of Regulation (EEC) No 2454/93 as last amended by Commission Implementing Regulation (EU) No 2015/428 should be as follows:

As a starting point, the exporter/applicant for the FORM A should fill in the certificate and sign his application with a date in box 12 of the certificate. The application for a Form A certificate should normally be lodged at a time when the goods may still be subject to physical verification, i.e. before the goods are loaded on the ship/in the container and the bill of lading is available. This means that the date in box 12 should be earlier than that of the bill of lading.

As a second step (and after having carried out the necessary controls as foreseen in the Philippines) the Bureau of Customs (BOC) would then certify the origin in box 11 of the certificate. This could be either (i) at any time before the export really takes place, as soon as the exportation is ensured, or (ii) after the exportation, e.g. when the bill of lading has been presented to the BOC. In case (i) and with a view to complying with the relevant provisions (Article 971 (2)) and preventing fraud, the BOC could materially hand out the certificate after the exportation.

By following one of the procedures described above, the stamp "issued retrospectively" is not needed in box 4 of the certificate for regular cases.

In addition, the goods would not have physically left the Philippines at the date of the exporters' application as currently apparent from the date entered in box 12. This might allow the BOC to carry out some additional and even physical checks of the goods if deemed to be necessary.

Under the circumstances foreseen under Article 97l (2)¹, the BOC could of course issue certificates retroactively.

Please let me know if the BOC could implement the procedures in the described manner.

(ii) Form B and the documentary stamp appended in Box 11 of the Form A

During the visit the necessity of "FORM B" on the reverse side of the triplicate (Custom's Copy) of the FORM A certificate and the documentary stamp added to box 11 of the FORM A certificate were discussed and the BOC expressed their wish to receive some further clarifications in this regard.

Art. 97 k (1) b in relation with Annex 17 of Regulation (EEC) No 2454/93 as last amended by Commission Implementing Regulation (EU) No 2015/428 sets out the format for the certificate FORM A and, according to the EU regulations, a FORM B is not foreseen.

However, as the FORM B forms part of the triplicate, which stays with the Philippine customs authorities and is not presented at importation into the EU, DG TAXUD has no objections if the BOC requests from their exporters a FORM B certificate.

At the same time the documentary stamp in box 11 on the original FORM A (which is presented at importation in the EU) might create some confusion and trigger verification requests. Therefore, we would recommend that it is added either on the reverse side or on one of the copies of the FORM A.

(iii) Analysis of Customs Memorandum Orders and training material on the GSP scheme

The BOC provided the mission team with the Customs Memorandum Orders number 11-85, 27-2004, 27a-2004 and some training material on the GSP scheme. DG TAXUD has analysed these documents and would like to make the following comments:

- In several documents the lists of preference-giving countries require updating as not all 28 Member States of the EU are mentioned;
- In Customs Memorandum Order number 11-85, Part III "Procedures in the Issuance of FORM A", point E: "Retrospective Issuance of FORM A" is misleading, as it suggests that a FORM A could be issued within 30 days after the time of exportation without considering it to be a retrospectively issued

¹ (a) It was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
 (b) It is demonstrated to the satisfaction of the competent governmental authorities that a certificate of origin Form A was issued but was not accepted at importation for technical reasons; or
 (c) the final destination of the products concerned was determined during their transportation or storage and after possible splitting of a consignment, in accordance with Article 74.

certificate. Unfortunately, this is not in accordance with the legal framework for GSP where no such time limit exists. Therefore, I would like to ask you to amend the instructions in line with point (i) of this letter, where the regular procedure and the retrospective issue of certificates are explained;

- In the same memorandum, part III, point I "Customs Seals and Specimen Signatures of Authorized Customs Signatories", sub-point 4 states that the BOC transmits the names and specimen signatures of their authorized officers to the preference-giving countries. However, the names and signatures of officials are not required in the EU relevant law and should not be communicated to the European Commission.

(iv) Communication of stamps and update of addresses

It would be appreciated to receive a communication and an update of the addresses of the issuing and verifying authorities of the Philippines at your earliest convenience.

If your colleagues or the relevant authorities of the Philippines require further information, they should not hesitate to contact DG Taxation and Customs Union, Sector B.001 (Ms C. Bremkamp, tel. +32-2-2998289, email: carola.bremkamp@ec.europa.eu or Ms M. Niit, tel. +32-2-2997611, email marge.niit@ec.europa.eu).

Yours sincerely,



Stephen QUEST