

2016-03-01



Republic of the Philippines
Department of Finance
Bureau of Customs
1099 Manila

**OFFICE OF THE DEPUTY COMMISSIONER
ASSESSMENT AND OPERATIONS COORDINATING GROUP**

AOCG MEMORANDUM

NO. 033-2016

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

Re : EU Delegation Monitoring Visit re: Commission Implementing Regulation (EU) 2015/428 of 10 March 2015 amending Regulation (EEC) No 2454/93 and Regulation (EU) No 1063/2010

Date : 07 April 2016

Please be informed that the European Union conducted a monitoring visit 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 generalised tariff preferences and preferential tariff measures for certain countries or territories.

Kindly refer to the attached letter of Stephen Quest, DG of TAXUD dated March 9, 2016 emphasizing the following salient provisions:

1) The date in Box 12 must be earlier or similar to the date in Box 11 of Form A.

The monitoring team discussed that the date of the exporter's application for a Form A should be lodged at the time that the goods may still be subject to BOC's physical examination. Considering that under BOC CMO 27-04, a bill of lading is among the required documents that the exporter must submit prior to the issuance of a Certificate of Origin, the BOC can issue the CO during and/or after exportation after the bill of lading has

been presented to the BOC. In any case, the date in Box 12 must be on or before the date in Box 11 of Form A.

Please be reminded that the Commission Implementing Regulation (EU) 2015/428 of 10 March 2015 cited the instances when a certificate of origin can be issued retrospectively. Under Article 97I:

" xxx

ii. The competent authorities of beneficiary countries shall make available the certificate of origin Form A to the exporter as soon as the exportation has taken place or is ensured. However, the competent authorities of beneficiary countries may also issue a certificate of origin Form A after exportation of the products to which it relates, if:

- (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, in accordance with Article 74.

iii. The competent authorities of beneficiary countries may issue a certificate retrospectively only 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", "Délivré a posteriori" or "emitido a posteriori" shall be indicated in box 4 of the certificate of origin Form A issued retrospectively... xxx"

2) The Documentary Stamp Tax must be appended on BOC's copy of Form A

The EU Monitoring Team discussed that the Documentary Stamp Tax (DST) does not appear in any provision of the Commission Implementing Regulation (EU) 2015/428 of 10 March 2015. However, under the 1997 National Internal Revenue Code (NIRC), as amended, the exporter is required to pay the necessary documentary stamp tax for any government-issued documents such as certificates of origin.

To compromise, it was agreed that the Documentary Stamp Tax must be appended on BOC's copy of Form A (pink form) instead on the original Form A.

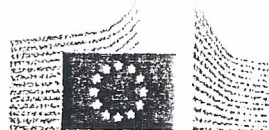
3) Submission of names and addresses of the issuing and verifying authorities of the Philippines

Kindly ensure the submission of the recent names and addresses of the issuing and verifying authorities in your division/unit to the Export Coordinating Division to avoid triggering of verification requests. You may coordinate with the ECD through 527-4506 or email at ecd.boc@gmail.com.

Please ensure the implementation of the provisions of Commission Implementing Regulation (EU) 2015/428 of 10 March 2015 amending Regulation (EEC) No 2454/93 and Regulation (EU) No 1063/2010 in order that the export-oriented industries can avail of the preferential tariff treatment under the issuance of CO GSP Form A, as amended.

For your strict compliance.


JUVY DANOFRATA
OIC - Deputy Commissioner, AOCG



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION

The Director-General

TAXUD/b.001/CB - 9 MARS 2016
ARES(2016) 865859

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;

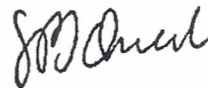
- In the same memorandum, part III, point I "Customs Seals and Specimen Signatures of Authorized Customs Signatories", sub-point 4 states that the BOC transmits the names and specimen signatures of their authorized officers to the preference-giving countries. However, the names and signatures of officials 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