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**U.S. Model for Simplification and Unification of
Customs Procedures for Claiming Preferential Tariff
Treatment under Free Trade Agreements**

Submitted by: United States



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U.S. Model for Simplification and Unification of Customs Procedures for Claiming Preferential Tariff Treatment under Free Trade Agreements

Suggested Best Practices for Minimizing and Harmonizing Requirements for Preference Claims under Free Trade Agreements

- Minimize Requirements to Make Claim
 - Simplify Method of Claiming Preference
 - Simplify Basis for Claim
- Verify Claim After Importation
 - Manage Risk
- Harmonize Record Keeping Periods
 - 5 Year Standard
 - Electronic Records

At Border: Simplify Method of Claiming Preference

- Avoid requiring documents when goods are crossing borders, that is, at importation.
- Permit claim for preferential treatment to be made very simply when the goods are crossing the border:

For example, use an importer's "declaration" that the good is originating in accordance with the rules of origin of the agreement.

Claim for Preferential Treatment at Importation = Importer's Declaration

- An importer's declaration can be as simple as a code identifying the preference claimed on importation documents.
- Submitted along with data already required for any importation.
- No certifications or additional documents required at border.

Simplify Basis for Claim

- Replace Certificates of Origin with data requirements.
- Eliminate certifications based on third-party's knowledge of transaction.
- Permit Importer's Knowledge to serve as basis of claim:
 - when preparing the importer's certification, the importer relies upon personal knowledge or an exporter or producer's certification that the goods originate.
- Importer must be prepared to substantiate such claim to the customs authority with records and documentation.

Unify Obligations with Benefits

- Importer claiming preferential treatment is responsible for demonstrating that the good is an originating good.
- Importer has greatest motivation to comply with requirements and secure records to demonstrate compliance.
- Encourages the importer to locate and use reliable suppliers.

U.S. Model: Self-Certification Replaces Third-party Certificates of Origin Forms With Data Elements Based On Importer's Knowledge

- Certification is only required upon request and then importer can submit a certification or other information demonstrating that a good qualifies as originating.
- Importer's certification, statement or declaration of origin which includes:
 - Importer's certification that the goods comply with the rules of origin for the preference claimed;
 - Importer's legal name, address, phone and e-mail address;
 - Exporter's legal name, address, phone and e-mail address if different from the producer;
 - Producer's legal name, address, phone and e-mail address;
 - detailed description of the good, if known;
 - The HTS tariff classification, to six or more digits,
 - The preference criterion under which the goods originate.
- No specific form required, just must provide the information IF REQUESTED.

Sample Language for Importer's Certification

"I [the importer] Certify that:

The information on this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document;

I agree to maintain, and present upon request [of the customs authority], documentation necessary to support this certification, and to inform, in writing, all persons to whom the certification was given of any changes that could affect the accuracy or validity of this certification; and

The goods originated in the territory of one or more of the parties, and comply with the origin requirements specified for those goods in the _____ - _____ Free Trade Agreement; there has been no further production or any other operation outside the territories of the parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition or to transport the good to the [country of importation]."

Blanket Certifications

- Certifications that contain information about goods made during a specified “manufacturing period” or “import period.”
- Applicable to goods described that were manufactured or imported during that period.
- Blanket certifications are applicable to multiple shipments.

Manage Risk

- Verify Claim After importation Based on Risk Management Criteria.
- Verify Preferential Treatment Claims on Shipments with Unacceptable Risk of Circumvention
- Request certification and other documents that show the goods met the origin criteria from the importer after importation.

Harmonize Record Keeping Requirements

- 5 Year Standard
- Importer is obligated to ensure that it can produce cost, production, and related documentation, demonstrating the originating status of the good for five years after claim is made.
- Exporters or producers issuing certifications are also mandated under U.S. FTAs to keep records for 5 years.

Use Electronic Records

- Permit preference claims and supporting documents, when requested, to be submitted electronically.
- Trade preference requirements should reflect business practices.

Customs Cooperation

- Under the U.S. regime, free trade agreements include obligations for all parties' customs authorities to cooperate in achieving compliance with their respective laws and regulations pertaining to the agreement.

Penalties

- Since the U.S. does not have full jurisdiction over exporters or producers in other countries, its free trade agreements have provisions requiring each party to penalize exporters or producers for false certifications, as if they were importers.