

CERTIFICATE OF ORIGIN INSTRUCTIONS

INTRODUCTION

The Certificate of Origin is the fundamental document required to support a claim for NAFTA preference. Completion of a Certificate is an affirmation that the party signing the document has researched the terms of the NAFTA and has determined that the goods covered by the Certificate are originating goods as defined by the NAFTA. Preparation of a Certificate imposes certain legal rights, obligations and liabilities on the party signing the document and should be based on a careful inquiry into the terms of the NAFTA. The Certificate must be in the possession of the importer at the time preferential treatment is claimed and shall be presented to the Area/Port Director of Customs, or his or her designee, upon request.

THE FORM

In the United States, the Certificate of Origin is printed in English on Customs Form 434. Canada's and Mexico's versions of the Certificate of Origin may also be used for importations into the United States.

Completion

A Certificate must be completed and signed by the **exporter** of the goods. A Customs broker or commercial carrier is not the exporter. Producers who are not exporters may choose to prepare a Certificate and provide it to the exporter but there is no requirement that they do so and in no case will this relieve exporters of their obligation to prepare a Certificate if NAFTA preference is to be claimed. Where the exporter/producer is a legal entity such as a corporation, the person signing the Certificate must be a knowledgeable and responsible person with authority to obligate the exporter/producer. The Certificate may be completed in the language of the country of export or the language of the importing country.

Distributors and other intermediaries who neither produce nor export the goods may not complete a NAFTA Certificate of Origin. They may, however, obtain one from the producer to forward to the exporter.

INSTRUCTIONS

Field 1: Exporter Name and Address

In most transactions, it is the party who the buyer pays for the goods. State the exporter's legal name and complete address. The Tax Identification Number is the federal taxpayer's registry number for exporters in Mexico and the employer number or importer/ exporter number assigned by Revenue Canada for exporters in Canada.

Field 2: Blanket Period

Certificates can be used to cover multiple importations of identical merchandise made during a period not to exceed one year. Field 2 of the Certificate shall be completed only if the Certificate is a blanket Certificate. "FROM" is the date upon which the Certificate becomes applicable to the goods covered by the blanket Certificate. This date may be prior to the date of signature. "TO" is the date upon which the blanket period expires. The importation of the goods must occur within the specified dates.

Field 3: Producer's Name and Address

State the full legal name, address and tax identification number of the person or company that produces the goods. The producer's name and address that appear in Field 3 should be those of the party that maintains the production records relating to the good, since this is the party Customs will contact to verify the origin of the goods. Thus, a parent company should not be listed in Field 3 unless that company possesses the records that substantiate the Certificate of Origin.

If the exporter is also the producer of the goods, state "SAME."

If the Certificate covers goods produced by more than one producer, indicate "MULTIPLE" and attach a list of producers cross-referenced to each good described in Field 5.

If the exporters does not wish to disclose the identity of the producer to the importer, it is acceptable to state "AVAILABLE TO CUSTOMS UPON REQUEST."

Field 4: Importer Name and Address

The importer is usually the party in the foreign country who paid for the goods. State the full legal name, address and tax identification number of the importer.

If there is more than one importer, state "VARIOUS."

If the importer is unknown, state "UNKNOWN." This would often apply to a producer completing a Certificate for an exporter.

Field 5: Description of Good(s)

The description of the goods must be sufficient for Customs to relate the Certificate to the imported goods. If the Certificate covers a single shipment of a good, include the commercial invoice number. If not known, indicate another unique reference number, such as the shipping order number.

Field 6: HS Tariff Classification

The Harmonized System number for each good described on the NAFTA Certificate of Origin must appear in Field 6 of the Certificate. If the good is one of the few subject to a specific rule of origin requiring eight digits, the HS tariff classification should be that of the **country into whose territory the good will be imported**.

Field 7: Preference Criterion

The NAFTA grants benefits to a variety of goods from the region. Maximum benefits are reserved for those goods that "originate" in the region. The Agreement's rules of origin establish which goods originate and preclude other goods from obtaining those benefits. It is possible that a good made in Canada, Mexico or the United States does not "originate" in the NAFTA territory, as that term is used in the Agreement.

There are six preference criteria: A through F. These letters tell Customs and the importer how the goods qualified as originating. It is impossible to choose an origin criterion without first reading and fully understanding the rules of origin frequently referred to as Article 401 of the NAFTA and Annex 401. They have been superseded by the specific rules of origin of the Harmonized Tariff Schedule enacted by each of the signatories and kept up to date in their domestic legislation. The Agreement and General Note 12 may be found on the NAFTA Customs web site at www.nafta-customs.org.

Criterion A corresponds to goods wholly obtained or produced entirely in Canada, Mexico or the United States.

For a good to qualify under this criterion, it must contain no non-North American parts or materials anywhere in the production process. It is generally reserved for basic products such as those harvested, mined or fished in the NAFTA territory, although can include a manufactured good with no non NAFTA inputs.

Criterion B: Article 401(b) indicates that goods may "originate" in Canada, Mexico or the United States, even if they contain non-originating materials, if the materials satisfy the rule of origin specified in Annex 401 of the Agreement. The Annex 401 rules of origin are commonly referred to as specific rules of origin and are based on a change in tariff classification, a regional value-content requirement, or both. General Note 12(t) of the Harmonized Tariff Schedule (HTSUSA) reflects the updated version of Annex 401. Please note, you must first know the HS number of a good in order to find its specific rule of origin.

When a rule of origin is based on a **change in tariff classification**, each of the non-originating materials used in the production of the goods must undergo the applicable change as a result of production occurring entirely in Canada, Mexico and/or the United States. This means that the non-originating materials are classified under one tariff provision prior to processing and classified under another upon completion of processing. The specific rule of origin in General Note 12(t) defines exactly what change in tariff classification must occur for the goods to be considered "originating."

Some specific rules of origin require that a good have a minimum North American **regional value content** or (RVC). There are two formulas for calculating the regional value content, the "transaction value" method or the "net cost" method, requiring, in most situations, either 60% or 50% value added, respectively.

Criterion C corresponds to goods produced entirely in Canada, Mexico and/or the United States exclusively from materials that are already originating.

Criterion D. In a very few cases a good that has not undergone the required tariff change can still qualify for preferential NAFTA treatment if a regional value-content requirement is met.

Criterion E applies to certain automatic data processing goods and their parts. Currently, it applies only to computer parts of subheading 8473.30.

Criterion F applies to certain agricultural goods imported into Mexico.

Field 8: Producer

State "YES" if you are the producer of the good. If you export the good, but did not produce it, indicate "NO" and then indicate on what basis you completed the Certificate of Origin.

"NO(1)" indicates that you are certifying the origin of the goods based on your knowledge that the goods originate.

State "NO(2)" if the person signing the Certificate is relying on written information from the producer (other than a Certificate of Origin) documenting that the goods are originating goods. The written statement from the producer must contain the preference criterion information.

Complete Field 8 with "NO(3)" if you are an exporter preparing the Certificate on the basis of a Certificate completed by the producer. The exporter should verify that the Certificate provided to him was completed by the actual producer of the goods, not some other party in the chain of distribution.

Field 9: Net Cost

If your good is not subject to a regional value content requirement, or your good is subject to a regional value content requirement but you used the transaction value method to calculate it, indicate "NO." You will know whether your good is subject to a regional value content requirement based on your research of the rules of origin. As indicated above, it is impossible to choose an origin criterion without first reading and understanding the rules of origin contained in General Note 12(t) of the HTSUSA.

If your good is subject to a regional value content requirement and you used the net cost method to calculate it, indicate "NC." You should not indicate the regional value content as a percentage. If costs have been averaged, the starting and ending dates of the averaging period must be identified below the "NC."

Field 10: Country of Origin

For goods made in one country with no foreign inputs, the country of origin is the country of production. Otherwise, when processing is performed in more than one country or with substantial foreign components, the Marking Rules, Part 102 of the Customs Regulations (19 C.F.R. 102) should be consulted.

Originating Canadian goods are no longer subject to the merchandise processing fee whereas originating Mexican goods remain subject to the 0.19% (\$21 min./\$400 max.) until 6/30/99.

Field 11: Certification

Persons completing Certificates of Origin are strongly advised to read and fully comprehend exactly what they are certifying by signing and completing Field 11. Completion of a Certificate of Origin imposes certain legal rights, obligations and liabilities on the party signing the document and should be based on a careful inquiry into the terms of the NAFTA.

Certificate Not Required

In accordance with Article 503 of the Agreement, no certificate of origin is required by US Customs for either personal importations or for commercial importations on which the value of the NAFTA originating merchandise is US\$2,500 or less per line. In the case of commercial shipments, the accompanying invoice shall include a signed statement certifying that the goods qualify as originating goods.

Recordkeeping

The exporter is required to retain a copy of the Certificate (or the original) for five years (or for such longer period as Canada or Mexico may specify for exporters located in their territories) from the date of signature. The facts asserted in the Certificate must be supported by adequate records relating to the good, its materials and production.

Responsibilities

An exporter or producer who completes and signs a Certificate of Origin, and who has reason to believe that the Certificate contains information that is incorrect, shall promptly notify in writing all persons to whom he or she gave the Certificate of any change that could affect the accuracy or validity of the Certificate.

An importer who receives information that a Certificate is inaccurate or invalid must make a corrected declaration of origin within 30 days of discovery, and pay any duties owing, provided the liquidation of the entry summary is not yet final. Failure to correct a declaration that is known to contain inaccurate information may result in the assessment of penalties.

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