

NAFTA Certificate of Origin

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Forward

The Texas Legislature established the **Texas Centers for Border Economic and Enterprise Development** during its 70th Session. The **Texas Centers** program is a consortium effort between Texas A&M International University, the University of Texas - El Paso and the University of Texas - Pan American. The primary purpose of the **Texas Centers** is to provide leadership and support to Texas border communities in their economic development efforts.

The legislature provides funds to support the efforts of the **Texas Centers** in three principal activity areas:

- 1) Development and maintenance of an economic database;
- 2) The conduct of economic development research and planning; and,
- 3) The provision of technical assistance to industrial and governmental entities.

Texas A&M International University's **Texas Center** operates under the direction of the Graduate School for International Trade and Business Administration's **Institute for International Trade** (IIT).

This report "*NAFTA Certificate of Origin*" by Dr. Jim Giermanski contributes to the goals of the **Texas Centers**.

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NAFTA CERTIFICATE OF ORIGIN

The purpose of special trade agreements or arrangements among nations is to provide preferential treatment of products traded among the parties to the agreement. Therefore, all trade agreements and arrangements to which the United States is a party contain rules which determine the eligibility for the preferential treatment, usually tariff reduction or elimination. These rules are called Rules of Origin and adherence to them qualifies a product for a benefit.

The Caribbean Basin Recovery Act (CBI), the United States-Israel Free Trade Area, the United States-Canada Free-Trade Agreement (CFTA), and the North American Free Trade Agreement (NAFTA) all utilize rules to qualify products for special treatment. For the governments of the party nations to know if a product qualifies under the rules, they use a form called a Certificate of Origin. This certificate attests to customs authorities that the goods specified in it meet the requirements of the rules. Unless there is specific reason to believe otherwise, the customs authorities accept the contents of these certificates of origin as true and correct. Therefore, it is critical that exporters and importers understand the significance and proper execution of these certificates in obtaining the trade agreement benefits while avoiding negative administrative or legal consequences of utilizing a certificate containing incorrect information.

NAFTA Requirements

Article 501 of NAFTA requires the use of a certificate of origin. The United States certificate of origin for NAFTA is Customs Form 434. Article 501 requires each nation shall:

"(a) require an exporter in its territory to complete and sign a Certificate of Origin for any exportation of a good for which an importer may claim preferential tariff treatment on importation of the good into the territory of another Party; and

(b) provide that where an exporter in its territory is not the producer of the good, the exporter may complete and sign a Certificate on the basis of

(i) its knowledge of whether the good qualifies as an originating good,

(ii) its reasonable reliance on the producer's written representation that the good qualifies as an originating good, or

(iii) a completed and signed Certificate for the good voluntarily provided to the

exporter by the producer."¹

1. Requirements for the Producer

There is no mandate that a producer in any party nation be required to provide a certificate of origin to a firm or individual who exports that product. However, a producer may voluntarily do so. In the case that the producer is also the exporter, a certificate must be executed if there is a claim for preferential treatment. If the producer agrees to complete the certificate for use by the exporter, the producer must complete, sign and date the certificate.

2. Requirements for the Exporter

The exporter is the crucial entity in the execution of the certificate of origin. The certificate must be completed and signed by the exporter. Therefore, understanding the rules of origin is absolutely essential in executing the certificate. The certificate may be used for a single importation of a good or multiple importations of identical goods within a specified period but in no case beyond a 12 months. Given that the customs authorities shall accept the certificate up to four years after the date on which it was signed, the exporter should maintain a copy for, at least, four years after it is executed. The exporter must also maintain for a period of five years (or longer if so ordered by Customs) all records affecting the origin of the product for which the claim of preferential tariff treatment was made.

If the exporter (or producer) after signing the certificate discovers it was incorrect, the exporter (or producer) must notify all persons to whom the certificate was given of the error that would affect the validity of the certificate.

3. Requirements for the Importer

Article 502 of NAFTA sets forth the requirements on the importer with respect to the use of the certificate of origin. Each importer of a party nation who claims preferential tariff treatment for a good imported into its territory is required to:

¹ North American Free Trade Agreement, U. S. Government Printing Office, Washington D.C., 1993, p. 5-1.

"(a) make a written declaration, based on a valid Certificate of Origin, that the good qualifies as an originating good;

(b) have the Certificate in its possession at the time the declaration is made;

(c) provide, on the request of that Party's customs administration, a copy of the Certificate; and

(d) promptly make a corrected declaration and pay any duties owing where the importer has reason to believe that a Certificate on which a declaration was based contains information that is not correct."²

It is obvious, then, that there are some important issues the importer must understand. First, the importer must use the certificate if preferential tariff treatment is requested. Second, the importer must have in his possession a copy of the certificate at the time he declares the imported product qualifies for preferential tariff treatment. Third, he must provide a copy when and if requested by customs. Fourth, the importer must correct a faulty certificate and pay any owed taxes as a result of an incorrect certificate. Fifth, the importer has one year from the date of import to make a written declaration of preferential tariff rates if that declaration was not made at the time the product was originally imported. The importer may also receive refund of duties paid as a result of not claiming originally preferential treatment. He must present a copy of the certificate and other documents relating to the original import to obtain this refund. Finally, although not required by NAFTA or the U.S. Customs Service, a copy of the certificate or a written confirmation from the importer will likely be required by the U.S. customs broker clearing the imported product in order for that broker to claim preferential tariff treatment.

Article 503, however, provides for some exceptions. Certificates of origin are intended for commercial transactions. Article 503 states that a commercial transaction of \$1000 or less or its equivalent in the other party nations does not need a certificate. Each party may increase this amount. At the present time the United States Customs Service is not requiring a certificate of origin on an entry whether formal or informal of less than \$1250. Nevertheless, the invoice accompanying this import must contain a certification that the product is qualified under the

² NAFTA, p. 5-2.

Rules of Origin. It is expected that this value will increase to \$2500 once the provisions of the Customs Modernization Act become effective. Each of the party nations may also waive the requirement of a certificate for certain goods.

Certificates of origin are not new. They are essential in determining the eligibility of a product under whatever rules of origin are in use among trading nations. Thus, exporters and importers alike have to be able to execute and use them correctly especially under NAFTA where the rules seem to be complex.

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

Approved through 12/31/96
OMB No. 1515-0204
See back of form for Paperwork Reduction Act Notice.

NORTH AMERICAN FREE TRADE AGREEMENT
CERTIFICATE OF ORIGIN

Please print or type

19 CFR 181.11, 181.22

| | | | |
|---------------------------------------|--|---------------------------------------|--|
| 1. EXPORTER NAME AND ADDRESS | | 2. BLANKET PERIOD (DDMMYY) | |
| TAX IDENTIFICATION NUMBER: [REDACTED] | | FROM | |
| 3. PRODUCER NAME AND ADDRESS | | TO | |
| TAX IDENTIFICATION NUMBER: [REDACTED] | | 4. IMPORTER NAME AND ADDRESS | |
| TAX IDENTIFICATION NUMBER: [REDACTED] | | TAX IDENTIFICATION NUMBER: [REDACTED] | |

| 5. DESCRIPTION OF GOOD(S) | 6. HS TARIFF CLASSIFICATION NUMBER | 7. PREFERENCE CRITERION | 8. PRODUCER | 9. NET COST | 10. COUNTRY OF ORIGIN |
|---------------------------|------------------------------------|-------------------------|-------------|-------------|-----------------------|
| | | | | | |

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| | 11c. NAME (Print or Type) | | 11d. TITLE | |
| | 11e. DATE (DDMMYY) | 11f. TELEPHONE NUMBER | (Voice) | (Facsimile) |

Customs Form 434 (121793)