GUIDELINES ON PREFERENTIAL ORIGIN VERIFICATION

WORLD CUSTOMS ORGANIZATION
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1. INTRODUCTION

Background and objective

Preferential trade is a prominent feature of today’s world trade. Recognizing the increasing number of Free Trade Agreements (FTA) in force around the world and the key role that the Customs administrations play in the implementation of the FTAs, the robust implementation of preferential rules of origin in FTAs is one of the key tasks for the Member Customs administrations.

The WCO Guidelines on Preferential Origin Verification (hereinafter referred to as the Guidelines) provide concrete ideas for the effective and efficient management on how a system of verification of preferential origin could be organized and how it could be carried out by a Customs administration. The Guidelines aim at assisting the Member Customs administrations by providing practical references.

The Guidelines are predominantly meant for the use of the Member Customs administrations carrying out the origin verification on goods for which preferential treatment is claimed at import. Therefore, the term “Customs administration” is used for referring to the authority responsible for carrying out the verification at the importing side. On the other hand, the term “competent authority” is used to cover the various authorities responsible for the verification procedures at the exporting side, considering the different entities involved depending on the respective FTAs.

The verification procedures of preferential origin are stipulated in each FTA. The Guidelines do not intend to establish standards of the verification procedures themselves. Rather, the Guidelines aim to pave the way for bringing the provisions of the FTA into the practical operations of the Customs.

Definitions

For the purpose of these Guidelines:

(1) **Verification of preferential origin** means a course of administrative action carried out by the competent authorities to check the authenticity and/or accuracy of the proof of origin or the originating status of the goods applicable for the claim of preferential tariff treatment;

(2) **Proof of origin** means documentary evidence (either in paper or electronic format) to certify expressly that the goods to which the document relates satisfy the origin criteria under a certain FTA;

(3) **FTA** includes any international agreements such as free trade agreements, regional trade arrangements, economic partnership agreements, etc. involving two or more contracting parties which set forth the reciprocal granting of preferential tariff treatment among the contracting parties.
Scope

The Guidelines aim to cover the major types of verification procedures existing in the world today. The practical information on the implementation of verification are provided by volunteer Members and compiled into a National Practices Catalogue, which appears as the appendix to the Guidelines.

The verification procedures and the methods available differ from one FTA to another, including the roles and responsibilities that the Customs and other competent authorities play. Taking into account the varying roles that the Member Customs administrations play, the Guidelines stand on the viewpoint of the greatest common factor. In this connection, the Guidelines are mainly developed from the standpoint of a Customs administration of the importing side, excluding Sections 7 and 8, and unless otherwise specified.

Moreover, the focus of the verification may vary considerably depending on the FTA. Under some FTAs, greater emphasis may be placed on the verification of documentary aspect, i.e. the verification of authenticity of the proof of origin. While under other FTAs, greater focus could be placed on the originating status of the goods themselves, with the verification often carried out at the phase of post-clearance audit.

In this context, the elements included in the Guidelines as a whole would not be applicable as a package for a single Customs administration. The Guidelines should not be regarded as a fixed course menu. Instead, they should be considered as an à la carte to choose from, depending on what is suitable under respective national circumstances.

Guidelines, as used in the WCO, are flexible and non-binding instruments that propose a line of conduct rather than impose a legal obligation. In this context, the Guidelines are designed to provide practical information and do not intend to challenge any verification procedures established or to be established by the Members.
2. OVERVIEW OF THE VERIFICATION PROCESS

Verification process

An FTA stipulates the methods and procedures for the verification of preferential origin. The practical verification process must be carried out in accordance with the provisions of the FTA. The Customs administrations must refer to the specific texts of the FTA they take part in. The requirement for proofs of origin must also be confirmed in conjunction with the verification methods.

Although the methods may vary depending on the FTA, in general, the practical verification process would be in the following sequence:

(1) Identification of possible verification targets;
(2) Selection of goods for verification;
(3) Carrying out the verification;
(4) Feedback of the result of verification.

These verification procedures may be undertaken at the phase of import clearance or through post-clearance audit.

In principle, the official post-clearance verification process under an FTA should be carried out after an initial inquiry to the importer claiming preferential treatment, provided that the authenticity and/or the accuracy of the proof of origin or the originating status of the goods in question had not been made clear through the initial inquiry.

Verification methods

The methods of verification are stipulated in the FTA. Broadly, the verification methods are categorized into the following four types:

(1) **Administrative cooperation**: the Customs authority of the importing country requests the competent authority of the partner country to provide administrative assistance. Upon request from the importing side, the competent authority of the exporting country would take the appropriate measures to confirm the authenticity of the proofs of origin or the originating status of the goods in question.

(2) **Direct inquiry**: the Customs authority of the importing country directly requests information from the exporter or producer in the exporting country.

(3) **On-site visit**: verification is conducted by visiting the premises of the exporter or producer in the exporting country. This may be conducted by the competent authority of the exporting country or importing country, or jointly.

(4) **Importer based inquiry**: the Customs authority of the importing country directs the inquiry for verification only to the importer.

Under certain FTAs it is allowed to use only one type of verification method, while under other FTAs it may be allowed to use plural methods whether applied in sequence or not.
3. INFRASTRUCTURE AND COORDINATION

Organization of the origin verification office

An office responsible for the overall coordination of the verification system should be created within the national Customs administration.

The system for the verification of preferential origin requires a high level of contact and coordination between the parties to an FTA and/or with the importers, exporters, producers or other relevant persons. The creation of a central management office may not always be necessary – the role may be disseminated to the regional or local level. However, having a central office is useful to have an overview of how verification controls are managed within a national Customs administration and to ensure efficient and effective cooperation at international level.

Functions of the office

The office may be responsible for the following areas (not exhaustive):

1. Management of specimen signatures, specimen of official seals and information on approved exporters communicated between the partner countries, if verification could be conducted via administrative cooperation;

2. Contact between the national Customs administrations and the competent authorities of the partner countries regarding verification issues, if verification could be conducted via administrative cooperation;

3. Exchange of results and information, to the extent permitted by the national laws and regulations governing the use and disclosure of information to support risk management in the selection for verification, including the development of origin-specific risk criteria;

4. Management of time limits for verification requests;

5. Collection of statistics on verification;

6. Coordination of training to support the local or regional offices;

7. Support for the trade and industry in correctly understanding and applying the rules of origin.

Qualification of officials

The officials responsible for verification should have professional knowledge about the following areas (not exhaustive):

1. Rules of origin under FTAs;

2. Customs legislation, foreign trade law and any other relevant regulations;

3. Tariff classification;
(4) Customs Valuation;

(5) Accounting according to GAAP (generally accepted accounting principles) or other established principles;

(6) Risk analysis;

(7) Other related areas.

The officials responsible for verification should be kept free from any irrelevant personal and/or external pressure when carrying out the verification.

Recordkeeping

The office responsible for origin verification should keep all records of the verification activities. It allows the proper management as well as statistics for feedback on risk management.

Identification of contact points

The contact points of the administrative office must be identified and always kept up-to-date between the contracting parties of the FTA if verification could be conducted via administrative cooperation. These are the name and position of the officer in charge, postal addresses, phone numbers, fax numbers and email addresses of the competent authority of the exporting side as well as the Customs authority of the importing side. It may be useful to agree, possibly through a Memorandum of Understanding, on a detailed procedure for the identification of contact points between the competent authorities of the contracting parties.

Power of the competent authority in the exporting country

If it is allowed under the applicable FTA to conduct verification through administrative cooperation, the competent authority of the exporting country should be equipped with the necessary power under the national legislation to appropriately process the verification request from the importing country.
4. IDENTIFICATION OF POTENTIAL VERIFICATION TARGETS

Application of risk management

The selection of potential verification targets should be made on the basis of risk management. Where appropriate and/or possible, the initial screening should be conducted through the use of an automated import clearance system. Some FTAs specifically stipulate that the verification may be carried out on a random basis.

Examples of risk indicators for identification of potential verification targets

The following risk indicators may be applied when identifying the potential verification targets (not exhaustive):

- (1) Combination of certain goods from certain partner countries, based on past cases of noncompliance;

- (2) The capability of the declared country of origin to produce the particular goods;

- (3) Traders’ history (including whether they are new or non frequent traders or have had a record of irregularities);

- (4) The amount of duty involved (the value of the consignment and the goods which have significant difference between the MFN rate and the preferential duty rate, tariff rate quotas, seasonal tariff rates or other special tariff schemes);

- (5) Country through which the goods were transshipped;

- (6) The length of time the shipment has been kept in a third country;

- (7) Unusual increase or decrease in the import volume of certain good within a certain period of time.

Sharing of information on non-compliance

The information on non-compliance to the preferential origin requirements may be shared between the contracting parties to the respective FTAs so as to be used as one of the risk indicators, to the extent permitted by the national laws and regulations governing the use and disclosure of information.

Documentary examination of proof of origin

The documentary examination of the proof of origin should be carried out after the initial screening at import clearance or during the post-clearance audit.
Examples of key points to be checked during the documentary examination

The following points may be considered during the documentary examination.

(1) The technical requirements of proofs of origin:
   a. Format of the proof of origin, provided that there is a prescribed format under the FTA;
   b. Signature and/or impression of the stamp on proofs of origin – cross-check with registered information where appropriate;
   c. Date of issuance;
   d. If there are modifications, whether the modifications are endorsed by a competent person;

(2) The consistency of proof of origin with the commercial invoice and with the import cargo declaration submitted to Customs, including the names of the exporter and importer, invoice number and date of issuance, description and quantity of the goods, price of the goods and delivery terms, and the tariff classification code;

(3) The origin criteria of the goods;

(4) The consignment criteria.

Minor errors in proof of origin to be disregarded

Where the originating status of the goods is not in doubt, the discovery of minor discrepancies between the statements made in the proof of origin and those made in the documents submitted to the Customs authority of the importing country should not ipso facto invalidate the proof of origin, provided that the documents evidently correspond to the products physically presented.

Minor errors could include slight discrepancies or omissions, typing errors or, in the case of a prescribed format, protruding from the designated field, provided that these minor errors may not affect the authenticity of the proof of origin or the accuracy of the information included in the proof of origin.

Standards should be established for the use of field Customs officers which provide concrete examples to what extent the minor errors could be disregarded. They can be created internally within the national Customs authority or in cooperation with the partner country of the FTA.

Physical examination of the goods

Customs may, to the best of their competence and capability, carry out proper examination on the import goods to confirm that the goods qualify as originating under applicable FTA. The description of the goods, quantity and weight, marks and numbers on the packages, etc. should be cross-checked with the proof of origin.
5. SELECTION OF GOODS FOR VERIFICATION

Gathering information on a suspicious shipment before selection for verification

Information on a suspicious shipment should be gathered from as many sources as possible before a selection is made.

The following sources of information could be consulted (not exhaustive):

1. Information on the basis of results of previous verification checks;
2. Accessible databases operated by other government departments – e.g. tax administration, trade ministry, food administration, according to the type of goods;
3. Company websites, company annual reports, information on the competitors;
4. External audit services;
5. Information on production capacities of targeted goods from specific countries.

Reasons for selection – specific reasons to doubt the authenticity of proof of origin/originating status

The following is a non-exhaustive list of reasons why a proof of origin could be selected for verification regarding the authenticity of the proof of origin:

1. Crossing out, irregular corrections and other inauthentic interventions on proof of origin;
2. Formality errors have been detected, however such errors are insufficient to refuse preferential treatment without verification;
3. The stamp used is illegible;
4. The stamp or signature used does not correspond to the specimens transmitted from the competent authority of the exporting country;
5. The issuance number of the proof of origin is not consistent with the number structure;
6. The data provided on the proof of origin does not correspond to those of the supporting documents submitted (e.g. import cargo declaration), including the names of exporter and importer, description and quantity of goods, and the tariff classification code;
7. Value declared in the proof of origin is suspiciously higher or lower than similar import.
The following is a non-exhaustive list of reasons why goods could be selected for verification regarding the originating status of the good:

(1) Reasonable doubt that the goods are merely going through non-qualifying operation (insufficient working or processing);

(2) Suspicion if the requirements for sufficient working or processing have been met;

(3) Origin marking mentioned on products or packaging differs from the country of origin declared on proof of origin;¹

(4) Irrational transport routing;

(5) Suspicion that the goods are produced in the declared country of origin, considering the industrial structure of the exporting country and the characteristics of the goods in question.

¹ The rules of origin applied to determine the origin marking are the non-preferential rules of origin which are significantly different from the preferential rules of origin.
6. COMMENCEMENT OF THE VERIFICATION PROCEDURE

Notification to the importer

At the commencement of the verification procedure, the importer should be notified that verification is being undertaken.

The importer may not be notified in the cases where notifying the importer could possibly interfere with the integrity of the verification.

Suspension of granting preferential treatment

If the verification is conducted at the import clearance of the goods, the granting of preferential tariff treatment may be suspended when the goods are subject to verification. Any suspended preferential tariff treatment should be reinstated upon the determination that the goods qualify as originating goods.

Release of goods

The commencement of the verification procedure should not prevent the release of the goods, subject to any administrative measures deemed necessary such as the requirement of a deposit equivalent to the duties payable at the non-preferential applied duty rate, provided that the goods are not held to be subject to import prohibitions or restrictions and there is no suspicion of fraud.
7. TRANSMISSION OF A VERIFICATION REQUEST TO THE COMPETENT AUTHORITY OF THE EXPORTING COUNTRY (if verification is conducted via administrative cooperation)

Information to be communicated

A formal letter requesting a verification check should be sent to the competent authority of the exporting country, preferably by registered mail. The letter should, at a minimum, contain the following information:

1. A reference to the legal grounds for the request for verification;
2. The specific reasons for the verification;
3. The consequences of a failure to reply or the provision of insufficient information;
4. A request that the reply be provided within the prescribed deadline.

Use of electronic means to exchange information

If allowed under the applicable FTA, the transmission of the verification request should be carried out by electronic means. Nominated contact points in the competent authorities involved could agree, possibly through Memorandum of Understandings, that the request for verification could be sent by electronic means where suitable.

When utilizing IT systems for the exchange of information, security and confidentiality of the information should be duly considered.

Where appropriate, it is useful to develop and utilize a secured website which allows the Customs authority of the importing country to cross-check the record of issuance and the details of the proofs of origin issued by the competent authority of the exporting country.
8. VERIFICATION OF THE AUTHENTICITY OF PROOF OF ORIGIN (if acting as the competent authority on the exporting side)

Acknowledgement of receipt

On receipt of a request for verification from the importing country, the receipt of the request should be noted as soon as possible. An acknowledgement should be sent to the authorities of the importing country, preferably by email.

Confirmation of stamp impressions and signatures, cross-check with the record of issuance

On receipt of a request for verification regarding the authenticity of proof of origin, the competent authority of the exporting country should take the following actions to determine whether the proof of origin in question is genuine and was issued properly:

1. Check the format being used;
2. Confirm the stamp impressions and signatures;
3. Cross-check with the record of issuance.
9. VERIFICATION WITH THE EXPORTER ON THE ORIGINATING STATUS OF THE GOODS

Ascertaining the precise nature of the verification check

The precise nature of the doubt for verification check should be ascertained, in accordance with the reasons arising from the selection process.

Background check on the exporter

A background check on the exporter should be carried out prior to the contact with the company.

Contact with the exporter by questionnaire

The verification questionnaire should be sent with a formal letter stating the conditions of the verification such as the legal grounds, reasons for selection, consequence of failure to reply or insufficient information, deadline for reply, etc.

On-site verification visit

Close coordination between the authorities should be ensured when the Customs authority of the importing country is present as observer for the verification visits conducted by the competent authority of the exporting country under the applicable FTA.

Prior to conducting a verification visit, the competent authority should, through the appropriate channel specified under the FTA and according to the national legislation:

(1) Deliver a written notification of its intention to conduct the verification visit to the exporter or producer whose premises are to be visited; and

(2) Obtain the written consent of the exporter or producer whose premises are to be visited.

The notification above may not be carried out if there is a high probability of destroying or altering of related evidence to be committed by the exporter or producer.

Where an exporter or producer has not given its consent to a proposed verification visit, the preferential tariff treatment may be denied to the relevant goods in accordance with the applicable FTA.

After the conclusion of a verification visit, the competent authority conducting the verification should provide the exporter or producer whose goods were verified with a written determination of whether the goods are eligible for preferential tariff treatment, based on the relevant laws and findings of the fact.
List of elements to be included in a verification questionnaire or to be checked during on-site verification

The following elements should be confirmed using a verification questionnaire or during on-site verification:

1. Basic information on the business of the exporter or producer;
2. Production capacity, including the types and number of equipment;
3. General production process for the goods being verified;
4. Description of the non-originating materials and their HS code;
5. Description of the originating materials and the basis of their originating status, including information on the supplier;
6. Use of tolerance/de minimis provision;
7. Inventory management method of interchangeable/fungible goods or materials, if used;
8. Estimate of the qualifying percentage and the source of the calculation, if value added rule is applicable;
9. Use of cumulation provision;
10. Relationship between the seller and buyer of the goods being verified – intra-company transaction or not.
10. IMPORTER-BASED VERIFICATION

Requesting supporting documents from the importer

Under the importer-based verification, the Customs administration of the importing country may request the importer to submit any necessary documents to support the preferential claims in question. The information received from the importer should be used to analyze the validity of the proof of origin and whether the goods in question satisfy the origin criteria under the applicable FTA.

Treatment of confidential information

When importer-based verification is applicable, the importer should be permitted to arrange for the foreign supplier to provide sales information directly to the Customs authority of the importing country in order to protect the confidential information.

11. CONSEQUENCES OF NEGATIVE RESPONSE OR LACKING REPLY

Possible denial of preferential treatment

The Customs administration of the importing country should determine whether to deny the preferential treatment for the good verified considering the result of the verification and in accordance with the provisions of the applicable FTA.

Inform the importer about the result of verification

The Customs administrations of the importing country should inform the importer of the result of the verification and the decision according to the result.

Review and appeal

The importer should be ensured the right to lodge an appeal regarding the verification process and its consequence in accordance with the applicable FTA and domestic laws and regulations where appropriate.
ANNEX: NATIONAL PRACTICES CATALOGUE (UPDATED IN JULY 2015)

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1. CANADA

NOTE: references to the *Customs Act* and to related Regulations are referring to Canadian legislation.

I. STRUCTURE FOR THE MANAGEMENT OF ORIGIN VERIFICATION

The Canada Border Services Agency (CBSA) follows a hierarchical management structure consisting of a national headquarters and regional offices. National trade verification priorities are compiled by a dedicated division within headquarters and sent to regional offices for verification. Regional offices are also able to identify and verify individual importers with respect to trade compliance. The results of the verifications are reported back to headquarters, which uses the statistics to analyze the effectiveness and efficiency of the trade compliance program as a whole.

Within headquarters, the Trade and Anti-dumping Programs Directorate (TAPD) oversees the national tariff classification, origin, and valuation programs, in addition to having oversight responsibility for the CBSA’s trade compliance program, and ensures that Canada meets its obligations as a signatory to various international trade agreements, including the World Trade Organization’s Agreement on Customs Valuation and Canada's various bilateral and multilateral free trade agreements. This directorate also negotiates the agreements that act as a framework for Canada’s trade programs; develops and publishes related policies and procedures; provides technical interpretations of the related laws, regulations, and policies; as well as offers advice and functional guidance to both CBSA officers and members of the trade community. The TAPD also provides technical training and support on issues relating to tariff classification, origin, and valuation and to trade compliance risking and verification, and represents Canada on the World Customs Organization’s and World Trade Organization’s related technical committees.

II. VERIFICATION OF THE AUTHENTICITY AND THE VALIDITY OF PROOFS OF ORIGIN

1. Legal framework for the verification of the authenticity and validity of the proofs of origin in question

The requirement that an importer have a certificate of origin in its possession when making a claim for preferential tariff treatment is legislated through an act and regulations. The legislative authority governing verification of proofs of origin is provided by the Customs Act, section 35.1. The Customs Act is the enabling act for the Proof of Origin of Imported Goods Regulations through subsection 35.1(4). Also note that prescriptions outlined in the Customs Act, such as prescribed “form” and “information,” are defined in the regulations.

Section 35.1 outlines when the proof of origin should be furnished and by whom. It also discusses the authority to make related regulations, and the conditions for denial or withdrawal of the preferential tariff treatment. It states that proof of origin must be furnished for goods for which a preferential tariff treatment has been claimed at time of importation, unless otherwise specified in the Proof of Origin of Imported Goods Regulations.

The Customs Act obliges the importer, subject to regulations, to always furnish the proof of origin. It also refers to the regulations to establish when and where the proof of origin must be submitted. Subsection 6(1) of the Proof of Origin of Imported Goods...
Regulations states that the importer/owner must furnish the proof of origin when the goods are accounted for, proof that must be in its possession. The different sections of the Proof of Origin of Imported Goods Regulations cover specific free trade agreements.

2. Selection of shipments for verification of the authenticity and validity of the proofs of origin

No importers are specifically targeted at a national level for the verification of the proofs of origin, although individual regional offices may verify the validity of the proofs of origin of individual importers.

3. Commencement of verification procedures, including contacting the importer

When a verification of proof of origin commences, the following procedures are followed:
- Communicate with the importer to request proof of origin, along with the necessary supporting documentation. The importer is granted a period of no less than five working days to provide the requested documentation.

4. Transmission of verification requests to the competent authority in the exporting country

When verifying proof of origin, no verification requests are transmitted to the competent authority in the exporting country. All verification requests are made directly to the importer in Canada.

5. Administering the replies – consequences for negative or lacking replies

When a reply is received from the importer, the documentation supporting the declaration is analyzed using the following procedures:
- Analyze the proof of origin and ensure that it has been correctly filled out, as per the instructions.
- Ensure that the proof of origin is signed by someone who could be reasonably expected to have knowledge of the information provided.
- Ensure that the description of the good on the proof of origin relates to the imported goods as per the commercial invoice.
- Ensure that the preference criterion indicated can apply to the good being imported.
- Ensure that the time period indicated on the proof of origin does not exceed 12 months and covers the goods at the time of import.
- Determine whether or not the proof of origin properly supports the tariff treatment claimed by the importer.
- Document the findings in the verification case file.
- Send the verification report to the importer, notifying them of the results of the verification.

The result is either positive (confirms the declaration) or negative (disconfirms the declaration). A positive decision is formally communicated through a final verification report to the importer. At this point the verification is officially concluded.

In the case of a negative decision or a decision based on incomplete information (no reply), an interim verification report is sent to the importer. This report outlines the
justification for the negative decision by explaining all deficiencies in the documentation supporting the declaration, as well as, providing 30 days to respond. If the importer is unable to resolve the issues mentioned in the interim report within the 30 days, a final report is issued. This final report officially revokes the importer’s origin declaration and requires the importer to self-correct all import transactions related to the proof of origin.

Redress is available to the importer by way of appeal. Appeals are processed by the Recourse Directorate within headquarters. To ensure impartiality in CBSA’s review of the appeal, the Recourse Directorate and its procedures are completely separate from the TAPD.

III. VERIFICATION OF THE ORIGINATING STATUS OF THE GOODS

1. Legal framework for the verification of originating status of the goods in question

The verification of origin procedures applicable to free trade agreements are legislated through an act and regulations. The legislative authority governing verifications of origin is provided by the Customs Act. The following sections are relevant for verifications of origin: 42.1, 42.2, 42.3 and 43. The Customs Act is the enabling act for the different Verification of Origin Regulations, giving the authority to make those. As such, prescriptions outlined in the Customs Act, such as prescribed “premises” and “manner,” are defined in the regulations. As well, designated “officers” are identified in the regulations.

Section 42.1 outlines the methods of verification and the conditions for the withdrawal of preferential tariff treatment. It states that when conducting an origin verification, officers have the authority to enter premises and to withdraw preferential tariff treatment if the prescribed requirements have not been met within the prescribed time limit.

Section 42.2 states that an officer, on completion of an origin verification, shall provide the exporter/producer a statement as to whether the goods subject to verification are eligible for preferential tariff treatment.

Section 42.3 discusses the effective date of redetermination or further redetermination of the origin of the goods, and related limitations. It also establishes when the effective date may be postponed. Particularly for CEFTA, it outlines the treatment to be given for situations where an exporter relied in good faith on a ruling made by Customs to its own detriment.

Section 43 states that any person that has been served notice by an officer to produce records shall do so, notwithstanding any law to the contrary.

There are different sets of Verification of Origin Regulations, depending on the free trade agreement they relate to. For example, verifications under NAFTA are regulated through the NAFTA and CCFTA Verification of Origin Regulations. As an example, for purposes of the NAFTA or the CCFTA, the prescribed manner of conducting a verification of origin is outlined in section 2 of the regulations.

2. Selection of shipments for verification of the originating status
The selection of shipments for verification of the originating status of the goods is determined through a risk-based process. Risk analyses are conducted based on industry concerns, OGD concerns, complexity of the rules of origin, or other factors.

Once an origin verification priority is established, the selection of exporters targeted for an origin verification is based on their volume of exports to Canada, Customs value, duty at risk, and compliance history.

3. Commencement of verification procedures, including contacting the importer

When a verification of origin commences, the following procedures are followed:

- Review preliminary risk analysis/targeting file/complaint file, etc.
- Apply risk analysis verification procedures to select transactions for verification.
- Communicate with the importer to request proof of origin, along with the necessary supporting documentation. The importer is granted a period of no less than five working days to provide the requested documentation.
- Analyze information received from the importers and assess the validity of the proof of origin. Request sales information from exporter.

4. Transmission of verification requests to the competent authority in the exporting country or directly to the exporter

Once the proof of origin has been established to be valid, and sales information has been collected from the exporter, the following procedures are performed:

- Determine the scope of the review based on the findings above. The scope includes the period of the verification and the good(s) subject to the verification.
- Send a verification of origin questionnaire to the exporter. The exporter is granted an initial period of 30 working days to complete the questionnaire. One 15 working day extension may be provided to the exporter provided that a formal request has been made to the CBSA.
- Concurrently to the questionnaire, send a notification letter to the importer(s) of the good(s) subject to verification notifying them that their claim of preferential tariff treatment is under verification.

5. Administering the replies – consequences for negative or lacking replies

When a reply is received from the exporter, the questionnaire and supporting documentation is analyzed using the following verification procedures:

- Ensure that a questionnaire has been received for the good subject to verification and identify issues and concerns by analyzing the questionnaire submission.
- Verify that the good is not withdrawn from Customs control and does not undergo further production or any other operation outside the country where it was produced.
- Ensure that the Bill of Materials (BOM) supplied by the exporter includes all materials used in the production of the good and identify any changes made to the BOM throughout the verification period.
- Ensure that the finished good and the materials used in its production are properly classified, and confirm the Specific Rule of Origin (if applicable).
- Verify the origin of materials.
• Determine whether or not the good subject to verification originates under the regulations governing the relevant free trade agreement and that the originating status supports the tariff treatment claimed by the importer.
• Document the findings in the verification case file.
• Send the verification report to the exporter, notifying them of the results of the verification.
• Send a final letter to the importer, informing them whether the proof of origin they received from the exporter was valid. This letter is not the same as the verification report sent to the exporter.

The result is either positive (confirms the proof of origin) or negative (disconfirms the proof of origin). A positive decision is formally communicated through a final verification report to the exporter. A final letter is sent to the importer informing them of the originating status of the good subject to verification. At this point the verification is officially concluded.

In the case of a negative decision or a decision based on incomplete information (no reply), an interim verification report is sent to the exporter. This report outlines the justification for the negative decision by explaining all deficiencies in the documentation supporting the origin, as well as, providing 30 days to respond. If the exporter is unable to resolve the issues mentioned in the interim report within the 30 days, a final report is issued. This final report officially refutes the exporters claim that the proof of origin is valid and explains in detail the evidence supporting this final decision. It is the exporter’s responsibility to inform any and all importers that were given this proof of origin of its lack of validity. A final letter is sent to the importer informing them of the non-originating status of the good subject to verification and requires the importer to self-correct all import transactions related to the proof of origin.

Redress is available to the importer and exporter by way of appeal. Appeals are processed by the Recourse Directorate within headquarters. To ensure impartiality in CBSA's review of the appeal, the Recourse Directorate and its procedures are completely separate from the TAPD.

IV. VERIFICATION CONTROLS OF THE EXPORTER
(FOR THE CUSTOMS ADMINISTRATION THAT ALSO FUNCTIONS AS THE COMPETENT AUTHORITY IN THE EXPORTING SIDE)

1. Receive verification requests from partner country regarding the authenticity and validity of the proofs of origin

   For free trade agreements where CBSA acts as the competent authority, verification of proofs of origin are completed by the Customs administration in the country of import. Verification requests are not transmitted to the CBSA.

2. Carrying out verification of the exporter in your country to check the originating status of the goods in question

   The following is the origin verification protocol, where the CBSA acts as the competent authority on behalf of the Customs authority in the country of import:
   • CBSA receives a request to conduct an origin verification. This request provides the subject and scope of the verification, as well as, any supporting documentation compiled by the Customs authority in the country of import.
• CBSA acknowledges the request from the Customs authority in the country of import.
• CBSA notifies the exporter of the verification and requests documentation pertinent to establishing the origin of the good.
• CBSA conducts a verification of origin on the goods subject to the request using established origin verification procedures. (Idem to the verification procedures presented in part III. Verification of the Originating Status of the Goods.)
• CBSA provides to the Customs administration in the country of import an opinion as to whether the good is originating, setting out the rationale for the opinion. This opinion shall be provided within 12 months of receiving the request.
• The Customs authority in the country of import can disagree with the opinion and/or seek clarification from the CBSA within 60 days of the origin opinion.
• Once the Customs authority in the country of import makes an origin decision and communicates this decision to the CBSA, the CBSA notifies the exporter of the final determination.
2. CHINA

I. STRUCTURE FOR THE MANAGEMENT OF ORIGIN VERIFICATION

China Customs formulates a four-level management structure dealing with origin verification (see the graph below):

- **Level I**—Office of Rules of Origin of General Administration of Customs of China (GACC) with the following responsibilities: overall control and coordination of the verification related affairs; communicating the FTA parties with updating information of records of issuing bodies of China and related focal points; designating and instructing local Customs in charge of origin verification affairs subject to applicable FTAs; intervening into origin verification business, such as verification visits, dispute between Customs and traders and between the parties.

- **Level II**—Two branch offices of Rules of Origin in Shenzhen & Gongbei Customs Districts, which are the so-called outer-brain of the office of Rules of Origin GACC and are responsible for:
  - Conducting origin verification on a daily and operational basis and maintaining contact and coordination between the parties to an FTA and/or with the importers, exporters, producers or other relevant persons in respect of origin verification;
  - Registration of signatures and seals for issuing certificates of origin provided by FTA partners;
  - Receiving the verification requests from Customs districts and communicating the verification results to the requesting local Customs;
  - Carrying out risk analysis in the selection of shipments for verification of the proof of origin or the originating status of goods;
  - Collection and analysis of statistics on importation at preferential tariff rate;
  - Carrying out origin verification of the exporter regarding the verification requests from the partner country under the authorization of GACC;

- **Level III**—Tariff divisions at Customs districts, which are functional departments at the Customs district level responsible for the preliminary approval of the verification requests from Customs houses at ports within its Customs district, transmission of verification requests to two branch offices of Rules of Origin and the communication of the verification results to the Customs offices at ports.

- **Level IV**—Customs houses at ports responsible for selecting and filing origin verification requests to Tariff divisions at its Customs district.
II. VERIFICATION OF THE AUTHENTICITY AND THE VALIDITY OF PROOFS OF ORIGIN

1. Legal framework for the verification of the authenticity and validity of the proofs of origin in question

- Laws
  - Customs Law of the People’s Republic of China

- Regulations

- Decrees
  - Customs decrees promulgated by GACC implementing RoOs provisions under PTAs/FTAs

- Rules
  - Operational rules regarding origin administration promulgated by Duty Collection Department of GACC or subordinated Customs districts

2. Selection of shipments for verification of the authenticity and validity of the proofs of origin

- China Customs may request a retroactive check at random on the authenticity and validity of the proofs of origin under China-ASEAN\Pakistan FTA.

- Under other FTAs/PTAs (e.g. China-Chile/New Zealand/Singapore/Peru FTAs/PTAs etc.), the verification process shall only be initiated when there are reasonable grounds to doubt the accuracy or authenticity of proofs of origin concerned or when the Customs duty is sufficiently material to warrant the request.
Shipments for verification of the authenticity and validity of the proofs of origin may be selected by China Customs at the phase of pre-clearance screening, import clearance or post-clearance audit.

A proof of origin could be selected for verification regarding the authenticity of the proof of origin by China Customs for the following reasons:

- The proof of origin has not been duly completed and signed, e.g. irregular corrections and other inauthentic interventions on proof of origin;
- The signature or seals on the proof of origin do not correspond to the specimens registered at China Customs;
- The data provided under the proof of origin does not correspond to those of the supporting documents submitted (e.g. import cargo declaration), including the names of exporter and importer, description and quantity of goods, and the tariff classification code;
- The name of the relevant issuing body or any security features for the proof of origin, or any change in the above information, has not been advised to China Customs;
- The origin criteria of the good
- The electronic information of the certificate of origin cannot be verified through interconnection system under Mainland HK/Macau Closer Economic Partnership Arrangement

The selection of potential verification targets may be made on the basis of risk analysis by China Customs. The risk factors to consider may include:

- Trader’s history (including whether they are a first-time importer or the importer or supplier have a record of previous irregularities)
- The amount of duty involved (the value of the consignment and the difference between the preferential and MFN tariff rates)
- Type of goods (whether they are something that is likely to be further processed in the transit country)
- Country through which the goods were transshipped
- Length of time the shipment was in a third country
- The unusual increase or decrease in the import volume of certain good within a certain period of time

3. Commencement of verification procedures, including contacting the importer

Origin verification is conducted by China Customs at the phase of import clearance or post-clearance audit.

In respect of the origin verification at the phase of import clearance, China Customs shall notify the commencement of verification procedures to the importers, and the granting of preferential tariff treatment may be suspended. However, goods may be released to the importer subject to any administrative measures deemed necessary, including imposition of Customs duties at the higher applied rate or equivalent amount of deposit, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

In respect of the origin verification at post-clearance auditing, a risk management approach will be undertaken by China Customs, and the importer may not be notified.
Commencement of verification procedures consists of three steps (see the graph below):

**STEP 1:** When the officers at Customs District confront with the problems of origin determination, they shall collect all the related documents and certificates or copies of those documents and certificates and transmit them to Shenzhen or Gongbei offices of ROO which are obligated to verify the Certificate of Origin with the issuing authority and Customs of the exporting (originating) parties.

**STEP 2:** The officers at Shenzhen or Gongbei Offices of ROO examine the documents and certificates.

**STEP 3:** If external verification is necessary, the verification procedures with related authorities in partner countries shall start after being approved by the Duty Collection Department of General Administration of Customs. Official letters, emails, telephone contact and other communication methods shall be used with the issuing authorities and Customs of the exporting or originating countries in order to confirm the authenticity of the origin of the importing products and the validity of the certificate of origin and other related documents. This kind of external verification usually consumes the time of three to six months.

4. **Transmission of verification requests to the competent authority in the exporting country**

- For purposes of origin verification, unless the retroactive check is requested on a random basis, China Customs shall provide the competent authority of the exporting party with:
  - The reasons why such assistance for verification is requested;
  - The Certificate of Origin of the good, or a copy thereof;
  - Any information and documents as may be necessary for the purpose of such request; and
  - Time limit for the reply of the results of the origin verification and the consequence for failing to respond.

- Official letters, emails, telephone contact and other communication methods may be used with the issuing authorities and Customs of the exporting or originating countries in order to confirm the authenticity of the origin of the importing products and the validity of the certificate of origin and other related documents.

- All the information requested, supporting documents, and all other related information exchanged between China Customs and the competent bodies regarding origin verification may be communicated electronically or by post.
China Customs shall maintain the confidentiality of the information and documents in the course of verification process. Such information and documents shall not be used for other purposes, including being used as evidence in administrative and judicial proceedings, without the explicit written permission of the party providing such information.

Responses received from the competent authority in the exporting country will be acknowledged. If no response is received from the partner country within the stipulated timeframes, reminders will be sent through official letters, emails, telephone contact and other communication methods.

5. Administering the replies – consequences for negative or lacking replies

After the responses return, China Customs shall hereby determine the originating status of the importing products, and the importing products shall be dealt with as appropriate.

The importer, exporter, manufacturer or producer, as appropriate, fails to provide information which China Customs has requested in the course of a verification process, or the requested competent body of the exporting party is unable to respond to the request to the satisfaction of China Customs, within the prescribed deadline, China Customs may deny the preferential treatment for the good verified considering the result of the verification and in accordance with the provisions of the applicable FTA.

In the event preferential tariff treatment is denied, China Customs shall inform the exporter, the importer or producer, as the case may be, the reasons for that decision, and proceed with the procedure to convert the deposit to import tariff.

Criminal or administrative penalties may also be imposed according to the severity of the offense.

With respect to determinations relating to the verification process, its consequence or the eligibility for preferential treatment, importers in China's territory have access to administrative review and judicial appeal in accordance with China's domestic laws and regulations.

III. VERIFICATION OF THE ORIGINATING STATUS OF THE GOODS

1. Legal framework for the verification of originating status of the goods in question

(SAME as II-1)

2. Selection of shipments for verification of the originating status

Shipments for verification of the originating status may be selected by China Customs at the phase of pre-clearance screening, import clearance or post-clearance audit.

The selection of potential verification targets may be made whenever there is reasonable doubt as to the originating status of the goods. China Customs may also request a retroactive check at random on the originating status of import goods under China-ASEAN\Pakistan FTA.
The selection of potential verification targets may be made on the basis of risk analysis by China Customs. The risk factors to consider may include:

- Trader’s history (including whether they are a first-time importer or the importer or supplier have a record of previous irregularities)
- The amount of duty involved (the value of the consignment and the difference between the preferential and MFN tariff rates)
- Type of goods (whether they are something that is likely to be further processed in the transit country)
- Country through which the goods were transshipped
- Length of time the shipment was in a third country
- The unusual increase or decrease in the import volume of certain good within a certain period of time

3. **Commencement of verification procedures, including contacting the importer**

   (SAME as II-3)

4. **Transmission of verification requests to the competent authority in the exporting country or directly to the exporter**

   (SAME as II-4)

5. **Administering the replies – consequences for negative or lacking replies**

   (SAME as II-5)

**IV. VERIFICATION CONTROLS OF THE EXPORTER**

(FOR THE CUSTOMS ADMINISTRATION THAT ALSO FUNCTIONS AS THE COMPETENT AUTHORITY IN THE EXPORTING SIDE)

1. **Receive verification requests from partner country regarding the authenticity and validity of the proofs of origin**

   ➢ China Customs functions as the competent authority in the exporting side regarding the origin verification.

   ➢ In respect of the verification requests on the authenticity and validity of the proofs of origin, China Customs will transmit the verification requests to the issuing bodies of the proof of origin, having overall coordination of the verification process.

   ➢ On receipt of a request for verification from the importing country, the receipt of the request will be acknowledged as soon as possible, preferably by email.

   ➢ A formal response will be forwarded to the requesting party confirming the validity and authenticity of the proofs of origin.

2. **Carrying out verification of the exporter in your country to check the originating status of the goods in question**
GUIDELINES ON PREFERENTIAL ORIGIN VERIFICATION

- China Customs carries out verification of the exporter/producer based on risk analysis or the request from the partner country regarding the originating status of the goods;

- In the case of the verification request from the partner country, China Customs will ascertain the grounds and doubts of the requesting party for origin verification;

- An origin verification working group will be set up consisting of Customs tariff and audit experts.

- A background check on the exporter or producer will be carried out and the origin verification scheme will be formulated.

- China Customs shall deliver a written notification to the exporter or producer subject to the verification in advance. In certain special circumstances, China Customs may conduct the verification without any appointment in advance.

- The exporter or producer shall provide China Customs with truthful information, the necessary data and supporting documents.

- A physical visit to the premises of the producer will be conducted, aiming at clarifying:
  - The production process of the good;
  - Originating and non-originating materials, their descriptions and Harmonized System code and the supplier of such materials;
  - Relationships between the seller and buyer
  - If the good qualified the status of an originating good
  - The use of tolerance/de minimis provision
  - Provision for cumulation
3. JAPAN

I. STRUCTURE FOR THE MANAGEMENT OF ORIGIN VERIFICATION

Japan Customs consists of the Headquarters within the Ministry of Finance, and 9 regional Customs (Hakodate, Yokohama, Tokyo, Nagoya, Osaka, Kobe, Moji, Nagasaki and Okinawa) (see Figure 1). Each regional Customs has a dedicated section dealing with Rules of Origin (ROO).

Figure 1  Organization of Japan Customs

The ROO section at Headquarters oversees the policy-making on, as well as the administration of, rules of origin matters, and the ROO Center coordinates the practical field operations. More specifically, the ROO section at Headquarters is responsible for (i) policy matters, including negotiation of Economic Partnership Agreements, (ii) legislation and regulation matters, (iii) implementation of the laws relating to rules of origin, and (iv) coordination with other countries and government departments. The ROO National Center, located in Tokyo, is in charge of (i) ensuring correct and uniform application of the rules of origin, (ii) overall coordination of the verification system, and (iii) training for Customs officials and the private sector. The dedicated ROO sections at each regional Customs carry out field-level services to manage origin inquiries and issues.

In order to conduct origin verification in an effective and efficient manner, the Customs clearance section, the Post-Clearance Audit (PCA) section, the ROO section, the ROO Center and Headquarters cooperate with each other. When there is doubt about
originating status or the validity of proof of origin, the Customs clearance section shares information regarding this doubt with the PCA section, the ROO section and the ROO Center, as appropriate. Headquarters provides support and directions to the ROO Center, and the ROO Center conveys those directions to the regional ROO sections as necessary (see Figure 2).

**Figure 2** Origin verification flowchart

**II. VERIFICATION OF THE AUTHENTICITY AND THE VALIDITY OF PROOFS OF ORIGIN**

1. **Legal framework for the verification of the authenticity and validity of the proofs of origin in question**

Nine regional Customs in Japan conduct origin verification under Article 12-2 of the Temporary Customs Measures Act, as well as the provisions of the relevant Economic Partnership Agreements (EPAs).

**Article 12-2 of Temporary Customs Measures Act (Verification under Economic Partnership Agreements)**

Article 12-2 of the Temporary Customs Measures Act lays down the methods that Customs can use in order to verify whether a particular good is an originating good under the relevant EPA. These methods are as follows:

1. Request information on the good from the importer who is claiming preferential

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GUIDELINES ON PREFERENTIAL ORIGIN VERIFICATION
tariff treatment.
2. Make an inquiry or request for information about the good to the competent authority of the exporting party, the Customs authority of the exporting party, the exporter or the producer of the good.
3. Visit the premises of the exporter or producer of the good and conduct an on-site verification of the documents.
4. Accompany the competent authority on its on-site verification visit to the exporter or producer, and request that the documents gathered through the visit be provided.
5. Other methods provided for in EPAs.

Article 12-2 of the Temporary Customs Measures Act also sets out the cases where Customs may deny preferential treatment. Thus, Customs may refuse to grant preferential tariff treatment in the following cases:
1. The good does not satisfy the requirements for eligibility for preferential tariff treatment.
2. The importer has not followed the necessary procedure for claiming preferential tariff treatment.
3. The person from whom information was requested did not provide the necessary documents within the prescribed time period, or the information provided was not sufficient.
4. The exporting party, or the exporter or producer, refused the verification visit or did not respond within the prescribed period.
5. The exporting party refused to be accompanied by Customs officials for a verification visit, did not respond within the prescribed period, did not provide the necessary information, or did provide information but this was insufficient.
6. Other conditions provided for in EPAs.

2. Selection of shipments for verification of the authenticity and validity of the proofs of origin

Targets for verification of the authenticity and validity of proofs of origin are selected by considering the factors listed below (this list is not exhaustive):
- Information from Clearance section
- External information
- Defectiveness of the document submitted at Customs clearance
- Record of forgery in respect of proofs of origin during a certain period.

3. Commencement of verification procedures, including contacting the importer

As the first step of verification, Customs contacts the importer to verify the authenticity and validity of the proofs of origin. After that, if necessary Customs will submit a request for a check on the authenticity and validity of the proof of origin to the competent authority, exporter or producer in the exporting party, through diplomatic channels.

4. Transmission of verification requests to the competent authority in the exporting country

The request for verification of the authenticity and validity of the proofs of origin is transmitted through diplomatic channels, as formal correspondence via e-mail. The correspondence has to contain, as a minimum, the following information:
● The legal grounds for the verification request.
● The background and the reasons for making the verification request.

The original copy of the document which raised doubts about the authenticity and validity of the proofs of origin may be enclosed with the correspondence.

In the case of Japan, the request is transmitted by the Customs authority (Customs and Tariff Bureau, Ministry of Finance) to the competent authority of the exporting party, via the Ministry of Foreign Affairs and the Embassy of Japan in the exporting party.

5. Administering the replies – consequences for negative or lacking replies

In general, Japan Customs may deny preferential tariff treatment to goods on receiving a negative reply (disconfirming the authenticity or validity of the proof of origin) or no reply, in accordance with the provisions of each EPA. The detailed conditions are set out in Article 12-2 of the Temporary Customs Measures Act (see II.1. Legal framework).

III. VERIFICATION OF THE ORIGINATING STATUS OF THE GOODS

1. Legal framework for the verification of originating status of the goods in question

Japan Customs conducts origin verification under Article 12-2 of the Temporary Customs Measures Act, as well as the provisions of the relevant Economic Partnership Agreements (EPAs) (see II.1. Legal framework).

2. Selection of shipments for verification of the originating status

Targets for verification of originating status are selected by considering the factors listed below (this list is not exhaustive):

- Information from Clearance section
- External information
- Defectiveness of the document submitted at Customs clearance
- Record of contraventions or irregularities in respect of originating status during a certain period.

3. Commencement of verification procedures, including contacting the importer

As the first step of verification, Customs contacts the importer to verify the originating status. After that, if necessary Customs will submit a request for a check on the originating status to the competent authority, exporter or producer in the exporting party, through diplomatic channels.

4. Transmission of verification requests to the competent authority in the exporting country or directly to the exporter

The request for verification of originating status is transmitted through diplomatic channels, as formal correspondence via e-mail. The correspondence has to contain, as a minimum, the following information:

- The legal grounds for the verification request.
- The background and the reasons for deciding to make the verification request.
The original copy of the document which raised doubts about the originating status of the goods may be enclosed with the correspondence.

5. **Administering the replies – consequences for negative or lacking replies**

In general, Japan Customs may deny preferential tariff treatment to goods on receiving a negative reply (disconfirming the originating status) or no reply, in accordance with the provisions of each EPA. The detailed conditions are set out in Article 12-2 of the Temporary Customs Measures Act (see II.1. Legal framework).

**IV. VERIFICATION CONTROLS OF THE EXPORTER**

*(FOR THE CUSTOMS ADMINISTRATION THAT ALSO FUNCTIONS AS THE COMPETENT AUTHORITY IN THE EXPORTING SIDE)*

1. **Receive verification requests from partner country regarding the authenticity and validity of the proofs of origin**

Regarding the authenticity and validity of proofs of origin, Japan Customs is not the competent authority of the exporting party.

2. **Carrying out verification of the exporter in your country to check the originating status of the goods in question**

In most of the EPAs that Japan is a party to, Japan Customs is not the competent authority of the exporting party, and therefore does not carry out verification of the exporter in Japan.

Under the Japan-Australia EPA, at the request of Australia, Japan Customs makes inquiries to the exporter or producer residing in Japan in order to verify the originating status of the exported goods, within reasonable limits.
4. KOREA (Republic of)

I. STRUCTURE FOR THE MANAGEMENT OF ORIGIN VERIFICATION

◇ Korea Customs Service (KCS) newly established FTA Implementation Bureau on April 1, 2011 which consists of FTA Implementation Planning Division, Origin Verification Division and FTA Cooperation Division. This Bureau has been established under the aim of implementing all FTA-related tasks effectively and efficiently.

◇ Organizational Chart of FTA Implementation Bureau

![Organizational Chart]

◇ The major function of the FTA Implementation Planning Division is briefly summed up as follows:

- Establishment and operation of detailed regulation on FTA implementation
- Management of approved exporter system
- Support for small and medium companies’ FTA utilization
- Workshop and outreach program for industry, etc.

◇ The major function of the Origin Verification Division is briefly summed up as follows:

- Planning and operation of origin verification
- Control tower for international origin verification of goods subject to preferential trade agreement
- Development and management of capacity building program for origin verification officials
- Development of origin risk indicators targeting suspicious origin violating goods
- Management and update of origin risk assessment
- Management of statistics of origin verification requested and received internationally, etc.
- Management of origin verification processing system

◇ The major function of the FTA Cooperation Division is briefly summed up as follows:
- Participation in FTA negotiation related to rules of origin, origin procedure and customs procedure
- Participation in FTA implementation meetings regarding tariff issues such as origin and customs procedure
- Mutual cooperation among customs authorities for smooth FTA implementation
- Concluding MoU governing mutual administrative assistance and cooperation on origin matters with partner countries
- Management of specimen signatures and specimen of official seals of the issuing authorities of the partner countries
- Dealing with companies’ difficulties in customs clearance in foreign countries under FTA
- Hosting international seminar (conference) for the harmonization of FTA implementation annually

◇ The major function of field operation is briefly summed up as follows:

- Carrying out origin verification on exports and imports under the relevant FTA
- Issuing certificate of origin in case of institutional certification according to relevant FTA
- Processing of approved exporter application
- Management of authorized approved exporters
- FTA consulting service for SMEs
- Origin risk analysis on suspicious origin violating goods, etc.
II. VERIFICATION OF THE AUTHENTICITY AND THE VALIDITY OF PROOFS OF ORIGIN

1. Legal framework for the verification of the authenticity and validity of the proofs of origin in question

◇ Verification is based on and pursuant to eleven free trade agreements and one domestic law.

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2. Selection of shipments for verification of the authenticity and validity of the proofs of origin

◇ Most of the agreements Korea has signed have stipulated that the customs authority of the importing party may request verification on the authenticity and the validity of the proofs of origin on a random basis or where there is reasonable doubt.

◇ In order to lighten the burden of exporters and importers, KCS has been selecting a verification case only if there is reasonable doubt on the authenticity or validity of the proofs of origin after risk assessment.
The risk assessment is to select targeted cargos and companies by scoring country risk, supplier risk, importer risk, transport route risk, tariff risk and product risk which are stored at the risk factors database.

3. Commencement of verification procedures, including contacting the importer

Prior to the commencement of the origin verification, the importer should be informed of the verification commencement.

- Although the origin verification shall be started with the written verification, the verification visit may be launched where the written verification is not suitable for confirming the authenticity and correctness of the proofs of origin or additional verification is needed for the determination of the origin.

- When the Customs authority of the importing party has intended to conduct the verification visit against the exporter or producer of the other party in accordance with the Agreement, the Customs authority shall notify the reason for verification, the expected period of the visit and other necessary details to the verification subject and get his/her written consent before the start of verification visit.

- The commencement of the verification procedures should not prevent the release of the goods, provided that they are not held to be subjected to import prohibition or restrictions and there is no suspicion of fraud.

4. Transmission of verification requests to the competent authority in the exporting country

4-1. Transmission of verification requests to the competent authority

Where the Customs Authority requests for the origin verification to the competent authority of the concerned party, he/she shall send a copy of the proof of origin obtained from an importer or other persons subject to the verification along with a request form containing the following:

a. the reason for doubt over the authenticity of the proof of origin and requests;
b. the origin determination criterion that have been applied to the goods in question; and
c. time limit for the reply of the results of the origin verification.

When requesting origin verification to the competent authority of the concerned party, the Customs Authority shall notify this fact to the importer.

4-2. Transmission of verification requests directly to the exporter

When conducting verification aimed at an exporter, the Customs Authority shall notify the following details to the exporter prior to the verification.

a. the company subject to verification and the period under verification;
b. the goods subject to verification;
c. reason for verification;
d. coverage of verification;
e. legal grounds for verification;

f. required documentations and the submission deadline (for written verification);

g. informed consent for verification and due date for informed consent submission (for verification visits);

h. the name of authority, designations and names of the officials conducting the verification; and

i. others that the Customs Authority recognizes as necessary facts.

◇ The exporter subject to the verification visit may ask the Customs Authority, who notified the visit, to postpone the verification visit when it is difficult to accede to the verification for the notified period.

◇ The Customs Authority is not allowed to carry out the verification visit if the exporter subject to the verification of the other party\(^2\) has not sent the written consent within the time limit stipulated in the Customs Law or has expressed his refusal.

5. Administering the replies – consequences for negative or lacking replies

5-1. Possible denial of preferential treatment

◇ Except as otherwise provided in the free trade agreement (hereinafter referred to as “Agreement”), the Customs Authority may deny preferential tariff treatment for the imported goods in the case of falling under any one of the following subparagraphs. In this case, the Customs Authority shall levy and collect the Customs duty amount payable or the difference between payable and paid in accordance with the Customs Law.

a. where, without any proper reason, an exporter or a producer of the other party has not submitted the documents requested by the Customs Authority within the time limit set in the Customs Law or has submitted false or incorrect documents, except the case where the contents of the proof of origin are completed with a minor error without affecting substantial influence on the origin determination;

b. where the competent authority of the exporting party has not replied to the verification request of the Customs Authority within the deadline fixed in the Customs Law, or when it has been confirmed that the origin declared is different from the actual origin, or when the reply from the exporting party does not include the necessary information to ascertain the correctness of the origin;

c. where it has been confirmed that the origin declared to the Customs Authority is different from the actual origin as a result of written verification or verification visit, or when the documents submitted by the importer or exporter of the other party do not contain the necessary information to ascertain the correctness of the origin;

d. where the exporter of the other party has not replied to the written verification request by the Customs Authority within the time limit stipulated in the Customs Law, or when the exporter has not notified written consent to the verification visit of the Customs Authority within the deadline set in the Customs Law, or has expressed his/her refusal to the verification visit without any specific reason;

\(^2\) A nation including a federation of nations, economic community or independent customs territory has signed a free trade agreement with Korea (the same shall apply hereinafter).
e. where the exporter of the other party has turned down the access of the Customs officials, who are conducting the verification in the premise of the exporter, to the ledgers or related documents necessary for verifying the origin without any proper reason, or failed to keep the records prescribed in the Agreement.

◇ Where the exporter of the other party admits that he/she falsified or made incorrect entries in the proof of origin twice or more during the past five years, the Customs Authority, pursuant to the Agreement, may suspend the preferential tariff treatment on the entire goods of the same kind and quality exported or produced by the exporter within the period of five years (if the timeframe of the Agreement exceeds five years, the period of the Agreement shall be applied) as stated in the Customs Law.

◇ Notwithstanding the above regulation, the Customs Authority may grant the preferential tariff treatment on the goods that are examined and satisfy the requirements of preferential tariff treatment such as rules of origin on an item by item basis.

◇ In addition, the Customs Authority may withdraw the restriction on the application of preferential tariff treatment when the exporter of the other party subject to the restriction has proved that he/she completed the proof of origin faithfully in accordance with the Customs Law.

◇ Criminal or administrative penalties may also be imposed, according to the severity of the offence.

5-2. Notifying the importer about the result of verification

◇ The Customs Authority shall provide the exporter and the competent authority of the other party with a written notification containing the result of verification and determination of whether or not the goods in question qualify the origin requirements when finishing the written verification and verification visit. In this case, the notification to the competent authority of the other party shall be made only if the obligation set in the Agreement.

◇ The timeframe of the written notification of the result and determination of the verification:
  - For exporters subject to verification, the notification shall be made within 30 days from the date of completing written verification and verification visit.
  - For the Customs Authority of the exporting party, the notification shall be made within various timeframes, from 30 days to 10 months in accordance with each Agreement.

5-3. Review and appeal

◇ Importers are entitled to raise objection against the result of the verification and determination of the Customs Authority according to the procedures regulated in domestic law and the Agreements.

◇ Any person subjected to an illegal or unfair disposition or whose right or interest is infringed on by the lack of a necessary disposition could request the cancellation or change of the disposition or necessary dispositions by raising objections, appealing for review or to National Tax Tribunal.
If stipulated in the Agreements and domestic law, the exporter or producer of the other party could contest against the procedure and the determination of the verification.

III. VERIFICATION OF THE ORIGINATING STATUS OF THE GOODS

1. Legal framework for the verification of originating status of the goods in question
   (SAME as II-1)

2. Selection of shipments for verification of the originating status
   (SAME as II-2)

3. Commencement of verification procedures, including contacting the importer
   (SAME as II-3)

4. Transmission of verification requests to the competent authority in the exporting country or directly to the exporter
   (SAME as II-4)

5. Administering the replies – consequences for negative or lacking replies
   (SAME as II-5)

IV. VERIFICATION CONTROLS OF THE EXPORTER
(FOR THE CUSTOMS ADMINISTRATION THAT ALSO FUNCTIONS AS THE COMPETENT AUTHORITY IN THE EXPORTING SIDE)

1. Receiving verification requests from partner country regarding the authenticity and validity of the proofs of origin

1-1. Information to be communicated

◇ A formal letter requesting a verification check should be sent to the competent authority of the exporting country. The letter should, at a minimum, contain the following information:

   - The specific reason for the verification;
   - A request that the reply be provided within the prescribed deadline; and
   - The origin criterion applied to the goods in question.

1-2. Use of the registered mail at verification request

◇ The transmission of the verification request should be carried out by express registered post.

1-3. Acknowledgement of receipt
On receipt of a request for verification from the importing country, the receipt of the request should be notified as soon as possible. The acknowledgement of the receipt should be sent to the authorities of the importing country, preferably by email.

2. **Carrying out verification of the exporter in your country to check the originating status of the goods in question**

◇ The competent authority of the exporting party may conduct necessary verification of the exported goods on the exporter or producer in accordance with the rules stipulated in the Agreement when it has been requested verification of the authenticity and accuracy of the proof of origin from the Customs Authority of the importing party.

◇ Where the Customs Authority starts the verification on the origin of the exported goods, written verification shall be conducted first. If the written verification alone is not sufficient to prove the authenticity and accuracy of the proof of the origin or further verification is needed, a verification visit to the premise of the exporter or producer may be carried out.

◇ In case of verification visit, the Customs Authority shall provide a written notification containing the following details to the exporter or producer subject to the verification in advance:

- The person subject to verification or his/her authorized person and address
- The period of verification
- The reason and coverage of the verification
- Name and designation of the customs auditors and other necessary information

In spite of this, where the verification is conducted on an offence case or the prior notice could cause the destruction of the evidence and subsequently the Customs Authority is unable to achieve the aim of the verification, the prior notice shall be exempted.
5. SOUTH AFRICA

I. STRUCTURE FOR THE MANAGEMENT OF ORIGIN VERIFICATION

Structure dealing with verification procedures and its functions:

Head Office

Regional Office

Regional Office

Regional Office

Regional Office

Dedicated section at head office: Customs Operations: Trade Administration.

Head office functions:

- Manage information on stamps and authorized exporters provided by the partner countries.
- Focal point of contact with partner countries regarding administration and verification issues.
- Exchange of information and verification results with partner countries.
- Management of internal databases for verification requests and reports.
- Physical recordkeeping of documents.
- Review and update information on the Intranet (organization’s internal website) and Internet (organization’s external website).
- Coordination of verification requests and reports nationally and internationally.
- Compilation of statistics and monthly reporting on performance of trade within the administered agreements.
- Workshops for branch offices nationally.
- Workshops and outreach programmes for industry.
- Support to government departments and trade bodies.
- Manage approved exporter programmes to increase the number of approved exporters.
- Request and finalize legislative amendments for trade agreements.
- Provide technical expertise at all levels.
- Provide representation at national, regional and international levels.
- Risk identification and corrective action.
- Manage the certificates of origin – purchasing, logistical and allocation functions nationally.

Branch office functions:
• Registration of importers/exporters for trade agreements
• Processing of approved exporters’ applications
• Trade Agreement Certificates Issuing and Certification Process
• Processing of documentation, risk assessment, documentary and physical examinations
• Risk identification and corrective action
• Physical examinations for verification requests and finalization of reports
• Physical examinations for approved exporters and finalization of reports
• Provide technical assistance to clients and resolution of queries
• Compilation of statistics and monthly submission to head office

II. VERIFICATION OF THE AUTHENTICITY AND THE VALIDITY OF PROOFS OF ORIGIN

1. Legal framework for the verification of the authenticity and validity of the proofs of origin in question

Customs and Excise Act 91 of 1964 as amended.

• Section 4(12A) provides for the powers of officers for the purposes of verifying or investigating a certificate, declaration or other proof furnished regarding the origin on the exportation of goods from the Republic to comply with the provisions of any agreement contemplated in e.g. section 46 and section 49 or any other requirement or practice. The exporter and any other person concerned with goods as specified in the subsection are required to furnish information, produce documents on demand for inspection and to allow the making of extracts of books and documents. No person may without good cause shown refuse to comply with any such requirement of an officer. Verification of proof of origin must be carried out by the Customs authorities of the exporting country in terms of, for example, Article 31(3) of Protocol 1, in Part A of the Schedule entitled, “Origin provisions of trade agreements”, to the General Notes to Schedule 1.

• Section 46 – provides for the determination of the origin of goods except that traded under an agreement contemplated in sections 49 and 51 which reflects on goods subject to the general rate of customs duty and applies to origin for statistical, anti-dumping, countervailing and import restriction purposes.

• Section 48(1A) – provides for the incorporation of the rules of origin provisions in trade agreements in the General Notes to Schedule 1.

• Section 49 – provides for the enactment of international agreements as part of the Customs and Excise Act in respect of rates of duty lower than general rates of duty and other agreements providing for matters requiring Customs administration.

• Customs and Excise Rules (Government Notice R.1874 of 8 December 1995) as amended

Rules for Section 46:
- Part 1: Rule 46A1 African Growth and Opportunity Act
  - Rule 46A.1.11 Origin verifications by US Customs Service
Part 2: Rule 46A2– Generalized System of Preferences granted to developing countries by the Community and Norway
- Rule 46A2.28 Mutual assistance
- Rule 46A2.29 Verification, proof of origin (CA 94;N 31; SS 2.9)

- Rule 46A3.24 Mutual assistance (RO Rule 6)
- Rule 46A3.25 Verification of proof of origin (RO Rule 6)

Part 4: Rule 46A4– Generalized System of Preferences for importation of goods to the Republic of Turkey
- Rule 46A4.27 Mutual assistance (TDA 25 and 29)
- Rule 46A4.28 Verification of proof of origin (TDA 40 and 41)

Rules for Section 49:
- Rule 49A.01 – provides for the origin requirements in respect of Protocol 1 of the Agreement on Trade, Development and Cooperation between the European Community and the Republic of South Africa concerning the definition of the concept of originating products and methods of administrative cooperation.
  - Rule 49A.28(30) Article 30 – Mutual assistance
  - Rule 49A.29 (31) Article 31 – Verification of proof of origin.

- Rule 49B.01 – provides for the origin requirements in respect of Annex 1 of the Protocol on Trade to the Treaty of the Southern African Development Community concerning the rules of origin for products to be traded between the member states of the Southern African Development Community.
  - Rule 49B.10 (9)4 Verification of the statement contained in the SADC Certificate of Origin (Rule 9(3) and (4))

- Rule 49D.01 – provides for the origin requirements in respect of Annex V of the free trade agreement between the European Free Trade Association and the Southern African Customs Union concerning the definition of the concept of originating products and methods of administrative cooperation.
  - Rule 49D.28(30) Article 30 – Verification of proofs of origin

2. Selection of shipments for verification of the authenticity and validity of the proofs of origin
- Random selection to verify authenticity and validity of certificates of origin and invoice declarations.
- Whenever there are reasonable doubts as to the authenticity and validity of the proofs of origin.
- Selection based on risk assessment.

3. Commencement of verification procedures, including contacting the importer
- Documentary inspections are initiated by the Service Manager System when the Customs Risk Engine identifies a declaration for inspection.
- A message is generated by the system and conveyed to the importer or his representative requesting documentation.
The documents are presented by the importer or his representative to the Customs authorities, for example certificate of origin or invoice declaration.

An audit is conducted on the documents to verify the authenticity and validity of the documents.

If all is in order, the matter is finalized.

If anomalies are detected, the importer or his representative is informed of the results and the verification request with supporting documents are forwarded to head office for the relevant action to be initiated.

Head office will forward a formal request to the partner country stating the requirements of the verification and request that a response be sent within the stipulated timeframes in the protocols.

4. Transmission of verification requests to the competent authority in the exporting country

A formal letter requesting the verification with attached relevant documentation is forwarded to the competent authority of the partner country.

Information in the letter includes reasons for the request, legislative basis, timeframe for the expected response and the consequence for failing to respond.

The request is submitted electronically and by post.

If no response is received from the partner country within the stipulated timeframes, reminders are sent until the matter is concluded.

All responses received are acknowledged and updated on the internal database.

The branch office is informed of the outcomes of the verification request.

5. Administering the replies – consequences for negative or lacking replies

Possible denial of preferential treatment in accordance with the provision of the relevant trade agreement

Informing the importer of the result of the verification and the decision to deny preferential treatment

Information on the Appeal Process is available on the SARS website – www.sars.gov.za

III. VERIFICATION OF THE ORIGINATING STATUS OF THE GOODS

1. Legal framework for the verification of originating status of the goods in question

   (SAME as II-1)

2. Selection of shipments for verification of the originating status

   - The Customs Risk Engine will select shipments for verification of the originating status
   - Random selection as per the rules of the trade agreements; and
   - Whenever there is reasonable doubt as to the originating status of the goods

3. Commencement of verification procedures, including contacting the importer

   - The declaration is stopped for physical inspection of the goods by the Service Manager System.
- A message is transmitted electronically from Customs to the importer or his representative stating the reasons for the stop, documents required and requesting that an appointment be made for the physical examination to be conducted.
- The importer or his representative will telephonically communicate with Customs and confirm the appointment details.
- If no appointment is made, the system will generate a list of outstanding inspections which is followed up by the Customs authorities.
- The inspection is conducted by Customs in the presence of the importer or his representative and an inspection report is generated. The importer is advised of the results of the inspection by Customs and the requirements to finalize the process. If all is in order the shipment is released.
- If anomalies are detected, a verification request to confirm the originating status of the goods is generated and forwarded to head office.

4. Transmission of verification requests to the competent authority in the exporting country or directly to the exporter

- Verification requests are submitted directly to the competent authority in the partner country from head office.
- A formal letter requesting the verification of the origin status of the goods with attached relevant documentation is forwarded to the competent authority of the partner country.
- The letter includes reasons for the request, legislative basis, timeframe for the expected response and the consequence for failing to respond
- The request is submitted electronically and by post.
- If no response is received, reminders are sent until a response is received to finalize the matter.
- The necessary action is taken if a negative response is received, including using the Penalty Provisions.

5. Administering the replies – consequences for negative or lacking replies

- Possible denial of preferential treatment in accordance with the provision of the relevant trade agreement.
- Informing the importer of the result of the verification and the decision to deny preferential treatment.
- Information on the Appeal Process is available on the SARS website – www.sars.gov.za

IV. VERIFICATION CONTROLS OF THE EXPORTER
(FOR THE CUSTOMS ADMINISTRATION THAT ALSO FUNCTIONS AS THE COMPETENT AUTHORITY IN THE EXPORTING SIDE)

1. Receive verification requests from partner country regarding the authenticity and validity of the proofs of origin

- Verification request is received from the partner country to verify the authenticity and validity of proofs of origin.
- Receipt is acknowledged by return email and post.
- The internal database is updated with the information.
• Stamp and signature verifications are confirmed at head office as the database of stamp impressions and signatures are on record and are cross-checked. A formal response is sent to the partner country confirming the validity and authenticity of the certificate of origin.
• The authenticity of the certificates is verified at head office, as the number series are recorded and are unique.
• The certificates of origin are verified, confirmed correct on the Rules of Origin system.
• Verifications for approved exporters can be completed at head office as the database of approved exporters are recorded on the database. A formal response is forwarded to the partner country confirming the authenticity of proof of origin – the approved exporter number as used in the invoice declaration is authentic and valid.

2. Carrying out verification of the exporter in your country to check the originating status of the goods in question

• Rules of origin inspections can be conducted on a random basis, based on risk, request from the exporter to confirm originating status and/or application for approved exporter status.
• Verification inspections are conducted on site.
• The exporter is informed of the visit and an appointment is made confirming the details (date, time and location).
• The exporter is advised to have all supporting documents on hand as the information will be cross-referenced with the information on record
• Various factors are taken into consideration when verifying the originating status of the goods and these include:-
  - how the product is in compliance with the origin criteria
  - if the product is wholly obtained,
  - in compliance with a general value added rule or
  - complies with a product specific list rule.
• Description of the non-originating materials and their Harmonized System code. Import documents can be requested as supporting documents.
• Description of the originating materials and the basis of their originating status including information on the supplier.
• If the exporter is not the manufacturer or producer of the product, documentary evidence required is the declaration from the supplier declaring the origin and the compliance with the rules of origin for the product. On-site verification of the supplier can be conducted to verify the requirements are met.
• The use of tolerance/de minimis provision.
• Provision for cumulation.
• Relationship between buyer and seller – valuation principles.