Australian BORDER FORCE

Australian Customs Notice No. 2023/43

HS Codes, Origin Criteria and Other Information on Certificates of Origin under Australia's FTAs

Certain Free Trade Agreements (FTAs) require a Certificate of Origin (COO) to be held by the importer in order to claim a preferential rate of customs duty.

There are occasions where differences between the COO and the information reported to the ABF via the Integrated Cargo System (ICS) may occur.

For example: differences between the Harmonized System (HS) Code used by the exporting party and the Tariff Classification used in the import declaration may occur.

Administrative arrangements in certain exporting Parties, may also raise concerns about the particular Origin Criteria provided on a COO, but not that the goods are originating goods under the relevant Division of Part VIII of the *Customs Act 1901*.

Further, under certain circumstance, the details on the COO may be different to that of commercial documentation, such as:

- Exporter name and details
- Importer name and details
- Description or quantities of the goods

Where there are multiple differences on a COO, importers and their Licensed Customs Broker (LCB) are encouraged to seek a replacement COO in order to eliminate or reduce the number of differences. This should be done on the basis of self-assessment, including ensuring that the COO is certified by the exporting Parties issuing body or authority and the origin of the goods is not otherwise in question.

In order to facilitate trade, the ABF provide the following guidance.

HS Code on the COO compared with the Tariff Classification on an import declaration

Where an FTA's minimum data requirements for a COO must include a HS Code, that requirement is considered to be fulfilled if a COO has a HS Code in the relevant field, is certified by the exporting Parties' issuing body or authority and the origin of the goods is not otherwise in question.

When completing an import declaration in ICS, importers and their LCB must classify the goods in accordance with the *Customs Act 1901* and the *Customs Tariff Act 1995*.

The HS Code on a COO can be accepted as different to the Tariff Classification in an import declaration as long as the COO is certified by the exporting Parties issuing body or authority and the origin of the goods is not otherwise in question.

Origin Criteria on the COO

Where an Origin Criteria is provided on a COO and is certified by the exporting Parties issuing authority or body, importers and their LCB who consider that another origin criteria is more appropriate, they should enter the relevant Preference Scheme Rule in the import declaration based upon the Origin Criteria provided in the COO. This does not preclude the importer or LCB demonstrating that the goods meet a different Origin Criteria under the relevant Division of Part VIII of the *Customs Act 1901* should they be required to demonstrate the goods are originating goods.

Exporter and Importer Name and Details, Description of Goods or Quantity

An importer or their LCB may receive a COO where the details of the COO do not match the commercial documents.

Minor differences on their own will not invalidate the COO. As long as there is other information on the COO that clearly demonstrate that the COO relates to the goods in question, the COO is certified by the exporting Parties issuing body or authority and the origin of the goods is not otherwise in question.

Where there are differences in the quantity on the COO compared to other commercial documentation, importers and their LCB should ensure that they can reasonably explain the difference, such as additional units being included in the shipment to make up a full container.

Compliance approach

Importers and LCB are reminded to keep records and commercial documentation in accordance with the requirements of the *Customs Act 1901*. Relevant records and documents may include, but are not limited to: invoices, bills of lading, packing lists, testing and analytical results, tariff advices or precedents, and any relevant correspondence with the manufacturer, supplier, exporter or importer.

When following this guidance, the originating status of the goods must not be in doubt and the goods must be originating in their own right. Where applicable, the quantities, descriptions and other information should otherwise relate to the goods on the COO and other documentation.

Where a short payment results from an incorrectly claimed preferential rate of customs duty, an importer may be protected from liability for an offence against subsection 243T(1) or 243U(1) of the *Customs Act 1901* if they make a voluntary disclosure through a written error notice, including that they relied on information on a COO at the time of importation.

A voluntary disclosure must disclose fully, truthfully and voluntarily, the details of the relevant import declaration and the nature of the errors.

A disclosure is taken to be given involuntarily if an error notice is given after the ABF exercises powers under a customs-related law to verify information in the statement (such as a 214AD notice), or an infringement is served relating to the statement or if proceedings have commenced in relation to the statement.

For more information, see the ABF webpage on Voluntary disclosures (abf.gov.au).

[signed]
Latha Reardon
A/g Assistant Secretary
Customs and Trade Policy
28 September 2023

[Signed]
Asha Rajah-Clarke
Commander
Trusted Trader and Trade Compliance
1 October 2023