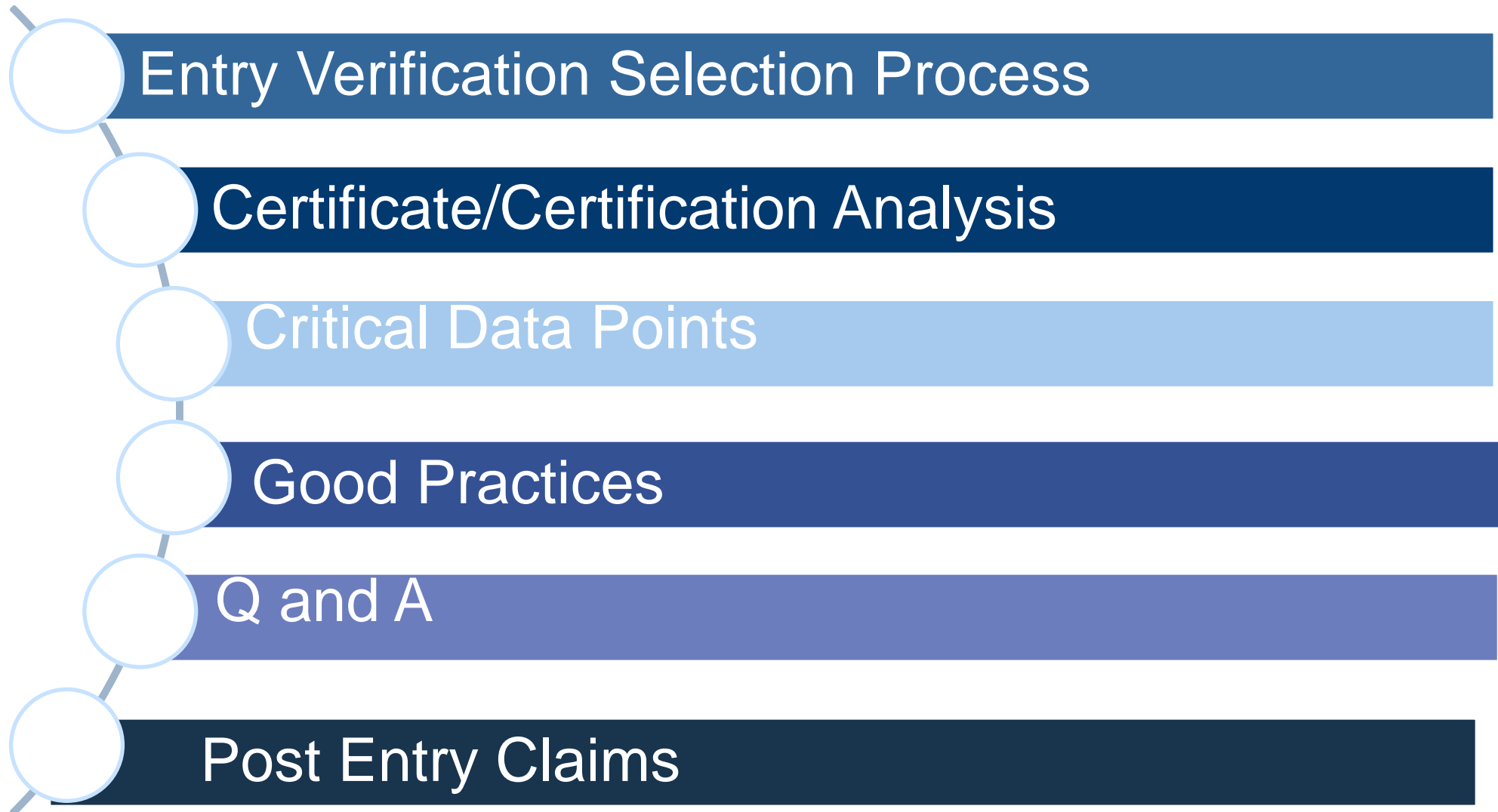


API Customs and Trade Conference Duty Preference Claims

Q and A with:
Laura Webb, Petroleum and Natural Gas CEE
Cheryl Johnson, Petroleum and Natural Gas CEE
Michelle Forte, Charter Brokerage LLC

March 2016



(c) Products Eligible for Special Tariff Treatment

(i) Programs under which special tariff treatment may be provided, and the corresponding symbols for such programs as they are indicated in the "Special" subcolumn, are as follows:

Generalized System of Preferences.....	A, A* or A+
United States-Australia Free Trade Agreement.....	AU
Automotive Products Trade Act.....	B
United States-Bahrain Free Trade Agreement Implementation Act.....	BH
Agreement on Trade in Civil Aircraft.....	C
North American Free Trade Agreement:	
Goods of Canada, under the terms of general note 12 to this schedule.....	CA
Goods of Mexico, under the terms of general note 12 to this schedule.....	MX
United States-Chile Free Trade Agreement.....	CL
African Growth and Opportunity Act.....	D
Caribbean Basin Economic Recovery Act.....	E or E*
United States-Israel Free Trade Area.....	IL
United States-Jordan Free Trade Area Implementation Act.....	JO
Agreement on Trade in Pharmaceutical Products.....	K
Dominican Republic-Central America-United States Free Trade Agreement Implementation Act.....	P or P+
Uruguay Round Concessions on Intermediate Chemicals for Dyes.....	L
United States-Caribbean Basin Trade Partnership Act.....	R
United States-Morocco Free Trade Agreement Implementation Act.....	MA
United States-Singapore Free Trade Agreement.....	SG
United States-Oman Free Trade Agreement Implementation Act.....	OM
United States-Peru Trade Promotion Agreement Implementation Act.....	PE
United States-Korea Free Trade Agreement Implementation Act.....	KR
United States-Colombia Trade Promotion Agreement Implementation Act.....	CO
United States-Panama Trade Promotion Agreement Implementation Act.....	PA

Why is Duty Preference Important?

Form Approved OMB No. 1651-0022

EXP. 10-31-2017

DEPARTMENT OF HOMELAND SECURITY U.S. Customs and Border Protection				1. Filer Code/Entry No. BE 0000000000		2. Entry Type 01		3. Summary Date Import Team 046	
ENTRY SUMMARY				4. Surety No. 457		5. Bond Type 8		6. Port Code 2704	
7. Entry Date				10. Country of Origin KR		11. Import Date 10/06/2015		15. Export Date 09/13/2015	
8. Importing Carrier [REDACTED]		9. Mode Of Transport 10		10. Country of Origin KR		11. Import Date 10/06/2015		15. Export Date 09/13/2015	
12. B/L or AWB No. [REDACTED]		13. Manufacturer ID [REDACTED]		14. Exporting Country KR		15. Export Date 09/13/2015			
16. I.T. No.		17. I.T. Date		18. Missing Docs		19. Foreign Port of Lading [REDACTED]		20. U.S. Port of Unlading 2704	
21. Location of Goods/G.O. No. [REDACTED]		22. Consignee No. SAME		23. Importer No. [REDACTED]		24. Reference No.			
25. Ultimate Consignee Name and Address [REDACTED]				26. Importer of Record Name and Address [REDACTED]					
City [REDACTED] State CA Zip [REDACTED]				City PURCHASE State NY Zip 10577-25					
27. Description of Merchandise				32.		33.		34.	
				A. Entered Value		A. HTSUS Rate		Duty and I.R. Tax	
				B. CHGS		B. ADA/CVD Rate		Dollars Cents	
				C. Relationship		C. IRC Rate			
				D. Visa No.		D. Visa No.			
I.T. DATE I.T. NO. [REDACTED] MASTER BILL/AWB HOUSE BILL SUBHOUSE BILL BILL QTY 1 VL									
REFERENCE # 6823906									
Invoice Number 001/N46586-S1				N					
JET FUEL, KEROSENE-TYPE									
2710.19.1600 33654313 KG 266611 BBL				15,299,208		52.5c/BBL		139,970.78	
JET FUEL				C933139					
API @ 60° F = 46.3									
[REDACTED]									
499 MERCHANDISE PROCESSING FEE (MPF)						0.3464%		52,996.46	
501 HARBOR MAINTENANCE FEE (HMF)						0.125%		19,124.01	
Invoice Number 001/N46586-S1									
Invoice Value USD 15,299,207.95									
Total Entered Value (Invoice) 15,299,208.00									
Other Fee Summary for Block 39				35. Total Entered Value		CBP USE ONLY		TOTALS	
501 Harbor Maintenance Fee \$19,124.01				\$15,299,208.00		A. LIQ CODE		B. Ascertained Duty	
499 Merchandise Processing Fee \$485.00				Total Other Fees		REASON CODE		C. Ascertained Tax	
				\$19,609.01				37. Duty	
36. DECLARATION OF IMPORTER OF RECORD (OWNER OR PURCHASER) OR AUTHORIZED AGENT								38. Tax	
I declare that I am the <input type="checkbox"/> Importer of record and that the actual owner, purchaser, or consignee for CBP purposes is as shown above, OR <input checked="" type="checkbox"/> owner or purchaser or agent thereof. I further declare that the merchandise <input type="checkbox"/> was obtained pursuant to a purchase or agreement to purchase and that the prices set forth in the invoices are true, OR <input checked="" type="checkbox"/> was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoices as to value or price are true to the best of my knowledge and belief. I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. I will immediately furnish to the appropriate CBP officer any information showing a different statement of facts.								39. Other	
								40. Total	
								159,579.79	

\$139,970 v 0

Duty Preference – CBP verification

Q: Why am I receiving this? The Selection Process

OMB No. 1651-0023
Exp. 06-30-2016

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

REQUEST FOR INFORMATION
Continuation Page

19 CFR 151.11

3. Manufacturer/Seller/Shipper [REDACTED]		4. Carrier [REDACTED]	1. Date of Request 02/05/2016
5a. Invoice Description of Merchandise Jet A-1 Fuel		5b. Invoice No. [REDACTED]	2. Date of Entry and Importation 09/03/2015 09/04/2015
7. Country of Origin/Exportation KR KR		5. Entry No. BER50219797	
		6. HTSUS Item No. 2710191600	
		8. CBP Broker and Reference or File No. CHARTER BROKERAGE LLC	
14. CBP Officer Message REQUEST FOR INFORMATION - The following good, Jet A-1 Fuel was imported into the U.S. and preferential tariff treatment was claimed under the US-Korea Free Trade Agreement (UKFTA). This is notification that U. S. Customs and Border Protection is verifying the originating status of the good pursuant to 19 CFR 10.1001-1034 (Subpart R). The purpose of the verification is to determine whether the good is originating per the rules of origin set forth in General Note 33 of the Harmonized Tariff Schedule of the U.S. You are hereby required to produce supporting documentation to substantiate your claim for UKFTA preferential treatment, such as, but not limited to, a certification of origin, bill of materials, cost data, as well as production and manufacturing records. Please note - This document is generated by the Petroleum, Natural Gas, & Minerals Center of Excellence and Expertise, Team 006. Please respond, as required, by providing this correspondence and the associated supporting documentation to the listed point of contact, as well as to the Document Imaging System in the Automated Commercial Environment (ACE).			

Q: Do all these look the same?

Q: Reference to bill of materials and cost data for Chapter 27 products?

CRITICAL DATA POINTS

- CERTIFICATE OF ORIGIN
- DESCRIBE PRODUCTION
- HOW DID PRODUCT GET FROM PRODUCER TO THE US?

Duty preference programs –Certificate requirements

Special Duty Program

1. Insular Possession (Y)
2. Generalized System of Preferences (A, A* and A+ - BDC / CNL / LDBCD)
origin)
3. Caribbean Basin Economy Recovery Act (E and E*)
4. US – Israel Free Trade Agreement (IL)
5. North American Free Trade Agreement (CA / MX)
6. Andean Trade Preference Act or
Andean Trade Promotion and Drug Eradication Act (J, J* and J+)
7. US – Caribbean Basin Trade Partnership Act (R)
8. African Growth and Opportunity Act (D)
9. US – Australia Free Trade Agreement (AU)
10. US – Singapore Free Trade Agreement (SG)
11. US – Chile Free Trade Agreement (CL)
12. US – Jordan Free Trade Area Implementation Act (JO)
13. US – Morocco Free Trade Agreement (MO)
14. Dominican Republic-Central America –US Free (P and P+)
Trade Agreement
15. US – Bahrain Free Trade Agreement (BH)
16. US – South Korean Free Trade Agreement (KR)
17. US – Peru Free Trade Agreement (PE)
18. Colombia – Trade Promotion Agreement (CO)
19. Panama – Trade Promotion Agreement (PA)

Certificate of Origin Form

- CBP Form 3229 (exception: CBTPA Form 450 – see rulings)
- GSP Form A (although the U.S. will accept generic certificates of origin)
- Form A (although the U.S. will accept generic certificates of origin)
- Form A (although the U.S. will accept generic certificates of origin)
- NAFTA CBP Form 434
- ATPDEA CBP Form 449
- CBTPEA CBP Form 450
- Form A (although the U.S. will accept generic certificates of origin)
- Freeform form that complies to the Annex of the Implementation Act
- Freeform form that complies to the Annex of the Implementation Act
- Freeform form that complies to the Annex of the Implementation Act
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Certificate Of Origin Evaluation

Exporter Name & Address
(TAX ID – NAFTA REQUIRED)

Producer Name &
Address (Tax ID) –
“Available upon Request”

Importer Name & Address
(Tax ID) –
“Available upon Request”

Blanket Period

- Blanket vs. Transactional
- Does your shipment fall within the boundaries of that executed COO?

Description of Goods
(include HTS
Classification to 6 digits)

Preference Criterion

- Wholly obtained/produced or tariff shift?
- Correct format for preference criterion is important
- Example: “A” for NAFTA, but “Art. 4.1(b)” for CTPA

Country of Origin

Very important field:
Is the Certificate properly
signed and dated by a
person with the requisite
knowledge/authority to
make the claim?

Are all fields completed?

What is Wrong with This COO?

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

OMB No. 1651-0098
Exp. 08-31-2014

NORTH AMERICAN FREE TRADE AGREEMENT CERTIFICATE OF ORIGIN

19 CFR 181.11, 181.22

1. EXPORTER NAME AND ADDRESS CB Trading Co. 140-4th Avenue SW, Ste. 2610 Calgary, AB T2P 3N3		2. BLANKET PERIOD				
TAX IDENTIFICATION NUMBER: 821234567		FROM				
		01/01/2015				
3. PRODUCER NAME AND ADDRESS Unknown - Sourced through Broker		TO				
		01/01/2016				
4. IMPORTER NAME AND ADDRESS CB Refining & Marketing 125 Park Avenue, Ste. 1800 New York, NY 10017						
TAX IDENTIFICATION NUMBER:		TAX IDENTIFICATION NUMBER:				
5. DESCRIPTION OF GOOD(S)	6. HS TARIFF CLASSIFICATION NUMBER	7. PREFERENCE CRITERION	8. PRODUCER	9. NET COST	10. COUNTRY OF ORIGIN	
Oil	2709	A	No (1)	No	CA	
No. 6 Fuel Oil	2710	A	No	No		

What is Wrong with This COO?

I CERTIFY THAT:

- THE INFORMATION ON THIS DOCUMENT IS TRUE AND ACCURATE AND I ASSUME THE RESPONSIBILITY FOR PROVING SUCH REPRESENTATIONS. I UNDERSTAND THAT I AM LIABLE FOR ANY FALSE STATEMENTS OR MATERIAL OMISSIONS MADE ON OR IN CONNECTION WITH THIS DOCUMENT;
- I AGREE TO MAINTAIN AND PRESENT UPON REQUEST, DOCUMENTATION NECESSARY TO SUPPORT THIS CERTIFICATE, AND TO INFORM, IN WRITING, ALL PERSONS TO WHOM THE CERTIFICATE WAS GIVEN OF ANY CHANGES THAT COULD AFFECT THE ACCURACY OR VALIDITY OF THIS CERTIFICATE;
- THE GOODS ORIGINATED IN THE TERRITORY OF ONE OR MORE OF THE PARTIES, AND COMPLY WITH THE ORIGIN REQUIREMENTS SPECIFIED FOR THOSE GOODS IN THE NORTH AMERICAN FREE TRADE AGREEMENT AND UNLESS SPECIFICALLY EXEMPTED IN ARTICLE 411 OR ANNEX 401.

- THIS CERTIFICATE CONSISTS OF PAGES, INCLUDING ALL ATTACHMENTS.

11a. AUTHORIZED SIGNATURE <i>Maria Carter</i>		11b. COMPANY CB Refining & Marketing	
11c. NAME Maria Carter for Monica Wright		11d. TITLE Shipping Clerk	
11e. DATE 01/12/2014	11f. TELEPHONE NUMBERS ▶	(Voice) 555-985-4444	(Facsimile) 555-985-4445

CBP Form 434 (04/11)

Duty Preference – Direct Shipment

SO YOU DECIDED TO TAKE A LITTLE DETOUR???

If the good transits an intermediate country (i.e. a transshipment) the duty preference may be lost.

If another country is involved in the transportation route then must be able to demonstrate that the cargo:

1. Did not enter into the commerce of that country (check program)
2. Remained under customs custody and control (check program)
3. Did not undergo any processing
4. Only subject to loading and unloading



DOCUMENT REQUIREMENT	EXPECTATION	ADDITIONAL CONSIDERATIONS
<ul style="list-style-type: none"> • Certificate of Origin • Certification 	<ul style="list-style-type: none"> • Must be issued by exporter (NAFTA) • May be issued by producer/ exporter /importer 	<ul style="list-style-type: none"> • Must be on-hand at the time duty free claim made (and validate with correspondence) • Must be dated before or at the time the claim for FTA treatment is made
Statement/documents as to how the good qualifies as originating under the particular program	<ul style="list-style-type: none"> • Detailed description of the process by the producer – signed and dated by authorized representative • Schematics/diagrams • For products - worksheet of all input materials with their source, origin & HTS 	<ul style="list-style-type: none"> • Was it wholly obtained product of the country? • i.e. Crude– see testing records below • Was it processed in the country from inputs that were sufficiently changed as per the rule of origin requirements? i.e. crude to gasoline
Testing/Analysis	COA with results for: <ul style="list-style-type: none"> ▪ API ▪ Sulfur ▪ Nickel ▪ Vanadium 	Detailed Hydrocarbon analysis, if necessary

Duty Preference Critical Data Elements

DOCUMENT REQUIREMENT	EXPECTATIONS	ADDITIONAL CONSIDERATIONS
Proof of Direct Shipment - document from country of production to US showing there was no transshipment of the good	<ul style="list-style-type: none"> • Show movement of cargo from production site to the carrier • Cargo loading • Bill of Lading • Cargo Manifests - CBP Form 1302 - AMS record 	Some ports have requested identification of the exact shore tanks from which cargo was loaded onto the carrier
FTZ withdrawals	Original 214 admitting the cargo into the FTZ	
Product description - confirm correct HTS	Any inconsistencies? Need explanation	Product entered as crude identified as condensate on load and shipping documents but labeled as naphtha on the COA and DHA.
Proof of payment to the foreign seller for the product	3d party bank records	Internal enterprise system screen shots?

- Records must be produced upon request by CBP (30 days) – no Extensions?
- What about product withdrawn from an FTZ– any specific issues?
- What are the touchpoints to look for when there has been a stopover before direct shipment from export country to the US?
- What about Preference Code differences?
 - Good wholly obtained or produced exclusively from originating materials – scope?
 - Distinction between A and C?
- Language translation
- What if foreign supplier is state owned?



Communicating the Results

12. THE FOLLOWING ACTION, WHICH WILL RESULT IN AN INCREASE IN DUTIES,

☐ IS PROPOSED



IF YOU DISAGREE WITH THIS PROPOSED ACTION, PLEASE FURNISH YOUR REASON IN WRITING TO THIS OFFICE WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE. AFTER 20 DAYS, THE ENTRY WILL BE EITHER LIQUIDATED AS PROPOSED OR CHANGED AS PROPOSED.

☒ HAS BEEN TAKEN



THE ENTRY IS IN THE LIQUIDATION PROCESS AND IS NOT AVAILABLE FOR REVIEW IN THIS OFFICE.

TYPE OF ACTION

A.
B.
C.
D.

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

RATE ADVANCE

VALUE ADVANCE

EXCESS

OTHER (See below)

☐

WEIGHT

☐

QUANTITY

13. EXPLANATION (REFER TO ACTION LETTER DESIGNATIONS ABOVE)

U.S. Customs and Border Protection has verified the origin on the Dalia Crude Oil pursuant to GN 16 of the Harmonized Tariff Schedule of the United States in accordance with the African Growth and Opportunity Act and 19 CFR 10.178a. The good was imported into the U.S. on entry summary [REDACTED] for which a claim for the African Growth and Opportunity Act (D) preferential tariff treatment was made.

The verification revealed that the good qualifies as originating goods pursuant to General Note 16 of the Harmonized Tariff Schedule of the United States. The Dalia Crude Oil is classified at D2709.00.1000 with a duty rate of Free.

Some Process Changes?

Response Due Date
Inconsistency

- 19 CFR 163.6 -the entry records shall be produced within 30 calendar days of receipt of the request

Signing CF 28?

- Necessary?

592 Penalty Threatened for Alleged
Misclassification

- Multiple Nomenclature for same product

Multiple CF 28 issued for same
entry by different CBP officials

- Benefits?

Sending CF 28 to Supplier –
adequate communication?

- Use of different format (see next page as example)

Issuing 20-25 FTA requests
simultaneously?

- Benefits?

Questionnaire to Supplier



DEPARTMENT OF HOMELAND SECURITY U.S. Customs and Border Protection

OMB No. 1651-0098
Exp. 08-31-2014
See back of form for Paper-
work Reduction Act Notice.

NAFTA VERIFICATION OF ORIGIN QUESTIONNAIRE

19 CFR 181.72

This questionnaire is sent to you pursuant to 19 CFR 181.72, The questionnaire will be used in

determining if the

described on the NAFTA Certificate of Origin (CO) dated _____ and signed by _____

originates under the NAFTA. If necessary, additional information may be requested at a later date.

☒ EXPORTER

If this box is checked, you are being sent this questionnaire as the exporter of the imported good. If you relied upon a Certificate of Origin or written representation from the Producer to prepare your Certificate of Origin, provide a copy of what it was that you relied upon, and then go directly to Section V and complete it. If you relied upon your knowledge of the good, complete the questionnaire.

☐ EXPORTER/PRODUCER

If this box is checked, you are being sent this questionnaire as the exporter and also the producer of the imported good. Complete the questionnaire.

☐ PRODUCER OF GOOD

If this box is checked, you are being sent this questionnaire as the producer of the imported good.

The good was exported by _____

Complete the questionnaire.

☐ PRODUCER OF MATERIAL

If this box is checked, you are being sent this questionnaire because

_____ identified you as the producer of the material(s) used in the production of the good described above. Complete the questionnaire.

You have until _____ to return the completed and signed questionnaire to the requesting CBP office. You may fax your response. If a reply cannot be made by this date, please contact the CBP office by mail, telephone, or fax. If additional space is needed for your response, attach additional pages as needed. When the verification is completed, the exporter/producer will receive a written determination of the findings. The producer of a verified material will also be notified of the results of the verification of the material. The confidential business information collected on the questionnaire may only be disclosed to those authorities responsible for the administration and enforcement of determinations of origin, and of customs and revenue matters.

The questionnaire must be signed and dated by an individual who can certify as to the accuracy of the information provided in the questionnaire. Failure to complete and return this questionnaire may result in the denial of preferential treatment under the NAFTA.

SECTION I ►

PRODUCTION PROCESS

Provide a **brief** description of the production process for the good/material being verified.

Post Entry Preference Claims- Overview

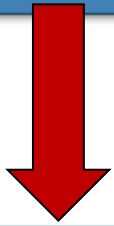
For many US FTAs the
importer has up to 1
year to claim
preferential duty



1520(d)

DR-CAFTA; Chile, Peru, Korea,
Colombia, NAFTA, OMAN,
Panama, Peru

All others use PSA



No Claim can be made
at entry

What about FTA Recon?
Benefits v
Restrictions

Questions

