



EUROPEAN COMMISSION
 DIRECTORATE-GENERAL
 TAXATION AND CUSTOMS UNION
 Security, safety, Trade Facilitation, Rules of origin & International cooperation
Coordination and task force for monitoring implementation of rules of origin

TAXUD/B/TF1-ARES(2014)

NOTE TO THE MEMBERS OF THE CCC-ORI

Subject: Preferential imports from Bangladesh under GSP, here certificates of origin FORM A “issued retrospectively”

I would like to inform the Members of the CCC-ORI of the following:

1. In the last week of March 2015, DG TAXUD was informed by certain Member States that they suddenly encountered problems with certificates of origin FORM A issued in Bangladesh. The dates mentioned in boxes 11 and 12 of the certificates were later than the dates appearing on the corresponding bills of lading, but the certificates did suddenly no longer bear the endorsement “issued retrospectively” in box 4. Therefore some Member States refused accepting such certificates of origin FORM A for technical reasons.

2. Via the EU-Delegation in Bangladesh, DG TAXUD has been trying to clarify the situation with the Export Promotion Bureau (EPB). Unfortunately, concrete answers from the Export Promotion Bureau are still outstanding.

3. However, before this new situation occurred, DG TAXUD carried out some monitoring activities in line with the Action plan for monitoring the functioning of preferential trade arrangements¹. In this function, DG TAXUD raised some concerns about the fact, that the EPB issues **all certificates of origin retrospectively**. It was explained to EPB that Article 971 (2) Regulation (EEC) No. 2454/93 specifically states that retrospective issue of Form A should be **exceptional** and lays down a limited number of cases in which the possibility may be used, in particular where "it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances". It should **never be the norm**.

It was further explained to EPB that retrospective issue as envisaged by the regulation means that the **application was lodged** (as reflected by the date entered in box 12) after export and / or checks relating to the rules of origin were not carried out until after the goods had left the country. It seems that the EPB wrongly considers applications for Form A as admissible only once the relevant bill of lading is submitted, which is the reason why all certificates issued in the past by EPB used to bear the mention in question.

¹ communication from the Commission to the Council, COM(2014) 105 final of 26.2.2014

4. It seems that since March 2015 the EPB has decided to **simply stop putting the stamp "Issued retrospectively" in box 4** of certificates of origin FORM A, without changing the rest of their procedure. However by requesting the bill of lading for accepting a request for issuing a certificate of FORM A, **all situations** are transformed into cases of retrospective issue of certificates.

The dates on the certificates (in box 11 and even more disturbingly in box 12) will then always be subsequent to the date of the bill of lading.

As foreseen by regulation (EEC) No. 2454/93, the application for a Form A certificate should normally be lodged **before the bill of lading is available**.

5. It is recalled that presentation of the bill of lading is no longer mandatory since 2011. However, assessing whether a certificate was issued retrospectively is a valid and legitimate step from a risk analysis point of view. Taxud B TF 1 is therefore not in a position to dissuade Member States from carrying out such checks. As a result, in cases where such checks are carried out and it is established that certificates Form A not bearing the mention "issued retrospectively" were applied for at a date (appearing in box 12 of the certificate) which is subsequent to the date of the bill of lading, the customs authorities of the Member States have no choice other than to reject them for technical reasons. In these cases, the EPB will then be entitled to reissue them retrospectively with the words "Issued retrospectively" in box 4. This will allow the importer to benefit from the tariff preference.

In the meantime and before the problem is clarified between the EPB and the EU, DG TAXUD has been informed that the EPB decided to stamp again the certificates with the mention "issued retrospectively".

DG TAXUD will meet with the Embassy of Bangladesh in the beginning of next week to further clarify this issue and will then inform Member States of any new developments in this regard.

e-signed)

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Head of the Task Force