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## **Application in the European Union of the provisions concerning the validity of proofs of origin concerning goods placed under some special procedures**

### **European Union Guidelines**

Legal references (hereinafter referred as 'the provision'):

- Articles 94(2) last subparagraph<sup>1</sup>, 104(3) and 121(3) of the Implemented Acts (IA)<sup>2</sup> (rules of origin for GSP, until and from the application of the registered exporter<sup>3</sup>, and autonomous preferential arrangements);
- Article 24(3) of the (new) pan-Euro-Med Protocols and article 23(3) of the Appendix I of the Regional Convention<sup>4</sup>
- and the similar provision in origin protocols of other FTAs;

Guidelines for the customs authorities of the Member States:

- (1) A proof can be considered as being 'submitted' only if it is presented to the customs authorities according to the Union provisions in force, in relation with a declaration for release for free circulation of the goods concerned, on the basis of which a preference is or may be claimed.

Proofs of origin concerning goods being placed under the special procedures of external transit, inward processing, customs warehousing, temporary admission or free zone if they are covered by article 245(1) UCC or in temporary storage do not need, according to the Union provisions in force, to be presented to the customs authorities, insofar as the release for free circulation is deferred. Therefore the proofs of origin cannot be considered as being '*submitted within their period of validity*' according to the provision, at the time they are placed under the said special procedures.

- (2) Subject to the conditions laid down under point (3), the possibility offered to the customs authorities by the provisions listed in the legal references, to accept a belated presentation of the proof of origin where the products have been submitted before the date of expiry of its period of validity, shall apply to goods being placed under the special procedures of external transit, inward processing, customs warehouse, temporary admission, and free zone if they are mentioned in article 245(1) UCC or in temporary storage.

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1 Article 94(2) last subparagraph IA : in other cases of belated presentation, the customs authorities of the importing country may accept the proofs of origin where the products have been presented to the customs before the said final date.

2 Commission implementing regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) n° 952/2013 Of the European Parliament and of the Council laying down the Union Customs Code (UCC) (OJL 343 of 29.12.2015).

3 The registered exporter system shall start on 1 January 2017.

4 COUNCIL DECISION of 26 March 2012 on the conclusion of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (OJL 54 of 26.2.2013)

Goods entering a free zone in circumstances other than those covered by paragraph 1 of article 245 UCC need not be presented to the customs authorities. The possibility offered to these authorities by the provisions listed in the legal references to accept a belated presentation of the proof of origin cannot therefore be used for goods entering such a free zone, except where they are presented to the customs authorities for that specific purpose, at the importer's initiative.

- (3) Importers should benefit from the possibility mentioned under point (2) insofar as it is possible for the customs authorities to exercise control of preferential origin, where a corresponding proof of origin is presented in relation with the release for free circulation of the goods.

For that purpose:

- (a) at the time the goods are placed under the special procedure concerned:
- save in cases justifying retrospective issue, the proof of origin relating to the goods concerned shall be available, valid and duly registered in the records of the importer;
  - in the case of temporary admission and inward processing the preferential country code and the document of origin shall be mentioned in the declaration for these procedures. For warehousing the preferential country code is advisable (see Annex I).
  - the goods shall be presented to the customs authorities in accordance with the Union provisions in force<sup>5</sup> and within the period of validity of the proof of origin.
- (b) at the time of the release for free circulation of the goods:
- the proof of origin shall be clearly identified as referring to the goods placed under the special procedure concerned;
  - the customs authorities should not accept the belated presentation of a proof of origin if it would not allow the authenticity of the proof and the originating status of the goods concerned to be verified and a possible subsequent entry of the amount of duty at stake into the accounts to be ensured. They shall in particular take account of the time limit for the preservation of supporting documents in the exporting country and of the time constraints regarding the procedure for subsequent verification of origin. Against this background, a belated presentation should not be accepted beyond a maximum period of two years following the date of issuance or making out of the proof. In case of replacement certificates<sup>6</sup> the two year time limit should start to run from the date of issue or making out of the original proof of origin. This two year extended time limit should not be further extended routinely but only in duly justified exceptional circumstances, e.g. in cases of force majeure.

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<sup>5</sup> See, in particular, Article 5(33) UCC.

<sup>6</sup> See, in particular, articles 69, 95 and 101 of the IA. Article 20 of the pan-Eur-Med protocol and article 19 of the Appendix I of the Regional Convention, e.g. see Article 20 of the Protocol 3 of the EC - Switzerland Agreement concerning the definition of the concept of "originating products" and methods of administrative cooperation (published in OJ L 45 of 15.2.2006). [Note: article 88 on replacement certificates in CH and NO is not reflected in the IA if the Agreement in the form of revised exchanges of letters were in force it could be mentioned].

## Annex I

### DELEGATED ACT

#### ANNEX B

### COMMON DATA REQUIREMENTS FOR DECLARATIONS, NOTIFICATIONS AND PROOF OF THE CUSTOMS STATUS OF UNION GOODS

#### TITLE I Data requirements

Procedure	Column in the template	Data element 2/3 : Preferential proof of origin	Data element 5/16 : Country of preferential origin code
External transit	D1 <i>Special procedure — transit declaration</i>	No	No
Temporary storage as concerns customs warehousing and free zones	G4 <i>Temporary storage declaration</i>	No	No
Release for free circulation and end-use	H1 <i>Declaration for release for free circulation and Special procedures — specific use — declaration for end-use</i>	Yes, compulsory (A)	Yes, compulsory (A)
Customs warehouse	H2 <i>Special procedure — storage — declaration for customs warehousing</i>	<b>Proof of origin has to be mentioned if country of preferential origin code is indicated</b>	<b>Yes, optional for economic operators : data which economic operators may decide to supply but which cannot be demanded by the member States (C)</b>
Temporary admission	H3 <i>Special procedure — specific use — declaration for temporary admission</i>	<b>Yes, compulsory (A)</b>  <b>Proof of origin has to be mentioned</b>	<b>Yes, compulsory (A)</b>
Inward processing	H4 <i>Special procedure — processing — declaration for inward processing</i>	<b>Yes, compulsory (A)</b>  <b>Proof of origin has to be mentioned</b>	<b>Yes, compulsory (A)</b>
Free zones	H5 <i>Declaration for introduction of goods in the context of trade with special fiscal territories</i>	<b>Proof of origin has to be mentioned if country of preferential origin code is indicated</b>	<b>Optional for the Member States: data that Member States may decide to waive. (B)</b>
Simplified declaration	I1 <i>Import Simplified declaration</i>	Yes, compulsory (A)	Yes, compulsory