1. Introduction

We would like to take the opportunity to remind importers about the conditions for claiming preference and about what they can do to ensure that their goods meet all necessary requirements.

2. Conditions for claiming preference

There are three basic conditions which must be met before you can make a claim to preference:

- Your goods must meet the appropriate preferential rule of origin.
- You must hold a valid proof of origin - GSP Form A, Form EUR1, Form EUR-MED or invoice declaration (depending upon the preferential arrangement concerned).
- Your goods must have been transported direct from the preference receiving country to the European Community and must not have undergone any processing en route which could result in them losing their preferential origin.
3. Are checks made on goods imported under preference?

Yes, all preference imports are liable to be checked at the time of importation and we may conduct checks on documentation at any time up to three years from the date of the release of the goods into free circulation to a preferential rate of duty.

We may ask for security to be provided for the full rate of duty payable before releasing the goods if we have any doubts about the authenticity of the proof of origin or, if we have doubts as to whether the other conditions have been met. We will then ask the authorities in the exporting preference country to carry out a check.

European Community legislation also enables the EC Commission to send missions to overseas countries to check the origin of goods which have been exported under preference.

Where any of the above checks show that the proof of origin is not authentic or that the goods do not qualify for preferential tariff treatment you will have to pay duty at the full (non-preferential) rate.

Community legislation allows for the collection of back duty for a period of up to three years after the goods have been imported.

Where an agent makes a customs declaration as an indirect representative, both agent and principal are jointly and severally liable for debt.

Therefore, in your own interest you should check as far as possible that any preference document you present to us is valid and that the goods covered by it are properly entitled to preference.

4. Checking that your goods meet the appropriate origin rules

(a) What should you do before you import goods under preference?

You should:

- read Customs Notice 828 (which contains the origin rules for all of the EC’s preferential trade arrangements, with the exception of Mexico) or Notice 832 (which contains the origin rules for Mexico)

- find out the origin rule for the products concerned
• remind your overseas supplier of the rule and ask for written confirmation that the rule(s) has been met. (Such confirmation must be dated and include details as to the origin of the materials, components or parts used to make the products and a description of the processes undertaken in the preference receiving country. It should also confirm that the same information was provided to the relevant authorities with the application for the preference certificate(s) concerned).

By taking such a course of action you could help yourself to avoid having to pay the full rate of duty if it is subsequently found that your goods have not in fact met the rules. You can find out more about this by reading Section 2 of Notice 826: Tariff Preferences – Imports.

There are a number of other things that you can do to check that your goods will meet the rules. For example:

• if you purchase your goods through selling agents in the overseas country you could ask them to provide you with written confirmation that the rules have been met

• if visiting the overseas factory you could obtain confirmation at first hand that the rules had been met, or

• you could obtain Binding Origin Information (BOI) for your products (you can find out more about the binding origin system in Customs Notice 831 Binding Origin Information (BOI) which is available from our National Advice Service – Tel: 0845 010 9000 and the HMRC internet site).

If you suspect the accuracy of any of the information received you should seek further written clarification from your supplier.

You should consult the National Advice Service if, when you have received a response from your supplier, you are still unsure that your goods are entitled to a preferential rate of duty. Allow yourself plenty of time, as it will not always be possible for the Service to provide you with an immediate answer. **You should not claim preference until you have completed these checks.** If it is confirmed that any goods which you have imported in the meantime are entitled to a preferential rate of duty, you can make a belated claim to preference up to three years from the date on which the goods were originally entered.

Finally, you may wish to establish whether you would be able to include and enforce a clause in your contract allowing you to recover duty from your supplier if checks reveal that the certificate was invalid or that the goods have not met the rules.
(b) What should you do if you are already making claims to preference?

If you are currently claiming a preferential rate of duty on products which have not been subjected to the above checks, you should consider making enquiries of your supplier. **You must stop making claims to preference immediately if the enquiries show that your goods are not meeting the origin rules.**

If you are going to import the same goods over a long period of time, you should, even if you hold Binding Origin Information, make regular checks with your supplier to ensure that there has not been a change in the manufacturing process or in the origin of the materials and components used which could affect entitlement to preference. You should obtain confirmation in writing from your supplier that the rules are still being met.

5. Ensuring that you hold a valid proof of origin

The origin rules in all of the EC’s preferential trade arrangements stipulate that GSP Forms A, EUR1 and EUR-MED Movement certificates must meet certain requirements as regards:

- size
- weight of paper
- layout
- background - which must consist of a green (shade not specified) guilloche (ornamentation imitating braided or interlaced ribbons) pattern.

The certificate must also contain (in Box 11) the stamp (a specimen of which has been sent to the European Commission and circulated to Member States Customs authorities) of the Customs or other Governmental authority in the preference receiving country which has responsibility for authenticating the proof concerned.

It is important that you check that the certificates you receive are authentic and that they contain a valid stamp. Certificates which do not comply with the requirements concerning size, colour, layout etc or which do not bear a stamp which matches the specimen which we have received from the Commission, are not acceptable in support of claims to preference.
It is also important that you make these checks at an early stage because if you are in possession of an “irregular” certificate in terms of size, layout etc, or it bears a stamp which is different in some way from that which is normally used to authenticate the document, you can ask your supplier to replace it with a valid proof of preferential origin which is issued retrospectively, on the grounds that the original document could not be accepted for technical reasons. However, suppliers/exporters in preference receiving countries are required to keep evidence/documentation relating to the origin of their goods for three years only. Therefore, if you leave it too long you will run the risk of not being able to obtain a valid retrospective certificate.

If when you are scrutinising your certificates you have doubts as to their authenticity or you notice irregularities – ie their layout is slightly different from the norm, there are spelling mistakes in the headings in the boxes, or the stamp in Box 11 is different from the norm (for example, in terms of size) – and you need confirmation as to whether they are valid, please contact the HMRC Frontiers and International Tariff Preference Team (Tel 01702 367721) who will be able to advise accordingly and tell you whether the stamp is authentic. The Team will probably want to see a faxed copy of the document.

6. Ensuring that the direct transport rule has been met

While all of the EC’s preferential trade arrangements require that goods must be transported direct from the preference receiving country to the European Community, they do recognise that goods will often have to pass through or temporarily stay in a third country en route to the Community for geographical or transport reasons. Furthermore some preference receiving countries have been grouped together for transport purposes (see Notice 826). This means that goods can move through countries in the group without breaking the direct transport rule and without the need for evidence (see below) to be obtained which confirms that the rule has been met.

With the exception of goods moving through countries in a regional transport group, importers must hold evidence, which demonstrates compliance with the direct transport rule, in respect of every consignment they import under preference. This evidence must confirm that where the goods have temporarily stayed in a third country en route, they have remained under Customs control and have not been subject to any form of processing other than loading or unloading, or an operation designed to keep them in good condition (in other words that they have not been manipulated in any way which could result in them losing the preferential origin of the country from which they were originally exported).

Evidence to support compliance with the direct transport rule can take the form of:

- A transport document (or documents), such as a through bills of lading or airway bills, covering the transport of the goods from the preference receiving country to the Community.

- A certificate or statement of “non-manipulation” provided by the Customs authorities in the third country, under whose control the goods remained during their stay, or
Any other substantiating documents such as orders or purchase contracts which indicate that the goods left the preference receiving country concerned and were always intended for the Community.

You will be required to produce this evidence in respect of every consignment for which HMRC has doubts about compliance with the direct transport/non-manipulation requirements.

It is therefore important that you ensure that you are in possession of documentation which demonstrates compliance with the requirements, and that this evidence is available for every consignment of goods which you import under preference.

7. Further information

HM Revenue and Customs
Frontiers and International
Duty Liability Team
Portcullis House
27 Victoria Avenue
Southend-on-Sea

Tel: 01702 367721
Fax: 01702 361786
Email: yvette.james@hmrc.gsi.gov.uk

ISSUED ON THE 1 NOVEMBER by the JCCC Secretary, HM Revenue and Customs, Frontiers Customer Unit, CRM Team, 4th Floor East, 100 Parliament Street, Westminster, London SW1A 2BQ.

Email: JCCC Secretariat

If you have a question about the content of this paper please use the contact provided in the ‘Further Information’ section. For general HMRC queries speak to the National Advice Service on 0845 010 9000 or follow this crumb trail which details how to contact us by phone, email or post: HMRC home (www.hmrc.gov.uk) >Contact Us.