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POLICY

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Post: Guatemala

Guatemalan Customs Allows CAFTA-DR Certificate of Origin Corrections

Report Categories:

Country Strategy Statement

Country/Regional FTA's

Export Accomplishments - Border Facilitation

SP2 - Prevent or Resolve Barriers to Trade that Hinder U.S. Food and Agricultural Exports

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Report Highlights:

On April 26, 2019, Guatemalan Customs began implementation of a policy change allowing for multiple corrections to CAFTA-DR Certificates of Origin (COO). This is a significant policy change from past practice that will help expedite the clearance of imported U.S. products, saving importers tens of thousands of dollars and make the import process more transparent.

General Information:

The Dominican Republic-Central America Free Trade Agreement (CAFTA-DR) entered into force in Guatemala on July 1, 2006. To provide greater flexibility to exporters and importers, negotiators did not create a template or format for a certificate of origin. In practice, exporters were using different forms and adding information that was not required causing confusion among Customs officials and resulting in certificate rejections. To resolve this problem the Ministry of Economy created a COO and posted it on its webpage. While most exporters used the COO form, there continued to be issues with how information was reported on the certificate and who was signing the document. SAT (Guatemala's Tax Collection and Customs Authority) inspectors at ports of entry rejected certificates for common mistakes, and then subsequently denied preferential duty treatment under CAFTA-DR.

On October 27, 2011, CAFTA-DR members agreed to and implemented Common Guidelines on Country of Origin Certificates to help clarify how a COO is presented. Even with these Common Guidelines, SAT officials continued to find errors on COOs for U.S. shipments of agriculture and non-agriculture products. The fundamental issue with SAT's policy, however, was not that inspectors found errors, but rather SAT would not provide in writing where the error was, which is required under the CAFTA-DR agreement, and limited importers to correcting the certificate only once, due to a flawed interpretation of the Common Guidelines. Furthermore, if the specific error found by the SAT inspector was not corrected, or another error was found on the corrected original COO, it was rejected and the importers had to pay import duties outside CAFTA-DR preferential rates, or undertake a lengthy and expensive appeal process. After nearly two years of interventions from the U.S. Ambassador, several U.S. Embassy agencies, and USTR, the Guatemalan Ministry of Economy -the Ministry that oversees trade agreement compliance- provided a legal determination interpreting the CAFTA-DR COO provision to mean multiple corrections were allowed and SAT had to provide written notification.

Government of Guatemala Defines New Policy on Correcting CAFTA-DR Certificates of Origin

On April 16, 2019 SAT/Customs notified its regional inspectors of the new policy emphasizing two areas of change:

1. The certification of origin can be corrected multiple times within 15 calendar days of written notification, which is considered to be a reasonable period of time to make corrections;
2. The written notification will be provided by way of the "SAT Procedure Provision Form", which will specify the mistake or mistakes found in the mandatory information requested under CAFTA-DR and the justification for the rejection of the certification of origin.

The local newspaper, [Prensa Libre](#), published on April 26, 2019, that the Ministry of Economy (MINECO) and SAT will implement, as of April 26, a new measure for the CAFTA-DR Certification of Origin, to boost the trade agreement and to allow trade facilitation measures to support importers and exporters. The American Chamber of Commerce also released a statement via twitter and other social media announcing the policy change and its expected positive impact on U.S. exports.

