



The South African Revenue Service Per E-mail

Rules of Origin – Certificate of Origin Barriers

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Purpose

This document contains an overview of the current Rules of Origin and its accompanying constraints. The purpose of this document is to initiate a dialogue with SARS and to find a solution to ease the delays experienced on current non-tariff barriers (NTBs) with regards to Rules of Origin certificates. The content of the document is as follows: **(1)** Problem Overview, **(2)** Information and Discussion Topics, **(3)** Proposal, and **(4)** Conclusion.

1. PROBLEM OVERVIEW

After the review and publication of the external policy – *Administration of Trade Agreements (SC-RO-02)* – several matters stood out. Exporters and clearing agents were informed that blank certificates of origin and certification must be conducted at the office nearest to the exporter's place of business. Furthermore, SARS is allowing a 60-day grace period before the requirements for new blank certificates are enforced.

These NTBs are considered a result of legislative and policy restrictions imposed and the impact of the Covid-19 pandemic on Customs offices' operations.

In both instances, a client must [contact the Branch Office](#) via the email address provided on the SARS website, except for Gauteng offices which must be contacted via the details as provided in the [escalation procedures letter](#).

Arguably clients need to plan to apply for blank certificates. Certification of certificates relates directly to the declaration process and requires processing times equivalent to SARS declaration capabilities. It is also argued that the accompanying logistics of cross border road freight was not duly considered in the policy document. This situation is contributing to the barriers experienced.

2. INFORMATION AND DISCUSSION TOPICS

In support of the below discussion, it should be noted that the SADC Treaty does not, as opposed to other reciprocal Trade Agreements, provide for an "approved exporter" to make an origin declaration by way of an endorsement on an invoice or other acceptable document. The consequence of this is an excessive number of documents that need to be repeatedly handled manually. The lack of such a provision could be an aggravating NTB.

The Southern African Development Community Secretariat highlighted the lack of digital integration in the recent survey on readiness to move to electronic certificates of origin. This initiative again highlights the shortcomings of manual processes.

The two aspects will be addressed separately with dedicated proposed solutions. All references to 'policy' will mean the external policy -SC-RO-02 - Administration of Trade Agreements. The policy provisions are read with the respective Rules and Schedule to the Rules, being the Rules to the Customs and Excise Act 91 of 1964. The present policy has deficiencies. It demands excessive manual input resulting in costly delays, complicated procedures, additional unnecessary exposure to the Covid-19 virus and the lack of information regarding certificates in some circumstances.



a. Application for Blank Certificates of Origin

To obtain blank certificates of origin, the form, SC-RO-02-A02 as prescribed in the policy, must be completed, and handed in at the Branch Office nearest the exporter's place of business, taking cognisance of the grace period.

Paragraph 2.3c) of the policy

- c) If the goods are not exempted the exporter or his/her authorised clearing agent applies for blank certificates by completing the "Application for Blank Export Certificates of Origin" (SC-RO-02-A02). The fields on SC-RO-02-A02 must be completed as follows:
 - i) The alphabetical Branch Office code allocated to the Customs Branch Office at which SC-RO-02-A02 is presented for processing must be inserted in paragraph 1.1 of SC-RO-02-A02.
 - A) The exporter must present SC-RO-02-A02 at the following Customs Branch Office, for the application of:
 - l) New certificates, the Customs Branch Office nearest to the exporter's, manufacturer's or producer's area of business. Clients will be allowed a grace period but from 01 April 2021 must adhere to this requirement.

As per the above extract, a client is required to present the completed application form at the Customs branch office nearest to the exporter's, manufacturers, or producer's place of business for processing. The possibility that a clearing agent may apply for the blank certificates on behalf of its clients and, more prominently, the aspect of making a booking to visit the branch office is omitted from this requirement.

Presentation of the form would mean that the client must make a booking – as per the Customs guidance described in preceding paragraphs – to hand in the application forms. This process entails the following:

- A client makes the booking;
- Visits the respective branch office on the day of the appointment (which may be a day or two later) while waiting in a queue which allegedly does not effectively manage social distancing protocols;
- Hands in the hard copy documents; and
- Leaves the branch office.

Regarding the policy (paragraph 2.3 e), the turn-around time to issue blank certificates can vary between 1 and 3 days. The policy, however, is silent on how the client will be informed that the blank certificates are issued. Presumably, the client will need to make another booking to arrange for collecting the blank certificates, again going through the same queueing process.

b. Certification of certificates

In terms of the policy guidance, the process required to obtain certification of the Rules of Origin certificate entails that:

- The client, being either the exporter, manufacturer, producer or clearing agent, completes the certificate of origin.
- Drafts the export declaration following the requirements as stipulated in the Completion of Declarations Manual – SC-CF-04 ("manual").
- Important to note are the following requirements from the manual:
 - The certificate number must be inserted in Box 44 – additional information field.
 - Paragraph 2.58 deals with the Transport Name as a mandatory requirement for all declarations where the transport code is 1 or 3.



- The requirement indicates that in the case of road freight, code 3, the horse, and trailers' registration number is reflected in Box 18 of the declaration.
- The declaration may then be lodged to SARS via EDI.
- Only once the declaration is lodged, the office nearest the exporter may be approached for certification purposes – it must be noted that it would seem as if the policy incorrectly creates the perception that the goods were already exported and hence certification takes place on a post-facto basis - this is not the case and requires correction.
- In order to approach the office for certification purposes, the whole booking system process needs to be followed – again taking cognisance of the fact that a booking may only occur a day or number of days later.
- To reiterate, the booking process entails:
 - A client makes the booking;
 - Visits the respective branch office on the day of the appointment (which may be a day or two later) while waiting in a queue which allegedly does not effectively manage social distancing protocols;
 - Hands in the hard copy documents; and
 - Leaves the branch office.
- The following documents must accompany the certification request:
 - The original uncertified certificate of origin.
 - A copy of the export CCD.
 - Literature of the exported goods.
 - A declaration by the supplier (DA 49A.01) of raw material.
 - Invoice(s).
 - Process of manufacture if the product has been processed (DA 46A.04).
 - If a clearing agent completed and signed the export certificate of origin, a clearing agent's instruction specifies that the exporter can prove the country of origin and an authorisation letter from the client with the information mentioned in the Rules.

In terms of the policy, (paragraph 2.3l)ii)C) the turn-around time for certification can vary between 1 and 3 days, where one day is only applicable to clients who have obtained prior determination before exportation. As with blank certificates, the policy is silent on how clients will be informed that the certificate has been certified and that the client may arrange for collection. The collection would most probably require that the booking process, which includes the delayed period, must be followed.

From a time period assumption position, the certification process may easily span 5 to 6 working days. While considering the lapsed time, it must be noted that the declaration was lodged via EDI more than the duration it took to obtain the certification. The declaration had to reflect the carrier details as mandatory fields.

Carriers need to meticulously plan cross border journeys to ensure that vehicles are optimally utilised and loaded to ensure feasibility. The carrier could not be used in the scenario set out as it awaits finalisation of an extremely cumbersome Customs procedure before loading may commence.

c. Updated policy

The updated policy initially published during the Covid-19 Alert level lockdown period on October 12, 2020, prescribed that certification must occur at the office nearest to the exporter's place of business. When Customs was approached and the time constraints and barrier raised, the response was that the policy is aligned to the legislation, i.e., that it is a legislative requirement that the office nearest to the exporter's place of business is used.



This statement is only half-true since the law provides an alternative that **the manager responsible for administering the Rules of Origin section in Head Office may otherwise determine places where certification can occur.**

At no point did the policy consider all the facts, the time aspect, the NTB it creates, or the realities brought along by the pandemic explicitly relating to the booking process. It would also seem as if the mentioned Head Office manager did not consider alternative certification mechanism that may have promoted trade facilitation.

The policy as it stands currently, together with the booking process requirement, is hampering trade from a facilitative perspective and economically.

3. PROPOSAL

A balancing act is required to ensure that the realities experienced within the supply chain, including the logistical chain, are realised – carriers cannot stand idle for days waiting for manual Customs processes to take place, prompting the following proposals for consideration and further dialogue.

1. Short-term proposal

Alternative submission method of documents in lieu of hard copy submission based on the booking system.

Regarding the Registration, Licensing and Accreditation (RLA) project – hard copy documents are requested in the minimum of instances – it is preferred that documents be scanned into PDF format and then provided via dedicated email addresses. This method of submission eliminates the risk of virus-contaminated documentation handed in at offices. Therefore, the process is mainly automated, although not systematically, as in the e-filing process, but via dedicated email boxes accessible by the relevant team members and their managers.

The proposal, therefore, follows the principle applied in the RLA environment being:

- The creation of dedicated email addresses at the respective branch offices managed by the Rules of Origin team.
- Application for blank certificates as well as certification requirements emailed to the dedicated email address together with all supporting documentation.
- It is further proposed that the email layout be specified, and a checklist be provided to ensure uniform submission to assist the Customs offices.
- The requests and supporting documents must be emailed in PDF format to the branch office.
- A manual case or reference number can be allocated.
- The Rules of Origin team can scrutinise the application and request additional documentation or information if needed.
- Once the Rules of Origin team have satisfied themselves that the application/certification request is compliant, the client is advised to visit the branch office.
- The branch office visit must be handled via a dedicated Rules of Origin stream, not via the booking process.
- Blank certificates should be provided to the visiting client by the Rules of Origin team.
- Regarding certification, the clients must produce all the hard copy documents as per the email request to the Rules of Origin team upon the visit to the office.
- The Rules of Origin team member ensures that the documentation is correct and certifies the certificate.
- Sanitising protocol:



- It is evidenced that the Covid-19 virus can be transmitted from surfaces, including the handling documentation on which the virus is present. It is therefore proposed that a sanitising protocol for the submission and receipt of documentation be established.
- This protocol can be adapted in all other spheres where documentation has to be handed in or received from Customs; for example, manual refund processes.
- As an example, blank certificates of origin may be provided in a sanitised envelope and collected from the Rules of Origin team and not via the normal booking process.
- Certificates handed in for certification, including supporting documents, must also be subject to the protocol.
- Certification for cross border movements
 - For years, the certification in the case of road freight took place at the land ports of entry.
 - The policy imposed the restriction that certification may not be conducted at land ports of entry, with the exception if it is the nearest office to the exporter.
 - The Schedule to the Rules, Paragraph 200.03(g) already empowers the Beit Bridge and Lebombo office to certify certificates of origin.
 - It is proposed that cross border certification be allowed at these land ports under the guidance of the head office Rules of Origin officer as provided for in the legislation. This situation will require an update to the policy to align with the legal provisions.
- The period for certification
 - The policy reflects a period of up to 3 days for certification, which is logistically a nightmare, as mentioned above.
 - It is proposed that certification requests be provided via email for consideration.
 - Once found to be compliant, the actual certification can be conducted at the land port of entry at the time of the vehicle's arrival.
 - The land port of entry needs to establish a complement that can verify the certificate against the documentation provided by email.
 - The certification period needs to be shortened to occur on the same day, with longer durations only occurring in exceptional circumstances.

Benefits of this approach which can be instituted relatively easy without any significant capital costs, will ensure:

- Exposure to the virus is limited;
- Fewer persons queueing for service;
- Quicker turn-around times;
- Request semi-automated, which allows for better control and management;
- Improved communication channels; and
- Enabling trade facilitation while curbing NTBs.

d. Medium-to-long-term proposal

As a medium-term solution, creating certificates in an electronic format is envisaged, like an electronic bill of lading. This proposal will entail that the certificates are electronically numbered in chronological order, and predefined exporter data can be prepopulated before issuance.



The electronic certificate must be the legal functioning equivalent of a hard copy certificate. To give effect to this requirement, the core functions of the certificate will need to be digitised. This requirement will include aspects such as the authenticity of issuance by SARS/relevant revenue authority (consider expansion to other regional member countries, specifically the SADC and AfCFTA as trading partners), electronic completion by exporter/agent, electronic certification by SARS/relevant revenue authority. By using digital IDs, it would be possible to conduct ID verification while the certificate can be used in an electronic environment rather than manual hard copies.

Certification of electronic certificates needs to be explored in line with current technology capabilities. Benefits of this process will include:

- Less administrative actions to schedule and confirm bookings.
- Less escalation administration where the stipulated time is exceeded.
- Fewer persons visiting branch offices.
- Less physical interaction with persons.
- As a result of fewer persons at branch offices, the virus exposure risk is proportionally mitigated.
- The electronic record of certificates, which will include blank certificates not yet used, certified certificates - recorded certified by whom and utilised against declaration details; and
- Certificates cannot be falsified while used and tracked in electronic format containing a digital ID.

4. CONCLUSION

This document contained an overview of the current Rules of Origin and its accompanying constraints. The need to introduce a mechanism to control and minimise the influx of people at offices is supported from a business perspective, mainly due to similar mechanisms imposed to ensure social distancing and avoid crowding. It is, however, defeating the object if queues are still formed even in a more structured manner, i.e., based on bookings that were made. Alternative methods should continuously be explored to reduce the need for clients to visit offices, whether by introducing defined email addresses for communication of specific topics or considering systematic interactions linked to current electronic systems. These will reduce the human resources required and make the process more cost-effective for both Customs and Trade.

The creation of a public-private-partnership (PPP) can also help remove NTBs as IT-infrastructure and funding may be shared among partners in the development of, and by creating, a mechanism that may be a best practice for members.

Best regards,

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