

## TO EXPORTING COMPANIES THEIR OFFICES

**Subject:** Letters of credit and certificates of origin

More and more frequently this office receives requests for the issuing of certificates of origin and endorsements on invoices that contain declarations or certifications, required by the presence of letters of credit, which give rise to unpleasant disputes with the business that requests the document issued exactly in line with the credit requests. Therefore, we feel it is useful to repeat some fundamental rules that must be applied in accordance to what is set forth by the Ministry of Economic Development, the Department for business and internationalization and by the Italian Union of the Chambers of Commerce, on the subject of issuing certificates of origin on behalf of the Chambers of Commerce, Industry, Handicraft and Agriculture, in application of the provisions in the CEE Regulations No. 2913/92 and No. 2454/93.

First of all, we remind you that certificate, according to art. 1 of the Presidential Decree 445/2000, means "the document issued by a public administration with the purpose of recognition, reproduction or participation in third parties of states, personal qualities and facts contained in boards, lists or public registers or in any case verified by holders of public functions". Therefore, the use of expressions such as "I certify" or "We certify" by subjects other than Public Administrations is not legitimate. Any certificate or declaration that the business intends to express on invoices or other documents that require a Chamber of Commerce endorsement must be defined as a declaration, exclusively using the words "I declare" or "We declare".

Moreover, certificates of origin are EXCLUSIVELY destined to prove the NON PREFERENTIAL origin of the goods and the rule that there must not be other indications reported on the certificate apart from those set forth in the form itself is enforced. Mentions or declarations of various kinds that any commercial or banking needs or provisions of authorities in the country of import require being added to the invoice, shall be evaluated case by case by the Chamber of Commerce, Industry, Handicraft and Agriculture in Padua, which shall decide, at its discretion, whether to accept or reject. Nevertheless, it is opportune to specify that when, in part 6 of the certificate the invoice is referred to for the description of the goods with the phrase "descriptions and origins of the goods as per attached invoice", the invoice can NEVER contain any type of declaration. The reason being that reference to the invoice in part 6 of the certificate of origin requires that the invoice be physically attached to the certificate, becoming an integral part of it, and therefore it is certified by the Chamber.

Furthermore, discriminatory or negative comments about countries, mentions of exclusion or restriction that are incompatible with international agreements and/or national laws, mentions that are difficult to verify, such as: declarations of PURE/EXCLUSIVELY ORIGIN of goods, declaration on the origin of RAW MATERIALS used for the production of systems, ancillary equipment and spare parts, mentions on the PERCENTAGE of foreign elements in the finished product composition are NEVER allowed, neither on the certificate of origin nor on the commercial invoice nor on other documents for which the Chamber endorsement is required. If a business should request an endorsement on declarations of this kind, this Office will not consider them at all because the Chamber of Commerce must only certify what it is able to verify and in compliance with the its competences, as it cannot take on the burden of certifying all the contents in documents submitted.

The certificate of origin is the ONLY recognized document that can attest the non preferential origin of goods: further declarations of origin by the company on the invoice or in other company documents are acceptable provided that such declarations:

a) do not differ from the origin declared in the certificate;

- b) are not declarations that list an alternative origin of the goods (for ex. Italian and/or Spanish and/or German and/or Chinese);
- c) do not report phrases of the kind “West European origin” (a geopolitical identity defined as West Europe does not exist) or “European origin” (European origin and European Union origin are not the same thing: Switzerland is in Europe by not in the European Union);
- d) also contain the contextual request of the Certificate of Origin (an invoice or other document that contains the declaration of origin without the contextual request of the certificate of origin is not allowed and has no possibility of being endorsed).

The certificate of origin form is a simple and complete document, which often risks being rejected at the front office due to incompatible elements or common errors from distraction. Among the most frequent requests is to continue using the old name the company had when the letter of credit was negotiated, while in the meantime the company changed from a limited company to a corporation or vice-versa, or changed its legal office or name. Since one of the verifications carried out at the front office is making sure that the information the company indicates in box 1 corresponds with the juridical data contained in the certificate of incorporation, if the data are not compatible the certificate will not be issued and a new request must be presented, reporting the company name as it is in the certificate of incorporation.

When the Chamber of Commerce office requests the elimination of these incompatible or outdated mentions from the form, the company often asserts that what is required by the credit must be reported word for word in the certificate, otherwise the credit will not be paid. These justifications are not sustainable, not even on the basis of the revision of the documentary credits (NU 600) in force since July 1, 2007, by the International Chamber of Commerce, which sets forth in art. 14 that the data in a document other than the commercial invoice does not necessarily have to be identical to the credit itself as long as they are not conflicting.

Keep in mind that the credit is a commercial contract between two businesses, which does not bind the Chamber of Commerce in any way, as the Ministry of Economic Development also reaffirmed in the attachment to note No. 75361 of 29.08.2009, providing that in no case whatsoever can the issuing Chamber of Commerce office be held responsible for discrepancies between the regularly issued certificate of origin and the conditions established by documentary credits.

Businesses are therefore kindly asked to fully collaborate in the implementation of these indications in order to make the issuing of documents less burdensome and more rapid. Finally, businesses are invited to inform credit institutes when compiling the credit document to eliminate as much as possible any reference to the content to be given to the certificate of origin, a content that the credit can neither impose nor negotiate, as it is a document issued by a Public Administration in compliance with rules set forth by international agreements, national regulations and the Customs Code, which the credit can neither control nor fail to observe.

Thank you for your collaboration.

The Manager  
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