



Guidance on minor errors or discrepancies on Certificates of Origin obtained for purposes of the China - Australia Free Trade Agreement

Purpose

To provide advice on the assessment of Certificates of Origin (COOs) and minor errors or discrepancies on COOs under the provisions of the China – Australia Free Trade Agreement (ChAFTA).

Assessing Certificates of Origin

A COO is issued by an authorised body of the exporting party (country), identifying the goods being consigned between the parties and certifying that the goods are originating in the exporting party. The COO is a supporting document to claim ChAFTA preferential tariff treatment, but it is only prima facie evidence of origin and it does not by itself guarantee that goods will receive preferential duty treatment. A COO must be completed fully and correctly if it is to serve its purpose.

While a COO is issued by an authorised body, it is possible that the COO may contain an error or discrepancy when compared with shipping/commercial documentation. Importers (or their customs broker) must make an initial assessment of the information on the COO before claiming preferential tariff treatment under ChAFTA.

If there is doubt regarding any aspect of the COO or the origin of the goods, importers, or their customs broker, must make enquiries to:

- clarify any errors or discrepancies detected,
- satisfy themselves that the COO has been issued by an authorised body of the exporting party, relates to the goods and does not lead to any doubt as to the origin of the goods, and
- seek to obtain a replacement COO with the correct details as required.

Where errors or discrepancies are detected, the COO is considered invalid, unless the errors or discrepancies are minor in nature and the origin of the goods is not in doubt. Once a correct COO has been obtained preference can be claimed, or where goods have already been imported, a claim for refund may be made in accordance with the Customs (International Obligations) Regulation 2015.

Minor errors and discrepancies on Certificates of Origin

Article 3.17 of ChAFTA refers to 'Minor Errors or Discrepancies' and provides an exception to having to obtain a new COO. Article 3.17 of ChAFTA states:

Where the origin of an imported good is not in doubt, minor transcription errors in a Certificate of Origin or discrepancies in documentation, or the absence of overleaf instructions in a Certificate of Origin, will not of themselves render the Certificate of Origin invalid if it does in fact correspond to the good. However, this does not prevent the customs administration of the importing Party from initiating a verification process in accordance with Article 3.21.

Minor transcription errors or discrepancies may include:

- spelling, grammatical or typographical errors in the Certificate of Origin,
- the units of measurement stated in the COO are different from the units of measurement stated in supporting documents such as invoices/packing lists and supporting documents (in this case, DIBP would still expect the amounts to be correct),
- differences in the paper size of the COO and the template provided,
- slight differences in description of the goods between the COO and the supporting documents, and
- size of marks and executions, including three asterisks (*) or finishing slash (/) in the 'goods description' field on the COO.

To be satisfied that the origin of the goods is not in doubt, all the required information (that is, all non-optional information) must be included.

If after making enquiries an importer or their customs broker determines that an error or discrepancy on a COO is minor in nature, the importer or customs broker must also assess that the error does not cause doubt as to the origin of the goods, and ensure there is no doubt as to whether the COO relates to the goods.

It is not possible to provide a rigid rule stating, for example, that a certain type of error or discrepancy will always be minor and will not invalidate a COO. The information below in relation to errors or discrepancies in HS code and origin criterion, and the reference table at [Attachment A](#) may provide some guidance in undertaking that risk assessment, noting that each discrepancy or issue must be assessed on a case-by-case basis.

Reliance on a COO that contains errors or discrepancies may lead to a more in-depth assessment by the Australian Border Force (ABF) as all situations will be treated on a case-by-case basis.¹ This reinforces the fact that the COO is just prima facie evidence of the origin of the goods and not the final determinant.

Errors or discrepancies in HS codes

General rule

As a general rule, the HS code on the COO should match the HS code that is or will be stated on the import declaration.

If the HS code² on a COO does not match the HS code that is or will be stated on the import declaration, this may not be a minor error or discrepancy as it may cause doubt as to the origin of the goods and may raise questions as to whether the goods being imported are in fact those listed on the COO.

Flexibility in the application of the general rule

If the error or discrepancy in the HS code on a COO is a typing or transcription error, the error or discrepancy will not invalidate a COO unless the error or discrepancy causes doubt as to the origin of the goods or whether the COO is 'for the goods'.

¹This kind of action is also allowed as per Article 3.17 of ChAFTA, which states that: *this does not prevent the customs administration of the importing Party from initiating a verification process in accordance with Article 3.21.*

²Australia is a signatory of the International Convention on the Harmonized Commodity Description and Coding System (HS), which obliges customs administrations around the world to require correct HS classifications for goods. HS Rules have legal status in Australia under subsection 7(1) of the *Customs Tariff Act 1995*, which requires: "The Interpretation Rules must be used for working out the tariff classification under which goods are classified".

Additionally, if there are legitimate circumstances³ where the HS code used for a particular good in China and Australia differs, then the difference in HS code will not invalidate a COO if it does not cause doubt as to the origin of the goods and if other information on the COO is sufficient to demonstrate that the COO is for the goods. In such circumstances, the importer or their customs broker should obtain evidence explaining the difference or make a reasonable effort to rectify the discrepancy in HS classification.

Evidence may include correspondence from the exporter to the importer (or customs broker) explaining why the HS code used by the exporter differs from what the importer (or customs broker) believes the HS code should be.

Where an error or discrepancy in the HS code creates a discrepancy in the origin criteria, for example, a difference in the Product Specific Rule (PSR), then the importer or their customs broker must have information to support that the goods meet the correct rule of origin.

If the discrepancy cannot be resolved, importers and their customs broker may choose to seek an origin advice to decide whether the goods are originating. This would also allow the importer to use a Declaration of Origin (DOO) for future imports of the same goods for five years.

If there are any patterns of systemic discrepancies between Australian and Chinese HS codes for certain goods, importers and customs brokers should advise the ABF by contacting ChAFTA@border.gov.au and providing any reasons available for those discrepancies. The Department of Immigration and Border Protection will liaise with the Department of Foreign Affairs and Trade to explore whether such discrepancies can be resolved at the international level.

Error or discrepancy in the origin criterion

Rules of origin (ROO) are essential in determining whether imported goods are eligible for claiming the preferential rates of duty available under ChAFTA. ROO preclude goods made in other countries from obtaining the benefits of ChAFTA by merely transiting through the other party.

Goods qualify as 'originating' under one of the three origin criterion:

- 'Wholly obtained' (WO) or produced from wholly obtained goods in China or Australia,
- 'Wholly produced' (WP) entirely in China or Australia, or both, from materials classified as 'originating' in either country under the ROO, or
- Produced in China or Australia, or both, using inputs from other countries, while meeting the PSR applicable to that good.

Below are some examples of aspects that should be considered when risk-assessing any minor discrepancy in origin criterion. These are examples only - all cases must be assessed on their own merits. In circumstances where there are discrepancies or minor errors, the importer or customs broker must make all reasonable efforts to obtain evidence explaining the difference or discrepancy in origin criterion.

Example one: The COO claims the good as 'Wholly Obtained', however the importer or customs broker considers the correct criteria is believed to be 'Wholly Produced'

If, based on all other information, the COO is valid and relates to the goods, and the origin of the goods is not in doubt, the COO issued by a Chinese authorised body can be relied upon.

Example two: The COO claims the good as 'Wholly Obtained' or 'Wholly Produced' however the importer or customs broker considers the correct criteria is a 'Product Specific Rule'?

³For example, Chinese and Australian courts, tribunals or administrations may differ in their interpretations of certain HS classifications. Such circumstances would most likely arise in cases where the essential character of the good determines which of several possible classifications apply. The Department of Immigration and Border Protection has already referred to these discrepancies in a presentation on ChAFTA in March 2016.

If the importer or their customs broker possesses information that the correct criteria should be a PSR, then the COO should not be accepted as valid. A new COO should be sought.

Refund of duty

The principles regarding minor errors and discrepancies outlined above apply equally to an application for refund. In making an application for a refund, the applicant must comply with the requirements of the *Customs Act 1901* and the Customs (International Obligations) Regulation 2015.

Document retention under ChAFTA

Importers and customs brokers are reminded to keep records and commercial documentation in accordance with the requirements of the *Customs Act 1901*. Relevant records and documents may include, but are not limited to: invoices, bills of lading, packing lists, testing and analytical results, tariff advices or precedents and any relevant correspondence with the manufacturer, supplier, exporter or importer.

For more information

Any questions concerning a discrepancy or error on a COO may be directed to ChAFTA@border.gov.au.

Attachment A

Reference table for minor errors

In using this table, note that each discrepancy or issue must be assessed on a case-by-case basis. Whether the error is acceptable will be determined on based on the information presented. A *possible* acceptance in the table is indicative only and subject to there being no doubt as to the origin of the goods and no doubt as to whether the COO is for the goods.

Error	Is this error acceptable?	Treatment
Typographical error, for example, the manufacturer is listed as XZY Co. Ltd., rather than XYZ Co. Ltd.	Yes	The COO will be accepted as valid.
Grouping of different goods under a single HS	No	The COO will not be accepted as valid as the goods are not identifiable. A new COO will be required and DIBP would expect importers or their customs broker to make reasonable efforts to resolve this kind of error. The HS classification needs to be correct to six-digits for each of the items being imported.
Missing *** or other required markers at the end of item listing	Yes	The COO will be accepted as valid.
Dates	Possible	An explanation would need to be provided as to why the dates are different. In cases where the difference in dates is significant, for example, where the dates bring the validity of the COO into doubt, the COO may not be accepted as valid.
Marks or units are incorrect. For example, if the units on the import declaration show 'kilograms' whereas the COO shows 'pounds' or boxes against cartons. Slightly incorrect description of markings.	Yes	The COO will be accepted as valid.
Slight errors in the HS. For example: 0101.10 instead of 0101.01.	Possible	If the error is a transcription error, such an error may be accepted as valid if an appropriate explanation is provided.
The HS code on the COO and the import declaration differ, but have the same ROO and rate of duty.	Possible	In circumstances where the difference in HS code may be explained through a difference in the identification of the goods prior to classification (e.g. a 'wooden table' versus an 'article of furniture'), and the rule of origin and the rate of duty payable do not differ, the COO may be accepted as valid if an appropriate explanation is provided.
The COO claims the good as 'Wholly Obtained', however the importer or customs broker considers the correct criteria is believed to be 'Wholly Produced'.	Possible	If, based on all other information, the COO is valid and relates to the goods, and the origin of the goods is not in doubt, the COO issued by a Chinese authorised body can be relied upon.

Error	Is this error acceptable?	Treatment
The COO claims the good as 'Wholly Obtained' or 'Wholly Produced' however the importer or customs broker considers the correct criteria is a 'Product Specific Rule'.	No	If the importer or their customs broker possesses information that the correct criteria should be a PSR, then the COO should not be accepted as valid. A new COO should be sought.