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Certificate of concern

The letter to the New Jersey Chamber of Commerce came from the Turkish government, and it asked an unexpected question: Had the enclosed certificate of origin for a shipment of arms indeed been validated by the chamber? It had not. The certificate bore a fraudulent New Jersey chamber seal. The nature of the shipment made the chamber's council question whether it should be validating certificates of origin at all.

The original purpose of a certificate of origin was, and for the most part still is, to allow goods to move between countries tariff-free or under a reduced tariff, as they do now under the North American Free Trade Agreement. Of the dozen or so paper documents that still attach themselves to international shipments despite e-solutions, the certificate of origin is one of the simplest — a one-page form on which the shipper or his agent states that the goods are “the products of the United States of America” and that then is presented to a local chamber for validation.

How valid is that “validation”? The apparent answer: Not very, considering the legal disclaimer with the certificates. The disclaimer results from a decade-old court ruling in a case brought by a Chinese importer against a U.S. cigarette-filter dealer whose Brazilian-made filters were validated as U.S.-made by the Denver Chamber of Commerce. The case gave birth to the legal disclaimer stating that the statement of origin represents only the shipper's word, and that the chamber “validates” nothing.

As a non-government entity, chambers feel stuck with the responsibility of validating certificates of origin without clear standards. Chambers cannot even access state databases to see if a compa-

ny requesting certificate of origin validation is actually incorporated in that state.

The reality of international commerce is that when a dated and orphaned regulation is too complex to be easily understood, it is interpreted in the rough world of real business by harried document clerks whose shaky grasp of its original purpose is inherited from the last departing clerk in a continuous downward spiral of comprehension. The vestigial document becomes perfunctory and meaningless because no one is motivated or assigned to change or end it.

Traders complain that they can apply online for a NAFTA certificate and get it instantly processed but still have to present the traditional certificate of origin at the chamber for a clerk to stamp, a chamber officer to sign and a fee to be paid.

The general belief was that chambers have hung on to validation as a major revenue source. That once may have been true but no longer appears to be the case. The comptroller of the 2,500-member Seattle chamber, James Stremme, said certificates of origin produce only about \$10,000 of his organization's \$5 million annual budget.

Some chambers will rent or sell their seal and think nothing of it since they cannot inspect shipments and rely solely on the claims of a prestigious big-company member. But chambers are not the only entities to validate certificates of origin — because nobody seems to be in charge, anybody can decide to validate and charge a fee. One former Boston forwarder confessed that to speed processing, local forwarders created their own fictitious chamber.

Foreign importers treat the U.S. certificate of origin with contempt, com-

pared to the certificates of origin issued by the quasi-governmental European chambers, but U.S. certificates are still required by some countries such as Israel and those in the Middle East, which demand that they be presented at the consulate or embassy for yet another stamp before shipping.

In the light of a proliferation of new trade agreements, the World Chambers Federation of the International Chamber of Commerce is surveying 213 countries to determine how they process certificates of origin. The idea is to offer global standards and to certify clerks to ensure against indiscriminate or irresponsible endorsements.

The successful ATA carnet program, which allows companies to move samples or exhibition products in and out of countries without paying duty or taxes, could be a model. And why not make the certificate electronic, with a rules-based application that removes the clerk's interpretations? And while we are at it, in the post-Sept. 11 environment, we could link it with the U.S. Customs-Trade Partnership Against Terrorism to flag suspect shippers like the aforementioned New Jersey arms manufacturer.

The imposition of a single global electronic application for certificates of origin could shed the vagaries of local practices, obviate the need for consular stamps, electronically satisfy bank letter-of-credit requirements and join the suite of electronic trade documents that are making international commerce faster, more transparent and safer.

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