

WORLD TRADE ORGANIZATION

G/RO/53
1 August 2002

(02-4261)

Committee on Rules of Origin

Original: English

IMPLEMENTATION OF THE AGREEMENT ON RULES OF ORIGIN

Notification by the People's Republic of China

The following communication, dated 14 June 2002, has been received from the Permanent Mission of the People's Republic of China.

With reference to Article 5.1 and paragraph 4 of Annex II of the Agreement on Rules of Origin, I have the honour to provide the Committee on Rules of Origin the texts of the following regulations and administrative measures in effect in China regarding rules of origin:

1. Provisional Regulations Concerning the Rules of Origin of the Customs General Administration of the People's Republic of China;
2. Proclamation of the Customs General Administration of the People's Republic of China, No.17, 2001;
3. Proclamation Concerning Change of the Rules of Origin for Petroleum Products of the Customs General Administration of the People's Republic of China;
4. Provisional Rules of Origin for Imports under the First Agreement on Trade Negotiations among Developing Member Countries of the Economic and Social Commission for Asia and the Pacific (Order of the Customs General Administration of the People's Republic of China, No.94).

The above-mentioned regulations and administrative measures are authentic in the Chinese language, and the English translations are for reference only by the Committee and Members of the World Trade Organization.

**Provisional Rules of Origin for Imports
of the General Administration of Customs
of the People's Republic of China**

Promulgated and came into force on December 6, 1986

Article 1 The present Rules are hereby formulated for the purpose of implementation of the two categories of duty rates on imports, i.e. general rate and MFN rate, provided in the *Regulations on Tariff of the People's Republic of China*, defining the country of origin of import goods correctly.

Article 2 Goods produced or manufactured wholly in a given country shall be taken as originating in that country.

The term "goods produced or manufactured wholly in a given country" means:

- (1) Mineral products extracted from its soil or territorial waters of that country;
- (2) Vegetable products harvested or gathered in that country;
- (3) Live animals born or raised in that country and products obtained from live animal in that country;
- (4) Products obtained from hunting, trapping or fishing conducted in that country;
- (5) Products of sea-fishing and other products taken from the sea by a vessel of that country;
- (6) Goods obtained aboard a factory ship of that country solely from the products referred to in (5) above;
- (7) Scrap and waste collected in that country and fit only for the recovery of raw materials;
- (8) Goods obtained or produced in that country solely from the products referred to in paragraphs (1) to (7) above.

Article 3 When more than one country have taken part in the production of the goods, the country of origin of the goods shall be the country where the last substantial transformation has been carried out from an economic point of view.

The term "substantial transformation" means that after manufacturing or processing, the product obtained falls in a 4-digit tariff heading in the *Customs Import and Export Tariff of the People's Republic of China* different from the headings applicable to each of the materials utilized; or the percentage of the value added to the product is no less than 30% of the total value of the product.

Article 4 The country of origin of petroleum products shall be the country where the products are purchased. (Note: This article was repealed on 21 October 1993 by *Proclamation of General Administration of Customs of the People's Republic of China Concerning Change of Rule of Origin for Import Petroleum Products*).

Article 5 Accessories, spare parts and tools for use with a machine, appliance, apparatus or vehicles shall be deemed to have the same origin as the machine, appliance, apparatus or vehicle, provided that they are imported therewith and correspond in number to the normal equipment thereof. When they are imported separately, the country of origin of the accessories, spare parts and tools shall be determined separately.

Article 6 When declaring import goods to the Customs, importers shall be held responsible for the accuracy of the declared country of origin or purchase of the goods according to provisions of Articles 2 to 5 of this Regulation. If goods in one consignment have more than one origin, all the origins involved shall be declared separately.

Article 7 The country of origin of import goods shall be determined by Customs. When it deems necessary, Customs may request importers to submit certificates of origin issued by the competent authorities of the countries concerned.

Article 8 Actions such as false declaring country of origin or faking certificate of origin shall be dealt with by Customs according to relevant laws and regulations.

Article 9 The General Administration of Customs of the People's Republic of China is authorized to make ultimate decision for implementing the present Rules.

**Proclamation of the General Administration of Customs
of the People's Republic of China**

No. 17, the Year of 2001

Establishment of Pre-determination on Origin of Imports

December 5, 2001

To facilitate importers or other interested parties to know in advance the country of origin of import goods, China Customs shall establish and implement an origin pre-determination mechanism from the date of December 11, 2001. The related matters are therefore proclaimed as follows:

1. An importer or other persons directly relating to import goods may request, with a justifiable cause, a pre-determination from the Customs on the country of origin for the goods to be imported.
2. Applicants shall submit to Customs an application with the reasons for pre-determination on the country of origin of the goods to be imported.
3. When applying for pre-determination on origin, applicants shall fill out an Application Form for Origin Pre-determination of Imports (see attached) and submit the following documents:
 - (1) Applicant's identification document;
 - (2) Documents describing the goods to be imported, including but not limited to:
 - a. Commodity description and specification, tariff code number, instruction manual, etc;
 - b. Certificate of origin or other certificate issued by the competent authorities of the country of export or country of origin;
 - c. Information on type, specification, price, place of production, etc. of the materials used in the manufacture of the import goods;
 - d. Information on manufacturing processes, techniques, places of processing, value-added by processing of the import goods.
 - (3) Transaction documents of the import goods, such as import contract, letter of intent, price inquiry and quotation, invoice, etc.
 - (4) Other documents requested by Customs.

Applicants shall supply supplemental documents as requested by Customs when insufficient information may impede Customs' origin pre-determination.

4. Within 150 days from the date of acceptance of the written application and all the necessary documents, Customs shall, in accordance with *Provisional Rules of Origin for Imports of the General Administration of Customs of the People's Republic of China*, make an origin pre-determination for the goods concerned and inform the applicant about the decision.
5. Provided the rules of origin, the facts and the conditions under which the pre-determination is made remain unchanged, the decision on the country of origin made by Customs shall be persistently effective within the Customs territory.

For imports to which the origin pre-determinations are applicable, the country of origin shall be determined by Customs in accordance with the relevant pre-determinations, the applicable duty rates and trade measures such as antidumping, countervailing or safeguard shall also be determined accordingly.

6. Customs pre-determinations on origin shall be invalid in any of the following cases:
- (1) The rules of origin under which the decision was made is changed;
 - (2) The decision made by judicial or administrative review procedures differs from the Customs pre-determination.

Invalidation of the pre-determination resulted from (1) above shall have no retroactive effect on the origin determination previously made based on the pre-determination.

7. When goods imported are not in line with the information submitted by applicants, the origin pre-determination shall not be applicable to the goods. The origin of the goods shall be determined by Customs in accordance with *Provisional Rules of Origin for Imports of the General Administration of Customs of the People's Republic of China*.

8. Applicants dissent from the pre-determination of the Customs on origin or importers dissent from the determination of the Customs on origin of an import based on an origin pre-determination shall be obligated to apply for administrative review or law suit in accordance with relevant laws and regulations.

9. In case applicants request the information for origin pre-determination be treated as confidential, they shall make such requirements when submitting the information, Customs shall keep the information confidential upon request. Without the consent of the applicant, such information shall not be disclosed unless the disclosure is required by judicial proceedings.

Annex

Application Form for Origin Pre-determination of Imports

Name of the Applicant:
Customs Registration ID: ("No" if not registered with Customs)
Address:
Contact Information:
Application Reason:
Commodity Description (in Chinese and in English):
Tariff Code:
Price, Quantity/Weight of goods to be imported:
Commodity Description (specification, model, function, components, production or manufacture process, etc.:
Major materials, parts and components used in imported goods: commodity descriptions, Tariff code, price, countries of origin:

Additional information:
Import plan (expected date and port of importation, etc.):
List of documentation attached:
Information to be treated as confidential and the reason:

Declaration of the Applicant:
I declare hereby that the information
submitted above is true and without fraud.

Applicant: (Seal)

Agent for filing:

Customs of Acceptance: (Seal)

Date of Acceptance:
Recipient:

Application No.

**Proclamation of the General Administration of Customs
of the People's Republic of China
Concerning Change of Rule of Origin for
Import Petroleum Products**

October 21, 1993

Based on practice in implementing *Provisional Rules of Origin for Imports of the General Administration of Customs of the People's Republic of China, promulgated in December 1986* (hereinafter referred to as "*Provisional Rules*"), the General Administration hereby decides that Article 4 of *Provisional Rules* be repealed which provides that "the country of petroleum products shall be the country where the products are purchased". The country of origin of petroleum products shall thereafter be determined according to the provisions of Articles 2 and 3 of the *Provisional Rules*. Local Customs is authorized to publish and implement the present Proclamation.

**Decree of the General Administration of Customs
of the People's Republic of China**

No. 94

Provisional Rules of Origin of the General Administration of Customs of the People's Republic of China for Imports under the First Agreement on Trade Negotiations among Developing Member Countries of the Economic and Social Commission for Asia and the Pacific has been approved by the Working Meeting of the Executives of the General Administration of Customs on December 25, 2001 and is hereby publicized. The Rules shall come into force on January 1, 2002.

Commissioner: MU Xingsheng
(Signature)

December 30, 2001

**Provisional Rules of Origin
of the General Administration of Customs
of the People's Republic of China for Imports
under the First Agreement on Trade Negotiations among Developing Member Countries of the
Economic and
Social Commission for Asia and the Pacific**

Article 1 The present Rules are hereby formulated for the purpose of implementation of the two categories of preferential duty rates on import goods under the First Agreement on Trade Negotiations among Developing Member Countries of the Economic and Social Commission for Asia and the Pacific (hereinafter referred to as "Bangkok Agreement"), i.e. BA rate and SFN (special favoured nation) rate (hereinafter referred to as "Bangkok Agreement rates") provided in *the Customs Import and Export Tariff of the People's Republic of China*, defining correctly the country of origin of the goods eligible for the Bangkok Agreement rates.

Article 2 The present Rules are applicable to the specific products (for list of the products see *Customs Import and Export Tariff of the People's Republic of China*) imported from the Member States of Bangkok Agreement which have conducted bilateral agreements with China ((hereinafter referred to as "beneficiaries", see Annex I).

Article 3 The country of origin of the import goods eligible for Bangkok Agreement rates shall be determined according to the following rules:

1. Goods wholly obtained or produced in a given beneficiary country shall be taken as originating in that country.

"Goods wholly obtained or produced in a given beneficiary country" means:

- (1) Mineral products extracted from its soil or territorial waters of that country;
- (2) Vegetable products harvested or gathered in its soil or territorial waters of that country;
- (3) Live animals born and raised in that country and products obtained from live animal in that country;
- (4) Products obtained from hunting, trapping or fishing conducted in its soil or territorial waters of that country;
- (5) Products of sea-fishing and other products taken from high sea by a vessel of that country;
- (6) Products obtained aboard a factory ship of that country solely from products of referred to in paragraph (5) above;
- (7) Scrap and waste collected in that country and fit only for the recovery of raw materials;
- (8) Scrap and waste derived from manufacturing or processing operations in that country;
- (9) Goods obtained or produced in that country solely from the products referred to in paragraphs (1) to (8).

2. Where a product is not wholly obtained in a beneficiary country and the non-originating materials, parts or components used in the manufacturing or processing of the product is less than 50% of the FOB value of that product, the country of origin of the product shall be the beneficiary country where the last manufacturing or processing operation has been carried out.

Article 4 Import goods eligible for Bangkok Agreement rates shall be transported directly into the Customs territory of the People's Republic of China from the beneficiary country.

"Direct Transportation" means any of the following cases:

- (1) The goods have not been transported through the Customs territory of a non-beneficiary country;
- (2) The goods passed through the Customs territory of one or more non-beneficiary country, but the transit could be justified by the geographical reason and the requirement of transportation, and provided that the goods have not been used, transacted, consumed or otherwise proceed except simple processing operation in order to load, unload or keep the goods in good condition for shipment.

When the goods passed through a non-beneficiary country, for application of the Bangkok Agreement rates the importer shall, upon request of the entry port Customs, submit a certificate or other documents issued by the Customs of transit proving the facts referred to in the paragraph above.

Article 5 Goods not directly transported into China are not eligible for Bangkok Agreement rates. The country of origin of the goods shall be determined by Customs in accordance with relevant regulations and the applicable duty rate shall be determined accordingly.

Article 6 Goods shall be supported by a certificate of country of origin issued by the designated authorities of the beneficiary country to be eligible for Bangkok Agreement rates. (name of issuing authorities, signatures, stamps and the format of origin certificate see Annex II).

Where there are reasons to suspect the authenticity of the country of origin or the certificate of country of origin, Customs may issue duty payment notification which is based on Bangkok Agreement rates and request a security at a mount equals to the customs duty difference between MFN rates or current temporary rates and the Bangkok Agreement rates. The security shall be transferred into customs duty or withdraw as refund on the basis of the facts verified and the duty rates applicable.

Article 7 When declaring import goods under the Bangkok Agreement, an importer shall submit to Customs a certificate of origin issued by the designated authorities of the beneficiary country as attached entry document. In case the importer failed to produce the certificate of origin, the country of origin of the goods and the applicable duty rates shall be determined by Customs in accordance with relevant regulations. If the importer submits the certificate of origin within 90 days after release of the goods upon payment of duty, Customs shall, upon verification that the goods are eligible for Bangkok Agreement rates, refund the amount of duty overpaid as a result of application of the rate at time of release.

Article 8 The goods originated in the least developed beneficiary country (see Annex I) shall be granted a 10 percent special preference in the application of the percentage specified in Article 3, i.e. the percentage in Article 3 shall be replace by 60%.

Article 9 Importers may apply for pre-determination on the country of origin for import goods.

Article 10 Any action in violation of the present Rules shall be dealt with by Custom in accordance with Customs Law of the People's Republic of China and Implementing Regulations on Imposing Administrative Penalties under the Customs Law of the People's Republic of China.

Article 11 The General Administration of Customs of the People's Republic of China is authorized to interpret the present Rules.

Article 12 The present Rules shall come into force on January 1, 2002.

Annex I

Beneficiary Countries Eligible to Bangkok Agreement Duty Rates

The beneficiary countries eligible to Bangkok Agreement duty rates are Korea, Bangladesh and Sri Lanka, of which, Bangladesh is the least developed country.
