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# REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON THE ORIGIN OF IMPORT AND EXPORT GOODS

*(Promulgated by Order No. 416 of the State Council of the People's Republic of China on September 3, 2004; and revised in accordance with the Decision of the State Council to Amend Certain Administrative Regulations on March 2, 2019)*



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#### **Article 1**

These Regulations are formulated for the purposes of accurately determining the origin of import and export goods, effectively implementing all trade measures and promoting the development of foreign trade.

#### **Article 2**

These Regulations are applicable to the origin determination of import and export goods in applying such non-preferential trade measures as most-favored-nation treatment, anti-dumping, countervailing and safeguard measures, administration of origin markings, national quantitative restrictions or tariff quotas, and in undertaking such activities as government procurement or trade statistics as well.

These Regulations are not applicable to the origin determination of import and export goods in applying preferential trade measures, and the specific measures therefor are to be separately formulated in accordance with the relevant provisions of the international treaties and agreements concluded or acceded to by the People's Republic of China.

#### **Article 3**

A country (region) shall be determined as the origin of the goods if these goods have been wholly obtained in such country (region); when more than one country (region) is concerned in the production of the goods, the country (region) where the last substantial transformation has been carried out shall be determined as the origin of these goods.

#### **Article 4**

For purposes of Article 3 of these Regulations, the goods that have been wholly obtained in a country (region) refer to:

1. live animals born and raised in the said country (region);
2. animals captured, fished and gathered in the wild of the said country (region);
3. products obtained from live animals of the said country (region) without further processing;
4. plants and plant products harvested in the said country (region);
5. minerals excavated in the said country (region);
6. naturally occurring substances obtained in the said country (region), not included in Items (1) to (5) of this Article;
7. waste and scrap derived from producing in the

said country (region) and fit only for disposal or recovery as raw materials;

8. articles collected in the said country (region) that are not capable of being restored or repaired, or parts or raw materials recovered from such articles;
9. products of sea fishing and other products taken from the sea outside the territorial waters of the said country by the vessels entitled to fly its flag;
10. products processed on board the factory ships entitled to fly the flag of the said country exclusively from the products referred to in Item (9) of this Article;
11. products taken from the seabed or subsoil beneath the seabed outside the territorial waters of the said country, provided that the country has the exclusive rights to exploit such seabed or subsoil; and
12. goods produced in the said country (region) exclusively from the products referred to in Items (1) to (11) of this Article.

#### **Article 5**

In determining whether the goods are wholly obtained in a country (region), the following minimal operations or processes shall not be taken into account:

1. operations or processes to ensure preservation of the goods for the purpose of transport or storage;
2. operations or processes to facilitate shipment of the goods; and
3. operations or processes to package the goods for sale.

#### **Article 6**

The criterion as provided in Article 3 on the determination of substantial change shall be based on the change of tariff nomenclature. If the change of tariff nomenclature cannot reflect the substantial change, the criterion of ad valorem percentage, the manufacture or processing procedures, etc. shall be regarded as the supplementary criterions. The concrete criterions shall be formulated by the General Administration of Customs jointly with the Ministry of Commerce.

The term "change in tariff classification" referred to in Paragraph 1 of this Article means the manufacturing or processing of non-originating materials of a country (region) conducted in the said country

(region) results in the change in classification of the goods in a certain digit heading under the Customs Tariff of Import and Export of the People's Republic of China.

The term "ad valorem percentage" referred to in Paragraph 1 of this Article means the value added exceeds a certain percentage of the value of the products obtained after the manufacturing or processing of non-originating materials in the country (region).

The term "manufacturing or processing operations" referred to in Paragraph 1 of this Article means the principal operations conducted in a country (region) which confer essential characteristics on the goods derived after the manufacturing or processing operations.

Before the implementation of the WTO's Harmonization of Non-preferential Rules of Origin, the concrete criteria on the determination of the substantial changes of origin of import and export goods shall be separately formulated by the General Administration of Customs jointly with the Ministry of Commerce in light of the actual circumstances.

#### **Article 7**

The origin of the energy, plant and equipment, or machines and tools used in the production of the goods, and that of the materials which do not remain in the goods or form part of the goods, shall be disregarded in determining the origin of such goods.

#### **Article 8**

The origin of packing and packaging materials and containers presented with the import and export goods therein shall be disregarded in determining the origin of such goods, provided that these packing and packaging materials and containers are classified with such goods under the Customs Tariff of Import and Export of the People's Republic of China; the origin of these packing and packaging materials and containers shall not be separately determined, and the origin of such goods shall be the origin of these packing and packaging materials and containers.

The origin of packing and packaging materials and containers presented with the import and export goods therein shall be determined in accordance with the provisions of these Regulations, provided that these packing and packaging materials and containers are not classified with such goods under the Customs Tariff of Import and Export of the People's Republic of China.

#### **Article 9**

The origin of accessories, spare parts, tools and instructional materials presented with the import and export goods therewith and classified with such goods under the Customs Tariff of Import and Export of the People's Republic of China shall be disregarded in determining the origin of such goods, provided that these accessories, spare parts, tools and instructional materials are presented with such goods therewith and correspond, in kind and number, to the normal equipment thereof; the origin of these accessories, spare parts, tools and instructional materials shall not be separately determined, and the origin of such goods shall be the origin of these accessories, spare parts, tools and instructional materials.

The origin of accessories, spare parts, tools and instructional materials presented with the import and export goods therewith shall be determined in accordance with the provisions of these Regulations, provided that these accessories, spare parts, tools and instructional materials do not correspond, in kind and number, to the normal equipment thereof even though they are classified with such goods under the Customs Tariff of Import and Export of the People's Republic of China, or they are not classified with such goods under the Customs Tariff of Import and Export of the People's Republic of China.

#### **Article 10**

Where any operations or processes are conducted to the goods for the purpose of circumventing the relevant regulations of the People's Republic of China on anti-dumping, countervailing and safeguard measures, the Customs may neglect such operations or processes in determining the origin of such goods.

#### **Article 11**

When going through Customs declaration formalities for import goods pursuant to the Customs Law of the People's Republic of China and other relevant regulations, the consignee of these import goods shall truthfully declare the origin in accordance with the origin criteria as set forth in these Regulations; if the goods in one consignment are different from each other in terms of the origin, each origin involved shall be declared separately.

#### **Article 12**

Prior to the importation of import goods, the consignee of these import goods or other parties di-

rectly related to these import goods may, with a justifiable reason, request in writing a pre-determination decision of the Customs on the origin of the goods to be imported; the applicant shall, in accordance with the provisions, submit to the Customs the data necessary for making such a pre-determination decision.

The Customs shall, within 150 days from the date of receipt of the written application for a pre-determination decision on the origin and all necessary data, make a pre-determination decision on the origin of the these import goods in accordance with the provisions of these Regulations, and make the results known to the public.

#### **Article 13**

After accepting a declaration, the Customs shall conduct examination to determine the origin of the import goods in accordance with the provisions of these Regulations.

Where the goods on which a pre-determination decision on the origin has been made are actually imported within the following three years after the date on which such a pre-determination decision is made, the Customs shall no longer re-determine the origin of the goods actually imported, provided that the import goods, upon examination by the Customs, are consistent with the goods stated in the pre-determination decision, and that the origin criteria set forth in these Regulations have not been changed. Where the goods actually imported, upon examination by the Customs, are not consistent with the goods stated in the pre-determination decision, the Customs shall conduct re-examination to determine the origin of the import goods in accordance with the provisions of these Regulations.

#### **Article 14**

When conducting examination to determine the origin of import goods, the Customs may request the consignee of these import goods to provide the certificate of origin for such import goods and check it; the Customs may, when necessary, request the authorities concerned of the exporting country (region) to verify the origin of these goods.

#### **Article 15**

On the basis of the written application submitted by a foreign trade operator, the Customs may, in accordance with the provisions of Article 43 of the Customs Law of the People's Republic of China,

make an administrative ruling in advance to determine the origin of the goods to be imported and make it known to the public.

The same administrative ruling shall be applicable to the same import goods.

#### **Article 16**

The State exercises administration over origin markings. Where the origin marking is marked on the goods or their packing, the origin indicated by such origin marking shall be the same as that determined in accordance with the provisions of these Regulations.

#### **Article 17**

A consignor of exported goods may apply to the Customs, and the China Council for the Promotion of International Trade or its local branches (hereinafter referred to as "certificate issuing institutions") for the certificates of origin of exported goods.

#### **Article 18**

When applying for a certificate of origin for export goods, the consignor of these export goods shall go through registration formalities with the issuing authorities, truthfully declare the origin of these export goods in accordance with the provisions, and provide the issuing authorities with the data necessary for issuing the certificate of origin for such export goods.

#### **Article 19**

After a certificate issuing institution accepts the application of a consignor of export goods, it shall verify and determine the place of origin of the export goods and issue a certificate of place of origin for the export goods. If the export goods aren't originated in the People's Republic of China, it shall refuse to issue a certificate of place of origin for the export goods.

The specific measures for the issuance of certificates of place of origin for export goods shall be separately formulated by the General Administration of Customs jointly with the other relevant departments and institutions of the State Council.

#### **Article 20**

At the request of the relevant authorities of the importing country (region) of export goods, the Customs and the issuing authorities may verify the

origin of these export goods and give prompt feedback of the verification results to the relevant authorities of the importing country (region).

#### **Article 21**

The Customs and the issuing authorities shall keep secret all the data and information used for determining the origin of goods, unless they may be disclosed in accordance with the relevant provisions or with the permission of the unit or individual providing such data and information.

#### **Article 22**

Those who declare the origin of import goods in violation of these Regulations shall be penalized in accordance with the provisions of the Foreign Trade Law of the People's Republic of China, the Customs Law of the People's Republic of China and the Regulations of the People's Republic of China on Imposition of Customs Administrative Penalties.

#### **Article 23**

Anyone who obtains a certificate of place of origin for export goods by providing false materials or counterfeits, alters, buys, sells or steals a certificate of place of origin for export goods shall be imposed a fine of 5,000 yuan up to 100,000 yuan by the customs. Anyone who obtains a certificate of place of origin as the customs clearance document for export goods by cheating, counterfeiting, altering, buying, selling, or stealing shall be imposed a monetary penalty of not more than the value of the goods; however if the value of the goods is less than 5,000 yuan, it (he) shall be imposed a monetary penalty of 5,000 yuan. If it (he) has any illegal gains, the illegal gains shall be confiscated by the customs. If any crime is constituted, it (he) shall be subject to the criminal liabilities.

#### **Article 24**

Where the marks of origin of imported or exported goods are not identical with the places of origin as determined in accordance with this Regulation, the Customs shall order the correction thereof.

#### **Article 25**

Staff members who determine the origin of import and export goods shall be given administrative sanctions according to law if they violate the procedures provided for in these Regulations when determining the origin, disclose commercial secrets they

come to know, abuse their powers, neglect their duties, or commit illegalities for personal gain or by fraudulent means; the illegal gains, if any, shall be confiscated; if a crime is constituted, criminal liability shall be investigated in accordance with the law.

#### **Article 26**

Terms used in these Regulations are defined as follows:

The term "obtain" means capturing, fishing, gathering, harvesting, mining, processing or producing, and so on.

The term "the origin of goods" means the country (region), as determined in accordance with these Regulations, in which such goods are obtained.

The term "certificate of origin" means the written document issued by the exporting country (region) in accordance with the rules of origin and relevant provisions, explicitly indicating that such goods specified in the certificate originate in a certain country (region).

The term "origin marking" means the words or figures used on goods or packing to indicate the origin of such goods.

#### **Article 27**

These Regulations shall become effective as of January 1, 2005. The Rules of Origin of the People's Republic of China on Export Goods promulgated by the State Council on March 8, 1992 and the Interim Provisions of the Customs of the People's Republic of China on the Origin of Import Goods promulgated by the General Administration of Customs on December 6, 1986 shall be repealed simultaneously.



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