



China Tax Alert

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China Customs Released the Rules of Origin of Imported Goods from the Least Developed Countries

Regulations discussed in this issue:

- *Administrative Measures of PRC Customs on Rules of Origin of Imported Goods from the Least Developed Countries Entitled to Special Preferential Tariff Treatment (General Administration Decree No. 231)*, effective from 1 April 2017.

Background

Providing special preferential tariff treatment to the Least Developed Countries (“LDC”) is an action taken by the PRC to support developing countries in terms of economics and trade. China began providing special preferential tariff treatment to selected products imported from Laos, Cambodia and Burma in November 2001. So far, importation from 40 countries to China can enjoy the special preferential tariff treatment.

The General Administration of Customs (“GAC”) issued *Administrative Measures of the PRC Customs on Rules of Origin of Imported Goods from the Least Developed Countries Entitled to Special Preferential Tariff Treatment (GAC Decree No. 231, “the Decree”)* on 3 March 2017. With this publication, the previous decrees regarding the rules of origin of goods imported from the LDC (i.e. *GAC Decree No. 192* and *GAC Decree No. 210*) are abolished. The Decree applies to the administration on country of origin for importations from the LDC that enjoy special preferential tariff treatment, which represents the new requirements of China Customs regarding administration on country of origin.

Main contents

1. Newly Introduced Rule of Originating Goods

Aside from products that are “wholly obtained or manufactured in beneficiary countries” and “not wholly obtained or manufactured but are substantially transformed in beneficiary countries”, products that are completely manufactured in beneficiary countries with originating materials regulated by the Decree will be treated as originating products from beneficiary countries.

2. Newly Introduced Rules of Advanced Ruling and Declaration of Origin

A Declaration of Origin can be accepted in place of a Certificate of Origin for any consignment of goods covered by an advance ruling issued by China Customs that deems the goods to be qualified as originating from beneficiary countries, so long as the facts and circumstances on which the ruling was based remain unchanged and the ruling remains valid.

3. Newly Introduced Electronic Data Exchange System

If China Customs has already acquired the electronic data of a Certificate of Origin or Declaration of Origin from beneficiary countries through the electronic data exchange system, the consignees or their agents of imported goods do not need to submit hard copies of the documents.

4. Newly Introduced De Minimis Rule

A good that does not satisfy change in tariff classification requirements will nonetheless be an originating good if: (a) the value of all non-originating materials used in the production of the good in question does not exceed 10% of the value of the good as determined in accordance with *WTO GATT Customs Valuation Agreement*; and (b) the good meets all other applicable provisions of the Decree.

5. Newly Introduced Rule of Cumulation

Where originating goods or materials of China are for producing into a product in the beneficiary country, the goods or materials so incorporated should be regarded as originating materials.

If the beneficiary country is a member of a specific regional group where originating goods or materials of other beneficiary countries within the group are incorporated for producing into a product, the goods or materials so incorporated should be regarded as originating materials.

6. Clarification on the Calculation of Regional Value Content ("RVC")

$RVC = (\text{Value of the good} - \text{Value of non-originating material}) / \text{Value of the good} \times 100\%$, while value of the good should be determined in accordance with the provisions of the *Customs Valuation Agreement*, adjusted on an FOB basis.

7. Update to Rule of Direct Consignment

If an originating good of a beneficiary country is transported through other country or region before arriving in China, the maximum duration of staying in the country or district has been extended from 3 months to 6 months.

8. Update to Rule of Minimal Operations or Processes

The number of cases of minimal operations or processes which do not affect the decision of country of origin was increased from 5 to 19.

9. Newly Introduced Rule of Waiver of Certificate of Origin or Declaration of Origin

The requirements for the presentation of a Certificate of Origin or Declaration of Origin have been waived for any consignment of originating goods of a customs value not exceeding RMB 6,000.

KPMG observations

The rules of origin for special preferential tariff treatment have been further improved with the issuance of the Decree, becoming more similar to the rules of origin in the newly signed free trade agreements (“FTAs”) between China and beneficiary countries. The newly introduced rules regarding De Minimis and Accumulation in the Decree make it easier for goods to be regarded as originating from beneficiary countries. The introduction of Advanced Ruling and Declaration of Origin gives importers more choices when applying for the beneficiary tariff rate. The Decree also clarified that the calculation of RVC should use the adjusted value of the goods on the basis of FOB price rather than using the FOB price as written, which demonstrates a higher requirement for companies when calculating VC.

It is noteworthy that besides offering special preferential tariff treatment to LDC, China has already signed bilateral FTAs with twelve countries/regions (e.g. Australia, Korea and Switzerland), as well as 2 regional FTAs (i.e. China-ASEAN FTA and the Asia Pacific Trade Agreement). Goods imported from contracting parties can enjoy the agreed preferential tariff treatment.

Rules of origin are different among different FTAs, which were determined based on the negotiation between China and the contracting countries. For example, although “wholly obtained” and “substantially transformed” are two basic standards in the rules of origin, different FTAs have different rules in details. In addition, some specific provisions regarding cumulation, minimal operations or processes, direct consignment, de minimis, neutral elements, packaging materials and containers, fungible materials and sets of articles may not be included in all FTAs, and each specific rule may not be same in different FTAs.

For the companies which are applying for the qualification of originating goods and enjoying preferential tariff treatment when importing, it is essential to understand and utilise the correct rules of origin and other provisions properly and make timely adjustments upon the updates of rules of origin in order to keep compliant when adopting FTAs.

KPMG assistance

KPMG provides the following assistance in relation to FTAs and special preferential tariff treatment:

- Analyse feasibility for the company to enjoy the tariff benefits under FTAs or preferential tariff treatment; Optimise transaction and logistics flow to achieve duty savings;
- Enhance trade compliance management of utilisation of FTAs and preferential tariff treatment, including correct adoption of rules of origin, application of Certificate of Origin, as well as provide verification to companies to identify process gaps when enjoying the preferential treatment;
- Assist companies to optimise compliance management through the utilisation of system solution to manage or optimise trade preference.

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