

Rules of Origin and Related Procedures on Goods Eligible for Duty-free Treatment

Section I: Rules of Origin

Rule 1 In accordance with the Official Exchange Letters (hereinafter referred to as “Exchange Letters”) exchanged between the government of the People’s Republic of China (hereinafter referred to as “China”) and the government of the Beneficiary Country on Duty-free Treatment for the goods exported from the Beneficiary Country, these rules shall be applied in determining the origin of the goods claimed for Duty-free Treatment.

Rule 2 For the purpose of these rules,

“**Beneficiary Country**” means the country or region with which China has signed the Exchange Letters under the Duty-free Treatment.

“**Originating Materials**” means goods which qualify as originating in compliance with the provisions of the rules of origin in this Section and which are used in the production of another good.

“**Materials**” means goods which are used in the production of another good, including any assembly, ingredients, raw materials, parts or components.

“**Production**” means methods of obtaining goods, including growing, raising, extracting, picking, collecting, mining, harvesting, fishing,

trapping, hunting, manufacturing, processing or assembling of a good.

“Customs Valuation Agreement” means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, which is part of the Marrakesh Agreement Establishing the World Trade Organization.

“Harmonized System (HS)” means the Harmonized Commodity Description and Coding System composed under the auspices of the World Customs Organization.

“Ports of entry in China” refers to a port where Customs Law of China is applicable to, i.e. excluding those located in Special Administrative Regions of Hong Kong and Macao and Taiwan area.

Rule 3 The origin of goods included in the list of product eligible for Duty-free Treatment, and imported directly to China from the beneficiary country, shall be determined in accordance with the following criteria:

(a) Goods wholly obtained or produced entirely in the beneficiary country shall be regarded as originating in that country.

(b) Goods not wholly obtained or produced entirely in the beneficiary country shall be regarded as originating provided that the last substantial transformation has been performed in that country.

Rule 4 For the purpose of Rule 3(a) in this Section, “goods wholly obtained or produced entirely in the beneficiary country” refers to:

- (a) live animals born and raised in the beneficiary country;
- (b) goods obtained in the beneficiary country from the animals specified in paragraph (a) above;
- (c) plants and plant products harvested, picked or collected in the beneficiary country;
- (d) goods obtained by hunting, aquaculture, trapping or fishing in the beneficiary country;
- (e) fish, shellfish and other marine life taken from the high seas by vessels registered or recorded in the beneficiary country and entitled to fly the flag of that country ;
- (f) goods obtained from the processing of goods listed in paragraph (e) above on board a factory ship registered or recorded in the beneficiary country and entitled to fly the flag of that country;
- (g) minerals and other naturally occurring substances extracted in the beneficiary country or goods, exclusive of fish, shellfish and other marine life, taken or extracted from the waters, seabed or subsoil beneath the seabed outside the territorial waters of the beneficiary country, provided that the beneficiary country has the right to exploit such waters, seabed or subsoil beneath the seabed.
- (h) used goods collected in the beneficiary country which are produced from consumption in that country and fit only for the recovery of raw materials;
- (i) waste and scrap which are produced from processing or manufacturing operations in the beneficiary country and fit only for the

recovery of raw materials;

(j) goods obtained through processing in the beneficiary country of goods set out in paragraphs (a) to (i) above.

Rule 5 The criterion for “substantial transformation” under Rule 3 (b) in this Section shall be “ad valorem percentage” (the ad valorem percentage shall be no less than 40%), or “Change in Tariff Classification” (four-digit tariff heading changes under the “Harmonized System”). Whereas the goods listed in the “Product Specific Rules” (PSR) are not subject to the said criterion.

The Product Specific Rules are to be otherwise promulgated by the General Administration of Customs of China.

The “ad valorem percentage” shall be calculated on the basis of the following formula:

$$\text{ad valorem percentage} = \frac{\text{FOB} - \text{Value of the Non-originating Materials}}{\text{FOB}} \times 100\%$$

where:

FOB means the value of the good free on board, independent of the types of means of transportation, at the port or site of final shipment abroad;

The “value of the non-originating materials” shall be the cost of

importation, the freight and insurance for transportation to the destination port or place of the non-originating materials of the beneficiary country (CIF). The value of materials of undetermined origin shall be taken into account as that of the non-originating materials, according to the earliest ascertainable price paid or payable for the non-originating materials in the territory of the beneficiary country. When the producer of a good acquires materials of undetermined origin within the territory of the beneficiary country, the value of such materials shall not include freight, insurance, packing costs and any other costs incurred in transporting the materials from the supplier's warehouse to the producer's location.

The values referred to above shall be determined pursuant to the Customs Valuation Agreement.

Rule 6 Minimal operations or processes listed below, either by themselves or in combination, do not confer origin. These include:

(a) operations or processes for preservation of goods during transport or storage;

(b) operations or processes for ease of unloading and reloading of the goods;

(c) operations or processes such as packing or presenting for sale of the goods.

(d) slaughter of animals.

Rule 7 Simple diluting, mixing, packaging, bottling, drying, assembling, sorting or decorating shall not be regarded as substantial transformation.

Any production or pricing practices undertaken by the commercial operator with the intent to circumvent the legal provisions of the Rules shall not be regarded as substantial transformation.

Rule 8 Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all the components of the sets are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15% of the total value of the set, determined pursuant to Rule 5 in this Section.

Rule 9 In determining the origin of a good, materials or articles used in the production of the good, but not physically incorporated into the good, nor compounded of the good do not confer origin. These include:

(a) fuel, energy, catalysts and solvents;

(b) equipment, devices and supplies used for testing or inspecting the goods;

(c) gloves, glasses, footwear, clothing, safety equipment and supplies;

(d) tools, dies and moulds;

(e) spare parts and materials used in the maintenance of equipment and buildings;

(f) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and maintain buildings;

(g) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

Rule10 If the goods are subject to a change in tariff classification criterion, the origin of the package, packaging materials and containers presented with the goods for customs declaration and classified with the goods under the Harmonized System and parts, spare parts, tools and explanatory materials equipped customary with the goods shall be disregarded in determining the origin of the good.

If the goods are subject to “ad valorem percentage” criterion, the value of the package, packaging materials and containers presented with the goods for customs declaration and classified with the goods under the Harmonized System and parts, spare parts, tools and

explanatory materials equipped customary with the goods shall be taken into account in calculating the ad valorem percentage of the goods.

Rule 11 Goods claimed to be eligible for the Duty-free Treatment shall comply with the following direct consignment rule:

(a) goods are transported directly from the beneficiary country to ports of entry in China;

(b) For goods which are transported to China through a third country or region, for geographical reasons or by consideration related exclusively to transportation, with or without trans-shipment or temporary storage of up to 3 months in such country or region :

(i) the goods do not enter into trade or consumption there; and

(ii) the goods do not undergo any operation there other than unloading and reloading or any other operation required to keep them in good condition.

(c) the goods which are put in a temporary storage in a third country or region shall be subject to customs control in such country or region.

Section II: Operational Procedures Related to Origin

Rule 12 In order for originating goods from the beneficiary country to be eligible for duty-free treatment, the exporting beneficiary country shall designate any government authority or other entity authorized under the domestic legislation of that country (hereinafter referred to as “authorized body”) to issue a Certificate of Origin (format is attached as Appendix);

The authorized body shall issue the certificate of origin at the time of exportation or within 5 days after exportation of the goods. A Certificate of Origin shall remain valid for one year from the date of its issuance.

A Certificate of Origin shall comprise one original and three carbon copies, inclusive of duplicate, triplicate and quadruplicate. The duplicate shall be retained by China Customs for verification as necessary. The triplicate shall be retained by the authorized body in the exporting beneficiary country for record. The quadruplicate shall be retained by the exporter.

Before the exportation to China of the goods that qualify for duty-free treatment, the exporter shall make a written request to the authorized body of the beneficiary country applying for the issuance of a Certificate of Origin. A Certificate of Origin shall be completed in English as required and contain a unique certificate number, covering one or more goods under one consignment.

In the event of theft, loss or damage of a Certificate of Origin,

based on the quadruplicate of the certificate of origin, the exporter may make a written request to the authorized body of the beneficiary country for issuing a certified copy of the original certificate within the validity period of the original certificate, provided that the exporter makes sure that the original copy previously issued has not been used. The certified copy shall bear the words "CERTIFIED TRUE COPY of the original Certificate of Origin number ___ dated ___" in the "Remarks" column and shall remain valid from the issuing date of the original copy. If the original copy has been used, the certified copy shall be invalid and vice versa.

The Certificates of Origin prescribed in this section shall be printed by the General Administration of Customs of China.

Rule 13 The name, as well as correspondence address, email and official stamps used for issuing the certificates of origin of the authorized bodies in the beneficiary country shall be provided to the General Administration of Customs of China through the Economic and Commercial Counsellor's Office of the Embassy of China in the beneficiary country for record purpose. The authorized bodies and any change thereof shall be informed immediately to the Economic and Commercial Counsellor's Office of the Embassy of China in the beneficiary country.

Rule 14 At the exportation of goods entitled to duty-free treatment, the customs authorities of the exporting country shall endorse and stamp on the certificate of origin to prove that the goods declared for exportation correspond to what is stated in the certificates.

Rule 15 When presenting a customs declaration at the time of importation of the goods eligible for Duty-free treatment, the importer must take the initiative to make a declaration to the customs that the goods qualify under the Duty-free Treatment and submit the following documentation:

(a) the valid original copy of the certificate of origin bearing the stamp of customs and the duplicate copy issued by the authorized body of the beneficiary country of export.

When a declaration is made without submitting the original copy or the duplicate copy to the customs, the importer shall make a supplementary declaration to the customs on whether the goods qualify as originating goods, in accordance with the Regulations Governing the Administration of Preferential Rules Origin for Imported and Exported Goods of China Customs.

(b) The original commercial invoice of the goods.

(c) The original transshipment documents of the goods.

a. When the imported goods are transported directly to ports of entry in China from the beneficiary country, the importer shall submit

the Bill of Lading issued in the beneficiary country.

b. When the imported goods are transported through the territory of a third country or region to ports of entry in China, the importer shall submit the Through Bill of Lading issued by the beneficiary country as well as the supporting documents proving that Rule 11 is satisfied.

When the beneficiary country is an inland country, since the transport of goods has to depart from a third country or region, the importer shall submit the Through Bill of Lading issued in the third country or region where the combined international transport was initiated, the Bill of Lading issued by the beneficiary country to certify the goods transited to the third country, as well as the supporting documents proving that Rule 11 is satisfied.

c. In case the goods are temporarily stored in a third country or region, the importer shall submit the Bill of Lading (the whole transport documents), as well as supporting documents provided by the customs in the third country or region, to prove that Rule 11 is satisfied.

Rule 16 When the importer makes a supplementary declaration to the customs that the good qualifies as an originating good pursuant to Rule 15, the customs may, according to the application of the importer, release the goods upon payment of a guarantee that is equivalent to the amount of duties and taxes to be liable based on the MFN tariff rate (most favored nation tariff rate), general tariff rate or any other tariff

rates as applicable to the goods.

Rule 17 The importer may apply to the customs for a refund of the guarantee paid within one year from the date the guarantee was provided, provided that:

(a) a supplementary declaration that the good qualifies as an originating good has been made to China Customs at the time of importation, stating that the good is subject to the Duty-Free Treatment ; and

(b) a valid Certificate of Origin and other related documents have been submitted to the customs.

In the event where the importer does not apply to the customs for a refund of the guarantee within one year from the date the guarantee was provided, the guarantee will be converted into import duties and taxes and can not be refunded.

Rule 18 Whereas suspicion arises as to the authenticity and validity of a certificate of origin, the General Administration of Customs of China or its authorized offices shall initiate a request for verification either by themselves or through the Economic and Commercial Counselor's Office of the Embassy of China in the beneficiary country. The customs authorities or the authorized bodies of the beneficiary country shall collaborate by responding to China Customs within 180 days

from the date such a request is received. In case China Customs fails to receive the response within the said period, the duty-free treatment shall not be granted to the goods concerned.

When deemed necessary and subject to the consent of the beneficiary country concerned, officials from China Customs may conduct on-site verification visits to the beneficiary country.

Rule 19 Under exceptional circumstances, a Certificate of Origin may be issued retrospectively subsequent to the exportation of the good, on the condition that the exporter provides all the necessary commercial documents and the export declaration endorsed by the customs authority of the beneficiary country, provided that:

(a) it was not issued at the time of exportation or within 5 days after exportation due to force majeure, or errors, or involuntary omissions or any other circumstances as may be deemed justified under the legislation of the beneficiary country; or

(b) it is demonstrated to the satisfaction of the authorized body that a Certificate of Origin was issued but was not accepted at importation for technical reasons. The validation period shall remain the same as indicated in the certificate originally issued.

The Certificate shall be issued retrospectively within 12 months from the date of exportation, and shall be endorsed with the words “ISSUED RETROSPECTIVELY”.

Rule 20 China Customs and the customs administrations of the beneficiary countries shall enhance cooperation on exchange of information and assistance in verification in relation to the enforcement of these Rules.

Rule 21 The Parties shall maintain the confidentiality of the relevant confidential information acquired pursuant to these Rules. Any violation of confidentiality shall be treated in accordance with the domestic legislation of each Party.

In the absence of consent from the individuals or the authorities which provided the above information, the said information shall not be disclosed, unless it is required by judicial proceedings.

Rule 22 The Rules are subject to a periodic review of the General Administration of Customs of China. In case there is any modification of the Rules, it will be notified to the relevant country in the form of “Exchange Letters” 60 (sixty) days before the said modification becomes effective.

Rule 23 The General Administration of Customs of China is responsible for the interpretation of these Rules.

Rule 24 The Rules shall come into effect on × × , 2013.

appendix : **Original**

| | | | | | | |
|---|----------------------------------|--|---|----------------------|---|--|
| 1. Exporter (full name, address and country): | | Certificate No.: | | | | |
| 2. Producer's name and address, if known: | | CERTIFICATE OF ORIGIN DUTY-FREE TREATMENT Granted by China (Combined Declaration and Certificate) | | | | |
| 3. Consignee (full name, address and country): | | Issued in _____ (See Instruction Overleaf) | | | | |
| 4. Means of transport and route (as far as known) Departure date Vessel /Flight/Train/Vehicle No. Port of loading Port of discharge | | For official use only: | | | | |
| | | 5. Remarks | | | | |
| 6. Item number | 7. Marks and numbers on packages | 8. Number and kind of packages; Description of goods | 9. HS Code (6-digit) | 10. Origin Criterion | 11. Gross weight, quantity (quantity unit) or other measures (litres, m ³ , etc) | 12. Number, date of invoice and invoiced value |
| | | | | | | |
| 13. Declaration by the exporter The undersigned hereby declares that the above details and statements are correct, that all the goods were produced in (country) and that they comply with the origin requirements specified for these goods under the Duty-Free Treatment exported to China. Place and date, signature of authority signatory. | | | 14. Certification It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct. Place and date, signature and stamp of issuing body. | | 15. Customs verification This is to certify that the goods declared for exportation correspond to what is stated under this certificate Place, date, signature and stamp of exporting customs authority. | |

Overleaf Instruction

Certificate No.: Serial number of Certificate of Origin assigned by the issuing body.

Box 1: State the full legal name, address (including country) of the exporter and the exporter should be in the beneficiary country.

Box 2: State the full legal name, address (including country) of the producer and the producer should be in the beneficial country. If more than one producer's good is included in the certificate, list the additional producers, including name, address (including country). If the exporter or the producer wishes the information to be confidential, it is acceptable to state "Available to the authorized body upon request". If the producer and the exporter are the same, please complete field with "SAME". If the producer is unknown, it is acceptable to state "UNKNOWN".

Box 3: State the full legal name, address (including country) of the consignee, and the consignee should be in the customs territory of China.

Box 4: Complete the means of transport and route and specify the departure date, transport vehicle No., port of loading and discharge.

Box 5: Any additional information such as Customer's Order Number, Letter of Credit Number, etc. may be included.

Box 6: State the item number.

Box 7: State the shipping marks and numbers on the packages.

Box 8: Number and kind of package shall be specified. Provide a full description of each good. The description should be sufficiently detailed to enable the products to be identified by the Customs Officers examining them and relate it to the invoice description and to the HS description of the good. If goods are not packed, state "in bulk". When the description of the goods is finished, add "***" (three stars) or "\ " (finishing slash).

Box 9: For each good described in Box 9, identify the HS tariff classification of China to six digits.

Box 10: If the goods qualify under the Rules of Origin, the exporter must indicate in Box 10 of this form the origin criteria on the basis of which he claims that his goods qualify for preferential tariff treatment, in the manner shown in the following table:

| | |
|---|------------------------------------|
| The origin criteria on the basis of which the exporter claims that his goods qualify for Duty-Free Treatment | Insert in Box 10 |
| The good is wholly obtained or produced in the territory of the beneficiary country as set out and defined in Rule 4. | WO |
| When the good is subject to "ad valorem percentage" no less than 40% or CTH. | CTH or Ad Valorem Percentage (40%) |
| When the good is subject to a requirement stipulated in PSR, indicate the specified criteria. | Criterion as specified in PSR. |

Box 11: Gross weight in kilograms should be shown here. Other units of measurement e.g. volume or number of items which would indicate exact quantities may be used when customary.

Box 12: Invoice number, date of invoices and invoiced value should be shown here.

Box 13: The field must be completed, signed and dated by the exporter for exports from the beneficiary country.

Box 14: The field must be completed, signed, dated and stamped by the issuing body.

Box 15: The field must be completed, signed, dated and stamped by the Customs authority of the beneficiary country.

In case where there is not enough space on the first page of a Certificate of Origin for multiple lines of goods, additional pages can be used. The Certificate number will be the same as that shown on the first page. The main characteristics including box 6 to box 15 will be presented, together with the stamp of the issuing body and the Customs authority of the beneficiary country.

Certificate No:

| 6.Item number | 7.Marks and numbers on packages | 8.Number and kind of packages; Description of goods | 9. HS Code (6-digit) | 10. Origin Criterion | 11. Gross weight, quantity (quantity unit) or other measures (litres, m ³ ,etc) | 12. Number, date of invoice and invoiced value |
|---|---------------------------------|--|---|----------------------|--|--|
| | | | | | | |
| <p>13. Declaration by the exporter</p> <p>The undersigned hereby declares that the above details and statements are correct, that all the goods were produced in</p> <p>.....</p> <p style="text-align: center;">(country)</p> <p>and that they comply with the origin requirements specified for these goods under the Duty-Free Treatment exported to China.</p> <p>.....</p> <p>Place and date, signature of authority signatory</p> | | | <p>14.Certification</p> <p>It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.</p> <p>.....</p> <p>Place and date, signature and stamp of issuing authority</p> | | <p>15. Customs verification</p> <p>This is to certify that the goods declared for exportation correspond to what is stated under this certificate</p> <p>.....</p> <p>Place, date, signature and stamp of exporting customs authority.</p> | |