

ORIGINATING RULES IN TURKEY AND IN THE WORLD

Rules of Origin

The fact that products from different countries are subject to different transactions in the application leads to a necessity for establishing rules of origin. Origin of the goods is important for production of statistical data, where any restriction or preferential tariff is not imposed on foreign trade.

However, the rules of origin are getting more important as the world economy is grounded on a global background accelerating and promoting production activities based on comparative superiority. Today a small amount of goods is produced in one country from beginning to end. Therefore, identification of origin of products is getting more complicated and tiresome gradually due to variety of application of rules of origin.

Although there has been no particular international definition agreed on, “**origin**” can be defined as economic nationality of goods.

Rules of origin applied by any country to third countries can be based on preferential or non-preferential rules of origin. **Non-preferential rules** are rules of origin based on to impose compensated tax to the countries of WTO in accordance with “the most favoured nation clause”. In other words, a compensated tax rate is imposed to goods from any WCO country in compliance with the determined rules without any distinction.

Preferential rules of origin, as a deviation to “the most favoured nation clause”, are the rules which allow for special applications of country groups and the basis of which are defined by specific Agreements

Preferential Origin

Those countries having bilateral and multilateral preferential arrangements between them distinguish goods from the goods of third countries while importing goods from each other. Namely, the goods required to be imported by exporter who require the compensated tax application should meet the said special rules regarded as preferential rules of origin. The preferential rules widely applied in the world are used for trade and autonomous arrangements in free trade areas and also considered means of trade policy.

Turkey will undertake autonomous and preferential agreements after negotiations to be made with the third countries on the basis of reciprocal benefit within a five-year transition period from the Decree’s entering into force within the framework of Article 16 of Joint Committee Decree No. 1/95. In brief, this means that Turkey will undertake the preferential regime of the Community within a five-year period.

Each preferential regime can have its own particular definition of “originated goods” and its application is subject to some basic terms. Shortly, the product should meet the following requirements:

- be included in Agreement,
- have or have obtained the originating status in accordance with Agreement,
- have a certificate on proof of origin,
- have made transportation in compliance with direct transport rule,
- not have benefited from refund of any tax which is paid or should be paid during input importation or any exemption.

Non-Preferential Origins

Rules of Origin in Agreement for Rules of Origin signed at the end of GATT Uruguay Round are defined as administrative identifications concerning general application and law, regulation applied by members to identify the country of origin of goods. The preferential and autonomous arrangements leading to tariff preferences are not excluded in this definition.

This Agreement aims to prevent prohibition of trade by adaptation of rules of origin. To this end, a study program has been prepared and it is suggested that the process of adaptation of rules of origin should be completed within three months from the Agreement's entering into force.

Within the framework of this Agreement, Committee for Rules of Origin (under WTO) and Technical Committee for Rules of Origin (under WTO) have been established. Studies have been carried out by these two Committees.

Turkish delegates participate in these two Committees. Some criteria on minimal working and processing (product wholly obtained in the country) have been determined in the first phase of the studies. Turkey, in the second phase of the studies in which procedures for definition and determination of origin based on tariff modification are determined by Technical Committee for Rules of Origin, will declare her opinion after contacts with the concerned sectors, in collaboration with Undersecretariat for Foreign Trade.

Rules Of Origin In Turkish Legislation

Customs Law No. 4468:

Non-preferential origin of goods has been established under the provisions of articles 17-22 of **Customs Law No.4458**

ORIGIN of GOODS

SECTION 1

Non-preferential origin of goods

ARTICLE 17- Articles 18 to 21 define the non-preferential origin of goods for the purposes of:

(a) applying the Turkish Customs Tariff with the exception of the measures referred to in Article 15 (3) (d) and (e);

(b) applying measures laid down by the Council of Ministers other than the tariff measures relating to trade in goods,

(c) the preparation and issue of certificates of origin.

ARTICLE 18-1. Goods originating in a country shall be those wholly obtained or produced in that country.

2. The expression 'goods wholly obtained in a country' means:

(a) mineral products extracted within that country;

(b) vegetable products harvested therein;

(c) live animals born and raised therein;

(d) products derived from live animals raised therein;

(e) products of hunting or fishing carried on therein;

(f) products of sea-fishing and other products taken from the sea outside a country's territorial sea by vessels registered or recorded in the country concerned and flying the flag of that country;

(g) goods obtained on board factory ships from the products referred to in subparagraph (f) originating in that country, provided that such factory ships are registered or recorded in that country and fly its flag;

(h) products taken from the seabed or subsoil beneath the seabed outside the territorial sea provided that that country has exclusive rights to exploit that seabed or subsoil;

(i) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are fit only for the recovery of raw materials;

(j) goods which are produced therein exclusively from goods referred to in subparagraphs (a) to (i) or from their derivatives, at any stage of production.

3. For the purposes of paragraph 2, the expression 'country' covers that country's territorial sea.

ARTICLE 19- Goods whose production involved more than one country shall be deemed to originate in the country where a new product manufactured or goods underwent economically justified last substantial transformation and an important stage of manufacture.

ARTICLE 20- Any processing or working in respect of which it is established, or in respect of which the facts as ascertained, create the impression, that its sole object was to circumvent the provisions applicable by Turkey to goods from specific countries, shall not be deemed to

confer on the goods thus produced the origin of the country where it is carried out within the meaning of Article 19.

ARTICLE 21- 1. Submission of the certificate of origin shall be optional. However, it shall be obligatory to produce the certificate of origin proving that the goods are originated in a contracting country to an agreement or are deemed so due to the transformations and operations to which goods were subject within that country where a tariff reduction would be claimed to be benefited on the basis of the certificate of origin in accordance with the provisions of international and bilateral agreements.

2. In cases other than paragraph 1, the rules and principles regarding the submission of certificate of origin and not asking for a certificate of origin in respect of the value, origin, description or nature of the goods, shall be determined by regulation.

3. The form and content of certificates of origin shall be determined by regulation by taking into consideration the international arrangements.

4. Notwithstanding the submission of the certificate of origin, the customs administrations may, in the event of serious doubts, require any additional proof.

SECTION 2

Preferential origin of goods

ARTICLE 22- The rules on preferential origin of the goods to benefit from the preferential tariff measures referred to in Article 15 shall:

(a) in the case of goods covered by the agreements referred to in Article 15 (3) (d), be determined in those agreements;

(b) in the case of goods benefiting from the preferential tariff measures referred to in Article (15) (e), be determined in accordance with the Decree of the Council of Ministers.

In Customs Regulation set out under Customs Law, arrangements on rules of origin have been made in Articles 72-86.

Origin Cumulation System

Rules on originating status can be provided some flexibility with cumulation of origin to develop economic relations of the countries having an agreement between them. Cumulation generally means that there is no need for the products originating in a party of the Agreement to undergo sufficient transformation there in order to obtain the originating status of the other party.

Aim of Origin Cumulation

Purpose of cumulation of origin is to develop trade between countries that are in preferential relations. In the cumulation system, it shall not be necessary that the materials originating in the region have undergone sufficient working or processing, provided that they have undergone working and processing going beyond the manufacturing operations which will

never give an an originating status (so-called minimal operations such as simple assembly of some parts). In the cumulation, not only the country where the processing is made out but also the region constituted by the countries included in the cumulation system has been taken into consideration

Bilateral Cumulation

Bilateral cumulation of origin, which is the simplest of all cumulation models, is applied to works between them and only product originating in these two countries. For example; in Israel-Turkey preferential trade relation, the integrated circuits produced by assembling Israel-originated inputs and Turkey-originated microchips in Israel (HS position: 85.42) are regarded as originating in Israel and can benefit from preferential treatment while being imported to Turkey. Whether this assembly is regarded as an essential transformation or not, does not affect the result. However, if inputs originating in the third countries will be used, such inputs should be undergone an essential transformation.

Diagonal Cumulation

The diagonal cumulation means that the input originating from any of these countries is allowed to be used for production of the ultimate product, where more than two countries are party to a single Agreement or several countries are incorporated to each other with similar agreements -as in Pan-European system. For example; a television produced by assembling components originating from Hungary, EC and Poland (HS position: 85.28) -assuming that the Pan-European Cumulation system entirely operates- is regarded as originating from “cumulation region” and benefits from the preferential treatment while it is exported to EC. Which country the television is regarded as originating from in this region is a matter of diagonal cumulation.

Pan-European Origin Cumulation

Before 1997, origin of goods had been identified by specific free trade agreements between the countries over the Europe which require different criterias, so goods meeting the criteras of origin and benefiting from preferential treatment for an agreement could not meet the requirements of the other agreement when its exportation to another country. As a result of thesis which put forward that different applications on origin rules between the countries divide Europe into origin blocks and are barriers to free trade and so damage the economical development, a new system was established namely “Pan-European Origin Cumulation” which unifies the rules of origin in Europe and allows the optimum usage of free trade agreements. Here is an example regarding to the reason of establishment of this system. Once the system was made, automotive sector in Europe had been in trouble with problems resulted from different origin criterias, so they were not benefiting from current free trade agreements in Europe. The manufacturers of automotive could not have benefited from the scale economies in market covering E.U, EFTA and Central East European Countries because of their different rules of origin. It can be pretend the system was the result of this. The origin cumulation system have been in effect since 1997 including Polland, Hungary, Czech Republic, Slovak Republic, Romania, Bulgaria, Slovenia, Lithuania, Letonia, Estonia, and EFTA Countries. Inputs originating system countries can be used in manufacture process to be exported the system countries and final product can be subject to preferential treatment when its importation.

Turkey and Pan-European Origin Cumulation System

Article 16 and 28 of Decision of Turkey-EU Joint Council, founder of Customs Union, arrange the Turkey's responsibilities to adapt the European's trade policy and transfer the EU's legislation into its own. Turkey's bilateral free trade agreements' origin rules match with Pan-European Origin Rules. According to the consensus between Turkey and EU on Turkey's participation to system in 38th Joint Council, the provisions of cumulation of partnership agreements between Turkey and the other system countries have been changed as of January 1, 1999. As to the decision, Turkey will benefit from diagonal cumulation except for agricultural products for EU under **completed free trade agreements**. However the rules of system have been periodically changed. Changed rules and principles have been reflected to origin protocols addition to agreements year by year. In Turkey, these changes have been approved by Council of Ministers and Change of Regulation on Identification of Preferential Origin of Goods have been published on Official Journal. On the other hand, after the completion of bilateral agreements between Mediterranean Countries, The Mediterranean Origin Cumulation system will be established in 2010.

Source: Republic Of Turkey Prime Ministry Undersecretariat Of Customs

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