



SCREENING CHAPTER 29 CUSTOMS UNION

AGENDA ITEM 14: RULES OF ORIGIN

**Country Session: The Republic of TURKEY
13-14 March 2006**



LEGAL FRAMEWORK

- Customs Law (CL) No. 4458
(OG No. 23866, dated 04.11.1999)
- Implementing Regulation of Customs Law (IRCL)
(OG No. 23939, dated 20.01.2000)

KINDS OF RULES OF ORIGIN

Customs Law & IRCL refer to two different kinds of rules of origin;

- Non-Preferential Rules of Origin
(CL Articles 17-21 / IRCL Articles 23-33)
- Preferential Rules of Origin
(CL Article 22 / IRCL Article 34)



NON-PREFERENTIAL RULES OF ORIGIN



CONTENTS

- scope of application
- determination of the origin of a product
- proofs of origin



Scope of application

Article 17 of the CL defines the non-preferential origin of goods for the purposes of;

- applying Customs Tariff of Turkey with the exception of preferential tariff measures adopted bilaterally or unilaterally
- applying measures other than tariff measures such as tariff quotas, safeguard measures, quantitative limits and anti-dumping duties
- issuing of certificates of origin



Determination of the origin of a product

According to Article 19 of CL and Article 25 of IRCL;
goods whose production involved more than one country
shall be deemed to originate in the country where;

- a new product was manufactured, or
- the goods underwent their last, substantial, economically justified processing and the important stage of manufacture was done

Origin rule for textile products

If the products are not wholly obtained;

- the rule “working or processing described in column 3” shall be applied (for textile products in Annex 4 of IRCL)
- the rule “Change of Tariff Heading (CTH)” shall be applied (for textile products which are not mentioned in Annex 4 of IRCL)



for other products

If the products are not wholly obtained;

- the rule “working or processing described in column 3” shall be applied (for products mentioned in Annex 5 of IRCL)
- the rule “last substantial processing or working” shall be applied (for products which are not mentioned in Annex 5 of IRCL)



Anti-circumvention clause (Article 20 of CL)

Any processing or working carried out of which sole objective was to circumvent the provisions applicable in Turkey to goods imported from specific countries shall not be deemed to confer the status of originating products.



Insufficient working or processing (Article 26 of IRCL)

The operations mentioned in Article 26 of IRCL shall in any event be considered as insufficient working or processing to confer the status of originating products whether or not there is a change of heading.

This article is applicable to all kinds of products.



Accessories, spare parts and tools

Accessories, spare parts or tools delivered with any piece of equipment, machine, apparatus or vehicle which form part of its standard equipment shall be deemed to have the same origin as that piece of equipment, machine, apparatus or vehicle.



Certificate of origin (Article 21 of CL and Articles 29-33 of IRCL)

Certificate of origin corresponding with the model of Annex 6 of IRCL is used both for import and export of the product.



PREFERENTIAL RULES OF ORIGIN



CONTENTS

- scope of application
- preferential trade scheme of Turkey
- determination of the origin of a product
- proofs of origin



Scope of application

Preferential rules of origin lay down the conditions governing acquisition of origin which goods must fulfil in order to benefit from the preferential regime (either reciprocal or autonomous) of Turkey.



Scope of application

According to Article 22 of CL and Article 34 of IRCL,

Those rules shall;

- in the case of goods covered by the trade agreements, be determined in accordance with those agreements
- in the case of goods benefiting from preferential tariff measures covered by the autonomous trade arrangements, be determined in accordance with the Council of Ministers Decrees (Decree)



Preferential Trade Scheme of Turkey

- Bilateral Trade Arrangements;
 - Free Trade Agreements with third countries
 - Free Trade Agreement with the EC for the ECSC products
 - Decision No. 1/98 of the EC-Turkey Association Council for agricultural products
- Autonomous Trade Arrangement;
Generalised System of Preferences (GSP)



Trade Regime between Turkey and the EC

Industrial and Processed Agricultural Products	Agricultural Products	ECSC Products
<i>Decision No. 1/95 of the EC-Turkey Association Council (Customs Union Decision)</i>	<i>Decision No. 1/98 of the EC-Turkey Association Council</i>	<i>Free Trade Agreement of 1996</i>
Based on Free Circulation (Not based on origin)	Based on Preferential Origin	Based on Preferential Origin
A.TR Movement Certificate	EUR.1 Movement Certificate	EUR.1 Movement Certificate
Decree on Application of Customs Union established between Turkey and the EC	Implementing Regulation on Proofs of Origin concerning the Trade of Agricultural Products between Turkey and the EC	Implementing Regulation on Determination of the Preferential Origin of the Goods



Trade with Third Parties

According to Article 16 of Decision No. 1/95 of the EC-Turkey Association Council (Customs Union Decision)

“Turkey shall align itself progressively with the preferential customs regime of the Community within five years as from the date of entry into force of the Decision”.

This alignment concerns both the autonomous regimes and preferential agreements with third countries.

Present Situation for the Alignment of Preferential Trade Arrangements (1/2) -Rules of Origin-

Within the context of Article 16, Turkey has concluded free trade agreements with 12 countries/group of countries and autonomously granted preferences for the developing and the least developed countries in the framework of GSP.

Origin protocols of Free Trade Agreements are based on;

- Bilateral Cumulation
- Pan-European Cumulation (Diagonal)
- Pan-Euro-Med Cumulation (Diagonal & Full)

Present Situation for the Alignment of Preferential Trade Arrangements (2)

- EFTA
- ECSC (with the EC)
- Israel
- Romania
- 1/98 (with the EC)
- Bulgaria
- Croatia
- Bosnia-Herzegovina
- Macedonia
- Morocco
- Palestine
- Tunisia
- Syria (not entered into force)
- Egypt (not entered into force)



Origin Legislation Concerning Bilateral Free Trade Arrangements (1/5)

Decision No. 1/98 of the EC-Turkey Association Council
for agricultural products

Relevant legislation concerning origin protocol published in
the Official Gazette;

1- Implementing Regulation of origin protocol:

OG No. 23345, dated 17.05.1998

2- Communiqués: - No. 5 - OG No. 25348, dated 16.01.2004

- No. 6 - OG No. 25686, dated 30.12.2004



Origin Legislation Concerning Bilateral Free Trade Arrangements (2/5)

Macedonia (Free Trade Agreement)

Relevant legislation concerning origin protocol published
in the Official Gazette;

- 1- Decree No. 814: OG No. 24120, dated 25.07.2000
- 2- Implementing Regulation of origin protocol:
OG No. 24174, dated 18.09.2000



Origin Legislation Concerning Bilateral Free Trade Arrangements (3/5)

Croatia (Free Trade Agreement)

Relevant legislation concerning origin protocol published
in the Official Gazette;

- 1- Decree No. 5579: OG No. 25120, dated 27.05.2003
- 2- Implementing Regulation of origin protocol:
OG No. 25185, dated 31.01.2003



Origin Legislation Concerning Bilateral Free Trade Arrangements (4/5)

Bosnia-Herzegovina (Free Trade Agreement)

Relevant legislation concerning origin protocol
published in the Official Gazette;

1- Decree No. 5490: OG No. 25099, dated 05.05.2003

2- Implementing Regulation of origin protocol:
OG No. 25230, dated 15.09.2003



Origin Legislation Concerning Bilateral Free Trade Arrangements (5/5)

Palestine (Free Trade Agreement)

Relevant legislation concerning origin protocol
published in the Official Gazette;

- 1- Decree No. 8656: OG No. 25790, dated 18.04.2005
- 2- Implementing Regulation of origin protocol:
OG No. 25874, dated 13.07.2005



Legislation Concerning the System of Pan-European Cumulation of Origin (1/7)

Turkey has taken part in the System of Pan-European Cumulation of Origin since 1999. This system also includes the EC, EFTA, Romania and Bulgaria.

Currently trade of agricultural products with the EC is based on bilateral cumulation and left out of the System of Pan-European Cumulation of Origin.



Legislation Concerning the System of Pan-European Cumulation of Origin (2/7)

Turkey had also free trade agreements with Poland, the Czech Republic, Slovakia, Hungary, Slovenia, Lithuania, Latvia and Estonia.

Since these countries had become the members of the EC in May 2004, these free trade agreements were annulled.



Legislation Concerning The System of Pan-European Cumulation of Origin (3/7)

EFTA States (Free Trade Agreement)

Relevant legislation concerning origin protocol published in the Official Gazette;

- 1- Decree No. 2881: OG No. 21203, dated 18.04.1992
 - Final amendment (HS Amendments) by Decree No. 5537: OG No. 25120, dated 27.05.2003

- 2- Implementing Regulation of origin protocol: 22.05.1992
 - Final amendment (HS Amendments): OG No. 25165, dated 11.07.2003



Legislation Concerning The System of Pan-European Cumulation of Origin (4/7)

ECSC (Free Trade Agreement)

Relevant legislation concerning origin protocol published in the Official Gazette;

- 1- Decree No. 8373: OG No. 22714, dated 01.08.1996
 - Final amendment by Decree No. 13226: OG No. 23821, dated 19.09.1999
- 2- Implementing Regulation of origin protocol:
 - OG No. 22725, dated 12.08.1996
 - Final amendment: OG No. 23853, dated 21.10.1999



Legislation Concerning The System of Pan-European Cumulation of Origin (5/7)

Bulgaria (Free Trade Agreement)

Relevant legislation concerning origin protocol published in the Official Gazette;

1- Decree No. 11654: OG No. 23475, dated 26.09.1998

Final amendments (HS Amendments) by Decrees No.

- 5155: OG No. 25008, dated 29.01.2003

- 6803: OG No. 25406, dated 18.03.2004



Legislation Concerning The System of Pan-European Cumulation of Origin (6/7)

Bulgaria (Free Trade Agreement)

2- Implementing Regulation of origin protocol:
OG No. 23560, dated 21.12.1998

Final amendments (HS Amendments)

- OG No. 25121, dated 28.05.2003
- OG No. 25567, dated 25.08.2004



Legislation Concerning The System of Pan-European Cumulation of Origin (7/7)

A series of communiqués have been published on the Official Gazette to ensure the proper functioning of the System of Pan-European Cumulation of Origin;

- Communiqué No.1: OG No. 23637, dated 21.04.1999
- Communiqué No.2: OG No. 23854, dated 22.10.1999
- Communiqué No.3: OG No. 23851, dated 19.10.1999
- Communiqué No.4: OG No. 24241, dated 25.11.2000



Legislation Concerning the System of Pan-Euro-Mediterranean Cumulation of Origin (1/6)

Turkey also takes part in the System of Pan-Euro-Mediterranean Cumulation of Origin which is formed by extension of the System of Pan-European Cumulation of Origin to the Mediterranean countries.

The parties involved in this system are the EC, EFTA, Romania, Bulgaria, Syria, Lebanon, Israel, Palestine, Egypt, Tunisia, Algeria, Morocco and Faeroe Islands.



Legislation Concerning The System of Pan-Euro Mediterranean Cumulation of Origin (2/6)

Origin protocols to the free trade agreements with Israel, Romania, Morocco and Tunisia are convenient with the Model Protocol under the System of Pan Euro-Mediterranean Cumulation of Origin.



Legislation Concerning The System of Pan-Euro Mediterranean Cumulation of Origin (3/6)

Israel (Free Trade Agreement)

Relevant legislation concerning origin protocol published in the
Official Gazette;

1- Decree No. 9566: OG No. 23053, dated 18.07.1997

Final amendment (Pan-EuroMed Amendments)
by Decree 9866: OG No. 26054, dated 19.01.2006

2- Implementing Regulation of origin protocol:
OG No. 26099, dated 05.03.2006



Legislation Concerning The System of Pan-Euro-Mediterranean Cumulation of Origin (4/6)

Romania (Free Trade Agreement)

Relevant legislation concerning origin protocol published in the Official Gazette;

1- Decree No. 10482: OG No. 23233, dated 17.01.1998

Final amendment (Pan-EuroMed Amendments)
by Decree No. 9701: OG No. 26024, dated 15.12.2005

2- Implementing Regulation of origin protocol:
OG No. 26099, dated 05.03.2006



Legislation Concerning The System of Pan-Euro-Mediterranean Cumulation of Origin (5/6)

Morocco (Free Trade Agreement)

Relevant legislation concerning origin protocol published in the Official Gazette;

1- Decree No. 8170: OG No. 25684, dated 28.12.2004

Final amendment (Pan Euro-Med Amendments)
by Decree No. 9373: OG No. 25952, dated 30.09.2005

2- Implementing Regulation of origin protocol:
OG No. 26038, dated 29.12.2005



Legislation Concerning The System of Pan-Euro-Mediterranean Cumulation of Origin (6/6)

Tunisia (Free Trade Agreement)

Relevant legislation concerning origin protocol published in the Official Gazette;

- 1- Decree No. 8734: OG No. 25811, dated 10.05.2005
- 2- Implementing Regulation of origin protocol: OG No. 25881, dated 20.07.2005



Origin Legislation Concerning The Generalised System of Preferences

Turkey has granted preferential regime to beneficiary countries under Generalised System of Preferences since January 1, 2001.

Relevant legislation on Rules of Origin published in the Official Gazette;

1- Decree No. 3485: OG No. 24626, dated 30.12.2001

2- Implementing Regulation: OG No. 24704, dated 23.03.2002



Determination of Preferential Origin of a Product

Originating Status

Originating Products are either;

- wholly obtained (not imported materials) products

or

- sufficiently worked or processed products in the country in question where non-originating materials are used



Sufficient working or processing (1/2)

- products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the lists in the Annexes to the free trade agreement are fulfilled
- working or processing must be carried out on non-originating materials used in manufacturing



Sufficient working or processing (2/2)

Non-originating materials which, according to the conditions set out in the Annexes of the Free Trade Agreements, should not be used in the manufacture of a product; may nevertheless be used, provided that;

- their total value does not exceed 10 % of the ex-works price of the product
- any of the percentages given in the list for the maximum value of non-originating materials are not exceeded through the application of this paragraph

Not applicable to Chapters 50 to 63 of the HS.



Insufficient working or processing

These kinds of operations are considered as insufficient working or processing to confer the status of originating products whether or not the requirements of list rules are satisfied.



Cumulation (1/3)

The objective of the cumulation is to expand the originating zone by considering materials originating in partner countries as originating in the country where the production process takes place.



Cumulation (2/3)

Materials originating in a partner country may be regarded as originating in the other partner country to which they are sent for further processing or inclusion in a finished product.

These materials do not have to undergo sufficient working or processing.

They should only undergo more than minimal operations.

Cumulation (3/3)

Types of cumulation;

- Bilateral cumulation (in all arrangements)
- Diagonal cumulation (Pan-Euro, applicable) & (Pan-EuroMed, not applicable yet)
- Full cumulation (In the framework of free trade agreements with Tunisia and Morocco, not applicable yet)
- Regional cumulation (GSP, not applicable yet)



Conditions to benefit from preferential regime

- goods should be covered by the agreement
- goods should satisfy the rules of origin;
 - originating status
 - direct transport
 - territorial requirements
 - no-drawback rule
- there should be a valid proof of origin



Proofs of origin (1/5)

EUR.1 and EUR-MED Movement Certificates

- issued by the Chambers of Commerce and Industry and endorsed by the Customs Authorities on application by the exporter
- EUR.1 Movement Certificates for fishery products exported to the EC are issued and endorsed by the Customs Authorities



Proofs of origin (2/5)

Invoice declaration and Invoice Declaration EUR-MED

- made out by any exporter for consignments of a value less than € 6.000
- made out by only “approved exporter” for consignment of a value higher than € 6.000



Proofs of origin (3/5)

Certificates of Origin Form A

used by the beneficiary countries for preferences granted under the scheme of GSP



Proofs of origin (4/5)

Supplier's declarations and INF 4 Certificates

- supplier's declaration is used to establish the preferential origin of the goods which are in free circulation in the Customs Union area between Turkey and the EC
- INF 4 certificate is used for the verification of supplier's declaration



Proofs of origin (5/5)

Legislation concerning Supplier's Declarations and INF 4 Certificates

“Implementing Regulation on Proving the Status of the Preferential Origin of the Goods in Free Circulation between Turkey and the EC” was published in the OG No. 23820, dated 18.09.1999.



Binding Origin Information (BOI)



Legal Framework

- Article 9 of CL
- Article 11 of IRCL



Scope of Application

- issued upon request of the applicant
- issued for both imports and exports
(preferential or non-preferential origin)
- valid only for the transactions after the date of issue
- valid for 3 years (unless annulled or amended)



Documentation

Certificate of Binding Origin Information

(Annex 2 of IRCL)



THANK YOU