



TECHNICAL COMMITTEE
ON RULES OF ORIGIN

OC0121E1a

-
26th Session
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O. Fr.

Brussels, 18 December 2007.

BINDING ORIGIN INFORMATION

(Item V (d) on the Agenda)

1. In its preamble, the Agreement on Rules of Origin establishes the principle that the rules of origin must be clear and predictable.
2. To ensure proper application of non-preferential or preferential rules of origin, both by the private sector and by public authorities, a number of procedures are required to ensure compliance with the principle of predictability. These include Binding Origin Information enabling any person with justifiable cause to ask the competent authority to determine the origin of the goods s/he wishes to import.
3. Binding Origin Information (BOI) is an obligation for the authority (generally Customs) having issued the information, provided a number of conditions have been fulfilled.
4. The requirement to provide a BOI to an exporter, importer or any interested party is set out in the WTO Agreement on Rules of Origin signed in Marrakesh on 15 April 1994. The official text concerning BOI is reproduced hereafter.

Article 2

Disciplines during the transition period

- (h) upon the request of an exporter, importer or any person with a justifiable cause, assessments of the origin they would accord to a good are issued as soon as possible but no later than 150 days¹ after a request for such an assessment provided that all necessary elements have been submitted. Requests for such assessments shall be accepted before trade in the good concerned begins and may be accepted at any later point in time. Such assessments shall remain valid for three years provided that the facts and conditions, including the rules of origin, under which they have been made remain comparable.

¹In respect of requests made during the first year from the date of entry into force of the WTO Agreement, Members shall only be required to issue these assessments as soon as possible.

Provided that the parties concerned are informed in advance, such assessments will no longer be valid when a decision contrary to the assessment is made in a review as referred to in subparagraph (j). Such assessments shall be made publicly available subject to the provisions of subparagraph (k);

- (i) when introducing changes to their rules of origin or new rules of origin, they shall not apply such changes retroactively as defined in, and without prejudice to, their laws or regulations;
 - (j) any administrative action which they take in relation to the determination of origin is reviewable promptly by judicial, arbitral or administrative tribunals or procedures, independent of the authority issuing the determination, which can effect the modification or reversal of the determination;
 - (k) all information that is by nature confidential or that is provided on a confidential basis for the purpose of the application of rules of origin is treated as strictly confidential by the authorities concerned, which shall not disclose it without the specific permission of the person or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.
5. The same provisions are set out in Article 3 of the WTO Agreement on Rules of Origin as well as in Annex II to the same Agreement relating to preferential rules of origin.
 6. A number of WCO Members have already applied Binding Origin Information. To that end, they have established the procedure to be followed, the type of information to be furnished and detailed conditions regarding the file that the requester must submit to the Customs administration.
 7. Other WCO Members have informed the Secretariat of difficulties they are encountering in terms of the practical implementation of BOI. Under these circumstances, it is suggested that the TCRO agree to the Secretariat preparing a Recommendation concerning the practical implementation of the principles contained into the WTO Agreement.
 8. It goes without saying that the Recommendation will not challenge the procedures already established by some Members. Its sole aim is to provide Members with a model they could adapt, where applicable, in keeping with their national legislation.
 9. Members will find appended hereto a preliminary draft of the content of this Recommendation.

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ANNEX

**PRELIMINARY DRAFT OF THE RECOMMENDATION ON BINDING ORIGIN
INFORMATION (BOI)**

1. Legal basis

Marrakesh Agreement : Articles 2 and 3 of Part II of the Agreement on Rules of Origin

2. Definition and scope of BOI

Obligation for the authority issuing the BOI

Possible appeals against the decision taken

BOI at importation or exportation

The BOI only relates to the goods for which it has been requested

3. Application for BOI

Who ?

Competent authorities.

Place of filing and form of the BOI application (content of the request)

4. Acceptance of the application and issuance of the BOI

Validity and limits thereto.
