

Annex 2

Rules of Origin for Trade in Goods

1. Pursuant to the Mainland and Hong Kong Closer Economic Partnership Arrangement (hereinafter referred to as the “CEPA”), the Mainland and the Hong Kong Special Administrative Region have concluded this Annex on the rules of origin for trade in goods.

2. Goods which are entitled to zero tariff under the “CEPA” and directly imported by one side from the other side will have the origin determined in accordance with the principles set out below:

- (1) goods wholly obtained in one side are regarded as originating in that side; or
- (2) goods not wholly obtained in one side are considered as originating in that side only if they have undergone substantial transformation in that side.

3. The term “goods wholly obtained in one side” as set out in Article 2(1) of this Annex refers to:

- (1) mineral products mined or extracted in that side;
- (2) plants or vegetable products harvested or collected in that side;
- (3) live animals born and raised in that side;
- (4) products obtained in that side from live animals specified in paragraph (3) of this Article;
- (5) products obtained from hunting or fishing in that side;

- (6) fish and other marine products obtained by fishing conducted in the high seas by vessels holding a licence issued by that side and flying the national flag (for Mainland vessels) or the Hong Kong Special Administrative Region flag (for Hong Kong vessels);
- (7) products obtained from the processing of products set out in paragraph (6) of this Article aboard vessels holding a licence issued by that side and flying the national flag (for Mainland vessels) or the Hong Kong Special Administrative Region flag (for Hong Kong vessels);
- (8) waste and scrap articles collected in that side which are produced from consumption in that side and are fit only for the recovery of raw materials;
- (9) waste and scrap which are produced from processing or manufacturing operations in that side and are fit only for the recovery of raw materials;
- (10) goods obtained through processing in that side of products set out in paragraphs (1) to (9) of this Article.

4. Processes or treatment for the following specified purposes, whether undertaken individually or collectively, is regarded as minor processing treatment. Such treatment will not be taken into account in determining whether the goods are wholly obtained or not:

- (1) processing or treatment for transportation or storage of goods;
- (2) processing or treatment to facilitate packaging and delivery of goods;
- (3) processing or treatment such as packaging or display for distribution and sale of goods.

5. On the criteria for “substantial transformation” set out in Article 2 (2) of this Annex, the two sides agree on the following:

- (1) the criteria for determining “substantial transformation” may include “manufacturing or processing operations”, “change in tariff heading”, “value-added content”, “other criteria” or “mixed criteria”;
- (2) “manufacturing or processing operations” refers to the principal manufacturing or processing operations carried out in the area of one side which confer essential characteristics to the goods derived after the operations;
- (3) “change in tariff heading” refers to the processing and manufacturing operations of non-originating materials carried out in the area of one side and resulting in a product of a different four-digit tariff heading under the “Product Description and Harmonized System Codes”. Moreover, no production, processing or manufacturing operations will be carried out in countries or territories other than that side which will result in a change in the four-digit tariff heading;
- (4) “value-added content” refers to the total value of raw materials, component parts, labour costs and product development costs exclusively incurred in one side being greater than or equal to 30% of the FOB value of the exporting goods, and that the final manufacturing or processing operations should be completed in the area of that side. The formula for calculation is as follows:

$$\frac{\text{value of raw materials} + \text{value of component parts} + \text{labour costs} + \text{product development costs}}{\text{FOB value of the exporting goods}} \times 100\% \geq 30\%$$

- (i) “product development” refers to product development carried out in the area of one side for the purposes of producing or processing the exporting goods.

Development expenses incurred should be related to the exporting goods. These expenses include fees payable for the development of designs, patents, patented technologies, trademarks or copyrights (collectively "these rights") carried out by the manufacturer himself, fees payable to a natural or legal person in the area of one side for undertaking development of these rights, and fees payable for purchasing these rights owned by a natural or legal person in the area of one side. The fees payable should be clearly identifiable under generally accepted accounting principles and the requirements of "Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994";

(ii) calculation of the above "value-added content" will be consistent with generally accepted accounting principles and the "Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994";

(5) "other criteria" refers to methods agreed by both sides in determining origin, other than "manufacturing or processing operations", "change in tariff heading" and "value-added content" as set out above;

(6) "mixed criteria" refers to the use of two or more of the above criteria in determining origin.

6. Simple diluting, mixing, packaging, bottling, drying, assembling, sorting or decorating will not be regarded as substantial transformation. Enterprises adopting production or pricing practices with the purpose of circumventing provisions in this Annex will also not be regarded as substantial transformation.

7. In determining the origin of goods, the origin of energy, factory premises, facilities, machinery and equipment, and tools for production of the goods will not be taken into account; origin of the materials used in the production process but not constituting the composition or the

component parts of the goods will also not be taken into account.

8. The following factors will not be taken into account in determining origin:

- (1) package, packaging materials and repository accompanying the goods for import customs declaration and classified as the same item with the goods in the “Customs Import and Export Tariff of the People’s Republic of China”;
- (2) parts, spare parts, tools and explanatory materials accompanying the goods for import customs declaration classified as the same item with the goods in the “Customs Import and Export Tariff of the People’s Republic of China”.

9. The two sides have drawn up the “Schedule on Rules of Origin for Hong Kong Goods Benefiting from Tariff Preference for Trade in Goods” (Table 1 of this Annex) in accordance with the eight-digit tariff headings of the “Customs Import and Export Tariff of the People’s Republic of China” and the criteria prescribed in this Annex. Table 1 forms an integral part of this Annex. Under the “CEPA”, goods which meet the origin requirements of Table 1 of this Annex are regarded as having undergone substantial transformation in Hong Kong.

For goods of Hong Kong origin and goods proposed to be produced in Hong Kong which are entitled to zero tariff under Article 5 of Annex 1, their rules of origin will be supplemented in Table 1 of this Annex.

10. Goods seeking zero tariff under the “CEPA” should be directly transported from the port of one side to the port of the other side.

11. Upon implementation of this Annex, if one side considers necessary to amend the content of this Annex or the rules of origin of the goods listed in the Table 1 of this Annex due to the advancement of production technologies or other reasons, it may request the other side to enter into consultations and submit a written explanation with supporting data and information. Resolution will be made through consultations conducted by the Joint Steering Committee established

under Article 19 of the “ CEPA”.

12. This Annex will come into effect on the day of signature by the representatives of the two sides.

Signed in duplicate in Hong Kong, this 29th day of September 2003 in the Chinese language.

Vice Minister of Commerce
People's Republic of China

Financial Secretary
Hong Kong Special
Administrative Region of the
People's Republic of China

(signature)

(signature)