

COMMUNICATION FROM TURKEY

The following communication, dated 2 June 2006, is being circulated at the request of the Delegation of Turkey.

ADVANCE RULING

1. Having regard to Annex E of the Hong Kong Ministerial Declaration and its emphasis on the "need to move into focused drafting mode early enough after the Sixth Ministerial Conference so as to allow for a timely conclusion of text-based negotiations on all aspects of the mandate" in particular, this paper provides the main elements of advance ruling to be considered by the Members.

I. BACKGROUND

2. Turkey has previously put forward a paper (TN/TF/W/45) and supported the advance ruling concept as an element to be included in the final outcome.

3. In Turkey's opinion, advance ruling is a proven effective trade facilitation tool to provide certainty and predictability in customs operations. Paragraph 1 of Article X of GATT 1994 requires that the laws, regulations, judicial decisions and administrative rulings of general application be published. Advance ruling should be considered as a core element to ensure the proper implementation of this requirement in order to provide a more straightforward trade environment and to facilitate the decision-making process of economic operators.

4. It should be noted that some of the elements presented in this paper are patterned after the norms already established by the Agreement on Rules of Origin.

5. Turkey appreciates in advance any consideration and/or comment on the proposed elements outlined below.

II. MAIN ELEMENTS OF ADVANCE RULING BY CUSTOMS ADMINISTRATIONS

- An 'advance ruling on tariff' means a binding official decision, which provides the applicant with a tariff classification accorded to a particular good within a period.
- An 'advance ruling on origin' means a binding official decision, which provides an assessment to the applicant of the origin accorded to a particular good within a period.

- An exporter, importer, or any person with a justifiable cause can apply, in written format, in advance of import or export, the customs administration for issuing an advance ruling relating to implementation of customs rules on tariff and origin in a particular trade case.
- An application for such an advance ruling must include relevant information such as a detailed description of the goods in question, tariff classification claimed, methods of analysis useful for classification, components, production process, the applicant's request for non-disclosure of confidential information, and sample(s) of the goods. If the information provided by the applicant is not sufficient to make clear judgement, customs authorities may require supplementary information to complete the application.
- Provided that all the necessary information is submitted, an advance ruling shall be issued as soon as possible but no later than [X] days after receipt of the application.
- Both advance rulings issued and rejections of the applications, subject to appeal, shall set out the grounds on which they are based and be communicated to the applicant in writing.
- Advance rulings issues shall be immediately enforceable by the customs administration.
- Advance ruling on tariff and origin shall be binding on customs administration to the holder of that advance ruling. Advance ruling on tariff and origin shall be valid for a period of [Y] years from the date of issue. Customs administration may require the applicant to submit the advance ruling during customs clearance.
- The holder of an advance ruling must prove, when required,:
 - for advance ruling on tariff: that the goods to be declared in the customs operations correspond to those described in the ruling in every respect;
 - for advance ruling on origin: that the goods to be declared in the customs operations and the actual conditions which confer origin correspond to those described in the ruling in every aspect.
- An advance ruling in favour of its holder shall cease to be valid if:
 - it is issued on the basis of incorrect or incomplete information;
 - one or more of the conditions laid down in the advance ruling were not, or are no longer, fulfilled;
 - the holder fails to fulfil an obligation imposed by the ruling; and
 - it is not compatible with any change in the legal provisions or general administrative acts.

The holder of the ruling shall be notified of its invalidity.

- An advance ruling within the meaning of the previous paragraph is reviewable promptly by judicial, arbitral or administrative tribunals or procedures. An advance ruling shall be valid unless a decision contrary to it is made in a review.
- The holder of an advance ruling already reviewed on tariff or origin may still use it for [Z] months from the date of notification provided that, before the date of invalidity, binding

contracts for the purchases or sale of the goods in question relying upon the advance ruling have been concluded.

III. COST CONCERNS AND TECHNICAL ASSISTANCE

6. Turkey believes that the elements proposed in this paper can be implemented by using the existing facilities and resources of each Member with minimum costs of legislation and training, although some may require new procedures. It is proved, in our experience, that the benefits of implementation of advance ruling measures to both customs administrations and traders are incomparable to its minor administrative cost.

7. Turkey would be content to share further with interested Members its experience with this practice: (i) to work out special and differential treatment and technical assistance and capacity building, as necessary; and (ii) to provide technical assistance in the area of advance ruling, where needed.
