



Practices of Administration of Origin in China

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Contents

- I. Authorities for Administration of Origin in China**
- II. Legal Framework of Rules of Origin (RoOs)**
- III. Preferential RoOs in China**
- IV. Future Trends of China's RoOs**



I. Authorities for Administration of Origin in China

**Competent Authority (CA):
China Customs**

Certifying Bodies (CBs):

**Chinese quality
supervision, inspection and
quarantine authorities (QSIQ
authorities)**

**China Council for the
Promotion of International
Trade (CCPIT)**

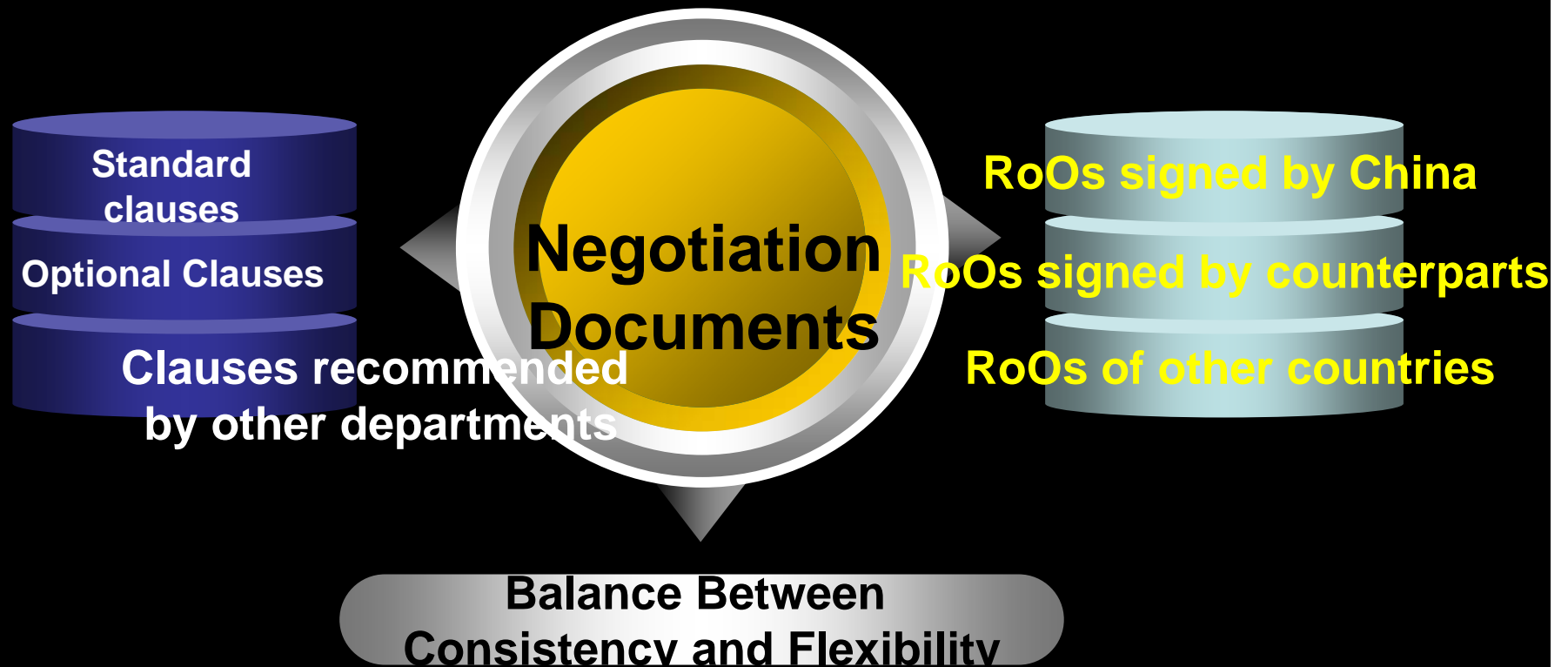


Portfolio of Responsibilities of China Customs in RoOs

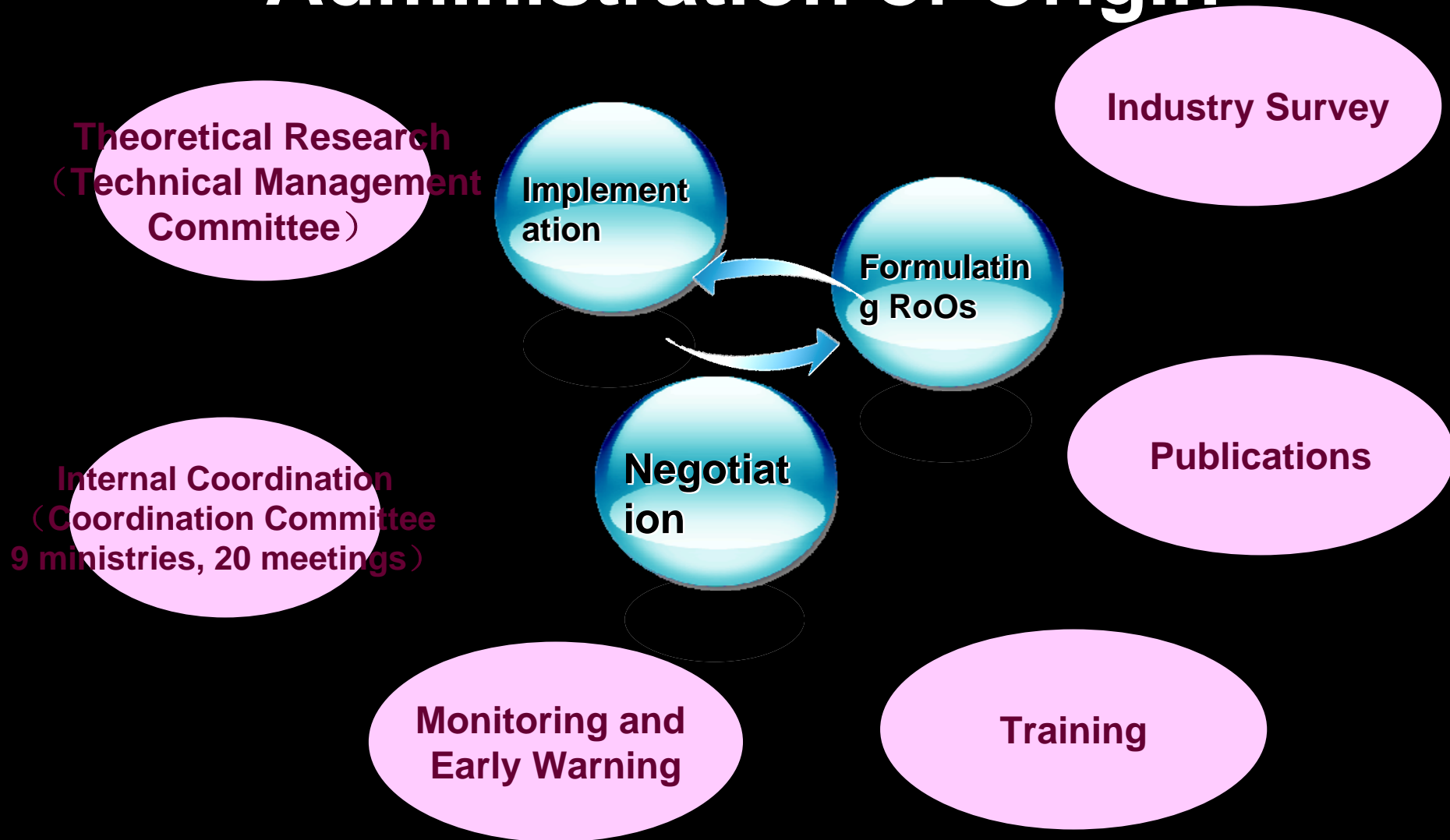


- ◆ **Drafts and stipulates RoOs for imports and exports;**
- ◆ **Leads bilateral and multilateral RoOs negotiations;**
- ◆ **Organizes application and administration of preferential and non-preferential RoOs.**

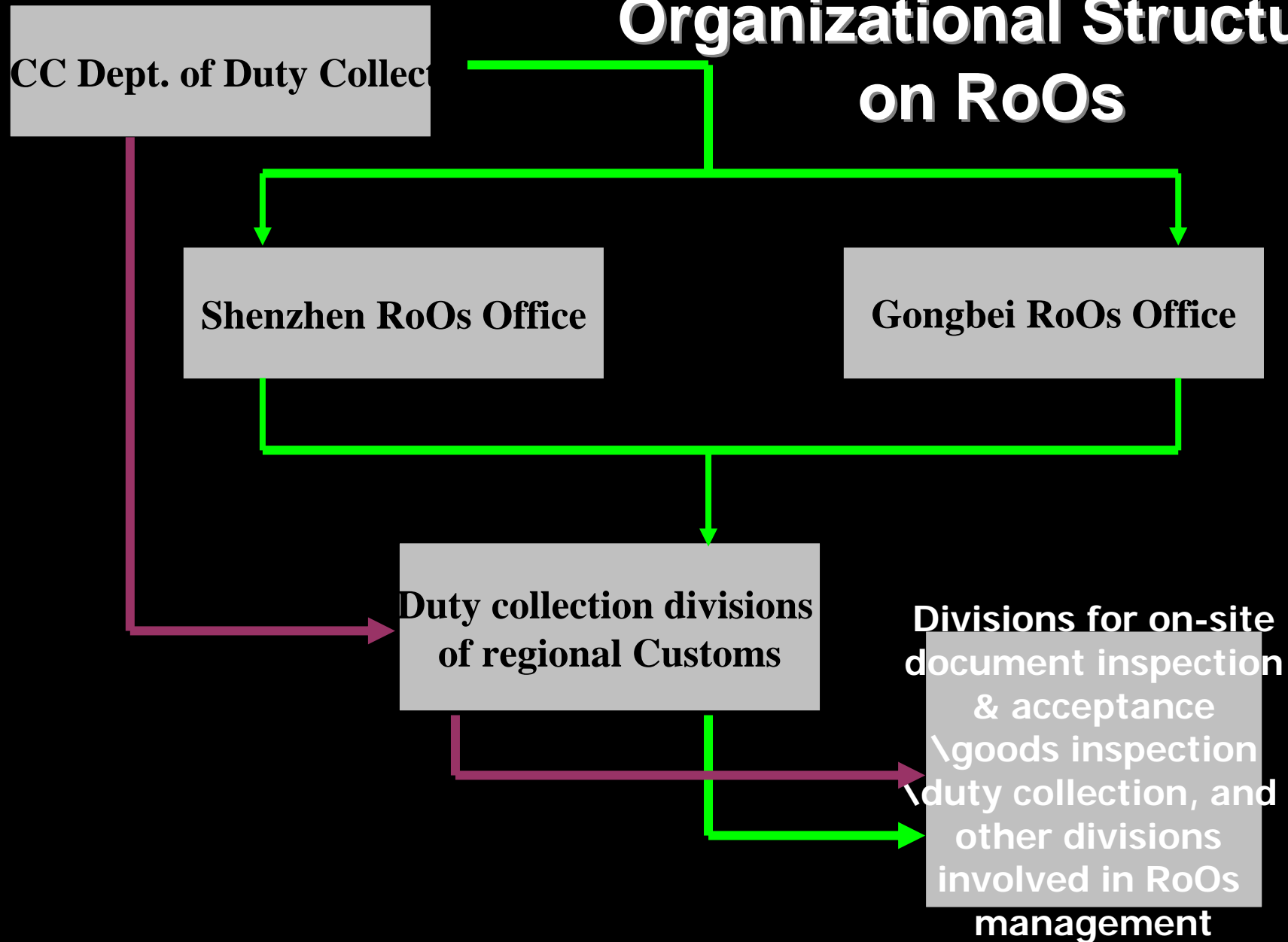
Drafting of Negotiation Documents



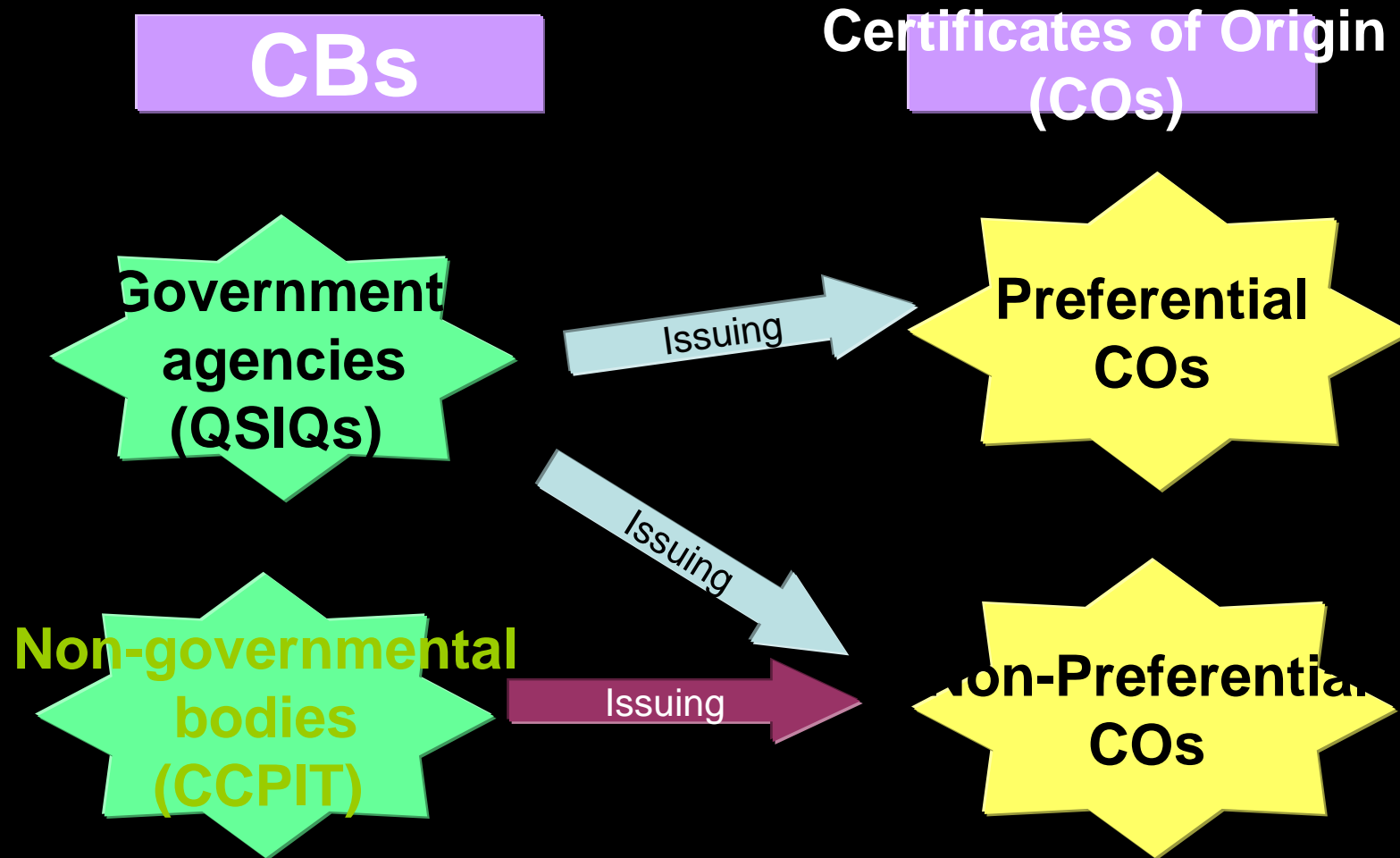
Other Activities Related to Administration of Origin



China Customs Organizational Structure on RoOs



Functions of Certifying Bodies (CBs)



Trends of CBs



Government
agencies

gradually

Non-

governmental
bodies

APTA, China-Singapore FTA,
China-New Zealand FTA,
China-Peru FTA

Latest developments

CCPIT as CB

- **Pros: break the monopoly, better quality**
- Cons: trust-worthiness, abuse of power**
- **Measures adopted**
 - qualifications
 - Organizational structure
 - Declaration system and certifying procedure
 - training
 - Timely transmission of certificate data
 - charges



II. Legal Framework and Latest Developments of RoOs



Legal Framework



Non-preferential RoOs



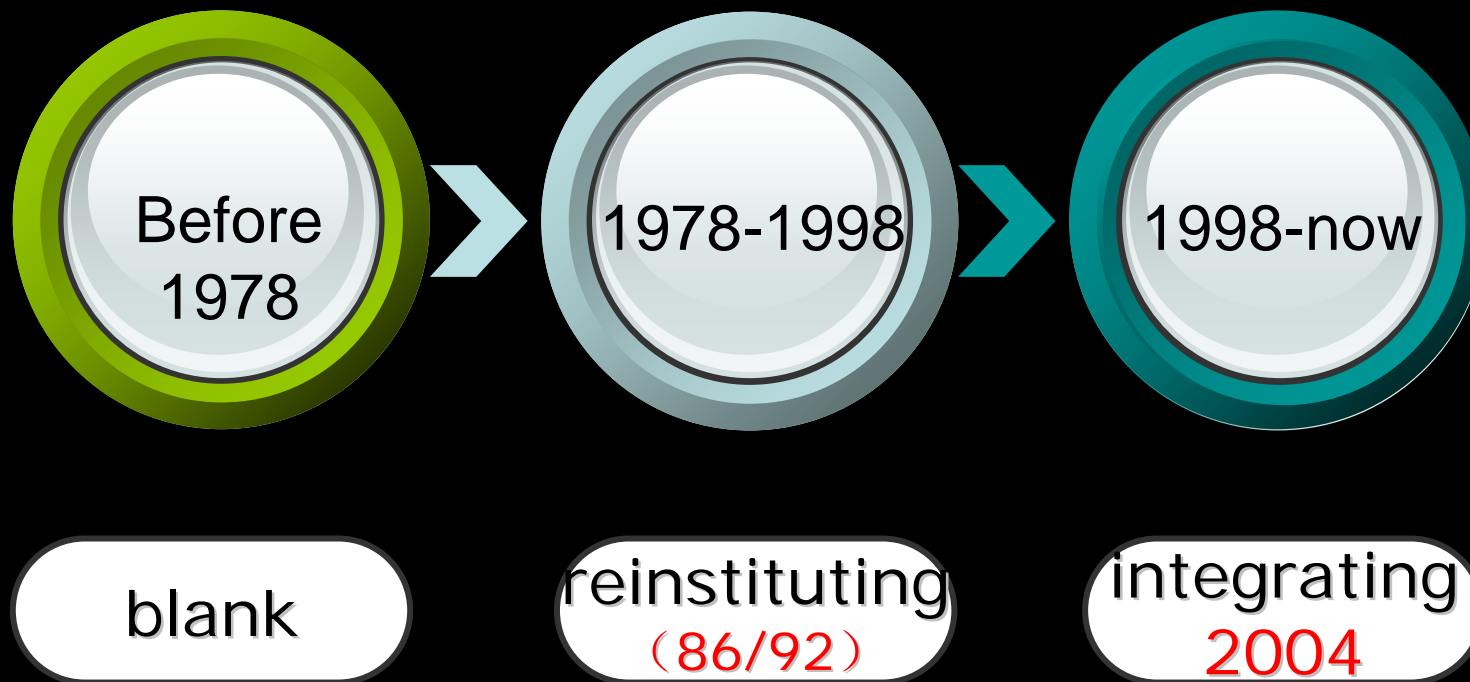
- — 《Regulations on Origin of Imports and Exports》
- (State Council Decree No. 416, effective as from Jan. 1, 2005)
- — 《Provisions of GACC on Criteria of Substantial Change in Non-Preferential RoOs》
- (GACC Decree No. 122, effective as from Jan. 1, 2005)

Preferential RoOs

Preferential RoOs

- International Law: RoOs Agreements under regional arrangements
- Domestic Law: GACC decrees promulgated for implementation of preferential RoOs agreements

History of Non-Preferential RoOs



Contents and Features of the 《Regulations on Origin of Imports and Exports》 (The Regulations)



- **Unified the non-preferential RoOs for imports/exports**
- **Expanded Scope of Applicability (Article 2)**
- **anti-bypassing (Article 10)**
- **Added: marks of origin (Articles 16 and 24)**
- **Established the principle of pre-identification of origin of imports (Articles 12 and 13)**
- **Clarified rights and obligations of administrative authorities and administrative counterparts**

7



trade statistics

tariff quota

government procurement

MFN treatment

limits of number of countries

trade remedies

administration of marks of origin



GACC Decree No. 122

Provisions of GACC on Criteria of Substantial Change in Non-Preferential RoOs

Based on change in 4-digit tariff heading, complemented by “ad valorem percentage” and “manufacture or processing procedures”

- Formulated the annex 《List of goods applicable for the criteria of “manufacture or processing procedures” and “ad valorem percentage” to provide specific rules for products of 51 chapters
- Commodities listed will follow the criteria of “manufacture or processing procedures” or “ad valorem percentage” (30%) for determination of substantial change;
- Commodities unlisted will follow the 4-digit tariff heading for determination of substantial change



【Exercise】 application of the criterion of substantial change of non-preferential RoOs

- A foreign company has invested in China for production of x-ray machines for medical use (tariff heading 90.22). Imported materials include X-ray probes (3000USD), software (2000USD), controller PC (2000USD); other parts and components are procured in China, including nuts, steel plates, etc. with a total value of 1500USD. The ex-works price of the x-ray machine is 12000USD each. Exported to Europe and U.S..
- Calculated using the formula of “ad valorem percentage”, the result is:
- $12000 - (3000 + 2000 + 2000) / 12000 = 41.67\% > 30\%$.
- **Question: Will the product qualify as originating in China?**

- According to the provisions of GACC Decree No. 122 (Provisions of GACC on Criteria of Substantial Change in Non-Preferential RoOs), products under the tariff heading 90.22 are not covered by the List, so the criterion of change in tariff classification shall apply, i.e. between the non-originating materials and the finished products, there should be a **4-digit tariff heading** change. However, in this case, the products (finished) and their components are classified together under **the same heading** (90.22). That means, the manufacture or processing operations of the products cannot meet the criterion of a 4-digit tariff classification change, and therefore cannot qualify as originating in China.

Structure of Non-Preferential RoOs



**Wholly
obtained**

**Article 4 of The Regulations:
12 scenarios**

**Substantial
change**

GACC Decree No. 122:

**Essential criterion——tariff
classification change (4-digit)
Supplemented by——ad valorem
percentage/manufacture or
processing operations**

**Auxiliary
rules**

**Minimal operations; neutral
elements;
Packing: accessories, spare parts
and tools; etc.**

RoOs

Wholly obtained	Animal and plant primary products: wholly raised, grown, harvested, captured, fished in a country (region);
	Primary products of minerals and other naturally occurring substances: wholly extracted or taken from a country (region);
	scrap and waste: recovered wholly in a country (region)
	Finished products: obtained or produced in the territory of a country (region) solely from the above items.
Substantial change	Essential criterion—tariff classification change: 4-digit heading
	Supplemented by—ad valorem percentage: $\geq 30\%$
	Supplemented by— --manufacture or processing operations: see details in PSR table
Other criteria	Minimal operations or processes: transportation, storage, loading/unloading, packaging for sales purpose
	Neutral elements: factory premises, equipment, energy and materials not physically incorporated into the good
	Packing: packing to be classified together with the product; packing to be classified separately;
	Accessories, spare parts and tools: normal quantity; quantity beyond normal range

Case I: fake CO of products under anti-dumping measures

- In July 2007, Shenzhen RoOs Office detected, through monitoring, that from Jun to Aug, many Toluene diisocyanate TDI products were imported under general trade, mainly concentrated in one or two importers. Product model mainly declared as 80 originating in Taiwan, which is not covered the anti-dumping measure.
- The office contacted Taiwan provincial chamber of commerce for verification of 6 COs.
- Result: all fake.

Comparison: Genuine or Fake?

	Diff. A	Diff. B	Diff. C
Genuine	Verification Website at the bottom, using the traditional Chinese character for “certificate”, “證”	Correct website starting with “https://.....”	Certificate ref. no. ends with 5 serial numbers.
Fake	Also a similar website, but using the wrong traditional Chinese character for “certificate” “証”	Website wrong: “hhps://.....”	Certificate ref. no. ends with 6 serial numbers.

Case II: fake CO of products under anti-dumping measures

- In Aug 2009, Shenzhen RoOs Office, when verifying Cos related to anti-dumping measures for goods imported in 2008 under general trade in Shenzhen Customs district, found that a company, during Mar. 16 to 21, 2008, used 2 falsified Taiwan COs to declare imported cold-rolled stainless steel sheet under 4 declaration forms. Both COs showed they were issued by the chamber of commerce of Kaohsiung Country, Taiwan Province. The CO numbered EJ08DA15094 involved 3 declaration forms, and the CO numbered EJ08DA13941 involved 1. Totally 101.82 tons of cold-rolled stainless sheet was declared for importation, valued at 122,200 USD. If levied according to the highest anti-dumping duty rate applicable to the goods, the duty evaded amounted to 566,900 RMB.

Process of Verification

- On Aug 25, we wrote to the chamber of commerce of **Kaohsiung County, Taiwan Province**, asking for help with the verification of 53 COs claiming that they were issued by it. The chamber of commerce replied to us on Aug. 26 after verification, confirming that **2** of the 53 COs (EJ08DA15094 / EJ08DA13941) were not issued by it, proving they were falsified.

Risk Indicators

- No major differences between the falsified CO and the genuine one in terms of **format** and **ref. no.**. The only difference is the genuine CO, issued since 2008, bears a **website** at the bottom for verification of authenticity and a **verification code**. While the two fake ones were also issued since 2008, they didn't bear that website or code for verification.

Difficulties in Control

- For products involved in anti-dumping measures, the COs required are non-preferential ones, for which the management is not as strict as that for preferential ones. And most of the COs are recorded with China Customs, so it is hard to tell which is genuine and which is not in so many COs and invoices issued by various countries and manufacturers. This has made on-site enforcement by officers more difficult, leading to risks on Customs control.

Preventive Measures against Origin Frauds to Evade Anti-dumping Duties

- 1. Enhance internal comprehensive prevention and control within Customs;
- 2. Commodities of a dumping nature are shifting to the channel of processing trade, therefore work should be done to enhance control over the processing trade channel;
- 3. Have more inspections of the goods under anti-dumping measures; and in particular, strengthen coordination and collaboration with anti-dumping competent authorities, industrial associations and stakeholders, in an endeavor to formulate methods of determination of the origin of commodities of dumping nature;
- 4. Improve the filling instructions for declaration forms for commodities under anti-dumping measures, and strengthen monitoring over such goods;
- 5. Build a database on non-preferential COs

III. Preferential RoOs of China





- ◆ Overview
- ◆ Latest developments
- ◆ Rules

Overview of Preferential Trade Agreements

11 preferential trade arrangements covering **63** countries/regions.

China's RoOs Arrangements

	implementing	negotiating	Feasibility study
Asia	China-ASEAN FTA China-Pakistan FTA «AFTA» CEPA arrangements with HKSAR and MCSAR → China-Singapore FTA	FTA between China and the Gulf Cooperation Council	China-India FTA China-ROK FTA
Latin America	China-Chile FTA → China-Peru FTA China-Coast Rica FTA		
Oceania	China-New Zealand FTA →	China-Australia FTA	
Europe		China-Iceland FTA China-Norway FTA	China-Switzerland FTA
Africa	Special preferential arrangements for LDCs →	China- SACU (Southern African Customs Union) FTA	

Legal Framework of Preferential RoOs

Purpose: to determine whether a product originates in a certain country or region and for enjoying special preferential treatment.

International :

- RoOs of regional trade arrangements under implementation
- Special Preferential RoOs for African LDCs

Domestic:

- Customs implementation plans of RoOs under the various preferential trade arrangements
- GACC Decree No. 181 (2009. 3. 1)

new

Contents of Preferential RoOs of China

Wholly obtained	Animal and plant primary products: wholly raise, grown, harvested, captured, fished in a country/region
	Primary products of minerals and other naturally occurring substances: wholly extracted or taken from a country (region);
	scrap and waste: recovered wholly in a country (region)
	Finished products: obtained or produced in the territory of a country (region) solely from the above items.
Substantial change	Essential criterion—tariff classification change: 4-digit heading
	Supplemented by—ad valorem percentage: $\geq 40\%$
	Supplemented by- --manufacture or processing operations: see details in PSR table
Other supplementary	Minimal operations or processes: transportation, storage, loading/unloading, packaging for sales purpose; simple processing; animal butchery
	Neutral elements: factory premises, equipment, energy and materials not physically incorporated into the good
	Packing: packing to be classified together with the product; packing to be classified separately; Packing for transportation.
	Accessories, spare parts and tools: normal quantity; quantity beyond

Overview of the Specialized Preferential Treatment

Sy

Applied to **41** LDCs

Africa: **31**

Asia: **8**

Oceania: **2**

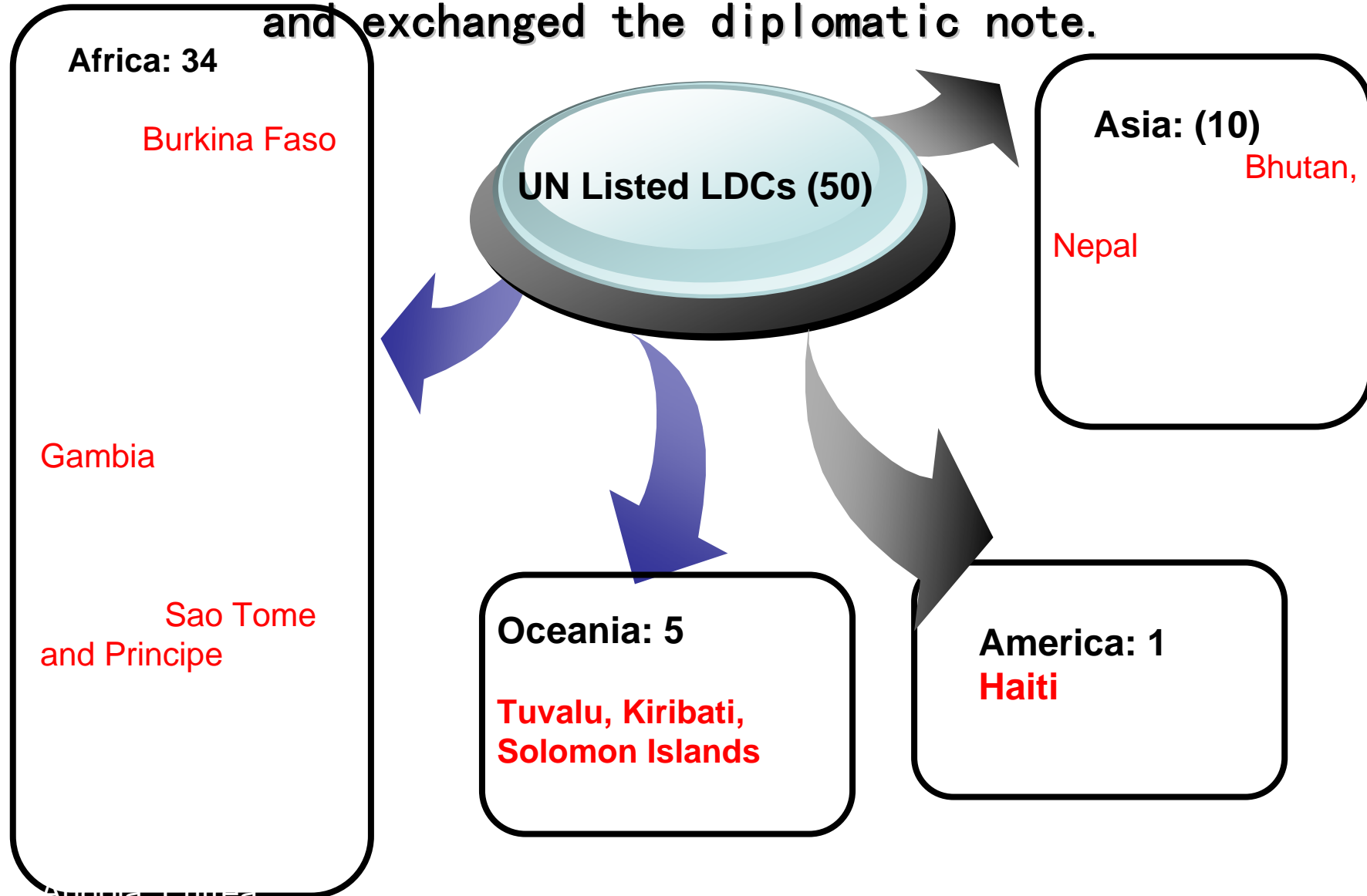


Background

On September 25, 2008, Premier WEN Jiabao declared at the UN High-level Event on the MDGs that to promote the realization of MDGs, China will take 6 actions, one of which is: China will write off the loans provided for LDCs interest-free left unpaid but due by the end of 2008 and accord zero-tariff treatment to 95% of the products from LDCs.



By Oct 1 2008, China had accorded special preferential tariff treat to part of the China-bound products of all of the 41 LDCs which had established diplomatic ties and exchanged the diplomatic note.





非洲国家网
www.all-africa.net



PLEASE WAITING...



Latest Developments of RoOs for FTAs

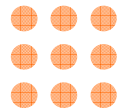


**President Hu: launch a FTA strategy
(Report of the 17th CPC Congress)**

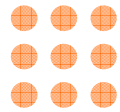


**Premier Wen:
accelerate the FTA strategy (2009
Government Work Report)**

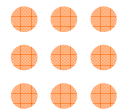
RoOs of FTAs since 2008



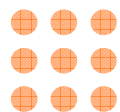
China-New Zealand FTA (2008.10.1)



China-Singapore FTA (2009.1.1)



China-Peru FTA (2010.3.1)



China-Coast Rica FTA (4.8)



Attention




Model of formulation of RoOs is changing!

China–New Zealand FTA RoOs



1st signed with a developed country

2008. 10.1



product-specific RoOs covering the whole tariff schedule

Based on 6-digit headings



RoOs criteria

CTC、RVC、SP

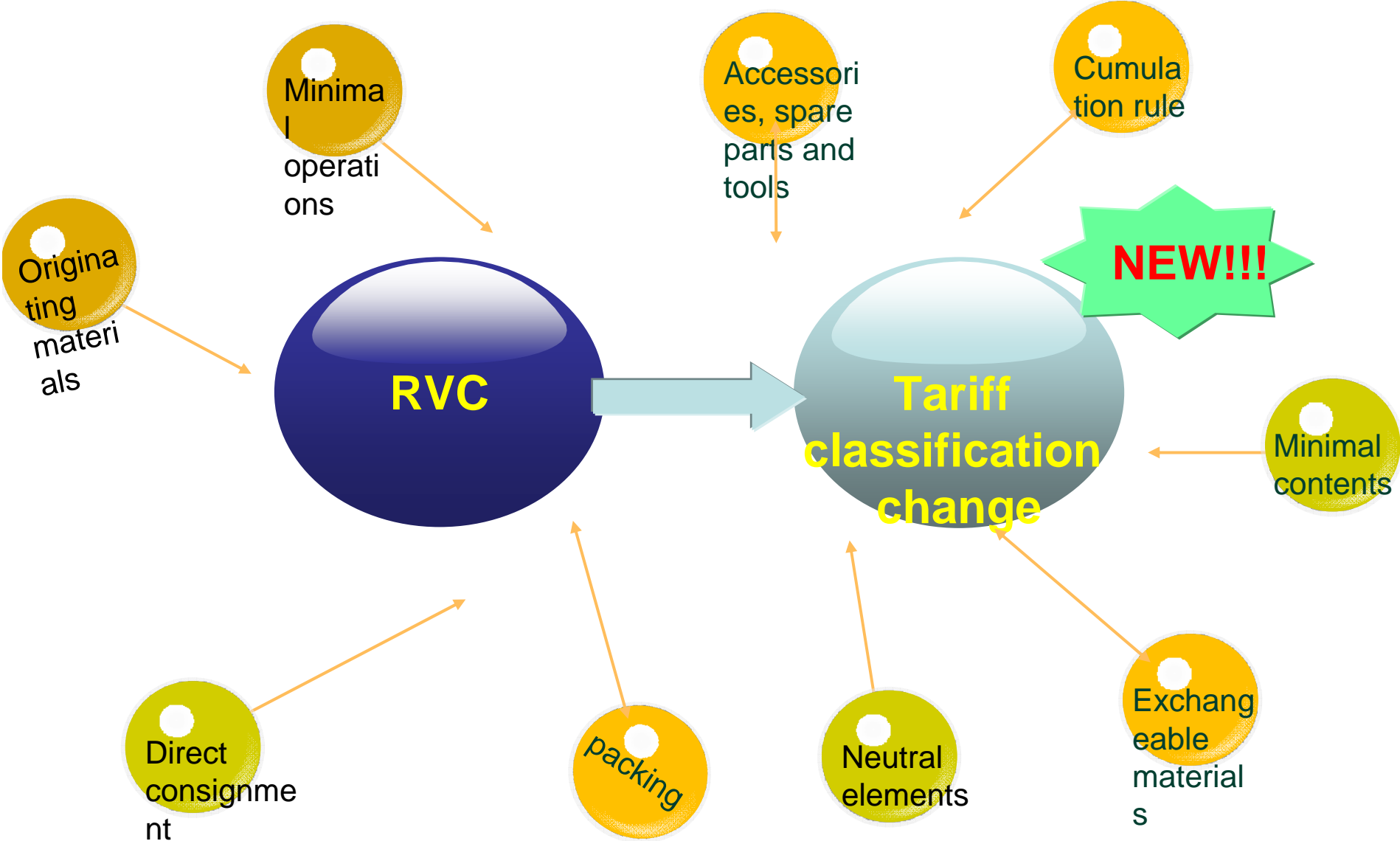
China-Singapore FTA RoOs



China-Peru FTA RoOs



Latest trends of RoOs in FTAs



Trends (Continued)

Preferential

Arrangements

temporarily noPSR

PSR for some products whole-schedule PSR

China-Pakistan FTA

✓

China-ASEAN FTA

✓

APTA

✓

CEPAs for HK and Macao

✓

China-Singapore FTA

✓

China-Chile FTA

✓

Special Preferential Arrangements for LDCs

✓

China-Peru FTA

✓

China-New Zealand FTA

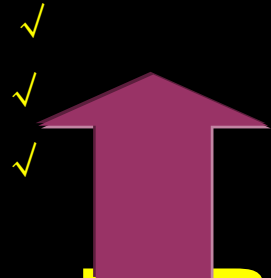
✓

China-Coasta Rica FTA

✓



Partial PSR → whole-schedule PSR



Rules on Customs Administration of Preferential RoOs

Provisions of GACC on the Administration of Preferential Rules of Origin for Import and Export Goods



GACC Decree No. 181 on the Administration of Preferential RoOs



- 1. Effective as from Mar. 1, 2009**
- 2. Applicable to imports and exports**
- 3. Applicable to all PTAs**

Equilibrium of 3 Relationships

1

CA ↔ CBs

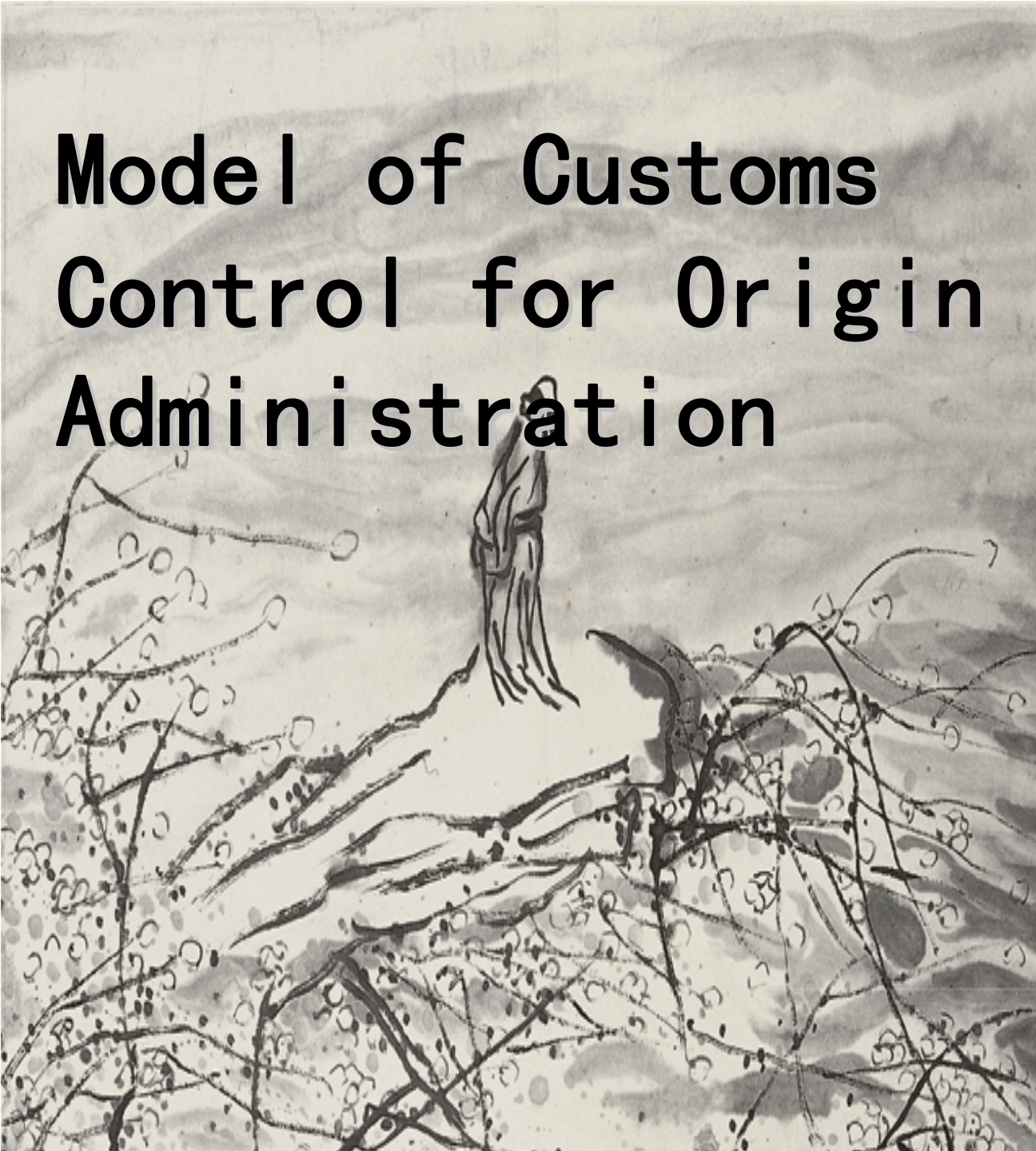
2

Import administration ↔
Export administration

3

CO administration ↔
Cargo administration





Model of Customs Control for Origin Administration

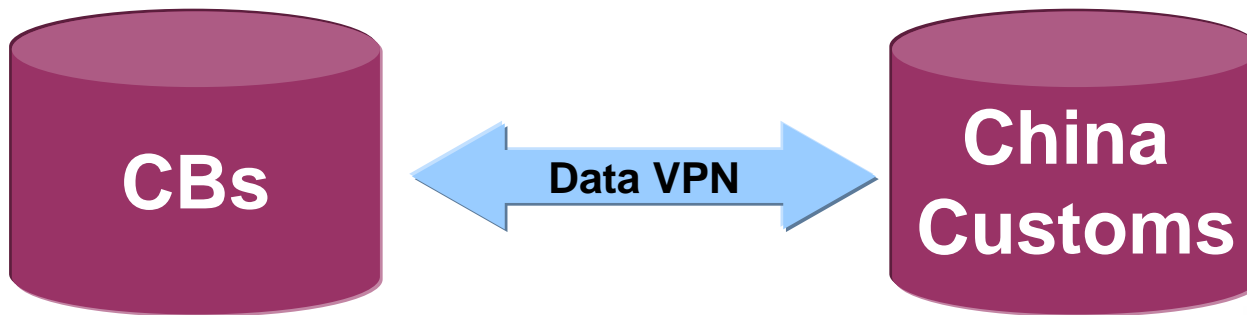
**Networked
Control**

——CEPA

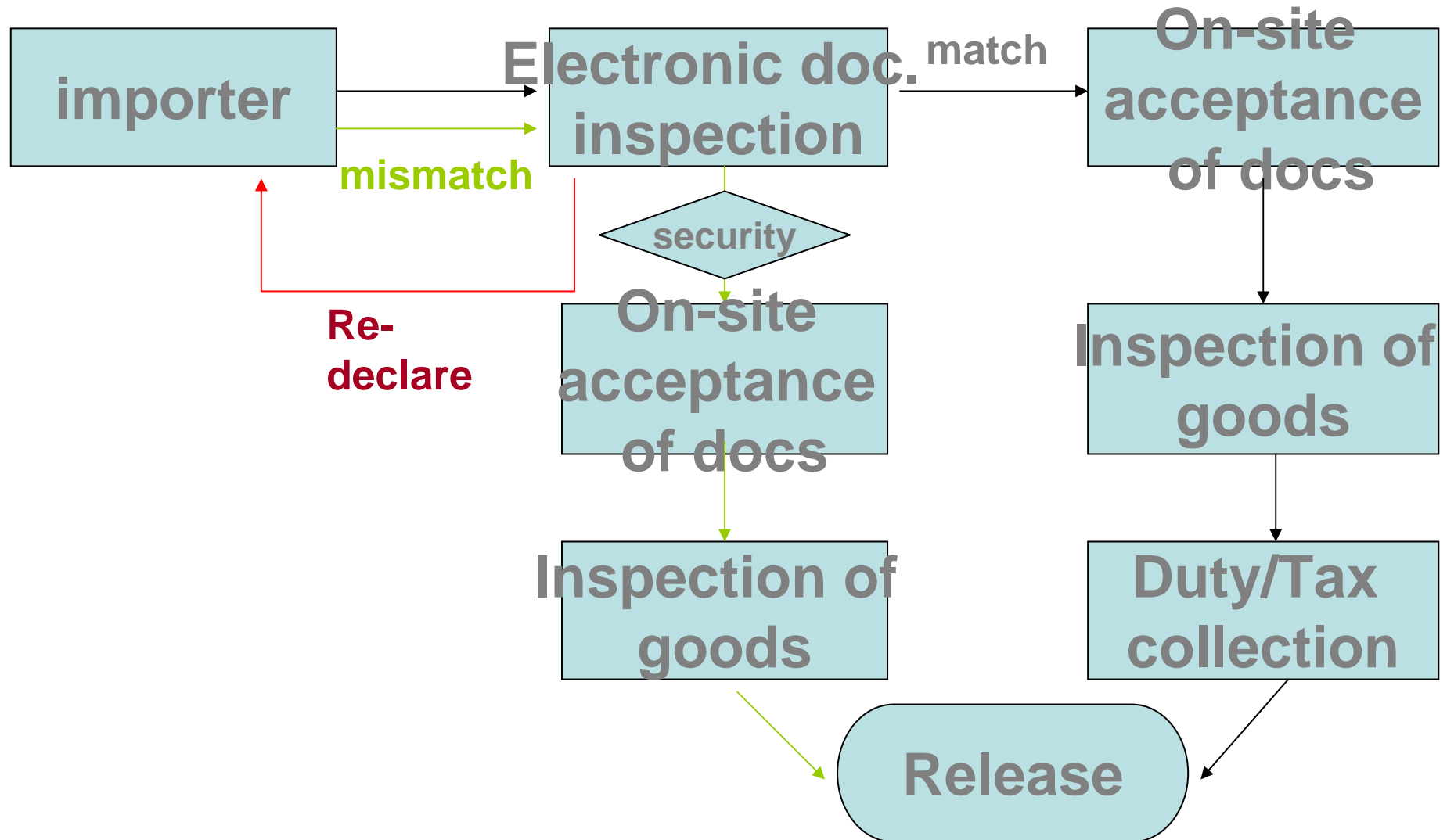
Paper-based

——other
arrangemen
ts

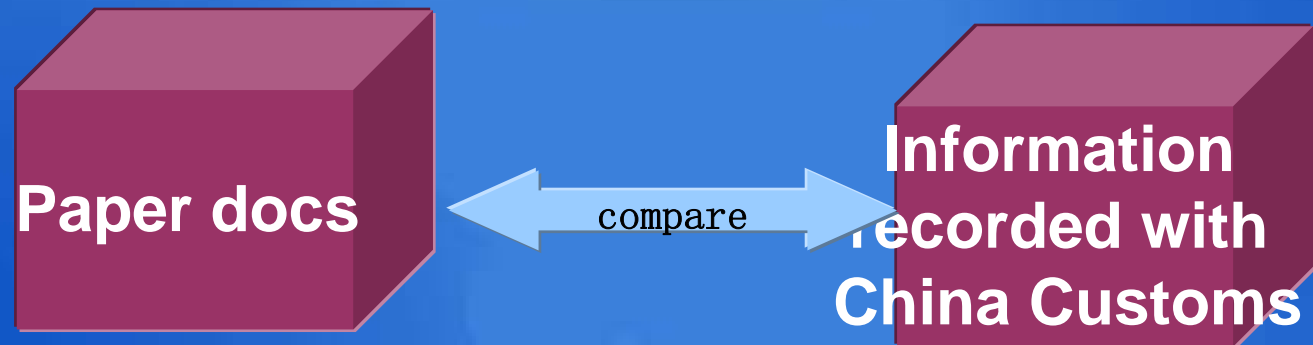
CEPA Model I : Networked



CEPA Cargo Clearance Flow Chart



Models under Other Arrangements



Priorities of paper doc inspection:

- – Format of CO
- – Name and seal of CBs and signature of CB staff
- – Validity of CO
- – Original required. Photocopies invalid.
- – CO with erasure or illegible for reading shall be returned and reissued.
- – Commodity name and tariff code in the CO
- – Contents contained in CO consistent with other docs?
- – Quantity of imports exceeding that allowed in the CO?
- – Port and date of departure and port and date of arrival in the CO, consistent with the information in the B/L?
- – Issuing date later than the date of departure? Marked with “Issued After Departure”?





**Information on COs
recorded with the
Department of Duty
Collection, GACC**

**Take a look at:
[http://10.99.35.1
92/hgzsgss](http://10.99.35.192/hgzsgss)**

1. Issues Encountered: China-Pakistan FTA

- Case 1:

A company declares for importation of Cotton yarn under the China-Pakistan FTA. Declared tariff code: 5205.2200. However, in the CO presented, the tariff code is 5205.2400.

How to address the issue?

预录入号 509031124 申报口岸 九州海关(5750) 海关编号 575020041509031124

进境日期 (6750) 九州海关	备案号	进口日期 20090425	申报日期 20090425
经营单位 (4404444480) 珠海保税区亨业纺织贸易有限公司	运输方式 水路运输	运输工具名称 TA CHUNG NO.18/5750000000250	提运单号 TC5009179102
收货单位 (4404444480) 珠海保税区亨业纺织贸易有限公司	贸易方式 一般贸易	(0110)	征免性质 (101)
许可证号	起运国(地区) (127) 巴基斯坦	装货港 (1418) 卡拉奇	境内目的地 (44044)
批准文号	成交方式	运费	保费

项号	商品编号	商品名称、规格型号	数量及单位	原产国(地区)
1	52052200	棉坯纱/单纱 32公支精梳, 细度321.55分特, SU PRR DOLPHIN牌 环锭纺	17690.40 千克 39000 磅	巴基斯坦 (127)

ROAD KARACHI-2, PAKISTAN TDAP (L) C-111 TANG /2009

CERTIFICATE OF ORIGIN
CHINA-PAKISTAN FTA
(Combined Declaration and Certificate)

Issued in PAKISTAN (Country)

See Instructions Overleaf

2. Consignee's Name and Address, country
ZHUHAI HANTRADE TEXTILE TRADING LTD
G/F, NO.48 ZHUHAI FREE TRADE ZONE
GUANGDONG P.R. CHINA

3. Producer's Name and Address, country
PARAMOUNT SPINNING MILLS LTD
2ND FLOOR, FINLAY HOUSE I.I.
CHUNDRIGAR ROAD KARACHI-2, PAKISTAN

5. For Official Use only

009 Preferential Treatment Given Under China-Pakistan FTA

ROR / V-509E Free Trade Preferential Tariff

STAN Preferential Treatment Not Given (Please Stamp)

Signature of Authorized Signatory of the Importing Country

and kind of packages: g country	8. Origin Criterion	9. Gross Weight, Quantity and FOB value	10. Number and date of Invoices	11. Remarks
	"P"	41,698.80	PSM-115/09	

FOR SHIPPING

'SUPER DOLPHIN' BRAND
PAKISTAN ORIGIN
QUANTITY: 39,000 LBS
(1X40' FCL)

HS CODE NO. 5205.2400

税费征收情况

九州进口
509031124

录入员 录入单位
100000018559

报关员 解玉铭
单位地址 珠海
邮编 电话 6672820 填制日期 2009.04.25

兹声明以上申报无讹并承担法律责任

申报单位(签章) 珠海协力报关有限公司

海关审单批注及放行日期(签章)
审单 审价
征税 统计
查验 放行

goods exported to
CHINA
(Importing country)
For PARAMOUNT SPINNING MILLS LTD.
LAHORE

Place and date signed by Export Manager

3 APR 2009

Place and date, signature and stamp of Certifying authority

13

Issues Encountered: China-Pakistan FTA (Continued)

GACC Decree No. 162 on certificate overleaf instructions:

Box 7: HS code of the goods shall be the 6-digit HS code of the importing country.

Suggestions:

- Inspect the goods to verify commodity classification. If **docs and goods match**, release upon provision of a security, and allow the company to re-submit the CO with the correct tariff code.
- Failure to resubmit a CO with the correct tariff code means no preferential tariff rate will be accorded.
- If, upon inspection of the goods, **docs and goods match**, this means it's only a classification error.

Issues Encountered: China-Pakistan FTA (Continued)

- Case 2:

A company declares importation of goods under China-Pakistan FTA, and submits a CO in correct format. However, upon inspection, China Customs finds the CO is issued 18 days after departure of the goods without the stamp stating “ISSUED RETROACTIVELY” being affixed. Is the CO acceptable?

GACC Decree No. 162

Article 13:

A CO shall be issued by the relevant government body of Pakistan before or when the goods are exported, or within 15 days after the actual exportation of the goods.

Article 14:

Under extraordinary circumstances, the consignee of import goods may submit to Customs a CO issued after the time limit, however, that CO so issued must be issued within 1 year upon shipment of the goods and noted with the remarks "Issued Retroactively".

- Shui Guan Han (2009) No. 238:

If it is only a negligence in procedure, this will not substantially affect the determination of the origin of the goods and the application of the preferential tariff rate. The goods are still eligible for China-Pakistan FTA preferential tariff rate.

In case similar problems pop up again, the importer shall be asked to submit a CO noted with remarks “Issued Retroactively”.

China-ASEAN FTA CO Cases

- I. Fake CO case of fish products and risk analysis
- II. Fake CO case of rubber products and risk analysis
- III. Fake CO case of Coconut shell carbon and risk analysis
- IV. Fake CO case of commodities subject to anti-dumping measures and risk analysis

Fish Products

Case 1:

- In APR 2009, Tianjin Customs found during an inspection that a company submitted a Myanmar **FORM-E** CO in declaring importation for frozen fish, with the signature of the officer in the CO showing signs of imitation.
- China Customs immediately initiated a verification procedure.
- Result: The Myanmar CB did issue a **FORM-E** CO with a ref. no. of 0724, but this is not that CO but a fake one.

China-ASEAN FTA RoOs

- When the Customs at the place of declaration has doubt about the authenticity of a CO, it may ask the relevant government authority of the ASEAN country to conduct a verification, and that authority is required to give a response within 6 months upon receipt of the request.

Characteristics of the Fake CO

- 1. Commodity name and tariff code
Fake: Frozen cuttlefish (Tariff code:0307490000)
Genuine: Other chilled tuna (Tariff code:
0302390000)

There is a ten-fold price difference between the two types of fish products.

- 2. Exporter's signature and stamp inconsistent with that of the genuine CO
- 3. CB stamp and its officer's signature is inconsistent with that of the genuine CO

Rubber Products

Case 2:

- In APR 2009, a company declared to Customs for importation of 4 batches of vulcanized rubber thread and submitted 4 Malaysian FORM E COs: 2046、1927、2105、2061
- 4 COs involved 135 tons of vulcanized rubber thread valued at 591,812 Ringgits.
- Customs officers on site thought the signatures in the COs showed signs of imitation, and the stamp is inconsistent with the information recorded, so they submitted the COs to Shenzhen RoOs Office for verification.
- China Customs initiated the verification procedure.
- Result: Malaysian Ministry of International Trade and Industry did issued 4 COs with ref. numbers identical with those 4 COs, but those 4 COs are fake.

Characteristics of Fake COs of Case 2

- 1. Export price (FOB) inconsistent, with the price in the fake CO far lower than that of the genuine one;

Fake CO's goods value: 591,812 Ringgits

Genuine CO's goods value: 1,235,232 Ringgits

- 2. Exporter's signature and the stamp of the company inconsistent with the information recorded with China
- 3. **CB officer's signature and CB stamp inconsistent with the information recorded with China**

Coconut Shell Carbon

Case 3:

- In April 2009, a company declared to Xiamen Customs a batch of imported coconut shell carbon, and submitted a FORM-E CO of the Philippines. Xiamen Customs thought the signature in the CO was obviously different from the information recorded with GACC.

We initiated the verification procedure.

- Result: the CB of the Philippines confirmed that the CO's signature is falsified, hence, the CO is a fake one.
- Characteristics: CB officer's signature is obviously different from that recorded with GACC

Preventive Measures Against Fake COs of Preferential RoOs

- 1. Enhance networked verification of COs
- 2. Exchange information and data concerning the CB of the COs
- 3. Enhance risk analysis for imports under preferential trade agreements
Attention focuses more on surging commodities, countries and companies
- 4. Risk-based post-audit of the COs.

Methods of Verification of Origin

Random check &. Special audit

- In exercising daily control over imports/exports, Customs may randomly check some declaration documents, electronic declaration data, and verify the origin of the goods
- Based on the monitoring analysis of the import/export dynamics of goods, Customs may conduct special audit on large-bulk highly-sensitive commodities where there are some management risks.

Verification within and without the border

- Based on the random checks and special audits, Customs may extend the scope of verification to importers/exporters and the management of account books, so that the verification of the origin of the goods is more comprehensive.
- Cross-border verification is also called verification visit. It means, when the importing country's customs authority deems it necessary, it may, in accordance with the methods agreed upon with the exporting country's CA, send personnel to the exporting country (even to the exporter premises) to accompany the exporting country's CA for on-site verification of the origin of the exported goods.



Customs Control over Transshipment via a Third Country/Region



**Doc.
Inspection**

**Inspection
Of Goods**

**Proof of No
Processing
During Stay
in the 3rd
Party**

**Original
invoice**

**Through
B/L**

**Packing of
the goods**

**Marks of
Origin**

Thoughts Reflected in GACC Decree No. 181



1

Simplified
VS
operability



2

Proof of
Direct
Consig
nment



3

Origin
Frauds



4

How a
verification
visit is
conducted



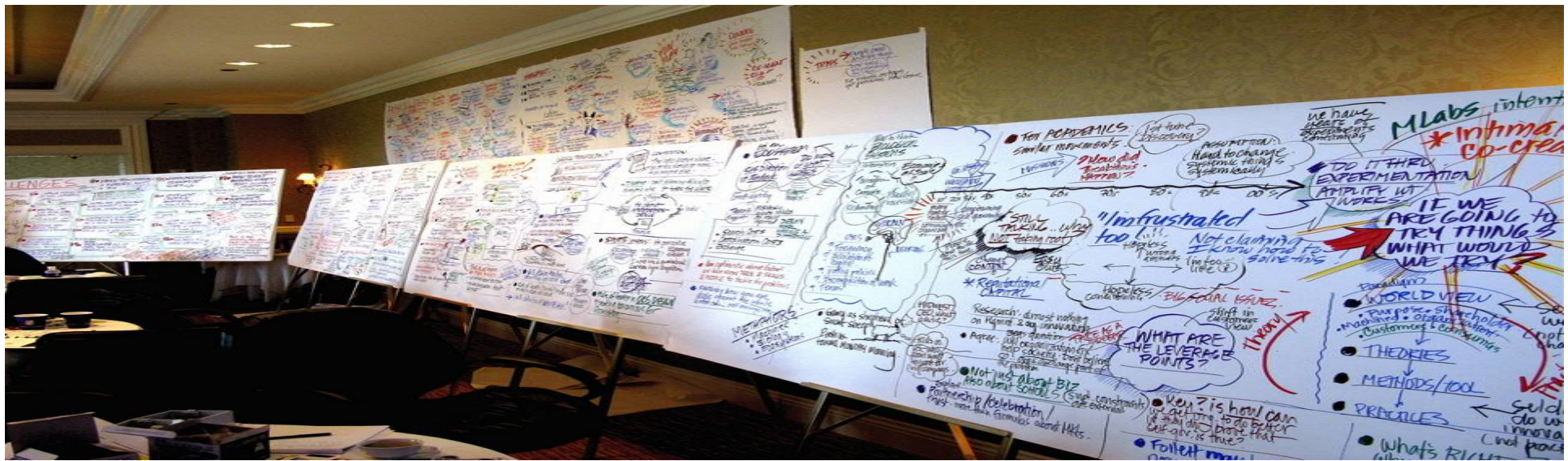
5

Networkin
g for
verification



IV. Future Trends of RoOs





Factors Which May Have Influence:

- Original purposes of formulating RoOs
- Complicated status quo: Italian spaghetti effect
- Globalization and regional integration of international trade
- Frequent resort to trade remedies



We have been working:

- **Participating in the coordination for RoOs agreements;**
- **Participating in WCO preferential RoOs action program;**
- **Following closely the adjustment of RoOs in U. S. and Europe.**

Our Experience in Administering Preferential RoOs

- Reasonable and effective RoOs
- Doc. Inspection and networked control
- Effective Customs administration
- Cooperation and assistance among international Customs community



THANK
You!

Questions



The end

