



# ADVANCE RULING

## SUBREGIONAL WORKSHOP ON APPLICATION OF CUSTOMS RELATED PROVISIONS OF WORLD TRADE ORGANIZATION TRADE FACILITATION AGREEMENT

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# BACKGROUND

A major source of dispute between Customs officials and traders is related to the treatment attributed to the goods for Customs purposes

- Determination of the value, classification of goods, and determination of origin – **a major area of delay in clearance of goods**
- Need for a formal process with transparent rules for trade to seek a ruling from Customs prior to import or export of goods
- Setting up a formal process with legislative backing for ruling to be issued by Customs for these areas on request from the trade in advance of importation/exportation
- Make such rulings legally binding on the Customs
- Fix a period of time for which such rulings are valid
- Set up the conditions of application and issue of the rulings

# ADVANCE RULING

- **Advance Ruling - A written decision on the classification, origin, valuation etc. of the good issued by Customs to the applicant prior to an import or export transaction**

## Objective

- **Provide decisions on the classification, origin and valuation of commodities prior to their importation or exportation.**

## In practice

- **Advance rulings normally issued for classification and origin of goods - HS code or country of origin of goods**

# BENEFITS OF ADVANCE RULING TRADE & CUSTOMS

## ➤ For Trade

- Certainty and predictability to trade – Assists traders in making informed business decisions based on a legally binding ruling
- Benefit of greater certainty regarding duty liability
- Reduces likelihood of Customs' interventions = leading to swifter clearance of goods

## ➤ For Customs

- Advance knowledge of future importations useful for risk management purposes
- Enables effective customs compliance programmes

# ADVANCE RULING IN CUSTOMS

- The Revised Kyoto Convention – General Annex – Chapter 9 - Information, Decisions and Rulings Supplied by Customs
  - **9.9.Standard** - The Customs shall issue binding rulings at the request of the interested person, provided that the Customs have all the information they deem necessary.
  - **Supported by detailed guidelines**
- RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL\* ON THE INTRODUCTION OF PROGRAMMES FOR BINDING PRE-ENTRY CLASSIFICATION INFORMATION (18 June 1996)
- Obligation to provide classification and origin rulings under WTO Trade Facilitation Agreement

# ADVANCE RULING IN WTO TFA

## ARTICLE 3: ADVANCE RULINGS

### ARTICLE 3.9 (a) DEFINES & SETS THE SCOPE OF ADVANCE RULING OBLIGATION UNDER TFA

- An advance ruling is a written decision provided by a Member to the applicant prior to the importation of a good covered by the application that sets forth the treatment that the Member shall provide to the good at the time of importation with regard to:
  - (i) the good's tariff classification; and
  - (ii) the origin of the good.
- The same Article in paragraphs (c) & (d) specifies persons entitled to seek such rulings

# ADVANCE RULING IN WTO TFA

## ARTICLE 3: ADVANCE RULINGS

### ARTICLE 3.9(b) ENCOURAGES ADVANCE RULING TO BE PROVIDED FOR :

- (i) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts;
- (ii) the applicability of the Member's requirements for relief or exemption from customs duties;
- (iii) the application of the Member's requirements for quotas, including tariff quotas; and
- (iv) any additional matters for which a Member considers it appropriate to issue an advance ruling.

# ADVANCE RULING IN WTO TFA

## ARTICLE 3: ADVANCE RULINGS

**ARTICLE 3.1 TO 3.8 SETS OUT THE PROCESS TO BE FOLLOWED FOR ISSUE OF ADVANCE RULING, VALIDITY ETC.**

- Issue rulings in a reasonable time bound manner
- Rulings to be valid for a reasonable period of time
- Publication of the form and requirements for application for advance rulings
- Prompt notification if issue of advance ruling is declined
- Written notice of revocation, modification or invalidation
- Binding on Customs administration for applicant seeking the ruling
- Circumstances when an administration can decline issue of advance ruling



# GUIDELINES FOR IMPLEMENTING ADVANCE RULING

- Guidelines to Standard 9 of Chapter 9 of the General Annex of the Revised Kyoto Convention provide information on implementing the requirements of binding rulings
  - Details to be provided when applying
  - Samples required
  - Notification of binding rulings
  - Time limits for validity of rulings
  - Use of binding rulings
  - Annulment of advance rulings

# INFORMATION REQUIRED BY CUSTOMS

## Applicant to provide complete information including

- Names, addresses and other identifying information of all interested parties
- Name(s) of Customs clearance point(s) at which the goods will be presented (if known)
- A statement that there are, to the best of the importer's knowledge, no issues concerning the commodity for which a ruling is sought pending before any Customs offices or ports of entry or before any court
- Whether advice has been previously sought from Customs concerning the commodity in question and if yes, information of the authority issuing it and advice received
- Applicant also entitled to provide their views on decision being sought

# ISSUE OF RULING

## CUSTOMS

- To establish the legal basis of issue of advance rulings
- Customs may, if required, seek additional information for issue of ruling
- Ruling to be issued in writing
- Ruling binding on Customs. National legislation may provide for ruling to be binding on the importer as well
- Ruling not valid if the facts of application change
- Customs to review any change notified by applicant

# ISSUE OF RULING

## CUSTOMS

- Customs to review any change notified by applicant
- Ruling to be referenced in goods declaration
- Verification by Customs at the time of import to confirm the ruling is with regard to that importation
- Customs to notify when rulings are revoked or modified or not in accordance with current laws
- Issue rulings within the time frame fixed indicating the period of validity  
Ensure ruling is made available to the Customs offices responsible for clearance
- Publish rulings on website without compromising confidentiality

# **GUIDANCE FOR IMPLEMENTING ADVANCE RULING WCO DOCUMENTS**

## **TECHNICAL GUIDELINES ON ADVANCE RULINGS FOR CLASSIFICATION, ORIGIN AND VALUATION**

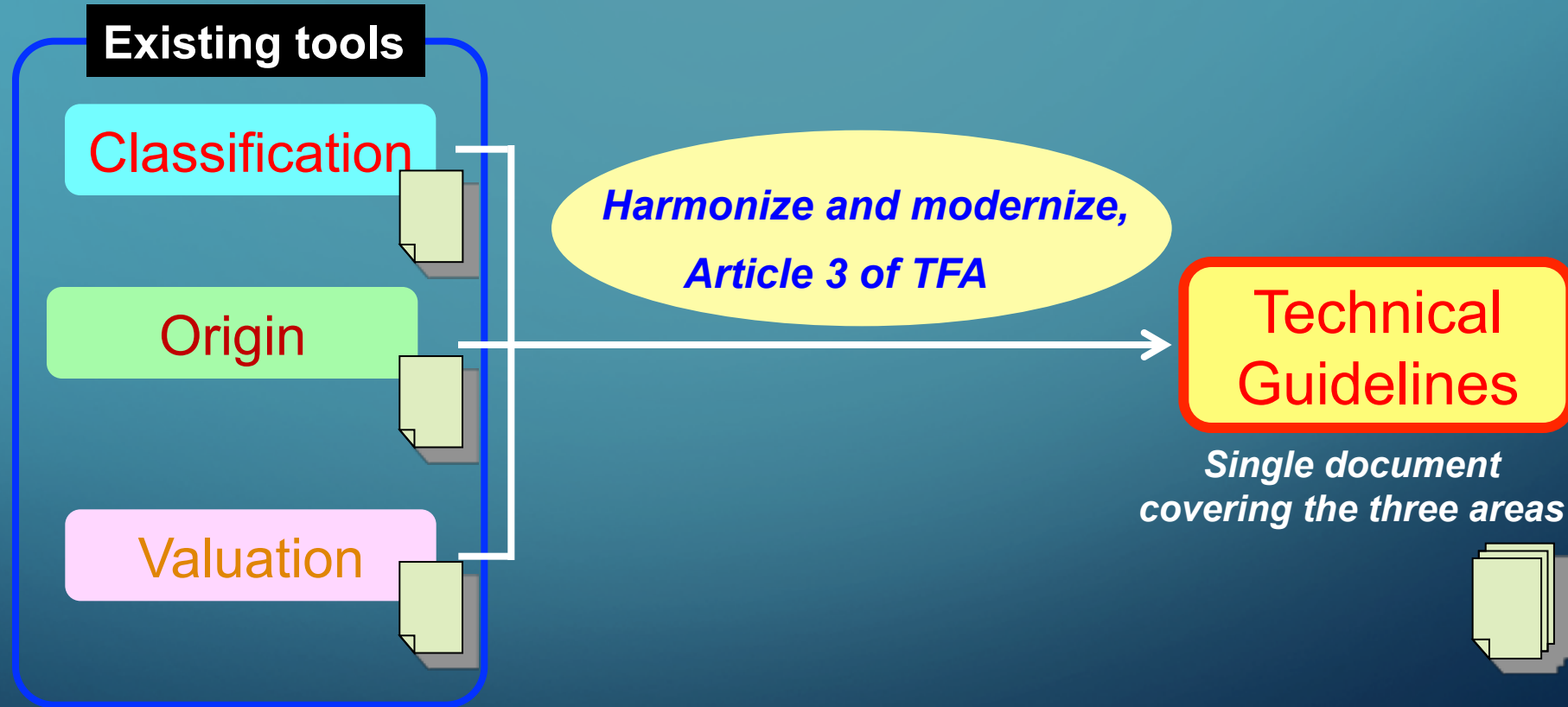
### **Note on Advance Ruling**

Guidelines to Standard 9 of Chapter 9 of the General Annex of the Revised Kyoto Convention

Members can refer to these documents for developing their legislation and procedures including the format of application forms for implementing advance ruling

# TECHNICAL GUIDELINES ON ADVANCE RULINGS

## WCO tools on advance rulings






# TECHNICAL GUIDELINES ON ADVANCE RULINGS

- Provide details for practical implementation on the three areas, such as:
  - Application for Advance Rulings
  - Issuance of Advance Rulings
  - Effect of Advance Rulings
  - Modification and Revocation of Advance Rulings
  - Review and Appeal
  - Publication and Confidentiality
  - Appendix : Application form (Classification and Origin)

# TECHNICAL GUIDELINES ON ADVANCE RULINGS

-Ensure consistency with TFA-

Subject	TFA text	<i>Draft text of Technical Guidelines</i>
Time to issue rulings	Reasonable, time bound manner	<ul style="list-style-type: none"> <li>Reasonable, time bound manner</li> <li>In the case of origin, as soon as possible but <u>no later than 150 days</u></li> </ul>
Validity period	For a reasonable period of time	<ul style="list-style-type: none"> <li>For at least one year</li> <li>In the case of origin, <u>for three years</u></li> </ul>
Publication of requirements	<u>The requirements for application shall be published</u> 	<u>The requirements for application shall be published</u>
Notice of declination to issue	Member shall <u>promptly notify</u> the applicant <u>in writing</u> 	The competent authority shall <u>promptly notify</u> the applicant <u>in writing</u>
Notice of revocation, modification or invalidation	Member shall provide <u>written</u> notice 	The person to whom the advance ruling was issued shall be <u>notified in writing</u>



The background is a solid teal color. In the four corners, there are decorative white line-art patterns resembling circuit boards or neural networks, with lines and small circles connecting them.

# THANK YOU

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Source material taken from WCO presentations duly acknowledged