DOWNLOAD PDF THE ADMINISTRATION OF RULES OF ORIGIN.

Chapter 1 : Rules of Origin | racedaydvl.com

Department of Immigration and Border Protection Administration of Rules of Origin Gabrielle Tramby Traveller, Customs and Industry Policy Division.

The Rules of Customs for the Administration of the Levying of Duties and Taxes promulgated on September 30, shall be repealed simultaneously. Article 2 The levying of duties and taxes by Customs shall follow the principles of accurate classification, correct valuation, collection on the basis of applicable rates, reduction and exemption according to law, refunding and recovering duties and taxes by strict standards, and timely transfer of the paid duties and taxes to the State treasury. Article 3 These Rules apply to the administration of the levying of import and export duties and import taxes collected by Customs on behalf of other authorities. The administration of the levying of import taxes on incoming articles and vessel tonnage dues shall be carried out in accordance with the provisions of relevant laws, administrative regulations and departmental rules. In the absence of such provisions, these Rules shall apply. Article 4 Customs shall undertake its confidentiality obligation in accordance with relevant provisions of the State and take good care of the materials involving commercial secrets that are provided by duty and tax payers. None of such materials shall be provided to any third party unless otherwise prescribed by any law or administrative regulation. Article 7 To examine and determine the classification, dutiable value, origin, etc. Article 8 Customs shall, in accordance with the relevant laws, administrative regulations and Customs rules, examine the commodity description, specification, model, tariff code, origin, value, transaction terms, quantity, etc. Customs may, based on the specific circumstances of clearance and those of the imported or exported goods, conduct only a procedural examination of the declared information at the release link, and then make a substantive check of the authenticity and accuracy of the declared value, classification, origin, etc. Article 9 In order to assess and determine the classification, dutiable value, origin, etc. Section Two Levying of Duties and Taxes Article 11 Customs shall calculate and levy duties and taxes on the basis of the tariff code, dutiable value and origin of the imported or exported goods in accordance with the applicable exchange rate, tariff rate and tax rate. Article 12 Customs shall determine the applicable tariff rate for imported or exported goods in accordance with relevant provisions of the Regulations on Duties on the application of the MFN rate, the conventional rate, the preferential tariff rate, the general tariff rate, the export tariff rate, the tariff quota rate, or the interim tariff rate, as well as the applicable tariff rates during the imposition of anti-dumping, countervailing, safeguard measures or retaliatory duties. Article 13 For any imported or exported goods, the valid tariff and tax rate for the day on which Customs accepts the import or export declaration shall apply. Where, upon the approval of Customs, a declaration is filed before the arrival of the imported goods, the valid tariff and tax rate for the day on which the means of transport carrying the goods is declared for entry shall apply. With respect to imported goods transshipped between different Customs regions, the valid tariff and tax rate for the day on which the Customs at the place of final destination accepts the import declaration of such goods shall apply. Where, upon the approval of Customs, a declaration is filed before the goods arrive at the place of final destination, the valid tariff and tax rate for the day on which the means of transport carrying the goods arrives at the place of final destination shall apply. With respect to exported goods transshipped between different Customs regions, the valid tariff and tax rate for the day on which the Customs at the place of departure accepts the export declaration of such goods shall apply. With respect to imported or exported goods as declared collectively upon the approval of Customs, the valid tariff and tax rate for the day on which Customs accepts the declaration for each import or export consignment of such goods shall apply. If the exact date of violation is unable to be determined, the tariff and tax rate valid for the day on which Customs detects the violation shall apply. Article 16 In case the value of imported or exported goods or the associated expenses are denominated in a foreign currency, Customs shall, for the purpose of calculating the dutiable value of the goods, convert them into RMB according to the valid exchange rate for the day on which the tariff rate is applied to the goods. The dutiable value shall be rounded off to RMB fen. If the value of the imported or exported goods are denominated in a foreign currency other than those covered by the basic exchange rate, the

median rounded off to 4 decimal places after RMB yuan of the cash buying and selling rates as posted by the Bank of China on the same day shall apply. Article 17 Customs shall, in accordance with the Regulations on Duties, levy duties on imported and exported goods ad valorem, by quantity or by any other means as prescribed by the State. Customs shall calculate and levy import taxes on imported goods in light of the applicable tax type, tax item, tax rate and calculation formula as prescribed in relevant laws and administrative regulations. Unless otherwise provided for, Customs duties and import taxes shall be calculated in accordance with the following formulas: Formula for calculating ad valorem duty: The second copy certificate of payment shall be kept by the deposit bank of the payment-making organization as a certificate of payment made. The third copy certificate of payment collection shall be kept by the State treasury to which the payment is made as a certificate of payment received. The fourth copy return receipt shall be returned to the financial department of the Customs, after being sealed by the State treasury. For the fifth copy verification copy , after the State treasury has received the payment, the Customs duty payment record shall be returned to the Customs, and the Customs tax payment record for import taxes shall be sent to the local tax authority. The sixth copy stub shall be archived by the record-issuing unit. In case the day on which the time limit expires falls on an off day such as Saturday or Sunday or any statutory national holiday, the first working day after the off day or the statutory holiday shall be the alternate due date. If the off and working days are adjusted on a temporary basis by the State Council, Customs shall calculate the time limit in light of the adjustment. Article 21 The Customs duties, import taxes, late fines, etc. The threshold for a late fine shall be 50 RMB yuan. Customs shall then make a note on the record accordingly. The contents in the record re-issued by Customs shall be completely identical with those in the original. If the circumstances as stated in the application are found to be true, the regional Customs shall immediately submit the application materials to the General Administration of Customs. The General Administration of Customs shall, within 20 days upon receipt of the application materials, make a decision on whether or not to approve the time limit extension, and if yes, how long the extended time limit will be, and then notify the regional Customs that has submitted the application materials of its decision. In case it is impossible to make a decision within 20 days due to special circumstances, another 10 days may be allowed at the discretion of the General Administration of Customs. The extended time limit for duty and tax payment shall not exceed six 6 months as from the date on which the goods are released. Failure to pay within the extended time limit will result in a late fine of 0. Failure to pay within the time limit will result in a late fine of 0. Article 27 When the quantity of goods imported or exported in bulk is more or less than that specified in the contract or invoice, the following provisions shall apply: Exported goods offered at no cost as compensation or replacement are exempted from export duties. With respect to import of goods offered at no cost as compensation due to short shipment of the original imports, papers as specified in Item b of the preceding paragraph will not be required. With respect to export of goods offered at no cost as compensation due to short shipment of the original exports, papers as specified in Item b of the preceding paragraph will not be required. Article 35 No export duties will be levied on the original imports as have been replaced when they are shipped out of the Chinese mainland. No import duties or import taxes will be levied on the original exports as have been replaced when they are shipped back to the Chinese mainland. Article 37 Goods imported on lease shall be subject to Customs control from the date of entry until the day on which the Customs formalities are concluded with the termination of the lease. In addition, Customs shall impose a late fine of 0. Article 41 Where the lease of the imported goods is terminated prior to its expiration, the date on which the lease is terminated shall be regarded as the date of expiration. Section Three Temporary Entry and Exit of Goods Article 42 Customs shall, according to relevant provisions, oversee the goods that temporarily enter or leave the Chinese mainland upon its approval. Article 43 Payment of duties and taxes for goods temporarily admitted into or shipped out of the Chinese mainland as listed in Paragraph 1 of Article 42 of the Regulations on Duties may be exempted on a temporary basis within the time limit as prescribed by Customs. In case the goods stay for less than 15 days, no duties or taxes will be levied. Such time limit shall be counted as from the date on which the goods are released by Customs. The formula for calculating the duties and taxes on a monthly basis shall be: The goods temporarily admitted into the Chinese mainland for repair shall be re-exported within the time limit prescribed by Customs. All of their residuals upon completion of the repair

shall be re-exported out of the Chinese mainland together with the goods. If they have been put under Customs control under the category of bonded goods, relevant provisions on the administration of bonded goods shall apply. Such goods shall be shipped back to the Chinese mainland within the time limit as prescribed by Customs. The goods shall be shipped back to the Chinese mainland within the time limit as prescribed by Customs. Upon verification and approval by Customs, no import duties or import taxes will be levied on such original exports that are shipped back to the Chinese mainland. Upon verification and approval by Customs, no export duties will be levied on such original imports that are shipped out of the Chinese mainland. If the application materials so submitted are complete and conform to the prescribed format, Customs shall accept the application, and regard the day on which the materials are received as the day on which the application is accepted. Article 67 When handling the refund formalities, Customs shall fill out and issue a Payment Refund Record see format in Annex 4 and observe the following provisions: Such duration shall be calculated as from the date on which the imported goods are released by Customs. Customs shall, within 20 days upon receipt of the application, verify the facts and issue the certificate upon verification. Under special circumstances, such duration may be reasonably extended upon the approval of the director-general of the competent regional Customs or the person authorized thereby. The letter of guarantee as issued by a bank or a non-bank financial institution shall be a joint liability one. If the duration of security has been explicitly stipulated in the letter of guarantee, such duration shall not fall short of the duration of security as approved by Customs. Where such an act constitutes a crime, criminal liability shall be imposed accordingly. In the absence of such provisions in these Rules, the provisions of relevant laws, administrative regulations and Customs rules shall be observed. Article 84 The right of interpretation of these Rules shall remain with the General Administration of Customs. Article 85 These Rules shall be effective as of March 1, All information in this document is authentic in Chinese. English is provided for reference only. In case of any discrepancy, the Chinese version shall prevail.

Chapter 2 : [No] Decree of the General Administration of Customs of the Peopleâ€™s Republic of China N

rules of origin is a source of concern for WCO Members and private operators. The application of rules of origin should not create new administrative burdens neither for international trade operators nor for Customs administrations.

Administrative court Unlike most common-law jurisdictions, the majority of civil law jurisdictions have specialized courts or sections to deal with administrative cases which, as a rule, will apply procedural rules specifically designed for such cases and different from that applied in private-law proceedings, such as contract or tort claims. Brazil[edit] In Brazil, unlike most Civil-law jurisdictions, there is no specialized court or section to deal with administrative cases. In , a constitutional reform, led by the government of President Fernando Henrique Cardoso , introduced regulatory agencies as a part of the executive branch. Since , Brazilian administrative law has been strongly influenced by the judicial interpretations of the constitutional principles of public administration art. Each Ministry has one or more under-secretary that performs through public services the actual satisfaction of public needs. There is not a single specialized court to deal with actions against the Administrative entities, but instead there are several specialized courts and procedures of review. However, many have argued that the usefulness of these laws is vastly inadequate in terms of controlling government actions, largely because of institutional and systemic obstacles like a weak judiciary, poorly trained judges and lawyers, and corruption. The three regulations have been amended and upgraded into laws. Administrative Compulsory Law was enforced in Administrative Litigation Law was amended in The General Administrative Procedure Law is under way. Special administrative courts include the National Court of Asylum Right as well as military, medical and judicial disciplinary bodies. The French body of administrative law is called "droit administratif". This section needs expansion. You can help by adding to it. June Germany[edit] Administrative law in Germany, called "Verwaltungsrecht" de: It is a part of the public law, which deals with the organization, the tasks and the acting of the public administration. It also contains rules, regulations, orders and decisions created by and related to administrative agencies, such as federal agencies, federal state authorities, urban administrations, but also admission offices and fiscal authorities etc. Administrative law in Germany follows three basic principles. Principle of the legality of the authority, which means that there is no acting against the law and no acting without a law. Principle of legal security, which includes a principle of legal certainty and the principle of nonretroactivity Principle of proportionality, which says that an act of an authority has to be suitable, necessary and appropriate [11] Administrative law in Germany can be divided into general administrative law and special administrative law. General administrative law[edit] The general administration law is basically ruled in the administrative procedures law Verwaltungsverfahrensgesetz [VwVfG]. It serves the purpose to ensure a treatment in accordance with the rule of law by the public authority. Furthermore, it contains the regulations for mass processes and expands the legal protection against the authorities. The VwVfG basically applies for the entire public administrative activities of federal agencies as well as federal state authorities, in case of making federal law. It defines the administrative act, the most common form of action in which the public administration occurs against a citizen. It is an official act [15] of an authority [16] in the field of public law [17] to resolve an individual case [18] with effect to the outside. The VwGO is divided into five parts, which are the constitution of the courts, [23] action, remedies and retrial, costs and enforcement15 and final clauses and temporary arrangements. Therefore, it is necessary to have the existence of a conflict in public law [28] without any constitutional aspects [29] and no assignment to another jurisdiction. Special administrative law[edit] The special administrative law consists of various laws. Each special sector has its own law. There are federal courts with special jurisdiction in the fields of social security law Bundessozialgericht and tax law Bundesfinanzhof. Its genesis is related to the principle of division of powers of the State. The administrative power, originally called "executive", is to organize resources and people whose function is devolved to achieve the public interest objectives as defined by the law. There is however a single General Administrative Law Act "Algemene wet bestuursrecht" or Awb that applies both to the making of administrative decisions and the judicial review of these decisions in courts. Unlike France or Germany, there are no special administrative

courts of first instance in the Netherlands, but regular courts have an administrative "chamber" which specializes in administrative appeals. The courts of appeal in administrative cases however are specialized depending on the case, but most administrative appeals end up in the judicial section of the Council of State Raad van State. Before going to court, citizens must usually first object to the decision with the administrative body who made it. This is called "bezwaar". This procedure allows for the administrative body to correct possible mistakes themselves and is used to filter cases before going to court. Sometimes, instead of bezwaar, a different system is used called "administratief beroep" administrative appeal. The difference with bezwaar is that administratief beroep is filed with a different administrative body, usually a higher ranking one, than the administrative body that made the primary decision. Administratief beroep is available only if the law on which the primary decision is based specifically provides for it. An example involves objecting to a traffic ticket with the district attorney "officier van justitie" , after which the decision can be appealed in court. In Sweden , there is a system of administrative courts that considers only administrative law cases, and is completely separate from the system of general courts. Migration cases are handled in a two-tier system, effectively within the system general administrative courts. Turkey[edit] In Turkey, the lawsuits against the acts and actions of the national or local governments and public bodies are handled by administrative courts which are the main administrative courts. The decisions of the administrative courts are checked by the Regional Administrative Courts and Council of State.

Chapter 3 : World Customs Organization

Annex II of the Agreement on Rules of Origin provides that the Agreement's general principles and requirements for non-preferential rules of origin in regard to transparency, positive standards, administrative assessments, judicial review, non-retroactivity of changes and confidentiality shall apply also to preferential rules of origin.

Further information Introduction The European Union EU has rules for establishing the country of origin of imported and exported goods. You will need them to classify goods manufactured in more than one country. As a customs union the EU applies a common customs duty to goods imported from outside the EU. However, in practice, trade agreements between the EU and third countries, regional trade blocs and free trade areas determine the rate of duty and customs conditions. Some goods imported from or exported to certain countries will qualify for preferential treatment - for example, lower or nil customs duty, whereas others will have non-preferential status and attract full excise. The first step is to clarify the origin of the goods. The EU has trading agreements with certain non- EU countries and regional trading blocs or free trade areas. Once you have determined origin you will be on your way to classifying your goods and establishing whether an agreement is in place with the country or countries with which you wish to trade. Where an agreement exists, you will need to check whether your goods qualify for any preferential treatment - for example, reduced or nil rate of duty, which that agreement might allow. Defining the origin There are 2 main categories of origin in the rules: If a product is manufactured entirely in the EU and is exported to a country with which there is a preferential arrangement it may attract lower or nil rates of duty when it is imported into the destination country. However, if some of the components are manufactured in the EU but components are added and the product is assembled in another country it may be judged that the product originates from the country where it is assembled. The duty requirement will depend on the arrangements between the country in which the product was assembled and the country into which it will be imported. There are 2 types of scheme: See classification of goods. You can find commodity codes and other measures applying to imports and exports by accessing the free online UK Trade Tariff. You can find an alphabetical list of all the countries that benefit from preferential treatment in Volume 1, Part 7 of the Tariff. You must also comply with general export procedures. For more information on these and how they apply to you see the guides on exporting your goods outside the EU and dispatching your goods within the EU. As an exporter it is your responsibility to ensure that the rules of preferential origin have been followed correctly. You can also check with DIT. However you must be sure that the paperwork has been correctly processed. You can be liable for unpaid or incorrectly paid duty for up to 3 years. In particular, you should check if the preference scheme is autonomous or reciprocal - that is, whether it applies to imports only or to both imports and exports. This will determine which type of certification you will require. This is a legally binding document from customs that clarifies the origin of your goods and can save time and money for regular exporters and importers. It is recognised and legally valid across the EU. Binding Origin Information BOI is a written decision by a customs authority that confirms the origin of specific goods. It is valid for 3 years and is legally recognised across the EU. If the origin of your goods is not straightforward holding BOI can prevent you from having to prove the origin of the goods repeatedly during trading. If any change in EU law makes your BOI invalid you can still continue to fulfil existing contracts for up to 6 months. However, only the owner of the BOI can use it. There is no charge for issuing a BOI although you may have to pay any costs for specialist analysis of goods or expert advice if HMRC need it to make a decision. Find information about BOI in Notice Managing certification for preferential origin Goods of preferential origin attracting reduced or nil duty must be certified before they leave the exporting country. Retrospective certificates can be issued under exceptional circumstances. The certification needed depends on whether the preference scheme in the destination country is an autonomous one applying to imports only or reciprocal applies to both imports and exports between the two countries. Under the provisions of the EU -Korea Free Trade Agreement the only acceptable proof of origin to claim preference is an origin declaration made out by the exporter. In normal English usage a bill of lading is considered a commercial document. There has been no explanation for this decision. The effect of this decision is that from this date onwards a bill of lading cannot

be used to make an origin declaration for the purpose of claiming preference under the EU -Korea Free Trade Agreement. HMRC guidance and public notices will be updated in due course. Read guidance on ensuring your form A is technically correct. This is a certificate of preferential origin and must be stamped and signed by the customs authority in the exporting country. Each consignment of goods you import needs a separate certificate and each certificate is valid for 10 months from the date of issue. This is a system that authorises exporters in GSP beneficiary countries to issue a self-certificate known as a statement on origin for eligible goods to be imported under preference to the EU. Reciprocal schemes Most commonly, goods are covered by Form EUR1 provided by the exporter and stamped and signed by the customs authorities in the exporting country. In most cases, each form or declaration must only be used for one consignment of goods and is valid for 4, 10, or 12 months from the date of issue, depending on the country to which the goods are being exported. Alternatively, the exporter can use a legally approved form of words to declare on the invoice that the goods qualify for preferential origin status. There is a value limit on such exports - unless the exporter is approved by HMRC. For both schemes, you still need to use classification codes on the customs paperwork that accompanies the shipment as they are also used to collate international trade statistics. This entitles you to put the required preference declaration on the invoice and removes the requirement for a EUR1 Certificate. You may be able to speed regular shipments of identical goods through customs by using BOI. If you are taking your first steps as an importer or exporter be aware that you have to be registered as such. This service is available to all businesses in the UK. Enforcement HMRC regularly monitors goods that are being imported or exported under preference. You must keep all relevant paperwork for up to 3 years. In this case, the customer may expect you to repay the duty to them. See customs seizures and penalties. Find out more on EU preferences and their export procedures in Notice Or read more in the guide on Trade preference agreements: Guidance on exporting to specific countries You can get help on exporting under preference from the DIT overseas trade division. HMRC also offers guidance on the rules of origin for specific countries.

Chapter 4 : GKorea Rules of Origin Step 3: Find Rule of Origin | racedaydvl.com

1. Regulations Governing the Determination of Country of Origin of Imported Goods ã€• (/07/06) 2. Rules of Origin for Least-Developed Countries. Goods imported from a least-developed country shall be regarded as originating in that country, provided that.

Rules of Origin 1. They shall also include rules of origin used for government procurement and trade statistics. They shall not pose unduly strict requirements or require the fulfilment of a certain condition not related to manufacturing or processing, as a prerequisite for the determination of the country of origin. 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. The Committee may also request such other work from the Technical Committee as it considers appropriate for the furtherance of the above-mentioned objectives of this Agreement. Where appropriate, the Technical Committee shall request information and advice from the Committee on matters related to this Agreement. The Technical Committee may also request such other work from the Committee as it considers appropriate for the furtherance of the above-mentioned objectives of the Agreement. Each Member shall provide to the Secretariat, within 90 days after the date of entry into force of the WTO Agreement for it, its rules of origin, judicial decisions, and administrative rulings of general application relating to rules of origin in effect on that date. If by inadvertence a rule of origin has not been provided, the Member concerned shall provide it immediately after this fact becomes known. Lists of information received and available with the Secretariat shall be circulated to the Members by the Secretariat. In these exceptional cases, the Member shall publish the modified or new rule as soon as possible. The Committee shall annually inform the Council for Trade in Goods of developments during the period covered by such reviews. This may include instances where the rules need to be made more operational or need to be updated to take into account new production processes as affected by any technological change. Objectives and Principles 1. They should not themselves create restrictive, distorting or disruptive effects on international trade. They should not pose unduly strict requirements or require the fulfilment of a certain condition not relating to manufacturing or processing as a prerequisite for the determination of the country of origin. Negative standards may be used to clarify a positive standard. To ensure timely completion of the work programme for harmonization, such work shall be conducted on a product sector basis, as represented by various chapters or sections of the Harmonized System HS nomenclature. The results of this work shall be submitted to the Committee within three months of receipt of the request from the Committee. The Technical Committee shall complete the above work within one year and three months from receipt of the request of the Committee. The Technical Committee shall complete the above work within two years and three months of receipt of the request from the Committee. The Ministerial Conference shall establish the results of the harmonization work programme in an annex as an integral part of this Agreement. Technical Committee on Rules of Origin Responsibilities 1. The ongoing responsibilities of the Technical Committee shall include the following: The Technical Committee shall exercise such other responsibilities as the Committee may request of it. The Technical Committee shall attempt to conclude its work on specific matters, especially those referred to it by Members or the Committee, in a reasonably short period of time. Each Member shall have the right to be represented on the Technical Committee. Each Member may nominate one delegate and one or more alternates to be its representatives on the Technical Committee. Representatives of members of the Technical Committee may be assisted by advisers at meetings of the Technical Committee. The WTO Secretariat may also attend such meetings with observer status. Such representatives shall attend meetings of the Technical Committee as observers. Nominations of delegates, alternates and advisers to meetings of the Technical Committee shall be made to the Secretary-General. The Technical Committee shall meet as necessary, but not less than once a year. Recognizing that some Members apply preferential rules of origin, distinct from non-preferential rules of origin, the Members hereby agree as follows. The Members agree to ensure that: Such assessments shall remain valid for three years provided that

the facts and conditions, including the preferential rules of origin, under which they have been made remain comparable. Members agree to provide to the Secretariat promptly their preferential rules of origin, including a listing of the preferential arrangements to which they apply, judicial decisions, and administrative rulings of general application relating to their preferential rules of origin in effect on the date of entry into force of the WTO Agreement for the Member concerned. Furthermore, Members agree to provide any modifications to their preferential rules of origin or new preferential rules of origin as soon as possible to the Secretariat. Back to text 2. Back to text 3. In 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. Back to text 4. Back to text 5. If the criterion of manufacturing or processing operation is prescribed, the operation that confers origin on the product concerned shall be precisely specified. Back to text 6. At the same time, consideration shall be given to arrangements concerning the settlement of disputes relating to customs classification. Back to text 7. In respect of requests made during the first year from entry into force of the WTO Agreement, Members shall only be required to issue these assessments as soon as possible. Back to text Read a summary of the Agreement on Rules of Origin.

Chapter 5 : Administration | Define Administration at racedaydvl.com

The Administration has emphasized the importance of the auto rules of origin in the NAFTA context and has set out aggressive negotiating proposals. Advocates for imports outside of the NAFTA region assert that such strict rules will result in offshoring, not onshoring.

His ideal-typical bureaucracy, whether public or private, is characterized by: Wilson advocated a bureaucracy that "is a part of political life only as the methods of the counting house are a part of the life of society; only as machinery is part of the manufactured product. But it is, at the same time, raised very far above the dull level of mere technical detail by the fact that through its greater principles it is directly connected with the lasting maxims of political wisdom, the permanent truths of political progress. Although politics sets the tasks for administration, it should not be suffered to manipulate its offices". This essay became the foundation for the study of public administration in America. Ludwig von Mises[edit] In his work Bureaucracy , the Austrian economist Ludwig von Mises compared bureaucratic management to profit management. Profit management, he argued, is the most effective method of organization when the services rendered may be checked by economic calculation of profit and loss. When, however, the service in question can not be subjected to economic calculation, bureaucratic management is necessary. He did not oppose universally bureaucratic management; on the contrary, he argued that bureaucracy is an indispensable method for social organization, for it is the only method by which the law can be made supreme, and is the protector of the individual against despotic arbitrariness. Using the example of the Catholic Church, he pointed out that bureaucracy is only appropriate for an organization whose code of conduct is not subject to change. He then went on to argue that complaints about bureaucratization usually refer not to the criticism of the bureaucratic methods themselves, but to "the intrusion of bureaucracy into all spheres of human life. The former makes for stagnation and preservation of inveterate methods, the latter makes for progress and improvement. Merton[edit] American sociologist Robert K. He believed that bureaucrats are more likely to defend their own entrenched interests than to act to benefit the organization as a whole but that pride in their craft makes them resistant to changes in established routines. Merton stated that bureaucrats emphasize formality over interpersonal relationships, and have been trained to ignore the special circumstances of particular cases, causing them to come across as "arrogant" and "haughty". Elliott Jaques describes the discovery of a universal and uniform underlying structure of managerial or work levels in the bureaucratic hierarchy for any type of employment systems. Number of levels in a bureaucracy hierarchy must match the complexity level of the employment system for which the bureaucratic hierarchy is created Elliott Jaques identified maximum 8 levels of complexity for bureaucratic hierarchies. Roles within a bureaucratic hierarchy differ in the level of work complexity. The level of work complexity in the roles must be matched with the level of human capability of the role holders Elliott Jaques identified maximum 8 Levels of human capability. The level of work complexity in any managerial role within a bureaucratic hierarchy must be one level higher than the level of work complexity of the subordinate roles. Any managerial role in a bureaucratic hierarchy must have full managerial accountabilities and authorities veto selection to the team, decide task types and specific task assignments, decide personal effectiveness and recognition, decide initiation of removal from the team within due process. Lateral working accountabilities and authorities must be defined for all the roles in the hierarchy 7 types of lateral working accountabilities and authorities: They also have a practical application in business and administrative studies.

Chapter 6 : APEC RULES OF ORIGIN - CHINA

The Rules of Origin for the CAFTA-DR were largely modeled upon the North American Free Trade Agreement. Go directly to the product specific rules of origin (Annex) or see the Harmonized Tariff Schedule of the United States at General Note 29, page

Administrative agencies of various kinds e. Some do substantially the same kind of work as is done by courts and in substantially the same manner; others,â€¦ Defining principles One of the principal objects of administrative law is to ensure efficient, economical, and just administration. A system of administrative law that impedes or frustrates administration would clearly be bad, and so, too, would be a system that results in injustice to the individual. But to judge whether administrative law helps or hinders effective administration or works in such a way as to deny justice to the individual involves an examination of the ends that public administration is supposed to serve, as well as the means that it employs. In this connection only the broadest generalities can be attempted. It can be asserted that all states, irrespective of their economic and political system or of their stage of development, are seeking to achieve a high rate of economic growth and a higher average income per person. They are all pursuing the goals of modernization, urbanization, and industrialization. They are all trying to provide the major social services, especially education and public health, at as high a standard as possible. The level of popular expectation is much higher than in former ages. The government is expected not only to maintain order but also to achieve progress. There is a widespread belief that wise and well-directed government action can abolish poverty, prevent severe unemployment, raise the standard of living of the nation, and bring about rapid social development. People in all countries are far more aware than their forefathers were of the impact of government on their daily lives and of its potential for good and evil. The growth in the functions of the state is to be found in the more-developed and in the less-developed countries; in both old and new states; in democratic, authoritarian , and totalitarian regimes; and in the mixed economies of the West. The movement is far from having reached its zenith. With each addition to the functions of the state, additional powers have been acquired by the administrative organs concerned, which may be central ministries, local, provincial, or regional governments, or special agencies created for a particular purpose. Distinctions between public administration and private action Activities such as traffic control , fire-protection services, policing, smoke abatement, the construction or repair of highways, the provision of currency, town and country planning, and the collection of customs and excise duties are usually carried out by governments, whose executive organs are assumed to represent the collective will of the community and to be acting for the common good. It is for this reason that they are given powers not normally conferred on private persons. To take another example, the postal laws of many countries favour the post office at the expense of the customer in a way unknown where common carriers are concerned. Again, a public authority involved in slum clearance or housing construction tends to be in a much stronger legal position than a private developer. The result of the distinction between public administration and private action is that administrative law is quite different from private law regulating the actions, interests, and obligations of private persons. Civil servants do not generally serve under a contract of employment but have a special status. Taxes are not debts, nor are they governed by the law relating to the recovery of debts by private persons. In addition, relations between one executive organ and another, and between an executive organ and the public, are usually regulated by compulsory or permissive powers conferred upon the executive organs by the legislature. The law regulating the internal aspects of administration e. In practice, internal and external aspects are often linked, and legal provisions of both kinds exist side by side in the same statute. Thus, a law dealing with education may modify the administrative organization of the education service and also regulate the relations between parents and the school authorities. Another distinction exists between a command addressed by legislation to the citizen, requiring him to act or to refrain from acting in a certain way, and a direction addressed to the administrative authorities. When an administrative act takes the form of an unconditional command addressed to the citizen, a fine or penalty is usually attached for failure to comply. In some countries the enforcement is entrusted to the criminal courts, which can review the administrative act; in

others the administrative act itself must be challenged in an administrative court. The need for legal safeguards over public administration Statutory directions addressed to the executive authorities may impose absolute duties, or they may confer discretionary powers authorizing a specified action in certain circumstances. Such legislation may give general directions for such activities as factory inspection, slum clearance, or town planning. The statute lays down the conditions under which it is lawful for the administration to act and confers on the authorities the appropriate powers, many of which involve a large element of discretion. Here the executive is not confined merely to carrying out the directions of the legislature; often it also shares in the lawmaking process by being empowered to issue regulations or ordinances dealing with matters not regulated by the statute. This may be regarded either as part of the ordinary process by which the legislature delegates its powers or as an inevitable feature of modern government, given that many matters are too technical, detailed, or subject to frequent change to be included in the main body of legislationâ€”legislation being less easy to change than regulations. For instance, the regulation must not exceed the delegated powers; its provisions must conform with the aims of the parent statute; prior consultation with interests likely to be affected should take place whenever practicable; and the regulations must not contravene relevant constitutional rules and legal standards. In some countries regulations are scrutinized by a type of watchdog known as the council of state before they come into force; in others, by the parliamentary assembly; and in yet others, by the ordinary courts. In most countries the executive arm of government possesses certain powers not derived from legislation, customary law, or a written constitution. In the United Kingdom there are prerogative powers of the crown, nearly all of which are now exercised by ministers and which concern such matters as making treaties, declaring war and peace, pardoning criminals, issuing passports, and conferring honours. In Italy, France, Belgium, and other continental European countries, certain acts concerning the higher interests of the state are recognized as actes de gouvernement and are thereby immune from control by any court or administrative tribunal. In the German Empire â€” the principle that an administrative act carried its own legal validity was accepted at the end of the 19th century by leading jurists. This led to the doctrine that administration was only loosely bound to the law. The doctrine was rejected in the Federal Republic of Germany â€”90 , however, and efforts were made to reduce the area in which the executive was free to act outside administrative law. Bureaucracy and the role of administrative law An inevitable consequence of the expansion of governmental functions has been the rise of bureaucracy. The number of officials of all kinds has greatly increased, and so too have the material resources allocated to their activities, while their powers have been enlarged in scope and depth. The rise of bureaucracy has occurred in countries ruled by all types of government, including communist countries, dictatorships and fascist regimes, and political democracies. It is as conspicuous in the former colonial states of Africa and Asia as among the highly developed countries of western Europe or North America. A large, strong, and well-trained civil service is essential in a modern state, irrespective of the political character of its regime or the nature of its economy. Fear of the maladies that tend to afflict bureaucracy has produced a considerable volume of protest in some countries; and, even in those where opposition to the government or the party in power is not permitted, criticism and exposure of bureaucratic maladministration are generally encouraged. Bureaucratic maladies are of different kinds. They include an overdevotion of officials to precedent , remoteness from the rest of the community, inaccessibility, arrogance in dealing with the general public, ineffective organization, waste of labour, procrastination, an excessive sense of self-importance, indifference to the feelings or convenience of citizens, an obsession with the binding authority of departmental decisions, inflexibility, abuse of power, and reluctance to admit error. Many of these defects can be prevented or cured by the application of good management techniques and by the careful training of personnel. A whole range of techniques is available for this purpose, including effective public relations , work-study programs, organization and management, operational research , and social surveys. Administrative law is valuable in controlling the bureaucracy. Under liberal-democratic systems of government, political and judicial control of administration are regarded as complementary, but distinct. The former is concerned with questions of policy and the responsibility of the executive for administration and expenditure. The latter is concerned with inquiring into particular cases of complaint. Administrative law does not include the control of policy by ministers or the head of state. Judicial review of administration Judicial

review of administration is, in a sense, the heart of administrative law. It is certainly the most appropriate method of inquiring into the legal competence of a public authority. An administrative act or decision can be invalidated on any of these grounds if the reviewing court or tribunal has a sufficiently wide jurisdiction. There is also the question of responsibility for damage caused by the public authority in the performance of its functions. Judicial review is less effective as a method of inquiring into the wisdom, expediency, or reasonableness of administrative acts, and courts and tribunals are unwilling to substitute their own decisions for that of the responsible authority. Judicial review of administration varies internationally. Sweden and France, for instance, have gone as far as subjecting the exercise of all discretionary powers, other than those relating to foreign affairs and defense, to judicial review and potential limitation. Elsewhere, a preoccupation with procedure results in judicial review deciding only whether the correct procedure was observed rather than examining the substance of the decision. It is of course impractical to subject every administrative act or decision to investigation, for this would entail unacceptable delay. The complainant must, therefore, always make out a prima facie case that maladministration has occurred. Judicial review cannot compel the state to act in a particular way because the courts concerned cannot impose sanctions on the government, which itself controls the use of force. Such remedies as an injunction, an order for specific performance, or an order for mandamus will not lie against the central government. These inhibitions, however, are of less practical importance than might be supposed. Nevertheless, nearly all governments even revolutionary ones are eager to proclaim the lawfulness of the regime and seldom disregard the decisions of an authorized court or tribunal. There are, broadly, three major systems: The King harangued the judges more than once on their duty to respect the royal prerogative and power. In the constitutional conflict that took place a generation later, the judges and the lawyers made common cause with Parliament against Charles I, and eventually the independence of the judges was established. Henceforth there was to be one system of law to which all would owe obedience. As a result, the executive possessed no inherent powers other than those subject to the rule of law inasmuch as legislation now had to emanate from the crown in Parliament. In addition, the judges were expected to protect the subject against the executive. The earlier conflict between crown and judges survived to become an antagonism between the legal profession and the executive, particularly the civil service. These developments established the principle that the executive should never interfere with the judiciary in the exercise of its functions. This was, indeed, almost the only strict application in England of the doctrine of the separation of powers. On the other hand, it was regarded as right and proper that the judiciary should interfere with the executive whenever a minister or a department was shown to have acted illegally. In this way the concept of the rule of law came gradually to be identified with the idea that the judges, in ordinary legal proceedings in the ordinary courts, could pronounce upon the lawfulness of the activities of the executive. The principle that all public authorities are liable to have the lawfulness of their acts and decisions tested in the ordinary courts was applied everywhere the common law prevailed, including the United States , despite the much stricter interpretation given by the Founding Fathers there to the doctrine of the separation of powersâ€”a doctrine embodied in the federal and state constitutions. A complete separation of powers was not considered feasible by the framers of the Constitution, and they therefore introduced checks and balances , whereby each of the three branches of government would be prevented from growing too powerful by the countervailing power of the others. This actually strengthened the power of the courts to review the actions of the executive. Elsewhere in the common-law world, the extended role of the courts in reviewing administration was adopted without any public debate concerning the separation of powers or the need to protect liberty by a system of checks and balances. This absence of an explicitly defined role for courts led, in the early post-World War II years in Britain, to real fears that the courts would be unable or unwilling to question the expanded powers of governmental bodies. Modification of the common-law system The common-law system was extensively modified in the course of the 20th century. Since a permanent Council on Tribunals appointed by the lord chancellor has exercised a general supervision over about 40 tribunal systems, but they remain an unsystematic and uncoordinated movement. However, they provide a method of administrative adjudication far cheaper, more informal, and more rapid than that offered by the courts; the members are persons possessing special knowledge and experience of the subject dealt with; they do not have

to follow the strict and complex rules of evidence that prevail in the courts; and it is possible to introduce new social standards and moral considerations to guide their decisions. These tribunals have won general approval for the quality and impartiality of their work. An appeal on a question of law lies in most instances from the decision of an administrative tribunal to the High Court of Justice. There is still no comprehensive administrative jurisdiction in Britain permitting judicial review over the whole field of executive action and decision. In Australia a similar movement took place with the growth of a large number of administrative tribunals that regulate many different spheres of public administration, such as industrial conditions; the award of pensions, allowances, and other state grants; town planning; censorship of films; fair rents; the licensing of occupations calling for special skills or public responsibility; trade, transport, and marketing; the assessment of national taxes, local taxes, or duties; the protection of industrial design , patents, and copyrights; and compensation for interference with private-property rights in the public interest. From these tribunals were managed by the Administrative Appeals Tribunal. In the United States the courts review administration much more comprehensively than in Britain. Nevertheless, much adjudication is now performed by public authorities other than the courts of law. The movement toward administrative tribunals began with the Interstate Commerce Act , establishing the Interstate Commerce Commission to regulate railways and other carriers. This law introduced a new type of federal agency , outside the framework of the executive departments and largely independent of the president.

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Revision to Rules of Origin Following exchanges of letters between Ambassador Froman and Korean Trade Minister Yoon, and between Ambassador Froman and Korean Ambassador Ahn, the United States and Korea have agreed on a conversion of the U.S.-Korea Free Trade Agreement's product-specific rules of origin (Annex 4-A, Annex 6-A, and Appendix 6-A-1 of the FTA).

Their importance is derived from the fact that duties and restrictions in several cases depend upon the source of imports. There is wide variation in the practice of governments with regard to the rules of origin. While the requirement of substantial transformation is universally recognized, some governments apply the criterion of change of tariff classification, others the ad valorem percentage criterion and yet others the criterion of manufacturing or processing operation. In a globalizing world it has become even more important that a degree of harmonization is achieved in these practices of Members in implementing such a requirement. Where are rules of origin used? Rules of origin are used: Each contracting party was free to determine its own origin rules, and could even maintain several different rules of origin depending on the purpose of the particular regulation. The draftsmen of the General Agreement stated that the rules of origin should be left: In fact, misuse of rules of origin may transform them into a trade policy instrument per se instead of just acting as a device to support a trade policy instrument. Given the variety of rules of origin, however, such harmonization is a complex exercise. Not much more work was done on rules of origin until well into the Uruguay Round negotiations. Aims of the Agreement Harmonization The Agreement on Rules of Origin aims at harmonization of non-preferential rules of origin, and to ensure that such rules do not themselves create unnecessary obstacles to trade. General principles Until the completion of the three-year harmonization work programme, Members are expected to ensure that their rules or origin are transparent; that they are administered in a consistent, uniform, impartial and reasonable manner; and that they are based on a positive standard. Thus, the Agreement covers only rules of origin used in non-preferential commercial policy instruments, such as MFN treatment, anti-dumping and countervailing duties, safeguard measures, origin marking requirements and any discriminatory quantitative restrictions or tariff quotas, as well as those used for trade statistics and government procurement. Its main functions are a to carry out the harmonization work; and b to deal with any matter concerning technical problems related to rules of origin. It is to meet at least once a year. While substantial progress was made in that time in the implementation of the HWP, it could not be completed due to the complexity of issues. Definitions of goods being wholly obtained To provide harmonized definitions of the goods that are to be considered as being wholly obtained in one country, and of minimal operations or processes that do not by themselves confer origin to a good; Last substantial transformation Change of tariff heading To elaborate, on the bases of the criteria of substantial transformation, the use of the change of tariff classification when developing harmonized rules of origin for particular products or sectors, including the minimum change within the nomenclature that meets this criterion. Supplementary criteria To elaborate supplementary criteria, on the basis of the criterion of substantial transformation, in a manner supplementary or exclusive of other requirements, such as ad valorem percentages with the indication of its method of calculation or processing operations with the precise specification of the operation. Minimal operations or processes. When doing this, the Ministerial Conference is also to give consideration to arrangements for the settlement of disputes relating to customs classification and to establish a time-frame for the entry into force of the new annex. Assessments of origin remain valid for three years provided the facts and conditions remain comparable, unless a decision contrary to such assessment is made in a review referred to in j. This advance information on origin is considered as a great innovation of the Agreement; i new rules of origin or modifications thereof do not apply retroactively; j any administrative action 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; such findings can modify or even reverse the determination; k confidential information is not disclosed without the specific permission of the person providing such information, except to the extent that this may be required in the context of judicial

proceedings.

Chapter 8 : Is the Trump Administration Looking at Rules of Origin in KORUS? | American Phoenix

provisions of the rules of origin in this Section and which are used in the production of another good. Administration of Customs of China. Rule

This essentially widens the definition of originating products and provides flexibility to develop economic relations between countries within a free trade area. This promotes regional economic integration amongst members of a free trade area. The basic rules of origin specify that only products which are either produced entirely in a specific country wholly obtained or sufficiently transformed according to the relevant origin rules may be regarded as originating in that country. Wider cumulation provisions offer greater freedom in sourcing to exporters. While wider cumulation rules make countries more competitive in manufacturing processes and thus more attractive for foreign direct investments, wider cumulation rules may, however, increase the possibility of unintended utilization of preferences by countries which do not participate in a preferential area. The most common concept is bilateral cumulation. It goes without saying that a free trade area generally promotes intra-regional trade which can change sourcing patterns. Especially Article XXIV, paragraph 4 of GATT stipulates that the purpose of a customs union or a free trade area should contribute to facilitating trade between the constituent territories and not raise barriers for the trade with other countries. But the views on how they do it are divided. The European origin legislation mostly offers the possibility of diagonal cumulation to its free trade partners, meaning the possibility to cumulate with originating inputs. Diagonal cumulation is also foreseen for the European partner countries in the Balkans and the Mediterranean rim Euro-Med and the Mediterranean countries are gradually integrated into the diagonal cumulation system offered by the Euro-Med cumulation. Diagonal cumulation also offers a better economic integration for members of a regional group of beneficiary countries in the European GSP scheme. The NAFTA accumulation is in fact a full cumulation concept for the calculation of the regional value content requirement. However, compared to the European concept of cumulation, the NAFTA accumulation allows the use of origin conferring manufacturing stages solely for the calculation of the regional value content which is only one element of the origin determination. All other requirements set out in the product specific origin rules, such as tariff classification changes required for non-originating materials must be fulfilled anyway. The ASEAN origin legislation offers regional accumulation that allows only originating materials to benefit from regional accumulation goods which have obtained originating status according to the ASEAN model. In short, this means that materials originating in one member state of the ASEAN origin legislation shall be considered as originating materials in the other state. The TPP origin legislation offers full cumulation and this means that manufacturing processes can be carried out in different territories of the parties provided that processing has been done within several TPP parties within the same preferential area. A producer may only be sure to comply with the specific origin rules when he knows what kind of origin conferring contributions were provided by previous manufacturers the use of originating or non-originating input in the case of cumulation with originating inputs or the totality of the share of origin contributions in the manufacturing chain for the overall assessment of total or full cumulation. Inputs used under full cumulation may be imported without preferences with the consequence that origin relevant inputs for the use of full cumulation must be indicated separately i.

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