



WORLD CUSTOMS ORGANIZATION

TECHNICAL GUIDELINES ON ADVANCE RULINGS FOR CLASSIFICATION, ORIGIN AND VALUATION



RP

Revenue Package

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TECHNICAL GUIDELINES ON ADVANCE RULINGS FOR CLASSIFICATION, ORIGIN AND VALUATION

Introduction

1. Recognizing the need to promote trade facilitation and uniform interpretation and application of the Harmonized System, Rules of Origin and the WTO Valuation Agreement, the WCO has provided various tools for Member administrations to assist the work of Customs, including Guidelines and Recommendations on advance rulings.
2. The current tools are, in the case of classification, the Council Recommendation on the Introduction of Programmes for Binding Pre-entry Classification Information (1996) and a comprehensive Recommendation on the Improvement of Tariff Classification Work and Related Infrastructure (1998); in the case of valuation, the Practical Guidelines for Valuation Control (2012); and, in the case of origin, Technical Guidelines on Binding Origin Information (2011). Additionally, the Agreement on Rules of Origin sets ground rules for assessments of origin, which apply to advance rulings and are referred to in these Guidelines.
3. In order to harmonize and modernize the guidance on advance rulings in the three areas, and taking into account Article 3 (Advance rulings) of the Bali Ministerial decision on the Agreement on Trade Facilitation (TFA), the WCO has developed a single document covering procedures for issuing advance rulings on the classification of goods, rules of origin and Customs valuation.¹
4. The key objective of pre-entry advance ruling programmes is to provide decisions on the classification, origin and valuation of commodities prior to their importation or exportation, thus adding certainty and predictability to international trade and helping traders to make informed business decisions based on legally binding rulings. Customs administrations also benefit from having advance knowledge of future importations which is useful for risk management purposes.
5. The technical guidelines below are aimed at providing assistance to the relevant bodies in the practical implementation and application of advance ruling programmes. The guidelines are not binding and do not seek to challenge procedures already established or to be established by Members.

¹ Article 3 of the WTO TFA requires Members to issue advance rulings regarding the tariff classification and the preferential and non-preferential origin of goods in accordance with the provisions of that article. Members are also encouraged to issue advance rulings for other areas such as Customs valuation, requirements for relief or exemption from Customs duties, requirements for quotas and any additional matters where a Member considers it appropriate to issue an advance ruling.

Definitions and scope

6. For the purposes of these technical guidelines :
- (a) an advance ruling on classification, origin or valuation is an official written decision issued by a competent authority which provides the applicant with an assessment of (i) the classification of goods in the Customs tariff nomenclature of the respective country or Customs territory; (ii) origin ², or (iii) the treatment which should be applied on a certain element of the Customs value, prior to an import or export transaction, for a specified period;
 - (b) the competent authority is the Customs administration or designated body responsible for the issuance of advance rulings;
 - (c) the applicant is an importer, exporter, producer or any person with a justifiable cause or a representative thereof who has applied to a competent authority for an advance ruling on classification, origin or valuation. ³

Application for advance rulings on classification, origin and valuation

7. An application for advance ruling on classification, origin or valuation shall be made in writing to a competent authority and relate to only one good. It may be made by means of a standardized form. For reference, see the examples shown in the Appendixes.
8. The requirements for the application of an advance ruling shall be published, including (i) the information to be provided and the format, (ii) the time period by which the competent authority will issue an advance ruling, and (iii) the length of time for which the advance ruling is valid.
9. An application for an advance ruling for *classification and origin* shall contain all necessary information reasonably required to process a request for assessment of the classification or origin of the good, including:
- (a) the name and address of the applicant;
 - (b) a detailed description of the goods;
 - (c) *in the case of classification*, the classification of goods envisaged;
 - (d) *in the case of classification*, the basis for the classification of the goods;

² Advance rulings apply to preferential and non-preferential origin.

³ Article 3.9 (d) of the TFA, establishes that a Member may require that the applicant have legal representation or registration in its territory. To the extent possible, such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium-sized enterprises. These requirements shall be clear and transparent and not constitute a means of arbitrary or unjustifiable discrimination.

- (e) *in the case of origin*, the country of origin envisaged for the goods;
- (f) *in the case of origin*, the applicable legal basis, i.e., stating whether the advance ruling required is for preferential or non-preferential purposes;
- (g) the composition of the goods and any methods of examination used to determine this, as needed;
- (h) any samples, photographs, plans, catalogues, copies of technical literature, photographs, brochures, laboratory analysis results, or other documents available on the composition of the goods and their component materials which may assist in describing the manufacturing process or the processing undergone by the materials or any other documents that may assist the competent authority in determining the correct classification, or origin of the goods;
- (i) *in the case of origin*, the conditions enabling origin to be determined, the materials used and their origin, tariff classification, corresponding values and a description of the circumstances (rules on change of tariff heading, value added, description of the operation or process, or any other specific rule) enabling the conditions in question to be met; in particular the exact rule of origin applied shall be mentioned;
- (j) whether the goods in question are the subject of a classification or origin verification process, or any instance of review or appeal before any governmental agency, appellate tribunal or court;
- (k) any information to be treated as confidential, whether in relation to the public or the administrations;
- (l) an indication by the applicant whether, to his knowledge, advance rulings for goods or materials identical or similar to those referred to under subparagraphs (b) together with (c) or (i) above have already been applied for or issued.

10. In the case of *valuation*, an application for advance ruling shall include a complete statement of all relevant facts relating to the transaction(s), including:

- (a) the name and address of the applicant;
- (b) description of the nature of the transaction(s), (contract, terms of sale, etc.);
- (c) any relationship between the parties;
- (d) specific information, depending on the issue in question. For example, if the issue is whether the commission paid by the buyer is a buying or selling commission (or whether an agency relationship exists), all details and documentation pertaining to the roles of the parties and the payment of the commission would need to be submitted. If the issue

concerns a royalty payment potentially includable under Article 8.1 (c) of the WTO Valuation Agreement, the license/royalty agreement and sales contract should be presented along with other relevant information;

- (e) if the question or questions presented in the ruling request directly relate to matters set forth in any invoice, contract, agreement, or other document, a copy of the document(s) should be submitted with the request;
 - (f) a statement that there are, to the best of the importer's knowledge, no issues concerning the transaction(s) for which a ruling is sought pending before any Customs offices or ports of entry or before any governmental agency, appellate tribunal or court;
 - (g) whether advice has been previously sought from Customs concerning the transaction(s) for which a ruling is sought, and if so, then from whom and what advice was given, if any;
 - (h) the applicant may also state their own opinion or position in the ruling request;
 - (i) any information to be treated as confidential, whether in relation to the public or the administrations; and
 - (j) any other information relevant to determine the value under the Agreement.
11. On receipt of the application for advance ruling, the competent authority shall:
- (a) notify the applicant that the request has been received; and
 - (b) ask the applicant to supply additional information where the competent authority considers that the application does not contain all the information required to give an informed opinion.
12. Any application for advance ruling may be withdrawn by the applicant submitting it at any time before the issuance of advance ruling by a competent authority.

Issuance of advance rulings on classification, origin and valuation

13. Advance rulings shall be issued in a reasonable, time bound manner after receipt of an application for advance ruling, provided that all necessary information have been submitted. In the case of an advance ruling on origin, as required in the Agreement on Rules of Origin, a decision must be issued as soon as possible but no later than 150 days.

14. Advance rulings on classification, origin and valuation shall be issued in writing to the applicant with:
- (a) an indication of what particulars will be treated as confidential; and
 - (b) a notification of the right of review and appeal of the advance ruling.

Declining and postponing issuance of advance rulings on classification, origin and valuation

15. If the issuance of an advance ruling on classification, origin or valuation is declined or postponed, the competent authority shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.
16. The issuance of an advance ruling may be declined or postponed where the applicant fails to provide additional information requested under paragraph 11(b) within the period specified.
17. The issuance of an advance ruling may be declined where a good is the subject of a classification or origin verification process or where a transaction is the subject of a valuation verification process, or any instance of review or appeal before any governmental agency, appellate tribunal or court.
18. The issuance of an advance ruling may be declined where the classification, origin or valuation of a good has already been decided by an appellate tribunal or court.

Effect of advance rulings on classification, origin and valuation

19. Advance rulings on classification, origin and valuation shall be binding, in accordance with the terms set out therein, on the authority that issued the advance ruling in respect of the applicant that sought it.
20. Advance rulings may be binding on the applicant to whom the advance ruling was issued.
21. Advance rulings shall be effective from the date on which they were issued. Advance rulings shall specify the date until which they remain valid.
22. The decision shall remain valid for at least one year from the date of issuance of the advance ruling, subject to paragraph 25 or 28. In the case of origin, as per the Agreement on Rules of Origin, the advance ruling shall remain valid for three years provided that the facts and conditions, including rules of origin, under which they have been made remain comparable.

23. Advance rulings shall be applied only with respect to goods that are imported or exported on or after the effective date of the advance ruling and are the subject of the advance ruling.
24. Advance rulings may be used in respect of a particular good only where it is established to the satisfaction of the authority that the good in question and the circumstances determining its classification and its origin conform in all respects to those described in the advance ruling.

Annulment of advance rulings on classification, origin and valuation

25. An advance ruling may be annulled if it was given on the basis of incomplete, incorrect, false or misleading information provided by the applicant.
26. Where, pursuant to paragraph 25, an advance ruling is annulled, the applicant to whom the advance ruling was issued shall be notified of the annulment in writing. This notification shall set out the relevant facts and basis for the decision.
27. An annulment of an advance ruling takes effect from the date on which the advance ruling was issued.

Modification, revocation or invalidation of advance rulings on classification, origin and valuation

28. Where an advance ruling is modified, revoked or invalidated, the applicant to whom the advance ruling was issued shall be notified in writing of :
- (a) any modification, revocation or invalidation of the advance ruling;
 - (b) the effective date of the modification, revocation or invalidation;
 - (c) the relevant facts; and
 - (d) the basis for the modification, revocation or invalidation.

Effect of modification, revocation or invalidation

29. A modification, revocation or invalidation of an advance ruling on classification, origin or valuation shall be effective:
- (a) from the date on which the modification, revocation or invalidation is issued; and
 - (b) *in the case of modification and revocation*, until such date as may be specified in the notice given.

30. Subject to paragraph 31, a modification or revocation of an advance ruling shall be applied only with respect to goods that are imported or exported on or after the effective date of modification or revocation and are the subject of the advance ruling.

Retroactive application of modification, revocation or invalidation

31. A modification, revocation or invalidation of an advance ruling on classification, origin or valuation may be applied with retroactive effect only where the advance ruling was based on incomplete, incorrect, false or misleading information.

Postponed application of modification or revocation

32. The effective date of a modification or revocation of an advance ruling shall be postponed if the person to whom the advance ruling was issued demonstrates that he has relied on that advance ruling in good faith and that the modification or revocation is to his detriment.
33. Postponement made under paragraph 32 shall be notified in writing to the person to whom the advance ruling was issued.

Right of Review

34. A Member administration shall provide that any applicant who has received an advance ruling from a competent authority may request, in writing, a review regarding that advance ruling, including any modification, revocation, annulment or invalidation of it.
35. A Member administration shall⁴ provide that an applicant may request a review of a competent authority's decision to decline the issuance of an advance ruling.
36. A Member administration shall provide that a review referred to in paragraph 34 may, either before or after the ruling has been acted upon, be provided by (i) the official, office, or authority that issued the ruling; (ii) a higher or independent administrative authority; or (iii) a judicial authority.⁵

Right of Appeal

37. A Member administration shall establish a right of appeal for declination of the competent authority to issue an advance ruling to the applicant and shall establish a right of appeal for applicants who have received advance rulings.⁶ The right of appeal may include access to an

⁴ The word "shall" applies to decisions with a legal effect that affects rights and obligations of a specific person in individual cases in accordance with Article 4.1 of the TFA.

⁵ See also Article 3.7 footnote 2(b) of the TFA.

⁶ The word "shall" applies to decisions with a legal effect that affects rights and obligations of a specific person in individual cases in accordance with Article 4.1 of the TFA.

administrative appeal by an administrative authority higher than or independent of the official or office that issued the decision and/or a judicial appeal of the advance ruling.

Publication and confidentiality

38. Subject to paragraph 39, all endeavors shall be made to make any information on advance rulings on classification, origin and valuation, which may be of significant interest to other parties publicly available, including via the Internet.

39. All information that is by nature confidential or that is provided on a confidential basis for the purpose of the application of advance rulings shall be treated as strictly confidential by the authorities concerned, which shall not disclose it without the specific permission of the person or government providing such information, except to the extent that may be required to be disclosed in the context of judicial proceedings.

APPENDIX A : APPLICATION FOR ADVANCE RULING (CLASSIFICATION)

<p>1. Applicant (name, address)</p>	<p>For Official Use</p> <p>Date of receipt:</p> <p>Date of issue:</p>
<p>2. Description of Goods</p>	
<p>3. Enclosures being submitted to assist with classification of the goods</p> <p>Samples <input type="checkbox"/> Photographs <input type="checkbox"/> Plans <input type="checkbox"/> Catalogues <input type="checkbox"/> Other <input type="checkbox"/></p>	
<p>4. Commercial designation and additional information</p>	
<p>5. Classification envisaged by applicant (Customs tariff nomenclature code)</p>	
<p>6. General Interpretative Rule(s) considered being applicable for the classification envisaged. (In this box applicant can moreover provide any additional information justifying the classification envisaged in box 5.)</p>	
<p>7. Have you previously applied for an advance ruling for identical or similar goods ? <input type="checkbox"/>Yes <input type="checkbox"/>No</p> <p>If yes, please give details</p>	
<p>8. Are you aware of existence of an advance ruling for identical or similar goods ? <input type="checkbox"/>Yes <input type="checkbox"/>No</p> <p>If yes, please give details</p>	
<p>9. Are you aware whether the goods are the subject of a classification verification process or any instance of review or appeal before any governmental agency, appellate tribunal or court ? <input type="checkbox"/>Yes <input type="checkbox"/>No</p> <p>If yes, please give details</p>	
<p>I declare that all information and statements on this form and any attachment is true, accurate and complete to the best of my knowledge and belief.</p> <p>Applicant's Signature:</p> <p>Date:</p> <p>Telephone: Fax: E-Mail Address:</p>	

* Please attach an additional sheet if you need more space

Notes on the Completion of the Application Form

The following explanatory notes provide specific guidance on the completion of the Application for Advance Ruling (Classification). Please read them carefully before completing your application.

Box 1. Applicant (name and address)

For these purposes, an applicant means a person who has applied to the Customs authorities for an advance ruling. Full name and address of the applicant should be provided.

Box 2. Description of goods

A description of the goods in question should be sufficiently detailed to enable the goods to be identified and classified in the Customs tariff nomenclature. Also, detailed information about the composition of the goods (where the classification depends on it), degree of processing, make-up (retail packings, etc.), intended use, commercial denomination, any trade name(s) or identification marks should be provided.

Box 3. Enclosures being submitted to assist with advance ruling of the goods

Any samples, photographs, plans, catalogues or other documents available, which may assist in determining the correct classification of the goods in the Customs tariff nomenclature, should be attached as annexes, if necessary.

Box 4. Commercial designation and additional information

Any information which applicant wishes to be treated as confidential including the trademark and model number of the goods should be indicated.

Box 5. Classification envisaged by applicant (Customs tariff nomenclature code)

The applicant is invited to express a view as to the commodity code for the goods envisaged.

Box 6. General Interpretative Rule(s) considered being applicable for the classification envisaged

The applicant is invited to express a view as to which General Interpretative Rule, or Rules, would constitute the legal basis for the classification envisaged (Box 5). The applicant can moreover provide any additional information in support of the classification envisaged in Box 5.

Box 7. Have you previously applied for an advance ruling for identical or similar goods?

An indication as to whether the applicant has previously applied for an advance ruling for identical or similar goods should be given here. Details with regard to that application should also be included.

Box 8. Are you aware of existence of an advance ruling for identical or similar goods?

Any knowledge on the part of the applicant of the existence of an earlier advance ruling in respect of goods of the same kind should be indicated, quoting references.

Box 9. Are you aware whether the goods are the subject of a classification verification process or any instance of review or appeal before any governmental agency, appellate tribunal or court ?

Any knowledge on the part of the applicant of the existence of a classification verification process or any instance of review or appeal before any governmental agency, appellate tribunal or court with respect to the goods should be indicated, quoting references.

APPENDIX B : APPLICATION FOR ADVANCE RULING (ORIGIN)

1. Applicant (name, address)					For Official Use Date of receipt : Date of issue :				
2. Importer, exporter, producer, and the agent (name, address) (if known)									
3. Legal framework (preferential/non-preferential)									
4. Description of Goods					5. Tariff Classification of Goods				
6. Description of materials used in manufacture					7. Rule considered to be satisfied				
Materials	HS	Origin	Value	Other					
8. Country of Origin envisaged by applicant Country of Origin Country of export (where different) Country of import									
9. Enclosures being submitted to assist with determining the origin of the goods Samples <input type="checkbox"/> Photographs <input type="checkbox"/> Plans <input type="checkbox"/> Catalogues <input type="checkbox"/> Other <input type="checkbox"/>									
10. Commercial designation and additional information									
11. Have you previously applied for an advance ruling for identical or similar goods ? If yes, please give details									
12. Are you aware of existence of an advance ruling for identical or similar goods ? If yes, please give details									
13. Are the goods subject to origin verification process or any instance of review or appeal before any governmental agency, appellate tribunal or court ? If yes, please give details									
I declare that all information and statements on this form and any attachment is true, accurate and complete to the best of my knowledge and belief. Applicant's Signature: Date: Telephone: Fax: E-Mail Address:									

* Please attach an additional sheet if you need more space

Notes on the Completion of the Application Form

The following explanatory notes provide specific guidance on the completion of the Application for Advance Ruling (Origin). Please read them carefully before completing your application.

Box 1. Applicant (name and address)

For the purpose of an advance ruling, an applicant means a person who has applied to the customs authorities for an advance ruling.

Box 2. Importer, exporter, producer, and the agent (name, address) (if known)

Name and address of importer, exporter, producer, and the agent, if applicable, should be provided.

Box 3. Legal framework (preferential/non-preferential)

Applicant should state whether the advance ruling required is for preferential or non-preferential purposes. If an advance ruling is required for preferential origin purposes, applicant should indicate which regime applies.

Box 4. Description of Goods

A description of the goods in question should be sufficiently detailed to enable the goods to be identified (and classified in the Customs nomenclature). Also, detailed information about the composition of the goods and the methods used to determine their composition should be provided.

Box 5. Tariff Classification of Goods

The full commodity code for the goods concerned should be provided.

Box 6. Description of Materials used in manufacture

A detailed description of the goods should be provided. Using the columns and headings provided, applicant should list all the materials/components/parts used in manufacture, together with their country of origin, tariff heading, and value.

Box 7. Rule considered to be satisfied

The preferential or non-preferential origin rule which is considered to be appropriate to the product concerned should be explained. In addition, applicant should explain how that rule has been met in the country of manufacture/origin by providing a full and detailed description of all stages of any manufacturing process.

Box 8. Country of Origin envisaged by applicant

The applicant is invited to express a view as to the country of origin envisaged.

Box 9. Enclosures being submitted to assist with determining the origin of the goods

Any samples, photographs, plans, catalogues or other documents available relative to the composition of the goods or their constituent materials which may illustrate the working or manufacturing process which those materials have undergone should be attached as annexes, if necessary.

Box 10. Commercial designation and additional information

Any information which applicant wishes to be treated as confidential including the trademark and model number of the goods should be indicated.

Box 11. Have you previously applied for an advance ruling for identical or similar goods?

An indication as to whether the applicant has previously applied for advance ruling for identical or similar goods should be given here. Details with regard to that application should also be included.

Box 12. Are you aware of existence of an advance ruling for identical or similar goods?

Any knowledge on the part of the applicant of the existence of earlier advance ruling in respect of goods of the same kind should be indicated, quoting references.

Box 13. Are the goods subject to origin verification process or any instance of review or appeal before any governmental agency, appellate tribunal or court?

The applicant should inform the competent authority responsible for the issuance of advance rulings, if the goods are subject to origin verification or any instance of review or appeal before any governmental agency, appellate tribunal or court.
