



CABINET OF MINISTERS OF UKRAINE

RESOLUTION

N 1864 of December 12, 2002

Kiev

On Approval of Procedure of determining country of origin of goods moving through the custom border of Ukraine.

With the changes and amendments introduced by CM Resolutions
N 92 of January 18, 2003,
N 1443 of October 28, 2004.

In accordance with the Article 277 of the Custom Code of Ukraine, Cabinet of Ministers of Ukraine **RESOLVES**:

1. To approve the Procedure of determining country of origin of goods moving through the custom border of Ukraine (attached).
2. This resolution comes into force on January 1, 2004.

(Item 2 with the changes introduced by CM Resolution N 92 of January 18, 2003)

Prime Minister of Ukraine

V. Yanukovich

Registration Number 27

APPROVED
by the CM Resolution N 1864
of December, 12, 2002

PROCEDURE

Of determining country of origin of goods moving through the custom border of Ukraine

1. If international agreements concluded in accordance with the procedure established by the law establishes other rules for determining the country of origin of goods moving through the custom border of Ukraine than those established by the Custom Code of Ukraine and this Procedure, the rules of international agreements shall be applied.

Specifics in determining the country of origin of goods that are imported from territories of special (free) economic zones, located on the territory of Ukraine, shall be established by the law.

2. In this Procedure the terms are used in the same meaning as in the Custom Code of Ukraine.

3. Information regarding the country of origin of goods moving through the custom border of Ukraine shall be specified in the customs declaration submitted to the custom authority at the time of customs clearance of goods according to the procedure and in cases established by the law.

4. The Declarant determines the country of origin of goods moving through the custom border of Ukraine, on the basis of Certificate of origin of goods (hereinafter - Certificate) or Declaration of origin of goods, submitted to the customs authority for confirmation of such information.

The Certificate is mandatory to submit in cases envisaged by the Custom Code of Ukraine.

Declaration of origin of goods is a statement (on the commercial invoice or other accompanying documents) regarding the country of origin of goods made by a producer or exporter and confirmed by them or by body authorized to issue certificates.

5. When the Declaration of origin of goods and other documents submitted to the customs authority for customs control and customs clearance have discrepancies in information regarding the country of origin of goods or the customs authority found out other information regarding the country of origin of goods, than those specified in the Declaration, the declarant has a right to provide a Certificate or additional information to confirm the information on declared country of origin of goods to the customs authority. Based on such certificate or additional information the customs authority shall determine the country of origin of goods in accordance with provisions of the Custom Code of Ukraine regarding determining the country of origin and the Procedure established by the State Customs Service.

Information of goods invoices, packing lists, shipment specifications, certificates (certificate of conformity and quality; phytosanitary, veterinary and others certificates), customs declaration of exporting country and also of passports, technical documents, expert conclusions issued by the customs and other authorities, other materials is considered additional information regarding the country of origin of goods.

In case of disputable issues, the customs authority shall determine the country of origin of goods within 10 calendar days. In exceptional cases specified period can be prolonged based on the decision of Head of customs authority for 5 calendar days at the most.

In case of prolongation of the custom clearance period conditioned by the necessity of determining the country of origin of goods, the declarant isn't granted a deferral of customs duty and other taxes and fees.

6. If there are sufficient grounds to consider that violations of legislation of Ukraine or international agreement concluded in accordance with the law regarding determining the country of origin of goods take place, the custom control can be carried out regardless of the status of customs control, customs clearance and release operation on the basis of written order of the Head of customs authority or his / her deputy.

7. If the properly prepared certificate of origin or additional information regarding origin of goods are unavailable or if it is impossible to reliably establish the country of origin of goods, the country of origin of goods is considered unknown. Goods, the country of origin of which is considered unknown, shall be released by the customs authority for movement across the customs border of Ukraine on condition of paying full rates of customs duties.

8. All additional charges related to confirmation of the declared country of origin of goods shall be paid by the Declarant.

8¹. Upon request of exporter, importer or other interested persons, a custom authority adopts preliminary decision regarding the country of origin of goods prior the beginning of goods sale, but not later than in 150 days from the date of receipt of such request by the customs authority.

The preliminary decision regarding the country of origin of goods is mandatory for all customs authorities and is valid during three years from the date of its adoption, if the decision is not recalled or cancelled.

(The procedure is supplemented with the Item 8¹
in accordance with CM Decree N 1443 of October 28, 2004)

8². The customs authority can adopt a decision to recall or cancel the preliminary decision regarding the country of origin of goods if such decision was adopted on the basis of fake documents submitted by the applicant or on the basis of the documents containing false information.

The decision to recall or cancel the preliminary decision regarding the country of origin of goods comes into force at the day of its adoption.

The adopted preliminary decision regarding the country of origin of goods can be cancelled if:

The Commodity Nomenclature UkrFEA was changed;

The international agreements of Ukraine or legislation of Ukraine regarding determining the country of origin and (or) rules of origin established other requirements and terms of determining the country of origin of goods;

The state authorities of Ukraine adopted the decisions which establish other requirements and terms of determining the country of origin of goods.

Form and procedure of adoption, recalling and cancellation of preliminary decision regarding the country of origin of goods shall be established by the State Customs Service.

(The procedure is supplemented with the Item 8²
in accordance with CM Decree N 1443 of October 28, 2004)

9. Information provided to the customs authorities as confidential or representing commercial secret can be used for customs purposes only.

For the disclosure of information that represents a commercial secret or is confidential, the officers of customs authorities are held responsible according to the legislation.