



AEOs' Privilege under China-Switzerland FTA

On July 1, 2014, China had two more Free Trade Agreements (FTAs) coming into effect, namely China-Switzerland FTA and China-Iceland FTA, making the total number of bilateral/regional FTAs owned by China increase to twelve.

An innovation brought by China-Switzerland FTA in terms of origin management is to link the AEOs with the origin certification. Supposing a Chinese company exports its products from China to Switzerland. Traditionally, the company needs to apply to a competent authority for an origin certificate if the products exported want to enjoy the preferential treatments granted under the FTA, particularly the conventional duty rates. The process of origin certificate application can be time-consuming and increase the cost of business transaction.

As a trade facilitation measure, China-Switzerland FTA introduced a new concept the "Approved Exporter" (AE), and stipulating that the AEs can use an origin declaration issued by themselves rather than an origin certificate issued by official authorities to make their goods eligible for the preferential treatments under the FTA.

As for the definition and qualification of approved exporters, the FTA leaves it to the discretion of the parties, and China has decided to derive its AEs from the Authorized Economic

Operators (AEOs). The General Customs Administration (GAC) of China published an Announcement (No. 52 of 2014) on June 30, 2014, including the rules of origin under China-Switzerland FTA, a list of AEs, the templates for the letter of commitment and the origin declaration.

According to the Announcement, manufacturers authorized by China Customs as class "AA", a Chinese version of AEO, need to submit a letter of commitment to Customs authorities to become AEs. Customs authorities will release the updated list of AEs on the last working day of every quarter, and the newly approved exporters will get their IDs and assume the privileges since the first day of next month.

In practice, an AE is required to print or stamp the origin declaration on its invoice, packing list, or other commercial documents. The declaration shall include the AE's ID and a serial number of 23 digits.

Moreover, China Customs and Swiss Customs have established a data exchange system to double-check the origin declarations. Before presenting an origin declaration to Swiss Customs, a Chinese AE shall scan the declaration and send the electronic file (PDF<500k, 200ppi) to China Customs (gbhgycd@customs.gov.cn) for the verification of both sides.

A few points can be made right now although it takes time to evaluate and draw conclusions on



the innovation in long-run.

First, under the new arrangement, the AEs can surely save some time and money for their exports. And if the benefits are proved significant in the future, more exporters will be motivated to pursue the title, thus enlarge the participation in AEO program.

Secondly, in a broad sense, origin certification is one of the measures adopted by governments to control the foreign trade. Other trade control measures usually include import & export licensing, quota, and quality supervision etc. A constructive attempt to link AEO with one of them may help us test the feasibility, accumulate experience, and develop patterns for generalizing the link with other controls.

At the same time, there are also some concerns associated with the innovation.

First, the origin determination used to be done by the professionals in either Commerce or Customs authorities, and can be very technical. For instance, supplement to “wholly obtained” and “substantial transformation”, the two primary criteria in origin judgment, China-Switzerland FTA has detailed specification for De Minimis, Minimal Operations or Processes, Accumulation, Neutral Elements, Fungible Materials, Direct Transport, and an elaborate table matching certain types of goods with their origin standards. Now the AEs can handle the origin determination independently. So, who is going to do the analysis? Has the person received sufficient training? How to qualify the person and make sure

they are competent for the job? What are the penalties and corrective measures if something goes wrong?

Secondly, from the regulatory bodies’ point of view, the autonomous privilege and the duty savings enjoyed by the AEs can raise new compliance risks under certain circumstances. For example, a non-AEO may export in the name of an AEO. The former would like to save Customs duties and pay the latter a rent for the fraudulent declaration. Obviously, a data exchange system by itself cannot solve the problem. Responding to the new issues, the regulatory bodies need to measure and monitor more AEO-parameters and keep tuning their risk management systems for the balance between trust and control.