

## A practical look on the Switzerland / China FTA

### Problems of Implementation in China: Direct transport rule, non-alteration and origin of goods for shipments from European ports

#### Background

This year, Switzerland and China celebrate the 65th Anniversary of their bilateral relations. More than a year ago, on July 1st, 2014, the Free Trade Agreement between the two Countries entered into force and marked another milestone in these relations. But how does this bilateral trade work in practice?

The Sino-Swiss FTA, like any FTA, covers the trade relations between the two territories of the Countries, for products originating from these two countries. This naturally requires a *proof of origin*, which is according to international standards provided by the Certificate of Origin (COO).

The FTA also states in Article 3.13 of the Main Agreement, that the *Direct Transport Rule* has to be observed. This signifies that only for products “which are transported directly between the Parties” can be granted preferential tariff treatment.

#### Direct Transport

Late 2014, a large Swiss food provider present in the Chinese market for many years, shipped a sealed full container with only their products from

Switzerland via Sea-freight to Shanghai Yangshan Deep-Water port. Upon arrival, the customs refused to recognize that the goods were arriving from Switzerland, as the vessel, the container and hence the goods “were cleared at Rotterdam port”. According to the officer in charge, there was not sufficient proof that these products came from Switzerland. The Officials followed strictly art 3.13.1 of the FTA and the fact that the sealed container originated from Switzerland didn't matter.

During the 1st semester of 2015, extensive discussions were held to resolve the situation. In summer 2015, a solution seemed to have been found, when the Swiss brand was told that the Swiss origin would still be recognized, even if the products were cleared in the Netherlands. However, in Autumn 2015, the container still failed to be imported with the FTA tariffs, when the local customs changed their team and thus the local requirements.

One more issue that food providers are facing when applying for FTA tariffs are the random CIQ (Inspection & Quarantine Services) controls that is done under none chilled temperature (up to 40 degrees in summer). Those controls result in time lost and damaged

goods due to mishandlings and most importantly in food safety issues and unsalable goods with full containers exposed to the sun.

### **Air freight**

Although it comes at a higher cost, direct transport can be applied with air freight. This procedure was chosen by a Swiss beverage wholesaler. As time was short, the consolidated air-freight was chosen. During the import procedures, there was an extensive bureaucratic paper filling procedure. It took an abnormal amount of time and efforts on Chinese and Swiss side to proof the origin and to clear the goods under preferential treatment according to the FTA from the customs. Considering the HR costs involved, it was in the end more expensive to import the goods under the FTA tariffs compared to applying for the non-preferential treatment.

### **Non-alteration**

Another issue happened to a Swiss Machinery company that wanted to send spare parts in a consolidated container via Sea-Freight. Consolidation in Sea-freight is a commonly accepted means of transportation of goods, which gathers various products of different supplier in one container. Such a consolidated container can also contain products for different destinations, which implies that a container, which has been packed in Switzerland, can be

unloaded and re-loaded even with different products in a transferring third-party harbor. Chinese customs did not accept the goods under the FTA tariffs.

Art 3.13 2.(a), covers the situation where goods can be unloaded and reloaded. However, there is at the moment no harmonized procedure and regulations on a country level in China as to how to handle such cases and to issue or accept a proof of non-alteration.

### **Non-tariff barriers**

While the FTA covers an extensive range of products and clarifies the tariffs decrease, leading to better operations and market entry possibilities, there are non-tariff parameters to consider. For example, in the medical industry, increasing barriers regarding the recognition of ISO tests made by accredited laboratory in Europe have been installed. The increased demands from local authorities for re-testing coupled with a lack of harmonization in products classifications has increased the operation costs of many Swiss medtech companies since the introduction of the FTA.

In the F&B industry, a similar trend of non-tariff barriers has been observed, with increased paperwork and demands from the local quarantine officers in terms of products labeling, product definition, additional paperwork and proofs not covered by the FTA or requests concerning the percentage of

Swiss added value in a Swiss product, which did not happen before the FTA.

## **Conclusion**

While there is a clear goodwill from the national authorities, there is a need for improvement regarding the application and enforcement on a local level. Cases of local custom officers not being aware of the FTA still occurs. There is also at the moment no harmonization regarding the procedure for the direct transport

application of sea freight import or for proving a non-alteration for consolidated containers.

Local authorities have an important degree of flexibility to interpret and implement the national decisions to fit the provincial and municipal needs. Therefore, we expect the short to mid-term situation to remain challenging in terms of procedures, implementation and requests from local authorities before it improves in the long run.

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