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Compendium of Procedural Mechanisms Used in the Application of Rules of Origin

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Compendium of Procedural Mechanisms Used in the Application of Rules of Origin

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Glossary of Terms

ACP	African, Caribbean and Pacific region
COMESA	Commonwealth of Eastern and Southern Africa Trade Agreement
EU	European Union
HS	Harmonized Commodity Description and Coding System (Harmonized System)
MSGTA	Melanesian Spearhead Group Trade Agreement
NAFTA	North American Free Trade Agreement
OCT	Overseas Countries and Territories belonging to or having a special relationship with a member country or countries of the EU
PICTA	Pacific Island Countries Trade Agreement
PNG	Papua New Guinea
RKC	WCO Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures
SPARTECA	South Pacific Regional Trade and Economic Cooperation Agreement
WCO	World Customs Organization
WTO	World Trade Organization

Introduction

When two or more countries decide to enter into a preferential trade agreement, a focus of concern is to devise a mechanism by which the benefits of the agreement are granted only upon the importation into one member country of goods that are legitimately the produce of the other country or countries participating in the agreement, and that the goods of countries that are not participants in the agreement do not receive preferential treatment. Every preferential trade agreement, therefore, contains a set of rules of origin that are intended to ensure that the benefits of the agreement are limited to the goods produced in the member countries of the agreement. This Compendium presents an explanation of the mechanisms by which the rules of origin of trade agreements are applied.

The rules applied to determine origin employ two different basic criteria:

- the criterion of goods “wholly produced " in a given country, where only one country enters into consideration in attributing origin; and
- the criterion of "substantial transformation", where two or more countries have taken part in the production of the goods.

The “wholly produced " criterion applies mainly to "natural " products and to goods made entirely from them, so that goods containing any parts or materials imported or of undetermined origin are generally excluded from its field of application. The "substantial transformation" criterion can be expressed by a number of different methods and mechanisms of application.

WTO Agreement on Rules of Origin

As part of the Marrakesh Agreement of 1994 that created the World Trade Organization (WTO), an Agreement on Rules of Origin presented (in Article 9 of the Agreement) principles upon which to base rules of origin for preferential and non-preferential trade purposes, and a WTO working group was established to develop, from these principles, a set of international standards for the definition of rules of origin.

Article 9 of the WTO Agreement on Rules of Origin sets out the following principles:

- Rules of origin should provide for the country to be determined as the origin of a particular good to be either the country where the good has been wholly obtained or, when more than one country is concerned in the production of the good, the country where the last substantial transformation has been carried out.
- Rules of origin should be objective, understandable and predictable.
- Notwithstanding the measure or instrument to which they may be linked, rules of origin should not be used as instruments to pursue trade objectives directly or indirectly. 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.
- Rules of origin should be administrable in a consistent, uniform, impartial and reasonable manner.

- Rules of origin should be coherent.
- Rules of origin should be based on a positive standard.

While a final agreement on WTO standards for the definition of rules of origin has not yet been reached, the principles presented in Article 9 of the Agreement on Rules of Origin have generally been reflected in preferential trade agreements. The WTO Agreement on Rules of Origin is attached as annex 1 of this compendium.

WCO Revised Kyoto Convention

The World Customs Organization (WCO) International Convention on the Simplification and Harmonization of Customs procedures (the Kyoto Convention) entered into force in 1974. The Kyoto Convention was subsequently revised and updated to meet the current demands of governments and international trade and, in June 1999, the WCO Council adopted the revised Kyoto Convention as the blueprint for modern and efficient Customs procedures in the 21st century. The revised Kyoto Convention elaborates several key governing principles. Chief among these are the principles of:

- transparency and predictability of Customs actions;
- standardization and simplification of the goods declaration and supporting documents;
- simplified procedures for authorized persons;
- maximum use of information technology;
- minimum necessary Customs control to ensure compliance with regulations;
- use of risk management and audit based controls;
- coordinated interventions with other border agencies;
- partnership with the trade.

The revised Kyoto Convention promotes trade facilitation and effective controls through its legal provisions that detail the application of simple yet efficient procedures. The revised Convention also contains new and obligatory rules for its application which all Contracting Parties must accept without reservation including, as an Annex to the Convention (Annex K), a set of standards for the development of rules of origin. Annex K to the revised Kyoto Convention is attached as annex 2 of this compendium.

The revised Kyoto Convention entered into force on February 3, 2006. As of March 2013, there are 85 Contracting Parties. Vanuatu is not a Contracting Party to the revised Kyoto Convention.

WCO Rules of Origin Database

The WCO has established a global database of preferential trade agreements and related rules of origin in accordance with an Action Plan to improve the understanding and application of preferential rules of origin, which was endorsed by the WCO Council in June 2007.

The database enables users to access and study preferential trade agreement texts and their related rules of origin provisions either by means of choosing a country on a drop-down list, by selecting a region on a world map, or via a list of agreements in alphabetical order. The database also has a function allowing users to compare the core texts of rules of origin

provisions of two to four different agreements. Moreover, the database will reproduce specimens of proofs of origin (origin certificates) used in the agreements.

The database reproduces the core text of rules of origin provisions (general origin provisions) for all agreements contained therein. While the complete legal text of the trade agreements and all annexes/appendices of the rules of origin provisions are not reproduced in the database, the legal texts of agreements and annexed rules of origin provisions (namely the product specific rules of origin) may be consulted via the indicated web address/es under the factual sheet reproduced for each agreement. These factual sheets provide the following information in respect of the various agreements:

- the countries involved in the trade agreement
- the date of entry into force of the agreement
- its actual status (*still active: yes – the database lists only agreements in force*)
- the type of agreement (*free trade agreement, etc.)*
- the web address/es of the official website/s of the agreement

Furthermore, the application offers several keywords of commonly used terminology existing in origin provisions which highlight these keywords in the legal text.

Agreements are generally written in English and French and sometimes in other national languages in which they are negotiated. The Database currently contains 218 agreements from 191 countries. Access to the informative Database is free for Members of the WCO and is available to the private sector for a small annual fee. Information on how to gain access to the WCO Rules of Origin Database can be obtained from the WCO web site at: http://www.wcoomd.org/en/topics/origin/instrument-and-tools/database.aspx.

Wholly originating goods

Preferential trade agreements generally recognize that goods produced wholly in a given country (eg: mined in, grown and harvested in, born and raised in, and any subsequent processing conducted entirely in) shall be taken as originating in that country. Annex K of the revised Kyoto Convention presents the following definition of wholly originating goods:

> "The following only shall be taken to be produced wholly in a given country:
>
> (a) mineral products extracted from its soil, from its territorial waters or from its sea-bed;
>
> (b) vegetable products harvested or gathered in that country;
>
> (c) live animals born and raised in that country;
>
> (d) products obtained from live animals in that country;
>
> (e) products obtained from hunting or fishing conducted in that country;
>
> (f) products obtained by maritime fishing and other products taken from the sea by a vessel of that country;
>
> (g) products obtained aboard a factory ship of that country solely from products of the kind covered by paragraph (f) above;

(h) products extracted from marine soil or subsoil outside that country's territorial waters, provided that the country has sole rights to work that soil or subsoil;

(i) scrap and waste from manufacturing and processing operations, and used articles, collected in that country and fit only for the recovery of raw materials;

(j) goods produced in that country solely from the products referred to in paragraphs (a) to (i) above."

Most preferential trade agreements make use of these definitions of wholly originating goods, albeit in some cases making some minor modifications or elaborations. For example, the North American Free Trade Agreement (NAFTA) adds to this list articles taken from outer space by a space craft of a country participating in the agreement.

Of more relevance to Melanesia are modifications that have been introduced in applicable trade agreements to item (f) of the definition, in recognition of specific arrangements that might be a normal practice in the conduct of fishing in the area. For example, the Melanesian Spearhead Group Trade Agreement (MSGTA) defines as wholly originating goods of this item:

"Products of sea fishing and other products taken from the waters under the national jurisdiction of the Parties by the Parties' vessels registered in their jurisdictions including those foreign flagged vessels licensed under the respective Parties' jurisdiction."

There are, however, some trade agreements that still make use of alternate definitions of the concept of wholly originating goods. For example, in the South Pacific Trade and Economic Co-operation Agreement (SPARTECA), Australia uses the term "unmanufactured raw products", defined as natural or primary products that have not been subjected to an industrial process other than an ordinary process of primary production.

Rules of origin for goods manufactured from non-originating inputs

General Concept

Preferential trade agreements generally recognize that, if goods exported from a country have been manufactured from non-originating inputs, those goods can still be considered products that originate in that country if the non-originating inputs have been "substantially transformed" in the country to create the good that is being exported. The key challenge was to arrive at a mechanism or mechanisms by which preferential trade agreements could define the concept of "substantial transformation" in a way that would be understood and applied consistently by all members of an agreement. In practice the substantial transformation criterion is expressed in preferential trade agreements:

- by a rule requiring a change of tariff classification in the Harmonized Commodity Description and Coding System between any non-originating inputs and the exported goods, with lists of exceptions, and/or
- by an ad valorem percentage rule, expressed either as a maximum percentage value of non-originating materials utilized in the manufacture of the exported goods, or a

minimum percentage of value added through the processing of non-originating materials in the manufacture of the exported goods, and/or

- by a list of manufacturing or processing operations which confer, or do not confer, upon the exported goods the origin of the country in which those operations were carried out.

Tariff shift rules

Definition

The WCO Harmonized Commodity Description and Coding System Nomenclature (the "Harmonized System" or "HS") is currently used by over 200 countries and economic unions as the basis for Customs tariff classification. Pursuant to the Harmonized System Convention (to which almost 150 countries have acceded), member countries are required to use the international classification numbers, descriptions and rules of interpretation without modification at the heading (4-digit) and subheading (6-digit) levels. As a result, use of HS classification as a mechanism by which to measure the extent of further processing of non-originating inputs can be applied consistently and transparently by all countries using the HS Nomenclature as the basis for their Customs Tariffs.

Application

The usual method of application is to specify that a good is considered to have undergone sufficient manufacturing or processing to be considered an originating good if it falls in an HS classification that is different from the HS classifications applicable to each of the non-originating materials utilized in the manufacture of the good.

In addition to the advantage of consistent application, this mechanism offers some flexibility in the drafting of rules of origin for a preferential trade agreement in that, at the option of the negotiating parties, the rule can be set to require a subheading shift, or a heading shift, or a chapter shift, depending upon the minimum extent of processing that the negotiating parties decide to specify in order to achieve origin qualification.

This type of rule works very well in those chapters of the HS Nomenclature that define a clear differentiation in the classification of successive steps in the manufacturing process. For example, the classification of textile products in Chapters 50 to 63 of the Nomenclature follows a consistent and transparent progression from the classification of the raw material textile source, to the classification of thread or yarn made from that textile source, to the classification of fabric made from that thread or yarn, and finally to the classification of the articles that are made from that yarn or fabric.

This type of rule does not work so well in other areas of the Nomenclature such as machinery, electrical and transportation (Chapters 84 to 89), in part because the successive steps in the manufacturing process are not clearly delineated as separate classifications, and in part due to the operation of certain rules of interpretation in the HS Nomenclature. For example:

- General Interpretative Rule 2A stipulates that unassembled or disassembled articles shall be classified as if they were already assembled. There is therefore no opportunity to qualify assembly operations on the basis of a classification shift.

- Legal Note 4 to Section XVI (Chapters 84 and 85) defines the classification of a "functional unit", whereby different components grouped together (but not necessarily interconnected) are to be classified in the heading of Section XVI that is applicable to the function of the group of components as a whole, rather than the separate classifications applicable to the individual components. This gives rise to the possibility of a classification shift even though no processing has occurred.

For this reason, classification shift rules may be supplemented in the rules of origin of a trade agreement by other qualification requirements such as a minimum originating value-added or specified qualifying or non-qualifying processes.

Minimum originating value-added percentage rules

Definition

In order to determine the country of origin, a rule can consider the extent of the manufacturing or processing undergone in a country by reference to the proportion of the total value thereby added to the goods. When this added value equals or exceeds a specified percentage, the goods acquire origin in the country where the manufacturing or processing was carried out.

Application

Consistency in the application of this type of rule can be achieved through the use of generally accepted accounting principles, but greater precision or tailoring of the effect of such rules can be made by the specification, in the rules of origin of a particular trade agreement, of such concepts as the treatment of intermediate materials, fungible goods, accessories, indirect materials used in production, and averaging. See below in this Compendium for an explanation of each of these terms.

Maximum non-originating material value percentage rules

Definition

Alternatively, a value content rule can be made by reference to the materials or components of foreign or undetermined origin used in manufacturing or producing the goods. The goods retain origin in a specific country only if the non-originating materials or components do not exceed a specified percentage of the value of the finished product. In practice, therefore, this method involves comparison of the value of the materials imported or of undetermined origin with the value of the finished product.

Application

The value of constituents imported or of undetermined origin is generally established from the import value or the purchase price. The value of the goods as exported is normally calculated using the cost of manufacture, the ex-works price or the price at exportation.

The main advantages of this method are its precision and simplicity. The value of constituent materials imported or of undetermined origin can be established from available commercial records or documents. Where the value of the exported goods is based on the ex-works price or the price at exportation, as a rule both prices are readily ascertained and can be supported by commercial invoices and the commercial records of the traders concerned.

Difficulties may arise, however, in border-line cases in which a slight difference above or below the prescribed percentage causes a product to meet, or fail to meet, the origin requirements.

Specified qualifying operations

Definition

This method is generally expressed by describing technical manufacturing or processing operations that are regarded as sufficiently important ("qualifying processes") to achieve originating status, notwithstanding the application of other requirements such as a general tariff classification shift rule. A specified qualifying operation rule might be used, for example to allow an assembly operation to qualify as originating even though General Interpretative Rule 2A of the Harmonized System will not permit a classification shift.

Specified non-qualifying operations

Definition

In devising the rules of origin for a trade agreement, the parties may recognize that certain operations are not sufficient to confer originating status, even though they may meet a general qualification requirement established by the rules of origin. For this reason, the parties to the agreement may decide to specify certain processes as not being sufficient to qualify goods as originating. Examples drawn from many trade agreements of such specified non-qualifying operations include packaging, dilution, mixing, and slaughter of animals.

Product-specific rules versus general rules

Definition

The rules of origin of some trade agreements apply a general qualification requirement to all goods. For example, the Melanesian Spearhead Group Trade Agreement (MSGTA) rules of origin stipulate that any good exported from a Party to the Agreement can qualify as originating if all non-originating inputs have undergone at least a subheading (6-digit) Tariff classification shift through the process of manufacture of the exported good.

Other trade agreements present a detailed schedule of rules of origin applicable to individual classifications in the HS Nomenclature. For example, the interim Partnership Agreement between the EU and Papua New Guinea and Fiji presents a schedule of 104 pages of specific individual rules applicable to each of the headings of each chapter of the HS Nomenclature.

One general rule applicable to all goods is arguably simpler and easier to apply, but the trend in the establishment of rules of origin for trade agreements is moving toward the increasing use of product-specific rules, as such rules can be tailored or customized to provide a more precise level of access to the benefits of the agreement, or conversely to specifically protect certain commodity areas from competitive pressures due to imports that might qualify for the benefits of the agreement. This trend imposes greater importance upon the negotiation of the terms of a trade agreement to ensure that a favorable balance is achieved between access to the benefits of the agreement for exported goods and the value of the benefits granted under the agreement on imports.

Treatment of intermediate materials

Definition

Where a preferential trade agreement contains rules of origin based on the determination of the percentage of value added through originating processing, or a maximum percentage of non-originating material value, there may be provisions included to address the treatment of intermediate materials used in the production of the final good. Consider the following example, drawn from the interim Partnership Agreement between the EU and Papua New Guinea and Fiji:

Article 6 of Protocol II (Rules of Origin) of the Agreement states the following:

Article 6 Sufficiently worked or processed products

1. For the purposes of Article 2, products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the List in Annex II are fulfilled.

2. Notwithstanding paragraph 1, the products which are listed in Annex II(a) can be considered to be sufficiently worked or processed, for the purposes of Article 2, when the conditions set out in that Annex are fulfilled.

3. The conditions referred to in paragraphs 1 and 2 above indicate, for all products covered by this Agreement, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. Accordingly, it follows that if a product which has acquired originating status by fulfilling the conditions set out in either List is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

In other words, paragraph 3 of Article 6 means that if an article is produced in a qualifying country from non-originating materials, and the rule of origin for that article is satisfied, if that article is then used as an input material in the manufacture of a good which will be exported to another Party to the Agreement, the article input to the manufacture of the exported good shall be considered as wholly originating for the purposes of calculating the non-originating material input to the manufacture of the exported good.

Illustrative Example

As a practical illustration of this concept, pursuant to Annex II of Protocol II of the EU/PNG-Fiji interim Partnership Agreement, a manufacturer of automobiles of HS heading 8703 must meet the following rule of origin for his automobiles:

> "Manufacture in which the value of all the non-originating materials used does not exceed 40 % of the ex-works price of the product."

However, consider what happens if he uses an engine produced in his country as an input to the manufacture of the automobile. The engine (Heading 8409) is also subject under the Agreement to a rule of origin stipulating a maximum of 40% non-originating materials. If this engine is produced using less than 40% non-originating materials, it will be counted as a wholly originating input to the manufacture of the automobile, and the non-originating material content of the engine will not be considered in the calculation of the non-originating material content of the automobile as a whole.

From this example, it can be seen that the treatment of intermediate materials can have a significant impact on the extent to which manufactured articles are able to qualify as originating goods under a minimum originating value-added or maximum non-originating material content rule.

Application

Some agreements, such as the EU/PNG-Fiji interim Partnership Agreement and PICTA, make unrestricted provision to consider intermediate materials that qualify under their own rule of origin as wholly originating inputs to a subsequent manufacturing process. Some agreements, such as the North American Free Trade Agreement (NAFTA) only allow such treatment of qualifying intermediate materials in certain commodity sectors (under the NAFTA rules, intermediate materials that qualify under their own rule as originating goods are treated as wholly originating inputs in sectors other than the automotive industry, but the non-originating component of originating intermediate materials in the automotive industry must be carried through to the final calculation of foreign content in the finished automobile).

Other agreements do not provide for any preferential consideration of the non-originating content of originating intermediate materials in the calculation of the foreign content of exported goods manufactured from those intermediate materials.

How a particular trade agreement treats the non-originating content of qualifying intermediate materials will depend upon the interests of the negotiating Parties to the agreement: either to allow broader access to the benefits of the agreement to goods manufactured from intermediate inputs; or to restrict the benefits accorded to the importation of manufactured goods so as to protect vulnerable domestic producers.

Cumulation

Definition

Many agreements contain a provision to count, as originating input to the production of an exported good, not only the value of the material input from and processing conducted in the country of export, but also the value of processing conducted in and/or material content contributed from the production of other countries that are members of the agreement that may have been incorporated in the country of export into the production of the exported good.

In the Economic Partnership Agreements that it has negotiated to date with countries in Africa, the Caribbean and the Pacific (ACP) regions, however, the European Union has expanded this concept to count, as originating content, not only inputs from the EU and the participating country or countries in a particular agreement, but also inputs from the entire list of ACP countries, as well as foreign possessions of countries within the EU, subject to certain conditions.

Illustrative Example

This concept can be illustrated by reference to the relevant provisions of Protocol II (Rules of Origin) of the EU/PNG-Fiji interim Partnership Agreement:

Article 3 Cumulation in the European Community

1. Without prejudice to the provisions of Article 2(1), products shall be considered as originating in the European Community if they are obtained there, incorporating materials originating in a Pacific State, in the other ACP States or in the OCTs, provided the working or processing carried out in the European Community goes beyond the operations referred to in Article 7. It shall not be necessary for such materials to have undergone sufficient working or processing.

2. Where the working or processing carried out in the European Community does not go beyond the operations referred to in Article 7, the product obtained shall be considered as originating in the European Community only where the value added there is greater than the value of the materials used originating in any one of the other countries or territories referred to in paragraph 1. If this is not so, the product obtained shall be considered as originating in the country or territory which accounts for the highest value of originating materials used in the manufacture in the European Community.

3. Products originating in one of the countries or territories referred to in paragraphs 1 and 2, which do not undergo any working or processing in the European Community, retain their origin if exported into one of these countries or territories.

4. For the purpose of implementing Article 2(1)(b), working or processing carried out in a Pacific State, in the other ACP States or in the OCT shall be considered as having been carried out in the European Community when the products obtained undergo subsequent working or processing in the European Community. Where pursuant to this provision the originating products are obtained in two or more of the countries or territories concerned, they shall be considered as originating in the European Community only if the working or processing goes beyond the operations referred to in Article 7.

5. Where the working or processing carried out in the European Community does not go beyond the operations referred to in Article 7, the product obtained shall be considered as originating in the European Community only where the value added there is greater than the value of the materials used in any one of the other countries or territories referred to in paragraph 4. If this is not so, the product obtained shall be considered as originating in the country or territory which accounts for the highest value of materials used in the manufacture.

6. The cumulation provided in this Article may only be applied provided that:

   (a) the countries involved in the acquisition of the originating status and the country of destination have concluded an agreement on administrative cooperation which ensures a correct implementation of this Article;

   (b) materials and products have acquired originating status by the application of the rules of origin identical to those given in this Protocol;

   (c) the European Community will provide the Pacific States, through the European Commission, with details of agreements on administrative cooperation with the other countries or territories referred to in this Article. The European Commission shall publish in the *Official Journal of the European Union* (C series) and the Pacific States shall publish according to their own procedures, the date on which the cumulation provided for in this Article may be applied with those countries or territories listed in this Article which have fulfilled the necessary requirements.

7. The cumulation provided for in this Article may only be applied after 1 October 2015 for the products listed in Annex IX and after 1 January 2010 for rice of tariff heading 1006 respectively.

Article 4 Cumulation in the Pacific States

1. Without prejudice to the provisions of Article 2(2), products shall be considered as originating in a Pacific State if they are obtained there, incorporating materials originating in the European Community, in the other ACP States, in the OCT or in the other Pacific States, provided the working or processing carried out in that Pacific State goes beyond that of the operations referred to in Article 7. It shall not be necessary for such materials to have undergone sufficient working or processing.

2. Where the working or processing carried out in the Pacific State does not go beyond the operations referred to in Article 7, the product obtained shall be considered as originating in that Pacific State only where the value added there is greater than the value of the materials used originating in any one of the other countries

or territories referred to in paragraph 1. If this is not so, the product obtained shall be considered as originating in the country or territory which accounts for the highest value of originating materials used in the manufacture in that Pacific State.

3. Products originating in one of the countries or territories referred to in paragraphs 1 and 2 of this Article, which do not undergo any working or processing in the Pacific State, retain their origin if exported into one of these countries or territories.

4. For the purpose of implementing Article 2(2)(b), working or processing carried out in the European Community, in the other Pacific States, in the other ACP States or in the OCT shall be considered as having been carried out in a Pacific State when the products obtained undergo subsequent working or processing in this Pacific State. Where pursuant to this provision the originating products are obtained in two or more of the countries or territories concerned, they shall be considered as originating in this Pacific State only if the working or processing goes beyond the operations referred to in Article 7.

5. Where the working or processing carried out in the Pacific State does not go beyond the operations referred to in Article 7, the product obtained shall be considered as originating in that Pacific State only where the value added there is greater than the value of the materials used in any one of the other countries or territories referred to in paragraph 4. If this is not so, the product obtained shall be considered as originating in the country or territory which accounts for the highest value of materials used in the manufacture.

6. The cumulation provided in this Article may only be applied provided that:

(a) the countries involved in the acquisition of the originating status and the country of destination have concluded an agreement on administrative cooperation which ensures a correct implementation of this Article;

(b) materials and products have acquired originating status by the application of the rules of origin identical to those given in this Protocol;

(c) the Pacific States will provide the European Community, through the European Commission, with details of agreements on administrative cooperation with the other countries or territories referred to in this Article. The European Commission shall publish in the *Official Journal of the European Union* (C series) and the Pacific States shall publish according to their own procedures, the date on which the cumulation provided for in this Article may be applied with those countries or territories listed in this Article which have fulfilled the necessary requirements.

7. The cumulation provided for in this Article shall not be applicable to the products listed in Annex IX. Notwithstanding that, the cumulation provided for in this Article may only be applied after 1 October 2015 for the products listed in Annex IX and after 1 January 2010 for rice of tariff heading 1006 respectively, when the materials used in the manufacture of such products are originating, or the working or processing is carried out in a Pacific State or in an other ACP State member of an Economic Partnership Agreement (EPA).

8. This Article shall not apply to products of Annex XI originating in South Africa. The cumulation provided for in this Article shall apply to the products originating in South Africa listed in Annex XII after 31 December 2009.

In other words, input from any OCT, or ACP country that has signed an Economic Partnership Agreement with the EU, that is incorporated into products of the EU or of the other Party or Parties to a specific Economic Partnership Agreement shall be considered as originating input, as long as those inputs have been processed in the EU or the other Party or Parties beyond the minimal processes specified in Article 7 (this is the "non-qualifying operations" provision of the Agreement), or if they have not been processed beyond that extent, the value of the EU or other Party or Parties input exceeds the value of any EU, OCT or ACP input that has not been processed beyond the processes specified in Article 7.

It is evident, from the above, that the concept of "cumulation" as introduced by the European Union in its Economic Partnership Agreements greatly expands the opportunity for manufacturers within the territory of a particular Agreement to make use of inputs from a

broad range of other countries in the ACP regions in the production of goods that will qualify to receive the benefits of the Agreement when exported to another Party to the Agreement.

Accessories, spare parts, tools

Definition

Most preferential trade agreements contain a provision to accord originating status to accessories, spare parts and tools imported together with an originating good, notwithstanding the actual origin of those accessories, spare parts or tools. This provision usually is limited to those accessories, spare parts and tools that are normally provided as part of the equipment of the imported good. For example, one spare tire imported together with a qualifying automobile would be accorded preferential treatment under this provision, but additional spare tires would not, as the normal and usual complement of spare tires with which an automobile is equipped is one.

Illustrative Example

Protocol II (Rules of Origin) of the EU/PNG-Fiji interim Partnership Agreement, for example, contains the following provision:

Article 9 Accessories, spare parts and tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Fungible goods

Definition

A fungible good is something that is indistinguishable from other like goods. In other words, a bolt is a bolt, no matter if it is an Australian bolt or a Chinese bolt or a European bolt – you can't tell them apart. This can cause problems if the fungible good is a critical input to the determination of whether a manufactured product does or does not qualify as an originating product. In the absence of any provision in an agreement to address this issue, it would be necessary for manufacturers to maintain segregated inventories of fungible goods of different origin, so as to be able to certify the products manufactured with certain fungible inputs as meeting the rules of origin. In order to avoid this necessity, many agreements now include a "fungible goods" provision, whereby manufacturers are permitted to keep their fungible goods in one inventory, and ascribe the origin of those fungible goods according to generally accepted accounting rules. In other words, the manufacturer can identify the fungible goods he has drawn for his inventory as "originating" goods to the extent that his accounting records show a positive balance of originating goods in his consolidated inventory of those goods.

Illustrative example

Consider a manufacturer who is manufacturing a product that he wishes to certify as originating. Under the applicable rule of origin, one particular input must be an originating material in order for the product to qualify as originating. The manufacturer obtains supplies

of this material from several suppliers, some of whom are originating and some are non-originating. The material supplied by all of the suppliers is identical. If the agreement contains a fungible goods provision, the manufacturer would be permitted to store his entire inventory of the input material together, and to designate the material he draws from that inventory as originating as long as he has a positive balance of originating material in his inventory records, as follows:

Originating material received into inventory	Originating material from inventory to production	Foreign material received into inventory	Foreign material from inventory to production	Balance of originating material in inventory	Balance of foreign material in inventory	Inventory total balance
4000				4000		4000
		6000			6000	10000
	2000			2000		8000
			3000		3000	5000
2000				4000		7000
	3000			1000		4000

Averaging

Definition

Some agreements (such as the North American Free Trade Agreement) allow a manufacturer to certify as originating, pursuant to an originating value percentage rule, the output of a production line over a period of time (usually one year), even though specific units output during that period may at times not qualify individually due to short term changes in the source of supply of inputs. If the trade agreement contains an averaging provision, the manufacturer is nevertheless permitted to certify his production over the entire period as originating as long as he can demonstrate that the average percentage of qualifying value for his entire production during the period exceeds the minimum originating value percentage requirement.

Illustrative Example

Consider a manufacturer who is manufacturing a product that is subject to a 40% originating value percentage content rule of origin. For nine months of the year, he is able to source certain materials from originating suppliers such that his product contains 45% originating value content. For the other three months of the year, however, he cannot obtain these materials from originating suppliers and he has to substitute materials from non-originating sources, such that the product he produces in those three months has only 39% originating value content. If the trade agreement contains an averaging provision, however, the manufacturer would be allowed to calculate his originating value content percentage over the production run for the entire year (assuming a constant volume of production each month), as follows:

$$\frac{(45\% \times 9) \text{ plus } (39\% \times 3)}{12} = 43.5\% \text{ average originating value content percentage}$$

The manufacturer would therefore be able to qualify his entire annual production run of the product as originating.

De Minimus

Definition

Many agreements contain a mechanism to allow manufactured goods to qualify as originating, even though they contain a minimal value portion of non-qualifying inputs that, if considered, would cause the manufactured good to fail the applicable rule.

The rationale for this type of measure is to reduce the cost and complexity of origin certification and verification, not only for exporters and importers but also for government officials charged with certifying origin declarations in the country of export or verifying import declarations claiming entitlement to preferential rates of duty in the country of import, by reducing the need to track and confirm the origin of minor constituents of a good claimed to originate in the territory of the Agreement.

Illustrative Example

Paragraphs 4 and 5 of Article 6 of Protocol II (Rules of Origin) of the EU/PNG-Fiji interim Partnership Agreement, for example, contain the following de minimus provision:

4. Notwithstanding paragraphs 1 and 2, non-originating materials which, according to the conditions set out in Annex II and Annex II(a), should not be used in the manufacture of a given product may nevertheless be used, provided that:

   (a) their total value does not exceed 15 per cent of the ex-works price of the product;

   (b) any of the percentages given in the List for the maximum value of non-originating materials are not exceeded through the application of this paragraph.

5. The provisions of paragraph 4 shall not apply to products of Chapters 50 to 63 of the Harmonized System.

Indirect materials

Definition

Some preferential trade agreements contain a provision recognizing that materials or equipment used in the manufacture of a good, but not forming a part of the good, are not required to be considered in determining the origin qualification of the manufactured good. Such a provision is termed in some agreements (such as the North American Free Trade Agreement) as an "indirect materials" provision. In the EU Economic Partnership Agreements, this type of provision is termed a "neutral elements" provision, but the intent of the provision is identical.

Illustrative Example

Protocol II (Rules of Origin) of the EU/PNG-Fiji interim Partnership Agreement, for example, contains the following provision:

Article 11 Neutral elements

In order to determine whether a product is originating, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

(a) energy and fuel;

(b) plant and equipment;

(c) machines and tools;

(d) goods which do not enter and which are not intended to enter into the final composition of the product.

The Melanesian Spearhead Group Trade Agreement (MSGTA) rules of origin do not provide any recognition of the concept of indirect materials.

Sets

Pursuant to General Interpretative Rule 3b of the HS Nomenclature, a set consisting of two or more complementary goods put up in a single packaging for retail sale is to be classified in the heading that applies to that component of the set that defines the essential character of the set as a whole. It follows, therefore, that non-originating components of a set could undergo a classification shift (and thereby technically comply with a rule of origin qualification requirement) without having undergone any originating value-added processing.

The EU Economic Partnership Agreements have addressed this issue by including a specific instruction with respect to the determination of the origin of a set.

Protocol II (Rules of Origin) of the EU/PNG-Fiji interim Partnership Agreement, for example, contains the following provision:

Article 10 Sets

Sets, as defined in General Rule 3 for the interpretation of the Harmonized System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 per cent of the ex-works price of the set.

Packaging

Packaging of non-originating goods before export from a country participating in a free trade agreement is generally, if no other originating operation has occurred, insufficient to confer origin status to the goods. This is defined in most if not all preferential trade agreements as part of the list of specified non-qualifying operations.

For example, the specified non-qualifying operations list presented in paragraph 4 of the rules of origin of the Melanesian Spearhead Group Trade Agreement (MSGTA) include the following:

- Changes of packing and breakup or assembly of consignments;
- simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations.

Direct shipment / transshipment

Definition

In order to receive the benefits of a preferential trade agreement, originating goods are generally required to be shipped directly from the exporting country of origin to the importing country to which an application will be made to claim the benefits of preferential entry under the agreement. Direct shipment is generally defined by most trade agreements, however, to allow transshipment through an intervening country, but only if the goods do not enter the commerce of that intervening country before being shipped on to the country of import.

Illustrative Example

For example, here are the relevant provisions of the following trade agreements:

Melanesian Spearhead Group Trade Agreement (Rules of Origin, paragraph 5):

> The preferential treatment provided for under this Agreement applies to products or materials which are transported directly between the territories of the Parties.
>
> However, goods originating in the parties and constituting one single shipment which is not split up may be transported through territory other than that of the Parties with, should the occasion arise, transshipment or temporary warehousing in such territory, provided that the crossing of the latter territory is justified for geographical reasons, that the goods have remained under the surveillance of the customs authorities in the country of transit or warehousing, that they have not entered into the commerce of such countries nor been delivered for home use there and have not undergone operations other than unloading, reloading or any operation designed to preserve them in good condition.

Protocol II (Rules of Origin) of the EU/PNG-Fiji interim Partnership Agreement:

> **Article 13 Direct transport**
>
> 1. The preferential treatment provided for under the Agreement applies only to products, satisfying the requirements of this Protocol, which are transported directly between a Pacific State and the European Community or through the territories of the other countries referred to in Articles 3 and 4 to which cumulation is applicable. However, products constituting one single consignment may be transported through other territories with, should the occasion arise, trans-shipment or temporary warehousing in such territories, provided that they remain under the surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.
>
> Originating products may be transported by pipeline across territory other than that of a Pacific State or the European Community.

Alternative certification and verification mechanisms used in trade agreements

Most preferential trade agreements require the completion of a certificate of origin by the exporter or manufacturer of the goods to confirm the eligibility of goods to receive preferential treatment upon importation into another country participating in the agreement. The format of the certificate and the information to be submitted thereon is specified by each agreement.

Many agreements require certificates of origin prepared by an exporter or manufacturer to be submitted to a designated government official, usually the Customs Authority of the country of export, for certification. It is the responsibility of that government official to satisfy himself or herself that the origin certificate is valid before certifying the document. The exporter is then required to send the certified certificate of origin to the importer to be attached to the Customs import declaration to support a claim of entitlement to the preferential duty rates provided by the agreement. The Customs Authority of the country of import, in reviewing the certificate, can request information from the certifying authority in the country of export in any case where there is doubt as to the validity or accuracy of the origin certification.

Some agreements, however, have taken a different approach to certification, recognizing that an official called upon to certify a claim of origin made by an exporter or manufacturer can only act on the basis of information provided by the exporter or manufacturer, as the official has no direct personal knowledge of the source of the material inputs or the nature of the manufacturing process that has resulted in the creation of the subject goods.

The North American Free Trade Agreement (NAFTA), for example, requires a certificate of origin to be completed by a representative of the exporter or manufacturer who, by the nature of his or her position in the company, has direct knowledge of the manufacturing process by which the goods claimed to originate have been created. There is no requirement to have the document certified by a government official, but the laws of the countries participating in NAFTA have, as required by the terms of the Agreement, been amended to make the issuance of a false certificate of origin by an exporter or manufacturer an offence subject to the same legal penalties as apply to an importer who makes a false import declaration. If an exporter is determined by the importing country Customs Authority to have issued a false certificate, the information will be referred to the Customs Authority of the exporting country for action, pursuant to the laws of the exporting country, against the exporter or manufacturer for the issuance of a false certificate.

The Commonwealth of Eastern and Southern Africa (COMESA) Trade Agreement contains a similar provision regarding the use of the laws of the exporting country to penalize an exporter or manufacturer in that country who has issued a false certificate of origin for goods exported to another country participating in COMESA.

Some agreements, in addition to stipulating that the Customs Authority of the country of import can request information from the issuer of a certificate or the certifying authority in the country of export in any case where there is doubt as to the validity or accuracy of the origin certification, also provide a mechanism by which officials of the importing country Customs Authority can conduct audits of exporters and manufacturers in the exporting country to verify directly the accuracy of any certificates of origin they may have issued. For example, provision for the conduct of audits in the exporting country by officials of the Customs Authority of the importing country is contained in the North American Free Trade Agreement (NAFTA) and in the Pacific Island Countries Trade Agreement (PICTA). Vanuatu is a Member Country of the PICTA agreement.

Annex One: WTO Agreement on Rules of Origin

WORLD TRADE AGREEMENT 1994

AGREEMENT ON RULES OF ORIGIN

PART I

DEFINITIONS AND COVERAGE

Article 1

Rules of Origin

1. For the purposes of Parts I to IV of this Agreement, rules of origin shall be defined as those laws, regulations and administrative determinations of general application applied by any Member to determine the country of origin of goods provided such rules of origin are not related to contractual or autonomous trade regimes leading to the granting of tariff preferences going beyond the application of Article I:1 of the GATT 1994.

2. Rules of origin referred to in paragraph 1 shall include all rules of origin used in non-preferential commercial policy instruments, such as in the application of: most-favoured-nation treatment under Articles I, II, III, XI and XIII of the GATT 1994; anti-dumping and countervailing duties under Article VI of the GATT 1994; safeguard measures under Article XIX of the GATT 1994; origin marking requirements under Article IX of the GATT 1994; and any discriminatory quantitative restrictions or tariff quotas. They shall also include rules of origin used for government procurement and trade statistics.

PART II

DISCIPLINES TO GOVERN THE APPLICATION OF RULES OF ORIGIN

Article 2

Disciplines During the Transition Period

Until the work programme for the harmonization of rules of origin set out in Part IV below is completed, Members shall ensure that:

(a) when they issue administrative determinations of general application, the requirements to be fulfilled are clearly defined. In particular:

- in cases where the criterion of change of tariff classification is applied, such a rule of origin, and any exceptions to the rule, must clearly specify the sub- headings or headings within the tariff nomenclature that are addressed by the rule;

- in cases where the ad valorem percentage criterion is applied, the method for calculating this percentage shall also be indicated in the rules of origin;

- in cases where the criterion of manufacturing or processing operation is prescribed, the operation that confers origin on the good concerned shall be precisely specified;

(b) notwithstanding the measure or instrument of commercial policy to which they are linked, their rules of origin are not used as instruments to pursue trade objectives directly or indirectly;

(c) rules of origin shall not themselves create restrictive, distorting, or disruptive effects on international trade. 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. However, costs not directly related to manufacturing or processing may be included for the purposes of the

application of an ad valorem percentage criterion consistent with sub-paragraph (a) above;

(d) the rules of origin that they apply to imports and exports are not more stringent than the rules of origin they apply to determine whether or not a good is domestic and shall not discriminate between other Members, irrespective of the affiliation of the manufacturers of the good concerned;

(e) their rules of origin are administered in a consistent, uniform, impartial and reasonable manner;

(f) their rules of origin are based on a positive standard. Rules of origin that state what does not confer origin (negative standard) are permissible as part of a clarification of a positive standard or in individual cases where a positive determination of origin is not necessary;

(g) their laws, regulations, judicial and administrative rulings of general application relating to rules of origin are published as if they were subject to, and in accordance with, the provisions of Article X:1 of the GATT 1994;

(h) upon the request of an exporter, importer or any person with a justifiable cause, assessments of the origin they would accord to a good are issued as soon as possible but no later than 150 days after a request for such an assessment provided that all necessary elements have been submitted. 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. Provided that the parties concerned are informed in advance, such assessments will no longer be valid when a decision contrary to the assessment is made in a review as referred to in sub-paragraph (j) below. Such assessments shall be made publicly available subject to the provisions of sub-paragraph (k) below;

(i) when introducing changes to their rules of origin or new rules of origin, they shall not apply such changes retroactively as defined in, and without prejudice to, their laws or regulations;

(j) any administrative action which they take 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, which can effect the modification or reversal of the determination;

(k) all information that is by nature confidential or that is provided on a confidential basis for the purpose of the application of rules of origin is 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 it may be required to be disclosed in the context of judicial proceedings.

Article 3
Disciplines after the Transition Period

Taking into account the aim of all Members to achieve as a result of the harmonization work programme set out in Part IV below, the establishment of harmonized rules of origin, the Members shall ensure, upon the implementation of the results of the harmonization work programme that:

(a) they apply rules of origin equally for all purposes as set out in Article 1 above;

(b) under their rules of origin, the country to be determined as the origin of a particular good is either the country where the good has been wholly obtained or, when more than

one country is concerned in the production of the good, the country where the last substantial transformation has been carried out;

(c) the rules of origin that they apply to imports and exports are not more stringent than the rules of origin they apply to determine whether or not a good is domestic and shall not discriminate between other Members, irrespective of the affiliation of the manufacturers of the good concerned;

(d) the rules of origin are administered in a consistent, uniform, impartial and reasonable manner;

(e) their laws, regulations, judicial and administrative rulings of general application relating to rules of origin are published as if they were subject to, and in accordance with, the provisions of Article X:1 of the GATT 1994;

(f) upon the request of an exporter, importer or any person with a justifiable cause, assessments of the origin they would accord to a good are issued as soon as possible but no later than 150 days after a request for such an assessment provided that all necessary elements have been submitted. 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. Provided that the parties concerned are informed in advance, such assessments will no longer be valid when a decision contrary to the assessment is made in a review as referred to in sub-paragraph (h) below. Such assessments shall be made publicly available subject to the provisions of sub-paragraph (i) below;

(g) when introducing changes to their rules of origin or new rules of origin, they shall not apply such changes retroactively as defined in, and without prejudice to, their laws or regulations;

(h) any administrative action which they take 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, which can effect the modification or reversal of the determination;

(i) all information which is by nature confidential or which is provided on a confidential basis for the purpose of the application of rules of origin is 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 it may be required to be disclosed in the context of judicial proceedings.

PART III
PROCEDURAL ARRANGEMENTS ON NOTIFICATION, REVIEW, CONSULTATION AND DISPUTE SETTLEMENT

Article 4
Institutions

There shall be established under this Agreement:

1. a Committee on Rules of Origin (hereinafter referred to as "the Committee") composed of the representatives from each of the Members. The Committee shall elect its own Chairman and shall meet as necessary, but not less than once a year, for the purpose of affording Members the opportunity to consult on matters relating to the operation of Parts I, II, III and IV of the Agreement or the furtherance of the objectives set out in these Parts and to carry out such other responsibilities assigned to it under this Agreement or by the Council for Trade in

Goods. Where appropriate, the Committee shall request information and advice from the Technical Committee (referred to in paragraph 2 below) on matters related to this Agreement. 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. The WTO Secretariat shall act as the Secretariat to the Committee;

2. a Technical Committee on Rules of Origin (hereinafter referred to as "the Technical Committee") under the auspices of the Customs Co-operation Council (CCC) as set out in Annex I of this Agreement. The Technical Committee shall carry out the technical work called for in Part IV and prescribed in Annex I 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. The CCC secretariat shall act as the secretariat to the Technical Committee.

Article 5
Information and Procedures for Modification and Introduction of New Rules of Origin

1. Upon entry into force of the Agreement Establishing the WTO, each Member shall provide to the WTO Secretariat within 90 days its rules of origin, judicial decisions, and administrative rulings of general application relating to rules of origin in effect on the date of entry into force of the Agreement Establishing the WTO. 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 WTO Secretariat shall be circulated to the Members by the WTO Secretariat.

2. During the period referred to in Article 2 above, Members introducing modifications, other than de minimis modifications, to their rules of origin or introducing new rules of origin, which, for the purpose of this Article, shall include any rule of origin referred to in paragraph 1 above and not provided to the WTO Secretariat, shall publish a notice to that effect at least 60 days before the entry into force of the modified or new rule in such a manner as to enable interested parties to become acquainted with the intention to modify a rule of origin or to introduce a new rule of origin, unless exceptional circumstances arise or threaten to arise for a Member. In these exceptional cases, the Member shall publish the modified or new rule as soon as possible.

Article 6
Review

1. The Committee shall review annually the implementation and operation of Parts II and III of this Agreement having regard to its objectives. The Committee shall annually inform the Council for Trade in Goods of developments during the period covered by such reviews.

2. The Committee shall review the provisions of Parts I, II and III above and propose amendments as necessary to reflect the results of the harmonization work programme.

3. The Committee, in cooperation with the Technical Committee, shall set up a mechanism to consider and propose amendments to the results of the harmonization work programme, taking into account the objectives and principles set out in Article 9. 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.

Article 7
Consultation

The provisions of Article XXII of the GATT 1994, as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes, are applicable to this Agreement.

Article 8
Dispute Settlement

The provisions of Article XXIII of the GATT 1994, as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes, are applicable to this Agreement.

PART IV
HARMONIZATION OF RULES OF ORIGIN

Article 9
Objectives and Principles

1. With the objectives of harmonizing rules of origin and, inter alia, providing more certainty in the conduct of world trade, the Ministerial Conference shall undertake the work programme set out below in conjunction with the CCC, on the basis of the following principles:

(a) rules of origin should be applied equally for all purposes as set out in Article 1 above;

(b) rules of origin should provide for the country to be determined as the origin of a particular good to be either the country where the good has been wholly obtained or, when more than one country is concerned in the production of the good, the country where the last substantial transformation has been carried out;

(c) rules of origin should be objective, understandable and predictable;

(d) notwithstanding the measure or instrument to which they may be linked, rules of origin should not be used as instruments to pursue trade objectives directly or indirectly. 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. However, costs not directly related to manufacturing or processing may be included for purposes of the application of an ***ad valorem*** percentage criterion;

(e) rules of origin should be administrable in a consistent, uniform, impartial and reasonable manner;

(f) rules of origin should be coherent;

(g) rules of origin should be based on a positive standard. Negative standards may be used to clarify a positive standard.

Work Programme

2.

(a) The work programme shall be initiated as soon after the entry into force of the Agreement Establishing the WTO as possible and will be completed within three years of initiation.

(b) The Committee and the Technical Committee provided for in Article 4 of this Agreement shall be the appropriate bodies to conduct this work.

(c) To provide for detailed input by the CCC, the Committee shall request the Technical Committee to provide its interpretations and opinions resulting from the work described below on the basis of the principles listed in paragraph 1 of this Article. 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.

(i) *Wholly Obtained and Minimal Operations or Processes*

The Technical Committee shall develop harmonized definitions of:

- the goods that are to be considered as being wholly obtained in one country. This work shall be as detailed as possible;
- minimal operations or processes that do not by themselves confer origin to a good.

The results of this work shall be submitted to the Committee within three months of receipt of the request from the Committee.

(ii) *Substantial Transformation - Change in Tariff Classification*

- The Technical Committee shall consider and elaborate upon, on the basis of the criterion of substantial transformation, the use of change in tariff subheading or heading when developing rules of origin for particular products or a product sector and, if appropriate, the minimum change within the nomenclature that meets this criterion.
- The Technical Committee shall divide the above work on a product basis taking into account the chapters or sections of the HS nomenclature, so as to submit results of its work to the Committee at least on a quarterly basis. The Technical Committee shall complete the above work within one year and three months from receipt of the request of the Committee.

(iii) *Substantial Transformation - Supplementary Criteria*

Upon completion of the work under (ii) for each product sector or individual product category where the exclusive use of the HS nomenclature does not allow for the expression of substantial transformation, the Technical Committee:

- shall consider and elaborate upon, on the basis of the criterion of substantial transformation, the use, in a supplementary or exclusive manner, of other requirements, including ad valorem percentages and/or manufacturing or processing operations, when developing rules of origin for particular products or a product sector;
- may provide explanations for its proposals;
- shall divide the above work on a product basis taking into account the chapters or sections of the HS nomenclature, so as to submit results of its work to the Committee at least on a quarterly basis. The Technical Committee shall complete

the above work within two years and three months of receipt of the request from the Committee.

Role of the Committee

3. On the basis of the principles listed in paragraph 1 of this Article:

(a) the Committee shall consider the interpretations and opinions of the Technical Committee periodically in accordance with the time-frames provided in (i), (ii) and (iii) above with a view to endorsing such interpretations and opinions. The Committee may request the Technical Committee to refine or elaborate its work and/or to develop new approaches. To assist the Technical Committee, the Committee should provide its reasons for requests for additional work and, as appropriate, suggest alternative approaches;

(b) upon completion of all the work identified in (i), (ii) and (iii) above, the Committee shall consider the results in terms of their overall coherence.

Results of the Harmonization Work Programme and Subsequent Work

4. The Ministerial Conference shall establish the results of the harmonization work programme in an annex as an integral part of this Agreement. The Ministerial Conference shall establish a time-frame for the entry into force of this annex.

ANNEX I

TECHNICAL COMMITTEE ON RULES OF ORIGIN

Responsibilities

1. The on-going responsibilities of the Technical Committee shall include the following:

(a) at the request of any member of the Technical Committee, to examine specific technical problems arising in the day-to-day administration of the rules of origin of Members and to give advisory opinions on appropriate solutions based upon the facts presented;

(b) to furnish information and advice on any matters concerning the origin determination of goods as may be requested by any Member or the Committee;

(c) to prepare and circulate periodic reports on the technical aspects of the operation and status of this Agreement; and

(d) to review annually the technical aspects of the implementation and operation of Parts II and III of this Agreement.

2. The Technical Committee shall exercise such other responsibilities as the Committee may request of it.

3. 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.

Representation

4. 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. Such a Member so represented on the Technical Committee is hereinafter referred to as a "member" of 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.

5. Members of the CCC who are not WTO Members may be represented at meetings of the Technical Committee by one delegate and one or more alternates. Such representatives shall attend meetings of the Technical Committee as observers.

6. Subject to the approval of the Chairman of the Technical Committee, the Secretary-General of the CCC (hereinafter referred to as "the Secretary-General") may invite representatives of governments which are neither WTO Members nor members of the CCC and representatives of international governmental and trade organizations to attend meetings of the Technical Committee as observers.

7. Nominations of delegates, alternates and advisers to meetings of the Technical Committee shall be made to the Secretary-General.
Meetings

8. The Technical Committee shall meet as necessary, but not less than once a year.

Procedures

9. The Technical Committee shall elect its own Chairman and shall establish its own procedures.

ANNEX II

COMMON DECLARATION WITH REGARD TO PREFERENTIAL RULES OF ORIGIN

1. Recognizing that some Members apply preferential rules of origin, distinct from non-preferential rules of origin, the Members hereby agree as follows.

2. For the purposes of this Common Declaration, preferential rules of origin shall be defined as those laws, regulations and administrative determinations of general application applied by any Member to determine whether goods qualify for preferential treatment under contractual or autonomous trade regimes leading to the granting of tariff preferences going beyond the application of Article I:1 of the GATT 1994.

3. The Members agree to ensure that:

(a) when they issue administrative determinations of general application, the requirements to be fulfilled are clearly defined. In particular:

- in cases where the criterion of change of tariff classification is applied, such a preferential rule of origin, and any exceptions to the rule, must clearly specify the sub-headings or headings within the tariff nomenclature that are addressed by the rule;
- in cases where the ad valorem percentage criterion is applied, the method for calculating this percentage shall also be indicated in the preferential rules of origin;
- in cases where the criterion of manufacturing or processing operation is prescribed, the operation that confers preferential origin shall be precisely specified;

(b) their preferential rules of origin are based on a positive standard. Preferential rules of origin that state what does not confer preferential origin (negative standard) are permissible as part of a clarification of a positive standard or in individual cases where a positive determination of preferential origin is not necessary;

(c) their laws, regulations, judicial and administrative rulings of general application relating to preferential rules of origin are published as if they were subject to, and in accordance with, the provisions of Article X:1 of the GATT 1994;

(d) upon request of an exporter, importer or any person with a justifiable cause, assessments of the preferential origin they would accord to a good are issued as soon as possible but no later than 150 days after a request for such an assessment provided that all necessary elements have been submitted. 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 preferential rules of origin, under which they have been made remain comparable. Provided that the parties concerned are informed in advance, such assessments will no longer be valid when a decision contrary to the assessment is made in a review as referred to in sub-paragraph (f) below. Such assessments shall be made publicly available subject to the provisions of sub-paragraph (g) below;

(e) when introducing changes to their preferential rules of origin or new preferential rules of origin, they shall not apply such changes retroactively as defined in, and without prejudice to, their laws or regulations;

(f) any administrative action which they take in relation to the determination of preferential origin is reviewable promptly by judicial, arbitral or administrative tribunals or procedures, independent of the authority issuing the determination, which can effect the modification or reversal of the determination;

(g) all information that is by nature confidential or that is provided on a confidential basis for the purpose of the application of preferential rules of origin is 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 it may be required to be disclosed in the context of judicial proceedings.

4. The Members agree to provide to the WTO 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 this Common Declaration. 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 WTO Secretariat. Lists of information received and available with the WTO Secretariat shall be circulated to the Members by the WTO Secretariat.

Annex Two: WCO revised Kyoto Convention – Annex K (Rules of Origin)

WCO Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures -- Specific Annex K

Chapter 1

Rules of origin

Definitions

For the purposes of this Chapter:

E1./ F2.

> "**country of origin of goods**" means the country in which the goods have been produced or manufactured, according to the criteria laid down for the purposes of application of the Customs tariff, of quantitative restrictions or of any other measure related to trade;

E2./ F3.

> "**rules of origin**" means the specific provisions, developed from principles established by national legislation or international agreements ("origin criteria"), applied by a country to determine the origin of goods;

E3./ F1.

> "**substantial transformation criterion**" means the criterion according to which origin is determined by regarding as the country of origin the country in which the last substantial manufacturing or processing, deemed sufficient to give the commodity its essential character, has been carried out.

Principle

1. Standard
The rules of origin necessary for the implementation of the measures which the Customs are responsible for applying both at importation and at exportation shall be laid down in accordance with the provisions of this Chapter and, insofar as applicable, by the provisions in the General Annex.

Rules of origin

2. Standard
Goods produced wholly in a given country shall be taken as originating in that country.
The following only shall be taken to be produced wholly in a given country :

a. mineral products extracted from its soil, from its territorial waters or from its sea-bed;
b. vegetable products harvested or gathered in that country;
c. live animals born and raised in that country;
d. products obtained from live animals in that country;
e. products obtained from hunting or fishing conducted in that country;
f. products obtained by maritime fishing and other products taken from th e sea by a vessel of that country;
g. products obtained aboard a factory ship of that country solely from products of the kind covered by paragraph (f) above;
h. products extracted from marine soil or subsoil outside that country's territorial waters, provided that the country has sole rights to work that soil or subsoil;
i. scrap and waste from manufacturing and processing operations, and used articles, collected in that

country and fit only for the recovery of raw materials;

j. goods produced in that country solely from the products referred to in paragraphs (a) to (i) above.

3. Recommended Practice
Where two or more countries have taken part in the production of the goods, the origin of the goods should be determined according to the substantial transformation criterion.

4. Recommended Practice
In applying the substantial transformation criterion, use should be made of the International Convention on the Harmonized Commodity Description and Coding System.

5. Recommended Practice
Where the substantial transformation criterion is expressed in terms of the ad valorem percentage rule, the values to be taken into consideration should be:

- for the materials imported, the dutiable value at importation or, in the case of materials of undetermined origin, the first ascertainable price paid for them in the territory of the country in which manufacture took place; and

- for the goods produced, either the ex-works price or the price at exportation, according to the provisions of national legislation.

6. Recommended Practice
Operations which do not contribute or which contribute to only a small extent to the essential characteristics or properties of the goods, and in particular operations confined to one or more of those listed below, should not be regarded as constituting substantial manufacturing or processing:

1. operations necessary for the preservation of goods during transportation or storage;

2. operations to improve the packaging or the marketable quality of the goods or to prepare them for shipment, such as breaking bulk, grouping of packages, sorting and grading, repacking;

3. simple assembly operations;

4. mixing of goods of different origin, provided that the characteristics of the resulting product are not essentially different from the characteristics of the goods which have been mixed.

Special cases of qualification for origin

7. Recommended Practice
Accessories, spare parts and tools for use with a machine, appliance, apparatus or vehicle should be deemed to have the same origin as the machine, appliance, apparatus or vehicle, provided that they are imported and normally sold therewith and correspond, in kind and number, to the normal equipment thereof.

8. Recommended Practice
An unassembled or disassembled article which is imported in more than one consignment because it is not feasible, for transport or production reasons, to import it in a single consignment should, if the importer so requests, be treated as one article for the purpose of determining origin.

9. Recommended Practice
For the purpose of determining origin, packings should be deemed to have the same origin as the goods they contain unless the national legislation of the country of importation requires them to be declared separately for tariff purposes, in which case their origin should be determined separately from that of the goods.

10. Recommended Practice
For the purpose of determining the origin of goods, where packings are deemed to have the same origin as the goods, account should be taken, in particular where a percentage method is applied, only of packings in which the goods are ordinarily sold by retail.

11. Standard
For the purpose of determining the origin of goods, no account shall be taken of the origin of the energy, plant, machinery and tools used in the manufacturing or processing of the goods.

Direct transport rule

12. Recommended Practice
Where provisions requiring the direct transport of goods from the country of origin are laid down, derogations therefrom should be allowed, in particular for geographical reasons (for example, in the case of landlocked countries) and in the case of goods which remain under Customs control in third countries (for example, in the case of goods displayed at fairs or exhibitions or placed in Customs warehouses).

Information concerning rules of origin

13. Standard
Changes in the rules of origin or in the procedures for their application shall enter into force only after sufficient notice has been given to enable the interested persons, both in export markets and in supplying countries, to take account of the new provisions.

Chapter 2

Documentary evidence of origin

Definitions

For the purposes of this Chapter:

E1./ F2.

> "**certificate of origin**" means a specific form identifying the goods, in which the authority or body empowered to issue it certifies expressly that the goods to which the certificate relates originate in a specific country. This certificate may also include a declaration by the manufacturer, producer, supplier, exporter or other competent person;

E2./ F3.

> "**certified declaration of origin**" means a "declaration of origin" certified by an authority or body empowered to do so;

E3./ F4.

> "**declaration of origin**" means an appropriate statement as to the origin of the goods made, in connection with their exportation, by the manufacturer, producer, supplier, exporter or other competent person on the commercial invoice or any other document relating to the goods;

E4./ F5.

> "**documentary evidence of origin**" means a certificate of origin, a certified declaration of origin or a declaration of origin;

E5./ F1.

> "**regional appellation certificate**" means a certificate drawn up in accordance with the rules laid down by an authority or approved body, certifying that the goods described therein qualify for a designation specific to the given region (e.g. Champagne, Port wine, Parmesan cheese).

Principle

1. Standard
The requirement, establishment and issue of documentary evidence relating to the origin of goods shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Requirement of documentary evidence of origin

2. Recommended Practice
Documentary evidence of origin should be required only when it is necessary for the application of preferential Customs duties, of economic or trade measures adopted unilaterally or under bilateral or multilateral agreements or of measures adopted for reasons of health or public order.

3. Recommended Practice
Documentary evidence of origin should not be required in the following cases:

1. goods sent in small consignments ad dressed to private individuals or carried in travellers' baggage, provided that such importations are of a non-commercial nature and the aggregate value of the importation does not exceed an amount which shall not be less than US$100;

2. commercial consignments the aggregate value of which does not exceed an amount which shall not be less than US$60;

3. goods granted temporary admission;

4. goods carried in Customs transit;

5. goods accompanied by a regional appellation certificate as well as certain specific goods, where the conditions to be met by the supplying countries under bilateral or multilateral agreements relating to those goods are such that documentary evidence need not be required.

Where several consignments of the kind referred to in (a) or (b) are sent at the same time, by the same means, to the same consignee, by the same consignor, the aggregate value shall be taken to be the total value of those consignments.

4. Recommended Practice
When rules relating to the requirement of documentary evidence of origin have been laid down unilaterally, they should be reviewed at least every three years to ascertain whether they are still appropriate in the light of changes in the economic and commercial conditions under which they were imposed.

5. Recommended Practice
Documentary evidence from the competent authorities of the country of origin should be required only in cases where the Customs of the country of importation have reason to suspect fraud.

Applications and form of the various types of documentary evidence of origin

(a) Certificate of origin

Form and content

6. Recommended Practice
When revising present forms or preparing new forms of certificates of origin, Contracting Parties should use the model form in Appendix I to this Chapter, in accordance with the Notes in Appendix II, and having regard to the Rules in Appendix III.

Contracting Parties which have aligned their forms of certificate of origin on the model form in Appendix I to this Chapter should notify the Secretary General of the Council accordingly.

Languages to be used

7. Recommended Practice
Certificate of origin forms should be printed in the language(s) selected by the country of exportation and, if these languages are neither English nor French, also in English or French.

8. Recommended Practice
Where the certificate of origin is made out i n a language that is not a language of the country of importation, the Customs of that country should not require, as a matter of course, a translation of the particulars given in the certificate of origin.

Authorities and other bodies empowered to issue certificates of origin

9. Standard
Contracting Parties accepting this Chapter shall indicate, either in their notification of acceptance or subsequently, the authorities or bodies empowered to issue certificates of origin.

10. Recommended Practice
Where goods are not imported directly from the country of origin but are forwarded through the territory of a third country, certificates of origin should be allowed to be drawn up by the authorities or bodies empowered to issue such certificates in that third country, on the basis of a certificate of origin previously issued in the country of origin of the goods.

11. Recommended Practice
Authorities or bodies empowered to issue certificates of origin should retain for not less than two years the applications for, or control copies of, the certificates of origin issued by them.

(b) Documentary evidence other than certificates of origin

12. Recommended Practice
Where documentary evidence of origin is required, a declarati on of origin should be accepted in the following cases:

1. goods sent in small consignments addressed to private individuals or carried in travellers' baggage, provided that such importations are of a non-commercial nature and the aggregate value of the importation does not exceed an amount which shall not be less than US$500;

2. commercial consignments the aggregate value of which does not exceed an amount which shall not be less than US$300.

Where several consignments of the kind referred to in (a) or (b) are sent at the same time, by the same means, to the same consignee, by the same consignor, the aggregate value shall be taken to be the total value of those consignments.

Sanctions

13. Standard
Provision shall be made for sanctions against any person who prepares, or causes to be prepared, a document containing false information with a view to obtaining documentary evidence of origin.

APPENDIX I

1. Exporter (name, address, country) Exportateur (nom, adresse, pays)	2. Number – Numéro **CERTIFICATE OF ORIGIN** **CERTIFICAT D'ORIGINE**	
3. Consignee (name, address, country) Destinataire (nom, adresse, pays)		
4. Particulars of transport (where required) Renseignements relatifs au transport (le cas échéant)		
5. Marks & Numbers : Number and kind of packages : Description of the goods Marques et numéros : Nombre et nature des colis : Désignation des marchandises	6. Gross weight Poids brut	7.
8. Other information – Autres renseignements Stamp – Timbre	It is hereby certified that the above-mentioned goods originate in : Il est certifié par la présente que les marchandise mentionnées ci-dessus sont originaires de : --- CERTIFYING BODY ORGANISME AYANT DELIVRE LE CERTIFICAT. --- Place and date of issue – Lieu et date de délivrance --- Authorised signature – Signature autorisée	

APPENDIX II

Notes

1. The size of the certificate should be the international ISO size A4 (210 x 297 mm, 8.27 x 11.69 inches). The form should be provided with a 10 mm top margin and a 20 mm left-hand filing margin. Line spacing should be based on multiples of 4.24 mm (1/6 inch) and width-spacing on multiples of 2.54 mm (1/10 inch). The layout should be in conformity with the ECE layout key, as illustrated in Appendix I. Minor deviations in the exact size of boxes, etc., should be permissible if required for particular reasons in the issuing country, such as the existence of systems other than metric measurement, features of national aligned systems of documents, etc.

2. Where it is necessary to provide for applications for certificates of origin, the form of application and the form of certificate should be compatible to permit completion in one run.

3. Countries may determine standards concerning the weight per m 2 of the paper, and the use of a machine-turned background to prevent falsification.

4. For the guidance of users, rules for the establishment of the certificate of origin may be printed on the back of the certificate.

5. Where requests for post-facto control may be submitted under a mutual administrative assistance

agreement, a space may be provided for that purpose on the back of the certificate.

6. The following comments refer to the boxes in the model form :

Box No. 1:

"Consignor", "producer", "supplier", etc. may be substituted for "exporter".

Box No. 2:

There should be only one original certificate of origin, identified by the word "Original" adjacent to the document title. If a certificate of origin is issued in replacement of an original certificate that has been lost, the replacement certificate shall be identified by the word "Duplicate" adjacent to the document title. Copies of an original or of a duplicate certificate shall bear the word "copy" adjacent to the title.
This box is also intended for the name (logotype, emblem, etc.) of the issuing authority and should leave space for other official purposes.

Box No. 3:

The particulars provided for in this box may be replaced by " to order " and, possibly, the country of destination.

Box No. 4:

This box can be used for additional information on means of transport, rou te, etc., which can be inserted if so desired by, for example, the issuing authority.

Box No. 5:

If an indication of "Item No." is required this can be inserted, preferably in the margin to this box or at the beginning of each line in the box. "Marks and Nos." can be separated from "Number and kind of packages" and "Description of the goods" by a vertical line. If a line is not used, these particulars should be distinguished by adequate spacing. The description of the goods can be supported by adding the number of the applicable Harmonized System heading, preferably in the right-hand part of the column. Particulars of the origin criteria, if required, should be given in this box and should be separated from the other information by a vertical line.

Box No. 6:

Normally, gross weight should suffice for the identification of the goods.

Box No. 7:

This column is left blank for any additional details that might be required, such as measurements, or for reference to other documents (e.g., commercial invoices).

Boxes Nos. 6 and 7:

Other quantities which the exporter may state in order to facilitate identification can be entered in either box 6 or box 7, as appropriate.

Box No. 8:

This area is reserved for the details of the certification by the competent body (certification legend, stamps, signatures, date and place of issue, etc.). The precise wording of texts, etc., is left to the discretion of the issuing authority, the wording used in the model form serving only as an example. This box may also be used for a signed declaration by the exporter (or the supplier or manufacturer).

APPENDIX III

Rules for the establishment of certificates of origin

The rules for the establishment of certificates of origin (and where applicable, of applications for such certificates) are left to the discretion of national authorities, due account being taken of the Notes set out above. However, it may be necessary to ensure compliance with, inter alia, the following provisions:

1. The forms may be completed by any process, provided that the entries are indelible and legible.

2. Neither erasures nor superimpositions should be allowed on the certificates (or applications). Any alterations should be made by striking out the erroneous material and making any additions required. Such alterations should be approved by the person who made them and certificated by the appropriate authority or body.

3. Any unused space s should be crossed out to prevent any subsequent addition.

4. If warranted by export trade requirements, one or more copies may be drawn up in addition to the original.

Chapter 3

Control of documentary evidence of origin

Definitions

For the purposes of this Chapter:

E1./ F1.

"**certificate of origin**" means a specific form identifying the goods, in which the authority or body empowered to issue it certifies expressly that the goods to which the certificate relates originate in a specific country. This certificate may also include a declaration by the manufacturer, producer, supplier, exporter or other competent person;

E2./ F2.

"**certified declaration of origin**" means a "declaration of origin" certified by an authority or body empowered to do so;

E3./ F3.

"**declaration of origin**" means an appropriate statement as to the origin of the goods made, in connection with their exportation, by the manufacturer, producer, supplier, exporter or other competent person on the commercial invoice or any other document relating to the goods;

E4./ F4.

"**documentary evidence of origin**" means a certificate of origin, a certified declaration of origin or a declaration of origin.

Principle

1. Standard
Administrative assistance for the control of documentary evidence of origin shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Reciprocity

2. Standard
The competent authority of the Contracting Party which has received a request for control need not comply

with it if the competent authority of the requesting Contracting Party would be unable to furnish that assistance if the positions were reversed.

Requests for control

3. Recommended Practice
The Customs administration of a Contracting Party which has accepted this Chapter may request the competent authority of a Contracting Party which has accepted this Chapter and in whose territory documentary evidence of origin has been established to carry out control of such evidence :

1. where there are reasonable grounds to doubt the authenticity of the document;

2. where there are reasonable grounds to doubt the accuracy of the particulars given therein;

3. on a random basis.

4. Standard
Requests for control on a random basis, as provided for in Recommended Practice 3 (c) above, shall be identified as such and be kept to the minimum necessary to ensure adequate control.

5. Standard
Requests for control shall :

1. specify the reasons for the requesting Customs administration's doubts about the authenticity of the document produced or the accuracy of the particulars given therein, unless the control is requested on a random basis;

2. specify, where appropriate, the rules of origin applicable to the goods in the country of importation and any additional information requested by that country;

3. be accompanied by the documentary evidence of origin to be checked, or a photocopy thereof, and where appropriate any other documents such as invoices, correspondence, etc. that might facilitate control.

6. Standard
Any competent authority receiving a request for control from a Contracting Party having accepted this Chapter shall reply to the request after having carried out the necessary controls itself or having had the necessary investigations made by other administrative authorities or by bodies authorized for the purpose.

7. Standard
An authority receiving a request for control shall answer the questions put by the requesting Customs administration and furnish any other information it may consider relevant.

8. Standard
Replies to requests for control shall be furnished within a prescribed period not exceeding six months. If the authority receiving the request cannot reply within six months, it shall so inform the requesting Customs administration.

9. Standard
Requests for control shall be made within a prescribed period which, except in special circumstances, should not exceed one year, commencing with the date on which the document was produced to the Customs office of the Contracting Party making the request.

Release of the goods

10. Standard
A request for control shall not prevent the release of the goods, provided that they are not held to be subject to import prohibitions or restrictions and there is no suspicion of fraud.

Miscellaneous provisions

11. Standard
Any information communicated in accordance with the provisions of this Chapter shall be treated as confidential and used for Customs purposes only.

12. Standard
The documents needed for control of documentary evidence of origin issued by the competent authorities or authorized bodies shall be retained by them for an adequate period which should not be less than two years following the date on which the documentary evidence was issued.

13. Standard
The Contracting Parties that accept this Chapter shall specify the authorities which are competent to receive requests for control and communicate their address to the Secretary General of the Council who will transmit such information to the other Contracting Parties having accepted this Chapter.