THE IMPACT OF RULES OF ORIGIN ON U.S. IMPORTS AND EXPORTS

Report to the President on Investigation No. 332-192 Under Section 332 of the Tariff Act of 1930

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EXECUTIVE SUMMARY

On August 6, 1984, the United States Trade Representative, on behalf of the President, requested the United States International Trade Commission to institute an investigation pursuant to section 332(g) of the Tariff Act of 1930, as to the effect of origin rules on the competitive position of U.S. imports and exports. The investigation was to examine complaints made by U.S. industries and exporters with respect to the discriminatory effect of rules of origin applied by the United States and its major trading partners. 1/

On September 4, 1984, the Commission instituted its investigation (No. 332-192), a notice of which was published in the Federal Register on September 12, 1984 (49 F.R. 35876). 2/ A public hearing was held in Washington on January 29, 1985, at which time all interested parties were afforded an opportunity to present information and data for consideration by the Commission. 3/ The information in this report was obtained from fieldwork, the Commission's files, the U.S. Customs Service, the Department of Commerce, the Offices of the U.S. Trade Representative in Washington and Geneva, private individuals and organizations, and responses to Commission questionnaires. 4/

The report is divided into several parts. The first and second parts describe the scope and application of origin rules generally and those currently in effect in the United States, the European Economic Community,

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1/ The request from the United States Trade Representative is reproduced in Appendix A.

2/ A copy of the Notice of Investigation is reproduced in Appendix B.

3/ Lists of witnesses who testified at the hearing and of persons who submitted written statements appear in Appendix C.

4/ Copies of the questionnaires are reproduced in Appendix D.

Canada, Japan, and Hong Kong. In order to study the trade effects of rules of origin on U.S. imports and exports it was necessary to first make a compilation of the various national rules of origin as they currently exist. Although compilations have previously been made, some covering the rules in operation for a particular preferential tariff program, none were considered to be sufficiently comprehensive for use in this study covering rules of origin that are applicable for all purposes. Subsequent parts cover the status of origin studies conducted by various international organizations, the economic impact of origin rules, complaints by U.S. industry, the significance of rules in the negotiation of trade agreements, and proposals for uniform rules of origin.

Rules of origin are those laws, regulations, and administrative practices that are applied to ascribe a country of origin to products in international trade. Attention has recently been directed to rules of origin due to the increasing number and diversity of preferential programs and to the apparent growth of trade in goods processed in more than one country. Although a product may be the result of processing operations carried out in several countries, the formulation and administration of trade laws requires each article to be deemed the product of one (and only one) country. Review of the information gathered for this report reveals that origin rules are used for two separate and distinct purposes: (1) as a frame of reference to ascribe origin generally, and (2) as a means of qualification to determine the eligibility of imported goods for particular preferential or nonpreferential treatment. The preferential and nonpreferential schemes of each of the

countries examined in this report attempt to maintain internal consistency with respect to country-of-origin findings; that is, goods considered to be the product of country A for nonpreference purposes will not be considered to be a product of another country for purposes of preferential treatment. However, because rules for preferential programs are usually more restrictive than nonpreferential rules, not all products of country A will necessarily be entitled to special treatment.

Because of the linkage between the two types of schemes, nonpreferential origin rules can have a significant effect on the eligibility of goods for preferential treatment. Yet, in the nonpreferential origin rules examined, including those of the United States, little guidance is provided with respect to how origin is to be determined. The schemes examined all rely on the so-called substantial transformation test which is stated in various forms and generally applied on a case-by-case basis. For example, no current statute prescribes the mechanics for determining the nonpreferential origin of U.S. imports; and only recently, in the case of textiles, has the United States issued product-specific rules of origin.

The substantial transformation rule tends to favor conferring origin on the last country of manufacture. It focuses on whether the operations performed in that country were economically significant, but it does not require comparison of operations performed in each country of manufacture to determine which made the major contribution. Because a high degree of economic contribution is not necessarily required to satisfy the rule, the rule is often not considered effective as a basis for administering

preferential programs. For the same reason, the rule can be employed by importers seeking to avoid the effects of country-specific trade restrictions such as quotas or antidumping duties. It is not unusual, therefore, to find that rules of origin for preferential programs tend to specify additional and stringent minimum standards of contribution so as to avoid the possibility of trade being deflected through preference-eligible countries solely to qualify for special treatment.

While nonpreferential rules of origin can be characterized as uncodified, general, and ambiguous, the additional requirements contained in rules controlling the application of preferential programs tend to be codified, specific, and restrictive. As a group, preferential rules are clearly distinguishable from nonpreferential rules. Nonetheless, there are also wide differences among preferential rules due to the variation in local-content requirements and the application of origin-conferring standards peculiar to each program.

As noted in the section of this report titled Uniform Rules of Origin (pages 102-107), a number of interested persons commented favorably on the concept of harmonizing rules of origin internationally, and some even submitted specific draft rules for consideration. The notion of an international rule of origin is not new, as several unsuccessful attempts to draft such a rule demonstrate. Currently there is no well-defined universally accepted rule of origin. The GATT creates no specific obligations as to rules of origin and therefore permits each contracting party to apply its own system of rules. In fact, the absence of an effective rule has seriously hampered

the Commission's ability to obtain useful data with which to assess the effects of origin rules on the competitive position of U.S. imports and exports.

A well defined system of harmonized rules of origin would provide a much-needed and transparent frame of reference for administering international obligations, for identifying discriminatory practices, for affording the international trade community with a consistent and reliable basis for determining the legal origin of goods, and for providing a more satisfactory foundation for the publication of trade information by country.

It is not within the scope of this study to arrive at a conclusion regarding a substantive basis for harmonization of rules of origin. However, it is clear that for an international origin system to be truly useful it would have to be acceptable for the purpose of governing economic programs operating on a selective-country basis. Therefore, the determination of origin should be founded on economically sound and technically relevant criteria. Based on the information currently available to the Commission, it would appear that the concept of substantial transformation alone, as it is applied in a discretionary manner, would not serve this aim. Further study of this question is needed in order that alternative bases for harmonization could be considered.

During the course of this investigation a number of specific complaints were registered regarding discriminatory effects of rules of origin applied by the United States and its trading partners. The Commission has prepared a compilation of 94 complaints regarding foreign origin rules. 1/ A

1/ The complaints are summarized in Appendix P and were compiled from the following sources: U.S. Trade Representative files; Department of Commerce files; nontariff measures data base of the Department of Commerce; written submissions filed in connection with this investigation; and questionnaire responses received in this investigation.

comprehensive list of complaints reported to the various U.S. Government agencies concerned did not previously exist.

Complaints by textile interests primarily concerned recently promulgated customs regulations clarifying rules for determining the country of origin for textiles. While a number of issues were raised with respect to the substance of the rules, most complaints centered on the stricter documentation requirements and on the fact that the regulations were implemented with little advance warning.

U.S. marking rules were also the subject of complaints. These ranged from complaints regarding the proper marking of goods of Chinese origin to complaints that the Customs Service does not enforce the marking statute in a sufficiently vigorous manner.

A large number of complaints concerned the European Economic Community-European Free Trade Area (EEC-EFTA) rules of origin. The complainants contended that the rules are unnecessarily restrictive.

Rules of origin do have an economic effect on trade. However, since the effect of a rule of origin cannot be isolated from all of the other factors that contribute to business decision making, it is not possible to quantify the impact.

Questionnaire information points to some effects origin rules can have on United States business in terms of lost sales and costs of compliance. However, industry respondents were only able to provide us with very broad estimates concerning these factors. Several respondents did indicate that

they have altered their sourcing patterns or moved their manufacturing facilities because of the effects of rules of origin.

Rules of origin have a particularly significant impact in the textiles area because the manufacture of such products involves many production processes, often performed in more than one country. The new textile rules are expected to have the biggest impact on imports from Hong Kong and China. This is due to the fact that a considerable volume of materials from other countries is processed in Hong Kong, and China is a major supplier of materials for such processing in Hong Kong.

INTRODUCTION

Rules of Origin

For purposes of this investigation, rules of origin are those laws, regulations, and administrative practices that are applied to ascribe a country of origin to products in international trade. Origin rules include those applicable for purposes of statistical reporting, application of most-favored-nation (MFN) treatment, and various preferential tariff programs.

Over the years, there has been an apparent increase in the trade of products that were either produced from components that originated in more than one country or assembled in countries that did not produce their constituent parts. Interestingly, although duty rates and other trade barriers have been decreasing around the world, rules of origin have, in many instances, been applied more restrictively. This is due largely to the increased number of preferential tariff programs, which afford differing rates of duty to a product depending upon its country of origin. To the extent that countries depart from the application of MFN treatment, the problems associated with determining the origin of goods will probably become more numerous.

Table 1 provides some indication of the importance of preferential and special tariff programs in relation to overall U.S. import trade.

Table 1. Total U.S. imports and imports under selected programs, 1983

(In millions of dollars)

Source or program	Value
All imports from all countries 1/	254,043
Imports from MFN countries 1/	253,352
Imports under GSP program	10,747
Imports under APTA program	16,563
Imports of certified hand-loomed/folklore products	11
Imports under Civil Aircraft Agreement program	2,890
Imports under TSUS 806.30 (gross value)	471
Imports under TSUS 807.00 (gross value)	21,374
Imports from U.S. possessions 2/	3,470

1/ Does not include imports from U.S. posessions.
2/ Covers shipments from Virgin Islands, Guam, and American Samoa.

Source: Derived from official statistics of the U.S. Department of Commerce.

In addition to their use in determining origin for application of country-based special programs, rules of origin are also necessary for the collection of accurate statistical data on a country basis, which are needed for the study of trade flows and economic trends and for use in trade negotiations. Another need for origin rules is in the administration of quantitative restrictions (quotas).

When a product is wholly produced or wholly obtained in a single country, there is no question as to its country of origin. However, when materials from more than one country go into the manufacture of a product, or when materials from one or more countries are sent to one or more other countries for manufacturing, processing, assembly, packaging, or other operations before importation into the country that is the final destination of the product, it may be very difficult to determine which country should be considered the

country of origin. In such situations, it is necessary to apply a rule of origin.

In most countries, there are two categories of origin rules. One category is composed of the rules applicable to country of origin determinations for nonpreferential purposes, such as statistical record-keeping or marking. These rules are generally based on ascertaining the country where the components underwent the last substantial transformation prior to importation. The other category of rules is composed of those applicable to determinations of eligibility for preferential tariff treatment, normally granted on a "country" basis: i.e., a particular definition of country of origin is used to limit the application of the preference. Only those products that, under the requirements of the particular rule in effect, are considered products of a country entitled to the preference will receive the benefit. Thus, if the rule of origin applicable to a preference program is more stringent than the nonpreferential rule, a product could be deemed to originate in a particular country for nonpreferential purposes, but still not qualify as the product of that country for purposes of the preference.

As each country and each preference program have distinct policy objectives, the criteria used to determine country of origin vary from program to program and from country to country. For example, MFN treatment constitutes the cornerstone of treatment expected to be granted and received by all contracting parties to the General Agreement on Tariffs and Trade (GATT). However, since no specific rule of origin is mandated in the GATT, the contracting parties have developed their own distinct rules for purposes of their GATT obligations.

Rules of origin are of several types, including, among others, the following: rules requiring a substantial transformation or sufficient work or processing; rules including a value-added criterion; and rules requiring a change in tariff heading. Rules in the first category require that there must be work or processing sufficient to substantially transform the article or components into a new article of commerce in the country of origin. Rules in the second category require a substantial transformation of the goods, together with a specified amount of value added in the country of origin: that is, such rules require that a certain percentage of the value of the final product be added in, or attributed to, the country that is considered the country of origin. The change-in-tariff-heading rule requires that, to confer origin in a particular country, the goods must have undergone sufficient processing in that country to change the tariff heading of the goods from the heading applicable to the product or materials that entered that country. In addition to these rules, there are other rules of origin that combine elements of more than one of these rules.

In the United States, the country of origin of a product is generally the last country in which the goods underwent a substantial transformation. Substantial transformation is defined in U.S. Customs Service Regulations for some purposes, such as marking, application of the Generalized System of Preferences, the Caribbean Basin initiative, and the preference for products of insular possessions. Many of these preference programs combine a value-added requirement with the substantial transformation requirement. Substantial

transformation has also been defined in cases brought before the Court of International Trade (formerly the Customs Court) and the Court of Appeals for the Federal Circuit (formerly the Court of Customs and Patent Appeals). A recent development is the publication of proposed regulations clarifying the rules for determining the country of origin of textile products subject to restraint agreements.

In the European Economic Community (EEC), origin is defined in EEC Regulation 802/68 for purposes of the application of MFN duty rates, quantitative restrictions on goods, and other nonpreferential purposes. This regulation provides that a product will be "regarded as originating in the country in which the last substantial process or operation that is economically justified was performed, having been carried out in an undertaking equipped for the purpose, and resulting in the manufacture of a new product or representing an important stage of manufacture." Regulation 802/68 also provides for the promulgation of "secondary" regulations providing more detailed origin criteria for certain products. Each of the various preferential tariff programs to which the EEC is a party has its own rules of origin. Generally, these rules define country of origin as the country in which a new product was formed that is classifiable under a different four-digit Common Customs Tariff heading from the headings applicable to its component parts. The change-in-tariff-heading rule has a list of exceptions applicable to certain products.

Canada requires that a manufactured article must have been substantially transformed to its condition as exported to Canada in the country of origin. Preferential origin determinations are made on the basis of the satisfaction of certain minimum percentage content requirements. Generally, not less than 50 percent of the cost of production of the goods must be attributable to the industry of a country entitled to the preference.

Japan applies a rule of origin which requires a substantial transformation, generally evidenced by a change in tariff heading. There are some exceptions to this requirement.

In order to be considered a product of Hong Kong (for purposes of the issuance of a Certificate of Hong Kong Origin) an article must have undergone a manufacturing process in Hong Kong that has changed permanently and substantially the shape, nature, form, or utility of the basic materials used in the manufacture. The specific processing operations that qualify are set out on a product-by-product basis.

Format of the Report

This report is divided into seven parts. This introduction is followed by a second part which explains the operation of rules of origin applied by the United States, the European Economic Community, Canada, Japan, and Hong Kong.

The third part of the report discusses previous studies concerning rules of origin conducted by various international organizations. Studies conducted by the United Nations Conference on Trade and Development, the Organization

for Economic Cooperation and Development, the Customs Cooperation Council, and the General Agreement on Tariffs and Trade are covered.

The fourth part of the report discusses the economic impact of rules of origin. Although there is general agreement that rules of origin do have an economic impact, the effect of a rule of origin cannot be isolated from all of the other factors that contribute to business decision making. Therefore, it is not possible to quantify the economic impact of a rule of origin. Although we requested U.S. importers and exporters to provide us with data concerning the impact of rules of origin, they were unable to provide us with any that were useful. The fourth part also contains a discussion of the economic impact of the recent U.S. Customs Service Regulations clarifying the rules for determining the origin of textiles and textile products.

The fifth part covers complaints filed by U.S. industry concerning problems experienced as a result of the application of rules of origin.

The sixth part discusses the significance of rules of origin in the negotiation and application of trade agreements. Since the General Agreement on Tariffs and Trade contains no common rule of origin to be used in determining the country of origin of products for purposes of implementation of the various articles of the agreement, each contracting party applies its own rules.

The last part discusses the prospects for a uniform international system of rules of origin. There seems to be general agreement that a harmonization of international rules is desirable. Specific suggestions regarding what the rules should be are discussed.

RULES OF ORIGIN AND THEIR OPERATION

Rules of Origin of the United States

An identification of the country of origin of goods is required for all commercial shipments into the United States. The appropriate customs form must be used, containing the importer's declaration as to the origin of the goods, and, where required, a certificate of origin.

Products wholly obtained in one country have that country as their origin. The term "wholly obtained" is not, however, defined in United States statutes. When more than one country is involved in the manufacture of a product, the country of origin of the goods is generally the last country in which the goods underwent a substantial transformation. "Substantial transformation" is defined in U.S. Customs Service Regulations for purposes of some origin determinations, but not for all. 1/

Nonpreferential Origin Determinations

The need to determine the nonpreferential origin of imported goods arises primarily because of the U.S. marking statute (19 U.S.C. 1304(a)). This law provides that every article of foreign origin imported into the United States must be "marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article." U.S. Customs Service Regulations define "country of origin" to mean "the country of manufacture, production, or growth

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1/ Country of origin is defined in one U.S. statute, 19 U.S.C. 2518, for purposes of the Agreement on Government Procurement. See pages 35-36 of this report.

of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the 'country of origin' within the meaning of this part" (19 CFR 134.1(b)).

A number of judicial opinions have interpreted "substantial transformation" for purposes of the marking statute. In Uniroyal, Inc. v. United States (542 F. Supp. (1982), aff'd., 702 F. 2d 1022 (1983)), the Court of Appeals for the Federal Circuit affirmed the finding of the Court of International Trade that a manufacturing process in which outsoles were attached to imported footwear uppers did not effect a "substantial transformation" of the merchandise. The cartons in which the uppers were packed, but not the uppers themselves, had been marked "made in Indonesia". However, the footwear uppers had to be excluded from entry since they carried no indication of the country of origin to the ultimate purchaser of the merchandise in the United States. The court looked to the following customs regulation for a definition of "ultimate purchaser":

> The "ultimate purchaser" is generally the last person in the United States who will receive the article in the form in which it was imported . . . . (1) If an imported article will be used in manufacture, the manufacturer may be the "ultimate purchaser" if he subjects the imported article to a process which results in a substantial transformation of the article, even though the process may not result in a new or different article. (19 CFR 134.1(d))

In effect, this regulation defines what is necessary to change the country of origin of an article from foreign to United States origin, thereby eliminating any further need for marking in accordance with 19 U.S.C. 1304.

The court also made reference to 19 CFR 134.35, which provides as follows:

> Articles substantially changed by manufacture. An article used in the United States in manufacture which results in an article having a name, character, or use differing from that of the imported article, will be within the principle of the decision in the case of United States v. Gibson-Thomsen Co., Inc., 27 C.C.P.A. 267 (C.A.D. 98). Under this principle, the manufacturer or processor in the United States who converts or combines the imported article into the different article will be considered the "ultimate purchaser" of the imported article within the contemplation of section 304(a), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)), and the article shall be excepted from marking. The outermost containers of the imported articles shall be marked in accord with this part.

In reaching its conclusion that a substantial transformation of the uppers did not occur during the manufacturing process, the court pointed out that the process of attaching the uppers to the outsoles was significantly less time consuming and less costly than the process of manufacturing the upper, and that the manufacture of the upper required a great deal more in the way of technical skill. Since the attachment of the outsoles was a minor manufacturing process leaving the identity of the upper intact, the process did not result in an article having a name, character, or use differing from that of the imported article. Therefore, since the manufacturer was not the ultimate purchaser, the fact that the country of origin was indicated to him was not sufficient.

Section 1304 was amended by the Trade and Tariff Act of 1984 to add new subsections governing the marking of certain imported pipes, pipe fittings, compressed gas cylinders, and manhole rings or frames, covers, and assemblies. The new subsections require that pipes and pipe fittings and manhole rings or

frames, covers, and assemblies be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving. Compressed gas cylinders are to be marked by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

No U.S. statute or regulation defines country of origin for statistical purposes. Therefore, the marking statute's definition of substantial transformation is applied. The country of origin of a product imported into the United States is the last country in which a substantial transformation of any materials or components imported into that country occurred. Of course, if no imported materials were used in the manufacture of the product in the country from which the goods were exported to the United States, the merchandise is considered "wholly obtained" in that country and clearly has that country as its country of origin.

Preferential Rules of Origin

Most-favored-nation (MFN) treatment

The United States, consistent with its GATT obligations, sets MFN duty rates that apply to importations from most countries. These rates appear in column 1 of the Tariff Schedules of the United States (TSUS) in accordance with general headnote 3(h), and are applicable to products of all countries not given special treatment in accordance with some other preferential program set out in general headnote 3. In the absence of a special preference, these MFN rates apply to all products except those imported directly or indirectly from one of the Communist countries listed in general headnote 3(f). Products from Communist countries receive the column 2 duty rate.

Thus, the country of origin of any imported product must be determined in order to ascertain whether the column 1 or column 2 rate of duty will apply. This determination is made by applying principles obtained by judicial precedent.

Several court cases have challenged the U.S. Customs Service's application of column 2 duty rates. In Greenhalgh Mills Corp. v. United States (576 F. Supp. 646 (1983)), the Court of International Trade held that certain looms and accessories manufactured in Czechoslovakia had become a bona fide part of English commerce and were thus entitled to assessment of the column 1 duty rate when imported into the United States. The Court focused on the fact that the looms had been in operation in England for a period of twelve years and had been purchased in England with no intention of eventually reselling them in the United States. The Court concluded that the merchandise had divested itself of its status of being from a communist country. The case was affirmed on appeal to the Court of Appeals for the Federal Circuit. 1/ The lower court referred to the language in United States v. Hercules Antiques, The Danwill Company (44 CCPA 209, C.A.D. 662 (1957)) for the principle that the language "imported indirectly" is intended to include merchandise that had been separated from the country in which it originated by something more than mere passage through, or transshipment in, an intermediate country. However, Hercules Antiques indicated that merchandise can be divested of its status as an import, direct or indirect, from a communist country if it actually becomes a bona fide part of the commerce of the intermediate country.

1/ The Court of Appeals decision, Appeal No. 84-807 (September 26, 1984), is an unpublished decision which the Court said is to be limited to the unusual facts of the case.

In Belcrest Linens v. United States (573 F. Supp. 1149 (1983); aff'd 741 F. 2d 1368 (1984)), embroidered cotton pillowcases were held to be a product of Hong Kong, rather than of China, and thus were subject to the lower column 1 duty rate. Bolts of embroidered cotton percale fabric originating in the People's Republic of China were shipped to Hong Kong where the fabric was cut at predetermined markings, scalloped, sewn, and hemmed. The Court held that the merchandise was a product of Hong Kong because it underwent processes there which created a new article of commerce with a new name, use, and identity.

Generalized System of Preferences

The U.S. Generalized System of Preferences (GSP) was established by the Trade Act of 1974 and gives the President the authority to grant duty-free treatment to eligible products of designated beneficiary countries. General headnote 3(c)(i) of the TSUS lists the countries that are designated beneficiary developing countries, and the designations "A" or "A*" in the TSUS column entitled "GSP" indicate the articles (by tariff item) that are eligible for GSP treatment. The designation "A" indicates that products of all beneficiary developing countries are eligible for such benefits; and the designation "A*" indicates that those of certain beneficiary developing countries, enumerated in general headnote 3(c)(iii), are excluded from eligibility due to so-called "competitive need" limitations. 1/ Where neither designation appears, no article covered by the tariff item is GSP-eligible.

1/ "Competitive need" limitations refer to limits imposed when in the previous year U.S. imports of a given article from a particular beneficiary country exceeded limits set by the Executive Branch.

General headnote 3(c)(ii), which incorporates 19 U.S.C. 2463(b), provides as follows:

> ... Whenever an eligible article is imported into the customs territory of the United States directly from a country or territory listed in subdivision (c)(i) of this headnote, it shall receive duty-free treatment, unless excluded from such treatment by subdivision (c)(iii) of this headnote, provided that, in accordance with regulations promulgated by the Secretary of the Treasury the sum of (A) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3) of the Trade Act of 1974, plus (B) the direct costs of processing operations performed in such beneficiary developing country or such member countries is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States.

The GSP program allows for a form of cumulation in that it treats an association of countries that is either a free-trade area or a customs union as one country for purposes of satisfying the 35 percent value-added criterion. The pertinent U.S. Customs Service Regulations with respect to the determination of the country of origin are contained in 19 CFR and are as follows:

> Sec. 10.176 Country of origin criteria.
>
> (a) Merchandise produced in a beneficiary developing country or any two or more countries which are members of the same association of countries. Merchandise which is (1) the growth, product, manufacture, or assembly of (i) a beneficiary developing country or (ii) any two or more countries which are members of the same association of countries and (2) imported directly from such beneficiary developing country or member countries, may qualify for duty-free entry under the Generalized System of Preferences ("GSP"). However, duty free entry under GSP may be accorded only if: (i) The sum of the cost or value of the materials produced in the beneficiary developing country or any two or more countries which are members of the same association of countries which is treated as one country under section

502(a)(3), Trade Act of 1974, as amended (19 U.S.C. 2462(a)(3)), plus (ii) the direct costs of processing operations performed in such beneficiary developing country or member countries, is not less than 35 percent of the appraised value of the article at the time of its entry into the customs territory of the United States.

(b) [Reserved]

(c) Merchandise grown, produced, or manufactured in a beneficiary developing country. Merchandise which is wholly the growth, product, or manufacture of a beneficiary developing country, or an association of countries treated as one country under section 502(a)(3) of the Trade Act of 1974 as amended (19 U.S.C. 2462(a)(3)) and sec. 10.171(b), and manufactured products consisting of materials produced only in such country or countries, shall normally be presumed to meet the requirements set forth in this section.

Sec. 10.177 Cost or value of materials produced in the beneficiary developing country.

(a) "Produced in the beneficiary developing country" defined. For purposes of secs. 10.171 through 10.178, the words produced in the beneficiary developing "country" refer to the constituent materials of which the eligible article is composed which are either:

(1) Wholly the growth, product, or manufacture of the beneficiary developing country; or

(2) Substantially transformed in the beneficiary developing country into a new and different article of commerce.

(b) Questionable origin. When the origin of an article either is not ascertainable or not satisfactorily demonstrated to the appropriate district director, the article shall not be considered to have been produced in the beneficiary developing country.

(c) Determination of cost or value of materials produced in the beneficiary developing country. (1) The cost or value of materials produced in the beneficiary developing country includes:

(i) The manufacturer's actual cost for the materials;

(ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

(iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap; and

(iv) Taxes and/or duties imposed on the materials by the beneficiary developing country, or an association of countries treated as one country, provided they are not remitted upon exportation.

(2) Where the material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

(i) All expenses incurred in the growth, production, manufacture or assembly of the material, including general expenses;

(ii) An amount for profit; and

(iii) Freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant.

If the pertinent information needed to compute the cost or value of the materials is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

Sec. 10.178 Direct costs of processing operations performed in the beneficiary developing country.

(a) Items included in the direct costs of processing operations. As used in sec. 10.176, the words "direct costs of processing operations" means those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under consideration. Such costs include, but are not limited to:

(1) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(2) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;

(3) Research, development , design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise; and

(4) Costs of inspecting and testing the specific merchandise.

(b) Items not included in the direct costs of processing operations. Those items which are not included within the meaning of the words "direct costs of processing operations" are those which are not directly attributable to the merchandise under consideration or are not "costs" of manufacturing the product. These include, but are not limited to:

(1) Profit; and

(2) General expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

Thus, if an article is not wholly the growth or product of a beneficiary country, the cost or value of the materials produced in the beneficiary country plus the direct cost of processing operations performed in that country must not be less than 35 percent of the appraised value of the article.

"Materials produced in the beneficiary developing country" refers to those materials that are either wholly the growth, product, or manufacture of the beneficiary developing country or substantially transformed in the beneficiary developing country into a new and different article of commerce. This substantial transformation is required of all non-originating materials before they can be counted towards meeting the 35 percent value-added criterion. These transformed materials are then used in the production of the eligible article, which must itself undergo a second substantial transformation of the already transformed constituent materials into a new and different article of commerce. The Court of International Trade, in The Torrington Company v. United States (Slip. Op. 84-101 (August 24, 1984)), upheld this "dual substantial transformation requirement" and interpreted the language of 19 CFR 10.176(a) to require it. Furthermore, the Court noted that, without such a requirement, the goal of the GSP program could be frustrated by allowing beneficiary developing countries to be mere conduits for the merchandise (especially parts and components) of developed countries.

The term "substantial transformation" is defined in Texas Instruments, Inc. v. United States (69 CCPA 152, 156, 681 F.2d 778, 782 (1982)), as the emergence of a new and different article, having a distinctive name, character or use that is different from that originally possessed by the article or material before being subjected to the manufacturing process. The Court held that the assembly of encapsulated integrated circuits in Taiwan from materials imported from the United States constituted a substantial transformation of the items into new and different articles of commerce, that could then be considered materials produced in Taiwan for purposes of satisfying the 35 percent value-added requirement under the GSP.

Once it is found that both substantial transformations have occurred, it can be determined whether the sum of the cost or value of the materials produced in the beneficiary developing country, calculated in accordance with 19 CFR 10.177(c), plus the direct costs of processing, defined in 19 CFR 10.178, is not less than 35 percent of the appraised value of the article at the time of its entry into the United States.

The GSP program also generally requires a certificate of origin (app. E) (19 CFR 10.173). Also, the merchandise must be imported directly from the beneficiary developing country into the United States (19 CFR 10.175). The documents required as evidence of direct shipment are described in 19 CFR 10.174.

The Caribbean Basin Initiative (CBI)

The Caribbean Basin Initiative (CBI) is a program of nonreciprocal tariff preferences granted by the United States to developing countries in the

Caribbean Basin area. The eligible countries are listed in TSUS general headnote 3(g)(i). General headnote 3(g)(ii) provides that duty-free entry under the CBI program applies to any article, except those listed in general headnote 3(g)(iii), 1/ that is the growth, product, or manufacture of a beneficiary country if:

> (1) that article is imported directly from a beneficiary country into the customs territory of the United States; and
> (2) the sum of (i) the cost or value of the materials produced in a beneficiary country or two or more beneficiary countries, plus (ii) the direct costs of processing operations performed in a beneficiary country or countries is not less than 35 per centum of the appraised value of such article at the time it is entered. For purposes of determining the percentage referred to in subparagraph (2) above, the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 per centum of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (2).

* * * * * * *

> (C) As used in subdivision (g)(ii) of this headnote, the phrase "direct costs of processing operations" includes, but is not limited to--
> (1) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and
> (2) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.
> Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii)

1/ The excluded articles include tuna, sugars, sirups, and molasses, most textile and apparel articles, petroleum products, certain footwear, work gloves, luggage, handbags, flat goods, and leather wearing apparel, watches, and certain products subject to trade-agreements legislation.

general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

The recently issued U.S. Customs Service Regulations, effective January 7, 1985, that pertain to the determination of country of origin for purposes of the CBI program are contained in 19 CFR and are as follows:

Sec. 10.195 Country of origin criteria.

(a) Articles produced in a beneficiary country.--(1) General. Except as provided herein, any article which is either wholly the growth, product, or manufacture of a beneficiary country or a new or different article of commerce which has been grown, produced, or manufactured in a beneficiary country, may qualify for duty-free entry under the CBI. No article or material shall be considered to have been grown, produced, or manufactured in a beneficiary country by virtue of having merely undergone simple (as opposed to complex or meaningful) combining or packaging operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article. Duty-free entry under the CBI may be accorded to an article only if the sum of the cost or value of the material produced in a beneficiary country or countries, plus the direct costs of processing operations performed in a beneficiary country or countries, is not less than 35 percent of the appraised value of the article at the time it is entered.

(2) Combining, packaging, and diluting operations. No article which has undergone only a simple combining or packaging operation or a mere dilution in a beneficiary country within the meaning of paragraph (a)(1) of this section shall be entitled to duty-free treatment even though the processing operation causes the article to meet the value requirement set forth in that paragraph.

(i) For purposes of this section, simple combining or packaging operations and mere dilution include, but are not limited to, the following processes:

(A) The addition of batteries to devices;

(B) Fitting together a small number of components by bolting, glueing, soldering, etc.;

(C) Blending foreign and beneficiary country tobacco;

(D) The addition of substances such as anticaking agents, preservatives, wetting agents, etc.;

(E) Repacking or packaging components together;

(F) Reconstituting orange juice by adding water to orange juice concentrate; and

(G) Diluting chemicals with inert ingredients to bring them to standard degrees of strength.

(ii) For purposes of this section, simple combining or packaging operations and mere dilution shall not be taken to include processes such as the following:

(A) The assembly of a large number of discrete components onto a printed circuit board;

(B) The mixing together of two bulk medicinal substances followed by the packaging of the mixed product into individual doses for retail sale;

(C) The addition of water or another substance to a chemical compound under pressure which results in a reaction creating a new chemical compound; and

(D) A simple combining or packaging operation or mere dilution coupled with any other type of processing such as testing or fabrication (e.g., a simple assembly of a small number of components, one of which was fabricated in the beneficiary country where the assembly took place). The fact that an article or material has undergone more than a simple combining or packaging operation or mere dilution is not necessarily dispositive of the question of whether that processing constitutes a substantial transformation for purposes of determining the country of origin of the article or material.

(b) Commonwealth of Puerto Rico and U.S. Virgin Islands. For purposes of determining the percentage referred to in paragraph (a) of this section, the term "beneficiary country" includes the Commonwealth of Puerto Rico and the U.S. Virgin Islands. Any cost or value of materials or direct costs of processing operations attributable to the Virgin Islands must be included in the article prior to its final exportation from a beneficiary country to the U.S.

(c) Materials produced in the U.S. For purposes of determining the percentage referred to in paragraph (a) of this section, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered may be attributed to the cost or value of materials produced in the customs territory of the U.S. (other than the Commonwealth of Puerto Rico). In the case of materials produced in the customs territory of the U.S., the provisions of sec. 10.196 shall apply.

(d) Articles wholly grown, produced, or manufactured in a beneficiary country. Any article which is wholly the growth, product, or manufacture of a beneficiary country, including

articles produced or manufactured in a beneficiary country exclusively from materials which are wholly the growth, product, or manufacture of a beneficiary country or countries, shall normally be presumed to meet the requirements set forth in paragraph (a) of this section.

(e) Country of origin marking. The general country of origin marking requirements that apply to all importations are also applicable to articles imported under the CBI.

Sec. 10.196 Cost or value of material produced in a beneficiary country or countries.

(a) "Materials produced in a beneficiary country or countries" defined. For purposes of sec. 10.195, the words "materials produced in a beneficiary country or countries" refer to those materials incorporated in an article which are either:

(1) Wholly the growth, product, or manufacture of a beneficiary country or two or more beneficiary countries; or

(2) Subject to the limitations set forth in sec. 10.195(a), substantially transformed in any beneficiary country or two or more beneficiary countries into a new or different article of commerce which is then used in any beneficiary country in the production or manufacture of a new or different article which is imported directly into the U.S.

(b)Questionable origin. When the origin of a material either is not ascertainable or is not satisfactorily demonstrated to the appropriate district director, the material shall not be considered to have been grown, produced, or manufactured in a beneficiary country.

(c) Determination of cost or value of materials produced in a beneficiary country. (1) The cost or value of materials produced in a beneficiary country or countries includes:

(i) The manufacturer's actual cost for the materials;

(ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

(iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap; and

(iv) Taxes and/or duties imposed on the materials by any beneficiary country, provided they are not remitted upon exportation.

(2) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

(i) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(ii) An amount for profit; and

(iii) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant. If the pertinent information needed to compute the cost or value of a material is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

Sec. 10.197 Direct costs of processing operations performed in a beneficiary country or countries.

(a) Items included in the direct costs of processing operations. As used in sec. 10.195 and sec. 10.198, the words "direct costs of processing operations" mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under consideration. Such costs include, but are not limited to the following, to the extent that they are includable in the appraised value of the imported merchandise:

(1) All actual labor costs involved in the growth, production, manufacture or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(2) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;

(3) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise and;

(4) Costs of inspecting and testing the specific merchandise.

(b) Items not included in the direct costs of processing operations. Those items which are not included within the meaning of the words "direct costs of processing operations" are those which are not directly attributable to the merchandise under consideration or are not "costs" of manufacturing the product. These include, but are not limited to:

(1) Profit; and

(2) General expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

These regulations are very similar to those applicable to country of origin determinations for purposes of the GSP (19 CFR 10.176-10.178).

Indeed, the CBI system is similar to the GSP in most respects. The CBI preference applies to articles that are the growth, product, or manufacture of a beneficiary country if the sum of the cost of materials produced in the beneficiary country and the direct costs of processing operations performed in that country equal not less than 35 percent of the appraised value of the entered article. The CBI has requirements with respect to direct importation (19 CFR 10.193), evidence of direct shipment (19 CFR 10.194), and documentary evidence of the country of origin (19 CFR 10.198) that are similar to those applicable to the GSP. There is a similar requirement in the CBI that nonoriginating materials must undergo a substantial transformation in the beneficiary country in order to count towards the 35 percent requirement. This is enunciated more clearly in the CBI regulation (19 CFR 10.196), however, than it is for GSP purposes. As a general rule, simple combining or packaging operations or mere dilution will not qualify as a substantial transformation under either the CBI or the GSP. However, while this is specified in the CBI regulation (19 CFR 10.195), it is found only in case law and administrative rulings with respect to the GSP. Similar language is used with regard to the determination of the cost or value of materials produced in a beneficiary country (19 CFR 10.196(c)), and in defining "direct costs of processing operations" (19 CFR 10.197).

There are, however, some significant differences between the GSP and CBI programs. The most obvious is that, with the exception of certain products listed in general headnote 3(g)(iii), the CBI applies to all articles, not just those that are designated eligible articles, as is the case with the

GSP. Another significant difference between the two programs is that the CBI system permits cumulation of materials and direct costs of processing from any combination of beneficiary countries in order to satisfy the 35 percent value-added requirement. In contrast, under the GSP, cumulation is only allowed among a few associations of countries that qualify as either a free-trade area or a customs union. In addition, the CBI allows cumulation of all materials or direct costs of processing attributable to Puerto Rico or the U.S. Virgin Islands, so contributions from those territories count towards obtaining origin status in a CBI beneficiary country. Finally, up to 15 percent of the appraised value of the article as entered may be made up of materials (but not direct costs of processing) from the United States. These cumulation provisions cause the CBI origin requirements to be considerably easier to satisfy than those of the GSP. In spite of the CBI cumulation provisions, however, the final article must be imported directly from a beneficiary country into the United States. Although the GSP and CBI programs contain similar definitions with respect to what constitutes "imported directly," in the CBI the article is allowed to pass through other beneficiary countries without losing its origin status. This is true because of the cumulation provisions contained in the CBI. In the GSP, since there is generally no cumulation allowed, if the article enters the commerce of a second GSP beneficiary country it will not be eligible for preferential treatment as the product of the first beneficiary country. The product will not be considered to have been imported directly from that beneficiary country.

Products of insular possessions

General headnote 3(a)(i) to the TSUS provides that articles 1/ imported from an insular possession of the United States 2/ are subject to column 1 rates of duty, except that:

> All such articles the growth or product of any such possession, or manufactured or produced in any such possession from materials the growth, product, or manufacture of any such possession or of the customs territory of the United States, or of both, which do not contain foreign materials to the value of more than 70 percent of their total value (or more than 50 percent of their total value with respect to articles described in section 213(b) of the Caribbean Basin Economic Recovery Act), coming to the customs territory of the United States directly from any such possession, and all articles previously imported into the customs territory of the United States with payment of all applicable duties and taxes imposed upon or by reason of importation which were shipped from the United States, without remission, refund, or drawback of such duties or taxes, directly to the possession from which they are being returned by direct shipment, are exempt from duty.

General headnote 3(a)(ii) defines foreign material as follows:

> (ii) In determining whether an article produced or manufactured in any such insular possession contains foreign materials to the value of more than 70 percent, no material shall be considered foreign which either-
>
> (A) at the time such article is entered, or
>
> (B) at the time such material is imported into the insular possession,
>
> may be imported into the customs territory from a foreign country, other than Cuba or the Philippine Republic, and entered free of duty; except that no article containing material to which (B) of this subdivision applies shall be exempt from duty under subdivision (i) unless adequate documentation is supplied to show that the material has

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1/ Watches and buttons are excepted from eligibility under headnote 3(a) because they are subject to special provisions found in headnote 6 to schedule 7, part 2E, and in headnote 3 to schedule 7, part 7A.

2/ The possessions of the United States primarily benefitted by this headnote are the Virgin Islands, American Samoa, and Guam. Headnote 3(a) also applies to imports from some of the Northern Mariana Islands. See Presidential Proclamation 4534 (October 24, 1977; 42 F.R. 56593).

> been incorporated into such article during the 18-month period after the date on which such material is imported into the insular possession.

The words "substantial transformation" have not generally been used in connection with headnote 3(a); but the determination of whether an article qualifies for the preference requires a similar analysis to that used in connection with the GSP and the CBI. That is, a new and different article of commerce must be created in the insular possession. Headnote 3(a) also contains a value-added criterion. However, compared to the requirements contained in the GSP and the CBI, the headnote 3(a) requirement is much easier to satisfy for several reasons. First, in general, only 30 percent of the value of the article must be contributed in an insular possession. In addition, cumulation is allowed so that the value-added criterion may be satisfied by contributions from any of the insular possessions and from the United States. Furthermore, any materials that may be imported free of duty into the United States from any foreign country, other than Cuba or the Philippine Republic, will not be considered foreign, i.e., will not count against obtaining insular possession origin status. Finally, headnote 3(a) does not contain the exclusions from direct costs of processing, such as profits and general expenses of doing business, that are excluded with respect to the GSP (19 CFR 10.178) and the CBI (19 CFR 10.197). All of these factors make the origin criteria of headnote 3(a) easier to satisfy than those of either the GSP or the CBI.

Headnote 3(a) contains a direct importation requirement. However, importation need only be direct from any insular possession to the United States, not necessarily from the possession claiming origin.

The value of foreign materials is determined on the basis of actual purchase price of the materials, plus the cost of transportation of the materials to the insular possession (Delaware Watch Co., Inc. v. United States, 311 F. Supp. 1320 (1970); 19 CFR 7.8(d)).

Products of least developed developing countries (LDDC's)

General headnote 3(d) provides for the entry under special "LDDC" duty rates of products of certain countries listed in paragraph 3(d)(i), which are designated least developed developing countries. The determination of origin for this purpose is based on substantial transformation: i.e., a substantial transformation creating a new article of commerce is required in the LDDC for the preference to apply. No value-added criterion is imposed by this headnote.

Products of Canada

Certain automotive products imported from Canada are allowed duty-free entry in accordance with general headnote 3(e). The article must be a product of Canada and generally may not contain foreign materials to the extent of more than 50 percent of the appraised value of the article imported into the United States. The usual substantial transformation criteria are used in determining whether the article is a product of Canada, and, in addition, the added-value criterion must be satisfied.

Textile regulations 1/

Country of origin determinations are fundamental to the effective administration of trade programs involving the implementation of quotas and other international commodity agreements on a country-by-country basis. These country of origin determinations are made on the basis of the substantial transformation criteria discussed in the section of this report covering the marking statute.

New regulations have recently been drafted to clarify the rules for determining the country of origin of textiles and textile products subject to restraint agreements under authority of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854). The restraint agreements were negotiated under the Multi-Fiber Arrangement Regarding International Trade in Textiles (MFA), which came into force on January 1, 1974.

Interim regulations were published in the Federal Register (49 F.R. 31248, August 3, 1984), and comments from the public were received and analyzed. The final regulations appeared in the Federal Register on March 5, 1985 (50 F.R. 8710). The final regulations, effective April 4, 1985, are as follows:

1/ The economic impact of these regulations is discussed in the section of this report titled Textile Regulations (pages 78-92).

Sec. 12.130 Textiles and Textile products country of origin.

(a) General. Textiles or textile products subject to section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854) include merchandise subject to General Headnote (3)(g)(iii)(C)(1) of the Tariff Schedules of the U.S. (TSUS) (19 U.S.C. 1202) and merchandise:

(1) In chief value of cotton, wool, man-made fibers, or blends thereof in which those fibers, in the aggregate, exceed in value each other single component fiber thereof, or

(2) In which either the cotton context or the man-made fiber content equals or exceeds 50 percent by weight of all component fibers thereof, or

(3) In which the wool content exceeds 17 percent by weight of all component fibers thereof, or

(4) Containing blends of cotton, wool, or man-made fibers, which fibers, in the aggregate, amount to 50 percent by weight of all component fibers thereof, and

(5) Which is classified in the tariff item numbers provided for in General Headnotes (3)(g)(iii)(C)(2) or (3)(g)(iii)(E), TSUS.

(b) Country of origin. For the purpose of this section and except as provided in paragraph (c), a textile or textile product, subject to section 204, Agricultural Act of 1956, as amended, imported into the customs territory of the United States, shall be a product of a particular foreign territory or country, or insular possession of the U.S., if it is wholly the growth, product, or manufacture of that foreign territory or country, or insular possession. However, except as provided in paragraph (c), a textile or textile product, subject to section 204, which consists of materials produced or derived from, or processed in, more than one foreign territory or country, or insular possession of the U.S., shall be a product of that foreign territory or country, or insular possession where it last underwent a substantial transformation. A textile or textile product will be considered to have undergone a substantial transformation if it has been transformed by means of substantial manufacturing or processing operations into a new and different article of commerce.

(c) Applicability to U.S. articles sent abroad. Headnote 2, Part 1, Schedule 8, TSUS, provides that any product of the U.S. which is returned after having been advanced in value or improved in condition abroad, or assembled abroad, shall be a foreign article for the purposes of the Tariff Act of 1930, as amended. In order to have a single definition of the term "product of" and,

therefore, a single country of origin for a textile or textile product, notwithstanding paragraph (b), merchandise which falls within the purview of Headnote 2, Part 1, Schedule 8, TSUS, may not, upon its return to the U.S., be considered a product of the U.S.

(d) Criteria for determining country of origin. The criteria in paragraphs (d)(1) and (2) of this section shall be considered in determining the country of origin of imported merchandise. These criteria are not exhaustive. One or any combination of criteria may be determinative, and additional factors may be considered.

(1) A new and different article of commerce will usually result from a manufacturing or processing operation if there is a change in:

(i) Commercial designation or identity,

(ii) Fundamental character or

(iii) Commercial use.

(2) In determining whether merchandise has been subjected to substantial manufacturing or processing operations, the following will be considered:

(i) The physical change in the material or article as a result of the manufacturing or processing operations in each foreign territory or country, or insular possession of the U.S.

(ii) The time involved in the manufacturing or processing operations in each foreign territory or country, or insular possession of the U.S.

(iii) The complexity of the manufacturing or processing operations in each foreign territory or country, or insular possession of the U.S.

(iv) The level or degree of skill and/or technology required in the manufacturing or processing operations in each foreign territory or country, or insular possession of the U.S.

(v) The value added to the article or material in each foreign territory or country, or insular possession of the U.S., compared to its value when imported into the U.S.

(e) Manufacturing or processing operations. (1) An article or material usually will be a product of a particular foreign territory or country, or insular possession of the U.S., when it has undergone prior to importation into the U.S. in that foreign territory or country, or insular possession any of the following:

(i) Dyeing of fabric and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing;

(ii) Spinning fibers into yarn;

(iii) Weaving, knitting or otherwise forming fabric;

(iv) Cutting of fabric into parts and the assembly of those parts into the completed article; or

(v) Substantial assembly by sewing and/or tailoring of all cut pieces of apparel articles which have been cut from fabric in another foreign territory or country, or insular possession, into a completed garment [e.g. the complete assembly and tailoring of all cut pieces of suit-type jackets, suits, and shirts].

(2) An article or material usually will not be considered to be a product of a particular foreign territory or country, or insular possession of the U.S. by virtue of merely having undergone any of the following:

(i) Simple combining operations, labeling, pressing, cleaning or dry cleaning, or packaging operations, or any combination thereof;

(ii) Cutting to length or width and hemming or overlocking fabrics which are readily identifiable as being intended for a particular commercial use;

(iii) Trimming and/or joining together by sewing, looping, linking, or other means of attaching otherwise completed knit-to-shape component parts produced in a single country, even when accompanied by other processes [e.g. washing, drying, mending, etc.] normally incident to the assembly process;

(iv) One or more finishing operations on yarns, fabrics, or other textile articles, such as showerproofing, superwashing, bleaching, decating, fulling, shrinking, mercerizing, or similar operations; or

(v) Dyeing and/or printing of fabrics or yarns.

The regulations also include a paragraph covering declarations (sec. 12.130(f)), a paragraph concerning incomplete or insufficient information (sec. 12.130(g)), a paragraph governing shipments covered by an informal entry (sec. 12.130(h)), and a definition of date of exportation (sec. 12.130(i)).

Section 12.130(a) describes the products covered by the regulations. Section 12.130(b) sets forth the general country of origin criteria. An article will be considered the "product of a particular foreign territory or country, or insular possession of the U.S., if it is wholly the growth, product, or manufacture of that foreign territory or country, or insular possession". However, textiles made up of "materials produced or derived from, or processed in, more than one foreign territory or country, or insular

possession of the U.S., shall be a product of that foreign territory or country, or insular possession where it last underwent a substantial transformation." Substantial transformation is defined, for purposes of these regulations, as transformation "by means of substantial manufacturing or processing operations into a new and different article of commerce." Section 12.130(c) provides a special exception to 12.130(b) for U.S. articles sent abroad.

Section 12.130(d) sets forth the criteria to be considered in determining the country of origin of imported merchandise. Section 12.130(e) lists those manufacturing or processing operations that will usually confer origin in the country where they occur (sec. 12.130(e)(1)) and those operations that will usually not confer origin in the country where they occur (sec. 12.130(e)(2)).

These regulations set forth the criteria to be applied in determining the country of origin of certain textiles and textile products. However, the principles contained in the regulations are drawn from case law and administrative rulings interpreting the concept of substantial transformation in many contexts and involving many types of products. Therefore, to the extent that the regulations set forth the principles to be used in determining country of origin, they are applicable to merchandise for all purposes, including duty and marking. However, in those instances where the application of these principles will cause an increase in duty for merchandise subject to established and uniform practices, the Customs Service will not apply the principles of section 12.130 for duty purposes until formalized changes in practice have been put into effect. The Customs Service will also continue its previous practices for determining country of origin for marking purposes pending the changes in practice.

American goods exported and returned

Headnote 2 to schedule 8, part 1, of the TSUS provides that a product of the United States that is returned after having been advanced in value or improved in condition abroad, or an imported article that has been assembled abroad in whole or in part of products of the United States, shall be treated as a foreign article and shall be dutiable as such on its full value, except as otherwise prescribed in part 1. Subpart A covers articles that are not advanced or improved abroad, and Subpart B covers articles that are advanced or improved. Two of the provisions of these subparts make reference to "products of the United States." Item 800.00 provides for the free entry of products of the United States that were exported and returned without being advanced in value or improved in condition while abroad. Item 807.00 provides for a duty on the full value of the imported article, less the cost or value of the components that were products of the United States exported to be assembled abroad in the imported article. Both of these provisions require that a rule of origin be applied to determine whether the exported goods were products of the United States. The usual substantial transformation criteria are applied in making this determination. Section 10.12(e) of 19 CFR defines a "product of the United States" for purposes of the application of item 807.00, TSUS. If the article consists wholly or partially of foreign components or materials, they must have been substantially transformed into a new and different article or have been merged into a new and different article. Substantial transformation is further defined for these purposes in 19 CFR 10.14(b).

In Data General Corporation v. United States (4 CIT 182(1982)), the programming of a programmable read only memory (PROM) in the United States was held to constitute a substantial transformation of the article. After programming, the PROM was exported for incorporation into a finished circuit board that was then imported into the United States. Since the programmed PROMs were products of the United States, they were entitled to an allowance under item 807.00, TSUS, when the circuit boards were imported.

Government procurement

Government procurement refers to the purchase of goods by the government for its own use. Generally, countries favor domestic supplies for such purchases. In the United States, for instance, the Buy American Act (41 USC 10a-10d) requires the Federal Government to give a preference to domestic suppliers. Other Federal and State statutes also grant preferences to domestic products and suppliers. To reduce the discriminatory effect of such systems, the Agreement on Government Procurement was adopted at the multilateral trade negotiations. This code became effective on January 1, 1981.

The United States implemented the code by the enactment of Title III of the Trade Agreements Act of 1979, sections 301-309, 19 U.S.C. 2511-2518. These sections give the President the authority to waive the application of government procurement laws that would result in less favorable treatment than that accorded to U.S. products. The waiver applies only to eligible products from eligible foreign countries.

A definition of country of origin for purposes of determining whether a product is from a country eligible for the waiver appears in 19 U.S.C. 2518 and reads as follows:

> Sec. 2518 Definitions
> . . .
>
> (4) Eligible products.--
>
> (A) In general.--The term "eligible product" means, with respect to any foreign country or instrumentality, a product or service of that country or instrumentality which is covered under the Agreement for procurement by the United States.
>
> (B) Rule of origin.--An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the articles from which it was so transformed.
>
> (5) Instrumentality.--The term "instrumentality" shall not be construed to include an agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community.
>
> . . .

U.S.-Israel Free Trade Area Agreement

The Trade and Tariff Act of 1984 provided the President with authority to conclude a trade agreement with Israel that would provide for the reduction or elimination of tariffs and nontariff barriers. Negotiations with Israel were concluded February 26, 1985. The Agreement is expected to be formally signed in April 1985. The initial tariff reductions will not be implemented until after approval of the agreement by Congress.

The Agreement consists of a Preamble, 23 articles, and 4 annexes, all of which are integral parts of the Agreement. It provides for eventual duty-free

treatment for all products, phased in over a period of 10 years. Annex 3 contains the Rules of Origin (app. F). They are based on the rules in force for the Caribbean Basin Initiative, with minor modifications.

Other origin determinations

Rules of origin are used in connection with many other programs in the United States. Among them are the following:

a) Entitlement to drawback (19 U.S.C. 1313).

b) Determinations of whether identical or similar merchandise (produced in the same country as the merchandise being appraised) exists, in those cases where transaction value cannot be used for customs valuation purposes (19 U.S.C. 1401(a)).

c) Imposition of countervailing duties upon merchandise imported from a certain country (19 U.S.C. 1671).

d) Imposition of antidumping duties upon merchandise imported from a certain country (19 U.S.C. 1673).

Summary of United States Rules

In the absence of any specific rule, the general substantial transformation criteria apply in determining the country of origin of products imported into the United States. The specific rules apply a value-added criterion in addition to the requirement that the article be substantially transformed in the country of origin, i.e., that it be a "product of" that country. Many of the preference programs require direct importation from the beneficiary country into the United States. This helps to eliminate fraud in country of origin declarations.

Merchandise is considered to be the growth, product, or manufacture of the last country in which the constituent materials were substantially transformed into the imported article. That article must be a new and different article of commerce: i.e., it must have a name, character, or use that is distinct from that of the materials used. A change in tariff item number, while of some evidentiary value, is not determinative of whether a substantial transformation has occurred. Similarly, a change in name, character, or use may or may not constitute a substantial transformation. There must be a material change for a substantial transformation to occur.

Rules of Origin of the European Economic Community (EEC) 1/

The European Economic Community (EEC), 2/ as a customs union, applies a common external tariff applicable to products originating in nonmember countries, while providing for the free movement of goods, labor, services, and capital within its boundaries. This is accomplished under Article 9 of the Treaty of Rome 3/, which established the prohibition against duties on imports and exports among member states and the imposition of a Common Customs Tariff (CCT) applicable to relations with non-EEC countries. The prohibition on duties also extends to any charges that would have an equivalent effect. Thus, determinations as to the origin of products can be of crucial importance.

As discussed in the following paragraphs, the EEC applies different origin rules for the determination of origin for preferential and nonpreferential purposes. In addition to the general rules that are applied, there are many exceptions and special rules designed to achieve specific policy objectives.

1/ The following sources were used in preparing this section of the report: Judith Abel and Dr. Ernst Heynig, Rules of Origin of the European Economic Community (1983); D. Lasok and W. Cairns, The Customs Law of the European Economic Community (1983); Ian Forrester, "EEC Customs Law: Rules of Origin and Preferential Duty Treatment", European Law Review, vol. 5, no. 3 (June 1980), and vol. 5, no. 4 (August 1980).

2/ The members of the EEC now include Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, Denmark, Ireland, the United Kingdom, and Greece.

3/ The Treaty of Rome, which entered into force on January 1, 1958, established the EEC.

Nonpreferential Origin Determinations

Regulation 802/68

Nonpreferential origin determinations are important for purposes of the application of the EEC's CCT to most favored nations (including the United States); the application of quantitative restrictions on goods, other measures related to imports and exports; and the preparation and issuance of certificates of origin. The definition of origin for these purposes is contained in Regulation No. 802/68 (app. G).

Article 4(1) of the Regulation provides that "Goods wholly obtained or produced in one country shall be considered as originating in that country." Article 4(2) states that--

"The expression 'goods wholly obtained or produced in one country' means:

(a) mineral products extracted within its territory;

(b) vegetable products harvested therein;

(c) live animals born and raised therein;

(d) products derived from live animals raised therein;

(e) products of hunting or fishing carried on therein;

(f) products of sea-fishing and other products taken from the sea by vessels registered or recorded in that country and flying its flag;

(g) goods obtained on board factory ships from the products referred to in (f) originating in that country, if such factory ships are registered or recorded in that country and flying its flag;

(h) products taken from the sea-bed or beneath the sea-bed outside territorial waters, if that country has, for the purposes of exploitation, exclusive rights to such soil or subsoil;

(i) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are only fit for the recovery of raw materials;

(j) goods which are produced therein exclusively from goods referred to in subparagraphs (a) to (i) or from their derivatives, at any stage of production."

With respect to such products, origin controversies generally do not arise.

Article 5 of Regulation 802/68 concerns goods produced in more than one country. It provides that such a product will be "regarded as originating in the country in which the last substantial process or operation that is economically justified was performed, having been carried out in an undertaking equipped for the purpose, and resulting in the manufacture of a new product or representing an important stage of manufacture." All four of these requirements--(1) substantiality of the operation, (2) economic justification, (3) adequacy of the facilities, and (4) emergence of a new product or completion of an important stage in the manufacture--must be satisfied in order for origin to be conferred. Further, Article 7 provides that "Accessories, spare parts or tools delivered with any piece of equipment, machine, apparatus or vehicle which form part of its standard equipment shall be deemed to have the same origin as that piece of equipment, machine, apparatus or vehicle." The remainder of Regulation 802/68 deals with the certification that must accompany an originating product.

"Secondary" regulations

Article 14 of Regulation 802/68 gives the Commission of the European Communities the power to adopt special provisions when necessary to the application of the origin standards contained in the other articles of the regulation. These special provisions have generally been adopted to provide more detailed criteria for defining the origin of certain products than are available in Article 5 of Regulation 802/68. They set forth specific

conditions that must be fulfilled, in addition to the general requirements contained in Regulation 802/68, in order for origin to be conferred. About a dozen of these "secondary" regulations have been adopted so far.

Several regulations have been adopted setting forth specific processing criteria to be used in determining the origin of textile products. One regulation 1/ specifies processes performed on textile products contained in CCT Chapters 50 and 52 that do confer origin in the country in which they occur, as well as processes that are not sufficient to confer origin. Another regulation 2/ covers specific processes performed on leather apparel and footwear. Yet another regulation 3/ applies to textiles falling within chapters 51 and 53 to 62 of the CCT. This regulation states that the originating country is the one in which the product has undergone one complete process, normally considered to have occurred if the finished product is classified under a different four-digit tariff heading than that applied to each of the components used. This rule is modified by a List A, which specifies additional requirements that must be met with respect to certain products in order for origin status to be conferred, and a List B, which allows for derogations from the change in tariff heading requirement for certain products upon which certain operations have been performed. In addition, the regulation specifies that the following operations are insufficient for purposes of conferring origin even if there is a change of tariff heading:

1/ Regulation (EEC) No. 1039/71 of the Commission of 24 May 1971; OJ No L 113/13 of 25.05.1971.

2/ Regulation (EEC) No. 1480/77 of the Commission of 24 June 1977; OJ No L 164/16 of 02.02.1977.

3/ Regulation (EEC) 749/78 of the Commission of 10 April 1978; OJ No L 101/7 of 14.04.1978.

a) Operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, dyeing, removal of damaged parts, and like operations);

b) Simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the matching-up of sets of articles), washing and cutting;

c) Changes of packing and breaking up and assembly of consignments or simple placing in bags, cases, boxes, fixing on cards or boards, and other simple packing arrangements;

d) The affixing of marks, labels or other distinguishing signs on products or their packaging;

e) Simple assembly of parts of products to constitute a complete product;

f) A combination of any two or more operations specified in a) to e).

Several of the "secondary" regulations set forth criteria to be used in determining the origin of products other than textiles. For example, one regulation 1/ provides that the operation of drying, performed in the EEC on certain imported egg products, is sufficient to confer origin. Another regulation 2/ specifies that the operation of transforming "basis wine" into vermouth will confer origin on that country where the transformation occurred, but that transformations carried out on wines in order to obtain the basis wine products on which the production of vermouth relies cannot confer origin. Other regulations deal with spare parts, meat, certain ceramic goods, grape juice, and roller bearings.

1/ Regulation (EEC) No. 641/69 of the Commission of 3 April 1969; OJ No L 91/15 of 4.4.1969.

2/ Regulation (EEC) No. 315/71 of the Commission of 12 February 1971; OJ No L 36/10 of 13.2.1971.

A third type of "secondary" regulations has been adopted that applies a percentage value-added criterion to be used for certain products in place of the criteria contained in Article 5 of Regulation 802/68. The first of these applies to radio and television receivers 1/ and provides that assembly operations and the incorporation of originating products (if applicable) must represent at least 45 percent of the value (ex-works price) of the finished product for origin status to be conferred. (Ex-works price is defined as the price paid to the manufacturer in whose undertaking the last working or processing is carried out.) If this requirement cannot be met, origin is conferred on the "last country of origin of those parts which have indirectly constituted an important stage in the manufacture of the apparatus," provided that the ex-works price of the materials used in manufacture represents more than 35 percent of the ex-works price of the receiver. If neither of these definitions can be complied with, origin is conferred on that country contributing the parts representing the highest percentage value. A similar regulation 2/ is applicable to tape-recorders.

Applicability of Regulation 802/68

Regulation 802/68 and the "secondary" regulations discussed above are applicable to determine the origin of a product unless a more specific rule, such as a rule forming part of a preference agreement, is applicable. The European Court of Justice has, on occasion, had to decide the limits to which Article 5, setting forth the four requirements of substantiality of the

1/ Regulation (EEC) No. 2632/70 of the Commission of 23 December 1970; OJ No L 279/35 of 24.12.70.

2/ Regulation (EEC) 86/77 of the Commission of 27 April 1971; OJ No L 95/11 of 28.04.1971.

operation, economic justification, adequacy of the facilities, and emergence of a new product or completion of an important stage in the manufacture, can be taken. 1/

Article 3 of Regulation 802/68 states that the regulation does not apply to petroleum products. For such products, member states may apply their own origin rules, since they have been unable to agree on rules of origin to be applied to these products.

Preferential Rules of Origin

Each of the EEC's preferential trade agreements is designed to accord duty-free treatment or reduced duty rates to only those products originating in the country that is the beneficiary of the agreement. Regulation 802/68 does not apply because each of the agreements has its own rules for determining origin. These rules are set up to exclude nonqualifying products from the benefits of the preference and to include only products that have a sufficient connection to the economy of the beneficiary country. These arrangements include the EEC-EFTA agreements under which industrial and some agricultural products are eligible for duty-free treatment provided the rules of origin are satisfied; the agreements with the Mediterranean countries providing preferential access to the EEC, largely on a nonreciprocal basis; the agreements with the African, Caribbean, and Pacific countries (ACP) signatory to the Lome Conventions; and the Generalized System of Preferences. The origin rules applicable to these arrangements have similar characteristics, discussed below.

1/ Case 49/76 Gesellschaft fur Uburseehandel-Judgment of 26 January 1977 in ECR 41-1977 (cleaning and grinding of casein not sufficient); Cases 34/78 and 114/78 Yoshida-Judgments of 31 January 1979 in ECR 115 and 151-1979 (annulling EEC regulation concerning zip fasteners).

Trade deflection becomes a serious concern when preferential arrangements are put into effect. Trade deflection refers to the situation in which imports from a country not entitled to a preference enter a second country whose exports are entitled to preferential treatment in a third country. In the second country, the goods undergo the minimum processing necessary to confer origin status in that country. They are then exported to the third country with benefit of the preference. The difficulty of obtaining origin status in the second country will depend upon the particular preference agreement involved.

Trade deflection will only occur, of course, if some advantage, such as a lower rate of duty, will be gained by sending the product to the intermediary country for further processing rather than exporting the finished product directly to the third country.

The EEC's preferential trade agreements

The EEC-EFTA agreements.--The following countries form the European Free Trade Area (EFTA): Austria, Finland, Ireland, Norway, Portugal, Sweden, and Switzerland. Separate free-trade agreements were signed between the EEC and each of these countries during 1972 and 1973. These agreements provide for a free-trade zone for industrial products falling within Chapters 25 to 99 of the CCT, including industrially processed agricultural products. Precise rules of origin are particularly necessary with respect to EEC-EFTA trade in order to eliminate trade deflections. The rules are discussed in detail below.

The EEC agreements with the Mediterranean countries.--The EEC has bilateral cooperation and association agreements with the following Mediterranean countries: Cyprus, Israel, Malta, the Mashreq countries (Egypt, Lebanon, Jordan, and Syria), and the Maghreb countries (Algeria, Morocco, and Tunisia). Only Cyprus, Israel, and Malta offer any type of reciprocal access to EEC products but all of the countries are committed to granting MFN treatment to EEC products.

The agreements with the Lome countries and the Overseas Countries and Territories.--The first Lome Convention was concluded in 1975 between the EEC and the then 46 African, Caribbean, and Pacific (ACP) countries. It provided duty-free treatment for all industrial exports from the ACP to the EEC and for about 96 percent of all agricultural products. The second Lome Convention was signed with 58 ACP countries in 1979; it extended the duty-free treatment to other agricultural products, with some quantitative limits. On December 8, 1984, the Lome III Convention was signed with 64 ACP countries. The tariff concessions granted the ACP countries by the EEC are done on a purely unilateral basis: i.e., no reciprocal tariff concessions are awarded the EEC by the ACP countries. The ACP countries have, however, agreed to grant MFN treatment to EEC products. Safeguard measures may be introduced by the EEC when serious disturbances due to duty-free treatment occur on the home market.

The Overseas Countries and Territories (OCT) consist of the small territories still under the jurisdiction of any of the EEC member states. Generally, no customs duties apply between the EEC and the OCT. However, the OCT may

levy duties that are necessary to meet the needs of their development and industrialization or to produce revenue for their budgets.

The Generalized System of Preferences (GSP).--The Generalized System of Preferences (GSP) is a nonreciprocal, unilateral grant of preferential (usually duty-free) treatment. The system applies to all finished and semifinished products, but with either a limited quota or a ceiling on each product that is reviewed every year. For products covered by a quota, once the quota is reached tariff duties are automatically reimposed. However, with respect to products with a ceiling, duties may or may not be introduced by the EEC, depending on the circumstances, when the ceiling is reached. The quantitative limits, however, do not apply to the 36 specified LDDC's. Sensitive products are strictly controlled through EEC quotas, divided into maximum amounts for each member state, that are applied to the most competitive beneficiary countries. A ceiling on each product is applied to other developing countries.

Nonsensitive products are only subject to statistical surveillance, but duties can be reintroduced if the increase in imports exceeds a certain rate.

The EEC preferential rules of origin

The rules of origin for the above-described EEC preference programs contain the following generally similar features:

Wholly obtained products.--"Wholly obtained" products automatically have originating status; i.e., they are eligible for preferential duty treatment when imported into the EEC. The list of products considered "wholly obtained" is similar to that contained in Article 4(2) of Regulation 802/68, with some minor updating.

Change-of-tariff-heading rule.--For purposes of preferential tariff programs, the basic rule used by the EEC for determining the origin of goods that cannot be considered wholly obtained in one country requires that there be a change of tariff heading. The theory behind this rule is that a new product has been formed if that finished product has a different four-digit tariff heading from any of its component parts. The test of "last substantial transformation" found in Regulation 802/68 is considered insufficiently strict for purposes of preferential programs. However, a strict "change-of-tariff-heading" scheme was considered too rigid for all purposes, so lists of exceptions were developed:

List A specifies additional requirements that must be satisfied in those situations where a change of heading is not considered sufficient to confer origin. These additional requirements fall into three categories: 1) affirmative specific processing operations, 2) negative specific processing operations, and 3) added-value tests. An example of an affirmative specific processing requirement is that, in order for cut paper (CCT 48.15) to have origin status, a mere change in tariff heading from paper in rolls or sheets (CCT 48.06) is insufficient, and the operations performed in the country claiming origin must be performed on paper pulp originating in that country: i.e., the pulp must be manufactured into paper in that country. An example of a negative processing requirement is the rule specifying that a shoe (CCT 64.01) will not obtain origin status if it is manufactured from nonoriginating

uppers (CCT 64.05) even though the change of heading occurs in the country claiming origin.

The added-value tests contained in List A require both that there be a change in heading and that a certain amount of the value of the final product be added in the country claiming origin. The idea is that an added-value requirement ensures that there is a significant contribution from the local economy. The easiest of such rules are those that specify that origin will only be conferred where the value of nonoriginating products does not exceed X percent of the value of the product obtained. Sometimes this simple percentage test is accompanied by an additional percentage test requiring that the value of the nonoriginating components used not exceed a certain percentage of the value of all the components used in the manufacture of the final product. An example of this type of rule is the one applicable to motor cycles, which requires that a change in tariff heading occur, that nonoriginating components not exceed 40 percent of the value of the product, and that at least 50 percent of the materials and parts used be originating. An illustration of this rule is as follows:

Value of nonoriginating components	40 units
Value of originating components	35 units
Other costs of manufacture	25 units
Value of finished product	100 units

In this example, even though the nonoriginating components satisfy the 40 percent requirement, origin status will not be obtained because less than 50 percent (35 of 75 units) of the value of the materials and parts used is attributable to originating products. For some products, there is an

additional requirement that certain components (transistors used in microphones, for example) must be 100 percent originating.

List B specifies operations and processes that are considered sufficient to confer origin even when there is no change in tariff heading. The theory is that in certain situations a product has undergone a substantial transformation even though the finished product does not fall under a different tariff heading from those applicable to its component parts. An example of a List B specific processing requirement is the one that allows articles of ivory (CCT 95.03) to obtain origin status if they are made from "worked ivory" even though no change of heading occurs. List B also includes value-added criteria with calculations similar to those required for list A. For example, with respect to most manufactured goods of the chemical and allied industries (CCT Chapters 28 to 37), origin will be conferred despite the fact that there is no change of tariff heading when the value of nonoriginating products does not exceed 20 percent of the value of the finished product. List B also contains a general provision applicable to manufactured goods appearing in Chapters 84 to 92 of the CCT and certain other CCT headings. This rule provides that if not more than 5 percent of the value of the finished product is attributable to nonoriginating parts, there need not be a change of heading.

Some products appear on both Lists A and B. In that case the exporter can choose the test with which he wishes to comply, with certain constraints. For example, in the Malta agreement, ammonium sulphate appears on List A and products falling within Chapters 28 to 37 of the CCT (which includes ammonium sulphate) appears on List B. If an exporter chooses the List A requirement

that there be a change in heading and that not over 50 percent of the value of the finished product be nonoriginating products, those parts that have not changed tariff heading would still have to meet the requirement of List B that limits the value of non-originating components to 20 percent of the value of the finished product.

List C appears following lists A and B in all of the EEC origin protocols. It lists the petroleum products excluded from the scope of the protocol. Individual member-state rules of origin apply to these products.

Insufficient operations.--All of the EEC protocols on origin also contain a list of simple operations that will not confer origin even though a change of tariff heading occurs. These generally include simple packaging, preserving, labeling, and similar operations.

Sets.--Goods imported in sets are regarded as originating in the country where all of the components originated. However, if a set is produced in a beneficiary country, it is deemed to have origin status for purposes of a preference program if the value of the nonoriginating components does not exceed 15 percent of the value of the set.

Derogations.--Certain derogations from the usual origin rules apply to specific products from particular countries. An example of this is the exemption from the usual List A requirements for certain limited quantities of textiles from Morocco.

Determination of value.--Various values must be determined for purposes of value-added tests. For nonoriginating materials, value is defined as the customs value on importation into the country where further manufacturing will occur. If this figure is unobtainable, the earliest ascertainable price paid for the products in the country of manufacture is used. A finished product is valued on the basis of ex-works price less any taxes refunded upon exportation (for example, a value-added tax). Ex-works price means the price paid to the manufacturer in whose undertaking the last working or processing is carried out, provided that price includes the value of all products used in the manufacturing process. This means the price obtained by the manufacturer in the country of manufacture, if sold there, or elsewhere, if exported. If the manufacturer can claim a high profit on his product, or if he has high fixed costs reflected in the sales price, there is a tendency to favor origin in the country of manufacture. If a manufacturer sells at different prices to different customers, there is a possibility that the same product will qualify for preferential treatment in one case but not in another. The figure used in determining the value of originating materials and parts is the first verifiable price paid, or that would have been paid had there been a sale, in the country where the working, processing, or assembly took place. The origin of fuel or catalysts is not taken into account when determining origin. However, other materials consumed during manufacture are taken into consideration. For

example, if a non-originating reagent is used in the manufacture of a chemical it will count against the obtaining of origin status.

Drawback.--Drawback is the practice either of not collecting customs duties on imported components that are to be processed locally and then exported onward, or of refunding customs duties paid upon importation of components once the finished product is exported. In the EEC agreements with the EFTA countries, drawback is prohibited. This is to prevent finished products from enjoying a double preference--namely the absence of duties when the components are imported, and then duty-free entry into the EEC or EFTA countries.

Drawback is generally allowed in the EEC agreements with developing countries. This is because the purpose of these agreements is to encourage trade and industry, and because these countries are not considered as highly competitive with the EEC as are the EFTA countries.

The EEC does have two schemes that are similar to drawback: inward and outward processing. Inward processing involves the temporary duty-free importation into the EEC of products for processing. Outward processing is the temporary exportation of goods for processing outside the EEC and reimportation into the EEC upon payment of duties on the added value.

Cumulation.--Cumulation rules are necessary for determining the origin of products that are sent for further processing from one country to another within a preference system. These rules may allow a finished product to obtain origin status and thus qualify for a preference, even though the normal

origin rules would not confer origin on the basis of the work done in the last country of processing.

Where no cumulation is allowed, as for example in the EEC's GSP system, products of EEC countries are treated as non-originating materials. Thus, if EEC components are used in the manufacture of a product in a GSP country, the EEC materials will not be included for purposes of obtaining origin status for GSP purposes. This also means that the GSP origin criteria must be satisfied in the last country of processing without any contribution from other GSP countries. A few derogations from this rule are in effect for regional groupings of GSP countries.

Some of the EEC's preferential trade agreements permit bilateral cumulation. In other words, EEC components that are incorporated in a product in a beneficiary country are treated as if they originated in the beneficiary country. Similarly, components from an EFTA country can be incorporated in a product made in the EEC and then that product may be returned to the EFTA country duty-free as an EEC product. Bilateral cumulation applies to the EFTA agreements, the agreements with Cyprus, Israel, Malta, and the Mashreq countries (Egypt, Lebanon, Jordan, and Syria), and to the ACP and OCT country agreements.

Diagonal cumulation rules apply to trade involving the EEC and two or more EFTA countries. 1/ In determining origin under the change-in-tariff-heading

1/ These rules do not apply to the agreements with the Mediterranean countries, the ACP countries, or the OCT countries. Similar rules do apply to the GSP, but for certain regional groupings only.

rule, any combination of components from EEC and EFTA countries can be used without affecting origin status, so long as no components from outside the EEC and EFTA are used. However, if a percentage rule from List A or List B limits the proportion of non-originating components that can be incorporated, diagonal cumulation is not allowed. The latter rule has, in practice, been interpreted to mean that a so-called "neutral calculation" must be performed. That involves deducting the value of the components originating in the first country from the value of the finished product. The remainder is referred to as the reference value. Then the necessary List A or List B percentage calculation is performed. In this way the components from the first EFTA country count neither in favor of nor against origin in the last country. An example of the neutral calculation is as follows:

Components from Norway	20 units
Components from Sweden	25 units
Components from Japan	35 units
Other manufacturing costs in Sweden	20 units
Finished product	100 units

First the neutral calculation is performed: the 20 units from Norway are deducted from the ex-works price of the finished product, leaving 80 units. Then the value of the non-originating components (35 units) is set against the reference value (80 units). If List A or List B contained, for example, a 40-percent limit on non-originating components for the product in question, the product would not qualify for EFTA origin status upon exportation to the EEC because 35 units is more than 40 percent of 80 units. We note that although this product would not qualify for the EFTA preference, it would

still be of Swedish origin for nonpreferential purposes if all of the requirements of Regulation 802/68 were satisfied.

If a special processing rule from List A or List B applies, the 5 percent triangular cumulation rule is used instead of the neutral calculation. This rule provides that the non-originating products may not exceed 5 percent of the value of the finished product, and the non-originating components could not have caused the product exported from the first country to have lost its status as originating in the first country had those non-originating components been incorporated in the first country. In other words, the fact that up to 5 percent of non-originating products are used in the second country will not affect the determination of origin, provided those components would not have caused the product exported from the first country to lose its origin status had they been incorporated in that first country. This rule is of particular importance in the textiles area where specific processing requirements are contained in Lists A and B. A similar 5 percent rule applies to those products for which there is no List A or List B rule applicable, but only the change-in-tariff-heading rule.

In situations where the above rules do not allow origin to be conferred on any one of the countries involved, origin is conferred on the country where the highest percentage of the value was contributed to the final product. This rule applies to the EFTA Agreements and to GSP regional groupings to which diagonal cumulation applies. The Lome Convention and the Maghreb agreements provide that origin shall be assigned to the country of last substantial processing. Such a rule is not necessary for the other Mediterranean

countries because they only allow bilateral cumulation with the EEC, not cumulation involving two or more beneficiary countries.

In some situations, for example in the EEC agreements with the Maghreb countries (Morocco, Tunisia, and Algeria), total cumulation is allowed. In effect, these countries, together with the EEC, are considered one territory for the purpose of application of the rules of origin. This "total cumulation" concept also applies to the ACP and OCT countries. In addition to total cumulation, all of these countries individually have bilateral cumulation with the EEC.

Alternative percentage rules.--Alternative percentage rules have been adopted in the EFTA agreements for Chapters 84 to 92 of the Customs Cooperation Council Nomenclature (CCCN). 1/ For products appearing on List I of these alternative rules, origin status will be conferred when the value of nonoriginating materials does not exceed 40 percent of the value of the finished product; for products appearing on List II, the limit is 30 percent. The exporter may choose whether he wants to use one of these rules or the usual rules contained in the agreement in question. If an alternative rule is applicable, then other requirements, such as a change in tariff heading, will not apply.

Certification requirements.--All importations into the EEC on a non-preferential basis under Regulation 802/68 must be accompanied by an origin certificate that fulfills the basic conditions of Article 9 of the regulation.

1/ These chapters are basically equivalent to the headings of the CCT.

Each of the origin protocols attached to the EEC preferential agreements requires direct transportation. This means that the goods must be shipped to the EEC in a single voyage or in voyages that are reasonably direct from the place of production to the place of customs clearance in the EEC. Some deviations from this requirement are allowed when justified for geographic reasons or the needs of transport, so long as the goods have not entered into the commerce of the intermediary country.

In order to be eligible for preferential treatment, a product must be accompanied by the appropriate document. This document must be signed by the exporter and endorsed by the customs authority of the exporting country.

Imports under the GSP must be accompanied by a Form A (app. E) (or a shorter Form APR (app. H) in the case of small shipments by post). The exporter must indicate the theory under which he is claiming origin status by means of the code letters A (List A), B (List B), X (change of tariff heading), or P (wholly obtained). In the case of regional groupings where origin status is obtained by means of cumulation, the form must be endorsed to indicate the regional grouping involved.

The forms used in connection with most preferential imports are the EUR 1 movement certificate (app. I) or the EUR 2 certificate (app. J) for small shipments. The contents of the shipment must be described on the form.

A simplified procedure has been initiated with respect to EFTA imports into the EEC. Exporters making frequent shipments may use pre-endorsed EUR 1 and EUR 2 forms that already bear the stamp or signature of the local customs authorities.

Canadian Rules of Origin

The basic rule of origin in Canada provides that the country of origin of a product is the country where the goods were grown, produced, or manufactured, that is, the country where the goods were finished in the form in which they were exported to Canada. This means that a manufactured article must have been substantially transformed to its form as exported to Canada in the country specified as the country of origin. This basic rule is applied in all origin determinations, including nonpreferential determinations such as those made for statistical purposes. Certain operations, such as packaging, splitting, and sorting, may not be considered sufficient to confer origin.

Preferential Origin Determinations

The Canadian Customs Tariff contains five different tariff treatments: British Preferential; Most-Favoured-Nation (MFN); General; General Preferential; and United Kingdom and Ireland. After January 1, 1987, the U.K. and Ireland preferential treatment will be discontinued and these countries will receive MFN treatment. To qualify for various preferential programs, certain minimum percentage content requirements, based on cost or value, must be satisfied. There are also some restrictions on shipment through intermediate countries.

Wholly obtained goods

The following products are normally considered to be wholly grown, produced, or manufactured in a country:

(a) Mineral products extracted from the soil or the sea-bed of the country;

(b) Vegetable products harvested in the country;

(c) Live animals born and raised in the country;

(d) Products obtained in the country from live animals;

(e) Products obtained by hunting or fishing in the country;

(f) Products of sea fishing and other marine products taken from the sea by vessels of the country;

(g) Products made on board factory ships of the country exclusively from products referred to in paragraph (f);

(h) Waste and scrap resulting from manufacturing operations of the country;

(i) Used articles of the country imported into Canada for use only for the recovery of raw materials; and

(j) Goods produced in the country exclusively from the products referred to in paragraphs (a) to (h).

With respect to such goods, there is no question that the country of origin is the country where the goods were obtained.

Goods not wholly obtained in one country

When goods cannot be considered wholly obtained in one country, the determination of the country of origin must be made in accordance with the particular tariff treatment scheme involved.

British Preferential Tariff (BPT).--This program combines the basic requirement that the goods be the growth, product, or manufacture of a country entitled to the preference (i.e., that manufactured goods be finished in the country of origin in their form as exported to Canada), with a requirement that not less than one half of the cost of production of the goods be

attributable to the industry of one or more countries entitled to the preference. This means, in effect, that cumulation is allowed among the countries eligible for the BPT in satisfying the 50 percent requirement. The following items are not to be considered part of the cost of production:

(1) Packing required for the transportation of the goods (not including packing in which the goods are normally sold for consumption);

(2) Profits;

(3) Royalties;

(4) Customs or excise duties or taxes;

(5) Carriage, insurance and other charges from the place of production to the port of shipment;

(6) Any other costs subsequent to completion of the manufacture of the goods.

The goods must be shipped from a port of any country entitled to the BPT without transshipment through any country not entitled to the preference.

Most-Favoured-Nation (MFN) Tariff.--This program also combines the basic rule of origin with a requirement that not less than one half of the cost of production be attributable to the industry of one or more countries entitled to MFN treatment or BPT treatment. Thus, cumulation is allowed among all MFN and BPT countries in satisfying the 50 percent value-added requirement. The same exclusions from cost of production that apply to the BPT also apply to the MFN program.

The MFN scheme does not contain a direct shipment requirement.

General Preferential Tariff (GPT).--This scheme combines the basic rule that the goods must be finished in the country of origin in their form as exported to Canada with the requirement that, for manufactured goods, the value of materials and components of nonbeneficiary-country origin or of undetermined origin not exceed 40 percent of the ex-factory price of the exported article. Cumulation is allowed among all countries entitled to benefits of the GPT (GSP).

Special consideration is given to LDDCs under Canada's GPT scheme. For manufactured goods to qualify, the value of materials and components of non-LDDC origin, or of undetermined origin, cannot exceed 40 percent of the ex-factory price of the exported article.

Under the GPT, in calculating the value of materials and parts of non-beneficiary country or undetermined origin, materials and parts of Canadian origin and packing required for transporting the goods are not included. Thus, those elements are deemed to have originated in a beneficiary country.

United Kingdom and Ireland Tariff.--This preference scheme also consists of a combination of the basic origin rule and a requirement that not less than one-half of the cost of production of the goods be attributable to the industry of one or more of the countries eligible for the preference. Cumulation is allowed among the beneficiary countries.

General Tariff.--The General Tariff rates apply to all goods not entitled to admission under the BPT, the MFN tariff, the GPT, or the U.K. and Ireland Tariff. These rates are in most instances higher than those applicable to preference programs.

Certification Requirements

A declaration of origin on the commercial invoice, signed by the exporter, is required for all importations into Canada. Under the BPT, MFN, U.K. and Ireland, and General Tariff schemes, a bill of lading may be substituted in those cases where the exporter is unable to declare the origin of the goods.

Goods entered under the GPT must be accompanied by a certificate of origin (Form A) certified by a governmental body or other approved body of the beneficiary country. A special certificate of origin is used for handicraft articles.

Japanese Rules of Origin

For purposes of the application of preferential tariffs, such as the preference for least developed countries and the Generalized System of Preferences, the origin of goods imported into Japan is the country where the production or processing takes place. If the goods are wholly produced in one country, that country is the country of origin. In the case of goods produced in more than one country, the country where the goods undergo a substantial transformation or are given new characteristics is the country of origin. Generally, for substantial transformation to occur, there must be processing that transfers the goods from one category of the CCCN to another. However, there are exceptions to this rule. With respect to goods specified in List A, in addition to a change in tariff heading, other requirements must be satisfied. These requirements fall into one of three categories:

(a) The goods must be produced from certain specific materials or parts originating in that country;

(b) The goods must be produced from certain specific materials or parts;

(c) The value of the non-originating materials or parts used must not exceed a given percentage of that of the resulting goods. (For this purpose, the value of the non-originating materials or parts used is the customs value at the time of importation, and the value of the resulting goods is the f.o.b. price.)

With respect to goods specified in List B, operations that do not result in a change in tariff heading will be considered sufficient when other specified requirements are satisfied.

The goods must be transported directly to Japan without passing through the territory of another country, except that transshipment may be allowed when necessary due to transport requirements. Direct transport may be evidenced by a through bill of lading or by a certification by the customs authorities of the transit countries.

Donor Country Content Rule

Goods produced in a preference-receiving country exclusively from materials imported from Japan, or only from materials wholly obtained in the preference-receiving country or imported from Japan, will be regarded as wholly obtained in that preference-receiving country. In the case of goods produced in a preference-receiving country from materials imported from Japan and materials imported from a third country, the materials from Japan will be considered as wholly obtained in the preference-receiving country when the origin of the goods is determined. This rule, referred to in Japan as the Donor Country Content Rule, is similar to bilateral cumulation, discussed previously in the section covering EEC rules of origin.

Rules of Cumulative Origin

In the case of goods produced in a member country of the Association of South East Asian Nations (ASEAN), in the production of which only materials wholly obtained in ASEAN countries or materials imported from Japan are used,

the goods will be considered wholly obtained in the country where they are produced. If products from an ASEAN country that is not the country of production of the goods and products from outside ASEAN and Japan are used with products wholly obtained in the country of production and/or in Japan, the products wholly obtained in the ASEAN country or countries will nevertheless be considered as wholly obtained in the country of production for purposes of determining the origin of the goods.

Safeguard Mechanisms

Japan has reserved the right to suspend preferential treatment for certain products under certain circumstances. Also, a particular country may be excluded with respect to a particular product under certain circumstances.

Documentation Requirements

In order to qualify for preferential treatment, a Certificate of Origin (Form A) must be submitted to customs. The certificate must be signed by the customs authorities or other approved body of the exporting country.

When the Donor Country Content Rule is utilized, a "Certificate of Materials Imported from Japan" and an export permit issued by Japanese customs on exportation of the components from Japan must be submitted.

When one of the cumulative origin treatments applicable to ASEAN is utilized, a "Cumulative Working/Processing Certificate" must be submitted, together with a Form A.

Hong Kong Rules of Origin

Hong Kong generally imposes no tariffs on imported goods. Duties are levied only on a very few products, including tobacco, alcoholic liquors, methyl alcohol, and some hydrocarbon oils. Due to the general absence of import duties, Hong Kong does not have rules of origin relating to imports. There are, however, rules of origin requirements with respect to the exportation of goods from Hong Kong. These rules are applied in order to determine whether an article will be considered a product of Hong Kong for purposes of the issuance of a Certificate of Hong Kong Origin or to determine whether a product qualifies for a Certificate of Origin (Form A) for purposes of a Generalized Scheme of Preference.

Hong Kong applies the rules of origin discussed below to determine whether an article will be considered a product of Hong Kong for purposes of the issuance of a Certificate of Hong Kong Origin. These rules are applied with respect to the issuance of such certificates by the following bodies:

a) Hong Kong Trade Department;

b) Hong Kong General Chamber of Commerce;

c) Federation of Hong Kong Industries;

d) Chinese Manufacturers' Association of Hong Kong;

e) Indian Chamber of Commerce, Hong Kong; and

f) Chinese General Chamber of Commerce.

In order to be considered a product of Hong Kong for the purpose of the issuance of a Certificate of Hong Kong Origin, an article must have undergone a manufacturing process in Hong Kong that has changed permanently and substantially the shape, nature, form, or utility of the basic materials used

in manufacture. Simple diluting, packing, bottling, drying, assembling, sorting, or decorating are not by themselves considered sufficient. Specific processing requirements are set out on a product-by-product basis (app. K).

The Hong Kong Trade Department has made provision for manufacturers to subcontract certain processes to other factories. This arrangement makes a distinction between principal and subsidiary processes of manufacture, for which different control measures are applicable, as follows:

(a) The principal process is that required to meet the requirements of the rule of origin. (These are set out on a product-by-product basis in column 3 of the origin rules in app. K.)

(b) A subsidiary process is any process, other than the specified principal process, that contributes to the manufacture of the product (Examples are electroplating and buttonholing).

The Trade Department of the Hong Kong Government is authorized to issue the Certificate of Origin (Form A) for GSP purposes. 1/ The rules of origin that are applied in issuing these certificates are those rules that are in effect in the donor country to which the GSP goods are being exported.

1/ The following government-approved organizations are also authorized to issue the Form A for GSP exports to Canada, Japan, Switzerland, Norway, Austria and New Zealand: Hong Kong General Chamber of Commerce; Indian Chamber of Commerce, Hong Kong; Federation of Hong Kong Industries; Chinese Manufacturers Association of Hong Kong; Chinese General Chamber of Commerce.

PREVIOUS STUDIES CONCERNING RULES OF ORIGIN

The following sections contain summaries of the activities of the three international organizations that have been most involved in studying rules of origin.

United Nations Conference on Trade and Development (UNCTAD)

UNCTAD has been working toward the liberalization of rules of origin requirements applicable to developing countries under preference arrangements. UNCTAD published a digest of rules of origin (UNCTAD/TAP/133/Rev. 5 of May 1982 (app. L)) applicable to the Generalized System of Preferences. The digest sets forth the main elements of rules of origin. In the section concerning origin criteria, the rules for defining what constitutes "sufficient working or processing", which vary from one GSP scheme to another, are discussed. The digest also includes sections discussing direct consignment conditions, required documentary evidence, cumulation rules, and other special rules. Later this year, the UNCTAD Working Group on Rules of Origin will be considering the implications of changes made necessary by the adoption of the Harmonized System. 1/

Organization for Economic Cooperation and Development (OECD)

Since implementation of the various GSP programs, OECD has worked toward harmonization and simplification of the rules of origin. In 1976 a compendium of rules of origin was drawn up by OECD preference-giving countries. This

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1/ The Harmonized System is a detailed classification, based on the CCCN, containing approximately 5,000 headings and subheadings describing articles in trade. It is intended to serve as a single, standard, international product nomenclature for use in classifying products.

compendium has been updated twice; the most recent version is TD/B/626/Rev. 2 of 30 June 1981. This version was closely followed by UNCTAD in preparing its May 1982 compendium, discussed above. The OECD Group on Preferences is preparing a note explaining the current situation with respect to GSP origin rules and laying out options for the policy makers to consider in light of the upcoming implementation of the Harmonized System.

Customs Cooperation Council (CCC)

Kyoto Convention

The CCC approved the Kyoto Convention in May of 1973. 1/ This Convention was designed to simplify and harmonize customs procedures and operations and thereby foster international trade. The Convention merely describes origin systems in use without setting limits on the types of rules that may be devised.

Three annexes of the Convention relate to rules of origin (app. M). Annex D.1. relies on the "wholly produced" and "substantial transformation" rules and suggests the use of the change-in-tariff-heading rule, using the CCCN for its application. Annex D.2. discusses the documentary evidence of origin requirements, and Annex D.3. concerns the control of documentary evidence of origin.

1/ The Convention consists of essentially two parts: the body, which applies to all contracting parties; and thirty annexes, each dealing with a specific customs matter. A country must accept the body and at least one annex in order to become a contracting party. In effect, each annex, when read with the body, becomes a separate convention. Each annex generally contains an introduction, definitions, standards, and recommended practices and notes. Contracting parties may enter reservations in respect of standards and recommended practices. This right is balanced by an obligation that contracting parties review their national customs practices at least once every 3 years in an effort to bring them into line with the annex's provisions.

CCC Compendium

The CCC began a two-part study of rules of origin in 1982. The first part (CCC Document 29.215E, November 1982 (app. N)) is a comparative study of rules of origin in use by CCC member countries. Chapter I is a comparative study of rules that are likely to present difficulties; Chapter II suggests various simplification and harmonization measures for consideration; and Chapter III contains suggestions concerning the work to be done and its timetable. Following these chapters are the submissions made by the various countries. They will be asked to update their origin information and resubmit it sometime later this year.

The second part (CCC Document 31.745, August 31, 1984 (app. O)), a compendium of rules that are particularly difficult to apply and control, has been drafted. It consists of a chart indicating the rules applicable (column 1), difficulties of application (column 2), and possible means of control (column 3). This document will be submitted to the Council of the CCC for approval.

The CCC compendium is intended to serve as a basis for future agreement on simplification and harmonization of rules of origin.

General Agreement on Tariffs and Trade (GATT)

The GATT Secretariat prepared, in March of 1981, a note on rules of origin, as a basis for further discussion of the need for work in this area. The note provided a brief description of the concepts behind rules of origin

and the main criteria used in arrangements where it is necessary to determine the preferential or nonpreferential origin of goods. An annex contained a brief description of rules in existence at that time.

At the GATT Ministerial Meeting in November 1982, the ministers agreed to arrange for a study of the rules of origin used by the contracting parties.

ECONOMIC IMPACT OF RULES OF ORIGIN

General Discussion of Impact

The economic impact of any rule of origin depends upon the impact of the import program it is used to implement. In turn, the impact of a particular program depends upon the effects of the benefit (such as a duty reduction) gained through qualifying for the program or the harm (such as imposition of a quota) suffered as a result of qualifying. Thus, we can gain insight into the economic impact of a particular rule of origin by studying the effects of the duty reduction or quota that is a result of implementation of the program that uses that rule.

Tariffs

The imposition of a tariff on imports of a product tends to reduce imports and domestic consumption of the product and to increase the domestic price, government revenue, and the quantity supplied by domestic sources. According to traditional trade theory, a tariff on imports will usually lower national well-being as a whole because it costs domestic consumers more than it benefits the domestic producers and the government. 1/ The change in imports, the net national loss, the reduction in imports, and the gain to competing domestic producers caused by the tariff can be estimated if data on the rate of tariff imports, domestic output, and the necessary price elasticities are available. 2/ However, without this specific data, such an estimate cannot be made.

1/ Peter H. Lindert and Charles P. Kindleberger, International Economics, Homewood, IL: Irwin, 1983, pp. 112 and 131.

2/ In 1960, Harry G. Johnson used the following equation to estimate the national loss from tariff for any commodity:

$$\text{Net national loss from the tariff} = (1/2) \times (\%\text{ of tariff}) \times \%\text{ change in import quantity} \times \frac{\text{import value}}{\text{GNP}} \times \frac{\text{GNP}}{}$$

For details, see his article, "The Cost of Protection and Scientific Tariff," Journal of Political Economy, August 1960, pp. 327-45.

Quotas

The effects of an import quota are basically the same as those resulting from a tariff. However, whereas with a tariff the importing government collects the revenue (the duties), with a quota the revenue (rent) can be collected by any one of a number of parties depending upon how the quota rights are allocated. 1/

Value-added Requirements

In general, when the rule of origin affects tariff rates, the addition of a value-added requirement to a rule of origin will reduce the total number of imports of the affected product, as well as the number that are eligible for preferential treatment. A value-added requirement will also usually result in an increase in imports of the product from nonbeneficiary countries with the consequent higher prices and other effects attributable to an increase in duty. It is very difficult, however, to measure the magnitudes of these effects. To measure the effect, one would need to know how much of the reduction in imports from beneficiary countries was made up by an increase in imports from nonbeneficiary countries, how much was made up by an increase in domestic output, and how much from a decline in domestic consumption. The price elasticities needed for these calculations are usually very difficult (and often impossible) to determine. The effect of a change in a rule of origin is likely to be different when the rule restricts access to a quota rather than affecting the tariff rate. In that case, unless the beneficiary country were unable to fill the quota after an increase in the value-added requirement, the effect on imports would be zero. 2/

1/ There are three ways of allocating a quota: competitive auctions, fixed favoritism, and resource-using applications procedures. For details, see Lindert and Kindleberger, op. cit., pp. 157 and 158.

2/ See discussion of textile regulations (pages 78-92 of this report).

Preferential Rules of Origin

A preferential rule of origin has the effect of encouraging the use of materials from preference countries. 1/ As the percentage requirement of a value-added rule is increased, manufacturers will either increase their use of preference-country sources of materials or decide it is not economical to use the preference.

Any switch to preference-country sources that results from increasing the percentage requirement will naturally benefit the preference country by encouraging greater investment there. This boosts local production and employment. However, it can also have disadvantageous effects such as requiring producers of the finished product to pay more for components or to accept lower quality materials. These costs will be passed on to consumers and could make those products less competitive on world markets.

Since a preferential rule of origin will have the effect of discouraging the use of nonpreference-country materials, manufacturers of those goods will suffer some harm. The degree of harm suffered will vary depending on the stringency of the rule of origin in question. Thus, injury to manufacturers of nonpreference goods will be greatest when the rule of origin is most restrictive or otherwise difficult or costly to comply with, when the producer of the finished product exports a substantial portion to countries with high tariffs; when the intermediate products are a substantial portion of the value of the finished product; and when the intermediate products are readily available from preference-country sources. The degree of injury will tend to be reduced when the rule is not restrictive or is loosely enforced; when the

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1/ In addition, in some cases the complexity of a rule will cause the manufacturer to favor preference-country sources merely to be certain of qualifying under the rule.

intermediate products constitute only a small proportion of the value of the finished product; when the producer of the finished product sells mostly within his own country or to countries with low tariffs; and when the use of nonpreference components will continue notwithstanding the added cost resulting from application of the origin rule (where local supplies are unavailable, too costly, or of inferior quality, for example).

Changes in Rules of Origin

In some cases, a change in a rule of origin will have no impact since the rule does not preclude profitable alternatives. In other cases, the requirements might adversely affect certain foreign suppliers, have favorable effects on other suppliers, and have no effect on the economic welfare of the home country. However, if the requirements cause a reduction in the home country's imports, they can increase domestic prices, reduce domestic consumption, and increase domestic production of the product under discussion. Country-of-origin restrictions imposed by a foreign country can also affect the home country's exports.

Measuring the Impact of Rules of Origin

Although there is general agreement that rules of origin do have an economic impact, the effects are difficult to measure. Measuring the effects requires data on all of the factors affecting trade flows, and it is not possible to isolate the effect of applying a rule of origin from all of the other factors that contribute to business decision making. The Commission sent questionnaires to U.S. importers and exporters requesting them, to the extent possible, to quantify the impact of rules of origin on their trade. They were unable to provide us with useful data quantifying the impact. Some

respondents did provide us with anecdotal statements which could not be verified. For example, the respondents were asked to estimate the cost to their company in lost sales resulting from the application of rules of origin. Most were unable to estimate this cost, but of those who did respond, estimates ranged from zero or a negligible amount to several million dollars. They were also asked to estimate the administrative costs, such as for reporting and paperwork requirements, personnel costs, and so forth, associated with complying with rules of origin. More respondents were able to come up with an estimate for this question. These estimates also ranged from negligible costs to several million dollars, with most of them in the $30,000-$100,000 range.

Modifications to Comply with Rules of Origin

The questionnaires also inquired into the extent to which companies have made modifications in order to comply with rules of origin. Several respondents indicated that they have altered their source patterns in order to take advantage of preferential rules of origin or to avoid negative consequences such as might be experienced with respect to a quota. Some have moved manufacturing facilities to other countries in order to qualify for particular preferences. Others cautioned, however, that decisions concerning sources or location of manufacturing facilities are dependent on many factors in addition to rules of origin, such as other costs, labor rates, accessibility to materials, tax benefits, and duty rates.

Textile Regulations

Because of the recent issuance of new U.S. Customs Service Regulations in this area, the rules of origin pertaining to U.S. imports of textiles have

been in the spotlight. The regulations (see pages 29-33 of this report) clarify the rules for determining the country of origin of textiles and textile products subject to restraint agreements under section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854). These regulations set forth in considerable detail the various processing operations that will or will not confer origin in the country in which they occur. They have the effect, at least in some instances, of tightening the requirements for qualifying as the country of origin of a product. For this reason, in some cases, products that were previously allowed entry, either under quota or without quota restrictions, as the product of one country will now be considered the product of another country. For some products, this will have the effect of denying entry to the product where, for instance, a filled quota for that country exists.

Because of the nature of textile and apparel products and current conditions of international trade in these products, rules of origin have a particularly significant impact. First, these products usually result from a sequence of production stages or processes and goods may enter international trade at any of the intermediate stages. For example, a finished apparel item may be the end result of a process that began with production of the raw fiber and continued through spinning of the yarn, weaving the fabric, dyeing and finishing the fabric, cutting the fabric into pieces according to pattern, sewing or otherwise assembling the pieces, adding buttons, zippers, pockets, linings, and ornamentation, and labeling and packaging the end product. Products in any of these stages may be shipped to another country for further processing.

Second, a large part of world trade in textiles and apparel, especially the exports of developing countries to industrialized countries, is controlled under bilateral agreements pursuant to the Multifiber Arrangement (MFA). These agreements establish limits on imports by country and by product so that classification of the product and determination of the appropriate country of origin are critical factors in charging imports against the applicable quota category.

The MFA

The MFA went into effect on January 1, 1974, with the basic objective of ensuring the expansion of trade in textile products and achieving reduction of trade barriers and the liberalization of world trade in textile products. The MFA was renewed in 1977 and 1981 and will be considered for renewal again at the end of July, 1986. It is an exception to the GATT in that it allows importing countries to apply restrictions selectively in terms of products and exporting countries. GATT rules would ordinarily require equal treatment to all member countries and a product-by-product determination of injury before restraints could be imposed.

The MFA established a Textiles Surveillance Board (TSB), which reviews actions of member countries for conformity with MFA standards, and, when disputes arise, makes nonbinding recommendations to the governments involved. In considering the recent U.S. Customs Service Regulations concerning textiles, the TSB concluded that they do in fact affect the balance of rights and obligations in the bilateral agreement between the United States and Hong Kong and that consultations should be held with a view to restoring those rights. Consultations are still in progress between the United States and Hong Kong on the issue.

Intercountry Production Operations

The importance of intermediate products in world trade in textiles and apparel is illustrated by the fact that, in 1982, total trade in textile mill products (primarily yarns and fabrics) amounted to about $52 billion and trade in apparel amounted to about $41 billion. Most of the exported textile mill products are further processed into apparel and household products, although some are consumed in the imported form in industrial or other uses. Developed countries import most of the apparel moving in international trade, importing nearly equal amounts from other developed countries and from developing countries. In contrast to apparel, most of the imports of textile mill products are into developing countries.

The following origin and destination tabulation for 1980 illustrates the flow of world trade in textiles and apparel (in billions of dollars):

Origin	Destination		
	Developed countries	Developing countries	Eastern Trading Area
Developed countries			
Textiles	25.1	8.8	2.2
Apparel	15.7	2.1	0.4
Developing countries			
Textiles	7.7	6.2	1.2
Apparel	13.3	2.8	0.5
Eastern Trading Area			
Textiles	1.6	1.9	1.0
Apparel	2.0	0.7	2.3

Trade Under Item 807.00

U.S. manufacturers send domestically produced materials to less developed countries for the labor-intensive parts of the production process and then reimport the goods under item 807.00, TSUS (see pages 34-35 of this report). In the United States, such trade is subject to, and constitutes part of, the quota levels established in bilateral agreements under the MFA. Such trade accounts for about 6-9 percent of U.S. apparel imports. Most of the foreign labor is done in Mexico and the Caribbean Basin. The largest suppliers of U.S. apparel imports under TSUS item 807.00 in 1984 were Mexico ($218 million), the Dominican Republic ($156 million), Haiti ($87 million), and Costa Rica ($73 million). The following tabulation shows 807.00 imports compared to total imports of apparel (in millions of dollars):

	1980	1981	1982	1983	1984
Total imports	6,039	7,096	7,725	8,898	12,393
807.00 imports	526	579	557	632	788
Ratio 807.00/total	8.7	8.2	7.2	7.2	6.4

Trade Differences By Country

Textile and apparel trade and domestic production processes differ widely by country. This can be illustrated by looking at the five countries that have the largest trade (exports plus imports) in these products--West Germany, the United States, Hong Kong, Japan, and China. West Germany has generally reduced domestic production, imports a large part of domestic consumption, engages extensively in "outward processing," and has a sizable trade deficit

in apparel. The United States has experienced sharp increases in apparel imports in recent years despite bilateral agreements limiting imports and, in 1983, had the largest trade deficit in these products of any country. U.S. exports of fabrics and other textile mill products have declined, being displaced in world markets by greige fabrics from China and other low cost producers; finished fabrics from Japan and Hong Kong; and, within the EEC, by local European producers. Japan imports both textiles and apparel, but is a large net exporter of textiles. It has become established as one of the leading suppliers of finished fabrics to apparel manufacturers worldwide. Hong Kong is the largest apparel exporter in the world and a large importer of yarn and fabric, much of which is used in the production of exported apparel. China has rapidly emerged as one of the world's largest exporters, especially of fabrics and other textile mill products. Often, Chinese greige fabrics are finished in Japan or Hong Kong and reexported.

Developing countries have tended to regard textiles and apparel as growth industries, whereas they are generally thought of as declining industries in developed countries. However, some of the more advanced developing countries are attempting to move "up-market" into higher priced items and, in some cases, to shift emphasis to industries using higher technology. On the other hand, several Asian countries (such as Sri Lanka, Indonesia, Thailand, and Mauritius) continue to promote the development of apparel industries geared to exports and often utilize imported yarns and fabrics in making apparel for exports.

The Trade Effects of the New Regulations

As noted earlier, the MFA allows bilateral agreements with supplying countries that limit imports of cotton, wool, and manmade-fiber textile products. The United States has bilateral agreements, providing specified import limits, with more than 30 countries. 1/ More than 100 product categories have been established to monitor imports and many bilateral agreements provide for both group limits and limits on specific individual categories. There are no provisions for transfer of quotas among countries. However, if a country whose quota is filled ships partially completed textile products to a second country where the items are completed and exported to the United States, the second country may qualify as the country of origin. If the second country has unfilled quota for this item, or is not subject to any quota on the item, there would be no restriction on its entry. Alternatively, it is possible that a country with a filled quota for a specific item could import the item from a second country, perform only limited finishing, assembly, or packaging operations and export the item to the United States with the items charged against the quotas of the first country. In the first case, the operations performed in the second country were sufficient to change the country of origin, but in the second case they were not. This determination would be made based on the definition of "substantial transformation" contained in the new U.S. Customs Service Regulations. Thus, it can be seen that the availability of unfilled quotas in particular countries may affect multicountry processing operations.

1/ There were 25 bilateral agreements negotiated under Art. 4 of the MFA and similar agreements were negotiated pursuant to sec. 204 of the Agricultural Act of 1956, as of July 1, 1984.

The trade effects of the new regulations will depend to a large extent on how the regulations are interpreted and enforced and on how supplying countries or manufacturers respond to them. In cases where most of the manufacturing operations required to produce the product are done in the exporting country, it is generally clear that the country that shipped the product to the United States is also the country of origin. Controversy about the appropriate country of origin is most likely to arise when products undergo processing operations in more than one country.

Case Illustrations of the Economic Impact of the New Regulations.

Hong Kong and China

The four largest textile exporters to the U.S. are Hong Kong, the People's Republic of China, Taiwan, and Korea. The two suppliers expected to be affected most by the new textile regulations are Hong Kong and China. Because of the lack of natural resources and raw materials, Hong Kong is virtually a large processing zone. In the past, goods in intermediate stages of production were sent to Hong Kong for further processing and then shipped to the United States as products of Hong Kong. Now, in order for certain goods to be considered products of Hong Kong, materials in an earlier stage of production will have to be sent to Hong Kong and more of the processing will have to be done there. Thus, while there has been speculation that Hong Kong

would lose business due to the implementation of the new regulations, 1/ 2/ Hong Kong may actually expand its local production by doing processing that was formerly done in other countries. China, on the other hand, as a major supplier in the past of intermediate materials to Hong Kong textile and apparel industries, will almost certainly be hurt by the new regulations. Previously products processed in Hong Kong using intermediate materials from China qualified as products of Hong Kong and entered the U.S. under Hong Kong's quotas. Under the new regulations, some of these products will be classified as products of China rather than of Hong Kong. Since China has fully utilized its quotas in the past, this will have the effect of reducing China's exports of intermediate materials to Hong Kong for reexport to the United States. The People's Republic of China is very concerned about the new regulations and has released its estimates of employment losses due to the implementation of the new regulations. 3/

1/ The Joint Committee of Hong Kong Knitwear Association estimates the expected loss of business in 1985 at $233 million and claims that approximately 35,000 Hong Kong workers are directly affected. "Comments Regarding United States Customs Service Regulations Amendments Relating to Textiles and Textile Products", page 29 (submitted as an attachment to the statement submitted to the ITC for the public hearing held in this investigation on January 29, 1985).

2/ There are claims that Hong Kong is also suffering a loss in its quota rights. Due to the uncertainty created by the new regulations, the prices of textile quotas dropped sharply. According to the Daily News Record of February 12, 1985, "Quotas for wool knit sweaters were $23 a dozen, compared to $27 a dozen two weeks ago and $53 a dozen in February 1984."

3/ In his letter of Feb. 25, 1985, to the United States Trade Representative, Ambassador Zhang Wenjin of the People's Republic of China indicated that the interim regulations "affects over 100,000 jobs throughout China and around $200-300 million of China's trade." The Ambassador concluded that "The establishment of such a distinction in the final country of origin regulations would lead China to the unavoidable conclusion that these regulations are being promulgated specifically to restrict trade in products such as sweaters knit to shape in China and assembled in Hong Kong. China would also be forced to conclude that the United States is acting in conscious disregard of the harm of China's employment, trade and economic development resulting from these regulations."

Sweaters from Hong Kong

The example that has been most often cited to illustrate the effects of the new regulations is the case of sweaters imported from Hong Kong. Hong Kong is the largest supplier of sweaters to the United States, shipping cotton, wool, and manmade-fiber sweaters valued at nearly $250 million in 1983 and about $280 million in 1984. 1/ According to information supplied by the Hong Kong Knitwear Association (HKKA), 2/ the sweaters are typically made from knit pieces or panels imported from China. The assembly of the knit panels into a finished sweater involves a process called "looping" by which the panels are attached together and may also include other operations such as mending, washing, inspection, and pressing. In the past, these sweaters have been imported into the United States as a product of Hong Kong and charged against the Hong Kong quota. Under the new customs regulations, China is regarded as the country of origin and U.S. imports will be charged against the Chinese quota for sweaters. China's quota for sweaters in 1984 was considerably less than half the size of Hong Kong's quota. Table 2 shows MFA limits and shipments charged for sweaters from the four leading suppliers in 1982-84.

1/ In 1984, Hong Kong also shipped sweaters of fibers other than cotton, wool, or manmade fibers, valued at nearly $240 million, over three times the value shipped in 1983.

2/ Testimony of Christina Fleps, O'Connor and Hannan, before the ITC, Jan. 29, 1985.

Table 2.--Sweaters and parts of sweaters: Limits and shipments charged in U.S. textile and apparel trade agreements with major U.S. suppliers, 1982-84

(Quantity in thousands of dozens)

Year and Category No. 1/	Limit	Shipments charged	Percentage filled 2/
	China		
1982:			
345	59	79	133.1
445/446	274	274	100.0
645/646	619	619	100.0
1983:			
345	80	79	98.9
445/446	268	268	100.0
645/646	631	631	100.0
1984: 3/			
345	4/ 52	33	63.8
445/446	270	270	99.9
645/646	649	619	95.2
	Hong Kong		
1982:			
345	342	342	105.6
445/446	1,150	1,256	109.2
645/646	1,208	1,242	102.7
1983:			
345	310	299	96.3
445/446	1,129	1,229	108.8
645/646	1,180	1,144	96.9
1984: 3/			
345	314	172	54.6
445/446	1,183	794	67.1
645/646	1,220	776	63.6

Table 2.--Continued

(Quantity in thousands of dozens)

Year and Category No. 1/	Limit	Shipments charged	Percentage filled 2/
	Korea		
1982:			
345	5/	61	-
445/446	53	53	100.0
645/646	3,283	3,246	98.8
1983:			
345	64	62	96.2
445/446	53	53	99.9
645/646	3,238	3,238	100.0
1984: 3/			
345	67	42	63.4
445/446	54	47	87.6
645/646	3,255	3,162	97.1
	Taiwan		
1982:			
345	5/	72	-
445/446	130	135	103.6
645/646	3,883	3,943	101.5
1983:			
345	82	80	97.7
445/446	133	116	87.1
645/646	3,967	3,922	98.8
1984: 3/			
345	84	63	75.1
445/446	127	96	75.3
645/646	3,987	3,806	95.4

1/ Category 345 is sweaters and parts of sweaters of cotton. Categories 445/446 and 645/646 are sweaters and parts of sweaters of wool or manmade fibers, respectively.

2/ Calculated from unrounded figures.

3/ Data for 1984 on shipments charged and percentage filled cover January-September 1984.

4/ Adjusted limit.

5/ No specific limit was in effect; however the United States reserved the right to request consultations, leading to the establishment of specific limits, should imports of a particular product threaten market disruption.

Source: Compiled from official statistics of the U.S. Department of Commerce.

A survey by HKKA indicated that approximately 35,000 Hong Kong workers will be directly affected by the new regulations. Chinese Ambassador Wenjin stated that some 60,000 jobs in South China would be affected.

Imports from insular possessions

Imports from insular possessions are entered duty-free if they qualify as a product of an insular possession. Even if not eligible for duty-free treatment, they must be treated no less favorably than imports from LDDC's or beneficiary Caribbean countries. It is expected that the new regulations will have a relatively minor effect on insular possession trade since the sewing of apparel, even from cut parts, generally confers country of origin under the regulations. However, operations such as merely shower proofing wool fabrics or assembling knit-to-shape parts for sweaters will generally not confer origin, and this could have an effect on insular possession trade. The following tabulation shows shipments of textiles and apparel from U.S. insular possessions to the United States, in 1983 (in thousands of dollars):

Virgin Islands:	
Schedule 3, total	4,494
Woven fabrics of wool, not over $9/lb	3,186
Woven fabrics of wool, over$ 9/lb	1,052
Guam:	
Schedule 3, total	6,247
Men's and boys' wool knit sweaters, not over $5/lb	1,550
Men's and boys' wool knit sweaters, over $5/lb	3,993

Finished fabrics

During the consideration of the interim regulations, countries in both Europe and the Far East protested the fact that fabrics woven in Far Eastern countries and finished in Europe would no longer be considered a product of the European country when imported into the United States. The final rules, however, do allow most of these fabrics to continue to be imported as products of Europe, with no quota limits. The final regulations provide that imported fabric will be considered the product of the country where it has undergone dyeing and/or printing processes, when these processes are accompanied by two or more specified finishing operations such as bleaching, shrinking, and napping. Trade sources indicate that most of the greige fabrics converted to finished fabrics in Europe and Japan meet this requirement. The regulations specify, however, that fabrics will generally not be considered a product of a country where processing was limited to either (1) finishing operations such as showerproofing or bleaching or (2) dyeing and/or printing only.

Estimated Total Trade Affected by the New Textile Regulations

The Commission estimates that the amount of U.S. import trade affected by the new regulations could be as much as $500 million or more annually, based on 1984 data. It is expected that sweaters will be the product most directly impacted, and that the sweater imports affected will amount to one half or more of the total textile trade affected. The sweaters affected will be mainly those utilizing knit-to-shape parts made in China, most of which are finished in Hong Kong. It is believed that only a small proportion of other apparel imports are likely to be affected.

Most U.S. fabric imports consist of finished fabrics that are not likely to be affected. Finished fabric imports could be affected where the country of shipment performs only limited finishing operations on imported greige fabrics. However, most of these products have had sufficient processing in the country of shipment to confer country of origin status.

The impact of the regulations on trade in textile products is likely to diminish in time. For example, Hong Kong interests have indicated several possible adjustments to the new regulations including the possibility of (1) importing new knitting machinery and knitting panels in Hong Kong; (2) setting up manufacturing areas near the Chinese border and utilizing Chinese workers who commute to the workplace; (3) importing the knit-to-shape parts from Italy or other countries for which there are no U.S. quotas; and (4) utilizing sweater parts that are in chief value of fibers other than cotton, wool, or manmade fibers and, therefore, not subject to U.S. quotas. Those producing sweaters in the insular possessions have indicated that over a period of time nearly the entire manufacturing process will be shifted to the possessions. Most of the adjustments are likely to occur during a period of several months to 2 years.

COMPLAINTS BY UNITED STATES INDUSTRY

Numerous complaints concerning problems experienced with rules of origin have been filed with the Government by United States industry. These complaints, which were not previously organized into a compilation, have been summarized in Appendix P.

When the rules of origin for the several EEC-EFTA preference agreements went into effect in the 1970's, many U.S. companies complained about the restrictiveness of the rules. Many of them took the position that the EEC-EFTA rules were more restrictive than was necessary to prevent deflections of trade. The complaints were focused primarily on the EEC-EFTA rules regarding textiles, electronics, and chemicals. Many textile products appear in the List A exceptions to the general rule that a change in tariff heading will confer origin status on a product. Generally, two substantial transformations are required with respect to textiles (the "two-process rule"). Many electronics products are subject to dual percentage tests. 1/ This means that not only must nonoriginating materials not exceed a specified percent of the final value of the product, but at least a certain percentage of the value of all materials used must be originating materials. The EEC-EFTA rules also contain a 3 percent rule with respect to transistors: i.e., the value of any nonoriginating transistors may not exceed 3 percent of the value of the finished article. For certain electronics and other products, List B contains an exception that states that the incorporation of nonoriginating materials worth up to 5 percent of the value of the finished product will not deprive the product of origin status, notwithstanding the

1/ See pages 50-51 of this report for a more detailed discussion of percentage tests.

fact that there is no change in tariff heading. U.S. companies felt that the 5 percent limit was too restrictive. A List B provision requires that, for most products of the chemical and allied industries, 80 percent of the value of the finished product must come from originating materials, although there need not be a change in tariff heading.

In 1974, the United States pursued a complaint through the GATT Article XXII consultative mechanism. The U.S. position was that, because of their restrictive rules of origin, the various EEC-EFTA agreements did not meet the criteria of a free trade area contained in Article XXIV, and therefore they were not eligible for the exception to the general MFN obligation that Article XXIV provides. The contention was that the agreements were contrary to Articles XXIV:4, XXIV:8(b), XXIV:5(b), and VIII. The violation of these Articles was believed to result in nullification or impairment of benefits accruing to the United States under the GATT, the impeding of GATT objectives, and the defeat of reasonable expectations of the United States at the time reciprocal trade concessions were being negotiated. These reasons were asserted to provide the basis for an Article XXIII action under the GATT. 1/

Article XXIV:4 states that the purpose of a free trade area "should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories." The U.S. position was that the EEC-EFTA agreements frustrate those purposes.

Article XXIV:8(b) states that to qualify as a free trade area, there must be an elimination of duties and other restrictive regulations of commerce on

1/ Article XXIII provides for the investigation of complaints of nullification or impairment.

"substantially all the trade between the constituent territories in products originating in such territories." Because most agricultural products were excluded and many industrial products would be excluded through operation of the rules of origin, the United States took the position that the agreements did not constitute free trade areas within the meaning of Article XXIV.

Article XXIV:5(b) states that "duties and other regulations of commerce maintained in each of the constituent territories . . . shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of the free-trade area . . .." The less restrictive EFTA rules of origin were not used as a model for the EEC-EFTA rules. Therefore, as between former EFTA members which joined the EEC and the remaining EFTA members, new rules of origin had been created that were more restrictive than the previously applied EFTA rules. The United States took the position that this was contrary to Article XXIV:5(b).

Article VIII:1(c) recognizes the "need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements." The United States felt that the agreements imposed burdens upon importers and users of imported products that were contrary to the intent of Article VIII:1(c).

The EEC took the position that since the GATT does not define "products originating in such territories" (Art. XXIV:8(b)), they were free to define the terms as they saw fit; that Article XXIV is limited to products originating in the constituent territories, and does not extend the elimination of duties

to products from outside the free trade area; and that inherent in the concept of a free trade area is the idea that there will be a difference in treatment between the constituent territories and third countries. The EEC contended that origin rules to be applied in a free-trade area were not such regulations of commerce as those referred to in Article XXIV:5(b). The EEC maintained that their rules of origin were consistent with the GATT and were necessary to promote economic integration in Europe.

The Article XXII consultations went on for 3 years and had not been completed when the Tokyo Round of Multilateral Trade Negotiations began. However, the consultations were concluded during the course of the Tokyo Round, with the EEC agreeing to change their rules to allow segregation by accounting instead of physical segregation, 1/ and to liberalize the value-added criteria. 2/ The "two-process rule" for textiles was maintained, however.

More recently, numerous importers have registered complaints concerning the new U.S. customs regulations 3/ on textiles. While there are complaints about the substance of the rules as set forth in the regulations, most complaints seem to be centered on the stricter documentation requirements they contain and on the fact that they were implemented with little advance warning. Another cause for complaint is the list of processes that would

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1/ It is difficult for a producer to physically segregate origin from nonorigin materials. Segregation by accounting allows the producer to be deemed to have used certain percentages of origin and nonorigin materials according to the proportions he acquired of each during the year. An alternative to this is for the producer to segregate the goods in his records and keep track of how they are used.

2/ These less stringent rules are the alternative percentage rules, implemented for some products, discussed on page 58 of this report.

3/ See pages 29-33 and 78-92 of this report.

never be considered to be a substantial transformation under the new rules. Some of these are considered to be illogical and not supported by past practice.

Many complaints have been filed respecting the U.S. marking rules. These have ranged from complaints that the People's Republic of China is allowed to use the word "China" for marking purposes to complaints that the Customs Service does not enforce the marking statute rigorously enough with the result that consumers are not always aware of the origin of foreign goods. Complaints have been made that the Customs Service interprets substantial transformation inconsistently from port to port. Also, complaints have been made regarding the difficulties encountered in attempting to obtain certificates of origin from Hong Kong or import licenses in Korea and Taiwan. 1/

1/ See app. P for a list of these and other complaints filed by U.S. industry.

THE SIGNIFICANCE OF RULES OF ORIGIN IN THE NEGOTIATION AND APPLICATION OF TRADE AGREEMENTS

The General Agreement on Tariffs and Trade contains no common rule of origin to be used in determining the country of origin of products for purposes of implementation of the various articles of the agreement. Therefore, each contracting party may apply its own system of rules of origin.

At their Seventh Session, the contracting parties to the GATT did consider the adoption of a common definition of nationality of manufactured goods submitted by the International Chamber of Commerce. 1/ The various countries were asked to furnish information about their rules of origin and to submit proposals for international action.

A number of governments advocated the simplification of procedures concerning the determination of country of origin. Some, however, indicated that they thought an international agreement was impossible because the question of origin is so bound up with economic policies, which vary from country to country.

At their Eighth Session, in October 1953, the contracting parties submitted the following definition of origin for consideration by the various governments 2/:

> A. The nationality of goods resulting exclusively from materials and labour of a single country shall be that of the country where the goods were harvested, extracted from the soil, manufactured or otherwise brought into being.

1/ Basic Instruments and Selected Documents (BISD), First Supplement (March 1953), pp. 104-105; Second Supplement (January 1954), pp. 53-54.

2/ BISD, Third Supplement (June 1955), pp. 94-99.

B. The nationality of goods resulting from materials and labour of two or more countries shall be that of the country in which such goods have last undergone a substantial transformation.

C. A substantial transformation shall--inter alia--be considered to have occurred when the processing results in a new individuality being conferred on the goods.

Explanatory Note: Each contracting party, on the basis of the above definition may establish a list of processes which are regarded as conferring on the goods a new individuality, or as otherwise substantially transforming them. 1/

1/ BISD, Second Supplement, page 53.

On October 11, 1954, the International Chamber of Commerce adopted a resolution 1/ concerning an internationally agreed definition of the origin of goods. The resolution stated that the time was "not yet ripe for attempting to obtain general acceptance by governments of a standard definition of origin." The resolution pointed out the problem that, in order to be applicable to all types of goods, a definition of origin would have to be written in very general terms. However, most difficulties with defining origin occur with respect to matters of detail relating to specific products, where a general rule would be of little value. Finally, the resolution contained a recommendation that the contracting parties continue to study origin regulations and practices with a goal of establishing practical criteria to be applied to these problems.

1/ BISD, Third Supplement (June 1955), pp. 98-99.

The GATT does contain, in Article IX, guidelines applicable to country of origin marking requirements. Article IX does not, however, provide a definition of origin to be used in determining the country of origin of a product.

Although the GATT does not contain a rule defining the manner in which the country of origin of a product is to be determined, the concept of origin is essential to implementation of many of the GATT provisions. The terms "products originating in," "products of territories of other contracting parties," or similar phrases, appear in the following GATT provisions:

(1) Article I(1): general MFN treatment;

(2) Article II(1): application of schedules of concessions;

(3) Article III(2): nondiscrimination in internal taxes;

(4) Article III(4): nondiscrimination in internal regulations;

(5) Article VI(3): prohibition against excessive countervailing duties;

(6) Article VI(4): prohibition against antidumping or countervailing duties for border tax adjustments;

(7) Article VI(5): prohibition against combined antidumping and countervailing duties;

(8) Article VI(6)(a): injury requirement for antidumping or countervailing duties;

(9) Article IX: marks of origin;

(10) Article XI(1): general prohibition against quantitative restrictions;

(11) Article XIII(1): nondiscriminatory administration of quantitative restrictions;

(12) Article XXIV (8): elimination of duties and other restrictive regulations of commerce in customs unions and free trade areas.

The implementation of any of the provisions listed above requires a determination of the origin of the goods. Because the GATT does not contain a rule of origin, the various contracting parties have interpreted the terms used in these provisions according to their own rules of origin systems. It has been argued, by the United States in the context of the EEC-EFTA rules for example, that rules of origin applied to any GATT provision must be at least reasonable lest they run afoul of the basic MFN and nondiscrimination principles of the GATT.

UNIFORM RULES OF ORIGIN

There seems to be general agreement that a harmonization of international rules of origin is desirable. This consensus can be observed when reviewing the questionnaire responses, written submissions, hearing statements, and posthearing briefs submitted during the course of this investigation. Many respondents cited the high costs associated with compliance with the many rules of origin now in effect throughout the world. The belief generally expressed was that with fewer rules, costs would go down. Some concern was expressed, however, at the possibility of the elimination of any U.S. rules. These concerns came mostly from the domestic textiles industry, concerned about an influx of imports glutting the U.S. market if less stringent import rules were put into effect. Many respondents, primarily dinnerware and bicycle manufacturers, were concerned about the lack of enforcement of the current U.S. marking statute.

In spite of the complaints about rules of origin as they now exist, most respondents agreed that rules of origin are necessary and should not be completely eliminated. So long as there are differing rates of duty in effect, rules of origin are considered to be necessary to control the flow of goods.

The principal problems experienced with rules of origin seem to be due to inconsistency among the various rules, the lack of uniform definitions, and the fact that the rules of other countries are not easily accessible to exporters. Various solutions for these problems were suggested by the

respondents. It was suggested that a common rule, used by all countries, would be beneficial if it were reasonable and capable of uniform, nonarbitrary application. It was also suggested that a rule should be consistent with industry practice: i.e., it should conform with commercial reality. It was also suggested that the rules of interpretation to go with a rule of origin system must be as uniform as possible. Administrative ease is not considered to be the deciding factor. A suggestion was made that import and export rules should be the same.

Several respondents made specific suggestions regarding what the uniform rule should be. One suggestion was a rule based on value criteria, in which the country making the greatest contribution, of whatever nature, would be the country of origin. Some suggested specific value-added rules, such as one requiring that over 50 percent of the products' value be contributed in the country of origin. Minimum percentage content rules were generally considered necessary for preferential programs in order to prevent the transshipment of products from nonbeneficiary countries through beneficiary countries. It was also suggested that a rule based on value-added criteria must take exchange rates into account, perhaps by using a single currency as the base. One respondent, however, suggested that value-added rules should be avoided as they are too difficult to administer and are subject to multiple interpretations because of varying accounting systems. This respondent also suggested that rules should not be aimed at specific products or industries, unless absolutely necessary, and, finally, pointed out that change-in-heading rules

discriminate against industries in which the products are covered by only a few tariff headings. A trade association suggested that the 35 percent requirement contained in the GSP and CBI programs is too lenient in the case of processed food. They suggested requiring that not only must the processing be done in the country of origin, but the raw materials must also be wholly obtained there. A domestic textile producer suggested a uniform country of origin form that would set forth the rules of origin and possibly require the listing of each country in which some process was performed.

Some respondents proposed the elimination of the requirement contained in the marking statute that the specific foreign country of origin be marked on the product. These respondents feel that it would be sufficient to mark foreign products with the word "Imported". They contend that marking the specific country encourages discrimination on the part of the purchaser on the basis of race, religion, or nationality. They feel that for programs such as quotas, for which knowledge of the specific country of origin is necessary, the import documents could provide the needed information, making the marking of the product itself unnecessary.

The American Association of Exporters and Importers (AAEI) suggests that the following positive results would be realized by the promulgation of an international rule embodied in a GATT code: exporters would be able to provide accurate information; importers could accurately predict the outcome of country of origin determinations; there would be a reduction in errors in country of origin declarations; the scope of arbitrariness in the enforcement of rules would be limited; the administration of rules would be eased; guidance would be provided to legislators and regulators in drafting clear and

consistent rules; and the orderly discussion and resolution of disputes would be permitted. AAEI suggests that an international rule should be transparent, consistent, objectively verifable, and readily understood and administered, and that it should incorporate safeguards against arbitrary action. Also, a rule of origin should not have onerous documentation requirements. Some type of percentage rule is probably necessary for preference programs, but AAEI sees problems with the verification of data in value-added rules.

The Hong Kong Knitwear Association suggested the continued use of the United States' substantial transformation rule. It was suggested that perhaps a mechanical change-of-heading rule could be used, but with our substantial transformation rule used instead of an exceptions list. In other words, in cases where there was a question concerning whether a change in heading was sufficient to confer origin, a determination would be made on the basis of whether the processes that caused the change in heading actually produced a new and different article of commerce.

The members of the Industry Functional Advisory Committee on Customs Matters (IFAC) 1/ contend that there should be a strict separation of rules of origin from standards of preference. Rules of origin should apply only to non-preferential origin determinations and define the country from which a product comes. Standards of preference apply to determinations made for purposes of preferential tariff programs and determine whether a product from a given country is eligible for a preference. The IFAC suggests that there should be a GATT agreement on general principles that would establish international uniform rules of origin. This internationally accepted code of uniform rules

1/ We note that two members, the Textiles and Apparel and the Footwear/Leather/Leather Products groups, do not support this initiative to harmonize rules of origin internationally.

would not restrict nations from promulgating their own standards of preference for purposes of preferential programs. It also would not restrict nations from promulgating additional trade preference programs. The rule of origin would provide a uniform foundation that could accommodate special additional standards of preference.

The rule proposed by the IFAC is as follows:

> An article of commerce shall be regarded as a product of that country in which such article was wholly grown, produced or manufactured, or, in the case of articles grown, produced, or manufactured in more than one country or an article in which materials or components the growth, product or manufacture of more than one country are utilized, such article shall be regarded as the product of that country in which such article was last substantially transformed into an article having a new and different name, character or use.
>
> In the event that processing or manufacturing of an article is sufficient to result in a change in the six-digit classification of such article under the Harmonized System (or in the five-digit classification under the Tariff Schedules of the U.S.), such change in classification shall be regarded as a substantial transformation within the meaning of the foregoing paragraph; however, the absence of such a change of classification shall not be regarded as evidence that such article has not been substantially transformed.
>
> Any exceptions to the six-digit rule deemed necessary would have to be agreed internationally.

The rule requires a substantial transformation of the article in the country claiming origin, unless the article was wholly grown, produced, or manufactured in that country. Substantial transformation is presumed to have occurred if the processing or manufacturing results in a change in the six-digit classification of the article under the Harmonized System (or in the five-digit classification under the Tariff Schedules of the U.S.). If,

however, a change in classification does not occur, the article will still be considered to have been substantially transformed in the country where the processing or manufacturing took place if that is the country in which the article was last changed into an article having a new and different name, character, or use. This rule of origin could include a list of exceptions to the presumption that a change in classification constitutes a substantial transformation, i.e., a list of particular heading changes that will not be considered sufficient to be a substantial transformation. However, the exceptions would also have to be agreed upon internationally.

APPENDIX A

REQUEST FROM UNITED STATES TRADE REPRESENTATIVE

THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON
20506

August 6, 1984

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The Honorable Paula Stern
Chairwoman
U.S. International Trade Commission
701 E Street, N.W.
Washington, D.C. 20436

Dear Chairwoman Stern:

In the application of customs tariffs and other controls affecting imported goods and services, all major trading nations use rules or regulations to determine the country of origin of imported products. The structure and operation of various origin rules may significantly affect the competitive position of imports and exports in a market.

The economic consequences and potential trade distortions of the differing rules of origin used by countries have been a matter of increasing concern for the past several years. Efforts have been underway in various international fora to explore the possibility of making more uniform and consistent differing national rules of origin. Problems associated with origin practices have been examined by the United Nations Conference on Trade and Development, the Organization for Economic Cooperation and Development, the Customs Cooperation Council and the General Agreement on Tariffs and Trade. In recognition of the growing importance of origin rules, the GATT Contracting Parties at the 1982 Ministerial meeting agreed to arrange for a study of origin rules which could form the basis for future efforts to resolve problems in this area. In connection with this initiative in the GATT, we are seeking the assistance of the U.S. International Trade Commission.

In the course of work done on this subject, relatively complete compilations of various national rules of origin have already been made. A substantial body of information on complaints by U.S. and other exporters of difficulties or disadvantages experienced in the application of origin rules is available. An important missing element of this past work, however, is that of a quantitative measurement and assessment of the trade effects of origin rules on U.S. imports and exports.

At the direction of the President, I am therefore requesting the Commission to conduct an investigation, pursuant to section 332(g) of the Tariff Act of 1930, as to the effect of origin rules on the competitive position of U.S. imports and exports. The investigation should examine complaints made by U.S. industries and exporters with respect to the discriminatory effect of rules of origin applied by the United States and its major trading partners.

The Commission is requested to provide its advice to the President in this investigation as soon as possible, but not later than six months from the date of receipt of this letter.

Very truly yours,

WILLIAM E. BROCK

WEB:sk

APPENDIX B

NOTICE OF INVESTIGATION

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

(332-192)

The Impact of Rules of Origin on
United States Imports and Exports

AGENCY: United States International Trade Commission

ACTION: Institution of an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) concerning the impact of rules of origin on the competitive position of U.S. imports and exports, at the direction of the President, and the scheduling of a hearing in connection therewith.

EFFECTIVE DATE: September 4, 1984

FOR FURTHER INFORMATION CONTACT:

Ms. Janet Forest (202) 523-0363 -- O/TA & TA

BACKGROUND AND SCOPE OF INVESTIGATION: The Commission instituted the investigation, No. 332-192, following receipt on August 20, 1984, of a request therefor by the President transmitted through the U.S. Trade Representative (USTR). The advice requested will be used as part of the United States' contribution to the General Agreement on Tariffs and Trade Ministerial meetings concerning rules of origin.

The economic consequences and potential trade distortions resulting from the application of rules of origin have been a matter of increasing concern in recent years. Efforts have been underway in various international fora to explore the possibility of making differing national rules of origin more uniform and consistent.

This study will focus on assessing the effects on trade of rules of origin applied by the United States and its major trading partners. In view of the fact that the structure and operation of the differing rules may significantly affect the competitive position of imports and exports in a market, the investigation will include an analysis of those aspects of the various rules. The major portion of the study, however, will be devoted to the examination of comments and complaints received from importers and exporters regarding the impact felt by them as a result of the application of rules of origin.

A copy of the request letter received from USTR is available for public inspection in the Office of the Secretary. The Commission's scheduled completion date for the report is April 19, 1985.

Public hearing.--A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street, N.W., Washington, D.C. 20436, beginning at 10:00 a.m., on January 29, 1985. All persons shall have the right to appear by council or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, not later than noon, January 22, 1985.

Written submissions.--In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on January 22, 1985. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFC 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Kenneth R. Mason

Kenneth R. Mason
Secretary

Issued: September 6, 1984

APPENDIX C

WITNESSES AT THE HEARING AND PERSONS SUBMITTING WRITTEN STATEMENTS

PERSONS SUBMITTING WRITTEN STATEMENTS

Peter F. McCloskey
Washington, D.C.
on behalf of

Electronic Industries Association

Walter Mankoff
New York, N.Y.
on behalf of

International Ladies' Garment Workers' Union

David Rose
Santa Clara, California
on behalf of

Intel Corporation

Collier, Shannon, Rill & Scott
Washington, D.C.
on behalf of

The Bicycle Manufacturers Association of America, Inc.

David H. Phelps
Washington, D.C.
on behalf of

American Iron and Steel Institute

Lillian Leikind
Rockville, Maryland
on behalf of

American Dehydrated Onion & Garlic Association

Christina W. Fleps
O'Conner & Hannan
Washington, D.C.
on behalf of

Joint Committee of Hong Kong Knitwear Associations

David J. Elliott
Procter & Gamble Co.
Cincinnati, Ohio
on behalf of

The Industry Functional Advisory Committee on Customs Matters

John B. Pellegrini
Baskin and Steingut, P.C.
New York, N.Y.
on behalf of

The American Association of Exporters and Importers

Martin Lewin
Mudge Rose Guthrie Alexander and Ferdon
Washington, D.C.
on behalf of

American Association of Exporters and Importers, Textile and Apparel Group

R. O. Hommel
Pittsburgh, Pennsylvania
on behalf of

The O. Hommel Company

WITNESSES AT THE HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's public hearing on the Impact of Rules of Origin on United States Imports and Exports (Investigation No. 332-192). Sessions were held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington, beginning at 10:00 a.m., on January 29, 1985.

WITNESS AND ORGANIZATION

Baskin & Steingut, P.C.
New York, N.Y.
on behalf of

The American Association of Exporters and Importers

Robert J. Leo, AAEI Staff Counsel

John B. Pellegrini--Of Counsel *

* Chairman of the Association's Customs Policy and Ad Hoc Rules of Origin Committees

The Industry Functional Advisory Committee on Customs Matters to the U.S. Department of Commerce and the U. S. Trade Representative

David J. Elliott, Manager, Customs, Export & Trade, Procter & Gamble

J. S. Rode, Esq., IFAC member and Rode & Qualey

Mudge, Rose, Guthrie, Alexander & Ferdon--Counsel
Washington, D.C.
on behalf of

The Textile and Apparel Group of the American Association of Exporters and Importers

Martin J. Lewis--OF COUNSEL

O'Connor & Hannan--Counsel
Washington, D.C.
on behalf of

The Joint Committee of Hong Kong Knitwear Associations

Christina Fleps--OF COUNSEL

APPENDIX D

QUESTIONNAIRES TO UNITED STATES IMPORTERS AND EXPORTERS

OMB No.: 3117-0135
Exp. Date: 12-31-85

Return to
United States International Trade Commission
Washington, D.C. 20436
by
January 18, 1985

Questionnaire for United States Importers

The information called for in this questionnaire is for use by the U.S. International Trade Commission in connection with its investigation No. 332-192 under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), notice of which was published in the Federal Register of September 12, 1984 (see copy enclosed). This investigation concerns the impact of rules of origin on the competitive position of United States imports and exports.

Definition of Rules of Origin

Rules of origin consist of laws, regulations, and administrative practices which are maintained by all countries engaging in international trade. These rules are used to determine which country will be considered the country of origin of a product which is not wholly produced in one country. It is necessary to determine the country of origin of goods for many purposes, including determining eligibility for most-favored-nation (MFN) duty rates, application of other preferential duty programs, such as the Generalized System of Preferences (GSP), and the Caribbean Basin Initiative (CBI), allocation of quotas, implementation of export administration policies, statistical collection requirements, and marking requirements. Because each of these programs has its own distinct policy objectives, the criteria used to determine the country of origin vary from program to program. In addition, the rules vary from country to country. For example, most-favored-nation (MFN) treatment is a preferred tariff treatment granted by most nations to products of all contracting parties to the General Agreement on Tariffs and Trade (GATT). However, since there is no single rule of origin contained in the GATT, the various countries have developed their own distinct rules for determining whether a product originates from a most-favored-nation country.

Necessity for Rules of Origin

When a product is wholly produced or wholly obtained in a single country, there is no question that that country is the country of origin. In such a situation, there is no need to apply a rule of origin in connection with the importation of the product. However, when materials from more than one country go into the manufacture of a product, or when materials from one or more countries are sent to one or more other countries for manufacturing, processing, assembly, packaging, or other operations before finally being imported into the country which is the final destination of the product, it may be very difficult to determine which country should be considered the country of origin. It is in such situations that it is necessary to apply a rule of origin.

Common Characteristics of Rules of Origin

Rules of origin are of several types, including, among others, the following: rules requiring sufficient processing; rules including a value added criterion; and rules requiring a change in tariff heading. Rules in the first category require that there be work or processing in the country of origin which is sufficient to substantially transform the article. Rules in the second category require a substantial transformation of the goods, together with a specified amount of value added in the country of origin; i.e., such rules require that a certain percentage of the value of the final product be added in the country which is considered the country of origin. An example of the second type of rule is the United States' GSP rule, which requires that there be substantial transformation of the components into the eligible article in the country which is to be considered the country of origin, and that the cost or value of the materials produced in the beneficiary developing country, plus the direct cost of processing operations performed in the country, be not less than 35 percent of the appraised value of the complete article. In addition, in order for materials to be counted as part of the required 35 percent, they must be either wholly the growth, product, or manufacture of the beneficiary country, or they must be substantially transformed in that country into a new and different article of commerce. The third type of rule requires a change in tariff heading. This means that in order for a particular country to be considered the country of origin of a product, the goods must have undergone sufficient processing in that country to change the tariff heading of the completed article which is exported from that country from the tariff heading which applied to its component parts when they came into that country. In addition to the rules discussed above, there are many rules of origin which combine the elements of more than one rule into a single rule.

A MAJOR PORTION OF THIS INVESTIGATION IS BEING DEVOTED TO THE EXAMINATION OF COMMENTS AND COMPLAINTS RECEIVED FROM IMPORTERS AND EXPORTERS REGARDING THE ECONOMIC IMPACT OF THE APPLICATION OF SPECIFIC RULES OF ORIGIN AND THE USE OF MULTIPLE ORIGIN STANDARDS. RESPONSES TO THIS QUESTIONNAIRE ARE, THEREFORE, EXTREMELY IMPORTANT TO THE SUCCESS OF THIS STUDY. WE ARE PARTICULARLY INTERESTED IN YOUR ASSESSMENT OF THE BURDEN OF COMPLYING WITH RULES OF ORIGIN REQUIREMENTS AND THE IMPACT COMPLIANCE HAS HAD ON YOUR COMPANY'S DECISIONS CONCERNING THE IMPORTATION OF GOODS. WE ARE ALSO INTERESTED IN YOUR SUGGESTIONS CONCERNING WAYS IN WHICH RULES OF ORIGIN COULD BE SIMPLIFIED OR OTHERWISE IMPROVED.

The information requested is needed to supplement that obtained from other sources and is required under the authority of section 332 of the Tariff Act of 1930.

Any commercial or financial information furnished in response to this questionnaire that reveal the individual operations of your firm will be treated as confidential by the Commission and will not be published in a manner that will reveal the individual operations of your firm.

If your firm has at any time exported goods from the U.S., fill in the appropriate blanks on the questionnaire for questions 1-12 and 22-24 and return one completed copy to the U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, as soon as possible, but not later than January 18, 1985. If your firm has at any time exported goods from one foreign country to another, please respond to questions 1-3 and 13-24. If your firm has neither exported goods from the U.S. nor exported goods from one foreign country to another, check (X) here /____/, fill in the name and address of your firm below, sign the certification, and promptly return this page to the Commission. The enclosed postpaid envelope may be used to return this page or the completed questionnaire.

Name and address of reporting firm:

_____

_____

_____

The undersigned certifies that the information herein supplied in response to this questionnaire is complete and correct to the best of his/her knowledge and belief.

_____ _____

DATE SIGNATURE OF AUTHORIZED OFFICIAL

_____ _____

AREA CODE & TELEPHONE NUMBER NAME AND TITLE OF AUTHORIZED OFFICIAL

GENERAL INSTRUCTIONS

1. If you have any questions concerning this questionnaire or other matters related to this investigation, you may contact Janet Forest, Esq. (202/523-0363) of the Commission's staff. Additional questionnaires will be supplied promptly upon request, or photocopies of this questionnaire may be used. Address all correspondence to the United States International Trade Commission, Washington, D.C. 20436, or via "mailgram" to TWX number 710-822-9507.

2. If you are unable to answer any question, please so indicate rather than leaving the space blank. If the information requested is not readily available from your records in exactly the form requested, furnish carefully prepared estimates--designated as such by the letter "E"--and explain the basis of your estimates. Any necessary comments or explanations should be supplied in the space provided or on separate sheets attached to the appropriate page of the questionnaire.

3. If your firm is affiliated with a parent firm and/or subsidiary which also exported from the United States or from one foreign country to another, you may (1) combine the responses in a single report, or (2) make a separate report for each firm. If responses are combined, so indicate in Section A, by giving the name and address of each firm included.

Questions

1. Provide the name and address of establishment(s) covered by this questionnaire.

_____

_____

_____

_____

2. Provide the name and address of your parent firm and the extent of ownership (if applicable).

_____

_____

_____

_____

3. Please estimate the number of hours, including clerical time, needed to complete this questionnaire.

_____hours.

4. List the major product(s) or product group(s) imported by your company during the years 1981-1984.

5. What were your company's total imports during each of the years 1981-1983?

   1981: $_____ 1982: $_____ 1983: $_____

6. What proportion of your total imports for each of those years consisted of goods which were not wholly produced or wholly obtained in one country?

   1981: $_____ representing _____% of total imports in 1981.

   1982: $_____ representing _____% of total imports in 1982.

   1983: $_____ representing _____% of total imports in 1983.

7. Discuss any problems your company has experienced during the past four years (1981-1984) as a result of rules of origin requirements, indicating the tariff program involved.

8. Have the rules of origin criteria been consistently applied in each of the programs you discussed in response to question number 7?

9. What, if any, do you estimate to be the cost to your company during the past four years (1981-1984) in lost sales as a result of the application of rules of origin? Were you able to make up for any of this loss by selling in other markets, although perhaps at less attractive prices than you could have obtained in the absence of rules of origin?

10. Quantify, if possible, the cost to your company of compliance with rules of origin in terms of reporting and other paperwork costs, personnel costs, etc., during the past four years (1981-1984).

11. If any foreign governments have initiated any penalty proceedings against your company concerning country of origin determinations for any of your imports during the past four years (1981-1984), please provide the following information for each case.

    (1) Relevant dates and case number.

    (2) Import program involved.

    (3) Nature of penalty alleged.

    (4) Result of investigation.

    (5) If penalty found, dollar amount assessed.

12. Indicate the extent to which your company's export operations have been modified to either avoid or take advantage of particular rules of origin. (For example, do you avoid sourcing raw materials from certain countries, do you channel goods through third countries to take advantage of their less restrictive rules, etc.)

13. Discuss what the impact on your company might be if there were no rules of origin instead of the multiple rules which are now in existence.

14. If you assume that multiple rules of origin are necessary and will not be eliminated, what suggestions do you have for improving rules of origin?

15. Please feel free to make any other comments you may wish to make regarding rules of origin.

OMB No.: 3117-0135
Exp. Date: 12-31-85

Return to
United States International Trade Commission
Washington, D.C. 20436
by
January 18, 1985

Questionnaire for United States Exporters

The information called for in this questionnaire is for use by the U.S. International Trade Commission in connection with its investigation No. 332-192 under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), notice of which was published in the Federal Register of September 12, 1984 (see copy enclosed). This investigation concerns the impact of rules of origin on the competitive position of United States imports and exports.

Definition of Rules of Origin

Rules of origin consist of laws, regulations, and administrative practices which are maintained by all countries engaging in international trade. These rules are used to determine which country will be considered the country of origin of a product which is not wholly produced in one country. It is necessary to determine the country of origin of goods for many purposes, including determining eligibility for most-favored-nation (MFN) duty rates, application of other preferential duty programs, such as the Generalized System of Preferences (GSP), and the Caribbean Basin Initiative (CBI), allocation of quotas, implementation of export administration policies, statistical collection requirements, and marking requirements. Because each of these programs has its own distinct policy objectives, the criteria used to determine the country of origin vary from program to program. In addition, the rules vary from country to country. For example, most-favored-nation (MFN) treatment is a preferred tariff treatment granted by most nations to products of all contracting parties to the General Agreement on Tariffs and Trade (GATT). However, since there is no single rule of origin contained in the GATT, the various countries have developed their own distinct rules for determining whether a product originates from a most-favored-nation country.

Necessity for Rules of Origin

When a product is wholly produced or wholly obtained in a single country, there is no question that that country is the country of origin. In such a situation, there is no need to apply a rule of origin in connection with the importation of the product. However, when materials from more than one country go into the manufacture of a product, or when materials from one or more countries are sent to one or more other countries for manufacturing, processing, assembly, packaging, or other operations before finally being imported into the country which is the final destination of the product, it may be very difficult to determine which country should be considered the country of origin. It is in such situations that it is necessary to apply a rule of origin.

Common Characteristics of Rules of Origin

Rules of origin are of several types, including, among others, the following: rules requiring sufficient processing; rules including a value added criterion; and rules requiring a change in tariff heading. Rules in the first category require that there be work or processing in the country of origin which is sufficient to substantially transform the article. Rules in the second category require a substantial transformation of the goods, together with a specified amount of value added in the country of origin; i.e., such rules require that a certain percentage of the value of the final product be added in the country which is considered the country of origin. An example of the second type of rule is the United States' GSP rule, which requires that there be substantial transformation of the components into the eligible article in the country which is to be considered the country of origin, and that the cost or value of the materials produced in the beneficiary developing country, plus the direct cost of processing operations performed in the country, be not less than 35 percent of the appraised value of the complete article. In addition, in order for materials to be counted as part of the required 35 percent, they must be either wholly the growth, product, or manufacture of the beneficiary country, or they must be substantially transformed in that country into a new and different article of commerce. The third type of rule requires a change in tariff heading. This means that in order for a particular country to be considered the country of origin of a product, the goods must have undergone sufficient processing in that country to change the tariff heading of the completed article which is exported from that country from the tariff heading which applied to its component parts when they came into that country. In addition to the rules discussed above, there are many rules of origin which combine the elements of more than one rule into a single rule.

A MAJOR PORTION OF THIS INVESTIGATION IS BEING DEVOTED TO THE EXAMINATION OF COMMENTS AND COMPLAINTS RECEIVED FROM IMPORTERS AND EXPORTERS REGARDING THE ECONOMIC IMPACT OF THE APPLICATION OF SPECIFIC RULES OF ORIGIN AND THE USE OF MULTIPLE ORIGIN STANDARDS. RESPONSES TO THIS QUESTIONNAIRE ARE, THEREFORE, EXTREMELY IMPORTANT TO THE SUCCESS OF THIS STUDY. WE ARE PARTICULARLY INTERESTED IN YOUR ASSESSMENT OF THE BURDEN OF COMPLYING WITH RULES OF ORIGIN REQUIREMENTS AND THE IMPACT COMPLIANCE HAS HAD ON YOUR COMPANY'S DECISIONS CONCERNING THE EXPORTATION OF GOODS, EITHER FROM THE UNITED STATES TO OTHER COUNTRIES, OR FROM ONE FOREIGN COUNTRY TO ANOTHER. WE ARE ALSO INTERESTED IN YOUR SUGGESTIONS CONCERNING WAYS IN WHICH RULES OF ORIGIN COULD BE SIMPLIFIED OR OTHERWISE IMPROVED.

The information requested is needed to supplement that obtained from other sources and is required under the authority of section 332 of the Tariff Act of 1930.

Any commercial or financial information furnished in response to this questionnaire that reveal the individual operations of your firm will be treated as confidential by the Commission and will not be published in a manner that will reveal the individual operations of your firm.

If your firm has at any time imported goods into the U.S., fill in the appropriate blanks on the questionnaire and return one completed copy to the U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, as soon as possible, but not later than January 18, 1985. If your firm has never imported goods into the U.S., check (X) here /____/, fill in the name and address of your firm below, sign the certification, and promptly return this page to the Commission. The enclosed postpaid envelope may be used to return this page or the completed questionnaire.

Name and address of reporting firm:

_____

_____

_____

The undersigned certifies that the information herein supplied in response to this questionnaire is complete and correct to the best of his/her knowledge and belief.

_____ _____

DATE SIGNATURE OF AUTHORIZED OFFICIAL

_____ _____

AREA CODE & TELEPHONE NUMBER NAME AND TITLE OF AUTHORIZED OFFICIAL

GENERAL INSTRUCTIONS

1. If you have any questions concerning this questionnaire or other matters related to this investigation, you may contact Janet Forest, Esq. (202/523-0363) of the Commission's staff. Additional questionnaires will be supplied promptly upon request, or photocopies of this questionnaire may be used. Address all correspondence to the United States International Trade Commission, Washington, D.C. 20436, or via "mailgram" to TWX number 710-822-9507.

2. If you are unable to answer any question, please so indicate rather than leaving the space blank. If the information requested is not readily available from your records in exactly the form requested, furnish carefully prepared estimates--designated as such by the letter "E"--and explain the basis of your estimates. Any necessary comments or explanations should be supplied in the space provided or on separate sheets attached to the appropriate page of the questionnaire.

3. If your firm is affiliated with a parent firm and/or subsidiary which also imported into the United States, you may (1) combine the responses in a single report, or (2) make a separate report for each firm. If responses are combined, so indicate in Section A, by giving the name and address of each firm included.

Questions - for all exporters

1. Provide the name and address of establishment(s) covered by this questionnaire.

2. Provide the name and address of your parent firm and the extent of ownership (if applicable).

3. Please estimate the number of hours, including clerical time, needed to complete this questionnaire.

_____hours.

Questions - for exporters from the United States only

4. List the major product(s) or product group(s) exported by your company during the years 1981-1984.

5. What were your company's total exports during each of the years 1981-1983?

   1981: $_____ 1982: $_____ 1983: $_____

6. What proportion of your total exports for each of those years consisted of goods which were not wholly produced or wholly obtained in one country?

   1981: $_____ representing _____% of total exports in 1981.

   1982: $_____ representing _____% of total exports in 1982.

   1983: $_____ representing _____% of total exports in 1983.

7. Discuss any problems your company has experienced during the past four years (1981-1984) as a result of rules of origin requirements, indicating the tariff program involved.

8. Have the rules of origin criteria been consistently applied in each of the programs you discussed in response to question number 7?

9. What, if any, do you estimate to be the cost to your company during the past four years (1981-1984) in lost sales as a result of the application of rules of origin? Were you able to make up for any of this loss by selling in other markets, although perhaps at less attractive prices than you could have obtained in the absence of rules of origin?

10. Quantify, if possible, the cost to your company of compliance with rules of origin in terms of reporting and other paperwork costs, personnel costs, etc., during the past four years (1981-1984).

11. If the United States government has initiated any penalty proceedings against your company concerning country of origin determinations for any of your imports during the past four years (1981-1984), please provide the following information for each case.

    (1) Relevant dates and case number.

    (2) Import program involved.

    (3) Nature of penalty alleged.

    (4) Result of investigation.

    (5) If penalty found, dollar amount assessed.

12. Indicate the extent to which your company's import operations have been modified to either avoid or take advantage of particular rules of origin. (For example, do you avoid sourcing raw materials from certain countries, do you channel goods through third countries to take advantage of their less restrictive rules, etc.)

Questions - for exporters from one foreign country to another only

13. List the major product(s) or product group(s) exported by your company during the years 1981-1984.

14. What were your company's total exports during each of the years 1981-1983?

1981: $_____ 1982: $_____ 1983: $_____

15. What proportion of your total exports for each of those years consisted of goods which were not wholly produced or wholly obtained in one country?

1981: $_____ representing _____% of total exports in 1981.

1982: $_____ representing _____% of total exports in 1982.

1983: $_____ representing _____% of total exports in 1983.

16. Discuss any problems your company has experienced during the past four years (1981-1984) as a result of rules of origin requirements, indicating the tariff program involved.

17. Have the rules of origin criteria been consistently applied in each of the programs you discussed in response to question number 7?

18. What, if any, do you estimate to be the cost to your company during the past four years (1981-1984) in lost sales as a result of the application of rules of origin? Were you able to make up for any of this loss by selling in other markets, although perhaps at less attractive prices than you could have obtained in the absence of rules of origin?

19. Quantify, if possible, the cost to your company of compliance with rules of origin in terms of reporting and other paperwork costs, personnel costs, etc., during the past four years (1981-1984).

20. If any foreign governments have initiated any penalty proceedings against your company concerning country of origin determinations for any of your imports during the past four years (1981-1984), please provide the following information for each case.

(1) Relevant dates and case number.

(2) Import program involved.

(3) Nature of penalty alleged.

(4) Result of investigation.

(5) If penalty found, dollar amount assessed.

21. Indicate the extent to which your company's export operations have been modified to either avoid or take advantage of particular rules of origin. (For example, do you avoid sourcing raw materials from certain countries, do you channel goods through third countries to take advantage of their less restrictive rules, etc.)

Questions - for all exporters

22. Discuss what the impact on your company might be if there were no rules of origin instead of the multiple rules which are now in existence.

23. If you assume that multiple rules of origin are necessary and will not be eliminated, what suggestions do you have for improving rules of origin?

24. Please feel free to make any other comments you may wish to make regarding rules of origin.

APPENDIX E

GENERALIZED SYSTEM OF PREFERENCES

CERTIFICATE OF ORIGIN

(FORM A)

1. Goods consigned from (Exporter's business name, address, country)

Reference No

GENERALISED SYSTEM OF PREFERENCES

CERTIFICATE OF ORIGIN
(Combined declaration and certificate)

FORM A

Issued in .....
(country)

See Notes overleaf

2. Goods consigned to (Consignee's name, address, country)

3. Means of transport and route (as far as known)

4. For official use

5. Item number	6. Marks and numbers of packages	7. Number and kind of packages; description of goods	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity	10. Number and date of invoices

11. Certification

It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.

.....
Place and date, signature and stamp of certifying authority

12. Declaration by the exporter

The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in

.....
(country)

and that they comply with the origin requirements specified for those goods in the Generalised System of Preferences for goods exported to

.....
(importing country)

.....
Place and date, signature of authorised signatory

APPENDIX F

U.S.-ISRAEL FREE TRADE AREA AGREEMENT

RULES OF ORIGIN

ANNEX 3

[Rules of Origin]

1. The duty treatment provided by this Agreement shall apply to any article if:

(a) that article is wholly the growth, product, or manufacture of a party or is a new or different article of commerce that has been grown, produced, or manufactured in a Party;

(b) that article is imported directly from one Party into the customs territory of the other Party; and

(c) the sum of (i) the cost or value of the materials produced in the exporting Party, plus (ii) the direct costs of processing operations performed in the exporting Party is not less than 35 percent of the appraised value of the article at the time it is entered into the other Party.

2. No article shall be considered a new or different article of commerce under this Agreement and no material shall be eligible for inclusion as domestic content under this Agreement by virtue of having merely undergone (1) simple combining or packaging operations or (2) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.

3. For the purposes of this Agreement, the expression "wholly the growth, product, or manufacture of a Party" refers both to any article which has been entirely grown, produced, or manufactured in a Party and to all materials incorporated in an article which have been entirely grown, produced, or manufactured in a Party, as distinguished from articles or materials imported into a Party from a non-participating country, whether or not such articles or materials were substantially transformed into new or different articles of commerce after their importation into the Party.

4. For the purposes of this Agreement, "country of origin" requires that an article or material, not wholly the growth, product, or manufacture, of a Party, be substantially transformed into a new and different article of commerce, having a new name, character, or use, distinct from the article or material from which it was so transformed.

5. For purposes of determining the 35 percent domestic content requirement under this Agreement, the cost or value of materials which are used in the production of an article in one Party, and which are products of the other Party, may be counted in an amount up to 15 percent of the appraised value of the article. Such materials must in fact be products of the importing Party under the country of origin criteria set forth in this Agreement.

6. (a) For the purposes of this Agreement, the cost or value of materials produced in a Party includes:

(i) The manufacturer's actual cost for the materials;

(ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

(iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap; and

(iv) Taxes and/or duties imposed on the materials by a Party, provided they are not remitted upon exportation.

(b). Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

(i) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(ii) An amount for profit; and

(iii) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant. If the pertinent information needed to compute the cost or value of a material is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

7. For the purposes of this Agreement, direct costs of processing operations performed in a Party mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of the specific article under consideration. Such costs include, but are not limited to, the following to the extent that they are includible in the appraised value of articles imported into a Party:

(a). all actual labor costs involved in the growth, production, manufacture, or assembly, of the specific article, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(b). dies, molds, tooling and depreciation on machinery and equipment which are allocable to the specific article;

(c). research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific article; and

(d). costs of inspecting and testing the specific article.

Those items that are not included as direct costs of process operations are those which are not directly attributable to the articles under consideration or are not costs of manufacturing the product. These include, but are not limited to:

(i). profit; and

(ii).general expenses of doing business which are either not allocable to the specific article or are not related to the growth, production, manufacture, or assembly, of the article such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

8. For the purposes of this Agreement, "imported directly" means:

(a). direct shipment from one Party into the other Party without passing through the territory of any intermediate country; or

(b). if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills

of lading, and other shipping documents, show the other Party as the final destination; or

(c). if shipment is through an intermediate country and the invoices and other documents do not show the other Party as the final destination, then the articles in the shipment, upon arrival in that Party, are imported directly only if they

(i) remain under the control of the customs authority in an intermediate country;

(ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, provided that the articles are imported as a result of the original commercial transaction between the importer and the producer or the latter's sales agent;

(iii) have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the article in good condition; and

(iv) comply with the origin requirements for articles exported to a Party from the other Party under this Agreement as stated in the documents required under the certification procedure.

9. All articles to be entered under this Agreement shall be documented by a certificate, a specimen of which is given in the attachment to the Annex, signed by the exporter. In the case of U.S. exports the certificate will be notarized and certified by the appropriately constituted local business organization, such as chambers of commerce and boards of trade. The certificate should contain sufficient information to identify the articles described on the certificate as the articles to be exported and a statement as to the percentage of value added in a Party and that the articles comply with the country of origin requirements set forth in this Agreement. The certificate will be presented to the Customs authorities of the importing Party in accordance with its internal regulations.

Notwithstanding the above, either Party may waive production of the certificate on a case by case basis for articles imported into such Party and for which the benefits of this Agreement are claimed, if the Party is otherwise satisfied that the imported articles comply with the country of origin requirements set forth in this Agreement.

The exporter or person signing the certificate of origin shall be prepared to submit a declaration setting forth all pertinent details, concerning the production or manufacture

of the articles, which were used to prepare the certificate of origin. The information on the declaration should contain at least the following pertinent details:

A. a description of the article, quantity, numbers and marks of packages, invoice numbers, and bills of lading;

B. a description of the operations performed in the production of the article in a Party and identification of the direct costs of processing operations;

C. a description of any materials used in production of the article which are wholly the growth, product, or manufacture of either Party, and a statement as to the cost or value of such materials;

D. a description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in a Party so as to be materials produced in that Party; and

E. a description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in a Party.

This declaration shall be prepared and submitted upon reque by a Party. A declaration should only be requested when a Part has reason to question the accuracy of the statements on a certi icate of origin, or when a Party randomly verifies certificat of origin.

10. In order to further the administration of this Agreement the Parties agree to assist each other in obtaining informatio for the purpose of reviewing transactions made under this Agreeme in order to verify compliance with the conditions set fort in this Agreement.

11. The Parties will consult from time to time on the interpretati of these provisions and on practical problems which may aris with a view to prevent unnecessary barriers to trade which ar inconsistent with the objectives of this Agreement. In thi connection, amendments of the present rules could be proposed.

[ATTACHMENT TO ANNEX 3: EXAMPLES OF FORMS]

APPENDIX G

EEC REGULATION 802/68

REGULATION (EEC) No 802/68 OF THE COUNCIL

of 27 June 1968

on the common definition of the concept of the origin of goods

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 111, 113, 155, 227 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas Member States have to determine or verify the origin of imported goods whenever application of the Commons Customs Tariff, of quantitative restrictions or of any other provisions applicable to trade so requires.

Whereas Member States have to certify the origin of exported goods in all cases where such certification is required by the authorities of the importing countries, in particular where advantages derive from that certification;

Whereas, in either case, in the absence of any international definition of the concept of the origin of goods, Member States at present apply their own rules for the determination, verification and certification of origin; whereas the differences between such national rules are likely to lead to differences in applying the Common Customs Tariff, quantitative restrictions and other provisions applicable to trade with third countries, and also in the preparation and issue of certificates of origin for goods exported to third countries;

Whereas, it is therefore necessary to draw up on the subject rules common to all the Member States;

Whereas goods produced wholly in a particular country and not containing products imported from other countries are to be considered as originating in that country, and the goods belonging to this category must accordingly be specified;

Whereas, as a result of the development of international trade and of greater international division of labour, the manufacture of any one product tends increasingly to be carried out by undertakings located in different countries; whereas it must therefore be determined which of those countries is to be considered as the country of origin of the product in question;

Whereas there are good grounds for accepting as the country of origin that in which the last substantial process or operation that was economically justified was performed;

Whereas it is impossible at present to define the concept of origin in respect of petroleum products;

Whereas the origin of a product is usually established by means of a certificate of origin prepared and issued by an authority or agency duly authorised for this purpose; the conditions with which the certificate is required to comply, so that it may be used as evidence, must therefore be specified;

Whereas the concept of Community origin should be defined, but where the needs of the export trade so require, the certificate of origin may specify that the goods in question originated in a particular Member State;

Whereas uniform application of the provisions of this Regulation should be ensured and it is essential to provide for a Community procedure for adopting the necessary implementing provisions; whereas, for this purpose and with the object of organising close and effective co-operation between the Commission and the Member States, a committee should be set up;

Whereas the provisions of this Regulation relate both to commercial policy with regard to third countries and to free movement of goods within the Community, and in particular to uniform application of the Common Customs Tariff; whereas, with regard to the latter, the relevant Articles of the Treaty do not confer on the institutions of the Community the power to adopt binding provisions with regard to a common definition of the concept of the origin of goods; the provisions of this Regulation must therefore also be based on Article 235;

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation defines the concept of the origin of goods for purposes of:

(a) the uniform application of the Common Customs Tariff, of quantitative restrictions, and of all other measures adopted, in relation to the importation of goods, by the Community or by Member States;

(b) the uniform application of all measures adopted, in relation to the exportation of goods, by the Community or by Member States;

(c) the preparation and issue of certificates of origin.

Article 2

The provisions of this Regulation shall not affect the special rules concerning trade between the Community or Member States, on the one hand, and the countries to which the Community or Member States are bound by agreements which derogate from the most-favoured-nation clause, on the other, and in particular those establishing a customs union or a free-trade area.

Article 3

This Regulation shall not apply to the petroleum products listed in Annex I. The concept of origin in respect of those products will be defined later.

Article 4

1. Goods wholly obtained or produced in one country shall be considered as originating in that country.

2. The expression 'goods wholly obtained or produced in one country' means:

(a) mineral products extracted within its territory;

(b) vegetable products harvested therein;

(c) live animals born and raised therein;

(d) products derived from live animals raised therein;

(e) products of hunting or fishing carried on therein;

(f) products of sea-fishing and other products taken from the sea by vessels registered or recorded in that country and flying its flag;

(g) goods obtained on board factory ships from the products referred to in (f) originating in that country, if such factory ships are registered or recorded in that country and flying its flag;

(h) products taken from the sea-bed or beneath the sea-bed outside territorial waters, if that country has, for the purposes of exploitation, exclusive rights to such soil or subsoil;

(i) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are only fit for the recovery of raw materials;

(j) goods which are produced therein exclusively from goods referred to in subparagraphs (a) to (i) or from their derivatives, at any stage of production.

Article 5

A product in the production of which two or more countries were concerned shall be regarded as originating in the country in which the last substantial process or operation that is economically justified was performed, having been carried out in an undertaking equipped for the purpose, and resulting in the manufacture of a new product or representing an important stage of manufacture.

Article 6

Any process or work in respect of which it is established, or in respect of which the facts as ascertained justify the presumption, that its sole object was to circumvent the provisions applicable in the Community or the Member States to goods from specific countries shall in no case be considered, under Article 5, as conferring on the goods thus produced the origin of the country where it is carried out.

Article 7

Accessories, spare parts or tools delivered with any piece of equipment, machine, apparatus or vehicle which form part of its standard equipment shall be deemed to have the same origin as that piece of equipment, machine, apparatus or vehicle.

The circumstances in which the presumption of origin referred to in the preceding paragraph shall also apply to essential spare parts for use with any piece of equipment, machine, apparatus or vehicle dispatched beforehand, shall be determined in accordance with the procedure laid down in Article 14.

Article 8

For purposes of application of Article 4 to 7, the Member States shall be considered as constituting a single territorial unit.

Article 9

1. When the origin of a product has to be proved on importation by the production of a certificate of origin, that certificate shall fulfil the following conditions:

(a) It must be prepared by a reliable authority or agency duly authorised for that purpose by the country of issue;

(b) It must contain all the particulars necessary for identifying the product to which it relates, in particular

— the number of packages, their nature, and the marks and numbers they bear,

— the kind of product, and its gross and net weight,

— the name of the consignor;

(c) It must certify unambiguously that the product to which it relates originated in a specific country.

2. Notwithstanding the production of a certificate of origin which fulfils the conditions prescribed by paragraph 1, the competent authorities may, if there is cause for serious doubt, demand any additional proof with the object of ensuring that the indication of origin conforms to the rules laid down in this Regulation and to the provisions adopted for its implementation.

Article 10

1. Certificates of origin for goods originating in and exported from the Community must comply with the conditions prescribed by Article 9 (1) (a) and (b).

2. Such certificates of origin shall certify that the goods originated in the Community.

However, when the needs of the export trade so require, they may certify that the goods originated in a particular Member State.

If the conditions of Article 5 are fulfilled only as a result of a series of operations or processes carried out in different Member States, the goods may only be certified as being of Community origin.

3. Member States shall take the requisite steps to ensure that by the end of the transitional period at the latest the certificates of origin issued by their authorities or authorised agencies are prepared and issued in accordance with the provisions of Annex II, in so far as the needs of the export trade do not otherwise require.

Article 11

Each Member State shall inform the Commission of the steps taken by its central administration for the purposes of applying this Regulation, and of any problems which have arisen in connection with its application. The Commission shall forthwith communicate this information to the other Member States.

Article 12

1. A Committee on Origin (hereinafter called the 'Committee') shall be set up and shall consist of representatives of the Member States, with a representative of the Commission acting as Chairman.

2. The Committee shall draw up its own rules of procedure.

Article 13

The Committee may examine all questions relating to the application of this Regulation referred to it by its Chairman, either on his own initiative or at the request of a representative of a Member State.

Article 14

1. The provisions required for applying Articles 4 to 7, 9 and 10 shall be adopted in accordance with the procedure laid down in paragraphs 2 and 3 of this Article.

2. The representative of the Commission shall submit to the Committee a draft of the provisions to be adopted. The Committee shall deliver an Opinion on the draft within a time limit set by the Chairman having regard to the urgency of the matter. Decisions shall be taken by a majority of twelve votes, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. (a) The Commission shall adopt the envisaged provisions if they are in accordance with the Opinion of the Committee.

(b) If the envisaged provisions are not in accordance with the Opinion of the Committee, or if no Opinion is delivered, the Commission shall without delay submit to the Council a proposal with regard to the provisions to be adopted.

The Council shall act by a qualified majority.

(c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed provisions shall be adopted by the Commission.

Article 15

If the provisions in force in a Member State for the issue of certificates of origin for exports are so altered by the provisions referred to in Article 14 that an economic activity is affected, the Commission may authorise the Member State in question at the request thereof to defer the application of the provisions referred to in Article 14 in respect of a specific product for a period not exceeding one year from the entry into force of those provisions.

This Article shall remain in force for a period of five years from the date of entry into force of this Regulation.

Article 16

This Regulation shall be applicable in the French overseas departments.

Article 17

This Regulation shall enter into force on 1 July 1968.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 27 June 1968.

For the Council

The President

E. FAURE

ANNEX I

List of Petroleum Products (Article 3)

CCT heading No	Description of goods
ex 27.07 B I	Aromatic oils as defined in Note 2 to Chapter 27, of which more than 65% by volume distils at temperatures up to 250° C (including mixtures of petroleum spirit and benzole) for use as power or heating fuels
27.09	Petroleum oils and oils obtained from bituminous minerals, crude
27.10	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing not less than 70% by weight of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations
27.11	Petroleum gases and other gaseous hydrocarbons
27.12	Petroleum jelly
27.13	Paraffin wax, micro-crystalline wax, slack wax, ozokerite, lignite wax, peat wax and other mineral waxes, wheter or not coloured
27.14	Petroleum bitumen, petroleum coke and other residues of petroleum oils or of oils obtained from bituminous minerals
27.15	Bitumen and asphalt, natural; bituminous shale, asphaltic rock and tar sands
27.16	Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example, bituminous mastics, cut-backs)
29.01 A I	Hydrocarbons, acyclic, for use as power or heating fuels
29.01 B II (a)	Cyclanes and cyclenes, other, for use as power or heating fuels
29.01 D I (a)	Benzene, toluene, xylenes, for use as power or heating fuels
ex 34.03 A	Lubricating prepararions containing less than 70% by weight of petroleum oils or of oils obtained from bituminous minerals
ex 34.04	Artificial waxes (including water-soluble waxes); prepared waxes, not emulsified or containing solvents, with a basis of paraffin wax, micro-crystalline wax, slack wax, or other mineral waxes
38.14 B I (a)	Anti-knock preparations, oxidation inhibitors, gum inhibitors, viscosity improvers, anti-corrosive preparations and similar prepared additives for mineral oils, other, for lubricants containing petroleum oils or oils obtained from bituminous minerals
38.19 E	Mixed alkylenes

ANNEX II

Provisions concerning the preparation and issue of certificates of origin

1. The certificate of origin shall be issued upon written request of the applicant.

   If the circumstances justify it, in particular where the applicant maintains a regular flow of exports, Member States may decide not to require a request for each export operation, on condition that the provisions of this Regulation are complied with.

2. The application form shall be printed in the official language or in one or more of the official languages of the exporting Member State. The form of certificate of origin shall be printed in one or more of the official languages of the Community or, depending on the practice and requirements of trade, in any other language.

3. The application form and the certificate of origin shall be completed in typescript or by hand, in an identical manner, in one of the official languages of the Community or, depending on the practice and requirements of trade, in any other language. Where forms are completed by hand, they shall be written in block letters in ink.

4. The format of the certificate shall be 21 × 30 cm. The paper used shall be free of mechanical pulp, dressed for writing purposes and weigh at least 64 grammes per square metre. It shall have printed on it a sepia-coloured guilloche pattern that will reveal any forgery by mechanical or chemical means.

5. Member States may print the forms of certificate of origin themselves, or have them produced by printers whom they have duly appointed. In the latter case, each form shall make reference to the appointment, and bear the printer's distinguishing mark.

APPENDIX H

EEC FORM APR

(Front)

Before completing this form read carefully the instructions on the back of part 1 and the notes on part 2

FORM APR No. A	1 Form used for the generalized system of preferences
2 Exporter (Name, full address, country)	3 Declaration by the exporter The undersigned, exporter of the goods described below, declares that the goods comply with the requirements for the completion of this form and that the goods have obtained the status of originating products within the provisions governing the generalized system of preferences to be applied to the country shown in Box 9
4 Consignee (Name, full address, country)	5 Place and date 6 Signature of exporter
7 Origin Criterion (1), remarks (2)	8 Country of origin 9 Country of destination (3) 10 Gross weight (kg)
11 Marks, numbers of consignment and description of goods	12 Authority in the exporting country responsible for verification of the declaration by the exporter

(1) See notes on part 2
(2) Refer to any verification already carried out by the appropriate authorities.
(3) Insert the countries, groups of countries or territories concerned

NOTES

Part 2

1 **Countries which accept this form for the purposes of the generalized system of preferences (GSP)**

Austria, Finland, Norway, Sweden, Switzerland, European Economic Community, Belgium, Denmark, France, Federal Republic of Germany, Ireland, Italy, Luxembourg, Netherlands, United Kingdom

Details of the rules governing admission to GSP in these countries are obtainable from the customs authorities there. The main elements of the rules are indicated in the following paragraphs

2 **Conditions.** The main conditions for admission to preference are that goods sent to any of the countries listed above

(i) must fall within a description of goods eligible for preference in the country of destination, and

(ii) must comply with the consignment conditions specified by the country of destination. In general, goods must be consigned direct from the country of exportation to the country of destination, but in most cases passage through one or more intermediate countries, with or without transhipment, is accepted provided that at the time they are exported the goods are clearly intended for the declared country of destination and that any intermediate transit, transhipment or temporary warehousing arises only from the requirements of transportation; and

(iii) must comply with the origin criteria specified for those goods by the country of destination. A summary indication of the rules generally applicable is given in paragraphs 3 and 4

3 **Origin criteria.** For exports to the abovementioned countries the position is that either:

(i) the goods shall be wholly produced in the country of exportation, that is, they should fall within a description of goods which is accepted as "wholly produced" under the rules prescribed by the country of destination concerned, or

(ii) alternatively, if the goods are manufactured wholly or partly from materials or components imported into the country of exportation or of undetermined origin these materials or components must have undergone a substantial transformation there into a different product. It is important to note that all materials and components which cannot be shown to be of that country's origin must be treated as if they were imported. Usually the transformation must be such as to lead to the exported goods being classified under a Customs Cooperation Council Nomenclature Tariff heading other than that relating to any of the above materials or components used. In addition, special rules are prescribed for various classes of goods in Lists A and B of certain countries' rules of origin and other subsidiary provisions and these should be carefully studied

If the goods qualify under the above criteria, the exporter must indicate in Box 7 of the origin criteria on the basis of which he claims that his goods qualify for the GSP in the manner shown in the following table

Circumstances of production or manufacture in the country named in Box 8 of the from	Insert in Box 7
(a) Goods worked upon but not wholly produced in the exporting country, which were produced in conformity with the principles of 3 (ii), which fall under a CCC Nomenclature tariff heading specified in Column 1 of List A and which satisfy any conditions in Columns 3 and 4 of List A which are relevant to these goods	-A-, followed by the Customs Cooperation Council Nomenclature heading number of the exported goods example -A- 74.07
(b) Goods worked upon but not wholly produced in the exporting country, which fall within an item in Column 1 of List B and which comply with provisions of that item	-B-, followed by the Customs Cooperation Council Nomenclature heading number of the exported goods example -B- 73.15
(c) Goods worked upon but not wholly produced in the exporting country, which were produced in conformity with the principles of 3 (ii), which are not specifically referred to in List A, and which do not contravene a general provision of List A	-X-, followed by the Customs Cooperation Council Nomenclature heading number of the exported goods example -X- 95.02
(d) Goods wholly produced in the country of exportation (see 3 (i) above)	-P-

13 Request for verification	14 Result of verification
The verification of the declaration by the exporter on the front of this form is requested (*) ..... (Place and date) Stamp ..... (Signature)	Verification carried out shows that (1) ☐ the statements and particulars given in this form are accurate. ☐ this form does not meet the requirements as to accuracy and authenticity (see remarks appended). ..... (Place and date) Stamp ..... (Signature) (1) Place an X where applicable.

(*) Subsequent verifications of forms APR shall be carried out at random or whenever the customs authorities of the importing country have reasonable doubt as to the authenticity of the information regarding the authenticity of the forms and the true origin of the goods in question.

Instructions for the completion of form APR

1. A form APR may be made out only for goods which in the exporting country fulfil the conditions specified by provisions governing the generalized system of preferences. These provisions must be studied carefully before the form is completed. (See notes on part 2)
2. In the case of a consignment by parcel post the exporter attaches the form to the despatch note. In the case of consignment by letter post he encloses the form in the package. The reference APR and the serial number of the form should be stated on the customs green label declaration C1 or on the customs declaration CP3/CP3 as appropriate.
3. These instructions do not exempt the exporter from complying with any other formalities required by customs or postal regulations.
4. An exporter who uses this form is obliged to submit to the appropriate authorities any supporting evidence which they may require and to agree to any inspection by them of his accounts and of the processes of manufacture of the goods described in Box 11 of this form.

APPENDIX I

EEC EUR 1 FORM

MOVEMENT CERTIFICATE

1. Exporter (Name, full address, country)	EUR. 1 No A 000.000 See notes overleaf before completing this form
	2. Certificate used in preferential trade between _____ and _____ (insert appropriate countries, groups of countries or territories)
3. Consignee (Name, full address, country) (Optional)	4. Country, group of countries or territory in which the products are considered as originating 5. Country, group of countries or territory of destination
6. Transport details (Optional)	7. Remarks

8. Item number; Marks and numbers; Number and kind of packages (1); Description of goods	9. Gross weight (kg) or other measure (litres, m^3, etc.)	10. Invoices (Optional)

11. CUSTOMS ENDORSEMENT

Declaration certified

Export document (2)

Stamp

Form _____ No _____

Customs office _____

Issuing country or territory _____

_____

_____

Date _____

_____

(Signature)

12. DECLARATION BY THE EXPORTER

I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate.

Place and date: _____

_____

(Signature)

13. REQUEST FOR VERIFICATION, to	14. RESULT OF VERIFICATION
Verification of the authenticity and accuracy of this certificate is requested. (Place and date) Stamp (Signature)	Verification carried out shows that this certificate (1) ☐ was issued by the customs office indicated and the information contained therein is accurate. ☐ does not meet the requirements as to authenticity and accuracy (see remarks appended). (Place and date) Stamp (Signature) (1) Insert X in the appropriate box.

NOTES

1. Certificates must not contain erasures or words written over one another. Any alterations must be made by deleting incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the customs authorities of the issuing country or territory.
2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.
3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

APPENDIX J

EEC EUR 2 FORM

FORM **EUR. 2** No

1 **Form used in preferential trade**

between (1) ..... and .....

2 **Exporter** (Name, full address, country)

3 **Declaration by exporter**

I, the undersigned, exporter of the goods described below, declare that the goods comply with the requirements for the completion of this form and that the goods have obtained the status of originating products within the provisions governing preferential trade shown in box 1.

4 **Consignee** (Name, full address, country)

5 **Place and date**

6 **Signature of exporter**

7 **Remarks** (2)

8 **Country of origin** (3)

9 **Country of destination** (4)

10 **Gross weight (kg)**

11 **Marks; Numbers of consignment; Description of goods**

12 **Authority in the exporting country** (5) **responsible for verification of the declaration by the exporter**

(1) The countries, groups of countries or territories concerned.

(2) Any verification already carried out by the appropriate authorities.

(3) The term 'country of origin' means country, group of countries or territory where the goods are considered to be originating.

(4) The term 'country' means country, group of countries or territory of destination.

13 Request for verification	14 Result of verification
The verification of the declaration by the exporter on the front of this form is requested (*)	Verification carried out shows that (1) ☐ the statements and particulars given in this form are accurate. ☐ this form does not meet the requirements as to authenticity and authenticity (see remarks appended)
_____ _____ 19__ (Place and date) Stamp	_____ _____ (Place and date) Stamp
_____ (Signature)	_____ (Signature)
	(1) Insert X in the appropriate box.

(*) Subsequent verifications of forms EUR. 2 shall be carried out at random or whenever the customs authorities of the importing State have reasonable doubt as to the authenticity of the information regarding the authenticity of the forms and the true origin of the goods in question.

(VERSO)

Instructions for the completion of form EUR. 2

1. A form EUR.2 may be made out only for goods which in the exporting country fulfil the conditions specified by the provisions governing the trade referred to in box 1. These provisions must be studied carefully before the form is completed.

2. In the case of a consignment by parcel post the exporter attaches the form to the dispatch note. In the case of a consignment by letter post he encloses the form in a package. The reference 'EUR.2' and the serial number of the form should be stated on the green label declaration C1 or on the customs declaration C2/CP3, as appropriate.

3. These instructions do not exempt the exporter from complying with any other formalities required by customs or postal regulations.

4. An exporter who uses this form is obliged to submit to the appropriate authorities any supporting evidence which they may require and to agree to any inspection by them of his accounts and of the processes of manufacture of the goods described in box 11.

APPENDIX K

HONG KONG ORIGIN CRITERIA

Certificate of Hong Kong Origin -
Origin Criteria and Principal Processes

Product	Origin Criteria	Principal Processes
(I) Textiles		
a) Yarn (all types)	Manufacture from cotton or fibre.	Spinning.
b) Bulked acrylic yarn	Bulking of foreign origin acrylic yarn.	Bulking.
c) Texturised polyamide yarn	Texturising of foreign origin polyamide yarn.	Texturising.
d) Fabric including coated fabric, whether or not decorated or finished	Manufacture from yarn.	Weaving/knitting.
e) Decorated fabric	Decoration* of fabrics (whether or not foreign origin), and the cost content achieved through such process represents at least 25% of the value of the finished product	Decoration*.
f) Finished fabric (other than woollen fabric)	The fabric used (whether or not foreign origin) must have undergone the following finishing processes in Hong Kong :- (i) Scouring; plus (ii) Bleaching or mercerising; plus (iii) Printing or permanent dyeing (including optical whitening) plus (iv) (a) Resin finish or pre-shrinking, or (b) shearing or brushing.	All the finishing processes listed in the origin criteria.
g) Finished woollen fabric	The fabric used (whether or not foreign origin) must have undergone the following finishing processes in Hong Kong :- (i) scouring; plus (ii) dyeing or printing (only in respect of undyed or unprinted grey cloth); plus (iii) milling; plus (iv) drying; plus (v) tentering; plus (vi) shearing and/or raising and/or brushing; plus (vii) decatising.	All the finishing processes listed in the origin criteria.
h) Garments made from woven or knitted fabrics	Manufacture from fabric	Cutting of fabric and sewing of cut pieces into garment.

Note : * Decoration means such processes as embroidering, beading and sequinning.

	Product	Origin Criteria	Principal Process
i)	Piece-knitted garments	Complete making-up#	Assembling (i.e. looping/ linking, stitching)
j)	Gloves and mittens made from woven or knitted fabric	Manufacture from fabric.	Cutting of fabric and sewing of cut pieces into gloves/mittens.
k)	Piece-knitted gloves and mittens	Manufacture from yarn.	Shell-knitting OR assembling (i.e. looping/linking, stitching) from knitted shell**
l)	Hats and caps (made from woven or knitted fabrics)	Manufacture from fabric.	Cutting of fabric and sewing of cut pieces into hats/caps.
m)	Piece-knitted hats and caps	Manufacture from yarn.	Assembling (i.e. looping/ linking, stitching)
n)	Curtain, shawls, scarves, bags, sacks, tarpaulins, bedsheets, bedspreads, pillow covers, naperies, handkerchiefs, household linen, dish washers, tents, ammunition belt	Manufacture from fabric.	Cutting fabric and sewing cut pieces into products.
o)	Socks and stockings, towels, shoe laces	Manufacture from yarn.	Knitting/weaving.
p)	String shopping bags	Manufacture from strings.	Weaving.
q)	Mesh bags	Manufacture from mesh fabric.	Cutting and sewing.
r)	Woven labels, badges and the like	If not printed : manufacture from yarn. If printed : manufacture from fabric.	If not printed : weaving/ knitting/embroidering. If printed : cutting and printing.
s)	Cotton sewing thread	Manufacture from yarn spun in Hong Kong.	Twining and winding.
t)	Mosquito nets	Manufacture from mosquito netting.	Cutting and sewing.
u)	Waist belt	Manufacture from textile yarn.	Knitting/weaving cutting and buckling.

Notes : # 'Complete making-up' means all the operations following cutting of fabric or crocheting of the fabric directly to shape; however, making-up is not necessarily considered as incomplete where a finishing operation has not been carried out.

** Shell-knitting is prohibited from subcontraction outside Hong Kong under the Outward Processing Arrangement.

Product	Origin Criteria	Principal Processes
(II) Toys		
a) Toys (all types)	Assembled in Hong Kong with at least 25% Hong Kong cost content attributable to local component parts and labour.	Moulding/die-casting/cutting/ sealing of a characteristic component part plus assembling.
b) Toy motors	Assembled in Hong Kong with at least 25% Hong Kong cost content attributable to local component parts and labour.	Coiling and assembling.
(III) Plastic Items		
a) Plastic flowers	Manufacture from plastic granules or compounds.	Moulding parts and assembling.
b) Plastic can-opener	Manufacture from plastic granules or compounds.	Plastic moulding and assembling.
c) P.V.C. garments	Manufacture from P.V.C. sheetings.	Cutting and assembling.
d) Plastic sheeting bags	Manufacture from plastic sheetings.	Cutting and assembling.
e) Plastic tubing bags	Manufacture from plastic compounds.	Extruding and sealing.
f) Plastic string woven bags	Manufacture from plastic strings.	Weaving.
g) Plastic band woven bags	Manufacture from plastic bands.	Weaving and assembling.
h) Polythene (polyethylene) bags	Manufacture from polythene sheetings.	Cutting and sealing.
i) Type-setting, plastic - for offset-printing	Plastic type-setting moulded in Hong Kong.	Moulding.
(IV) Electronic and Electrical Products		
a) Electronic and electrical products	Assembled in Hong Kong with at least 25% Hong Kong cost content attributable to local component parts and labour.	Assembling and testing.
b) Decoration lamp sets	Manufacture of all parts (use of imported bulbs and wire is however permitted) and assembling.	Making decorative parts and assembling.
c) Plastic vacuum brush	Assembled in Hong Kong with at least 25% Hong Kong cost content attributable to local component parts and labour.	Assembling.
d) Dry batteries of all kinds	Assembled in Hong Kong with at least 25% Hong Kong cost content attributable to local component parts and labour.	Anode fixing and sealing.
e) Electrical accessories such as plugs, sockets, switches, lamp holders, etc., made of bakelite	Manufacture from bakelite powder and metal sheets, plates, rods or wires.	Moulding and assembling.
f) Photocopying machines	Assembled in Hong Kong with at least 25% Hong Kong cost content attributable to local component parts and labour.	Assembling and testing.
(V) Clocks and Watches		
a) Watches - cased with imported movements/ Hong Kong assembled movements	Assembling in Hong Kong provided that : (i) all processes of assembly are performed by registered factories; and (ii) the watch cases (and watch bands as well for imported movements) are made by registered factories.	Making watch cases and assembling (including the making of watch bands if imported movements are used).
b) Electric clocks	Manufacture of case and assembling.	Case making and assembling.
c) Mechanical clocks	Manufacture of case and assembling.	Case making and assembling.
d) Watch movements assembled with imported/local parts	Assembling, testing and time adjusting of the movement.	Assembling and testing.
e) Watch dials	Cutting or blanking and letter-making of the watch dials.	Cutting/blanking and letter-making.
f) Watch cases	Blanking or moulding and lathe-shaping of the watch cases.	Blanking/moulding and/lathe-shaping.

/g) ....

Product	Origin Criteria	Principal Processes
g) Watch bands		
i) metal	Manufacture of metal parts (however minor accessories such as spring may be imported) and assembling.	Making of parts and assembling (including chaining).
ii) plastic	Manufacture from plastics.	Cutting and sealing.
iii) leather	Manufacture from leather.	Cutting and sewing.
(VI) Metal Items		
a) Ashtrays	Manufacture from metal sheets, plates or strips.	Blanking and assembling.
b) Cutlery	Manufacture from metal sheets, plates, strips, bars or rods.	Blanking.
c) Enamelware	Manufacture from metal sheets, plates, strips, bars or rods.	Blanking and enamelling.
d) Pots, basins, spittoon tumblers, tea trays	Manufacture from metal sheetings.	Blanking.
e) Badges, buckles	Manufacture from metal sheets, plates or strips or ingots.	Blanking and assembling.
f) Small metal items such as D.D.T. sprayers, nail clippers, charcoal irons, staplers, etc.	Manufacture from metal sheets, plates, strips, rods, bars or wires.	Blanking/cutting and assembling.
g) Key rings, chains and holders with or without pendants	The key rings, chains or holders must be manufactured from metal sheets, plates, wires or bars, and assembling (regardless of the origin of the pendants).	Blanking/cutting/chaining and assembling.
h) Decoration sets with wire baskets etc. as base	Making of decorative parts and assembling.	Making decorative parts and assembling.
i) Screws, nuts and other similar metal accessories	Manufacture from metal sheets, plates, rods or wires.	Threading/milling and cutting.
j) Locks, keys, latches, bolts, hinges	Manufacture from metal sheets, plates, rods, bars and wires.	Die-casting/blanking and assembling.
k) Lanterns, headlamps, wall lamps, etc., stoves	Manufacture from metal sheets, plates, rods, bars and wires.	Blanking and assembling.
l) Screwdrivers, squeezers, peeling knife, can openers	Manufacture from metal sheets, plates, rods, bars and wires.	Blanking/cutting and assembling.
m) Buttons, collar studs, cuff links, tags, buckles	Manufacture from metal sheets, plates, rods or wires.	Blanking/moulding and assembling.
n) Machine tools (lathes, shaping machines, milling machines, drilling machines, presses and the like)	Metal-working (the metal-working process may be carried out on imported component parts) and assembling in Hong Kong with at least 25% Hong Kong cost content attributable to local component parts and labour.	Metal-working and assembling.
(VII) Footwear		
Footwear	Manufacture of upper and sole and assembling.	Making of upper and sole and assembl
(VIII) Jewellery and Precious/Semi-precious Stones		
a) Jade or precious/semi-precious stones	Cutting and polishing.	Cutting and polishing.
b) Jewellery, precious metal	Manufacture from precious metal.	Moulding and assembling.
c) Jewellery, gem set	Manufacture from precious metal.	Moulding and setting.
d) Imitation jewellery		
i) plastic	Manufacture from plastic granules or compounds.	Moulding/cutting and assembling.
ii) metal	Manufacture from metal sheets, plates, rods or wires.	Blanking and assembling.

/(IX) ....

Product	Origin Criteria	Principal Processes
(IX) Fish and Food		
a) Canned fruits and vegetables	Preserving and canning.	Preserving and canning.
b) Prepared (other than canned) fruits and vegetables	Preserving plus other working processes (e.g. seasoning/salting) with at least 25% Hong Kong cost content attributable to local component parts and labour.	Preserving.
c) Fish and other natural produce of the sea	Any catch landed in Hong Kong in a fresh state and covered by Certificates of Origin issued by the Agriculture and Fisheries Department.	(Issue of CHKO conditional upon presentation of CO issued by AFD.)
d) Flour	Flour milled in Hong Kong.	Milling.
e) Gourmet powder	Making up from locally manufactured monosodium glutamate.	Blending.
f) Shark's fin cake	Manufacture from shark's fin.	Scouring, skinning and setting.
g) Tropical fish	Topical fish bred in Hong Kong.	Bred in Hong Kong.
(X) Porcelainware and Ceramic Ware		
a) Porcelainware decorated in Hong Kong	Decorating and baking of porcelain blank and the cost content achieved through these processes represents at least 25% of the value of the finished product.	Decorating and baking.
b) Ceramic Ware	Manufacture from clay.	Moulding and kilning.
(XI) Paper Products		
a) Printed matters	Type-setting and printing.	Type-setting and printing.
b) Paper lanterns	Manufacture from paper.	Cutting and pasting.
(XII) Rattan Items		
a) Rattan core and peel	Made from rattan cane.	Cutting, peeling and shaping.
b) Rattan - cane, core and peel - PVC coated	PVC-coated in Hong Kong.	PVC-coating.
(XIII) Miscellaneous		
a) Fur garment	Manufacture from prepared animal skin.	(i) Trimming of fur garment parts to required shape; and (ii) Sewing of (i); and (iii) Fixing of lining onto (ii).
b) Fur garment part or shell	Manufacture from prepared animal skin.	Sewing of cut pelts into garment parts or shells.
c) Paints/enamels or similar products	Mixing of ingredients in a state other than paints/enamels or similar products, emulsification if necessary, and synthesis.	(i) Mixing of ingredients; and (ii) Emulsification (if applicable); and (iii) Synthesis.
d) Belts (other than textile belts)	(i) Manufacture from rubber, leather or plastic sheetings; OR (ii) Decorating representing at least 25% of the value of the finished product if manufacture from imported belting.	Cutting and buckle-fixing or decorating.
e) Whip	Manufacture from leather or P.V.C. sheetings.	Cutting and assembling.
f) Gloves (other than textile gloves):		
(i) Leather	Manufacture from leather.	Cutting and sewing.
(ii) Rubber	Manufacture from rubber.	Extruding/cutting and sealing.
(iii) Plastic	Manufacture from plastics.	Extruding/cutting and sealing.
g) Handbags	Moulding/cutting and sewing.	Moulding/cutting and sewing.
h) Cameras	Assembled in Hong Kong with at least 25% Hong Kong cost content attributable to local component parts and labour.	Assembling and testing.

/(i) ....

Product	Origin Criteria	Principal Processes
i) Cigarette lighters	Assembled in Hong Kong with at least 25% Hong Kong cost content attributable to local component parts and labour.	Assembling and testing.
j) Zip and slide fasteners	Fixing of teeth onto the tape and assembling.	Teeth-fixing and assembling.
k) Pen	Manufacture of case and assembling.	Case-making and assembling.
l) Bulbs of all kinds	Manufacture of glass bulb and assembling.	Inserting tungsten wire, evacuating air and sealing bulb to base.
m) Flashlight	Manufacture of case and assembling.	Case-making and assembling.
n) Vacuum flasks, jugs, jars, etc.	Manufacture from metal sheets, plates or plastic materials and glass bulbs.	Moulding/bulb-making and assembling.
o) Hardwood-manufactures	Cutting, shaping and assembling.	Cutting, shaping and assembling.
p) Hides of cattle :		
	i) Processed from hides of cattle slaughtered in approved abattoirs in Hong Kong.	Skinning and salting.
	ii) Imported hides chrome-processed in Hong Kong.	Chrome-processing.
q) Medicine - Chinese and western type	Medicine which has undergone more than the processes of simple mixing, bottling or repacking.	Grinding and blending OR blending and bottling (for lotions and syrups).
r) Wigs/wiglets	Manufacture from human hair or artificial fibre.	Weaving and sewing.
s) Framed mirror	Manufacture of frame or mirror component (i.e. manufacture from glass sheets) and assembling.	Frame-making/mirror-making and assembling.
t) Spectable frames :		
i) plastic	Moulding and assembling.	Moulding.
ii) metal	Stamping and assembling.	Stamping.
u) Camphor tablets	Grinding and moulding.	Grinding and moulding.
v) Feather trimmings	Bleaching, stitching and trimming.	Bleaching, stitching and trimming.
w) Paintings	Painting performed within registered premises.	Painting.
x) Cassette tapes and similar articles (e.g. word processing ribbon)	i) Making of tape and case moulding; OR	i) Making of tape and case moulding; ##
	ii) Winding of tape, case moulding and assembling.	ii) Tape-winding, case-moulding and assembling.
y) Film and similar products	Filming or processing (developing and printing).	Filming OR developing and printing.
z) Pine cone decorations	Scouring, painting/colouring and assembling.	Painting/colouring and assembling.
aa) Tooth brushes, hair brushes and similar products	Manufacture of handle and rooting of bristles.	Handle-making and rooting of bristles
ab) Umbrellas	Making of covers and assembling by the same factory.	Making of covers and assembling.
ac) Baby talcum powder	Manufactured from raw-talcum powder.	Blending, container making and packaging.
ad) Fun/toilet soap	Manufacture from soap base.	Mixing, moulding, container making##/packaging.
ae) Watergel explosives	Manufacture (of an explosives) by synthesis, dissolution and mixing of ingredients that are not explosives themselves.	Manufacture (of an explosives) by synthesis, dissolution, and mixing of ingredients that are not explosives themselves.
af) Scented flower petal	Manufacture from fresh flower petal.	Selecting, pre-drying, sterilizing, softing, mixing, dyeing, perfuming, second-drying.

Note : ## A factory which does not make the containers for its fun/toilet soap may still qualify for registration for the issue of Certificates of Hong Kong Origin provided that it undertakes in writing, at the time of registration, that only containers

	Product	Origin Criteria	Principal Processes
(XIV)	Mixed Origin Products Mixed origin (composite) products	Certificates of Origin can be issued if : (a) the value of foreign origin parts does not exceed 25% of the cost of the finished products; (b) there is no origin marking on foreign parts; (c) the utility does not depend entirely on the foreign origin parts; (d) the final process of manufacture or transformation is performed by registered manufacturer who makes the Hong Kong parts; and (e) where possible, the prinicpal parts are made in Hong Kong.	Assembling.

Note : It may be necessary to modify or expand the above list of origin criteria and principal processes from time to time as the need arises. In that event, the Department will make every effort to give adequate advance notice to the trade of such changes.

APPENDIX L

GENERALIZED SYSTEM OF PREFERENCES

DIGEST OF RULES OF ORIGIN

Generalized System of Preferences

Digest of Rules of Origin

UNCTAD/UNDP Project : Assistance to Developing Countries for the Fuller Utilization of the Generalized System of Preferences (GSP) (INT/77/002)

UNCTAD/TAP/133/Rev.5
82-51307

May 1982

Generalized System of Preferences

Digest of Rules of Origin

UNCTAD/UNDP Project : Assistance to Developing Countries for the Fuller Utilization of the Generalized System of Preferences (GSP) (INT/77/002)

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INTRODUCTION

This Digest is part of a series of handbooks on GSP (see Appendix IX) prepared by the UNCTAD/UNDP Project "Assistance to Developing Countries for the Fuller Utilization of the Generalized System of Preferences (GSP)" (INT/77/002), for use by exporters, manufacturers and government officials in developing countries. It is intended to convey in succinct form information on the major elements of the rules of origin prescribed by individual preference- giving countries in their schemes under the Generalized System of Preference (GSP). The Digest covers rules in operation on 10 May 1982 and follows as closely as feasible the language of official regulations, including the OECD Compendium of rules of origin (TD/B/626/Rev.2).

The rules of origin are an essential element of all schemes, and their clearer understanding and proper application are of the utmost importance for the implemtation of GSP. For that reason, it is hoped that this digest will help government officials, exporters, trade associations, chambers of commerce and others in preference-receiving countries to understand and apply the rules of origin.

NOTE: This Digest does not cover all the details of the provisions contained in the rules of origin prescribed by individual preference-giving countries. For full and detailed information the authentic legal texts issued by those countries should be consulted.

TABLE OF CONTENTS

PART I

RULES OF ORIGIN UNDER THE GENERALIZED SYSTEM OF PREFERENCES (GSP)

Chapter I

GENERAL

Purpose of Rules of Origin

1. The main purpose of rules of origin is to ensure that the benefits of preferential tariff treatment under the Generalized System of Preferences (GSP) are confined to products which have bona fide been taken from, harvested, produced or manufactured in the preference-receiving countries of export. Products which originate in third countries e.g. in preference-giving countries and merely pass in transit through or undergo only a minor or superficial process in a preference-receiving country are not entitled to benefit from GSP.

Conditions for GSP treatment

2. The main elements of the rules of origin are:-

a. Origin criteria and, in most schemes,

b. Consignment conditions and

c. Documentary evidence which establishes compliance with conditions (a) and (b).

In addition there are supplementary rules which have to be observed.

Chapter II

ORIGIN CRITERIA

3. Products exported from a preference-receiving country may be divided into two groups:-

a. what are termed "wholly-obtained" products i.e. products which have been entirely grown, extracted from the soil or harvested within the exporting country, or manufactured there exclusively from any of these products. Such products of a preference-receiving country qualify as being of GSP origin by virtue of the total absence of the use of any imported components or materials; or

b. made from imported materials etc. i.e. they are manufactured wholly or partly from material, parts or components imported into the preference-receiving exporting country (or are of unknown origin). These products qualify only if they have undergone "sufficient working or processing" (as defined by the individual rules) in the preference-receiving exporting country.

. Following these basic definitions, each GSP scheme lays down detailed ules or definitions of "sufficient working or processing" which have to be atisfied if goods are to be granted GSP treatment 1/These nationally prescribed rules have been harmonized as between the socialist reference-giving countries (Bulgaria, Czechoslovakia, Hungary, Poland and SSR). The rules prescribed by some of the preference-giving market economy ountries have also been subject to measures of harmonization. The common atures and the main differences of all the schemes are described in the llowing paragraphs.

holly-obtained" products

The "wholly-obtained" criterion is interpreted strictly. Even a minimal ntent of imported parts, materials or components makes the finished products concerned lose their qualification as "wholly-obtained".

Each article in an export consignment must in general satisfy the origin s prescribed by the preference-giving country of destination. In the of sets, groups or assemblies of articles and of accessories and of ssories, spare parts and tools despatched with a piece of equipment, inery or vehicles, special rules regarding the unit of qualification been prescribed by the EEC, Austria, Norway , Sweden, Switzerland, n and Finland.

Example	Wooden carvings made from wood "wholly-obtained" in a preference-giving country but polished with imported wax are not "wholly-obtained because of the wax. The carvings would, however, almost certainly qualify for GSP under the percentage or process criterion (see paragraph 10).

However, such finished products may qualify for GSP under the alternative origin rules applicable to goods made from imported materials i.e. the process or percentage criterion (see paragraphs 11-13 and 14-25).

6. All preference-giving countries accept the following categories of goods as "wholly-obtained" in a preference-receiving country:-

a. mineral products extracted from its soil or from its sea bed; or in the case of Bulgaria, Czechoslovakia, Hungary, Poland and the USSR, mineral products extracted in the preference-receiving country's territory or from its continental shelf;

b. vegetable products harvested there;

c. live animals born and raised there;

d. products obtained there from live animals;

e. products obtained by hunting or fishing conducted there;

f. products of sea fishing and other products taken from the sea by its vessels;2/and also, in the case of Bulgaria, Czechoslovakia, Hungary, Poland and USSR, by vessels chartered by the preference-receiving country in question;

g. products made on board its factory ships exclusively from the products referred to in (f) above; and also, in the case of Bulgaria, Czechoslovakia, Hungary, Poland and USSR, factory ships chartered by the preference-receiving country in question;

h. used articles collected there fit only for the recovery of raw materials;

i. waste and scrap resulting from manufacturing operations conducted there;

j. products obtained there exclusively from products specified in (a) to (i) above.3/

2/ Some preference-giving countries apply restrictive definitions of the terms "its vessels" and "its factory ships".

3/ Such as iron sheets, bars produced from iron ore; cotton fabrics woven from raw cotton; recovery of lead from used motor car batteries; recovery of metal from metal shavings.

7. Australia and New Zealand in general accept the products described in paragraph 6 as "wholly-obtained" although these have not been specified in their legislation. New Zealand accepts goods completely produced in the exporting preference-receiving country from imported unmanufactured raw materials, irrespective of their source, as "wholly-obtained".

Example	Leather manufactured in a preference-receiving country from imported raw skins whether imported from New Zealand or elsewhere is accepted by New Zealand as "wholly-obtained".

8. The United States of America while not including a list of "wholly-obtained" products in its legislation, recognizes the products listed in paragraph 6 as examples which are likely to meet the USA percentage criterion (see paragraph 19).

Products with an import content

9. As indicated in paragraph 3 (b), products which have been manufactured in a preference-receiving country wholly or partly from imported materials, parts or components (including materials etc., of undetermined or of unknown origin) are considered as originating in that country if those materials, parts or components have undergone sufficient working or processing. In general terms, working or processing is regarded as sufficient if it transforms the specific nature and characteristics of the materials used to a substantial degree. This general concept is defined in detail by each preference-giving country.4/

Process and Percentage Criterion

10. The concept of "sufficient working or processing" has been defined in different ways. There are, however, two main criteria, each one of which is used by a number of preference-giving countries. These criteria are termed the "process criterion" and the "percentage criterion".

Process Criterion

11. This criterion is applied by Austria, the EEC, Finland, Japan, Norway, Sweden and Switzerland.

12. As a general rule under this criterion, imported materials, parts or components ("inputs) are considered to have undergone sufficient working or processing if the finished product falls under a tariff heading of the Customs Cooperation Council Nomenclature (CCCN) at a four-digit level different from that of any of the materials, parts or components used in the process

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4/ The definitions of the preference-giving market economy countries usually exclude what are called "minimal processes". These are regarded as insufficient working or processing and, therefore, as not qualifying the finished product for GSP treatment. A list of minimal processes is given in Appendix I.

(referred to as a "change in CCCN heading"). However, since for some products a change in CCCN heading does not always entail sufficient working or processing (or per contra, while sufficient working or processing may occur, in some cases it does not always involve a change in CCCN heading) the preference-giving countries have listed (in Lists A and B5/) specific processes or supplementary rules for a large number of particular products.

For the products shown in Lists A, the supplementary rules specify:-

a. manufacturing processes which do not qualify the finished products although a change in CCCN heading has occurred (e.g. certain imported materials may be prohibited or certain processes may be excluded);

Example

The EEC and Norwegian rules in List A for vegetables preserved by freezing (CCCN heading 07.02) specify that freezing in itself does not confer origin (although this process results in a change in CCCN heading).

b. manufacturing processes which qualify the finished products only if additional conditions are fulfilled although a change in CCCN heading has occurred (e.g. it may be obligatory to use certain materials, to apply several process or there may be an obligation to meet a percentage requirement).

Example

(a) The Austrian, Norwegian, Swiss and EEC Lists A for cocoa butter (CCCN heading 18.04) require not only a change in CCCN heading but also that "originating" cocoa beans must be used in the process of manufacture.

(b) Austrian, EEC, Finnish, Norwegian, Swedish and Swiss rules in their Lists A for motor cycles (CCCN heading 87.09) specify (in addition to a change in CCCN heading) that imported inputs used in manufacture must not exceed 40% of the value of the finished product and also that 50% of the materials etc. used must be "originating" materials.

For the products shown in Lists B the supplementary rules specify manufacturing processes which are accepted as sufficient working or processing although a change in CCCN heading need not occur.

5/ Lists A and B differ as between the various preference-giving countries which use the process criterion. The differences are more marked in the case of Japan as compared with the other countries.

Example

EEC, Finland, Sweden and Switzerland in their Lists B allow prepared mustard (CCCN heading 21.03) manufactured from mustard flour to qualify for GSP whether or not a change in CCCN heading occurs.

13. For a number of processes set out in Lists A and B, the supplementary rule requires the value of imported inputs not to exceed a given percentage of the value of the finished products (see the example in paragraph 12 b.(b)). For the purpose of calculating whether the percentage is satisfied:-

Value of imported inputs is defined as their customs value at the time of importation into the preference-receiving country or, in the case of inputs of undetermined origin, the earliest ascertainable price paid for them in that country; and

Value of finished products is the ex-factory price of the products (for Japan, the f.o.b. price), less internal taxes refunded or refundable on exportation. Ex-factory price includes the cost of production and the producer's profit. F.o.b. price includes, in addition, all other costs occuring in the producing country, in particular the cost of transport from the factory to the frontier or port and any cost and profit of intermediary trade in that country.

ercentage Criterion

4. This is used by Australia, Canada, New Zealand and the USA and also by ulgaria, Czechoslovakia, Hungary, Poland and the USSR. The criterion pplied by each of the countries in the latter group has been fully armonized (see paragraphs 24 and 25).

5. In the cases of Canada, Bulgaria, Czechoslavakia, Hungary, Poland and he USSR, a maximum percentage figure is placed upon the value of imported terials, parts and components (or of unknown origin) which may be used in e manufacture of the exported products. In the cases of Australia, New aland and the USA a minimum percentage figure is prescribed for the value domestic materials and processing costs etc. which must be used in the nufacture of the exported product. The percentage criterion as applied by l the preference-giving countries which use it exclusively is described in re detail as follows.

tralia

The final process of manufacture must be performed in the preference-receiving country producing or manufacturing the products for which preference is claimed, and

not less than 50 per cent of the value of the ex-factory or the ex-works cost of the product is represented by the value of labour and/or materials of

i) the preference-receiving country, or

ii) the preference-receiving country and Australia ("preferen
giving country content", see Chapter V), or

iii) the preference-receiving country and one or more other preference-receiving countries (cumulative origin, see Chapter VI), or

iv) the preference-receiving country, one or more other preference-receiving countries and Australia.

c. Factory or works cost of goods shall be the sum of the following:-

i) the cost of materials received into the factory but not including any duties or taxes paid or payable in the coun of manufacture of the goods in respect of such materials;

ii) manufacturing wages;

iii) factory overhead expenses;

iv) the cost of inside containers;

i.e. all costs incurred in the production or manufacture of a product up until the time it leaves the factory.

Canada

17. The value of materials, parts or produce originating outside the pr erence-receiving country (or Canada) ("preference-giving country content", Chapter V) or of undetermined origin must not exceed 40 per cent of the ex-factory price of the products obtained as packed for shipment to Cana The value of materials, parts or produce originating outside the preference-receiving country (or Canada) is determined in accordance w the method of determining customs value formally adopted by the preference-receiving countries.

New Zealand

18.

a. The final process of manufacture must be performed in the preferenc receiving country; and

b. the expenditure of materials and components originating in any pref ence-receiving country ("cumulative origin", see Chapter VI) and/or i Zealand ("preference-giving country content", see Chapter V) and expe ture on other items of ex-factory or works cost (e.g. cost of mater excluding duties, manufacturing wages, overhead expenses, cost of c tainers other than outside package, etc.) is not less than 50 per c of the ex-factory or works cost of the product obtained in its fin state.

United States of America

19. A "certain percentage" of the value of a growth, product, manufacture or assembly of a preference-receiving country must consist of

a. the cost or value of materials produced in the preference- receiving country and the cost or value of any article incorporated in the eligible article which has resulted from substantial transformation6/ of any imported material into a new and different article of commerce, plus

b. the direct cost of processing operations performed in the preference-receiving country (see paragraph 21).

The expression "a new and different article of commerce" is used by the United States Customs Service in the classification of merchandise. Examples of their rulings are:

i) Raw skins imported into a preference-receiving country and tanned into leather would be regarded as a "substantially transformed" material when used in the manufacture of a leather coat;

ii) A mounting made from an imported gold bar would be similarly regarded when made into a ring in a preference-receiving country;

iii) Leather imported into the Philippines, cut into shaped pieces and made into gloves. The shaped pieces are "substantially transformed" and their value may be included in order to meet the 35 per cent requirement;

iv) Wax imported from Indonesia into Singapore, mixed with additives (dye, perfume, stearic acid) and made into candles. The wax mixed with additives is not regarded as having been substantially transformed and its value cannot be included in determining whether the 35 per cent requirement is satisfied.

This certain percentage must be not less than 35 per cent of the appraised value of the merchandise in the United States. Where origin is acquired on the basis of cumulative treatment (see "cumulative origin", Chapter V), i.e. the merchandise originates in a designated association of countries treated as one country for the purposes of the GSP, the percentage must also be not less than 35 per cent of the appraised value but it may be acquired within any of the preference-receiving countries forming the designated association.

20.

. The expression "cost or value of materials" is defined as:-

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/ The USA have not yet given a more precise definition of "substantial transformation".

i) the manufacturer's actual cost for the materials;

ii) the freight, insurance, packing and all other costs incurred in transporting the materials to the manufacturer's plant, if these are not already included in the manufacturer's actual cost for the materials;

iii) the actual cost of waste or spoilage (material lost), less the value of recoverable scrap;

iv) taxes and/or duties imposed on materials, provided they are not remitted on exportation.

b. Where the material is provided to the manufacturer without charge or at less than fair market price, its cost or value is determined by computing the sum of:

i) all expenses incurred in the growth, production, manufacture or assembling of materials including general expenses;

ii) an amount for profit; and

iii) freight, insurance, packing and all other costs incurred in transporting the materials to the manufacturer's plant.

21. "Direct costs of processing operations" means those costs which are either directly incurred in or can be reasonably allocated to the growth, production, manufacture, or assembly of the specific merchandise under consideration. Such costs include:-

a. all actual labour costs involved in the growth, production, manufacture or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control and similar personnel;

b. dies, moulds, tooling and depreciation on machinery and equipment which are allocable to the specific merchandise;

c. research, development design, engineering and blue print costs in so far as they are allocable to the specific merchandise; and

d. cost of inspecting and testing of the specific merchandise.

22. The items which are not included within the meaning of the term "direct cost of processing operations" are those which are not directly attributable to the specific merchandise under consideration or are not "costs" of manufacturing the products. These include mainly:-

a. profit, and

b. general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising and the salesmen's salaries, commissions or expenses.

Examples for illustrating the application of the US origin criteria:

Suppose that motorcycles with an ex-factory price of $500 are manufactured in a beneficiary country and exported to the United States. (It should be noted that the ex-factory price will normally be the appraised value).

Case 1 The bicycle is manufactured entirely from local materials.

The bicycle qualifies for preferential treatment as wholly the manufacture of the beneficiary developing country.

Case 2 The bicycle is manufactured as follows:

i)	Gears imported and incorporated into the bicycle	$100
ii)	Domestic materials	$150
iii)	Direct costs of processing	$100
iv)	Indirect costs (overheads, profit, etc.)	$150
	Total :	$500

The bicycle qualifies for preferential treatment since the sum of domestic materials and costs of direct processing, namely $250, represents 50 per cent of the ex-factory price, i.e. not less than 35 per cent of the appraised value.

Case 3

i)	Imported gear	$100
ii)	Chain, manufactured from imported special steel	
	Note: Imported special steel has been substantially transformed	$ 50
iii)	Saddle (manufactured from imported hide)	
	Note: Imported hide has been substantially transformed	$ 25
iv)	Domestic materials	$ 50
v)	Direct costs of processing	$ 75
vi)	Indirect costs (overheads, profits, etc.)	$200
	Total :	$500

In this case, the costs of domestic materials will consist of items ii), iii) and iv), since the chain (item ii)) and saddle (item iii)) are products of imported materials that have been substantially transformed in the beneficiary country.
Thus, the cost of domestic materials ($200) represents 40 per cent of the ex-factory price ($500), i.e. not less than 35 per cent of the appraised value. Therefore, the bicycle qualifies for GSP treatment.

Case 4 The bicycle is manufactured as follows:

i)	Imported materials (Gears $100; saddle $25; tyres $50)	$
ii)	Domestic materials	$
iii)	Direct costs of processing	$
iv)	Indirect costs (overheads, profits, etc.)	$
	Total :	$

In this case, the sum of domestic materials (item ii)) and costs of processing (item iii)), namely $125, represents 25 per cent of the ex-factory price, i.e. less than 35 per cent of the appraised value. Therefore the bicycle does not qualify.

"Appraised value"

23. The appraised value under the United States customs valuation system in the majority of cases equal to the ex-factory price of the export product.

Bulgaria, Czechoslovakia, Hungary, Poland and the USSR

24. Goods are considered to have undergone sufficient working or processing in a preference-receiving country if:-

a. the goods are worked or processed in the country in question and the cost of the goods originating from another country or of unknown origin does not exceed 50 per cent of the cost of the goods exported by the country in question;

b. the goods are worked or processed in a number of preference- receiving countries (cumulative origin) and the cost of the goods originating from other countries or of unknown origin does not exceed 50 per cent of the cost of the goods exported by one of the preference-receiving countries;

c. the goods are obtained in one of the preference-receiving countries and are worked or processed in one or more of the other such countries (cumulative origin).

25.

a. The value of goods originating from another country as referred to in sub-paragraphs (a) and (b) of paragraph 24 is determined on the basis of the customs value of the goods as established in the country producing the export goods for which GSP is granted;

b. the value of goods of unknown origin referred to in sub-paragraphs (a) and (b) or paragraph 24 is taken as being equal to the price paid for the goods in the territory of the country producing the export goods for which GSP is granted.

c. the value of exported goods is determined on the basis of f.o.b. price;

d. goods (raw materials, semi-finished and finished products) imported from one of these preference-giving countries (preference-giving country content) into a preference-receiving country and used there for the production of goods intended for export to the same preference-giving country are regarded as goods obtained in the preference-receiving exporting country in question.

Chapter III

DIRECT CONSIGNMENT

26. The rule that originating products must be transported direct from the exporting preference-receiving country to the preference-giving country of destination is an important common feature of all GSP origin rules except those of Australia. Its purpose is to enable the customs administration of the preference-giving country of importation to be satisfied that the imported products are identical with the products which left the exporting preference-receiving country, i.e. they were not manipulated, substituted, further processed or entered into commerce in any intervening third country

27. Consignment conditions, as prescribed by individual preference-giving countries are indicated in the following paragraphs (for evidence of consignment, see Chapter IV).

Conditions applied by several countries

28.

Countries	Conditions
Austria, Canada, EEC, Japan, Finland, Norway, Sweden, Switzerland, New Zealand	These countries recognize as direct transportation:- (a) products transported without passing though the territory of another country. (b) products transported through the territories of countries other than the exporting preference-receiving country, with or without trans-shipment or warehousing within those countries, provided that the products have remained under customs control in the country of transit or warehousing and have not entered into commerce or have been delivered for home use there, and have not undergone operations other than unloading, reloading and any other operation required to keep them in good condition.

Additional provisions applied by particular countries

In addition, for the countries indicated below the following provisions apply:-

Austria, Canada, EEC, Switzerland	Splitting up loads in intervening countries is allowed.
EEC	Transport through third countries must be justified for geographical reasons or exclusively on account of transport requirements. Since the EEC is a customs union, products that have been transported direct from a preference-receiving country to the EEC are regarded as having met the consignment requirements once they have arrived at any point of entry in the customs territory of the EEC. Therefore, products may, after arrival in one member state, enter into trade there and subsequently be shipped to another member state without thereby losing entitlement to GSP treatment. Products manufactured within one of the regional groupings mentioned in paragraph 45 may be consigned to the EEC from any country which is a member of that grouping.
EEC and preference-giving countries of EFTA (Austria, Finland, Norway, Sweden and Switzerland)	Products may be transported through any of these countries and subsequently re-exported to any of these countries in full or in part, provided that the products have remained under the surveillance of the customs authorities of the country of transit or warehousing and have not been delivered for home use and have not undergone operations other than unloading, reloading and any operation intended to keep them in good condition there.
Japan	Transport through third countries must be justified for geographical reasons or exclusively on account of transport requirements; products may be transported from the preference-receiving country to the third country for temporary storage and thereafter exported to Japan by the exporter of the said preference-receiving country.

New Zealand	Products of one preference-receivin country are permitted to enter the commerce of another preference-receiving country without losing entitlement of GSP treatment.
Switzerland	Transport through third countries may be justified for geographical reasons or exclusively on account o transport requirements. In additio splitting up of loads is allowed as well as repacking except packagi for retail sale.
United States	Products must be destined for the United States at the time that they depart from the country of producti Special rules apply for shipments through a free-trade zone in a preference-receiving country.

The special rules are:

(a) the merchandise must not enter into the commerce of the country maintaining the free-trade zone;
(b) the elegible article must not undgergo any operation other than -
- sorting, grading or testing;
- packing, unpacking,changes of packing, decanting or repacking into other countainers;
- affixing marks, labels, or other like distinguishing signs on articles or their packing, if incidental to operations allowed under these special provisions; or
- operations necessary to ensure the preservation of merchandise in its condition as introduced into the free-trade zone;

(c) merchandise may be purchased and re-sold, other than at retail, for export within the free-trade zone.

For the purposes of these special provisions, a free-trade zone is a pre-determined area or region declared and secured by or under government authority, where certain operations may be performed with respect to articles, without such articles having entered into the commerce of the country maintaining the free-trade zone.

Australia	No consignment rule is applied.

29. Czechoslovakia, Bulgaria, Hungary, Poland and the USSR apply rule direct purchase and direct consignment. Goods are regarded as "direct

chased" if the importer has purchased them from a firm registered in a preference-giving country. Goods originating in a preference-receiving country must be consigned direct to the preference-giving country. Goods transported through the territory of one or several countries for geographical, transport, technical or economic reasons also comply with the rule of direct consignment even if they are temporarily stored in the territory of those countries, provided that the goods remain at all times under the transit countries' customs control.

Chapter IV

DOCUMENTARY EVIDENCE

30. The claim for GSP treatment must be supported by appropriate documentary evidence as to origin and consigment. Details are described in the following paragraphs. For consignments of small value, including postal consignments, simplified documentary requirements are applied by many preference- giving countries. These are set out in paragraph 39 and Appendix VII.

31. Evidence of origin

Country	Nature of evidence
All preference-giving countries 7/. For Australia, main requirement is the exporter's declaration on the normal invoice. Form A is an acceptable alternative, but official certification is not required.	Originating products must be covered on importation by the Combined Declaration and Certificate of Origin in Form A (see Appendix II), filled in and signed by the exporter, 8/ and certified by a governmental authority in the preference-giving country of export. 9/

Additional provisions as to certifying authorities

Austria, Canada, Norway	accept certificates issued by authorized non-governmental bodies (e.g. chambers of commerce) after specific agreement. 10/
Japan	accepts certificates issued by non-governmental bodies (e.g. chambers of commerce).
Switzerland	accepts certificates issued by non-governmental bodies (e.g. chambers of commerce).
United States	Certification by the designated governmental authority of the

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7/ New Zealand accepts Form A as from 1 July 1982.

8/ Advice on how to complete Form A is given in Appendix III.

9/ Most preference-giving countries waive the Form A requirement in the case of consignments of small value and for postal requirements (see para. 39).

10/ Austria has concluded such agreements with Bulgaria, Cuba, Panama, Romania, Spain and Yugoslavia.

preference-receiving country is required.11/

Australia

The following declaration completed and signed in the face of the invoice by the exporter;

"I declare -

(a) that the final process of manufacture of the goods for which special rates are claimed has been performed in ..... (country) and

(b) that not less than one-half of the factory or works cost of the goods is represented by the value of labour or materials of ..... (country or countries) or of ..... (country or countries) and Australia.

Signed ....."

Certificate of origin (Form A) is accepted as an alternative.

New Zealand

Products eligible for GSP treatment must be accomponied by a certificate of origin together with invoices. Until July 1982, Form 59A, which is different from Form A, has been prescribed for that purpose (see Appendix IV). It must be completed and signed by the exporter. Certification by an authority is not required except in the case of exports from Hong Kong. After 1 July 1982, Form A is acceptable.

11/ In the case of shipments to the United States through a free-trade zone in a preference-receiving country, the special provisions set out under paragraph 28, must be observed. Furthermore, two Certificates of Origin are needed: one from the original beneficiary noting that the goods are eligible for the United States GSP and including the name of the consignee in the United States or the free trade zone, and one from the government maintaining the free trade zone, declaring what operations were performed within the zone.

Handicraft goods

32. Several preference-giving countries apply special provisions for handicraft goods which are not necessarily considered to be part of their GSP schemes. For these products, special arrangements for certification have to be made. In the case of Canada, the EEC, Finland, Norway, Sweden and Switzerland, special certificates for handicrafts goods are required in addition to Form A, whereas other countries require appropriate additional declarations on the invoice or on Form A.

Evidence of Direct Consignment

33. In the case of exports to Austria the EEC, Finland, Japan, Norway, Swedenand Switzerland, evidence that the requirements of direct transportation have been fulfilled must, in the case of products passing through the territory of a third country, be supplied to the customs authorities in the importing country by the presentation of:

a. a through bill of lading drawn up in the exporting preference- receiving country covering the passage through the country/countries of transit; or

b. certificate by the customs authorities of the country of transit:

   - giving an exact description of the products;
   - stating the dates of unloading and reloading of the products or of their embarkation or disembarkation, identifying the ships used;
   - certifying the conditions under which the products remained in the transit country; or

c. failing these, any substantiating documents deemed necessary (for example, copy of the order for the products, supplier's invoice, bills of lading establishing the route by which the products travelled).

N.B. Goods originally consigned to a specific EFTA preference-giving country (country X) may be retraded to another EFTA preference-giving country or to the EEC will still receive preferential treatment even if Form A does not show the original country X as final destination and provided they remain under customs control in the country of transit and have not entered into commerce or been delivered for home use there. Vice versa, the EEC applies the same rule in respect of EFTA preference- giving countries. However, the customs authorities of the country of transit (either an EFTA or an EEC country) shall issue a new Certificate of origin Form A on the basis of the original Form A issued by the exporting preference-receiving country.

34. Canada requires a through bill of lading addressed to a consignee in a specified port in Canada. The importer may be required to produce documentary evidence in cases of transit through intermediate countries.

35. As regards exports to the United States, the importer may be required to submit appropriate shipping papers, invoices or other documents as evi-

dence that the articles were imported directly. The district director of the U.S. Customs may waive the submission of evidence of direct shipment when he is otherwise satisfied that the merchandise clearly qualifies for GSP treatment. In the case of transit shipments, the invoices, bills of lading, and other documents connected with shipment must show the United as the final destination.

Further provisions relating to the issue and acceptance of documentary evidence of origin.

36. Some schemes contain further provisions regarding the issue and acceptance of documentary evidence of origin. These may be divided into provisions applicable in preference-receiving countries and those which are applicable in preference-giving countries. They are summarised in the following paragraphs.

Provisions applicable in preference-receiving countries

37. Application for certificate of origin (Form A)

a. A certificate of origin should be issued only upon written application from the exporter or his authorized representative. It is recommended that Form B be used for that purpose (see Appendix II). The exporter or his representative should submit with his request any appropriate supporting document proving that the products to be exported qualify for the issue of a certificate of origin.

b. Issue of certificate of origin (Form A)

It is the responsibility of the competent governmental or other authority of the exporting preference-receiving country to ensure that the certificates and the applications are duly completed. Each certificate should bear a serial number (whether or not printed) by which it can be identified.

c. Issue of duplicate certificates of origin (Form A)

Austria, the EEC, Canada, Finland, Norway, Sweden, Switzerland and the United States provide for the issue or acceptance of duplicates of certificates of origin in order to ensure that exporters in preference-receiving countries may, in the event of theft, loss or destruction of a certificate of origin, nevertheless obtain GSP treatment. The duplicate Form A issued in this way should be endorsed with one of the following words: "DUPLICATA" or "DUPLICATE" in box 4. The duplicate, which should bear the date of issue and the serial number of the original certificate, will take effect as from that date. Bulgaria, Czechoslovakia, Hungary, Poland and the USSR accept officially certified duplicates in respect of lost certificates.

d. Issue of provisional certificates of origin (Form A)

Japan provides for the issue of provisional certificates of origin in cases where the final destination of products exported from a preference-receiving country is not known and such products have to pass

through the territory of one or more other countries. Norway and Sweden accept provisional certificates on a case-by-case basis.

e. Certificates issued retrospectively

While certificates or origin are generally issued at the time of exportation of the products in question, Canada, the EEC, Finland, Norway, Sweden, Switzerland and the United States accept certificates of origin (Form A) issued retrospectively where, as a result of error, involuntary omissions or any other special circumstances, no request for a certificate was made at the time the products were exported. Austria accepts certificates issued retrospectively generally if it is proved that they cover the merchandise produced for customs clearance. Japan accepts certificates issued retrospectively when there is an unavoidable reason. Certificates of Origin Form A issued retrospectively should bear the endoresment "DELIVRE A POSTERIORI", or "ISSUED RETROSPECTIVELY", in box 4.

Provisions applicable in preference-giving countries

38. Time limit for presentation of certificates of origin (Form A)

a. Austria, the EEC and Switzerland require Form A to be produced to the customs office where the goods are presented within ten months from the date of issue. In the case of Japan the time limit is four months with the possibility of an extension in exceptional cases. Canada has a two-year limit. In the case of Australia, Finland, Norway, Sweden and the United States there is no fixed time limit. Bulgaria, Czechoslovakia, Hungary, Poland and the USSR require Form A to be presented within one year after consignment of the goods.

b. Presentation of certificates of origin (Form A) after expiry of the time limits

Austria, the EEC and Switzerland have specified that certificates of origin (Form A) may be accepted after expiry of the time limits provided the failure to observe the time limits results from force majeure or exceptional circumstances. In addition, the competent customs authorities of preference-giving importing countries may accept such certificates provided the products have been presented to them before expiry of the time limits. In the case of Japan, the time may be extended in exceptional cases if the authorities are satisfied that it was not practicable to produce the certificate within the time limit.

c. Discrepancies between statements made in certificates of origin (Form A) and those in other documents

The discovery of slight discrepancies between the statements made in the certificate and those made in the documents presented to the customs for the purpose of carrying out the formalities for importing the products will not ipso facto render the certificate null and void, provided it is duly established that the certificate corresponds to the products. In the case of Bulgaria, Czechoslovakia, Hungary, Poland and the USSR it is required that the difference between the quantity of goods consigned and that covered by Form A should not exceed plus or minus 5 per cent.

Issue and acceptance of replacement Form A cerificates by the EEC, Austria, Finland, Norway, Sweden and Switzerland

These countries accept replacement Form A certificates issued by the customs authorities of any other of these countries on the basis of a certificate of origin Form A issued by the competent authorities of the exporting preference-receiving country, provided that most transit conditions in paragraph 28 have been fulfilled. Replacement certificates may be issued by the competent authorities of these countries on the basis of a written request by the importer. The replacement certificate should indicate the country in which the products are considered as originating and should be endorsed "Replacement Certificate" or "Certificat de Remplacement" as well as the date of issue and serial number of the original certificate in box 4. A photocopy of the original may be attached to the replacement certificates.

cial documentary requirements for consignments of small value and postal nsignments

. Austria, Canada, the EEC, Finland, Japan, Sweden, Switzerland, United tes, Bulgaria, Czechoslovakia, Hungary, Poland and the USSR have relaxed ir normal documentary requirements in favour of consignments of small ue and postal consignments. A summary of the various provisions applied preference-giving countries in this field is given in the table below.

Non-Commercial imports

Preference-giving country	Traveller's bagagge max. value	Private consignment max. value	Postal consignments max. value	Other consignments of small value max. value
Austria	AS10,000 a/	AS 3,000 a/	AS 25,000 b/	-
Canada	C$ 250 c/	C$ 250 c/	Form A required	-
Finland	FM 1,000 a/	FM 300 a/	FM 5,000 b/	-
Norway	NK 1,450 a/	NK 450 a/	NK 7,200 b/	-
Sweden	SK 1,200 a/	SK 350 a/	SK 6,000 b/	-
Switzerland	SF 1,100 a/	SF 440 a/	SF 6 300 b/	-
Japan	100,000 Yen e/	100,000 Yen e/	100,000 Yen e/	100,000 Yen
United States	US $ 250 h/	US $ 250 h/	US $ 250 h	US $ 250 h/
Bulgaria, Czechoslovakia, Hungary, Poland, USSR	For all consignments of an invoice value up to an equivalent of $ US 5,000 the exporter may declare the origin of the goods on the invoice or other documents accompanying the goods.			
EEC12/	325 units of account a/	105 units of account a/	1620 units of account b/	-

In practice, the values applied by the EEC member countries are approx. the following:-

Belgium	BF 13,000	BF 4,200	BF 65,000
Denmark	DK 2,500	DK 820	DK 1,270
France	FF 1,900	FF 600	FF 9,500
F.R.G.	DM 820	DM 270	DM 4,100
Greece	Dr 19,772	Dr 6,388	Dr. 98,556
Ireland	I 220	I 70	I 1,090
Italy	IL 392,500	IL 127,000	IL 1,956,000
Luxembourg	LF 10,000	LF 3,000	LF 50,000
Netherlands	NF 900	NF 290	NF 4,460
United Kingdom	190	60	950

12/ Figures as at 1/1/1982.

Evidence Required

a. Declaration that conditions are met.

b. Form APR (see Appendix VII)13/ composed of two parts, and to be completed for each postal consignment. Each part of the form must bear a serial number, whether printed or not, by which it can be identified. After completing and signing the two parts of the form, the exporter must, in the case of consignments by parcel post, attach the two parts to the despatch note. In the case of consignments by letter post, he must insert his declaration (Part 1) in the packet and attach the label of Part 2 to the outer packing of the consignment.

c. Statement signed by the vendor of the products in the preference-receiving country that the products are the growth, produce or manufacture of that country, and declaration by the importer that the products are not intended for resale.

d. Green label normally used for postal consignments or customs declaration.

e. Simplified declaration by the exporter that the products have originated in the exporting preference-receiving country.

f. Not specified.

g. Oral declaration by the importer.

h. The United States require Form A only for shipments valued in excess of US $ 250, whether or not sent by post. The district director of US Customs may require such other evidence of the country of origin as he deems necessary.

Note: For New Zealand, the personal luggage of travellers is exempt from the requirement of documentary evidence of origin.

13/ Countries which accept form APR for the purposes of the Generalized System of Preferences (GSP)

Austria	European Economic Community:	Ireland
Finland	Belgium	Italy
Norway	Denmark	Luxembourg
Sweden	France	Netherlands
Switzerland	Federal Republic of Germany	United Kingdom
	Greece	

Chapter V

PREFERENCE-GIVING COUNTRY CONTENT

40. Some preference-giving countries apply a rule which allows products (materials, parts and components) of their manufacture when supplied to a preference-receiving country and used there in a process of production, to be regarded as of that preference-receiving country's origin for the purpose of determining whether the finished product qualifies for GSP treatment.

Example

Colombia exports insulated wire to Canada. The materials used include steel from USA (20% of the ex-factory price), rubber from Malaysia (30%) and 50% is attributable to Colombian materials and labour costs. The wire does not qualify for GSP because the import content exceeds 40%. If, however, Canadian steel were used, the wire is enabled to qualify under the preference-giving country content rule because the import content is only 30% of the ex-factory price.

41. The rule on preference-giving country content is applied by Australia, Canada, Japan, New Zealand, Czechoslovakia, Bulgaria, Hungary, Poland, and the USSR (see paragraph 25(d)). For all these countries, except Japan, any finished product may benefit. For Japan, however, the rule does not apply to a number of finished products (see Appendix V).

42. Only Japan requires special documentary evidence to support a claim under this rule. Japan requires, in addition to the normal certificate of origin on Form A, the following evidence relating to the materials imported from Japan:

a. a "certificate of materials imported from Japan" (see Appendix VI) issued by the authority entrusted with the issuance of certificates of origin (Form A); and

b. an export permit or certificate of materials imported from Japan issued by the customs authorities of Japan regarding the Japanese materials, parts and components used in the manufacturing process.

Chapter VI

CUMULATIVE ORIGIN

43. The GSP rules are, in principle, based on the concept of single country origin i.e. the origin requirements must be fully complied with in one exporting preference-receiving country which must be, at the same time, also the country of manufacture of the finished products concerned. Under the schemes of some preference-giving countries this rule has been liberalized so as to permit that a product can be manufactured and finished in a preference-receiving country with imported materials, parts or components from other preference-receiving countries considered as originating in the preference-receiving country claiming the preferential treatment. Thus, cumulative acquisition of origin is offered to a varying extent and under various conditions. Under a cumulative system, processes or value added in more than one preference-receiving country may be added together (or "cumulated") in order to determine whether the exported finished product qualifies for GSP.

Examples of cumulation

(a) some origin rules for fabrics require the processes of spinning the yarn and weaving to be undergone in one preference-receiving country. Under some systems of cumulative origin, however, the first process of spinning may be completed in one preference-receiving country and the second process (of weaving) carried out in a second preference- receiving country and the fabric would qualify for GSP.
(b) a sub-assembly for a radio receiver produced in preference-receiving country A from imported parts may be exported to preference-receiving country B where it is manufactured, together with other imported materilas etc. into finished radio. The value of the materials work done in country A may, under full global systems of cumulation, be added to the work done in country B in order to determine whether the radio satisfies the percentage criterion applied by some preference-giving countries.

44. Under the schemes of Australia, New Zealand, Bulgaria, Czechoslovakia, Hungary, land and the USSR, all preference-receiving countries are regarded as one single a for the purpose of determining origin. All value added and/or manufacturing processes formed in the area may be added together in order to meet the origin requirements for ducts to be exported to any of the above-mentioned preference-giving countries. is called full and global cumulation. Canada is planning to introduce full ulation among least developed countries.

45. Under the scheme of the EEC, however, partial cumulation is permitted (subject to conditions) on a regional basis. Three regional groupings of preference-receiving countries operate the EEC regional cumulation system, i.e.: Association of South East Asian Nations (ASEAN - Indonesia, Malaysia, the Philippines, Singapore and Thailand), Central American Common Market (CACM - Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua), and the Andean Group (Cartagena Agreement - Bolivia, Colombia, Ecuador, Peru and Venezuela).

46. Under the EEC partial cumulation rules, materials or parts imported by a member country of one of these groupings from another member country of the same grouping for further manufacture are considered as originating products of the country of manufacture and not as third-country inputs, provided that the materials or parts are already "originating products" of the (first exporting) member country. As originating products are considered those that have acquired origin fulfilling the individual origin requirements under the EEC rules. In other words, products originating in one member country of such a grouping (i.e. originating according to the EEC rules of origin) retain their originating status even if subsequently they undergo a further working or processing or if they are subject to subsequent working or processing insufficient to confer originating status in one or more other member countries of the same grouping.

Example

EEC List A requires cocoa butter (CCCN heading 18.04) to be produced from "originating" beans and processing into butter must take place in one preference-receiving country. With cumulation, however, preference-receiving country A may grow the beans and supply them to preference-receiving country B for processing. The butter so produced would qualify for GSP in the EEC if A and B were members of one of the three groupings referred to in paragraph 45.

The partial cumulation rule requires that third country inputs during further manufacture must not exceed 5 per cent of the value of the finished product. Where an additional percentage requirement is provided for in Lists A and B, the value of the subregional inputs cannot be added in the calculation of the percentage requirement. The subregional inputs in that case are therefore to be considered as "neutrals" for the purposes of cumulation, and the 5 per cent of a third country must be caluculated as against the value of the product exported by the preference-receiving country.

Example

Country A manufactures an electrical machine (ex Chapter 85) of a total ex-factory price value of $100. The manufacturer imports copper wire at the value of $10 from subregional country B and a transform at the value of $20 from subregional country C. The manufacturer also imports pipe fittings of special steel from the United States at the value of $5. The copper wire ($10) from country B and the transformer ($20) from country C will not be considered for cumulation purposes, and the US input will not be detrimental to the acquisition of origin, because it does not exceed the 5 per cent.

Where Lists A and B provide for a percentage requirement, cumulation of added value from one member country to another is not permitted. The origin remains that of the first member country only if the value of the operations carried out in one of the following member countries does not exceed the value of the product which came from the first country. If this is so, the final product has the origin of the preference-receiving country which has added the largest percentage of the final value.

47. Under the EEC arrangement, the Form A certificates of origin for finished products which have benefited from cumulation are issued on the basis of Forms A issued previously in respect of the originating materials, parts, etc. The "final" Form A must indicate in box 4 that the finished product "originates" because of cumulation in the countries concerned. The grant of cumulation by the EEC is subject to a written undertaking by the member countries of the grouping given by its coordinating body that they will ensure compliance with the rules controlling cumulative origin.

48. Under the Japanese arrangement for cumulative origin which applies to countries members of ASEAN (Indonesia, Malaysia, the Philippines, Singapore and Thailand) in respect of products exported to Japan by a member country, the products in question are considered as "originating" if:

a. they were wholly produced in one or several of the member countries of ASEAN:

b. they were manufactured from materials or components exported from Japan and imported into a member country of ASEAN.

c. they were manufactured from materials and components originating in one or several of the member countries of ASEAN.

The Form A issued in respect of the finished product must be supported by "Cumulative/Working Processing Certificate" (Appendix VIII).

49. Under the scheme of the United States, preference-receiving countries belonging to an association of countries which contributes to comprehensive regional economic integration among its members may jointly request to be considered as one area for the purpose of meeting the origin requirements. Merchandise which is the growth, product, manufacture or assembly of two or more of such member countries would qualify for preferenctial tariff treat-

ment if the sum of the cost or value of the materials produced in those countries, plus the direct costs of processing operations performed in such countries, is not less than 35 per cent of the value of the article as appraised by customs upon entry into the United States. Three groups of countries, ASEAN, the Andean Group and CARICOM (Caribbean Common Market - Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Christopher-Nevis, St.Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago) are accepted under the USA arrangement.

50. The preference-giving countries members of the European Free Trade Asscociation (EFTA - Austria, Finland, Norway, Sweden, and Switzerland 14/) apply a system of cumulative origin. Under that system a preference-receiving country exporting to one of these EFTA countries is allowed, for the purpose of the origin rules, to regard materials used in production, which have originated in another preference-receiving country with which the exporting country cooperates in a regional economic grouping, as if those materials had originated in the exporting country.

51. Preference-receiving countries forming an established regional economic grouping and wanting to take advantage of this cumulation system, have to apply in advance to the preference-giving country concerned or to the EFTA Secretariat in Geneva, stating the measures taken by the grouping for the purpose of making use of the possibility of cumulation. Until such an application has been approved by the preference-giving country, cumulative treatment does not apply.

52. It is the responsibility of the final exporting country to guarantee that the "cumulated" imported material has, in fact, originated according to the GSP rules of origin applied in the country of destination (i.e. the preference-giving member country of EFTA). The exporting country is responsible, upon request, for the verification of certificates. The importing preference-giving country reserves the right to request, in specific cases, the verification of origin of imported "cumulated" materials used in the production of the exported product. Certificates of origin applying to the exported products have to show that cumulation has occurred. It should therefore be noted in box 4 of Form A that the exported product originates in the exporting country because of cumulation with the country or countries concerned.

14/ The regulation applied by Switzerland differ to some extent from those applied by other EFTA countries and resemble closely those applied by the EEC.

Chapter VII

SPECIAL PROVISIONS FOR LAND-LOCKED EXPORTING COUNTRIES

53. In the case of land-locked preference-receiving countries, often the place of destination and the way and means of transportation to that place are decided only after the export products have arrived at a suitable port in a neigbouring country. Therefore, these details are not known to the exporter at the time the products leave the country of origin.

Example

> A merchant in Nepal sell products originating in Nepal from a warehouse in Calcutta (India), where they have been stored temporarily under customs control, to an importer in a preference- giving country. The products are subsequently transported direct to that preference-giving country.

This situation does not pose any difficulties in the case of exports to most preference-giving countries since it is generally accepted that for land-locked countries the place of destination and ways and means of transportation may be decided in a port of a country adjacent to the preference-receiving country of origin. However, in the case of Japan and the USA special arrangements apply.

54. In the case of Japan, it must be shown to the satisfaction of the Japanese authorities that:

a. an exporter has despatched the products from the territory of the exporting preference-receiving country to the country where the products are stored;

b. the exporter has sold the products to a consignee in Japan;

c. the products have remained under customs transit control and have not entered into trade or consumption in the transit country and have not undergone there any operation other than unloading or re-loading or any operation required to keep them in good condition.

55. The name of the transit country must be inserted on the certificate of origin. As evidence to establish the identification of the products and the conditions under which they were stored, a certificate issued by the customs authorities or other governmental authorities of the transit country is required. This certificate must contain:

a. an exact description of the products (name, quantity, makers and the number of packages);

b. the date of unloading and reloading of the products and particulars to identify the vessels or other means of transport concerned and

c. particulars of the conditions under which the products have remained i
the transit country.

56. In the case of the United States, the usual consignment conditions apply as set out in Chapter III i.e. products must be destined for the United States at the time they depart from the country of production. Sp
cial rules apply for shipments through a free trade area in a preference-receiving country (see paragraph 28).

Chapter VIII

SPECIAL PROVISIONS FOR EXHIBITIONS AND FAIRS

57. Sometimes, preference-receiving countries send their products for exhibition to other countries, and such products are sold after the exhibition and shipped from there to a preference-giving country. Under the normal consigment rules (see Chapter III), such products would not be eligible for GSP treatment, except in the case of Sweden which under its consignment rules allows such products to receive GSP treatment, and in that of Australia, which applies no consignment rule at all. However, in regard to Austria, Bulgaria, Canada, Czechoslovakia, the EEC, Finland, Hungary, Japan, Norway, Poland, Switzerland and the USSR special rules operate with respect to admission of such products to GSP.

Conditions of admission (preference-giving countries other than Bulgaria, Czechoslovakia, Hungary, Poland and the USSR)

58. The products must meet the usual origin requirements. In addition it must be shown to the satisfaction of the competent customs authorities of the preference-giving country that:

a. the exporter has consigned the products from the territory of the exporting preference-receiving to the country in which the exhibition is held, and has exhibited them there;

b. the products have been sold or otherwise disposed of by that exporter to someone in the preference-giving country in question;

c. the products have been consigned to the preference-giving country in question in the state in which they were sent for exhibition;

d. the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

The terms "fair and exhibition"cover any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organized for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

59. Austria, Canada, the EEC, Finland, Norway and Switzerland require the combined declaration and certificate of origin (Form A) to be produced in the normal manner. The name and address of the exhibition must be indicated. Where necessary, additional documentary evidence of the nature of the products and the conditions under which they have been exhibited may be required.

60. Japan requires, in addtion to Form A, a certificate by the customs or other governmental authorities of the country where the exhibition took place, giving evidence for the identification of the products and the conditions under which they were exhibited. It must contain all relevant particulrs, including the date of unloading and reloading of the products,

and particulars permitting identification of the vessels or other means of transport concerned.

Other preference-giving countries

61. The arrangements of Bulgaria, Czechoslovakia, Hungary, Poland and the USSR are as follows:-

a. where goods from a preference-receiving country are purchased during or after the holding of an exhibition or fair, preference is granted on condition that the importer has purchased the goods in the form in which they were delivered to the exhibition or fair, that they satisfy the rules of the preference-giving country concerned, that they have not been used for other than exhibition purposes after being consigned to the exhibition or fair and have remained under customs control throughout the exhibition or fair;

b. the normal certificate of origin is prepared bearing an indication of the name and duration of the exhibition or fair.

62. The United States has no provision in regard to fairs and exhibitions. In New Zealand the granting of preferential tariff treatment for goods exhibited at fairs and exhibitions is discretionary.

Chapter IX

ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

Mutual Cooperation

63. The implementation of the GSP system demands close cooperation and mutual assistance between customs authorities in the preference-giving countries and the authorities concerned in the preference-receiving countries so as to ensure the observance of the legal provisions under the various schemes including the effective control and verification of origin and consignment of products.

64. As part of this mutual cooperation, preference-giving counties require certain information from the preference-receiving countries in regard to the authorities competent to issue certificate of origin, as follows:-

Information		Countries
Names and addresses of authorities	...	All preference-giving countries except Austria, Australia and New Zealand, for which such notification is not obligatory.
Specimens of stamps	...	All except Bulgaria, Czechoslovak Hungary, Poland and USSR.

Specimens of signature are not required by any preference-giving country.

Verification and control

65. Requests for verification (retroactive checks) of certificates of origin (Form A) or Forms APR are, as a general rule, directed by the authorites of preference-giving countries to the relevant governmental authorities in the preference-receiving country. Selections of certificates for verification is made by the relevant customs authorities in the preference-giving country where they have doubts as to the authenticity of the document or as to the accuracy of the information regarding the origin of the products in question.

66. For the purposes of such requests for verification, the competent customs authorities in the preference-giving country are required to return the certificate Form A (or APR) to the responsible governmental authority in the exporting preference-receiving country giving, where appropriate, the reasons of form or substance for an enquiry. The invoice, if available, or a copy thereof, should be attached to the Form APR and the customs authorities will forward any information that has been obtained suggesting that the particulars given on the certificate or form are inaccurate.

67. When a request for verification has been made, such verification has to be carried out and its results communicated within a maximum of six months from the date of the request to the competent authorities of the

preference-giving country. For verification of replacement certificates issued by the authorities of the EEC, Austria, Finland, Norway, Sweden and Switzerland, the time limit is extended to eight months. The results must be such as to establish whether the certificate of origin Form A (or the form APR) in question applies to the products actually exported and whether these products were in fact eligible to benefit from preferential tariff treatment, stating the reasons. If in cases of reasonable doubt there is not reply within the six months prescribed or if the reply does not contain sufficient information to determine the authenticity of the certificate or the true origin of the products, a second communication will be sent to the authorities. If after this the results are not provided as soon as possible or within four months to the requesting authorities, or if the results do not permit the determination of the authenticity of the document in question or the true origin of the products, the requesting authorities will refuse any benefit from GSP except (in respect of the authorities of preference-giving market economy countries) in the case of force majeure or in exceptional circumstances.

68. For the purpose of subsequent verification, copies of the certificates issued as well as any export documents referring to them must be kept for at least two years by the competent governmental authority in the exporting preferenc-receiving country.

69. Most preference-giving countries have rules setting out detailed provisions as described above. Bulgaria, Czechoslovakia, Hungary, Poland and the USSR apply various elements of these provisions. Australia has no corresponding provisions, since the certificate of origin Form A is not mandatory. Austria and Japan do not specify a strict procedure to be followed in verification. New Zealand reserves the right to make a direct approach to the producer and/or exporter of the products for verification of origin. The United States provide that requests for evidence can also be directed to the producer and exporter of the products and to any other person who has been concerned with the products during their transport.

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PART II

APPENDICES

Appendix I

Minimal processes which most preference-giving market economy countries do not accept as conferring origin 15/

1. Operation to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

2. Simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making up of sets of articles), washing, painting, cutting up;

3. (i) Changes of packing and breaking up and assembly of consignments;
   (ii) Simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packaging operations;

4. Affixing marks, labels or other like distinguishing signs on products or their packaging;

5. Simple mixing of products, whether or not of different kinds, where one or more components of themixture do not meet the conditions laid down in the rules to enable them to be considered as originating products;

6. Simple assembly of parts of products to constitute a complete product;

7. A combination of two or more operations specified in 1 - 6;

8. Slaughter of animals.16/

15/ Australia, Canada, New Zealand and the United States regard this list only as an indication of processes that are unlikely to enable the finished product to be accepted as an originating product.

16/ Japan does not regard slaughter as a minimal process.

Appendix

COMBINED DECLARATION AND CERTIFICATE OF ORIGIN (FORM A)

Specification

The format of Form A has been agreed internationally and the form has to comply with the following specifications:-

Measurements:	210 mm x 297 mm
Quality of paper:	writing paper not containing mechanical pulp and weighing not less than 25 grams per square metre;
	and
Special requirements:	green machine-turned background making any falsification by chemical or mechanical means apparent to the eye. If the certificates have several copies, only the top copy which in the original must be printed with a green machine-turned background.

Languages

Form A may be printed and completed in English or French. The notes on the back of Form A may be printed in the language of the preference-receiving country.

pendix

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1. Goods consigned from (Exporter's business name, address, country)

Reference No

GENERALISED SYSTEM OF PREFERENCES

CERTIFICATE OF ORIGIN
(Combined declaration and certificate)

FORM A

Issued in .....
(country)

See Notes overleaf

2. Goods consigned to (Consignee's name, address, country)

3. Means of transport and route (as far as known)

4. For official use

5. Item number	6. Marks and numbers of packages	7. Number and kind of packages; description of goods	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity	10. Number and date of invoices

11. Certification

It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.

.....
Place and date, signature and stamp of certifying authority

12. Declaration by the exporter

The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in

.....
(country)

and that they comply with the origin requirements specified for those goods in the Generalised System of Preferences for goods exported to

.....
(importing country)

.....
Place and date, signature of authorised signatory

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NOTES ON THE BACK OF FORM A (1982)

I. Countries which accept Form A for the purposes of the generalized system of preferences (GSP):

Australia a/	Norway	European Economic Community:
Austria	Sweden	
Canada	Switzerland	Belgium
Finland	United States	Denmark
Japan	of America	France
New Zealand		Federal Republic of Germany
		Greece
People's Republic of Bulgaria		Ireland
Czechoslovak Socialist Republic		Italy
Hungarian People's Republic		Luxembourg
Polish People's Republic		Netherlands
Union of Soviet Socialist Republics		United Kingdom

Full details of the conditions covering admission to the GSP in these countries are obtainable from the designated authorities in the exporting preference-receiving countries or from the customs authorities of the preference-giving countries listed above. An information note is also obtainable from the UNCTAD secretariat.

II. General conditions

To qualify for preference, products must:

(a) fall within a description of products eligible for preference in the country of destination. The description entered on the form must be sufficiently detailed to enable the products to be identified by the customs officer examining them;

(b) comply with the rules of origin of the country of destination. Each article in a consignment must qualify separately in its own right; and,

(c) comply with the consignment conditions specified by the country of destination. In general, products must be consigned direct from the country of exportation to the country of destination but most preference-giving countries accept passage through intermediate countries subject to certain conditions. (For Australia, direct consignment is not necessary).

III. Entries to be made in box 3

Preference products must either be wholly obtained in accordance with the rules of the country of destination or sufficiently worked or processed to fulfil the requirements of that country's origin rules.

(a) Products wholly obtained: for export to all countries listed in Section I, enter the letter "P" in box 3 (for Australia and New Zealand box 3 may be left blank).

---

a/ For Australia, the main requirement is the exporter's declaration on the normal commercial invoice. Form A, accompanied by the normal commercial invoice, is an acceptable alternative, but official certification is not required.

(b) Products sufficiently worked or processed: for export to the countries specified below, the entry in box 8 should be as follows:

(1) United States of America: for single country shipments, enter the letter "Y" in box 8, for shipments from recognized associations of countries, enter the letter "Z", followed by the sum of the cost or value of the domestic materials and the direct cost of processing, expressed as a percentage of the ex-factory price of the exported products; (example "Y" 55% or "Z" 55%).

(2) Canada: for products which meet origin criteria from working or processing in more than one eligible least developed country, enter letter "G" in box 8; otherwise "F".

(3) Austria, Finland, Japan, Norway, Sweden, Switzerland and the European Economic Community: enter the letter "U" in box 8 followed by the Customs Co-operation Council Nomenclature tariff heading of the exported product (example "U" 98.02).

(4) Bulgaria, Czechoslovakia, Hungary, Poland and the USSR: for products which include value added in the exporting preference-receiving country, enter the letter "Y" in box 8 followed by the value of imported materials and components expressed as a percentage of the f.o.b. price of the exported products (example "Y" 45%); for products obtained in a preference-receiving country and worked or processed in one or more other such countries, enter "Pk".

(5) Australia and New Zealand: completion of box 8 is not required. It is sufficient that a declaration be properly made in box 12.

APPLICATION FOR CERTIFICATE OF ORIGIN

Form B

The undersigned, being the exporter of the goods described overleaf, DECLARES that these goods were produced in ..... (country)

SPECIFIES as follows the grounds on which the goods are claimed to comply with GSP origin requirements[1])

.....

.....

.....

SUBMITS the following supporting documents[2])

.....

.....

.....

UNDERTAKES to submit, at the request of the appropriate authorities of the exporting country, any additional supporting evidence which these authorities may require for the purpose of issuing a certificate of origin, and undertakes, if required, to agree to any inspection of his accounts and any check on the processes of manufacture of the above goods, carried out by the said authorities.

REQUESTS the issue of a certificate of origin for these goods.

Place and date .....

.....

(signature of authorized signatory)

---

[1]) To be completed if materials or components originating in another country have been used in the manufacture of the goods in question. Indicate the materials or components used, their CCC Nomenclature tariff heading, their country of origin and, where appropriate, the manufacturing processes qualifying the goods as originating in the country of manufacture (application of List B or of the special conditions laid down in List A), the goods produced and their CCC Nomenclature tariff heading.

Where the origin criteria involve a percentage value, give information enabling this percentage to be verified – for example the value of imported materials and components and those of undetermined origin and the ex-factory price of the exported goods, where applicable.

[2]) For example, import documents, invoices, etc., relating to the materials or components used.

NOTES

A. **Procedure for claiming preference.** A declaration on the certificate of origin form must be prepared by the exporter of the goods and submitted in duplicate, together with a GSP application form, to the certifying authority of the country of exportation which will, if satisfied, certify the top copy of the certificate of origin and return it to the exporter for transmission to the importer in the country of destination. The certifying authority will at the same time return to the exporter for his retention the duplicate copy of the certificate of origin, but will itself retain the GSP application form duly completed and signed by the exporter.

B. **Sanctions.** Persons who furnish, or cause to be furnished, information which relates to origin or consignment, and which is untrue in a material particular are liable to legal penalties and to the suspension of facilities for their goods to obtain preference.

NB: Form B is generally printed on the back of the last copy of Form A.

HOW TO FILL IN FORM A

The heading to each box in Form A tells the exporter what detail has to be entered in each box and, apart from box 8, no doubts or difficulties should arise. So far as box 8 is concerned:

- If the products are wholly obtained in his country, he puts letter "P" in that box.

- If the products are manufactured from imported materials, etc., and are exported

  -- to the EEC, Austria, Finland, Norway, Sweden or Japan, the exporter puts "W", followed by the CCCN number of the exported product;

  -- to Canada, he puts "G" for products which meet origin criteria from working or processing in more than one eligible least developed country; otherwise he puts "F";

  -- to Bulgaria, Czechoslovakia, Hungary, Poland and USSR, he puts "Y" followed by the value of imported materials and components expressed as a percentage of the f.o.b. price of the exported products; for products obtained in a preference-receiving country and worked or processed in one or more other such countries, he puts "Pk";

  -- to USA: for single country shipments, he puts "Y"; for shipments from recognized associations of countries, he puts "Z", followed by the sum of the cost or value of the domestic materials and the direct cost of processing, expressed as a percentage of the ex-factory price of the exported products;

  -- to Australia and New Zealand, completion of box 8 is not required.

For a diagrammatic explanation as to how to fill in box 8 of Form A, see the following page.

Explanation of symbols:

	Box 8 8. Origin criterion (see Notes overleaf)
For all schemes:	
"P" = wholly obtained products	"P"
For exports to EEC, Austria, Finland, Norway, Sweden, Switzerland and Japan:	
"W" = products with import content, followed by tariff number	"W" 98.02
For exports to Canada:	
"F" = products with import content	"F"
"G" = products originating under cumulation in least developed countries	"G"
For exports to the USA:	
"Y" = products with import content, followed by percentage of domestic inputs	"Y" 35%
"Z" = products originating under cumulation in recognized associations of countries, followed by percentage of domestic inputs	"Z" 35%
For exports to Bulgaria, Czechoslovakia, Hungary, Poland and USSR:	
"Y" = products with import content, percentage of imported inputs	"Y" 45%
"Pk" = products originating under cumulation, followed by percentage of imported inputs	"Pk" 45%
For exports to Australia and New Zealand:	
completion of Box 8 is not required	-

Appendix IV

The old version of the notes on the back of Form A is reproduced for information only. Existing stocks of Form A may be used until they are exhausted.

NOTES

1 Countries which accept this form for the purposes of the Generalised System of Preferences (GSP)

Australia*	Norway	European Economic Community	Greece	United Kingdom
Austria	Sweden	Belgium	Ireland	
Canada	Switzerland	Denmark	Italy	
Finland	United States of America	France	Luxembourg	
Japan		Federal Republic of Germany	Netherlands	

Details of the rules governing admission to GSP in these countries are obtainable from the Customs authorities there. The main elements of the rules are indicated in the following paragraphs

2 Conditions. The main conditions for admission to preference are that goods sent to any of the countries listed above

(i) must fall within a description of goods eligible for preference in the country of destination, and

(ii) must comply with the consignment conditions specified by the country of destination. In general, goods must be consigned direct from the country of exportation to the country of destination, but in most cases passage through one or more intermediate countries, with or without transhipment, is accepted provided that at the time they are exported the goods are clearly intended for the declared country of destination and that any intermediate transit, transhipment or temporary warehousing arises only from the requirements of transportation, and

(iii) must comply with the origin criteria specified for those goods by the country of destination. A summary indication of the rules generally applicable is given in paragraphs 3 and 4.

3 Origin Criteria. For exports to the above-mentioned countries, with the exception of Australia*, Canada and the USA, the position is that either

(i) the goods shall be wholly produced in the country of exportation, that is, they should fall within a description of goods which is accepted as "wholly produced" under the rules prescribed by the country of destination concerned, or

(ii) alternatively, if the goods are manufactured wholly or partly from materials or components imported into the country of exportation or of undetermined origin these materials or components must have undergone a substantial transformation there into a different product. It is important to note that all materials and components which cannot be shown to be of that country's origin must be treated as if they were imported. Usually the transformation must be such as to lead to the exported goods being classified under a Customs Co-operation Council Nomenclature Tariff heading other than that relating to any of the above materials or components used. In addition, special rules are prescribed for various classes of goods in Lists A and B of certain countries' rules of origin and other subsidiary provisions and these should be carefully studied.

If the goods qualify under the above criteria, the exporter must indicate in Box 8 of the form the origin criteria on the basis of which he claims that his goods qualify for the GSP, in the manner shown in the following table

Circumstances of production or manufacture in the first country named in Box 12 of the form	Insert in Box 8
(a) Goods, worked upon but not wholly produced in the exporting country, which were produced in conformity with the principles of para. 3 (ii), which fall under a CCC Nomenclature tariff heading specified in Column 1 of List A and which satisfy any conditions in Columns 3 and 4 of List A which are relevant to these goods	"A" followed by the Customs Co-operation Council Nomenclature heading number of the exported goods example "A" 74.07
(b) Goods, worked upon but not wholly produced in the exporting country, which fall within an item in Column 1 of List B and which comply with the provisions of that item	"B" followed by the Customs Co-operation Council Nomenclature heading number of the exported goods example "B" 73.15
(c) Goods, worked upon but not wholly produced in the exporting country, which were produced in conformity with the principles of para. 3 (ii), which are not specifically referred to in List A, and which do not contravene a general provision of List A	"X" followed by the Customs Co-operation Council Nomenclature heading number of the exported goods example "X" 98.02
(d) Goods wholly produced in the country of exportation (see para. 3 (i) above)	"P"

NOTE. "List A" and "List B" refer to the lists of qualifying processes specified by the countries of importation concerned.

4 Origin criteria for exports to Canada and the United States of America. For export to these two countries the position is that either

(i) the goods shall be wholly produced in the country of exportation that is they should fall within a description of goods which is accepted as "wholly produced" under the rules prescribed by the country of destination concerned, or

(ii) alternatively, if the goods are manufactured wholly or partly from materials or components imported into the country of exportation or of undetermined origin, those materials or components must have undergone a substantial transformation there into a different product. It is important to note that all materials and components which cannot be shown to be of that country's origin must be treated as if they were imported

(a) In the case of Canada the value of such materials and components (excluding any that are of Canadian origin) must not exceed 40 per cent of the ex-factory price of the exported article.

(b) In the case of the United States the cost or value of materials produced in the beneficiary country plus the direct cost of processing performed there, should not be less than 35 per cent for single countries, or 50 per cent, when an association of countries is treated as one country, of the appraised value of such article at the time of its entry into the U.S. Materials imported into the beneficiary country and then substantially transformed into constituent materials of which the eligible article is composed may be included in calculating the minimum percentages. The phrase "direct cost of processing" includes costs directly incurred or reasonably allocated to the processing, such as: all actual labor costs; dies, moulds, tooling, and depreciation, research and development; inspection and testing, but does not include business overhead, administrative expenses and salaries, or profit

If the goods qualify under the above criteria, the exporter must indicate in Box 8 of the form the origin criteria on the basis of which he claims that his goods qualify for the GSP, in the manner shown in the following table.

Countries Applicable	Circumstances of production or manufacture in the first country named in Box 12 of the form	Insert in Box 8
Canada and United States	(a) Goods wholly produced in the country of exportation (see para. 4 (i) above)	"P"
Canada	(b) Goods which are covered by the value-added rule described in para. 4 (ii) (a) above	"Y", followed by the value of materials and components imported (excluding any that are of Canadian origin) or of undetermined origin expressed as a percentage of the ex-factory price of the exported goods example: "Y" 36%
United States	(c) Goods wich are covered by the value-added rule described in para. 4 (ii) (b) above	For single country shipments insert "Y" or for shipments from an association of countries "Z", followed by the sum of the cost or value of the materials and the direct cost of processing, expressed as a percentage of the ex-factory price of the exported goods example: "Y" 38% or "Z" 52%

5 Each article must qualify. It should be noted that all the goods in a consignment must qualify separately in their own right. This is of particular relevance when similar articles of different sizes or spare parts are sent.

6 Description of goods. The description of goods must be sufficiently detailed to enable the goods to be identified by the Customs Officer examining them.

* For Australia, main requirement is the exporter's declaration on the normal commercial invoice. Form A is an acceptable alternative, but official certification is not required. Direct consignment is not necessary

Append

LIST OF PRODUCTS FOR WHICH JAPAN'S RULE OF PREFERENCE-GIVING COUNTRY CONTENT DOES NOT APPLY

CCCN heading	
41.02	Bovine cattle leather (including buffalo leather) and equine leather, except leather falling within heading Nos. 41.06, 41.07 or 41.08
41.03	Sheep and lamb skin leather, except leathr falling within heading Nos. 41.06, 41.07 or 41.08
41.04	Goat and kid leather, except leather falling within heading Nos. 41.06, 41.07 or 41.08
41.05	Other kinds of leather, except leather falling within heading Nos. 41.06, 41.07 or 41.08
41.08	Patent leather and imitation patent leather; metalllized leather
42.02	Travel goods (for example, trunks, suit-cases, hat-boxes, travelling bags, rucksacks), shopping bags, handbags, satchels, brief-cases, wallets, purses, toilet-cases, tool-cases, tobacco-pouches, sheaths, cases, boxes (for example, for arms, musical instruments, binoculars, jewellery, bottles, collars, footwear, brushes) and similar containers of leather or of composition leather, of vulcanized fibre, of artificial plastic sheeting, of paperboard or of textile fabric
43.02	Furskins, tanned or dressed, including furskins assembled in plates, crosses and similar forms; pieces or cuttings of furskin, tanned or dressed, including heads, paws, tails and the like (not being fabricated)
43.03	Articles of furskin
ex Chapter 46	Goods of artificial plastic materials
Section XI	Textiles and textile articles
64.02	Footwear with outer soles of leather or composition leather; Footwear (other than footwear falling within heading No.64.01) with outer soles of rubber or artificial plastic material
65.01	Hat-forms, hat bodies and hoods of felt, neither blocked to shape nor with made brims; plateaux and manchons (including slit manchons), of felt

65.03	Felt hats and other felt headgear, being headgear made from the felt goods and plateaux falling withing heading No. 65.01, whether or not lined or trimmed
65.05	Hats and other headgear (including hair nets), knitted or crocheted, or made up from lace, felt or other textiles fabric in the piece (but not from strips), whether or not lined or trimmed
70.20	Glass fibre (including wool), yarns, fabrics, and articles made therefrom
97.01	Wheeled toys designed to be ridden by children (for example, toy bicycles and tricycles and pedal motor cars); dolls' prams and dolls' push chairs
97.02	Dolls
97.03	Other toys; working models of a kind used for recreational purposes

Appendix VI

Specimen of Certificate of Materials Imported from Japan

Annex to Certificate of Origin Ref. No._____

CERTIFICATE OF MATERIALS IMPORTED FROM JAPAN
WHICH WERE USED FOR MANUFACTURE OF THE GOODS DESCRIBED IN
CERTIFICATE OF ORIGIN (Ref. No._____)

Issued in_____
(country)

Export Goods		Materials imported from Japan	
Description	Quantity	Description	Quantity

Certification

It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.

_____

Place and date, signature and stamp of certifying authority

Declaration by the exporter

The undersigned hereby declares that the above details are correct.

_____

Place and date, signature of authorized signatory

Appendix

FORM APR

Specifications

Measurements: 210 mm x 148 mm

Special requirements: Each form should bear a serial number, whether or not printed.

Languages

Form APR may be printed and completed in English or French. The notes attached to Form APR may be written in a language other than English or French.

(Front)

Before completing this form read carefully the instructions on the back of part 1 and the notes on part 2

FORM APR No. A

1 Form used for the Generalized System of Preferences

2 Exporter (Name, full address, country)

3 Declaration by the exporter

I, the undersigned, exporter of the goods described [illegible] declare that the goods comply with the requirements [illegible] completion of this form and that the goods have obtained status of originating products within the provisions of the Generalized System of Preferences [illegible] for the country shown in Box 9

4 Consignee (Name, full address, country)

5 Place and date

6 Signature of exporter

7 Origin Criterion (1), remarks (2)

8 Country of origin

9 Country of destination

10 Gross weight (kg)

11 Marks, numbers of consignment and description of goods

12 Authority in the exporting country responsible for verification of the declaration by the exporter

(1) See Notes on part 2
(2) Refer to any verification already carried out by the appropriate authorities
(3) Insert the countries, groups of countries or territories concerned.

NOTES

1 **Countries which accept this form for the purposes of the Generalized System of Preferences (GSP)**

Austria	European Economic Community: */	Ireland
Finland	Belgium	Italy
Norway	Denmark	Luxembourg
Sweden	France	Netherlands
Switzerland	Federal Republic of Germany	United Kingdom

Details of the rules governing admission to GSP in these countries are obtainable from the Customs authorities there. The main elements of the rules are indicated in following paragraphs.

2 **Conditions.** The main conditions for admission to preference are that goods sent to any of the countries listed above
(i) must fall within a description of goods eligible for preference in the country of destination, and
(ii) must comply with the consignment conditions specified by the country of destination. In general, goods must be consigned direct from the country of exportation to the country of destination, but in most cases passage through one or more intermediate countries, with or without transhipment, is accepted provided that at the time they are exported the goods are clearly intended for the declared country of destination and that any intermediate transit, transhipment or temporary warehousing arises only from the requirements of transportation; and
(iii) must comply with the origin criteria specified for those goods by the country of destination. A summary indication of the rules generally applicable is given in paragraphs 3 and 4

3 **Origin Criteria.** For exports to the above-mentioned countries the position is that either
(i) the goods shall be wholly produced in the country of exportation, that is, they should fall within a description of goods which is accepted as "wholly produced" in the rules prescribed by the country of destination concerned, or
(ii) alternatively, if the goods are manufactured wholly or partly from materials or components imported into the country of exportation or of undetermined origin, materials or components must have undergone a substantial transformation there into a different product. It is important to note that all materials and components which cannot be shown to be of that country's origin must be treated as if they were imported. Usually the transformation must be such as to lead to the goods being classified under a Customs Co-operation Council Nomenclature Tariff heading other than that relating to any of the above materials or components. In addition, special rules are prescribed for various classes of goods in Lists A and B of certain countries' rules of origin and other subsidiary provisions which should be carefully studied.

If the goods qualify under the above criteria, the exporter must indicate in Box 7 of the origin criteria on the basis of which he claims that his goods qualify for the in the manner shown in the following table:

Circumstances of production or manufacture in the country named in Box 8 of the from	Insert in Box 7
(a) Goods, worked upon but not wholly produced in the exporting country, which were produced in conformity with the principles of para. 3 (ii), which fall under a CCC Nomenclature tariff heading specified in Column 1 of List A and which satisfy any conditions in Columns 3 and 4 of List A which are relevant to these goods.	«A», followed by the Customs Co-operation Council Nomenclature heading number of the exported goods example: «A» 7407
(b) Goods, worked upon but not wholly produced in the exporting country, which fall within an item in Column 1 of List B and which comply with provisions of that item	«B», followed by the Customs Co-operation Council Nomenclature heading number of the exported goods example: «B» 7315
(c) Goods, worked upont but not wholly produced in the exporting country, which were produced in conformity with principles of para. 3 (ii), which are not specifically referred to in List A, and which do not contravene a general provision of List A	«X», followed by the Customs Co-operation Council Nomenclature heading number of the exported goods example: «X» 9802
(d) Goods wholly produced in the country of exportation (see para. 3 (i) above).	«P»

NOTE. "List A" and "List B" refer to the lists of qualifying processes specified by the countries of importation concerned.

*/ Add Greece in the list

13 Request for verification	14 Result of verification
The verification of the declaration by the exporter on the front of this form is requested (*)	Verification carried out shows that (1)
	☐ the statements and particulars given in this form are accurate.
	☐ this form does not meet the requirements as to accuracy and authenticity (see remarks appended).
..... (Place and date)	..... (Place and date)
Stamp	Stamp
..... (Signature)	..... (Signature)
	(1) Place an X where applicable.

(Back)

(*) Subsequent verifications of forms APR shall be carried out at random or whenever the customs authorities of the importing country have reasonable doubt as to the accuracy of the information regarding the authenticity of the forms and the true origin of the goods in question.

Instructions for the completion of form APR

1. A form APR may be made out only for goods which in the exporting country fulfil the conditions specified by provisions governing the Generalized System of Preferences. These provisions must be studied carefully before the form is completed. (See notes on part 2)
2. In the case of a consignment by parcel post the exporter attaches the form to the despatch note. In the case of consignment by letter post he encloses the form in the package. The reference APR and the serial number of the form should be stated on the Customs green label declaration C1 or on the Customs declaration C2/CP3, as appropriate.
3. These instructions do not exempt the exporter from complying with any other formalities required by customs or postal regulations.
4. An exporter who uses this form is obliged to submit to the appropriate authorities any supporting evidence which they may require and to agree to any inspection by them of his accounts and of the processes of manufacture of the goods described in box 11 of this form.

Appendix VIII

Specimen of Cumulative Working/Processing Certificate (Japan)

Annex to Certificate of Origin Ref. No. _____

CUMULATIVE WORKING/PROCESSING CERTIFICATE

(Ref. No. of Certificate of Origin _____)

Issued in _____
(country)

Products (Materials)				Products			
Producing country	Description	Quantity	Value	Producing country	Description	Quantity	Value

Certification
It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.

_____
Place and date, signature and stamp of issuing authority

Declaration by the exporter
The undersigned hereby declares that the above details are correct.

_____
Place and date, signature of authorized signatory

Notes: 1. The paper used for the Certificate should be of good quality weighting not less than 25 grammes per square metre and measure 210 x 297 mm.

2. The Certificate may be made out in English or French.

Appendix IX

LIST OF HANDBOOKS PREPARED BY THE GSP PROJECT

Handbook on the scheme of Australia	UNCTAD/TAP/259
Handbook on the scheme of Canada	" /TAP/247
Handbook on the schemes of Austria, Finland, Norway, Sweden and Switzerland	" /TAP/177/Rev.3
Handbook on the scheme of Japan	" /TAP/81/Rev.9
Handbook on the scheme of New Zealand	" /TAP/258
Handbook on the scheme of the United States of America	" /TAP/163/Rev.7
Handbook on the schemes of Bulgaria, Czechoslovakia, Hungary, Poland and the USSR	" /TAP/251
Handbook on handicrafts	" /TAP/246
Digest of schemes	" /TAP/136/Rev.4

APPENDIX M

KYOTO CONVENTION (ANNEXES D.1, D.2, AND D.3)

D. ORIGIN OF GOODS

Annex D.1. concerning rules of origin

This Annex contains the rules for the determination of the origin of goods by employing the following two basic criteria :

- that of goods "wholly produced" in a given country where only one country is taken into consideration in attributing origin; in this connexion the Annex contains a list of goods which shall be regarded, under this criterion, as being wholly produced in a given country;

- that of "substantial transformation" where two or more countries have shared in the production of goods. Imported parts of materials must have undergone "substantial transformation" in the country of production if the goods made from them are to be regarded as originating in that country.

There are various methods of expressing the concept of "substantial transformation", each of which has advantages and disadvantages and they are set out in the Introduction to the Annex. The Annex suggests the use of the method which expresses the "substantial transformation" criterion by a rule requiring a change of tariff heading (possibly accompanied by lists of exceptions) and recommends that the CCCN be used for its application.

Annex D.2. concerning documentary evidence of origin

The aim of this Annex is to restrict the use of documentary evidence of origin by specifying that it be requi... only in connexion with the granting of preferential treatment or the application of economic measures or of those connected with health or public order.

The Annex makes a distinction between four types of cas... those where documentary evidence of origin should not be requ... (for example, goods carried in travellers' baggage, goods granted temporary admission or carried in Customs transit); those where a simple statement of origin by the exporter is sufficient; those where such a statement must be certified by a duly authorized body; and, lastly, those where a certificat... of origin must be produced.

The Annex also contains a model form for certificates of origin together with notes and rules for their use and recommends that, whenever certificates of origin are revised, they should be aligned on this model.

Annex D.3. concerning the control of documentary evidence of origin

The Annex stipulates that, subject to reciprocity, requ... for control of origin may be made when there are reasonable grounds to doubt the authenticity or accuracy of documents produced; in special circumstances control on a random basis m... be requested. The information communicated is to be treated as confidential and used for Customs purposes only.

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APPENDIX N

CCC COMPENDIUM OF RULES OF ORIGIN (PART I)

CONSEIL DE COOPÉRATION DOUANIÈRE CUSTOMS CO-OPERATION COUNCIL

PERMANENT TECHNICAL COMMITTEE

29.215 E
T7-3231

Brussels, 2 November 1982.

RULES OF ORIGIN OF GOODS

SECRETARIAT NOTE

Latest date for receipt of replies : 31 January 1983

1. At the Permanent Technical Committee's May 1982 meeting the Secretariat said that, in connection with the "Plan for the 1980's", it had submitted proposals to the Policy Commission concerning future work relating to rules of origin of goods. The Committee agreed that, in the circumstances, it would be advisable to await the Council's decision before carrying out any more work in this field (Doc. 28.790, paragraphs 285 to 289).

2. At its meeting prior to the June 1982 Council Sessions, the Policy Commission decided with regard to rules of origin that, as a first step, the Council should identify and assist countries to remove from their system those rules of origin which were particularly difficult to apply and to control. At the same time, the Policy Commission also proposed that the Secretariat be instructed to prepare, for its next session, a study on the further involvement of the Council in the field of rules of origin (Doc. 28.848, paragraph 36).

3. The Council approved the Policy Commission's proposals (Doc. 28.901, paragraphs 86 and 105), and the Secretariat prepared a Note (Doc. 28.935) for consideration by the Policy Commission. In that Note the Secretariat traced the historical background to the Council's activities in the area of origin, and outlined the work to be carried out in the short term by the Permanent Technical Committee in accordance with the Council's decision. The Secretariat also set out its views

on the Council's future role in the field of rules of origin. The Note will be examined by the Policy Commission at its meeting in Prague (Czechoslovakia) in November 1982, and possibly when it meets prior to the June 1983 Council Session. Any proposals made on these occasions and decisions on the matter taken by the Council in June 1983 should not call into question the nature of the work recently assigned to the Permanent Technical Committee, which has been given first priority in the Plan for the 1980's.

4. Thus, the Permanent Technical Committee's immediate task consists in identifying those rules of origin which are particularly difficult to apply and to control, and in working out the most effective means of assisting countries to remove those rules from their system for identifying the origin of goods.

5. As indicated in the Note for the Policy Commission, this aim could be achieved by drawing up an international instrument (for example, a Recommendation) inviting the competent authorities to remove from the preferential agreements and from their national legislation those rules of origin whose application the Customs authorities have found particularly difficult to control. The Secretariat feels that the proposed international instrument should include a detailed list of those rules of origin which had given rise to such difficulties.

6. On the basis of its documentation and information received from Member countries and international organizations in response to its request of 19 January 1981 (Doc. 26.873) (see Annex (1)), the Secretariat made a comparative study of the main rules of origin whose application is likely to present difficulties.

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(1) Appended hereto are comments by the following countries : Australia; Austria; Finland; Hungary; Japan; New Zealand; Poland; South Africa; Spain; Sudan; Sweden; Switzerland; United States and Zimbabwe, and by the following international organizations : Economic Commission for Latin America (ECLA); General Agreement on Tariffs and Trade (GATT); Cartagena Agreement; European Free Trade Association (EFTA); Caribbean Community (CARICOM); West African Economic Community (CEAO); Economic Community of West African States (ECOWAS); Commission of the European Communities; International Federation of Freight Forwarders Associations (FIATA) and Union of the Industries of the European Communities (UNICE).

7. The Secretariat paid particular attention to the UNCTAD Generalized System of Preferences (GSP) because of its widespread application and the fact that a number of other preferential systems based on origin use principles similar to those of the GSP. The Secretariat also took account of the fact that the rules of origin applied by OECD countries within the framework of the GSP are presented in summary and easily intelligible form in a Compendium widely circulated by UNCTAD as Doc. TD/B/626/Rev.2 of 30 June 1981.

8. Chapter I below is a comparative study of those rules of origin whose application is likely to present difficulties. In Chapter II the Secretariat has endeavoured to work out simplification and harmonization measures which could be brought to the attention of the authorities responsible for preparing rules of origin. In Chapter III the Secretariat has put forward proposals concerning the work to be carried out on rules of origin and the timetable for that work.

9. The Secretariat is aware that the granting of preferences based on the origin of goods may be subject to the condition that the originating products be transported direct from the preference-receiving country to the preference-giving country (direct transport), and that documentary evidence in the forms prescribed be presented to the Customs authorities during its period of validity. Although all agreements allow for derogations from the direct transport rule and documentary evidence requirement, these methods of applying systems of origin also cause considerable problems for the Customs authorities which have to control them. However, since this is not really a question of rules of origin, but rather of conditions governing the granting of preferences to goods having the character of originating products, such aspects have not been considered in this document. Of course, should such a study subsequently be considered useful, the Secretariat would be prepared to undertake it.

Chapter I. COMPARATIVE STUDY OF THOSE RULES OF ORIGIN WHOSE APPLICATION IS LIKELY TO PRESENT DIFFICULTIES

10. Upon examination, the various systems for determining the origin of goods confirm the principles already set out in the introduction to Annex D.1. to the Kyoto Convention concerning rules of origin, namely that there are two basic criteria for identifying the origin of goods : that of "goods wholly produced" in a given country or community and that of "substantial transformation" which applies where foreign materials or materials of undetermined origin are used; the substantial transformation criterion is generally expressed by the change of tariff heading rule and/or the percentage rule.

11. Rules of origin may, however, differ according to whether they are concerned with the granting of tariff preferences based on the origin of goods, or with the application of quotas, restrictions or surveillance measures. In the former case origin may be regarded as fiscal, whereas in the latter it is economic in character.

12. In this connection, when origin is determined for economic purposes in the European Communities, the criterion of substantial transformation or processing is not expressed by the change of tariff heading rule or by the percentage rule, but is defined as the last processing operation which :

- is economically justified; and
- is carried out in an undertaking equipped for the purpose; and
- results in the manufacture of a new product or represents an important stage of manufacture.

13. The Customs authorities may, of course, find these provisions difficult to apply, particularly where differences of interpretation arise regarding each of the conditions specified.

A. Goods wholly produced

14. Standard 2 of Kyoto Annex D.1. concerning rules of origin sets out an exhaustive list of goods to be taken to be produced wholly in a given country. This list is reproduced below :

(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;

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

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

15. Analysis of the "rules of origin applicable to goods wholly produced", as set out in the agreements, shows that most of the products mentioned are listed in Standard 2 of Kyoto Annex D.1. However, the products referred to at (h), whose definition refers to "sole rights to work the marine subsoil outside the country's territorial waters", are not mentioned in these agreements in the same terms as the Kyoto Convention.

16. As far as the Secretariat is aware, the only special difficulties encountered in determining the origin of goods "wholly produced" concern products obtained by maritime fishing and products obtained aboard factory ships. Thus, Standard 2 of Annex D.1. concerning rules of origin reflects existing pratice, and the harmonization achieved in respect of this criterion would seem satisfactory.

B. Goods having undergone "substantial transformation"

17. The substantial transformation criterion is generally expressed by the change of tariff heading rule in a given Nomenclature (usually the CCCN), accompanied by a list of exceptions concerning manufacturing or processing operations which do or do not confer on the goods the origin of the country where the processing was carried out, whether or not

there has been a change of tariff heading; the substantial transformation criterion may also be expressed by the percentage rule under which either the materials of foreign origin may not exceed, in value or quantity, a fixed percentage of the originating materials used, or else the added value resulting from the processing of the materials of foreign origin must attain a specified percentage of the product's value. In general, there is a list of simple operations which do not confer origin.

18. Under the various agreements, the character of originating product may also be conferred on products obtained as a result of a series of manufacturing or processing operations carried out successively in several Member countries of a single preferential zone or community. This is what is known as cumulative origin. Where this is provided for in an agreement, the authorities responsible for certifying the origin of the finished products may find it hard to check the evidence relating to the manufacturing or processing operations carried out in the various countries concerned.

19. Moreover, some agreements stipulate that goods originating in a preference-giving country which are then transformed or processed in a preference-receiving country are to be regarded as originating in the latter.

20. In Australia, for the application of preference applicable to certain countries (e.g., New Zealand and Canada), imported raw materials which cannot be obtained in the preference-receiving country or in Australia are regarded as originating in the country where they are put to use.

21. In general, the agreements contain special rules applicable to the determination of origin and concerning :

- sets composed in part of non-originating articles;

- accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment;

- packaging.

22. At the present stage of the Permanent Technical Committee's work the Secretariat feels that it would be enough to restrict its study of the substantial transformation criterion to the following three points whose application is likely to present difficulties, and for which improvements are particularly desirable :

1. change of tariff heading rule;

2. percentage rule;

3. list of simple operations not conferring origin.

23. At a later stage and in the light of any decisions taken by the Council, the comparative study could of course be extended to deal with other aspects, not considered at present.

1. Change of tariff heading rule

24. The difficulties encountered in the application of this rule are due to the fact that there are lists setting out, for certain product categories, the manufacturing or processing operations which, as the case may be, confer or do not confer origin, whether or not a change of tariff heading is involved.(1)

25. Some conditions may be especially hard to control. This is the case in particular where certain specific manufacturing processes have to be used or components from an advanced technology industry have to be incorporated in the final product (see Doc. TD/B/906, TD/B/C.5/85 of 1 June 1982 - UNCTAD Trade and Development Board - Report by the Special Committee on Preferences on its 11th Session).

26. In practice, officials responsible for controlling application of the change of tariff heading rule must carry out the following operations : determine the tariff heading of the goods produced and of the large number of materials which may have been used therein; consult the lists of manufacturing or processing operations which confer or do not confer origin, whether or not a change of tariff heading is involved; determine the added value in cases where an additional condition of that nature is laid down.

27. These operations have to be carried out even where it is obvious that the value of the non-originating materials used is small. In such cases, it ought to be possible for Customs administrations to waive their obligation to undertake this series of operations. This could be done by simply including a general clause in preferential agreements, to the effect that, where the value of non-originating materials does not exceed a certain percentage (possibly determined by category of goods) of the value of the goods produced, the latter would be regarded as originating products irrespective of whether the other conditions are satisfied.

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(1) The lists of exceptions applied under the Generalized System of Preferences of the OECD countries are reproduced in the Compendium mentioned in paragraph 7 above.

28. The complexity and diversity of the lists of exceptions in preferential agreements based on the origin of goods stem principally from the fact that :

- the exceptions lists include only the categories of goods which are traditionally traded between the parties to an agreement and, thus, their content differs from agreement to agreement;

- the manufacturing or processing operations cited are determined not only by technical considerations, but also by the degree of protection that the authorities of the preference-giving country wish to provide for their own national production of similar products;

- under certain agreements (e.g., the Generalized System of Preferences), the preference-giving countries may amend the lists of exceptions unilaterally, which tends to create a climate of uncertainty in international trade relations.

29. The drawing up of such lists poses serious technical problems. Indeed, in a number of instances, a change of CCCN tariff heading does not signify substantial transformation (e.g., in the case of certain agricultural products which change tariff heading following a simple operation such as drying, salting or freezing).

30. A further consequence of the diversity of the lists of exceptions is that a product that has undergone a specific manufacturing or processing operation may satisfy the conditions for preferential treatment in one preference-giving country but not in another.

31. Strict interpretation of the change of tariff heading rule may also lead to a situation where incorporation in the finished product of an accessory of negligible value which falls in the same heading as the finished product may deprive that finished product of its originating character. To prevent such anomalies, some agreements state that, in determining origin, account is not taken of non-originating materials whose value is less than a small percentage (to be stipulated) of the finished product's value.

32. In cases where a manufacturer uses both originating and non-originating materials which cannot be distinguished because they are of the same commercial type and quality and have the same technical and physical characteristics, the character of originating product is conferred on the finished product only if the materials used are physically separated at the manufacturer's premises. In order to overcome the serious difficulties encountered by manufacturers in complying with this obligation,

the need for the materials to be physically separated is waived in certain cases and under certain conditions provided separate accounts are kept. Such a provision might usefully be applied on a systematic basis.

33. In the United States, when the substantial transformation criterion is used alone to determine origin, it is based not on the change of tariff heading, but on the change of name, character and use of the article following processing.

34. In Zimbabwe, the manufacturing which confers origin is interpreted as being the last economically justifiable process to which the goods have been subjected. In this context, "to manufacture" means to change the shape, form or nature of an article so that its utility is thereby increased.

2. Percentage rule

35. Some countries define "substantial transformation" solely in terms of the percentage criterion. Others apply the percentage criterion to a limited range of goods, as an additional condition to the transformation criterion.

(a) Elements taken into consideration

36. Under the percentage rule, the following elements are taken into consideration to establish origin :

(i) materials of foreign or undetermined origin incorporated in the goods produced;

(ii) materials of national or community origin used;

(iii) goods produced;

(iv) added value;

(v) production cost.

37. In some cases, certain of these elements are considered in the form of quantities but, in general, it is value that is taken into account. These elements are determined as follows :

(i) Materials of foreign or undetermined origin

38. Recommended Practice 5 of Kyoto Annex D.1. concerning rules of origin states that the value to be taken into consideration in the case of imported materials should be the dutiable value at importation, and, 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.

39. This rule appears, inter alia, in the Convention establishing the European Free Trade Association and in European Communities' Regulations.

40. The rules of origin applied in the West African Economi Community (CEAO) stipulate that the quantity of materials of non-community origin must be less than 40 % of the total materials used or, if the quantity of materials of non-commun origin is 40 % or more, the value added must be at least equa to a specified percentage (reviewable) of the ex-works cost, taxes excluded.

41. The rules applied in the Economic Community of West African States (ECOWAS) stipulate that the c.i.f. value of materials of non-community or undetermined origin may not exceed 60 % of the value of the total materials used, or that their quantity must be less than 40 % of the total materials used.

42. In the Latin American Free Trade zone (LAFTA), goods produced by assembly are regarded as originating in LAFTA if the c.i.f. value of the components from outside the zone does not exceed 50 % of the f.a.s. value of the exported goods.

(ii) Materials of national or community origin used

43. Recommended Practice 5 of Kyoto Annex D.1. does not mention this element.

44. Under the rules of origin applied in the CEAO, materials of community origin must represent, in terms of quantity, at least 60 % of the total materials used. Where this percentage is not reached, the added value must be at least equal to a specified percentage (reviewable) of the ex-works cost, taxes excluded.

45. The rules of origin applied in ECOWAS state that the value of materials of community origin must represent at least 40 % of the value of the total materials used, or that the materials of community origin must represent at least 60 % of the total quantity of materials used.

46. Zimbabwe's regulations take account of "local content", which must attain the minimum level specified in the regulations. The definition of this element is careful to exclude all administration, selling or distribution expenses, so as to ensure that any cost, charge or expense appearing in an analysis has been incurred by the manufacturer at normal open market prices.

(iii) Goods produced

47. Recommended Practice 5 of Kyoto Annex D.1. states that the value to be taken into consideration for the goods produced should be either the ex-works price or the price at exportation, according to the provisions of national legislation.

48. The vast majority of countries take into consideration the ex-works price, less internal taxes refunded or refundable on exportation. Such is the case, for example, under the Convention establishing the European Free Trade Association, and in European Communities' Regulations.

49. The rules of origin applied in the CEAO use this element when it is necessary to determine that the specified percentage of added value has been achieved (in cases where materials of community origin do not represent 60 % of the total quantity of materials used). In such cases, the element is expressed in terms of the ex-works price, taxes excluded.

50. In ECOWAS, account is taken of the ex-works price, taxes excluded, and the f.o.b. price for application of the added value criterion (see (iv) below).

51. In New Zealand, the percentage of added value in respect of partly manufactured goods is calculated on the basis of the factory or works cost of the finished goods. This cost is defined in very precise terms (see New Zealand's reply appended hereto), and excludes, inter alia, manufacturer's profit, royalties payable in respect of the finished goods, and packaging charges.

52. The factory or works cost referred to in Australian legislation is defined as the sum of the following elements :

(a) the cost of materials received into the factory, but not including any duties or other taxes paid or payable in the country of manufacture of the goods in respect of such materials;

(b) manufacturing wages;

(c) factory overhead expenses; and

(d) the cost of inside containers.

53. In LAFTA the f.a.s. value of the goods exported is used to calculate the percentage of extra-zonal materials used.

54. In Japan, the Generalized System of Preferences is applied on the basis of the f.o.b. price, less internal taxes refunded or refundable on exportation.

55. The United States applies the Generalized System of Preferences on the basis of the value of the goods produced, calculated at the time of their entry into the United States.

(iv) Determination of added value

56. Recommended Practice 5 of Kyoto Annex D.1. concerning rules of origin does not include this element.

57. The rules of origin applied in the CEAO stipulate that the value added must be at least equal to a specified percentage (reviewable) of the ex-works cost, taxes excluded, where materials of community origin represent less than 60 % of the total quantity of materials used.

58. In ECOWAS, origin is also conferred on products when they meet the criterion that the added value must represent at least 35 % of the f.o.b. price at exportation. The added value is the ex-works price, taxes excluded, less the value of the materials used.

(v) Production cost

59. South African regulations stipulate, inter alia, that products are regarded as originating in a country only when at least 25 % (or such other percentage as may be determined) of the production cost of the goods is represented by materials produced and labour performed in that territory. The elements to be taken into account for determining the "production cost of the goods" are set out in detail in South African legislation, as are the charges which are incurred subsequent to manufacture and hence are not includible in the production cost (see South African reply, appended hereto).

(b) Diversity of percentages

60. The imported and originating products are expressed as percentages of the goods produced. These percentages, which are either maximum or minimum values for conferring origin, vary considerably.

61. Although in most cases, the European Communities specify a maximum of 50 % in value of imported materials, they also apply the following percentages :

- At least 70 % by quantity of originating products of CCCN heading 24.01 to be used in the manufacture of cigarettes, cigars and cigarillos, and tobacco for smoking.

- Not more than 40 % in value of foreign products to be used in the manufacture of certain made up textile articles of CCCN heading 62.05.

- Not more than 40 % in value of foreign products and at least 50 % in value of originating products to be used in the manufacture of various machines and appliances of CCCN Chapters 84, 85, 87, 90 and 91, with the additional requirement that all the transistors be originating products in the case of articles of heading 85.14 (microphones, loudspeakers, etc.) and heading 85.15 (radio-broadcasting and television transmission and reception apparatus, etc.).

- Not more than 20 % in value of non-originating materials to be used in the manufacture of certain products or preparations of CCCN Chapters 35 and 38.

- Not more than 47.5 % in value in the case of fabrics for printing.

62. With regard to working or processing that confers the status of originating product, the EEC/EFTA Agreement stipulates that the value of parts or components of foreign origin must not exceed 20 % of the value of the finished product.

63. In the United States, for the purposes of the Generalized System of Preferences, the cost or value of the materials produced in the preference-receiving country plus the direct cost of processing operations performed in that country must not be less than 35 % of the value of the goods produced, calculated at the time of entry into the United States.

3. Simple operations which do not confer origin

64. Standard 6 of Kyoto Annex D.1. concerning rules of origin presents a non-exhaustive list of simple operations which, even when several are carried out, do not confer origin on the goods concerned. The following operations are mentioned :

(a) operations necessary for the preservation of goods during transportation or storage;

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

(c) simple assembly operations;

(d) 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.

65. Under the terms of European Communities' Regulations (see EEC Regulation No. 3817/81 - OJ.L 384) and Annex B to the Convention establishing the European Free Trade Association, the following working or processing operations are considered insufficient to confer the status of originating products :

(a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

(b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;

(c) (i) changes of packing and breaking up and assembly of consignments,

(ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packing operations;

(d) the affixing of marks, labels or other like distinguishing signs on products or their packaging;

(e) simple mixing of products, whether or not of different kinds, where one or more components of the mixture do not meet the conditions laid down in this Regulation to enable them to be considered as originating products;

(f) simple assembly of parts of products to constitute a complete product;

(g) a combination of two or more operations specified in (a) to (f);

(h) slaughter of animals.

66. Under the terms of the Treaty instituting the CEAO, the list of operations not conferring community origin is generally similar to that in Standard 6 of Annex D.1.; the following additional operations are, however, included :

- slaughtering of animals;

- salting, freezing, drying of meat, fish, crustaceans, fruit and molluscs;

- manufacture of preparations and preserves of meats, offals, blood, fish, crustaceans and molluscs using products of Chapters 2 and 3 of the CEAO tariff and statistical nomenclature;

- tanning of raw hides;

- cutting, reinforcing, transforming into plates and sheets of all kinds.

67. In Zimbabwe, the following operations, either alone or together, do not constitute manufacture conferring origin :

(a) diluting, packing, bottling, drying, sorting or cleaning;

(b) assembly, where this involves the construction of an article by putting together finished components which may require slight modifications such as painting or trimming before assembly;

(c) mixing or blending which does not result in the formation of a different product;

(d) heating which does not result in a permanent change in the shape, form or nature of an article;

(e) the mere subdivision of an otherwise finished article.

Nor is the repair, cleaning or renovation of articles considered a manufacturing process.

Chapter II. SIMPLIFICATION AND HARMONIZATION MEASURES WHICH CUSTOMS ADMINISTRATIONS COULD BRING TO THE ATTENTION OF THE AUTHORITIES RESPONSIBLE FOR DRAWING UP RULES OF ORIGIN

68. The Council was well aware of the complexity of the problems involved in drawing up rules of origin and their economic implications for all countries concerned when it decided to take action to facilitate the work of Customs administrations responsible for applying those rules, by including this topic in its Plan for the 1980's.

69. For Customs administrations responsible for applying rules of origin it is important that those rules be clear and precise, thus removing all uncertainty as to their meaning, and, consequently, leaving no scope for varying interpretations; the rules should also be uniform, so as to facilitate their application by all preference-receiving countries, irrespective of the nature and destination of the goods exported and to prevent administrative discrimination.

70. It is therefore unfortunate that a totally satisfactory situation has not yet been achieved by the work undertaken at international level to harmonize and simplify rules of origin (in particular, the efforts of the UNCTAD Special Committee on Preferences whose Working Group on rules of origin has, for more than ten years, held regular talks on specific proposals for greater harmonization and simplification of the rules of origin applicable under the Generalized System of Preferences).

71. For each of the rules examined in Chapter I above, the Secretariat's simplification and harmonization proposals are set out below for consideration by Member countries and interested international organizations.

1. Change of tariff heading rule - lists of exceptions

72. Undoubtedly, non-harmonized lists of exceptions accompanied by restrictive conditions are the main source of problems for Customs administrations in their control of rules of origin.

73. To make these difficulties more widely appreciated, Customs administrations (of preference-giving and preference-receiving countries) could send the Secretariat a list of actual cases which have posed particular control problems.

74. These difficulties could probably be overcome purely on the basis of technical criteria by drawing up lists of products identified by CCCN headings, with the manufacturing or processing operations which do or do not confer origin.

75. The drawing up of such lists would, of course, need to be entrusted to Customs nomenclature experts and would undoubtedly be a long-term project. However, its success would depend on States' endeavouring to apply economically neutral rules based exclusively on technical considerations.

2. Percentage rule

76. The difficulties encountered in applying the percentage rule are due principally to :

(1) the variety of methods used to value the elements required for determining the percentage; and

(2) the diversity of percentages and limits set in respect of imported and originating products.

77. Special difficulties may arise where preference-giving countries impose a minimum percentage in respect of the materials, parts or components originating in the country of manufacture, or specify the added value which must be reached by non-originating products which have been processed or manufactured.

78. In cases where mention is made of the production or factory or works cost, as in South Africa, Australia and New Zealand, the data required of the manufacturer in order to establish that cost must constitute a heavy administrative burden. In addition, it is hard for the Customs authorities to check such data.

79. With regard to determining the percentage, it is recalled that under Recommended Practice 5 of Kyoto Annex D.1. the following two elements alone should be taken into consideration :

- those materials used which are imported or of undetermined origin;

- the goods produced.

80. Wherever possible, recourse to other elements such as materials of national origin, added value and production cost should be discontinued.

81. The determination of the elements should as far as possible be based exclusively on their value.

82. Though the value of materials imported or of undetermined origin is generally determined as provided for in Recommended Practice 5 of Annex D.1. (i.e., on the basis of the dutiable value at importation in the case of imported materials, and on the first ascertainable price paid in the territory of the country in which manufacture took place in the case of materials of undetermined origin), the same does not apply to determining the value of the goods produced.

83. Here, Recommended Practice 5 of Annex D.1. offers two options : either the ex-works price or the price at exportation.

84. In practice, the ex-works price, less internal taxes refunded or refundable, is more common.

85. This rule probably takes best account of the situation at the time when the manufacturer asks his national authorities to countersign the documentary evidence. At that point, the transport and lading charges, which will be taken into account when determining the f.a.s. and f.o.b. costs, are not yet known. Hence, the value at the time when the goods enter the country of destination cannot be determined by the manufacturer when he requests countersigning of the documentary evidence.

86. The Council should endeavour to promote harmonization of this rule on the basis of the ex-works price, less internal taxes refunded or refundable.

87. The CCC Secretariat considers that it would be hard to accept the UNCTAD Secretariat's proposal, made at the 8th Meeting of the Working Group on rules of origin (Doc. TD/B/G5/WG (VIII/2), that the f.o.b. price serve as the basis for the value of the goods produced, despite the fact that, for preference-receiving countries, the f.o.b. price is advantageous in that it is higher than the ex-works price, which should enable the percentage set to be achieved in a greater number of cases.

88. However, the UNCTAD Secretariat's proposal in the same document that a 50 % maximum be set for imported materials could easily be used as a basis for harmonizing the various percentages currently applied, which as shown by the examples in Chapter I above are far from uniform.

3. Simple operations not conferring origin

89. For the sake of simplification, it would be useful to have an exhaustive list of those simple operations which, separately or cumulatively, never confer origin on goods. Some countries' agreements list operations which in other countries are sufficient to confer origin. In the CEAO, for example, the following operations are considered not to confer community origin : the manufacture of preparations and preserves of meats, fish, crustaceans and molluscs, and the tanning of raw hides; however, under the rules of origin applied by other countries or communities, those operations are considered sufficient to confer origin.

90. The drawing up of an exhaustive list of simple operations not conferring origin would not, of course, prevent countries continuing to exclude from preferential treatment, goods having undergone other simple operations not mentioned in the list. They would simply need to prepare appropriate lists of exceptions.

4. Other considerations

91. Since difficulties may also arise where rules of origin are not presented in national legislation in a sufficiently comprehensive manner, it would be useful in the Council's proposed international instrument included a recommendation concerning the need for clarity and precision in provisions relating to rules of origin.

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92. To summarize, the Secretariat proposes that the draft instrument to be drawn up by the PTC should concentrate primarily on :

(a) pointing out the problems of controlling origin encountered by Customs authorities because of non-harmonized exceptions lists which, in many instances, include operations accompanied by conditions which are so restrictive that they are impossible to check (examples of restrictive conditions could be included);

(b) urging that the percentage rule be applied on the basis of the value of the following elements : the materials imported or of undetermined origin, and the goods produced;

and by means of the following methods :

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

- determination of the value of the goods produced on the basis of the ex-works price, less internal taxes refunded or refundable;

- setting a maximum limit of 50 % for materials imported or of undetermined origin;

(c) recommending that an exhaustive list of simple operations not conferring origin be included in the rules of origin (such a list could be drawn up);

(d) pointing out the need for clear and precise presentation of provisions relating to rules of origin.

Chapter III. SUGGESTIONS CONCERNING THE WORK AND ITS TIMETABLE

93. At its May 1983 meeting, the Permanent Technical Committee could discuss this document, paying particular attention to the proposals set out in Chapter II; it could also consider written proposals and suggestions sent to the Secretariat in the interim by Member countries and interested international organizations.

94. After that discussion, the Secretariat should be in a position to prepare a draft instrument, the nature of which will also have to be decided by the Committee. The draft should be finalized by the Committee at its Spring 1984 session so that it can be submitted to the Council for adoption at its 1984 Sessions in Korea.

95. Member countries and interested international organizations are invited to send the Secretariat their comments on this document, along with any relevant suggestions. It would also be useful if the Customs authorities both of preference-receiving and preference-giving countries could send a list of actual cases which posed particular problems of control (see paragraph 73 above).

Replies should reach the Secretariat in duplicate, typed on one side of the paper only, by 31 January 1983 at the latest.

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INFORMATION CONCERNING RULES OF ORIGIN OF GOODS, PROVIDED BY MEMBER COUNTRIES AND INTERNATIONAL ORGANIZATIONS IN RESPONSE TO THE SECRETARIAT'S NOTE OF 19 JANUARY 1981 (DOC. 26.873)

I. COUNCIL MEMBERS

South Africa

1. Section 46 of the Customs and Excise Act, hereafter referred to as the Act, stipulates that goods shall not be regarded as having been produced or manufactured in any particular territory unless :

   (a) at least 25 % (or such other percentage as may be determined) of the production cost of those goods is represented by materials produced and labour performed in that territory; and

   (b) the last process in the production or manufacture of those goods has taken place in that territory.

2. Provision exists in Section 49 of the Act whereby an agreement may be concluded with the government of any territory for the importation into South Africa of goods produced or manufactured in that territory at rates of duty (known as the most favoured nation rates of duty), lower than the general rates of duty specified in the Act. At present these lower rates of duty are applicable to goods which are imported from and originating in territories, the governments of which have acceded to the agreement approved by Section 2 of the Geneva General Agreement on Tariffs and Trade, Act No. 29 of 1948.

3. In terms of Section 51 of the Act agreements may also be concluded with the governments of any territory in Africa whereby goods produced or manufactured in or imported into South Africa shall be admitted into that territory free of duty or at special rates of duty, and goods produced or manufactured in or imported into that territory shall be admitted into South Africa free of duty or at special rates of duty.

4. (a) For purposes of arriving at the "production cost of any goods in any territory" (vide paragraph 1 above), only the following items expended in the manufacture of such goods may be included :

   (i) the cost to the manufacturer of all materials;

   (ii) manufacturing wages and salaries;

South Africa (contd.)

(iii) direct manufacturing expenses;

(iv) overhead factory expenses;

(v) cost of inside containers;

(vi) other expenses incidental to the manufacturing operations, in the discretion of the Commissioner for Customs and Excise.

(b) The following charges, which are charges incurred subsequent to the completion of manufactured goods, are not included in the production cost :

(i) outside packages and expenses in connection with the packing of the goods therein;

(ii) manufacturer's or exporter's profit, or the profit or remuneration of any trader, broker or other person dealing with the article in its finished condition;

(iii) royalties;

(iv) carriage, insurance, etc. from the place of production or manufacture in the territory to the port of shipment or other place of final despatch; and

(v) any other charges incurred subsequent to the completion of the manufacture of the goods.

(c) In the calculation of the "cost of materials produced and labour performed" (vide paragraph 4 (a) (i) above), in respect of any goods in any territory, only the following items are permitted to be included :

(i) the cost to the manufacturer of materials wholly produced or manufactured in the territory in question and used directly in the manufacture of such goods; and

(ii) the cost of labour directly employed in the manufacture of such goods.

Australia

1. Preferential and special preferential rates of duty where specified in the Customs tariff apply to certain goods which are the produce or manufacture of countries to which Australia accords preferential tariff treatment, either bilaterally or unilaterally. The rules for determining the origin of goods for this purpose are prescribed in Customs legislation viz. Sections 151 and 151A of the Customs Act 1901.

2. Preference countries

Countries or classes of countries to which preferential tariff treatment may apply include :

United Kingdom
Ireland
Canada
New Zealand
Papua New Guinea
Australian external territories
  Norfolk Island
  Christmas Island
  Cocos (Keeling) Islands
Declared preference countries
Developing countries
Forum Island countries.

Note : All remaining United Kingdom and Ireland preferences were withdrawn on 1 July 1981.

3. Rules of origin

3.1 The country of origin of goods is determined according to whether :

- they are the produce of a country;
- they were wholly manufactured in a country;
- they were partly manufactured in a country.

Produce of a country

3.2 The rules for determining if goods are the produce of a country are prescribed in Sections 151(1) and 151(10) of the Customs Act 1901. These rules apply to all countries which are accorded tariff preference.

Australia (contd.)

151(1) For the purposes of this Act and the Customs Tariff 1966 (other than Section 20 of the last-mentioned Act), goods shall be treated as the produce of a country if they are unmanufactured raw products of the country.

151(10) In this Section, "unmanufactured raw products" means natural or primary products that have not been subjected to an industrial process, other than an ordinary process of primary production, and includes, without limiting the generality of the foregoing :

(a) animals, and parts of animals, obtained by killing, including bones, hides and skins (raw or sun-dried);

(b) greasy wool;

(c) plants, and parts of plants, including raw cotton, bark, fruit, nuts, grain seeds (in their natural state) and unwrought logs;

(d) minerals in their natural state and ores; and

(e) crude petroleum.

Wholly manufactured in a country

3.3 The rules for determining if goods are to be regarded as being wholly manufactured in a country are prescribed in Section 151(2) of the Customs Act 1901. These rules apply to goods which originate in all preference-receiving countries other than developing countries and Forum Island countries.

151(2) For the purposes of this Act and the Customs Tariff 1966 (other than Section 16A or 20 of, or Part IX or Part X of the Schedule 5 to, the last-mentioned Act), goods shall be treated as the manufacture of a country :

(a) if the goods were wholly manufactured in the country from materials of one or more of the following classes :

(i) unmanufactured raw products;

(ii) materials wholly manufactured in the country or in Australia, or in the country and in Australia; and

Australia (contd.)

(iii) imported materials that the Minister has, in relation to the country, determined, by notice published in the Gazette, to be manufactured raw materials.

3.4 In these rules, unmanufactured raw products may be the origin of any country provided that they conform to the definition contained in Section 151(10) of the Act.

3.5 Imported materials determined to be manufactured raw materials are materials that are not available from the production of the preference-receiving country or of Australia. Consolidated lists of materials that have been "determined" are included in the "Facts about preference for exports to Australia from New Zealand, the United Kingdom and Canada" pamphlets issued by the Department of Business and Consumer Affairs (the most recent editions have been sent to the Secretariat; the consolidated lists were those applying at the time of printing).

Partly manufactured in a country

3.6 Preferential tariff treatment may be extended to goods which although not wholly manufactured in a country, contain prescribed minimum percentages of labour and/or materials of the country and/or of Australia in their factory cost. It is also required that the process last performed in manufacture be carried out in the country concerned. Australia does not specify any particular manufacturing or processing operations which confer, or do not confer, upon the goods the origin of the country in which those operations were carried out.

3.7 Goods partly manufactured in the United Kingdom, Ireland, Canada, Australian external territories and in declared preference countries are regarded as being of the origin of those countries if they meet the requirements of Section 151(2) (b) (i) of the Act. The Section also provides for one-quarter qualifying content in the case of goods that are of a class or kind not commercially manufactured in Australia. The legislation provides further (Section 151(6) of the Act) that a one-half requirement be substituted for one-quarter.

3.8 Consolidated lists of goods that have been determined as being goods of a class or kind not commercially manufactured in Australia are included in the pamphlets referred to in paragraph 3.5 above.

Australia (contd.)

3.9 Similar rules apply in Sections 151(2) (b) (ii) and (iii) of the Act for determining the origin of goods partly manufactured in New Zealand or in Papua New Guinea. The qualifying percentage in factory cost is one-half with provision for another portion to be substituted in the case of New Zealand and a lesser portion in the case of Papua New Guinea. The "goods of a class or kind not commercially manufactured in Australia" criterion does not apply to New Zealand or to Papua New Guinea.

3.10 For the purposes of applying the rules in Section 151(2) (b) of the Act, the term "factory or works cost" has been determined to include the sum of the following :

(a) the cost of materials received into factory, but not including any duties or other taxes paid or payable in the country of manufacture of the goods in respect of such materials;

(b) manufacturing wages;

(c) factory overhead expenses; and

(d) the cost of inside containers.

3.11 The rules for determining the origin of goods which were partly manufactured in the countries referred to in paragraphs 3.6 to 3.10 above are prescribed in Section 151(2) (b) of the Act.

If the goods were partly manufactured in the country, the process last performed in the manufacture of the goods was performed in the country and :

(i) not less than three-quarters, or, in the case of goods that are of a class or kind not commercially manufactured in Australia, one-quarter, of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of the country or of the country and Australia;

(ii) in the case where the country is New Zealand - not less than one-half, or, in the case of goods, included in a class of goods in respect of which the Minister has determined, by notice published in the Gazette, that another portion is appropriate, that portion, of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of New Zealand or of New Zealand and Australia; or

Australia (contd.)

(iii) in the case where the country is Papua New Guinea not less than one-half, or, in the case of goods included in a class of goods in respect of which the Minister has determined, by notice published the Gazette, that a lesser portion is appropriate that portion, of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of Papua New Guinea or Papua New Guinea and Australia.

Origin of goods which are the manufacture of developing countries or Forum Island countries

3.12 Australia has extended special preferential tariff treatment to certain goods which are the produce or manufacture of these groups of countries, since 1966 and 1981 respectively. Unlike other preference arrangements these preferences are unilateral on Australia's pa

3.13 The origin of goods manufactured in these countries is determined in accordance with similar criteria to that applied to goods partly manufactured in other preference receiving countries. The rules of origin require in each case that the process last performed in the manufacture of the goods take place in the country and that prescribed minimum percentages of labour and/or materials in factory cost be attained. The rules also allow for inclusion of any Australian content as qualifying content and for materials of other developing countries or other Forum Island countries to be likewise included.

3.14 In the case of developing countries, the one-half of the factory or works cost criterion is the minimum, whereas a lesser portion may be prescribed in the case of goods from Forum Island countries. Both sets of rules of origin provide for exceptions for particular classes of goods.

3.15 The rules for determining the origin of goods which are the manufacture of developing countries and Forum Island countries are prescribed in Sections 151(3), 151(3A) and (3B) of the Act respectively.

151(3) For the purposes of Section 16A of, or Part IX of Schedule 5 to, the Customs Tariff 1966, goods shall be treated as the manufacture of a country

(a) the process last performed in the manufacture of the goods was performed in the country; and

Australia (cont'd.)

(b) not less than one-half of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of the country or of the country and one or more of the following countries, that is to say, Australia and countries that, at the time the goods are entered for home consumption, are developing countries, other than a country that, by virtue of a direction under subsection (2) of Section 11 of the Customs Tariff 1966 is not to be treated as a developing country in relation to the class of goods in which the goods are included.

151(3A) For the purposes of Part X of Schedule 5 to the Customs Tariff Act 1966, goods shall be treated as the manufacture of a country if :

(a) the process last performed in the manufacture of the goods was performed in the country; and

(b) not less than one-half, or, in the case of goods included in a class of goods in respect of which the Minister has determined by notice published in the Gazette, that, in relation to the country, a lesser portion is appropriate, that portion, of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of the country or of the country and one or more of the following countries, that is to say, Australia and countries that, at the time the goods are entered for home consumption, are Forum Island countries, other than a country that, by virtue of a direction under sub-section (2) of Section 12 of the Customs Tariff Act 1966, is not to be treated as a Forum Island country in relation to the class of goods in which the goods are included.

(3B) The Minister may, for the purposes of paragraph (b) of subsection (3A), determine that, in the case of goods included in a specified class of goods, a specified portion is appropriate in relation to a specified Forum Island country or in relation to all Forum Island countries.

Australia (contd.)

Direct shipment provisions

3.16 As well as the rules of origin requirements prescribed in Section 151 of the Act is further required that goods shall not be treated as being of the origin of a country (for tariff preference purposes) unless the direct shipment provisions contained in Section 151A of the Act are also met.

3.17 The direct shipment to Australia from the country of origin (or via New Zealand or Papua New Guinea) requirement applies to goods which are the produce or manufacture of the United Kingdom, Ireland, Canada, New Zealand and Papua New Guinea. This requirement does not affect the origin of goods which are the produce or manufacture of developing countries and Forum Island countries.

3.18 Papua New Guinea is a special case as it may be a "preference" country, a developing country or a Forum Island country for the purposes of the Customs Tariff. For goods which are the produce or manufacture of Papua New Guinea and are entered for home consumption in Australia at the special preferential rates of duty prescribed for developing or Forum Island countries, the direct shipment provision does not apply. For goods entered at Papua New Guinea preferential rates of duty, origin is dependent on meeting the direct shipment to Australia requirement.

151A(1) For the purposes of this Act and the Customs Tariff 1966 (other than Section 16A or 20 of, or Part IX of Schedule 5 to, the last-mentioned Act), goods shall not be treated as the produce or manufacture of the United Kingdom, Canada, New Zealand, Ireland, Malawi, Southern Rhodesia, Zambia, or Papua New Guinea unless they have been shipped from that country to Australia and, except where the collector is satisfied that the intended destination of the goods when originally shipped from that country was Australia, have not been transhipped.

(2) The last preceding subsection does not apply :

(a) to goods which are the produce or manufacture of a country other than New Zealand that are imported into Australia from New Zealand; or

Australia (contd.)

(b) to goods which are the produce or manufacture of a country other than Papua New Guinea that are imported into Australia from Papua New Guinea.

Note : The references to Malawi, Southern Rhodesia and Zambia no longer apply.

4. Certificates of origin

Australian legislation does not prescribe any particular form of certificate of origin for goods which are entered for home consumption at preferential rates of duty. However, the Customs Act imposes a requirement on persons claiming such rates to produce proof by declaration or the production of documents that the goods concerned are properly rated for duty. Certificates of origin given by the manufacturers or exporters of goods are, prima facie, acceptable evidence of origin. Bureau of Customs Notice No. 78/211 sets out acceptable forms of certificates of origin.

Austria

1. Article 4 of the Austrian Customs Act provides in :

Paragraph 1 :

"Any general Customs duties prescribed in the Customs tariff which may be reduced or annulled by international agreement shall be regarded as conventional duties."

Paragraph 3 :

"Products shall be regarded as originating in countries Parties to a Convention, most favoured nations or in areas excluded from the Austrian Customs territory, if they :

- are natural products originating therein; or
- are manufactured from such natural products; or
- are obtained therein by the combination of a predominant quantity of such natural products with products originating in other countries; or
- are products processed therein from natural or other materials originating in other countries, provided that such processed products have undergone a substantial change in their characteristic features or their value."

Austria (contd.)

2. Some typical examples, for demonstration purposes, of processing operations which do not confer on the goods concer the origin of the country of processing are :

- cleaning and grading of leguminous vegetables;
- glazing of polished rice;
- cleaning and bleaching of textile goods;
- diluting of spirits by water for domestic use;
- simple assembly of prepared parts of furniture in order to constitute the complete article;
- simple placing of goods and packing operations.

Spain

I. Provisions applied at national level

1. As a rule, the country of origin is taken to be the coun where the goods were harvested, extracted from the ground, produced or manufactured.

2. Goods extracted from the sea by ships are regarded as originating in the country under whose flag the vessel is registered. The same applies to such goods processed on board the ship which extracted them from the sea.

3. When goods are processed or manufactured in several countries, the country of origin for tariff purposes is the final one involved in the production process, where the characteristics of the goods are altered by processing or manufacturing in such a way that a different tariff heading becomes applicable or, if not, where the processing manufacturing and incorporation of materials originating in that country increase the value by at least 30 % of the Customs value of the goods produced.

II. Provisions applied under preferential agreements

4. Spain applies other provisions in respect of origin und Agreements signed with the EEC and with individual EFTA countr

Spain (contd.)

5. In this case the country of origin is the country in which the goods are entirely produced or, if two or more countries are involved in the production, the country in which substantial transformation takes place.

6. In these Agreements, the substantial transformation criterion is embodied in the change of heading rule, which is supplemented by lists of exceptions. List A covers all cases where the change of heading is not, in itself, sufficient to confer origin and list B contains those manufacturing and processing operations which confer origin whether or not they change the tariff heading applicable.

7. In some instances, these lists refer to the ad valorem percentage rule.

8. As far as cumulation is concerned, bilateral cumulation is accepted between Spain and the EEC as a whole, and between Spain and each member of EFTA separately.

9. Direct transport between country of exportation and country of importation is another requirement. For geographical reasons, however, goods may pass through the territory of third countries and be transhipped or stored under Customs control.

10. Proof of origin is established by means of a movement certificate issued either directly by the Customs or by the declarant himself (simplified procedure) with Customs approval.

11. Post-controls may be applied to ensure that the certificate is valid.

12. The certificate is valid for two months (EEC) or four months (EFTA), the two-month limit having on several occasions proved inadequate in relations with EFTA.

13. The text of the Spain-EEC Agreement of 29 June 1970 was published in EEC Official Journal L 182/1 of 18 August 1970.

14. The Agreement between the EFTA countries and Spain, signed on 26 June 1979 was published in July 1979 by the European Free Trade Association, 9-11, rue de Varembé, 1211 Geneva 20.

United States

1. The United States applies country of origin rules in a number of distinct areas of Customs law. The rules for the determination of the country of origin in cases in which the goods are not wholly produced in one country differ considerably depending upon the purpose of determination. For example, the country of origin determination may apply to the eligibility of goods for most favoured nation rates of duty; eligibility for preference under the Generalized System of Preferences (GSP) other more limited areas of preference; country of origin marking requirements; drawback entitlements; exemption from duty in the case of domestic goods being returned in the same state; or domestic goods being returned after having been repaired, altered or assembled abroad.

2. In general, the United States systems for the determination of country of origin may be divided into two broad categories :

(1) Those which embody a substantial transformation criterion together with a value added criterion (these apply to GSP and some other areas of preference).

(2) Those which employ a substantial transformation criterion in which value is not a pertinent factor.

3. A description of two systems follows :

Substantial transformation with a value-added criterion

4. Under the United States Generalized System of Preferences merchandise which is the growth, product, manufacture, or assembly of a beneficiary developing country (BDC) may qualify for duty-free admission if it is imported directly from a BDC and certain value-added criteria are met. Therefore, two determinations must be made by Customs in order to establish GSP eligibility. First, it must be established that the merchandise is wholly the product of a BDC or was substantially transformed into a new and different article in the BDC. Second, the relevant value-added criterion must be met.

5. The value-added criterion requires that the sum of (1) the cost or value of the material produced in the BDC plus (2) the direct costs of processing performed in the BDC is not less than 35 % of the appraised value of the article at the time of its entry into the United States.

United States (contd.)

6. Goods which are produced in two or more countries which are members of an association of countries which is treated as one country under United States law may qualify for GSP only if the sum of the cost or value of the material produced in such countries plus the direct costs of processing operations performed in such countries is not less than 35 % of the appraised value of the goods.

7. Customs regulations elaborate on the meaning of "cost or value of material" and "direct costs of processing".

8. The "cost or value of materials produced" in the BDC includes : the manufacturer's actual cost for the material; freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant (when not already included in the manufacturer's actual cost); the actual cost of waste or spoilage (material lost), less the value of recoverable scrap; and taxes and/or duties imposed on the materials by the BDC provided they are not remitted upon exportation.

9. Where material is provided to the manufacturer without charge, or at less than fair market value, its cost or value is determined by computing the sum of : all expenses incurred in the growth, production, manufacture, or assembly of the material, including general expenses; an amount for profit; and freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant.

10. The term "materials produced in the BDC" refers to constituent materials which are either wholly the growth, product, or manufacture of the BDC or imported materials which are substantially transformed in the BDC into a new and different article of commerce. "Substantially transformed constituent materials" must undergo a second substantial transformation into a finished product which is a GSP eligible article before their cost or value can be included in the 35 % value-added requirement.

11. "Direct costs of processing" is defined as those costs either directly incurred in or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under consideration. Such costs include, but are not limited to : all actual labour costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control,

United States (contd.)

and similar personnel; dies, moulds, tooling, and depreciation on machinery and equipment which are allocable to the specif merchandise; research, development, design, engineering, and blue print costs insofar as they are allocable to the specif merchandise; and costs of inspecting and testing the specif merchandise.

12. Some items are excluded from the definition of "direct costs of processing". Items not included are those which are not directly attributable to the merchandise under consideration or are not "costs" of manufacturing the product. They include, but are not limited to : profit and general expenses of doing business which are either not allocable to the specif merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

13. Under the United States tariff, with some exceptions, articles which are the growth or product of an insular possession of the United States or which are manufactured or produced in any possession from materials which are the growth, product or manufacture of any possession of the United States, or of both, are exempt from duty provided that the value of any foreign materials contained in them does not exceed 50 % of their total value. The articles must also be imported directly into the United States to qualify for this preference.

14. In determining whether an article produced or manufactured in any such insular possession contains foreign materials valued at more than 50 % of the total value, no material which may be imported directly into the United States free of duty is considered as foreign.

15. There is also a preference extended to certain Canadian articles which is subject to a value-added requirement. The term "Canadian article" means an article which is the product of Canada, but does not include any article produced with the use of materials imported into Canada which are products of any foreign country (except materials produced within the Customs territory of the United States) if the aggregate value of such imported materials when landed at the Canadian port of entry (that is, the actual purchase price, or if not purchased, the export value, of such materials, plus, if not included therein, the cost of transporting such materials to Canada but exclusive of any landing cost and Canadian duty) was :

United States (contd.)

(i) with regard to any motor vehicle or automobile truck tractor entered on or before 31 December 1967, more than 60 % of the appraised value of the article imported into the Customs territory of the United States; and

(ii) with regard to any other article (including any motor vehicle or automobile truck tractor entered after 31 December 1967) more than 50 % of the appraised value of the article imported into the Customs territory of the United States.

16. The preferential treatment afforded Canadian articles as so defined is limited by treaty and legislation to certain automotive products, such as motor vehicles and original equipment thereof.

Country of origin with no value-added criteria

17. As a general statement, determination of country of origin is based on the country of which the merchandise is a "product". For merchandise which is wholly produced in a given country there is obviously no problem in determining the country of origin. The difficulties arise when the merchandise in question consists of various materials from different countries, or when the product is processed first in one country and then further processed in another country. In this situation the merchandise is considered to be the growth, product or manufacture of the last country in which the original material or article was substantially transformed into a new and different article of commerce. Stated in a different way, the courts have held that when the article resulting from the processing had a name, character or use which was distinct from that of the material or article prior to the processing, then a new and different article of commerce was created. It would appear from case law and administrative decisions that for all practical purposes the substantial transformation criterion and the distinct name, character, and use criteria are the same. In applying these tests it should be noted that they are viewed separately.

37.

United States (contd.)

18. With respect to a change in the name of a commodity, generally a change of name indicates that a significant transformation has occurred. However, an apparent change of name is not necessarily readily acceptable as conclusive evidence that the material has been converted into a new and different article of commerce. The new name must be one of general commercial usage, and not merely a proprietary name. In this regard, a manufacturing process which changes the tariff classification of the article has weight in determining whether a new article was created. The lack of a change of name is also not necessarily conclusive evidence that no substantial transformation has occurred. In examining whether a change in name brought about by a process constitutes a substantial transformation, judicial and administrative practice has been to distinguish between those cases where the old name survives with a qualifying adjective from those cases where the old name survives only as an adjective qualifying the name of the new article. For example, cooked livers would still be considered to be livers; whereas liver meal would not be considered as livers at all, but a new and different commodity.

19. With regard to a change in character, a process which materially affects or changes the physical or chemical identity of the original material would be considered to be a substantial transformation. Processes, however, such as cutting, grinding, or washing, for the sole purpose of facilitating transportation or of isolating the article of commerce from impurities and which do not affect the article per se, would not be considered a substantial transformation.

20. With regard to use, a manufacturing operation upon a material which is of such nature as to dedicate that material to an exclusive use would be considered a substantial transformation. This would also be the case where the manufacturing process commits an article to becoming a new specific product. In those cases where the product of one manufacturing operation becomes the material for another manufacture, determination of whether the merchandise has been substantially transformed becomes difficult, particularly where the material has not become exclusively dedicated.

Finland

1. In respect of the origin rules applicable in trade between the EFTA countries and between Finland and Spain, reference is made to the related documents sent by the EFTA Secretariat.

2. The origin rules applicable within the framework of the Free Trade Agreement between Finland and the EEC have been published in the Official Journal of the EC (Nos. 328/73 and 343/77).

3. In respect of the origin rules applicable within the Finnish GSP system, reference is made to the UNCTAD Handbook.

4. Finland has agreements on reciprocal removal of obstacles to trade (KEVSOS) in force with Poland, Hungary, the German Democratic Republic and Czechoslovakia, and the origin rules applicable within the framework of these agreements are, as regards their basic principles, identical with those contained in the agreements mentioned at 1 and 2 above. (The origin rules in the KEVSOS agreement between Finland and Hungary have been sent to the Secretariat.)

5. The origin provisions observed in the compilation of foreign trade statistics are based on the United Nations rules on the compilation of statistics. These provide that "The country where the goods have been produced or manufactured shall be regarded as their country of origin. If the goods have undergone working or processing in two or more countries, the last of these countries shall be regarded as their country of origin. The country of origin of goods returned to the Customs territory and that of goods of unspecified origin shall be the country whence consigned".

"Packing, sorting or other comparable treatment shall not be regarded as working or processing of the Customs tariff heading remains the same."

Hungary

1. In Hungary, the basic principles for determining the origin of goods are as follows :

2. According to the provisions of the Hungarian Customs law for determining the origin of goods imported into Hungary the following factors have to be taken into consideration :

- the country where the imported goods were processed;
- the country where the imported goods underwent substantial processing.

3. Processing is regarded as substantial if it generates an increment of more than 50 % in the value of the product.

4. The following documents serve as certification of origin :

- freight bill, waybill,, air waybill, invoice, consignment note, marks and indications on the goods or on the wrapping;
- declaration of origin by the exporter;
- certificate of origin.

5. The Hungarian Customs law has a separate provision concerning the certification of origin of imported goods :

(1) from developing countries entitled to preferential tariffs according to the first column of the Hungarian Commercial Tariff;

(2) from other countries entitled to tariffs in the second column of the Hungarian Commercial Tariff;

(3) from Finland under the Agreement between the Hungarian People's Republic and the Finnish Republic on the mutual removal of barriers to trade.

6. The conditions of application of the preferential tariffs in the first column of the Commercial Tariff are as follows :

Hungary (contd.)

- the goods imported must originate in developing countries listed in a separate provision of the law, and

- they must be purchased directly from these countries.

7. In these cases, for determining the origin of the imported goods, the rules of origin of the UNCTAD Generalized System of Preferences apply.

8. The import licence or a copy thereof, issued by the Minister for Foreign Trade, serves as certification of direct purchase. If the value of the goods imported is under Ft 50,000, there is no need for certification of origin.

9. If the origin or direct purchase of the imported goods is not attested, there is no possibility of applying preferential tariffs.

10. For certification of origin regarding goods imported from countries entitled to tariffs listed in the second column of the Commercial Tariff, the Customs authorities accept :

- freight bill, waybill, air waybill,

- other documents accompaning the goods (invoice, consignment note, etc.),

- marks and indications on the imported goods or on the wrapping, etc.,

provided the origin can be determined without any doubt on the basis of these documents.

11. The declaration of origin by the Finnish exporter serves for determining the origin of goods imported from Finland under the above-mentioned Agreement. The exporter may declare the origin in writing - on the invoice or on a separate form. The Customs authorities do not require a certificate of origin or other official certificates. If the exporter's declaration of origin is not available at Customs clearance, the duty concessions laid down in the Agreement are not applicable.

Japan

1. The relevant provisions with regard to the origin of goods applied under preferential agreements.

Japan (contd.)

The relevant provisions and explanations are given in the booklet "Japan's Generalized System of Preferences". (A copy of this booklet has been sent to the Secretariat.)

2. The provisions on origin applied at national level are as follows. (Translation of Instructions of the Director General of Customs and Tariff Bureau, Ministry of Finance)

Where concessional tariff rates are applied, determination of the place of origin of imported goods shall be based on the following criteria.

(1) For the purpose of the Regulation, the following country or area shall be considered as the place of origin of goods :

(a) the country or area (hereinafter referred to as "country") which has wholly produced the goods;

(b) in cases where the goods have been produced in two or more countries, the last country in which the goods underwent transformation sufficiently substantial to give them a new character.

(2) In respect of goods classifiable in tariff headings Nos. 37.04 - 37.07, the country to which the producers belong is considered to be the place of origin.

(3) The following shall be considered to be products wholly produced in a country :

(a) mineral products extracted from its soil or its sea;

(b) vegetable products harvested there;

(c) live animals born and raised there;

(d) products obtained there from live animals;

(e) products obtained by hunting or fishing conducted there;

(f) fishery products and other products taken from the seas by its vessels;

(g) products made on board its factory ships exclusively from the products referred to in (f) above;

Japan (contd.)

(h) mineral products extracted from the high seas by its vessels or its structures (excluding the products referred to in (a) above);

(i) used articles collected there, fit only for the recovery of raw materials;

(j) waste and scrap resulting from manufacturing operations conducted there;

(k) products produced there entirely from the products referred to in (a) to (j) above.

(4) The following shall be considered as sufficient processing or manufacturing to result in a substantial transformation which gives new character to the goods :

a. manufacturing including processing (hereinafter referred to as "manufacturing") as a result of which the products fall in a tariff heading different from the headings applicable to each of the imported materials utilized in the manufacturing.

b. manufacturing using imported raw materials or materials, other than those specified in paragraph a. above :

(a) processing for natural polishing material such as crushing ore, and sorting in terms of grain size;

(b) refining of sugars, fats and oils, waxes and chemicals to change their use or restrict them to a specific use(s);

(c) manufacturing of articles by means of chemical transformation, which fall in tariff Sections VI and VII;

(d) manufacturing of articles specified in tariff Chapter 39, Notes 3 (c) or (d) using articles specified in tariff Chapter 39, Notes 3 (a) or (b);

(e) dyeing, printing, mercerizing, impregnating with plastics, embossing and similar processing of leather, yarn and textiles;

(f) manufacturing of twisted yarn from single yarn;

Japan (contd.)

(g) manufacturing of felt articles falling in tariff heading No. 59.02 from felt falling in the same tariff heading;

(h) manufacturing of articles of bonded fibre fabrics falling in tariff heading No. 59.03 from bonded fibre fabrics falling in the same tariff heading;

(i) manufacturing of articles falling in tariff headings Nos. 68.13 and 70.20 :

(i) yarn from fibre;

(ii) woven fabric from yarn;

(iii) apparel or other articles from fibre, yarn and woven fabric;

(j) manufacturing of articles falling in tariff headings Nos. 71.01 to 71.03 from unworked goods falling in the same tariff heading;

(k) alloying;

(l) manufacturing of metal ingots from scrap metal;

(m) manufacturing of metal foil from metal plate or strip;

(n) manufacturing of articles falling in tariff Chapter 71 (precious metal only) and Chapters 74 to 81 in the form of ingots, bars, wire and other similar shapes mentioned in tariff headings Nos. 73.04 to 73.14 and 73.16 to 73.40, excluding manufacturing as a result of which the product(s) obtained remain(s) in the same tariff heading(s) as those covering each of the articles worked or processed where "iron or steel" in tariff headings Nos. 73.04 to 73.14 and 73.16 to 73.40 is read as "alloy steel and high carbon steel" for the materials used in the manufacturing;

(o) manufacturing of articles falling in tariff heading No. 73.15, excluding manufacturing as a result of which the products obtained remain in the same tariff heading(s) as those covering each of the articles worked or processed where "iron or steel" in tariff headings Nos. 73.06 to 73.14 is read as "alloy steel and high carbon steel" for the materials used in the manufacturing;

Japan (contd.)

(p) manufacturing of articles falling in tariff Chapter 95 from materials falling in the same Chapter.

Note : Where two or more imported materials are used in manufacturing and one of those materials constitutes the most decisive factor in giving substantial character to the finished goods, the manufacturing shall be regarded as identical to one of the processes specified in "a" or "b" above, as determined by this decisive material.

(5) The following shall not be considered as operations involving substantial transformation that gives new character to the goods :

a. grouping, sorting or repacking of goods;

b. the affixing of marks, labels or other similar distinguishing signs on products or their packings;

c. placing in bottles, boxes or similar containers;

d. simple making up of sets of articles;

e. simple cutting of products;

f. drying, freezing, placing in salt and other similar operations for transportation and storage;

g. simple mixing of products;

h. simple assembly of parts;

i. a combination of two or more operations specified in "a" to "h";

j. simple rolling of flat unexposed photographic film.

New Zealand

1. The New Zealand Administration has sent copies (see below) of the New Zealand Customs Regulations 1968 relating to the origin provisions applied to preferences extended by New Zealand.

New Zealand (contd.)

2. It will be seen from the regulations that New Zealand applies, in respect of partly manufactured goods, the substa transformation principle on the basis of added value rather processing undertaken. In each case the ad valorem value add is 50 %, e.g., the factory or works cost of the goods in the finished state. The definition of factory or works cost is given in Appendix VIII.

3. The regulations, covering the six groups of preference given, have other common factors besides the 50 % requirement but the variations between individual groups as to the source of preferential content are such that it has not been found practicable to effect a clear amalgamation of the groups.

4. A certificate of origin completed by the supplier, or a responsible person in his employ, is required to accompany each importation. Where necessary the details provided there are checked by correspondence with the exporter or by a visit from a New Zealand Customs representative overseas.

APPENDIX I

"69. Grouping of countries - (1) For the purposes of the conditions prescribed by Regulations 70, 71, 72, 72A, 72B and 72C hereof, the countries therein mentioned shall be the countries described in the following groups, namely :

"(a) Group I : Australia;

"(b) Group II : Canada;

"(c) Group III : Malaysia;

"(d) Group IV : the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the Channel Islands, and the Republic of Ireland;

"(e) Group V : countries, the produce or manufacture of which are entitled to be entered under the Tariff in accordance with paragraph (e) of subsection (1) of Section 120 of the Customs Act 1966;

"(f) Group VI : countries, the produce or manufacture of which are entitled to be entered under the Tariff in accordance with paragraph (f) of subsection (1) of Section 120 of the Customs Act 1966".

(2) A reference in this part of these regulations to a country included in any specified group shall be deemed to be a reference to that group as defined in subclause (1) of this regulation.

New Zealand (contd.)

APPENDIX II

"70. Australia (Group I) —The following shall be the classes of goods entitled to be entered under the Tariff at the rates and exemptions provided for Australia, namely:

"(a) Goods wholly the produce of Australia:

"(b) Goods wholly manufactured in Australia from materials of one or more of the following classes:

"(i) Unmanufactured raw products:

"(ii) Materials wholly manufactured in Australia, or in New Zealand, or in Australia and New Zealand:

"(iii) Imported materials that the Minister has determined for the purpose of this regulation:

"(c) Goods partly manufactured in Australia, subject to the following conditions:

"(i) That the process last performed in the manufacture of the goods was performed in Australia; and

"(ii) That in respect of the goods, the expenditure—

"(A) In material that is of Australian origin, or of New Zealand origin, or of Australian and New Zealand origin; or

"(B) In labour and factory overheads (as defined in regulation 73 hereof) incurred in Australia, or in New Zealand, or in Australia and New Zealand; or

"(C) In inner containers that are of Australian origin, or of New Zealand origin or of New Zealand and Australian origin; or

"(D) Partly in such material and partly in such other items of factory cost (including inner containers) as aforesaid,—

is not less than half of the factory or works cost of the goods in their finished state:

"Provided that—

"(i) With respect to any such goods imported into Niue, the reference in paragraph (c) (ii) to not less than half of the factory or works cost shall be read as a reference to not less than one-quarter of the factory or works cost; and

"(ii) With respect to specific goods, the Minister may determine that the expenditure referred to in paragraph (c) (ii) shall be greater than or less than half of the factory or works cost of the goods in their finished state.

New Zealand (contd.)

APPENDIX III

"71. Canada (Group II)—The following shall be the classes of goods entitled to be entered under the Tariff at the rates and exemptions provided for Canada, namely:

"(a) Goods wholly the produce of Canada:

"(b) Goods wholly manufactured in Canada from unmanufactured raw materials:

"(c) Goods partly manufactured in Canada, subject to the following conditions:

"(i) That the process last performed in the manufacture of the goods was performed in Canada; and

"(ii) That in respect of the goods, the expenditure—

"(A) In material that is of Canadian origin, or the origin of one or more of the countries of the Commonwealth, or in Canada and one or more of the countries of the Commonwealth; or

"(B) In other items of factory or works cost (as defined in regulation 73 hereof) incurred in Canada, or in one or more of the countries of the Commonwealth, or in Canada and one or more of the countries of the Commonwealth; or

"(C) Partly in such material and partly in such other items as aforesaid,—

is not less than half of the factory or works cost of the goods in their finished state.

APPENDIX IV

"72. Malaysia (Group III)—The following shall be the classes of goods entitled to be entered under the Tariff at the rates and exemptions provided for Malaysia, namely:

"(a) Goods wholly the produce of Malaysia:

"(b) Goods wholly manufactured in Malaysia from unmanufactured raw materials:

"(c) Goods partly manufactured in Malaysia, subject to the following conditions:

"(i) That the process last performed in the manufacture of the goods was performed in Malaysia; and

"(ii) That in respect of the goods, the expenditure—

"(A) In material that is of Malaysian origin; or

"(B) In other items of factory or works cost (as defined in regulation 73 hereof) incurred in Malaysia; or

"(C) Partly in such material and partly in such other items as aforesaid,—

is not less than half of the factory or works cost of the goods in their finished state.

New Zealand (contd.)

APPENDIX V

"72A. United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the Channel Islands, and the Republic of Ireland (Group IV)—The following shall be the classes of goods entitled to be entered under the Tariff at the rates and exemptions provided for the countries included in Group IV, namely:

"(a) Goods wholly the produce of the countries included in Group IV:

"(b) Goods wholly manufactured in the countries included in Group IV from unmanufactured raw materials:

"(c) Goods partly manufactured in the countries included in Group IV subject to the following conditions:

"(i) That the process last performed in the manufacture of the goods was performed in a country included in Group IV; and

"(ii) That in respect of the goods, the expenditure—

"(A) In material that is the origin of one or more countries included in Group IV; or

"(B) In other items of factory or works cost (as defined in regulation 73 hereof) incurred in one or more countries included in Group IV; or

"(C) Partly in such material and partly in such other items as aforesaid,—

is not less than half of the factory or works cost of the goods in their finished state.

New Zealand (contd.)

APPENDIX VI

"72B. Developing countries (Group V)—The following shall be the classes of goods entitled to be entered under the Tariff at the rates and exemptions provided for developing countries, namely:

"(a) The following goods wholly obtained in any of the countries included in Group V:—

"(i) Mineral products extracted from its soil or from its sea bed;

"(ii) Vegetable products harvested there;

"(iii) Live animals born and raised there;

"(iv) Products obtained there from live animals;

"(v) Products obtained by hunting or fishing conducted there;

"(vi) Products of sea fishing and other products taken from the sea by its vessels;

"(vii) Products made on board its factory ships exclusively from the products referred to in sub-paragraph (a) (vi) of this regulation;

"(viii) Used articles collected there fit only for the recovery of raw materials;

"(ix) Waste and scrap resulting from manufacturing operations conducted there;

"(x) Products obtained there exclusively from products specified in sub-paragraphs (a) (i) to (ix) of this regulation:

"(b) Goods partly manufactured in the countries included in Group V subject to the following conditions:

"(i) That the process last performed in the manufacture of the goods was performed in a country included in Group V; and

"(ii) That in respect of the goods, the expenditure—

"(A) In material that is the origin of one or more countries included in Group V or of New Zealand; or

"(B) In other items of factory or works cost (as defined in regulation 73 hereof) incurred in one or more countries included in Group V or in New Zealand; or

"(C) Partly in such material and partly in such other items as aforesaid,—

is not less than half of the factory or works cost of the goods in their finished state."

New Zealand (contd.)

APPENDIX VII

South Pacific Forum Island Countries (Group VI)—

"72c. The following shall be the classes of goods entitled to be entered under the Tariff at the rates and exemptions provided for South Pacific Forum Island Countries, namely:

(a) The following goods wholly obtained in any of the countries included in Group VI:

(i) Mineral products extracted from its soil or from its sea bed;

(ii) Vegetable products harvested there;

(iii) Live animals born and raised there;

(iv) Products obtained there from live animals;

(v) Products obtained by hunting or fishing conducted there;

(vi) Products of sea fishing and other products taken from the sea by its vessels;

(vii) Products made on board its factory ships exclusively from the products referred to in subparagraph (vi) of this paragraph;

(viii) Used articles collected there fit only for the recovery of raw materials;

(ix) Waste and scrap resulting from manufacturing operations conducted there;

(x) Products obtained there exclusively from products specified in subparagraphs (i) to (ix) of this paragraph:

(b) Goods partly manufactured in the countries included in Group VI, subject to the following conditions:

(i) That the process last performed in the manufacture of the goods was performed in a country included in Group VI; and

(ii) That in respect of the goods, the expenditure:

(A) In material that is the origin of one or more countries included in Group VI or of New Zealand; or

(B) In other items of factory or works cost (as defined in regulation 73 hereof) incurred in one or more countries included in Group VI or in New Zealand; or

(C) Partly in such material and partly in such other items as aforesaid,—

is not less than half of the factory or works cost of the goods in their finished state:

Provided that with respect to specific goods and in relation to any or all countries included in Group VI, the Minister may determine that the expenditure referred to in paragraph (b) (ii) shall be less than half of the factory or works cost of the goods in their finished state."

New Zealand (contd.)

APPENDIX VIII

73. Calculation of factory or works cost—(1) For the purposes of Regulations 70, 71, 72, 72A, 72B, 72C hereof, the factory or works cost of any article shall be the sum of the following items:

(a) Cost of materials as received into factory, excluding Customs or excise or other duty paid or payable in respect of those materials:

(b) Manufacturing wages:

(c) Factory overhead expenses, namely:

(i) All expenses directly or indirectly connected with manufacture, for example, rent, rates, and taxes in respect of factory;

(ii) Motive power, gas, fuel, water, lighting, and heating of factory;

(iii) Expenses of factory supervision, for example, wages and salaries of manager, foreman, timekeepers, and watchmen;

(iv) Repairs, renewals, and depreciation of plant, machinery, and tools;

(v) Interest on capital outlay on plant, machinery, tools, and factory buildings; and

(vi) Royalties payable in respect of patented machines or processes used in the manufacture of the goods:

(d) Cost of containers other than the outside package.

(2) In computing such factory or works cost as aforesaid, and in calculating the expenditure in any item of factory or works cost, none of the following items shall be included or considered:

(a) Manufacturer's profit, or the profit or remuneration of any trader, agent, broker, or other person dealing in the article in its finished condition:

(b) Royalties payable in respect of the finished goods:

(c) The cost of outside packages or any cost of packing the goods into them:

(d) Administrative and general office expenses:

(e) Any cost of conveying, insuring, or shipping the goods after their manufacture:

(f) Any other charges incurred after the completion of the manufacture of the goods.

E

New Zealand (contd.)

APPENDIX IX

74 Goods entering into the commerce of another country - (1) Notwithstanding anything in regulations 70, 71, 72, 72A, 72B and 72C hereof, but except as hereinafter provided, or unless the Comptroller otherwise directs and subject to such conditions as he in any case approves, goods shall not be deemed to be the produce or the manufacture of a country included in the groups mentioned in regulation 69 hereof if, after shipment from the country of which they are the produce of, or in which the final process of manufacture to which they have been subjected has been performed, they have entered into the commerce of any other country.

"(2) Unless otherwise provided in any agreement or arrangement made by the Government of New Zealand with any other country, this regulation shall not apply to goods the produce or manufacture of a country included -

(a) In Group V which, after shipment from that country, have entered into the commerce of any other country included in Group V:

(b) In Group VI which, after shipment from that country, have entered into the commerce of any other country included in Group VI".

76 Motor Vehicles - Notwithstanding anything in regulations 70, 71, 72A, and 73 hereof, if, with respect to any motor vehicle entitled to be entered as unassembled goods in accordance with a determination of the Minister pursuant to section 121 of the Act, the Comptroller is satisfied that -

"(a) In the assembly of the motor vehicle in New Zealand parts which he from time to time specifies and which have been produced or manufactured in New Zealand are used instead of parts which would ordinarily be imported into New Zealand with the motor vehicle; and

"(b) Because those parts are not imported therewith the motor vehicle is not entitled to be entered as the produce or manufacture of any country referred to in those regulations - he may, in his discretion, permit the entry of the motor vehicle as if those parts had been imported therewith."

77 Form of certificate to be produced with invoice - The certificates of origin to accompany invoices for goods of countries included in Groups I, II, III, IV, V and VI shall be in the following forms:

(a)	Goods being the produce or manufacture of Australia	FORM 58:
(b)	Goods being the produce or manufacture of Canada	FORM 59:
(c)	Goods being the produce or manufacture of Malaysia	FORM 60:
(d)	Goods being the produce or manufacture of countries included in Group IV	FORM 57:
(e)	Goods being the produce or manufacture of countries included in Group V	FORM 59A:
(f)	Goods being the produce or manufacture of any country, when invoiced by a seller within New Zealand who has disposed of his interest in the goods before their importation	FORM 61:
(fa)	Goods being the produce or manufacture of countries	

Poland

1. According to the rules for the time being in force in Poland, the origin of goods is determined by reference to the principles defined in :

- Article 7 of the Act of 26 March 1975 - the Customs law/Jour: of Laws No. 10, Item 56; and

- Agreement between the Polish People's Republic and the Repub of Finland on the Reciprocal Removal of Obstacles to Trade, done in Helsinki on 29 September 1976.

2. The provisions of Article 7 of the Customs law determin the following principles for defining the origin of goods :

(1) Products of nature are considered as products originating in the country in which they were cultivated, reaped, min or obtained in any other way.

(2) Resources from the sea and the sea-bed and products made therefrom aboard vessels are considered as originating in the country whose vessels carried out the fishing, extrac or processing.

(3) Finished or semi-finished products are considered as originating in the country in which they were manufactured.

(4) Fruits of the earth and products obtained or manufactured in one country and subjected to working or processing in another are considered as originating in the country in which the working or processing was done if at least 50 % of their total value is attributable to the costs of labo and materials added in that country, unless international agreements provide otherwise.

3. The principles set out in the Customs law are applied t determine the origin of all goods, except the goods covered b the above-mentioned Polish-Finnish Agreement. This Agreement applies to goods traded between Poland and Finland, falling within Chapters 25 to 99 of the CCC Nomenclature (a list of goods exported from Poland to Finland and imported by Poland from Finland has been sent to the Secretariat).

4. The rules of origin are defined in Protocol No. 3 of t above-mentioned Agreement (the Secretariat has a copy of th Protocol).

Poland (contd.)

5. On 6 June 1980 an Agreement on unification of rules defining the origin of goods imported from developing countries, falling under the generalized scheme of preferences, was signed in Moscow. The Signatories are the Governments of Bulgaria, Hungary, Czechoslovakia, Poland and the Soviet Union. The Agreement was ratified by the Council of State of the Polish People's Republic on 13 November 1980 but it has not yet entered into force because it has not been ratified by all the Signatories.

6. The Central Board of Customs will inform the CCC Secretariat about the rules of origin determined in this Agreement after its provisions come into force.

Sudan

In regard to the origin of goods, the Sudan applies preferential rates in respect of certain commodities imported from Egypt. Preferential rates are also applicable to fruits and vegetables imported from Syria, Jordan and Lebanon. For this purpose, the Customs requires a certificate of origin endorsed by competent authorities, such as a Chamber of Commerce, and by the Sudanese diplomatic missions abroad.

Sweden

1. The EFTA Secretariat will send the Council up-to-date and complete texts of the EFTA Convention and the EFTA-Spain Agreement. (The Secretariat has received copies of these instruments.)

2. It is assumed that the texts of the origin rules which are part of the Free Trade Agreement concluded between Sweden and the EEC and which are also applied under the Agreement between Sweden and the ECSC, as well as the origin rules applied by Sweden under the GSP, have been made available to the Council Secretariat by other sources.

3. The rules applied for determining origin at national level in Sweden are at present under revision.

Switzerland

1. The Swiss Customs Administration applies rules of origin in three different areas, namely :

(1) the Convention establishing the European Free Trade Association (EFTA);

(2) the Agreement between the European Economic Community and the Swiss Confederation;

(3) the Generalized System of tariff Preferences granted to developing countries.

2. In Doc. 26.873, the Secretariat points out that it already has available the Official Journals of the European Communities and the Compendium of rules of origin applied under the Generalized System of Preferences by OECD preference-giving countries.

3. Moreover, the EFTA Secretariat in Geneva has been invited by EFTA members to send the CCC Secretariat copies of the rules of origin applied under the EFTA Convention (Annex B) and the EFTA-Spain Agreement (Annex III).

4. Consequently, the Secretariat should already have in its possession the texts of all the rules of origin applied by Switzerland under preferential agreements.

5. The rules of origin applied at national level are currently being revised, in order to bring them into line with the provisions of the D Annexes to the Kyoto Convention.

Zimbabwe

1. The Customs and Excise Act of Zimbabwe draws a clear distinction between the origin of goods on the one hand, and the conditions attached to granting preferential rates of duty (i.e. rates lower than the normal most favoured nations rates) in respect of goods grown, produced or manufactured in certain countries on the other.

2. The rules of origin are accordingly applied to all goods imported into Zimbabwe, and there the matter ends as regards the majority of imports. If, because of their origin, the goods may be subject to reduced rates of duty, the additional rules attached to preference then come into operation to establish whether the goods in question are in fact entitled to preference or not.

Zimbabwe (contd.)

3. ORIGIN OF GOODS

The country of origin of any goods is the country in which those goods were grown, produced, or subjected to their last process of manufacture.

The first two categories normally present no problems, and can be summarized as :

Grown : the vegetable products harvested in a particular country, and not subjected to any process of manufacture.

Produced : mineral products extracted from the soil or sea-bed of a particular country, and products obtained from hunting or fishing conducted therein, including the products of sea fishing taken from the sea by their vessels (again with the consideration that the goods have not been subjected to any process of manufacture).

Manufacture, on the other hand, is a disputatious subject, and is interpreted by this Administration as being the last economically justifiable process to which the goods have been subjected, and in this context "to manufacture" means to change the shape, form or nature of an article so that its utility is thereby increased.

For the purposes of this definition, none of the following processes, alone or together, amount to manufacture :

(a) diluting, packing, bottling, drying, sorting or cleaning;

(b) assembly, where this involves the construction of an article by putting together finished components which may require slight modifications such as painting or trimming before assembly. Such assembly can involve gluing, screwing, nailing, sewing and minor welding and riveting operations;

(c) mixing or blending which does not result in the formation of a different product;

(d) heating which does not result in the permanent change in the shape, form or nature of an article;

(e) the mere subdivision of an otherwise finished article.

Zimbabwe (contd.)

"Alteration" may or may not be accepted as a process of manufacture, depending upon the degree of modification to the original article. The adjustment of a garment would not be accepted, but the recutting of an old fashioned cut diamond into a diamond of modern brilliant cut would.

The repair, cleaning or renovation of articles is not accepted as a process of manufacture.

One of the most difficult areas is that of assembly, where a country manufactures an article from both locally produced and imported components. Here attention is focussed upon the significance or otherwise of the locally produced component.

Wherever a process is rejected, the origin of the imported article becomes the origin of its original components.

4. PREFERENCE

This normally only applies where Zimbabwe has entered into a trade agreement with another state which provides for reduced rates of duty on certain specified goods which :

(a) originate in the country of the other party; and

(b) attain a specified "local content" provided for in the Customs and Excise Act.

Although it would be possible for such an agreement to establish its own rules of origin and preference, none of the present agreements in fact do so, and all, by various formulae, revert back to the specified "local content" requirement mentioned in (b) above.

Goods which have been wholly grown or produced in the country of the other party automatically qualify for preferential treatment.

In the case of manufactured goods which have met the requirements detailed in paragraph 3 above, the provisions of the Customs and Excise (local content) Regulations are then applied to establish whether the goods are entitled to preferential rates.

Zimbabwe (contd.)

The term "local content" is defined in this Department's legislation as :

"Such percentage of the factory cost of such goods in their finished condition as is represented by :

(a) the cost of labour, whether direct or indirect, direct factory expenses and factory overheads or on costs incurre in that country; or

(b) the costs referred to in paragraph (a) and the cost of materials grown, produced or manufactured in that country.

Having established the local content of the goods by means of auditors' cost analyses, preference will generally be allowed if the local content is equivalent to 25 % or more of the factory cost of the finished goods.

Exceptions to this rule exist in respect of certain meta products such as cables and tubing, where the local content need be only 5 %.

A further exception exists in the case of textiles, where the preferential rates will be allowed regardless of their percentage local content provided all the processes in the manufacture of the textiles from fibres or filament have been carried out in the country of the other party to the agreement.

Much time is expended in ensuring that cost analyses do not include any administration, selling or distribution expenses, and the local content regulations are being amended to ensure that any cost, charge or expense appearing in an analysis has been incurred by the manufacturer at normal open market prices. If, in the administration's opinion, it has not, the amount of that cost will be assessed.

It will thus be appreciated that goods may be accepted as originating in the country of the other party to the agreement, but are not accepted as having sufficient local content for preferential purposes. On import documentation, such goods bear the additional "(N/P)" (non-preferential) declaration.

5. DOCUMENTARY EVIDENCE OF ORIGIN

No documentary evidence is required where no preference is involved.

Zimbabwe (contd.)

For preference purposes, a prescribed "certificate of origin" must be completed by the manufacturer, which will be verified against departmental circular instructions and, where necessary, against the goods themselves before preferential rates of duty will be granted.

6. COMMENTS

The disadvantages of the ad valorem percentage rule used by Zimbabwe to establish entitlement to preference are well understood. A number of these are itemized in paragraph C to Section 1 of Annex D.1. to the Kyoto Convention. To these can be added the possibilities for cost manipulation as mentioned in paragraph 4 above, i.e. where the manufacturer is fully aware of the percentage local content requirement and adjusts his costs, either factually or fictitiously, to suit the situation. This, however, takes place in local circumstances that would be unlikely to occur in open market conditions.

Zimbabwe is in the process of adopting a tariff based on the CCCN. When this takes place, it is probable that moves will be made towards the adoption of a preference formula based, at least in part, on the change of tariff heading method.

II. INTER-GOVERNMENTAL ORGANIZATIONS

Economic Commission for Latin America (ECLA)

1. In Latin America and the Caribbean, the main work on criteria for determining the origin of goods has been in the context of integration schemes, certain specific branches of industry (primarily the motor vehicle sector) and bilateral trade agreements.

2. The Latin American Free Trade Association (LAFTA) (now the Latin American Integration Association (ALADI), the Central American Common Market (CACM), the Andean Subregion and the Caribbean Community (CARICOM) have done a great deal to define and apply origin requirements for goods benefiting from reciprocal exemption from Customs duties.

3. As far as industry is concerned, it might be useful to analyse the development policy for the motor vehicle sector as pursued by Argentina, Brazil and Mexico, where various origin standards and criteria have been applied to ensure compliance with the national content criteria established

Economic Commission for Latin America (ECLA) (contd.)

for motor vehicles. In general, this question has been the responsibility of the respective ministries or secretariats of industry and economic affairs. Although the institutions and individuals concerned have changed during the twenty years or more of these policies, the following are, as far as ECLA is aware, currently competent in the matter :

- Argentina : Ministry of Industry and Mining;

- Brazil : Executive Group of Engineering Industries (GEIMEC);

- Mexico : Secretariat of Industry and Commerce.

4. Finally, it may be useful to look at the origin requirements in bilateral trade agreements, e.g., the Argentina-Uruguay Economic Co-operation Treaty (CAUCE) and the Uruguay-Brazil Trade Expansion Protocol (PEC). The background to these bilateral Agreements is to be found principally in the Ministries of External Relations and in the Central Banks of Argentina, Brazil and Uruguay.

General Agreement on Tariffs and Trade (GATT)

GATT has sent the Council Secretariat a Note on the rules of origin applied in international trade (Doc. CG. 18/W/48 of 6 March 1981 and Supplement 1 of 6 April 1981).

III. ECONOMIC OR CUSTOMS UNIONS AND FREE TRADE AREAS

Cartagena Agreement

1. Details of the rules currently applied by the Andean Group for the determination of the origin of goods are set out below.

2. Firstly, the legislation now in force corresponds to the LAFTA rules, which are being applied provisionally until the Andean Group draws up its own rules of origin. Nevertheless, in certain special cases these LAFTA rules have been supplemented. For example :

(a) Foreign manufacturing companies established in Andean countries are denied certificates of origin for their products until they have signed an agreement whereby, over a period, majority ownership of the company is transferred (national or subregional capital).

Cartagena Agreement (contd.)

(b) The task of determining the specific origin requirements which are exceptions to the general rules laid down by LAFTA is the responsibility of the Council (Junta), which is the Andean Group's technical body.

(c) In certain sectors, such as those covered by Sectoral Programme for Industrial Development (PSDI), it has been possible to replace the LAFTA rules by special systems which make use of the fact that there is a Common External Tariff (CET) (as in the Mechanical Engineering Programme or the Petrochemical Programme) or other special rules based on particular features of the products concerned (as in the automotive industry).

3. Secondly, for some time now the Cartagena Agreement authorities have been studying a reform of the existing system, with a view to enabling matters of origin to be dealt with more effectively and with greater regard for the needs of the Andean Group. This draft (Proposal 39 Mod. 1), which will be examined and approved within the next few months, contains various general rules and procedures designed to take account of the special features of the Andean market, while at the same time aligning more closely on other systems so that, when producing for export, manufacturers will not have to adjust to very different systems for computing the physical inputs of their products.

4. The features which most distinguish the Andean system reflect the fact that rules of origin tend to be used not only for regulating the distortions which arise when there is no CET, but also for influencing capital ownership in companies and for dealing with cases of non-compliance with the harmonization rules approved. Furthermore where a CET already exists for certain products, the origin rules take account of it.

(Note: The following documents have been sent to the Secretariat : Proposal 39, Mod. 1, Special Rules of Origin; the Sectoral Development Programme (PSDI) booklets on Mechanical Engineering, the Petrochemical Industry and the Automotive Industry, and a list of the Resolutions adopted by the Council in the field of specific origin requirements.)

European Free Trade Association

1. In response to the question concerning agreements concluded under the auspices of EFTA, the following information might be of interest :

European Free Trade Association (contd.)

(a) The following are member States of EFTA : Austria, Iceland, Norway, Portugal, Sweden and Switzerland.

(b) By virtue of a Protocol, signed on 4 January 1960 by the member States of EFTA and the Principality of Liechtenstein, the EFTA Convention shall also apply to Liechtenstein as long as it forms a Customs Union with Switzerland (which is still the case) and Switzerland is a member of EFTA (see (a) above).

(c) Finland's relations with EFTA are based on an Agreement, signed on 27 March 1961, creating an association between the member States of EFTA and the Republic of Finland.

2. The legal instruments referred to under (b) and (c) above do not contain rules of origin. The rules of origin of the EFTA Convention apply also in the relations covered by those instruments.

Caribbean Community (CARICOM)

1. The criteria for the determination of the origin of goods for purposes of CARICOM's free trade arrangements which are in operation at the time of writing are set out in the extracts of the relevant provisions of the CARICOM Agreement (Article 14 of and Schedule II to the Annex to the Treaty establishing the Caribbean Community). (The aforementioned extracts have been sent to the Secretariat.)

2. This system is based, for goods other than those which are deemed to be wholly-produced, on the percentage value-added criterion.

3. A new origin system is to enter into operation within the Caribbean Common Market on 1 June 1981. This new system differs from that currently in operation mainly in the treatment of goods which are not wholly-produced within the Common Market. It introduces a criterion of "substantial transformation" based upon the achievement, in the manufacturing or processing operation carried out, of a change of classification under the Customs Co-operation Council Nomenclature (CCCN) between the foreign inputs utilized and the resulting product. Exceptions to the change of CCCN classification requirement are specified involving, for example, performance of certain stated processing operations, the use of imported materials in a certain pre-finished condition, or the attainment of a certain percentage of added value.

Caribbean Community (CARICOM) (contd.)

(An extract of the new provisions has been sent to the Secretariat.)

4. There are certain references in the provisions to the MDC's and the LDC's. The MDC's (More Developed Countries) are Barbados, Guyana, Jamaica and Trinidad and Tobago. The remaining eight members of CARICOM, namely, Antigua, Belize, Dominica, Grenada, Montserrat, St. Kitts-Nevis, Saint Lucia and St. Vincent are referred to as the LDC's (Less Developed Countries).

(By way of further explanation, a copy of a recent paper prepared by the CARICOM Secretariat on the new origin system has been sent to the CCC Secretariat.)

West African Economic Community (CEAO)

1. The Treaty instituting the West African Economic Community (CEAO) was signed on 17 April 1973 at Abidjan, by the following six States : Ivory Coast, Upper Volta, Mali, Mauritania, Niger and Senegal.

(A copy of the Treaty has been sent to the Secretariat.)

2. The aim of the Community is to promote the harmonious and balanced economic development of the member States.

3. In pursuance of the above aim, the Community has established an economic co-operation and integration policy, one element of which is the definition of Community origin.

4. The CEAO concept of Community origin is specific to this organization, and differs in certain respects from the concept of origin currently defined and applied in the framework of the Lomé II Convention.

5. The goods concerned are :

- raw materials and traditional handicrafts;

- industrial products manufactured in any of the member States.

6. Article 6 of Protocol "H", appended to the Treaty, specifies that the following shall be regarded as products originating in the member States :

"(a) Raw materials such as they are defined in new Article 8 of the Treaty and the list of which is appended to this Protocol.

West African Economic Community (CEAO) (contd.)

(b) Industrial products wholly manufactured in the member States using raw materials originating within the Community.

(c) Industrial products manufactured using Community raw materials, in the manufacture of which are incorporated Community raw materials amounting in terms of quantity to at least 60 % of all the raw materials used.

(d) Industrial products obtained using raw materials entirely imported from third countries or in the manufacture of which the Community raw materials utilized amount, in terms of quantity, to less than 60 % of all the raw materials used, where the value added is at least equal to a certain percentage of the ex-works cost, taxes excluded, for such products, which percentage may be revised annually by the Council of Ministers.

7. In such latter event, Community origin shall not be conferred upon the following operations :

- Manipulations intended to be used as a means of conservation of the merchandise.
- Dusting, sorting, selection, classification, ordering, washing, painting, cutting.
- Changes of packaging.
- Breaking bulk and grouping of packages.
- Filling operations (into bottles, bags, boxes, etc.), placement of labels or similar distinctive symbols and any and all packaging operations.
- Cumulation of one or more operations mentioned in points 1 and 5 above.
- Slaughtering of animals.
- Salting, packing in brine, drying or smoking of meat, fish, crustaceans, molluscs and shellfish.
- Freezing of meats, offals, fish, crustaceans, molluscs, and shellfish, fruits, vegetables and culinary plants.
- Drying and dehydration, evaporation and pulverisation of fruits, vegetables, and culinary plants.

West African Economic Community (CEAO) (contd.)

- Placing in brine or treated water of other fruits, vegetables and culinary plants.

- Manufacture of preparations and preserves of meats, offals, blood, fish, crustaceans, molluscs using Chapters 2 and 3 products.

- Tanning of raw hides.

- Cutting, reinforcing, transforming into plates and sheets of all kinds.

8. The Community origin of industrial products shall be attested by a certificate of origin which shall specify the source of the raw materials. This certificate shall be issued by the competent authorities and stamped by the Customs department of the manufacturing member State."

9. Value added, its constituent elements and its current rate of 40 % are the subject of decisions of the Council of Ministers :

(a) Value added means the difference, expressed as a percentage, between the ex-works price of the industrial product concerned, excluding taxes, and the c.i.f. value of non-Community raw materials and packings used to obtain the finished product in the form in which it enters trade.

(b) The constituent elements of value added are :

- value of raw materials of Community origin;

- value of consumables and packings of Community origin;

- labour costs;

- taxes (excluding the tax on industrial and commercial profits, CAT or VAT);

- works, supplies, external services;

- transport and travel;

- financing costs;

- depreciation.

West African Economic Community (CEAO) (contd.)

10. The sole immediate benefit of the conferral of Community origin is that, under the terms of Article 13 of the Treaty, the product concerned is, ipso facto, exempt from Customs duty as such.

11. However, the true significance of Community origin, where industrial products are concerned, lies in the "Regional Co-operation Tax" (RCT) preferential Customs procedure applicable solely to industrial products manufactured in the Community and imported into member States, provided that such products have satisfied the special "Community origin" conditions and have been approved for RCT purposes (Article 10 of the Treaty).

12. Approval for applicability of RCT is granted by decision of the Council of Ministers of the Community; firms wishing to benefit from the RCT procedure, for all or part of their production, are required to submit a dossier for examination.

13. For certain of the value-added elements referred to above, the model dossier specifies average percentages which reflect normal practice and may not be exceeded without good reason. These elements are :

- labour costs : 20 %;
- works, supplies, external services : 10 %;
- financing costs : 3 %.

14. However, now that the system has been in operation for over five years, it has become apparent that some of the data specified in the model dossier are open to differing interpretations, with the result that their credibility has suffered.

15. Consequently, the General Secretariat of the CEAO is carrying out a study of the basic conditions to be applied for the determination of "ex-works price" and "value added". The CCC will be advised, in due course, of the conclusions reached and of any new provisions adopted in this respect.

Economic Community of West African States (ECOWAS)

The ECOWAS Secretariat has provided a copy of the regulations relating to the Community's rules of origin.

Commission of the European Communities (CEC)

1. The Commission of the European Communities has sent the Secretariat a list of the Official Journals containing provisions relating to origin, as provided for in preferential agreements between the Community and third countries, and within the framework of the generalized preference scheme.

2. A summary of the provisions applicable in the Community in respect of the petroleum products in List C, which is appended to all preferential agreements, is reproduced below :

"Petroleum products

GERMANY AND THE NETHERLANDS

1. Goods wholly obtained or produced in one country shall be considered as originating in that country.

   The expression "goods wholly obtained or produced in one country" includes :

   (a) mineral products extracted within its territory;

   (b) products taken from the sea-bed or beneath the sea-bed outside territorial waters, if that country has, for the purposes of exploitation, exclusive rights to such soil or subsoil;

   (c) goods which are produced therein exclusively from goods referred to in (a) or (b) above.

2. A product in the production of which two or more countries were concerned shall be regarded as originating in the country in which the last substantial process or operation that is economically justified was performed, having been carried out in an undertaking equipped for the purpose, and resulting in the manufacture of a new product or representing an important stage of manufacture.

BELGIUM AND LUXEMBOURG

The country of origin is that of the country where extracted; petroleum products resulting from work or substantial process originate in the country where this work or process has taken place.

FRANCE

Unrefined oil and products resulting from processing it are, in principle, considered as originating in the country where extracted.

Commission of the European Communities (CEC) (contd.)

ITALY

- Unrefined natural oils, coming from either oil fields or from distillation of bituminous minerals, originate in the countries of extraction. This "origin" stays unchanged even though the above-mentioned products undergo, in a country other than that of extraction, simple operations such as decanting, unsalting, dehydration, stabilization to control steam pressure, and all other operations of minimal importance not changing the essential nature of the goods.

- All other operations or processes tending to produce semi-finished or finished goods confer on them the origin of the country where these operations or processes have taken place.

UNITED KINGDOM, DENMARK, IRELAND

1. See paragraph 1 to the section applying to Germany and the Netherlands.

2. Working or processing that results in a change of tariff heading confers origin for the products listed in List A where in addition the special provisions contained in that list apply and for the products listed in List B where only the provisions contained in that list apply.

LIST A

Products obtained		Working or processing that does not confer the status of originating products	Working or processing that confers the status of originating products when the following conditions are met
Customs Tariff Heading No.	Description		
ex 34.04	Waxes with a basis of paraffin, of petroleum waxes, of waxes obtained from bituminous minerals, of slack wax or of scale wax	Manufacture from organic chemicals of Chapter 29	

Commission of the European Communities (CEC) (contd.)

LIST B

Finished products		Working or processing that confers the status of originating products
Customs Tariff Heading No.	Description	
ex 27.07	Assimilated aromatic oils are defined in Note 2 to Chapter 27, of which more than 65 % by volume distils at a temperature of up to 250° C (including mixtures of petroleum spirit and benzole), for use as power or heating fuels	Manufacture by processes not consisting solely of mixing or blending or packing or any combination of these processes
27.10	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing not less than 70 % by weight of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations	Manufacture by processes not consisting solely of mixing or blending or packing or any combination of these processes
ex 27.12	Refined petroleum jelly	Manufacture from unrefined petroleum jelly
ex 27.13	Paraffin wax	Manufacture from slack wax or scale wax
ex 27.13	Micro-crystalline wax, slack wax, purified ozokerite, lignite wax, peat wax and other mineral waxes (other than crude ozokerite), whether or not coloured	Manufacture from crude ozokerite
ex 38.14	Prepared additives for lubricants	Manufacture in which the value of non-originating products used does not exceed 50 % of the value of the finished product

IV. NON-GOVERNMENTAL INTERNATIONAL ORGANIZATIONS

International Federation of Freight Forwarders Associations (FIATA)

1. The question of origin is a thorny one; according to the FIATA Customs Commission, the situation can be summarized as follows :

   (i) The concept of origin frequently varies depending on the country whence the goods are consigned (what is true for one developing country may not necessarily be true for another).

   (ii) In principle, it is accepted that 40 % of the products used in the manufacture of goods may be foreign, without this affecting the origin of the goods concerned, but there are many exceptions to this rule.

   (iii) In addition to the problem of the determination of origin, difficulties also arise where the justification of origin is concerned. Thus, in relations between the EEC and countries or groups of countries benefiting from an agreement, the EUR 1 form should be used in principle, but a form A certificate or a textile certificate of origin is required in many cases.

2. Consequently, it would be helpful if the Customs Co-operation Council's Permanent Technical Committee could examine the question of origin, which merits serious study in view of the diversity of the regulations and, in particular, the fact that their application differs from one country to another.

Union of Industries of the European Community (UNICE)

1. The points raised by the CCC have been examined at various meetings of the UNICE Working Group on Customs legislation. In the course of those meetings, a consensus emerged to the effect that rules of origin, though usually applied as Customs controls, constitute part of the trade policy of the countries concerned.

2. Rules of origin have a considerable bearing on the volume and nature of trade since a significant proportion of world trade takes place under preferential agreements; this is particularly true of EEC trade. Thus, rules of origin must be adapted to the industrial development objectives set out in preferential agreements. In principle, that factor favours balanced trade practices and should serve to encourage, rather than impede, the development of world trade.

Union of Industries of the European Community (UNICE) (contd.

3. Rules of origin can function only if evidence of the declared origin is provided; however, the need for such evidence does not entail protectionist restrictions, except in very exceptional circumstances.

4. The Working Group on Customs legislation is not convinced that it would be reasonable, or indeed possible, to introduce uniform rules of origin for general application, given that such rules must correspond to the specific objectives of each individual agreement.

5. Nevertheless, rules of origin must be applied in such a way as to ensure that States which are not Contracting Parties to the agreement concerned cannot benefit from the preferential treatment thereunder, to which they are not entitled.

6. These points should be borne in mind when considering complaints about rules of origin from non-participating States.

7. Contracting Parties to EEC preferential agreements should address any complaints in respect of rules of origin to the Community, in order that the provisions concerned may be renegotiated should the complaints prove justified.

8. The fact that the Commission of the European Communities is anxious to simplify Community provisions concerning evidence of origin is in itself reason enough for this particular question not to be discussed at present outside Community institutions.

9. The Working Group agrees with the CCC that rules of origin should be as easy as possible to apply. In this respect, some basic considerations might prove useful, though these should not call into question the fundamental principles of the rules of origin concerned.

APPENDIX O

CCC COMPENDIUM OF RULES OF ORIGIN (PART II)

CONSEIL DE COOPÉRATION DOUANIÈRE CUSTOMS CO-OPERATION COUNCIL

POLICY COMMISSION
12th Session

31.745 E
C6-12

Brussels, 31 August 1984.

COMPENDIUM OF RULES OF ORIGIN OF GOODS

SECRETARIAT NOTE

1. At its 123rd/124th Sessions (April 1934) the Permanent Technical Committee approved the changes made by its Working Party to the Secretariat's preliminary draft of the Compendium of rules of origin.

2. At its 63rd/64th Sessions, held in Seoul from 21 to 25 May 1934, the Council requested that this Compendium be examined at the Policy Commission's next session.

3. When submitting the draft Compendium to the Council, the Permanent Technical Committee stated that the text would have to be updated as and when further difficulties were identified, and requested authorization to prepare a compilation of all the rules of origin applied by Member countries. The Council agreed to this approach.

4. Hence the attached Compendium of rules of origin which are particularly difficult to apply and control is presented as Part 2 of the full Compendium of rules of origin, on the assumption that Part 1 will be the compilation of the rules of origin applied by Member countries.

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CUSTOMS CO-OPERATION COUNCIL

COMPENDIUM

RULES OF ORIGIN OF GOODS

PART TWO

RULES OF ORIGIN
WHICH ARE DIFFICULT TO APPLY AND CONTROL

INTRODUCTION

In recent years the concept of the origin of goods has become increasingly important for international trade. In effect, upon the application of rules of origin depends the implementation of preferential regimes and other measures, e.g. in the field of commercial policy.

In most countries, rules of origin are devised and drafted taking into account trade and industrial interests, whereas it is the Customs which is usually responsible for their implementation.

This may be the first source of difficulties. Other problems are due to the proliferation of rules of origin in the many trade agreements between countries or groups of countries (reciprocal preferential agreements or unilateral agreements such as the Generalized System of Preferences). The complex nature of these rules, based as they are on various criteria (change of tariff heading, percentage rules, last economically justified processing operation, etc.), adds to the application difficulties of Customs administrations.

Accordingly, at its June 1982 Sessions the Customs Co-operation Council decided that its role was to identify those rules of origin which are particularly difficult to apply and to control. With this in mind, the Permanent Technical Committee proposed the compilation of a Compendium of rules of origin of goods.

This Compendium has deliberately been confined to the technical aspects of the origin problem and concentrates on the difficulties encountered by Customs administrations in applying the principal rules determining origin.

It takes the form of a three-column table : each of the five Chapters on the principal origin-determining rules comprises the rules themselves (column 1), difficulties in respect of their application (column 2) and possible means of control (column 3).

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GOODS WHOLLY OBTAINED

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
1. The following are generally regarded as wholly obtained in a country :	1. The concept of "wholly obtained" products is frequently misunderstood : for example, some exporters tend to neglect imported parts and components of small value, or materials bought in the country of manufacture, but imported earlier from abroad by another company.	
	2. The main problems in relation to goods wholly obtained or produced concern the physical identification and control of such products, especially when they have left the premises in which they were first stocked. Bulk goods bearing no origin markings (for example, coffee) are often encountered.	1. Essentially on the basis of documentary checks on the producer's books and records, and, if necessary, by verification at the producer's premises.

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
(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;		2. For products from the soil : possibility of seeking assistance from qualified experts.
(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 (1) above;	3. Difficulty of checking the origin of fishery products, particularly in the case of : - transhipment without the product being altered; - unloading in a third country for limited processing (removal of heads or viscera, chilling or freezing, or any combination of these processes).	3. Controls in the fishery sector : usually based on evidence produced by the captain of the vessel in question, together with the books and records of the shipowners or firms involved. Also, possibility of having controls carried out by fishery experts.

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
(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, (ij) scrap and waste from manufacturing and processing operations, and used articles, collected in that country and fit only for the recovery of raw materials; (k) goods produced in that country solely from the products referred to in paragraphs (a) to (ij) above.		
2.* To be regarded as originating, these products must comply with the direct transport rule.	4.* Difficulties of checking that the direct transport rule has been respected.	4.* Direct transport : can be checked by reference to the transport documents produced or by any other means.
3.* To be regarded as originating, these products must be accompanied by a certificate of origin.	5.* Problems relating to the authenticity of certificates of origin.	5.* Frequent use of administrative co-operation by the country of importation (e.g. asking for particulars from the country of exportation,

* The provisions of paragraphs 2 and 3 in column 1 and paragraphs 4 and 5 in columns 2 and 3 also apply to subsequent Chapters.

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
		for certificates of origin to be checked) or use of mutual administrative assistance measures, such as those recommended by the CCC (Nairobi Convention, 1953 Recommendation).

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CHAPTER II

GOODS HAVING UNDERGONE SUBSTANTIAL TRANSFORMATION :
CHANGE OF TARIFF HEADING RULE

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
1. A product is regarded as originating in a particular country if it has undergone processing which results in it changing tariff heading in a given nomenclature (usually the CCCN). 2. Negative exceptions : cases where a change of tariff heading is not in itself enough to confer origin and where additional conditions have to be satisfied. 3. Positive exceptions : products which are originating even though the processing they have undergone has not produced a change of tariff heading.	1. Case of a double change of tariff heading (e.g. garments manufactured from originating yarn and not from fabrics) : problems of ensuring that both the requirements of this rule are met. 2. Where transformation confers origin without entailing a change of tariff heading (e.g. in the case of chemical products) : difficulties caused by the use of extremely complex manufacturing processes.	1. In practice, the following operations are generally carried out : - determination of the tariff heading of the goods produced and of the large number of materials which may have been used therein (by checking the declaration and appended documentation and/or by examining the goods); - consultation of lists of manufacturing or processing operations which confer or do not confer origin, whether or not a change of tariff heading is involved;

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
	3. Difficulties due to the complexity and diversity of the lists of exceptions in preferential agreements based on origin : - the lists differ from agreement to agreement; - the manufacturing or processing operations cited are determined by economic and technical considerations; - difficulties due to the fact that the preference-giving countries or groups of countries may amend the lists of exceptions unilaterally, for example in the context of a generalized system of preferences, and only subsequently notify the preference-receiving countries of the change.	- checking whether the additional conditions have been satisfied (see Rules applicable, Item 2, Chapter II). - calculation of the added value in cases where an additional condition of that nature is laid down (see Rules applicable, Item 4, Chapter II). 2. Check the source and nature of materials used from the company's books and records. 3. Check, if necessary, by verification at the manufacturer's premises to see that the operations said to have been carried out are in fact performed there. 4. Physical examination of goods (rare).

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
	4. A product that has undergone a specific manufacturing or processing operation may satisfy the conditions for preferential treatment in one preference-giving country but not in another.	
	5. Problem of determining origin where a manufacturer uses both originating and non-originating materials which cannot be distinguished because they are of the same commercial type and quality and have the same technical and plysical characteristics (case of mixtures).	
4. Percentage value rules are used in certain cases to establish the exception rules under Items 2 and 3 above (see Chapter IV).	6. Difficulty of checking Item 4 of Rules applicable.	
	7. Problem of cost and difficulty of physically separating goods.	5. Possible requirement that goods be kept physically separate at the exporting company, to meet certain needs, or, if appropriate, separation by account, provided the products used are similar or identical (see for example, Chapter II, Rules applicable, Items 5 and 6).

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
5. Cumulative origin rule : The character of originating product may also be conferred on products obtained as a result of a series of manufacturing or processing operations carried out successively in countries that are Parties to a preferential agreement or arrangement. 6. Under the Generalized System of Preferences, some agreements stipulate that goods originating in a preference-giving country which are then transformed or processed in a preference-receiving country are to be regarded as originating in the latter.	8. In the case of cumulative origin, difficulty of checking whether the total processing undergone in a group of countries is sufficient to confer the origin of that group. 9. Problems posed by the incorporation of advanced technology components.	6. The Customs may obtain technical advice from experts (e.g. Ministry of Industry) where the processing operations are very complex or advanced technology components have been incorporated.

Rules concerning direct transport and authenticity of certificates of origin : see Chapter I.

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CHAPTER III

GOODS HAVING UNDERGONE SUBSTANTIAL TRANSFORMATION : CHANGE OF NAME OR USE CRITERIA

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
1. Rule : Products consisting of raw materials originating in more than one country or having undergone transformation in several countries are regarded as originating in the last country in which the original material or article was substantially transformed into a new and different article of commerce. 2. When the article resulting from the processing has a name, character or use which is distinct from that of the material or article prior to the processing, then a new and different article of commerce has been created. It is sufficient that a change occur in any one of these three criteria (case law).	1. Difficulties encountered by exporters concerning the significance of changes of name, character or use. 2. Subjectivity of these criteria : - change of name : distinction between those cases where the old name survives with a qualifying adjective and those cases where the old name survives only as an adjective qualifying the name of the new article. (For example, cooked livers would still be considered livers, whereas liver meal would not be regarded as livers at all, but as a new and different product); - change of use : difficulty of determining whether the new product is "specific" and whether or not it is intended for an "exclusive" use.	

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
3. In some countries, "substantial transformation" is the last economically justified processing operation which results in the manufacture of a new product or increases an article's utility.		

Rules concerning direct transport and authenticity of certificates of origin : see Chapter I.

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CHAPTER IV

GOODS HAVING UNDERGONE SUBSTANTIAL TRANSFORMATION : PERCENTAGE RULE

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
1. Goods may be regarded as originating where : either the materials of foreign origin used do not exceed, in value or quantity, a fixed percentage of the finished product, or else the added value of the production costs resulting from the processing of the materials of foreign origin attains a specified percentage of the product's value. 2. Under the percentage rule a number of the following elements are taken into consideration, either separately or together : - materials of foreign or undetermined origin incorporated in the goods produced;		1. In addition to checking value, the Customs has to make many other checks on the basis of the documentation appended to the declaration (see Possible means of control, Item 1, Chapter II). 2. The principal means of control is the examination of companies' books (invoices, accounts, certificates of manufacture, stocks, previous imports, transport documents, etc.). 3. Obtaining from the manufacturer an audited cost analysis prepared in accordance with the country's legislation.

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
- materials of national or community origin used; - goods produced; - added value; - production cost. 3. Each of these elements may be calculated differently according to the origin system used (preferential agreements, most-favoured nation clauses, Generalized System of Preferences, etc.). (a) Materials of foreign or undetermined origin : - quantitative ceiling in percentage terms for non-originating materials used; - value added at least equal to a specified percentage of the ex-works cost;	1. Difficulties due to the diversity of the systems based on the percentage rule : - differences in the calculation basis for third-country materials used (different lists of processing conferring origin (see Rules applicable, Item 3 (b), Chapter IV); - different prices used for calculating the value of the materials used (f.o.b. c.i.f., ex-works, transaction value, etc.), (see Rules applicable, Item 3 (c), Chapter IV);	4. Calling for a cost analysis by independent auditors/ accountants (rare).

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
- setting a maximum percentage (variable) of the finished product's value for the materials used. (b) Materials of national or community origin used : - minimum quantities; - setting a minimum percentage of the finished product's value for the value or cost of production; - minimum cost of production requirement for processed or manufactured goods may be accumulated through the combined industry of more than one eligible country ("cumulative origin"); - certain costs (packaging, manufacturer's profit, royalties, duties and taxes, carriage, insurance) are either included or excluded from the cost of production depending on the system.	- variation between systems and materials in respect of the percentage adopted as the threshold for the goods produced to be regarded as originating.	

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
(c) Goods produced : The value to be taken into consideration may be : - dutiable value at importation (imported materials); - the first ascertainable price paid in the territory of the country (or group of countries) in which the transformation takes place (materials of undetermined origin); - the ex-works price, the ex-works price taxes excluded, the factory gate cost, the f.o.b. price, the f.a.s. value, or the value of the goods produced, calculated at the time of entry into the country of importation. (d) Production cost : setting a minimum value and stipulating certain operations.	2. Under the cumulative system : expensive and time-consuming checks.	

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
	3. The question as to what constitutes a substantial transformation must be examined on a case-by-case basis, taking previous rulings into consideration. 4. Difficulty of verifying that the conferring origin has been attained. 5. Difficulties where the percentage is calculated on the basis of the added value or where there is a requirement for parts and components originating in the country of transformation to be used. 6. Difficulty of determining manufacturing costs and separating them from the profits.	

Rules concerning direct transport and authenticity of certificates of origin : see Chapter I.

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CHAPTER V

GOODS HAVING UNDERGONE SUBSTANTIAL TRANSFORMATION : SIMPLE OPERATIONS NOT CONFERRING ORIGIN

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
1. Whatever the criterion selected (change of tariff heading or percentage rule), there is a list of simple operations which do not confer origin on goods because they are considered not to result in substantial transformation. 2. These operations can be grouped under the following headings : (a) operations to ensure the preservation of products during carriage or storage (ventilation, salting, chilling, washing); (b) operations relating to packaging (breaking up and assembly of consignments, changes of packing, putting up, etc.);	1. Different lists depending on the system concerned : operations which do not confer origin in some countries but are sufficient to confer origin in others (manufacture and preparation of meat or fish preserves, tanning of raw hides, etc.). 2. The definition of a "simple operation" is subjective and varies from country to country; the meaning of the terms is not necessarily the same (example : packaging). 3. Problems concerning mixtures or combinations of products of different origin (particularly chemical products).	1. Examination of companies' books. 2. Comparison of the finished product with all its constituent parts by physical examination.

1 RULES APPLICABLE	2 DIFFICULTIES OF APPLICATION	3 POSSIBLE MEANS OF CONTROL
(c) simple mixing not resulting in the formation of a different product. This is a non-exhaustive list.		

Rules concerning direct transport and authenticity of certificates of origin : see Chapter I.

APPENDIX P

COMPLAINTS BY U.S. INDUSTRY

Complaints Concerning Rules of Origin

Date of complaint	Product	Rule Involved	Nature of complaint
1/20/73	Medical equipment	EEC-EFTA 3% rule (transistors)	The 3 percent maximum foreign content rule with respect to transistors may result in eliminating purchases of transistors from U.S. sources.
3/19/73	Semiconductors; color picture tubes	EEC-EFTA rules	Rules of origin put U.S. suppliers at competitive disadvantage vis-a-vis European suppliers.
3/19/73	Textiles	EEC-EFTA textile rules	Textile rules require unreasonable amount of working for product to obtain origin status.
4/4/73	Various (trade association)	EEC-EFTA rules	The new EEC-EFTA rules will have a substantial impact on U.S. exports (both EEC and EFTA will switch to EEC or EFTA sourcing).
5/14/73	Man-made fibers	EEC-EFTA rules	Requirement that there be a double tariff classification change is unfair.
5/15/73	Paper	EEC-EFTA rules	EFTA countries will have advantage of duty-free entry into EEC while U.S. products will be assessed duties of 12 percent (most paper products); U.S. duties on paper products generally much less.
5/15/73	Textiles	EEC-EFTA textile rules	The new EEC-EFTA rules are more restrictive in several ways: a) origin is not conferred on basic raw materials not found in EEC-EFTA countries; b) cumulation is not allowed; c) there must be a change of heading (percentage criterion eliminated); d) rules regarding drawback unclear; e) must obtain certificate of origin from exporting country.

Date of complaint	Product	Rule Involved	Nature of complaint
1/3/74	Electronics	EEC-EFTA 5% (electronics) & 3% (transistors) maximum foreign content rules	Duties must be paid twice on U.S. components--when components imported into EEC or EFTA country and when finished product exported to EFTA from EEC or to EEC from EFTA.
2/6/74	Sewing machines	EEC-EFTA rules	Objections to rule requiring that non-origin materials not exceed 40 percent of the value of the finished product, that at least 50 percent of materials used are originating, and that certain components must be originating.
3/1/74	Electronics	EEC-EFTA 5% (electronics) & 3% (transistors) rules	Seriously considering transferring facilities to EFTA country because of rules; also cost of bookkeeping is exorbitant.
6/74	Electronics	EEC-EFTA 3% rule (transistors)	EFTA country switching sourcing from U.S. to other sources because of rule.
7/74	Electronics	EEC-EFTA rules	New rules have required setting up new automatic data processing line and costly controls on origin of materials and components resulting in increased costs and delays in delivery.
7/74	Chemicals	EEC-EFTA rules	Processing in EEC not sufficient to confer EEC origin; will continue to use U.S. chemicals, however, unless price advantage of U.S. chemicals is reduced.
7/11/74	Cereal	EEC-EFTA rules	Rules of origin precluded use of U.S. corn in production of cereal for export to EFTA countries.

Date of complaint	Product	Rule Involved	Nature of complaint
10/7/74	Electronics	EEC-EFTA 5% rule (electronics)	Rule is inconsistently applied.
10/11/74	Electronics	EEC-EFTA 3% (transistors) & 5% (electronics) rules	Rule is reducing sales of U.S. components.
7/1/75	Man-made fibers	EEC-EFTA rules	Must change tariff classifications twice to qualify for origin status.
9/26/75	Computers	EEC-EFTA 40% maximum foreign content rule	Protested idea of changing 40 percent to 25 percent; labor costs should be considered in determining origin.
9/26/75	Computers	EEC-EFTA no drawback rule	U.K. manufacturer can't get credit for duty paid on U.S. components which are used in U.K. (product exported from U.K. to EFTA country duty-free because it qualifies for EEC origin status in U.K.).
9/26/75	Computers	EEC-EFTA rules	Rules too complicated to comply with, too detailed record-keeping required.
2/26/76	Construction equipment	EEC-EFTA 40% maximum foreign content rule	Onerous burden on ability to market EEC-assembled products in EFTA countries; should be raised to at least 50 percent and should be choice of paying duties in EEC or in EFTA country (not both).
7/5/78	Construction equipment	EEC-EFTA rules	Complexity makes compliance costly and inconsistent; discourage use of U.S. components while the United States does not have similar discriminatory policies.

Date of complaint	Product	Rule Involved	Nature of complaint
7/78	Textiles	EEC-EFTA rules	Use of U.S. denim to make jeans in EEC countries causes loss of EEC-EFTA preference; EEC manufacturer may stop buying non-origin fabrics (U.S.) because too difficult to maintain separate inventories of garments made from "origin" fabrics and "non-origin" fabrics.
9/19/78	Textiles	EEC-EFTA rules	EEC countries may stop buying U.S. lining fabrics because of EEC-EFTA rules; U.S. filament yarn exported to EEC or EFTA country where it is woven into fabric doesn't qualify for EEC or EFTA origin; inventory problems result from using both origin and non-origin yarn.
5/11/79	Textiles	EEC-EFTA rules	EFTA country cutting back on purchases of U.S. piece goods for use in ready-made clothing for export.
2/4/81	Canned foodstuffs	Belgian rules of origin	Belgium requires special country of origin labels for the Belgian market; complicates international trade.
2/4/81	Various	Cameroon marking requirements	Products of non-French origin must not give impression they were made in France; corrective marking must appear in immediate proximity to mark it is intended to correct; appears to favor products of French origin.
2/4/81	Electronic equipment for aircraft	Canadian government procurement rules	Local content requirements imposed to promote certain types of industrial production in Canada.

Date of complaint	Product	Rule Involved	Nature of complaint
4/81	Textiles, machinery, electronic components, chemicals	EEC-EFTA rules	EEC-EFTA rules more discriminatory than necessary to prevent trade deflection.
4/81	Wine	Austrian rules	Wine imports must be accompanied by certificate stating origin and quality of wine or by an import permit; no imports of U.S. wines are possible.
4/81	Various	Danish marking rules	Certain products must show country of origin, others must be marked as "foreign", and others must be marked "worked abroad".
4/81	Industrial products	EEC-EFTA agreement (Finland)	This is not a free trade agreement in context of GATT Article XXIV because it does not cover substantially all the trade (agriculture excluded).
4/81	Coffee, food products, tires, clothing, shoes, hand tools, tableware, ceramics, electric metallic filament lamps, flourescent tubes	Finnish rules	Unnecessary documentation requirements for issuance of certificates of origin.
4/81	Various	French rules	Sometimes France requires consular legalization of certificates of origin; unnecessary complication.

Date of complaint	Product	Rule Involved	Nature of complaint
4/81	Various (esp. fishery products)	Greek rules	Legalized certificate of origin required for all shipments over $200; certificate of origin required for all shipments.
4/1/81	Various	Australian rules	Long list of goods for which a description is required in addition to the mark of origin (some have specific content requirements which determine the name); increases burden on importers.
4/9/81	Vehicle engines, gear boxes, transmissions	Colombian rules	Local content requirements prevent export of U.S. assembled parts.
4/9/81	Various	Ecuador's rules	Four copies of certificate of origin must be certified by Chamber of Commerce.
4/14/81	Various	Bahrain rules	Certificates of origin must be certified by Chamber of Commerce.
8/24/82	Food processing machinery	EEC-EFTA rules	Five percent maximum foreign content rule precludes purchase by EEC of U.S. components; also separate inventory requirements are a problem for EEC manufacturers.
8/30/82	Textiles	EEC-EFTA rules	U.S.-origin fabrics not used because of two-processing rule.
8/30/82	Textiles	Korean rules	Difficulty in obtaining import licenses for shipments to Korea.
8/30/82	Textiles	Taiwan rules	Difficulty in obtaining import licenses for shipments to Taiwan.

Date of complaint	Product	Rule Involved	Nature of complaint
11/5/83	Agricultural products	EEC/ Mediterranean rules; French rules; U.S. 807.00 rule	Citrus products enter EEC from Mediterranean countries duty free; France's requirement that marking be in French; U.S. 807.00 rules do not allow food ingredients of U.S. origin which are mixed abroad to come back duty free.
1/6/83	Toys	Hong Kong rules	Problems getting Hong Kong certificate of origin.
1/6/83	Glass	French rules; South African rules	France's requirement that markings be in French; South Africa's requirement that markings be in meters.
1/6/83	Books	Mexican rules; U.S. rules	Mexico's regulation requiring use of Mexican school books; U.S. denial of full copyright to works of American authors unless printed and bound in the United States.
1/4/83	Textiles	EEC-EFTA rules	Double tariff on U.S. goods (when components enter EEC or EFTA and when finished goods imported into EEC from EFTA or EFTA from EEC).
1/25/83	Electronics	EEC-EFTA 3% rule (transistors)	Pressure to exclude use of U.S. transistors; forcing U.S. manufacturers to set up facilities in EEC.
10/5/84	Dinnerware	U.S. marking rules	People's Republic of China allowed to use word "China" for marking purposes (causes consumers to think product is genuine china).
10/10/84	Crafts	U.S. marking rules	Third world imports of jewelry being passed off as American Indian jewelry; U.S. should require permanent embossing of country of origin.

Date of complaint	Product	Rule Involved	Nature of complaint
12/11/84	Fire hose	U.S. marking rules	Fire hose and fire hose couplings from Canada, Germany, Italy, and other countries not marked with country of origin.
12/12/84	Bicycle parts	U.S. marking rules	Enforcement of marking requirements has low priority.
12/13/84	Dinnerware	U.S. marking rules	People's Republic of China allowed to use word "China" for marking purposes (confuses consumers).
12/18/84	Dental materials	U.S. marking rules	Have difficulty convincing foreign supplier to place country of origin on individual items.
12/19/84	Athletic wear	U.S. marking rules	Country of origin not marked in a conspicuous place.
1/2/85	Textiles	U.S. textile rules	Want Customs Service to make sure all operations which confer origin status, including cutting, really are substantial; in favor of new textile rules.
1/10/85	Telecommunications products	U.S. 807.00 rule	Have problems determining what will be considered substantial transformation by Customs Service for purposes of considering components to be of U.S. origin; personnel changes at U.S. ports result in inconsistent rulings as to origin.
1/15/85	Automobiles	Marking rules	Some minor problems with marking rules (both U.S. and foreign).
1/15/85	Electronics for automobiles and trucks	GSP rules	Some problems obtaining certificates of origin from beneficiary countries when article not wholly from that country.

Date of complaint	Product	Rule Involved	Nature of complaint
1/15/85	Metal products	U.S. marking rules	Problems with marking requirements for packaged products because they import in bulk and repackage product.
1/15/85	Textiles	EEC rules	American fabrics made into garments in EEC country do not qualify for EEC origin status.
1/16/85	Textiles	U.S. quota rules	Unable to determine current status of yarn import quotas; goods have been embargoed by Customs Service.
1/16/85	Cassette tapes	U.S. marking rules	Imported cassettes had to be marked with foreign country of origin, but when filled with tape they became U.S. product; when tapes exported, they had problems with foreign customs because they declared the tapes as U.S. origin, but they were marked as being of foreign origin.
1/16/85	Film	Spain's rules	Product produced in EEC using EEC and U.S. materials qualifies for EEC origin status, but Spain considers it non-EEC.
1/16/85	Tapes	Trinidad's rules	Trinidad did not consider a product made in Jamaica from U.S. materials to qualify for Caricom preference; consider process performed in Jamaica to be a minimal process.

Date of complaint	Product	Rule Involved	Nature of complaint
1/16/85	Plastic	U.S. 807.00 rule	U.S. plastic sheeting is exported to be cut-to-size and then reimported into U.S.; Customs Service considers this a substantial transformation so the cost of the sheeting cannot be deducted under 807.00 as a product of the United States upon reimportation into the United States; this position is inconsistent with a Customs Service ruling saying foreign plastic cut-to-size in the U.S. must be marked as a foreign product because there is no substantial transformation; also rules are interpreted differently at different U.S. ports.
1/17/85	Toys	Canadian rules	Minor problems with Canada's marking rules; dual language requirement in Canada also causes problems.
1/17/85	Toys	GSP rules	Manufacturing facility in the Philippines temporarily used components from Taiwan which disqualified the product for the GSP preference in England, Germany, and France.
1/17/85	Toys	GSP rules?	Product assembled in Mexico using U.S. components did not qualify for preference in Australia.
1/17/85	Toys	Hong Kong rules	Numerous problems obtaining Hong Kong certificate of origin if any work done in China; also Hong Kong rules inconsistently applied.

Date of complaint	Product	Rule Involved	Nature of complaint
1/17/85	Carpets, draperies, etc.	U.S. textile rules	Problems with new textile rules, particularly with documentation requirements.
1/18/85	Semiconductors	GSP rules	Problems with interpretation of substantial transformation for both GSP and CBI purposes.
1/18/85	Semiconductors	U.S. marking rules	Different ports require different types of marking for same product.
1/18/85	Electronics	French and Italian rules	Problems with stringent enforcement of rules of origin in France and Italy; also EEC rules too complicated.
1/18/85	Electronics	French rules	France's quota for goods from Japan larger if goods shipped directly from Japan; otherwise would have done some further manufacturing in the United States.
1/18/85	Electronics	U.S. marking rules	Problems determining what will constitute substantial transformation in the United States so that imported parts need not be marked with foreign country of origin.
1/18/85	Electronics	U.S. 807.00 rule	Customs suddenly began issuing penalties for misdeclarations on 807.00 merchandise where none had been issued previously.
1/21/85	Electronics	Marking rules	Differing marking rules from country to country cause problems; problems when inventory must be segregated by country of origin.

Date of complaint	Product	Rule Involved	Nature of complaint
1/22/85	Bicycles	U.S. marking rules	Country of origin marking being placed so that consumer must look under bicycle to see it.
1/22/85	Steel products	U.S. antidumping and countervailing duties rules	Customs Service has ruled that threading of of pipe and tube products is a substantial transformation; this ruling could be used to circumvent vent antidumping and countervailing duty orders by threading in an unaffected country.
1/22/85	Steel products	U.S. marking rules	Customs determined that electrogalvanizing of cold rolled sheet does not constitute a substantial transformation for marking purposes.
1/22/85	Food products	GSP and CBI rules	Processed foods should be an exception to the 35 percent rule for GSP and CBI; 35 percent minimum content is inadequate for these products and allows for free entry of products which really are from non-beneficiary countries.
1/24/85	Textiles	U.S. textile rules	New textile rules put into effect with no warning.
1/25/85	Semiconductors	EEC rules	Problems with EEC change-of-heading rule; processed silicon slices for producing semiconductor devices have same CCCN heading as the completed semiconductor devices so this processing does not confer EEC origin status.

Date of complaint	Product	Rule Involved	Nature of complaint
1/29/85	Textiles	U.S. textile rules	Problems with documentation requirements of new textile rules; do not think these requirements are all necessary for determining origin.
1/29/85	Textiles	U.S. textile rules	New rules saying certain processes will never confer origin are inconsistent with past practice.
1/30/85	Farm equipment	U.S. and Canadian rules	Incur additional storage costs because parts from different countries must be stored separately; incur additional costs because not allowed to import all GSP merchandise for United States and Canada into the United States and then transship to Canada.
2/5/85	Data processing equipment	U.S. GSP rule	Problems with exclusion of general expenses and profit from the 35 percent value-added calculation.
2/5/85	Sewing machines	U.S. 806.20 rule	Dutiability of subcomponents exported for repair or replacement and then reimported into U.S. handled on a case-by-case basis; results are inconsistent.
2/5/85	Sewing machines	Marking rules	Extensive marking and numbering of cartons required for exports.
2/14/85	Textiles	U.S. rules	U.S. Customs Service refused to accept an origin declaration with respect to importation of textiles under quota; a U.S. document to certify origin would eliminate this problem. Rules appear to be arbitrarily enforced by ports.

Date of complaint	Product	Rule Involved	Nature of complaint
2/14/85	Textiles	EEC-EFTA	EEC-EFTA rules preclude EEC subsidiaries from shipping fabrics containing U.S. yarn to EFTA.
3/13/85	Computers		Problems identifying origin of goods coming from sources outside of the United States and determining what constitutes substantial transformation of a product.

This document was compiled by ITC staff using the following sources: U.S. Trade Representative files; Department of Commerce files; nontariff measures data base of the Department of Commerce; written submissions filed in connection with ITC Inv. 332-192; and questionnaire responses received in ITC Inv. 332-192.