

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Limited Distribution

## NATIONALITY OF IMPORTED GOODS

### Note by the Executive Secretary on the Comments received from Contracting Parties on the proposed Definition of Origin

At their Eighth Session in October 1953 the CONTRACTING PARTIES submitted to governments for study and comment the following definition of origin (document G/61, Second Supplement to the Basic Instruments and Selected Documents, page 53):

- "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.
- "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."

Twenty-one contracting parties and Japan have submitted comments on this proposed definition:

Australia	Finland	Norway
Austria	France	Pakistan
Belgium	Germany	Sweden
Canada	Greece	Turkey
Ceylon	India	Union of South Africa
Czechoslovakia	Italy	United Kingdom
Denmark	New Zealand	United States

The full text of these replies has been distributed in addenda to document L/179. The following is an analysis of the comments received.

1. Countries which favour the proposed common definition without any reservations

Part A of the common definition states that goods harvested, extracted from the soil, manufactured or otherwise brought into being in one country shall be considered as the product of that country. No country made a serious reservation regarding this part of the definition, which the United Kingdom called in their reply an "uncontroversial affirmation" which will not be likely to assist in the search for a means of reducing the diversity of international practice.

Of the countries from which replies have been received, only the following were in favour of the rest of the proposed common definition without making any reservations, and have expressed their views in the following terms:

Austria: corresponds to the view of the Austrian Government.

Czechoslovakia: generally acceptable.

Finland: in conformity with existing regulations.

Germany: agreed to proposed definition.

Greece: considered acceptable the proposed definition.

Pakistan: no objection.

Sweden: no objection.

Belgium, which is in favour of the proposed general definition, expressed its doubts whether a definition which is opposed by a number of countries will be likely to have any appreciable results. It further proposed, that in addition the CONTRACTING PARTIES should recommend that certificates of origin issued by the exporting countries be accepted.

2. Limitation of the definition

It has been understood throughout the consideration of this problem by the CONTRACTING PARTIES that any common definition of origin adopted for customs purposes should not prejudice the definition of origin for statistical purposes. France underlined this point in its statement and added, at the same time, that in their opinion the common definition should not be applicable to preferential traffic.

3. Objections and proposed amendments

A group of countries which is otherwise in favour of a common definition, proposed that certain additions should be made to the actual text. The United States for one suggested that the common definition of origin cannot be valid for determining country of origin for national security purposes.

Italy and Sweden both proposed that a clause be added for the purposes of preventing transformations carried out for the sole purpose of evading payment of higher rates. Denmark felt that an additional clause should be provided for goods whose origin is very difficult to ascertain in practice, e.g. casings, waste, chemical compounds, etc. Furthermore, Denmark draws attention to the fact that its regulations provide that "repacking, sorting and blending are not to be regarded as constituting transformation ...". However, no request is made for the addition of a similar clause to the common definition.

Some countries did not find the terms "substantial transformation" and "new individuality" a satisfactory basis for a definition. France, which expressed itself strongly in favour of reaching an agreement on an international definition stated that a more concise definition would have been preferable. India expressed no objections to the common definition but reserved its final position until the question has been more fully studied, and drew attention to the fact that it uses the percentage of the value added to a product, as the indication for establishing the nationality of a product for preferential purposes. Italy, which did not consider the term "substantial transformation" sufficiently precise, proposed that it be replaced by "industrial transformation" or, failing that, by "substantial processing". Italy found that the definition would then be so clear that Part C, concerning "new individuality" and the explanatory note, would become unnecessary. Japan felt that the term "substantial transformation" should be more explicit and proposed that an attempt be made to reach agreement on a uniform interpretation of the term. Turkey stated that terms such as "substantial transformation" and "new individuality" are not precise enough for practical application and suggested that the only possible solution would be the acceptance of a rule based on the percentage by which the value of the goods is increased through transformation.

Certain countries indicated that they see serious practical difficulties in any common definition. New Zealand considered the terms "substantial transformation" and "new individuality" to be valueless criteria. Canada felt that although its system (based on the percentage of value) should lead to similar results, "it would be difficult if not impossible" to apply the proposed standard definition. Norway stated that it finds it necessary to continue the application of the definition presently in use in Norway. South Africa cannot accept the definition, which does not accord with its national regulations.

The most explicit arguments against a common definition of origin have been advanced by the United Kingdom which very strongly objects to having any common definition. In their opinion such a definition would prove impracticable in their case, for the questions of origin are only raised concerning duties in connection with preferential trade which cannot be conducted under strict rules but must be allowed to develop in the best interests of the Commonwealth countries. Also for the application of quantitative restrictions the "mere recital of broad general principles" would not lead towards a useful definition. With regard to the international importance of this definition the United Kingdom believes that

if it were accepted it would result "in setting up of a facade of general agreement ... behind which there would be fundamental disuniformity in application". Furthermore, the United Kingdom feels that the acceptance of the definition would lead to increased demands for certificates of origin - a development quite contrary to the intention to simplify customs procedures.

There is another group of countries which - though they are willing to accept the term "substantial transformation" - argue against the provisions included in the Note. Denmark for instance considered that it would be impossible to establish a list of processes. Ceylon, on the assumption that the definition would require such lists, objected on the grounds that they would give rise to great complications. It therefore would prefer a more simplified definition. Finally, Australia considered that such lists should be expressed in the negative way (excluding processes which do not lead to a transformation) for the sake of convenience. This proposal is obviously similar to the ideas expressed by Denmark, Sweden and Italy (mentioned above) for an additional clause providing for the exclusion of certain processes.