

RESTRICTED

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GENERAL AGREEMENT ON TARIFFS AND TRADE

CONTRACTING PARTIES
Tenth Session

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NATIONALITY OF IMPORTED GOODS

Proposals by the Government of Germany

"The Federal Government has consistently supported the draft standard definition of origin prepared at the Eighth Session of the CONTRACTING PARTIES. The arguments referred to in the Report of the Technical Group on Customs Administration appointed at the Ninth Session¹ which various contracting parties advanced against the draft definition, have been subjected to a further investigation which again has led to no change in the Federal Government's view that the present draft should continue to be discussed and that further supplements should be inserted to take account of such arguments.

"I. Various contracting parties consider the definition acceptable, provided that it will not apply to their preferential trade or in cases where the General Agreement provides a general exception. In the opinion of the Federal Government such a requirement could be met by inserting a clause stipulating an exception to the general rule in words to the following effect:

¹ See Basic Instruments and Selected Documents, 3rd S., p.94. the draft definition prepared at the Eighth Session reads:

"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."

'The common definition shall not be valid for determining the country of origin in any field for which the General Agreement provides a general exception.'

- "II. There would also be no difficulty in obtaining the argument that the common definition lacks a clause under which it would not apply to cases where processing operations are carried out solely for the purpose of avoiding heavier duties, if such arguments should be sustained in the course of further discussions.
- "III. Certain contracting parties object to the term 'substantial transformation' because they feel that it is not sufficiently precise. The Danish Government considers necessary the provision of a clause in respect of goods the origin of which is difficult to ascertain in practice and a further clause stipulating that certain ways of handling goods, such as repacking, shall not constitute a 'substantial transformation'".

In this connexion, the Federal Government suggests that it would be useful to consider amplifying the "Explanatory Note" along the following lines, since it feels that agreement on this point might be possible:

- (a) Sorting of goods, repacking or packing of goods in containers for retail sale shall not constitute "substantial transformation":
- (b) Interpretative rule on the nationality of goods with particular characteristics:
 - (i) Waste (scrap, rags, rubber etc.) collected in any one country;
 - (ii) Goods produced in any one country by assembly, provided all constructional parts originated in a third country (e.g. motor vehicles, calculating machines);
 - (iii) Goods which, after being used in a country other than the country of production, are imported from the former country as "second hand" goods (e.g. machinery, vehicles).

The goods covered by the above suggestion play a comparatively important part in international trade. It should further be noted that assembly projects in third countries are becoming increasingly important.

- "IV. Even though it may not be possible at the present time to establish a common definition acceptable to all contracting parties, the Federal Government does believe that the acceptance of the definition, amended along the lines of the proposals given under paragraphs I to III above, by a further number of contracting parties would constitute a further advance towards closer cooperation between the contracting parties in this complicated

field. The item "origin of goods" should, however, not be removed from the agenda for an indefinite period of time before those contracting parties whose definition is based on the percentage of value have furnished detailed information on the advantage and disadvantages which their definitions have shown in practice. Such information would enable the other contracting parties to examine the question as to whether the percentage of value could be incorporated as criteria in their national definitions of the origin of goods."