

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

RESTRICTED

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NOTIFICATION IN PURSUANCE OF PARAGRAPH 3 OF THE UNDERSTANDING  
REGARDING NOTIFICATION, CONSULTATION, DISPUTE  
SETTLEMENT AND SURVEILLANCE

Communication from Canada

The following communication dated 28 April 1993, has been received from the Permanent Mission of Canada for circulation to the contracting parties.

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Pursuant to paragraphs 2 and 3 of the 1979 Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, I am pleased to provide herewith a recently issued circular (Memorandum D11-4-3) issued by Revenue Canada, Customs and Excise, providing updated guidance as to the rules of origin for goods eligible for either Most-Favoured-Nation (m.f.n.) or British Preferential Tariff (BPT) treatment. This circular also consolidates a number of technical amendments to these rules of origin which, although essentially inconsequential, have accumulated over time.

Also enclosed, for ease of reference and for information, is a slightly more dated circular (D11-4-4) setting out comparable guidelines relative to the Canadian rules of origin for goods eligible for General Preferential Tariff (GPT) or Least-Developed Developing Country Tariff (LDDC) treatment.

Revenue Canada  
Customs, Excise and Taxation

MEMORANDUM D11-4-3

Ottawa, 10 March 1993

SUBJECT

RULES OF ORIGIN RESPECTING THE MOST-FAVOURED-NATION TARIFF  
AND THE BRITISH PREFERENTIAL TARIFF

This Memorandum contains the Regulations respecting the determination of the origin of goods for purposes of the Most-Favoured-Nation Tariff and the British Preferential Tariff.

Regulations

REGULATIONS RESPECTING THE ORIGIN OF GOODS FOR THE PURPOSE  
OF DETERMINING ENTITLEMENT TO THE BENEFIT OF THE  
MOST-FAVOURED-NATION TARIFF AND  
THE BRITISH PREFERENTIAL TARIFF

Short Title

1. These Regulations may be cited as the Most-Favoured-Nation Tariff and British Preferential Tariff Rules of Origin Regulations.

Rules of Origin

2. For the purposes of paragraphs 24(a.1) and 29(a.1) of the Customs Tariff, goods originate in a country that is a beneficiary of the Most-Favoured-Nation Tariff or the British Preferential Tariff pursuant to Sections 22 and 26 of the Customs Tariff and are entitled to the applicable tariff if:

- (a) in respect of the Most-Favoured-Nation Tariff;
  - (i) not less than 50 per cent of the cost of production of the goods was incurred by the industry of one or more countries that are beneficiaries of the Most-Favoured-Nation Tariff or the British Preferential Tariff, or by the industry of Canada; and
  - (ii) the goods were finished in a country that is a beneficiary of the Most-Favoured-Nation Tariff or the British Preferential Tariff in the form in which they were imported into Canada; and

- (b) in respect of the British Preferential Tariff;
  - (i) not less than 50 per cent of the cost of production of the goods was incurred by the industry of one or more countries that are beneficiaries of the British Preferential Tariff, or by the industry of Canada; and
  - (ii) the goods were finished in a country that is a beneficiary of the British Preferential Tariff in the form in which they were imported into Canada.

Cost of Production

3. In calculating the costs of production for the purposes of Section 2, the costs of the following items shall not be included or considered:

- (a) outside packing and expenses related thereto, required for the transportation of the goods, not including packing in which the goods are ordinarily sold for consumption;
- (b) gross profit of the manufacturer or exporter and the profit or remuneration of any trader, broker or other person dealing in the article in its finished manufactured condition;
- (c) royalties;
- (d) customs or excise duty or tax paid or payable on imported materials;
- (e) carriage, insurance and other charges from the place of production or manufacture in the country of origin to the port of shipment; and
- (f) any other costs or charges incurred or to be incurred subsequent to the completion of the manufacture of the goods.

GUIDELINES AND GENERAL INFORMATION

British Preferential Tariff (BPT)

1. To qualify for BPT treatment, at least 50 per cent of the cost of production must be incurred in one or more BPT beneficiary countries or Canada.
2. BPT beneficiary countries are listed in Schedule III of the Customs Tariff. Goods originating in the United Kingdom of Great Britain and Northern Ireland are not entitled to the BPT but rather are subject to the Most-Favoured-Nation Tariff.
3. Cost of production includes:  
  
materials (exclusive of duties and taxes);  
labour; and  
factory overhead.
4. Goods must be finished in the beneficiary country in the form in which they were imported into Canada.
5. Proof of origin for the BPT must be presented in the form of a commercial invoice or Canada Customs invoice prepared by the vendor indicating the country of origin of the goods, or any other documentation indicating the country of origin of the goods, as outlined in Memorandum D11-4-2, Proof of Origin Regulations.
6. The goods must be shipped directly on a through bill of lading from a BPT country, without trans-shipment to a consignee in Canada. In general, when BPT eligible goods are trans-shipped, they will lose their eligibility for the BPT; however, there are circumstances under which direct shipment, with trans-shipment, may occur. These circumstances are outlined in paragraphs 7 to 10 following.
7. Goods may be shipped directly on a through bill of lading to a consignee in Canada with trans-shipment only through a BPT beneficiary country or a British country. "British country" means the United Kingdom of Great Britain and Northern Ireland, any British colony, possession or protectorate, or any territory under British trusteeship. BPT goods may be trans-shipped at Hong Kong as long as it remains a British colony. Such trans-shipment may occur provided the conditions found in paragraph 12 of this Memorandum are satisfied.
8. Pursuant to Sub-sections 48(c) and 51(b) of the Customs Tariff, goods that originate in New Zealand or Australia respectively, and are otherwise entitled to the BPT, may be trans-shipped through any country (under the conditions found in paragraph 12 of this Memorandum) provided they are shipped on a through bill of lading from the country in which the goods originate to a consignee in Canada.

9. Pursuant to Section 30 of the Customs Tariff, goods that originate in Lesotho, Botswana or Swaziland may be shipped from the Republic of South Africa and be considered as shipped directly from the country in which they originate. Such goods must be shipped directly on a through bill of lading from the Republic of South Africa to a consignee in Canada. Further trans-shipments are allowed only through a BPT beneficiary or British country under the conditions found in paragraph 12 of this Memorandum.

10. In exceptional cases, the British Preferential Tariff Direct Shipment - Without Trans-shipment - Exemption Order permits goods originating in BPT beneficiary countries to be trans-shipped through non-BPT beneficiary countries. Under Section 3(b)(iii) of this Order, BPT eligible goods originating in Namibia may be trans-shipped through Walvis Bay. For more information, please refer to Memorandum D11-4-7, British Preferential Tariff Direct Shipment - Without Trans-shipment - Exemption Order.

11. Trans-shipment is the act of taking cargo out of one conveyance and loading it into another conveyance. This includes the act of taking cargo out of one conveyance and reloading it into the same conveyance. The landing of an airplane for refuelling or docking of a ship to take on additional cargo does not constitute trans-shipment if the goods in question are not unloaded from the conveyance.

12. In circumstances where trans-shipment of the goods is permitted, the following conditions must be observed:

- (a) the goods must remain under Customs transit control in the intermediate country;
- (b) the goods must not undergo any operation in the intermediate country other than unloading, reloading, splitting up of loads or operations required to keep the goods in good condition;
- (c) the goods must not enter into trade or consumption in the intermediate country; and
- (d) the goods must not remain in temporary storage in the intermediate country for a period exceeding six months.

13. The through bill of lading (or a copy thereof) must be presented to Customs at the same time as the proof of origin. In the case of consolidated freight, where the through bill of lading is a lengthy document covering unrelated goods, the importer may present the cargo receipt from the carrier (or a copy thereof) in lieu of the through bill of lading. Where cargo receipts are presented that do not contain sufficient information to determine whether the BPT shipping conditions were met, or for verification purposes, Customs officers may request presentation of the through bill of lading.

14. Where goods are transported via air freight, the House Airway Bill is acceptable as a through bill of lading. It is well known that air cargo is usually trans-shipped in the air carrier's home country; therefore, Customs assumes that the goods have been trans-shipped in the air carrier's

home country even if no trans-shipment is shown on the House Airway Bill. If the air carrier's home country is not a BPT beneficiary or British country, the goods will not receive the benefit of the BPT unless the importer demonstrates that the goods were not trans-shipped or it is otherwise apparent that the goods were not trans-shipped.

Most-Favoured-Nation Tariff (m.f.n.)

15. To qualify for m.f.n. tariff treatment, at least 50 per cent of the cost of production of the goods must be incurred in one or more m.f.n. beneficiary countries or Canada. Canadian content may be included in the calculation of the 50-per-cent requirement.

16. M.f.n. beneficiary countries are listed in Schedule III of the Customs Tariff.

17. Goods that do not satisfy the m.f.n. rules of origin and goods that originate in countries not listed in Schedule III of the Customs Tariff are subject to the General Tariff rate of customs duty. Goods originating in Albania, Libya, Mongolia, North Korea and Oman, are not entitled to the m.f.n. tariff rates.

18. Cost of production includes:

materials (exclusive of duties and taxes);  
labour; and  
factory overhead.

19. The goods must be finished in the beneficiary country in the form in which they were imported into Canada.

20. Proof of origin for the m.f.n. must be presented in the form of a commercial invoice or Canada Customs invoice prepared by the vendor indicating the country of origin of the goods, or any other documentation indicating the country of origin of the goods, as outlined in Memorandum D11-4-2.

21. The goods must be shipped directly from an m.f.n. beneficiary country to Canada. Trans-shipment through any intermediate country is allowed provided:

- (a) the goods remain under Customs transit control in the intermediate country;
- (b) the goods do not undergo any operation in the intermediate country other than unloading, reloading, splitting up of loads or operations required to keep the goods in good condition;
- (c) the goods do not enter into trade or consumption in the intermediate country; and
- (d) the goods do not remain in temporary storage in the intermediate country for a period exceeding six months.

22. For further information or assistance, please contact:

Origin Determination Directorate  
Tariff Programmes  
Revenue Canada  
Customs, Excise and Taxation  
Ottawa  
Ontario K1A 0L5

Telephone: (613) 954-6985

REFERENCES

Issuing office:

Origin Determination Directorate  
Tariff Programmes

Legislative references:

Customs Tariff  
British Preferential Tariff and Most-Favoured-Nation Tariff Rules  
of Origin Regulations  
P.C. 1978-616, 2 March 1978, SOR/78-215, as amended by SOR/88-76,  
SOR/89-52 and SOR/92-685  
Temporary Storage Period Regulations, P.C. 1987-2743, 31 December 1987,  
SOR/88-79

Headquarters file:

4570-3, 4570-4, 4570-10, 4573-2, 4573-2-1

Superseded Memoranda "D"

D11-4-3, CCS/HS Revision, 1 January 1988

Other references:

D11-4-2, D11-4-7

Services provided by the department are available in both official  
languages.

This Memorandum issued under the authority of the Deputy Minister of  
National Revenue, Customs, Excise and Taxation.

10 March 1993



Revenue Canada  
Customs and Excise

MEMORANDUM D11-4-4

Ottawa, 21 June 1991

SUBJECT

RULES OF ORIGIN RESPECTING THE GENERAL PREFERENTIAL TARIFF  
AND LEAST-DEVELOPED DEVELOPING COUNTRY TARIFF

This Memorandum contains Regulations respecting determination of the origin of goods for purposes of the General Preferential Tariff and Least-Developed Developing Country Tariff Treatment, enacted pursuant to the Customs Tariff.

Regulations

REGULATIONS RESPECTING DETERMINATION OF THE ORIGIN OF GOODS  
FOR PURPOSES OF THE GENERAL PREFERENTIAL TARIFF  
AND FOR LEAST-DEVELOPED DEVELOPING COUNTRY  
TARIFF TREATMENT

Short Title

1. These Regulations may be cited as the General Preferential Tariff and Least-Developed Developing Countries Rules of Origin Regulations.

Interpretation

2. In these Regulations:

"beneficiary country" means a country whose goods have been extended the benefits of the General Preferential Tariff pursuant to Sub-section 35(1) of the Customs Tariff, (pays bénéficiaire);

"least-developed developing country" means a beneficiary country whose goods have been extended duty-free tariff treatment pursuant to the Customs Tariff, (pays moins développé parmi les pays en voie de développement);

"Minister" means the Minister of National Revenue.

3. (1) For the purposes of paragraph 13(2)(b) of the Customs Tariff, goods originate in a country if the value of the materials, parts or products originating outside the country or in an undetermined location and used in the manufacture or production of the goods amounts to:

- (a) no more than 40 per cent of the ex-factory price of the goods as packed for shipment to Canada in respect of goods from a beneficiary country where those goods have been extended the benefit of the General Preferential Tariff; or
  - (b) no more than 60 per cent of the ex-factory price of the goods as packed for shipment to Canada in respect of goods from a least-developed developing country where those goods have been extended the benefit of the least-developed developing country tariff treatment.
- (2) Subject to Sub-section (2.1), in calculating, for the purposes of Sub-section (1), the value of the materials, parts or produce originating outside the beneficiary country or of undetermined origin used in the manufacture or production of the goods.
- (a) any materials, parts or produce used in the manufacture or production of the goods, originating from any other beneficiary country or from Canada; and
  - (b) any packing required for the transportation of the goods not including packing in which the goods are ordinarily sold for consumption in the beneficiary country;

shall be deemed to have originated in the beneficiary country.

- (2.1) For the purposes of Sub-section (1), in the case of goods originating from a least-developed developing country, in calculating the value of the materials, parts or produce originating outside the country or of undetermined origin used in the manufacture or production of the goods:
- (a) any materials, parts or produce used in the manufacture or production of the goods, originating from any other least-developed developing country or from Canada; and
  - (b) any packing required for the transportation of the goods (not including packing in which the goods are ordinarily sold for consumption in the least-developed developing country);

shall be deemed to have originated in the least-developed developing country.

- (3) The following goods originate in a beneficiary country:
- (a) mineral products extracted from the soil of 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).
4. (1) For the purposes of determining the origin of goods under Section 3, each article in a shipment shall be considered separately, except that:
- (a) where a group, set or assembly of articles is classified in a tariff item or code, the group, set or assembly shall be considered to be one article; and
  - (b) tools, parts and accessories:
    - (i) that are imported with an article;
    - (ii) that constitute the standard equipment customarily included in the sale of articles of that kind; and
    - (iii) the price of which is included in that of the article and for which no separate charge is made;
- shall be considered as forming a whole with the article.
- (2) An unassembled article that is imported in more than one shipment because it is not feasible for transport or production reasons to import it in one shipment shall be considered to be one article.

GUIDELINES AND GENERAL INFORMATION

General Preferential Tariff (GPT)

1. To qualify for GPT treatment, at least 60 per cent of the ex-factory price of the goods as packed for shipment to Canada must originate in one or more beneficiary countries or Canada.
2. The 60 per cent qualifying content may be cumulated from various GPT beneficiary countries or Canada.
3. The ex-factory price is the total value of:
  - (a) materials;
  - (b) parts;
  - (c) factory overhead;
  - (d) labour;
  - (e) any other reasonable costs incurred during the normal manufacturing process (e.g. duties and taxes paid on materials imported into a beneficiary country and not refunded when the goods were exported); and
  - (f) a reasonable profit.

Any costs incurred subsequent to the goods leaving the factory, such as freight, loading, temporary storage, are not included in the ex-factory price calculation.

4. The goods must be finished in the beneficiary country in the form in which they were imported into Canada.
5. Pursuant to the Proof of Origin Regulations, Memorandum D11-4-2, proof of origin in the form of a Certificate of Origin. Form A, signed and stamped by a recognized certifying authority in the beneficiary country where the goods were finished, must be presented to Customs at the time of reporting, accounting or claiming a refund. In all cases, the stamp and signature on the Form A must be originals.
6. A consignee in Canada must be identified on the Form A to ensure that the designated authority in a beneficiary country certifies origin of the goods in accordance with Canadian GPT Rules. The only exception to this condition may be considered when 100 per cent of the value of the goods originates in the beneficiary country in question. In all cases, the goods must be clearly identified and cross-referenced to the invoice.
7. The origin criterion in Field 8 of the Form A must be one of the following:

"P" means wholly (100 per cent) produced in the beneficiary country;

"F" means at least 60 per cent of the ex-factory price was produced in the beneficiary country; or

"G" means at least 60 per cent of the ex-factory price was cumulatively produced in more than one beneficiary country or Canada.

8. The goods must be certified in the beneficiary country in which the goods were finished. Goods for which the GPT treatment is claimed must be identified separately on the invoice from non-preference receiving goods.

9. The goods must be shipped directly to Canada on a through bill of lading from the beneficiary country in which they were certified. Evidence that the goods have been shipped directly to a consignee in Canada must be presented to Customs at the same time as the proof of origin. This evidence must be in the form of a through bill of lading or any other carrier's document that provides the same information as a through bill of lading described in paragraph 11(a) to (f) of this Memorandum. Customs may request presentation of the through bill of lading as final verification that the goods have been shipped directly to Canada.

10. Trans-shipment through an intermediate country is allowed provided:

- (a) the goods remain under Customs transit control in the intermediate country;
- (b) the goods do not undergo any operation in the intermediate country other than unloading, reloading, splitting up of loads or operations required to keep the goods in good condition;
- (c) the goods do not enter into trade or consumption in the intermediate country; and
- (d) the goods do not remain in temporary storage in the intermediate country for a period exceeding six months.

11. The through bill of lading is a contract document which ensures the direct shipment of goods from the country of origin to a consignee in Canada in accordance with paragraphs 9 and 10 of this Memorandum. The through bill of lading is one single document containing all of the following information:

- (a) the identity of the exporter in the country of origin;
- (b) the identity of the consignee in Canada;
- (c) the identity of the carrier or agent who assumes liability for the performance of the contract;
- (d) the contracted routing of the goods must be clearly stated, identifying all points of trans-shipment;
- (e) a full description of the goods and the marks and numbers of the package; and
- (f) the place and date of issue.

The through bill of lading containing this information is issued when the carrier assumes care, custody and control of the goods. Through bills of lading that are issued retrospectively will not be accepted.

12. Some exceptions exist where goods may be entitled to alternative shipping or certification requirements. For more information, please refer to the Proof of Origin Regulations (Memorandum D11-4-2), and the Mexico, China, or Soluble Coffee Direct Shipment Condition Exemption Orders (Memoranda D11-4-9, D11-4-10, or D11-4-11).

Least-Developed Developing Country Tariff Treatment (LDDC)

13. All countries entitled to the LDDC tariff treatment are beneficiaries of the GPT.

14. To qualify for duty-free treatment, the country must be recognized as an LDDC in Schedule III of the Customs Tariff and at least 40 per cent of the ex-factory price of the goods as packed for shipment to Canada must originate in one or more LDDC beneficiary countries or Canada.

15. The 40 per cent qualifying content may be cumulated from various LDDC beneficiary countries or Canada.

16. The goods must be finished in the beneficiary country in the form in which they were imported into Canada.

17. Pursuant to the Proof of Origin Regulations, proof of origin in the form of a Certificate of Origin, Form A, signed and stamped by a recognized certifying authority in the beneficiary country where the goods were finished, must be presented to Customs at the time of reporting, accounting or claiming a refund. In all cases, the stamp and signature on the Form A must be originals.

18. The origin criterion in Field 8 of the Form A must be one of the following:

"P" means wholly (100 per cent) produced in the beneficiary country;

"F" means at least 40 per cent of the ex-factory price was produced in the LDDC beneficiary country; or

"G" means at least 40 per cent of the ex-factory price was cumulatively produced in more than one LDDC beneficiary country or Canada.

19. The goods must be certified in the beneficiary country in which they were finished. Goods for which the LDDC tariff treatment is claimed must be identified separately on the invoice from non-preference receiving goods.

20. The goods must be shipped directly to Canada on a through bill of lading from the beneficiary country in which they were certified. With respect to direct shipment and trans-shipment, the same conditions which apply under GPT (paragraphs 9 to 11 of this Memorandum) apply to goods for which the LDDC tariff treatment is claimed.

21. For further information or assistance, please contact:

Origin Determination Directorate  
Tariff Programmes  
Department of National Revenue  
Customs and Excise  
Ottawa  
Ontario K1A 0L5

Telephone: (613) 954-6985

REFERENCES

Issuing office:

Origin Determination Directorate

Legislative references:

Customs Tariff  
C.R.C., c. 528 as amended by SOR 83-78, as amended by SOR/84-655, as  
amended by SOR/88-76

Headquarters file

Not applicable

Superseded Memoranda "D":

Not applicable

Other references:

D11-4-2, D11-4-9, D11-4-10, D11-4-11

Services provided by the Department are available in both official  
languages.

This Memorandum is issued under the authority of the Deputy Minister  
of National Revenue, Customs and Excise.