

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## NATIONALITY OF IMPORTED GOODS

### Survey of Principles and Practices as reported by Contracting Parties

At their Seventh Session the CONTRACTING PARTIES considered a resolution submitted by the International Chamber of Commerce urging the adoption of uniform rules for determining the nationality of imported goods. It was the view of the ICC that with the widespread use of import quotas and exchange controls the problem of the determination of nationality had "become acute", particularly in relation to manufactured products. The Chamber, therefore, recommended the adoption of the following definition "based in part upon the work done in this connection by the Economic Committee of the League of Nations 1931" (see ICC brochures 130 and 153):

"For the application of treaty duties, intermediate duties, minimum duties and other duties dependent upon the nationality of the imported product, as well as in the case of tariff quotas, import and export quotas and exchange control, the country of origin of manufactured products shall be:

- when all the manufacturing processes have taken place in the same country, the country in which such products have been manufactured;
- when the manufacturing processes have taken place in more than one country, the country in which the last manufacturing process has taken place, provided that the process is economically justified and important. An 'important' manufacturing process shall be one which effects a substantial change in the nature of the product."

It was further proposed by the Chamber that the adoption of this definition of nationality should be accompanied by a decision to apply the following principles to the "provenance" of goods:

"The route followed by the goods in the course of transit from the country of origin to the country of destination shall in no way affect the nationality of these goods. This principle shall also apply to any manipulation or handling of the goods in a transit country which

does not go far enough to confer a new nationality on the goods. Such manipulation or handling shall include unloading and reloading, unpacking and repacking, and cleaning, whether these operations are carried out under customs supervision, in free ports, or in free circulation.

"Goods shall not be excluded from differential treatment due to them on account of their nationality on the ground that they have been shipped to the importing country from or via a third country, the like products of which have no claim upon such differential treatment."

Consideration of the ICC proposal by a working party at the Seventh Session revealed (G/28) that some contracting parties held the opinion that no useful purpose would be served by attempting to draft a uniform definition and that, in any case, such an attempt would be fruitless; the majority, however, thought that further study would be worthwhile. In order that the question might be examined in more detail at the Eighth Session, the CONTRACTING PARTIES agreed that governments should be asked to furnish statements of their present principles and practices in determining the nationality of imported goods. The request for these statements was issued in L/71 on 21 January, and the statements received from governments have been distributed in addenda to that document.

In addition to details of the principles underlying national legislation, governments were asked to submit proposals for international action. In this survey of the statements received the proposals submitted as to the international action that might be taken in this matter will be summarized first. In Part II the present practices of governments will be described.

## I. PROPOSALS FOR INTERNATIONAL ACTION

The Governments of France and Germany, supported in general terms by those of Benelux and Italy, advocate the adoption of international rules for the determination of the origin of manufactured goods and would seek international agreement on the form of certificates of origin. The United Kingdom Government, on the other hand, gives at length its reasons for believing that efforts to secure international action in this field cannot succeed. Most other governments, including those of Australia, Canada, India and the United States, have submitted no proposals for international action and have made no comment on the various projects which have been discussed internationally in recent years.

### (a) Definition of Origin

The German Government thinks that "standard regulations to define the concept of origin" would facilitate international trade and that the definition drawn up in 1949 by the European Customs Union Study Group could serve as a criterion. The Study Group proposal is quoted as follows:

"When goods undergo processing or refinement in a third country their country of origin shall be considered to be the country where the imported goods underwent the last processing which is economically justifiable. Exception shall be made for insignificant operations, the only purpose of which is to avoid payment of a higher duty".

(L/71/Add.1 page 56)

However, the German Government considers that the criterion of "the last processing which is economically justifiable" is insufficient because it may be "a relatively insignificant phase in the manufacture of the product" and that the criterion should, therefore, be extended to require that only processing "which essentially modifies the nature of the goods" should be determinative of their origin.

The French Government considers that it would be an advantage to businessmen and customs authorities to have uniform regulations by establishing an international definition. In its statement it discusses several possible standards for determining the origin of goods which have been treated in a third country and then proposes the following text for adoption as a rule for international application:

"Goods which have undergone treatment in a third country shall be considered to originate in the country where they acquired their individual characteristics as a result of a transformation of the products of which they are composed involving a fundamental change in the nature of these products and a change in the general description of the goods. The assembly of component parts shall not be regarded as a complete transformation".

(L/71/Add.1, page 45)

The Italian Government considers that a multilateral agreement shall be adopted, providing a single definition of origin, uniform rules for determining the nationality of imported goods; a list of operations for which proof of origin should not be required; a standard form of certificate of origin and the authorities competent to insure the certificate, and also provisions for enforcement. Austria and Benelux also favour international action on these lines.

On the other hand, the United Kingdom Government does not favour an attempt to secure international agreement on a standard definition of origin for the purposes of the application of tariffs because, in its opinion, such an attempt is "bound to be fruitless". Neither the definition drawn up by the European Customs Union Study Group nor the one proposed by the ICC would be acceptable to the United Kingdom Government. It is the Government's view that for the purpose of charging duty, the question is not one of determining the "country of origin" but of entitlement to the lower rates of duty, while in the administration of import licensing regulations a considerable degree of flexibility is needed in the determination of origin and it would be impossible "to devise any precise definition which would be acceptable internationally for all commodities in all circumstances".

The New Zealand Government thinks "a common definition is unlikely to be attained" : national methods of determining nationality are "so bound up with the tariff structure that changes would involve radical tariff alterations and create considerable difficulty in relation to trade agreements, including the GATT".

(b) Certificates of Origin

A number of governments wish to see the requirement of certificates or origin abolished as far as practicable (Czechoslovakia, Denmark and Indonesia). Some simply advocate their simplification (Austria and Greece). The Governments of Benelux, France, Germany and Italy advocate the adoption of a standard form for certificates of origin and wish to reach agreement on the issuing authority and on procedures for verification. France and Germany refer to Article 11 of the International Convention relating to the Simplification of Customs Formalities (Geneva 1923) and would like this to be implemented.

II. SURVEY OF PRESENT PRACTICES

Most of the statements submitted by the contracting parties were prepared in the form requested, i.e. by furnishing information on -

1. Purposes for which origin is required to be established,
2. Definition of origin,
3. Treatment of goods which have passed through other countries, and
4. Proof of origin.

The following survey of the information thus furnished follows the same plan:

1. Purposes for which Origin is required to be established

(a) Differential Rates of Duty Most governments require some evidence or a declaration of the country of origin of imported goods in order to determine the rate of duty applicable. Only Denmark, Germany, Indonesia, Norway and Sweden, applying single-column tariffs, do not find it necessary to establish origin in order to assess the duties payable. Other governments, for some or all products, apply various rates of duty in accordance with the country of origin of the goods imported, and importers who claim the benefit of the preferential, minimum or conventional rates must provide evidence that the goods originated in a country whose products are entitled to such treatment. Certificates of origin are required by most countries which have differential rates of duty.

(b) Quantitative Restrictions. Governments which do not apply quantitative restrictions (Canada and Haiti) do not need to establish the origin of goods in order to administer such restrictions. Others which apply restrictions

but do not allocate quotas or discriminate between sources of supply (Indonesia) also do not require proof of origin. But governments which apply restrictions to imports from some sources and not from others, or which allocate quotas among sources of supply, require evidence or declarations of origin in order to enforce the regulations. Generally, the evidence of origin accepted for assessment of duty serves this purpose also.

(c) Trade Statistics The country of origin, whether or not established for the assessment of duty, is generally accepted for statistical purposes. Some governments, however, use a different basis to establish their import statistics: for example, Benelux - "country of shipment", Canada - "direct shipment", Denmark - "country of purchase", Haiti - "country of provenance", Finland and New Zealand record both "country of origin" and "country of purchase" and India and the United Kingdom - "country of consignment".

(d) Merchandise Marks Many governments (Australia, Benelux, Canada, Ceylon, Finland, France, New Zealand, Southern Rhodesia, Turkey, United Kingdom and United States) require certain categories of goods to be marked with the name of the country origin. (As an alternative the United Kingdom accepts the word "foreign" or "empire".) In the absence of proof, many governments may disallow importation in order to prevent the use of false indications of origin - to safeguard trade-marks, etc. The French Government states that it is a party to "various international or bilateral conventions which contain clauses relating to the protection of manufacturing or trade marks and of designation of origin. To carry out these obligations the origin of imported goods must be ascertained and verified".

(e) Other Purposes The establishment of origin for certain products is required by several governments (Benelux, Denmark, France, Germany, Italy and New Zealand) for various other purposes; in particular for the administration of Health, sanitary and veterinary regulations, etc.

## 2. Definition of Origin

(a) and (b) Natural Produce and Goods manufactured from national raw materials It is general practice to regard the country in which goods are grown or produced, or manufactured from home-produced materials, as the country of origin.

(c) and (d) Goods manufactured from imported raw materials and goods manufactured in more than one country: For goods manufactured from imported raw materials, many governments take simply the country of manufacture as the country of origin - Australia, Germany, Greece, Haiti and Indonesia. Generally, however, the definition of origin does not distinguish clearly between goods which are manufactured entirely in one country though from imported raw materials and the products of manufacturing processes which take place in two or more countries.

The countries of the Commonwealth determine the origin of goods qualifying for admission at preferential rates of duty in accordance with the percentage of the total value which derives from costs incurred in the countries which contribute to the final product. The Scandinavian countries - Denmark, Finland, Norway and Sweden - take as the country of origin the country in which the goods

were produced or manufactured or were subjected to the process, other than repacking, sorting or mixing, giving them the form in which they appear at the time of importation. Some countries - Australia, Haiti and Southern Rhodesia - merely stipulate the last process of manufacture, while Indonesia will attribute origin to a country in which goods are packed for retail sale. Others add qualifications: Austria - if substantially gained in value by processing; Benelux - if economically justified and increased in value by 50 per cent; Canada and New Zealand - if finished and not less than half of cost added; Czechoslovakia - if processed to such an extent as to considerably change their nature and value; Italy - last process of industrial transformation by which the goods are substantially modified, acquiring new and distinct properties; Germany - final processing economically justifiable and entailing a fundamental change in character; Turkey - if value increased by one third; and the United States - effects a substantial transformation. The French definition is more complicated; it allows any sort of processing in the case of a country entitled to less favourable rates of duty, otherwise requires complete processing and a loss of the original characteristics, or partial processing if as a result the goods will be subject to a higher rate of duty than would have been applied to the raw materials, and if there will be no difference in the duty applied the country of initial origin is taken.

### 3. TREATMENT OF GOODS WHICH HAVE PASSED THROUGH OTHER COUNTRIES ON THE WAY TO THE COUNTRY OF IMPORTATION

The fact that goods have passed through one or more countries on their way to the country of importation seldom results in a change of "nationality" or in different treatment from that they would receive if they had been shipped direct. This "passing through", however, is usually defined as being merely "in transit" or "trans-shipped" at a port; France - the time spent in the intermediary country cannot exceed the time normally required for trans-shipment; Greece - the goods cannot have been cleared by the customs; Italy - the goods cannot have been available for consumption; New Zealand - the goods cannot have entered into the commerce of the country. In some respects the information furnished by governments on the treatment of goods that have passed through other countries is the converse of that given above regarding the definition of nationality: there it was found that the nationality changed if the goods were subjected to certain processing, or if their value were increased by a certain proportion, in a second country; if nationality is not thus changed, the goods are regarded as having been merely in transit.

#### (a) Differential Rates of Duty

Governments which are not interested in the "origin" of goods for the assessment of duty, are also not interested in the countries through which they may have passed. This is especially true of governments with single-column tariffs (see 1(a)). To qualify for preferential rates, however, some governments require direct shipment; Benelux - from country of origin; France - from country of provenance. Some Commonwealth Governments (Australia, Ceylon, Southern Rhodesia and the United Kingdom) require that the goods were initially consigned to them, while Canada and South Africa require direct shipment or shipment from another territory entitled to the same treatment.

(b) Quantitative Restrictions

Transit and trans-shipment do not cause difficulties in the administration of import restrictions though some governments make special stipulations: Germany - the goods must not be resold in the transit country; India - goods from a soft-currency country may only pass through other soft-currency countries; New Zealand - goods from a non-scheduled (soft-currency) country cannot have entered into the commerce of a scheduled country if as a result payment is required in hard currency. The OEEC liberalization measures apply to goods "originating in or coming from" (origin or provenance) other member territories.

(c) Trade Statistics

The passing of goods through countries other than that of origin, consignment, purchase, etc. (see 1(c)) does not alter the statistical entries, but here also some stipulations are made: Germany - if not resold; United Kingdom - if no commercial transaction in an intermediate country.

(d) and (e) Other Reasons

France, New Zealand and Southern Rhodesia prohibit for health reasons the importation of certain commodities which have come from certain countries whether or not they originated in those countries.

4. PROOF OF ORIGIN

(a) Form of Certificates or other Proof<sup>1</sup>

Many governments accept the information contained in invoices, bills of lading, etc., as evidence of origin (Austria, Czechoslovakia, Haiti, Indonesia, Norway, Germany, India, Sweden, United States). Some require a declaration signed by the importer (Australia, Benelux, Denmark, Sweden); and some a declaration signed by the producer or manufacturer of the goods or by the exporter or consignor (Canada, New Zealand, South Africa, United Kingdom). For certain goods, however, these governments may also require certificates of origin (Austria, Denmark). A few governments require certificates of origin for all goods of which the nationality must be determined (Ceylon, Finland, France, Greece, Italy, Southern Rhodesia).

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<sup>1</sup> When it is stated in these paragraphs that, for example, certificates of origin or importers' declarations are required, it is to be understood that these are required only for those goods for which nationality must be determined for one or more of the purposes enumerated in Section 1.

(b) The Issuance of Certificates

Countries which require certificates of origin usually provide that they may be issued by the customs or other authorities of the foreign government or by the Chambers of Commerce or other agencies designated by the foreign government (Austria, Benelux, Finland, France, Germany, Greece, Italy). Secondly, they may be issued by Consulates or Chambers of Commerce of the importing country located in the country by exportation (Austria, France, Italy).

(c) Verification of Facts by Customs Authorities

Customs officers who are not satisfied with the certificates or other documents which accompany the goods on importation or which are presented as proof of origin by the importer, generally have authority to require additional documentation and may carry out investigations to obtain acceptable evidence (Australia, Benelux, Canada, Ceylon, Czechoslovakia, Finland, France, Germany). Some governments have officials stationed in other countries who can investigate the circumstances of exportation, etc. (Canada, New Zealand, Southern Rhodesia).

