

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)
Negotiating Group on Non-Tariff Measures

RULES OF ORIGIN

Communication from the United States

The following communication has been received from the delegation of the United States with the request that it be circulated to the members of the Group.

With the objective of working towards the harmonization of rules of origin, increasing certainty and predictability in the international trading system and eliminating the potential for rules of origin to serve as a non-tariff measure to trade, the United States submits the following proposal to the Uruguay Round Negotiating Group on Non-Tariff Measures.

The proposal consists of three parts: I. a work programme for moving towards the harmonization of rules of origin; II. procedural rules to govern the application of rules of origin; and III. principles to govern the application of rules of origin.

I. Efforts to Work Towards the Harmonization of Rules of Origin

In working towards the harmonization of rules of origin, the United States recognizes that the GATT will need technical help in this area and thus calls on the GATT to work closely with the Customs Cooperation Council in carrying out the following work programme:

Phase one: Work to be undertaken by the Customs Cooperation Council (CCC)

A. The contracting parties shall request the CCC to:

- (i) Using the harmonized system nomenclature, identify where change within the nomenclature results in transformation of a product sufficient to confer origin. This examination shall be conducted in a technical and objective manner and the resulting determinations would be made without consideration to secondary criteria such as trade policy considerations and existing rules, including but not limited to value-added requirements,

specific requisite manufacturing processes or other similar non-tariff classification methodologies. As part of this exercise, the CCC should identify those product areas or specific products where use of the harmonized system nomenclature may not alone be an adequate basis for a logical rule of origin.

- (ii) Identify those product areas which are typically subject to a variety of rules of origin and/or rules of origin different from the primary rule of origin used by individual countries. The CCC shall consult with the CONTRACTING PARTIES in identifying these products and use the information concerning individual country origin systems provided to the GATT secretariat under Section II.A.1. of this proposal. Taking this information into account, the CCC shall report to the GATT those product areas, along with the specific harmonized system number(s) and the specific rules that are used by different countries.
- (iii) Report the generic types of non-m.f.n. policies or programmes that are subject to special rules of origin, indicating the country, programme/policy used.

B. These reports shall be completed within one year upon initiation.

Phase two: Work to be undertaken by the GATT using CCC expertise, as appropriate

- (a) With the objective of harmonizing rules of origin, increasing predictability in the multilateral trading system and promoting transparency, the contracting parties shall use the above reports as a basis for negotiations.
- (b) These negotiations shall be completed within one year upon initiation.
- (c) Agreements resulting from these negotiations shall be adopted by the CONTRACTING PARTIES subject to domestic authorization. They will enter into force in accordance with a time frame agreed upon by the CONTRACTING PARTIES.
- (d) The CONTRACTING PARTIES shall review the principles and procedures provided in the following sections and amend them as necessary to implement and ensure the adherence to the results of the negotiations.

I. Procedural Rules to Govern the Application of Rules of Origin

A. Transparency

1. Contracting parties shall submit to the GATT secretariat a description of the laws, regulations, judicial or equivalent decisions and administrative practices they have in place to confer origin within 90 days of the date this Agreement enters into force. This description shall be written in an easily understood language.

2. Contracting parties shall notify the GATT secretariat of any proposed administrative or legislative change to their origin rules, including changes regarding specific products and programmes, at least 120 days before the change is to be adopted. The notice shall include a description of the proposed change, products and/or countries affected, an explanation of the reasons for proposing such a change, and an indication of its likely trade effects.

3. If 120 days advance notification is not possible due to exceptional circumstances, the contracting party making such a change shall notify the GATT as soon as possible prior to adoption of the change. In cases where advance notification is not possible due to exceptional circumstances, notification must be made no later than 10 days after adoption of the change.

B. Consultation

1. Prior to the adoption of a proposed legislative or administrative change, the contracting party proposing a change to its origin rules shall consult with other contracting parties upon request. Such a request should be made no less than 45 days prior to the proposed date of adoption of the change. The purpose of such consultations is to provide an opportunity for affected contracting parties to express their concerns in an effort to ensure that the proposed change is as neutral as possible with regard to trade effects, and in conformity with the agreed upon principles and procedures, as well as with GATT obligations and principles.

2. In exceptional circumstances where consultations prior to adoption of a change in an origin rule are not possible, the contracting party making such a change shall consult with other contracting parties upon request as soon as possible and in no case later than 30 days after adoption of the change.

C. Review

1. A periodic review of the origin systems of contracting parties shall be undertaken to ensure the systems are transparent and in conformity with

agreed upon principles and procedures, as well as GATT obligations and principles.

2. The principles and procedures shall also be reviewed periodically to ensure their consistency with harmonization efforts outlined in Section I, as well as their relevance to experience gained in the implementation of this Agreement.

D. Dispute Settlement

The provisions of Articles XXII and XXIII of the General Agreement, as improved and elaborated upon by the Negotiating Group on Dispute Settlement, are applicable to this Agreement.

III. Principles to Govern the Application of Rules of Origin

The United States notes the objectives and principles set forth in the proposals tabled by other delegations. Without prejudice to the US position on these specific proposals, we offer the following four principles to build on their suggestions.

All origin systems shall be in conformity with the following principles:

- (a) Rules of origin shall be based on a positive standard to the maximum extent possible, i.e. they should state what confers origin as opposed to what does not confer origin. Negative standards are permissible to clarify a positive standard.
- (b) All origin systems maintained by a country shall ensure that the origin of products is determined in a consistent manner within each system.
- (c) Rules of origin shall be readily understandable, published in easily understood language, and shall be uncomplicated and predictable in application.
- (d) Any determination of origin shall be reviewable by an administrative or judicial authority of the relevant country other than the authority issuing the determination which has the authority to reverse or modify the determination.