

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)
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RULES OF ORIGIN

Communication from the European Communities

The following communication has been received from the delegation of the European Communities with the request that it be distributed to the members of the Group.

The European Community lays great emphasis on the fact that international trade should depend on stable and foreseeable legal requirements. Rules of origin are a part of the necessary legal requirements and the Community welcomes an international discussion on this subject and wishes to participate actively in them. The Community submits the following proposals to the Uruguay Round Negotiating Group on Non-Tariff Measures.

1. Subject of possible discussions

Origin rules are needed whenever the treatment accorded to an imported product depends on its country of origin. Origin rules are therefore principally intended to determine unambiguously the origin of a particular imported or exported product. They should be of a technical nature and neutral in character and should not constitute in themselves an obstacle to trade. They are not themselves measures of commercial policy but are required for the application of such measures and also in the field of preferential trade.

Preferential origin rules are embodied in specific instruments and aim to determine whether a particular product may qualify for the provisions laid down in these instruments. As these rules are generally accompanied by a mechanism for dealing with any problems which may arise, international discussions should deal with the other fields where origin rules are applied, namely outside the context of preferential trade.

Origin rules referred to in this submission are therefore considered to be the non-preferential origin rules.

2. Present situation at international level

In order to respond to the need for stable and predictable legal requirements, an international convention (the International Convention on the Simplification and Harmonization of Customs Procedures, Kyoto 1973) was established. Its Annex D1 lays down a framework of origin rules which contracting parties undertake to accept. A number of contracting parties, among them the European Community, have accepted this annex.

The Kyoto Convention stipulates that in those cases where two or more countries have taken part in the manufacture of a product the country of origin is the one where the last substantial transformation has taken place. The Convention recommends that the last substantial transformation criterion can be expressed by a change of tariff heading criterion and/or a list of manufacturing or processing operations and/or an added value criterion.

3. Considerations

Two main areas can be identified for international discussions:

- general principles governing rules of origin and
- a possible approximation of these rules.

As far as the general principles are concerned, it is the Community's view that these should be laid down in the Uruguay Round negotiations.

The Community can agree to any other discussions on possible approximation on origin rules and on any further technical improvement only after an agreement on these principles has been reached. It considers that such further discussion should be carried out in the Customs Co-operation Council, leaving to this international body its own responsibility independent from GATT.

4. Proposal for an international approach on origin rules

Contracting parties involved in the Uruguay Round negotiations and which have not yet done so shall adopt Annex D1 of the Kyoto Convention as this Convention shall be the basis of all future discussions on origin rules.

4.1 Action to be taken in GATT

In the framework of GATT, contracting parties should commit themselves to respecting the following principles:

- Non-discrimination

Origin rules shall be identical for imported and exported products and they shall not discriminate between contracting parties.

- Neutrality

Origin rules shall be neutral and technical in nature and should not be adapted to specific purposes.

- Transparency

Commercial operators and administrations must be informed about rules of origin and their interpretation applied by the contracting parties. To this end contracting parties shall inform the GATT secretariat about their origin rules. In the event that for the application of the rules of origin, interpretative regulations become necessary, such regulations shall be published before their entry into force.

- Predictability

When commercial operators are in doubt in respect of the origin status of one of their products they should be given the right to seek information and to obtain binding replies within a reasonable period. To this end, contracting parties shall issue upon request of an exporter or importer binding assessments of the origin status of a product. Request for such assessments shall be accepted even before trade in the product concerned begins. Such assessments shall remain binding as long as the conditions under which they have been decided (production process, tariff classification, value, etc.) remain comparable.

- Consistency

Contracting parties shall respect a consistent approach based on the origin conferring criterion of last substantial operation in the application of the origin rules and avoid decisions diverging from former attitudes and from established principles.

- Legal certainty

Contracting parties shall subscribe to the principle that all interpretative decisions may be challenged, before a judicial authority of the issuing country.

- Applicability of origin rules

Origin rules shall be applied equally for all non-preferential purposes including: measures and instruments of commercial policy, like anti-dumping measures and other purposes, such as statistics, public procurement, etc. The application of m.f.n. treatment shall be considered as a non-preferential purpose.

- Dispute settlement

As far as the principles mentioned above are concerned the dispute settlement procedure referred to under GATT Articles XXII and XXIII shall be applied.

4.2 Issues to be addressed by the Customs Co-operation Council after an agreement in GATT on the principles mentioned above has been reached.

Building on these general principles, the Customs Co-operation Council (CCC) should have the responsibility to deal with technical questions concerning the interpretation of non-preferential origin rules on the basis of the existing criterion of last substantial operation, and in particular:

- studying the possibility of approximation of existing origin rules using the International Convention on the simplification and harmonization of customs procedures (Kyoto 1973) as a basis;
- developing approximation of new interpretations of origin rules;
- examining any possible additional provisions (such as development of explanatory notes) which could be helpful for the interpretation of the notion of the last substantial operation;

For all these purposes, a CCC Origin Committee should be established in which consultation and cooperation concerning the technical aspects of origin rules could take place and to which all doubtful cases could be referred.

The result of this work should then be laid down in a binding instrument.