



The Certification of Origin in WTO Agreements

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Information Session – April 2018

Objectives

- Do WTO Agreements cover certificates of origin?
- Review the relevant Agreements and the relevant provisions
- Identify specific obligations
- Gaps

Are certificates of origin: covered by WTO Agreements?

- Yes:
 - GATT
 - WTO Agreement on Rules of Origin
 - WTO Ministerial Decisions on non-reciprocal, preferential rules of origin for LDCs
 - WTO Trade Facilitation Agreement

GATT

- No provision specifically regulating the use of certificates of origin. But the general principles would apply (e.g. Most Favoured Nation).
- In addition: Article VIII: "Fees and Formalities connected with Importation and Exportation":
 - All fees and charges of whatever character shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes (VIII (a))
 - Need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements.

GATT

- Certificates of origin should only be required “to the extent that is strictly indispensable” (Note to Art. VIII)
- No substantial penalties for minor breaches (e.g. omissions or mistakes which is easily rectifiable and obviously made without fraudulent intent)
- The provisions of this Article shall extend to fees, charges, formalities and requirements imposed by governmental authorities in connection with importation and exportation, including those relating to:
 - (a) consular transactions, such as consular invoices and certificates;
 - (f) documents, documentation and certification;

Agreement on Rules of Origin

- Focus of the Agreement was on the substance of rules of origin (origin and substantial transformation criteria).
- However:
- *Recognizing* that it is desirable to provide transparency of laws, regulations, and practices regarding rules of origin (Preamble)
- Non-preferential rules of origin are administered in a consistent, uniform, impartial and reasonable manner (Art.2(e) and 3(d))

Ministerial Decisions on rules of origin for Least-developed countries

- 2013 (Bali), paragraph 1.8:
 - Documentary requirements should be simple and transparent.
 - Recognize self-certification
 - Customs cooperation could complement risk-management measures
- 2015 (Nairobi), paragraph 3.1:
 - Reduce the administrative burden related to certificates of origin
 - Minimize certification requirements for small consignments
 - Allow for self-certification

Trade Facilitation Agreement

- Transparency:
 - prompt and easily accessible publication (Art. 1.1.1 (a))
 - Make available through the Internet to the extent possible (Art. 1.2.1(b))
 - Make information available in a official WTO language whenever practicable (Art.1.2.2)
 - “Enquiry Point”: answer reasonable enquiries of governments, traders, and others (Art. 1.3)

Trade Facilitation Agreement

- Prior processing:
 - Allow for the prior processing of trade documents (including certificates of origin) (Art.7.1)
 - Allow for the electronic payment of trade documents (Art. 7.2)
- Acceptance of copies: accept copies, particularly where one government agency already holds the original of a certificate (Art. 10.2)
- Customs cooperation: At the request of another Member, customs shall share information with respect to certificates of origin, confirm that the certificates are authentic copies (replies in 90 days to the extent possible) (Art.12)

Thank you for your attention!

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