



# **NON-PREFERENTIAL RULES OF ORIGIN: Transparency and Notification**

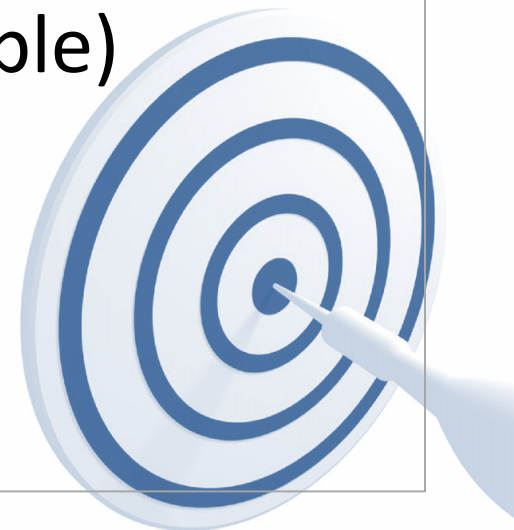
Darlan F. Martí

Secretary, WTO Committee on Rules of Origin

Committee on Rules of Origin – 15 October 2018

# Objectives of this presentation

1. Brief overview of existing notification obligations in the Agreement on Rules of Origin – focus on “non-preferential” RO
2. Overview of compliance (notifications submitted and information available)
3. Examples of notifications
4. Information gaps



# **Current Notification Obligations: Agreement on Rules of Origin**

# Transparency: 2 aspects

## Publication

- Publication, domestically, through an official instrument
- **Article X - GATT:** laws , regulations, judicial decisions and administrative rulings related to imports or exports “shall be published promptly” to enable governments and traders to become acquainted with them
- No enforcement without prior official publication
- **Article 1 - TFA:** publication in easily accessible manner, through the Internet, WTO official language, enquiry points

## Notification

- Submission of trade-related information to the “WTO Secretariat”, or to a specific WTO Committee
- **Agreement-specific**
- One off vs. periodic notifications
- Full legislation, summary of legislation, questionnaire, standardized format, etc.
- Periodicity of submissions and exact content or format may be specified in the Agreement or in a subsequent decision by the Committee
- Follow-up also depends on each case: take note, examination, written Q&A, etc.



# Notifications: Article 5 ARO

1. **Each Member** shall provide to the **Secretariat**, **within 90 days** after the date of entry into force of the WTO Agreement for it, **its rules of origin**, judicial decisions, and administrative rulings of general application relating to rules of origin in effect on that date.

If by inadvertence a rule of origin has not been provided, the Member concerned shall provide it immediately after this fact becomes known.

Lists of information received and available with the Secretariat shall be circulated to the Members by the Secretariat.

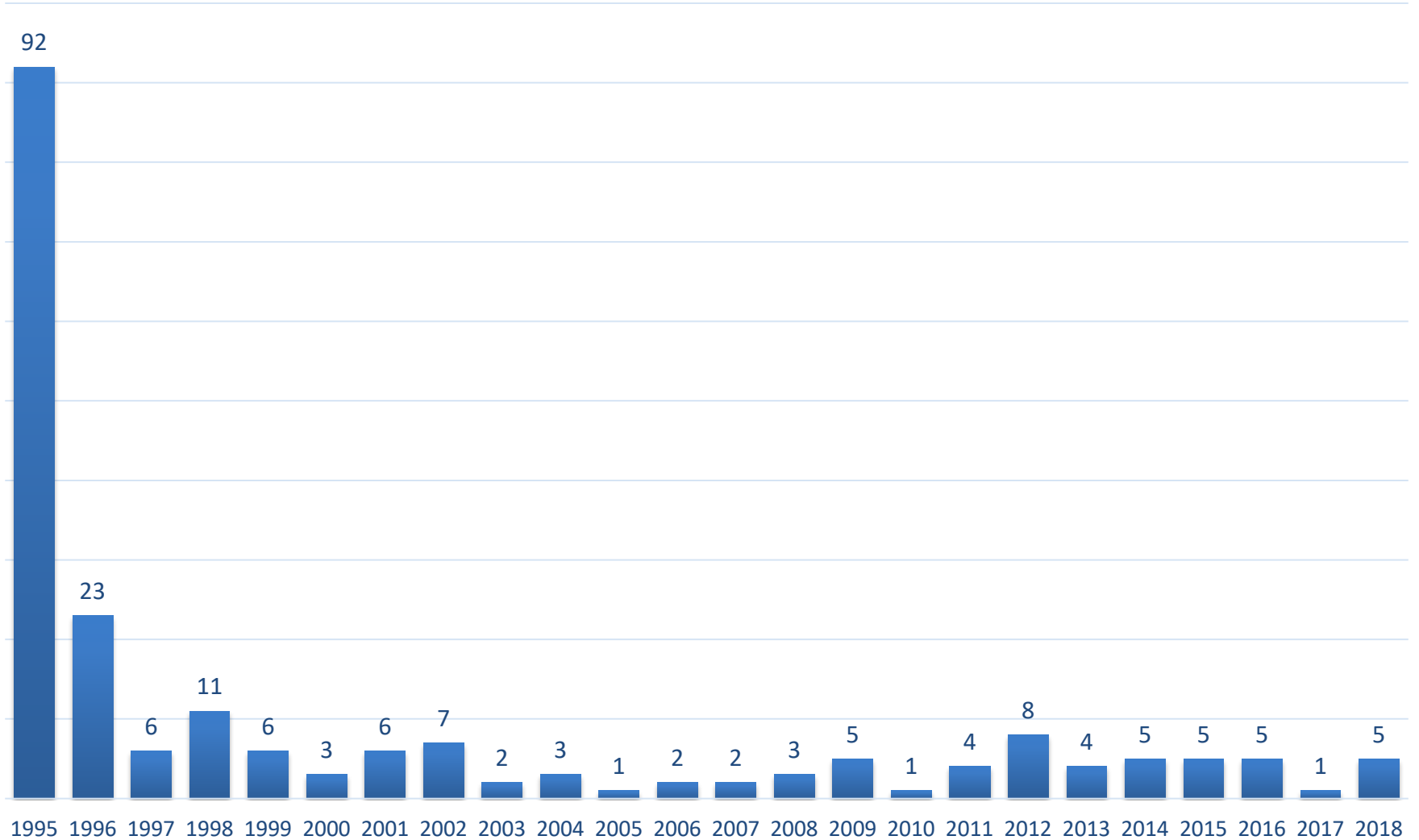
2. Members introducing **modifications** to their rules of origin or introducing new rules of origin **shall publish a notice** to that effect at least 60 days before the entry into force of the modified new rule



# Some features of Art.5

- Each Member: all Members must notify, including those that do not apply any non-preferential RO
- Notifications made “to the Secretariat”
- No guidance regarding format, content
- No guidelines regarding language: But: G/RO/1 Committee Decision that a if a notification were to be made in a language other than one of the WTO working languages, such notification should be accompanied by a summary in one of the WTO working languages.
- No details about the type of follow-up for notifications: examination in the CRO? Q&A? etc.
- No explicit obligation to notify modifications

# Notifications by year

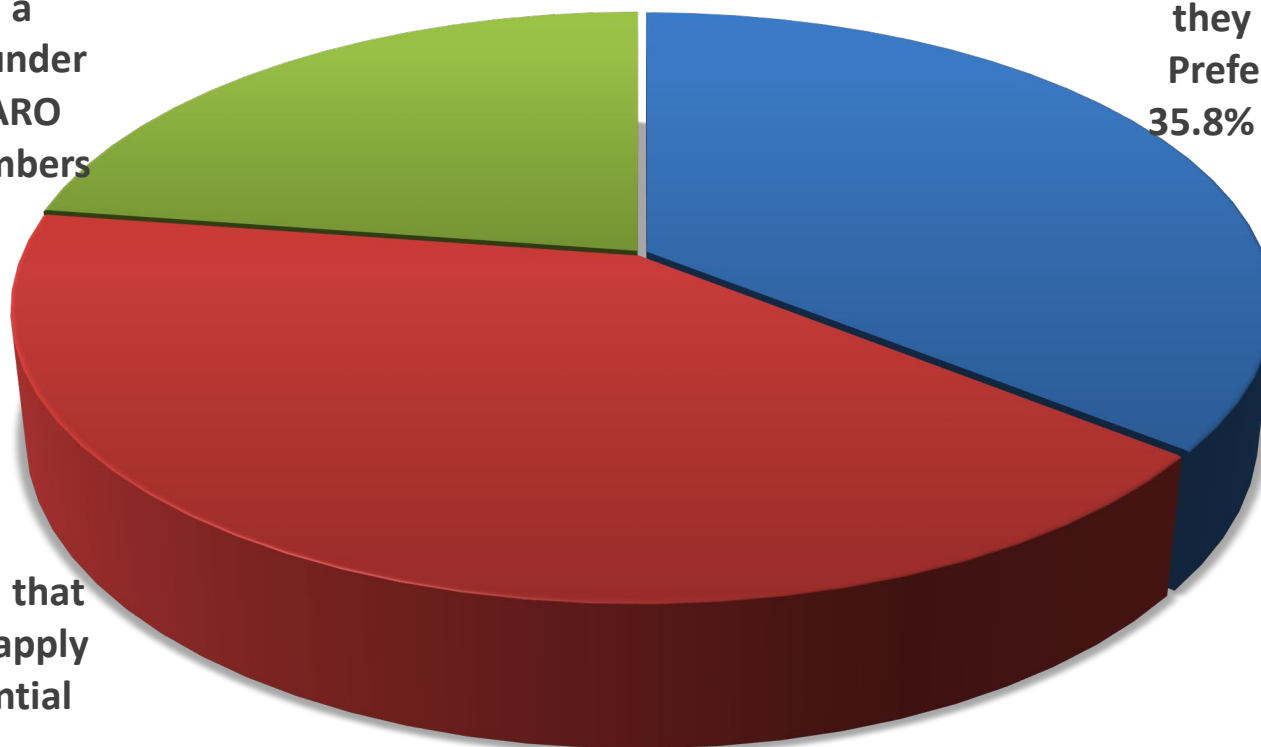


# Current status of notifications

Have not  
Submitted a  
Notification under  
Ar.5 of the ARO  
22.6% of Members

Have notified that  
they apply Non-  
Preferential R.O.  
35.8% of Members

Have notified that  
they do NOT apply  
Non-preferential  
RO  
41.6% of Members





# Illustrations of some notifications

# Illustration 1

## G/RO/N/1 of 9 May 1995

2. As of 5 May 1995, notifications relating to non-preferential rules of origin have been received from the following Members:

AUSTRALIA

KOREA, REPUBLIC OF

JAPAN

CANADA

NEW ZEALAND

HONG KONG

COLOMBIA

ROMANIA

USA

EC

SLOVAK REPUBLIC

3. The following Members have notified that they do not have non-preferential rules of origin:

COSTA RICA

MAURITIUS

THAILAND

INDIA

VENEZUELA

The notifications are available for consultation in the WTO, Centre William Rappard (Office 2016).

# 関税法基本通達第68-3-4.

## (原産地の認定基準)

68-3-4 協定税率を適用する場合における輸入物品の原産地の認定については、次による。

(1) 当該物品の原産地とは、当該物品につき次のいずれかに該当する生産、加工又は製造を行った国（外国貿易等に関する統計基本通達別紙第1（統計国名符号表）の国名欄に掲げる国別による。）をいう。ただし、下記2)に掲げる物品を除く。

イ 当該物品につきその全部を生産した国

ロ 当該物品の生産が二国以上にわたる場合には、実質的な変更をもたらし、新しい特性を与える行為を最後に行った国

(2) 定率法別表（以下「関税率表」という。）の第37.04項から第37.06項までに属する物品（第37.04項の写真用の紙、板紙及び紡織用繊維を除く。）については、当該物品を製作した者の属する国をもつて原産国とする。

(3) 次の物品は、それぞれ次に掲げる一の国においてその全部が生産されたものとする。

イ 一の国（その大陸棚を含む。）において採掘された鉱物性生産品

ロ 一の国において収穫された植物性生産品

ハ 一の国において生まれ、かつ、成育した動物（生きているものに限る。）

ニ 一の国において動物（生きているものに限る。）から得られた物品

ホ 一の国において狩猟又は漁ろうにより得られた物品

ヘ 一の国の船舶により公海で採捕された水産物

ト 一の国の船舶において前号に掲げる物品のみを原料又は材料として生産された物品

チ 一の国の船舶その他の構造物により公海で採掘された鉱物性生産品（上記イに該当するものを除く。）

リ 一の国において収穫された使用済みの物品で原料又は材料の回収用のみに適するもの

ヌ 一の国において行われた製造の際に生じたくず

ル 一の国において上記イからヌまでに掲げる物品のみを原料又は材料として生産された物品

(4) 「実質的な変更をもたらし、新しい特性を与える行為」とは、次のいずれかに該当する加工又は製造をいう。ただし、下記6)に掲げる行為のみによる加工又は製造を除く。

イ 当該物品の該当する関税率表の項が当該物品の製造に使用した自国産以外のすべての原料又は材料の属する同表の項と異なることとなる製造（加工を含む。以下同じ。）

ロ 自国産以外の原料又は材料を使用して行う製造で上記イに該当しないもののうち、次に掲げる製造

(イ) 天然研磨材料について、その原石を粉碎し、かつ、粒度をそろえる加工

(ロ) 糖類、油脂、ろう又は化学品について、その用途に変更をもたらし、又はその用途を特定化するような精製

(ハ) 関税率表の第5部又は第7部の物品について、化学的変換を伴う製造

# Illustration 2

**G/RO/N/25 of 13 April 1999**

**LATVIA**

- Article 162 of Customs Law.

**QATAR**

(Notification in English)

- Customs Code No. 5 of 1998; and
- Decision of the acting Minister of Finance and Oil No. 2 of 1991.

STATE OF QATAR  
Customs & Ports General Authority



**CUSTOMS LAW  
&  
EXECUTIVE REGULATIONS**

**2005 Version**

# Illustration 3

## G/RO/N/78 of 16 April 2012

### BRAZIL

(Notification in English)

Legal provisions for non-preferential rules of origin are regulated by Articles 28 to 45 of Law No. 12.546 of 14 December 2011.

The full text of the Law is available at the following link (Portuguese only):

[http://www.planalto.gov.br/ccivil\\_03/\\_Ato2011-2014/2011/Lei/L12546.htm](http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2011/Lei/L12546.htm)



**Presidência da República**  
**Casa Civil**  
**Subchefia para Assuntos Jurídicos**

LEI Nº 12.546, DE 14 DE DEZEMBRO DE 2011.

Institui o Regime Especial de Reintegração de Valores Tributários para as Empresas Exportadoras (REVE) para os Produtos Industrializados (PI) à indústria automotiva; altera a incidência das contribuições de Imposto de Renda sobre os Produtos Industrializados (IPI) às Leis nº 11.774, de 17 de setembro de 2008, nº 11.033, de 21 de dezembro de 2004, nº 11.508, de 20 de julho de 2007, nº 7.291, de 19 de dezembro de 1984, nº 9.294, de 15 de julho de 1996, e a Medida Provisória nº 2.199-14, de 24 de agosto de 1999, e o art. 6º do Decreto-Lei nº 1.593, de 21 de dezembro de 1977, nos termos que

[Mensagem de veto](#)

[Produção de efeito](#)

[Conversão da Medida Provisória nº 540, de 2011](#)

[Texto compilado](#)

**A PRESIDENTA DA REPÚBLICA** Faço saber que o Congresso Nacional decreta e eu sanciono a seguinte Lei: (Vigência)

Art. 1º É instituído o Regime Especial de Reintegração de Valores Tributários para as Empresas Exportadoras (Reintegra), com o objetivo de reintegrar valores referentes a custos tributários federais residuais existentes nas suas cadeias de produção.

Art. 2º No âmbito do Reintegra, a pessoa jurídica produtora que efetua a produção e exportação de bens manufaturados no País poderá apurar valor para fins de ressarcir parcial ou integralmente o resíduo tributário federal existente na sua cadeia de produção.

§ 1º O valor será calculado mediante a aplicação de percentual estabelecido pelo Poder Executivo sobre a receita decorrente da exportação de bens produzidos pela pessoa jurídica referida no caput.

§ 2º O Poder Executivo poderá fixar o percentual de que trata o § 1º entre zero e 3% (três por cento), bem como poderá diferenciar o percentual aplicável por setor econômico e tipo de atividade exercida.

§ 3º Para os efeitos deste artigo, considera-se bem manufaturado no País aquele:

I – classificado em código da Tabela de Incidência do Imposto sobre Produtos Industrializados (Tii), aprovada pelo [Decreto nº 6.006, de 28 de dezembro de 2006](#), relacionado em ato do Poder Executivo; e

II – cujo custo dos insumos importados não ultrapasse o limite percentual do preço de exportação, conforme definido em relação discriminada por tipo de bem, constante do ato referido no inciso I deste parágrafo.

§ 4º A pessoa jurídica utilizará o valor apurado para:

I – efetuar compensação com débitos próprios, vencidos ou vincendos, relativos a tributos administrados pela Secretaria da Receita Federal do Brasil, observada a legislação específica aplicável à matéria; ou

II – solicitar seu ressarcimento em espécie, nos termos e condições estabelecidos pela Secretaria da Receita Federal do Brasil.

§ 5º Para os fins deste artigo, considera-se exportação a venda direta ao exterior ou à empresa comercial exportadora com o fim específico de exportação para o exterior.

§ 6º O disposto neste artigo não se aplica a:

I – empresa comercial exportadora; e

II – bens que tenham sido importados.

§ 7º A empresa comercial exportadora é obrigada ao recolhimento do valor atribuído à empresa produtora vendedora se:

I – revender, no mercado interno, os produtos adquiridos para exportação; ou

II – no prazo de 180 (cento e oitenta) dias, contado da data da emissão da nota fiscal de venda pela empresa produtora, não houver efetuado a exportação dos produtos para o exterior.

§ 8º O recolhimento do valor referido no § 7º deverá ser efetuado até o décimo dia subsequente ao do vencimento do prazo estabelecido para a efetivação da exportação, acrescido de multa de mora ou de ofício e de juros equivalentes à taxa referida no art. 1º, inciso I, do Decreto nº 6.006, de 28 de dezembro de 2006, para títulos federais, acumulada mensalmente, calculados a partir do primeiro dia do mês subsequente ao da emissão da nota fiscal de venda dos produtos para a empresa comercial exportadora até o último dia do mês anterior ao do pagamento, e de 1% (um por cento) ao mês, sobre o valor devido.

§ 8º O recolhimento do valor referido no § 7º deverá ser efetuado até o décimo dia subsequente: (Redação dada Medida Provisória nº 556, de 2011)

Sem eficácia

# Illustration 4

## **G/RO/N/80 of 18 July 2012**

### **ZIMBABWE**

Zimbabwe informs WTO Members about Section 88 of the Customs and Excise Act (Chapter 23:02) which provides for the determination of the country of origin for non-preferential purposes.

The Act provides that the country of origin of any manufactured goods shall be the country in which the last process of manufacture has been performed.



## **88 Determination of origin of manufactured goods**

For the purposes of this Act, the country of origin of any manufactured goods shall be the country in which the last process of manufacture has been performed.

## **89 Specified country content of goods subject to lower rates of duty than in customs tariff**

(1) Subject to subsection (3), where goods which are grown, produced or manufactured in any country are, because of their origin, subject under the provisions of this Act to rates of duty which are lower than those set out in Part II of the customs tariff, such lower rates shall be allowed only—

- (a) in the case of unmanufactured goods, where such goods have been wholly grown or produced in that country;
- (b) in the case of manufactured goods, where such goods have been subjected to their last process of manufacture in that country and—
  - (i) have such local content in relation to that country as may be prescribed; or
  - (ii) have been subjected in that country to such process of manufacture as may be prescribed in relation to the class of goods to which such goods belong.

(2) Regulations made for the purposes of subsection (1) may provide for the manner in which or the authority by whom the determination of the local content of manufactured goods shall be made and the information to be supplied by importers in relation thereto.

# Illustration 5

## G/RO/N/149 of 22 September 2016

### **NORWAY**

With reference to the Agreement on Rules of Origin Article 5.1 and paragraph 4 of Annex II to the same agreement, we hereby inform about adopted amendments regarding preferential and non-preferential rules of origin which entered into force 4 March 2016. The amended Customs Act and Regulations have been translated into English.

An English version of the amended Customs Act, Section 8, can be found by following the link:

[http://www.toll.no/PageFiles/4652/Act\\_on\\_customs\\_duty\\_and\\_movement\\_of\\_goods\\_july2016.pdf](http://www.toll.no/PageFiles/4652/Act_on_customs_duty_and_movement_of_goods_july2016.pdf)

# Illustration 6

## G/RO/N/164 of 3 April 2018

### **MONGOLIA**

Mongolia applies non-preferential rules of origin for imported goods as provided under Chapter 7 of the 2014 "Law of Mongolian on Customs Tariffs and Duties". The law is available in the following Internet link:

- [http://www.customs.gov.mn/en/images/publishers/Customs\\_law\\_and\\_Customs\\_Tariff\\_and\\_Tax\\_law.pdf](http://www.customs.gov.mn/en/images/publishers/Customs_law_and_Customs_Tariff_and_Tax_law.pdf).

According to the requirements of the Law of Mongolia on Customs Tariffs and Duties as amended on 9 December 2016, all products being imported into the Mongolian territory must be accompanied by a statement of origin, namely one of the following:

- 31.7. The documentary evidence of origin of goods shall have the following types:
  - 31.7.1. a declaration of origin of goods which is an invoice or bill of lading, having an information on goods origin stated by manufacturer, seller or exporter;
  - 31.7.2. a certified declaration of origin of goods which is a declaration of origin certified by a competent authority of the relevant country; and
  - 31.7.3. a certificate of origin of goods which is a certificate officially issued in a special form by a competent authority of the relevant country to certify the origin of goods.
- 31.8. A list of goods requiring a certificate of origin shall be adopted by the Government.

The amendments are available in the following Internet link (in Mongolian only): <http://customs.gov.mn/2012-03-14-03-12-51/2017-12-12-03-51-09> [www.legalinfo.mn/law/details/208](http://www.legalinfo.mn/law/details/208)

# Illustration 7



## G/RO/N/63 of 18 September 2009

### KOREA

Foreign Trade Law and sub-legislation:

- (a) Foreign Trade Law, Chapter 3 and Section 5 (Country of Origin Marking):
  - Article 33 Country of Origin Marking for Exported or Imported Goods
  - Article 34 Determining Country of Origin
  - Article 35 Criteria for Determining Origin of Domestic Products That Include Imported Materials
  - Article 36 Submission of Country of Origin Certification for Imported Goods
  - Article 37 Issuance of Country of Origin Certification With Respect to Export Goods
  - Article 38 Prohibitions on Misrepresenting Foreign Goods as Domestic Goods
  
- (b) Enforcement Decree of the Foreign Trade Law, Chapter 3 and Section 5 (Country of Origin Marking):
  - Article 55 Goods Subject to Country of Origin Marking
  - Article 56 Country of Origin Marking Methods for Exported or Imported Goods
  - Article 57 Verification of Country of Origin Marks
  - Article 58 Corrective Measures for Goods with Inaccurate Country of Origin Marking
  - Article 59 Payments and Imposition of Fines
  - Article 60 Fines and Finable Offenses
  - Article 61 Criteria for Determining Country of Origin for Imported Goods
  - Article 62 Prior Determination of Country of Origin for Imported Goods
  - Article 63 Complaint Procedures
  - Article 65 Submission of Certification of Country of Origin for Imported Goods
  - Article 66 Criteria for Issuance of Certification of Country of Origin
  - Article 67 Simple Processing Activities

# GAPS



Scope of application: no clarity regarding the trade policy measures for which the rules notified apply: Quotas? Labelling? Etc.

Scope of application: do the RO apply to all products? only some sectors?

No information about certification requirements (are certificates mandatory? In all cases? Must be presented in a prescribed form?

Are advance rulings delivered? Who should requests be addressed to? What are the procedures to have recourse to this instrument (Art.2(h))?

Most notifications were submitted in 1995-96: is the information notified still up to date? Should new legislation be notified?

No guidelines regarding the work of the Committee: Q&A? examination?

**Thank you for your attention!**