
Non-preferential Rules of Origin and Global Value Chains

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Global Value Chains: NIKE Manufacturing

- NIKE has been a pioneer in the development of Global Value Chains.
- NIKE global revenues exceed US \$30 Billion from sales in over 190 countries.
- NIKE manufactures in 42 countries.
- Over 1 million workers are employed manufacturing NIKE products.



<http://manufacturingmap.nikeinc.com/>

Global Value Chains:

Origin Factors in the Sporting Goods Industry

- **Quality**
 - **Ability to manufacture to scale**
 - **Timely delivery**
 - **Price**
 - **Labor:**
 - Sufficient labor supply for large scale manufacturing to support global market
 - Labor laws:
 - Education:
 - Skilled workforce
 - Availability of engineers, skilled professionals
 - **Infrastructure:**
 - Physical: Road, bridges, ports
 - Utilities: Telecommunications, electricity, fuel
 - **Availability of raw materials**
 - **Rule of law:**
 - Strong enforcement for Intellectual Property laws
 - Social and environmental performance
 - Strong protections for investments
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Rules of Origin:

Impact on the Sporting Goods Industry

How do Rules of Origin Impact the Sporting Goods Industry?

- Marking
- Trade Remedies: Anti-dumping and Subsidies
- Embargoes
- Most Favored Nation Determinations
- Preferential Treatment under Free Trade Agreements, Generalized Systems of Preference, or other preferential regimes

Policy Objectives Supported by Rules of Origin:

- Provide consumer information
 - Regulate fair trade
 - Support and influence trade policy determinations
 - Drive economic activity, particularly to support economic growth
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Rules of Origin:

Basic Rules and Compliance Challenges

- Under most rules of origin, the country of origin is either where the good is wholly obtained or where the last substantial transformation occurred.
- In determining substantial transformation, tariff shift rules and value content percentage or a combination of the two are frequently applied.
- The problem is that many countries apply different rules for different purposes (non-preferential vs. preferential) and even different rules for different preferential agreements...and then there are the exceptions to all of these rules.
- This problem is compounded when as a trader you are shipping product to many different countries.
- This plethora of rules creates very complex compliance environments.
- Severe penalties can apply when no revenue loss is involved.

Rules of Origin:

Rules versus Exceptions

- **Example: US Footwear**
 - Last substantial transformation rule for footwear --which is generally the globally harmonized rule--is the country where “the upper is closed.”
 - Exception in the US deems an upper with “a significant sized hole (the size of a nickel or larger) in the bottom layer” to not be closed.
 - For country of origin, the impact of this exception can be that footwear that is substantially manufactured outside of the US, but undergoes only minimal assembly in the US, is considered produced in the US.
 - When one considers tariff shift rules applicable to many US free trade agreements, non-*de minimis* footwear upper parts will exclude the finished footwear even if all of the other manufacturing processes

Rules of Origin: Are Non-preferential Rules Relevant?

- As one reviews existing rules of origin, one must question whether they work in the context of 21st Century Global Value Chains and support the underlying policy objectives given that:
 - Most non-preferential rules of origin focus only on the last manufacturing step for finished products, while trading in intermediate goods and materials accounts for the majority of global trade.
- A recent global value chain study for apparel in the US concludes that the US value-added exceeded 70 percent of the retail price.
 - The study found value-added jobs in the US included product design and development, transportation and logistics, marketing, and retail.
 - Foreign value-added was primarily manufacturing.

(Analyzing the Value Chain for Apparel Designed in the United States and Manufactured Overseas, Moongate Associates (2013))

Rules of Origin:

Observations and Conclusions

- Non-preferential rules of origin will remain relevant given the policy objectives that they support and their widespread use.
- As we look to the future, we need to evaluate these policies and focus on rules that reflect the realities of modern supply chains:
 - Rules should focus less on finished products and better reflect the critical steps in production, not just the last step.
 - Rules should better account for the use of intermediate processes and materials that are used in production.
 - Rules should also better account for important factors in the value chain such as design, development, and other intellectual property considerations.
- As we evaluate future trade policy choices, we must remain aware of what rules of origin actually measure and be conscious of the limitations of any rule we develop.