GENERAL AGREEMENT ON

TARIFFS AND TRADE

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GENERALIZED SYSTEM OF PREFERENCES

Notification by Austria

Addendum

In a communication dated 3 January 1989, the Permanent Mission of Austria has provided the following information concerning some modifications in the application of its GSP scheme.

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1 Attached is the new version of the Rules of Origin under the Austrian Scheme of Generalized Preferences as contained in Annex D to the Austrian Customs Preference Law, i.e. the rules of origin other than the Single List. These rules have been altered in some details with effect from 1 January 1988. The substantive changes can be summarized as follows:

- increase in the value limit for small consignments of a non-commercial nature from 3 000 AS to 5 000 AS,
- increase in the value limit for traveller's baggage from 10 000 AS to 13 000 AS,
- formalization of the rules for issuing replacement certificates.

The other changes are mainly caused by the introduction of the Harmonized System.

2. Furthermore, Austria has suspended the application of GSP benefits for imports of the following products originating in the Republic of Korea because of substantially increased imports and in applying the safeguard clause of the Austrian scheme:

8521 -- Video recording or reproducing apparatus:
10 - Magnetic tape-type:
A - Weighing each 40 kg or less

8521 -- Television receivers (including video monitors and video projectors), whether or not combined, in the same housing, with radio-broadcast receivers or sound or video recording or reproducing apparatus:

10 - Colour:

A - Video recording or reproducing apparatus, combined in the same housing with a video tuner;

1 - Weighing each 40 kg or less

B - Other:

1 - With a screen diameter of less than 20 inches (= 50,80 cm)

3. The following item has been added to the list of products excluded from the Austrian GSP scheme:

8703 -- Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading No. 8702), including station wagons and racing cars.

The two latter changes were effected as from 1 September 1988.

ANNEX D

General Rules of origin

Rule 1 - Originating products

(1) For the purposes of implementing the provisions of this Federal Act, the following shall be considered as products originating in a beneficiary country, within the meaning of Section 4:

(a) products wholly obtained in that country;

(b) products obtained in that country in the manufacture of which also products other than those referred to in (a) are used, provided that the said products have undergone sufficient working or processing within the meaning of Rule 4.

(2) The conditions set out in paragraph (1) relative to the acquisition of originating status must be fulfilled without interruption in the beneficiary country concerned. If originating products exported from a beneficiary country to another country are returned, they must be considered as non-originating unless it can be demonstrated to the satisfaction of the customs authorities that

- the goods returned are the same goods as those exported, and
- they have not undergone any operations beyond that necessary to preserve them in good condition while in that country.

Rule 2 - Interpretative provisions

(1) Within the meaning of Rule 1, the term "in a beneficiary country" shall also cover the territorial waters of that country and the seabed thereof. Vessels operating on the high seas, including factory ships on which the fish caught is worked or processed, shall be considered as part of the territory of the beneficiary country to which they belong.

(2) In order to determine whether products originate in a beneficiary country, it shall not be necessary to establish whether the power and fuel, plant and equipment, and machines and tools used to obtain such products originate in third countries or not.

(3) The term "product" used in the Annexes D, E and F covers "article", "material", "good" and any other similar expression.

Rule 3 - Products wholly obtained in a beneficiary country

The following shall be considered as wholly obtained in a beneficiary country within the meaning of Rule 1 (a):

(a) mineral products extracted from its soil or from its sea bed;
(b) vegetable products harvested there;
(c) live animals born and raised there;
(d) products obtained there from live animals;
(e) products obtained by hunting or fishing conducted there;
(f) products of sea fishing and other products taken from the sea by its vessels;
(g) products made on board its factory ships exclusively from products referred to in (f);
(h) used articles collected there fit only for the recovery of raw materials;
(i) waste and scrap resulting from manufacturing operations conducted there;
(j) goods produced there exclusively from products specified in (a) to (i).

Rule 4 - Sufficient working or processing

(1) For the purpose of implementing Rule 1 paragraph (1), non-originating materials are considered to be sufficiently worked or processed when the product obtained is classified in a heading which is different from those in which all the non-originating materials used in its manufacture are classified, subject to the provisions of paragraphs 2 and 4 below.

(2) For a product mentioned in columns 1 and 2 of the List in Annex E, the conditions set out in column 3 for the product concerned must be fulfilled instead of the rules in paragraph 1 above.

(3) The introductory notes to the List in Annex E shall also apply where appropriate to all products manufactured using non-originating materials even if they are not subject to specific conditions contained in the List in Annex E but are subject instead to the change of heading rule set out in paragraph 1 above.

(4) The expressions "section", "chapter" and "heading" used in this Federal Act shall mean the sections, chapters and headings (four-digit codes) of the Customs Tariff.

The expression "classified" shall refer to the classification of a product or material under a particular heading.

(5) For the purposes of implementing Rule 1 paragraph (1) (b), the following shall in any event be considered as insufficient working or processing to confer the status of originating products, irrespective of whether or not there is a change of tariff heading:

(a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

(b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;

(c) (i) changes of packing and breaking up and assembly of consignments,

(ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards etc., and all other simple packing operations;

(d) the affixing of marks, labels or other like distinguishing signs on products or their packaging;

(e) simple mixing of products, whether or not or different kinds, where one or more components of the mixture do not meet the conditions laid down in the Federal Act to enable them to be considered as originating products;

(f) simple assembly of parts or products to constitute a complete product;

(g) a combination of two or more operations specified in (a) to (f);

(h) slaughter of animals.

Rule 5 - Determining "value" and "ex-works price"

(1) The term "value" in the List in Annex E shall mean the customs value at the time of the import of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the beneficiary country concerned. Where the value of the originating materials used needs to be established, this paragraph shall be applied **mutatis mutandis**.

(2) "Customs value" shall be understood as meaning the customs value as determined in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, done at Geneva on 12 April 1979 and published in Federal Gazette No. 31/1981.

(3) The term "ex-works price" in the List in Annex E shall mean the ex-works price of the product obtained minus any internal taxes which are, or may be, repaid when the product obtained is exported. It shall mean the price paid to the manufacturer in whose undertaking the last working or processing is carried out, provided the price includes the value of all products used in manufacture.

Rule 6 - Treatment of packing

Where under General Rule 5 of the Customs Tariff, packing is included with the product for classification purposes, it shall also be included for the purposes of determining origin.

Rule 7 - Unit of qualification

(1) The unit of qualification for the application of the origin rules shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Customs Tariff. In the case of sets of products which are classified by virtue of General Rule 3 of the Customs Tariff, the unit of qualification shall be determined in respect of each item in the set; this also applies to sets of heading Nos. 6308, 8206 and 9605.

Thus,

- when a product composed of a group or assembly of articles is classified under the terms of the Customs Tariff within a single heading, the whole constitutes the unit of qualification,
- when a consignment consists of a number of identical products classified within the same heading of the Customs Tariff, each product must be taken individually when applying the origin rules.

(2) In cases of Note 6 to section XVI of the Customs Tariff, and without prejudice to Rule 4 paragraph (4), a dismantled or non-assembled article falling within chapter 84 or 85 of the Customs Tariff shall be considered to be a single article, when a certificate of origin Form A is submitted for the whole article upon importation of the first instalment.

(3) Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the price thereof or are not separately invoiced shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

(4) Sets in the sense of the General Rule 3 of the Customs Tariff shall be regarded as originating when all component articles are originating products. Nevertheless, when a set is composed of originating and non-originating articles, the set as a whole shall be regarded as originating product provided that the value of the non-originating articles does not exceed 15% of the ex-works price of the set.

Rule 8 - Direct transportation

(1) Within the meaning of Section 4 of this Federal Act, the following shall be considered as transported direct from the exporting beneficiary country to the Austrian Customs territory:

(a) products transported without passing through the territory of another country;

(b) products transported through the territories of countries other than the exporting beneficiary country, with or without transhipment or temporary warehousing within those countries, provided that the products have remained under the surveillance of the customs authorities of those countries, and have not entered into commerce or been delivered for home use there, and have not undergone operations other than unloading and reloading, splitting up of loads, or any operation intended to keep them in good condition;

(c) products transported through the territory of the member states of the European Economic Community, Finland, Norway, Sweden or Switzerland and which are subsequently re-exported in full or in part to Austria, provided that the products have remained under the surveillance of the customs authorities of those countries, and have not been delivered for home use there, and have not undergone operations other than unloading and reloading, splitting up of loads, or any operation intended to keep them in good condition.

(2) Evidence that the conditions specified in paragraph 1 (b) and (c) have been fulfilled shall be supplied by production at the Customs entry of:

(a) a through bill of lading drawn up in the exporting beneficiary country covering the passage through the country or countries of transit, or

(b) a certification by the Customs authorities of the country or countries of transit:
- giving an exact description of the products;
- stating the date of unloading and reloading of the products or of their embarkation or disembarkation, identifying the ships or other means of transport used;
- certifying the conditions under which the products remained in the transit country; or

(c) in the absence of evidence referred to in (a) and (b), any substantiating documents.

Rule 9 - Special provisions for exhibition products

(1) Products sent from a beneficiary country for exhibition in another country and transported into Austria shall be cleared upon entry at preferential Customs duties, on condition that the products meet the requirements of this

Annex entitling them to be recognized as originating in the exporting beneficiary country and provided that it is shown upon clearance to the satisfaction of the Customs authorities that:

(a) an exporter has consigned these products from the territory of the exporting beneficiary country direct to the country in which the exhibition is held;

(b) the products have been sold or otherwise disposed of by that exporter to a consignee in Austria;

(c) the products have been consigned to Austria in the state in which they were sent for exhibition;

(d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at that exhibition.

(2) Evidence of origin according to Annex F must be produced upon clearance. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the nature of the products and the conditions under which they had been exhibited may be required.

(3) Paragraph (1) shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organized for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under Customs surveillance.

Rule 10 - Evidence of origin

(1) Originating products shall be cleared at preferential Customs duties if a certificate of origin Form A according to Annex F is presented to the Customs office. This certificate of origin must be certified in its box 11 by the Customs authorities or other Governmental authority of the exporting beneficiary country, in cases of Rule 8 (1) (c) by the Customs authorities of the countries mentioned there.

(2) Certificates of origin, the certification of which in box 11 has not been given by the Customs authority or another Governmental authority but by another body authorized for that purpose by the Government of the exporting beneficiary country (for instance, Chamber of Commerce, Federation of Industries, etc.), shall be recognized provided that these bodies have been agreed upon with the country concerned. A special agreement is not necessary if a beneficiary country has notified that such body is authorized to certify certificates of origin, and is prepared to undertake subsequent verifications of certificates of origin.

(3) Preferential Customs duties shall also be applied to originating products upon production to the Customs office a declaration of origin Form APR according to Annex F, if these products form part of postal consignments, provided that the consignments contain only such products and their value does not exceed 50.000 AS per consignment.
(4) Where a beneficiary country has not shown to be prepared to render administrative assistance to Austria, through the Customs Administrations, as far as subsequent verification is concerned that the evidence of origin is authentic and in proper order, the respective evidence of origin shall not be recognized and the preferential tariff rates shall not be applied, if there are substantive doubts that the evidence of origin is materially incorrect.
(5) If a request for subsequent verification of evidence of origin was sent to the authorities or issuing bodies of a beneficiary country, and if there is no reply within six months (or, in cases of Rule 8 (1) (c), within eight months), or if the reply does not contain sufficient information to determine the authenticity of the evidence of origin on which there a substantive doubts, or on the real origin of the products, a second communication shall be sent to the authorities or bodies concerned. If after the second communication, the results of the verification are not communicated within four months to the requesting authority, or if the results do not permit the determination of the authenticity of the evidence of origin in question or the real origin of the products, it shall be assumed that the country is not prepared to render administrative assistance according to paragraph 4, except in case of **force majeure** or in exceptional circumstances.
(6) At the request of the exporter or the person liable, it shall be possible to replace one or more certificates of origin Form A by one or more other such certificates, provided that this is done at the Austrian Customs office which has the products under surveillance, and that the products have not been delivered for home use in Austria, and have not eventually undergone operations other than unloading, reloading and any operation intended to keep them in good condition.

Rule 11 - Recognition of origin evidence
(1) Certificates of origin Form A shall only be recognized if the products to which they pertain are properly presented for Customs clearance within ten months of the date of certification as given in box 11.
(2) Certificates of origin may also be recognized after expiry of the time limit referred to in paragraph (1), where the failure to observe this time limit is due to **force majeure** or to exceptional circumstances.

(3) Certificates of origin Form A bearing the following indications in red: "ISSUED RETROSPECTIVELY" or "DUPLICATE", shall be recognized if it is proved that the certificates cover the products presented for Customs clearance.
(4) Slight formal faults in the evidence of origin, or the discovery of slight discrepancies between the statements made in the evidence of origin and those made in the goods declaration or in other documents produced for the purposes of carrying out the formalities for importing the products, and of slight discrepancies from the provisions concerning direct transportation, shall not prevent the application of preferential tariff rates, provided it is duly established that the evidence corresponds to the products presented for customs clearance, and that inspite of the faults or discrepancies discovered, there are no doubts as to the origin of the products in the beneficiary country concerned.

Rule 12 - Replacement certificates
(1) It shall be possible to replace one or more certificates of origin Form A by one or more other such certificates, provided that this is done at the customs office which has the products covered by the certificate under surveillance, and provided that the products have not been delivered for home use and have not undergone any operation other than unloading, reloading and any operation intended to keep them in good condition.
(2) Replacement certificates according to paragraph (1) shall be regarded as valid certificates for the products referred to. Replacement certificates shall be issued upon request by the re-exporter or the person concerned, who has to present them in at least two copies.
(3) Replacement certificates shall indicate in the top right-hand box the name of the intermediate country where it is issued. One of the following endorsements shall be made in box 4: "replacement certificate" or "certificat de remplacement", as well as the date of the original certificate of origin and its serial number. The name of the re-exporter shall be given in box 1; the name of the final consignee may be given in box 2. All entries appearing on the original certificate relating to the products re-exported shall be made in boxes 3 to 9. References to the re-exporter's invoice shall be given in box 10. The customs office which issued the replacement certificate shall enter its certification in box 11; its responsibility is confined to the issue of the replacement certificate. The entries in box 12 concerning the country of origin and the country of destination shall be taken from the original certificate. This box shall be signed by the re-exporter. The re-exporter who signs this box in good faith is not responsible for the correctness of the entries made on the original certificate.

(4) The provisions of Rule 11 shall also apply to replacement certificates.
(5) The provisions of paragraphs (1) to (4) above apply to replacement certificates of origin Form A issued in Austria; they shall apply **mutatis mutandis** to such certificates which have been issued by a customs authority in one of the countries mentioned in Rule 8 paragraph (1) (c).

Rule 13 - Private consignments of small value
(1) Preferential tariff rates according to the provisions of this Federal Act shall be applied without requiring the production of a certificate of origin Form A or the completion of a Form APR, to originating products sent as small packages to private persons or forming part of a traveller's personal luggage, provided that such products are not imported by way of trade and have been declared as meeting the conditions required for the application of these provisions, and where there is no doubt as to the veracity of such declaration.
(2) Importations not by way of trade shall be importations which are occasional and consist solely of products for the personal use of the recipient or traveller or their families if it is evident from the nature and quantity of the products that no commercial purpose is in view. Furthermore, the total value of these products must not exceed 5.000 AS in the case of small packages or 13.000 AS in the case of the contents of traveller's personal luggage.

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The preference-receiving countries members of ASEAN (Association of South East Asian Nations), when exporting to Austria, for the purposes of the origin rules, may regard materials used in a production process, which have originated in another ASEAN member country, as if those materials had originated in the exporting ASEAN country ("regional cumulation"). It is the responsibility of the final exporting ASEAN country to guarantee that the "cumulated" imported material has, in fact, originated in another ASEAN member country according to the rules of origin of the Austrian Scheme. The exporting country is responsible, upon request, for the verification of certificates.