

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Working Party 5 on Valuation, Nationality
and Consular Formalities

DRAFT

SECOND REPORT OF WORKING PARTY 5 ON NATIONALITY OF IMPORTED GOODS

1. At their Seventh Session, the CONTRACTING PARTIES considered a resolution submitted by the International Chamber of Commerce urging the adoption of uniform rules for determining the nationality of imported goods. The reports showing the national regulations in the various countries submitted to the secretariat on the request of the CONTRACTING PARTIES were circulated in document L/71, Addenda 1, 2 and 3. They are summarised in document W.8/3.
2. Almost all countries require origin to be established for one purpose or another; the main purposes are to determine admission at differential rates of duty, to govern admission under quantitative import restrictions, to compile trade statistics, and for special purposes such as the protection of merchandise marks, and administration of health, sanitary and veterinary regulations. The information furnished constitutes a useful fund of information regarding countries' procedures, but did not call for special examination by the Working Party.
3. It will be observed that the following countries have not yet furnished statements in response to the request in document L/71:

Brazil	Cuba
Burma	Nicaragua
Chile	Peru

The Working Party commends that these countries should be requested to furnish reports at the earliest possible date.

I. DEFINITION OF ORIGIN

4. Denmark, Indonesia, Norway and Sweden have single-column tariffs which apply to all countries without distinction. They do not, therefore, need a definition of origin for import duty purposes. The tariffs of the Benelux and Germany provide for differential rates but in practice the most-favoured-nation rates are universally applied. Ceylon, India, Pakistan, Southern Rhodesia and the United Kingdom do not make any differentiation between the countries which are not entitled to preference. The other countries which have submitted

answers differentiate between countries enjoying most-favoured-nation treatment and others. In addition, some of them grant preferential treatment to related territories.

5. Governments were invited to furnish with their replies any proposals they had to make regarding international action on the subject of origin of goods. The Governments of France, Germany and Italy replied proposing that definite steps should be taken with a view to establishing a standard international definition of origin, together with a number of additional features such as the establishment of uniform rules for determining the nationality of imported goods, the compilation of a list of goods for which proof of origin should not be required, the preparation of a standard form of certificate of origin, agreement regarding the authorities competent to issue such certificates and provisions for verification and enforcement of such declarations. A number of other governments advocated generally the simplification of procedures regarding the determination of origin of imported goods. On the other hand, the United Kingdom and New Zealand Governments indicated that they thought that any attempt to secure international agreement on a standard definition of origin was bound to be fruitless as the question of origin is inescapably bound up with national economic policies, which are unavoidably different in different countries. Most of the other countries who replied made no comment on this question.

6. During the course of the Working Party's discussion of this subject the discussions reflected the differing views which had been expressed in the national replies. Certain delegations continued to express the view that the inherent features of national tariffs and economic systems would inevitably preclude the preparation of a common definition of origin even should it be possible to solve the technical difficulties of drafting a workable definition. These technical difficulties were evident from the repeated failures of the numerous attempts made in the past to draft a definition of origin. On the other hand, a number of delegations considered that it was worth while and feasible to attempt to draw up a definition of origin, which would be satisfactory in at least the majority of cases to which it was applied. The Working Party therefore proceeded to examine a text proposed by the French delegation, in which the various criteria contained in earlier proposals for a definition of origin were replaced by the criterion of "substantial transformation", i.e. the giving of a "new individuality" to the goods.

7. This text was examined in detail by a small drafting group and the resultant text is annexed to this report. Eight members of the Working Party were in favour of recommending this text to the CONTRACTING PARTIES as a draft definition of origin for customs purposes (other than statistics) with the suggestion that the CONTRACTING PARTIES should transmit the text to governments for study and comment prior to the Ninth Session of the CONTRACTING PARTIES. The other four members of the Working Party did not

consider that such a definition would achieve any useful purpose, since it would leave countries entirely free to continue their different interpretations of origin and would achieve no standardisation whatever.

8. The definition is put forward by its supporters for use in the application to import duties and quantitative restrictions on imports. It is not put forward for statistical purposes, for which most countries use the basis of provenance, and this basis has in fact been proposed by a committee of the United Nations Statistical Commission. In this proposal, the country of consignment is defined as the first country from which the goods were shipped (by any form of transport) to the importing country without any commercial transaction intervening between that country and the country of import.

9. The following further reasons for which the knowledge of the origin of goods is of great importance, may be mentioned: quantitative restrictions on imports, currency control, merchandise marks legislation, and application of sanitary, veterinary, phytopathological and similar regulations. The basis for determining origin of goods for these purposes varies according to the controls concerned.

II. PROOF OF ORIGIN

10. The answers of the governments compiled in L/71/Add.1 show that many countries applying differential rates require a certificate of origin to be produced. Some countries, i.e. Greece, Italy and Turkey, require a certificate of origin not only for goods seeking the benefit of differential treatment, but for all imports. The French provisions are exceptional as they require a certificate of origin for all goods which are not "expressly excluded" from this obligation. But it has to be noted that the number of such exceptions granted by the French Government is large. Not all countries make the application of lower differential rates dependent upon the presentation of a formal certificate; many content themselves in most cases with the presentation of original invoices and similar documents as a proof of the origin of the goods imported. Denmark, Norway and Sweden as well as Indonesia (the latter with the exception regarding imports from Singapore) do not require certificates of origin as they are single column tariff countries.

11. Regarding the question of whom the governments consider to be entitled to issue a valid certificate of origin, the countries may be grouped into three categories. First, those which accept the certificates completed by the exporters, without further certification. This is the practice in Commonwealth countries. Second, there are countries which require a certificate issued by foreign customs authorities or chambers of commerce or by their own consular officials abroad. The question as to which foreign authorities in each case will be recognised as having the right to issue certificates is, in many cases, settled by bilateral agreements. Third, there are a few countries, such as Italy and Turkey which require in all cases certificates to be issued or legalised by their national authorities in the foreign countries. Italy and Turkey can be mentioned as examples.

12. Some countries mention that special certificates of origin are sometimes to be produced in connection with veterinary, health and similar regulations.
13. All countries reserve their rights to verify the declaration of origin and to prove the correctness of the facts stated on a certificate.
14. The Working Party, after considering the facts reported by the various countries regarding the proof of origin, decided to make no further proposals other than to draw attention to the principles contained in Article XI of the International Convention relating to the Simplification of Customs Formalities (Geneva 1923), and to add the following additional recommendations:

(a) The largest possible number of bodies should be authorised to issue certificates of origin, in order to minimise the time taken by traders to obtain certificates.

(b) Existing differences between the goods accompanied by a certificate of origin and this certificate should not lead to refusal of the importation of such goods. The Working Party felt it necessary to explain that the cases meant those referring to minor clerical errors, differences in the numbering of sacks, etc.

(c) A certain delay should be granted to the importer to furnish a certificate of origin if it happens that the certificate of origin does not arrive at a custom house at the same time as the imported goods. In such a case a possibility should also be provided to place such goods outside the custom house to avoid unnecessary costs. It is understood that this recommendation does not tend to reduce the right of the customs authorities to ask for security.

NOTE:

To be inserted after paragraph 3., before "I":

3a. In view of the importance of questions of nationality to other international bodies and to trade and commercial interests, the Working Party recommends that document L/71 and its addenda, together with this report, should be derestricted after the close of the Session.

The United States delegate proposes to insert the following:

7a. The delegate of the United States stressed the point that if the CONTRACTING PARTIES should decide to adopt this definition of nationality or a similar one, the United States will desire to submit for their consideration in connection therewith an appropriately worded proposal designed to permit contracting parties to take such action in the application of the definition as they deem necessary for the protection of their essential security interests in time of war or other emergency in international relations.

A N N E X

Draft Definition of Origin for Customs Purposes

1. The nationality of goods resulting exclusively from materials and labour of a single country shall be that of the country where the goods were harvested, extracted from the soil, manufactured or otherwise brought into being.
2. The nationality of goods resulting from materials and labour of two or more countries shall be that of the country in which such goods have last undergone a substantial transformation.
3. A substantial transformation shall - inter alia - be considered to have occurred when the processing results in a new individuality being conferred on the goods.

Explanatory Note

Each contracting party, on the basis of the above definition, may establish a list of processes which are regarded as conferring on the goods a new individuality, or as otherwise substantially transforming them.