

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)
Negotiating Group on Non-Tariff Measures

RULES OF ORIGIN

Communication from Japan

The following communication has been received from the delegation of Japan with the request that it be circulated to the members of the Negotiating Group.

Japan submits the following proposal as a contribution to further discussions on the issue of "rules of origin" in order to improve international trade and investment environment. Japan wishes that intensive discussions be made in the Non-Tariff Measures Negotiating Group with a view to working out multilateral rules on this matter, and that this submission serves as the basis for the forthcoming discussions.

I. Background

1. The rules of origin are the legitimate instruments which are used to identify the country of origin of internationally traded goods. Such rules should be neutral and technical by nature. It is fundamentally unsatisfactory that there are no guidelines under the GATT on the adoption of rules of origin by importing countries.

2. Determination of the country of origin of a traded product has a fundamental importance to the rights and obligations of contracting parties under the GATT, since it is the basis for the application of various types of measures covered by the GATT. The arbitrary use of the rules of origin is bound to have restrictive and distorting effects on trade and investment. Furthermore, with the recent development in the international economy such as increase in trade and direct investment and movement towards regional economic integration, the rôle of rules of origin has become increasingly important. Particularly, the use of rules of origin in combination with other protectionist tools causes detrimental effect on the free flow of trade and the legitimate business behaviour by way of direct investment.

3. Japan believes that there is an urgent need to establish an international framework governing the rules of origin in the GATT. This framework should provide with (a) general disciplines to be observed by participants in establishing, amending or implementing the rules of origin; (b) international criteria to identify the origin of goods; (c) a mechanism for notification, consultation and dispute settlement, for the purpose of securing uniform, fair and transparent use of rules of origin. The uniform/harmonized international rules of origin should be implemented, in principle, to all measures relating to trade and investment.

II. General Disciplines to be observed by participants in establishing or using its own rules of origin

The following elements should be embodied in the framework of the rules of origin:

- (a) Rules of origin should not be prepared or used as a means of restricting or distorting international trade and investment;
- (b) Rights and benefits of participants under the GATT should not be impaired or nullified;
- (c) The principle of the non-discriminatory treatment should be observed;
- (d) Arbitrariness should be avoided and predictability, fairness, objectivity and equitability should be secured in preparation and application of rules of origin;
- (e) Rules of origin should be clear and simple and should be applied in an appropriate manner;
- (f) Transparency of procedures should be secured.

III. Mechanism for notification, consultation and dispute settlement

Appropriate procedures should be established regarding prior notification of a proposed rules of origin mechanism to enable participants to comment on it, and to seek consultations as necessary, as well as a dispute settlement procedure in order to prevent arbitrary preparation of rules of origin. These procedures will also enable participants to improve the transparency and predictability in the application of rules of origin. The mechanism employed by the GATT or other MTN agreements (e.g. the Standard Code) should provide the basis for consideration.

IV. Establishment of uniform/harmonized international criteria to identify the origin of goods in the GATT

It is highly desirable to establish uniform/harmonized international criteria for the purpose of improving the predictability and transparency of rules of origin and reducing detrimental effects on trade and investment resulting from the difference in criteria to identify the origin among countries. This may be achieved through effective cooperation with the CCC. (Annex D1 of the Kyoto Convention, adopted by the CCC, is the only internationally recognized instrument on the rules of origin. It may be, therefore, advisable to start the work to establish uniform/harmonized rules of origin in the GATT, taking into account this Annex.)