

NON-PREFERENTIAL RULES OF ORIGIN FOR COMMERCIAL POLICY PURPOSES

POLICY STATEMENT

Prepared by the ICC Commission on Customs and Trade Facilitation

Summary

An increasing number of countries are developing non-preferential rules of origin for commercial policy purposes, leading to competing non-preferential origin regimes. ICC observes the proliferation of non-preferential rules of origin as an increasing barrier to cross-border trade and calls for a standstill until either a multilateral agreement or sectoral agreements can be reached.

Policy Statement on non-preferential rules of origin for commercial policy purposes

Non-preferential rules of origin of goods are considered an important instrument in international trade. The generally accepted World Trade Organization (WTO) criterion for this type of rule states that when a good is produced in a single country, then the product is wholly obtained in that country; when two or more countries are involved in the production of a good, the product's country of origin shall be the country where the product undergoes its last substantial transformation¹.

However, notwithstanding significant efforts under the auspices of the WTO Agreement on Rules of Origin (ARO), the objective of precisely defining substantial transformation for all products for all non-preferential purposes has eluded the WTO for nearly two decades.

While more complex global supply and value chains are increasingly becoming important features of world trade, the international trade community has witnessed the proliferation of non-preferential origin regimes across all regions of the globe since negotiations began on the ARO. Each of these regimes features its own unique set of non-preferential rules of origin, creating trade distortion, and costly complexity for traders stifling cross border trade and economic growth.

National regulatory bodies and customs administrations have implemented different methods, or are in the process of implementing those, to determine non-preferential origin for a variety of purposes. The International Chamber of Commerce (ICC) is concerned about this development and would like to highlight the following perspectives:

- With many jurisdictions developing their own “country-of-origin” regulations, albeit sometimes for legitimate policy reasons, ICC warns that the proliferation of such regulations for commercial policy purposes will lead to trade distortion and increased confusion for manufacturers and importers and exporters alike due to competing non-preferential origin regimes.
- Different non-preferential rules of origin determined by national law create significant barriers to cross-border trade, with the result that a product may have different countries of origin, depending on the rules applicable to the import country. Bureaucratic barriers reduce the potential of growth of international trade. Compliance to the increasing number of country specific non-preferential rules of origin will lead to burdensome trade costs for international traders – building a barrier to trade for big companies as well as for small and medium sized companies.
- While ICC acknowledges that product origin labelling may provide transparency by enabling informed purchases, this policy statement is not directed to technical standards but aimed at non-preferential rules for non-preferential commercial policy purposes. In this respect, the safety and quality of goods are not jeopardized by the fact that the non-preferential origin is determined in the country of manufacture or of last substantial transformation – even if different countries use different approaches to determine the non-preferential origin.

ICC recommendations

- 1) ICC encourages countries to ratify and honour the provisions of the World Customs Organization Revised Kyoto Convention Specific Annex K on definitions, principles, standards and recommended practices with regard to origin. This will represent an important step towards facilitating the administration of non-preferential rules of origin for public and private stakeholders.

¹ Already in 1953 ICC recommended that the GATT adopt a uniform definition for determining the nationality of manufactured goods that defined a substantial transformation as processing that confers a new individuality on the goods, and these processes are to be listed by each country

- 2) Recognising that non-preferential rules of origin are based on the widely accepted principle of last substantial transformation, ICC recommends that specific and differing non-preferential rules of origin should not be implemented in the country of import as this leads to unnecessary and costly trade barriers. ICC calls for a standstill in implementing new country-specific origin rules and for mutual recognition of non-preferential rules of origin until the WTO's ARO is ratified. Cooperation between customs administrations can be organized easily compared to the cost of implementing numerous different rules of origin regimes by countless enterprises. The non-preferential rules of origin implemented in the country of manufacture should therefore be accepted by the country of import. As documentary evidence, a certificate of origin issued by a trusted third party in the exporting country may be used.
- 3) In line with the WTO Bali Package implementation, ICC calls upon WTO Member States to increase efforts towards the ratification of the WTO's ARO. ICC recommends that the multilateral framework of the WTO's ARO should be based on the expertise of the business community and the technical realities of modern trade.

The International Chamber of Commerce (ICC)

ICC is the world business organization, a representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world.

The mission of ICC is to promote open international trade and investment and help business meet the challenges and opportunities of globalization. Its conviction that trade is a powerful force for peace and prosperity dates from the organization's origins early in the 20th century. The small group of far-sighted business leaders who founded ICC called themselves "the merchants of peace".

ICC has three main activities: rule setting, dispute resolution, and policy advocacy. Because its member companies and associations are themselves engaged in international business, ICC has unrivalled authority in making rules that govern the conduct of business across borders. Although these rules are voluntary, they are observed in countless thousands of transactions every day and have become part of the fabric of international trade.

ICC also provides essential services, foremost among them the ICC International Court of Arbitration, the world's leading arbitral institution. Another service is the World Chambers Federation, ICC's worldwide network of chambers of commerce, fostering interaction and exchange of chamber best practice. ICC also offers specialized training and seminars and is an industry-leading publisher of practical and educational reference tools for international business, banking and arbitration.

Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment policy as well as on relevant technical subjects. These include: banking, commercial law and practice, competition policy, corporate responsibility and anti-corruption, customs and trade facilitation, the digital economy, environment and energy, intellectual property, marketing and advertising, taxation, and trade and investment policy.

ICC works closely with the United Nations, the World Trade Organization and intergovernmental forums including the G20.

ICC was founded in 1919. Today its global network comprises over 6 million companies, chambers of commerce and business associations in more than 130 countries. National committees work with ICC members in their countries to address their concerns and convey to their governments the business views formulated by ICC.

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