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1.1 Text of Article 9

Article 9

Objectives and Principles

1. With the objectives of harmonizing rules of origin and, *inter alia*, providing more certainty in the conduct of world trade, the Ministerial Conference shall undertake the work programme set out below in conjunction with the CCC, on the basis of the following principles:

- (a) rules of origin should be applied equally for all purposes as set out in Article 1;
- (b) rules of origin should provide for the country to be determined as the origin of a particular good to be either the country where the good has been wholly obtained or, when more than one country is concerned in the production of the good, the country where the last substantial transformation has been carried out;
- (c) rules of origin should be objective, understandable and predictable;
- (d) notwithstanding the measure or instrument to which they may be linked, rules of origin should not be used as instruments to pursue trade objectives directly or indirectly. They should not themselves create restrictive, distorting or disruptive effects on international trade. They should not pose unduly strict requirements or require the fulfilment of a certain condition not relating to manufacturing or processing as a prerequisite for the determination of the country of origin. However, costs not directly related to manufacturing or processing may be included for purposes of the application of an ad valorem percentage criterion;
- (e) rules of origin should be administrable in a consistent, uniform, impartial and reasonable manner;
- (f) rules of origin should be coherent;
- (g) rules of origin should be based on a positive standard. Negative standards may be used to clarify a positive standard.

Work Programme

- 2. (a) The work programme shall be initiated as soon after the entry into force of the WTO Agreement as possible and will be completed within three years of initiation.
- (b) The Committee and the Technical Committee provided for in Article 4 shall be the appropriate bodies to conduct this work.
- (c) To provide for detailed input by the CCC, the Committee shall request the Technical Committee to provide its interpretations and opinions resulting from the work described below on the basis of the principles listed in paragraph 1. To ensure timely completion of the

work programme for harmonization, such work shall be conducted on a product sector basis, as represented by various chapters or sections of the Harmonized System (HS) nomenclature.

(i) *Wholly Obtained and Minimal Operations or Processes*

The Technical Committee shall develop harmonized definitions of:

- the goods that are to be considered as being wholly obtained in one country. This work shall be as detailed as possible;
- minimal operations or processes that do not by themselves confer origin to a good.

The results of this work shall be submitted to the Committee within three months of receipt of the request from the Committee.

(ii) *Substantial Transformation - Change in Tariff Classification*

- The Technical Committee shall consider and elaborate upon, on the basis of the criterion of substantial transformation, the use of change in tariff subheading or heading when developing rules of origin for particular products or a product sector and, if appropriate, the minimum change within the nomenclature that meets this criterion.
- The Technical Committee shall divide the above work on a product basis taking into account the chapters or sections of the HS nomenclature, so as to submit results of its work to the Committee at least on a quarterly basis. The Technical Committee shall complete the above work within one year and three months from receipt of the request of the Committee.

(iii) *Substantial Transformation - Supplementary Criteria*

Upon completion of the work under subparagraph (ii) for each product sector or individual product category where the exclusive use of the HS nomenclature does not allow for the expression of substantial transformation, the Technical Committee:

- shall consider and elaborate upon, on the basis of the criterion of substantial transformation, the use, in a supplementary or exclusive manner, of other requirements, including ad valorem percentages⁴ and/or manufacturing or processing operations⁵, when developing rules of origin for particular products or a product sector;

(footnote original) ⁴ If the ad valorem criterion is prescribed, the method for calculating this percentage shall also be indicated in the rules of origin.

(footnote original) ⁵ If the criterion of manufacturing or processing operation is prescribed, the operation that confers origin on the product concerned shall be precisely specified.

- may provide explanations for its proposals;
- shall divide the above work on a product basis taking into account the chapters or sections of the HS nomenclature, so as to submit results of its work to the Committee at least on

a quarterly basis. The Technical Committee shall complete the above work within two years and three months of receipt of the request from the Committee.

Role of the Committee

3. On the basis of the principles listed in paragraph 1:
 - (a) the Committee shall consider the interpretations and opinions of the Technical Committee periodically in accordance with the time-frames provided in subparagraphs (i), (ii) and (iii) of paragraph 2(c) with a view to endorsing such interpretations and opinions. The Committee may request the Technical Committee to refine or elaborate its work and/or to develop new approaches. To assist the Technical Committee, the Committee should provide its reasons for requests for additional work and, as appropriate, suggest alternative approaches;
 - (b) upon completion of all the work identified in subparagraphs (i), (ii) and (iii) of paragraph 2(c), the Committee shall consider the results in terms of their overall coherence.

Results of the Harmonization Work Programme and Subsequent Work

4. The Ministerial Conference shall establish the results of the harmonization work programme in an annex as an integral part of this Agreement.⁶ The Ministerial Conference shall establish a time-frame for the entry into force of this annex.

(footnote original) ⁶ At the same time, consideration shall be given to arrangements concerning the settlement of disputes relating to customs classification.

1.2 General

1. The Harmonization Work Programme was formally launched when the Chairman of the Committee on Rules of Origin sent a letter on 20 July 1995 to the Chairman of the Technical Committee on Rules of Origin, transmitting the Committee's request pursuant to Article 9.2(c) that the Technical Committee undertake the work on harmonization of non-preferential rules of origin provided for in Article 9.¹

2. On 7 July 1998, the Committee reported to the Council for Trade in Goods that while considerable progress had been made, the work in connection with the Harmonization Work Programme could not be completed. At the request of the Committee, the General Council adopted successive annual extensions of the deadline for the completion of the Harmonization Work Programme.

3. The Technical Committee submitted the final result of its work to the Committee on 9 June 1999. The Committee discussed the architecture of the harmonized rules of origin, issues regarding product-specific rules of origin, and the implications of the implementation of the harmonized rules of origin on other WTO Agreements.² In July 2002, the Committee Chairman reported to the General Council, identifying 94 "core policy issues" for discussion and decision at the level of the General Council. These issues included a number of product-specific rules, and the implications for other WTO Agreements of adoption of the harmonized rules of origin.³ In December 2002, the General Council considered another progress report, agreed to extend to July 2003 the deadline for completion of negotiations on the 94 core policy issues, and agreed that after these issues were settled, the Committee would complete the harmonization work programme by 31 December 2003.⁴

¹ See [G/RO/W/4](#) for the text of letter; and see [G/RO/M/1](#) for the decision to launch work programme.

² [G/RO/42](#).

³ [G/RO/52](#); [WT/GC/M/75](#).

⁴ [WT/GC/M/77](#).

In July 2003, the General Council considered a further progress report and extended the deadline for 94 core policy issues to July 2004 and for overall completion to December 2004.⁵ In July 2004, the General Council again considered a progress report by the Committee Chairman, noting division on the issue of whether the future harmonized rules of origin should be used for the Anti-Dumping Agreement; the General Council agreed on a further one-year extension.⁶ The Committee Chair's progress report in July 2005 noted that views remained divided on the application of harmonized rules of origin to trade remedies. The General Council agreed to a further one-year extension to the end of 2006.⁷ In July 2006, the General Council agreed to a further extension to the end of 2007.⁸

4. At the General Council's meeting on 27 July 2007, the Chairman noted that delegations in the Committee felt that the difficulties they had encountered on the "implications" issue and in the machinery sector were such that political guidance from the General Council was now warranted on how to take these issues forward. The General Council agreed that work on these issues would be suspended until such guidance from the General Council would be forthcoming, and that, in the meantime, the Committee would continue its work with a view to resolving all technical issues including the technical aspects of the overall architecture, as soon as possible.⁹

5. Since 2007, the Committee has continued its discussions on technical issues. On 15 October 2007, the Committee circulated a draft Consolidated Text of Non-Preferential Rules of Origin. The most recent revision of this text comprises a draft Annex III to the Agreement on Rules of Origin and a decision of the Ministerial Conference that would adopt the new Annex III. The draft Annex III comprises general rules; an appendix defining goods that are to be considered as being wholly obtained in one country; and an appendix of product-specific rules of origin for each chapter of the Harmonized System of customs classification.¹⁰

6. The Harmonized Work Programme, in accordance with the consolidated text, requires an agreement on rules for 2,744 products. Members could reach consensus on the rules for 1,528 products. A document summarizes the status of each section of the consolidated text (for instance, whether specific rules had been agreed to or not).¹¹ Furthermore, at its meeting of 27 October 2011, Members agreed to rectify the consolidated text with a view to transposing all draft rules of origin to more recent versions of the Harmonized System (HS) nomenclature (i.e. HS2002, HS2007 and HS2012).¹² The resulting transposed rules were consolidated in a single document¹³ and reviewed by Members.¹⁴

7. In 2014, the Chairman of the Committee on Rules of Origin sought to clarify the ability of the Committee to discuss all issues related to the Harmonization Work Programme, including the "core policy issues" which had previously been referred to the General Council for political guidance. In response, the Chairman of the General Council informed the Committee that Members would wish the Committee on Rules of Origin to continue its work on all the issues as it deems necessary, without the matter being referred to the General Council.¹⁵

8. In a series of bilateral consultations with Members, the Chairman sought to take stock of Members' interests and positions. He asked Members if the harmonization of non-preferential rules of origin continued to be an important trade policy objective and whether Members would be ready to intensify work to conclude negotiations. Two views emerged clearly from these consultations. For some Members, the adoption of fully harmonized non-preferential rules of origin would simplify and facilitate international trade. Other Members, however, argued that non-preferential origin requirements had lost their importance with the multiplication of regional trade agreements and the adoption of harmonized rules would not facilitate international trade.¹⁶ Since then, at the Committee meeting of 30 October 2014, Members have instructed the Secretariat to organize information

⁵ [WT/GC/M/81](#).

⁶ [WT/GC/M/87](#).

⁷ [WT/GC/M/97](#).

⁸ [WT/GC/M/103](#).

⁹ [WT/GC/M/109](#), item 6.

¹⁰ [G/RO/W/111/Rev.6](#) and [Corr.1](#).

¹¹ [JOB/RO/1/Rev.2](#).

¹² [G/RO/M/59](#), para. 1.22.

¹³ [JOB/RO/5/Rev.1](#) and [JOB/RO/5/Rev.1/Corr.1](#).

¹⁴ [G/RO/M/66](#), agenda item 2.

¹⁵ [G/RO/W/152](#).

¹⁶ [G/L/1047](#).

sessions as part of an "educational exercise" to better understand the impact that existing non-preferential rules of origin have on international trade and businesses.¹⁷

9. In 2020, the Committee marked the 25th anniversary of the establishment of the WTO and the adoption of the WTO Agreement on Rules of Origin with an event which brought together Members, the Secretariat, former Chairpersons of the Committee, and private sector representatives. The programme, presentations, video recording, and a summary of the event can be accessed through the Rules of Origin page of the WTO website.¹⁸

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¹⁷ [G/RO/M/63](#), item 2. See also [G/RO/W/162](#) and [G/RO/W/167](#).

¹⁸ https://www.wto.org/english/tratop_e/roi_e/25throi2020_e.htm.