

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/RO/W/41**  
8 March 1999

(99-0924)

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## Committee on Rules of Origin

### QUESTIONS ON THE UNRESOLVED ISSUE OF THE OVERALL ARCHITECTURE OF THE HARMONIZED RULES OF ORIGIN

As agreed at the meeting of the Committee on Rules of Origin (CRO) on 22 and 26 February 1999, the Secretariat circulates herewith the questions raised by Members on the unresolved issue of the overall architecture of the harmonized rules of origin. These questions are to be considered by the CRO at the next meeting on 23 April 1999. The proponents of Options A, B and C have been invited to provide information on the questions. The questions have also been transmitted to the Technical Committee on Rules of Origin which may wish to consider whether it may be able to contribute to clarifying these questions.

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#### A question raised by Australia

1. Could proponents of Options A, B and C further clarify each option by adding more examples? It would be helpful if the examples could illustrate the different origin outcomes when several countries are involved in a number of production stages and the information upon which origin determination would be made.

#### Questions raised by Canada

2. What type of information is required to apply each option (e.g. country of origin, tariff classification, value, etc. of the good(s) used in the production of the good for which origin is being determined)? Is the information the same or different for each option?
3. What is the source for this information (e.g. which documents, other sources, etc.)? Is the source the same or different for each option?
4. Who would have these sources of information (producer of the good for which origin is being determined, customs authorities, producer/exporter of the good(s) subsequently used in the production of the good for which origin is being determined)? Are the persons the same or different for each option?
5. What would the customs authorities do if they had reason to question the validity of the information?
6. Would customs authorities use (accept) these types and sources of information for purposes of providing advance rulings to the producer of the good for which origin is being determined?
7. How would the country of origin be determined under each option in the following scenario: the primary rule of origin for an electric razor is a change to the HS heading covering razors from any other HS heading except the HS heading under which electric motors are classified;

what would be the origin (and how is it determined) of a razor produced in country B from an electric motor that originates in country A?

Questions raised by the European Communities

8. Is the understanding correct that if the application on general interpretative Rule 3 of the HS would result in a classification of the decorated hat on the basis of the diamonds, that the country where the last substantial transformation has been carried out with regard to the illustrative example would be the country of origin of the diamonds thus giving origin B to the decorated hat?

Questions raised by Hong Kong, China

**For Options B and C**

9. The concept of “the product in question” and how the HS fits in with modern production
  - a) Would the creation of additional splits in the existing HS nomenclature be a possible solution? For example, if differentiation should be made between a hat and a hat with trimmings/decorations, a split can be created for the latter and give it unique primary rule.
  - b) Do Members accept the creation of additional splits at this stage of the HWP?
10.
  - a) Would proponents of Option B elaborate on the need for detailed listing in import declaration of how the origin is conferred? It is our understanding that certificates of origin (COs) are currently not required for most non-restrained goods or duty free goods. Even for products that call for COs, the documents do not require detailed listing of how the origin is conferred. We therefore fail to see the need for such a detailed disclosure in the future, nor the need to differentiate between origin conferred through primary rule or residual rule. So long as one of these rules is met, the origin is conferred. As we see it, such a detailed reporting requirement serves no useful purposes and is not trade facilitating.
  - b) Would Option B/C entail the same need?
  - c) What implementation/enforcement concerns do proponents of Option B/C envisage under Option A?
11. Do proponents of Option B/C agree that the traders requesting an advance ruling should be in a position to provide the necessary information for making that ruling? The possession of data (be they process-related, value, weight or volume based) for parts and components is needed under all options whenever residual rules are invoked.

Primary rules are tailor-made for the product concerned. They lay down clearly the requirement(s) needed to confer origin. Residual rules, on the other hand, involve more number of variables (in terms of parts and components) and thus less predictable. For traders to get a better handle in advance on the final origin rulings, primary rules are preferred. On

this note, Options B and C have a much greater tendency to leave the primary rules and opt for the residual rules, and make the issue of advance rulings more difficult.

12. How could proponents of Option B/C address the following concerns associated with Option B/C:
- a) these options are prone to change/yield origin outcome arbitrarily. (For example, if a good is shipped to a third country in which it undergoes a minor, non-origin conferring process of manufacture, it will be subject to a different rule (i.e. the residual rule which is supposed to be based on an origin criterion different from that in the primary rule) than if it were shipped directly to the country of final consumption.);
  - b) obtaining the necessary information from foreign producers and administrations may be difficult (e.g. involving commercially sensitive information) and time-consuming, this in turn requires unnecessary record-keeping;
  - c) residual rules based on value standards are more difficult to apply. Further, value standards are influenced by currency fluctuations and other variables. Such standards suffer from a lack of predictability;
  - d) determining the cost of originating components when there is no transaction value is subject to the vagaries of accounting systems which may vary from company to company.

13.

***For Option B only***

- a) What is meant by the term “materials”?<sup>1</sup> Does it refer to “raw materials/unassembled component parts”, or “any good preceding the importation to the last country of production”? Does it include sub-assemblies?
- b) How to decide whether value, volume or weight should be used to define the essential character of a good?
- c) Does the 50% test apply only to originating “materials”? Will the term “material” also include the working process carried out in relation to the final good in that country? Does the rule intend to disregard all assembly work in the last country of production?
- d) Will the value added arising from assembly work be taken into account when residual rules are invoked?
- e) What will the origin of the final good be if all countries contributing the same share of non-originating materials?

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<sup>1</sup> The United States has also raised the same question

- f) How can the last country of production claim origin through the residual rule if all raw materials/parts are imported?

***For Option C only***

- g) What is meant by “related processing activities”?<sup>1</sup> To calculate the “value” of these activities, what factor(s) will be taken into account?
- h) How to determine the value of the “non-originating inputs”? By invoices?
- i) What is meant by “non-originating processing activities”? How should such activities be reflected in the value of non-originating inputs?
- j) What will the origin of the final good be if all countries (including the last country of production) equally contribute to the final good?

A question raised by Switzerland

14. Under Option A, how can the importing country, on the basis of information obtainable in the customs import declaration, know that an imported good has met a primary rule in the exporting country, rather than a residual rule?
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