

WORLD TRADE ORGANIZATION

RESTRICTED

G/RO/M/5

8 March 1996

(96-0834)

Committee on Rules of Origin

Original: English

MINUTES OF MEETING ON 1 FEBRUARY 1996

Chairman: Mr. C. Osakwe (Nigeria)

The representative of the Secretariat informed the Committee that in accordance with the established Guidelines for appointment of officers the Chairman of the Council for Trade in Goods had carried out informal consultations on a slate of names for appointment as chairpersons of subsidiary bodies. To date, the consultations had not yet been completed.

The Chairman proposed, therefore, postponing the item "Election of Officers", which had been on the originally proposed agenda, circulated in WTO/AIR/241, to the next meeting.

The Committee so agreed.

The agenda for the meeting was adopted by the Committee as follows:

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The Chairman noted that, in accordance with the agreement reached at the first meeting of this Committee on 4 April 1995, the IMF, OECD, UNCTAD, WCO and the World Bank had been invited to this meeting. He proposed that until the criteria and conditions for observer status in the WTO for international intergovernmental organizations are agreed, the Committee invite these five organizations to its next meeting as well.

The Committee so agreed.

1. Notifications under Article 5 and paragraph 4 of Annex II of the Agreement on Rules of Origin (G/RO/N/6)

1.1 The Chairman recalled that since the last meeting, the Secretariat had circulated a document informing delegations of the notifications received (G/RO/N/6). He informed the Committee that since G/RO/N/6 was circulated, six additional Members had made notifications, namely: Korea, Mexico, Slovenia, Trinidad and Tobago, Turkey and Tunisia. To date, 38 Members had made notifications of non-preferential rules of origin and 36 Members had made notifications of preferential rules of origin. He expressed concern that a number of Members had not yet complied with the notification requirements. He also urged Members which did not apply rules of origin, non-preferential or preferential, to notify the Secretariat so that a complete picture could be obtained.

1.2 The Committee took note of the statement made.

1.3 The Committee discussed the matter of substantive issues arising from notifications of national rules of origin which could be raised by Members and reached the following understanding: on the basis of Article 4.1 of the Agreement, it was recognized that Members could express views on notifications of national non-preferential rules of origin, and request clarifications, as may be necessary, from other Members on matters related to the Agreement on Rules of Origin. It was, however, agreed that such views, and requests for clarification, should be communicated to the Secretariat ten working days in advance of the meeting at which they would be raised.

1.4 The representative of Switzerland recalled that at the meeting of the Committee on 16 November 1995, he had raised several technical questions concerning the origin regimes of Peru and made a general comment on the origin régime of Mexico. He had received satisfactory technical answers from Peru. He found it very useful that the Committee provided an opportunity to raise questions on other Member's rules of origin.

1.5 The representative of Korea expressed the wish that the information provided to Switzerland should also be made available to his delegation. The representatives of Mexico and Peru stated that they were prepared to reply to questions that were provided in writing.

1.6 The representatives of Canada, the European Communities and Switzerland expressed concern with respect to the recent unilateral change of origin rules for certain textiles and apparel by the United States. In this respect, the representative of Hong Kong said that the new rules represented a major departure from the original US practice. The changes were expected to have a severe impact on textiles and garment trade with the US. Hong Kong was disappointed to see that the US, one of the active participants in the Rules of Origin Harmonization Work Programme, introduced unilaterally major changes in its origin rules; at the same time work was in progress on the Harmonization Work Programme which was intended to bring about a uniform set of harmonized rules for application to all non-preferential trade purposes. Hong Kong was also concerned about the fact that the new US origin rules contained ambiguous areas of interpretation. Hong Kong had been seeking clarification from the US on a number of issues, and was still waiting to receive precise information on the relevant new origin-conferring processes. This had created uncertainty and adverse effects on trade, given that the new rules would be implemented in a few months. Such lack of transparency was regrettable, particularly since work on the new US rules had been going on for a long time. Hong Kong reserved all its rights to protect its trading interests. The representative of the United States took note of the comments made.

2. First Report by the Technical Committee on Rules of Origin to the Committee on Rules of Origin; Results of the First Phase of the Rules of Origin Harmonization Work Programme (G/RO/2, G/RO/W/9 and 10)

2.1 The Chairman noted that the First Report by the Technical Committee on Rule of Origin to the Committee on Rule of Origin (hereafter the "First Report") was circulated in document G/RO/2 and the Committee had begun reviewing the report at its meeting of 16 November 1995. Furthermore, as agreed at that meeting, he had sent a letter to the Chairman of the Technical Committee raising three issues regarding the Harmonization Work Programme (G/RO/W/9).

2.2 The representative of Argentina proposed replacing "la eliminación" in definition 1(f)(ii) in the Spanish text of Annex A to the First Report with "su eliminación".

2.3 The Committee so agreed.

(a) Legal Status of the Explanatory Notes

2.4 As agreed at the meeting of the Committee on 16 November 1995, the Chairman consulted with Members on the question of the legal status of the Explanatory Notes in Annexes A and B to the First Report. Following the consultations, the Committee agreed that the Explanatory Notes should be legally binding. It was also agreed that the Committee should request the Technical Committee in Brussels to revisit the Explanatory Notes, on the basis that they are to be legally binding. The Committee also authorized the Chairman to communicate this decision to the Chairman of the Technical Committee.

2.5 The Chairman emphasised that the decision taken by the Committee related only to the legal status of the Explanatory Notes and not to their substantive content.

2.6 The representative of Morocco stated that certain amendments would probably need to be made to the text of the Explanatory Notes when the matter was discussed in the Technical Committee. The representative of India reserved his position on Annex B to the First Report. The representative of Venezuela stated that it would be important for the Technical Committee to ensure greatest possible precision and objectivity in order to avoid divergent interpretations by Members of the legally binding Explanatory Notes.

2.7 The Committee took note of the statements made.

(b) Definitions 1(f), 2(i) and (ii) of Annex A to the First Report

2.8 The Chairman recalled that, at its meeting of 16 November 1995, the Committee had established an Informal Working Group to consider bracketed interpretations and opinions of the Technical Committee on Rules of Origin and to forward appropriate recommendations to the Committee for final consideration and decision. Under its terms of reference, the Working Group is to (i) consider bracketed language that may be included in the interpretations and opinions presented by the Technical Committee on Rules of Origin, and (ii) for this purpose the Working Group should include in its consideration all the information contained in the documents circulated by the Secretariat of the Technical Committee on Rules of Origin. At its meeting of 16 November 1995, the Committee had agreed that the Working Group should consider the bracketed language in definition 1(f) and 2(i) and (ii) of Annex A to the First Report of the Technical Committee.

2.9 Based on the discussions in the Informal Working Group, the Committee agreed as follows:

on Definition 1(f)

"The Committee discussed the bracketed language of draft definition 1(f) concerning goods wholly obtained in one country. There was agreement to delete the brackets in definition 1(f), and to delete 1(f)(i). There was also agreement to renumber draft definition 1(f)(ii) as 1(g) and former 1(g) as 1(h). Many delegations supported draft definition 1(g); some stated the need for more time to consider the full scope of the content of the paragraph. They needed to refer back to their capitals. Furthermore, the problem of parts recovered was recognized as being different from the problem of articles. Consequently, it was agreed that the problem of parts should be urgently first addressed at a technical level in Brussels. It was decided that the Committee should revisit draft definition 1(g) at the next meeting. The Committee also authorized the Chairman to communicate the problem of parts to the Chairman of the Technical Committee."

2.10 The representative of Japan reserved the right to reconsider this issue later on the basis of results of the harmonization work in the second and third phases. The representatives of Chile, Colombia and Venezuela wished to ensure that draft definition 1(g) was still open for further consideration. The representative of Venezuela also stated that this issue was linked to the problems of parts to be considered by the Technical Committee in Brussels.

2.11 The Committee took note of the statements made.

on Definition 2

2.12 "The Committee considered draft definition 2 of Annex A of the First Report extensively. Members expressed different views on the issues involved. Following consultations, an alternative draft text was formulated as follows:

- "1 (i) for the purposes of paragraph 1, the expression "country" covers that country's territorial sea, as well as the sea-bed and subsoil beneath the sea-bed.
- 2. The goods described in definition 1(a)-(h) above, but not obtained in a country are to be considered as being wholly obtained:
 - as regards activities outside the territorial sea,
 - (i) as far as products of sea-fishing and other products taken from the sea are concerned, in the country of registration of a vessel or factory ship, if the activities to obtain them are carried out on that vessel or factory ship;
 - (ii) as far as products taken from the sea-bed or the subsoil beneath the sea-bed are concerned, in the country which has rights to obtain such goods in that area.

Explanatory Note

Definition 2(i) includes registration granted to a vessel or factory ship chartered in accordance with the registration requirements of that country."

The Committee agreed that fundamental issues were involved which would require further deliberation and consultations. The Committee also agreed that the alternative text presented a possible basis for an agreed definition. Finally, it was clearly recognized that there was a need to focus principally on practical issues, dealing exclusively with the attribution of origin to goods."

2.13 The representatives of Chile, Japan, Peru and Venezuela reserved their positions on this issue. The representatives of Philippines and Thailand wished to ensure that the Committee had agreed that a general and abstract definition of the term "country" was not required at this time, and that further consideration on this issue should be guided by this principle.

2.14 The Committee took note of the statements made.

(c) Canadian Proposal

2.15 The Chairman noted that a Canadian proposal was circulated in document G/RO/W/10 regarding the Annex foreseen under Article 9.4 of the Agreement on Rules of Origin which would contain the results of the Harmonization Work Programme.

2.16 The representative of Canada stated that there were two issues raised in the proposal; the first being the format or method of presenting the product-specific rules, the other relating to the general rules, i.e. the general legal instructions on how to apply the product-specific rules and other rules governing specific situations such as the treatment of packaging and packing materials and spare parts. He noted that, according to the Second Report by the Technical Committee on Rules of Origin to the Committee on Rules of Origin, a number of delegations had presented proposals, some of which were in different formats. He suggested that a decision on that matter was needed very quickly. His preference would be that the Committee address a request to the Technical Committee that work on product-specific rules should proceed on the basis of the format to be agreed by this Committee. He expressed also a strong preference for the sequential approach which sets out the product-specific rules in ascending numerical order by tariff heading or sub-heading.

2.17 The representative of Australia stated that it was premature for this Committee to be trying to set strict guidelines for the Technical Committee. He suggested that the Committee consider the matter after all the proposals before the Technical Committee in Brussels had been fully discussed. The representative of Venezuela supported that view.

2.18 The representatives of Colombia and United States stated that it was very important to have the well-defined format of the future Annex as early as possible, and suggested that the Technical Committee complete its review on this issue at the March meeting.

2.19 The representatives of Canada, Colombia, the European Communities, Hong Kong, Japan, Korea, Switzerland and United States supported the sequential approach contained in the Canadian proposal. The representative of the European Communities stated that further discussion was needed before a final decision could be taken on the format of presentation. The representative of Switzerland pointed out that the same rules would appear repeatedly under the suggested sequential approach. Also, in his view, the format that would be annexed to the Agreement may not necessarily be transposed in the same format into the national legislation.

2.20 On the basis of the views expressed the Committee agreed as follows: "The Canadian proposal was welcomed as being a valuable contribution to the subject. There was strong support for the sequential approach in Appendix B - Presentation of product-specific rules. It was recognized that this was an issue that required urgent treatment. It was also agreed that the Canadian proposal as well as the views expressed by members of the Committee should be transmitted to the Technical Committee on Rules of Origin."

2.21 The Canadian delegate stated that the issue of the general rules which was also raised in the Canadian proposal needed urgent consideration and the work should start immediately either in the Technical Committee on Rules of Origin or in the Committee on Rules of Origin.

2.22 The Chairman recalled that in the letter that he had sent to the Chairman of the Technical Committee, the Technical Committee had been requested to forward, as part of its next report on the Harmonisation Work Programme, a general format establishing the overall architectural design of an annex. The Canadian proposal would be considered in that context.

2.23 The representative of Hong Kong stated that any final decision in this matter should only be taken in the Committee on Rules of Origin.

3. Second Report by the Technical Committee on Rules of Origin to the Committee on Rules of Origin

3.1 The Chairman noted that in accordance with the paragraph 2(c)(ii) of Article 9 of the Agreement on Rules Origin, the Technical Committee on Rules of Origin had submitted the Second Report to the Committee on Rules of Origin. The Report pertained to the initial work of the Technical Committee on Rules of Origin concerning the use of change in tariff heading or subheading, for the elaboration of rules of origin on the basis of the criterion of substantial transformation of goods. The Report was circulated by the secretariat in document G/RO/4. The Report informed the Committee on Rules of Origin of the status of contributions received in preparation for the March session of the Technical Committee. To date, five Members had partially or fully completed the work within their administrations and has sent proposals. It indicated also that a provisional detailed plan of work for the next two sessions of the Technical Committee had been drawn up.

3.2 The Committee took note of the Report and the information provided therein.

4. Other Business

Date of the Next Meeting

4.1 The Chairman stated that the date of the next meeting should be coordinated with the date of the next meeting of the Technical Committee and decided in consultation with delegations.

4.2 The Committee so agreed.