



United Nations Conference on Trade and Development

Division for Africa, Least Developed Countries and Special Programmes (ALDC)

Government of the Netherlands



Concepts of rules of origin

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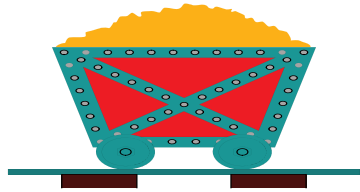
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RoO rotates around few basic concepts and determinants

- **Wholly obtained products**
- **Substantial transformation**
- **Cumulation**
- **Intermediate materials or absorption rule**
- **Certificate of origin**



Wholly obtained products: Do not contain non- originating inputs



MINERAL PRODUCTS
EXTRACTED FROM THEIR
SOIL OR FROM THEIR
SEABED



VEGETABLE PRODUCTS
HARVESTED ON THEIR
SOIL



ANIMALS BORN AND
RAISED THEIRIN



Definition of wholly obtained products

- mineral products extracted from its soil or from its seabed;
- plants and vegetable products grown or harvested there;
- live animals born and raised there ;
- products from live animals raised there;
- products from slaughtered animals born and raised there;
- products obtained by hunting or fishing conducted there;
- products of aquaculture where the fish, crustaceans and molluscs are born and raised there;
- products of sea fishing and other products taken from the sea outside the territorial waters by its vessels;
- products made on board its factory ships exclusively from the products referred to in point (h);
- **used articles collected there fit only for the recovery of raw materials;**
- **waste and scrap resulting from manufacturing operations conducted there;**
- products extracted from the seabed or below the seabed which is situated outside its territorial waters but where it has exclusive exploitation rights;
- goods produced there exclusively from the products specified in (a) to (l).



A perversion : Definition of wholly obtained products for fisheries
(Excerpted from EU-ESA EPA)

- Products of sea fishing and other products taken from the sea outside the territorial waters of the Community or of an ESA State by their vessels;
- The terms "their vessels" shall apply only to vessels and factory ships:
 - (a) which are registered in an EC Member State or in an ESA State
 - (b) which sail under the flag of an EC Member State or of an ESA State
 - (c) which meet one of the following conditions:
 - (i) they are at least 50 % owned by nationals of an EC Member State or of an ESA State ; or
 - (ii) they are owned by companies - which have their head office and their main place of business in an EC Member State or in an ESA State ; and - which are at least 50% owned by an EC Member State or by an ESA State or nationals



Policy implications of Definition of wholly obtained products for fisheries

- Establishment of a fishing fleet is expensive and few LDCs have a fishing fleet
- LDCs have fish but no value chains on fisheries products
- Examples of global sourcing of Tuna in Pacific islands EPAs
- Extremely high MFN rate 24% for canned Tuna
- Seychelles case



Substantial transformation

- Is the core concept of the rules of origin
- First defined in Kyoto evolved in the ARO
- Evolution from a vague word definition by case law to the Change of Tariff classification
- Technical methods to define substantial transformation have also evolved



Cumulation

- Concept: normally RoO should be complied within a customs territory
- Cumulation allows to consider non-originating inputs from another country as originating
- Different kind of cumulation
- Quantitative: bilateral, regional, worldwide
- Qualitative: Diagonal, Full



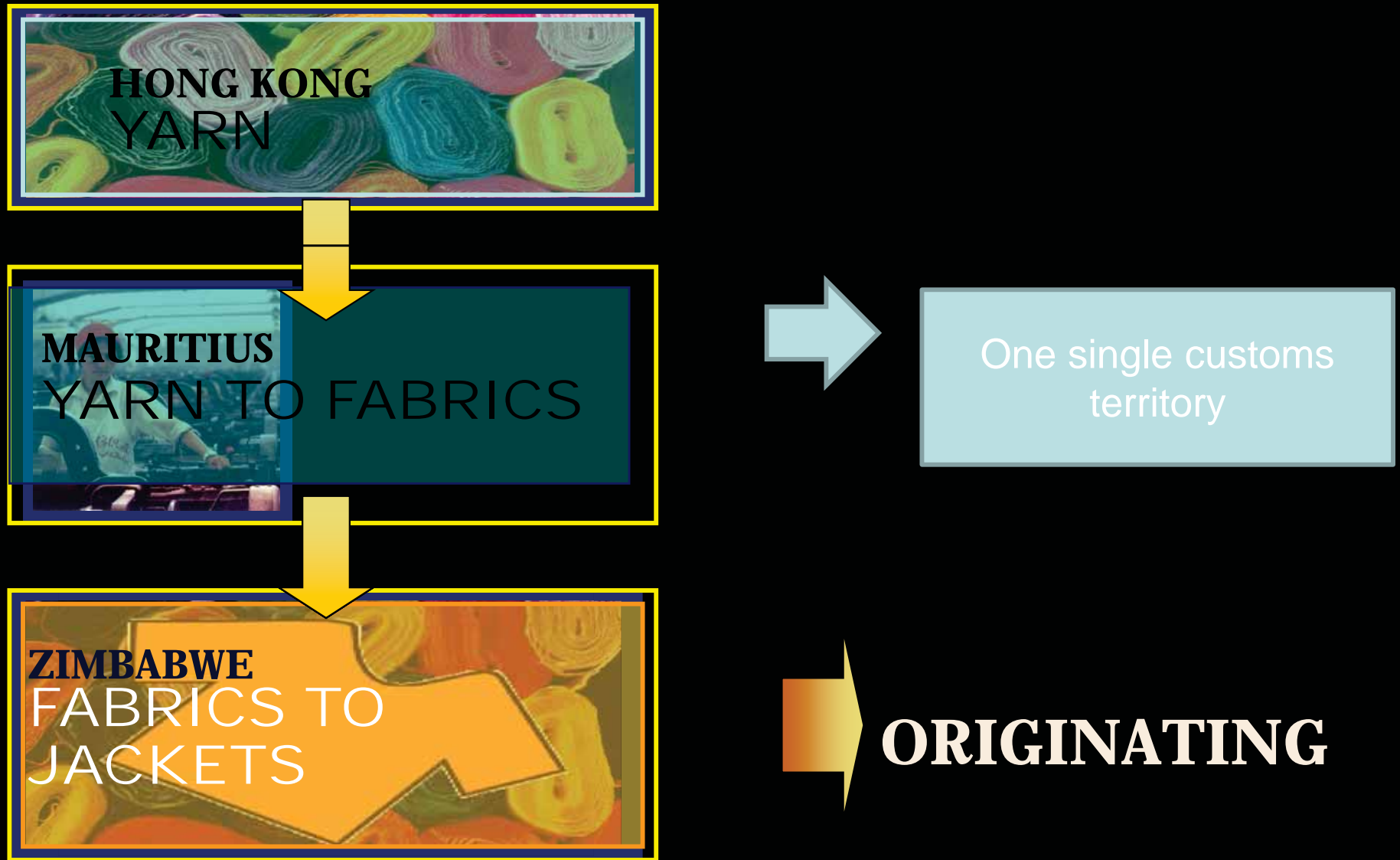
Diagonal cumulation

Applicable RoO :

- 1 JACKETS: Manufacturing from non originating yarn
- 2 FABRICS: Manufacturing from non-originating fibres



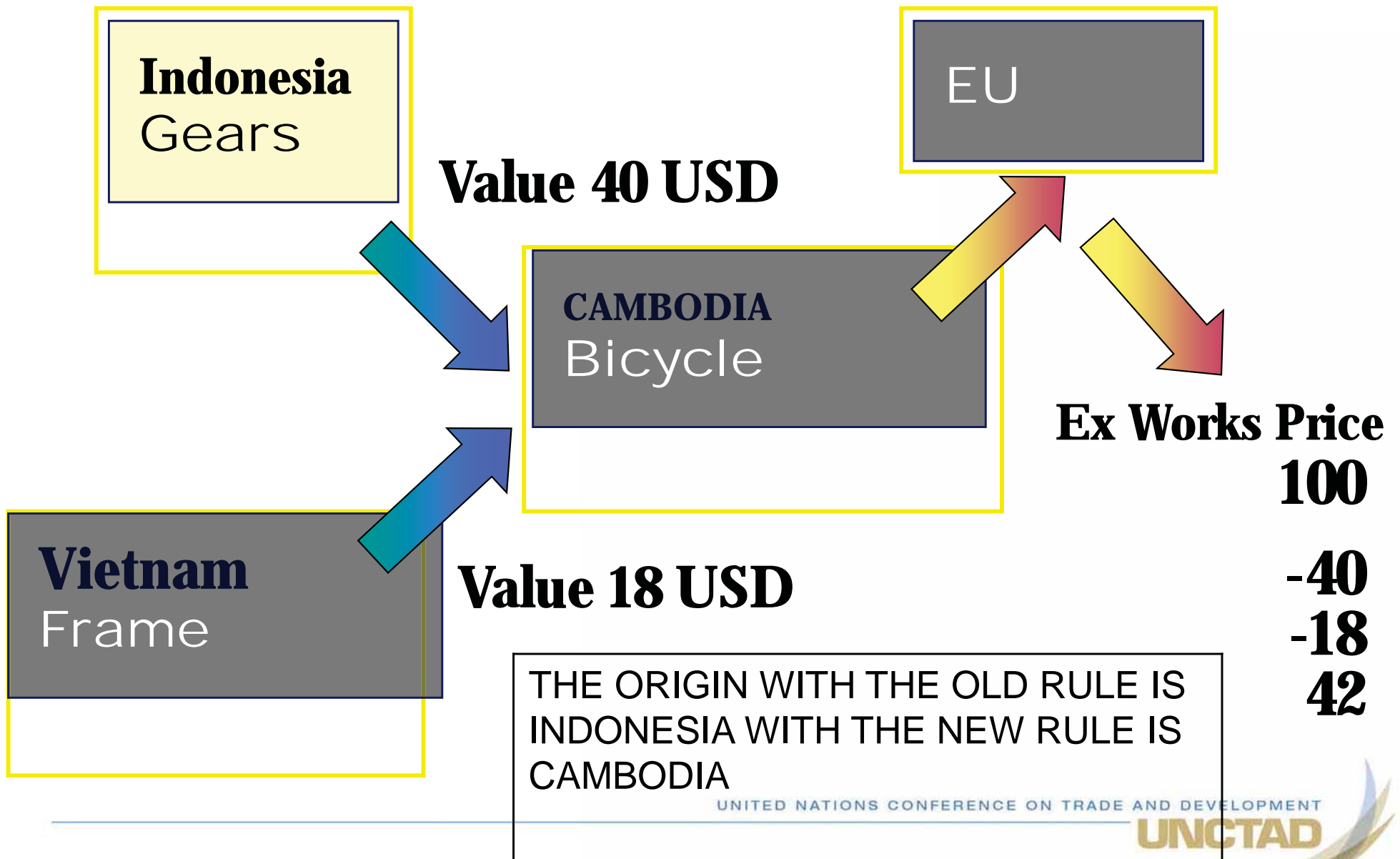
Same RoO : Full cumulation



Changes in EU Cumulation

- Before the present change when cumulation was applied the origin of the finished products remained in last LDC only if the value added in that LDC was greater than the value of materials originating in other countries
- At present when cumulation is applied the origin of the finished product in the last LDC remain there unless the operations carried out in the last are minimal working or processing operations as contained in article 78 of the Regulation.

Example of EU GSP Cumulation with old and new rules



Insufficient working or processing operations of Article 78 (1)

- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
- (b) breaking-up and assembly of packages;
- (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- (d) ironing or pressing of textiles and textile articles;
- (e) simple painting and polishing operations;
- (f) husking and partial or total milling of rice; polishing and glazing of cereals and rice;
- (g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;
- (h) peeling, stoning and shelling, of fruits, nuts and vegetables;

Insufficient working or processing operations of Article 78 (2)

- i) sharpening, simple grinding or simple cutting;
- (j) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
- (n) simple addition of water or dilution or dehydration or denaturation of products;
- **(o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts.**

Insufficient working or processing operations of Article 78 (3)

- (p) a combination of two or more of the operations specified in points (a) to (o);
- (q) slaughter of animals.
- **2. For the purposes of paragraph 1, operations shall be considered simple when neither special skills nor machines, apparatus or tools especially produced or installed for those operations are required for their performance.**

Intermediate materials: Engines and pistons

- 1) RoO for an engine provides that the value of the non originating materials may not exceed 40 % of the ex works price, is assembled using pistons.
- 2) The piston is manufactured from non originating ingots
- 3) The RoO for pistons provides that forging pistons from non originating ingots is origin conferring
- 4) Thus the piston can qualify as originating in the value-calculation for the engine, regardless of whether it was produced in the same factory or in another factory
- 5) The value of the non-originating ingot is thus not taken into account when calculating the 40%

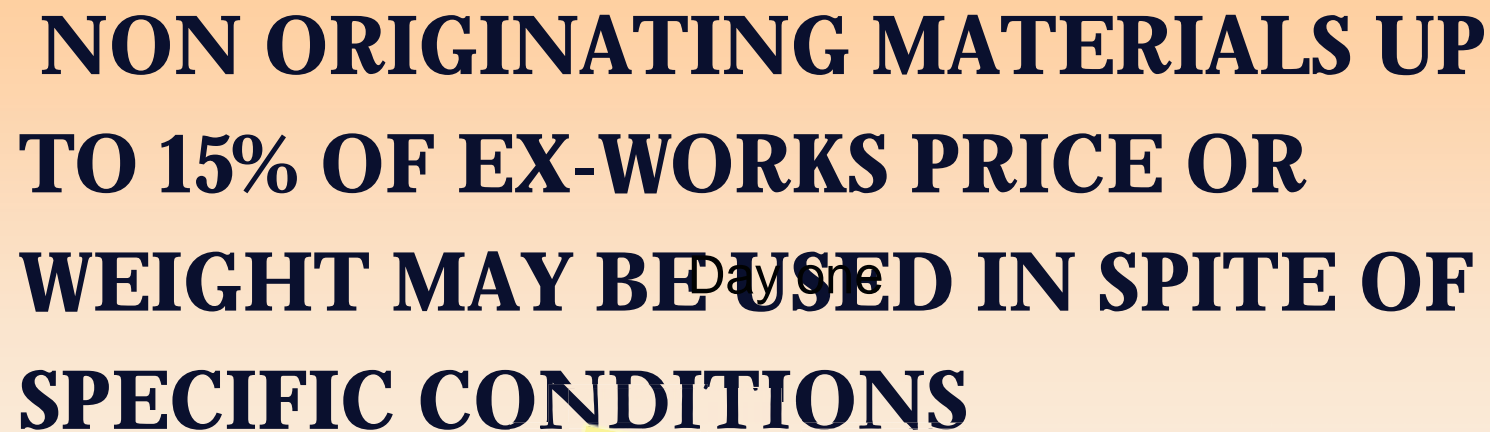


NAFTA Intermediate materials: Engines and pistons

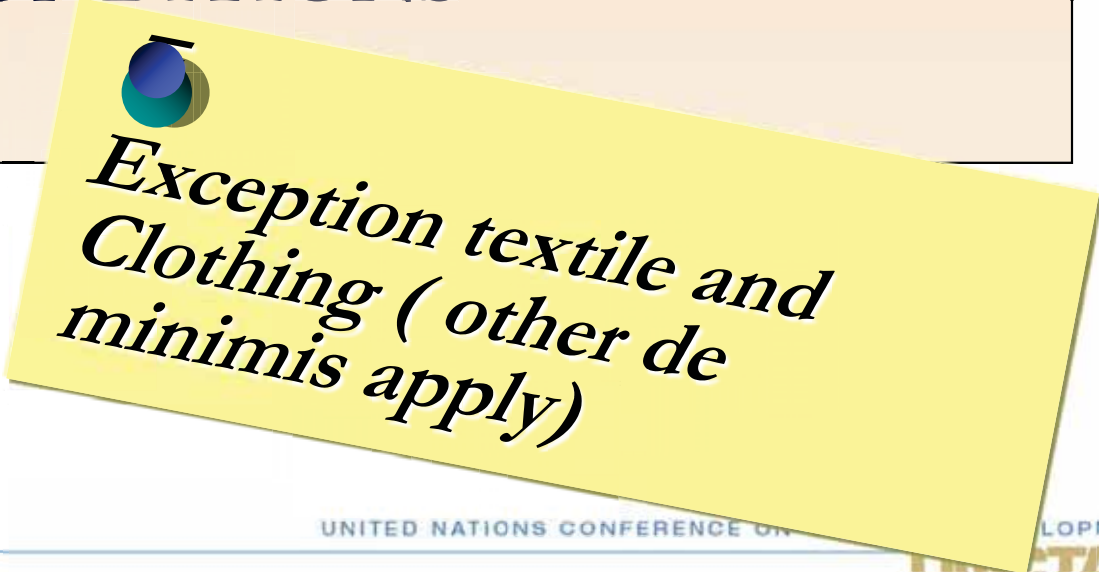
- This provision covers all goods and materials except
- automotive goods defined in Article 403(1) and described in Annex 403.1 and;
- components described in Annex 403.2, specifically engines and gearboxes
- Tracing back method



Value tolerance or De minimis



**NON ORIGINATING MATERIALS UP
TO 15% OF EX-WORKS PRICE OR
WEIGHT MAY BE USED IN SPITE OF
SPECIFIC CONDITIONS**



*Exception textile and
Clothing (other de
minimis apply)*

Value tolerance or De minimis

- (a) 15% of the weight of the product for products falling within Chapters 2 and 4 to 24, other than processed fishery products of chapter 16;
- (b) 15% of the ex-works price of the product for other products, except for products falling within Chapters 50 to 63 of the Harmonized System, for which the tolerances mentioned in Notes 6 and 7 of Part I of Annex 13a, shall apply.



Example of value tolerance

- Example: a doll (HS 9502) rules of origin is CTH.
- This means a manufacturer in Cambodia is allowed to import raw materials such as plastics, fabrics etc. which are classified in other chapters of the HS.
- Use of doll's parts (e.g. Doll's eyes) is not possible as these are classified in the same heading (HS 9502).
- However, the tolerance rule allows the use of these parts if they amount to not more than 15 % of the doll's value.



Certificate of origin (CO)

- Administration of rules of origin is an important component
- Evidence of originating status is provided by a CO on paper stamped by Certifying Authorities
- Exporter declaration on the invoice
- Importer declaration
- Verification and *a posteriori* recovery



Thank you for your attention

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