

**GLOBAL SYSTEM OF TRADE  
PREFERENCES AMONG DEVELOPING  
COUNTRIES (GSTP)**

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Negotiating Group on Rule-Making  
Sao Paulo Round

**RULES OF ORIGIN**

Communication from Brazil

Ideas for discussion on the DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS"  
AND METHODS OF ADMINISTRATIVE COOPERATION

*The following communication is circulated at the request of the delegation of Brazil.*

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## TITLE I GENERAL PROVISIONS

### *Article 1* Definitions

For the purposes of these Rules of Origin:

- (a) "manufacture" means any kind of working or processing including assembly or specific operations;
- (b) "product" means the product being manufactured, even if it is intended for later use in another manufacturing operation;
- (c) "material" means any ingredient, raw material, component or part, etc., used in the manufacture of the product;
- (d) "goods" means both materials and products;
- (e) "CIF value" means all costs paid by exporter for the product until pass the ship's rail at named port of shipment, including the costs of insurance and freight necessary to bring the product to the named port of destination. For landlocked countries, the port of destination means the first sea port or inland waterway port through which those products have been imported;
- (f) "FOB value" means all the costs paid by exporter for the product until pass the ship's rail at the named port of shipment;
- (g) "Harmonized System" means the nomenclature which makes up the Harmonized Commodity Description and Coding System including the chapters, headings, subheadings and the corresponding number codes, the section, headings and subheadings notes, as well as the General Rules for their interpretation;
- (h) "chapters", "headings" and "subheadings" mean the chapters (two-digit codes), the headings (four-digit codes) and subheading (six-digit codes) used in the nomenclature which makes up the Harmonized Commodity Description and Coding System, referred to in this Annex as "the Harmonized System" or "HS";
- (i) "classified" refers to the classification of a product or material under a particular heading or subheading;
- (j) "consignment" means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;
- (k) "territory" means the geographical territory of the GSTP Participant, including its territorial waters and the air space above its territorial waters, its exclusive economic zone and continental shelf over which the said GSTP Participant has sovereignty, sovereign rights or exclusive jurisdiction in accordance with its laws in force, the 1982 United Nations Convention on the Law of the Sea and international law<sup>1</sup>;
- (l) "high seas" have the same meaning as in the United Nations Convention on the Law of the Sea;
- (m) "competent authorities" refers to<sup>2</sup>:

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<sup>1</sup> In the case of MERCOSUR, means the territory of Argentina, Brazil, Paraguay and Uruguay, applied *mutatis mutandis*

<sup>2</sup> The competence of issuing GSTP Certificate of Origin may be delegated by the competent authorities to authorised public agencies or trade organisations.

- “Ministério do Desenvolvimento, Indústria e Comércio Exterior – Secretaria de Comércio Exterior, e Ministério da Fazenda – Secretaria da Receita Federal” in Brazil;
- ... (to include the competent authority of each GSTP Participant).

## **TITLE II ORIGIN CRITERIA**

### ***Article 2*** ***General requirements***

1. For the purpose of implementing this Agreement, the following products shall be considered as originating in a GSTP Participant:
  - (a) products wholly obtained in a GSTP Participant within the meaning of Article 4;
  - (b) products obtained in a GSTP Participant incorporating non-originating materials, provided that such materials have undergone sufficient working or processing in the Participant within the meaning of Article 5.
2. The provisions of paragraph 1 above exclude used or second hand goods.

### ***Article 3*** **Cumulation of origin**

Notwithstanding Article 2, goods originating in a GSTP Participant within the meaning of these Rules of Origin shall be considered as originating in other GSTP Participant, provided that they have undergone working or processing in this last going beyond that referred to in Article 6.

### ***Article 4*** **Wholly obtained products**

The following shall be considered as wholly produced or obtained in the territory of a GSTP Participant:

- (a) mineral products taken from the soil, seabed or subsoil of its territory;
- (b) vegetable products harvested in its territory;
- (c) live animals born, captured and raised in its territory;
- (d) products from live animals raised in its territory;
- (e) products obtained by hunting, collecting, fishing or aquaculture conducted in its territory;
- (f) products of sea-fishing and other products taken from the waters beyond the territory of the said GSTP Participant, provided that:
  - these products have been obtained under specific quota allocated to the GSTP Participant by an international management organisation or regime, or
  - these products have been taken from those waters only by flagged and registered vessels of the GSTP Participant;
- (g) products obtained from the seabed and subsoil beyond the territory of the GSTP Participant, provided that the concerned GSTP Participant has exploitation rights granted by the International Seabed Authority;
- (h) waste and scrap resulting from utilization, consuming or manufacturing operations conducted in the territory of the GSTP Participants, provided they are fit only for the recovery of raw materials;
- (i) goods produced in its territory exclusively from the products specified in subparagraphs (a) to (h)

above.

**Article 5**  
**Sufficiently worked or processed**

1. For the purpose of Art. 2(1)(b), products covered by this Agreement, which are not wholly obtained or wholly produced, are considered to be sufficiently worked or processed, so, originating in the GSTP Participant, when the following conditions are fulfilled:

- (a) The CIF value of all non-originating materials used in their manufacture does not exceed the following percentage of the FOB value of the products:
- 60%, in respect of the least developed GSTP Participants,
  - 50%, in respect of the others GSTP Participants;
- and
- (b) The final process of manufacture is performed within the territory of the exporting GSTP Participant.
2. Paragraph 1 shall apply except as provided in Article 6.

**Article 6**  
**Insufficient working or processing operations to confer originating status**

In the case of the products manufactured from non-originating materials, the following operations, *inter alia*, shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 5 are satisfied:

- (a) preserving operations to ensure that the products remain in good condition during transport and storage such as aeration, drying, refrigeration, immersion in salty or sulphured water or in water added with other substances, extraction of damaged parts and similar operations;
- (b) dilution in water or in any other substance which does not substantially alter the product characteristics;
- (c) simple operations such as removal of dust, sifting, screening, sorting, classifying, grading, matching, washing, painting, husking, stoning of seeds, slicing and cutting;
- (d) change of package and breaking-up and assembly of packages;
- (e) packing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (f) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (g) simple cleaning, including removal of oxide, oil, paint or other coverings;
- (h) simple assembly of parts to constitute a complete article or disassembly of products into parts, in accordance with General Rule 2a of the Harmonized System;
- (i) simple mixing of products, provided the characteristics of the obtained product are not essentially different from those of the mixed products;
- (j) oil application;
- (k) slaughter of animals;
- (l) a combination of two or more operations specified in subparagraphs (a) t (j).

### *Article 7*

#### **Unit of qualification**

1. The unit of qualification for the application of the provisions of this Annex shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonized System. It follows that:
  - (a) when a product composed of a group or assembly of articles is classified in accordance with the Harmonized System in a single heading, the whole constitutes the unit of qualification;
  - (b) when a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each product must be taken individually when applying the provisions of these Rules of Origin.
2. The packages and packing materials for retail sale, when classified together with the packaged product, in accordance with General Rule 5 (b) of the Harmonized System shall not be taken into account when considering whether all non-originating materials used in the manufacture of a product fulfil the criterion corresponding to a change of tariff classification of the said product.
3. The value of the packages and packing material for retail sale shall be taken into account in its origin assessment.

### *Article 8*

#### **Accessories, spare parts and tools**

1. Accessories, spare parts or tools delivered with the good that form part of the good's standard shall be considered as originating if the good originates and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification, provided that:
  - (a) the accessories, spare parts or tools are not invoiced separately from the good, although they are detailed separately in the invoice;
  - (b) the quantities and value of the accessories, spare parts or tools are customary for the good.
2. Each GSTP Participant shall provide that if a good is subject to a value added requirement, the value of accessories, spare parts, or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the value added.

### *Article 9*

#### **Fungible Materials**

1. For the purpose of establishing if a product is originating when in its manufacture are utilized originating and non-originating fungible materials, mixed or physically combined, the origin of such materials can be determined by any of the inventory management methods applicable in the GSTP Participant.
2. Where considerable cost or material difficulties arise in keeping separate stocks of originating and non-originating materials which are identical and interchangeable, the competent authorities may, at the written request of those concerned, authorize the so-called "accounting segregation" method to be used for managing such stocks.
3. This method must be able to ensure that the number of products obtained that could be considered as "originating" is the same as that which would have been obtained if there had been physical segregation of the stocks.

4. The competent authorities may grant such authorization, subject to any conditions deemed appropriate.
5. This method is recorded and applied on the basis of the general accounting principles applicable in the country where the product was manufactured.
6. The beneficiary of this facilitation may issue or apply for proofs of origin, as the case may be, for the quantity of products which may be considered as originating. At the request of the competent authorities, the beneficiary shall provide a statement of how the quantities have been managed.
7. The competent authorities shall monitor the use made of the authorization and may withdraw it at any time whenever the beneficiary makes improper use of the authorization in any manner whatsoever or fails to fulfil any of the other conditions laid down in these Rules of Origin.

***Article 10***  
**Sets**

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non originating goods, the set as a whole shall be regarded as originating, provided that the CIF value of the non-originating goods utilized in the composition of the set does not exceed 15% of the FOB value of the set.

***Article 11***  
**Containers and packing materials for transport**

The containers and packing materials exclusively used for the transport of a product shall not be taken into account for determining the origin of any good or product, in accordance with General Rule 5 (b) of the Harmonized System.

***Article 12***  
**Neutral elements or indirect materials**

In order to determine a product's origin, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) tools, dies, machines and moulds;
- (d) parts and materials used in the maintenance of plant, equipment and buildings;
- (e) goods which do not enter into the final composition of the product;
- (f) gloves, glasses, footwear, clothing, safety equipment, and supplies;
- (g) equipment, devices, and supplies used for testing or inspecting the goods.

**TITLE III**  
**TERRITORIAL REQUIREMENTS**

***Article 13***  
**Principle of territoriality**

1. The conditions for acquiring originating status set out in Title II must be fulfilled without interruption in GSTP Participants territory.

2. If originating goods exported from a GSTP Participant to another country return, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

- (a) the customs clearance for imports of those goods has not been effected in that country;
- (b) the goods returned are the same as those exported, and
- (c) They have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

***Article 14***  
**Direct transport**

1. The preferential treatment provided under the Agreement applies only to products satisfying the requirements of this Annex, which are transported directly between the concerning GSTP Participants. However, products constituting one single consignment may be transported through other territories with, should the occasion arise, transshipment or temporary warehousing in such territories, provided that they remain under the surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing country by the production of:

- (a) a single transport document covering the passage from the exporting country through the country of transit; or
- (b) a certificate issued by the customs authorities of the country of transit:
  - (i) giving an exact description of the products;
  - (ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used; and
  - (iii) certifying the conditions under which the products have remained in the transit country; or
- (c) failing these, any substantiating documents.

**TITLE IV**

**CERTIFICATE OF ORIGIN**

***Article 15***  
**General requirements**

1. Products originating in a GSTP Participant shall, on importation into another GSTP Participant, benefit from the Agreement upon submission of a GSTP Certificate of Origin, a specimen of which appears in Appendix I.

***Article 16*<sup>4</sup>**  
**Procedure for the issue of a GSTP Certificate of Origin**

1. A GSTP Certificate of Origin shall be issued by the competent authorities of the exporting country on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorised representative.

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<sup>4</sup> The term "the other requirements", mentioned in paragraphs 4 and 5 of this Article, does not include the requirements of direct transport and exhibition, since those requirements shall be checked by the customs authorities of the importing country.



2. For this purpose, the exporter or his authorised representative shall complete both the GSTP Certificate of Origin and the application form, specimens of which appear in Appendix I. These forms shall be completed in English, in accordance with the provisions of the domestic law of the exporting country. If they are handwritten, they shall be completed in ink in block letters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled out, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.
3. The exporter applying for the issue of a GSTP Certificate of Origin shall be prepared to submit at any time, at the request of the competent authorities of the exporting country where the GSTP Certificate of Origin is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of these Rules of Origin.
4. A GSTP Certificate of Origin shall be issued by the competent authorities of a GSTP Participant if the products concerned can be considered as products originating in this GSTP Participant and fulfil the other requirements of these Rules of Origin.
5. The issuing competent authorities shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of these Rules of Origin. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate. They shall also ensure that the forms referred to in paragraph 2 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.
6. A GSTP Certificate of Origin shall be issued by the competent authorities and made available to the exporter as soon as actual exportation has been effected or ensured.

***Article 17***  
**Validity of GSTP Certificate of Origin**

1. A GSTP Certificate of Origin shall be valid for six months from the date of issue in the exporting country, and must be submitted within the said period to the customs authorities of the importing country.
2. GSTP Certificates of Origin which are submitted to the customs authorities of the importing country after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.
3. In other cases of belated presentation, the customs authorities of the importing country may accept the GSTP Certificates of Origin where the products have been submitted before the said final date.

***Article 18***  
**Submission of GSTP Certificates of Origin**

GSTP Certificates of Origin shall be submitted to the customs authorities of the importing country in accordance with the procedures applicable in that country. The said authorities may require a translation of a GSTP Certificate of Origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the Agreement.

**Article 19**  
**Importation by instalments**

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing country, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonized System falling within Sections XVI and XVII, Chapter 90 or headings 7308 and 9406 of the Harmonized System are imported by instalments, a single GSTP Certificate of Origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

**Article 20<sup>5</sup>**  
**Supporting documents**

The documents referred to in Article 16(3) used for the purpose of proving that products covered by a GSTP Certificate of Origin can be considered as products originating in the GSTP Participant and fulfil the other requirements of these Rules of Origin may consist *inter alia* of the following:

- (a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounts or internal book-keeping;
- (b) documents proving the originating status of materials used, issued or made out in the GSTP Participant where these documents are used in accordance with domestic law;
- (c) documents proving the working or processing of materials in the GSTP Participant, issued or made out in a GSTP Participant, where these documents are used in accordance with domestic law;
- (d) GSTP Certificates of Origin proving the originating status of materials used, issued in the GSTP Participant in accordance with these Rules of Origin.

**Article 21**  
**Preservation of GSTP Certificate of Origin and supporting documents**

1. The exporter applying for the issue of a GSTP Certificate of Origin shall keep for at least three years the documents referred to in Article 16(3).
2. The competent authorities of the exporting country issuing a GSTP Certificate of Origin shall keep for at least three years the application form referred to in Article 16(2).
3. The competent authorities of the importing country shall ensure the availability, for at least three years, of the GSTP Certificates of Origin submitted to the customs authorities.

**Article 22**  
**Discrepancies and formal errors**

1. The discovery of slight discrepancies between the statements made in the GSTP Certificate of Origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not ipso facto render the GSTP Certificate of Origin null and void if it is duly established that this document does correspond to the products submitted.

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<sup>5</sup> The term “the other requirements”, mentioned in this Article, does not include the requirements of direct transport and exhibition, since those requirements shall be checked by the customs authorities of the importing country.

2. Obvious formal errors on a GSTP Certificate of Origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document <sup>6</sup>.

**TITLE V**  
**ARRANGEMENTS FOR ADMINISTRATIVE CO-OPERATION**

*Article 23*  
**Mutual Assistance**

1. The competent authorities of the GSTP Participants shall provide each other with specimen impressions of stamps used for the issue of GSTP Certificates of Origin, with a specimen of an original GSTP Certificate of Origin form and with the addresses of the competent authorities responsible for verifying GSTP Certificates of Origin.

2. In order to ensure the proper application of these Rules of Origin, the GSTP Participants shall assist each other, through the competent authorities, in checking the authenticity of the GSTP Certificates of Origin and the correctness of the information given in these documents.

3. Furthermore, the competent authorities of each GSTP Participant shall provide the Secretariat, within 30 to 60 days after the close of the year, with an annual report, which must contain the following information of the previous year, detailed by destination (importer GSTP Participant):

- a) Number of GSTP Certificates of Origin issued, and
- b) Products certified, including description, tariff classification (subheading) and gross weight (kg) or other measure (l,m<sup>3</sup>,etc.) of these products.

*Article 24*  
**Verification of GSTP Certificate of Origin <sup>7</sup>**

1. Subsequent verifications of GSTP Certificate of Origin shall be carried out at random or whenever the competent authorities of the importing country have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of these Rules of Origin.

2. For the purposes of implementing the provisions of paragraph 1, the competent authorities of the importing country shall return the GSTP Certificate of Origin and the invoice, if it has been submitted, or a copy of these documents, to the competent authorities of the exporting country giving, where appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the GSTP Certificate of Origin is incorrect shall be forwarded in support of the request for verification.

3. The verification shall be carried out by the competent authorities of the exporting country. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.

4. If the customs authorities of the importing country decide to suspend the granting of preferential treatment to the products concerned while awaiting the results of the verification, release

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<sup>6</sup> Obvious formal errors include, but are not limited to, typing errors, and exclude deliberate errors.

<sup>7</sup> The term "the other requirements", mentioned in paragraphs 2 and 6 of this Article, does not include the requirements of direct transport and exhibition, since those requirements shall be checked by the customs authorities of the importing country.

of the products shall be offered to the importer subject to any precautionary measures judged necessary.

5. The competent authority requesting the verification shall be informed of the results of this verification as soon as possible. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in the GSTP Participant and fulfil the other requirements of these Rules of Origin.

6. If in cases of reasonable doubt there is no reply within ten months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the customs authorities of the requesting GSTP Participant shall, except in exceptional circumstances, refuse entitlement to the preferences.

7. The requesting competent authority shall inform the competent authorities of the exporting country of its decision on the basis of the verification in question.

***Article 25***  
**Dispute settlement**

1. Where disputes arise in relation to the verification procedures of Article 24 which cannot be settled between the competent authorities requesting a verification and the competent authorities responsible for carrying out this verification or where they raise a question as to the interpretation of these Rules of Origin, they shall be submitted to the Committee of Participants, pursuant to article 21 of the GSTP Agreement.

2. In all cases the settlement of disputes between the importer and the customs authorities of the importing country shall be under the legislation of the said country.

***Article 26***  
**Penalties**

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining a preferential treatment for products.

**TITLE VI**  
**FINAL PROVISIONS**

***Article 27***  
**Appendices**

The Appendices to this Annex shall form an integral part thereof.

***Article 28***  
**Review**

The Committee of Participants may propose or implement amendments to the criteria for the determination, application and administration of these Rules of Origin at any time.

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