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Subject: Origin rules in the Lomé Convention

The origin rules are conditions which products have to satisfy in order to obtain preference. The conditions as set out in the Origin Protocol to the Lomé Convention are either⁽¹⁾:

- that the goods have been wholly produced in an ACP State (vegetables, minerals, etc);
- if imported inputs or materials are used, that "sufficient working or processing" has been carried out in the ACP States in relation to the final products obtained.

In order to establish when imported inputs or materials are considered to have undergone "sufficient working or processing", the Lomé Convention makes use of the classification of products for customs purposes, the so called Customs Co-operation Council Nomenclature (CCCN) and has set up the system of change of tariff heading.

This system works as follows:

an imported input or material is incorporated in or transformed into a final product. If the final product is classified in a tariff heading of the CCCN different of that in which the imported input or material is classified, it has originating status and can benefit from preferential access in the Community⁽²⁾.

(1) It should be noted that petroleum products are excluded from the Origin Protocol and that the EEC Member States each apply their own national origin rules to these products.

(2) Example: a table, manufactured in a Caribbean State from wood imported from Brazil has originating status under the Lomé Convention because the wood used is classified in tariff heading 44.05 while the table itself is classified in tariff heading 94.03.

It should, however, be noted that the Origin Protocol provides for a number of exceptions to the system of the change of tariff heading. On the one hand, there is a so called negative list of exceptions, List A, containing goods which in addition to the change of tariff heading have to fulfill supplementary conditions because the change of tariff heading would not result in "sufficient working or processing"(1). On the other hand, there is a so called positive list of exceptions, List B, containing goods which do not change tariff heading but which obtain nevertheless originating status if they fulfill the conditions described in that list(2).

It should be observed that both List A and List B contain for a number of products a percentage rule stating that the value of the imported parts or components may not go beyond a percentage ranging from 20-50% of the value of the final product(3).

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- (1) Example of List A: a man's shirt (tariff heading 61.03) is only originating if it is produced from imported yarn and not if it is produced from imported cloth. This means, in fact that double processing is required: weaving the cloth from yarn and making the shirt.
- (2) Example of List B: the cutting or otherwise working of unworked precious or semi-precious stones of tariff heading 71.02 confers originating status to these stones although the rough stones as well as the cut or otherwise worked stones fall in the same tariff heading i.e. 71.02.
- (3) Example of List A: electric shavers of tariff heading 85.07 are originating if the value of the imported inputs or materials does not represent more than 40% of the value of the shaver.
Example of List B: the printing of cotton fabric of tariff heading 55.09 confers originating status to the printed fabric if the value of the imported fabric does not go beyond 47.5% of the value of the final product (which is also classified in tariff heading 55.09). However, one further finishing operation (such as bleaching or dressing, etc.) should be carried out in order to have originating status for the printed fabric.

Furthermore, the Lomé Convention allows for cumulation of working or processing operations: i.e. working or processing of products carried out in one or more ACP States and/or in the EEC may be counted together.

Finally, it should be noted that the main problem regarding Lomé rules of origin concerns both the classification of the final product and the imported inputs or materials in the tariff heading of the CCCN. Once this has been done, it is easy to establish whether a product has originating status or not.

For any problems in this field contact Mr Wennekes (tel: 235.69.32) or Mr Favotte (tel: 235.54.10).

ANNEX: rules of origin under C.B.I.

Origin rules in the United States' Caribbean Basin Initiative

The origin system as applied under the CBI is different from the Lomé Convention as it has a single percentage rule of added value.

The CBI provides that 35% of the appraised value of a final product should be added in a beneficiary country. The 35% of the appraised value is composed of the sum of the cost of materials produced in a beneficiary country plus the direct cost of processing operations performed in a beneficiary country.

It is evident that the difference in the origin rules does not prohibit companies, installed in the Caribbean, to benefit from both preferential regimes of the Lomé Convention and the CBI. As an example SYNTEX (pharmaceuticals) and BACARDI (rum) can be mentioned.