

Position Paper



FTA
Foreign Trade Association

Committed to free trade

Reform of the preferential rules of origin / transitional rules within the framework of the European Partnership Agreement

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1. Preliminary remarks

We welcome the fact that finally the approach to regard a certain share of the net production costs of a product as a decisive criterion for determining the product's origin, which had been discussed more or less seriously for quite some time, has been dropped. FTA had repeatedly pronounced itself against the application of the net production cost method, since this method is incompliant with the clear demand for handling the administrative issues in the simplest possible way. Moreover, as a corollary, exporters would have had to disclose confidential data, which would mean the end of any preferential system.

2. The ex-works price

The share of the ex-works price currently considered as the decisive criterion for determining the product's origin can indeed be calculated more easily than the net production costs. However, this criterion too is not immune to manipulation and thus to an arbitrary determination of the preferential origin. Moreover, it is not possible to objectively determine the real origin of a product; in this case it would depend on the level of wage costs in the exporting country as well as on any wage and exchange rate fluctuations. This way, the predictability of the origin of goods and thus the application of a preferential treatment - which is important to both importers and exporters – cannot be ensured.

As a consequence it is possible that the same, fully identical goods will be recognized as originating goods in one country and as non-originating in another. Current tendencies suggest that countries with a higher level of wage costs will be easily recognized originators whereas those with a lower level of wage cost will face difficulties in this respect. From the perspective of a sound development policy this does not seem to be an opportune approach.

Objections claiming the ex-works price was applied as a valid criterion at present already do not hold water because the ex-works price is decisive only as an additional or alternative criterion and in relatively few cases.

3. The size of the local production share within the framework of the General System of Preferences

FTA advocates that the local production share should be fixed at 30 %. The argument that a higher local share of added value - around 55 - 60 % as currently applied - is boosting the national economy of a benefiting country is not substantive. At least in practise there is no direct connection between a country's economic prosperity and its local added value. Moreover, the demand for the local share of added value to be as low as possible is completely in line with the conception of FTA which advocates the complete abolition of customs worldwide.

4. FTA's proposal

Bearing in mind that the establishment of the origin of goods should be as simple and as objective as possible FTA proposes as an exclusive basic criterion a change in the four-digit tariff heading. We are well aware that the customs tariff has not been created in order to establish the origin of goods and that the change of the four-digit heading does not always lead to satisfactory results. However, in such exceptional cases the working and processing operations could be applied as yet an alternative criterion. The current list of insufficient working or processing operations (minimal treatment) could be dropped.

We are not concealing that this approach is opposed to the politically wanted differentiation of the preferential advantages. However, its simplicity, predictability and low administrative burden would more than make up for this disadvantage.

For a good reason we would also like to point out that regarding the proofs of preference submitted, the protection of the importer's good faith introduced in the Customs Code of 2000 must not be affected. This would mean a loss in legal security and the preferential system would be applied considerably less frequently.

5. Rules of origin within the framework of European Partnership Agreements

We have investigated the proposal for simplified rules of origin within the framework of European Partnership Agreements which was also sent to us by reviewing samples, and we have come to the conclusion that considerable improvements have been made in comparison with the rules of origin currently in force. We would like to illustrate these improvements with regard to four tariff headings which are of special importance for retailing trade:

According to the current rules, goods of chapters 61 and 62 (clothes and clothing accessories) have to be manufactured of yarns in order to be granted preferential origin. In the future they may also be manufactured of fabrics, and processing in two stages will not be required anymore.

For certain goods of entertainment electronics (ex chapter 85) the rule preferred by FTA (change of heading) is applicable. The restrictive 30-per cent rule has been cancelled. Similar regulations were proposed for other goods falling under entertainment electronics (ex chapter 8519). Here the 30-per cent rule was replaced by the rule that the third country share may amount up to 55 per cent of the ex-works price. We welcome this progress very much.

More information on the FTA:

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