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1.6.1 shall ensure that:

when they issue administrative determinations of general application, the requirements to be fulfilled are clearly defined. In particular:

- (i) in cases where the criterion of change of tariff classification is applied, such a rule of origin, and any exceptions to the rule, must clearly specify the subheadings or headings within the tariff nomenclature that are addressed by the rule;
- (ii) in cases where the ad valorem percentage criterion is applied, the method for calculating this percentage shall also be indicated in the rules of origin;
- (iii) in cases where the criterion of manufacturing or processing operation is prescribed, the operation that confers origin on the good concerned shall be precisely specified;

- (b) notwithstanding the measure or instrument of commercial policy to which they are linked, their rules of origin are not used as instruments to pursue trade objectives directly or indirectly;
- (c) rules of origin shall not themselves create restrictive, distorting, or disruptive effects on international trade. They shall not pose unduly strict requirements or require the fulfilment of a certain condition not related to manufacturing or processing, as a prerequisite for the determination of the country of origin. However, costs not directly related to manufacturing or processing may be included for the purposes of the application of an ad valorem percentage criterion consistent with subparagraph (a);
- (d) the rules of origin that they apply to imports and exports are not more stringent than the rules of origin they apply to determine whether or not a good is domestic and shall not discriminate between other Members, irrespective of the affiliation of the manufacturers of the good concerned<sup>2</sup>;

(footnote original) <sup>2</sup> It is understood that this provision is without prejudice to those determinations made for purposes of defining "domestic industry" or "like products of domestic industry" or similar terms wherever they apply.

- (e) their rules of origin are administered in a consistent, uniform, impartial and reasonable manner;
- (f) their rules of origin are based on a positive standard. Rules of origin that state what does not confer origin (negative standard) are permissible as part of a clarification of a positive standard or in individual cases where a positive determination of origin is not necessary;
- (g) their laws, regulations, judicial decisions and administrative rulings of general application relating to rules of origin are published as if they were subject to, and in accordance with, the provisions of paragraph 1 of Article X of GATT 1994;
- (h) upon the request of an exporter, importer or any person with a justifiable cause, assessments of the origin they would accord to a good are issued as soon as possible but no later than 150 days<sup>3</sup> after a request for such an assessment provided that all necessary elements have been submitted. Requests for such assessments shall be accepted before trade in the good concerned begins and may be accepted at any later point in time. Such assessments shall remain valid for three years provided that the facts and conditions, including the rules of origin, under which they have been made remain comparable. Provided that the parties concerned are informed in advance, such assessments will no longer be valid

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## Agreement on Rules of Origin

supplement, the intended effect of trade policy instruments. Allowing Members to use rules of origin to pursue the objectives of 'protecting the domestic industry against import competition' or 'favouring imports from one Member over imports from another' would be to substitute for, or supplement, the intended effect of a trade policy instrument and, hence, be contrary to the objective of Article 2(b)."<sup>2</sup>

3. In US – Textiles Rules of Origin, the Panel, examining a claim under Article 2(b), found that

Agreement. Accordingly, in applying Article 2(b), we will follow the above -quoted statement by the Appellate Body." <sup>4</sup>

5. In US – Textiles Rule 21(d)(4) of the TPO (US) (DS Reports) 497.52(2)









is to ensure that, for a given good, the strictness of the requirements that must be satisfied for that good to be accorded the origin of a particular Member is the same, regardless of the provenance of the good in question ( i.e., Member from which the good is imported, affiliation of the manufacturers of the good, etc.).<sup>20</sup>

Current as of: December 2023

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<sup>20</sup> Panel Report, US – Textiles Rules of Origin, paras. 6.245- 6.248.