

WORLD TRADE ORGANIZATION

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Committee on Rules of Origin

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PROPOSAL BY THE UNITED STATES PURSUANT TO ARTICLE 9.3(a) OF THE AGREEMENT ON RULES OF ORIGIN

The following communication, dated 25 July 1996, has been received from the Permanent Mission of the United States, with the request that it be circulated to the Members and inscribed as an agenda item for consideration at the next meeting of the Committee.

Under the mandate of the WTO Agreement on Rules of Origin related to the Harmonization Work Programme, the World Customs Organization's Technical Committee on Rules of Origin is currently providing the WTO Committee on Rules of Origin with its interpretations and opinions. Likewise, the WTO Committee is giving its ongoing consideration to those interpretations and opinions of the Technical Committee. Article 9.3(a) of the Agreement provides that the WTO Committee may request the Technical Committee "to refine or elaborate its work and/or to develop new approaches."

The development of product-specific rules is currently being conducted under the terms of the second phase of the Harmonization Work Programme. In accordance with the Agreement, this task includes considering and elaborating upon, on the basis of the criterion of substantial transformation, "the use of change in tariff subheading or heading when developing rules of origin for particular products or a product sector and, if appropriate, the minimum change within the nomenclature that meets this criterion."

It is clear that the pace and efficiency of the Work Programme would be increased if a specific "starting point" was used as an analytical methodology when performing the task mandated under the Agreement. The WTO Committee can request that such a "starting point" be undertaken as a new approach by the Technical Committee in its work in the second phase of the Work Programme.

As part of the ongoing consideration of "the minimum change within the nomenclature" which meets the criterion of substantial transformation, such an analytical methodology could be in the form of a rebuttable presumption that substantial transformation is deemed to have taken place *when assembly or other processing operation results in a change from a tariff category providing for "parts" to a tariff category providing for the "goods."* For a certain product, a particular Member may have a view differing from the presumption that assembling parts into that product confers origin. The Member could present a specific rebuttal - at the time the Committees are addressing the development of the specific rule of origin for that product.

This "starting point" would not simply be an approach intended to assist the Technical Committee in increasing its analytical efficiency. It would also advance the fundamental intent of the WTO Agreement on Rules of Origin, which is to ensure that "rules of origin themselves do not create unnecessary obstacles to trade" and "are prepared in an impartial, transparent, predictable and consistent manner."