



1 August 2007

## **BUSINESSEUROPE position paper on the reform of preferential rules of origin**

### **Summary**

The determination of geographical origin has become increasingly complex for companies and for customs administrations. For BUSINESSEUROPE, rules of origin should be simple and clear to avoid origin disputes that undermine the certainty that companies require for strategic planning and to minimise the time and cost needed for the determination of origin.

Overall, BUSINESSEUROPE shares the Commission's priorities consisting in a greater simplification of the rules of origin and better integration of developing countries in the international economy.

However, the proposal for a single criterion causes BUSINESSEUROPE some concern. For a majority of business sectors, the value-added method is not appropriate and will not make it easier to confer preferential origin. It introduces an element of instability and insecurity, by increasing the weight of calculation factors such as monetary fluctuation, raw materials prices or intellectual property rights.

Therefore, BUSINESSEUROPE supports the adoption of a sectoral approach which could imply different criteria, maintaining predictability of the preferential rules of origin and taking into account the variety of economic situations.

BUSINESSEUROPE is concerned with the distribution of responsibilities between operators and authorities, which is fundamentally changed with the proposed reform. It would discharge the authorities of exporting countries from all responsibilities and shift the burden of proof to the EU importer.

For the Economic and Partnership Agreements (EPA) negotiations, European business is also concerned about the possibility of introducing an interim solution in the negotiations which could then be revised after a transition period.

BUSINESSEUROPE looks forward to pursuing the debate on this issue with the European Commission and all interested parties.



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## **BUSINESSEUROPE position paper on the reform of preferential rules of origin**

The determination of geographical origin has become increasingly complex for companies and for customs administrations. This is due to an increasingly sophisticated international division of labour, with components sourced from varying suppliers worldwide, and production processes increasingly subdivided and fragmented geographically.

The special rules of origin linked to proliferating preferential trade agreements have become a major concern for companies, and they are now a significant non-tariff barrier. Despite the fact that costs to economic operators of complicated rules of origin are becoming increasingly evident, their negative impact has never been fully taken into account when new trade agreements are drawn up.

For BUSINESSEUROPE, rules of origin should be simple and clear to avoid origin disputes that undermine the certainty that companies require for strategic planning and to minimise the time and cost needed for the determination of origin (and thereby increase the utilisation of preferential arrangements).

Overall, BUSINESSEUROPE shares the Commission's priorities consisting in a greater simplification of the rules of origin and better integration of developing countries in the international economy. To succeed in these objectives, the Commission proposes introducing a single method for determining whether non-originating materials have been sufficiently worked or processed based on value-added.

### **Consultation**

However, BUSINESSEUROPE is concerned about the Commission's short consultation timeline for the ongoing reform, and also about the lack of further debate on the value-added method. The Commission would like to have the point of view of business on the threshold to be applied within the framework of a system based on added value. BUSINESSEUROPE estimates that it is premature to tackle the threshold issue when the results of the impact assessment on the added-value criterion have not yet been published.

### **Value-added method**

The proposal of a single criterion causes BUSINESSEUROPE some concern. For a majority of business sectors, the value-added method is not appropriate and will not simplify the conferring of preferential origin. It introduces an element of instability and insecurity by increasing the weight of calculation factors such as monetary fluctuation (the currencies of developing countries are not strong compared with the US dollar – invoicing currency), raw materials prices or intellectual property rights.



The risk is that a specific product may not fulfil the criteria from one day to another. The problem is particularly acute in sectors reliant on commodities with volatile world prices (such as steel, petro-based goods, ceramics, certain agricultural products, etc). Therefore, for many business sectors, the legal security as well as the stability of their business environment is at stake.

Moreover, no control procedure of the added-value method is proposed, neither by the administrations of exporting countries nor by those of importing countries.

Therefore, **BUSINESSEUROPE supports the adoption of a sectoral approach which could imply different criteria**, maintaining predictability of the preferential rules of origin and taking into account the variety of economic situations. In view of the characteristics, requirements and experience of a specific industry, the origin criteria should be defined by manufacturing operations, change in tariff heading (CTH) and/or the value-added method.

There is a great variety in developing and transformation countries. A single threshold risk would introduce an arbitrary means of obtaining origin, thereby excluding some developing countries from market access on a preferential basis.

The concept of substantial transformation should be retained as a guiding principle in any new system of rule of origin. It ensures that rules of origin encourage the growth of local economic activity and help to diversify developing countries' export profiles.

Where value-added is used, a single uniform threshold applicable across all sectors may be inappropriate. The selection of thresholds must take account of the particularities of each sector.

Moreover, BUSINESSEUROPE supports the scrapping of the rule of direct shipment to facilitate companies' supply chain.

## **Responsibilities of importers**

The distribution of responsibilities between operators and authorities is fundamentally changed with the proposed reform. It would discharge the authorities of exporting countries with all responsibilities and shift the burden of proof to the EU importer. In general, the exporting countries' authorities should be responsible for verifying the origin of a product as is currently the practice.

In the bilateral agreements negotiated by the EU with third countries, the responsibility of the allocation of origin should be with governments. The authorities of benefiting third countries should be responsible for the attribution of certificates of origin. They could be held responsible in case of problems and bear the financial responsibility.

## **Economic and Partnership Agreement (EPA) negotiations with ACP countries**

European business understands the time constraints to conclude the EPA negotiations by the end of the year. However, it is concerned on the possibility of introducing an interim solution in the negotiations based on the current system of Cotonou which could then be revised after a transition period to introduce the value-added approach.



Companies need to work in a stable and predictable trading system which cannot be subject to continuous changes.

BUSINESSEUROPE supports acceleration of the regional integration process in the EPA regions. Trade should be liberalised between the six EPA regions. To ensure that ACP exporters can benefit from additional market access, the full cumulation system should be expanded to the various EPA negotiations. The cumulation of origin would be key to give regional ACP groupings a more competitive edge.

### **Free-trade agreements (FTA)**

As regards the negotiations under way of free-trade agreements (FTA) between the EU and third countries, as well as to the existing FTAs (e.g. EU/EFTA), BUSINESSEUROPE supports greater harmonisation of rules of origin in the sense as described above under the paragraph “adoption of sectoral approach”. As to existing FTAs, harmonisation may not worsen the conditions for business. Different criteria from one country/region to another risks creating a very complex business environment for all the sectors concerned. All rules applied within a sector should be the same for all preferential trade agreements. Regional cumulation for ASEAN countries should be pursued.

EU business expects to have timely and regular consultations with the Commission on the rules of origin in the new FTA negotiations.

### **Conclusion**

BUSINESSEUROPE looks forward to pursuing the debate on this issue with the European Commission and all interested parties.

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