



**World Customs
Organization**

Rules of Origin (1) - General aspects -

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WCO Knowledge Academy

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1

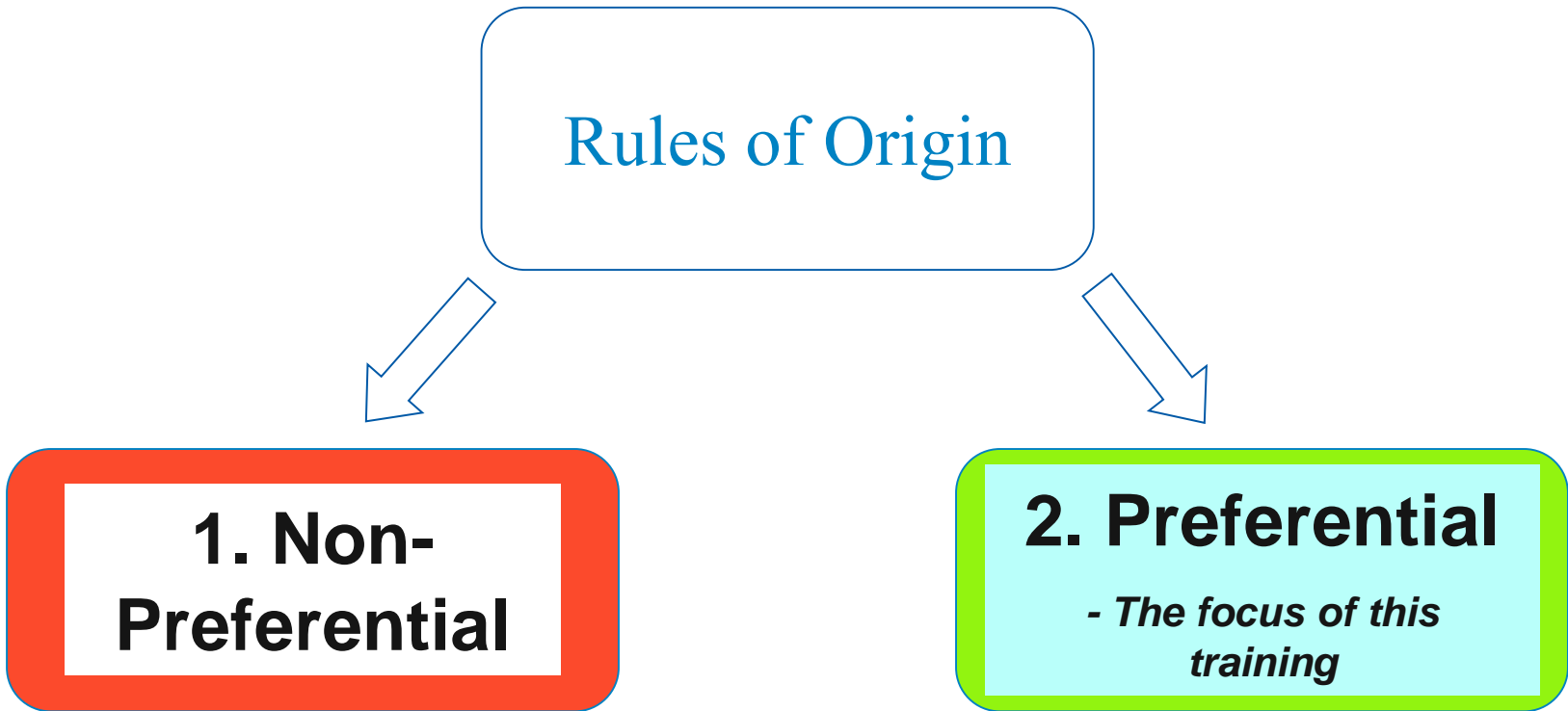
Definition of rules of origin



Rules that determine the “nationality” of goods in international trade.

This is done by dictating the conditions that the product must meet in a given country to be considered as having its origin in that country.

There are two kinds of Rules of Origin



Legal framework: MFN v.s Preferential trade



Multilateralism ← versus → Regionalism

GATT / WTO	Protection through tariffs only GATT 1994, Art. XI GATT 1994, Art. XII
	Tariff Reduction and Tariff Binding GATT 1994, Preamble, Art. XXVIII bis, GATT 1994, Art. II:1(b)
	Most Favoured Nation Clause (MFN) GATT 1994, Art. I
	National treatment GATT 1994, Art. III

Preferential Trade Arrangements

Exemption from MFN

Enabling Clause (GSP etc)

Decision of 1979
Differential and more favourable treatment for developing countries

Waivers

GATT 1994 Art. XXIV

Reciprocal Tariff concessions covering substantially all the trade

Non reciprocal / asymmetric

Non-preferential rules of origin



- Used for determining the economic nationality of products subject to commercial policy measures
 - anti-dumping
 - tariff quotas etc.
- For statistical purposes
- For government procurement
- For application of "Made in"-labelling in some countries

Preferential rules of origin



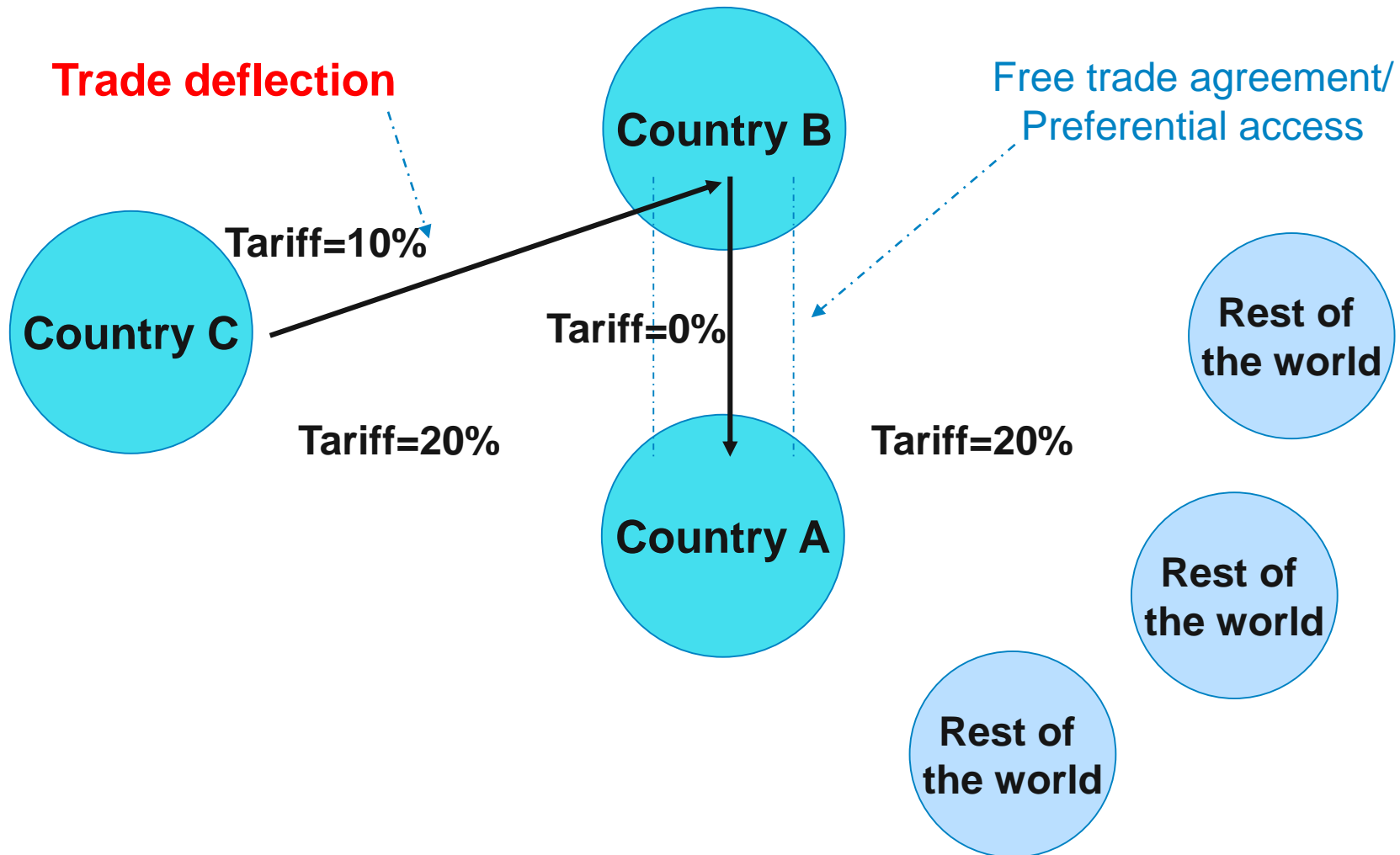
- Determine the nationality of a product subject to preferential tariff rates within an FTA/PTA
- “Except as otherwise provided in this Agreement, each Party shall eliminate or reduce its customs duties on originating goods of the other Party”
- Each FTA/PTA has its own sets of rules of origin

Rules of origin in Free Trade Agreements



- Define the conditions under which a product is deemed as originating and therefore suitable for preferential treatment
- Prevent deflection of trade and transshipment in an effort to (falsely) obtain origin and therefore preferential treatment

Prevention of trade deflection



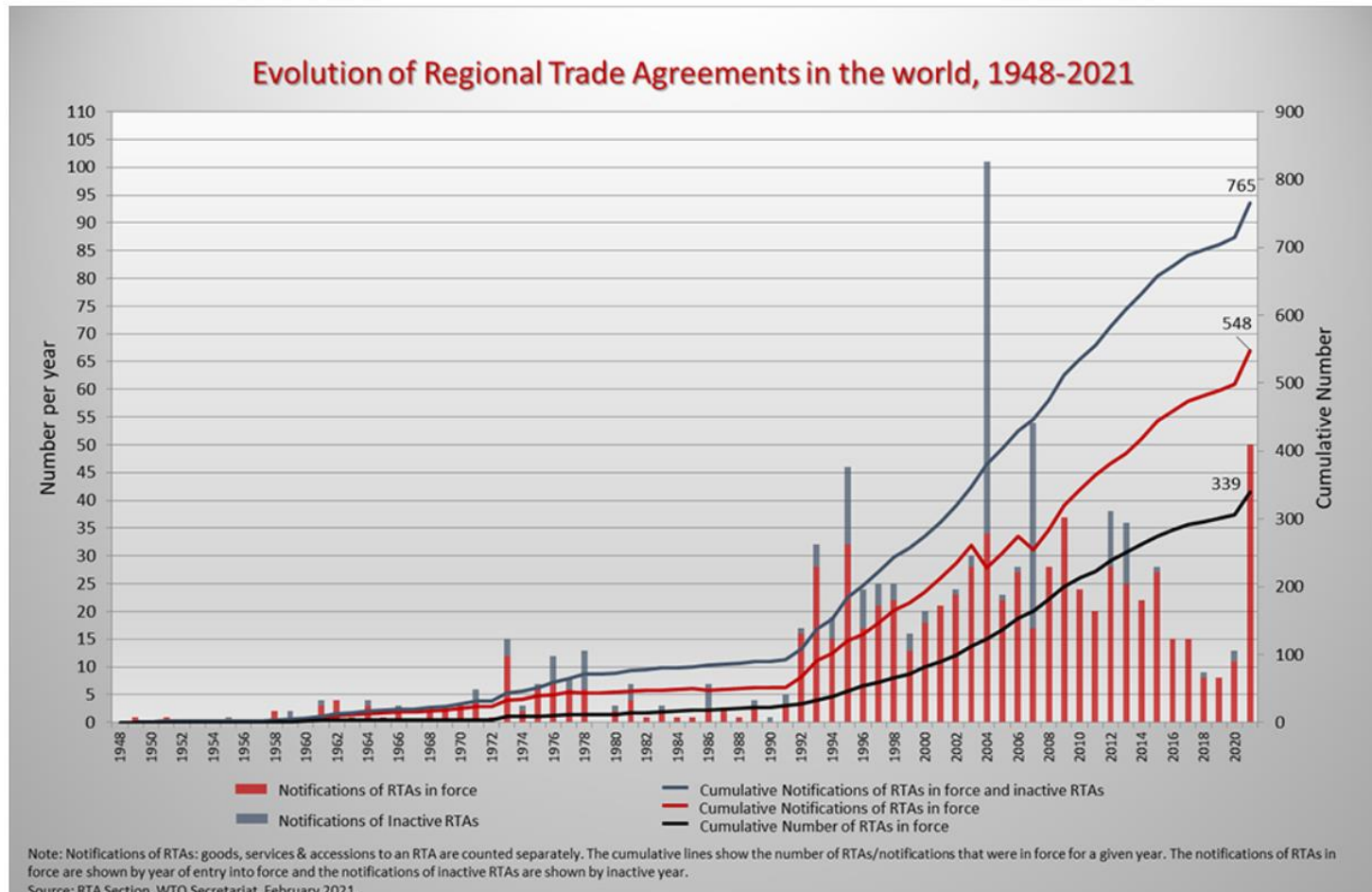
Problems of rules of origin?



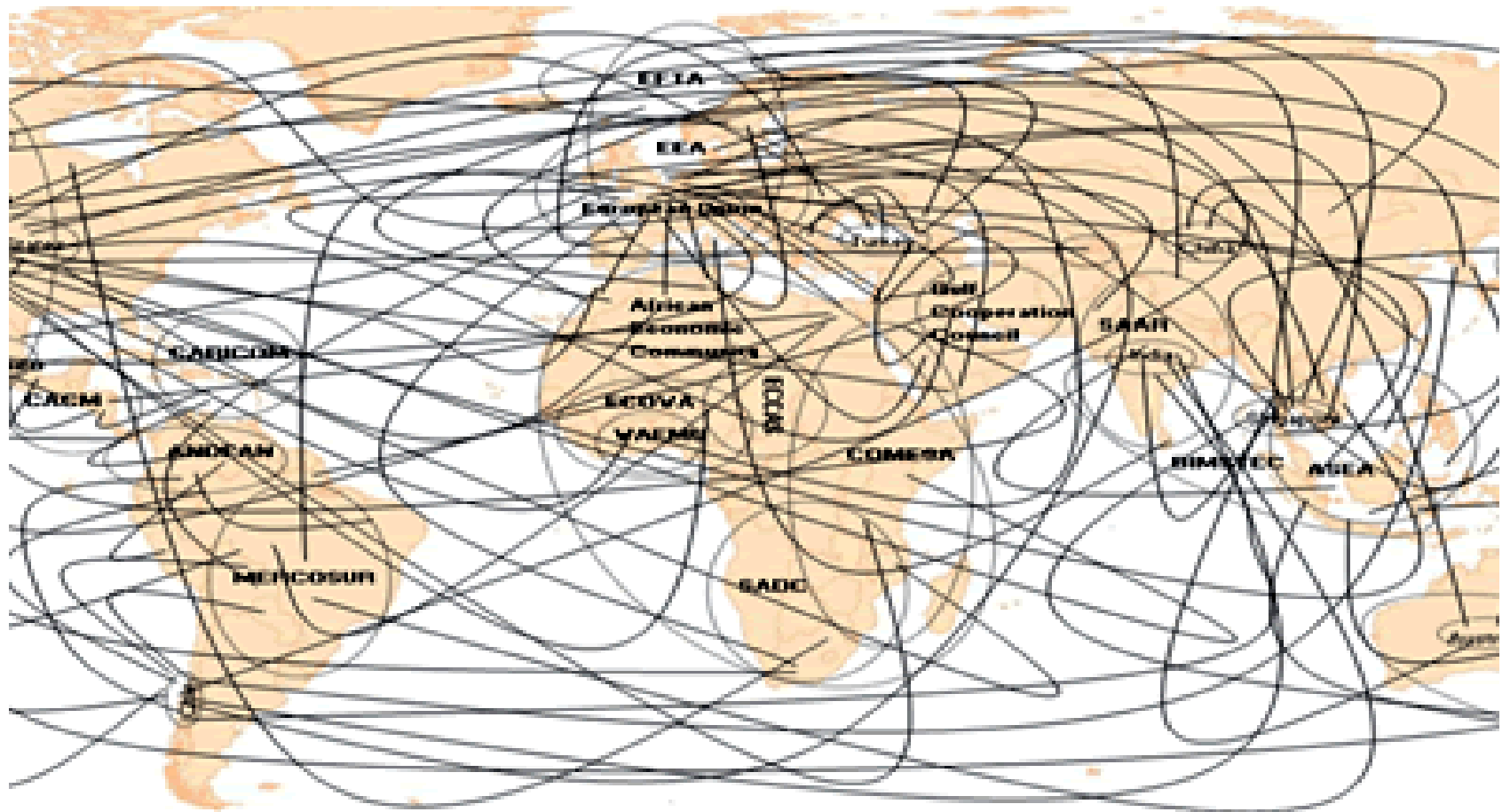
- Two apparent problems...
 - "The spaghetti bowl" of overlapping FTAs
 - Restrictive rules of origin distort trade

Increasing number of preferential agreements

RTAs notified to the GATT/WTO (1948-2021) by year of entry into force



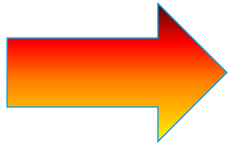
The spaghetti bowl of complex and overlapping rules of origin legislations



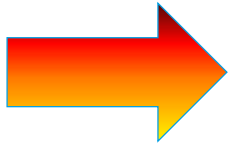
How can RoO distort trade?



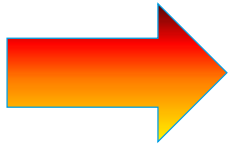
- Sourcing from third countries is fundamental in a fragmented world economy
- RoO are seen by exporters as a cost
 - Production-related costs
 - Administrative costs



These costs have to be balanced against the benefit from fulfilling the RoO – which is tariff preference



Strict RoO often lead to lower utilization of trade preferences



The purpose of rules of origin – to prevent trade deflection – has to be balanced against this fact

Costs and advantages for business



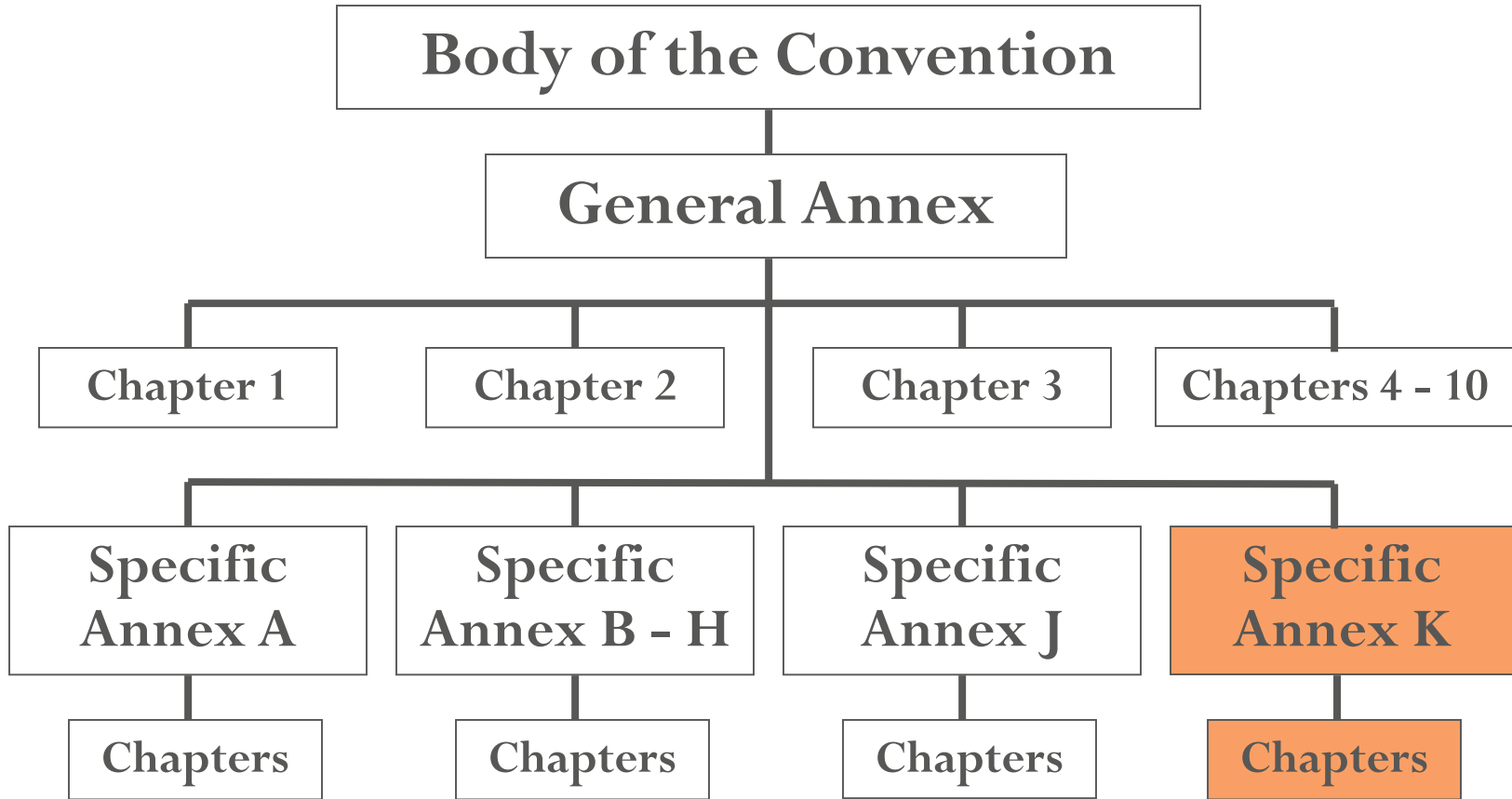
- Costs:
 - Issuance fee for certificates in some countries
 - Internal costs (administration, staff, internal and external audits)
 - Longer processing times at the border in some countries
- Advantages:
 - Building on Regional & global value chains
 - Preferential treatment (lower duty rates)

Issues discussed at a global level



- African Continental Free Trade Area
- CPTPP, USMCA, Regional Comprehensive Economic Partnership (RCEP), etc.
- Revised Kyoto Convention
- Preferential market access for Least Developed Countries

Revised Kyoto Convention (RKC)



Each Annex to be accompanied by non-binding Guidelines

Rules of Origin in RKC



- Specific Annex K not part of the revision of the Kyoto Convention in the 1990's
 - The Harmonization Work Programme (HWP) in the WTO Agreement on Rules of Origin (ARO) had just started
 - WCO Members decided to update the Specific Annex K after the finalization of the HWP
- Specific Annex K has remained (more or less) unchanged since the 1970's
 - Need modernization to match modern Customs and trade practices
 - Modernization might lead to increased acceptance

International standards for Origin



- WCO
 - RKC = Only international agreement dealing with origin procedures
- WTO (ARO)
 - Disciplines on non-preferential rules of origin
 - Common declaration on preferential rules of origin

 **no agreed detailed international standards**

 **WCO to take lead in relation to rule making**
Customs procedures to be governed by Customs

Spaghetti bowl effect



- No Harmonization of Rules of Origin foreseen
- Need for enforceable, binding provisions in relation to origin procedures, especially certification and verification
 - Facilitating for Customs - streamlined, enforceable rules
 - Facilitating for Trade – gives transparency and predictability
- WCO Members and Secretariat have developed guidelines on origin procedures. Principles to be included in RKC as approved by the Council

Rules of Origin in RKC



- Comprehensive modernization of Specific Annex K
- Comprehensive update of the text regarding Binding Rulings to be compatible with WTO TFA
- Need effectively enforceable provisions
- Modern provisions will lead to increase in acceptance of Specific Annex K

- A response to Members' concerns regarding falling revenue returns in context of global financial crisis and declining duty rates

WCO Council Resolution – June 2009 :

“The WCO Secretariat and Members should enhance even further the delivery of effective capacity building, especially as a response to declining revenue collection and obstacles to trade facilitation caused by the global economic downturn”

WCO INITIATIVES ON PREFERENTIAL RULES OF ORIGIN

- Action Plan to improve the understanding and application of preferential rules of origin (2007-)
- Revenue Package Action Plan Phase I (2010-)
- Revenue Package Action Plan Phase II (2013-)
- Revenue Package Action Plan Phase III (2016-)
- Revenue Package Action Plan Phase IV (2019-)

- Origin Verification
 - World Trends in Preferential Origin Certification and Verification (November 2011)
 - Guidelines on Preferential Origin Verification* (June 2012, updated in June 2018)

- Origin Certification
 - Comparative Study on Certification of Origin (February 2014, updated in June 2020)
 - Guidelines on Certification of Origin (July 2014 , updated in June 2018)

- Origin Irregularities
 - Origin Irregularity Typology Study (July 2013)
 - Guide to Counter Origin Irregularities (excluding fraud)* (June 2015, updated in June 2018)

* Available for WCO Members only

- Advance Rulings & Origin Infrastructure
 - Technical Guidelines on Advance Rulings for Classification, Origin and Valuation (June 2015, updated in June 2018)
 - Diagnostic Tool on Tariff Classification, Valuation and Origin Work and Related Infrastructure* (June 2015)
 - Guidelines on Customs Infrastructure for Tariff Classification, Valuation and Origin* (June 2015)

- Relation between HS and Rules of Origin
 - Study on the use of "Change of Tariff Classification (CTC)-based rules" in Preferential Rules of Origin (February 2015)
 - Guide for Technical Update of Preferential Rules of Origin (December 2015)

- Preferential Rules of Origin for LDCs
 - Practical Guide to the Nairobi Ministerial Decision on Rules of Origin for LDCs (June 2018)

* Available for WCO Members only

- WTO Ministerial Decision on Preferential Rules of Origin for LDCs adopted in Nairobi in December 2015.
- Decision encourages preference-granting WTO Members to
 - reform their rules of origin to make them simpler and more transparent, including
 - allowing for the use of up to 75 % of non-originating materials,
 - eliminating exceptions or restrictions to tariff classification rules,
 - adopting simple transformation rules when based on specific manufacturing requirements,
 - expanding cumulation possibilities,
 - simplifying origin-related documentary requirements such as avoiding non-manipulation certificates and introducing self-certification.

Practical Guide to the Nairobi Decision on Rules of Origin for LDCs

- Objectives: Assist Members in facilitating preferential market access for LDCs
- Provide practical information on how to qualify for preferential treatment and detailed explanations of the elements in the Decision, and include guidance material from a Customs perspective
- For the use of Customs administrations which play the role of “competent issuing authority” in exporting LDCs and of exporters or producers in LDCs

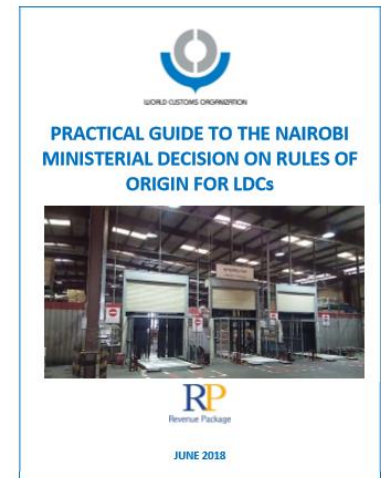
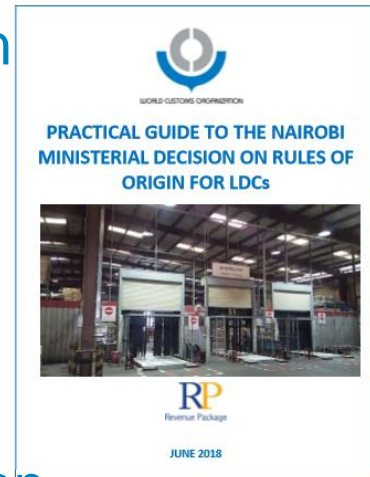


Table of Contents

1. Introduction
2. Steps for Utilization of Preferential Schemes for LDCs
3. Overview of the Nairobi Decision on Rules of Origin
4. Practical Case Studies
5. WCO Sources of Information on Origin

Annexes

- Annex I : List of LDCs
- Annex II : Current Application of the Nairobi Decision in Preference-Granting Countries



[WCO website Top > Topics > Origin > Instruments and Tools > Guidelines](#)

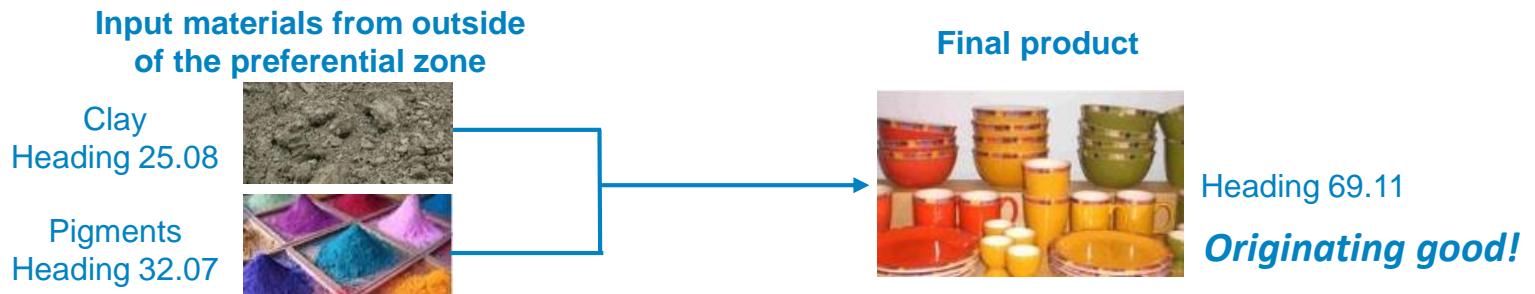
Product Specific Rules

Product specific rules of origin are listed according to the HS.

Product Specific Rules	
HS code	Origin criteria
0101.21	Change of Chapter
0101.29	Change of Heading
0101.30	Change of Subheading
⋮	⋮

Change in Tariff Classification (CTC) Rules

CTC rules require that the good is classified in a Chapter, heading or subheading (depending on the exact rule) different from all non-originating materials used.



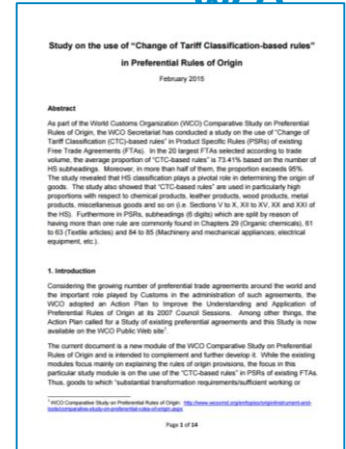
Findings from the study

◆ Proportion of “CTC-based rules”

In the 20 largest FTAs selected according to trade volume, the average proportion is **73.41%**.
Moreover, it **exceeds 95%** in more than half of them.

HS is extremely important for origin determination

[WCO website Top > Topics > Origin > Instruments and Tools > Comparative Study on Preferential Rules of Origin](#)



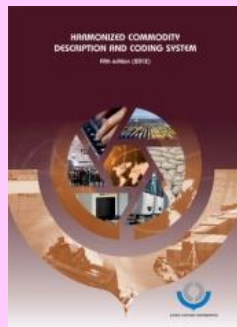
Need for an Update of Rules of Origin

HS is normally updated **every 5 years** (2002, 2007, 2012, 2017 2022)

If different editions of the HS are used for purposes of HS classification and origin determination, respectively...



Determination of the origin becomes
complicated and time-consuming



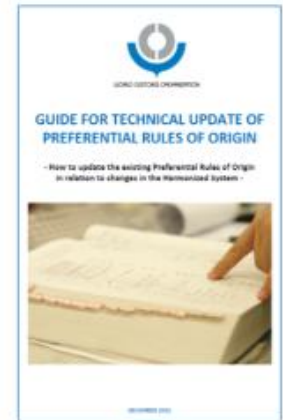
Classification
(HS 2017)



Rules of Origin of FTAs
(HS 2007, HS 2002 etc.)



Guide for Technical Update of Preferential Rules of Origin



- **Objectives:** Assist Members in the technical update of their existing Rules of Origin
- Provide practical information on **how to conduct a technical update of Rules of Origin** in relation to changes in the HS
- Technically updated Rules of Origin may replace the existing ones or be used as a basis for reviewing and amending the former, according to the procedures of applicable FTA

Guide for Technical Update of Preferential Rules of Origin *(cont.)*

- May also be used as **training material** to explain the mechanism for updating the Rules of Origin
- It is recommended that technical update be carried out **at the same time as preparations for implementation of the new edition of the HS**, preferably **with assistance from officials responsible for the HS**
- Non-binding

[WCO website Top > Topics > Origin > Instruments and Tools > Guidelines](#)



Comparative Study on Certificate of Origin *(updated in June 2020)*

- Initial study has been conducted and published in 2014, followed by the Guidelines on Certification of Origin based on the findings
- updated to take into consideration new trends both on non-preferential and preferential certification of origin

For non-Preferential Origin

- Reconsolidation of the assessment of CO issuing cost
- Development in e-COs and digitization of certificates

For Preferential Origin

- introduction of new origin certification features

As further developments

- Blockchain technology and Review of RKC

[WCO website Top > Topics > Origin > Instruments and Tools > Guidelines > Tools related to origin certification](#)

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PRODUCT NAME OR HS CODE ⓘ

Search product by code or name

What's my product code?

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<https://findrulesoforigin.org/>

WCO Trade Tools



A single point of access to:

- Harmonized System,
- Preferential Rules of Origin,
- Valuation



www.wcotradetools.org

2nd WCO Global Origin Conference



- Held virtually on 10-12 March
- The event covered the most important and latest topics in the field of Rules of Origin, namely as follows:
 - Regional Integration and its Impact on Global Economy
 - The impact of non-preferential rules of origin in today's trading environment
 - Update of Rules of Origin to capture the latest edition of the HS
 - Revised Kyoto Convention and other WCO origin tools
 - WTO Nairobi Decision on Preferential Rules of Origin for LDCs
 - Administration of Rules of Origin
 - Open Forum on future prospects of Rules of Origin
- Most of the presentations are still available at the event website.

<https://na.eventscloud.com/ehome/wcoorigin2021/1020328/?&language=eng>



**World Customs
Organization**

Thank you

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