



**World Customs
Organization**

Rules of Origin (2) - Key concepts -

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Conditions for preferential treatment



- Definition of “originating products”
- Territorial requirements
- Proof of origin

Definition of “originating product”



- Origin criteria
- Insufficient working and processing / Minimal operations
- Cumulation
- Tolerance rule (*de minimis*)
- Unit of qualification
- Accessories, spare parts and tools
- Sets
- Neutral elements
- Notes in the list of product specific rules

Definition of “originating product”



For a good to be originating it has to be:

- Wholly obtained
- Substantially/sufficiently transformed:
 - Change of Tariff Classification (CTC)
 - Added value
 - Technical requirements

Definition of “originating product”



- **Wholly obtained goods**
 - Goods naturally occurring
 - Live animals born and raised in a given country
 - Plants harvested in a given country
 - Minerals extracted or taken in a single country
 - Etc.

List contained in the “rules of origin”-part of an agreement

Wholly obtained



Source: Fotoakuten.se

1006, Rice: " Manufacture in which all the materials of Chapter 10 used are wholly obtained"

Definition of “originating product”



- Substantial/sufficient transformation of goods:
 - Change in Tariff Classification (CTC)
 - Added value
 - Technical requirements

Definition of “originating product”



- A criterion of a **change in tariff classification**

A good is considered substantially transformed when the good is classified in a heading or subheading (depending on the exact rule) different from all non-originating materials used

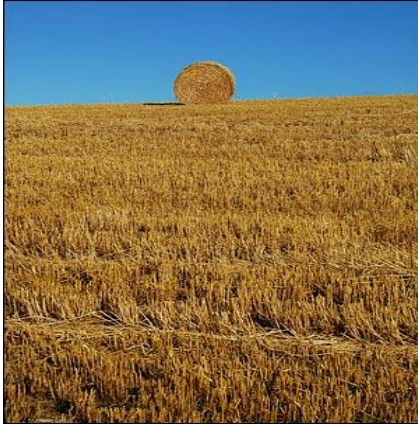
chapter level (2-digit)

heading level (4-digit) – *most commonly applied*

sub-heading level (6-digit)

item level (8 or 10-digit)

Change in tariff classification



Heading 14.01

Heading 46.02

The manufacture of a straw basket, classified in heading 46.02 of the HS.

The rule for the whole of Chapter 46 is "manufacture in which all the materials used are classified within a heading other than that of the product". As the basket is classified in HS46.02, while the straw material was imported in HS1401, the origin criterion is clearly satisfied.

Definition of “originating product”



- A criterion of **value added** (ad valorem percentages)

Regardless a change in its classification, a good is considered substantially transformed when the value added of a good increases up to a specified level expressed by ad valorem percentage

- The value added criterion can be expressed in two ways,
 - a maximum allowance for non-originating materials or
 - a minimum requirement of domestic content

Definition of “originating product”



- A criterion of **specific manufacturing or processing operations** (technical requirement)

Regardless a change in its classification, a good is considered substantially transformed when the good has undergone specified manufacturing or processing operations

- Ex: “manufacture from yarn”

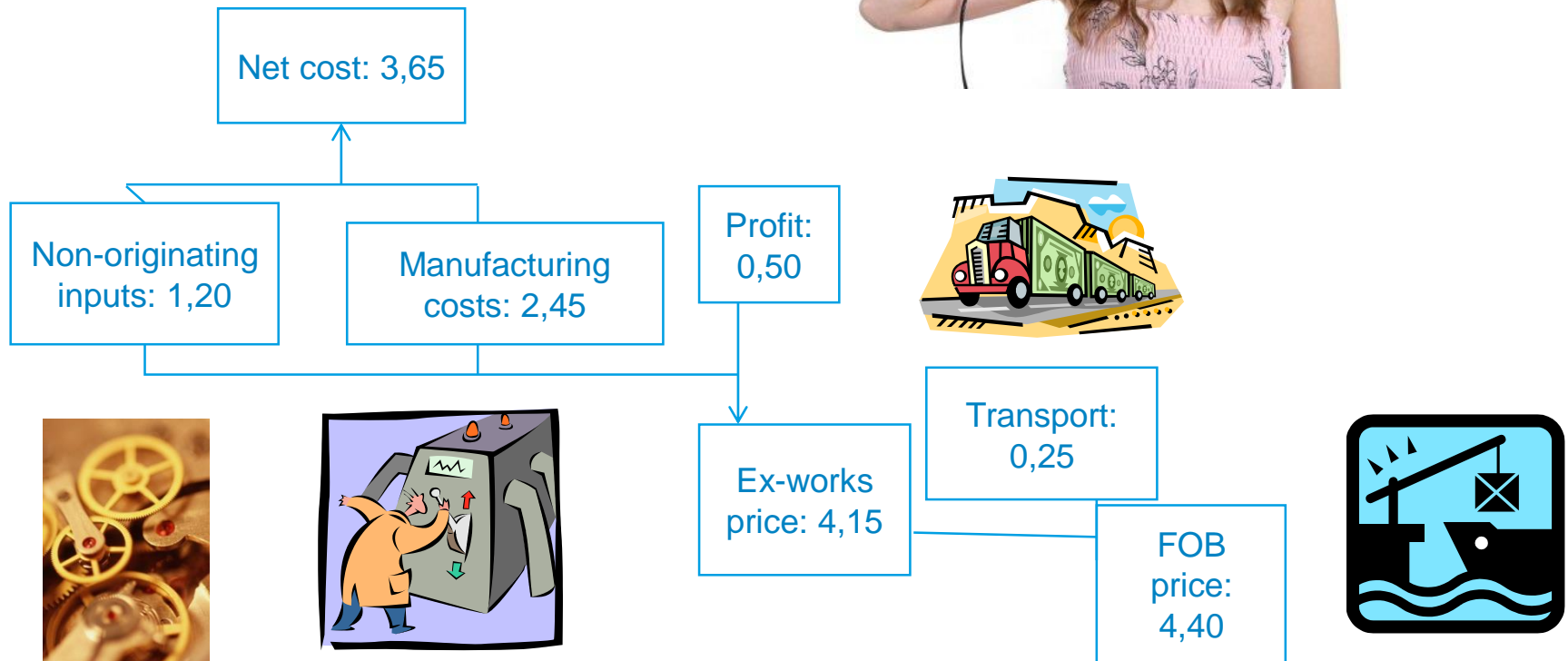
Definition of “originating product”



HS Code No.		Description of Goods	Origin Criteria
03.04		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen.	
ex03.04 (a)		- <u>Fish surimi</u>	
ex03.04 (b)		- <u>Fish fillets, fresh, chilled or frozen</u>	[The country of origin of the goods of this split heading shall be the country in which the live fish have been captured -] [CTH - Change of tariff classification rule] [The country of origin shall be the country in which the CIF value of non-originating materials imported and used in the production does not exceed 75% of the ex-factory price of the goods. - Value added rule]
ex 03.04 (c)		- <u>Other</u>	

Originating or not?

- An electric hair curling iron (subheading 8516.32) made in EU from Japanese parts (8516.90)



Originating or not?



List rule for hair curling iron (8516.32) in a given FTA:

HS heading	Description of the product	Working or processing, carried out on non-originating materials, which confers originating status	
(1)	(2)	(3)	or (4)
ex Chapter 85	Electrical machinery and equipment and parts thereof: sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles; except for	Manufacture - from materials of any heading, except that of the product, and - in which the value of the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

Originating or not?

Working or processing, carried out on non-originating materials, which confers originating status

(3) or (4)

(3) – Not originating!

Input materials cannot be from the same heading as the product

Manufacture
- from ... of ...
and ... , except
the ... produ
a
- ... which the ... of
the ... materials
does ... and 40
% of the ex-works
price of the product



(4) – Originating!

Manufacture in which
the value of the
materials does not
exceed the
pro



15 = 28.9%

Definition of “originating product”



Insufficient working and processing / minimal operations

A reverse form of the specific manufacturing operations

Specifically identified manufacturing operations that are insufficient to confer origin (e.g. labeling, packaging or assembly)

Definition of “originating product”



Cumulation

- Definition of origin cumulation
- Exception to the principle of “originating” (list rules versus cumulation)
- Cumulation provisions only in preferential rules of origin

Definition of “originating product”



Cumulation

- Why is cumulation important?
- What are the requirements for using cumulation provisions?
 - Same rules of origin in FTAs
 - Agreement on mutual administrative assistance

Definition of “originating product”



Different kinds of cumulation

- Bilateral cumulation
- Diagonal / regional cumulation
- Full cumulation
- Extended cumulation

Definition of “originating product”

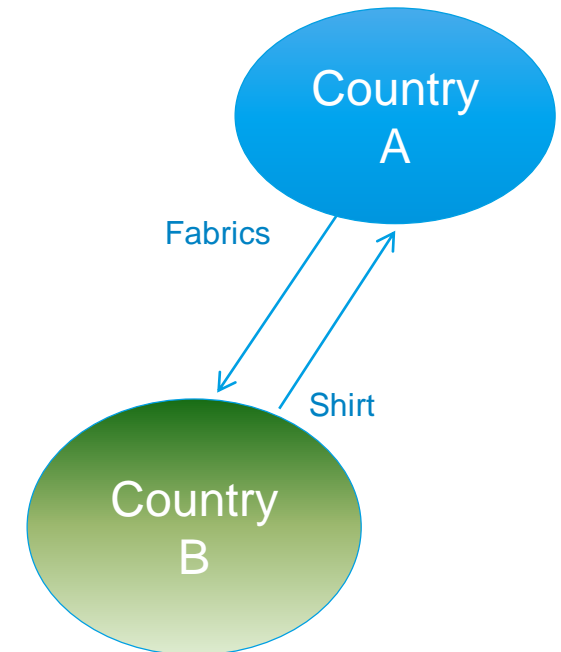


Bilateral cumulation

Operates between contracting parties to a FTA

Allows the use of originating products from the partner country as if they were already originating

cumulation of originating inputs



Example: Shirts (HS 6205) - If the rule requires “Manufacture from yarn”, originating fabrics can be imported from Country A and used in the production of shirts in Country B which then qualify for preferential access to Country A.

Definition of “originating product”

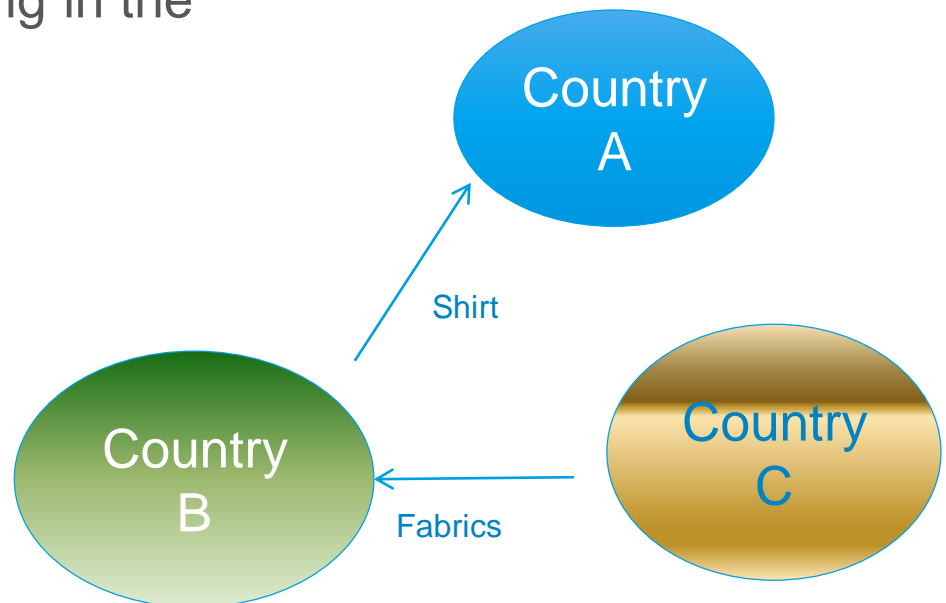


Diagonal/Regional cumulation

Sourcing possible from parties to a FTA or between countries with interlinked trading agreements

Countries tied by the same set of preferential origin rules can use products that originate in any part of the area as if they are originating in the Exporting/manufacturing country

Cumulation of originating inputs



Definition of “originating product”



Full cumulation

Cumulation of operations – possibility to incorporate inputs whether originating or not

Definition of “originating product”

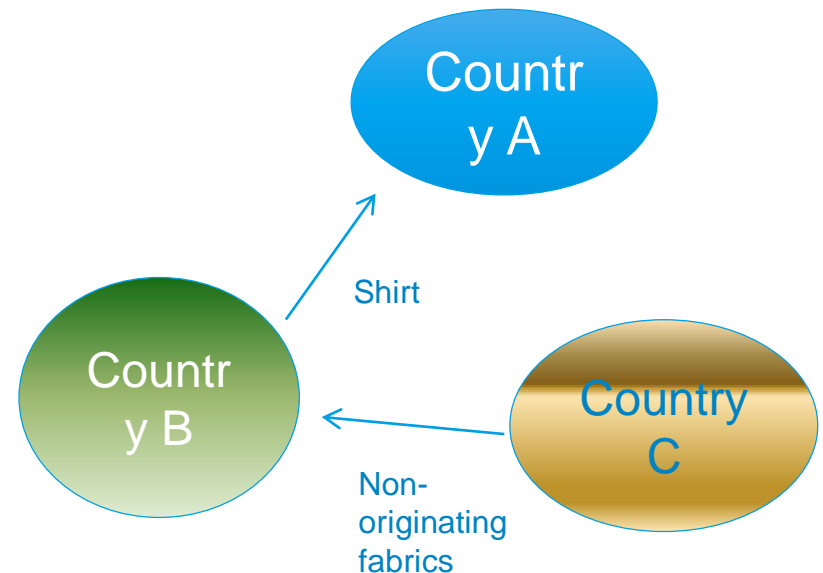


Full cumulation – cumulation of operations

All operations carried out in the participating countries are taken into account. Inputs do not need to be originating before being exported from one party to another for further working or processing

PSR “made from yarn”:

A shirt made in Country B from fabric made in Country C (which in turn was made from non-originating yarn from Country D) would qualify for preferential treatment



Definition of “originating product”



Extended cumulation

(At the request of the exporting country), materials originating in another (neighboring) country may be considered as originating when incorporated in a product obtained in the exporting country

Definition of “originating product”



Tolerance rule (*de minimis*)

- Permits manufacturers to use non-originating materials up to a specific percentage without fulfilling the PSR
- Relaxation of the rules of origin
- Different threshold in different agreements
- Possibility to exclude certain products from the tolerance rule – or to have different thresholds

Definition of “originating product”



Unit of qualification

- According to the Harmonized System

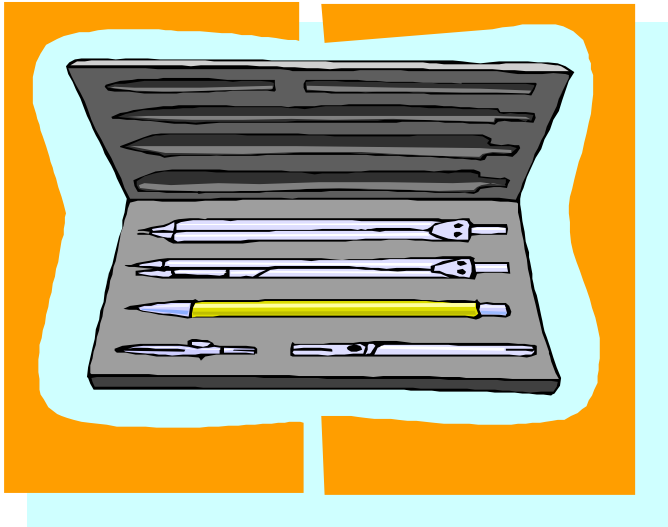
Sets

- According to the Harmonized System

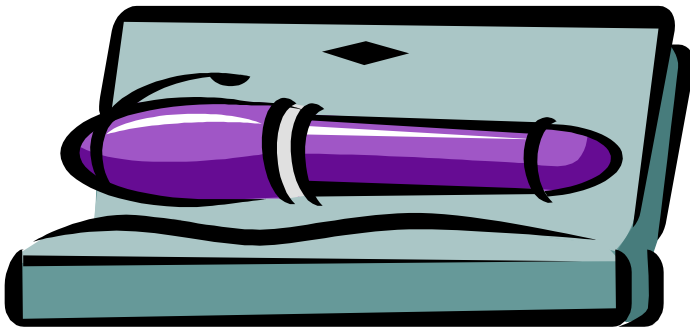
Packing and packaging materials and containers

- The origin of packing and packaging materials and containers presented with the goods shall be disregarded, provided such packing and packaging materials and containers are classified with the goods

Containers classified
with the goods



Disregarded !



Containers - Separate goods



Definition of “originating product”



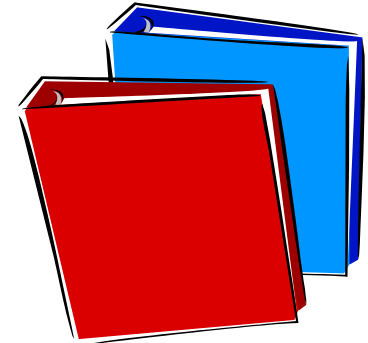
Accessories, Spare Parts and Tools

- Accessories, spare parts, tools and instructional or other informational materials classified and presented with a good shall be disregarded, provided they are normally sold therewith and correspond, in kind and number, to the normal equipment thereof

Disregarded !



Spare parts
and tools



Instructional
materials



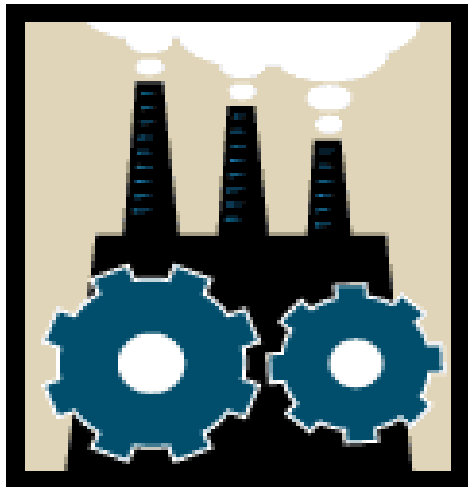
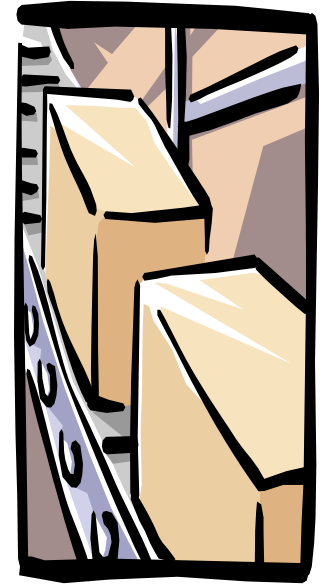
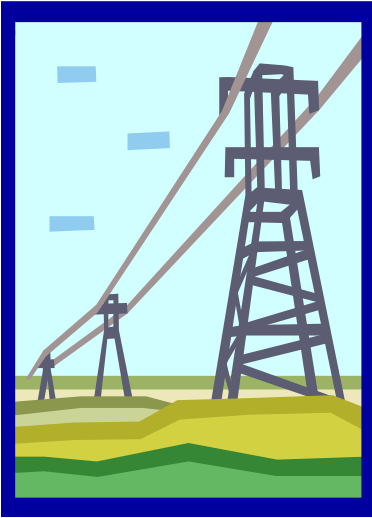
Definition of “originating product”



Neutral elements

- The origin of the power and fuel, plant and equipment, including safety equipment, or machines and tools used to obtain a good or the materials used in its manufacture which do not remain in the good or form part of the good shall not be taken into account

Disregarded !



Territorial requirements



- Principle of territoriality
 - Exported goods that are re-imported are considered as non originating, unless proof that
 - The goods are the same
 - They have not undergone any operation except for their preservation
- Direct transportation between exporting and importing country
 - Unless proof of non manipulation / non alteration / under customs control
- Exhibitions

Proof of origin



- Preferential origin
 - Need for a proof to claim preferential treatment
 - Paper form, origin declaration, e-certificate, importer declaration....
 - Specific rules relating to proofs are included in the agreement
- Non preferential origin
 - No need for a proof in most cases
 - Proof needed if quotas or other restrictions apply

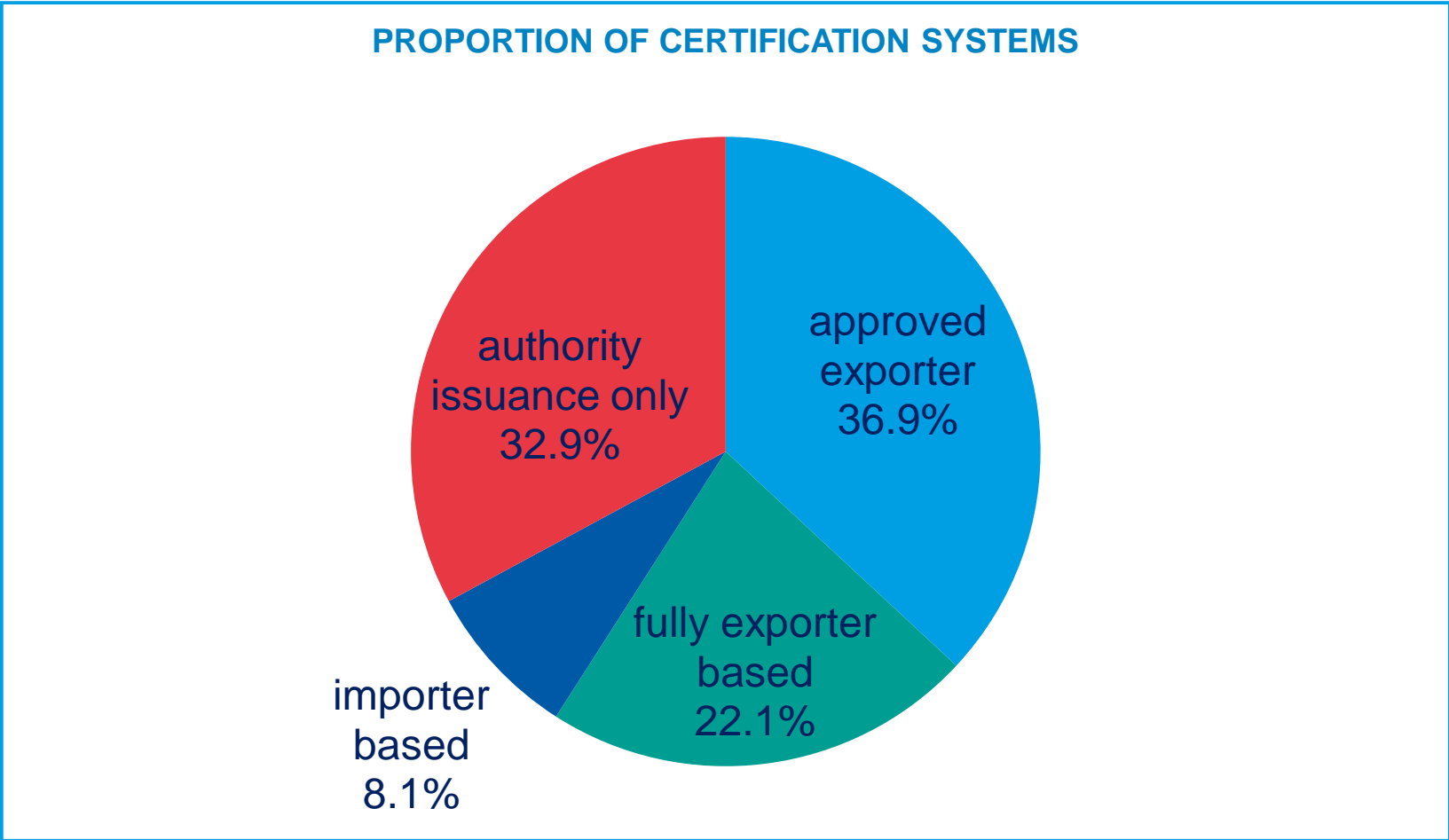
Types of preferential origin certification systems



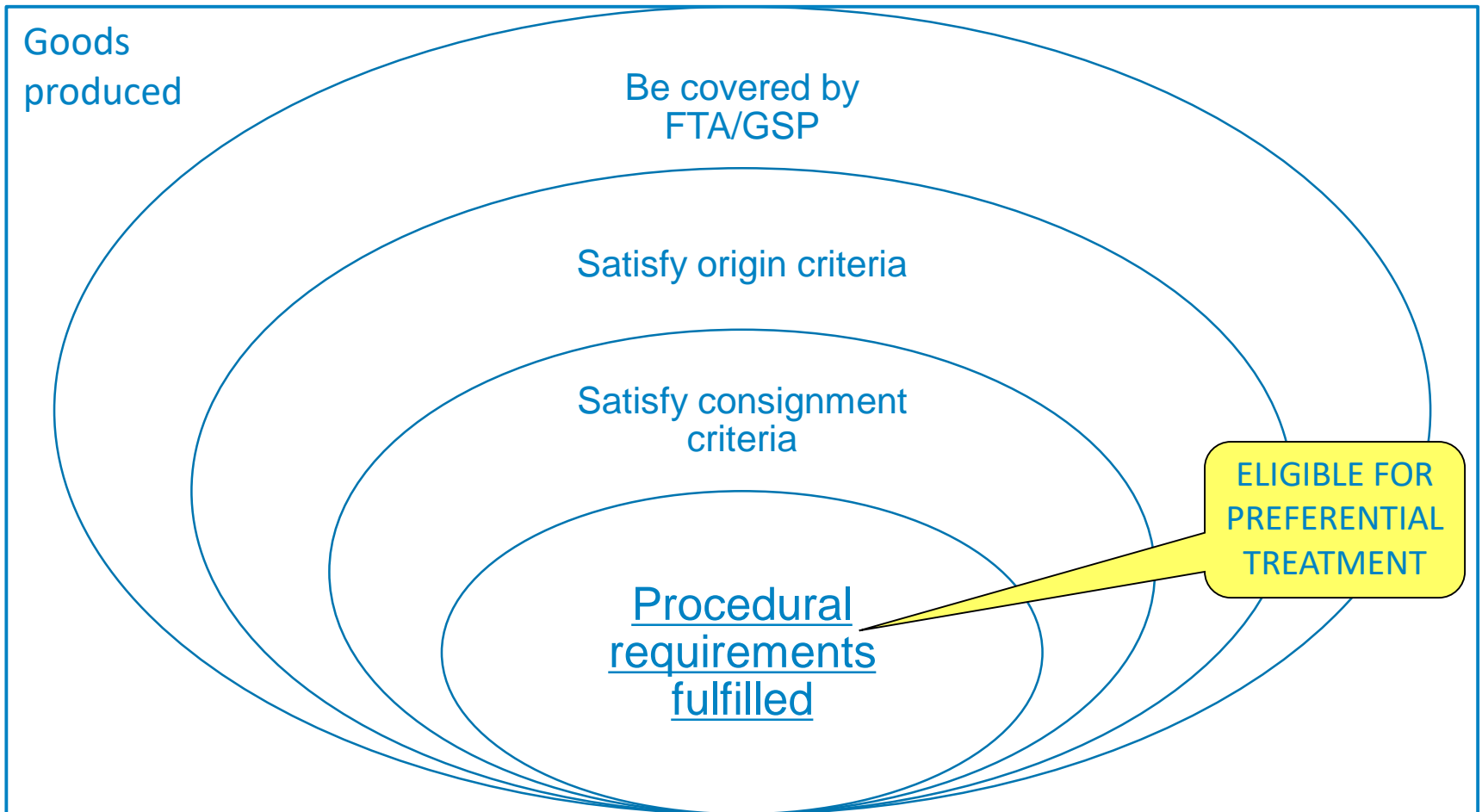
Type of system	Key features
1. Authority issued certification, incl. e-certificates	Government authorities or delegated bodies issue the certificate of origin in a prescribed form
2. Approved Exporter system	Exporters with prior approval may make origin declaration on commercial documents
3. Fully exporter-based certification	Any exporters can sign and issue a certificate of origin of a prescribed form
4. Importer-based certification	Importers certify the origin of goods

Self-certification = issuing authorities not involved in every single issuance of proof of origin

Proportion of certification systems around the world



When is a proof of origin needed for preferential purpose?



Where to find the rules of origin



- WTO Agreement on Rules of Origin
- Revised Kyoto Convention (RKC), Specific Annex K
- Domestic legislation
- Free trade agreements



**World Customs
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Thank you

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