

Rules of Origin: Industry Perspectives

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What are Rules of Origin and the policy objectives they support?

- **Marking**
- **Quantitative Restrictions**
- **Trade Remedies**
- **Most Favored Nation Determinations**
- **Preferential Treatment under Free Trade Agreements, Generalized Systems of Preference, or other preferential regimes**

In support of stated or implied policies to:

- **Drive economic activity**
- **Regulate fair trade**
- **Provide consumer information**
- **Protect domestic industries**

What Does Origin Mean to the Sporting Goods Industry?

The Sporting Goods Industry manufactures hundreds of millions of pairs of shoes and articles of clothing every year and sells to almost every country in the world. Key factors that drive country manufacturing decisions are:

- **Quality**
- **Ability to manufacture to scale**
- **Timely delivery**
- **Infrastructure:**
 - Physical: Road, bridges, ports
 - Utilities: Telecommunications, electricity, fuel
- **Availability of raw materials**
- **Labor:**
 - Sufficient labor supply for large scale manufacturing to support global market
 - Labor laws:
 - Length of workweek, wage administration, access to employment for women
 - Enforcement
 - Education:

- Skilled workforce
 - Availability of engineers, skilled professionals
- **Rule of law:**
 - Social and environmental performance
 - Strong enforcement for IP laws
 - Strong protections for investments

Alignment of Rules of Origin and Policy:

- Under most rules of origin, the country of origin is either where the good is wholly obtained or where the last substantial transformation occurred.
- In determining substantial transformation, tariff shift rules and value content percentage or a combination of the two are frequently applied.

Inconsistency for Global Manufacturers:

- The problem is that most countries apply different rules for different purposes (non-preferential vs. preferential) and even different rules for different preferential agreements.
- For industry, this problem is compounded when as a trader you are shipping product to many different countries.
- Thus, for example, footwear could be treated differently under non-preferential substantial transformation rules ('where the upper is closed') and preferential rules in NAFTA (Change in tariff heading plus regional value content), ASEAN (value content), and EU GSP (value content).
- Exclusions and exceptions in some cases further narrow the qualification of specific products with resulting absurdities.
 - For example, under NAFTA, a shoe manufactured in Mexico that meets the required tariff shift rules and has a regional value content of 55 percent is deemed originating. However, the tariff shift rules do not allow for the use of non-originating uppers or parts of uppers. Thus, a non-*de minimis* upper part that is not available in the NAFTA region (usually driven by intellectual property considerations) will exclude the footwear even if all of the other value is added in Mexico. So, a product with 45 percent non-originating content is deemed qualifying in for one shoe, but a shoe with 8 percent non-originating content is deemed non-qualifying.
- The plethora of rules creates very complex compliance environments.

Inconsistency of Rules with Policy:

- As one reviews existing rules of origin, one must question whether they work in the context of 21st Century Supply Chains given that:
 - Most rules of origin focus on finished products, while trading in intermediate goods and materials accounts for the majority of global trade.

- Value chain studies show that a large percentage (70 percent for apparel) of the retail price of a finished good is derived from jobs relating to product design and development, transportation and logistics, marketing, and retail services.
- One problem is that the rules of origin as they exist do not make sense in the context of modern supply chains and the manufacturing decision making in those global supply chains.
- The consequences are that the programs promoting these policies by utilizing the rules of origin are frequently underutilized.