Revenue Package

WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

# Rules of Origin
# General aspects and key concepts

## WCO Knowledge Academy

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# Conditions for preferential treatment

- Definition of "originating products"
- Territorial requirements
- Proof of origin



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# Definition of “originating product”

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- 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



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# Definition of “originating product”

For a good to be originating it has to be:

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



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# Definition of “originating product”

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- **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



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# Wholly obtained

Source: Fotoakuten.se

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



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# Definition of “originating product”

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



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# Definition of “originating product”

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- 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)



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# Change in tariff classification

*Heading 1401*

*Heading 4602*

The manufacture of a straw basket, classified in heading 4602 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 HS4602, while the straw material was imported in HS1401, the origin criterion is clearly satisfied.



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# Definition of “originating product”

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- 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



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# Definition of “originating product”

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- 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

- So-called “Ottawa-type” rule

- Ex: “manufacture from yarn”



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# Definition of “originating product”

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| 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) | | - Fish surimi | |
| ex03.04 (b) | | - Fish fillets, fresh, chilled or frozen | [The country of origin of the goods of this split heading shall be the country in which the live fish have been captured - “Ottawa” type rule] |
| | | | [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) | | - Other | |



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# Originating or not?

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

Net cost: 3,65

Non-originating inputs: 1,20

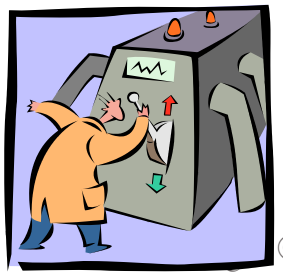
Manufacturing costs: 2,45

Profit: 0,50

Transport: 0,25

Ex-works price: 4,15

FOB price: 4,40



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# Originating or not?

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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<br>- from materials of any heading, except that of the product, and<br>- 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 |



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# Originating or not?

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

| (3) | or | (4) |
|---|---|---|
| Manufacture<br>- fro… of an… ding, e… ot th… produ… a…<br>- …hich t… of the… terials… does… d 40 % of the ex-works price of the product | | Manufacture in which the val… e mate… s not… he ex… pro… |

**(3) – Not originating!**

Input materials cannot be

from the same heading

as the product

**(4) – Originating!**

1.2 / 4.15 = 28.9%



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# Definition of “originating product”

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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)



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Cumulation

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



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# Definition of “originating product”

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Cumulation

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



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# Different categories of cumulation

| What / Whose | Goods (materials) | Production |
|---|---|---|
| Parties to the free trade agreement | **Category 1**<br>Originating materials of a party to the free trade agreement are treated as originating in another party where the final product is produced. | **Category 2**<br>The production in a party to the free trade agreement is treated as if it took place in the other party where the final product is produced. |
| Other countries with other preferential trade links | **Category 3**<br>Originating materials of a third country (not a party to the free trade agreement) with other preferential trade links with the final importing country are treated as originating in a party to the free trade agreement where the final product is produced. | **Category 4**<br>The production in a third country (not a party to the free trade agreement) with other preferential trade links with the final importing country is treated as if it took place in the party to the free trade agreement where the final product is produced. |



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# Definition of “originating product”

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Different kinds of cumulation

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



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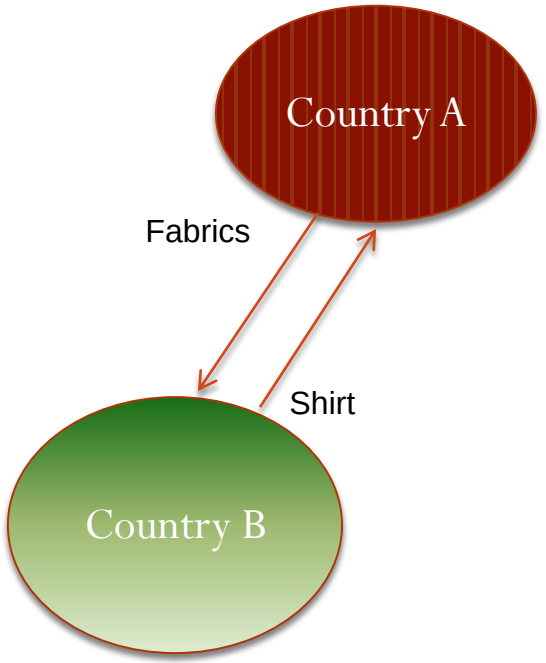
# Definition of “originating products”

**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.*



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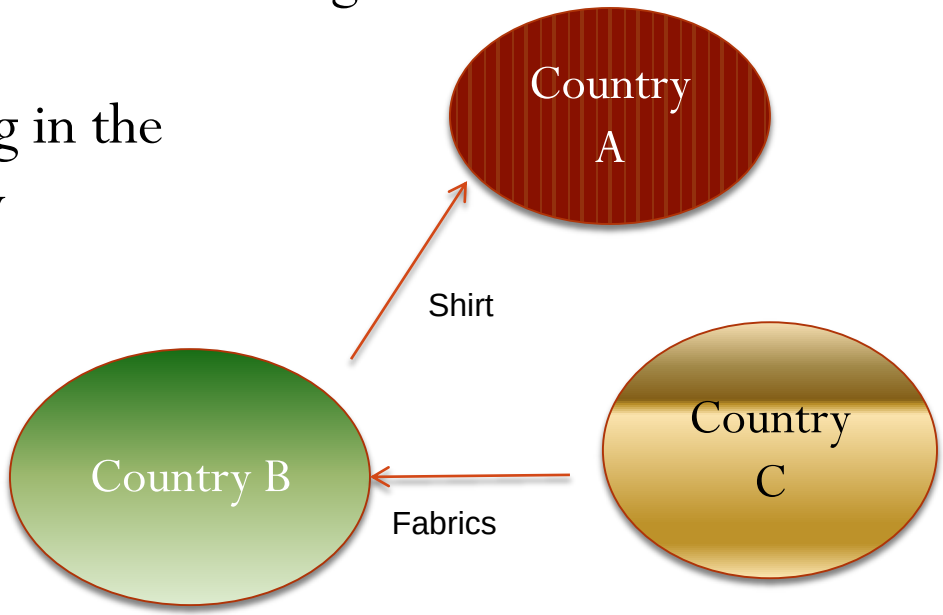
**Diagonal/Regional cumulation**

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



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## Full cumulation

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



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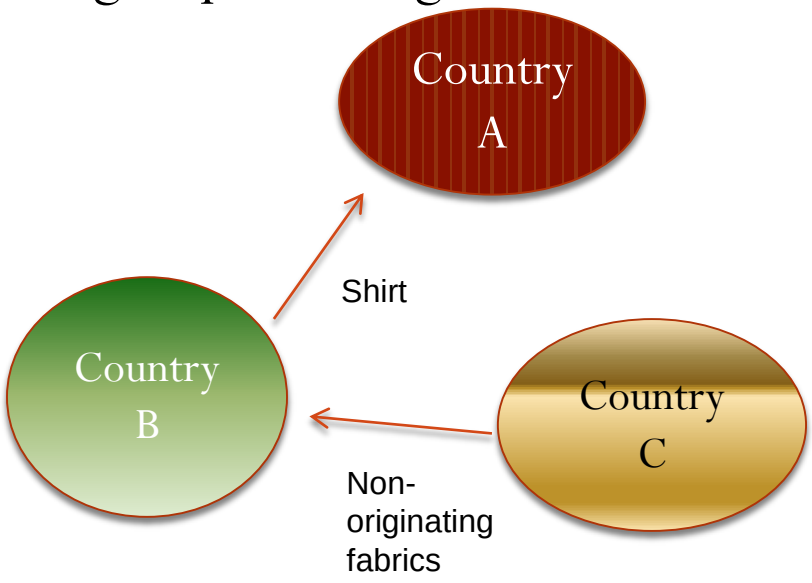
# Definition of “originating product”

**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



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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



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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



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# Definition of “originating product”

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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



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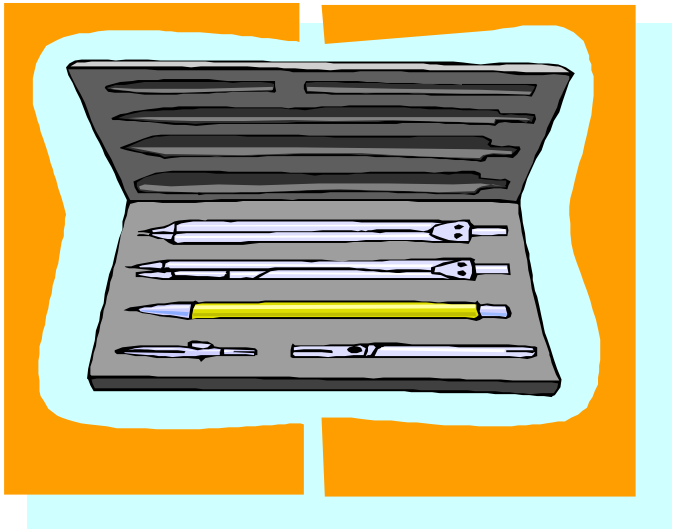
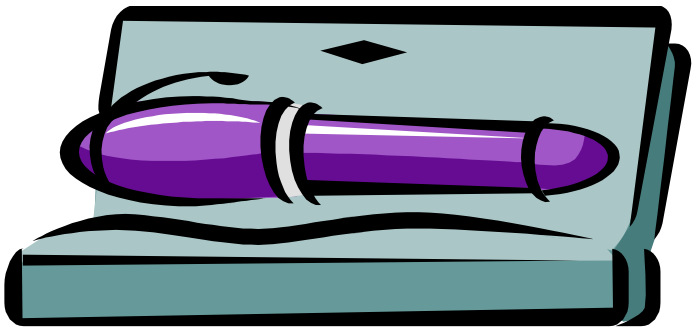


Containers classified with the goods

Disregarded !



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# Containers - Separate goods

# Definition of “originating product”

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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



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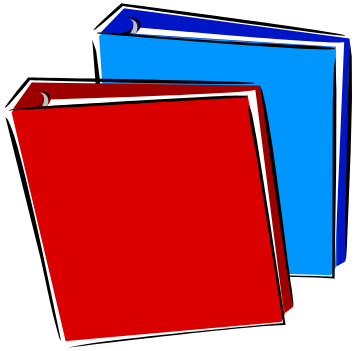
# Disregarded !

Spare parts and tools



Instructional materials

# Definition of “originating product”

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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



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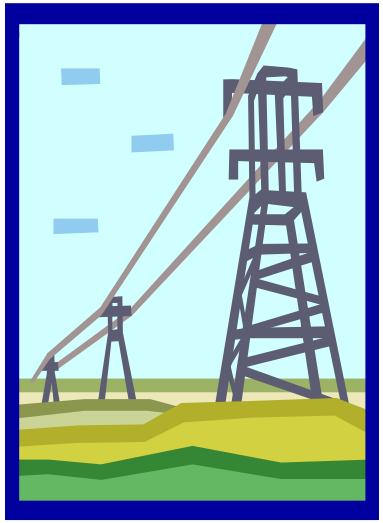
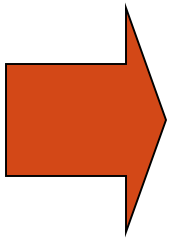
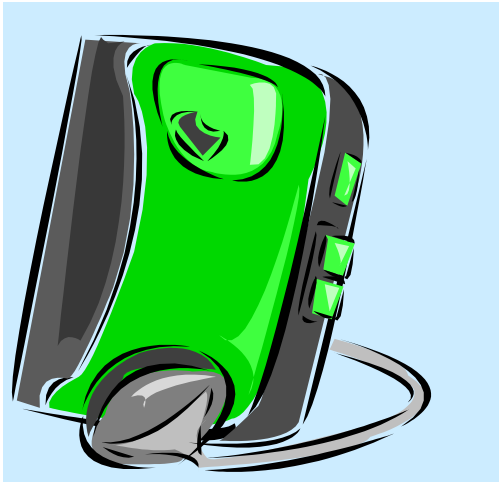
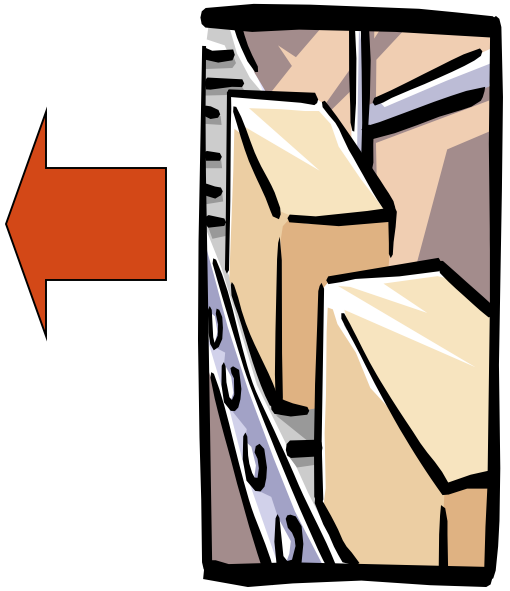
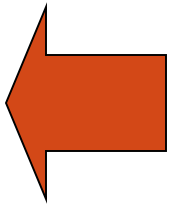
# Disregarded !

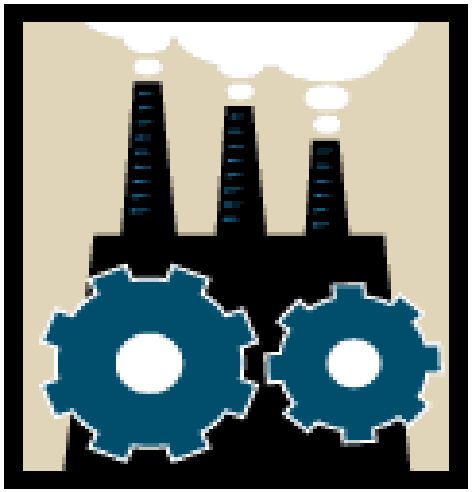


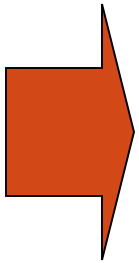












# Territorial requirements

- Principle of territoriality
  - Exported goods that are re-imported are considered an 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



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# 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



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# 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



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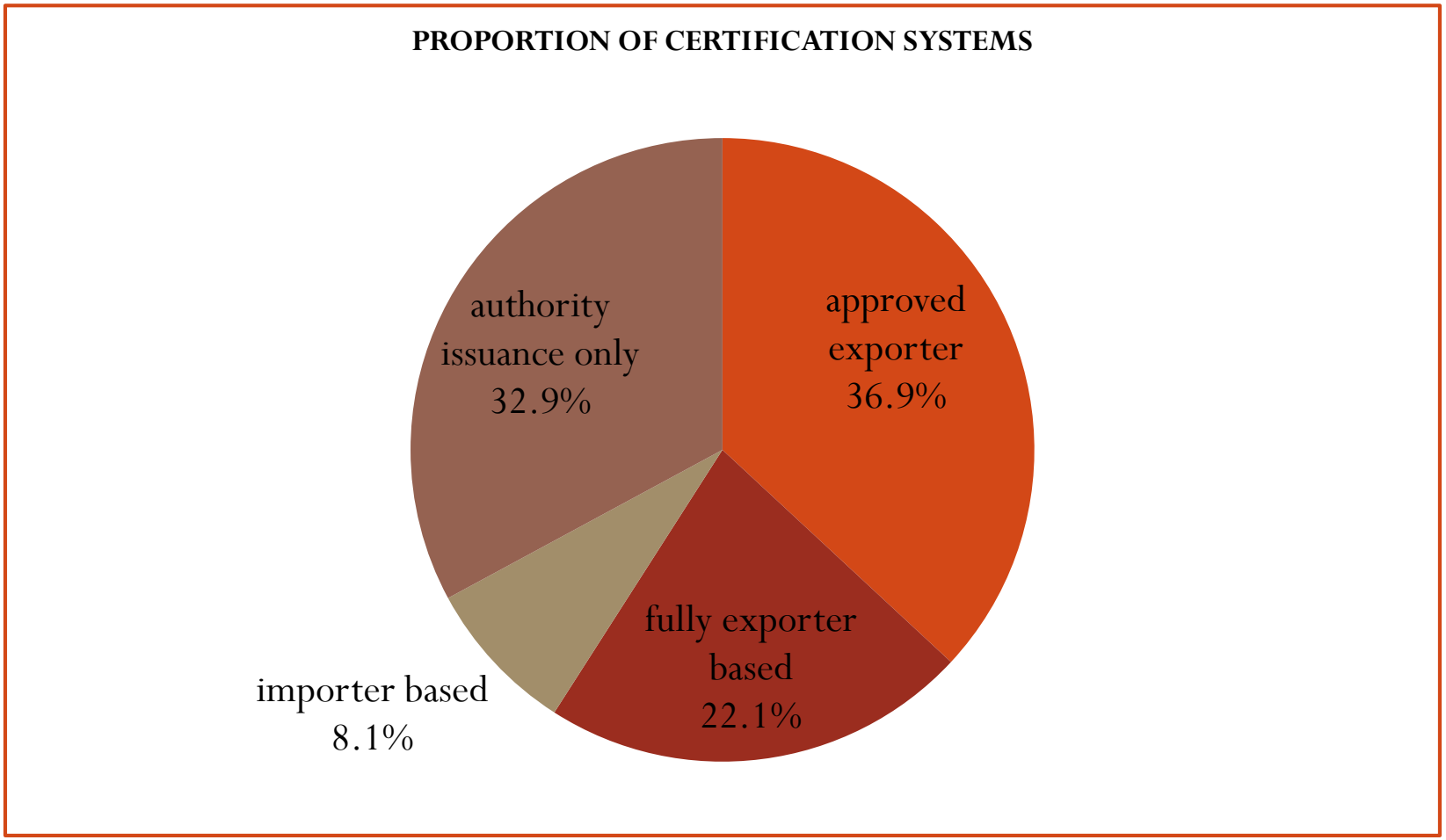
# Proportion of certification systems around the world



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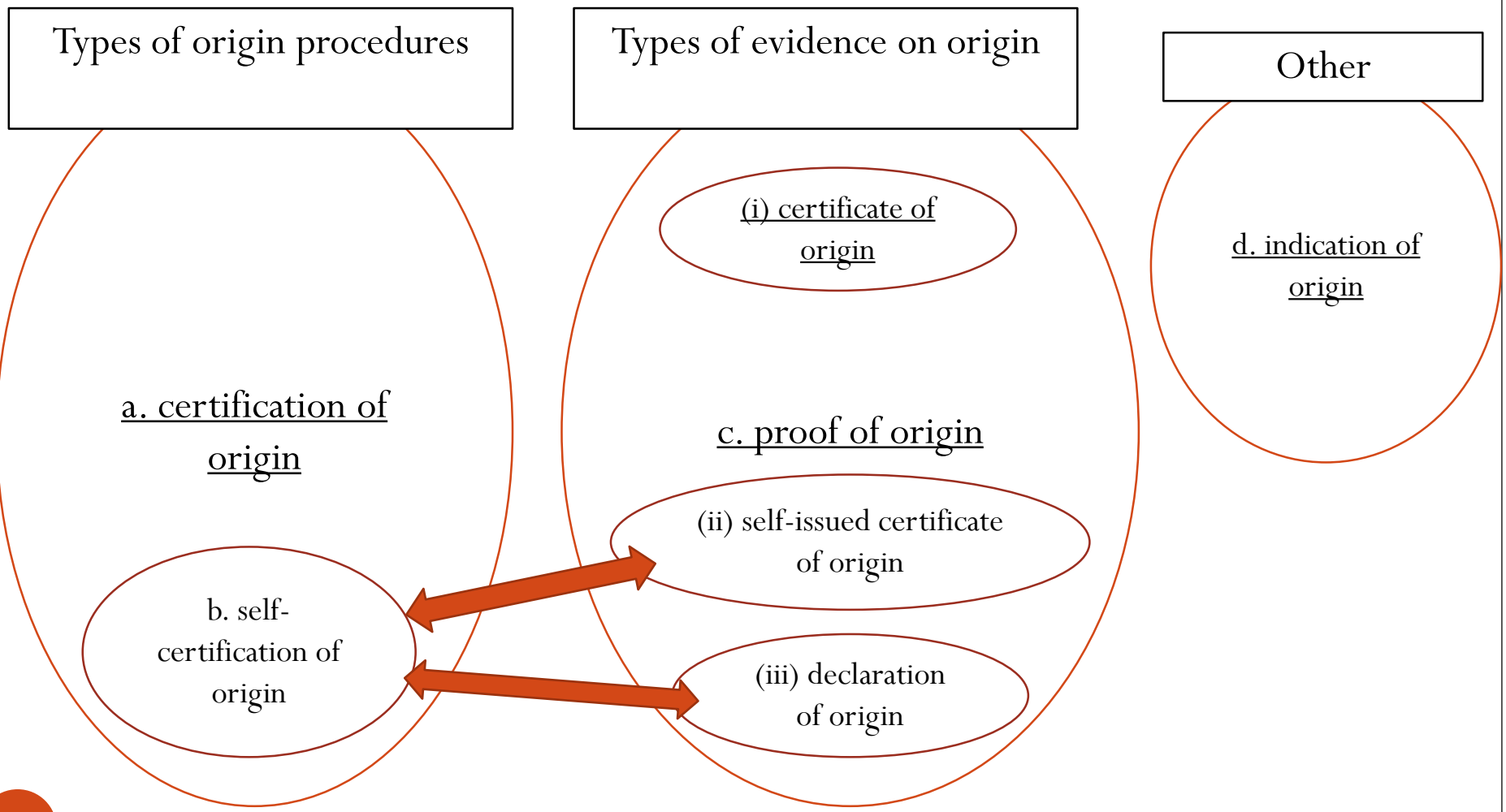
# Definitions : concepts at a glance



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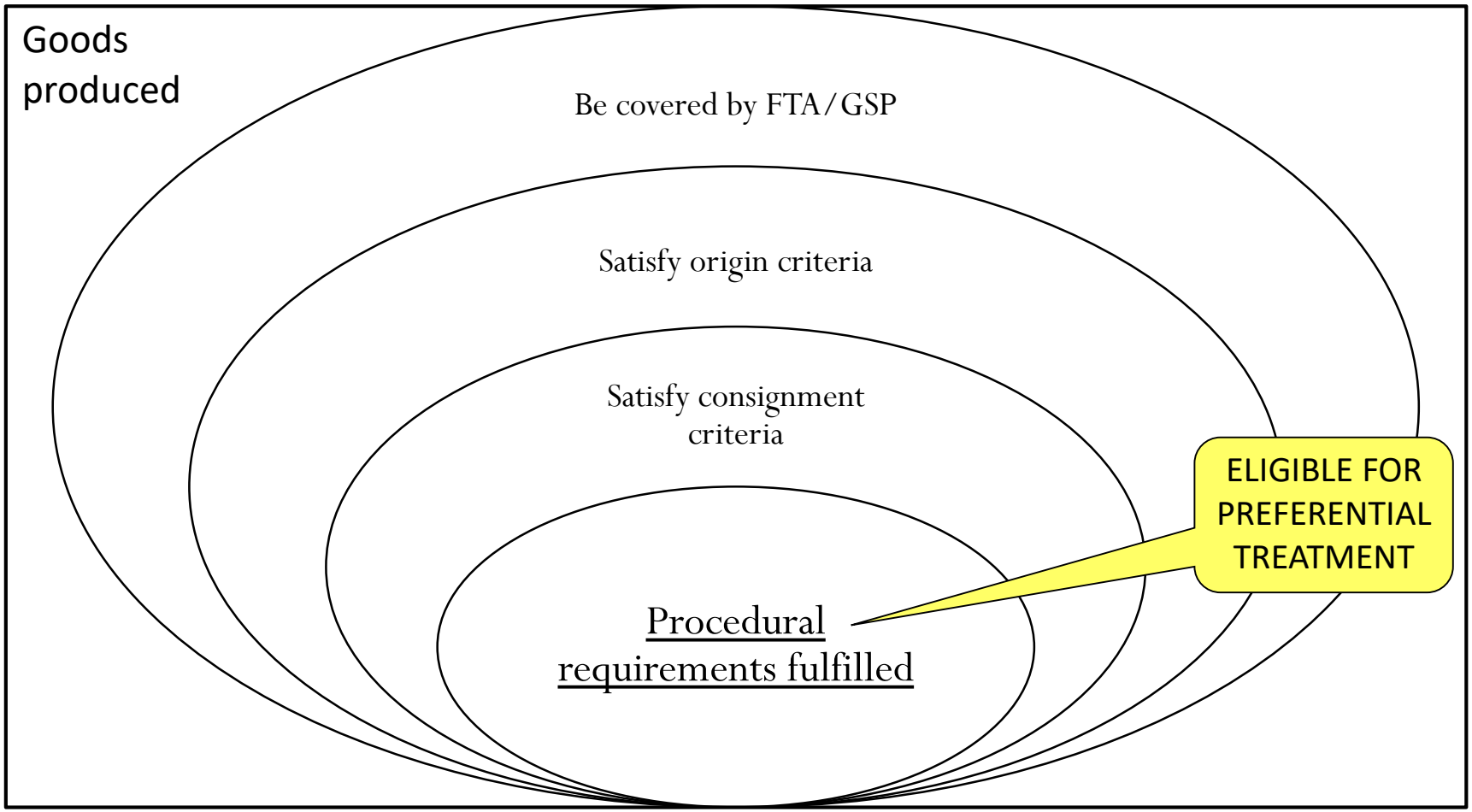
# When is a proof of origin needed for preferential purpose?



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# Where to find the rules of origin

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



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