RULES OF ORIGIN IN INTERNATIONAL TRADE

This book provides comprehensive, in-depth analysis of the different sets of rules of origin adopted by major trading partners and worldwide, as well as efforts to establish multilateral rules at WTO and WCO. It discusses the status of non-preferential as well as preferential rules of origin in international trade, their evolution during the last decades and their tendencies and future. With its multidisciplinary approach, this book’s contents provide comparative analysis of the relevant legal and economic features of different rules origin compilation sets, reviewing their drafting differences and their implications and impact on the economic and industrial environments. This edition has been updated and expanded to include the latest developments on rules of origin at multilateral level in WTO and WCO and on rules of origin in recent FTAs. Drawing from his thirty years of experience, Stefano Inama provides insights from trade negotiations along with practical tools for policy makers and practitioners, orientation for the private sector and analytical tools for researchers.

STEFANO INAMA is a chief and trade lawyer for the United Nations Conference on Trade and Development in Geneva, Switzerland and is widely considered one of the world’s leading experts on rules of origin. He has advised governments in trade negotiations at WTO, WCO and in FTAs, as well as the private sector in complying with rules of origin. He has authored four books and numerous articles in leading magazines.
Rules of Origin in International Trade

STEFANO INAMA
Contents

List of Figures  xxi
List of Tables  xxv
Preface to the First Edition  xxxv
Preface to the Second Edition  xxxvii
List of Abbreviations  xxxix

1. Efforts to Establish Multilateral Rules  1

1.1 First Attempts to Establish Rules of Origin at the Multilateral Level: The Kyoto Convention of 1973 and 2000  4
1.2 The UNCTAD Working Group on Rules of Origin  12
1.3 The Hong Kong Decision on Duty Free and Quota Free and Efforts to Establish Simple and Transparent Rules of Origin for LDCs: The Bali and Nairobi Decisions on Preferential Rules of Origin for LDCs  19
1.3.1 From Hong Kong to the Nairobi Decision  19
1.3.2 Developments in the Committee on Rules of Origin after the Nairobi Decision on Preferential Rules of Origin for LDCs  36
1.3.2.1 Recent Work on Utilization Rates  36
1.3.2.1.1 The Swiss Utilization Rates  37
1.3.2.1.2 The Chinese Utilization Rate  44
1.3.2.2 Recent Work on Change of Tariff Classification and Direct Consignment  60
1.3.2.2.1 Change of Tariff Classification  60
1.3.2.2.2 Direct Consignment Rule  72
1.4 The International Chamber of Commerce and Rules of Origin  86

2.1 Introduction 88
2.2 The Agreement on Rules of Origin 90
2.3 The HWP and the Method of Work Adopted by the TCRO to Develop HRO 96
2.3.1 Some Initial Difficulties and Core Substantive Issues Arising during the Negotiations 98
2.4 Adapting the HS to Origin: Some Decisive Technical Issues and Their Implications 104
2.4.1 Definition of “Assembly” in Machinery 107
2.4.2 Definition of “Assembly” in Textiles and Clothing 113
2.5 Secondary or Residual Rules of Origin 114
2.6 The Status of the Harmonized Nonpreferential Rules of Origin 116
2.6.1 The Architecture 116
2.6.2 The General Rules, Appendix 1 and Appendix 2 118
2.6.3 Determination of Origin According to Rule 3 130
2.7 Outstanding Product-Specific Issues 140
2.7.1 Fishery Products 141
2.7.2 Slaughtering 143
2.7.3 Dairy Products 144
2.7.4 Coffee Products 145
2.7.5 Refining Fats and Oils 145
2.7.6 Refining Sugar and Sugar Products and Molasses 146
2.7.7 Cocoa Products and Chocolate 146
2.7.8 Juices and Wines 147
2.7.9 Mixture/Blends 148
2.7.10 Grinding of Spices 150
2.7.11 Cement 150
2.7.12 Chemicals 150
2.7.13 Leather 152
2.7.14 Textiles and Clothing 152
2.7.15 Footwear 155
2.7.16 Coating of Steel Products 155
2.7.17 Machinery and Electronics 156
2.7.17.1 Parts Produced from Articles of Other Headings 158
2.7.17.2 Parts Obtained from Parts of the Same Heading 158
2.7.17.3 Machines ("Goods") Finished from Machines of the Same Heading/Subheading 159
2.7.17.4 Legal Notes 159
Contents

2.7.17.5 Other Outstanding Issues in Electronics, Motor Vehicles, and Watches 161
   2.7.17.5.1 Assembly of Memory Modules 161
   2.7.17.5.2 Assembly of Television Receivers 161
   2.7.17.5.3 Assembly of Vehicles 161
   2.7.17.5.4 Assembly of Watches 161

2.8 The Chairperson Proposal on Machinery and the Electronic Sector
   2.8.1 The EU Proposal: Value-Added Approach 166

2.9 Trade Policy Implications of the HWP on Rules of Origin and Other WTO Agreements: The Issue of “Equally All Purposes” 169
   2.9.1 Negotiating Issues and Proposals on the Implications of the HWP on Other WTO Agreements 176
   2.9.2 Possible Implications on the Agreement on Implementation of Article VI of the GATT 1994: “Anti-Dumping Agreement” 179
      2.9.2.1 Origin in the Dumping Determination 182
      2.9.2.2 Origin in the Injury Determination 187
   2.9.3 Possible Implications of Article IX of the GATT 1994: Marks of Origin 191
   2.9.4 Possible Implications of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) 194
   2.9.5 Possible Implications of the Agreement on Textiles and Clothing 196
   2.9.6 Section 3 of the Agreement on Trade-Related Aspects of Intellectual Property Rights: Geographical Indications 199
   2.9.7 Nonpreferential Rules of Origin and Circumvention 199

   2.10.1 Work in the WTO Committee on Rules Origin 2007–2019 211
      2.10.1.1 First Period: Consultation Phase 2007–2011 211
      2.10.1.2 Second Period: 2011–2014, following the Consensus for Updating the HRO 213
      2.10.1.3 Third Period: 2014–2016, an Initial Stagnation and the Resurgence of the CRO Thanks to Discussion on Preferential Rules of Origin for LDCs 215
      2.10.1.4 Fourth Period: 2016–Present, the Swiss “Transparency” Initiative 217
   2.10.2 Main Findings of the CRO “Educational Exercises” 219

2.11 New Research and Ways Forward: Approximation and Convergence of Rules of Origin in International Trade 221
   2.11.1 Rules of Origin in Recent Preferential Trade Agreements 222
2.11.2 Assessing Differences in Rules of Origin:
A Convergence Trend? 226
2.12 Moving Forward: Plurilateral Cooperation on Rules of Origin
under WTO Auspices? 229
2.12.1 The Debate on Methodologies for Origin Determination:
Should the Services Embedded in a Product Be New
2.13 Concluding Remarks 239

3. Preferential Rules of Origin 241
3.1 Introduction 241
3.2 The Current Rules of Origin under the Generalized System
of Preferences and Duty-Free Quota-Free Market Access for LDCs 245
3.2.1 Overview of Existing Rules of Origin under the Different GSP
Schemes and DFQF Preferences 245
3.2.1.1 Generalized System of Preferences 246
3.2.1.2 DFQF Market Access for LDCs 251
3.2.2 “Wholly Obtained” Products 253
3.2.3 Products with an Import Content (non-originating materials) 258
3.2.3.1 Process Criterion – EU, Japan, Norway, and
Switzerland 258
3.2.3.2 Percentage Criterion 261
3.2.3.2.1 Canada 261
3.2.3.2.2 United States 264
3.2.3.2.3 Eurasian Customs Union 267
3.2.4 Preference-Giving Country or Donor Country
Content Rule 268
3.2.5 Cumulative Origin in the GSP Schemes 269
3.2.5.1 The Difference between Full and Partial Cumulation 272
3.2.5.2 Cumulation under the EU GSP Scheme 276
3.2.5.3 Cumulation under the Japanese GSP Scheme 278
3.2.5.4 Cumulation under the US GSP Scheme 279
3.2.5.5 Cumulation under the Canadian GSP Scheme 279
3.2.5.5.1 Special Cumulation Rules for LDCs in the
Case of Textiles and Clothing 280
3.3 Rules of Origin under the African Growth Opportunity Act 282
3.3.1 Country Eligibility 283
3.3.2 Rules of Origin under AGOA 287
3.3.3 Specific Provisions on Textile/Apparel Articles 288
3.3.3.1 Country Eligibility 288
3.3.3.2 Rules of Origin and Preferential Articles of Textile
and Apparel 288
Cambridge University Press
978-1-107-08155-0 — Rules of Origin in International Trade
Stefano Inama
Frontmatter
More Information

Contents ix

3.3.4 Administrative Rules on the Provision of Textile/Apparel Articles 289
3.3.5 Abundant Supply 289
3.3.6 Commercial Availability 290
3.3.7 Other Special Rules on the Provision of Textile/Apparel Articles 290
3.3.8 Documentation Requirements 291
3.4 Contractual Rules of Origin in Free-Trade Areas 291
3.4.1 The EU Model of Rules of Origin 292
3.4.1.1 From Pan-European Rules of Origin to Pan-Euro-Mediterranean Rules of Origin 292
3.4.1.3 The Common Structure of the Pan-Euro-Mediterranean Rules of Origin 299
3.4.1.3.1 Products Wholly Obtained 300
3.4.1.3.2 Sufficient Working on Processing: The PSRO under the Pan-Euro-Mediterranean Rules of Origin 301
3.4.1.3.3 PSRO Requirements Contained in Annex II of the PEM Convention 303
3.4.1.3.4 Additional features of the Pan-Euro-Mediterranean Rules of Origin 307
3.4.1.3.5 Insufficient Working or Processing 312
3.4.1.3.6 Explanatory Notes in the List of Products Specific to the PEM Convention 314
3.4.1.3.7 Progressive Adoption of the Diagonal Cumulation under the Pan-European Rules of Origin during the 1990s 316
3.4.1.3.8 From Pan-European Rules of Origin under the Europe Agreements to the System of Euro-Mediterranean Cumulation under the PEM Convention: Differences of Diagonal and Full Cumulation 317
3.4.1.3.9 The Reform of the EU GSP Rules of Origin and the Way Forward 320
3.4.2 The Evolution of the European Model in Bilateral Free-Trade Agreements 329
3.4.2.1 The Rules of Origin in Free-Trade Agreements with Canada, South Korea, Vietnam, and Japan 355

© in this web service Cambridge University Press www.cambridge.org
3.4.2.2 A Comparison of the Major Features of the EU Free-Trade Agreements with Canada, Japan, South Korea, and Vietnam 356

3.4.3 The Rules of Origin of EPA in the EU–EAC, EU–ECOWAS, and EU–SADC 372
3.4.3.1 Originating Products 372
3.4.3.2 Cumulation 373
3.4.3.2.1 Comparison of Cumulation Provisions 373
3.4.3.2.2 Cumulation under the EU–SADC EPA 381
3.4.3.2.3 PSRO across African EPAs – Examples 389

3.4.4 Rules of Origin in North America: From NAFTA to USMCA 398
3.4.4.1 The Main Criteria for Determining Origin in NAFTA and USMCA 402
3.4.4.1.1 Wholly Obtained 404
3.4.4.1.2 Goods Produced Entirely in the Territory of One or More of the Parties Using Non-originating Materials 404
3.4.4.1.3 Goods Produced Entirely in the Territory of One or More of the Parties Exclusively from Originating Materials 405
3.4.4.1.4 RVC Requirement 405
3.4.4.2 Remanufactured Goods 406
3.4.4.3 De Minimis 408
3.4.4.3.1 General Provision 408
3.4.4.3.2 USMCA: Textile and Garments De Minimis 411
3.4.4.4 RVC in USMCA 413
3.4.4.5 Some Methodologies and Examples of Calculations under the Net Cost Method under NAFTA and USMCA 419
3.4.4.6 Accumulation (Cumulation) in NAFTA and USMCA 434
3.4.4.7 Other USMCA and NAFTA Provisions 441
3.4.4.7.1 Self-Produced Materials and Intermediate Materials 441
3.4.4.7.2 Article 4.8: Intermediate Materials 442
3.4.4.8 USMCA and NAFTA Rules of Origin for Textile and Clothing 449
3.4.4.9 Automotive Products in NAFTA and USMCA 456
3.4.4.9.1 Progressing Raising of the Overall RVC 458
3.4.4.9.2 The 70 percent North American Steel and Aluminum Content Requirements 460
3.4.4.9.3 Labor Value Content Requirements 460
Contents

3.4.4.10 The Evolution of the NAFTA Model of Rules of Origin: From NAFTA to CAFTA through US–Chile and US–Singapore and Other FTA Agreements 464
3.4.4.11 A Brief Comparison between Some PSRO in NAFTA and USMCA 468
3.4.4.12 A Brief Comparison of the NAFTA–USMCA Model and the Pan-European Rules of Origin Approaches: Techniques and Substantive Requirements 472

4 The Economics of Rules of Origin 485
4.1 The Basic Tenets of Rules of Origin and Economics 485
  4.1.1 Developments in the Analysis of the Economic Effects of Rules of Origin 487
  4.1.2 Most Recent Studies on Economics and Rules of Origin: The Elaboration of an Index of Restrictiveness 506
  4.1.3 Status of the Economic Analysis on Rules of Origin and How It Contributed to Better Rules of Origin in International Trade 524
4.2 The Way Forward in Assessing the Economic Impact of Rules of Origin: Evidence from the Utilization of Trade Preferences 528
  4.2.1 The Concept of Utilization Rates 530
  4.2.3 Linking Low Utilization of Preferences and Rules of Origin: An Ex Ante Simulation Methodology Based on an Input–Output Analysis 537
    4.2.3.1 Introduction to the Input–Output Analysis 537
    4.2.3.2 Quantifying the Trade Effects of Rules of Origin: A WITS Simulation 549
  4.2.4 Linking Utilization Rates to Stringent Rules of Origin: Evidence from Ex Post Analysis in GSP Schemes for LDCs 555
    4.2.4.1 Impact of Broad Reform: Evidence from the Utilization Rates of EU and Canada 555
    4.2.4.2 Comparison: Utilization and Trade Effects in the Cases of the United States and Japan 559
    4.2.4.3 The Impact the EBA Reform of Rules of Origin – An Empirical Analysis 569
      4.2.4.3.1 PSRO Coding – Time-Varying Measure of RoO Stringency 570
Contents

4.2.4.3.2 Empirical Model and Data 572
4.2.4.3.3 Preliminary Results and Conclusions 573
4.2.5 Evidence from EU Free-Trade Agreement Utilization Rates 576
4.2.5.1 The Asymmetric Use of EU Free-Trade Agreements: A Preliminary Analysis 576
4.2.5.2 Identifying PSRO Causing Low Utilization in EU Free-Trade Agreements – “Repeated Offenders” Methodology 587
4.2.5.2.1 Description of the Methodology 587
4.2.5.2.2 Overview of Results 590
4.3 Conclusions 623

5 Experiences in Drafting Preferential Rules of Origin in GSP Schemes in Africa, Asia, and Latin America 631
5.1 Learning Drafting Rules of Origin from the Past: Experience Gained with the Rules of Origin under the GSP 631
5.1.1 General Observations and Lessons Learned 631
5.2 Specific Experiences and Lessons Learned from Drafting and Implementing GSP Rules of Origin 633
5.2.1 The Definition of Two Categories of Products: Wholly Produced and Products that Have Undergone Substantial Transformation 633
5.2.2 Negotiations and Experiences on the Definition of the Wholly Produced Criterion 634
5.2.3 Negotiations and Experiences in Drafting Origin Criteria for the Definition of Substantial Transformation 641
5.2.3.1 An Analysis of the Experiences and Lessons Learned under the Process Criterion 644
5.2.3.1.1 Differences Resulting from Variations in Product Coverage 644
5.2.3.1.2 Drafting Differences 645
5.2.3.1.3 Differences Resulting from Different Methods of Describing the Same Origin Requirements 645
5.2.3.1.4 Differences with Reference to Percentage Requirements 647
5.2.3.1.5 Differences in Substance 649
5.2.3.1.6 An Analysis of the Specific Requirements Related to Selected Products under the Process Criterion 649
Contents

5.2.3.1.7 Early Experience and Difficulties with the Issue of Multistage Operations, Double Jumps, and Double Transformations 651
5.2.3.1.8 Some Examples of Product-Specific Experiences under the Process Criterion 653
5.2.3.1.9 Difficulties Experienced by the Introduction of the Harmonized System and the Single List 662
5.2.3.2 An Analysis of the Experiences and Lessons Learned under the Percentage Criterion 666
  5.2.3.2.1 Experiences and Lessons Learned on Different Ways of Drafting the Numerator 671
  5.2.3.2.2 Preliminary Conclusions and Lessons Learned from the Different Drafting of the Numerator under the Percentage Criterion 675
  5.2.3.2.3 Experiences and Lessons Learned on Different Ways of Drafting the Denominator 679
  5.2.3.2.4 Preliminary Conclusions and Lessons Learned from the Different Drafting of the Denominator under the Percentage Criterion 682
  5.2.3.2.5 Early Experience and Lessons Learned from Utilizing the Percentage Criterion under the GSP Schemes 683
  5.2.3.2.6 Difficulties in Interpreting the Terminology Used in the Percentage Criterion 686
5.2.4 Comparisons of Formulations between Percentage and Process Criteria 687
  5.2.4.1 Comparison of Substance as between the Percentage and Process Criteria 689
5.3 Learning Drafting Rules of Origin from Regional Experiences 694
  5.3.1 Rules of Origin in ASEAN 694
    5.3.1.1 The Initial Set of ASEAN Rules of Origin: 1992–1995 704
    5.3.1.1.1 The Ad Valorem Percentage Calculation 704
    5.3.1.3 The Introduction of Alternative PSRO: 2000–2009 714
Contents

5.3.1.4 ATIGA and Beyond 718
5.3.1.5 A Comparison of ATIGA and ASEAN Free-Trade Agreement Rules of Origin with Dialogue Partners 721
5.3.2 PSRO in ASEAN Free-Trade Agreements 721
5.4 Comparison of Substantial RoO Requirements under the ASEAN Free-Trade Agreements 721
5.4.1 The ASEAN Free-Trade Agreement 721
5.4.1.1 Wholly Obtained or Produced Products 728
5.4.1.2 Not Wholly Obtained or Produced Products 729
5.4.1.2.1 Tolerance or De Minimis 729
5.4.1.2.2 Insufficient Working or Processing 730
5.4.1.3 Accumulation 730
5.4.1.4 PSRO 730
5.4.2 The ASEAN–Australia–New Zealand Free-Trade Agreement (AANZFTA) 732
5.4.2.1 Wholly Obtained or Produced Product 732
5.4.2.2 Not Wholly Obtained or Produced Products 733
5.4.2.2.1 Tolerance or De Minimis 734
5.4.2.2.2 Insufficient Working or Processing 734
5.4.2.3 Accumulation 735
5.4.2.4 PSRO 735
5.4.3 The ASEAN–India Free-Trade Agreement (AIFTA) 736
5.4.3.1 Wholly Obtained or Produced Products 736
5.4.3.2 Not Wholly Obtained or Produced Products 737
5.4.3.2.1 Tolerance or De Minimis 739
5.4.3.2.2 Insufficient Working or Processing 739
5.4.3.3 Accumulation 740
5.4.3.4 PSRO 740
5.4.4 The ASEAN–China Free-Trade Agreement (ACFTA) 740
5.4.4.1 Wholly Obtained or Produced Product 741
5.4.4.2 Not Wholly Obtained or Produced Products 742
5.4.4.2.1 Tolerance or De Minimis 743
5.4.4.2.2 Insufficient Working or Processing 743
5.4.4.3 Accumulation 743
5.4.4.4 PSRO 743
5.4.5 The ASEAN–Japan Comprehensive Economic Partnership (AJCEP) 745
5.4.5.1 Wholly Obtained or Produced Products 745
5.4.5.2 Not Wholly Obtained or Produced Products 746
5.4.5.2.1 Tolerance or De Minimis 747
5.4.5.3 Insufficient Working or Processing 747
5.4.5.4 Accumulation 747
Contents
5.4.5.5 PSRO 748
5.4.6 The ASEAN–Republic of Korea Free-Trade Agreement (AKFTA) 749
5.4.6.1 Wholly Obtained or Produced Products 749
5.4.6.2 Not Wholly Obtained or Produced Products 750
5.4.6.2.1 Tolerance or De Minimis 751
5.4.6.2.2 Insufficient Working or Processing 751
5.4.6.3 Accumulation 752
5.4.6.4 PSRO 752
5.4.7 Rules of Origin in Africa 754
5.4.7.1 SADC, COMESA, and EAC Experience 767
5.4.7.2 ECOWAS and ECCAS Experience 774
5.4.7.3 Drafting Rules of Origin for the Tripartite Free-Trade Area 779
5.4.7.4 Drafting Rules of Origin in AfCFTA 786
5.4.8 Latin America Rules of Origin 794
5.4.9 The Rules of Origin of the Pacific Alliance 800
5.4.10 Central American Common Market (CACM) 805
5.5 The Megaregional Dimension: An Initial Analysis of the CP-TPP and RCEP 808
5.5.1 The CP-TPP Rules of Origin 808
5.5.2 The RCEP Rules of Origin 809
5.5.3 A Brief Comparison of the CP-TPP and the RCEP and Recent Studies 810
5.5.3.1 A Comparison of PSRO 815
6 Drafting Rules of Origin 817
6.1 The Main Actors in Negotiating and Drafting Rules of Origin 821
6.2 Form and Substance of Rules of Origin 827
6.2.1 Defining the Form of the Rules of Origin: Technical Tools and Lessons Learned 831
6.2.2 Use of the HS in Drafting Rules of Origin 832
6.2.2.1 Problems with Adopting CTC in the Machinery and Electronic Sector 836
6.2.3 Use of the Ad Valorem Percentage in Drafting Rules of Origin 838
6.2.3.1 The Multilateral Disciplines Contained in Kyoto Convention of 1974 and 2000 on Drafting Rules of Origin Using an Ad Valorem Percentage Criterion 838
6.2.3.2 Different Calculation Methodologies of the Ad Valorem Percentage Criterion 841
Contents

6.2.3.2.1 Value-Added Calculation by Addition (VA) or Net Cost (NC) Calculation 842
6.2.3.2.2 Value-of-Materials Calculation 842
6.2.3.2.3 Maximum Allowance of Non-originating Materials 844
6.2.3.3 Comparison and Lessons Learned in Drafting Ad Valorem Percentage Criteria 845
6.2.3.4 The Issue of Cost of Freight and Insurance in Customs Value of Non-originating and Originating Materials 848
6.2.3.5 Worldwide Best Practices on Methodologies to Draft Ad Valorem Percentages 850
  6.2.3.5.1 Further Definition of the Denominator 853
  6.2.3.5.2 Further Definition of Numerator: Value of Non-originating Material 855
6.2.3.6 Setting the Level of Percentages in the Ad Valorem Percentage Methodology 859
6.2.3.7 Difference in Level of Percentages in the Automotive Sector 860

6.2.4 Use of Working or Processing in Drafting Rules of Origin 871

6.3 Drafting the Form: A Living Example Excerpted from Negotiations 873
  6.3.1 Introduction 875
  6.3.2 Issue 1: Heading 71.01 876
    6.3.2.1 Subheadings 876
      6.3.2.1.1 Subheading 7101.10: Natural Pearls 876
      6.3.2.1.2 Subheading 7101.21: Unworked Cultured Pearls 876
      6.3.2.1.3 Subheading 7101.22: Worked Cultured Pearls 876
    6.3.2.2 Technical Solutions 876
      6.3.2.2.1 Option 1 877
      6.3.2.2.2 Option 2 877
      6.3.2.2.3 Option 3 877
      6.3.2.2.4 Option 4 878
  6.3.3 Issue 2: Heading 71.02 878
    6.3.3.1 Heading 71.02 878
    6.3.3.2 Technical Solutions 879
      6.3.3.2.1 Option 1 879
      6.3.3.2.2 Option 1 Variant (Subheadings 7101.29 and 7102.39) 879
  6.3.4 Issue 3: Heading 71.03 880
  6.3.5 Issue 4: Chapter 71, Subchapter II 881
    6.3.5.1 Subheadings 881
Contents

6.3.5.2 Technical Solutions 882
6.3.6 Issue 5: Cladding of Base Metals 883
   6.3.6.1 Technical Solutions 883
6.3.7 Issue 6: Heading 71.11 884
   6.3.7.1 Technical Solutions 884
6.4 Drafting the Substance of PSRO: An Input–Output Methodology 884
   6.4.1 Advantages and Disadvantages of Using an Input–Output Methodology for Drafting PSRO 884
   6.4.2 Conclusion 929

7 The Administration of Rules of Origin 931

7.1 The Main Elements of the Administration of Rules of Origin 936
   7.1.1 Direct Consignment 942
   7.1.2 Back-to-Back or Replacement Certificate 948
   7.1.3 Ancillary Methodologies for Documentary Evidence of Origin 949
      7.1.3.1 Documentary Evidence Related to Cumulation: The Case of the EU and NAFTA/USMCA 951
      7.1.3.2 Third-Country Invoicing 957
      7.1.3.3 Accounting Segregation 958
      7.1.3.4 Record-Keeping Requirements 962
      7.1.3.5 Duty Drawback (DD) 962
   7.1.4 Verifications of Proof of Origin 968

7.2 The Administration of GSP Rules of Origin and DFQF schemes for LDCs’ Rules of Origin 990
   7.2.1 Administration of the GSP and DFQF Rules of Origin 990
   7.2.2 Arrangements for Administrative Cooperation 990
      7.2.2.1 Direct Consignment 992
      7.2.2.2 Verification and Control 996

7.3 The US Experience in Administering Rules of Origin 997
   7.3.1 Customs Procedures and Enforcement under AGOA 998
      7.3.1.1 Monitoring and Report to Congress 999
      7.3.1.2 Visa Requirements under the AGOA 1000
   7.3.2 The Administration of NAFTA and USMCA Rules of Origin 1000
      7.3.3 From NAFTA to the US–Chile FTA Agreement 1004

7.4 The EU Experience in Administering Rules of Origin 1008
   7.4.1 Procedure for the Issuance of Certificate of Origin EUR.1 and EUR-MED 1011
   7.4.2 The Use of Form EUR.1 and EUR-MED 1015
xviii

Contents

7.4.3 Simplified Procedures for the Issuance of Certificate of Origin: Approved Exporters 1019
7.4.4 Supplier’s Declarations 1023
7.4.5 Documentary Evidence for the Issuance of Certificates of Origin

7.4.5.1 Validity of Form EUR.1 and EUR-MED and Preservation of Proof of Origin and Supporting Documents 1025
7.4.6 Verification of Proofs of Origin 1026
7.4.7 Issuance of Certificate of Origin for Cumulation under the Pan-European Rules of Origin, GSP, and Regional Cumulation

7.4.7.1 Procedure for the Issuance of Certificate of Origin or Statement on Origin under REX for Cumulation under EU GSP Rules of Origin 1030
7.4.8 Developments in EU Administration of Origin: The Green Paper of 2004 and the Introduction of the REX System

7.4.8.1 Certification of Preferential Origin on Export 1035
7.4.8.2 Declaration of Preferential Origin on Import and the Responsibility of the Importer 1036
7.4.8.3 Verification of Preferential Origin 1037
7.4.9 The Introduction of the REX System 1038

7.4.9.1 Procedures Applicable from January 1, 2017

7.4.9.1.1 Establishment and Management of Database (Regulation (EU) No. 2015/2447, Articles 80–87) 1039
7.4.9.1.2 Control and Verification (Regulation (EU) 2015/2447, Articles 109–111) 1040
7.4.9.1.3 Statement on Origin (Regulation (EU) No. 2015/2447, Annex 22-07) 1041

7.4.10 Origin administration and customs cooperation in the EU

7.4.10.1 Experience of OLAF on Origin Investigation 1046

7.5 Mapping Out Certification in Free-Trade Agreements

7.5.1 European Union 1048
7.5.2 North America 1118
7.5.3 Japan 1165
7.5.4 South Korea 1192
7.5.5 China 1229

7.6 Key Elements in the ASEAN Free-Trade Agreements

7.6.1 Certificates of Origin 1243
Contents

7.6.2 Operational Certification Procedures 1243
7.6.3 Back-to-Back Certificates of Origin 1249
7.6.4 Third-Country Invoicing 1252
7.6.5 Practical Advice on Documentary Requirements 1255
  7.6.5.1 Content of a CO 1255
  7.6.5.2 Special Indications under Each FTA when Applying the CO 1260
7.6.6 Verification and Penalties 1262
  7.6.6.1 Record Keeping 1262
  7.6.6.2 Verification Visits 1264
  7.6.6.3 Action against Fraudulent Acts 1271

Index 1275
Figures

Figure 1.1 Distribution of tariff lines over utilization rates values Imports from LDCs > 10,000 USD

Figure 1.2 Chinese utilization rates, preference margin, and eligible imports from LDCs: Covered imports > 50 million USD

Figure 1.3 Chinese utilization rates, preference margin, and eligible imports from LDCs: 1 million USD < Covered imports <= 50 million USD

Figure 2.1 Summary of rectifications (%): sum of 2002, 2007, 2012

Figure 2.2 Summary of unresolved issues

Figure 3.1 Diagonal vs. Full cumulation

Figure 4.1 Effects of stringency of rules of origin on trade creation and trade diversion

Figure 4.2 Physical content of rules of origin and costs

Figure 4.3 Calculation of valued added and rules of origin restrictiveness

Figure 4.4 Average utilization of Bangladesh, Cambodia, and Laos – HS Chapters 61, 62, and 64 (1995–2005)

Figure 4.5 Bangladesh: EU GSP utilization rates for HS Chapters 61 and 62 (garments) (1994–2005)

Figure 4.6 Cambodia: EU GSP utilization rates for HS Chapters 61 and 62 (garments) (1994–2005)

Figure 4.7 Bangladesh: Imports cotton (1996–2001)

Figure 4.8 Cambodia: Imports cotton (1996–2001)

Figure 4.9 Bangladesh: Imports man-made and synthetic (1996–2001)

Figure 4.10 Cambodia: Imports man-made and synthetic (1996–2001)

Figure 4.11 Bangladesh: Exports cotton (1996–2001)

Figure 4.12 Cambodia: Exports cotton (1996–2001)

Figure 4.13 Bangladesh: Exports man-made and synthetic (1996–2001)

Figure 4.14 Cambodia: Exports man-made and synthetic (1996–2001)
List of Figures

Figure 4.15 Bangladesh: Comparison of imports of fabrics/exports, Chapters 61 and 62 (garments), with EU GSP utilization rate (1996–2000) 543
Figure 4.16 Cambodia: Comparison of imports of fabrics/exports, Chapters 61 and 62 (garments), with EU GSP utilization rate (1996–2000) 543
Figure 4.17 Bangladesh: Imports of cotton fabrics (2001) 545
Figure 4.18 Cambodia: Imports of cotton fabrics (2001) 545
Figure 4.19 Bangladesh: Imports of man-made fabrics (2001) 546
Figure 4.20 Cambodia: Imports of man-made fabrics (2001) 546
Figure 4.21 Cambodia: Imports of man-made synthetic fabrics (2001) 546
Figure 4.22 Canadian imports from effective LDCs and GSP utilization rates (1995–2015): Articles of apparel & clothing accessories, HS 61 (knitted/crocheted) and HS 62 (not knitted/crocheted) 556
Figure 4.23 EU imports from effective LDCs and GSP utilization rates: Articles of apparel & clothing accessories, HS 61 (knitted/crocheted) and HS 62 (not knitted/crocheted) 557
Figure 4.24 EU imports from Cambodia and GSP utilization rates: Bicycles 558
Figure 4.25 US total imports from effective LDCs excluding AGOA beneficiaries 560
Figure 4.26 US total imports from effective LDCs excluding AGOA beneficiaries: Nonagricultural products excl. fuel 562
Figure 4.27 US imports from effective LDCs excluding AGOA beneficiaries: Jewelry products (HS 7113) 563
Figure 4.28 US Imports from effective LDCs excluding AGOA beneficiaries: Articles & equipment for sports (HS 9506) 563
Figure 4.29 US imports from effective LDCs excluding AGOA beneficiaries: Bicycles & other cycles (non-motorized) (HS 8712) 564
Figure 4.30 US total imports from effective LDCs AGOA beneficiaries 565
Figure 4.31 US total imports from effective LDCs AGOA beneficiaries: Nonagricultural products excl. fuel 565
Figure 4.32 US total imports from effective LDCs AGOA beneficiaries: Leather footwear (HS 64) 566
Figure 4.33 US imports from effective LDCs AGOA beneficiaries: Basketwork, wickerwork of plait etc., loofa articles (HS 4602) 566
Figure 4.34 Japanese total imports from effective LDCs and utilization rates 567
Figure 4.35 Japanese imports from effective LDCs and utilization rates: Nonagricultural products excl. fuel 568
Figure 4.36 Japanese imports from effective LDCs and utilization rates: Articles of apparel & clothing accessories, knitted or crocheted (HS 61) 569
Figure 4.37 Utilization rates of EU imports from selected FTA partners: Simple and weighted average 578
List of Figures

Figure 4.38 Utilization rates of EU imports overall and disaggregated by chapter 579
Figure 4.39 EU imports from South Korea and utilization rates 580
Figure 4.40 EU imports from Korea: Utilization rates and covered imports (in descending order of covered imports over 2011–2013) 580
Figure 4.41 Korean imports from the EU and utilization rates 581
Figure 4.42 Korean imports from the EU: Utilization rates and covered imports (in descending order of average covered imports over 2011–2013) 583
Figure 4.43 European imports from Switzerland and utilization rates 584
Figure 4.44 EU imports from Switzerland: Utilization rates and covered imports (in descending order of average covered imports over 2009–2013) 584
Figure 4.45 Swiss imports from the EU and utilization rates 585
Figure 4.46 Swiss imports from EU: Utilization rates and covered imports (in descending order of average covered imports over 2010–2013) 586
Figure 4.47 European imports from Mexico and utilization rates 586
Figure 4.48 EU imports from Mexico: Utilization rates and covered imports (in descending order of average covered imports over 2009–2013) 587
Figure 4.49 Mexico imports from EU and utilization rates 587
Figure 4.50 Mexico imports from the EU: Utilization rates and covered imports (in descending order of average covered imports over 2009–2012) 588
Figure 5.1 The ratio of Japanese companies meeting the 40% ASEAN content 700
Figure 6.1 Format of OECD harmonized national input–output tables 886
Figure 6.2 Depicting input–output matrix 887
Figure 7.1 Back-to-back CO 948
Figure 7.2 Third-country invoicing 958
Figure 7.3 Specimen CO for ATIGA 1256

© in this web service Cambridge University Press
www.cambridge.org
<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 1.1</td>
<td>Comparison of CTC use by EU and Japan</td>
<td>33</td>
</tr>
<tr>
<td>Table 1.2</td>
<td>Swiss imports from least developed countries 2017 – tariff lines</td>
<td>38</td>
</tr>
<tr>
<td>Table 1.3</td>
<td>Swiss imports from least developed countries 2017 – HS chapters</td>
<td>41</td>
</tr>
<tr>
<td>Table 1.4</td>
<td>Swiss imports from least developed countries 2017 – LDC beneficiaries</td>
<td>45</td>
</tr>
<tr>
<td>Table 1.5</td>
<td>Chinese imports from least developed countries 2016 – tariff lines</td>
<td>48</td>
</tr>
<tr>
<td>Table 1.6</td>
<td>Chinese imports from least developed countries 2016 – LDC beneficiaries</td>
<td>51</td>
</tr>
<tr>
<td>Table 1.7</td>
<td>Number of tariff lines and trade values over utilization rates categories</td>
<td>58</td>
</tr>
<tr>
<td>Table 1.8</td>
<td>Examples of EU and Japanese use of CTC rules</td>
<td>62</td>
</tr>
<tr>
<td>Table 1.9</td>
<td>QUAD countries’ requirements in terms of documentary evidence of direct consignment</td>
<td>75</td>
</tr>
<tr>
<td>Table 1.10</td>
<td>Non-QUAD countries’ requirements in terms of documentary evidence of direct consignment</td>
<td>77</td>
</tr>
<tr>
<td>Table 2.1</td>
<td>Suggested origin criteria for certain animals and animal products</td>
<td>100</td>
</tr>
<tr>
<td>Table 2.2</td>
<td>Suggested origin criteria for coffee in various forms</td>
<td>102</td>
</tr>
<tr>
<td>Table 2.3</td>
<td>Example of change of tariff heading with exception</td>
<td>104</td>
</tr>
<tr>
<td>Table 2.4</td>
<td>Suggested adjustments to the HS structure</td>
<td>106</td>
</tr>
<tr>
<td>Table 2.5</td>
<td>Classification of finished goods and parts in Chapter 87</td>
<td>108</td>
</tr>
<tr>
<td>Table 2.6</td>
<td>Classification of finished goods and parts in Chapter 84</td>
<td>112</td>
</tr>
<tr>
<td>Table 2.7</td>
<td>Example of a split chapter</td>
<td>113</td>
</tr>
<tr>
<td>Table 2.8</td>
<td>Changes in US textile and apparel rules of origin</td>
<td>193</td>
</tr>
<tr>
<td>Table 2.9</td>
<td>Comparison of six-digit PRSO: HWP, CETA, US–Korea, EU–Korea, and TPP</td>
<td>228</td>
</tr>
<tr>
<td>Table 2.10</td>
<td>HRO, CETA, TPP, EU, and US PTAs with South Korea: signs of convergence</td>
<td>230</td>
</tr>
</tbody>
</table>
List of Tables

Table 2.11  HRO, CETA, TPP, EU, and US PTAs with South Korea: signs of divergence 232
Table 3.1  Comparative table of GSP and other major unilateral trade preferences to developing countries 247
Table 3.2  Comparative table of rules of origin of DFQF granted by QUAD countries 254
Table 3.3  Comparative table of rules of origin in DFQF granted by non-QUAD developed countries 256
Table 3.4  Comparative table of rules of origin in DFQF granted by developing countries to LDCs 257
Table 3.5  Rules of origin: scope of cumulation and derogation 270
Table 3.6  Production chain of garments in a partial/diagonal cumulation scenario 274
Table 3.7  Production chain of garments in a full cumulation scenario 274
Table 3.8  Overview of AGOA beneficiaries 284
Table 3.9  CTH requirements 304
Table 3.10  CTC requirements and percentage rules 305
Table 3.11  Specific manufacturing processes or requirements 306
Table 3.12  Textile rules mainly involving products classified in ex-heading and basket rule headings 306
Table 3.13  Alternative rules of origin in addition to the usual rules – an example 307
Table 3.14  Granting of full cumulation 321
Table 3.15  A comparison of selected PSRO before and after EU reform of rules of origin 339
Table 3.16  Cumulation under old and new EU GSP regulation 351
Table 3.17  Cumulation rules in selected EU free-trade agreements 357
Table 3.18  Definition of ex-works price in selected EU free-trade agreements 359
Table 3.19  Introductory notes to the PSRO in CETA and EU–Japan FTA agreement 361
Table 3.20  PSRO (Chapter 3, Fish and crustaceans, molluscs and other aquatic invertebrates) across EU free-trade agreements 363
Table 3.21  PSRO (Chapter 4, Dairy produce; birds’ eggs; natural honey; edible products of animal origin, not elsewhere specified or included) across EU free-trade agreements 364
Table 3.22  PSRO (Chapter 9, Coffee, tea, maté and spices) across EU free-trade agreements 364
Table 3.23  PSRO (Chapter 16, Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates) across EU free-trade agreements 365
List of Tables

Table 3.24 PSRO (Chapter 28, Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes) across EU free-trade agreements 365
Table 3.25 PSRO (HS 382640, Biodiesel and mixtures thereof, not containing or containing less than 70 percent by weight of petroleum oils or oils obtained from bituminous mineral) across EU free-trade agreements 367
Table 3.26 PSRO (Chapter 61, Articles of apparel and clothing accessories, knitted or crocheted) across EU free-trade agreements 368
Table 3.27 PSRO (heading 62.01, Men’s or boys’ overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, knitted or crocheted, other than those of heading 61.03) across EU free-trade agreements 368
Table 3.28 PSRO (Chapter 64, Footwear, gaiters and the like; parts of such articles) across EU free-trade agreements 370
Table 3.29 PSRO (subheadings 730721, Flanges of iron and steel–730729, Other) across EU free-trade agreements 370
Table 3.30 PSRO (heading 84.01–84.12, Machinery) across EU free-trade agreements 371
Table 3.31 PSRO (headings 85.01–85.12, Electronics) across EU free-trade agreements 371
Table 3.32 PSRO (headings 87.01–87.02, Cars and vehicles) across EU free-trade agreements 372
Table 3.33 Originating products 373
Table 3.34 Cumulation of origin 374
Table 3.35 PSRO (ex-Chapter 4, Dairy produce; birds’ eggs; natural honey; edible products of animal origin, not elsewhere specified or included) across African EPAs 390
Table 3.36 PSRO (ex-Chapter 9, Coffee, tea, maté and spices) across African EPAs 390
Table 3.37 PSRO (Chapter 16, Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes) across African EPAs 391
Table 3.38 PSRO (ex-Chapter 28, Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes) across African EPAs 392
Table 3.39 PSRO (heading 3826, Biodiesel and mixtures thereof, not containing or containing less than 70% by weight of petroleum oils or oils obtained from bituminous minerals) across African EPAs 392
Table 3.40 PSRO (Chapter 61 Articles of apparel and clothing accessories, knitted or crocheted) across African EPAs 393
List of Tables

Table 3.41 PSRO (headings 6213 and 6214) across African EPAs
Table 3.42 PSRO (Chapter 64, Footwear, gaiters and the like; parts of such articles) across African EPAs
Table 3.43 PSRO (header 7307, Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel) across African EPAs
Table 3.44 PSRO (ex-Chapter 84, Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof) across African EPAs
Table 3.45 PSRO (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) across African EPAs
Table 3.46 PSRO (ex-Chapter 87, Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof) across African EPAs
Table 3.47 Comparison of NAFTA and USMCA provisions
Table 3.48 Example of calculations
Table 3.49 New transitional USMCA limitation on use of non-originating textiles material
Table 3.50 Evolution of the NAFTA RVC percentage-calculation-based rules of origin
Table 3.51 Comparison of selected PSRO between NAFTA and USMCA
Table 3.52 Comparison of selected PSRO between NAFTA and USMCA
Table 3.53 Comparison of selected PSRO between NAFTA and USMCA
Table 3.54 Comparison of PSRO for Chapter 16 between EU, NAFTA, and USMCA
Table 3.55 Comparison of PSRO for Chapter 60 between EU, NAFTA, and USMCA
Table 3.56 Comparison of PSRO for Chapter 61 between EU, NAFTA, and USMCA
Table 3.57 Comparison of PSRO for Chapter 62 between EU, NAFTA, and USMCA
Table 3.58 Comparison of PSRO for heading 8407 between EU, NAFTA, and USMCA
Table 4.1 Example of possible implications for noncompliance and application of trade instruments
Table 4.2 Determinants of utilization of preferential tariffs
Table 4.3 Implications of rules of origin on international trade flows and instruments
Table 4.4 Restrictiveness of RoO implications in free-trade agreements
Table 4.5 Studies on administrative aspects of rules of origin
Table 4.6 Compliance costs of rules of origin affecting the use of free-trade agreements
List of Tables

Table 4.7 Garments PSRO mainly involving products classified in ex-heading and basket-rule headings 510
Table 4.8 Cadot and de Melo restrictiveness index 513
Table 4.9 Alternative indices of PSRO restrictiveness 515
Table 4.10 Harris’s restrictiveness points 516
Table 4.11 Comparative table of PSRO for sectors in the EBA rules of origin 529
Table 4.12 Expected trade effects from full utilization of preferential schemes: EU–non-ACP LDCs 551
Table 4.13 Expected trade effects from full utilization of preferential schemes: EU–non-ACP LDCs – selected countries and markets 552
Table 4.14 Expected trade effects from full utilization of preferential schemes: EU–ACP LDCs 554
Table 4.15 Japanese reform of rules of origin in HS Chapter 61 568
Table 4.16 Coding restrictiveness of PSRO according to manufacturing requirements 572
Table 4.17 Baseline results – utilization rates 574
Table 4.18 Extensive margin – probability to start using preferences (xlogit): Imp. received > 0 575
Table 4.19 EU most exported products to FTA partners with UR < 70%, PM > 2 pp., sorted in descending order of FTA partner covered imports (> 450 million USD) 591
Table 4.20 EU most imported products with UR < 70%, PM > 2 pp., sorted in descending order of covered imports (> 35 million USD) 593
Table 4.21 Bilateral repeated offenders sorted in descending order of total covered trade (EU and partner imports, thousands USD) 596
Table 4.22 Repeated offenders: EU imports of products with at least two FTA partners with product rank <= 10, when UR < 70%, PM > 2 pp., (products are sorted in descending order of EU covered imports (4)) 604
Table 4.23 Repeated offenders: Partner imports from EU with at least two FTA partners with product rank <= 10, when UR < 70%, PM > 2pp., and products are sorted in descending order of selected partners’ imports from EU 609
Table 4.24 Matching EU most exported critical products with rules of origin: Partner imports from the EU with WUR < 70% and PM > 2 pp., in descending order of covered imports, million USD (4) 614
Table 4.25 Matching EU most imported critical products with rules of origin: EU imports from partners with WUR < 70% and PM > 2 pp., in descending order of covered imports, million USD (4) 617
xxx

List of Tables

Table 4.26 Matching bilateral repeated offenders with PSRO: Selected examples (covered/received trade, columns (3) and (4) in thousands USD) 619

Table 4.27 Bilateral and cross-agreements repeated offenders: Cumulative conditions (methodology case (d)) 624

Table 4.28 Bilateral and cross-agreements repeated offenders: Selected proposal for rules of origin 628

Table 5.1 Examples of drafting differences in PSRO 645

Table 5.2 Examples of drafting differences in PSRO 646

Table 5.3 Examples of drafting differences in PSRO 647

Table 5.4 Differences in substantive requirements 650

Table 5.5 Example of single list requirements 663

Table 5.6 Example of stringency of a change of a CTH criterion 665

Table 5.7 Overview of the percentage criterion rules used by some preference-giving countries 668

Table 5.8 Comparative strength and weaknesses of the percentage and process criteria 693

Table 5.9 Utilization of free-trade agreements 699

Table 5.10 Utilization rates of ASEAN free-trade agreements (2010) 702

Table 5.11 Substantial requirements: Criteria for not wholly obtained products to be considered as originating 722

Table 5.12 Comparative tables on substantial requirements: Cumulation and tolerance/de minimis rules 724

Table 5.13 PSRO under ASEAN free-trade agreements 726

Table 5.14 Comparison of main origin criteria and related origin issues of main African RTAs 757

Table 5.15 Ad valorem percentage criterion calculation methodologies of African RECs 761

Table 5.16 Ad valorem percentage criterion calculation methodologies of EU EPA, EBA, EU/US/Japan GSP, and AGOA 764

Table 5.17 Rules of origin for EPZ-produced products in African free-trade agreements 792

Table 5.18 Rules of origin for EPZ-produced products in agreements between African countries and Europe 793

Table 5.19 Main rules of origin applicable in selected Latin American free-trade agreements 795

Table 5.20 Comparison of the RCEP and CP-TPP rules of origin articles 812

Table 5.21 Comparison of the RCEP and CP-TPP PSRO 815

Table 6.1 Comparison of different drafting of PSRO 829

Table 6.2 Evolution of the US free-trade agreement percentage-based rules of origin 851
List of Tables

Table 6.3 Ad valorem percentage criterion calculation methodologies of African RECs 852
Table 6.4 Ad valorem percentage criterion calculation methodologies of ASEAN free-trade agreements 856
Table 6.5 Ad valorem percentage criterion calculation methodologies of Latin American free-trade agreements 857
Table 6.6 Ad valorem percentage criterion calculation methodologies of Korea’s free-trade agreements 858
Table 6.7 Level of percentages in the ad valorem calculation of US free-trade agreements 861
Table 6.8 Level of percentages in the ad valorem calculation of EU trade agreements (EPAs, GSPs, free-trade agreements) 863
Table 6.9 Level of percentages in the ad valorem calculation of African RECs 864
Table 6.10 Level of percentages in the ad valorem calculation of ASEAN free-trade agreements 865
Table 6.11 Level of percentages in the ad valorem calculation of Latin American free-trade agreements 866
Table 6.12 Ad valorem percentage criterion calculation methodologies of Korea’s free-trade agreements 867
Table 6.13 Level of percentages in the ad valorem calculation of non-QUAD countries for LDCs under DFQF scheme 868
Table 6.14 Comparative table of PSRO for cars and parts of cars under different free-trade agreements 869
Table 6.15 Summary for Chapter 27 and Chapters 28–38 chapter and section rules for selected free-trade agreements 872
Table 6.16 Description of input–output methodology based on HS classification 888
Table 6.17 Results of the input–output table for Chapter 29 (organic chemicals) – TTIP study 893
Table 6.18 Comparative PSRO applicable to selected headings and subheading of HS Chapter 29 898
Table 6.19 Results of the input–output table for Chapter 87 – TTIP study 901
Table 6.20 Comparative PSRO applicable to selected headings and subheading of HS Chapter 87 904
Table 6.21 Results of the input–output table for HS Chapter 90 909
Table 6.22 Comparative PSRO applicable to selected headings and subheading of HS Chapter 90 912
Table 6.23 PHL exports to the EU (millions USD) and inputs suppliers (2015) 918
Table 6.24 Rules of origin for canned tuna in EU free-trade agreements 919
## List of Tables

<table>
<thead>
<tr>
<th>Table No.</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.25</td>
<td>Drafting and assessing the PSRO – Tunas, prepared/preserved (HS 160414)</td>
<td>920</td>
</tr>
<tr>
<td>6.26</td>
<td>Drafting PSRO for Korea</td>
<td>922</td>
</tr>
<tr>
<td>6.27</td>
<td>Drafting PSRO for Korea – Electronic integrated circuits as memories (HS 854232)</td>
<td>924</td>
</tr>
<tr>
<td>6.28</td>
<td>Drafting PSRO for Korea</td>
<td>925</td>
</tr>
<tr>
<td>6.29</td>
<td>Drafting PSRO for Korea – Reception and transmission apparatus; for use with the apparatus of heading nos. 8525–8528, excluding aerials and aerial reflectors (HS 852990)</td>
<td>927</td>
</tr>
<tr>
<td>6.30</td>
<td>Drafting PSRO for Korea – Electrical parts of machinery or apparatus, not specified or included elsewhere in Chapter 85 (HS 854890)</td>
<td>928</td>
</tr>
<tr>
<td>7.1</td>
<td>Main methodologies for documentary evidence of origin</td>
<td>937</td>
</tr>
<tr>
<td>7.2</td>
<td>A comparison of direct shipment provision and related requirements</td>
<td>943</td>
</tr>
<tr>
<td>7.3</td>
<td>Main ancillary methodologies for documentary evidence of origin</td>
<td>950</td>
</tr>
<tr>
<td>7.4</td>
<td>Provisions applied by particular preference-giving countries</td>
<td>992</td>
</tr>
<tr>
<td>7.5</td>
<td>Comparison of certification requirements and relative legislation among different free-trade agreements</td>
<td>997</td>
</tr>
<tr>
<td>7.6</td>
<td>Definitions in EU free-trade agreements</td>
<td>1049</td>
</tr>
<tr>
<td>7.7</td>
<td>Mapping certification in EU free-trade agreements</td>
<td>1051</td>
</tr>
<tr>
<td>7.8</td>
<td>EU free-trade agreements: Approved exporter</td>
<td>1058</td>
</tr>
<tr>
<td>7.9</td>
<td>EU free-trade agreements: Conditions for exporter declaration</td>
<td>1063</td>
</tr>
<tr>
<td>7.10</td>
<td>EU free-trade agreements: Exemption from proof of origin for small consignments</td>
<td>1068</td>
</tr>
<tr>
<td>7.11</td>
<td>EU free-trade agreements: Supplier’s declarations</td>
<td>1074</td>
</tr>
<tr>
<td>7.12</td>
<td>EU free-trade agreements: Accounting segregation</td>
<td>1081</td>
</tr>
<tr>
<td>7.13</td>
<td>EU free-trade agreements: Documentary evidence of direct shipment requirement</td>
<td>1086</td>
</tr>
<tr>
<td>7.14</td>
<td>EU free-trade agreements: Nonalteration</td>
<td>1090</td>
</tr>
<tr>
<td>7.15</td>
<td>EU free-trade agreements: Drawback rule</td>
<td>1093</td>
</tr>
<tr>
<td>7.16</td>
<td>EU free-trade agreements: Exporter record keeping (# years)</td>
<td>1099</td>
</tr>
<tr>
<td>7.17</td>
<td>EU free-trade agreements: Advance rulings</td>
<td>1103</td>
</tr>
<tr>
<td>7.18</td>
<td>EU free-trade agreements: Cumulation of origin</td>
<td>1106</td>
</tr>
<tr>
<td>7.19</td>
<td>Definitions in US free-trade agreements</td>
<td>1118</td>
</tr>
<tr>
<td>7.20</td>
<td>Mapping certification in US free-trade agreements</td>
<td>1119</td>
</tr>
<tr>
<td>7.21</td>
<td>US free-trade agreements: Importer’s knowledge</td>
<td>1126</td>
</tr>
<tr>
<td>7.22</td>
<td>US free-trade agreements: Exporter declaration for small consignment</td>
<td>1128</td>
</tr>
<tr>
<td>7.23</td>
<td>US free-trade agreements: Accounting segregation</td>
<td>1131</td>
</tr>
<tr>
<td>7.24</td>
<td>US free-trade agreements: Direct shipment requirement</td>
<td>1137</td>
</tr>
</tbody>
</table>
List of Tables

Table 7.25 US free-trade agreements: Drawback rule 1139
Table 7.26 US free-trade agreements: Exporter record keeping (# years) 1147
Table 7.27 US free-trade agreements: Advance rulings 1153
Table 7.28 Definitions in Japan’s free-trade agreements 1164
Table 7.29 Mapping certification in Japan’s free-trade agreements 1165
Table 7.30 Japan’s free-trade agreements: Exporter declaration for small consignment 1168
Table 7.31 Japan’s free-trade agreements: Accounting segregation 1172
Table 7.32 Japan’s free-trade agreements: Documentary evidence of direct shipment requirement 1176
Table 7.33 Japan’s free-trade agreements: Exporter record keeping (# years) 1181
Table 7.34 Japan’s free-trade agreements: Advance rulings 1185
Table 7.35 Certification of origin: Format and distribution of copies, Japan 1191
Table 7.36 Definitions in Korea’s free-trade agreements 1193
Table 7.37 Mapping certification in Korea’s free-trade agreements 1194
Table 7.38 Korea’s free-trade agreements: Exporter declaration for small consignment 1197
Table 7.39 Korea’s free-trade agreements: Accounting segregation 1202
Table 7.40 Korea’s free-trade agreements: Documentary evidence of direct shipment requirement 1207
Table 7.41 Korea’s free-trade agreements: Exporter record keeping 1211
Table 7.42 Korea’s free-trade agreements: Advance rulings 1214
Table 7.43 Certification of Origin: Format and distribution of copies, Korea 1226
Table 7.44 Definitions in China’s free-trade agreements 1229
Table 7.45 Mapping certification in China’s free-trade agreements 1230
Table 7.46 China’s free-trade agreements: Exporter declaration for small consignment 1233
Table 7.47 China’s free-trade agreements: Accounting segregation 1234
Table 7.48 China’s free-trade agreements: Documentary evidence of direct shipment requirement 1234
Table 7.49 China’s free-trade agreements: Exporter record keeping (# years) 1238
Table 7.50 China’s free-trade agreements: Advance rulings 1239
Table 7.51 China’s free-trade agreements: Pre-exportation examination 1241
Table 7.52 China’s free-trade agreements: Non-party invoice 1241
Table 7.53 China’s free-trade agreements: Cumulative rule of origin 1242
Table 7.54 Definitions 1243
Table 7.55 Issuance of COs and notification 1244
Table 7.56 Certificates of origin: Format and distribution of copies 1246
Table 7.57 Specific operational certification procedures 1248
Table 7.58 Comparison of back-to-back CO conditions 1250
Table 7.59 Third-country invoicing 1253
Table 7.60 Threshold for CO requirement 1255
List of Tables

Table 7.61 Origin criteria: Entries required in Box 8 1258
Table 7.62 Box 13: Options to tick under the different free-trade agreements 1260
Table 7.63 Comparative table on record keeping 1262
Table 7.64 Provisions for verification visits in the ASEAN free-trade agreements 1264
Table 7.65 Comparative table on action against fraudulent acts 1272
Preface to the First Edition

As I start writing the preface to this book, my mind goes back to the late 1980s, when technical issues on rules of origin began to arise from the surge of exports of the “Asian Tigers” and the trade defense mechanisms by the European Community (EC) and United States. The issue was mainly related to the alleged circumvention of such trade defense mechanisms in which manufacturers affected by the anti-dumping (AD) investigations relocated some working or processing operations in neighboring countries or directly in the export market. This move was counteracted by origin findings of the EC and the United States that indicated that the product exported from the neighboring countries or manufactured in their territory was in fact subject to only minimal working or processing, resulting in the product’s having the same origin of the product subject to AD duties.

These were the times when rules of origin started to make headlines in the press. The trading community and AD lawyers were suddenly interested in origin issues. I quickly realized that rules of origin were an ideal issue for contention because they provided the grounds for arbitrary or discretionary practices under the cover of technical and obscure details. Only a select few were part of these early developments. Hardly any international rule, convention, or multilateral instrument could provide guidance to these initial debates. Administrations were slow to answer, demonstrating once again that business life evolves at a faster pace than rule-making, and, to put it simply, rules of origin were, and to some extent still are, a no man’s land in international trade law. Apart from the Kyoto Convention, the first international effort to put rules of origin on a multilateral track was carried out under the United Nations Conference on Trade and Development, which convened in the beginning of the 1970s in the context of the Generalized System of Preferences working groups on rules of origin without much success, but a lot of useful technical work was carried out.

About twenty years later, the World Trade Organization Agreement on rules of origin started the Harmonization Work Program of nonpreferential rules of origin.
xxxvi  Preface to the First Edition

Once again, a lot of excellent technical work was carried out, but final agreement, although close, is still pending at the time of this writing. I have had the privilege to be exposed to the multidisciplinary nature of rules of origin, and I have drafted this book with the deliberate intent of covering these different aspects. A second important feature of this book is linked to my personal career, which has allowed the mixing of academic and research experiences with technical assistance to developing countries in the field for two decades. Much of the material in this book derives from the unfolding of these experiences. The drafting of this book has also been guided by the desire to maintain a certain degree of pragmatism and to provide the reader with a multidisciplinary instrument to understand rules of origin and their implications.

The views expressed in this book are entirely mine and do not necessarily reflect the views of the United Nations Conference on Trade and Development or any other United Nations agency.
Preface to the Second Edition

More than a decade separates the first edition of the book from the present one.

The multilateral trading system continues to be unable to get an agreement on rules of origin. The Harmonization Work Program (HWP) undertaken in the context of the World Trade Organization (WTO) Agreement on Rules of Origin (ARO) stopped in 2008. Although recent initiatives have been undertaken for the updating of Annex K on rules of origin of the revised Kyoto Convention in the context of the World Customs Organization (WCO), it seems that the road is still a long and perilous one.

This second edition reflects the developments of rules of origin in international trade deriving from the proliferation of free-trade areas (FTAs) and megaregionals that have multiplied rules of origin and related administrative procedures.

This second edition is a completely new book updating and expanding the previous edition. Chapters 1 and 2 discuss the recent initiatives undertaken at multilateral level in the WTO on rules of origin; namely, efforts to impart transparency on nonpreferential rules and the work undertaken on preferential rules of origin for least-developed countries (LDCs) leading to the Bali and Nairobi WTO decisions and subsequent developments.

Chapter 3 on preferential rules of origin has been updated and expanded to cover USMCA and the latest EU free-trade agreements with Canada and Japan as well as a comparison of these free-trade agreements.

Chapter 4 on economics contains most recent developments in economic literature related to origin. This chapter illustrates how utilization rates are a useful tool to measure the effectiveness of trade preferences granted under unilateral preferences or free-trade agreements and recent studies on the links among utilization rates and rules of origin.

The recent developments in free-trade agreements around the world are now covered by a new Chapter 5 analyzing the evolution of rules of origin in Africa, Asia, and Latin America, including megaregionals such as the African Continental Free-
xxxviii       Preface to the Second Edition

Trade Area (AfCFTA), the Regional Comprehensive Economic Partnership Agreement (RCEP), and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CP-TPP)

Chapter 6 is a new chapter dedicated to the drafting of product-specific rules of origin (PSRO) using an input–output matrix I developed using the Harmonized System and trade flows. This technique, used in combination with a comparative text analysis identifying convergence and divergence on PSRO, provides detailed tailored advice to negotiators, firms, and researchers.

Administration of procedures related to rules of origin contained in the plethora of free-trade agreements is extensively analyzed and compared in a new Chapter 7, including best practices and lessons learned.

This book, as the previous edition, is the result of a multidisciplinary approach to rules of origin and field experience advising governments, firms, and researchers to better understand and deal with the multifaceted and, at times, fascinating world of rules of origin.

The views expressed in this book are entirely mine and do not necessarily reflect those of United Nations Conference on Trade and Development or any other United Nations agency.
### Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AANZFTA</td>
<td>ASEAN–Australia–New Zealand Free-Trade Agreement</td>
</tr>
<tr>
<td>ACFTA</td>
<td>ASEAN–China Free-Trade Area</td>
</tr>
<tr>
<td>ACP</td>
<td>African, Caribbean, and Pacific</td>
</tr>
<tr>
<td>AD</td>
<td>anti-dumping</td>
</tr>
<tr>
<td>ADA</td>
<td>Anti-dumping Agreement</td>
</tr>
<tr>
<td>AfCFTA</td>
<td>African Continental Free-Trade Area</td>
</tr>
<tr>
<td>AFTA</td>
<td>ASEAN Free-Trade Area</td>
</tr>
<tr>
<td>AGOA</td>
<td>African Growth and Opportunity Act</td>
</tr>
<tr>
<td>AIFTA</td>
<td>ASEAN–India Free-Trade Area</td>
</tr>
<tr>
<td>AJCEP</td>
<td>ASEAN–Japan Comprehensive Economic Partnership</td>
</tr>
<tr>
<td>AKFTA</td>
<td>ASEAN–Korea Free-Trade Area</td>
</tr>
<tr>
<td>ALADI</td>
<td>Asociación Latinoamericana de Integración</td>
</tr>
<tr>
<td>ARO</td>
<td>Agreement on Rules of Origin</td>
</tr>
<tr>
<td>ASCM</td>
<td>Agreement on Subsidies and Countervailing Measures</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
</tr>
<tr>
<td>ATIGA</td>
<td>ASEAN Trade in Goods Agreement</td>
</tr>
<tr>
<td>AU</td>
<td>African Union</td>
</tr>
<tr>
<td>BTN</td>
<td>Brussels Tariff Nomenclature</td>
</tr>
<tr>
<td>CA</td>
<td>certifying authority</td>
</tr>
<tr>
<td>CACM</td>
<td>Central American Common Market</td>
</tr>
<tr>
<td>CAFTA</td>
<td>Central American Free-Trade Area</td>
</tr>
<tr>
<td>CAFTA–DR</td>
<td>CAFTA–Dominican Republic</td>
</tr>
<tr>
<td>CARICOM</td>
<td>Caribbean Common Market</td>
</tr>
<tr>
<td>CBI</td>
<td>Caribbean Basin Initiative</td>
</tr>
<tr>
<td>CBP</td>
<td>Customs and Border Protection (US)</td>
</tr>
<tr>
<td>CC</td>
<td>change of chapter</td>
</tr>
<tr>
<td>CCCN</td>
<td>Council Cooperation Customs Nomenclature</td>
</tr>
</tbody>
</table>
List of Abbreviations

CEEC  Central and Eastern European Countries
CEPT  Common Effective Preferential Tariff
CETA  Canada–EU Comprehensive Economic and Trade Agreement
CIF   cost, insurance, and freight
CIS   Customs Information System
CITA  Committee for the Implementation of the Textiles Agreements
CMA   critical mass agreement
CO    certificate of origin
COMESA Common Market for Eastern and Southern Africa
CP-TPP Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CRO   Committee on Rules of Origin
CTC   change of tariff classification
CTH   change of tariff heading
CTHS  change of tariff heading split
CTSH  change of tariff subheading
CTSHS change of tariff subheading split
CUSFTA Canada–US Free-Trade Area
DFQF  Duty-Free Quota-Free (Initiative)
DRAM  dynamic random-access memory
DSU   Dispute Settlement Understanding
EAC   East African Community
EBA   Everything But Arms (Initiative)
EC    European Community
ECCAS Economic Community of Central African States
ECJ   European Court of Justice
ECOWAS Economic Community of West African States
ECSC  European Coal and Steel Community
EEA   European Economic Area
EEC   European Economic Community
EEZ   exclusive economic zone
EFTA  European Free-Trade Association
EPA   Economic Partnership Agreement
EPROM erasable programmable read-only memory
EPZ   export processing zone
ESA   Eastern and Southern Africa
EU    European Union
EUI   European University Institute
FDI   foreign direct investment
FIFO  first in, first out
FOB   Free On Board
FTA   free-trade area
### List of Abbreviations

- **GAAP**: generally accepted accounting principles
- **GATS**: General Agreement on Trade in Services
- **GATT**: General Agreement on Tariffs and Trade
- **GC**: General Council
- **GIR**: General Interpretation Rule
- **GPT**: General Preferential Tariff
- **GSP**: Generalized System of Preferences
- **HRO**: Harmonized Rules of Origin
- **HS**: Harmonized System
- **HTS**: Harmonized Tariff Schedule
- **HTSUS**: Harmonized Tariff Schedule of United States
- **HWP**: Harmonization Work Program
- **ICC**: International Chamber of Commerce
- **ITA**: Information Technology Agreement
- **LAIA**: Latin American Integration Association
- **LDC**: least-developed country
- **LDCT**: LDC tariff
- **LIFO**: last in, first out
- **Mercosur**: Southern Common Market
- **MFN**: Most-Favored Nation
- **MMTZ**: Malawi, Mozambique, Tanzania, and Zambia
- **MSMEs**: micro, small, and medium-size enterprises
- **NAFTA**: North American Free-Trade Agreement
- **NAMA**: Non-Agricultural Market Access Negotiations
- **NOM**: non-originating material
- **OCP**: Operational Certification Procedure
- **OCT**: overseas countries and territories
- **ODI**: Overseas Development Institute
- **OECD**: Organisation for Economic Co-operation and Development
- **OJ**: Official Journal of the European Communities
- **OLAF**: Office Européen de Lutte Anti-Fraude
- **OM**: originating material
- **PSRO**: product-specific rules of origin
- **PTA**: Preferential Trade Agreement
- **QUAD**: quadrilateral countries (the EU, United States, Japan, and Canada)
- **RCEP**: Regional Comprehensive Economic Partnership Agreement
- **REC**: Regional Economic Community
- **REX**: Registered Exporter
- **RKC**: Revised Kyoto Convention
## List of Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>RMG</td>
<td>ready-made garment</td>
</tr>
<tr>
<td>RoO</td>
<td>rules of origin</td>
</tr>
<tr>
<td>RoW</td>
<td>rest of the world</td>
</tr>
<tr>
<td>RTA</td>
<td>regional trade agreement</td>
</tr>
<tr>
<td>RVC</td>
<td>regional value content</td>
</tr>
<tr>
<td>SAARC</td>
<td>South Asian Association for Regional Cooperation</td>
</tr>
<tr>
<td>SACU</td>
<td>South African Customs Union</td>
</tr>
<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
</tr>
<tr>
<td>SAP</td>
<td>Stabilisation and Association Process</td>
</tr>
<tr>
<td>SEZ</td>
<td>special economic zones</td>
</tr>
<tr>
<td>SME</td>
<td>small and medium-sized enterprise</td>
</tr>
<tr>
<td>SPS</td>
<td>sanitary and phytosanitary</td>
</tr>
<tr>
<td>TAO</td>
<td>Tariff Analysis Online</td>
</tr>
<tr>
<td>TAXUD</td>
<td>Taxation and Customs Union Directorate-General (European Commission)</td>
</tr>
<tr>
<td>TCRO</td>
<td>Technical Committee on Rules of Origin</td>
</tr>
<tr>
<td>TDCA</td>
<td>EU–South Africa Trade and Development Cooperation Agreement</td>
</tr>
<tr>
<td>TECH</td>
<td>technical requirement</td>
</tr>
<tr>
<td>TFTA</td>
<td>Tripartite Free-Trade Area</td>
</tr>
<tr>
<td>TPP</td>
<td>Trans-Pacific Partnership Agreement</td>
</tr>
<tr>
<td>TRIPS</td>
<td>Trade-Related Aspects of Intellectual Property Agreement</td>
</tr>
<tr>
<td>TTIP</td>
<td>Transatlantic Trade and Investment Partnership</td>
</tr>
<tr>
<td>TWG</td>
<td>Technical Working Group</td>
</tr>
<tr>
<td>UEMOA</td>
<td>West African Economic and Monetary Union</td>
</tr>
<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
</tr>
<tr>
<td>UNIDO</td>
<td>United Nations Industrial Development Organization</td>
</tr>
<tr>
<td>UR</td>
<td>utilization rates</td>
</tr>
<tr>
<td>URAA</td>
<td>Uruguay Round Agreements Act</td>
</tr>
<tr>
<td>USMCA</td>
<td>US, Mexico, Canada Free-Trade Area</td>
</tr>
<tr>
<td>USTR</td>
<td>US Trade Representative</td>
</tr>
<tr>
<td>VC</td>
<td>value content</td>
</tr>
<tr>
<td>VNOV</td>
<td>value of non-originating material</td>
</tr>
<tr>
<td>VOM</td>
<td>value of originating material</td>
</tr>
<tr>
<td>WAEMU</td>
<td>West African Economic and Monetary Union</td>
</tr>
<tr>
<td>WCO</td>
<td>World Customs Organization</td>
</tr>
<tr>
<td>WITS</td>
<td>World Integrated Trade Solutions</td>
</tr>
<tr>
<td>WO</td>
<td>wholly owned</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
</tbody>
</table>