



**World Customs
Organization**

Technical issues – Rules of Origin

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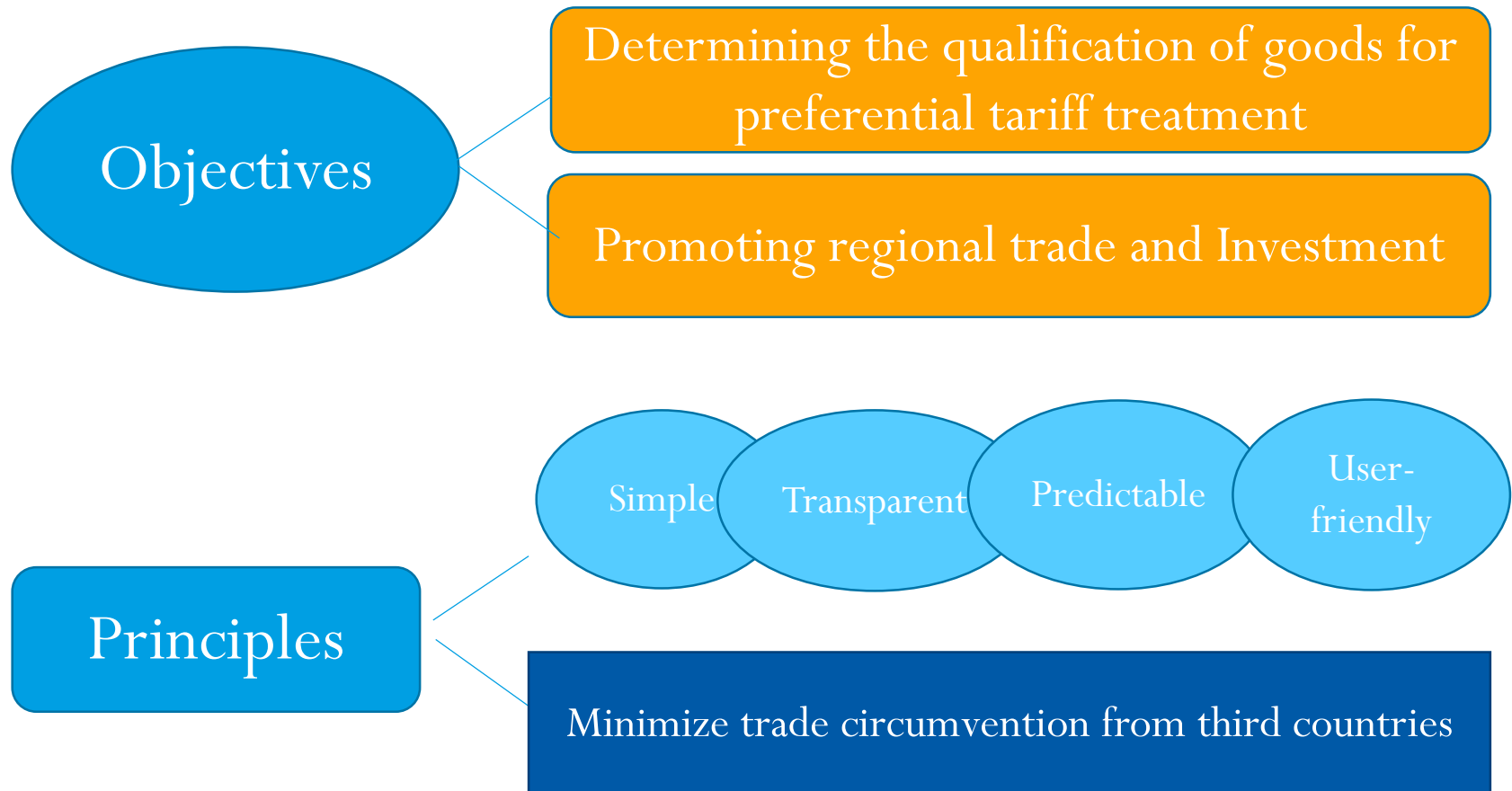
World Customs Organization

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Knowledge Academy for Customs and Trade

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PRINCIPLES OF PREFERENTIAL RULES OF ORIGIN



Key concepts of rules of origin

Conditions for preferential treatment



- 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”



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

REVISED KYOTO CONVENTIONS SPECIFIC ANNEX K, CHAPTER 1

- **2 Standard**

Goods produced wholly in a given country shall be taken as originating in that country.

- **3 Recommended Practice**

Where two or more countries have taken part in the production of the goods, the origin of the goods should be determined according to the **substantial transformation** criterion

List contained in the “Rules of Origin” part of an agreement

WHOLLY OBTAINED GOODS



REVISED KYOTO CONVENTION, SPECIFIC ANNEX K, CHAPTER 1

2. Standard

Goods **produced wholly** in a given country shall be taken as originating in that country. The following only shall be taken to be produced wholly in a given country:

- a. mineral products extracted from its soil, from its territorial waters or from its seabed;
- b. vegetable products harvested or gathered in that country;
- c. live animals born and raised in that country;
- d. products obtained from live animals in that country;
- e. products obtained from hunting or fishing conducted in that country;
- f. products obtained by maritime fishing and other products taken from the sea by a vessel of that country;
- g. products obtained aboard a factory ship of that country solely from products of the kind covered by paragraph (f) above;
- h. products extracted from marine soil or subsoil outside that country's territorial waters, provided that the country has sole rights to work that soil or subsoil;
- i. scrap and waste from manufacturing and processing operations, and used articles, collected in that country and fit only for the recovery of raw materials;
- j. goods produced in that country solely from the products referred to in paragraphs (a) to (ij) above.

List contained in the “Rules of Origin” part of an agreement

WHOLLY OBTAINED GOODS

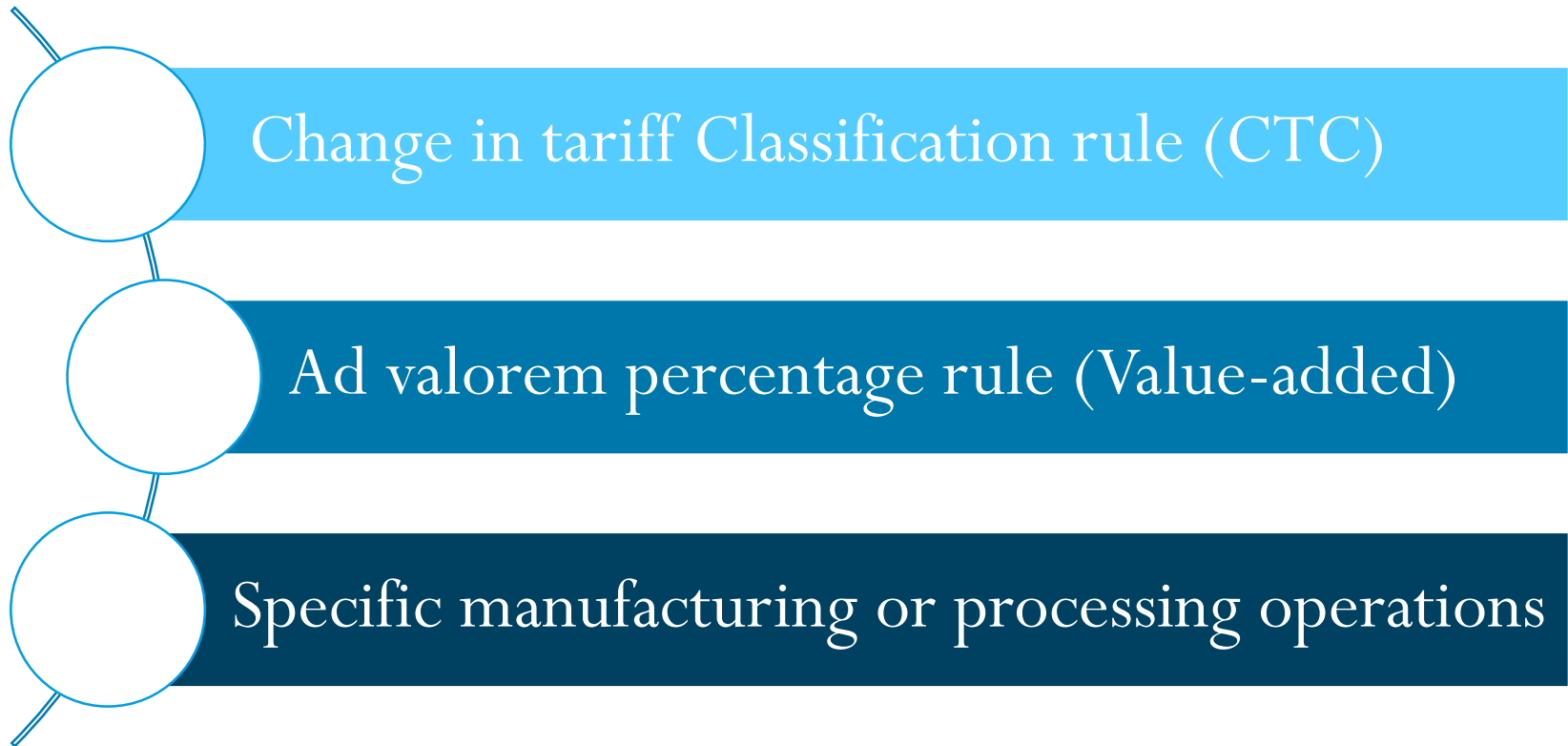


Source: dreamstime.com

SUBSTANTIAL TRANSFORMATION?



SUBSTANTIAL TRANSFORMATION



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) : **CC** Changing Chapter

heading level (4-digit) : **CTH** Change in Tariff Heading

sub-heading level (6-digit) : **CTSH** Changing Tariff Sub-Heading

item level (8 or 10-digit)



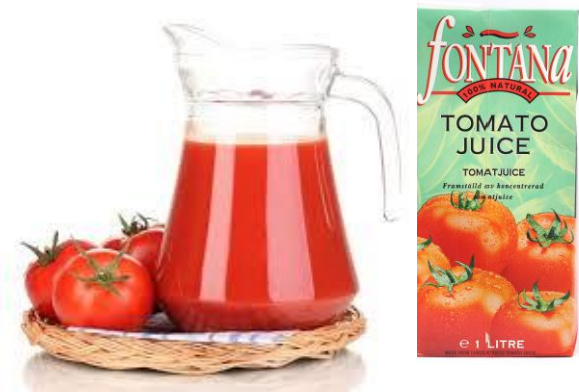
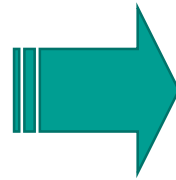
The Harmonized Commodity Description and Coding System generally referred to as "Harmonized System" or simply "HS" is a multipurpose international product nomenclature developed by the World Customs Organization (WCO).

All products (materials, parts, components and final goods) are assigned HS codes for customs identification purposes.

CHANGE IN TARIFF CLASSIFICATION – EXAMPLE - 1



- Change of Chapter (CC)



Tomatoes

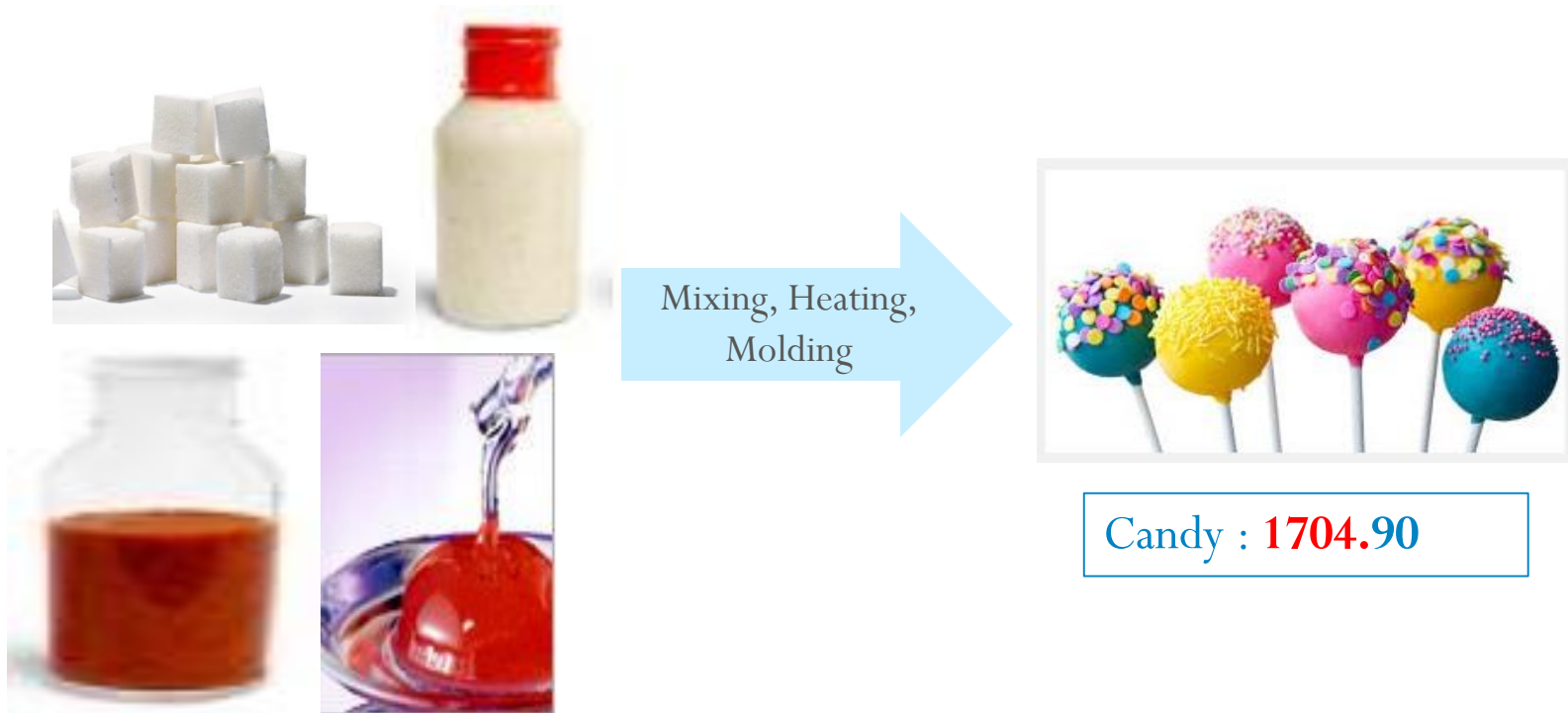
HS Code : **0702.00**

Tomato Juice

HS Code : **2009.50**

CHANGE IN TARIFF CLASSIFICATION – EXAMPLE - 2

- Change of Tariff Heading(CTH)



Sugar(**1701.12**), Flavor(**3302.10**),
color(**3204.11**), syrup(**1702.90**)

CHANGE IN TARIFF CLASSIFICATION – EXAMPLE - 3



- Change of Tariff Subheading(CTSH)



Source: <https://www.topofmycoffee.com/>



Source: <https://www.lazada.com.ph>

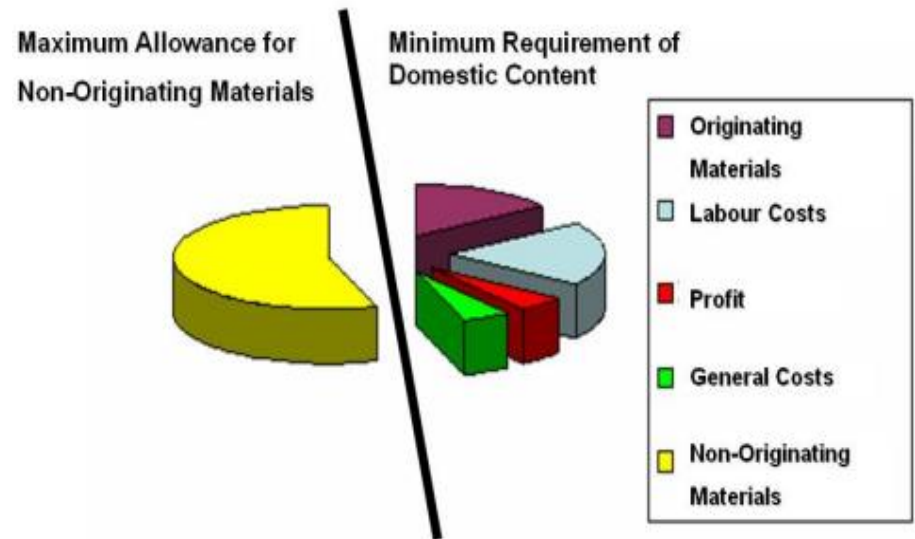
Coffee (unroasted) :
0901.11

Roasted Coffee :
0901.21

AD VALOREM PERCENTAGES (VALUE ADDED CRITERION)

- 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**

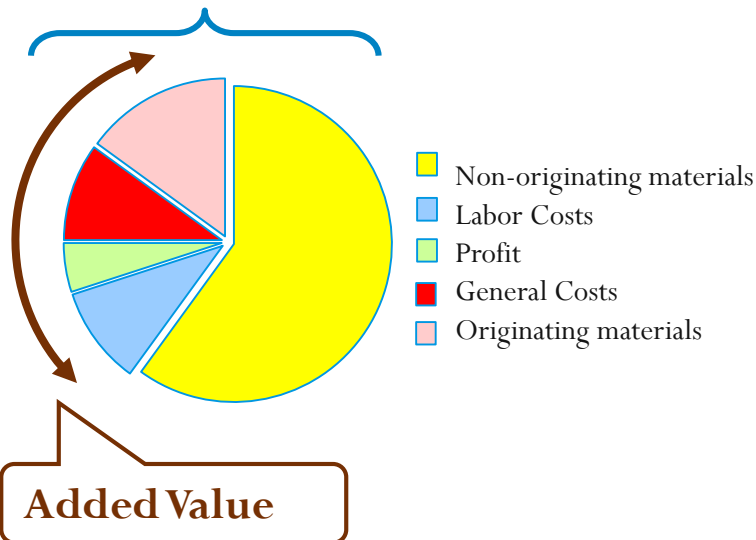


Source: WCO Origin Compendium

AD VALOREM PERCENTAGES (VALUE ADDED CRITERION)

For the calculation of domestic qualifying content, values of non-originating materials (VNM) and FOB prices of the good are used.

Entire pie chart shows
FOB price of the good



Value of non-originating materials used in the production of a good

$$\frac{\text{FOB} - \text{VNM}}{\text{FOB}} \times 100 \geq X\%$$

FOB price of the good

VALUE ADDED – EXAMPLE

PSR for 2008.20:

RVC 40 (that the good must have a regional value content of not less than 40 percent)

Country A



\$40



FOB Price of the goods = \$100

VNM = \$45

$$RVC = \frac{100 - 45}{100} \times 100 = 55\% \geq 40\%$$



Labour Cost
Profit and etc. \$15



\$100

Country B



\$45

SPECIFIC MANUFACTURING OR PROCESSING OPERATIONS



- A criterion of **specific manufacturing or processing operations** (technical requirement)
- Regardless a change in its classification, or the extent of value added, a good is considered substantially transformed when the good has **undergone specified manufacturing or processing operations**
 - Ex: “manufacture from yarn”

SPECIFIC MANUFACTURING OR PROCESSING OPERATIONS

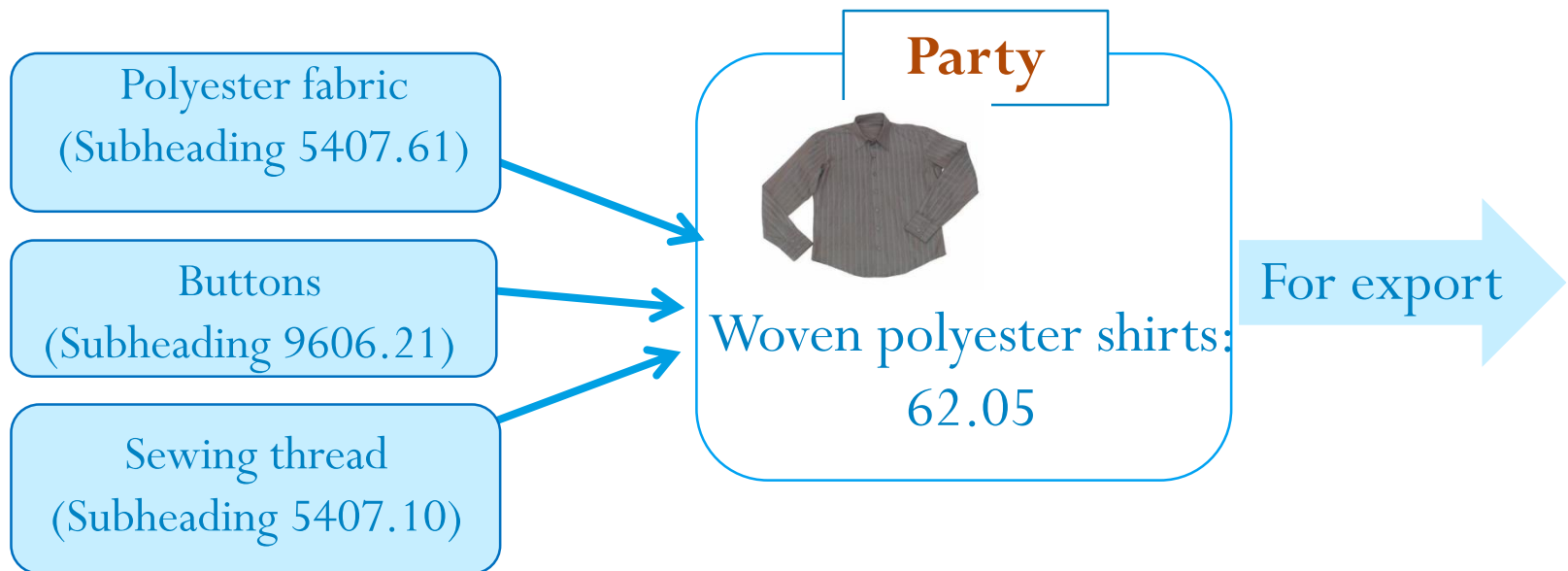


HS Code No.		Description of Goods	Origin Criteria
03.04		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen.	
ex03.04 (a)		- <u>Fish surimi</u>	
ex03.04 (b)		- <u>Fish fillets, fresh, chilled or frozen</u>	[The country of origin of the goods of this split heading shall be the country in which the live fish have been captured - "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)		- <u>Other</u>	

MANUFACTURING OPERATION CRITERION EXAMPLE



Product-specific rules (PSR) for woven polyester shirts of 62.05 :
manufacture from fabric



Manufacturing process including cutting, sewing and making up is done in the exporting party. The PSR requires single transformation from fabrics to garments.

CUMULATION/ACCUMULATION



- Exception to the principle of “originating”
 - Cumulation allow sourcing of “non-originating” materials and counting them as originating
- Cumulation provisions only in preferential rules of origin
- Why is cumulation important?
- What are the requirements for using cumulation provisions?
 - Same rules of origin in FTAs
 - Agreement on mutual administrative assistance

DIFFERENT CATEGORIES OF CUMULATION

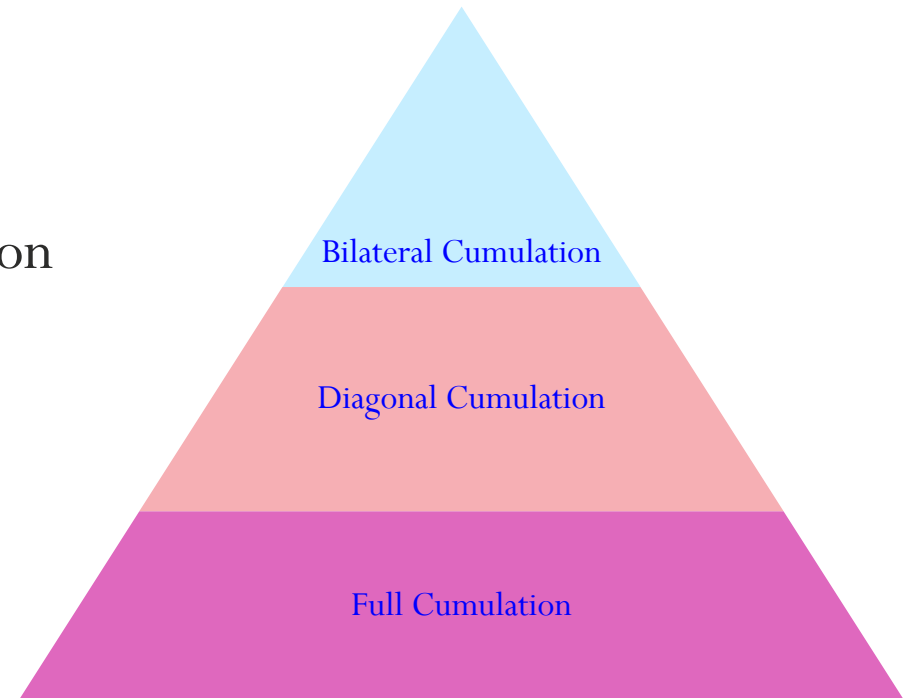


Whose What	Goods (materials)	Production
Parties to the free trade agreement	<p>Category 1 Originating materials of a party to the free trade agreement are treated as originating in another party where the final product is produced.</p>	<p>Category 2 The production in a party to the free trade agreement is treated as if it took place in the other party where the final product is produced.</p>
Other countries with other preferential trade links	<p>Category 3 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.</p>	<p>Category 4 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.</p>

CUMULATION/ACCUMULATION



- Different categories of cumulation/accumulation
 - Bilateral cumulation
 - Regional/Diagonal cumulation
 - Full cumulation
 - Extended cumulation



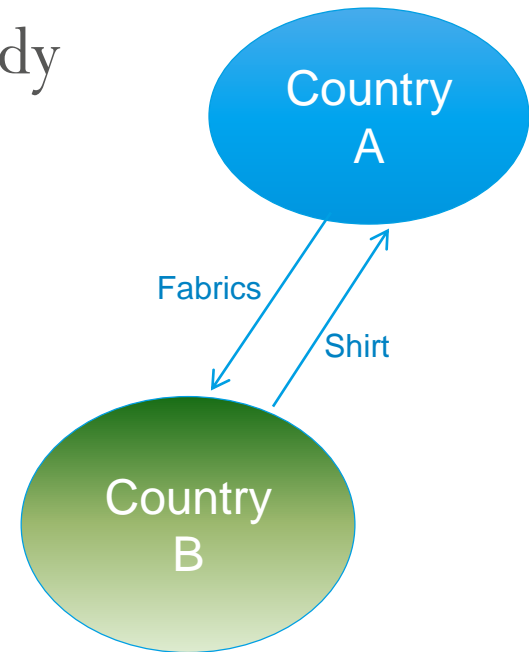
BILATERAL CUMULATION



Applies between contracting parties of a FTA

Allows the use of originating products or materials from the partner country as if they were already originating, cumulation of originating inputs

Originating input from country A is considered to be originating input in country B



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.

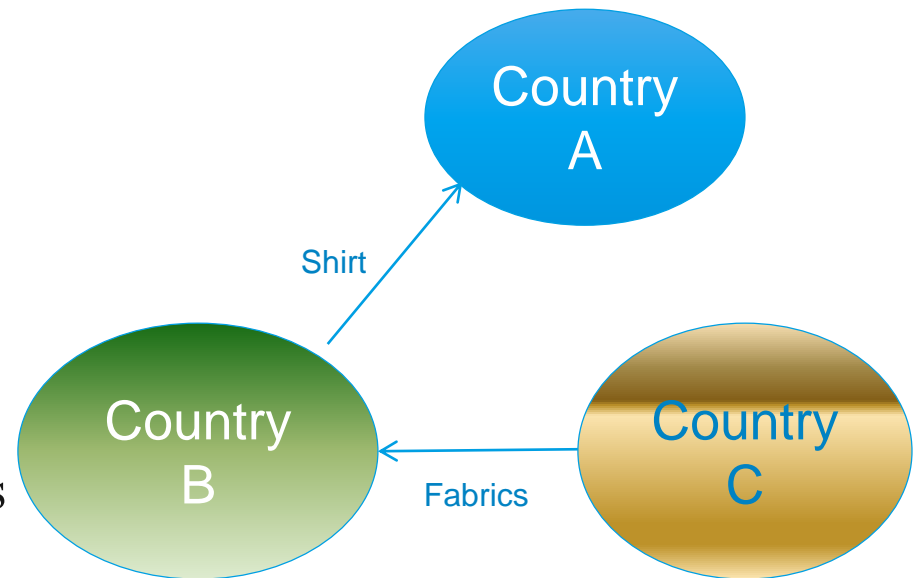
DIAGONAL/REGIONAL CUMULATION



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

The production in a third country is treated as if it took place in the party to the free trade agreement where the final product is produced

Cumulation of originating inputs



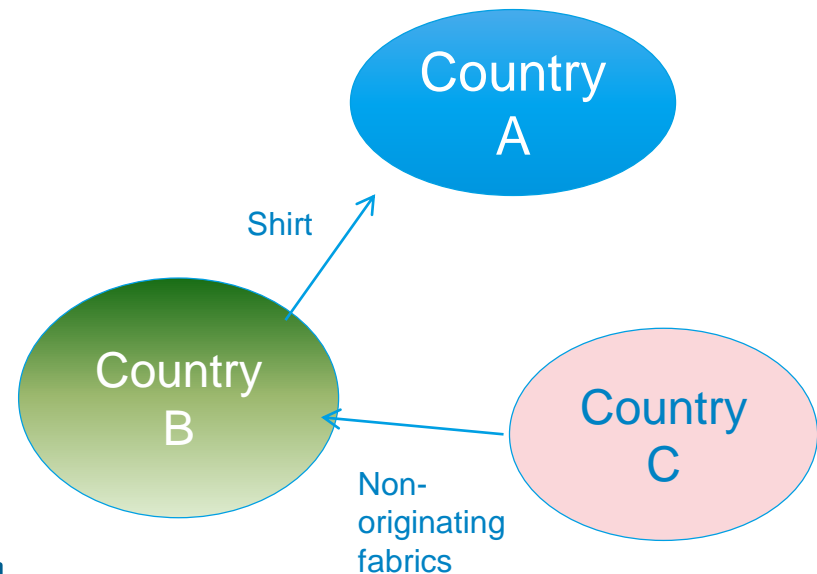
FULL CUMULATION



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



All steps in the manufacturing processes in the three countries are taken into account for origin determination

EXTENDED CUMULATION

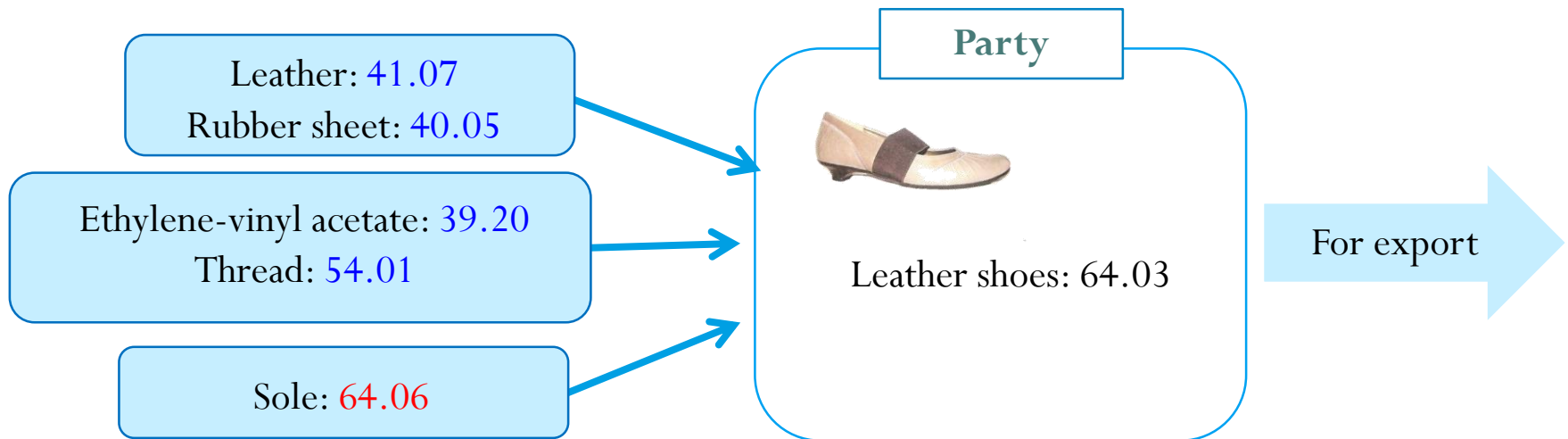


(At the request of the exporting country), materials originating in another (neighboring) country may be considered as originating when incorporated in a product obtained in the exporting country

CUMULATION – PRACTICAL EXAMPLE



PSR for leather shoes of 64.03:
Change of tariff heading except 64.06



If the sole originates in a country counted for cumulation purposes under the preferential scheme, the sole is considered originating in the exporting party.

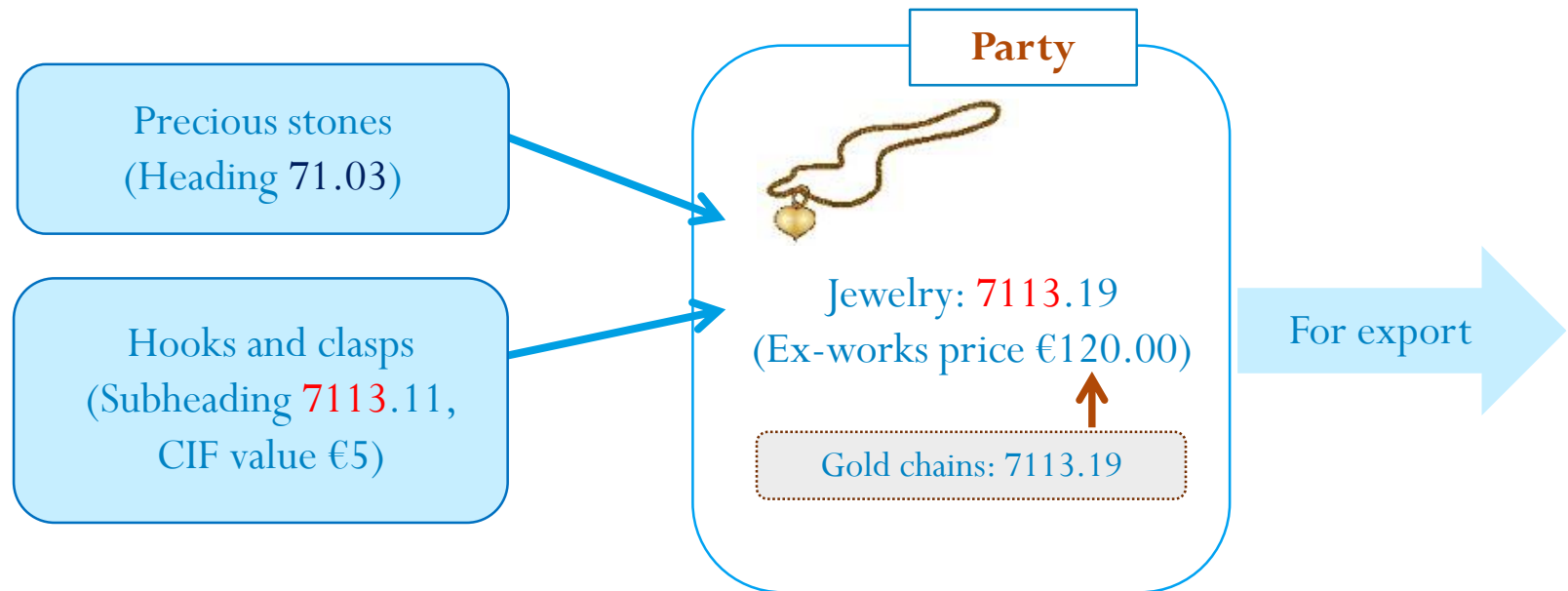
TOLERANCE RULE (DE MINIMIS)



- 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

TOLERANCE RULE (DE MINIMIS) – EXAMPLE

PSR for jewelry of 7113.19 : change of tariff heading (CTH)



If a tolerance of up to 5% of the value of the final product is allowed, the hooks and clasps of non-originating materials which do not satisfy the rule (CTH) can be disregarded

MINIMAL OPERATIONS/ NON-QUALIFYING OPERATIONS



- A reverse form of the specific manufacturing operations
- Specifically identified manufacturing operations that are insufficient to confer origin

<For example>

- a. preserving operations to ensure that a product retains its condition during transportation and storage;
- b. freezing or thawing;
- c. packaging and re-packaging;
- d. washing, cleaning, removing dust, oxide, oil, paint or other coverings;
- e. ironing or pressing of textiles;
- f. colouring, polishing, varnishing, oiling;
- g. husking, partial or total bleaching, polishing and glazing of cereals and rice;
- h. operations to colour sugar or form sugar lumps;
- i. peeling and removal of stones and shells from fruits, nuts and vegetables;
-
- q) slaughter of animals, sorting of meat.

ORIGINATING PRODUCTS: OTHER DEFINITIONS



Unit of qualification

- According to the Harmonized System

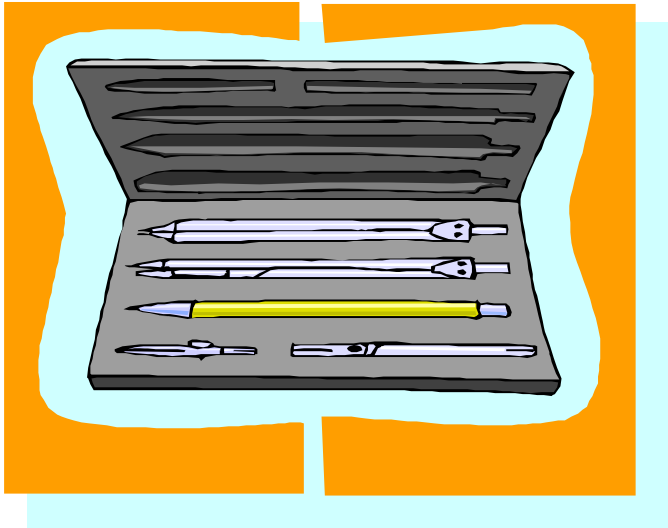
Sets

- According to the Harmonized System

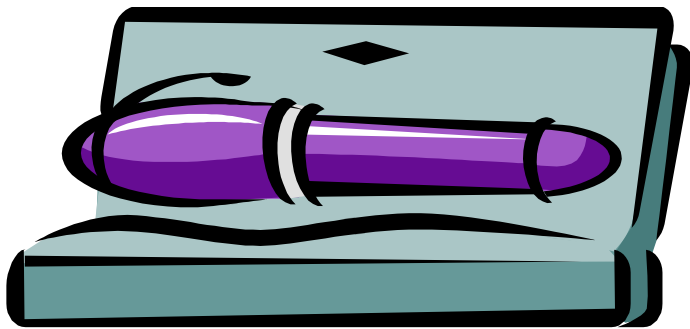
Packing and packaging materials and containers

- 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



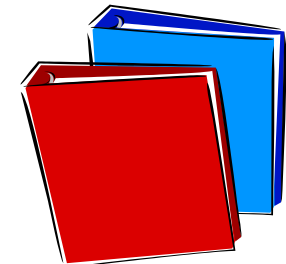
OTHER DEFINITIONS

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



Spare parts
and tools



Instructional
materials

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



Territorial requirements



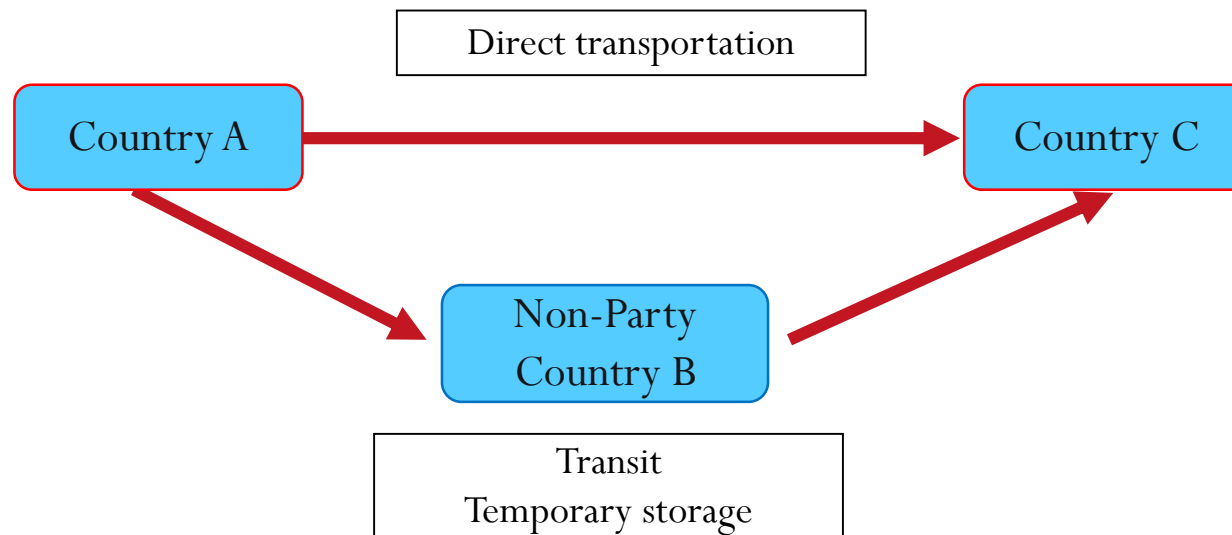
- Principle of territoriality
 - Exported goods that are re-imported are considered as non-originating, unless proof that
 - The goods are the same
 - They have not undergone any operation except for their preservation
- Direct transportation between exporting and importing country
 - Unless proof of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

CONSIGNMENT CRITERIA



Preferential tariff treatment shall be accorded to an originating good need to satisfy consignment criteria

- Direct transportation
- Through third States (non-Party) for the purpose of transit or temporary storage in warehouses



DOCUMENTARY EXAMINATION ON PROOF FOR CONSIGNMENT CRITERIA



In case the goods are transported through one or more non-Parties, submission of transportation documents is required.

<Transportation documents>

- a copy of through bill of lading; or
- a certificate or any other information given by the customs authorities of such non-Parties or other relevant entities, which evidences that goods have not undergone operations other than unloading, reloading or any other operation to preserve them in good condition in those non-Parties.

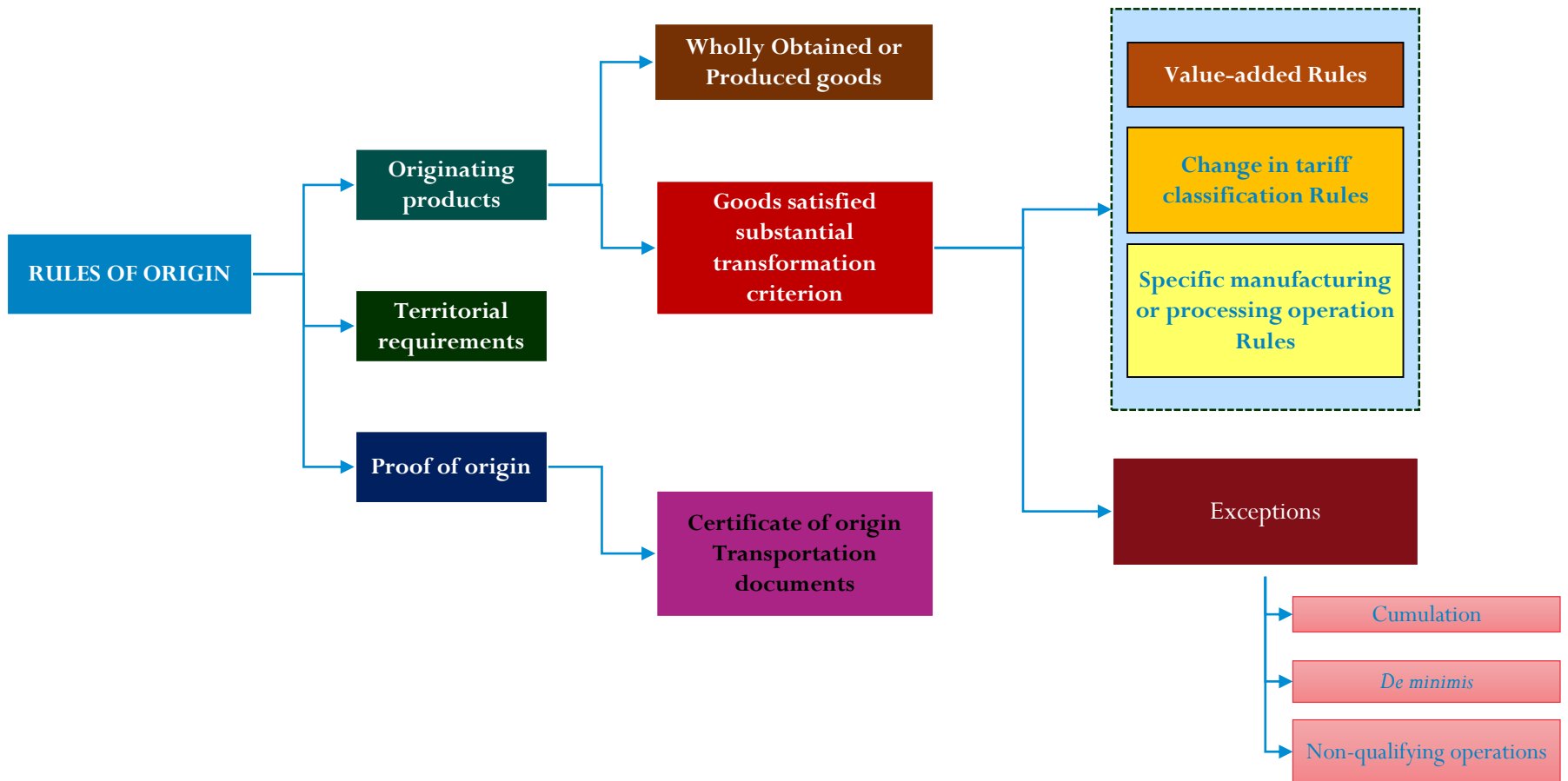


Proof of origin

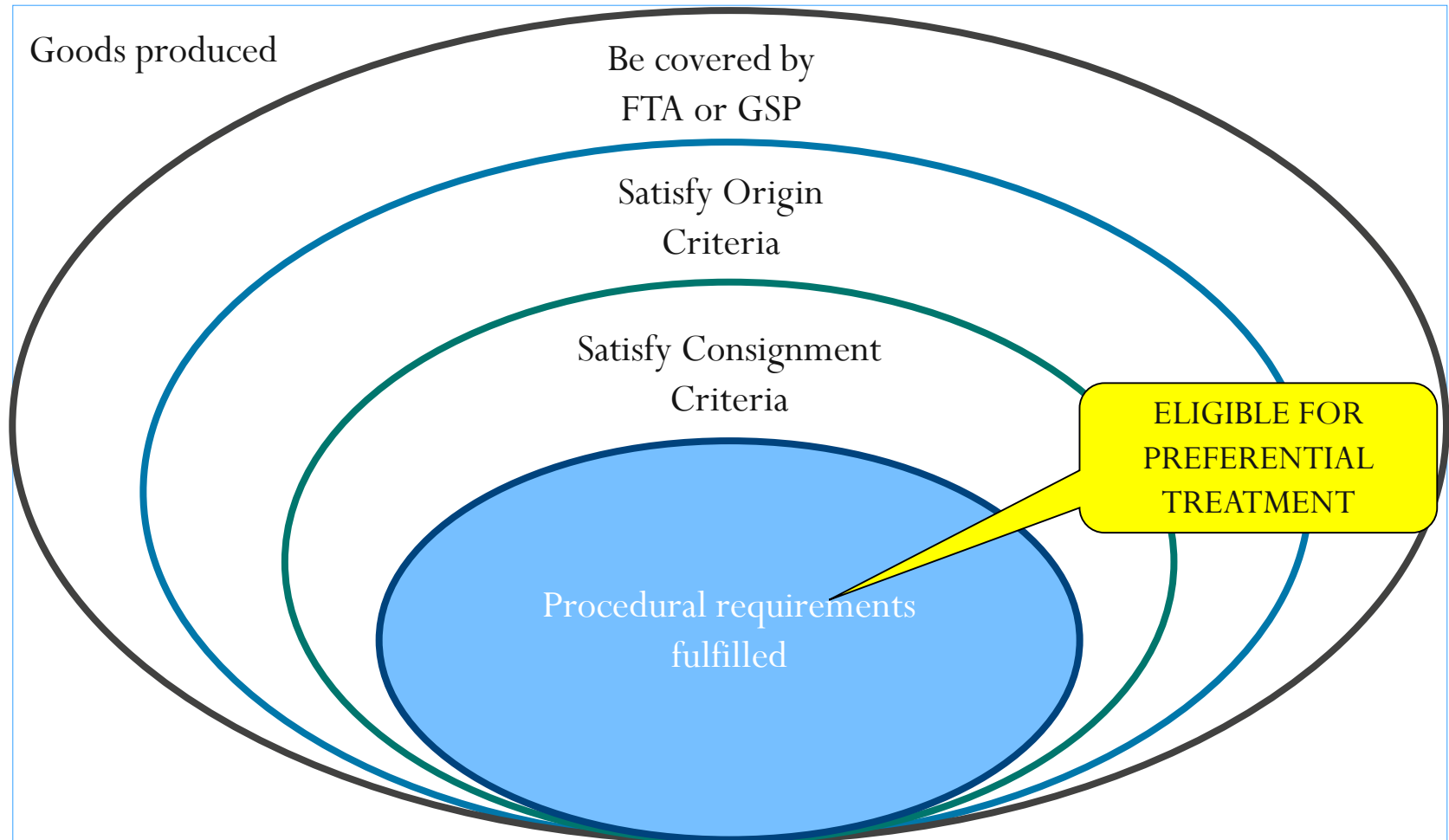


- Preferential origin
 - Need for a proof to claim preferential treatment
 - Paper form, origin declaration, e-certificate, importer declaration....
 - Specific rules relating to proofs are included in the agreement
- Non preferential origin
 - No need for a proof in most cases
 - Proof needed if quotas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

RECAP: GENERAL STRUCTURE OF RULES OF ORIGIN



CONDITIONS FOR PREFERENTIAL TREATMENT



WHERE TO FIND RULES OF ORIGIN



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



Thank you

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