

RULES OF ORIGIN

ISSUE

The Community has been criticized for the manner in which it has applied its rules of origin. These rules have the potential to restrict access for Canadian exports.

BACKGROUND

The principal provisions on rules of origin maintained by the EC are outlined in Regulation 802/68, which provides a general rule of origin when no other specific rule applies to the goods of a given country. This Regulation is used, *inter alia*, in the application of quantitative restrictions and the EC's Common Customs Tariff. This regulation begins with the relatively simple concept of goods which originate *in toto* from a single country. Where two or more countries are involved in the production, the good shall be considered as originating in the country in which the last substantial process or operation, that is economically justified, was performed. To ensure that the "last substantial process" is met, the EC has set out a number of criteria, *inter alia*, that the percentage of value added through the process or operation meets a specific level and that the operation results in a change of tariff heading. Recent EC measures in this area have raised concerns. In 1989, the EC adopted rules of origin for semi-conductors. These are to be treated as non-EC products, irrespective of the level of EC content, if the process of diffusion takes place outside the Community. The aim is to encourage Japanese manufacturers to transfer more technology to the EC. The manner in which the Commission arrived at its conclusions suggests that, in application, the EC determines origin on the basis of the most substantial phase of production rather than the last substantial stage.

EC POSITION

The EC is likely to argue that the complexities of trade and investment patterns have overtaken the rather simplistic approach of the "last substantial transformation" criterion and that greater precision is needed in this area, while, at the same time, continuing to unilaterally develop and apply their own rules.

CANADIAN POSITION

Canada is concerned about the changed application of rules of origin. The adoption of increasingly restrictive rules of origin lends a more protectionist face to the EC's commercial policy, and sends the wrong message to its trading partners. Canada is in favour of arriving at new disciplines for applications of rules of origin under the GATT.