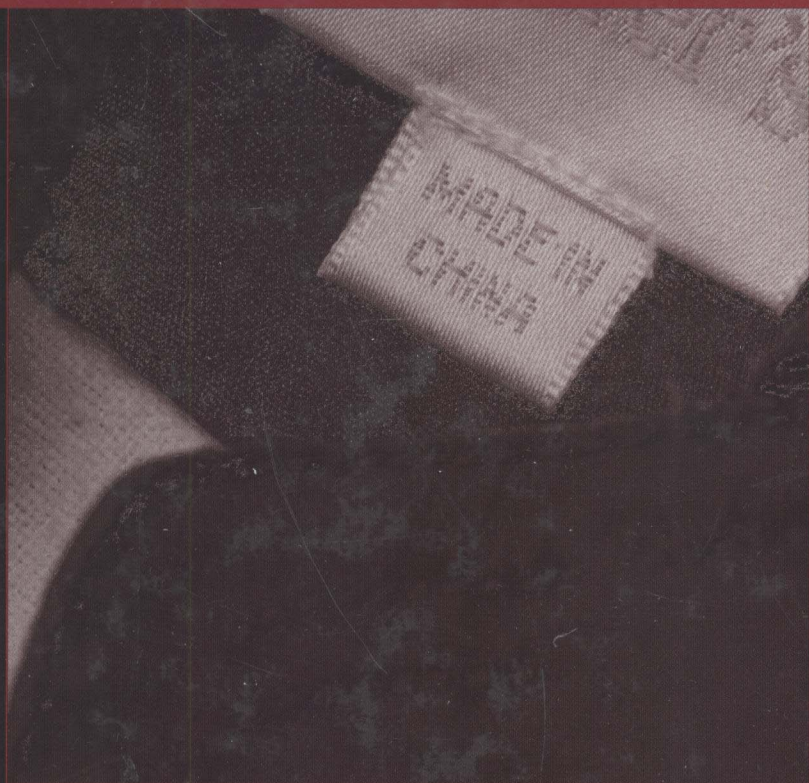


# Rules of Origin in International Trade



Stefano Inama

CAMBRIDGE

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**STEFANO INAMA**



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## **RULES OF ORIGIN IN INTERNATIONAL TRADE**

This book discusses the different aspects of the rules of origin with a multidisciplinary perspective. It offers the first overview of the status of the negotiations on nonpreferential rules of origin under the World Trade Organization (WTO) agreement on rules of origin, after more than 10 years of negotiations, and its possible implications for other WTO Agreements. This book deals extensively with preferential rules of origin both under unilateral trade instruments like the Generalized System of Preferences, the Everything But Arms initiative, and the Africa Growth and Opportunity Act and in free-trade areas. Inama analyzes the experience of the United States and the European Community (EC) in developing the North American Free-Trade Agreement and the Pan-European rules of origin. He also compares and discusses the parallel experiences of the major southern regional trade agreements, including Mercosur, the Association of Southeast Asian Nations (ASEAN), and the ASEAN-China free-trade area, as well as the Common Market for Eastern and Southern Africa, Eastern Africa Community, and Southern Africa Development Community in their negotiations of the European Partnership Agreements with the EC. It discusses the evolution of the different sets of rules of origin, the economics of the rules of origin, and the technical options for drafting rules of origin including a methodology for drafting product-specific rules of origin.

Stefano Inama is a project manager and senior trade and customs expert for the United Nations Conference on Trade and Development. He has extensively advised governments, private sector, and regional trade secretariats on rules of origin negotiations and has regularly been invited to speak on trade issues by universities such as the Bocconi University in Milan, Italy, and Columbia University in New York, as well as by international organizations.

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## Acronyms

Acronym	Definition
ACFTA	ASEAN-China Free-Trade Area
ACP	African, Caribbean, and Pacific
AD	antidumping
ADA	Antidumping Agreement
AFIS	Antifraud Information System
AFTA	ASEAN Free-Trade Area
AGOA	African Growth and Opportunity Act
ALADI	Asociacion Latino Americana de Integracion
ARO	Agreement on Rules of Origin
ASCM	Agreement on Subsidies and Countervailing Measures
ASEAN	Association of Southeast Asian Nations
ATC	Agreement on Textiles and Clothing
BTN	Brussels Tariff Nomenclature
CACM	Central American Common Market
CAFTA	Central American Free-Trade Area
CAFTA-DR	CAFTA-Dominican Republic
CARICOM	Caribbean Common Market
CBI	Caribbean Basin Initiative
CBP	Customs and Border Protection (U.S.)
CC	change of chapter
CCC	Community Customs Code
CC Committee	Customs Cooperation Committee
CCCN	Council Cooperation Customs Nomenclature
CCRA	Canada Customs and Revenue Agency
CEEC	Central and Eastern European Countries
CEFTA	Central European Free-Trade Agreement
CEPT	Common Effective Preferential Tariff
CIF	cost insurance and freight

CIS	Customs Information System
CITA	Committee for the Implementation of the Textiles Agreements
COMESA	Common Market for Eastern and Southern Africa
CPA	Cotonou Partnership Agreement
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-U.S. Free-Trade Area
DC	developing country
DFQF	Duty-Free Quota-Free (Initiative)
DRAM	dynamic random-access memory
DSU	Dispute Settlement Understanding
DTI	Department of Trade and Industry
EAC	East Africa Community
EBA	Everything But Arms (Initiative)
EC	European Community
ECJ	European Court of Justice
ECSC	European Coal and Steel Community
EEA	European Economic Area
EEC	European Economic Community
EEZ	exclusive economic zone
EFTA	European Free-Trade Area
EPA	Economic Partnership Agreement
EPROM	erasable programmable read-only memory
ESA	Eastern and Southern Africa
EWS-C	Early Warning System for Customs
EWS-E	Early Warning System for Excise
FAO	Food and Agricultural Organization
FDI	Foreign Direct Investment
FOB	Free On Board
FPA	Fisheries Partnership Agreements
FTA	free-trade area
GAAP	generally accepted accounting principles
GATT	General Agreement on Tariffs and Trade
GC	General Council
GIR	General Interpretation Rule
GPT	General Preferential Tariff
GSP	Generalized System of Preferences
HIC	high-income country
HRO	Harmonized Rules of Origin

HS	Harmonized System
HTS	Harmonized Tariff Schedule
HTSUS	Harmonized Tariff Schedule of United States
HWP	Harmonization Work Program
ISIC	International Standard Industrial Classification
LDC	least-developed country
LDCT	LDC tariff
MARSUR	Maritime Surveillance
MFN	most-favored nation
MMTZ	Malawi, Mozambique, Tanzania, and Zambia
NAFTA	North American Free-Trade Agreement
OCT	overseas countries and territories
OCU	Operations Control Unit
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
QUAD	quadrilateral countries (the EC, United States, Japan, and Canada)
RBM	ring-binder mechanism
RMG	ready-made garment
RTA	regional trade agreement
RVC	regional value content
SAARC	South Asian Association for Regional Cooperation
SACU	South African Customs Union
SADC	Southern Africa Development Community
SME	square-meter equivalent
SPS	sanitary and phytosanitary
SSA	sub-Saharan African (country)
TAXUD	Taxation and Customs Union Directorate-General (European Commission)
TCRO	Technical Committee on Rules of Origin
TDCA	Trade and Development Cooperation Agreement
TRIP	trade-related aspects of intellectual property (rights agreement)
UNCTAD	United Nations Conference on Trade and Development
UNIDO	United Nations Industrial Development Organization
URAA	Uruguay Round Agreements Act
USTR	U.S. Trade Representative
VAR	value-added rule
WAEMU	West African Economic and Monetary Union
WCO	World Customs Organization
WITS	World Integrated Trade Solutions
WTO	World Trade Organization

## Preface

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 antidumping (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 20 years later, the World Trade Organization Agreement on rules of origin started the Harmonization Work Program of nonpreferential rules of origin. 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.

Stefano Inama (June 2008)

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