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**Preliminary UNICE Comments on the on-going WCO negotiations
on non-preferential rules of origin**

1. Introduction

- 1.1. During the past two years UNICE has followed with interest the negotiations taking place in the World Customs Organisation (WCO) Technical Committee on non-preferential rules of origin. These negotiations are due to be completed by 1 July 1998.
- 1.2. Primarily its interest concerns the horizontal aspects of this issue and UNICE is therefore examining the compatibility of the results of the negotiations with the objectives formulated in the preamble to the WTO Agreement on Rules of Origin concluded during the Uruguay Round negotiations.

2. Clear and predictable origin rules are in the interests of European business and international trade

- 2.1. The objectives of these negotiations aim at setting up origin rules that are clear and predictable, applied in an impartial, transparent, consistent and neutral manner. UNICE strongly supports these objectives, as it did during the Uruguay Round negotiations.
- 2.2. Moreover UNICE has always endorsed the principles set out in the Agreement on Rules of Origin which says that origin is given to a product "*wholly obtained or with minimal operations or processes*" or which has undergone "*substantial transformation either by change in tariff classification or by supplementary criteria including ad-valorem percentages*" (Part IV, Article 9, section 2c).

3. Difficulties to set-up world-level harmonised rules of origin

- 3.1. However, from the start of the negotiations it was clear that it would be extremely difficult to meet these objectives when using the above-mentioned techniques of change in tariff heading supported by supplementary criteria such as value added or manufacturing processing operations.
- 3.2. Difficulties encountered by WCO in drafting non-preferential rules of origin in line with WTO's mandate appear to be occasioned principally by:
 - . the consideration given by some national delegations to the political implications (legitimate interest of states) as compared with examination of purely technical criteria;
 - . the absence of a voting procedure to settle matters when no consensus can be reached.

3.3. UNICE considers that WTO should give WCO more precise guidelines to achieve the objectives which it has been set, giving priority to examination of technical criteria and authorising recourse to voting in impasse situations.

4. Complexity and uniformity of rules of origin

4.1. Although it can be expected that a complete set of origin rules will take many more years to develop, UNICE is of the opinion that the rules formulated thus far give rise to serious doubts about the present negotiating format for achieving the pursued objectives. Insofar as the rules relate to simple working or processing it is not too difficult to demonstrate that goods have acquired origin. The majority of working or processing, however, is complex and must comply with complex origin rules. As a consequence it will require operators to administer in closer detail the inputs used in working or processing in order to be able to demonstrate to the authorities that the goods have acquired origin.

4.2. UNICE considers that the situation is rendered even more difficult for operators to administer because of the impact of these rules of origin on product markings ("made in...").

In this regard the obligations arising from the WTO agreement on rules of origin prompt Member States of the European Union and the Commission to be particularly attentive to the following problems:

- . in accordance with the principle of uniformity, there should be a "*good match*" between the provisions on origin currently being negotiated within WCO as part of the WTO harmonisation programme and the highly specific objectives in the particular areas of markings;
- . conformity of the rules of origin which currently exist at Community or national level (international trade, markings) with the provisions of article 2.2 of the WTO agreement which require Members not to apply to imported or exported products rules which are stricter than those in force for national products;
- . whether or not it would be appropriate to put in place a Community legal mechanism enabling the EU to guarantee vis-à-vis WTO that the principle of uniformity laid down in the WTO agreement will be adhered to after the WCO negotiations.

5. Changes in international trade

5.1. Since the negotiations started many changes in international trade have taken place. The results of the Uruguay Round as well as the International Technology Agreement have resulted in reduced tariffs, and even elimination in some cases, and further tariff negotiations are under consideration. Thus, the scope of origin rules is diminishing except for specific cases such as application of anti-dumping instrument and other trade-policy instruments.

5.2. Added to these trade policy developments UNICE notices a further globalising world economy in which electronic trade will enable small and medium enterprises to join. This will require further trade facilitation that is at odds with complex rules of origin.

5.3. UNICE believes that nowadays a wide consensus exists between the main trading partners on the subject of simplification of non-preferential rules of origin.

6. Conclusion: possible alternative solutions ?

6.1. Therefore in the light of developments in international trade, UNICE calls on the parties involved in implementation of the agreement on origin rules to find possible new forms of negotiations along the lines of the Marrakesh Agreement in order to:

- . avoid imposing on economic operators disproportionate administrative costs;
- . avoid creating unnecessary obstacles to international trade;
- . facilitate formalities to allow for future technical progress and the creation of new products.

6.2. UNICE is ready to reflect on the issues raised in this document with the EU institutions and particularly Community negotiators in the WCO in order to find solutions which address the justified concerns of economic operators.
