



**World Customs  
Organization**

# Technical issues – Key Concepts

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**Knowledge Academy for Customs and Trade**

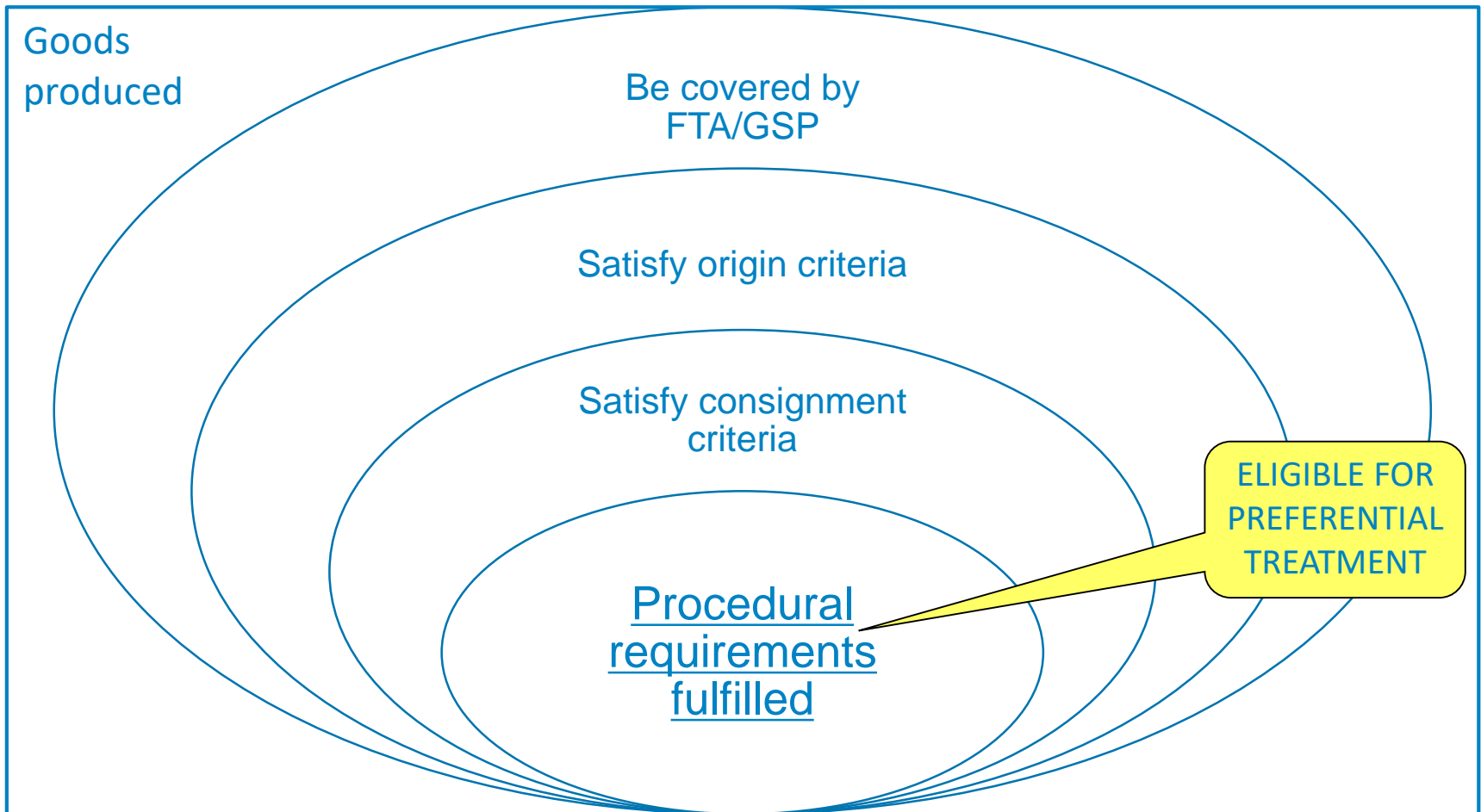
Brussels, Belgium 30 June 2022

# CONTENTS

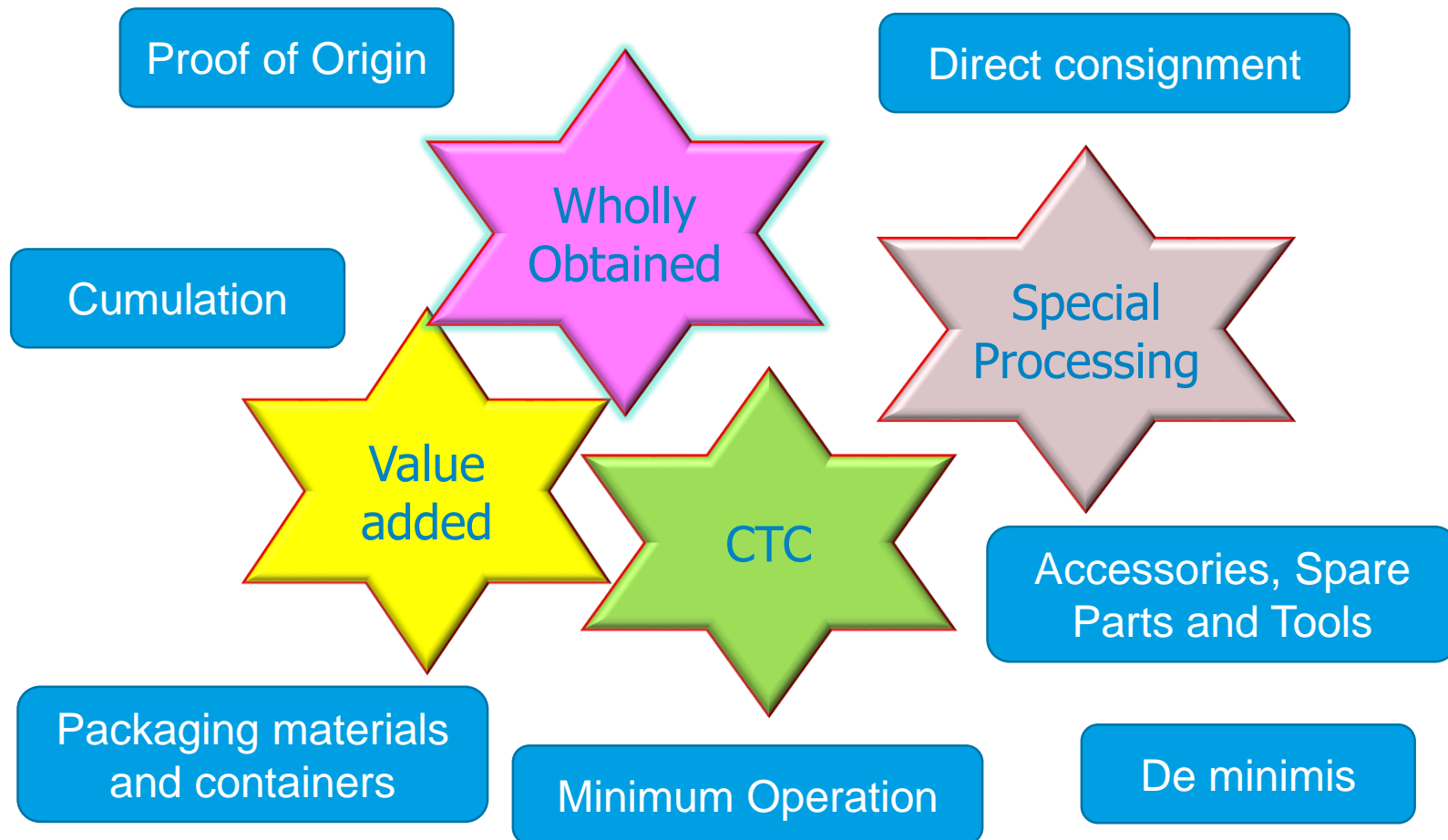


- Conditions for Preferential Treatment
- Definitions
- ROO
  - Wholly Obtained Goods
  - Substantial Transformation (CTC, VA, SP)
- Exceptions
  - Cumulation/Accumulation
  - Tolerance Rule (De Minimis)
  - Minimal Operations/Non–Qualifying Operation
- Other Definitions
- Consignment Criteria/Proof of Origin

# When can a proof of origin be obtained for preferential purpose?



# Definition



# RULES OF ORIGIN



- 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.
  - 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

# WHOLLY OBTAINED GOODS



- Goods naturally occurring in a given country
- Live animals born and raised in a given country
- Plants harvested in a given country
- Minerals extracted or taken in a given country
- Etc.

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

# WHOLLY OBTAINED GOODS

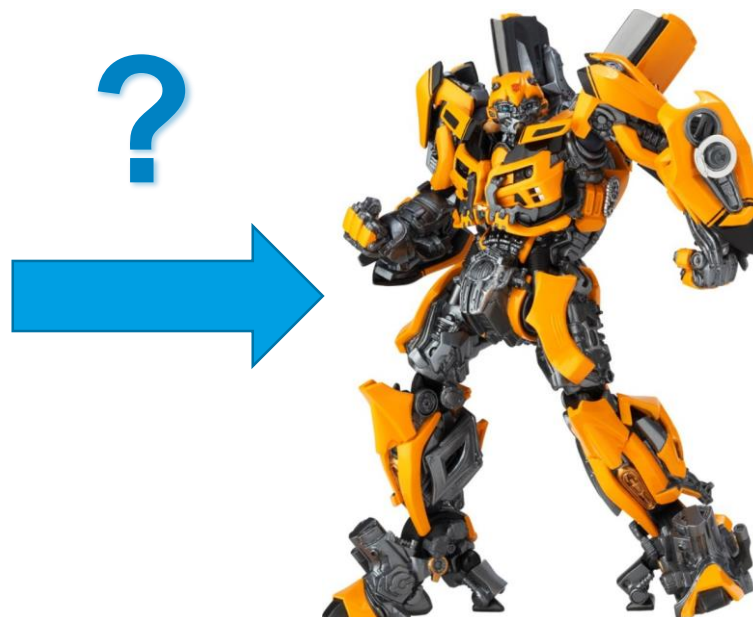


Source: Fotoakuten.se

1006, Rice: “Manufacture in which all the materials of Chapter 10 used are wholly obtained”

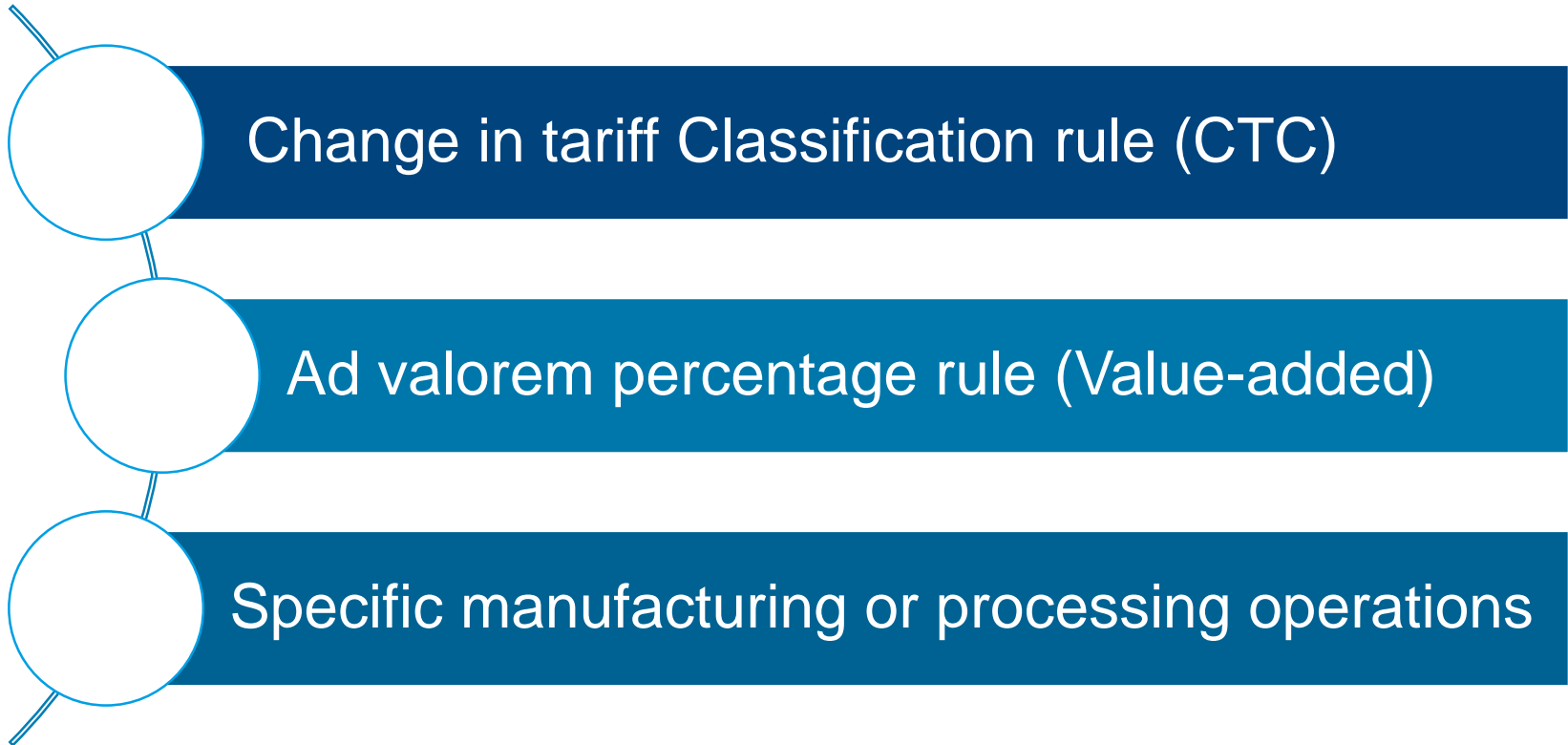


# SUBSTANTIAL TRANSFORMATION?





# 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.
- In applying the substantial transformation criterion, use should be made of the International Convention on the Harmonized Commodity Description and Coding System.

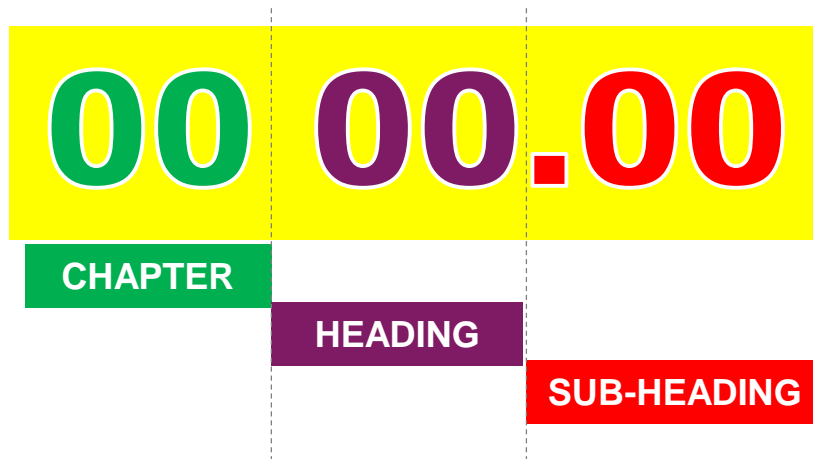
The Harmonized Commodity Description and Coding System generally referred to as "Harmonized System" or simply "HS" is a multipurpose international product nomenclature developed by the World Customs Organization (WCO).

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

# CHANGE IN TARIFF CLASSIFICATION



- How the tariff classification changes?



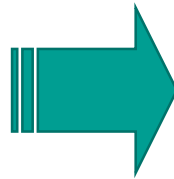
**CC – Change in Chapter**  
Chapter level (2-digit)

**CTH – Change in Tariff Heading**  
Heading level (4-digit) – *most commonly applied*

**CTSH – Change in Tariff Subheading**  
Sub-Heading (6-digit) – sub division of heading

# CHANGE IN TARIFF CLASSIFICATION – EXMAPLE 1

- Change of Chapter (CC)



Tomatoes  
HS Code : **07**02.00

Tomato Juice  
HS Code : **20**09.50

# CHANGE IN TARIFF CLASSIFICATION – EXMAPLE 2

- Change of Tariff Heading(CTH)



Mixing, Heating,  
Molding



Candy : **1704.90**

Sugar(**1701.12**), Flavor(**3302.10**),  
color(**3203.11**), syrup(**1702.90**)

# CHANGE IN TARIFF CLASSIFICATION – EXMAPLE 3

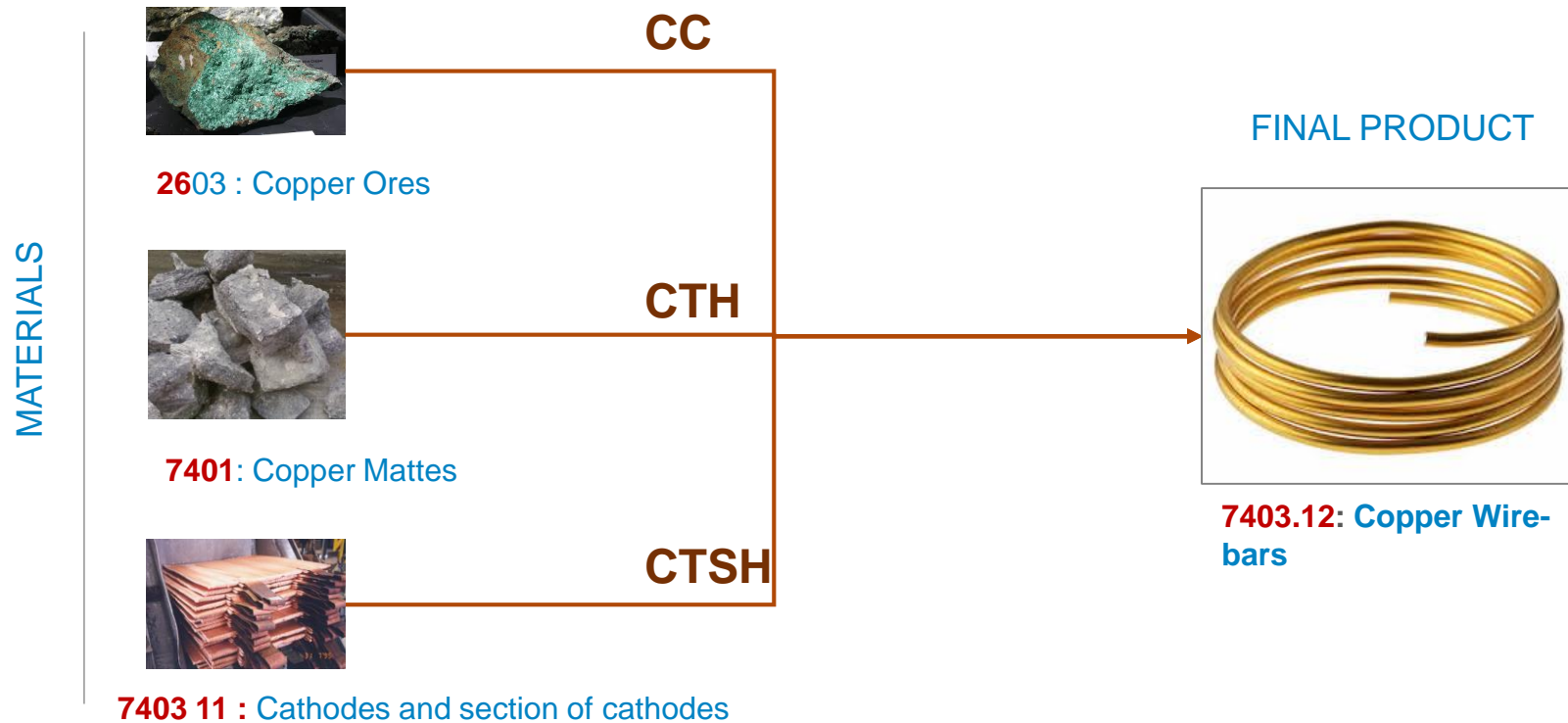
- Change of Tariff Subheading(CTSH)



Coffee (unroasted) :  
**0901.11**

Roasted Coffee :  
**0901.21**

# CHANGE IN TARIFF CLASSIFICATION – EXMAPLE 4



*Change of chapter (CC) rules are the most stringent, as all of the non-originating materials of the product should be classifiable in chapters other than that in which the final product is classified.*



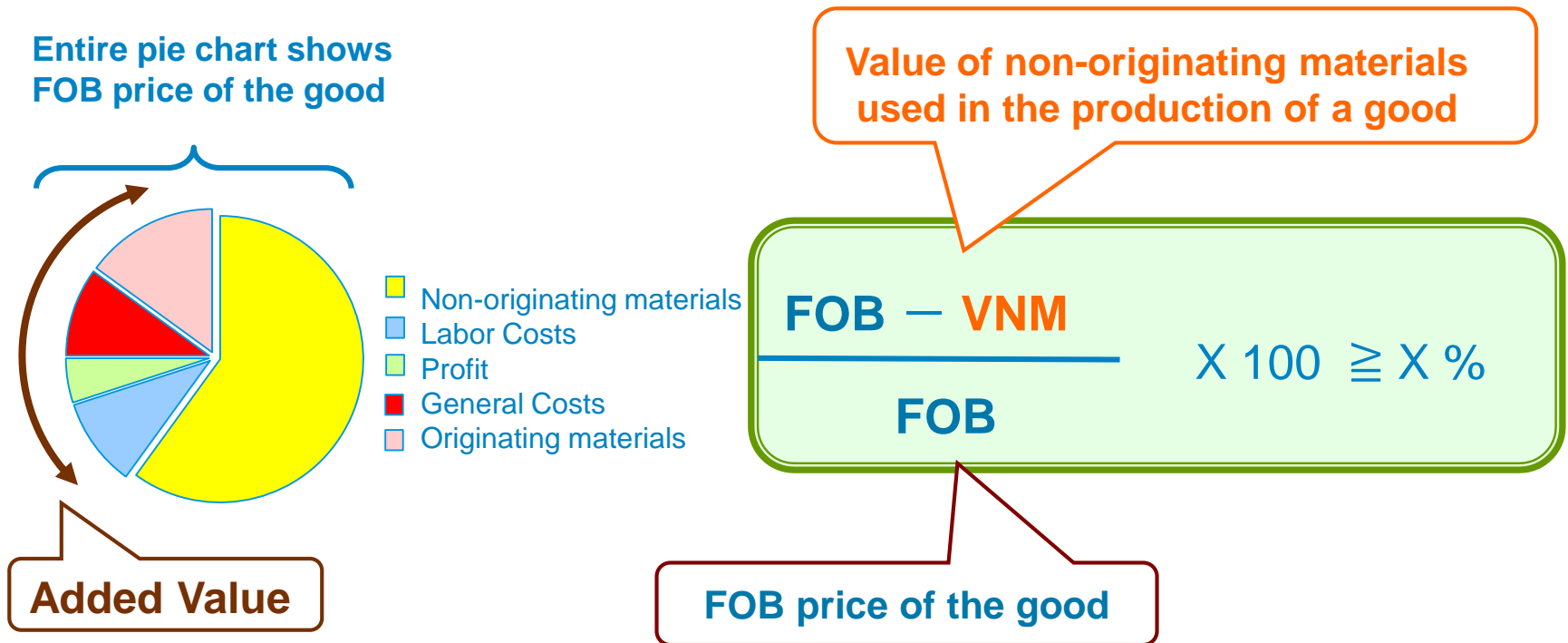
# AD VALOREM PERCENTAGES (VALUE ADDED CRITERION)



- 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 way,
  - A maximum allowance for non-originating materials or
  - A minimum requirement of domestic content

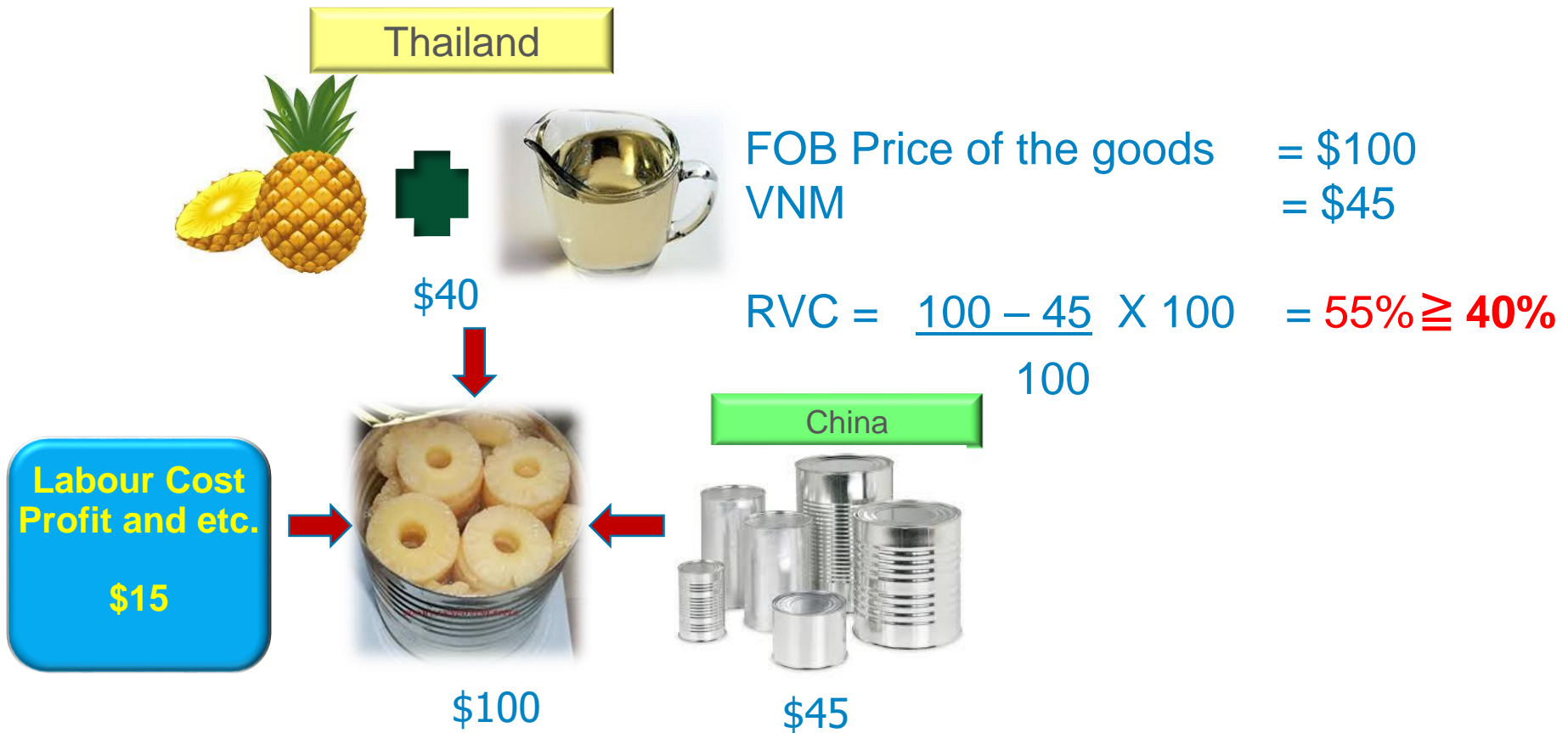
# AD VALOREM PERCENTAGES (VALUE ADDED CRITERION)

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



# VALUE ADDED – EXAMPLE 1

PSR for 2008.20: RVC40 means that the good must have a regional value content of not less than **40** percent



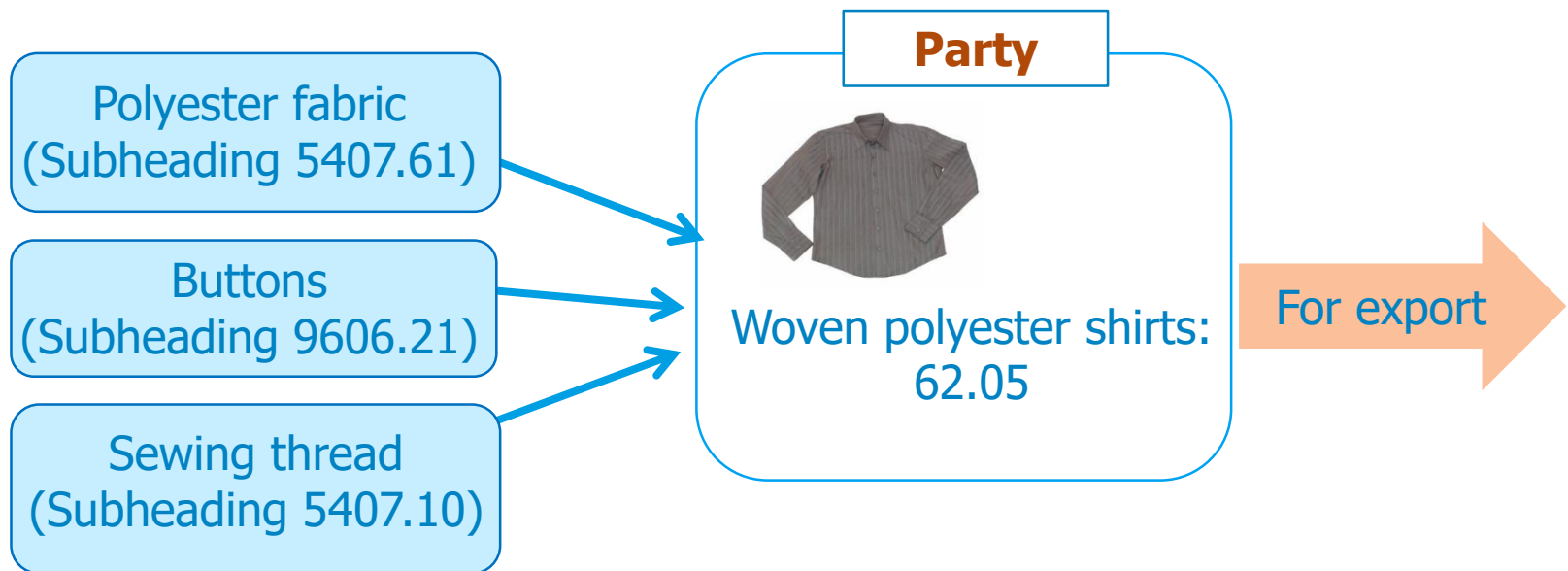
# SPECIFIC MANUFACTURING OR PROCESSING OPERATIONS



- Regardless a change in its classification, a good is considered substantially transformed when the good has undergone specified manufacturing or processing operations
- So-called “Ottawa-type” rule
- Ex: “manufacture from yarn”

# MANUFACTURING OPERATION CRITERION - EXAMPLE

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” (list rules versus cumulation)
- Cumulation provisions only in preferential rules of origin
- The importance of cumulation
- What are the requirements for using cumulation provisions?
  - Same rules of origin in FTAs
  - Agreement on mutual administrative assistance

# CUMULATION/ACCUMULATION



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



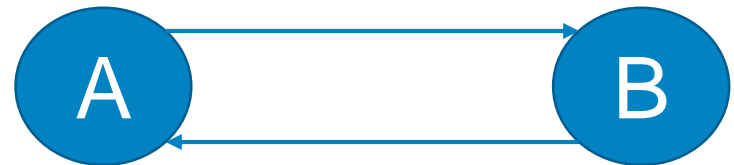
# BILATERAL CUMULATION



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



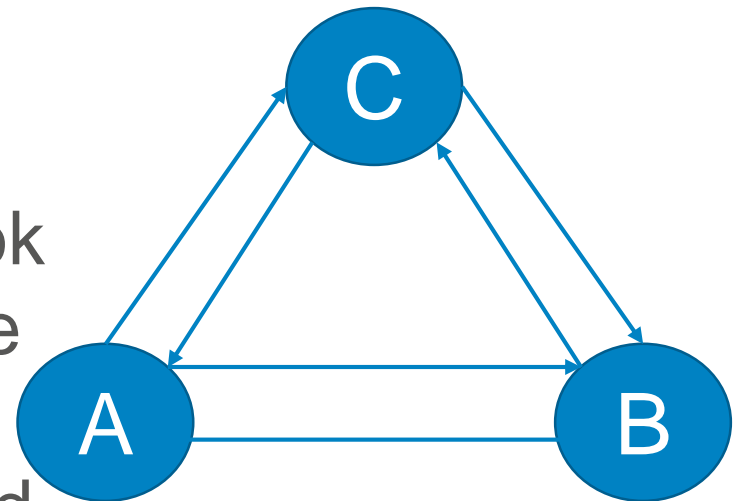
Source: WCO Origin Compendium

# DIAGONAL/REGIONAL CUMULATION



Originating materials of a third country (not a party to FTA) are treated as originating in a party to the free trade agreement

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



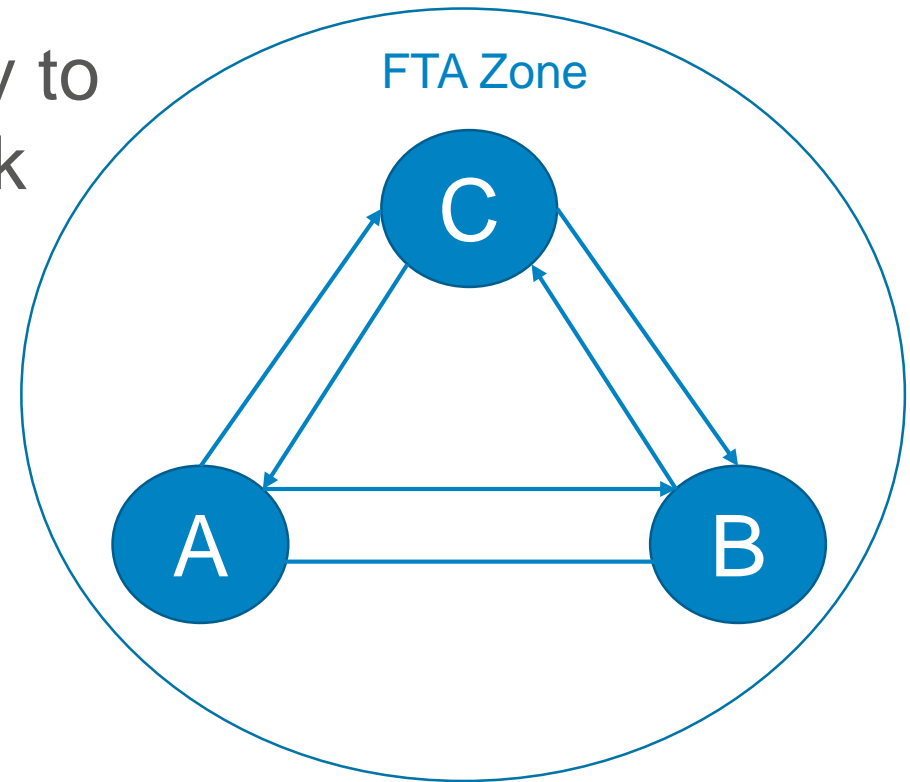
Source: WCO Origin Compendium

# FULL CUMULATION

Applies between contracting parties of a FTA

The production in a party to FTA is treated as if it took place in the other party where the final product is produced

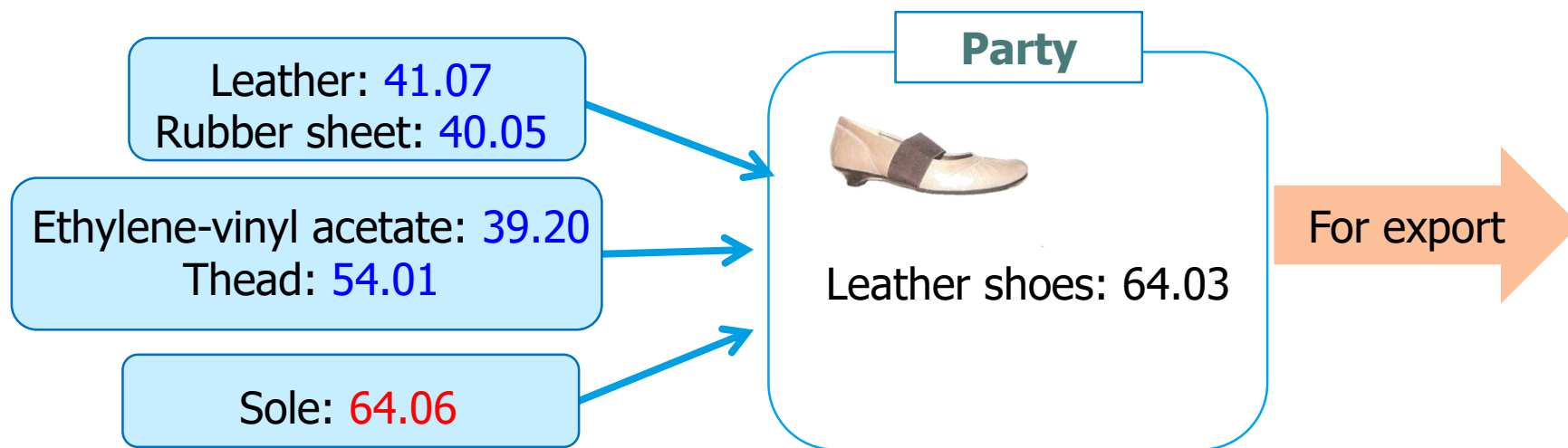
All steps in the manufacturing processes in the three countries shall be taken into account for origin determination. Inputs do not have to be originating before being exported from one Party to another for transformation or processing



Source: WCO Origin Compendium

# CUMULATION 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.*

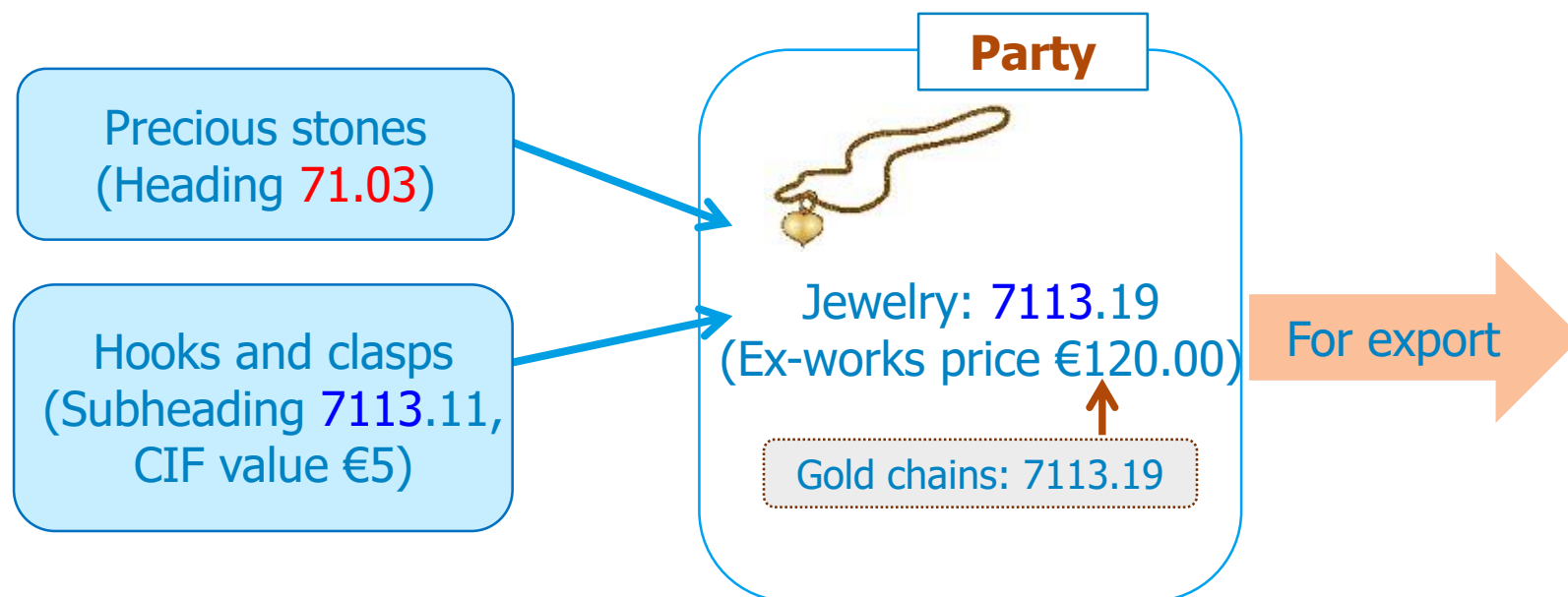
# TOLERANCE RULE (DE MINIMIS)



- 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



# OTHER DEFINITIONS



## Unit of qualification

- According to the Harmonized System

## Sets

- According to the Harmonized System

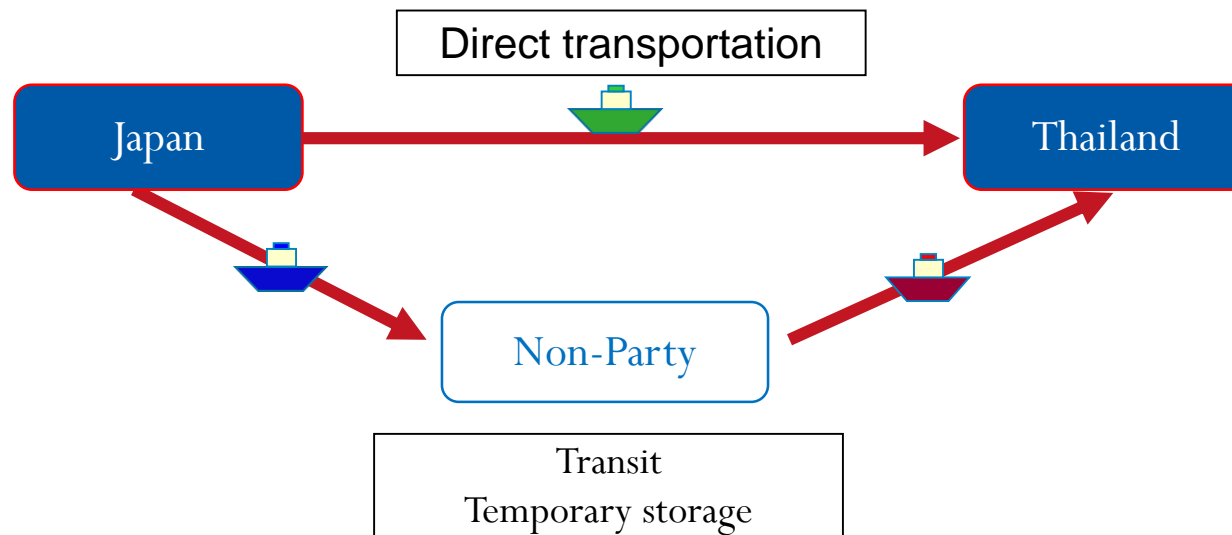
## Packing and packaging materials and containers

- 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

# CONSIGNMENT CRITERIA

Preferential tariff treatment shall be accord 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

# WHERE TO FIND RULES OF ORIGIN



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



# Thank you

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