Annex 311: Country of Origin Marking

1. The Parties shall establish by January 1, 1994, rules for determining whether a good is a good of a Party ("Marking Rules") for purposes of this Annex, Annex 300-B and Annex 302.2, and for such other purposes as the Parties may agree.

2. Each Party may require that a good of another Party, as determined in accordance with the Marking Rules, bear a country of origin marking, when imported into its territory, that indicates to the ultimate purchaser of that good the name of its country of origin.

3. Each Party shall permit the country of origin marking of a good of another Party to be indicated in English, French or Spanish, except that a Party may, as part of its general consumer information measures, require that an imported good be marked with its country of origin in the same manner as prescribed for goods of that Party.

4. Each Party shall, in adopting, maintaining and applying any measure relating to country of origin marking, minimize the difficulties, costs and inconveniences that the measure may cause to the commerce and industry of the other Parties.

5. Each Party shall:

   (a) accept any reasonable method of marking of a good of another Party, including the use of stickers, labels, tags or paint, that ensures that the marking is conspicuous, legible and sufficiently permanent;

   (b) exempt from a country of origin marking requirement a good of another Party that

      (i) is incapable of being marked,

      (ii) cannot be marked prior to exportation to the territory of another Party without causing injury to the goods,

      (iii) cannot be marked except at a cost that is substantial in relation to its customs value so as to discourage its exportation to the territory of the Party,

      (iv) cannot be marked without materially impairing its function or substantially detracting from its appearance,

      (v) is in a container that is marked in a manner that will reasonably indicate the good's origin to the ultimate purchaser,

      (vi) is a crude substance,
(vii) is imported for use by the importer and is not intended for sale in the form in which it was imported,

(viii) is to undergo production in the territory of the importing Party by the importer, or on its behalf, in a manner that would result in the good becoming a good of the importing Party under the Marking Rules,

(ix) by reason of its character, or the circumstances of its importation, the ultimate purchaser would reasonably know its country of origin even though it is not marked,

(x) was produced more than 20 years prior to its importation,

(xi) was imported without the required marking and cannot be marked after its importation except at a cost that would be substantial in relation to its customs value, provided that the failure to mark the good before importation was not for the purpose of avoiding compliance with the requirement,

(xii) for purposes of temporary duty-free admission, is in transit or in bond or otherwise under customs administration control,

(xiii) is an original work of art, or

(xiv) is provided for in subheading 6904.10, or heading 8541 or 8542.

6. Except for a good described in subparagraphs 5(b)(vi), (vii), (viii), ix), (x), (xii), (xiii) and (xiv), a Party may provide that, wherever a good is exempted under subparagraph 5(b), its outermost usual container shall be marked so as to indicate the country of origin of the good it contains.

7. Each Party shall provide that:

(a) a usual container imported empty, whether or not disposable, shall not be required to be marked with its own country of origin, but the container in which it is imported may be required to be marked with the country of origin of its contents; and

(b) a usual container imported filled, whether or not disposable,

(i) shall not be required to be marked with its own country of origin, but

(ii) may be required to be marked with the country of origin of its contents, unless the contents are marked with their country of origin and the container can be readily opened for inspection of the contents, or the marking of the contents is clearly visible through the container.
8. Each Party shall, wherever administratively practicable, permit an importer to mark a good of a Party subsequent to importation but prior to release of the good from customs control or custody, unless there have been repeated violations of the country of origin marking requirements of the Party by the same importer and that importer has been previously notified in writing that such good is required to be marked prior to importation.

9. Each Party shall provide that, except with respect to importers that have been notified under paragraph 8, no special duty or penalty shall be imposed for failure to comply with country of origin marking requirements of that Party, unless the good is removed from customs custody or control without being properly marked, or a deceptive marking has been used.

10. The Parties shall cooperate and consult on matters related to this Annex, including additional exemptions from a country of origin marking requirement, in accordance with Article 513 (Customs Procedures - Working Group and Customs Subgroup).

11. For purposes of this Annex:

   - **conspicuous** means capable of being easily seen with normal handling of the good or container;
   - **customs value** means the value of a good for purposes of levying duties of customs on an imported good;
   - **legible** means capable of being easily read;
   - **sufficiently permanent** means capable of remaining in place until the good reaches the ultimate purchaser, unless deliberately removed;
   - **the form in which it was imported** means the condition of the good before it has undergone one of the changes in tariff classification described in the Marking Rules;
   - **ultimate purchaser** means the last person in the territory of an importing Party that purchases the good in the form in which it was imported; such purchaser need not be the last person that will use the good; and
   - **usual container** means the container in which a good will ordinarily reach its ultimate purchaser.