



Committee on Rules of Origin

MINUTES OF THE MEETING OF 19 APRIL 2018

CHAIRPERSON: MR GERALD PAJUELO (PERU)

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**1 WORK OF THE TECHNICAL COMMITTEE ON RULES OF ORIGIN (TCRO) – REPORT BY A REPRESENTATIVE OF THE WORLD CUSTOMS ORGANIZATION**

1.1. The Chairperson invited Ms Mette AZZAM, Senior Technical Officer at the World Customs Organization (WCO) Secretariat, to report on the activities of the WCO Technical Committee on Rules of Origin.

1.2. Ms Azzam, speaking on behalf of the WCO Secretariat, noted that the Technical Committee had held its 36<sup>th</sup> Session on 30 January 2018, under the chairpersonship of Mrs Nsikan P. Umoh (Nigeria). During the session, WCO Members had adopted the 19<sup>th</sup> periodic report and the 19<sup>th</sup> annual review on technical aspects and implementation of the Agreement (2017). The annual review was concise given that the Harmonization Work Programme had not been finalized and no problems or specific questions on non-preferential rules of origin had been referred to the TCRO. In this regard, a workshop to share experience and exchange views on origin procedures had been organized and held on the same day, back-to-back with the TCRO session.

1.3. With regard to the work undertaken by the WCO Secretariat, Ms Azzam informed Members that the WCO was currently working on the Revenue Package Phase III Action Plan. The absence of harmonization in the area of origin had created significant challenges that the WCO was trying to mitigate by promoting procedural harmonization in a number of its instruments, including: "Guidelines on origin certification"; "Guidelines on origin verification"; "Guidelines on advance

<sup>1</sup> The agenda of the meeting was circulated in document WTO/AIR/RO/7.

rulings"; and "Guidelines on Customs infrastructure for classification, origin and valuation". These guidelines had been developed to ensure trade facilitation for compliant traders while striking a balance between trade facilitation and customs control. In addition, the WCO Secretariat was also finalizing a "Practical Guide to the Nairobi Ministerial Decision on Rules of Origin for LDCs" that would provide practical information on how to qualify for preferential treatment as well as detailed explanation of the Ministerial Decision's various elements. The guide was intended for customs administrations (operating as "competent issuing authorities" in LDCs) but would also prove useful to LDC exporters and producers.<sup>2</sup>

1.4. Finally, Ms Azzam drew Members' attention to the fact that a number of capacity-building materials had also been developed at the WCO, such as e-learning modules on subjects such as origin certification, origin verification, cumulation, origin criteria, and direct transport. Technical assistance efforts had also included the training of accredited regional experts.

1.5. The Committee took note of this report.

## **2 IMPLEMENTATION OF THE BALI AND THE NAIROBI MINISTERIAL DECISIONS ON PREFERENTIAL RULES OF ORIGIN FOR LEAST DEVELOPED COUNTRIES**

### **2.1 Notification of Preferential Rules of Origin for LDCs – Update by the Secretariat**

2.1. The Chair recalled that in 2017 the Committee had adopted a new template for the notification of preferential rules of origin for LDCs. He invited the Secretariat to report on this issue.

2.2. The Secretariat noted that almost all preference-granting Members had submitted notifications using the agreed template. Members now had access to detailed information on the origin requirements that applied in the trade preferences for LDCs of Australia; Canada; Chile; China; the European Union; India; Japan; Kazakhstan; Korea; New Zealand; Norway; the Russian Federation; Switzerland; Chinese Taipei; Thailand; and the United States. Only four Members had not yet submitted their notifications: Iceland; the Kyrgyz Republic; Tajikistan; and Turkey. The Secretariat had contacted the delegations concerned to further raise awareness of the relevant notification requirements with a view to those delegations achieving full coverage of preferential rules of origin for LDCs.

2.3. In addition, the Nairobi Decision also contained transparency obligations regarding Members' detailed preferential trade flows with LDCs; as a result, preference-granting Members should also notify tariff lines that were covered by their non-reciprocal preferences as well as information on the flow of trade occurring under those tariff lines. The Secretariat reported that the quality of the data now available had greatly improved, even if significant gaps remained; additional detail could be found in document G/RO/W/163/Rev.3, to which a further revision would be circulated later in 2018. In addition, any new notification submissions would be considered in a revised report by the Secretariat on utilization rates (also to be considered by Members at the CRO's 2018 autumn meeting).

2.4. Finally, with regard to the dissemination of information on origin requirements, the Secretariat briefed Members on two ongoing efforts. First, all origin requirements notified to the Secretariat were gradually being made available on the WTO Preferential Trade Arrangements database and in the WTO's three official languages.<sup>3</sup> Second, the Secretariat had also been collaborating with the International Trade Centre (ITC) to integrate these notifications into the ITC databases (in particular, the ITC's "Trade Helpdesk" and "Origin Facilitator"-tool).

2.5. Following this report, the representative of Tanzania, on behalf of the LDC Group, thanked all those Members that had worked hard to submit their rules of origin and preferential trade regime data to the Secretariat. He also urged those preference-granting Members whose rules of origin or preferential trade regime data was not yet available to complete such notifications as soon as possible.

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<sup>2</sup> WCO Guidelines related to origin as well as the Practical Guide to the Nairobi Ministerial Decision on preferential rules of origin for LDCs can be found on the WCO website:

<http://www.wcoomd.org/en/topics/origin.aspx>.

<sup>3</sup> <http://ptadb.wto.org>

2.6. The Committee took note of the report and of the statement made.

## **2.2 Submission by the Central African Republic on Behalf of the LDC Group**

2.7. The Chair invited Members to consider a communication by the Central African Republic on behalf of the LDC Group (document G/RO/W/174).

2.8. The representative of Tanzania, on behalf of the Central African Republic and the LDC Group, explained that the purpose of the communication was to maintain a high level of engagement in the CRO on the issue of working towards a full implementation of the obligations of the Nairobi Ministerial Decision. According to the Decision, preference-granting Members were expected to undertake specific reforms with a view to making their rules of origin applicable to LDC imports more transparent, simpler, and trade facilitating. At the last CRO meeting (4 and 5 October 2017), several LDC delegations had given detailed presentations illustrating the specific challenges facing LDC exporters with regard to existing origin requirements. The communication posed a question to three categories of Member: first, preference-granting developed Members were requested to report on any steps that they had taken to implement the commitments of the Decision, and any outcomes achieved as a result of such efforts; second, the same question was addressed to preference-granting developing Members; and finally, the question was repeated in the context of any efforts made by preference-granting Members that had not yet submitted to the Secretariat their preferential import data.

2.9. The Chair thanked the LDC Group and the delegation of Tanzania for their communication and presentation. He believed that a technical and appropriately focused discussion in the CRO was useful in order to continue monitoring new developments with regard to preferential rules of origin for LDCs.

2.10. The representative of Canada noted that, as had been reported in Canada's notifications, her government had taken several measures to implement the Ministerial Decision. In addition, her delegation had provided tariff and import data to the Secretariat annually. In her view, Canada had complied fully with the Decision.

2.11. The representative of Switzerland said that his government had also fully implemented the relevant sections of the Ministerial Decision. In fact, over 90% of exports from LDCs were already imported into Switzerland free of duty. Moreover, the Swiss government had for the first time submitted its import trade data up to 2016. In addition, the Swiss government had begun to introduce a registered exporter system ("REX"), and his delegation would closely monitor subsequent developments and report back as necessary.

2.12. The representative of the United States noted that his delegation had already submitted information regarding US compliance with the Decision (document G/RO/83). In addition, the US had provided for cumulation under the African Growth and Opportunity Act (AGOA) between current and former beneficiaries. Moreover, the value of merchandise shipments that could be imported by one person on a single day free of duties and taxes had been raised from US\$200 to US\$800. Finally, he also noted that the US Generalized System of Preferences had been re-authorized until end-2019.

2.13. The representative of the European Union also made reference to previous EU notifications and confirmed that the EU had complied with all the requirements of the Nairobi Decision. The EU offered a very open market access regime to all products, including to certain very sensitive products such as textiles and sugar. In addition, her delegation had already submitted the EU's relevant import data.

2.14. The representative of Japan also recalled the efforts his government had made to facilitate trade and customs procedures, including by simplifying origin procedures. In addition, Japan had introduced simpler rules for clothing products falling under HS Chapters 61 and 62. Finally, he drew Members' attention to the fact that Japan was open to requests from LDCs with regard to any specific difficulties they faced in accessing Japan's market.

2.15. The representative of Norway confirmed that his delegation had notified Norway's full compliance with the Nairobi Decision. He pointed out that his government had cooperated with the EU and Switzerland to this end.

2.16. The representative of Tanzania thanked all the preference-granting Members that had spoken. He said that his delegation and those of the LDC Group would review the reports made and comment on them in the future, if necessary. However, he wished already to share some preliminary thoughts with regard to the reports made. He recalled that, the LDC Group had agreed to Ministerial Decisions that contained flexible language and a progressive introduction of commitments. In line with this, he considered it incorrect for any delegation to claim that it had already implemented the Ministerial Decision in full. LDC exporters continued to face specific and multiple challenges because of their limited capacity to meet many of the origin requirements of preference-granting Members. With regard to the US, for example, he was disappointed to learn that specific improvements had not been introduced even as the US government had recently reviewed and extended its trade preferences for LDCs. No country could claim full implementation of the Decision until LDCs were able to utilize the preferences available in full.

2.17. The Chair thanked Members for their comments and constructive engagement and proposed that the Committee continue its technical and focused discussion of the issue of implementation and compliance in order to continue monitoring progress made in trade facilitation for LDCs.

2.18. The Committee took note of the statements made.

### **2.3 Update by Preference-Granting Members**

2.19. The Chair reminded Members that paragraph 4.1 and 4.2 of the Nairobi Ministerial Decision asked preference-granting Members to update the Committee on efforts being made to implement the Decision. This objective had already been covered by the previous agenda item and the LDC paper; nevertheless, he wished to afford Members an opportunity to report on any additional information, if any.

2.20. No additional statements were made. The Chair reminded Members that, end-2018, the Committee would undertake an annual review of recent developments in this area and prepare an annual report for the General Council. He therefore asked Members to review their recent efforts and to keep the Committee informed of any new developments.

2.21. The Committee took note of the Chair's statement.

### **3 HARMONIZATION OF NON-PREFERENTIAL RULES OF ORIGIN – EDUCATIONAL EXERCISE AND EXPERIENCE SHARING ABOUT EXISTING NON-PREFERENTIAL RULES OF ORIGIN – REPORT BY THE CHAIRMAN**

3.1. The Chair recalled that at the Committee's previous meeting he had sought Members' views on two issues: first, he had invited Members to share their impressions of and conclusions from the educational exercise; and second, he had asked Members to identify possible topics for future educational sessions (G/RO/M/69). Such input would help the Committee to design future sessions of the educational exercise and to better frame its future work on non-preferential rules of origin.

3.2. Before hearing Members' views, the Chair referred to the information session that had been held the previous day on certification of origin and other practices relating to proofs of origin (G/RO/W/175). The session had, in his view, confirmed that these information sessions had indeed been very useful in guiding the work of the CRO. In fact, the nine presentations had explained, *inter alia*, the international legal provisions that regulated the use of certificates of origin, the complexities involved in their preparation, the costs they implied for businesses, and the advantages of e-certification and self-certification. All presentations had been circulated as room documents (RD/RO/60; RD/RO/61; RD/RO/62; RD/RO/63; RD/RO/64; RD/RO/65; RD/RO/66; RD/RO/67 and RD/RO/68). While useful, the session had nevertheless only begun to scratch the surface of these issues. In other words, the presentations had highlighted areas of difficulty where further discussion would be useful so as to allow the Committee a better understanding of the challenges in these areas and at the same time to identify current best practice. Consequently, more focused and more thematic sessions would be very useful going forward, in his view.

3.3. The representative of the United States thanked the Secretariat for its work in organizing the educational session. His delegation had found the presentations to be informative and relevant to the work of the CRO. As a result, his delegation agreed that future educational sessions should focus on areas of interest to Members and looked forward to consulting with other Members to identify the specific topics of broad interest to the membership.

3.4. The representative of Switzerland also agreed that the presentations had been very useful and informative for all Members and therefore concurred that Members should remain open to additional such sessions in the future. They had, for example, highlighted clearly how little Members actually knew about other Members' non-preferential rules of origin and related requirements. By contrast, sharing national experiences and listening to the perspectives of a variety of stakeholders promoted mutual understanding and could help to build consensus in the Committee towards agreeing solutions to specific problems. He wished to share his delegation's two specific conclusions drawn from the information session, namely: first, there existed a lack of transparency regarding certification practices (and non-preferential rules of origin in general); and second, there were doubts about the value-added of certificates of origin in a non-preferential context given that certain delegations had mentioned that such certificates were useful in only a limited number of circumstances.

3.5. The representative of the European Union likewise considered that the session had been useful and that certain topics could be discussed in further detail, such as the issue of transparency and coherence, for example.

3.6. The representative of Canada agreed that the information session had indeed been very informative and that further reflexion on the issues covered would now be necessary. The different views heard would help her delegation to better understand the nature of the problems in this area. She also agreed that it would be important for Members to concretely identify the problems that existed in relation to non-preferential certificates of origin and other proofs of origin; Members could then identify solutions that would address those problems and that were practical for Members to implement.

3.7. The representative of the Republic of Korea agreed that the information session had been a great opportunity to learn more about certificates or proofs of origin in a non-preferential environment and he would welcome additional sessions to further Members' understanding of these issues. In addition, he would welcome a written summary from the Secretariat of the findings or recommendations made during the session.<sup>4</sup>

3.8. The Chair thanked Members for their statements and comments. In conclusion, he proposed: first, to keep open the option of organizing future information sessions, and that Members should remain open and flexible to focusing on specific topics depending on the needs of the Committee; and second, he asked Members to communicate to the Secretariat any specific proposals that they may have with regard to topics or speakers for future sessions.

3.9. The Committee agreed to proceed accordingly.

#### **4 GUIDELINES AND PRINCIPLES TO STREAMLINE NON-PREFERENTIAL RULES OF ORIGIN – REPORT BY SWITZERLAND**

4.1. Under this agenda item, the Chair wished to offer Members an opportunity to learn more about the efforts being led by the delegation of Switzerland regarding possible "Guidelines and principles to streamline non-preferential rules of origin". He therefore invited Switzerland to update the CRO on their recent consultations on this matter.

4.2. The representative of Switzerland reminded Members that his delegation had been coordinating small-group consultations on non-preferential rules of origin. These consultations were inclusive and each participant was encouraged to submit ideas for discussion. Sixteen Members, covering various geographical groups, development status, and trade profiles, were currently participating in these consultations. He added that the discussions were running smoothly and took place in a very positive atmosphere. The objective of the consultations was to

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<sup>4</sup> A summary of the session is available in document G/RO/W/175.

identify ways of facilitating international trade by reducing trade barriers occurring as a result of non-preferential rules of origin. The discussions also covered how to reduce compliance costs connected to non-preferential rules of origin as well as how to foster better integration of MSMEs in the global economy, and those operating in less integrated economies in particular. On substance, the discussions currently focused on transparency. By contrast, a common understanding had emerged that certain other topics, such as certification, before they could be meaningfully discussed in the group required first a clearer sense of overview and broader understanding of WTO Members' practices. Nevertheless, a common focus on transparency had emerged in the discussions from the fact that existing notifications on non-preferential rules of origin were often outdated, incomplete, uneven, or inexistent. These observations had led Members to discuss a possible notification template as a means of enhancing transparency and standardizing the information available regarding non-preferential rules of origin and related practices. He emphasized at this point that these discussions were without prejudice to the Harmonization Work Programme and that any proposed notification template or possible guidelines would not substitute nor contradict the work already achieved under that programme. Finally, the representative of Switzerland reminded all delegations that the consultations were open to any delegation wishing to participate constructively in them.

4.3. The representative of Japan thanked Switzerland for its proposal on transparency, and its efforts in coordinating these consultations, and confirmed Japan's view that improving transparency in the area of non-preferential rules of origin should be an important objective of the Committee.

4.4. The representative of the Republic of Korea considered that the group had made significant progress and noted that his own delegation was in agreement with the group's focus on transparency given that availability to accurate information was the most fundamental and cost-effective instrument to facilitate trade and compliance in the origin area. In this sense, a new notification template would be useful and could also build upon the positive experience of the Nairobi Decision on preferential rules of origin for LDCs.

4.5. The representative of Hong Kong, China agreed, adding that transparency regarding import and export requirements was of the utmost importance, in particular for MSMEs, and while there did exist transparency and publication provisions in the WTO Agreements that covered rules of origin, there were also significant gaps in such provisions. Therefore, the work of the Committee could significantly enhance transparency and facilitate trade.

4.6. The representative of Thailand noted that her delegation shared the objective of this initiative and appreciated Switzerland's leadership.

4.7. The representative of the European Union indicated that her delegation also supported the work being undertaken to enhance transparency as accurate, detailed, and concise information on non-preferential rules of origin would be important to any future work in the CRO. The EU thus supported the idea of a notification template.

4.8. The Chair thanked the delegation of Switzerland and also the other delegations that were active in these consultations. He hoped that their efforts would ensure that the work of the Committee would remain relevant and useful to Members. To that end, he also encouraged Members to intensify their consultations with a view to submitting any ideas or results to the Committee for discussion.

4.9. The Committee took note of the report and of the statements made.

## **5 NOTIFICATIONS UNDER ARTICLE 5 AND UNDER PARAGRAPH 4 OF ANNEX II OF THE AGREEMENT ON RULES OF ORIGIN**

5.1. The Chair informed Members that additional notifications had been received recently by the Secretariat covering both preferential and non-preferential rules of origin (documents G/RO/N/163; G/RO/N/164; G/RO/N/165). Following these notifications, 49 Members had informed the Secretariat that they maintained non-preferential origin requirements, and 56 Members had informed the Secretariat that they did not apply any non-preferential rules of origin; the remaining 32 Members had not yet submitted a notification under Article 5 of the



Agreement. The Chairman reminded Members that these and all other notifications, including the relevant legislation (if notified), could be retrieved through the Rules of Origin webpage of the WTO website, under the section "Notifications".<sup>5</sup>

5.2. The Committee took note of the report made.

## **6 ELECTION OF OFFICERS**

6.1. The Chair informed Members that the Chairperson of the Council for Trade in Goods had held consultations with Members to identify possible chairpersons for each of the subsidiary bodies of the Council. Following those consultations, and in accordance with the established Guidelines on the Appointment of Officers, it was proposed that Mrs Thembekile MLANGENI, from South Africa, be the next Chair of the Committee on Rules of Origin.

6.2. The Committee elected Mrs Mlangeni by acclamation.

## **7 OTHER BUSINESS**

7.1. The Chair stated that, under this agenda item, he wished to make two announcements.

7.2. First, he referred to an announcement made by the Director-General, at the Heads of Delegation meeting of 23 February 2018, that the notes convening future HODs and TNC meetings would henceforth only be sent by e-mail to delegations. The Chair indicated that the Secretariat had proposed to utilize the same practice in the Committee on Rules of Origin. As a result, all official notes convening the meetings of the CRO would in future be sent by e-mail instead of fax. Other channels of communication with Members, such as the WTO's e-subscription service or "documents for meetings" link, for example, remained unchanged. The e-mail addresses used were those of Members' permanent missions (not the addresses of individual delegates). Should delegations have any questions about the addresses being used, they should contact the WTO's Council and TNC Division.

7.3. Second, the Chair informed Members that the next meeting of the CRO had been provisionally scheduled to take place on 15 and 16 October 2018.

7.4. The Committee took note of both announcements.

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<sup>5</sup> [https://www.wto.org/english/tratop\\_e/roi\\_e/roi\\_e.htm](https://www.wto.org/english/tratop_e/roi_e/roi_e.htm)