



Committee on Rules of Origin

MINUTES OF THE MEETING OF 13 NOVEMBER 2020

CHAIRPERSON: MR HAN-MING HUANG (CHINESE TAIPEI)

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The Committee on Rules of Origin (the Committee, or CRO) adopted the agenda of the meeting as circulated in document WTO/AIR/RO/12 with one addition: the item "Electronic Issuance of Preferential Certificates of Origin" was added at the request of the delegation of China. Subsequently, the EU also asked to raise the item "Access2Markets" under "Other Business". Delegations attended the meeting virtually via the "Interprefy" platform.

1 UPDATE OF RECENT DEVELOPMENTS REGARDING THE "ORIGIN FACILITATOR", A JOINT INITIATIVE BY THE WTO, ITC AND WCO – STATEMENT BY THE WTO AND THE ITC SECRETARIATS (RD/RO/92)

1.1. The Chairperson reminded delegations that the Secretariats of the WTO, the World Customs Organization (WCO), and the International Trade Centre (ITC), had been collaborating on an online tool to facilitate access to information on rules of origin and product-specific origin requirements. He invited the Secretariats to update the Committee on recent efforts to expand and further develop this tool.

1.2. The WTO Secretariat (Mr Darlan F. Martí) informed Members (based on his report circulated in document G/RO/92) that the Origin Facilitator was a publicly available, online platform, through which users could access information on origin requirements at the tariff line level (<https://findrulesoforigin.org>). The tool was free of charge and did not require prior user registration. New features had been added since its launch and presentation to the CRO in October 2019.² First, its coverage had been expanded: 371 preferential trade agreements were now covered, including both reciprocal trade agreements (regional trade agreements (RTAs)), and non-reciprocal trade agreements (preferences for least developed countries (LDCs)). Other agreements would be incorporated as they became available (such as those of the United Kingdom (UK), or the African Continental Free Trade Area). Non-preferential rules of origin were not currently covered because there was as yet no standardized and up-to-date information about them. They would be added if and when the Committee agreed to update the relevant notifications. Second, the platform had been translated into French and Spanish at the level of glossary and search fields, although actual origin criteria remained in English. Third, upon the request of some delegations, a new "flag" had been added to tariff lines subject to trade remedies. These flags alerted users that non-preferential rules of origin may apply in such cases. A link was provided for additional investigation to identify the applicable rule of origin. These flags were based on the information available in the ITC's MacMap database. Fourth, the Secretariats had begun to use the Facilitator in technical assistance and capacity building activities as a tool for training business operators and government officials on origin requirements. In this addition, a new online course on "rules of origin and preference utilization" had been launched.³ Going forward, the Secretariat indicated that the intention was to continue to expand the Facilitator until all preferential trade agreements were covered by it. Finally, he invited delegations to review the information in the Facilitator and to contact the Secretariat if any correction were needed.

1.3. The representative of Sri Lanka thanked the Secretariat for its work on this important tool. In respect of trade remedies, she asked the Secretariat to clarify whether anti-circumvention

² See: https://www.wto.org/english/news_e/news19_e/roi_17oct19_e.htm

³ The course is available on the WTO's eLearning portal: <https://wtolearning.csod.com>.

legislation was also available. She also asked if the applicable non-preferential rules pertaining to those particular cases were likewise available.

1.4. The representative of the United States (US) said that her delegation would review the changes introduced to the Facilitator and revert back with any questions if necessary.

1.5. The Secretariat, in response to Sri Lanka's question, clarified that the Facilitator indicated only that anti-dumping duties were in place. It then offered users the possibility to check the MacMap database for further information. The Facilitator did not display any non-preferential rules of origin.

1.6. The Chairperson thanked the WTO Secretariat for its report and the three Secretariats for their recent work on the Facilitator. He invited all Members to check the information contained in the Facilitator and to update or correct it as necessary.

1.7. The representative of the United States clarified that her delegation could not commit at that time to self-validating all of the data in the Origin Facilitator related to the United States.

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

2 IMPLEMENTATION OF THE BALI AND THE NAIROBI MINISTERIAL DECISIONS ON PREFERENTIAL RULES OF ORIGIN FOR LEAST DEVELOPED COUNTRIES (WT/L/917 AND WT/L/917/ADD.1)

2.1 Status of Notifications of Preferential Rules of Origin for LDCs and Preferential Imports and Tariffs (G/RO/W/163/Rev.8) – Report by the Secretariat

2.1. The Chairperson recalled that the Secretariat had been asked to reach out to delegations to help them to bridge notification gaps where these remained. In this regard, he requested the Secretariat to present document G/RO/W/163/Rev.8, concerning the latest status of notifications.

2.2. The Secretariat (Mr Darlan F. Martí) reported that most Members had already notified the preferential rules of origin used in preference programmes for LDCs, and that some Members had updated their notifications in 2020. Only Armenia and Iceland had not yet notified the rules of origin applicable to LDCs under their preferential duty schemes. In a previous meeting of the CRO, the representative of Iceland had explained that the government was revising the applicable rules and that a notification would be made as soon as the new legislation became available. In relation to preferential tariffs, he noted that, despite new notifications by some Members, several gaps remained, including for a number of very significant markets for LDC exports.

2.3. The representative of the Russian Federation explained that her delegation would prefer the document prepared by the Secretariat to report only on notifications from 2015 onwards to reflect the date of adoption of the Nairobi Ministerial Decision. In addition, she asked that calculations of utilization rates likewise be based on data notified after 2015, and that the calculation take into account the fact that the implementation date of the Ministerial Decision may differ between Members.

2.4. The representative of Tanzania thanked those Members that had updated or submitted new notifications. In relation to import data, he highlighted that, having comprehensive information for all markets was important because it allowed the CRO to consider how preferences were being utilized. He therefore encouraged all delegations to submit the necessary notifications as soon as possible.

2.5. The Secretariat, in response to the Russian Federation, confirmed that the format of the report could indeed be adjusted and clarified. He stood ready to work with the Russian Federation's delegation to that end.

2.6. The Chairperson thanked all those delegations that had updated their notifications. At the same time, he requested those delegations that had not yet submitted all the necessary information to prepare their notifications as soon as possible and, if necessary, to seek the assistance of the Secretariat in order to do so. Finally, he asked the Secretariat to report back to the Committee, at its next meeting, on any new developments in this area.

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

2.2 Review of Recent Developments Regarding Preferential Rules of Origin for LDCs – Report by Preference-Granting Members

2.2.1 Implementation of the REX System – Update by the European Union (RD/RO/93)

2.8. The Chairperson recalled that the REX system of self-certification for registered exporters was being implemented by the European Union, Norway, Switzerland, and Turkey. He recalled that the EU had previously reported that some LDCs had not yet completed the necessary steps to move to this system, and that, in consequence, they could not claim tariff preferences either in the EU market or in the markets of other Members implementing the REX system. He invited the EU to update the Committee on recent developments in this regard.

2.9. Mr Hervé Godin of the Commission of the European Union (RD/RO/93) reminded Members that the REX system was a system of self-certification that allowed registered exporters themselves to attest the origin of their goods as opposed to having to obtain a certificate of origin from an authority. This system would replace certificates of origin ("Form A") and would be used for all preferential exports to the EU; Norway; Switzerland; and Turkey. In addition, it was used by operators in Overseas Countries and Territories as well as by EU exporters under preferential trade agreements (such as those, for example, with Canada; Côte d'Ivoire; Ghana; Japan; and Viet Nam, as well as countries that had signed Economic Partnership Agreements with the EU). The REX system already had more than 54,000 users in beneficiary countries (including large numbers in India and Pakistan) and over 48,000 users in the EU, Norway, Switzerland, and Turkey. Regarding the system's current state of implementation, Mr Godin explained that 21 beneficiary countries had requested an additional extension of the transition period, until 31 December 2020. The extension had been granted on the following conditions: (i) they could demonstrate the difficulties that they faced; they prepared a workplan of steps to introduce the system; and (iii) they submitted a progress report. After the deadline, all beneficiary countries that had not implemented the REX system would no longer be eligible to receive preferences under the EU's generalized system of preferences. Some LDCs were not covered by this new extension period and were therefore ineligible to claim preferences at present. Mr Godin explained that the EU Commission continued to reach out to beneficiary countries to offer them training programmes to assist them in implementing the REX system.

2.10. The representative of Tanzania thanked the EU for its comprehensive report and for engaging favourably with those LDCs that required additional time to move to the REX system. He asked if an additional extension of the deadline might be warranted, particularly in light of the difficulties caused by the COVID-19 pandemic. He asked the EU to continue raising awareness about the REX system among LDCs to ensure that more companies in LDCs could register for self-certification and thereby benefit from the preferences available.

2.11. The European Union clarified that the EU Commission did regularly organize awareness-raising campaigns to train economic operators and government officials. In addition to face-to-face and virtual training activities, the EU had prepared guidance notes and an e-learning course explaining in detail how the system worked. Nevertheless, he agreed that more work was needed. Regarding a further extension of the implementation deadline, he explained that all the countries that had requested an extension seemed to be well on track to implementing the system; for this reason, there appeared to be no need for an extension at that time.

2.12. The Committee took note of the update and statements made.

2.2.2 Report of Recent Developments Related to Preferential Rules of Origin for LDCs by Other Preference-Granting Members

2.13. The Chairperson offered other preference-granting Members an opportunity to update the Committee on any recent developments. These updates would be compiled in the Committee's end-year report to the General Council.

2.14. The representative of the United Kingdom confirmed that his government was committed to the Bali and Nairobi Ministerial Decisions and that it supported the efforts of LDCs towards their

implementation. The UK intended to notify its non-reciprocal preferential rules of origin for LDCs at the earliest opportunity. In the meantime, he clarified that the UK was in a transition period with the European Union until 31 December 2020, at which point the European Union's Generalized System of Preferences (GSP) would cease to apply and the UK's independent GSP would come into force. The UK's GSP had been designed to ensure maximum continuity of effect from the EU's GSP. As such, after the end of the transition period, LDC businesses would be able to export to the UK under conditions similar to those that applied currently. As of 1 January 2021, the UK's GSP would provide continuity through both replicating trade preferences for the same Members, as well as the three-tiered framework of the current EU system. It would also be governed by the same product-specific rules of origin as those currently in force between the EU and GSP beneficiary Members. Many of the general provisions would remain unchanged, including rules relating to tolerance and non-manipulation. Additionally, the possibilities for cumulation would also be largely similar. One notable point of difference, he explained, was that the independent UK scheme would require a valid proof of origin. This would need to be made out and signed by the exporter in the GSP country and take the form either of a GSP Form A, which could be accepted unstamped, or an origin declaration. These changes would maintain a low administrative burden on LDCs in line with the commitments made as part of the 2015 Nairobi Decision. Further details had been published on 10 November 2020 (www.gov.uk).

2.15. The representative of Tanzania expressed appreciation to the government of the UK for taking early action to avoid any interruption to its trade preferences. He also appreciated the efforts being made to ensure that the new rules of origin would be in line with the Nairobi Ministerial Decision.

2.16. The Chairperson thanked the UK and invited all other preference-granting Members to examine their rules in light of the provisions of the Bali and the Nairobi Ministerial Decisions with a view to further simplifying their rules if and when possible. He also invited all delegations to keep the CRO abreast of any developments in this area.

2.17. The Committee took note of the statements made.

2.3 Developments Regarding Methods Using the *Ad Valorem* Percentage Criterion to Determine Substantial Transformation (Paragraph 1.1 of the Nairobi Decision) (G/RO/W/202; RD/RO/91) – Submission by the LDC Group

2.18. The Chairperson drew Members' attention to document G/RO/W/202 from the LDC Group, containing the Group's examination of rules of origin based on the "*ad valorem* percentage" criterion. Before requesting to hear the views of other delegations, he first invited the LDC Group to present its paper.

2.19. The representative of Tanzania explained that the proposal was a contribution by the LDC Group to efforts to implement the Ministerial Decision by examining current practices and comparing them to the provisions of the Nairobi Decision and other best practices. The COVID-19 pandemic had disrupted the economies of LDCs in unprecedented ways, including by causing a drop in exports and a collapse in global prices. For these reasons, the economic recovery of LDCs would require the support of the international community. Simple and transparent rules of origin that facilitated trade from LDCs would also be of critical importance.

2.20. The representative of Afghanistan presented the LDC Group's communication circulated in document RD/RO/91. He recalled that paragraph 1.1. of the Nairobi Decision contained three distinct elements: first, a commitment by preference-granting Members to adopt a method of calculation based on the value of non-originating materials; second, when doing so, the commitment to allow for the use of non-originating materials for up to 75% of the total value of a good; and third, a commitment to consider allowing for the deduction of the costs of transportation and insurance from the value of non-originating materials. Regarding the first element, he said that all preference-granting Members used a method based on the value of non-originating materials except for Australia; New Zealand; Chinese Taipei; and the US, despite the fact that these same Members were using this method in their RTAs. On the second element, only Canada allowed for the use of up to 75% of non-originating materials. However, he acknowledged that provisions relating to cumulation could be influencing this assessment for other preference-granting Members. Finally, in relation to the third element, he reported that no preference-granting Member currently allowed for the deduction of the transport and insurance costs. For these reasons, he urged preference-granting

Members to align their practices to the elements defined in the Nairobi Decision. Alternative methods had several disadvantages, he explained. For example, the concept of "direct processing costs" used by the US was imprecise, entailed complex accounting to calculate unit costs, and required a large number of supporting documents. Similarly, allowing LDCs to deduct transportation and insurance costs from the value of non-originating materials would facilitate LDC compliance, in particular landlocked and island LDCs. In conclusion, he said that the LDC Group expected preference-granting Members to reform their rules, where necessary, and to adopt the best practices illustrated in the LDC communication. In particular, he noted that those Members that were not using the value of non-originating materials should review their calculation methods, and that all preference-giving countries should allow the deduction of insurance and freight costs, where applicable.

2.21. The representative of Chinese Taipei clarified that, contrary to what had been indicated by the LDC Group, her government used a methodology for the calculation of the *ad valorem* percentage criterion based on the value of non-originating materials. The calculation formula was "f.o.b. value – value of non-originating materials/f.o.b. value". This, she said, was similar to the methodology used by Chile and Thailand.

2.22. The representative of New Zealand reported that her government was committed to upholding the Nairobi Decision and was therefore reviewing New Zealand's GSP scheme and the associated rules or origin provisions. New Zealand's practice in its recent RTAs had been to use rules based on a change of tariff classification (CTC) or value-based rules that deducted the value of non-originating materials from the f.o.b. value of goods. She explained that her government would therefore review its GSP rules of origin to align them to best practices in New Zealand's RTAs.

2.23. The representative of Australia said that his country had been the first to provide preferences for developing countries, in 1966, through the Australian System of Tariff Preferences. This long-standing scheme reflected Australia's commitment to supporting LDC engagement in the global trading system. He noted that the LDC Group submission had omitted part of the language of the Nairobi Decision. While the Decision indeed asked preference-granting Members to adopt a method of calculation based on the value of non-originating materials, it also provided Members with flexibility to apply another method. It was important that the LDC Group acknowledged the text of the Decision. He noted, in addition, that the Australian preferences allowed for cumulation between LDCs and to other developing countries: it required only 25% originating content from LDCs, with a further 25% from other developing countries. As such, Australia could work with the LDC Group to reflect this aspect of the Australian System of Tariff Preferences in the LDC Group's documentation.

2.24. The representative of the United States said that her delegation appreciated the analysis of the LDC Group. The submission called out the United States, among other Members, for basing its calculation method on the value of originating materials. According to the submission, this approach was not in conformity with the spirit and the letter of the Nairobi Decision. Her delegation disagreed with this assessment. In fact, the Decision provided that: "preference-granting Members shall adopt a method of calculation based on the value of non-originating materials. However, preference-granting Members applying another method may continue to use it". Her delegation also disagreed with the assertion that the concept of "direct cost of processing" in US Customs Regulations was complicated. Evidence for this conclusion in the LDC paper stemmed from a search in the US Customs rulings online database that revealed that there were around 375-800 rulings on the definition of direct costs of processing. That conclusion failed to consider that the database housed over 207,526 rulings since 1989. The fact that 400-800 importers had obtained rulings on direct processing costs swiftly and directly from the US Customs and Border Protection, and for free, was not indicative of a complicated rule. In fact, the opposite conclusion could be drawn: that the US advanced ruling system made it very easy to get a definitive answer to the question of whether a good would qualify for duty-free treatment under one of the US preference programmes quickly and cheaply, prior to shipment. On the insurance and freight issue, the US had already explained in its notifications that the issue of whether to deduct these costs was only relevant for calculations based on non-originating materials. For rules based on originating material, as was the case in the US, it was instead advantageous for LDCs to add such costs to the value of inputs. Her government allowed the cost of freight insurance packing and all other costs incurred in transporting materials to the manufacturers plant to be added to the value of the originating materials. The LDC submission, she continued, called on the United States to introduce the necessary reforms in its rules of origin to adhere to such best practices. This was characterized as the initial expectation of the LDCs. However, this initial expectation did not take account of the clear text of the Nairobi Decision, which allowed preference-granting Members applying another method to continue to do

so. With that text in mind, the US respectfully submitted that it had no plans at this time to introduce reforms to its rules of origin for LDC preference programmes. Nonetheless, her delegation was open to discussions with the LDC Group regarding the submission.

2.25. The representative of Canada confirmed that the LDC paper had correctly identified Canada as not allowing the deduction of freight and insurance costs from the value of non-originating materials. However, she recalled that the Nairobi Ministerial Decision did not require preference-granting Members to do so. Hence, she reiterated that Canada was fully compliant with the Nairobi Decision in this regard.

2.26. The representative of the European Union reaffirmed her delegation's commitment to the Nairobi Decision and sought a clarification of the information in Table 1 of the LDC submission. She wished to know why the regulations concerning the deduction of transportation and insurance costs were marked as "unclear" for the EU. She also wondered why this provision had been marked "not applicable" for certain preference-granting Members.

2.27. The representative of Switzerland said that his delegation was still analysing the submission. In the meantime, he wondered if the LDC Group could clarify what the expected next steps should be and whether they foresaw a process to discuss the submission.

2.28. The representative of the Russian Federation reported that her delegation had consulted with the LDC Group bilaterally in order better to understand the Group's expectations. She clarified that, under the Eurasian Economic Union (EAEU), the percentage of allowed non-originating materials could reach up to 60% by 2025; not 55%, as mentioned in the document. She also reiterated that her delegation was open to discussing bilaterally any specific challenges being faced by LDCs.

2.29. The representative of Afghanistan, in response to Members' comments and questions, first thanked the delegation of Chinese Taipei for having clarified their requirements. He also thanked the delegation of New Zealand for its report and added that the LDC Group would be interested to discuss New Zealand's reforms in detail. He also thanked Australia for its clarification and reiterated that the Group was simply asking Australia to extend to LDCs the same rules as those it already applied in its RTAs.

2.30. The representative of Tanzania, in response to the questions raised by the US, clarified that the LDC Group was not disputing the fact that preference-granting Members were allowed flexibility in the Ministerial Decision. However, the Group was reiterating its preference for a method based on the value of non-originating materials, as had been clearly acknowledged in the Ministerial Decision. This was the calculation method which was best understood and handled by LDC exporters and small and medium-sized enterprises. The Group was asking preference-granting Members to consider the constraints and lack of resources of businesses in LDCs. His delegation was willing to meet the US bilaterally to further explain and illustrate those challenges. Moreover, the US had already been using other, more trade-facilitating requirements in its RTAs. In response to the comment by Canada, he confirmed that Canada already had flexible rules of origin. However, he reiterated that Canada's rules would be made even more flexible if they allowed for the deduction of insurance and transportation costs from the value of non-originating materials. To illustrate his point, he referred to the additional costs of transporting materials from India for further processing in Tanzania as opposed to Bangladesh or Cambodia. These additional costs meant that producers in Tanzania would be disadvantaged when complying with a ceiling value for non-originating materials. In relation to the comments by the Russian Federation, he appreciated that the EAEU's new allowance for use of non-originating materials would be gradually increased to 60%, bringing it closer to the 75% target of the Ministerial Decision. Finally, in relation to Switzerland's question, he said that the Group's second submission would clarify next steps, and that ultimately what the Group was seeking was to identify best practices and to convince preference-granting Members of the benefits of reforming their rules to implement such practices.

2.31. The Chairperson thanked the LDC Group for the work they had put into this paper and presentation. He invited delegations to consult each other on the points raised. If possible, he recommended an exchange of questions and answers in writing so that the Committee could continue to monitor the points being discussed.

2.32. It was so agreed.

2.4 Utilization of Preferential Trade Arrangements by Least Developed Countries: Analysis of Mineral and Metal Products (G/RO/W/203; RD/RO/89) – Note by the Secretariat

2.33. The Chairperson referred to paragraph 4.3 of the Nairobi Decision, which stated that the Secretariat may calculate utilization rates. The purpose of these calculations was to identify trade flows that were not fully utilizing trade preferences to assess whether origin requirements could be hindering fuller utilization. To this end, the Secretariat had prepared a new report looking at utilization rates for the minerals and metals sector (G/RO/W/203).

2.34. The Secretariat (Mr Simon Neumueller) explained that the note built on earlier Secretariat calculations, which had shown that all preference-granting Members had LDC preferences that were to some extent unused. These previous calculations had shown that underutilization affected sectors in different ways, and that its impact also extended to exports subject to simple origin criteria, such as fresh fruits and vegetables. The Secretariat had sought to test some of these findings on a new sector. Minerals and metals was interesting in this regard since it represented about a quarter of all exports from LDCs to preference-granting Members. Of that amount, preferences in this sector represented about 6.5% of all exports from LDCs to preference-granting Members (about US\$10 billion). In 2018, the largest destinations of these exports had been China; India; the EU; and the Republic of Korea. The biggest exporters were Zambia (copper) and the Democratic Republic of Congo (cobalt, copper, and diamonds). Other major exporters were Mozambique (aluminium); Tanzania (gold); Myanmar (copper, nickel, precious stones, and jewellery); and Angola (natural gas and diamonds). Copper was the single most important product in this sector, making up 45% of all preferential exports from LDCs, followed by aluminium, gold, jewellery, cobalt, precious stones, granite, and articles of steel. As a result, the majority of the traded goods were raw commodities.

2.35. He explained that, overall, the majority of exports in this sector had not received tariff preferences: 66% of all preference-eligible imports had not used preferences. However, there were significant variations for different product groups and for different preferential schemes. Hence, the note had explored different reasons that might help to explain underutilization rates and these variations. First, descriptive analysis revealed that preferential margins seemed not to affect underutilization rates (one might have imagined that the higher the duty savings, the lower the underutilization rates, because operators would have a greater incentive to fulfil the origin criteria. However, the underutilization was highest where preference margins were greatest in this sector). Second, preliminary analysis suggested that there was no clear pattern between underutilization rates and the complexity of the products exported (assuming that more complex products would be subject to more complex origin criteria). In fact, a more detailed examination of exports of jewellery and precious stones did not reveal any clear variation in utilization for simpler or more strict origin criteria. Exports of jewellery from Niger and Nepal, examined in the note, illustrated this point. Third, the note had tested the effect of direct consignment obligations and noted that underutilization was slightly higher for landlocked LDCs (the overall underutilization rate was 62% for LDCs with sea access, and 76% for landlocked LDCs). Fourth, the note explored the hypothesis that underutilization rates could be linked to the fact that operators were not aware that a preference was available. However, such a hypothesis would be impossible to test with the annual statistics notified by Members to the Secretariat.

2.36. In conclusion, he said that further analysis was needed, to test the role that fixed costs might play in individual shipments, for example. In addition, a more detailed examination of direct consignment and certification obligations could also help to advance Members' understanding of the reasons for underutilization.

2.37. The representative of Canada thanked the Secretariat for its report and said that her delegation was still reviewing it.

2.38. The representative of Switzerland said that his government had been examining import statistics in detail to identify the possible causes for the high underutilization rates reported by the Secretariat for mineral and metal imports. The most plausible explanation, he said, related to Switzerland's landlocked nature and its direct consignment requirements. In fact, goods directly consigned to Switzerland always, or almost always, received preferences; however, goods imported indirectly almost never did. In Switzerland, indirect shipment was deemed to take place when imported goods had already been cleared by another customs authority (for example, a member State of the EU). In other words, imported goods could not be granted preferential tariff treatment

in Switzerland if they had already been cleared by the customs authority of a transit country. He reported that internal discussions were under way to relax this requirement, and that it was one of the points being considered for a reform of Switzerland's GSP. His delegation would keep the CRO informed about the results of these internal discussions.

2.39. The representative of Senegal, commenting on the Secretariat's findings, wondered how a lack of awareness that a tariff preference was available could impact upon the utilization of preferences. In fact, he explained, preferences were claimed by operators in the importing preference-granting Member, so it was surprising to learn that those operators might not be familiar with the preferential market access opportunities available in their own countries.

2.40. The representative of the European Union thanked the Secretariat for its calculations and said that her delegation was also still analysing the note.

2.41. The representative of the United States thanked the Secretariat for submitting its note. She said that this type of detailed, fact-based information was useful in identifying effective strategies for addressing underutilization. The note assigned that preferences were almost fully utilized in the United States for these sectors, thereby helping to focus attention on where the problems existed. Her delegation would continue to review this paper.

2.42. The representative of Tanzania said that the LDC Group attached great importance to the issue of utilization rates. He acknowledged the efforts being made by the Swiss delegation to examine its requirements in order to better understand the causes of underutilization. This really was, he explained, the spirit in which all preference-granting Members should approach the Committee's discussions. Even if the language of the Ministerial Decision was flexible enough to allow for a variety of rules of origin and practices, its intention was clear: to improve market access opportunities for LDCs. He therefore invited other preference-granting Members to analyse their own imports to identify possible reforms that could unlock the fuller utilization of existing tariff preferences. In doing so, he highlighted the importance of assessing the impact of direct consignment and certification obligations.

2.43. The Secretariat, in response to the question raised by Senegal, clarified that it was not possible to measure the impact that a possible lack of awareness might have on the ability of operators to claim tariff preferences. Indeed, it was not even possible to affirm that this was actually an impediment. However, it was plausible that this could play a role and hence it was important for Members and international organizations to conduct awareness-raising and training activities. The Secretariat had been able to exclude some factors that could be causing underutilization in this sector, such as the lack of incentives to use a preference (preferential tariff margins) or the application of strict origin criteria (most products were wholly obtained). However, it had not been able to identify with precision the causes of underutilization. Additional research would be needed to understand with greater precision the impact of direct consignment and certification obligations, for example. Moreover, preference-granting Members themselves could analyse their import statistics and test different hypotheses to explain underutilization. In particular, preference-granting Members could analyse their statistics to distinguish cases in which a preference had not been claimed from cases in which the preference had been claimed but subsequently refused. In conclusion, the Secretariat stood ready to continue in its analysis and to engage more closely with preference-granting Members to advance it further.

2.44. The Chairperson thanked the Secretariat for its report and calculations. He asked the Secretariat to continue updating and expanding its studies on preference utilization in order to support the CRO in this area. Finally, he invited preference-granting Members to conduct their own calculations and examinations, particularly on those aspects for which their data was more detailed than that of the Secretariat.

2.45. The representative of the United States reiterated that her delegation was still reviewing the information that had been provided in the note by the Secretariat. As a result, her delegation was not in a position to agree to this latter suggestion. Her delegation would review its resources and capabilities and revert back on this matter in the next meeting of the Committee.

2.46. The Committee agreed to ask the Secretariat to continue in its analysis and took note of the report and the statements made.

2.5 Implementation of the WTO Ministerial Decisions on Preferential Rules of Origin for LDCs: Achievements and Gaps (G/RO/W/198) – Submission by the LDC Group

2.47. The Chairperson reminded delegations that, at the last Committee meeting, the LDC Group had suggested that the Committee could take stock of what had been achieved and what needed more work in order to achieve the objectives of the Nairobi Ministerial Decision (G/RO/W/194). When considering this suggestion, Members had asked the LDC Group to be more specific about the steps and the language that they wished the Committee to consider. He reported that the LDC Group had prepared document G/RO/W/198 for consideration.

2.48. The representative of Tanzania introduced the document on behalf of the LDC Group. He acknowledged that the Nairobi Ministerial Decision was a fundamental component in the efforts by the international community to better integrate LDCs into the multilateral trading system. It reaffirmed the overall objective that preferential rules of origin for LDCs should be transparent, simple, and facilitate market access. Implementation had been successful in certain respects, including greater transparency concerning the existing rules through the use of an agreed notification template; better monitoring of the use of preferences with the notification of preferential imports and the calculation of utilization rates; and better examination of specific practices with specific analyses prepared by the LDC Group. In addition, he acknowledged that a few preference-granting Members had reformed and simplified certain aspects of their rules; some had also committed to reviewing their requirements in order to better understand the possible causes of underutilization.

2.49. Nevertheless, despite these achievements, a number of trade-restricting rules of origin and origin requirements continued to be applied. With few exceptions, preference-granting Members had not engaged in a comprehensive review of their requirements. Consequently, the LDC Group invited preference-granting Members to reform their rules of origin, to adopt best practices, and to remove those requirements that could be causing underutilization. For example, the non-alteration principle provided a good alternative to the obligation to provide a "certificate of non-manipulation" in case of transit. Under this principle, additional documents could still be required by customs to prove that the goods had not been altered during transit, but these documents would only be presented when customs had concerns about a possible alteration, rather than in all cases. In addition, the Group had provided sufficient evidence of the difficulties created by rules of origin based on the change of tariff classification criterion when such rules contained several exceptions and restrictions. The Group invited the Members that applied such rules to justify why such restrictions were needed. He explained that the implementation of the Nairobi Decision was the shared responsibility of all Members. As such, Members could reaffirm their commitment to enhancing their efforts, for example, by agreeing to a work programme under which they would examine additional aspects covered by the Ministerial Decision; identify best practices; and report to the next Ministerial Conference on progress being made.

2.50. The representative of the European Union said that her delegation was not entirely clear about the precise objectives and real purpose of the LDC submission. Her delegation would welcome and require further clarification before it could engage in a discussion of the document itself.

2.51. The representative of Switzerland stated that his government had fully implemented the Nairobi Decision and that it had also submitted comprehensive notifications. While his delegation was still studying the submission by the LDC Group, he said that its nature and objectives were not entirely clear. He would welcome more information about the expected outcomes.

2.52. The representative of Australia reiterated his government's long-standing commitment to the provision of preferences, not only to LDCs, but also to developing countries. He noted that any proposed work programme should be consistent with the Nairobi Decision.

2.53. The representative of India stated that his colleagues in Capital were still examining the LDC paper.

2.54. The representative of Canada said that her delegation was also still analysing the submission. Her delegation supported the objective as set out: namely, to promote transparency and to explore best practices. In this context, she reiterated that her government fully met the commitments set out in the Nairobi Ministerial Decision. In order to move forward with the proposed workplan, she

encouraged the LDC Group to pursue an informal dialogue with preference-granting Members and the Chair.

2.55. The representative of the United States said that her delegation would have welcomed some outreach on the proposal prior to the meeting, given that the submission raised significant concerns. First, the document was entitled "submission" but contained a proposal for a workplan. If the submission was intended to represent the specific views of the LDC Group, that should be made clear. If, however, the submission was intended to reflect the views of the full Committee, the United States would not be in a position to associate itself with its contents. Second, the submission appeared to interpret the Nairobi Ministerial Decision in a manner that was not supported by the text of the Decision. For example, the Decision provided that preference-granting Members shall, "As a general principle, refrain from requiring a certificate of non-manipulation for products originating in a LDC but shipped across other countries unless there are concerns regarding transshipment, manipulation, or fraudulent documentation" (paragraph 3.1(a)). However, the proposal called for the abolishment of requirements for a certificate of non-manipulation or any other similar form of documentary evidence. "Abolish", she explained, was clearly not the same as "refrain", indicating that significant liberties had been taken with the text of the Decision. Third, this submission made assumptions and assertions about the Decision that did not reflect the mutual understanding of Members. In particular, the US took issue with the underlying assumption that it needed to "align its rules of origin with the Nairobi Decision". Her delegation had explained many times that it had already taken every measure necessary to implement the Decision. She referred Members to document G/RO/83 for a full explanation of US preferential rules of origin in light of Nairobi Decision commitments. Fourth, the submission asserted that Members that had not adopted the best practices identified in the proposal were not in alignment with the Nairobi Decision. That, she explained, was blatantly not the case, since some of the best practices mentioned in the submission mischaracterized the commitments Members had made in the Decision. In effect, the submission substituted non-negotiated, unilaterally determined measures, labelled as "best practices", for the actual text Members had negotiated in Nairobi. Fifth, this proposal called on Members to "reaffirm their commitment" to Sustainable Development Goal (SDG) 17.12. However, her delegation thought it inappropriate to refer to SDG targets in a WTO proposal. The SDG language had been negotiated in a separate institution with different members and different rules. The 2030 Agenda did not contain commitments; rather, it was a framework for sustainable development that could help countries work towards global peace and prosperity. The proposal mischaracterized the nature of the SDGs by assuming commitments that did not exist. Similarly, the contents of the submission seemed to reflect UNCTAD initiatives. She explained that, while UNCTAD may hold its own views on certain WTO Ministerial Decisions, it was solely for WTO Members to interpret those decisions and UNCTAD should not steer the work of the Committee. In conclusion, she said that the US believed the Decisions taken in Nairobi and in Bali were valuable and important. Her delegation understood the significant implications that these issues had for LDC utilization of unilateral preference programmes. That was precisely the reason why her delegation had been surprised about the approach that the LDC Group had put forward in this submission. The Group had asked for an examination of the rules of origin currently adopted by preference-granting Members. She asked whether that was not exactly the work that the CRO had diligently undertaken for the past five years. The Group had asked the Committee to identify best practices. She wondered whether that was not exactly what the LDC Group had done in the several papers cited in the submission itself. The Group had asked for a report from Members and argued that this had already been mandated in the Nairobi Decision. She reiterated that her delegation had serious concerns with document G/RO/W/198 and wished such concerns to be reflected in the minutes of the meeting as well as in the three reports listed on the agenda.

2.56. The representative of Tanzania appreciated the engagement by preference-granting Members on the LDC submission. He clarified that the original intention of the LDC Group had been to propose draft language for the consideration of Ministers at the 12th Ministerial Conference (MC12). However, in light of the uncertainties regarding the dates of the Conference, the Group had preferred to discuss options to strengthen the work of the CRO and accelerate reforms to facilitate the use of preferences by LDCs. The proposal was intended to strengthen and revitalize the mandate given to the CRO so that it would pursue its discussions with the greater and shared engagement of all Members. The challenges that LDCs faced were well known and many had already been discussed. That renewed commitment could be reflected in a Committee document, on the basis of language agreed to by all Members. He noted with concern that the US was not comfortable with this approach. In addition, he had been surprised by the US doubts about quoting the SDGs. The SDGs were relevant in this context and were agreed to at the highest level. In relation to the assertion that the

Group had mischaracterized the text of the Ministerial Decision, he explained that what ultimately mattered was to find common solutions to simplify rules of origin to ensure that LDCs could meet them and fully utilize the trade preferences available. There would be no harm in Members reaffirming their commitment to this objective and strengthening their work. This was the spirit in which preference-granting Members should approach the LDC Group submission.

2.57. In conclusion, the Chairperson thanked the LDC Group for its submission. He thought that all Members recognized that the implementation of the Ministerial Decisions was their shared responsibility. He recognized that the Committee had made substantive progress in implementing the Decisions, including by adopting a notification template, by improving transparency, and by engaging in focused discussions about utilization rates. He asked the LDCs and preference-granting Members to consult with each other in order to identify how best to advance these discussions.

2.58. It was so agreed.

2.6 Draft Report (2020) of the CRO to the General Council on Preferential Rules of Origin for LDCs (G/RO/W/201)

2.59. The Chairperson recalled that the CRO had to report every year to the General Council on recent developments regarding preferential rules of origin for LDCs and the implementation of the Ministerial Decisions. The Secretariat had prepared a draft for consideration (G/RO/W/201). He sought to hear Members' views on that draft with a view to finalizing it for adoption.

2.60. The representative of the United States proposed specific revisions to the draft report (under the sections "Examination of current rules of origin", and "Annual review of implementation"). These proposals had been notified to the Secretariat. In light of these proposed changes, she requested a written procedure for Members to review the text of the draft report before its adoption.

2.61. The representative of the European Union said that the draft report summarized the discussions that had taken place in the CRO in 2020. However, she asked if the LDC Group planned any specific follow-up actions to any of the issues discussed.

2.62. The representative of Tanzania said that the LDC Group would assess what specific steps would be needed but anticipated further discussions and further investigations on the matters raised. In particular, the Group would encourage preference-granting Members to examine their own preferences and requirements. In addition, the LDC Group would engage with Members informally and bilaterally to identify possible next steps.

2.63. The Chairperson, in light of Members' comments, proposed that the Committee request the Secretariat to revise the draft report and to circulate a revised version to Members. If no objections were received by the Secretariat within a prescribed time-frame, the report would be adopted.

2.64. It was so agreed.

2.65. The report of the CRO to the General Council was revised and adopted through written procedures on 18 November 2020 (G/RO/91).

3 Notifications under Article 5 and under Paragraph 4 of Annex II of the Agreement on Rules of Origin (G/RO/N/195 TO G/RO/N/206)

3.1. The Chairperson drew Members' attention to the latest notifications received by the Secretariat under the following symbols: G/RO/N/195; G/RO/N/196; G/RO/N/197; G/RO/N/198; G/RO/N/199; G/RO/N/200; G/RO/N/201; G/RO/N/202; G/RO/N/203; and G/RO/N/204. These notifications covered non-preferential rules of origin (Article 5 of the Agreement) and preferential rules of origin (under RTAs, originally circulated to the Committee on Regional Trade Agreements (CRTA)). They included a first-time notification under Article 5 by Cambodia, and revised notifications by Indonesia; Montenegro; North Macedonia; Norway; and the Kyrgyz Republic. Further to these notifications, he reported that all WTO Members applied at least one set of preferential rules of origin. In addition, 51 Members had informed the Secretariat that they applied non-preferential rules of origin, and 60 Members had informed the Secretariat that they did not apply such rules. Twenty-five Members had not yet submitted a notification under Article 5 of the Agreement. The full

list of notifications received was available in the annex to document G/RO/W/199 and on the rules of origin webpage of the WTO website.

3.2. He thanked the delegations that had submitted these notifications and encouraged all Members to ensure that the information contained in their notifications was up-to-date and complete.

3.3. The Committee took note of this report.

4 DRAFT TEMPLATE FOR THE NOTIFICATION OF NON-PREFERENTIAL RULES OF ORIGIN AND ORIGIN REQUIREMENTS (G/RO/W/182/REV.3) – STATEMENT BY SWITZERLAND

4.1. The Chairperson referred to past discussions on information gaps and outdated notifications made under Article 5 of the Agreement. At the last Committee meeting, Members had considered the third revision of a proposal to address such challenges (G/RO/W/182/Rev.3) and the Chairperson had noted that the proposal was largely stable. The Chairperson had also concluded that no delegation had objected to the objectives of the proposal. All delegations had shared the assessment that there was a significant transparency gap in this area and that it was important to find solutions to improve the current situation. Several delegations had also noted that a fresh and updated notification exercise was needed in order to make this information available to economic operators, for instance through the Origin Facilitator. However, three delegations had expressed some concerns or had asked for clarifications. It was then agreed that delegations would hold consultations on these questions and reservations. He therefore asked the proponents to update the Committee on the latest status of the proposal and on their preferred next steps.

4.2. The representative of Switzerland recalled that Members had been considering this proposal for the past two years already. Proponents had shown flexibility and incorporated changes to the text as needed. The language of the third revision, he said, was stable. Despite very significant support for the proposal, it had not proven possible to adopt the decision at the Committee's March 2020 meeting. He reported that, following bilateral consultations, the concerns expressed by one delegation could still be addressed by clarifying certain aspects of the proposal, but without amending it. The difficult working conditions that Members had experienced since March because of the COVID-19 pandemic did not allow for the resolution of the concerns expressed by two other Members. In light of the stability of the text, the proponents wished Members to reconsider the proposal for adoption.

4.3. The representative of Indonesia thanked the Swiss delegation for the consultations on the proposal. Following Indonesia's own domestic consultations, he reported that his government was of the view that the proposal served a positive purpose, namely, to increase transparency in this area. Nevertheless, any proposal setting up new notification obligations should be practicable and not create additional burdensome measures for Members, especially for developing and LDC Members. In this context, paragraph 7 of the draft proposal had the potential to create an additional burden: it required Members to provide legal references, websites, explanatory documents, and any other documents, in an official WTO language. For Indonesia, whose national language was not English, Spanish, or French, fulfilling this obligation could constitute a challenge. Moreover, his delegation welcomed a clarification about the precise scope of the wording "any other documents" under the same paragraph. To move forward with this proposal, his delegation suggested that the words "shall endeavour" be replaced by "are encouraged to". In addition, he reported that his delegation was flexible with the current draft concerning advanced rulings and did not have any reservations on this provision. He hoped that the proponents could accept the pragmatic approach preferred by his delegation.

4.4. The representative of Chinese Taipei reiterated her delegation's support for the proposal and highlighted that notifications were the backbone of the work of the CRO. Updated and comprehensive notifications by Members would ensure that traders could access the relevant information to arrange their shipments in advance. He therefore encouraged Members to seriously consider the proposal.

4.5. The representative of the United Kingdom agreed with the value and importance of transparency on non-preferential rules of origin. Increased transparency helped to keep costs down and simplify red tape for all global businesses. His delegation agreed with the co-sponsors, and other Members that had expressed an interest in improving the current practice around these notifications. Consequently, his delegation supported this proposal and would co-sponsor it. He said that, from

the perspective of a Member that was preparing to make its notifications for the first time following the end of the transition period between the UK and EU, his government had found this template useful. It provided clarity, had helped to streamline internal processes, and would help to ensure that complete and accurate information would be notified. In fact, it was the UK's intention to use the proposed template to notify its non-preferential rules of origin.

4.6. The representative of Hong Kong, China reminded Members that, according to the Secretariat's records, only 51 Members applied non-preferential rules of origin and would need to report them under this proposed template. The remaining 60 Members did not maintain any rules of this type and could hence notify their practices very simply. She also emphasized that a notification obligation already existed. The proposed template would facilitate the presentation of information in a clear and user-friendly manner and would make it possible to search non-preferential rules of origin on the Origin Facilitator. She thought the template was easy to use and would not require more than a few minutes or a few days to complete depending on Members' practices. For this reason, the benefits of the template outweighed any possible administrative burden. Her delegation encouraged Members to see this template as a tool to significantly enhance the transparency of origin requirements, hence creating new opportunities for traders in global markets, and helping them to recover from the pandemic. She thanked the delegation of Indonesia for its suggestion on the text and looked forward to working with Members to resolve any remaining concerns.

4.7. The representative of Ecuador said that his delegation had certain reservations regarding this proposal. The requirements of paragraphs 4 and 8 would, he said, create transparency obligations that currently did not exist in the Agreement on Rules of Origin. In this regard, his delegation considered that the use of Annex II of the draft decision should be voluntary.

4.8. The representative of the European Union confirmed that the EU supported the draft as it stood. At the same time, the EU wished to promote transparency in all areas where non-preferential rules of origin were used. Hence the EU believed that the notifications should not be limited to the rules used for the application of MFN duties only, as was the case under the draft proposal, but should also cover other rules of non-preferential applications of origin, for which the stakes for businesses were much higher.

4.9. The representative of Japan said that his delegation supported the adoption of this proposal by the Committee.

4.10. The representative of Turkey said that her delegation supported transparency efforts in the WTO and believed that this proposal would provide a meaningful contribution to the collection of much needed, structured data in the area of non-preferential rules of origin, which covered a large segment of trade. This would translate into more transparency and predictability for traders, and thus facilitate market access, which was in the interests of all Members.

4.11. The representative of India reiterated the concerns that his delegation had already raised in previous meetings of the Committee. His delegation's concerns were that the proposal introduced new notification obligations and that it lacked effective special and differential (S&D) treatment for developing countries and LDCs. Moreover, introducing transparency obligations in this area did not match transparency obligations in other areas of interest to developing countries, particularly the LDCs. As a result, his delegation was not in a position to support the adoption of this draft decision.

4.12. The representative of Canada reiterated his delegation's support for this initiative and its willingness to engage with Members to try to find a solution so it could be adopted.

4.13. The representative of Switzerland thanked all delegations for their interventions and their support. In particular, he thanked the delegations of Ecuador, Indonesia, and India for explicitly raising their concerns. He thought that this facilitated finding common ground on this proposal. He clarified that the proposal dealt with how to submit information to the Secretariat, not what to submit. He said that the scope of the notification was already defined by Article 5 of the Agreement. The template only clarified how to structure notifications and addressed information gaps in a very pragmatic manner, as most Members had recognized. The only additional or new obligation was contained in paragraph 8, which required that Members update their notification when substantive changes were made to their rules of origin. The Agreement required the publication, but not the notification, of such changes. All other aspects of the proposed notification template were already

contained in the Agreement. He also welcomed the UK's statement about using the template. In relation to the concerns raised by Indonesia, he believed a solution could be found in order to avoid overburdening Members for whom their official language was not a WTO language. He said that the template had been designed to minimize any administrative burden, in particular by allowing many Members to report information by simply ticking a few boxes. In relation to the concerns raised by India, he asked if India could elaborate on and substantiate its need for S&D treatment, because only then could a constructive dialogue take place to design specific solutions to solve specific challenges. Indeed, this was the approach that had led to the revisions in the current proposal. India did not apply non-preferential rules of origin and did not require a mandatory certificate of origin. As a result, reporting this information with the template would be extremely simple for the Indian delegation. If this was indeed the case, he wondered what specific difficulties would be resolved by additional S&D provisions. The adoption of this template, he concluded, would allow Members to access product-specific requirements using the Origin Facilitator, making it a truly comprehensive tool. In order to address the remaining concerns, he requested the Chairperson, with the help of the Secretariat or a facilitator, to establish a small group to finalize the proposal with a view to its adoption.

4.14. The Chairperson thanked Switzerland for the suggested next steps. Before concluding, he called on those Members that had expressed concerns over the proposal to elaborate on them further and, in particular, to suggest specific changes to the text that could address those concerns.

4.15. The representative of India did not agree that the concerns expressed by his delegation lacked clarity. His delegation had discussed these concerns with the proponents during Committee meetings, and in informal and bilateral consultations. He said that Article 4 and Annex II of the proposal contained new notification obligations. And even if India did not use any non-preferential rules of origin, it would still need to complete Annex II and report information about any certification requirements in case it applied any documentary requirements.

4.16. The representative of the United States reiterated her delegation's support for the proposal. After years of consultations and discussion, almost all Members of the Committee now supported the proposal. The adoption of the decision and use of the template would bring the kind of transparency and organization already established for preferential rules under the Nairobi Decision, with great approval, to the realm of non-preferential rules, affecting more trade and more Members. The results of this proposal would be positive and substantial, just as they had been in the area of preferential rules. Her delegation supported the Swiss delegation in its consistent and accessible efforts to find consensus on this proposal and was happy to join whatever steps were needed to finalize and adopt it.

4.17. In conclusion, the Chairperson noted again that there was significant support for the objectives of the proposal, and perhaps even a consensus on the need for greater transparency in this area. He also noted that the majority of Members considered that this proposal was a very good step in that direction. No delegation had questioned the benefits of the draft template and the draft decision. He noted, however, that there still remained some questions or concerns about the text itself. He proposed to invite delegations for a small group follow-up consultation on this template, at which he would seek to hear specific concerns and suggestions to improve the language of the decision.

4.18. The Committee agreed to proceed accordingly.

5 INFORMAL SESSION ON THE 25TH ANNIVERSARY OF THE AGREEMENT ON RULES OF ORIGIN – UPDATE BY THE CHAIRPERSON

5.1. The Chairperson referred to the 25th Anniversary of the WTO Agreement on Rules of Origin and the event organized by the Secretariat to celebrate it, on 4 March 2020. He informed delegations that the Secretariat had updated the Internet page of the event and added all relevant materials to the page, including the programme, video recordings, presentations, and a summary of the discussions (G/RO/W/196). Since many interesting points had been raised concerning the work of the Committee during the event, he invited delegations to consult the webpage and the materials found there in order to reflect further on these matters.

5.2. The Committee took note of the Chairperson's update.

6 ORIGIN-RELATED MEASURES TAKEN IN CONNECTION WITH THE COVID-19 PANDEMIC – INFORMATION BY THE SECRETARIAT

6.1. The Chairperson informed the Committee that some of the measures taken by governments to fight the COVID-19 pandemic related to origin. He had therefore asked the Secretariat to share this information with delegations in case they had an interest in knowing more about such measures.

6.2. The Secretariat (Mr Darlan F. Martí) explained that this point had been added to the agenda for delegations' information only (RD/RO/90). The purpose was to bring to delegations' attention the fact that some of the measures taken by governments to fight the COVID-19 pandemic related to origin requirements. In fact, several governments had temporarily closed businesses and government agencies, and had severely restricted the movement of persons, in order to fight the spread of the pandemic. Consequently, some administrative procedures, such as the preparation of certificates of origin, and the addition of official seals or their consularization, had become more difficult or even impossible. It was in that context that some governments had sought to temporarily simplify their documentary requirements. For example, Argentina and the Eurasian Economic Union had allowed the electronic submission of preferential certificates of origin under certain conditions. Japan had simplified and relaxed certain customs procedures to take into account the difficulties of opposing a seal on a certificate of origin. Finally, the EU had authorized the following measures, among others: (i) the electronic submission of certificates of origin; (ii) the acceptance of copies of certificates; (iii) the relaxation of the way certificates had to be made; and (iv) the encouragement of the use of approved exporter status. Members interested in learning more about these measures could consult the relevant notifications made to the Trade Facilitation Committee or the COVID-19 pages of the WTO website.

6.3. The European Union confirmed that the EUROPA site contained some information on measures taken in the context of the COVID-19 pandemic, and that some of those measures concerned proofs of origin. He noted that it could be difficult during the pandemic to go to customs offices and obtain signed, original certificates. For this reason, the EU had decided to accept copies of original documents, as well as electronic versions. Such an arrangement was implemented on a strictly reciprocal basis (that is, with states that implemented the same measures on a mutual basis). Furthermore, he confirmed that a wider use of the authorized exporter status could facilitate trade, because operators enjoying that status would not need to go through customs authorities to obtain signed certificates of origin. In this sense, the REX system had also proven itself to be useful during the pandemic, because registered exporters could rely upon self-certification and preserve their preferential market access.

6.4. The representative of Canada stated that her government had also implemented facilitative measures in response to the COVID-19 crisis and to ensure that rules of origin were not a barrier to trade. For example, Canada did not require a certificate of origin at the time of importation. Several other market access measures had been implemented, including the elimination of customs duties on medical supplies. Document G/MA/W/153 contained a description of such measures.

6.5. The representative of India brought to the notice of the Committee that his government had likewise taken trade facilitative measures during the COVID-19 crisis. Details of these measures had been notified to the Committee on Trade Facilitation in document G/TFA/W/26. Of particular relevance to the work of the CRO was the fact that India had temporarily allowed for the provisional clearance of goods under preferences without the production of an original certificate of origin. On the export side, India had also begun to issue electronic certificates of origin for exports. He requested that this notification be taken into consideration in future updates.

6.6. The Russian Federation confirmed that her authorities allowed the importation of goods without regional certificates being submitted at the date of customs clearance. Operators could submit the relevant documents at a later date, but not later than six months from the date of customs clearance, to preserve their tariff preferences under the EAEU scheme.

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

7 "UNITED STATES: REVISED ORIGIN MARKING REQUIREMENT FOR GOODS PRODUCED IN HONG KONG" – STATEMENT BY HONG KONG, CHINA

7.1. The representative of Hong Kong, China informed the Committee that, on 11 August 2020, the US Customs and Border Protection (USCBP) had announced a revised origin marking requirement. Under the new requirement, goods produced in Hong Kong and imported to the US could no longer be marked "Hong Kong" as their origin but had to be marked "China" instead for purposes of Section 304 of the Tariff Act of 1930, 19 U.S.C. § 1304. The revised origin marking requirement had come into effect on 10 November 2020. Her delegation strongly objected to this revised origin marking requirement and requested that it be withdrawn immediately. By unilaterally and arbitrarily dictating the name of the place of production or the identification to be shown on Hong Kong products, the US had disregarded the obvious fact that Hong Kong was a separate customs territory, with its own trade policies and origin rules, as well as being a full Member of the WTO. The US requirement had also resulted in difficulties and an additional burden to the business communities of both sides, as well as confusion to consumers in the US. Hong Kong, China was concerned that the US measure was inconsistent with the US' obligations under multiple provisions of the WTO Agreements, including the rules set forth in the Agreement on Rules of Origin (ARO), which aimed to ensure that WTO Members' rules of origin did not create unnecessary obstacles to trade. In particular, with respect to the ARO, the US measure was inconsistent with, *inter alia*, the following provisions: first, Article 2(c), because the US required the fulfilment of a certain condition not related to manufacturing or processing, as a prerequisite for the determination of the origin of goods produced in Hong Kong, China; second, Article 2(d), because the US discriminated between Hong Kong, China and other WTO Members in respect of the rules of origin that it applied to imports; and third, Article 2(e), because the US did not administer its rules of origin in a consistent, uniform, impartial, and reasonable manner. Over the past months, her delegation had been trying to resolve the matter with the US through bilateral engagement, but to no avail. The clear and strong objection raised at the October meetings of the General Council, the Committee on Trade Facilitation, and the Committee on Technical Barriers to Trade, had also not resulted in any concrete response. Consequently, on 30 October, her government had requested consultations with the US, in accordance with the rules and procedures of the WTO dispute settlement mechanism and the relevant provisions of the WTO Agreements, with a view to resolving the matter through bilateral efforts. In conclusion, she noted that Hong Kong, China was a staunch supporter of the rules-based multilateral trading system; it took the rights and obligations of the WTO seriously and expected all WTO Members likewise to respect the WTO rules and to honour their WTO commitments. She again urged the US immediately to withdraw its revised origin marking requirement on Hong Kong products.

7.2. The United States delegation confirmed that, on 30 October 2020, Hong Kong, China had requested consultations under the Dispute Settlement Understanding regarding what it characterized as "certain measures affecting marks of origin". The United States had replied to that request on 9 November 2020. As had been reflected in the US response, the President had determined that the situation in Hong Kong, China was a threat to the national security of the United States. Without prejudice to whether the consultations request raised issues of national security not susceptible to review or capable of resolution by the WTO dispute settlement mechanism, her delegation had accepted the request to enter into consultations. As such, her delegation did not understand why Hong Kong, China was raising this issue in this Committee.

7.3. The Committee took note of the statements made.

8 TWENTY-SIXTH ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT ON RULES OF ORIGIN (G/RO/W/199)

8.1. The Chairperson recalled that Article 6.1 of the Agreement on Rules of Origin stated that "the Committee shall review annually the implementation and operation" of this Agreement and "annually inform the Council for Trade in Goods of developments". To help the Committee conduct this review, the Secretariat had prepared a background note describing the activities of the Committee under Parts II and III of the Agreement (G/RO/W/199).

8.2. The representative of the United States requested a written procedure for Members to review the text of this report and proposed revisions, in light of this meeting, before the report was finalized and approved. Her delegation expected changes to be made to the following paragraphs: Paragraph 10.1 (which indicated that there were no disputes with respect to the Rules of Origin

Agreement); and Paragraph 12.1 (to indicate that the Council for Trade in Goods (CTG) Report was not in fact adopted during the meeting, but through written procedures).

8.3. The representative of Hong Kong, China also asked for paragraph 10 of the report to be updated in light of the discussions held during the meeting.

8.4. The Chairperson proposed, in light of Members' comments, that the Committee request the Secretariat to revise the draft report before circulating it to Members. If no objections were received by the Secretariat within a prescribed time-frame, he would deem that the report had been adopted and that the Committee had concluded its 26th Annual Review of the implementation of the Agreement.

8.5. It was so agreed.

8.6. The report was revised and adopted through written procedures on 20 November 2020 (G/RO/92).

9 DRAFT REPORT (2020) OF THE CRO TO THE COUNCIL FOR TRADE IN GOODS (G/RO/W/200)

9.1. The Chairperson explained that the Committee was required to report on its activities to the Council for Trade in Goods. To this end, the Secretariat had prepared document G/RO/W/200 for Members' consideration.

9.2. The representative of the United States informed Members that it had notified the Secretariat of changes to be made to paragraph 8 of the draft report. As a result, her delegation requested a written procedure to review the text of this report and to propose revisions to the Membership before the report was finalized and approved.

9.3. The Chairperson therefore proposed to request the Secretariat to revise the report in light of the comments made during the meeting and to circulate it to Members. If no objections were received within a given time-frame, the report would be deemed to have been adopted.

9.4. It was so agreed.

9.5. The report was revised and adopted through written procedures on 20 November 2020 (G/L/1378).

10 OTHER BUSINESS

10.1. The Chairperson informed Members that China and the EU had each requested to make a statement under "Other Business".

10.1 China – Update on a New System for Issuing and Printing Certificates of Preferential Origin

10.2. The representative of China updated the Committee on China's recently launched "System for Issuing and Printing Certificates of Origin for Preferential Tariff Treatment". The system, implemented by China Customs on 10 September 2020, was an effort to further promote the implementation of special preferential tariff treatment measures for LDCs. The system allowed to issue certificates of origin online and was being piloted for imports from Niger; Ethiopia; and Mozambique. Competent authorities in the exporting beneficiary country could directly log onto the system through the Internet to issue a preferential certificate of origin. The system would automatically save the electronic information and send it to Chinese Customs for clearance management. Through this system, the certificate data and import declaration data were automatically compared, thereby facilitating operations, preventing origin fraud, and improving customs efficiency. During a transition period, the system allowed, in addition, for printing blank certificates of origin. For the next step, based on the experience of the trial operation of the system, China Customs would consider launching the online Issuing System for other beneficiary countries. He concluded by explaining that the system would effectively promote the implementation of the Nairobi Ministerial Decisions.

10.2 EU's Access2Markets Portal and Rules of Origin Self-Assessment (ROSA)

10.3. The representative of the European Union updated the Committee on the EU's new "Access2Markets Portal" which had been launched on 13 October 2020. She explained that the Portal was a very practical tool and guide for European companies on how to export from, and how to import into, the EU. It consolidated two very successful EU databases (the Trade Helpdesk and the Market Access Database) and had been developed in response to feedback and requests from stakeholders. It responded to the need of operators to access user-friendly and clear information in order to seize opportunities created through the EU's trade agreements. Hence, the Portal translated the often-complex legal terminology of free trade agreements into a user-friendly and more accessible format. The Portal was easily searchable and provided specific information concerning trade-related regulations, such as tariffs, rules of origin, and internal taxes. In addition, it provided access to a database containing data on exports from the EU to over 120 export markets, and included information about import tariffs, and internal taxes, as well as a practical overview of formalities and procedures to be respected by exporters. The Portal also offered a database with trade statistics on import and export volumes. The section relating to rules of origin was well designed and very informative. It contained summaries of the most important provisions relating to the origin protocols of every EU free trade agreement. It described specific requirements and also included an interactive and searchable database of terminology, definitions, and explanations. It included direct links to the applicable provisions, including guidance documents developed over time. In this respect, an innovative feature, which complemented the Portal, was an interactive, self-assessment tool to check compliance with origin requirements. The Rules of Origin Self-Assessment (ROSA) tool already covered the requirements of the EU RTAs with Canada, Japan, the Republic of Korea, and Canada. Information about the agreements with Central America, Colombia, Peru, Ecuador and Viet Nam would be available before the end of the year, and others would follow, until all the EU's RTAs had been covered. ROSA was not only a source of information, it was also an interactive guide and checklist for exporters, which was product specific, and covered not only the rules, but also procedures, and any available flexibilities (for example, tolerance). Finally, ROSA also allowed operators to compare and check product-specific rules of origin under different RTAs, in order to know which preferential markets their products could access. As such, it was an important pillar of the EU's efforts to support small and medium-sized enterprises.

10.4. The Chairperson noted that there were no further requests under "Other Business". Before concluding the meeting, he reminded Members that two dates had been identified for the Committee's formal meetings in 2021: 20 May and 14 October.
