



Committee on Rules of Origin

MINUTES OF THE MEETING OF 14 OCTOBER 2021

VICE-CHAIRPERSON: MS LAURA GAUER (SWITZERLAND)

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Election of Vice-Chairperson

At the start of the meeting, the Vice-Chairperson informed Members that Mr Sulaiman Satari, the incoming Chairperson of the Committee on Rules of Origin (CRO, or the Committee), was not available and that she would be chairing the meeting at his request. She reminded delegations that

the election of a Vice-Chairperson was consistent with Rule 12 of the Rules of Procedure for Meetings of the Committee on Rules of Origin (G/L/149) and thanked all delegations for having elected her.

The representative of China welcomed Ms Laura Gauer as Vice-Chairperson of the Committee. He stated that the conditions for the election of Vice-Chairpersons were the subject of consultations being led by the Chairperson of the General Council. While these consultations were ongoing, he clarified that his delegation had no objection to Ms Laura Gauer chairing this meeting, on an exceptional basis, due to the elected Chairperson being unavailable. Nevertheless, his delegation did not wish this election and practice to be taken as a precedent.

The Committee then proceeded to adopt the agenda (WTO/AIR/RO/14). Delegations attended the meeting either in person or remotely via the "Interprefy" platform.

1 PREFERENTIAL RULES OF ORIGIN FOR LEAST DEVELOPED COUNTRIES (WT/L/917 AND WT/L/917/ADD.1)

1.1 Review of Recent Developments in Relation to Preferential Rules of Origin for LDCs: Report by Preference-Granting Members Wishing to Share Any Developments

1.1. The Chairperson reminded delegations that the Bali and the Nairobi Ministerial Decisions had instructed the CRO to monitor preference-granting Members' efforts to implement both Decisions. In this regard, she invited preference-granting Members to take the floor to inform the Committee of any recent developments in this area.

1.1.2 Update on the Implementation of the REX System of Self-Certification by the European Union

1.2. A representative of the European Union (Mr Christophe Fontaine) presented an update on the implementation of the REX (Registered Exporter System).¹ He recalled that the REX System was a system of self-certification for registered firms that had been in force since 1 January 2017. The transition period for implementation of the system had ended on 31 December 2020. In consequence, Certificates of Origin (Form A) were no longer admissible under the EU GSP schemes. Instead, exporters were required to register in the system and to self-declare the origin of their goods, and to do so without need of any other types of Certificates of Origin from their authorities. To ensure continuity, the EU had financed and delivered 17 three-day face-to-face training sessions to GSP beneficiary countries, in addition to a number of training events via video conference. Around 70,000 exporters were registered in the system, across 67 GSP beneficiary countries, while only seven countries had not yet introduced it.

1.3. The representative of Tanzania thanked the European Union for its update and asked for more details concerning the difficulties being faced by the seven countries that had not transitioned into the system.

1.1.3 Update on the Review of Preferential Rules of Origin by the United Kingdom

1.4. The representative of the United Kingdom reported that stakeholder consultations regarding the revision of the UK's GSP scheme had been completed. The UK remained committed to simplifying trade with LDCs, and the proposed modifications on rules of origin had been fully guided by the recommendations set out in the Nairobi Decision. The intention was to implement the new Developing Countries Trading Scheme (DCTS) in 2022.

1.5. The representative of Tanzania, on behalf of the LDC Group, welcomed the United Kingdom's decision to simplify its preferential rules of origin in light of the provisions and spirit of the Bali and Nairobi Ministerial Decisions. In developing the new rules and other administrative requirements, he invited the UK to build on some of the best practices already in place in the European Union.

¹ The presentation was circulated in document RD/RO/96.

1.1.4 Update by Any Other Preference-Granting Member

1.6. The representative of China gave an update on the implementation of the "Issuing and Printing System of Preferential Tariff Treatment Certificates of Origin". The system had been launched on 10 September 2020 to simplify preferential treatment for LDCs. The system had tested the online issuance of Certificates of Origin for five beneficiary countries. Once the visa agencies in beneficiary countries had logged into the system to issue the Certificate of Origin, the system automatically generated the relevant electronic data and sent it to China's Customs Authorities. Thanks to the system, around 360 Certificates had been issued by visa agencies in Ethiopia. As a transitional measure, the system had introduced a function for printing blank Certificates of Origin (CEPA). The tool was available in the Economic and Commercial Counsellor Offices of Chinese Embassies and Consulates in the beneficiary countries, and almost 19,370 blank Certificates of Origin had thus far been issued.

1.7. The representative of Tanzania, on behalf of the LDC Group, thanked China for exploring alternatives to simplify certification procedures and asked for additional information on how the new system operated.

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

1.2 Status of Notifications of Preferential Rules of Origin for LDCs and Preferential Import Data (G/RO/W/163/Rev.9) – Report by the Secretariat

1.9. The Secretariat (Mr Darlan F. Marti) reported that most preference-granting Members had already notified their preferential rules of origin used for LDCs, excepting Armenia, Iceland, and Morocco. In addition, some Members had also revised or updated their initial notifications. All the product-specific rules of origin contained in those notifications had been made available, at tariff-line level, through the Rules of Origin Facilitator (<https://findrulesoforigin.org/>)

1.10. He underlined the importance of having complete data on preferential imports from LDCs given that the Secretariat calculated and monitored preference utilization rates. Recently, comprehensive notifications had been submitted by Iceland and Turkey. The Secretariat had also received notifications from India and the Russian Federation covering several years. These recent notifications were still being verified with a view to their integration into the WTO Integrated Database (IDB). Some Members, such as Armenia, Kazakhstan, the Kyrgyz Republic, Montenegro, Morocco, New Zealand, and Tajikistan, had not yet provided any information regarding their preferential imports from LDCs. China had made available its data covering 2016 and 2018.

1.11. The representative of China clarified that the IDB data and Preferential Import Data came from different agencies using different data systems, which had resulted in some inconsistencies and had therefore hindered the integration of previous notifications in the databases. China hoped to submit data for 2019-2020 as well as data on preferential imports from LDCs for 2010-2015 and 2017. In addition, he requested that document G/RO/W/163/Rev.9 be corrected to reflect that China had submitted data for the years 2010, 2011, 2012, 2013, 2014, 2015, and 2017 even if that data could not be integrated to the databases. China's status would be changed from "*no submission received*", to "*Yes* (submission received but not yet disseminated)*".

1.12. The representative of India confirmed that his delegation had submitted to the IDB its Preferential Import Data under the duty-free scheme for LDCs for five financial years, from 2017 to 2021, and its preferential tariffs for LDCs for 2020 and 2021.

1.13. The representative of Tanzania highlighted that more comprehensive information would allow the CRO to monitor how preferences were utilized. He encouraged China to submit the necessary updates and data.

1.14. The Chairperson 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.

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

1.3 Further Submission on Rules of Origin Based on a Change of Tariff Classification: the Case of Rules of Origin used by Japan (G/RO/W/209) – Submission by the LDC Group

1.16. The representative of Tanzania, on behalf of the LDC Group, made a presentation² on the implementation of the Nairobi Ministerial Decision provisions related to the change-of-tariff classification (CTC) criterion. According to the Decision, rules of origin should be simple, and based on the change-of-tariff heading (CTH) criterion, or the change of tariff sub-heading (CTSH) criterion; they should not contain exceptions or restrictions, unless such restrictions were justified; and they should include a tolerance allowance for the use of materials from the same heading or sub-heading. In addition to these three components, the Nairobi Ministerial Decision asked preference-granting Members to avoid requirements that imposed combinations of two or more criteria for the same products. Focusing on these aspects, he explained that Japan used CTH as the standard general rule. However, he noted that Japan applied complex rules in some cases (with up to 26 pages of exceptions for a single rule). Even though utilization rates were relatively high under the Japanese preferential scheme, the complexity of such rules seemed unjustified, particularly in light of the fact that several free trade agreements signed by Japan contained a more lenient practice. In addition, he underlined that Japan applied a stringent direct consignment rule and provided additional examples of complex rules used for products classified under chapters 3, 42, 61, 62, 63, and 64. In conclusion, he said that the Group had provided several illustrations of where an origin criterion went beyond the requirements of the Nairobi Decision; therefore, he invited Japan to carry out an assessment of its rules and the necessary reforms to simplify its rules of origin and promote preferential trade from LDCs.

1.17. The representative of Japan indicated that Japanese customs data seemed not to confirm the empirical examples found in document G/RO/W/209. In this regard, he asked the LDC Group to provide additional written details of Japan's rules of origin for LDCs, including clarification as to the relevant sources of their statistical data.

1.18. The representative of Tanzania took note of possible differences in the statistical data. He noted that a request would be submitted to Japan in this regard, and that the methodologies regarding the calculation of the utilization rates could be studied in greater detail.

1.19. The Committee took note of the presentation and statements made.

1.4 Stocktaking of Implementation of the Bali and Nairobi Decisions on Preferential Rules of Origin for Least Developed Countries– Statement by the LDC Group (G/RO/W/210)

1.20. The Chairperson reminded Members that, at the CRO's previous meeting, the LDC Group had proposed to work towards drafting a text to be included in the Declaration of the 12th Ministerial Conference concerning the implementation of the Bali and Nairobi Ministerial Decisions. He noted that the LDC Group had now circulated a draft for discussion (G/RO/W/210).

1.21. The representative of Cambodia presented the text for discussion and the representative of Tanzania noted that the LDC Group had been active in monitoring the implementation of the Ministerial Decisions. He regretted to note that not all preference-granting Members had shown the same level of engagement, either in assessing and reviewing their own rules, or else in bringing evidence to the Committee of their efforts to promote fuller preference utilization. He recalled that the Ministerial Decisions reflected shared objectives; therefore, their implementation also required shared efforts in the CRO. The representative of Nepal supported the proposal because it contributed to reinvigorating the work of the CRO on the implementation of the Ministerial Decisions.

1.22. The representative of the United States said that the proposed language seemed to go beyond the Nairobi Decision and to create new obligations. However, Members could not commit to new obligations because the implementation of the Nairobi Decision was still ongoing. He recalled that the work of the Committee during the previous two years had shown that preferential rules of origin were not the only determinant of trade preference utilization. Certain other factors, such as production capability or sourcing preferences, also influenced the ability of LDC firms to utilize preferences. He thought that additional work was required in the Committee to help LDCs more fully understand the origin requirements of preference-granting Members. By way of example, he cited

² The presentation was circulated in document RD/RO/97.

direct shipping requirements, and explained that there was a misconception of this requirement among the LDC Group. Finally, he clarified that, after the Nairobi Decision, the US had taken certain steps to further simplify its rules, such as by increasing the *de minimis* value from USD 200 to USD 800.

1.23. The representative of Canada sought to clarify the meaning of "adopting best practices on preferential rules of origin and related administrative requirements". She said that it was unclear how the Committee could adopt best practices, and which practices were considered to be the best. She asked for additional discussions regarding the proposed language.

1.24. The representative of Switzerland said that Switzerland had fully implemented both the Bali and the Nairobi Decisions. Hence, Switzerland could not subscribe to the text indicating that the implementation of the Nairobi Decision was incomplete. He also said that the language of the proposal went beyond the Nairobi Decision and underlined that the Committee was already substantially engaged in its work. He thought that adoption of best practices would be difficult as Members were still in the process of identifying such practices.

1.25. The representative of the European Union stated that the EU was open to discussing a possible paragraph and that it would submit written comments on the proposal. She also asked the Secretariat for additional clarification regarding the procedure for comments and discussion of the draft text.

1.26. The representative of Australia acknowledged the importance of the Bali and Nairobi Decisions in providing transparent and simple rules of origin. He noted that any proposed work plan should be consistent with the provisions of both Decisions.

1.27. The representative of Bangladesh said that the LDC Group did not seek to create additional commitments; rather, the proposal reaffirmed the commitment of all Members to simple, transparent, and LDC-favourable rules of origin. The representative of Tanzania added that best practices already existed among Members. For example, the LDC Group had often referred to the "non-alteration requirement" as a method preferable to the direct consignment obligation. He underlined that certain preference-granting Members required LDCs to submit a non-alteration certificate, while the same Members did not ask such certificates under certain FTAs. He said that the language could be modified in case the text went beyond the Nairobi Decision. He also invited preference-granting Members to further engage on the text. Finally, he agreed that other factors, such as production capacity, might also influence the utilization of preferences. Similarly, the representative of Cambodia explained that some Members applied more lenient rules than others, and that there was scope for mutual learning. He hoped that the text could be adopted at MC12.

1.28. The Chairperson asked the LDC Group and preference-granting Members to work together to revise the draft paragraph as necessary, and to report back to her. If a revised draft could be agreed, she would circulate it to all Members for adoption through written procedures. It would then be forwarded to the General Council and the Ministerial Conference.

1.29. The Committee agreed to proceed accordingly.

1.5 Draft Report (2021) of the CRO to the General Council on Preferential Rules of Origin for LDCs (G/RO/W/207)

1.30. The Chairperson recalled that the CRO was required 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 Members' consideration (G/RO/W/207). She asked if Members wished to comment on the draft report and if it could be adopted and forwarded to the General Council.

1.31. The representative of India requested that the fact that his delegation had submitted preferential tariffs and import statistics be reflected in the report.

1.32. The report of the CRO to the General Council was revised accordingly and adopted as document G/RO/94.

2 NOTIFICATIONS UNDER ARTICLE 5 AND UNDER PARAGRAPH 4 OF ANNEX II OF THE AGREEMENT ON RULES OF ORIGIN (G/RO/N/226 AND G/RO/N/227)

2.1. The Chairperson drew Members' attention to the latest notifications received by the Secretariat, under the following document symbols: G/RO/N/226 and G/RO/N/227. In addition, she reported that the Secretariat had also recently received additional notifications from the United Kingdom covering its preferential rules of origin (G/RO/N/228). In light of such notifications, she noted the following: 22 Members had not yet submitted a notification under Article 5 of the Agreement; 53 Members had notified the Secretariat that they applied non-preferential rules of origin; and 62 Members had informed the Secretariat that they did not apply such rules.

2.2. The Committee took note of this report.

3 DRAFT TRANSPARENCY DECISION ON NON-PREFERENTIAL RULES OF ORIGIN (G/RO/W/182/REV.4) – REPORT BY THE CO-SPONSORS AND OTHER DELEGATIONS

3.1. The Chairperson referred to the draft notification template (G/RO/W/182/Rev.4) and noted that consultations between its proponents, Ecuador, India, and Indonesia, had been successful. Following those consultations, the proponents had agreed to discuss among themselves, and with colleagues in Capital, the issues raised, and certain textual suggestions. She invited delegations to report on any progress made in this regard.

3.2. The representative of Switzerland welcomed the United Kingdom as a new co-sponsor of the draft decision on enhancing transparency in non-preferential rules of origin. He reported that delegations had been very busy preparing for MC12, and that, as a result, informal consultations had not taken place since the Committee's previous meeting. In addition, he suggested that a process led by a facilitator appointed by the Chairperson could be a better option for continuing such consultations and adjusting the current proposal. This could be an initiative to be taken up after MC12.

3.3. The representative of the United Kingdom confirmed that his delegation had decided to co-sponsor the notification template. He underlined the importance of transparency in non-preferential rules of origin, in particular to help MSMEs to trade. He then drew delegations' attention to the UK's notification on non-preferential rules of origin (G/RO/N/214) and the fact that his delegation had used the draft template to prepare it. He said that his colleagues had found the template to be a very helpful tool. In the case of Members that did not apply non-preferential origin requirements, the process leading up to notifications under the template would be even simpler as the template only required those Members to tick a single box.

3.4. The representative of Chinese Taipei reiterated his delegation's support for the proposal and highlighted that the notification template would be helpful in promoting transparency and predictability in non-preferential rules of origin. He therefore encouraged Members to continue their dialogue in order to find common ground on the proposal as soon as possible.

3.5. The representative of Brazil reiterated his delegation's support for the proposal and expressed Brazil's readiness to engage in discussions after MC12.

3.6. The representative of Indonesia said that discussions were ongoing mainly between his delegation and the proponents. He reiterated his delegation's willingness to further discuss the proposal after MC12.

3.7. The representative of Ecuador agreed that it would be appropriate to continue these discussions after MC12.

3.8. The representative of India recalled that his delegation had previously expressed its concerns over the proposal; in particular, the fact that the proposal should not introduce new notification obligations, and the fact that it lacked an explicit recognition of special and differential treatment for developing Members. In addition, his delegation also felt that the level of ambition regarding transparency in this proposal did not match a similar level of ambition in other areas. His delegation had suggested textual changes to the draft and was awaiting the proponents' responses to those suggestions.

3.9. The Chairperson noted that this proposal had been on the Committee's agenda for almost three years, despite a shared sense among all delegations that the Committee needed to enhance transparency on non-preferential origin requirements. In this sense, the adoption of the proposal would mark the beginning of the CRO's work in this area, and not its end. For this reason, she requested delegations to give priority to the proposal immediately following MC12.

3.10. The Committee took note of the statements made and agreed to proceed accordingly.

4 TWENTY-SEVENTH ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT ON RULES OF ORIGIN (G/RO/W/206)

4.1. 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/206).

4.2. The Committee adopted the report.

5 DRAFT REPORT (2021) OF THE CRO TO THE COUNCIL FOR TRADE IN GOODS (G/RO/W/208)

5.1. 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/208 for Members' consideration.

5.2. The Committee adopted the report.

6 ROUND TABLE ON RULES OF ORIGIN AT THE EUROPEAN UNIVERSITY INSTITUTE – ANNOUNCEMENT BY UNCTAD

6.1. The representative of UNCTAD (Mr Stefano Inama) informed Members that, on 15-17 November 2021, UNCTAD, in collaboration with the European University Institute, would organize another round table on rules of origin. The round table was an annual event to discuss the different emerging issues regarding rules of origin and their administration. Participants were experts from international organizations, such as the WCO, the ITC, the ADB, and the ICC. Representatives of certain businesses had also participated in past round tables. The event brought together different actors, in an informal setting, to discuss challenges regarding rules of origin. It also presented an opportunity to share research findings. The upcoming edition would focus on the topic, "*Towards convergence of rules of origin*". He invited all delegates to participate.

6.2. The Committee took note of the update by UNCTAD.

7 DATES OF THE COMMITTEE'S NEXT MEETINGS

7.1. The Chairperson reported that two dates had been identified for the following year's formal meetings of the CRO, namely, 7 April and 13 October 2022.

7.2. The Committee took note of these dates.

8 OTHER BUSINESS

8.1. No items were raised under "Other Business".
