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Committee on Rules of Origin

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## **SUBMISSION BY CAMBODIA ON BEHALF OF THE LEAST-DEVELOPED COUNTRIES**

*Possible agenda items for a dedicated session of the CRO meeting  
on preferential rules of origin for LDCs*

The following submission, dated 14 March 2017, is being circulated at the request of the delegation of Cambodia.

### **1 INTRODUCTION**

1.1 Paragraph 4.2 of the Nairobi decision on preferential rules of origin provides that: *"No later than 31 December 2016 each developed preference-granting Member, and each developing preference-granting Member undertaking the commitments in accordance with paragraph 4.1 up to that date or thereafter, shall inform the Committee on Rules of Origin (CRO) of the measures being taken to implement the above provisions."*

1.2 Besides, during the meeting of the Committee on Rules of Origin held on 2 March 2017 the Committee adopted a template for notification of rules of origin for least-developed countries and the WTO secretariat circulated a paper estimating the utilization rates of preferences enjoyed by the least-developed countries in certain preference-granting members.

1.3 Against this backdrop, the informal Dedicated Session of the CRO on preferential rules of origin for LDCs will provide an opportunity to the Members to consider and assess the notifications or communications by preference-granting members received by the CRO on 31 December 2016 or thereafter, to examine the utilization rates and review notifications of the template to be submitted by the preference-granting members by the date of dedicated session.

1.4 In addition the Dedicated Session will review how the existing rules of origin granted by preference-granting countries could be further improved and aligned to ensure simple and transparent rules of origin taking into account the Nairobi Decision for LDC preferential rules of origin.

Note: For each agenda item, a LDC representative will make a detailed presentation of the issue at stake to kick-start the discussions. The proposed dedicated session could be held in July 2017.

### **2 ITEM 1: JOINT DISCUSSION AND EXAMINATION OF THE IMPLEMENTATION OF THE PARAGRAPH 1.1 OF THE NAIROBI DECISION AND OF THE EXISTING METHODS OF CALCULATION FOR THE PERCENTAGE CRITERION ACCORDING TO THE ABOVE MENTIONED PARAGRAPH OF THE NAIROBI DECISION.**

2.1 Paragraph 1.1 of the Nairobi Decision requires preference-granting members *"adopt a method of calculation based on the value of non-originating materials"*. At the same, it allows *"Preference-granting Members applying another method to continue to use it"*, recognizing *"that the LDCs seek consideration of use of value of non-originating materials by such preference-granting Members when reviewing their preference programme."*

2.2 It also requires the preference-granting Members to consider developing or building *"on their individual rules of origin arrangements applicable to imports from LDCs, allowing the use of*

*non-originating materials up to 75% of the final value of the product, or an equivalent threshold in case another calculation method is used, to the extent it is appropriate and the benefits of preferential treatment are limited to LDCs" as well as "consider the deduction of any costs associated with the transportation and insurance of inputs from other countries to LDCs."*

2.3 Against this backdrop, a threadbare discussion may take place on what steps preference-granting members have taken towards fulfilling the target set out in Paragraph 1.1, what challenges they have been facing and how best to implement the Decision.

### **3 ITEM 2: JOINT DISCUSSION AND EXAMINATION OF THE IMPLEMENTATION OF THE PARAGRAPH 1.2 OF THE NAIROBI DECISION AND EXAMINATION OF THE EXISTING METHODS OF USING A CHANGE OF TARIFF CLASSIFICATION TO DETERMINE SUBSTANTIAL TRANSFORMATION ACCORDING TO THE NAIROBI DECISION**

3.1 Paragraph 1.2 of the Decision states that:

- "(a) *As a general principle, allow for a simple change of tariff heading or change of tariff sub-heading;*
- (b) *Eliminate all exclusions or restrictions to change of tariff classification rules, except where the preference-granting Member deems that such exclusions or restrictions are needed, including to ensure that a substantial transformation occurs;*
- (c) *Introduce, where appropriate, a tolerance allowance so that inputs from the same heading or sub-heading may be used."*

3.2 On the basis of the notification received from preference-giving members, the Secretariat can be asked to make a presentation about current practices. The Committee could then discuss concerns, challenges and recommendations to implement this provision.

### **4 ITEM 3: JOINT DISCUSSION AND EXAMINATION OF THE IMPLEMENTATION OF THE PARAGRAPH 1.3 OF NAIROBI DECISION AND EXAMINATION OF THE EXISTING METHODS OF USING A SPECIFIC WORKING OR PROCESSING REQUIREMENT TO DETERMINE SUBSTANTIAL TRANSFORMATION ACCORDING TO THE ABOVEMENTIONED PARAGRAPH OF THE NAIROBI DECISION**

4.1 Preference-granting members implementing this provision could share their experience on the use of the processing criteria, report associated challenges and discuss benefits to the LDCs. From the discussions, Members may extrapolate best practices that could guide other preference-granting Members.

4.2 Paragraph 1.3 of the Nairobi decision lists a series of specific working or processing in different sectors. It is noted that some preference-giving countries are using such criterion in the case of textile and clothing requiring a single stage of specific manufacturing and processing requirement (assembly of fabrics into a finished garment) that has greatly facilitated the utilization of preferences by LDCs. Could this practice be applied by other preference-granting countries?

4.3 Further, it is noted that the other examples quoted in paragraph 1.3 have not been adopted by preference-giving countries especially in agrifood products, chemicals and machinery and electronics. The following questions could be discussed: How could the use of a specific manufacturing or processing operation criterion contribute to rules that are simpler and more transparent? Could preference-granting countries consider adopting rules that recognize the processing of raw agricultural products into processed agricultural products? Could Members envisage, as provided for in the Decision, the use of chemical reactions as substantial transformation for a number of chemical products? Could the concept of assembly operations going beyond simple assembly be considered as substantial transformation for some machinery and electronics?

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**5 ITEM 4: JOINT DISCUSSION AND EXAMINATION OF THE IMPLEMENTATION OF PARAGRAPHS 1.4 AND 1.5 OF THE NAIROBI DECISION AND EXAMINATION OF THE EXISTING METHODS OF USING A COMBINATION OF TWO OR MORE CRITERIA FOR THE SAME PRODUCT ACCORDING TO THE ABOVEMENTIONED PARAGRAPH OF THE NAIROBI DECISION**

5.1 Paragraph 1.4 invites preference-granting countries to *"avoid requirements which impose a combination of two or more criteria for the same product"*. The same paragraph invites preference-granting members *"to consider relaxing such requirements for a specific product upon due request by an LDC."*

5.2 Paragraph 1.5 maintains that *"Preference-granting Members are encouraged to offer alternative rules for the same product."*

5.3 Members may discuss how best to implement the requirements of paragraph 1.4.

5.4 It is noted that a number of preference-granting countries provide alternative rules of origin for the same product while others do not. Alternative rules of origin for the same products may be trade facilitating and could offer LDC manufacturers and exporters a wider choice of substantial transformation criteria to comply with. The following questions could be discussed: could preference-granting countries consider adopting alternative rules of origin for the same products? At the informal dedicated session, the LDCs could submit a list of possible alternative rules applicable to certain categories of products for the consideration of preference-granting countries.

**6 ITEM 5: JOINT DISCUSSION AND EXAMINATION OF THE IMPLEMENTATION OF PARAGRAPHS 2.1 AND 2.2 OF THE NAIROBI DECISION AND EXAMINATION OF THE EXISTING METHODS OF PROVIDING CUMULATION ACCORDING TO THE ABOVEMENTIONED PARAGRAPHS OF THE NAIROBI DECISION****7 ITEM 6 (A) PARAGRAPH 2.1**

7.1 Paragraph 2.1 points out that cumulation should be read in conjunction with the substantial transformation requirements of each preference-granting member. A combined examination of the two could offer an overall assessment of the stringency or leniency of a given set of rules of origin (i.e. stringent requirements for substantial transformation may prove easier to comply with if different forms of cumulation are available while a seemingly generous substantial transformation criterion may be difficult to comply with in the absence of cumulation). In general, a lenient requirement of substantial transformation allowing the sourcing of inputs from the most competitive supplier should be preferred over a combination of stricter substantial transformation criteria and cumulation, since cumulation is associated with the compliance with administrative requirements and graduation criteria.

7.2 Paragraph 2.1 of the Nairobi Decision lists different forms of cumulation that may be applied. During the informal dedicated session, preference-granting members may review existing practices and consider useful options to expand the scope of their own cumulation provisions. In particular, Members may consider the difficulties that arise when regional cumulation is granted only to a subset of countries that does not reflect the actual composition of regional trade arrangements.

7.3 The following questions could be discussed: Could preference-granting Members who are currently not providing any form of cumulation consider the possibility of providing at least a minimum number of cumulation options? Would preference-granting members that are already providing some form of cumulation considering expanding their provisions? Could preference-granting members offering cumulation on a regional basis reform their rules to ensure that LDCs who are part of the same regional trade agreement are not excluded from cumulation rules?

**8 ITEM 6 (B) PARAGRAPH 2.2**

8.1 Paragraph 2.2 invites preference-granting countries to remain open to considering particular cumulation possibilities in the case of specific products or sectors. It may be noted that under certain GSP schemes the cumulation possibilities have been severely diminished by the graduation

of some GSP beneficiaries from cumulation. Preference-granting countries have adopted different practices to remedy this occurrence, most notably the EU and Canada.

8.2 The following questions may be discussed: What solution could be envisaged to address the adverse effects that on some LDCs from the graduation of developing countries beneficiaries?

#### **9 ITEM 6: JOINT DISCUSSION AND EXAMINATION OF THE IMPLEMENTATION OF PARAGRAPH 3 OF THE NAIROBI DECISION AND EXAMINATION OF THE EXISTING DOCUMENTARY REQUIREMENTS ACCORDING TO THE ABOVEMENTIONED PARAGRAPH OF THE NAIROBI DECISION**

9.1 Paragraph 3 of the Nairobi Decision calls for improvements in the current practices concerning the proof of evidence, non-manipulation requirements, and provisions concerning small consignments and self-certification in paragraph. It may be noted that preference-granting countries currently have different requirements on such issues. These requirements range from a liberal and trade facilitating approach (e.g. information and evidence in case of doubt) to very demanding requirements (e.g. the requirement of a through bill lading covering the passage through transit countries in all cases). Similarly, there are different practices that have been adopted by preference-granting countries on the treatment of small consignments and self-certification.

9.2 The following questions may be discussed: Are preference-granting countries considering easing existing requirements related to documentary evidence and non-manipulation? What are the most trade-facilitating options related to small consignments and self-certification? Would it be possible to envisage best practices in these areas?

#### **10 ITEM 7: UTILIZATION OF PREFERENCE**

10.1 As per the decision of Paragraph 4.3, the CRO has already agreed on modalities utilization rates and the Secretariat has presented a first preliminary report of utilization rates during the meeting held on 2 March 2017 (G/RO/W/168). The dedicated session may examine this preliminary report in greater detail with a view to drawing linkages between lower utilization rates and the design and stringency of specific origin requirements. Some of the questions which may be discussed include: recommendations to increase the utilization of preferences by the LDCs and options to improve presentation of the report of the Secretariat to also take into account other overlapping preferential arrangements.

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