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Committee on Rules of Origin

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NOTIFICATION OF PREFERENTIAL RULES OF ORIGIN FOR LEAST DEVELOPED COUNTRIES

EUROPEAN UNION

The following communication, dated 29 June 2017, is being circulated at the request of the delegation of the European Union.

Paragraph 4.3 of the 2015 Ministerial Decision on preferential rules of origin for least developed countries (WT/L/917/Add.1) requires preference-granting Members to notify preferential rules of origin as per the established procedures¹. In addition, as mandated by the Ministerial Decision, the Committee on Rules of Origin agreed, at its meeting of 2 March 2017, to a template for such notifications (G/RO/84).

Following such requirements, the following notification has been received from: European Union.

A. BASIC INFORMATION

1)	Notifying member	European Union
2)	Date of entering into force of Rules of origin and any substantive modification thereof	<p>1 January 2011 (last reform)</p> <p>The EU provides for specific rules of origin for Least-Developed Countries within the framework of its Generalized Scheme of Preferences (GSP), namely under the Everything But Arms (EBA) scheme.</p> <p>http://trade.ec.europa.eu/doclib/docs/2014/october/tradoc_152839.pdf</p> <p>The last amending regulation of the GSP rules of origin, i.e. Commission Implementing Regulation (EU) No. 2015/428 of 10 March 2015, was notified to the WTO on 13 May 2015 with notification G/RO/N/69/Add.1.</p> <p>The GSP rules of origin are laid down in 3 different acts:</p> <ul style="list-style-type: none"> - Article 37 and Articles 41 to 58 of Commission Delegated Regulation (EU) No. 2015/2446 contain the rules concerning the definition of the concept of originating product and the rules concerning the cumulation of origin, as well as its Annex 22-03 (Introductory notes and list of working or processing operations which confer originating status). Commission Delegated Regulation (EU) No. 2015/2446: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2015_343_R_0001 - Article 60 and Articles 70 to 112 of Commission Implementing Regulation (EU) No. 2015/2447 contain the procedural rules, i.e. the rules concerning issue or making out of proofs of origin, in particular all rules concerning the

¹ The relevant notification requirements are contained in Paragraph 2(d) of Annex 1 of the Transparency Mechanism for Preferential Trade Arrangements (WT/L/806) and in Paragraph 4 of Annex II of the Agreement on Rules of Origin.

		<p>REX system, the rules on administrative cooperation and verification of proofs of origin.</p> <p>Commission Implementing Regulation (EU) No. 2015/2447: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R2447</p> <ul style="list-style-type: none"> - Article 64 of the Union Customs Code lays down the rule and specific conditions concerning the possible derogations. <p>The Union Customs Code, Regulation (EU) No. 952/2013: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1472824298675&uri=CELEX:32013R0952.</p>
3)	Date of expiration of Rules of origin if applicable	The applicable rules for LDCs are not limited in time.
4)	Title of the preferential scheme for which legislation on Rules of origin is applicable	Generalized Scheme of Preferences, which covers i.a. a special arrangement for the Least-Developed Countries (Everything But Arms (EBA)). http://trade.ec.europa.eu/doclib/docs/2012/october/tradoc_150025.pdf .
5)	Authority(ies) granting the preferential treatment	The European Parliament and the Council http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0978&qid=1498567932583&from=EN .
6)	National authorities in charge of Rules of origin administration	Directorate-General for Taxation and Customs Union (DG TAXUD) of the European Commission 79, rue Joseph II B-1049 Brussels Belgium Email: ETAXUD-UNIT-B4@ec.europa.eu

B. INFORMATION ON RULES OF ORIGIN

I. BENEFICIARIES

1)	List of Beneficiaries	<p>49 countries identified by the UN as Least-Developed Countries benefit from the tariff preferences under the special arrangement for the Least-Developed Countries (EBA).</p> <p>The list is amended according to changes of LDCs status.</p> <p>See:</p> <ul style="list-style-type: none"> - Commission Delegated Regulation (EU) No. 1421/2013 of 30 October 2013 (updated list of beneficiaries): http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:355:0001:0015:EN:PDF. - Explanatory note: http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150983.pdf.
2)	Eligibility	<p>Regulation (EU) No. 978/2012 of 25 October 2012, Article 17(1) and (2) (eligibility for EBA)</p> <p>http://trade.ec.europa.eu/doclib/docs/2012/october/tradoc_150025.pdf.</p>

II. CRITERIA FOR DETERMINING SUBSTANTIAL TRANSFORMATION

This information is laid down in Articles 41 to 58 of Commission Delegated Regulation (EU) No. 2015/2446. The references to articles given below concern this Regulation.

http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2015_343_R_0001.

1) General criteria, if applicable for all products	The general criteria are defined in Article 41. Products have to be either wholly obtained or sufficiently processed in order to acquire the origin.
(a) Definition of wholly obtained products	See Article 44.
(b) Describe the criteria for not-wholly produced products	See Article 45.
(c) Insert the formula for calculating <i>ad valorem</i> percentage	See Article 45. The rules are expressed as a maximum percentage of non-originating materials in the ex-works price of the product.
2) Product specific rules of origin where applicable:	
(a) Insert the link where the complete list of product specific rules of origin can be found.	The product specific rules are given in Annex 22-03 of Commission Delegated Regulation (EU) No. 2015/2446: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2015_343_R_0001 .
(b) Insert the formula for calculating <i>ad valorem</i> percentage, when applied for product specific rule	See point 1c)
3) Definition of non-originating material and originating material, if any	Non-originating materials are defined in Article 37(13). The rule for the criterion on originating materials is given in Article 41.
4) List of insufficient working process, if any	See Article 47.
5) Rules for application of cumulation and related procedures if any	<p>The rules on cumulation and related procedures are laid down from Article 53 to Article 57.</p> <p>The GSP of the EU provides for the following types of cumulation:</p> <ul style="list-style-type: none"> - Bilateral cumulation: cumulation with materials originating in the EU; - Cumulation with materials originating in Norway, Switzerland or Turkey; - Regional cumulation: cumulation with materials originating in another beneficiary country of the same region. The GSP rules of origin define four regional cumulation groups. Cross-regional cumulation between Group I and Group III is possible subject to certain conditions; - Extended cumulation: cumulation with materials originating in a country with which the EU has a preferential trade agreement subject to certain conditions. <p>Under cumulation, the materials originating in the EU or another country only have to undergo more than an insufficient operation, in order for the final product to obtain the originating status.</p>
6) Any other information that member deems necessary	N/A.

III. DOCUMENTARY REQUIREMENTS

This information is laid down in Commission Implementing Regulation (EU) No. 2015/2447. The references to articles given below concern this Regulation.

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R2447>

As from 1 January 2017 certificates of origin by public authorities are being replaced progressively by a system of self-certification of origin by the exporter. The origin declarations will be called "statement on origin" and will be made out by exporters registered by their competent authorities in a system made available by the European Commission, the REX system.

All beneficiary countries should apply the REX system as notified to the European Commission either on 1 January 2017, on 1 January 2018 or 1 January 2019.

Documentary requirements are described for both systems (the current system with certificates of origin and the system of self-certification).

1) Certificate of origin and other proofs of origin		
	(a) Requirement for certificate of origin and/or any other proof of origin, if any	<ul style="list-style-type: none"> - Under the current system with certificates of origin: The procedure to issue a certificate of origin Form A is set out in Article 74. The conditions for making out an invoice declaration are set out in Article 75 (Invoice declarations may be made out by the exporter for consignments of originating products below €6,000). The conditions for issuing a certificate of origin Form A in case of cumulation is set out in Article 76. - Under the REX system: General provisions on the statement on origin are set out in Article 92. Rules concerning the statement on origin in the case of cumulation are set out in Article 93.
	(b) Authority to be designated for issuance of certificate of origin	<ul style="list-style-type: none"> - Under the current system with certificates of origin: See Article 73 Competent authorities issuing certificates of origin have to be governmental authorities (or acting under the responsibility of the government). Competent authorities in charge of the administrative cooperation with Member States of the European Union and the European Commission have to be governmental authorities. - Under the REX system: See Article 72. Competent authorities registering exporters have to be governmental authorities (or acting under the responsibility of the government). Competent authorities in charge of the administrative cooperation with Member States of the European Union and the European Commission have to be governmental authorities.
	(c) Prescribed form of Certificate of origin and/or any other proof of origin	<ul style="list-style-type: none"> - Under the current system with certificates of origin: The form of the certificate of origin Form A is set out in Annex 22-08. - Under the REX system: The text of the statement on origin to be added by the exporters on their invoice or any other commercial document is given in Annex 22-07.
	(d) Any other procedures applied for certificate of origin and/or any other proof of origin, if any	N/A.
2) Direct Shipment		
	(a) Rules applicable for direct shipment, if any	<p>Non-manipulation rule, see Article 43 of Commission Delegated Regulation (EU) No. 2015/2446 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2015_343_R_0001).</p> <p>Storage and splitting of consignments in a country of transit is possible under certain conditions.</p>
	(b) Documentary requirement for proof of direct shipment including when the transport of consignment involves transit through one or more intermediate countries, if any	<p>See Article 43(5) of Commission Delegated Regulation (EU) No. 2015/2446: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2015_343_R_0001).</p>

IV. VERIFICATION AND PENALTIES

Except where indicated, the references concern articles of Commission Implementing Regulation (EU) No. 2015/2447.

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R2447>

1)	Procedure for verification of proofs of origin	<ul style="list-style-type: none"> - Under the current system with certificates of origin: Article 110 defines the rules concerning subsequent verification of certificates of origin Form A and invoice declarations. - Under the REX system: Article 109 defines the rules concerning subsequent verification of statements on origin.
2)	Penalties for fraud and false declarations	<ul style="list-style-type: none"> - Each Member State provides for penalties for failure to comply with the customs legislation, see Article 42 of Regulation (EU) No. 952/2013 laying down the Union Customs Code: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0952&rid=1. - See Article 107 on refusal to grant tariff preference. - See Article 21 of Regulation (EU) No. 978/2012 concerning the temporary suspension of the tariff preference in cases such as fraud and false declarations.
3)	Authorities and procedures for appeal in the case of dispute on verification	<p>The decision on the originating status of the products given by the customs authorities in the importing Member State prevails on the opinion given by the competent authorities in the exporting beneficiary country.</p> <p>A person concerned can appeal against the decision in the Member State where the decision was taken or was applied for. The right of appeal may be exercised in at least two steps:</p> <ul style="list-style-type: none"> (a) initially, before the customs authorities or a judicial authority or other body designated for that purpose; (b) subsequently before a higher independent body, which may be a judicial authority or an equivalent specialised body, according to the provisions in force in the Member State. <p>See Article 44 of Regulation (EU) No. 952/2013 laying down the Union Customs Code: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0952&rid=1.</p>
4)	Requirement for preserving the documents related to issuance of certificate of origin	See Articles 91(1)d and 110(7). The appropriate documents shall be kept for at least 3 years from the end of the year in which the statement on origin was made out or the certificate of origin Form A was issued.
5)	Any other relevant information	N/A.

V. REFERENCE TEXTS

(a)	The legislative texts in one of the official WTO languages containing the preferential rules of origin applicable under a PTA granted under the Decision on Measures in Favour of Least-Developed Countries (Annex F of the Hong Kong Ministerial Declaration)	As indicated in the relevant sections above, the full legislative texts and their respective internet links are as follows: <ul style="list-style-type: none"> - Article 37 and Articles 41 to 58 of Commission Delegated Regulation (EU) No. 2015/2446 contain the rules concerning the definition of the concept of originating product and the rules concerning the cumulation of origin, as well as its Annex 22-03 (Introductory notes and list of working or processing operations which confer originating status).
(b)	The full text of the administrative regulations concerning modalities for issuance, acceptance, retrospective issuance and replacement of certificates of origin or any	<p>Commission Delegated Regulation (EU) No. 2015/2446: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2015_343_R_0001</p> <ul style="list-style-type: none"> - Article 60 and Articles 70 to 112 of Commission Implementing Regulation (EU) No. 2015/2447 contain the procedural rules, i.e. the rules concerning issue or making

	equivalent declarations to be made, including any requirements related to stamps to be used along with notification of stamps	<p>out of proofs of origin, in particular all rules concerning the REX system, the rules on administrative cooperation and verification of proofs of origin.</p> <p>Commission Implementing Regulation (EU) No. 2015/2447: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R2447</p> <p>- Article 64 of the Union Customs Code lays down the rule and specific conditions concerning the possible derogations.</p> <p>The Union Customs Code, Regulation (EU) No. 952/2013: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1472824298675&uri=CELEX:32013R0952.</p>
(c)	The full text and related administrative regulations of the modalities for the proof of movement of the consignment of the goods from the beneficiary countries to preference-giving countries including transit through third countries	
(d)	The full texts of the modalities of the verification procedures and related penalties	