

<b>1 GENERAL</b> .....	<b>1</b>
1.1 2013 Ministerial Decision on Preferential Rules of Origin for Least-Developed Countries .....	1
1.1.1 Text of the 2013 Ministerial Decision .....	1
1.1.2 Annual review of recent developments .....	3
1.2 2015 Ministerial Decision on Preferential Rules of Origin for Least-Developed Countries .....	3
1.2.1 Text of the 2015 Ministerial Decision .....	3
1.2.2 Template for the notification of preferential rules of origin for LDCs .....	6
1.2.3 Calculation of utilization rates.....	6

**1 GENERAL**

**1.1 2013 Ministerial Decision on Preferential Rules of Origin for Least-Developed Countries**

**1.1.1 Text of the 2013 Ministerial Decision**

**PREFERENTIAL RULES OF ORIGIN FOR LEAST DEVELOPED COUNTRIES**

MINISTERIAL DECISION OF 7 DECEMBER 2013

The Ministerial Conference,

*Having regard to* paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization;

*Recalling* the "Decision on Measures in Favour of Least-Developed Countries" (Annex F of the Hong Kong Ministerial Declaration) which states that: "Developed country Members shall, and developing country Members declaring themselves in a position to do so should: ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access";

*Considering* that duty-free and quota-free market access for LDCs can be effectively utilized if accompanied by simple and transparent rules of origin;

*Recognizing* that simple and transparent rules of origin may take into account the capacities and levels of development of LDCs;

*Recognizing* that the purpose of rules of origin for preference programmes benefiting LDCs is to ensure that only preference-receiving LDCs and not others benefit from the market access opportunities that have been afforded to them under such arrangements;

*Recognizing* that lower costs of compliance with rules of origin requirements will encourage LDC exporters to avail of market access opportunities provided to them;

*Recognizing* that the objectives of transparent and simple rules of origin that contribute to facilitating market access of LDC products can be achieved in a variety of ways, and that no one method is preferred to another;

*Decides* as follows:

1.1. With a view to facilitating market access for LDCs provided under non-reciprocal preferential trade arrangements for LDCs, Members should endeavour to develop or build on their individual rules of origin arrangements applicable to imports from LDCs in accordance with the following guidelines. These guidelines do not stipulate a single set of rules of origin

criteria. Rather, they provide elements upon which Members may wish to draw for preferential rules of origin applicable to imports from LDCs under such arrangements.

#### **A. ELEMENTS FOR PREFERENTIAL RULES OF ORIGIN**

1.2. Preferential rules of origin should be as transparent, simple and objective as possible. It is recognized that other than wholly obtained products, origin may be conferred by substantial or sufficient transformation, which can be defined in a number of ways, including through: (a) ad valorem percentage criterion; (b) change of tariff classification; and (c) specific manufacturing or processing operation. It is also recognized that these methods in certain cases may be used in combination.<sup>1</sup>

*(footnote original)* <sup>1</sup> For example, an across-the-board rule does not preclude having some product specific rules of origin for specific sectors whenever they are more appropriate or when they could offer better market access opportunities for LDCs.

1.3. In the case of rules based on the ad valorem percentage criterion, given the limited productive capacity in the LDCs, it is desirable to keep the level of value addition threshold as low as possible, while ensuring that it is the LDCs that receive the benefit of the preferential trade arrangements. It is noted that the LDCs seek consideration of allowing foreign inputs to a maximum of 75% of value in order for a good to qualify for benefits under LDC preferential trade arrangements.<sup>2</sup>

*(footnote original)* <sup>2</sup> The precise percentage may vary depending on the calculation methodology used in different schemes.

1.4. The methods for the calculation of value should be as simple as possible. It is recognized that different methodologies are used to calculate the ad valorem percentage of value addition. This percentage may be determined on the basis of the principles of simplicity and transparency. For example, in case of methods used for calculation of foreign inputs, Members may exclude costs related to freight and insurance as well as international transportation costs.<sup>3</sup> In case of methods used for calculation of local/domestic content, Members may include national or regional inland transportation costs.

*(footnote original)* <sup>3</sup> This is without prejudice to the meaning of customs value as defined by the 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on Customs Valuation).

1.5. In the case of rules based on the change of tariff classification criterion, a substantial or sufficient transformation should generally allow the use of non-originating inputs as long as an article of a different heading or sub-heading was created from those inputs in an LDC, notwithstanding that product specific rules with different requirements may also be more appropriate.

1.6. In the case of rules that allow a specific manufacturing or processing operation for the purpose of conferring origin, such rules should, as far as possible, take into account the productive capacity in LDCs. For example, in a number of cases the use of process-based rules for chemical products has made such rules more transparent and easy to comply with. In addition, for articles of apparel and clothing it may be simpler to demonstrate a substantial transformation using such rules instead of the equivalent change of tariff classification.

1.7. Cumulation should be considered as a feature of non-reciprocal preferential trade arrangements. The core objective of cumulation is to allow LDCs to combine originating materials without losing the originating status of the materials and to jointly share materials or production. Certain non-reciprocal preferential trade arrangements provide illustrations of a range of cumulation possibilities, which Members may take into account in designing their preferential rules of origin. For example, such arrangements may allow bilateral cumulation (i.e. cumulation with the respective preference-granting country) as well as cumulation with other LDCs. Other possibilities include cumulation among GSP beneficiaries of a given preference-granting country and/or among developing country Members forming part of a regional group as defined by the preference-granting country.

## **B. DOCUMENTARY REQUIREMENTS**

1.8. The documentary requirements regarding compliance with the rules of origin should be simple and transparent. For instance, requirement to provide proof of non-manipulation or any other prescribed form for a certification of origin for products shipped from LDCs across other Members may be avoided. With regard to certification of rules of origin, whenever possible, self-certification may be recognized. Mutual customs cooperation and monitoring could complement compliance and risk-management measures.

## **C. TRANSPARENCY**

1.9. Preferential rules of origin for LDCs shall be notified as per the established procedures.<sup>4</sup> The objectives of notification are to enhance transparency, make the rules better understood, and promote an exchange of experiences as well as mainstreaming of best practices.

*(footnote original)* <sup>4</sup> These notifications are made pursuant to the Transparency Mechanism for Preferential Trade Arrangements (PTAs). It is also noted that the Agreement on Rules of Origin stipulates that Members provide their preferential rules of origin to the Secretariat.

1.10. The Committee on Rules of Origin shall annually review the developments in preferential rules of origin applicable to imports from LDCs, in accordance with these guidelines, and report to the General Council. The Secretariat shall annually provide the Sub-Committee on LDCs with a report on the outcome of such review.<sup>1</sup>

### **1.1.2 Annual review of recent developments**

1. As required by paragraph 1.10 of the 2013 Ministerial Decision, Members have annually reviewed new developments related to non-reciprocal preferential rules of origin for least developed countries. A report highlighting these developments is prepared every year for the General Council.<sup>2</sup> An oral report on the outcome of such review has also been delivered every year to the WTO Sub-Committee on least developed countries.

## **1.2 2015 Ministerial Decision on Preferential Rules of Origin for Least-Developed Countries**

### **1.2.1 Text of the 2015 Ministerial Decision**

#### **PREFERENTIAL RULES OF ORIGIN FOR LEAST DEVELOPED COUNTRIES**

MINISTERIAL DECISION OF 19 DECEMBER 2015

The Ministerial Conference,

*Having regard to* paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization;

*Recalling* the "Decision on Measures in Favour of Least-Developed Countries" (Annex F of the Hong Kong Ministerial Declaration) which states that: "Developed country Members shall, and developing country Members declaring themselves in a position to do so should: ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access";

*Reaffirming and building upon* the guidelines enumerated in the "Ministerial Decision on Preferential Rules of Origin for Least-Developed Countries" adopted at the Bali Ministerial Conference;

---

<sup>1</sup> [WT/MIN\(13\)/42 – WT/L/917](#).

<sup>2</sup> [G/RO/76](#), [G/RO/77](#), [G/RO/79](#), and [G/RO/85](#)

*Decides*, with respect to preferential rules of origin applicable to imports from LDCs under non-reciprocal preferential trade arrangements, as follows:

**1 REQUIREMENTS FOR THE ASSESSMENT OF SUFFICIENT OR SUBSTANTIAL TRANSFORMATION**

1.1. When applying an ad valorem percentage criterion to determine substantial transformation, Preference-granting Members shall:

- (a) 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. It is recognized that the LDCs seek consideration of use of value of non-originating materials by such Preference-granting Members when reviewing their preference programmes;
- (b) Consider, as the Preference-granting Members develop or build 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<sup>1</sup>;

*(footnote original)* <sup>1</sup> This provision shall not apply to Preference-granting Members who do not use the *ad valorem* percentage criterion as their main method for the determination of substantial transformation.

- (c) Consider the deduction of any costs associated with the transportation and insurance of inputs from other countries to LDCs.

1.2. When applying a change of tariff classification criterion to determine substantial transformation, Preference-granting Members shall:

- (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.

1.3. When applying a manufacturing or processing operation criterion to determine substantial transformation, Preference-granting Members shall, to the extent provided for in their respective non-reciprocal preferential trade arrangements, allow as follows:

- (a) if applied to clothing of chapters 61 and 62 of the Harmonised System nomenclature, the rule shall allow assembling of fabrics into finished products;
- (b) if applied to chemical products, the rule shall allow chemical reactions that form a new chemical identity;
- (c) if applied to processed agricultural products, the rule shall allow transforming of raw agricultural products into processed agricultural products;
- (d) if applied to machinery and electronics, the rule shall allow assembling of parts into finished products, provided that the assembly of parts goes beyond simple assembly.

1.4. Preference-granting Members shall, to the extent possible, avoid requirements which impose a combination of two or more criteria for the same product. If a Preference-granting Member still requires maintaining a combination of two or more criteria for the same product, that Preference-granting Member remains open to consider relaxing such requirements for that specific product upon due request by an LDC.

1.5. Preference-granting Members are encouraged to offer alternative rules for the same product. In such cases, the above-mentioned provisions will be applicable to only one of the alternative rules.

## **2 CUMULATION**

2.1. Recognizing that the development of cumulation possibilities should be considered in relation to the rules applied to determine sufficient or substantial transformation, Preference-granting Members are encouraged to expand cumulation to facilitate compliance with origin requirements

- (a) cumulation with the respective Preference-granting Member;
- (b) cumulation with other LDCs;
- (c) cumulation with GSP beneficiaries of the respective Preference-granting Member; and
- (d) cumulation with developing countries forming part of a regional group to which the LDC is a party, as defined by the Preference-granting Member.

2.2. Preference-granting Members remain open to consider requests from LDCs for particular cumulation possibilities in the case of specific products or sectors.

## **3 DOCUMENTARY REQUIREMENTS**

3.1. With a view to reducing the administrative burden related to documentary and procedural requirements related to origin, Preference-granting Members shall:

- (a) 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;
- (b) Consider other measures to further streamline customs procedures, such as minimizing documentation requirements for small consignments or allowing for self-certification.

## **4 IMPLEMENTATION, FLEXIBILITIES AND TRANSPARENCY**

4.1. Developing country Members declaring themselves in a position to do so should, with appropriate flexibility, undertake the commitments set out in the above provisions.

4.2. 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.

4.3. Preferential rules of origin shall be notified as per the established procedures.<sup>2</sup> In this regard, Members reaffirm their commitment to annually provide import data to the Secretariat as referred to Annex 1 of the PTA Transparency Mechanism, on the basis of which the Secretariat can calculate utilization rates, in accordance with modalities to be agreed upon by the CRO. Furthermore, the CRO shall develop a template for the notification of preferential rules of origin, to enhance transparency and promote a better understanding of the rules of origin applicable to imports from LDCs.

*(footnote original)* <sup>2</sup> These notifications are made pursuant to the Transparency Mechanism for Preferential Trade Agreements (PTAs). It is also noted that the Agreement on Rules of Origin stipulates that Members provide to their preferential rules of origin to the Secretariat.

4.4. The CRO shall annually review the implementation of this Decision in accordance with the Transparency provisions contained in the Ministerial Decision on Preferential Rules of Origin for Least Developed Countries adopted at the Bali Ministerial Conference.<sup>3</sup>

### **1.2.2 Template for the notification of preferential rules of origin for LDCs**

2. As required by paragraph 4.3 of the 2015 Ministerial Decision, the Committee on Rules of Origin adopted, at its meeting of 2 March 2017, a template for the notification of non-reciprocal preferential rules of origin for least-developed countries.<sup>4</sup> All WTO preference-granting Members, both developing and developed, agreed to submit detailed information about their preferential origin requirements using this template. Such notifications have been circulated in the document series [G/RO/LDC/N/\\*](#). Such notifications, including any legislative texts submitted to the Secretariat, can be accessed through the WTO database of preferential trade agreements (<http://ptadb.wto.org>).

### **1.2.3 Calculation of utilization rates**

3. As required by paragraph 4.3 of the 2015 Ministerial Conference, the Committee adopted, at its meeting of 2 March 2017, a methodology for the calculation of utilization rates.<sup>5</sup> The methodology had been developed during the informal consultations held at the end of 2016, enabling the Secretariat to prepare a first report on the utilization of preferences by LDCs.<sup>6</sup> The Secretariat has since prepared a follow-up report<sup>7</sup> and will continue to update and improve these reports in order to assist Members in their discussions. The objective of this work is for the Committee to identify products or sectors where low levels of preference utilization could indicate that trade is being hindered by strict origin requirements and therefore to help Members identify possible reforms and best practices.

—  
Current as of: February 2019

---

<sup>3</sup> [WT/MIN\(15\)/47 – WT/L/917/Add.1](#).

<sup>4</sup> [G/RO/M/68](#). The text of the template can be found in [G/RO/84](#).

<sup>5</sup> [G/RO/M/68](#). The text of the methodology can be found in [G/RO/W/161](#).

<sup>6</sup> [G/RO/W/168/Rev.1](#).

<sup>7</sup> [G/RO/W/179](#).