



ELEMENTS FOR A DISCUSSION ON PREFERENTIAL RULES OF ORIGIN FOR LDCS

SUBMISSION BY BANGLADESH, ON BEHALF OF THE LDC GROUP

The following submission, dated 15 April 2015, is being circulated at the request of the delegation of Bangladesh on behalf of the LDC Group.

1. Background

1.1 At the meeting of the Committee on Rules of Origin (CRO) held on 10 April 2014, the Chairman recalled that the Ninth WTO Ministerial Conference held in Bali in 2013 adopted a Decision on Preferential Rules of Origin for LDCs (WT/L/917). Paragraph 1.10 of the Decision mandated the CRO to "annually review developments in preferential rules of origin applicable to imports from LDCs" and "report to the General Council". The Chairman also proposed in addition "to intensify efforts in the CRO to exchange information regarding existing preferential rules of origin for LDCs".

1.2 At the meeting of the CRO held on 30 October 2014, Uganda, on behalf of the LDC Group, presented a comprehensive report outlining the challenges faced by the LDCs in complying with existing rules of origin under unilateral preferential schemes. The report, based on the LDC submission contained in document G/RO/W/148 was welcomed by a number of delegations. A number of them needed additional time to study the report in detail. The Chairman of the Committee on CRO said that discussions on the LDC submission would continue at the next meeting of the CRO scheduled for April 2015.

1.3 This short paper aims at stimulating a discussion by putting forward to Members a set of questions as to how they are responding to the guidelines adopted at the Bali Ministerial Conference, with the ultimate objective of identifying possible measures for further facilitating market access for LDC products.

2. Elements for a discussion on preferential rules of origin for LDCs

2.1 Paragraph 1.1 of the Decision on Preferential Rules of Origin for LDCs provides that "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". Accordingly some questions (indicated in bold below) are raised to preference giving countries to better understand how they are considering addressing the various elements contained in the Decision.

2.2 LDC Group recognizes that no single form of Rules of Origin (RoO) used by preference giving countries to determine origin is necessarily better than the other. However, the LDC submission to the CRO last October shows unequivocal evidence that under certain conditions the reform of RoO reflecting global value chains and commercial reality generates a market response in LDCs. The reforms in Canada and the EU adapted the RoO to the industrial context resulting in an increase in utilization rate, relocation of factories to LDCs, increased manufacturing capacity, more skilled jobs creation as well as backward linkages.

2.3 Paragraph 1.3 of the Decision provides that "it is desirable to keep the level of value addition threshold as low as possible" and "notes 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".

- 1) **How preference-giving countries that are currently adopting different percentages are moving towards the adoption of a lower percentage requirements in case of percentage calculation of domestic content or a greater allowance of non-originating materials to allow the insertion of LDCs into global value chains?**

It has been noted that certain preference giving countries are still maintaining a value added calculation while lessons learned demonstrated that a value of material calculations is easier to comply with in terms of calculation, transparency and predictability.

- 2) **How these preference giving countries using a percentage criterion are intending to move towards a methodology based on a value of materials calculation taking into account the lessons learned and the evolution of their rules of origin?**

Paragraph 1.5 of the Decision provides that "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...".

The LDCs note that preference giving countries using the change of tariff classification criterion provide, in certain cases, for a series of exclusions of the use of materials classified in other chapters heading or subheadings such as the following rule for certain products of chapter 16: Manufactured from products other than those of Chapter 1, 2, 3, 5, 10, 11, 16 or 19.

- 3) **How Preference giving countries using a change of tariff classification are considering to further simplify their rules of origin by eliminating or reducing the restriction on the use of certain non-originating materials classified in certain HS chapters, heading or subheadings?**

Paragraph 1.6 provides that "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".

While the LDCs note that some preference giving countries have made considerable progress in the textile and clothing sector by allowing a single stage process (i.e. from non-originating fabric to finished garment) a number of rules in other sectors like steel and metals still demand double processing requirements that are not matching LDC productive capacity or are not reflecting their industrial operations.

- 4) **How preference giving countries using RoO based on specific working or processing requirements consider moving towards a single working or processing operations reflecting substantial transformation?**

Paragraph 7 of the Decision states that "Cumulation should be considered as a feature of non-reciprocal preferential trade.

The LDCs note that many preference-giving countries are "graduating" out of their preference schemes some developing countries or are concluding FTAs with developing countries that are member of the same Regional trade integration group with LDCs. As a result of these evolutions developing countries member of the same regional trade integration group of LDCs may be excluded from the scope of cumulation granted to LDCs. This may reduce substantially the scope of cumulation for LDC and may have significant adverse effects. In this context, recent reforms of GPT scheme of Canada may be taken into consideration.

- 5) **How preference giving countries are considering measures to remove or alleviate the adverse effects that may diminish the value of cumulation for LDCs once developing countries member of the same regional trade integration group are**

graduated from GSP schemes or become no longer eligible for cumulation since they are part of an FTA with the preference giving country?

Paragraph 1.8 dealing with administrative requirement of rules of origin provides that "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".

The LDCs notes that under the Trade facilitation Agreement they are requested to engage on a number of trade reforms to facilitate trade while many preference giving countries are still requiring documentary evidence of non-manipulation that is particularly challenging for landlocked and island LDCs.

Progress has been made by some preference giving countries towards accepting self-certification. However the LDCs are not benefitting from particular technical assistance for administering self-certification that may be particularly demanding during the transition phase.

- 6) **Taking into consideration the demands that the Trade Facilitation Agreement may pose to LDCs,**
- a) **How preference giving countries are considering the elimination of documentary evidence of "non-manipulation"?**
 - b) **What measures are being considered by preference giving countries to implement self-certification by LDCs?**
 - c) **What measures and programmes of technical assistance are being considered by preference giving countries when moving to accept self-certification or other similar administration like registered exporters?**
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