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**5<sup>th</sup> Meeting of the Continental Free Trade Area  
Technical Working Group on Rules of Origin**

**Lessons learned from WTO LDC negotiations  
on substantial transformation: Change of Tariff  
Classification Rules**

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# Recalling Paragraph 1.5 of the Bali Decision

- 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.

## Recalling Paragraph 1.2 of the Nairobi Decision

- 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.”*

# Questions

1. Which WTO members are using a CTC requirement that: “allow for a simple change of tariff heading or change of tariff sub-heading”?
2. How many exclusion to the simple CTH or CTSH are WTO members using?
  - a. What kind of exclusion to the simple CTH or CTSH are WTO members using?
3. Which WTO members have introduced “a tolerance allowance so that inputs from the same heading or sub-heading may be used”?
4. How Many WTO members have introduced exceptions to the simple CTC requirement?
5. What are the best practices in CTC?

# 1. Which WTO members are using a CTC requirement that: “allow for a simple change of tariff heading or change of tariff sub-heading”? (i)

Country / group of countries	Application of simple CTH or CTSH ?	Comments
European Union (EBA)	<ul style="list-style-type: none"> <li>• <b>YES</b>, for some products</li> </ul>	<ul style="list-style-type: none"> <li>• Simply CTH and CTSH is used for some products but for a large number of products there are exceptions of different nature such as CTH with single or multiple exceptions</li> <li>• CTH with HS headings exceptions</li> <li>• CTC with HS chapter exceptions</li> <li>• CTC or percentage criterion</li> </ul>
United States (GSP and AGOA)	<ul style="list-style-type: none"> <li>• <b>NO</b></li> </ul>	<ul style="list-style-type: none"> <li>• In FTAs CTC is used extensively as the main origin criteria for product-specific rules of origin</li> </ul>
Japan	<ul style="list-style-type: none"> <li>• <b>YES</b>, for some products</li> </ul>	<ul style="list-style-type: none"> <li>• CTH is main criteria</li> <li>• List rules:               <ul style="list-style-type: none"> <li>- CTH with single or multiple exceptions</li> <li>- CTC with single or multiple HS chapter exclusions</li> <li>- CTC and percentage criterion</li> </ul> </li> </ul>
Canada	<ul style="list-style-type: none"> <li>• <b>NO</b>, CTC not used in GPT</li> <li>• CTC extensively used in FTAs</li> </ul>	<ul style="list-style-type: none"> <li>• In FTAs CTC is used extensively as the main origin criteria for product-specific rules of origin</li> </ul>

# 1. Which WTO members are using a CTC requirement that: “allow for a simple change of tariff heading or change of tariff sub-heading”? (ii)

Country / group of countries	Application of simple CTH or CTSH ?	Comments
Norway	<ul style="list-style-type: none"> <li>As in the case of the EU</li> </ul>	
Switzerland	<ul style="list-style-type: none"> <li>As in the case of the EU</li> </ul>	
New Zealand	<ul style="list-style-type: none"> <li><b>NO</b></li> </ul>	<ul style="list-style-type: none"> <li>In FTAs CTC is used extensively as the main origin criteria for product-specific rules of origin</li> </ul>
Australia	<ul style="list-style-type: none"> <li><b>NO</b></li> </ul>	<ul style="list-style-type: none"> <li>In FTAs CTC is used extensively as the main origin criteria for product-specific rules of origin</li> </ul>
Eurasian CU	<ul style="list-style-type: none"> <li><b>NO</b></li> </ul>	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>
China	<ul style="list-style-type: none"> <li><b>YES</b>, as alternative rules to percentage criterion</li> </ul>	<ul style="list-style-type: none"> <li>Simple CTH is the criteria</li> <li>No exceptions</li> </ul>
India	<ul style="list-style-type: none"> <li><b>YES</b>, CTC used <b>in addition</b> to percentage criterion (30% value addition using the subtraction method )</li> </ul>	<ul style="list-style-type: none"> <li>Simple CTSH is the criteria</li> <li>No exceptions</li> </ul>
South Korea	<ul style="list-style-type: none"> <li><b>NO</b>, CTC is not used</li> </ul>	<ul style="list-style-type: none"> <li>In FTAs CTC is used extensively as the main origin criteria for product-specific rules of origin</li> </ul>
TPKM	<ul style="list-style-type: none"> <li><b>NO</b></li> </ul>	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>
Thailand	<ul style="list-style-type: none"> <li><b>NO</b></li> </ul>	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>

## 2. How many exclusion to the simple CTH or CTSH are WTO members using?

Stringency of the rule

Rules of origin Stringency criteria	Japan*		EU/CH/ Norway	
	Coverage by chapters	Coverage by headings	Coverage by chapters	Coverage by headings
1. <b>Manufacture from any heading</b>	0	0	5	17
2. <b>Simple CTH</b>	0	0	6	52
3. CTH with one exception	2	16	21	27
4. CTH with exceptions <b>or</b> ad valorem percentage	0	0	32	44
5. CTH with Multiple exceptions	1	89	0	7
6. CTC with one HS chapter exception	5	0	0	0
7. CTC with multiple chapter exceptions	4	24	0	0
8. CTC with exceptions <b>and</b> ad valorem percentage	6	16	14	21



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Source: Author's calculation

\* This calculation concerns only products and sectors included in the list of product-specific RoO



## 2.a. What kind of exclusion to the simple CTH or CTSH are WTO members using? (i)

### Japan HS Chapter 16

*(Edible preparations of meat, fish, crustaceans, etc)*

- Manufactured from products other than those of Chapter 1, 2, 3, 5, 10, 11, 16 or 19

### EU chapter 16

*(Edible preparations of meat, fish, crustaceans, etc)*

- from materials of any heading, except meat and edible meat offal of Chapter 2 and materials of Chapter 16 obtained from meat and edible meat offal of Chapter 2, and ...
- ... in which all the materials of Chapter 3 and materials of Chapter 16 obtained from fish and crustaceans of Chapter 3 used are wholly obtained



### 3. Which WTO members have introduced “a tolerance allowance so that inputs from the same heading or sub-heading may be used”? (i)

Country / group of countries	Application of tolerance allowance?	Comments
European Union (EBA)	<b>Yes</b>	<ul style="list-style-type: none"> <li>• 15% of the weight of the product for products falling within Chapters 2 and 4 to 24 of the Harmonized System, other than processed fishery products of Chapter 16;</li> <li>• 15% of the ex-works price of the product for other products, except for products falling within Chapters 50 to 63 of the Harmonized System, for which the tolerances mentioned in Notes 6 and 7 of Part of Annex 13a, shall apply.</li> </ul>
United States (GSP)	<b>Not applicable</b>	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
United States (AGOA)	<b>Not applicable</b>	<ul style="list-style-type: none"> <li>• To be further analyzed in the case of textile and clothing</li> </ul>
Japan	<b>Yes</b>	Non-originating materials used in the production of a good classified under Chapter 50 through 63 of the Harmonized System that do not satisfy an applicable rule for the good shall be disregarded, provided that the totality of such non-originating materials does not exceed 10 percent in weight of the good.
Canada	<b>Not applicable</b>	<ul style="list-style-type: none"> <li>• To be further analyzed in the case of textile and clothing</li> </ul>
Norway	<b>Yes</b>	As in the case of the EU

### 3. Which WTO members have introduced “a tolerance allowance so that inputs from the same heading or sub-heading may be used”? (ii)

Country / group of countries	Application of tolerance allowance?	Comments
Switzerland	Yes	As in the case of EU
New Zealand	<b>Not applicable</b>	
Australia	<b>Not applicable</b>	
Eurasian CU	<b>Not applicable</b>	
China	<b>NO</b>	No reference in the notification: to be clarified
India	<b>NO</b>	No reference in the notification: to be clarified
South Korea	<b>Not applicable</b>	
TPKM	<b>Not applicable</b>	
Thailand	<b>Not applicable</b>	

## 4. How Many WTO members have introduced exceptions to the simple CTC requirement?

### Japan Chapter 85:

- Manufactured in which the value of the non-originating products used of the different tariff heading from that of the products obtained does not exceed 40 % of the value of the products obtained, **and** also ...
- ... in which the value of the non-originating products used of the same tariff heading as that of the product obtained does not exceed 5% of the value of the products obtained

### EU Ex-chapter 85:

- Manufacture from materials of any heading, except that of the product **or**
- Manufacture in which the value of all the materials used does not exceed 70 % of the ex-works price of the product



## 4. How Many WTO members have introduced exceptions to the simple CTC requirement?

### EU 8528 TV monitors

- Manufacture from materials of any heading, except that of the product and of heading 8529 (Parts of TV monitors)

*or*

- Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product

## 5. What are the best practices in CTC ? (i)

- **US –Singapore chapter 16**  
A change to heading 1601 to 1605 from any other chapter
- **EU GSP rule for shoes**  
Manufacture from materials of any heading, except from assemblies of uppers affixed to inner soles or to other sole components of heading 6406



# What are the best practices in CTC ? (ii)

## **EU GSP rule Chapter 9** (Coffee, tea, maté and spices)

Manufacture from any heading  
(including the one of the product)

09	Coffee, tea, mate and spices.
0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion.
090111	Not decaffeinated (roasted)
090112	Decaffeinated (roasted)
090121	Not decaffeinated (not roasted)
090122	Decaffeinated (not roasted)
090190	Other

# Recommendations

- In many cases CTC involve the exclusion of whole HS chapters or key headings making the rules extremely stringent.
- Preference granting countries should refrain from using CTC with exceptions.
- In its simple form CTC is not complex and is a valuable, trade facilitating rule.
- Manufacture from any heading or change of sub-headings coupled with a list of insufficient working or processing could be a best practice in certain sectors.
- Many PGCs are using CTC in FTAs and not in DFQF. As a result in some cases DFQF rules may be more stringent than those under the FTAs.



# Thank you for your attention

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