



Preferential Roo for LDCs

China's Experience

Florence, 23.04.2015

Chronicle in SPT Implementation

- **Special Preferential (0%) Tariff applied to LDCs, with gradual expansion since 2004, following State Leaders' announcement and exchange of letters**
- **1.1.2004: start of implementation to Lao, Cambodia & Myanmar (limited product range)**
- **1.1.2005: extended to 25 African LDCs (limited product range)**
- **1.7.2006: extended to Yemen, Maldives, Afghanistan, etc.**
- **1.9.2006: Lao, Cambodia, Myanmar (expansion in product range) & Bangladesh**
- **1.7.2007: 26 African countries (expansion in product range)**
- **Major expansions in 2010, 2013, 2015 in No. of beneficiary countries and product range**
 - **1.7.2010: 60% to 37 countries**
 - **1.7.2013: 95% to 29 countries**
 - **1.1.2015: 97% to 24 countries**

The Rules

- ❖ **Rules of Origin and Related Procedures on Goods Eligible for Duty-free Treatment Granted to LDCs**
- ❖ **Updated 1 July 2013**
- ❖ **ROO**
- ❖ **Operating procedures**

ROO (Origin Criteria)

Goods to be regarded as originating

wholly obtained or produced entirely in the beneficiary country

not wholly obtained or produced entirely in the beneficiary country , provided that the last substantial transformation has been performed in that country

Wholly Obtained

- ❖ (a) live animals born and raised in the beneficiary country;
- ❖ (b) goods obtained in the beneficiary country from the animals specified in paragraph (a) above;
- ❖ (c) plants and plant products harvested, picked or collected in the beneficiary country;
- ❖ (d) goods obtained by hunting, aquaculture, trapping or fishing in the beneficiary country;
- ❖ (e) fish, shellfish and other marine life taken from the high seas by vessels registered or recorded in the beneficiary country and entitled to fly the flag of that country ;
- ❖ (f) goods obtained from the processing of goods listed in paragraph (e) above on board a factory ship registered or recorded in the beneficiary country and entitled to fly the flag of that country;
- ❖ (g) minerals and other naturally occurring substances extracted in the beneficiary country or goods, exclusive of fish, shellfish and other marine life, taken or extracted from the waters, seabed or subsoil beneath the seabed outside the territorial waters of the beneficiary country, provided that the beneficiary country has the right to exploit such waters, seabed or subsoil beneath the seabed.
- ❖ (h) used goods collected in the beneficiary country which are produced from consumption in that country and fit only for the recovery of raw materials;
- ❖ (i) waste and scrap which are produced from processing or manufacturing operations in the beneficiary country and fit only for the recovery of raw materials;
- ❖ (j) goods obtained through processing in the beneficiary country of goods set out in paragraphs (a) to (i) above.

Substantial Transformation Criteria

1

**Ad Valorem Percentage OR
(no less than 40%)**

2

**Change in Tariff Classification
(four-digit)**

3

**Product Specific Rules (PSR)
(to be promulgated)**

ROO (Supplementary Rules)

- ❖ Minimal operations or processes
- ❖ Sets
- ❖ Neutral elements
- ❖ Packaging materials and containers
- ❖ Direct consignment

Minimal Operations or Processes

- ❖ operations or processes for preservation of goods during transport or storage
- ❖ operations or processes for ease of unloading and reloading of the goods
- ❖ operations or processes such as packing or presenting for sale of the goods
- ❖ slaughter of animals

Anti-circumvention

- ❖ **Simple diluting, mixing, packaging, bottling, drying, assembling, sorting or decorating shall not be regarded as substantial transformation**
- ❖ **Any production or pricing practices undertaken by the commercial operator with the intent to circumvent the legal provisions of the Rules shall not be regarded as substantial transformation.**

Sets

- ❖ **Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all the components of the sets are originating**
- ❖ **When a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15% of the total value of the set**

Neutral Elements/Indirect Materials

- ❖ In determining the origin of a good, materials or articles used in the production of the good, but not physically incorporated into the good, nor compounded of the good do not confer origin. These include:
 - ❖ (a) fuel, energy, catalysts and solvents;
 - ❖ (b) equipment, devices and supplies used for testing or inspecting the goods;
 - ❖ (c) gloves, glasses, footwear, clothing, safety equipment and supplies;
 - ❖ (d) tools, dies and moulds;
 - ❖ (e) spare parts and materials used in the maintenance of equipment and buildings;
 - ❖ (f) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and maintain buildings;
 - ❖ (g) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

Package, Packaging Materials and Containers

- ❖ If the goods are subject to a change in tariff classification criterion, the origin of the package, packaging materials and containers presented with the goods for customs declaration and classified with the goods under the Harmonized System and parts, spare parts, tools and explanatory materials equipped customary with the goods shall be disregarded in determining the origin of the good.
- ❖ If the goods are subject to “ad valorem percentage” criterion, the value of the package, packaging materials and containers presented with the goods for customs declaration and classified with the goods under the Harmonized System and parts, spare parts, tools and explanatory materials equipped customary with the goods shall be taken into account in calculating the ad valorem percentage of the goods.

Direct Consignment Rule

- ❖ goods are transported directly from the beneficiary country to ports of entry in China;
- ❖ goods which are transported to China through a third country or region, for geographical reasons or by consideration related exclusively to transportation, with or without trans-shipment or temporary storage shall meet all 3 conditions :

3 Conditions

1

the goods do not enter into trade or consumption there; and

2

the goods do not undergo any operation there other than unloading and reloading or any other operation required to keep them in good condition; and

3

temporary storage of up to **3 months** in a third country or region shall be subject to customs control in such country or region.

Cumulation

❖ None

Operational Procedures

- ❖ Certificate of origin
- ❖ Release of goods upon guarantee
- ❖ Verification
- ❖ Denial of preference

Certificate of Origin

- ❖ to be issued before or at the time of exportation of the goods (within 5 days of exportation);
- ❖ to remain valid for one year from the date of its issuance;
- ❖ to be printed and supplied by China Customs & completed in English;
- ❖ to contain a unique certificate number;
- ❖ to cover one or more goods under one consignment;
- ❖ to comprise one original and three carbon copies, inclusive of duplicate, triplicate and quadruplicate;
- ❖ Qualification of origin criterion specified;
- ❖ Stamps of issuing body need to correspond with specimen of stamps provided to China Customs;
- ❖ certificate of origin should bear the stamp of customs

Retrospective Issuance of COO

- ❖ COO not issued at the time of exportation or within 5 days after exportation due to force majeure, or errors, or involuntary omissions or any other circumstances as may be deemed justified under the legislation of the beneficiary country; or
- ❖ it is demonstrated to the satisfaction of the authorized body that a COO was issued but was not accepted at importation for technical reasons (validity period shall remain the same as indicated in the COO originally issued)
- ❖ COO shall be issued retrospectively within 12 months from date of exportation, and shall be endorsed with the words "ISSUED RETROSPECTIVELY".

Declaration

- ❖ **Importer must take the initiative to make a declaration to customs that THE GOODS qualify under the Duty-free Treatment and submit required documentation**
- ❖ **Preferential program code “13” for SPT**

Declaration

Documentation Submission

Valid
Certificate
of Origin

The valid original copy of the certificate of the origin and the duplicate copy

Invoice

The **original** commercial invoice

Through bill of lading and supporting Documentation

provided by **customs** in third country

Supplementary Declaration



When the importer didn't submit a valid certificate of origin

Equivalent to the amount of duties and taxes to be liable based on the MFN rate, general tariff rate or any other tariff rates

(1) Within one year;

(2) otherwise, converted into import duties and taxes

Origin Verification

- ❖ **Direct request for verification by General Administration of Customs of China**
- ❖ **Request for verification through the Economic and Commercial Counselor's Office of the Embassy of China in the beneficiary country**
- ❖ **When deemed necessary and subject to the consent of the beneficiary country concerned, officials from China Customs may conduct on-site verification visits to the beneficiary country.**

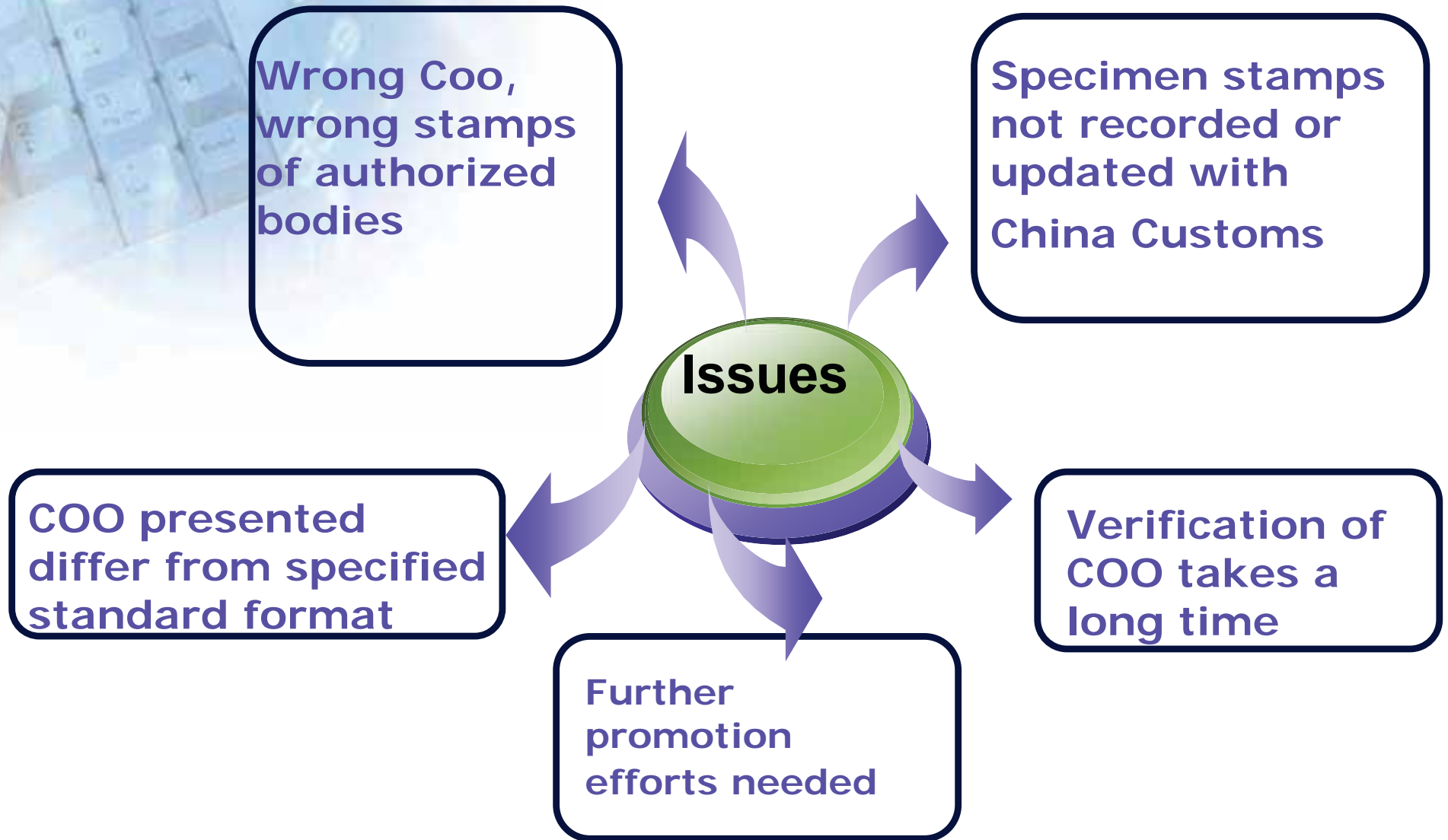
Denial of Preference

- ❖ The importer did not submit a valid COO or a supplementary declaration
- ❖ The stamps of authorized authorities do not match the specimens provided
- ❖ Actual goods do not match those listed in the COO
- ❖ China Customs fails to receive a response within 180 days from the date of a request or the response does not contain information necessary for establishing the truth of the COO and the originating status of the goods
- ❖ Other circumstances of non-compliance with this regulation

Measures taken by China Customs

- A series of implementation regulations promulgated
- Database of specimen official seals maintained
- Training for Chinese Customs officers
- Training for Customs and COO issuing officers of beneficiary countries
- Liaison mechanism with embassies of LDCs based in China
- Liaison mechanism with the Economic and Commercial Counselor's Office of the Embassy of China in the beneficiary country
- Printing and supply of certificates of origin to LDCs

Implementation of SPT - Issues



❖ Implementation - analysis

30 African LDCs

From 07.2010 to 2011:

value of imports: \$ 867 million

duty concessions: 529 million Yuan

Statistics of Duty Free for 30
African LDCs, 2010.07-2011
Unit: million USD/Yuan

Year	value	duty concessions
2010.07-12	262	164
2011	605	365
Total	867	529

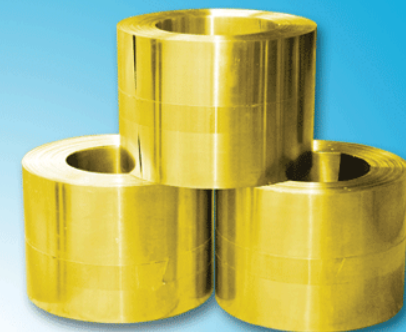
Implementation – analysis (Africa)



Main beneficiary products being agricultural, mineral and other primary products (sesame, refined copper, unwrought cobalt, waste and scrap, fish)



Highly complementary with Chinese products



Main beneficiaries: Ethiopia, Mozambique, Mali, Zambia, Sudan, Togo, Uganda, Tanzania, Senegal, Niger

Ministerial Decision on Pref. ROO for LDCs

- ❖ Although not binding, project into WTO rules LDCs' expectations for the formulation and administration of preferential ROO
- ❖ Balance with concerns of preference giving countries
- ❖ Agreement on text depends on both trade policy considerations as well as technical expertise

Ministerial Decision: What's next?

- ❖ Focus: implementation
- ❖ Transparency exercise
- ❖ Status of play in preference giving countries
- ❖ Utilization
- ❖ A few specific points
 - Examination at both origin criteria and procedural level
 - Production capacity:
 - for what products and what rules?
 - How much ROO can help?
 - Efforts at multilateral and bilateral levels
 - Need for technical expertise
 - Interaction with exporters, importers, and manufacturers



Thank You !

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