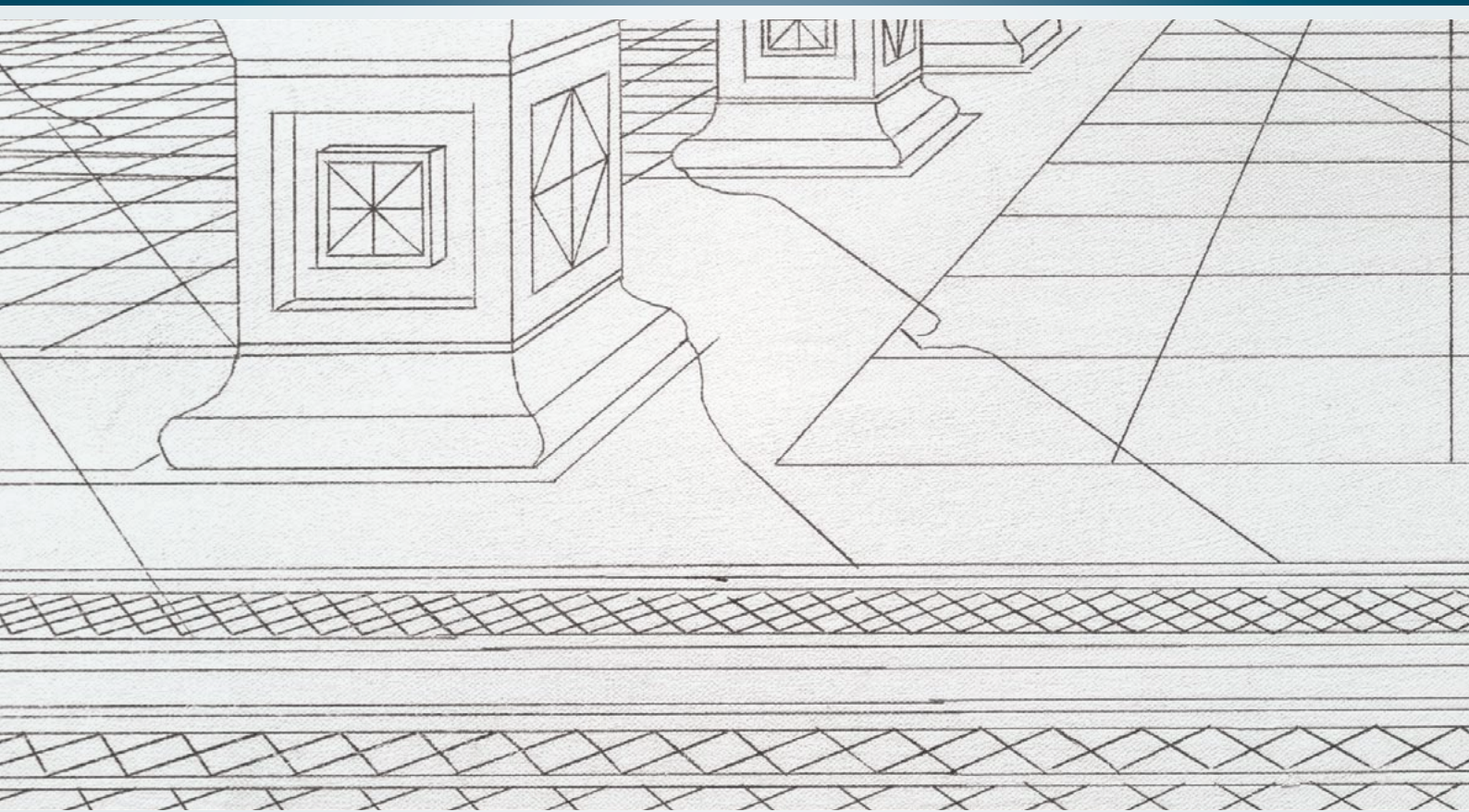


UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

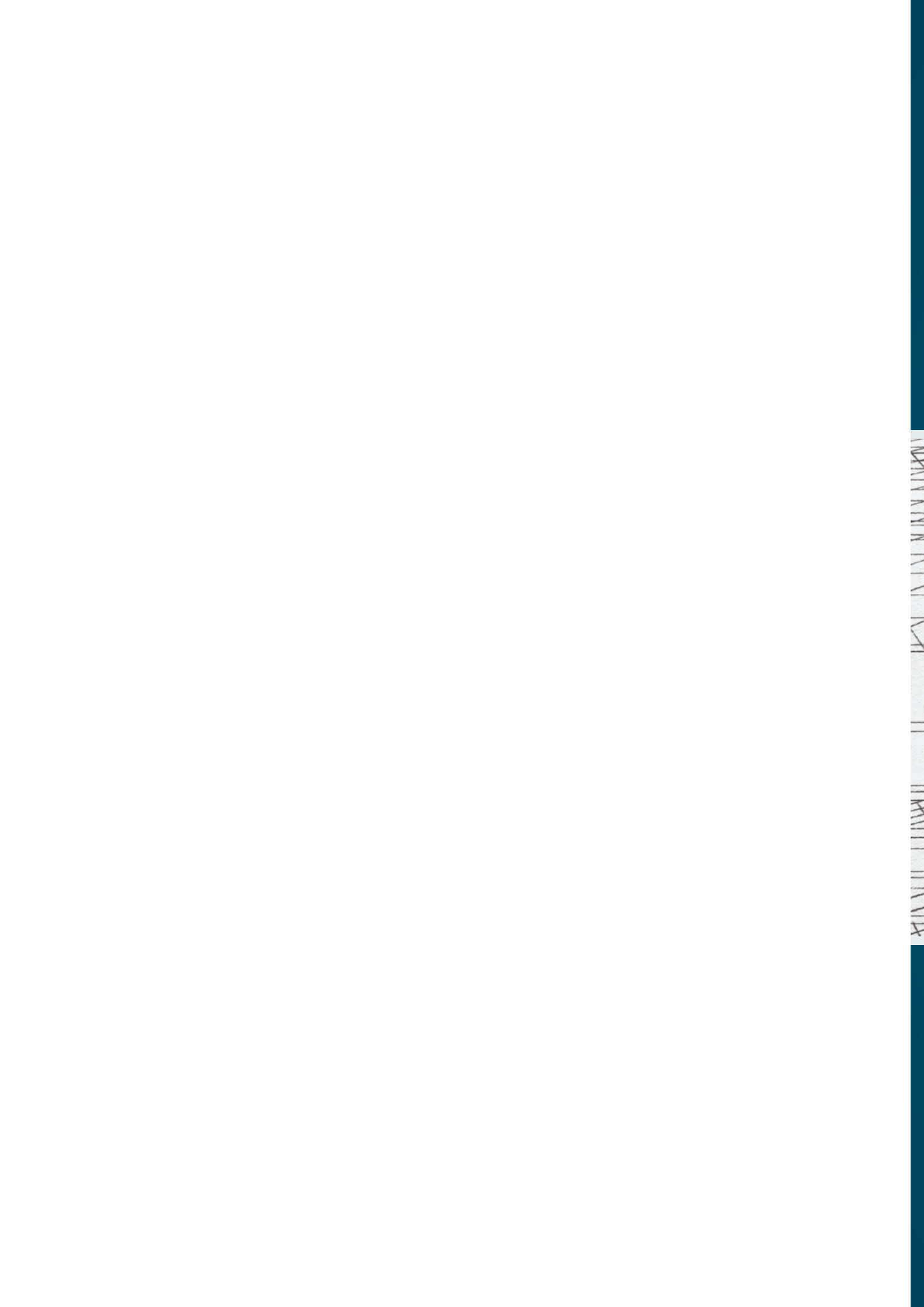
**UNCTAD**



# COMPENDIUM OF TECHNICAL NOTES PREPARED FOR THE LDC WTO GROUP ON PREFERENTIAL RULES OF ORIGIN



UNITED NATIONS

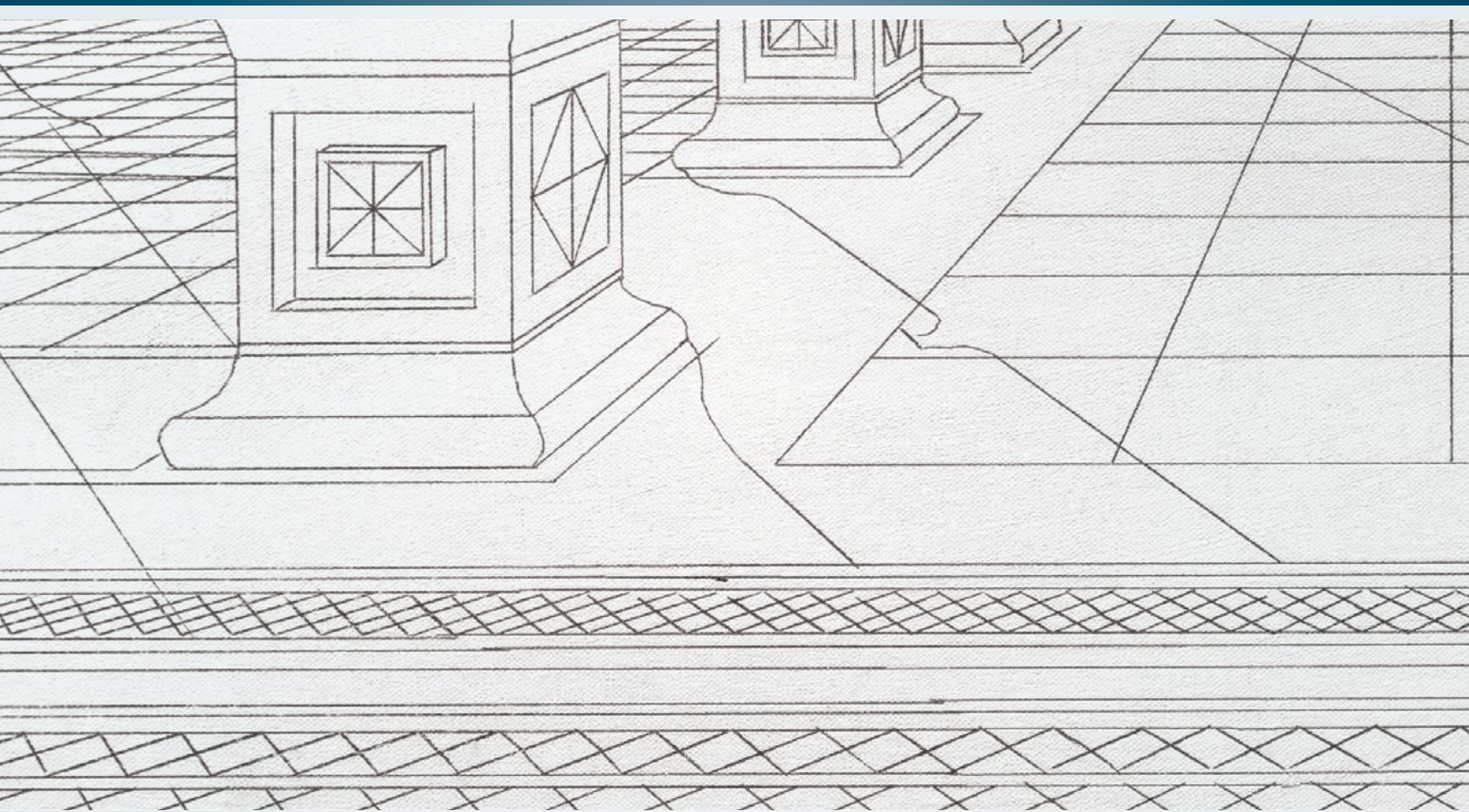


UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

**UNCTAD**



# COMPENDIUM OF TECHNICAL NOTES PREPARED FOR THE LDC WTO GROUP ON PREFERENTIAL RULES OF ORIGIN



UNITED NATIONS

Geneva, 2022

© 2022, United Nations

This work is available through open access, by complying with the Creative Commons licence created for intergovernmental organizations, at <http://creativecommons.org/licenses/by/3.0/igo/>.

The findings, interpretations and conclusions expressed herein are those of the author(s) and do not necessarily reflect the views of the United Nations or its officials or Member States.

The designations employed and the presentation of material on any map in this work do not imply the expression of any opinion whatsoever on the part of the United Nations concerning the legal status of any country, territory, city, or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

Photocopies and reproductions of excerpts are allowed with proper credits.

This publication has not been formally edited.

United Nations publication issued by the United Nations Conference on Trade and Development.

UNCTAD/ALDC/2020/6
--------------------

eISBN: 978-92-1-604016-1
--------------------------

# ACKNOWLEDGEMENT

Stefano Inama, Chief, Technical Cooperation, and Pramila Crivelli, Assistant Professor, Goethe University, drafted this compendium. The views expressed in this document are those of the authors and do not necessarily reflect those of UNCTAD.

## LIST OF ABBREVIATIONS

<b>AGOA</b> . . . . .	African Growth and Opportunity Act	<b>LDC</b> . . . . .	Least Developed Country
<b>ASEAN</b> . . . . .	Association of Southeast Asian Nations	<b>LDCT</b> . . . . .	Least Developed Country Tariff
<b>CAFTA-DR</b> . . . . .	Central America Free Trade Agreement – Dominican Republic	<b>LLDC</b> . . . . .	Landlocked Developing Country
<b>CBSA</b> . . . . .	Canadian Border Services Agency	<b>MFN</b> . . . . .	Most Favoured Nation
<b>CIF</b> . . . . .	Cost Insurance Freight	<b>NAMA</b> . . . . .	Non-Agricultural Market Access
<b>CRO</b> . . . . .	Committee on Rules of Origin	<b>PGC</b> . . . . .	Preference Giving Country
<b>CTH</b> . . . . .	Change of Tariff Heading	<b>PM</b> . . . . .	Preference Margin
<b>CTC</b> . . . . .	Change of Tariff Classification	<b>PSRO</b> . . . . .	Product-Specific Rules of Origin
<b>CTSH</b> . . . . .	Change of Tariff Sub-Heading	<b>PTA</b> . . . . .	Preferential Trade Agreement
<b>DFQF</b> . . . . .	Duty-Free, Quota Free	<b>ROO</b> . . . . .	Rules of Origin
<b>EBA</b> . . . . .	Everything But Arms	<b>SDG</b> . . . . .	Sustainable Development Goal
<b>EPA</b> . . . . .	Economic Partnership Agreement	<b>SIDS</b> . . . . .	Small Island Developing States
<b>EUI</b> . . . . .	European University Institute	<b>SME</b> . . . . .	Small and Medium Enterprise
<b>FOB</b> . . . . .	Free On Board	<b>TBL</b> . . . . .	Through Bill of Lading
<b>FTA</b> . . . . .	Free Trade Agreement	<b>TPKM</b> . . . . .	Taiwan, Penghu, Kinmen, and Matsu (Customs Territory)
<b>GATT</b> . . . . .	General Agreement on Tariffs and Trade	<b>UNCTAD</b> . . . . .	United Nations Centre on Trade and Development
<b>GPT</b> . . . . .	General Preferential Tariff	<b>UR</b> . . . . .	Utilization Rate
<b>GSP</b> . . . . .	Generalized Scheme of Preferences	<b>VNOM</b> . . . . .	Value of Non-Originating Materials
<b>HS</b> . . . . .	Harmonized System	<b>VOM</b> . . . . .	Value of Originating Materials
		<b>WTO</b> . . . . .	World Trade Organization

# TABLE OF CONTENTS

ACKNOWLEDGEMENT . . . . .	III
LIST OF ABBREVIATIONS . . . . .	III
INTRODUCTION . . . . .	VII
<b>A. THE BEGINNING OF THE JOURNEY: THE FIRST TECHNICAL NOTES ON PREFERENTIAL RULES OF ORIGIN FOR LDCS. . . . .</b>	<b>1</b>
<b>A.1. Zambia technical note . . . . .</b>	<b>1</b>
A.1.1. Introduction . . . . .	1
A.1.2. Origin-conferring categories. . . . .	2
A.1.3. Cumulation . . . . .	3
A.1.4. <i>De Minimis</i> (Tolerance). . . . .	3
A.1.5. Problems associated with Rules of Origin . . . . .	3
<b>DUTY-FREE QUOTA-FREE MARKET ACCESS PROVISIONS FOR LEAST-DEVELOPED COUNTRIES . . . . .</b>	<b>5</b>
<b>A.2. Bangladesh technical note . . . . .</b>	<b>10</b>
A.2.1. Introduction . . . . .	10
A.2.2. Proposal by the LDC Group: Use of a value of materials calculation as the numerator . . . . .	13
A.2.3. Specific limitation of the percentage criterion: Calculation of denominator . . . . .	13
A.2.4. Proposal by the LDC Group: Use of ex-works price as denominator . . . . .	14
A.2.5. The percentage criterion calculation proposed by the LDCs. . . . .	14
A.2.6. The issue of the level of percentages . . . . .	14
A.2.7. The level of percentages proposed by LDCs . . . . .	15
A.2.8. The new element of the calculation proposed by the LDCs . . . . .	15
A.2.9. Product-specific rules for specific sectors . . . . .	15
A.2.10. Cumulation . . . . .	15
<b>B. TECHNICAL WORK IN THE PREPARATION FOR THE NAIROBI WTO MINISTERIAL . . . . .</b>	<b>16</b>
<b>C. RESUMING TECHNICAL WORK AFTER NAIROBI DECISION – PRESENTATIONS ON UTILIZATION RATES . . . . .</b>	<b>16</b>
<b>C.1. Identifying low utilization of trade preferences due to the stringency of Rules of Origin: new evidence . . . . .</b>	<b>17</b>
C.1.1. The stringency of Rules of Origin and low utilization . . . . .	17
C.1.2. The mechanics of data on Utilization Rates . . . . .	17
C.1.3. Preliminary results in the EU FTAs. . . . .	17
C.1.4. Asymmetric Utilization Rates . . . . .	17
<b>C.2. Preliminary Results in LDCs . . . . .</b>	<b>20</b>
C.2.1. Developed WTO Members: . . . . .	20
C.2.2. Developing WTO Members . . . . .	27
<b>C.3. Additional Preliminary Results . . . . .</b>	<b>32</b>
<b>C.4. Further evidence from Utilization Rates . . . . .</b>	<b>35</b>
C.4.1. Background . . . . .	35
C.4.2. The Swiss Utilization Rates . . . . .	35
C.4.3. Preliminary discussions linking Swiss Utilization Rates to Rules of Origin . . . . .	39
<b>C.5. Conclusion . . . . .</b>	<b>39</b>
C.5.1. Way forward . . . . .	39

<b>D.</b>	<b>RESUMING TECHNICAL WORK AFTER NAIROBI DECISION-TECHNICAL NOTES ON RULES OF ORIGIN CRITERIA AND RELATED ADMINISTRATIVE REQUIREMENTS</b>	<b>40</b>
D.1.	Rules of Origin based on a change of tariff classification	40
D.2.	Direct consignment rules and low utilization of trade preferences.	47
D.3.	Rules of Origin based on the ad-valorem percentage criterion	54
D.3.1.	Introduction	54
D.3.2.	Substantial Transformation when Applying an Ad-Valorem Percentage Criterion: Recalling Paragraph 1.1 of the Decision	54
D.3.3.	Discussion on non-conforming ad-valorem percentages Rules of Origin and practices by preference granting countries	57
D.3.4.	Initial expectations of the LDCs on the implementation of the Nairobi decision on ad-valorem percentage	59
<b>E.</b>	<b>THE APPROACHING OF THE 5TH ANNIVERSARY OF THE NAIROBI DECISION</b>	<b>60</b>
E.1.	Introduction.	60
E.2.	A summary of main steps undertaken for implementing Nairobi decision: notifications and utilization rates (2016-2017)	60
E.3.	Steps made by preference-granting members to implement the Nairobi decision	61
E.4.	Further submissions made by LDCs to build up a dialogue in the CRO implementation of the Nairobi decision (2018-2019).	61
E.5.	What the LDCs are expecting from MC 12	63
	<b>REFERENCES</b>	<b>64</b>

## List of figures and boxes

Figure 1	South Korean imports from EU and utilization rates	18
Figure 2	Mexican imports from EU and Utilization Rates	19
Box 1	Non-alteration provision in EU-Japan FTA	53

## List of tables

Table 1	Caveat of Value Addition: Role of Exchange Rates	3
Table 2	Summary of the Different Approaches to Determining Origin	4
Table 3	Canadian Imports from LDC GSP Beneficiaries (2017).	20
Table 4	Canadian Imports from LDC GSP Beneficiaries (2017).	21
Table 5	EU Imports from LDC GSP Beneficiaries (2016)	21
Table 6	EU Imports from LDC GSP Beneficiaries (2016)	22
Table 7	Japanese Imports from LDC GSP Beneficiaries (2016).	23
Table 8	Japanese Imports from LDC GSP Beneficiaries (2016).	23
Table 9	Switzerland Imports from LDC Beneficiaries (2017).	24

## List of tables (continued)

Table 10	Switzerland Imports from LDC Beneficiaries (2017)	. 24
Table 11	US Imports from LDC GSP Beneficiaries (2016)	. 25
Table 12	US Imports from LDC GSP Beneficiaries (2016)	. 26
Table 13	US Imports from LDC AGOA Beneficiaries (2016)	. 26
Table 14	Chilean Imports from LDC Beneficiaries (2015)	. 27
Table 15	Chilean Imports from LDC Beneficiaries (2015)	. 27
Table 16	Chinese Taipei Imports from LDC beneficiaries (2017)	. 28
Table 17	Chinese Taipei Imports from LDC beneficiaries (2017)	. 28
Table 18	India Imports from LDC Beneficiaries (2015)	. 29
Table 19	India Imports from LDC Beneficiaries (2015)	. 30
Table 20	South Korean Imports from LDC Beneficiaries (2016)	. 30
Table 21	South Korean Imports from LDC Beneficiaries (2016)	. 31
Table 22	Non-Covered Dutiable Imports (USD Thousands)	. 31
Table 23	Australian Imports from LDC GSP Beneficiaries (2016)	. 32
Table 24	Australian Imports from LDC GSP Beneficiaries (2016)	. 32
Table 25	Norway Imports from LDC Beneficiaries (2016)	. 33
Table 26	Norway Imports from LDC Beneficiaries (2016)	. 33
Table 27	Switzerland Imports from Least Developed Countries 2017 – Tariff Lines	. 36
Table 28	Switzerland Imports from Least Developed Countries 2017 – HS Chapters	. 37
Table 29	Switzerland Imports from Least Developed Countries 2017 – LDC Beneficiaries	. 38
Table 30	Comparison of Product Specific Rules of Origin between EU GSP and Japan GSP	. 42
Table 31	QUAD countries requirements in terms of documentary evidence of direct consignment.	. 50
Table 32	NON-QUAD countries requirements in terms of documentary evidence of direct consignment.	. 51
Table 33	Summary of the Use of Ad-Valorem Percentage by Preference giving countries.	. 56
Table 34	Example of the relevance of Freight and Insurance	. 59



# INTRODUCTION

This compendium contains the main notes and technical materials that have been prepared by UNCTAD on requests<sup>1</sup> by the WTO LDCs group to support the ongoing progress to implement paragraph (b) of annex F of the WTO Hong Kong Ministerial Decision “*Ensure that preferential Rules of Origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access*”.<sup>2</sup>

The mandate of UNCTAD Maafikiano contained in paragraph 38 provides as follows:<sup>3</sup> “(s) *Assist the least developed countries in making use of existing initiatives and programmes such as duty-free and quota-free schemes, preferential Rules of Origin for those countries and the least developed countries services waiver, as well as targeted assistance under initiatives such as the Enhanced Integrated Framework and Aid for Trade.*”

These notes and technical materials, and other supporting tools have been used by the WTO LDCs group, with or without modifications, as submissions to various for mainly the WTO Committee on rules of origin.

The research and capacity-building program on Rules of Origin for LDCs at UNCTAD has been funded by various Donors since 2007<sup>4</sup> until present, demonstrating the technical value and the results achieved by the program.

The program entered a new phase in 2014 based on the experience gained by UNCTAD, in partnership

with the European University Institute (EUI), to assist the WTO LDCs Group on the implementation of the WTO Bali Ministerial Decision on preferential Rules of Origin for LDCs, thanks to the contribution from the Government of the Netherlands.

The assistance provided had a decisive impact resulting in increased participation of LDCs delegates and the private sector in the negotiations to implement the Bali Decision in the WTO Committee on Rules of Origin culminating with the Nairobi Decision on preferential Rules of Origin. Most importantly, the assistance generated a renewed enthusiasm and a more substantial commitment of the LDCs delegates and private sector to participate in WTO and regional trade initiatives to fully utilize trade preferences.

The partnership with the European University Institute (EUI) has successfully hosted and ran a series of executive training courses to build up a core group of LDCs delegates and private sector representatives to effectively represent their interests in WTO meetings and maintain a two-way flow of information with capitals. This work has also contributed to reviving discussions in the WTO Committee on Rules of Origin, most notably on utilization rates as mandated in the Nairobi Decision on preferential Rules of Origin.

In its original formulation, the program's objective was to *enhance the skills and knowledge of officials from LDCs – both Geneva and Capital-based – on specific operationally critical areas of international economic law and policy.*

The analytical and training activities are undertaken and designed to provide the beneficiaries with a deeper understanding of alternative approaches and the implications of different trade policy rules and regulations and to enhance their capacity to apply this knowledge in the course of international negotiations and the implementation of the WTO post-Bali and Nairobi LDCs Package. The aim is to provide LDC officials and policy-makers with a set of legal and economic analytical tools that can be applied to a broad range of international trade and development-related topics. Specific topics identified as being of interest by the LDCs group are addressed in a tailored way to meet the interests of LDCs and the private sector of these countries.

Experience gained has shown that to achieve progress during intergovernmental deliberations and better

---

1 See Note Verbale of the Permanent Mission of Benin to UNCTAD Secretary General of 1 June 2016 as LDC Coordinator; Letter of the H.E. Minister of Commerce of Cambodia as WTO LDC coordinator to UNCTAD Secretary General of 9 September 2016 and Note Verbale from the mission of the United Republic of Tanzania as Core Group leader on the issue of Rules of Origin to UNCTAD Secretary General of 13 December 2019.

2 For a complete review of the process, see Getting to Better Rules of Origin for LDCs: Using Utilization Rates – From the World Trade Organization Ministerial Decisions in 2005, 2013, 2015 and Beyond, UNCTAD 2021

3 See [https://unctad.org/system/files/official-document/td519add2\\_en.pdf](https://unctad.org/system/files/official-document/td519add2_en.pdf) for further details.

4 Funds were received from the Regional Trade Facilitation Program (RTFP) from 2007, subsequently from Trade Mark Southern Africa (TMSA) funded by UK, Italy Netherlands (2014) and UN Development account.

utilization of existing trading opportunities at the field level by the private sector, a face-to-face bilateral approach and advocacy activities could yield increased results. On the one hand, the private sector in preference giving countries, often importers of goods from LDCs, may effectively convince governments to adopt trade policy reforms facilitating imports from LDCs. On the other hand, private sector representatives in LDCs are the best placed to advocate a positive trade agenda to LDCs government to adopt market-oriented trade facilitating reform at the national level.

The overall objective of UNCTAD's intervention is placed in the context of Monitoring implementation of target SDG 17 on Trade issues: "*Realize timely implementation of duty-free and quota-free market access on a lasting basis for all least developed countries, consistent with World Trade Organization decisions, including by ensuring that preferential Rules of Origin applicable to imports from least developed countries are transparent and simple, and contribute to facilitating market access.*"

## A. THE BEGINNING OF THE JOURNEY: THE FIRST TECHNICAL NOTES ON PREFERENTIAL RULES OF ORIGIN FOR LDCS

The first technical notes were elaborated on requests from the LDCs coordinator Zambia and later Nepal. The notes were the initial attempts to stimulate a debate in the WTO on favorable Rules of Origin for LDCs that ultimately led to the WTO Ministerial Bali Decision on preferential Rules of Origin of 2013.

### A.1. Zambia technical note<sup>5</sup>

*“There is no evidence that strict Rules of Origin over the past 30 years have done anything to stimulate the development of integrated production structures in developing countries. In fact, such arguments have become redundant in the light of technological changes and global trade liberalization, which have led to the fragmentation of production processes and the development of global networks of sourcing. Globalization and the splitting up of the production chain do not allow the luxury of establishing integrated production structures within countries. Strict Rules of Origin act to constrain the ability of firms to integrate into these global and regional production networks and, in effect, act to dampen the location of any value-added activities. In the modern world economy, flexibility in sourcing inputs is a key element in international competitiveness. Thus, it is quite feasible that restrictive Rules of Origin rather than stimulating economic development will raise costs of production by constraining access to cheap inputs and undermine the ability of local firms to compete in overseas markets.”*

From *“Rules of Origin, Trade, and Customs”* by Brenton and Imagawa (page 36)

#### A.1.1. Introduction

Rules of Origin have been under consideration by the WTO almost since its inception in 1995, and consensus on Rules of Origin has yet to be achieved.

The main reason for this lack of consensus could well be that different Members of the WTO expect Rules of Origin to serve different functions. The function of Rules of Origin, which refer to the Duty-Free Quota-Free Market Access for Least-Developed Countries (LDCs) provisions, is to reduce trade diversion and trade deflection to a minimum, which can be achieved by having Rules of Origin which are transparent and straightforward.

LDCs have, for a long time, argued that, despite being accorded preferential market access through the various agreements, they have not been able to take advantage of these opportunities because of the associated, often stringent, Rules of Origin. Against this background, LDCs have been advancing the position that Rules of Origin need to be simplified.

Paragraph 47 of the Hong Kong Ministerial Declaration<sup>6</sup> contains the following:

*“Building upon the commitment in the Doha Ministerial Declaration, developed-country Members, and developing-country Members declaring themselves in a position to do so, agree to implement duty-free and quota-free market access for products originating from LDCs as provided for in Annex F to this document. Furthermore, following our commitment in the Doha Ministerial Declaration, Members shall take additional measures to provide effective market access, both at the border and otherwise, including simplified and transparent Rules of Origin to facilitate exports from LDCs.”*

Therefore, the Hong Kong Ministerial Declaration commits developed-country Members of the WTO and developing countries declaring themselves in a position to do so to provide preferential market access to Least-Developed Countries.

Rules of Origin are required in any preferential trading arrangement. The minimum requirement is to minimize trade deflection by ensuring that the product is exported into the customs territory granting the preference is

<sup>5</sup> Technical note prepared in May 2006, later submitted to the WTO by the Delegation of Zambia on behalf of the LDC Group (see WTO document TN/CTD/W/30, TN/MA/W/74, TN/AG/GEN/20, 12 June 2006).

<sup>6</sup> (WT/MIN(05)/DEC)

produced (however defined) in the customs territory to whom the preference is granted. Although Rules of Origin can have development objectives and can also be used as a means of protection, the Hong Kong Ministerial Declaration states explicitly that the Rules of Origin, in this situation, should be simple and transparent and should facilitate exports from LDCs.

Rules of Origin are essential in that they can affect companies' sourcing and investment decisions. They can, at the same time, distort the relative prospects of similar firms within a country. The adoption of restrictive Rules of Origin is more likely to constrain than to stimulate regional economic development and undermine preferential trade agreements.

### A.1.2. Origin-conferring categories

There are two main origin-conferring categories, these being:

- i. Wholly Produced - refers to agricultural and mining products collected, mined, grown, reared, etc., in the exporting country (e.g., mineral products; vegetable products; live animals; products obtained from live animals; etc. if these products originate in the Member State concerned). Annex D1 of the Kyoto Convention contains a definition of what constitutes wholly produced, and most preferential Rules of Origin follow this definition.<sup>7</sup>
- ii. Substantive Transformation can be achieved by one or all of the following (as defined in Annex D1 of the Kyoto Convention):
  - (a) change of tariff classification;
  - (b) value addition
  - (c) specific manufacturing process.

### Change of Tariff Classification

A change of tariff classification refers to a change in the Harmonised System (HS) tariff classification once a good undergoes a substantial transformation. Origin is granted if the exported product has a different tariff classification to any of the inputs used in its production. The benefit of using the change of tariff classification is that it is unambiguous and easy to understand. In terms of documentary requirements, it requires that producers keep records of the tariff classifications of all inputs and the final product. Change of tariff classification is usually defined at the 6-digit level (change of tariff sub-heading – CTSH).

### Value Addition

Value-added is defined as the difference between the cost of the finished product and the cost of all the materials used in producing the finished product. In calculating value addition, the denominator is the ex-works price, which, in the case of the Cotonou Rules of Origin, for example, is the price paid for the manufactured product, ex-works, minus any internal taxes which are, or may be, repaid when the product is exported. The numerator would be the value of the materials used to produce the manufactured product. Value addition could be calculated using either the free-on-board (F.O.B.) or cost-insurance-freight (C.I.F.) values. Each method of calculating value addition will give a different value of non-originating materials. Preferential Trade Agreements using the value addition criterion in determining origin have a value-added threshold of a defined percentage that must be met if the origin is conferred.

The value-added criterion has several limitations. Value-addition may deter a manufacturer from investing in more efficient plant and machinery. This efficiency gain will most probably reduce the cost of the manufacturing process, resulting in the value added through processing being reduced to below the value addition threshold, which confers origin.

A further limitation is that value-added percentages are easily affected by movements in exchange rates for finished products with imported raw materials. When a local currency appreciates, the percentage value-added tends to decline, and vice versa. The first column in Table 1 below gives an example of a manufacturer importing half the value of his inputs and value addition of 35 percent, so, in this case, the manufacturer meets the threshold for the value-addition criterion of the country in which his country has a preferential trading arrangement with. The second column assumes that there has been a currency devaluation of 100 percent in the exporter's country. Even though there has been no change in technology or change in volume of inputs, the value addition reduces to below 35 percent, so, in this case, the export would not qualify for preferential treatment. It would be charged the full MFN duty by the importing county, even though it is providing preferential treatment to the exporting country.

<sup>7</sup> See <https://unece.org/fileadmin/DAM/cefact/recommendations/kyoto/ky-d1-e0.htm> for further details.

Table 1 Caveat of Value Addition: Role of Exchange Rates

		Local currency	100 percent depreciation	Local currency
<b>Cost of materials</b>		1000		1500
Local	500		500	
Imported	500		1000	
<b>Direct labor</b>		250		250
<b>Depreciation of machinery</b>		40		40
<b>Factory overheads</b>		250		250
<b>Ex-factory cost</b>		1540		2040
<b>Value Added =</b>				
	$(1540-1000)/1540$	35.06	$(2040-1500)/2040$	26.47

It is often difficult to calculate the value-added if several products are produced from the imported material. For example, some LDCs import crude palm oil, and from this refined cooking oil, soap, margarine, and other finished products are manufactured. Under these circumstances, there are various ways to calculate the input cost of crude palm oil. Even in instances where cost accounting methods are used, the exporter's calculations are open to dispute and query by the importer.

### Specific Manufacturing Process

In some Rules of Origin, substantial transformation is defined based on a list of processing or manufacturing operations that must be carried out on specific non-originating materials to confer origin to the resulting product. Specifically, specific manufacturing processes are used in conjunction with other origin-conferring criteria, such as value addition criteria. Specific manufacturing processing rules usually apply to particular sectors, such as the textile industry, and restrict firms' production methods and product choices. Requirements are generally very detailed and specific and are often highly complex, with the result being that it becomes difficult for products to qualify.

### A.1.3. Cumulation

Cumulation allows producers to import materials from a specific country or regional group of countries without undermining the product's origin.

### A.1.4. *De Minimis* (Tolerance)

Most Rules of Origin allow for a certain percentage of non-originating materials to be used without affecting the origin of the final product. The tolerance rule can act to make it easier for products with non-originating inputs to qualify for preferences.

### A.1.5. Problems associated with Rules of Origin

There is a sizeable literature on Rules of Origin, and the uptake of preferences and, from this literature, the following points arise:

- There is a direct cost associated with the completion of Rules of Origin of about 3 percent to 5 percent, which reduces exports under preferential schemes;
- Rules of Origin can make it more difficult to achieve economies of scale since input requirements may vary according to destination markets of the final products;
- Rules of Origin are an incentive to purchase intermediates in the country conceding the preference, and this can be a source of a trade diversion if there is a more efficient producer of intermediates elsewhere;
- Rules of Origin can be used as a means of protection for the importing country, with some studies showing that the more significant the difference in tariffs, the more restrictive the associated Rules of Origin; and
- Rules of Origin usually do not recognize constantly changing industrial configurations brought about through globalization and can hamper the effective utilization of trade preferences and impede rather than facilitate preferential market access.

However, despite these drawbacks and difficulties, it is necessary to agree on a set of Rules of Origin if a preferential trading arrangement such as the one agreed to by the WTO Members for LDCs as defined in Annex F of the Hong Kong Ministerial Declaration is to be implemented. The challenge facing WTO Members is defining a set of Rules of Origin that will assist LDCs in taking advantage of the improved market access conditions they have been provided. This will enable LDCs to translate this enhanced market access into improved living standards of their populations through economic growth brought about by increased trade while minimizing trade deflection.

Table 2 Summary of the Different Approaches to Determining Origin

Rule	Advantages	Disadvantages	Key Issues
<b>Change of Tariff Classification (in the Harmonised System)</b>	<ul style="list-style-type: none"> <li>– Consistency with non-preferential Rules of Origin.</li> <li>– Once defined, the rule is clear, unambiguous, and easy to understand by both operators and enforcers.</li> <li>– Relatively straightforward to implement.</li> </ul>	<ul style="list-style-type: none"> <li>– Harmonised System not designed for conferring origin. As a result, there are often many individual product-specific rules, which domestic industries can influence.</li> <li>– Documentary requirements may be challenging to comply with.</li> <li>– Can be conflicts over the classification of goods which can introduce uncertainty over market access.</li> </ul>	<ul style="list-style-type: none"> <li>– Level of classification at which change is required – the higher the level, the more restrictive.</li> <li>– Can be positive (which imported inputs can be used) or negative (defining cases where the change of classification will not confer origin) test – negative test more restrictive.</li> </ul>
<b>Value Added</b>	<ul style="list-style-type: none"> <li>– Clear, simple to specify, and unambiguous.</li> <li>– Allows for general rather than product-specific rules.</li> </ul>	<ul style="list-style-type: none"> <li>– Complex to apply – requires firms to have sophisticated accounting systems.</li> <li>– Uncertainty due to sensitivity to changes in exchange rates, wages, commodity prices, etc.</li> </ul>	<ul style="list-style-type: none"> <li>– The level of value-added required to confer origin.</li> <li>– The valuation method for imported materials – methods that assign a higher value (for example, CIF) will be more restrictive on the use of imported inputs.</li> </ul>
<b>Specific Manufacturing Process</b>	<ul style="list-style-type: none"> <li>– Once defined, unambiguous.</li> <li>– Provides for certainty if rules can be complied with.</li> </ul>	<ul style="list-style-type: none"> <li>– Documentary requirements can be burdensome and difficult to comply with.</li> <li>– Leads to product-specific rules.</li> <li>– Domestic industries can influence the specification of the rules.</li> </ul>	<ul style="list-style-type: none"> <li>– The formulation of the specific processes required – the more procedures required, the more restrictive.</li> <li>– Should the test be negative (processes or inputs which cannot be used) or a positive test (what can be used) – the negative test is more restrictive.</li> </ul>

<sup>a</sup> A positive determination of origin typically takes the form of ‘change from any other heading,’ as opposed to a negative determination of origin, such as ‘change from any other heading except for the headings of chapter XX’; It is worth noting that change of tariff classification, particularly with a negative determination of origin, can be specified to affect identically to that of a specific manufacturing process.

Source of Table: “Rules of Origin, Trade, and Customs” by Paul Brenton and Hiroshi Imagawa

# Duty-Free Quota-Free Market Access Provisions For Least-Developed Countries

## Annex F of the WTO Hong Kong Ministerial Decisions

### Rules of Origin

#### GENERAL PROVISIONS

##### Article 1

For the purposes of this Agreement:

- (a) **“LDCs”** means the countries classified within this category by the United Nations General Assembly.
- (b) **“manufacture”** means any kind of working or processing, including assembly or specific operations;
- (c) **“material”** means any ingredient, raw material, component or part, etc., used in the manufacture of the product;
- (d) **“product”** means the product being manufactured, even if it is intended for later use in another manufacturing operation;
- (e) **“goods”** means both materials and products;
- (f) **“customs value”** means the value as determined in accordance with the 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on customs valuation);
- (g) **“ex-works price”** means the price paid for the product ex works to the manufacturer in the LDC in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported;
- (h) **“value of materials”** means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the LDC except that such value may be adjusted to exclude any costs, charges or expenses incurred for transportation, insurance and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation;
- (i) **“value of originating materials”** means the value of such materials as defined in sub-paragraph (h) applied mutatis mutandis;
- (j) **“value-added”** means the difference between the ex-works cost of the finished product and the [f.o.b.][c.i.f.] value of the materials imported from outside the LDC and used in the production;
- (k) **“chapters”, “headings” and “sub-headings”** mean the chapters, headings (four-digit codes) and sub-headings (six-digit codes) used in the nomenclature which makes up the Harmonised Commodity Description and Coding System, or HS;
- (l) **“classified”** refers to the classification of a product or material under a particular heading; and
- (m) **“consignment”** means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice.

#### GENERAL REQUIREMENTS

##### Article 2

The following products shall be considered as originating in the LDCs:

- (a) products wholly obtained in the LDCs within the meaning of Article 3 of this Agreement; and
- (b) products obtained in the LDCs incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient substantial transformation in the LDCs within the meaning of Article 4 of this Agreement.

For the purpose of implementing paragraph 1, all LDCs shall be considered as being one territory.

Originating products made up of materials wholly obtained or sufficiently worked or processed in two or more LDCs shall be considered as products originating in the LDC where the last working or processing took place, provided the working or processing carried out there goes beyond that referred to in Article 5 below.

## WHOLLY OBTAINED PRODUCTS

### Article 3

The following shall be considered as wholly obtained in the LDCs:

- (a) mineral and other naturally occurring products extracted from their soil or from their seabed;
- (b) vegetable products harvested there;
- (c) live animals born and raised there;
- (d) products from live animals raised there;
- (e) products obtained by hunting or fishing conducted there;
- (f) products of sea fishing and other products taken from the sea outside the territorial waters by their vessels;
- (g) products made aboard their factory ships exclusively from products referred to in sub-paragraph (f);
- (h) used articles collected there fit only for the recovery of raw materials, including used tyres fit only for re-treading or for use as waste;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;
- (k) goods produced there exclusively from the products specified in sub-paragraphs (a) to (j).

The terms “their vessels” and “their factory ships” in paragraph 1(f) and (g) shall apply only to vessels and factory ships which are registered or recorded in a LDC or in the country into which the exports of wholly produced products from LDCs are made.

Notwithstanding the provisions of paragraph 2, the preference giving country shall recognise, upon request of a LDC, that vessels chartered or leased by the LDC be treated as “their vessels” to undertake fisheries activities in its exclusive economic zone.

## SUBSTANTIAL TRANSFORMATION

### Article 4

For the purposes of these Rules of Origin, products which are not wholly obtained are considered to be sufficiently worked or processed in a LDC when the LDC value content is calculated on the basis of the build-down method (value added criteria) or the build-up method (local content criteria) described below.

- (a) For the build-down (value added) method, the LDC value content of a good may be calculated on the basis of the formula:

$$LVC = \frac{P - VNM}{P} \times 100$$

Where:

LVC is the LDC value content of the good, expressed as a percentage.

P is the ex-works price of the good.

VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

- (b) For the build-up (local content) method, the regional value content of a good may be calculated on the basis of the formula:

$$LVC = \frac{VOM}{P} \times 100$$

Where:

LVC is the regional value content of the good, expressed as a percentage.

P is the ex-works price of the good.

VOM is the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

A finished good is sufficiently worked or processed when:

- (a) In the case where the build-down method is used the LDC content expressed as a percentage is equal to (x) percent.
- (b) In the case where the build-up method is used the LDC content expressed as a percentage is equal to (y) percent.
- (c) In the case where adjustments are to be made to calculate the value of non-originating materials used in the production of a good when the build-down method is used paragraph 3(c) below will apply.

Value of materials.

- (a) For the purpose of calculating the LDC value content of a good, the value of a material is:
  - (i) in the case of a material that is imported by the producer of the good, the value of the material;
  - (ii) in the case of a material acquired or self-produced as defined in paragraph 4 in the territory in which the good is produced, the



value, determined in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

- (b) The following expenses, if not included in the value of an originating material calculated under sub-paragraph 3(a) above, may be added to the value of the originating material:
- (i) (the costs of freight, insurance, packing and all other costs incurred in transporting the material within or between the territory of one or more of the LDCs or neighbouring countries as defined under Article 7 to the location of the producer;
  - (ii) duties, taxes and customs brokerage fees on the material paid in the territory of one or more of the LDCs or neighbouring countries as defined in Article 7 other than duties or taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable;
  - (iii) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.
- (c) The following expenses, if included in the value of a non-originating material calculated under sub-division 3(a) above, are deducted from the value of the non-originating material:
- (i) the costs of freight, insurance, packing and all other costs incurred in transporting the material to the location of the producer;
  - (ii) duties, taxes and customs brokerage fees on the material paid in the territory of one or more LDC or neighbouring countries as defined under Article 7, other than duties or taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable;
  - (iii) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by products;
  - (iv) the cost of originating materials used in the production of the non- originating material;
  - (v) in the case where the deductions mentioned above under (i) to (iv) are not made and the value of a non-originating material is calculated on a c.i.f basis the required percentage under the build-down method will be increased by (z) percentage.

If a product, which has acquired originating status by fulfilling the conditions set out above, is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it and no account shall be taken of the non-originating materials which may have been used in its manufacture.

## **INSUFFICIENT WORKING OR PROCESSING OPERATIONS**

### **Article 5**

The following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 4 are satisfied:

- (a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);
- (b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;
- (c) changes of packaging and breaking up and assembly of packages or simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packaging operations;
- (d) affixing marks, labels and other like distinguishing signs on products or their packaging;
- (e) simple mixing of products, whether or not of different kinds, where one or more components of the mixtures do not meet the conditions laid down in this Agreement to enable them to be considered as originating in a LDC;
- (f) simple assembly of parts to constitute a complete product;
- (g) a combination of two or more operations specified in sub-paragraphs (a) to (f); and
- (h) slaughter of animals.

All the operations carried out in the LDCs shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

## TERRITORIALITY

### Article 6

The conditions for acquiring originating status must be fulfilled without interruption in the LDCs.

The acquisition of originating status shall not be affected by working or processing done outside the LDCs on materials exported from the LDCs and subsequently re-imported there, provided:

- (a) the said materials are wholly obtained in the LDCs or have undergone working or processing beyond the operations referred to in Article 5 prior to being exported; and
- (b) it can be demonstrated to the satisfaction of the customs authorities of the preference giving countries that:
  - (i) the re-imported goods have been obtained by working or processing the exported materials; and
  - (ii) the total added value acquired outside LDCs by applying the provisions of this Article does not exceed (a) percent of the ex-works price of the end product for which originating status is claimed.

## CUMULATION

### Article 7

#### Cumulation with preference giving countries

Materials originating in the preference giving countries shall be considered as materials originating in the LDCs when incorporated into a product produced in the LDCs. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 5.

#### Diagonal regional cumulation

Products originating in any of the countries that are partners with a LDC of a regional group and used in further manufacture in a LDC shall be treated as if they originated in the LDC of further manufacture.

Notwithstanding paragraph 2, products further manufactured in a LDC shall be considered as originating in a LDC only where the LDC content there is greater than the value of the materials used that originate in any one of the other countries that are members of the regional grouping.

LDC content is calculated according to the method contained in sub-paragraph 1(a) of Article 4 (built down method) and the value of originating materials

is calculated according to sub-paragraph 3(a) of Article 4.

The cumulation provided for in this paragraph may be applied only provided that:

- (a) a preferential trade agreement is in place between a LDC and other members of the same regional trading arrangement;
- (b) originating material and products of other members of the regional group and incorporated into a product further manufactured in a LDC have acquired originating status by the application of rules contained in this Agreement.

#### Cumulation with neighbouring countries

At the request of a LDC, materials originating in a neighbouring developing country not a member of a regional trade agreement which is not a LDC shall be considered as materials originating in the LDC when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided that the working or processing carried out in the LDC exceeds the operations listed in Article 5.

## UNIT OF QUALIFICATION

### Article 8

The unit of qualification for the application of the provisions of this Agreement shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonised System. Accordingly, it follows that:

- when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification; and
- when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying the provisions of this Agreement.

[Where packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.]

Accessories, spare parts, and tools dispatched with a piece of equipment, machine, apparatus, or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Sets, as defined in General Rule 3 of the Harmonised System, shall be regarded as originating when all component products are originating. Nevertheless, 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 (b) percent of the ex-works price of the set.

In order to determine whether a product originates, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;
- (d) goods which do not enter and which are not intended to enter into the final composition of the product.

## A.2. Bangladesh technical note<sup>8</sup>

*“Rules of Origin are old and have not followed evolutions in world trade. The present rules were initially drawn up in the 1970s, and they have not materially changed much since, whereas the commercial world has. They were also based on the need to protect Community industry and on the premise that beneficiary countries should be encouraged to build up their own industries in order to comply. In most cases, this has not happened. Instead, there has been a trend towards the globalization of production, but Rules of Origin have not been adapted to this. At the same time, compliance costs are high, and the paper-based procedures are outdated.*

*... Lower preferential margins combined with high compliance costs make preferences unattractive. As a result of successive rounds of trade agreements, preferential margins are much smaller than they used to be.*

*... The dilemma of LDCs is well illustrated by the information received from countries requesting derogations from Rules of Origin. Such countries have little or no domestic fabric production, which means they have to import it (so failing to comply with the “two stages of processing” rule) and add only between 27 percent and maximum 40 percent in value.”*

From *“Impact assessment on Rules of Origin for the Generalized System of Preference (GSP)”* European Commission, Brussels 25 October 2007 Taxud/GSP-RO/IA/1/07 (page 16).

### A.2.1. Introduction

The first sentences in the preamble of this proposal are an excerpt from a major policy document of the European Union, arguably the most significant donor in terms of preferential trade flows to LDCs. They reflect in a self-explanatory manner the problems of the LDCs in the area of Rules of Origin.

It is based on this assessment, the EU has inaugurated the reform of unilateral Rules of Origin<sup>9</sup> in thirty years of operations of such Rules of Origin. In 2003 the Canadian Government also introduced liberal Rules of Origin for LDCs. In 2011, Switzerland made changes to its Rules of Origin criteria for LDCs similar to the ones introduced by the EU.

The quoted text acknowledges the instances raised by the LDCs in their former submission of 2006<sup>10</sup> and previous LDCs Ministerial declarations. LDCs are unable to take advantage of preferential market access provisions (and ably use trade as a vehicle for economic growth and poverty alleviation) if the Rules of Origin associated with the preference scheme are so strict as to preclude the utilization of these preferences.

The EU reform in 2011 has liberalized Rules of Origin criteria at large for all EU beneficiaries. Most importantly, it has recognized the special needs of the LDCs by differentiating Rules of Origin applicable to LDC products from those applicable products originating in developing countries. In addition, changes have been introduced in the EU regional cumulation rules that made possible the increased use of regional inputs by removing the previous value condition.

Such reforms towards liberalization of Rules of Origin would be welcomed in the Japanese and US Rules of Origin under their respective GSP schemes. This reform should also apply to the Rules of Origin applicable under the Duty-Free Quota-Free (DFQF) Initiative for the least developed countries (LDCs) implemented by developed and developing countries.

There is a need to move forward, starting with the recognized challenges. After more than 30 years of unaltered preferential unilateral Rules of Origin despite the successive reduction of MFN tariffs, discussions at the multilateral level on how to best fulfill the DFQF commitment could only benefit all Members. While acknowledging the unilateral nature of trade preferences, the objective of this proposal is to provide a first input into this process.

The Decision reached in Hong Kong, as contained in Annex F of the Ministerial Declaration, states, among other things, that WTO Members agreed to: *“ensure*

8 Technical note prepared by the author of this compendium in June 2011, later submitted to the WTO by the Delegation of Bangladesh on behalf of the LDC Group (see WTO documents TN/CTD/W/30/Rev.2; TN/MA/W/74/Rev.2; TN/AG/GEN/20/Rev.2 of 24 June 2011). A revised version of this technical note (not reported in the present document) was prepared by the author in 2013, and submitted to the WTO by the Delegation of Nepal as LDC coordinator (see TN/C/W/63), leading to the Bali Ministerial Decision of December 2013.

9 See for the official text of these changes Commission regulation (EU) No 1063/2010 of 18 November 2010 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code council regulation

10 See TN/CTD/W/29 and TN/MA/W/74 and TN/AG/GEN/18 of 6 June 2006.

*that preferential Rules of Origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.”*

To initiate the commitment on Rules of Origin made by all Members in the Hong Kong Declaration, the LDC Group put forward a proposal to the NAMA and Agriculture Committees and the Committee on Trade and Development. The LDCs submitted this proposal to these three Committees to promote a focused debate on Rules of Origin between LDCs and preference-giving countries based on a specific text on Rules of Origin rather than declarations of principle and statements of intent.

The responses from preference-giving countries to the LDC proposal have not been encouraging. A series of meetings were held in 2007 with Delegations of preference-giving countries, including the EU, Japan, and the US. However, these meetings were not particularly fruitful since the focus was on defending the status quo rather than discussing possible ways to multilaterally achieve the objectives of Rules of Origin that are “transparent and simple, and contribute to facilitating market access.”

There were also misguided perceptions that either LDCs did not know what they wanted or how they wanted to proceed.<sup>11</sup> This was despite the fact that the LDC Group presented a detailed proposal on Rules of Origin mentioned above to the NAMA Committee a year earlier. There was also an assumption<sup>12</sup> that the objective of the LDCs submission was aimed at achieving harmonization of preferential Rules of Origin. Although desirable, nowhere has the LDC Group argued for harmonizing Rules of Origin.

The statement on adopting best practices made by the NAMA chair in 2007 is in line with the position of preference-giving countries, who all believe that their particular preferential Rules of Origin constitute best practice, rather than in line with the clearly stated objectives of the LDC Group.

The LDC proposal for preferential Rules of Origin under the DFQF stems from the consideration that there are no easy shortcuts or miracle solutions to the Rules of Origin. The LDC proposal is centered on an ‘across the board’ Rule of Origin based on a percentage criterion. The proposal for an across-the-board criterion is made to avoid the proliferation of product-specific Rules of Origin. Rules of Origin negotiated product by product and industry by industry open the way for organized industries and lobby groups to devise Rules of Origin that diminish transparency and trade liberalization. This has happened during RTAs negotiations between developed and developing countries and among developing countries<sup>13</sup> on several occasions.

Reliance on an ‘across board percentage’ does not preclude the possibility of having some product-specific Rules of Origin for specific sectors where LDCs exports are most concentrated, especially in the clothing sector of HS Chapters 61 and 62.

The new EU Rules of Origin in these sectors are based on a single transformation, i.e., assembly operations of fabrics by sewing or otherwise assembling materials. Such a liberal rule of origin is expected to generate considerable trade effects in some LDCs.

Thus it may be fairly said that a single transformation is the best practice to be used in clothing for Rules of Origin to reflect industrial capacities in LDCs and attain the development objectives of trade preferences.

Depending on the need of LDCs, other sectors specific rules may also be considered. Such sectors’ specific Rules of Origin may be formulated using different methodologies such as change of tariff classification and specific working or processing requirements. It is proposed that these eventual exceptions should be kept to a minimum and reflect the export interest of LDCs.

The proposed LDCs model conforms with the Kyoto Convention and international practice by the primary preference giving countries in that it uses two main origin-conferring categories, these being:

- i. Wholly Produced - refers to agricultural and mining products collected, mined, grown, reared, etc., in the exporting country (e.g., mineral products; vegetable products; live animals; products

11 In his introduction to the Draft NAMA Modalities (JOB/07/126) on 17 July 2007 the NAMA Chair, in paragraph 38, stated that “On the issue of improving Rules of Origin for duty-free, quota-free market access, neither the proponents nor the Members more broadly have a precise idea on how to proceed.”

12 The Chair in Draft NAMA Modalities (JOB/07/126) on 17 July 2007 paragraph 38, stated that “I would note that harmonizing preferential Rules of Origin may not be the optimal solution and that there are best practices among Members that could be readily adopted to enhance the effectiveness of these programs.”

13 See for a number of examples of restrictive product specific Rules of Origin in North-South and South-South RTAs Inama, “Rules of Origin In International Trade”. Cambridge University press, 2009 and for the NAFTA case Krishna, Kala “Understanding Rules of Origin” EFMA Meetings Helsinki, 2003.

obtained from live animals; etc. if these products originate in the Member State concerned). Annex D1 of the Kyoto Convention contains a definition of what constitutes wholly produced, and most preferential Rules of Origin follow this definition;

- ii. Substantive Transformation, defined by one or more of the following methods:
  - (a) change of tariff classification;
  - (b) value addition; or
  - (c) specific working or manufacturing process.

There are difficulties in any method used to calculate substantive transformation, as discussed in the former submission made by the LDC Group. The method recommended for use in this submission is the percentage criteria based on a value of materials calculation adopted by many preference-giving countries, with some adaptations.

The percentage criteria used by particular preference giving countries are defined in a variety of ways, but mainly they take the following forms:<sup>14</sup>

Value addition (35%) is calculated as a percentage of the cost of local originating material, labor, and direct cost of processing out of the ex-factory price of the finished product.

This is the method used, for example, under the US GSP and AGOA. This method is also used, albeit with other level percentages required and different definitions of the numerators and denominators, by other preference-giving countries like Australia, Canada, Eurasian Customs Union, and New Zealand.

- a. Value addition is defined as subtraction of the value of imported material out of the ex-works (or adjusted value in US terminology). This, for example, is the “build down” method used under the United States - Central America Free Trade

Agreement (USCAFTA), and the EU has also used it in the impact assessment study.<sup>15</sup>

- b. Allowance of a maximum amount of foreign inputs as a percentage of the ex-works price (EU current practice and Japan practice using the FOB price as a denominator).<sup>16</sup>

The nature of each formulation of the percentage criterion affects the administrative effort required to introduce and maintain compliance with the criterion. It also affects the substance of the criterion. There are also a series of limitations to the percentage criteria that the calculation method proposed by the LDC group has addressed in light of best practices and lessons learned.

Limitations in using the percentage criterion are well known and may be quickly summarized as follows:

- a. Percentage calculations are easily affected by movements in exchange rates for finished products that have imported raw materials, in that, when a local currency appreciates, the percentage value-added tends to decline, and vice-versa;
- b. The level of percentage threshold may be arbitrarily set, and it is difficult to set it up even with consultations with the private sector given the number of variable costs to take into account;
- c. The costs of labor in developing countries are relatively cheap, and in a value-added calculation, it may turn an asset into a penalty; and
- d. The calculations may be difficult and may entail some accountancy expertise and a certain amount of discretion in assessing costs that may lead to dispute, plus accountancy skills generally not available in most small firms in LDCs.

More specifically, there are three kinds of parameters for defining the percentage criteria that are discussed here below, together with the solution proposed by the LDC Group.

14 The intrinsic limitations and scarce trade facilitation effect deriving from the use by preference giving countries of different calculations methods and different level of percentages are evident as early witnessed in an UNCTAD document: ‘As earlier mentioned a preference-receiving country pointed out that insuperable obstacles were caused by the need to devise and operate an accounting system that differed in the definition of concept, application of accounts, precision, scope, and control from its internal legal requirements. The system must provide the costing information to satisfy the rules of the countries of destination, to check the shares of domestic and imported inputs in the unit cost of the exported goods, in some cases identifying the country of origin of the inputs and establishing direct and indirect processing costs.’

15 According to the Impact Assessment Brussels 25 October 2007 Taxud/GSP-RO/IA/1/07 the formula of the valued added is as follows:

$$\text{Value added} = \frac{\text{Ex-works price} - \text{value of non-originating material}}{\text{Ex-works price}} \times 100$$

16 It has to be noted that both EU and Japan under the current GSP Rules of Origin do not use the percentage criterion as an across the board criteria. The Percentage criterion is only used in the context of certain product specific Rules of Origin contained in an extensive list detailing the product specific Rules of Origin. With respect to the ex-works price the FOB price includes inland transport to the port of embarkation.

General limitations of the percentage criterion: Value-added versus Value of materials in the determination of the numerator

There are important differences in the formulation of the numerator and the calculation of percentages. The major differences in the numerator reflect two approaches, one of which places a maximum limit on the use of imported material like the EU and Japan and the other one which places a minimum limit of value-added as in the case of the US GSP represented by the cost of local materials plus the direct cost of processing. A third variation is a valued added calculation made by subtraction, as in the case of the EU formula used in the impact assessment and in the build-down calculation of the US-Central America Free Trade Area.

Lessons learned in preferential Rules of Origin and most recently in the net cost calculations in NAFTA have amply demonstrated that the formulation of percentage criterion calculations as value-added or “domestic content” are complex. This entails the detailed rules to define what are allowable and non-allowable costs that can be counted as numerators in the value-added calculation.

These elements may be familiar only to accountants. As prices, costs, and quantities change, a recalculation will be necessary to ensure compliance. While some of these tasks may form part of the normal accounting procedures required for commercial purposes, some may not. In such cases, therefore additional professional expertise may be required. The calculation of the numerator in a value-added calculation is complex as it entails:

- i. A distinction of costs, which could be computed as local value-added;
- ii. Itemization of such cost to the single unit of production. As a consequence, it often requires accounting, and discretion may be used in assessing unit costs. Additionally, currency fluctuations in beneficiary countries may affect the value of the calculation;
- iii. Low labor costs in developing countries may result in low value-added and, instead of being a factor of competitiveness, may turn out to be a factor penalizing producers based in Developing countries.

The US has progressively restricted the use of the net cost calculations to limited items in the automotive sector, and the EU that initially planned to use such calculation in its reform of the GSP Rules of Origin has dropped the original plans.

### **A.2.2. Proposal by the LDC Group: Use of a value of materials calculation as the numerator**

In the light of the above-mentioned lessons learned and best practices, the LDCs are proposing a calculation methodology based on a value of materials calculation. This methodology eliminates most of the shortcomings of a value-added calculation. The value of material calculation is based on the WTO Customs Valuation Agreement anchoring the rules to a multilateral instrument in use by WTO Members. This method of calculation is similar to the one used by the US in recent FTA agreements with Australia, Central America, Chile, Singapore, and other countries, as well as to the EU calculation currently used.

### **A.2.3. Specific limitation of the percentage criterion: Calculation of denominator**

As in the case of the numerator, the preference-giving countries are using a different formulation that can be summarized as ex-factory cost, ex-works price, and FOB price.

These formulations of denominators have a series of pros and cons. At present, only Japan is using FOB price under its current GSP Rules of Origin.

Under current practice, the EU is using the following definition of ex-works price:

“ex-works price” means the price paid for the product ex-works to the manufacturer in the Community or in “beneficiaries” states in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported.

In the case of the US, as pointed out above, the concept of appraised value<sup>17</sup> is still used with the related difficulties reported above. In the case of the US-CAFTA agreement, the denominator is based on the concept of adjusted value based on the following definition:

For the purposes of this note, the term “adjusted value” means the value determined under articles 1 through 8, article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the Customs Valuation Agreement), except that such value may be

<sup>17</sup> Appraised value in US customs practice is normally considered as equivalent to the ex-factory price.

adjusted to exclude any costs, charges or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

The two definitions of the denominator mentioned do not differ widely since they make reference either by wording or by direct reference to the transaction value as contained in the WTO Customs Valuation Agreement.

On the one hand, the formulation under the US makes explicit reference to the WTO Customs Valuation Agreement resulting in a transparent and predictable text of law binding and applicable by all WTO Members. On the other hand, the expression ex-works price has been widely used by the majority of beneficiaries that are familiar with the ex-works price definition. At a well-attended workshop on Rules of Origin in Eastern and Southern Africa, the two definitions were widely discussed, and the majority of the participants opted for the ex-works price definition. A solution could be to take the best of the two definitions.

#### A.2.4. Proposal by the LDC Group: Use of ex-works price as denominator

The proposal of the LDC Group is therefore based on an ex-works price defined as follows:

“ex-works price” means the price paid for the product ex-works to the manufacturer in the Community or in “beneficiaries” states in whose undertaking the last working or processing is carried out determined under articles 1 through 8, article 15 and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the Customs Valuation Agreement).

#### A.2.5. The percentage criterion calculation proposed by the LDCs

On the basis of these lessons learned, the LDCs are proposing the following percentage criterion. The methodology used to calculate value addition is based on two formulas defined as the value of non-originating materials and value of originating materials, using best practice from the US-CAFTA and the EU:

Method Based on Value of Non-Originating Materials

$$LVC = \frac{EW - VNM}{EW} \times 100$$

Method Based on Value of Originating Materials

$$LVC = \frac{VOM}{EW} \times 100$$

Where:

- LVC is the LDC value content, expressed as a percentage;
- EW is the ex-works price;
- VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good; VNM does not include the value of a material that is self-produced; and
- VOM is the value of originating materials acquired or self-produced and used by the producer in the production of the good.

#### A.2.6. The issue of the level of percentages

Another intrinsic limitation of the percentage criterion is setting the level of percentage. The first criticism is derived from the fact that even if determined through consultations with the private sector, setting an adequate level of percentage tends to be arbitrary as it may change from time to time due to variations in the cost of the inputs and currency fluctuations.

Moreover, the level of the percentages may be different from product to product, and the stringency or leniency of a given percentage depends on the calculation methodology. The LDC Group has assessed various literature in this respect<sup>18</sup> and has made use of a survey conducted among Eastern and Southern Africa and other evidence from recent studies conducted by hired researchers of preference-giving countries.

Recent experience of preference-giving countries has also been taken into account. In 2003 the Canadian Government introduced changes in Rules of Origin, setting a 60 percent maximum import content allowance (instead of the 40% permitted for other

18 See for instance: Impact assessment on Rules of Origin for the Generalized System of Preferences (GSP) European Commission, Brussels 25 October 2007 Taxud/GSP-RO/IA/1/07, Evaluating the Consequences of Shift to a Value-added method for Determining Origin in EU PTAs,” July 2006 (Letter of Contract No. 2005/103984, Framework Contract AMS/451 - LOT No. 11), Dr. Michiel Scheffer of Saxion Hogescholen, “Study on the application of value criteria for textile products in preferential Rules of Origin”, October 2006 (Tender 06-H13). Contract Cadre FISH/2006/20, Specific Convention N° 3 “Rules of Origin in Preferential Trade Arrangements: New rules for the fishery sector, Trade Preferences for LDCs: An early assessment of benefits and possible improvement in the context of WTO negotiations. UNCTAD/ITCD/TSB/2003/8. December 2003, An assessment of the impact of Preferences Erosion and Rules of Origin in Eastern and Southern Africa, a survey of ESA exporters, UNCTAD and COMESA 2011 at [https://unctad.org/system/files/official-document/aldc2009d5\\_en.pdf](https://unctad.org/system/files/official-document/aldc2009d5_en.pdf).



developing country GSP beneficiaries) for LDCs. This means that to qualify for the LDC duty-free treatment, at least 40 percent of the ex-factory price of the goods packed for shipment to Canada must originate in one or more LDC beneficiary countries of Canada. In addition, 20 percent of the 40 percent qualifying content could originate from other developing countries that are beneficiaries of the Canadian GSP scheme. Special rules for textile and clothing were also introduced, allowing the use of imported fabric from other beneficiaries of the Canadian GSP scheme, provided that they do not exceed 75 percent of the ex-factory price of the final goods.

In addition to findings resulting from field research, the EU Impact Assessment contained simulations exercises on the trade creation derived from using different percentages of 50 percent of local content and 30 percent. The policy implication of the simulation exercise is that the trade creation results from the simulation exercise were far greater under 30 percent<sup>19</sup> level of percentage.

Hence, in drafting the latest proposal for changes in the GSP Rules of Origin, the EU Commission used, for a number of goods, a threshold of 30 percent of local value content equivalent to a maximum allowance of foreign import of 70 percent.

#### **A.2.7. The level of percentages proposed by LDCs**

On the basis of the above-mentioned best practices and lessons learned, the LDCs are proposing a level of percentage of 15 percent for the build-up formula and 25 percent for the build-down formula.

The difference in the percentage among the two formulas derives from the different calculation methodologies.

#### **A.2.8. The new element of the calculation proposed by the LDCs**

Inclusion of in-land transport for the calculation of the domestic content calculation (build-up) and exclusion of freight and insurance for the calculations of the maximum allowance of foreign materials (build-down).

The formulas proposed to take into account the special situations related to the transport costs of input materials to Islands and landlocked LDCs. The calculations are based on adjustments made to the value of materials as contained in article 6 of the LDC proposal permitting either the deduction of the CIF costs to the regional port when the value of the non-originating method is used or the addition of inter-regional inland costs of transport when the value of originating material method is used. This method of calculation of the value of materials used in manufacturing will greatly facilitate LDC compliance with the Rules of Origin of the preference-giving country.

#### **A.2.9. Product-specific rules for specific sectors**

As discussed above, the LDC group is aware that the percentage criterion may not be, technically speaking, the most suitable methodology for some specific sectors of goods. This may be applicable to textiles and clothing that are categories of products of high export interest. The recent EU GSP proposed rules for HS Chapters 61 and 62 allowing the use of imported fabrics to make originating garments in LDCs could be a valuable example with some additional flexibilities. It should be borne in mind the desire to limit, to the full extent possible, the proliferation of tariff line by tariff line Rules of Origin.

#### **A.2.10. Cumulation**

The LDC Group proposal contains provisions for allowing regional cumulation. These provisions have been elaborated in taking into account that, although laudable and highly desirable, cumulation is not a substitute for liberal Rules of Origin. With liberal Rules of Origin, the LDC producers may source their inputs worldwide from the most competitive producer at the best prices.

---

19 See pages 36-37 Impact assessment on Rules of Origin for the Generalized System of Preference (GSP) European Commission, Brussels 25 October 2007 Taxud/GSP-RO/IA/1/07.

## B. TECHNICAL WORK IN THE PREPARATION FOR THE NAIROBI WTO MINISTERIAL

The technical work in preparation for the Nairobi ministerial decision has been summarized on the UNCTAD and EUI websites as well as in various related literature.<sup>20</sup>

Given the size of such technical work, the major websites are reported as a reference at the end of the present publication.

## C. RESUMING TECHNICAL WORK AFTER NAIROBI DECISION – PRESENTATIONS ON UTILIZATION RATES

In the aftermath of the Nairobi Decision, there were wide expectations on the LDCs side that preference-giving countries would have introduced reforms to better adhere to the spirit and letter of the Nairobi Decision. However, it became progressively clear that preference-giving countries declared that their existing Rules of Origin for LDCs were in full conformity with the Nairobi Decision. Thus it was felt necessary to resume the discussions in the Committee on Rules of Origin using the opportunities provided by notification of utilization rates as provided by in the WTO Nairobi Decision.

The presentation below was built upon the first systemic study presented by the LDCs at WTO in 2014 prepared with the assistance of UNCTAD<sup>21</sup> that ultimately paved the way to the insertion of the utilization rates in the Nairobi Decision.

The presentation aimed at providing evidence of the link between low utilization rates and stringent Rules of Origin on the basis of a UNCTAD and Swedish Board of trade study<sup>22</sup> and a methodology.<sup>23</sup> The analysis contained in the presentation showed that in many cases, the preferences granted to LDCs showed a very low percentage of utilization rates and was the beginning of a series of technical notes on utilization rates of specific preference giving countries as contained in the technical notes on utilization of Switzerland and China further below.

---

20 See for training workshop: <https://unctad.org/meeting/second-executive-training-rules-origin>. See Inama, Stefano. 'Ex OreTuoTe Ludico: The Value of the WTO Ministerial Decision on Preferential RoO for LDCs'. *Journal of World Trade* 49, no. 4 (2015): 591–618. And "Getting to Better Rules of Origin for LDCs: Using Utilization Rates – From the World Trade Organization Ministerial Decisions in 2005, 2013, 2015 and Beyond," UNCTAD 2021.

---

21 Challenges faced by LDCs in complying with preferential Rules of Origin under unilateral preference schemes. Paper presented by Uganda on Behalf of the LDCs Group G/RO/W/148 28 October 2014

22 The Use of the EU' of Free Trade Agreements Exporter and Importer Utilization of Preferential Tariffs at [https://unctad.org/system/files/official-document/EU\\_2017d1\\_en.pdf](https://unctad.org/system/files/official-document/EU_2017d1_en.pdf).

23 Linking utilization of EU'S FREE TRADE AGREEMENTS to Rules of Origin - A methodology based on utilization rates to identify RULES OF ORIGIN reforms.

## C.1. Identifying low utilization of trade preferences due to the stringency of Rules of Origin: new evidence<sup>24</sup>

### C.1.1. The stringency of Rules of Origin and low utilization

How are utilization rates of trade preferences related to the stringency of Rules of Origin?

- The 2014 LDC study presented at the CRO showed that a reform towards more lenient RoO in the EU and Canada led to higher utilization rates and an overall increase of exports, thanks to new investment and manufacturing operations located in LDCs.
- The LDCs analysis presented at the CRO of October 2017 showed that utilization rates and exports to Japan and the US remained stagnant in the absence of reform.
- The same analysis showed that utilization rates of other schemes granted to LDCs are showing low utilization rates

Similarly to the GSP case, a recent study on the utilization rates of EU FTAs showed the link with RoO, and reforms are underway

### C.1.2. The mechanics of data on Utilization Rates

Covered goods at the time of customs clearance are granted preferential treatment only if they comply with RoO administrative requirements, i.e., CO or exporter declaration of origin.

Failure to show such documentary evidence entails the collection of MFN duties and thus the non-utilization of trade preferences.

What are the reasons for not complying?

1. CO or exporter declarations are issued upon compliance with RoO requirements. If RoO is stringent, there is no CO or exporter declaration.
2. Administrative requirements and Direct shipment
3. Other such ignorance and low preferential margins

### C.1.3. Preliminary results in the EU FTAs

Based on “The Use of the EU’s Free Trade Agreements,” a joint study by UNCTAD and the Swedish Board of Trade,<sup>25</sup> the utilization rates are:

- relatively high on EU imports [87% to 91%]
- significantly lower in EU exports to FTA partners [61% to 73%].

At a disaggregated level, utilization rates vary substantially by direction of trade, partner, and product. There are pockets of low utilization. This methodology could be used to identify the PSRO responsible for low utilization as candidates for reforms.

### C.1.4. Asymmetric Utilization Rates

#### The case of South Korea

Between 2011 and 2013, the EU covered imports from South Korea, and utilization rates increased respectively from 8.6 billion USD to 15.4 billion USD and from 59 percent to 82 percent. Covered imports of South Korea from the EU and utilization rates increased from 47 billion USD to 56 billion USD and 42 percent to 67 percent, respectively, over the same period. The asymmetrical utilization of the EU-South Korea FTA appears counterintuitive at first sight since, in an FTA, the Rules of Origin are the same in both directions of trade.

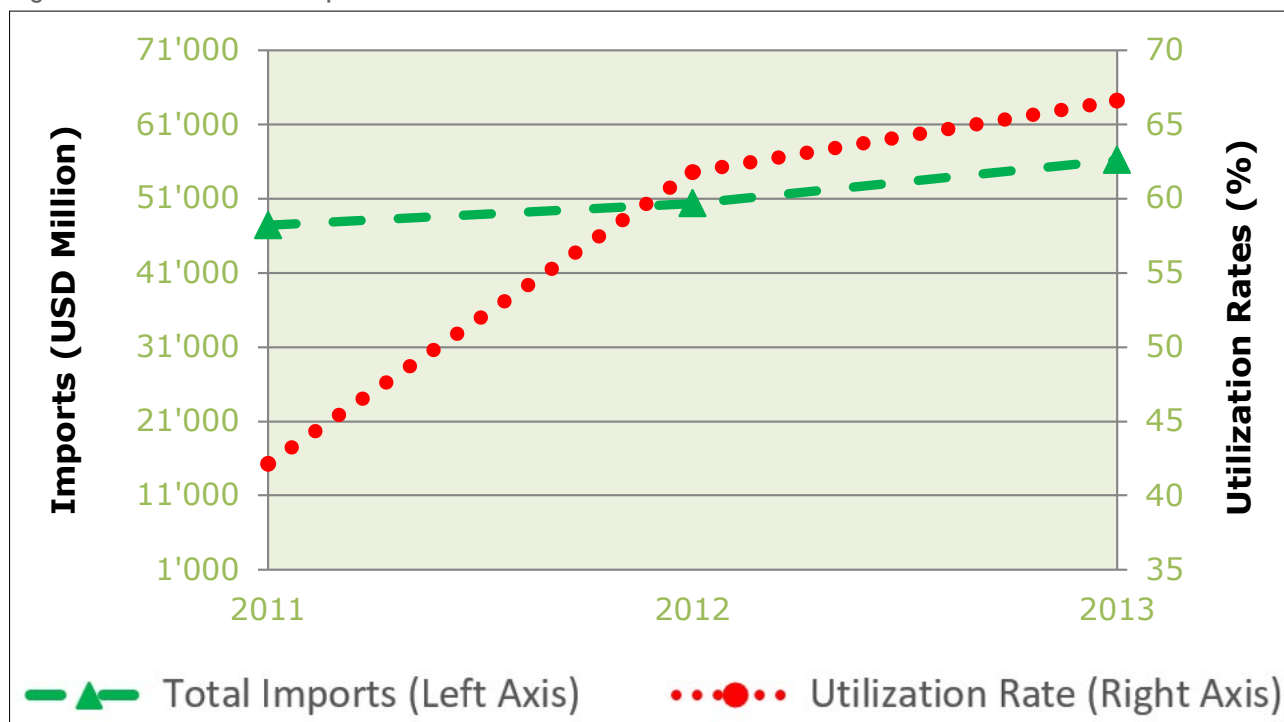
The EU-South Korea Protocol on Rules of Origin states that products must be transported directly between the EU to South Korea and vice versa in order to benefit from the tariff preferences of the FTA:

Exporters must provide customs authorities in the destination country with evidence verifying that the direct transport provision has been satisfied. For example, this could be in the form of a certificate issued by the customs authorities in the country of transit that provides an exact description of the products, the dates of unloading or reloading, and where applicable, the names of the ships or the other means of transport use, and the conditions under which the products remained in the country of transit.

24 Technical materials prepared in September 2018 by the authors of this compendium and compiled in a presentation delivered by the Delegation of Tanzania on behalf of the LDC Group at the WTO Committee on Rules of Origin on 15 October 2018.

25 Available at [https://unctad.org/en/PublicationsLibrary/EU\\_2017d1\\_en.pdf](https://unctad.org/en/PublicationsLibrary/EU_2017d1_en.pdf)

Figure 1 South Korean imports from EU and utilization rates



Note: Direct transport (excerpts from Mid-term review of the FTA)

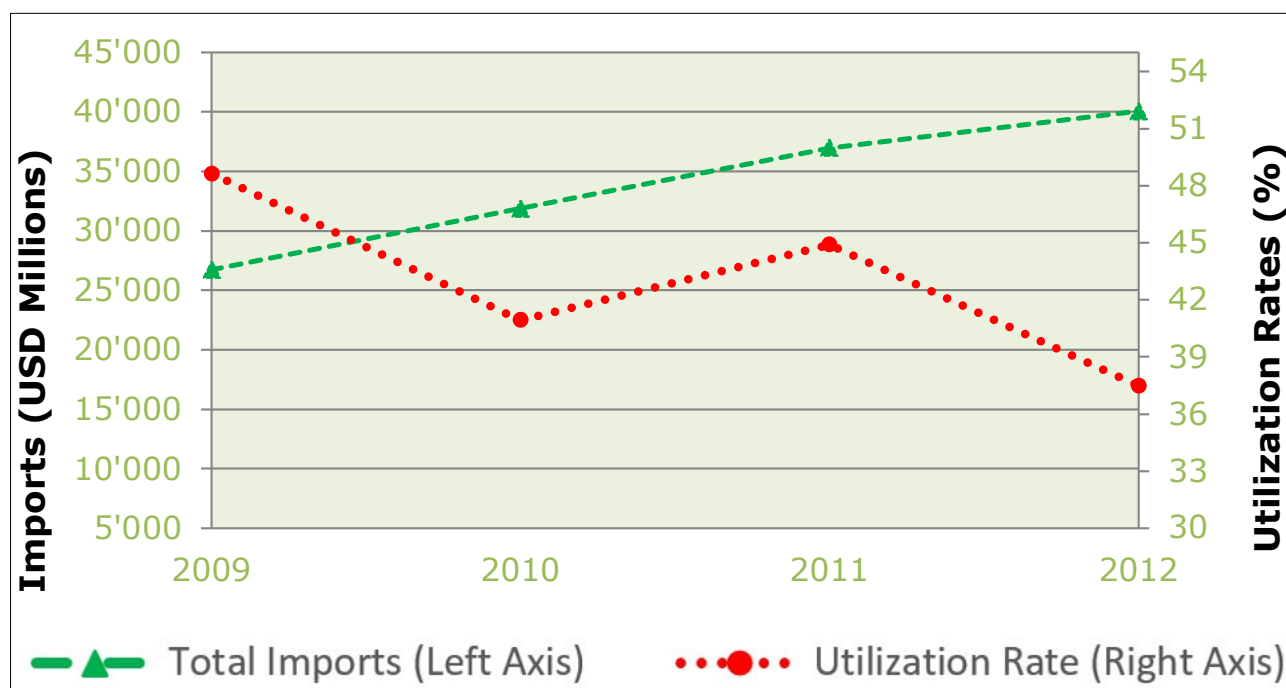
The interviews confirmed the widely held view that the current wording of direct shipment in the EU-South Korea FTA is problematic:

- This provision particularly affects EU exporters who make use of logistical hubs (mostly Singapore) for storage and operations such as repackaging and labeling prior to distributing their products to various Asian markets.
- In order to benefit from the preferential tariffs of the FTA, some companies have chosen to ship goods directly from the EU to South Korea. However, in these cases, companies cannot react swiftly to demand fluctuations, as shipping from the EU to South Korea can take well over a month.

Discussions are underway regarding the EU-South Korea FTA to address the challenge. LDCs and Provision of direct shipment: lessons learned from the EU-South Korea FTA:

- As identified through the use of utilization rates, direct transport provisions are one of the reasons for asymmetric utilization of trade preferences in the EU-Korea FTA.
- Similar or even more stringent direct shipment provisions are included in many preferences granted to LDC.
- If the EU exporters are not able to comply with such direct shipment provisions, one may only imagine the difficulties of LDCs exporters.
- The LDC WTO group will show further evidence at the next CRO to introduce trade facilitating measures on the direct shipment requirement.

Figure 2 Mexican imports from EU and Utilization Rates



### Product Specific Rules of Origin (PSROs) in EU-Mexico FTA

The application of the methodology to identify the PSROs that are responsible for pockets of low utilization identified the PSROs in the automotive sector as the major culprits for low utilization. In fact, the original EU-Mexico FTA provided for stringent Rules of Origin in the automotive sector. During negotiations of the revised EU-Mexico FTA, the PSROs for the automotive sector have been modified.

### Methodology to link PSROs to Utilization Rates (UR)

1. Filtering the data to identify critical products: Keep if low utilization rate (UR<70%) and relevant preference margin higher than two percentage points (PM>2pp) at the HS 4 digit-level, on average.

2. Identification of *Repeated Offenders*: Products that are showing low utilization in different FTAs under the different directions of trade, with significant trade values (covered imports).
  - (a) Repeated Offenders across agreement: product with low utilization rates and preference margin higher than two percentage points and significant trade values, in one direction of trade, across a certain number of FTA partners.
  - (b) Bilateral Repeated Offenders: Products with low utilization rates and preference margin higher than two percentage points in both directions of trade for a given agreement.
3. Matching repeated offenders with PSRO: PSRO of Repeated Offenders are candidates for reform.

## C.2. Preliminary Results in LDCs

- For LDCs, there is only one direction of trade, but there are several LDCs exporting to each PGC.
- The analysis is conducted based exclusively on the content of the TAO Database (Tariff line reports for each PGC).
- Since the quality and coverage of the data are still limited, the methodology cannot produce exhaustive results at the moment.
- However, the methodology can help to identify some *critical products* with low utilization rates (UR<70%), high preference margin (PM>2pp), and a significant amount of trade.

### C.2.1. Developed WTO Members:

The preliminary analysis covers Australia, Canada, Chile, Chinese Taipei, the European Union, Japan, India, South Korea, Norway, Switzerland, and the United States. In the following section, the preliminary results are shown for the above-listed countries. Note that only the top results in terms of MFN received imports are reproduced.

Table 3 Canadian Imports from LDC GSP Beneficiaries (2017)

**Critical headings with UR<70%, PM>2pp, MFN received imports > 250'000 USD**

HS Code	Product Description	Imports from LDCs (USD thousands)					UR (%)	PM (pp)
		Dutiable	Covered	Received under				
				GSP/LDC	MFN	Other Pref.		
6210	Garments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907	38'877	38'877	24'864	14'013	0	64.0	18.0
6505	Hats and other headgear	22'283	22'283	15'245	7'038	0	68.4	13.3
4202	Trunks, suitcases, vanity cases, executive-cases, briefcases	14'387	14'387	7'766	6'621	0	54.0	9.2
8512	Electrical lighting or signalling equipment	1'666	1'666	0	1'666	0	0.0	6.2
5701	Carpets and other textile floor coverings, knotted	3'616	3'616	1'279	1'326	1'012	35.4	9.6
6704	Wigs, false beards, eyebrows and eyelashes, switches and the like	1'659	1'659	239	1'231	188	14.4	15.5
5702	Carpets and other textile floor coverings, woven, not tufted or flocked,	1'651	1'651	595	1'055	0	36.0	12.4
6216	Gloves, mittens and mitts	1'967	1'967	946	1'020	0	48.1	18.0
6911	Tableware, kitchenware, other household articles ... of porcelain or china	863	863	21	792	49	2.4	6.4
6303	Curtains (including drapes) and interior blinds; curtain or bed valances	481	481	9	472	0	1.9	17.6
6117	Other made-up clothing accessories, knitted or crocheted	1'504	1'504	1'048	456	0	69.7	16.6
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705	445	445	1	444	0	0.3	6.0
3923	Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps	1'106	1'106	666	440	0	60.2	6.3
7113	Articles of jewellery ... of precious metal or of metal clad with precious metal	456	456	110	346	0	24.2	7.3
6405	Other footwear	368	368	69	299	0	18.7	18.0

Table 4 Canadian Imports from LDC GSP Beneficiaries (2017)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 1.6 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				GSP/LDC	MFN	Other Pref.		
Cambodia	610463	Women's or girls' suits, ensembles, jackets, blazers, dresses of synthetic fibres	37'996	24'760	13'236	0	65.2	18.0
Bangladesh	620193	Men's or boys' overcoats, car coats, capes, cloaks, anoraks of man-made fibres	23'411	15'157	8'254	0	64.7	17.0
Bangladesh	620293	Women's or girls' overcoats, car coats, capes, cloaks, anoraks of man-made fibres	21'254	13'357	7'896	0	62.8	18.0
Haiti	610910	T-shirts, singlets and other vests, knitted or crocheted of cotton	8'506	1'106	7'400	0	13.0	18.0
Bangladesh	650500	Hats and other headgear, knitted or crocheted, or made up from lace, felt, or other textile fabric	20'888	14'509	6'379	14'404	69.5	14.0
Cambodia	640399	Footwear with outer soles of rubber, plastics, leather, or composition leather and uppers of leather (other)	16'142	10'328	5'814	0	64.0	14.5
Bangladesh	610463	Women's or girls' suits, ensembles... (synthetic fibers)	13'522	8'312	5'210	0	61.5	18.0
Bangladesh	621050	Women's and girls' garments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907	13'497	8'682	4'815	0	64.3	18.0
Bangladesh	610343	Men's or boys' suits, ensembles, jackets, blazers, trousers of synthetic fibres	11'368	7'745	3'624	0	68.1	18.0
Cambodia	621210	Brassières	6'630	4'088	2'541	0	61.7	18.0
Cambodia	610230	Women's or girls' overcoats, car coats, capes, cloaks, of man-made fibres	7'654	5'309	2'344	0	69.4	18.0
Myanmar	420222	Handbags with outer surface of plastic sheeting or of textile materials	2'699	459	2'240	459	17.0	10.5
Cambodia	640219	Sports footwear	2'090	313	1'777	0	15.0	17.5
Sierra Leone	851240	Windscreen wipers, defrosters and demisters	1'665	0	1'665	0	0.0	6.0
Haiti	610990	T-shirts, singlets and other vests, knitted or crocheted, of other textile materials :	1'852	206	1'646	0	11.1	18.0

Table 5 EU Imports from LDC GSP Beneficiaries (2016)

Critical headings with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 3 million USD

HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
		Covered	Received under				
			GSP/LDC	MFN	Other Pref.		
8411	Turbojets, turbopropellers and other gas turbines	177'884	0	177'884	0	0.0	3.4
2905	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives	155'356	0	155'356	0	0.0	5.5
8802	Other aircraft (for example, helicopters, aeroplanes); spacecraft (including satellites) and suborbital and spacecraft launch vehicles	59'649	0	59'649	0	0.0	6.4
1604	Prepared/preserved fish; caviar/caviar substitutes from fish eggs	62'071	37'644	24'427	0	60.6	23.4
8518	Microphones and stands therefor; loudspeakers, whether or not mounted in their enclosures; headphones and earphones	13'016	0	13'016	0	0.0	2.8
6306	Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods	18'119	5'937	12'174	8	32.8	12.0
8212	Razors and razor blades (including razor blade blanks in strips)	7'393	0	7'393	0	0.0	2.7
9015	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments	6'995	0	6'995	0	0.0	3.1
2710	Petroleum oils and oils obtained from bituminous minerals, not crude	6'717	0	6'717	0	0.0	3.8
0905	Vanilla	239'982	15'065	5'563	219'354	6.3	6.0

Table 5 EU Imports from LDC GSP Beneficiaries (2016) (continued)

Critical headings with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 3 million USD

HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
		Covered	Received under				
			GSP/LDC	MFN	Other Pref.		
4408	Sheets for veneering (including those obtained by slicing laminated wood), for plywood, or for similar laminated wood and other wood	11'604	6'465	5'139	0	55.7	4.4
8803	Parts of goods of heading 8801 or 8802	4'730	4	4'725	0	0.1	2.7
8481	Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks	4'492	17	4'474	0	0.4	2.2
5702	Carpets and other textile floor coverings, woven, not tufted or flocked	11'358	7'104	4'254	0	62.5	7.3
5310	Woven fabrics of jute or of other textile bast fibres of heading 5303	9'112	5'189	3'923	0	57.0	4.0
6307	Blankets and travelling rugs	14'572	9'095	3'716	1'761	62.4	7.7
8544	Insulated (including enamelled or anodised) wire, cable (including coaxial cable) and other insulated electric conductors	3'351	8	3'343	0	0.2	3.6

Table 6 EU Imports from LDC GSP Beneficiaries (2016)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 2.8 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)					UR (%)	PM (pp)
			Dutiable	Covered	Received under				
					GSP/LDC	MFN	Other Pref.		
Ethiopia	841112	Turbojets: - - Of a thrust exceeding 25 kN	160'337	160'337	0	160'337	0	0.0	2.7
Eq. Guinea	290511	Saturated monohydric alcohols	155'357	155'356	0	155'356	0	0.0	5.5
Cambodia	880240	Aeroplanes and other aircraft, of an unladen weight exceeding 15 000 kg	59'610	59'610	0	59'610	0	0.0	2.7
Madagascar	160414	Tuna, skipjack and bonito (Sarda spp.)	29'092	23'968	0	23'968	0	0.0	24.0
Cambodia	610342	Men's or boys' ... - Trousers, bib and brace overalls, breeches and shorts : Of cotton	55'648	55'648	31'876	23'771	1	57.3	12.0
Angola	841182	Turbojets, turbopropellers and other gas turbines : of a power exceeding 5 000 kW	13'385	13'385	0	13'385	0	0.0	4.1
Bangladesh	630622	Tents	16'288	16'288	5'070	11'217	1	31.1	12.0
Cambodia	610120	Men's or boys' overcoats... knitted or crocheted, other than those of heading 6103: Of cotton	27'802	27'802	17'444	10'358	0	62.7	12.0
Togo	271012	Light oils and preparations	6'635	6'635	0	6'635	0	0.0	4.7
Bangladesh	611130	Babies' garments and clothing accessories, knitted or crocheted : - Of synthetic fibres	18'822	18'822	12'567	6'255	0	66.8	12.0
Madagascar	090510	Vanilla : - Neither crushed nor ground	227'052	227'052	7'021	4'542	215'489	3.1	6.0
Senegal	821210	Razors	4'295	4'295	0	4'295	0	0.0	2.7
Bangladesh	531010	Woven fabrics of jute or of other textile bast fibres of heading 5303 : - Unbleached	8'451	8'451	4'591	3'860	0	54.3	4.0
Bangladesh	570299	Carpets and other textile floor coverings, woven, not tufted or flocked...: - - Of other textile materials :	9'896	9'896	6'059	3'836	1	61.2	8.0
Djibouti	821210	Razors	2'842	2'842	0	2'842	0	0.0	2.7



Table 7 Japanese Imports from LDC GSP Beneficiaries (2016)

Critical tariff headings with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 2 million USD

HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
		Covered	Received under				
			GSP/LDC	MFN	Other Pref.		
0303	Fish, frozen, excl. fish fillets and other fish meat of heading 0304	80'059	920	79'138	0	1.1	3.4
6404	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials	76'470	44'252	19'473	12'745	57.9	9.8
6307	Curtains (incl. drapes) & interior blinds; curtain, bed valances	16'270	0	10'350	5'920	0.0	5.8
3923	Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics	11'589	0	7'500	4'089	0.0	3.9
0304	Fish fillets and other fish meat, fresh, chilled or frozen	13'784	6'587	7'197	0	47.8	3.5
6505	Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric	5'898	0	5'883	15	0.0	5.8
9503	Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys;	7'437	0	5'798	1'639	0.0	3.4
6302	Bedlinen, table linen, toilet linen and kitchen linen	40'786	25'156	5'411	10'220	61.7	6.8
3926	Other articles of plastics and of other materials of 3901 to 3914	6'370	0	5'321	1'048	0.0	4.5
0604	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, mosses and lichens,	2'640	0	2'640	0	0.0	3.0
5310	Woven fabrics of jute or of other textile bast fibres of 5303	2'594	0	2'594	0	0.0	10.0
0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee	2'585	13	2'572	0	0.5	12.0
6306	Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods	2'326	0	2'295	31	0.0	4.0
1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal	2'845	0	2'150	695	0.0	3.9
6305	Sacks and bags, of a kind used for the packing of goods	5'031	0	2'008	3'022	0.0	3.7

Table 8 Japanese Imports from LDC GSP Beneficiaries (2016)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 2.5 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				GSP/LDC	MFN	Other Pref.		
Vanuatu	030344	Bigeye tuna (Thunnus obesus)	43'397	0	43'397	0	0.0	3.5
Cambodia	640419	Other sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes	36'379	7'825	16'159	12'395	21.5	7.4
Vanuatu	030341	Albacore or longfinned tuna (Thunnus alalunga)	11'909	0	11'909	0	0.0	3.5
Vanuatu	030342	Yellowfin tuna (Thunnus albacares)	9'018	0	9'018	0	0.0	3.5
Cambodia	630790	Blankets and travelling rugs	9'411	0	5'740	3'671	0.0	5.6
Somalia	030799	Molluscs including flours, meals and pellets, fit for human consumption	5'641	0	5'641	0	0.0	3.5
Bangladesh	950300	Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys;	4'393	0	4'393	0	0.0	3.5
Myanmar	392321	Sacks and bags (including cones) :	3'368	0	3'368	0	0.0	3.9
Kiribati	030342	Yellowfin tuna (Thunnus albacares)	3'316	0	3'316	0	0.0	3.5
Bangladesh	630710	Floorcloths, dishcloths, dusters and similar	3'121	0	3'121	0	0.0	6.5
Cambodia	630239	Of other textile materials	2'939	0	2'939	0	0.0	4.7
Vanuatu	030357	Swordfish (Xiphias gladius)	2'727	0	2'727	0	0.0	3.5

Table 8 Japanese Imports from LDC GSP Beneficiaries (continued)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 2.5 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				GSP/LDC	MFN	Other Pref.		
Cambodia	640411	Sports footwear	7'341	4'362	2'640	338	59.4	8.0
Kiribati	030487	Tuna, skipjack or stripe-bellied bonito	3'208	587	2'621	0	18.3	3.5
Bangladesh	531010	Unbleached woven fabrics of jute or other textiles	2'583	0	2'583	0	0.0	10.0
Ethiopia	060420	Fresh foliage, branches and other parts of plants	2'580	0	2'580	0	0.0	3.0
Bangladesh	650500	Felt, lace or other hats and other headgear, knitted or crocheted	2'547	0	2'547	0	0.0	5.8

Table 9 Switzerland Imports from LDC Beneficiaries (2017)

Critical headings with UR&lt;70%, MFN received imports &gt; 8 million USD

HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)
		Covered	Received under			
			GSP/LDC	MFN	Other Pref.	
7103	Precious stones (other than diamonds) and semi-precious stones	94'566	242	94'303	20	0
6110	Jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted	138'230	60'473	77'758	0	44
6203	Men's or boys' suits, ensembles, jackets, blazers, trousers, bib and brace overalls, breeches, and shorts (other than swimwear)	106'473	34'382	72'091	0	32
6109	T-shirts, singlets and other vests, knitted or crocheted	71'973	17'266	54'707	0	24
6204	Women's or girls' suits, ensembles, jackets, blazers, dresses (other than swimwear)	57'392	21'242	36'150	0	37
6104	Women's or girls' suits, ensembles, jackets, blazers, dresses...	55'134	20'209	34'925	0	37
6403	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather	33'465	0	25'739	7'726	0
6202	Women's or girls' overcoats, car coats, capes, cloaks, anoraks ... other than those of heading 6204	26'882	6'176	20'706	0	23
6205	Men's or boys' shirts	25'842	10'888	14'954	0	42
6206	Women's or girls' blouses, shirts and shirt-blouses	22'078	7'248	14'831	0	33
6210	Garments of fabrics of heading 5602, 5603, 5903, 5906 or 5907	17'856	4'268	13'588	0	24
6105	Men's or boys' shirts, knitted or crocheted	15'061	3'600	11'460	0	24
6201	Men's or boys' overcoats ... other than those of heading 6203	11'512	1'998	9'514	0	17
6404	Footwear with outer soles of rubber, plastics, leather, or composition leather and uppers of textile materials	10'957	1	9'037	1'920	0
6102	Women's or girls' overcoats ... knitted or crocheted, other than heading 6104	12'563	4'179	8'383	0	33

Table 10 Switzerland Imports from LDC Beneficiaries (2017)

Critical products with UR&lt;70%, MFN received imports &gt; 7.5 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)
			Covered	Received under			
				GSP/LDC	MFN	Other Pref.	
Bangladesh	620342	Men's or boys' trousers, bib and brace overalls, breeches and shorts of cotton	80'555	27'489	53'067	27'489	34
Bangladesh	610910	T-shirts, singlets and other vests, knitted or crocheted, cotton	49'890	13'469	36'421	13'469	27
Bangladesh	611020	Jerseys, pullovers, cardigans, waistcoats, knitted or crocheted of cotton	61'207	26'609	34'599	26'609	43
Tanzania	710391	Precious stones (other than diamonds) and semi-precious stones, otherwise worked	30'866	0	30'866	0	0

Table 10 Switzerland Imports from LDC Beneficiaries (2017) (continued)

Critical products with UR&lt;70%, MFN received imports &gt; 7.5 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)
			Covered	Received under			
				GSP/LDC	MFN	Other Pref.	
Myanmar	710391	Precious stones (other than diamonds) and semi-precious stones, otherwise worked	26'864	0	26'864	0	0
Bangladesh	611030	Jerseys, pullovers, knitted or crocheted, of man-made fibres	42'075	16'311	25'764	16'311	39
Bangladesh	620462	Women's or girls' trousers, bib and brace overalls, breeches and shorts of cotton :	24'769	10'341	14'428	10'341	42
Mozambique	710391	Precious stones (oth. than diamonds), semi-precious stones	14'425	0	14'425	0	0
Madagascar	710391	Precious stones (oth. than diamonds), semi-precious stones	10'229	0	10'229	0	0
Bangladesh	620520	Men's or boys' shirts of cotton	17'512	7'737	9'775	7'737	44
Bangladesh	610510	Men's or boys' shirts, knitted or crocheted of cotton	11'775	3'080	8'695	3'080	26
Bangladesh	640391	Footwear with outer soles of rubber, plastics, leather, or composition leather and uppers of leather covering the ankle	8'421	0	8'163	258	0
Zambia	710391	Precious stones (other than diamonds) and semi-precious stones, otherwise worked	7'865	0	7'865	0	0
Bangladesh	620293	Women's or girls' overcoats... of man-made fibres	9'249	1'474	7'775	1'474	16

Table 11 US Imports from LDC GSP Beneficiaries (2016)

Critical headings with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 650'000 USD

HS Code	Product Description	Imports from LDC (USD thousands)				UR (%)	PM (pp)
		Covered	Received under				
			GSP/LDC	MFN	Other Pref.		
2710	Petroleum oils and oils obtained from bituminous minerals, other than crude	178'924	0	178'829	95	0	2
4202	Trunks, suitcases, vanity cases, executive-cases, briefcases, school satchels	92'671	25'995	65'197	1'478	28	11
9405	Lamps and lighting fittings including searchlights and spotlights and parts thereof	25'876	13'518	12'340	17	52	4
3923	Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures	25'728	16'306	9'422	0	63	3
6307	Blankets and travelling rugs	6'910	4'204	2'678	28	61	7
7616	Other articles of aluminium	3'724	1'255	2'468	0	34	3
6116	Gloves, mittens and mitts, knitted or crocheted	6'961	4'801	2'159	0	69	3
4203	Articles of apparel and clothing accessories, of leather or of composition leather	1'379	44	1'335	0	3	3
9603	Brooms, brushes (including brushes constituting parts of machines, appliances or vehicles)	1'682	625	1'057	0	37	5
6216	Gloves, mittens and mitts	3'393	2'366	1'027	0	70	2
1006	Rice	1'471	391	994	86	27	3
3926	Other articles of plastics and articles of other materials of headings 3901 to 3914	1'852	305	923	624	16	4
7801	Unwrought lead	1'985	1'285	700	0	65	2
9506	Articles and equipment for general physical exercise, gymnastics, athletics, other sports	1'280	610	670	0	48	4

Table 12 US Imports from LDC GSP Beneficiaries (2016)

Critical products with UR<70%, PM>2pp, MFN received imports > 1 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)					UR (%)	PM (pp)
			Dutiable	Covered	Received under				
					GSP/LDC	MFN	Other Pref.		
Angola	271019	Other Petroleum oils	163'805	163'805	0	163'805	0	2	
Myanmar	420291	Trunks and cases with outer surface of leather	32'018	19'088	1'118	17'971	0	6	5
Cambodia	940530	Lighting sets of a kind used for Christmas trees	24'502	24'502	12'398	12'105	0	51	8
Cambodia	420292	Containers with outer surface of sheeting of plastics or textile materials	39'176	22'797	11'991	10'555	251	53	13
Myanmar	420292	Containers with outer surface of sheeting of plastics or textile materials	15'051	10'397	287	10'110	0	3	14
Myanmar	420222	Handbags with outer surface of sheeting of plastics or textile materials	10'691	10'339	1'004	9'335	0	10	13
Myanmar	420221	Handbags with outer surface of leather	8'684	8'684	358	8'326	0	4	10
Cambodia	420222	Handbags with outer surface of sheeting of plastics or textile materials	17'266	14'842	9'073	5'768	0	61	13
Cambodia	392390	Boxes, cases, crates and similar articles for packing of goods	6'570	6'570	1'870	4'700	0	28	3
Angola	271012	Light petroleum oils and preparations	3'117	3'117	0	3'022	95	0.0	4
Myanmar	761699	Other articles of aluminium	2'326	2'326	0	2'326	0	0.0	3
Cambodia	630790	Other made-up textiles articles	2'012	2'012	118	1'895	0	6	7
Cambodia	420321	Gloves specially designed for sports	1'289	1'289	44	1'245	0	3	3

Table 13 US Imports from LDC AGOA Beneficiaries (2016)

Critical products with UR<70%, PM>2pp, MFN received imports > 150'000 USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				AGOA	MFN	Other Pref.		
Angola	271019	Other petroleum oils than light oils and preparations	163'805	0	163'805	0	0	2
Angola	271012	Light petroleum oils and preparations	3'117	95	3'022	0	3	4
Mozambique	780191	Unwrought lead (principal other element by weight: antimony)	1'051	0	700	351	0	2
Sierra Leone	830890	Other clasps and buckles, including parts	532	0	532	0	0	3
Madagascar	620449	Dresses of other textile materials	423	28	394	0	7	7
Madagascar	711620	Articles of precious,semi-precious stones	1'830	0	303	1'526	0	6
Sierra Leone	854442	Electronic conductors fitted with connectors	302	0	302	0	0	3
Mozambique	711319	Articles of jewelry of precious metal	284	0	284	0	0	6
Rwanda	420291	Containers (outer surface: leather)	531	262	268	0	49	5
Zambia	711620	Articles of precious,semi-precious stones	250	0	250	0	0	9
Sierra Leone	850490	Parts of electrical transformers	178	0	178	0	0	2
Madagascar	460219	Basketwork of vegetable materials other than rattan or bamboo	392	135	171	86	35	7

Table 13 above shows that there are only twelve critical products with more than 150 thousand USD of non-utilized imports, implying that there is an overall high utilization of AGOA.

## C.2.2. Developing WTO Members

The preliminary analysis covers Chile, Chinese Taipei, India, and the Republic of Korea.

Table 14 Chilean Imports from LDC Beneficiaries (2015)

Critical headings with UR<70%, PM>2pp, MFN received imports > 1 million USD

HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
		Covered	Received under				
			LDC	MFN	Other pref.		
6110	Jerseys, pullovers, cardigans; knitted or crocheted	13'230	89	13'141	0	1	6
6109	T-shirts, singlets and other vests, knitted or crocheted	13'244	1'041	12'203	0	8	6
6203	Men's or boys' suits, ensembles, jackets, blazers, trousers, bib, brace overalls, breeches, and shorts	9'128	94	9'034	0	1	6
6403	Footwear, outer soles of rubber, plastics, leather or composition leather, and uppers of leather	5'789	119	5'593	77	2	6
6402	Other footwear, outer soles and uppers of rubber/ plastics	2'943	246	2'698	0	8	6
6204	Women's or girls' suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts	2'711	169	2'542	0	6	6
6104	Women's or girls' suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, [etc], breeches and shorts; knitted or crocheted	2'462	0	2'462	0	0	6
6205	Men's or boys' shirts	2'143	70	2'073	0	3	6
6103	Men's or boys' suits, ensembles, jackets, blazers, trousers, bib and brace overalls, breeches and shorts; knitted or crocheted	2'073	25	2'048	0	1	6
6201	Men's or boys' overcoats, car-coats, capes, cloaks, anoraks	1'916	0	1'916	0	0	6
6404	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials	1'704	5	1'699	0	0	6
6112	Track suits, ski suits and swimwear; knitted or crocheted	1'500	0	1'500	0	0	6
6211	Track suits, ski suits and swimwear; other garments	1'242	0	1'242	0	0	6
6114	Other garments; knitted or crocheted	1'089	0	1'089	0	0	6
6202	Women's or girls' overcoats, car-coats, capes, cloaks, anoraks	1'057	0	1'057	0	0	6

Table 15 Chilean Imports from LDC Beneficiaries (2015)

Critical products with UR<70%, PM>2pp, MFN received imports > 1 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				LDC	MFN	Other Pref.		
Bangladesh	610910	Cotton t-shirts, singlets; knitted/ crocheted	9'493	923	8'569	0	9.7	6.0
Bangladesh	611030	Jerseys, pullovers, cardigans; knitted/ crocheted; man-made fibres	6'582	11	6'571	0	0.2	6.0
Bangladesh	620342	Cotton trousers for men's and boy's suits	5'616	88	5'528	0	1.6	6.0
Bangladesh	611020	Cotton jerseys, pullovers; knitted/ crocheted	3'117	28	3'090	0	0.9	6.0
Cambodia	611020	Cotton jerseys, pullovers; knitted/ crocheted	2'527	41	2'486	0	1.6	6.0
Cambodia	640399	Footwear (outer soles of rubber,plastics,leather); not covering ankle	1'858	74	1'784	0	4.0	6.0
Bangladesh	620520	Cotton men's or boys' shirts	1'847	70	1'777	0	3.8	6.0
Bangladesh	640391	Footwear (outer soles of rubber, plastics, leather); covering ankle	1'796	0	1'718	77	0.0	6.0
Cambodia	620342	Cotton trousers for men's and boy's suits	1'711	0	1'711	0	0.0	6.0
Bangladesh	620193	Women's or girls' overcoats, car-coats, capes, cloaks, anoraks; of man-made fibres	1'642	0	1'642	0	0.0	6.0
Bangladesh	620462	Cotton trousers for women's and girl's suits	1'545	114	1'431	0	7.4	6.0
Cambodia	610910	Cotton t-shirts, singlets; knitted/ crocheted	1'403	14	1'389	0	1.0	6.0

Table 15 Chilean Imports from LDC Beneficiaries (2015) (continued)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports&gt; 1 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				LDC	MFN	Other Pref.		
Cambodia	611212	Synthetic fibre track/ski suits, swimwear; knitted/crocheted	1'296	0	1'296	0	0.0	6.0
Cambodia	610990	T-shirts, singlets; knitted/ crocheted; other than cotton	1'369	77	1'292	0	5.6	6.0
Cambodia	640391	Footwear (outer soles of rubber, plastics, leather); covering the ankle	1'287	0	1'287	0	0.0	6.0
Cambodia	640299	Footwear (outer soles of rubber, plastics, leather); not covering the ankle	1'045	0	1'045	0	0.0	6.0
Cambodia	610343	Synthetic fibre-trousers, bib, brace overalls, breeches, shorts	1'031	17	1'014	0	1.7	6.0

Table 16 Chinese Taipei Imports from LDC beneficiaries (2017)

Critical headings with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 100'000 USD

HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
		Covered	Received under				
			LDC	MFN	Other Pref.		
9001	Optical fibers and optical fiber bundles; sheets and plates of polarising material; lenses (including contact lenses), prisms, mirrors, and other optical elements, of any material	3'457	0	3'457	0	0	4
4202	Trunks, cases, holsters, and similar containers; traveling-bags, insulated food or beverages bags, of leather, sheeting of plastics, of textile materials; or other	3'717	455	3'263	0	12	7
6403	Footwear, outer soles of rubber, plastics, leather or composition leather and uppers of leather	4'044	1'400	2'644	0	35	6
6404	Footwear with outer soles of rubber, plastics, leather, or composition leather and uppers of textile materials	1'848	677	1'171	0	37	7
8504	Electrical transformers, static converters and inductors	331	0	331	0	0	3
4113	Leather further prepared after tanning or crusting, including parchment-dressed leather, of other animals, without wool or hair on, whether or not split,	589	369	220	0	63	3
4106	Tanned or crust hides and skins of other animals, without wool or hair on, whether or not split, but not further prepared	328	226	102	0	69	1

Table 17 Chinese Taipei Imports from LDC beneficiaries (2017)<sup>26</sup>

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports&gt; 200'000 USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				LDC	MFN	Other Pref.		
Myanmar	900190	Prisms, mirrors, other optical elements, of any material, unmounted	2'887	0	2'887	0	0.0	3.7
Cambodia	640399	Footwear with outer soles of rubber, plastics, or composition leather and uppers of leather, not covering the ankle	2'115	361	1'754	0	17.1	7.5
Cambodia	420222	Handbags with outer surface of plastic sheeting or of textile materials	1'178	0	1'178	0	0.0	6.6

26 Only twelve critical products with MFN received imports above 200'000 USD

Table 17 Chinese Taipei Imports from LDC beneficiaries (2017) (continued)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports&gt; 200'000 USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				LDC	MFN	Other Pref.		
Bangladesh	640399	Footwear with outer soles of rubber, plastics, or leather, not covering the ankle	1'242	455	787	0	36.6	7.5
Cambodia	640419	Footwear with outer soles of rubber or plastics (other than sports footwear)	1'060	384	677	0	36.2	7.5
Bangladesh	900190	Prisms, mirrors, other optical elements, of any material, unmounted	560	0	560	0	0.0	3.7
Cambodia	420232	Articles carried in the pocket or handbag outer surface of plastic sheeting or of textile materials	502	0	502	0	0.0	6.6
Bangladesh	640419	Footwear with outer soles of rubber or plastics (other than sports footwear)	673	248	426	0	36.8	7.5
Bangladesh	420222	Handbags; outer surface: plastic sheeting/ textile	328	1	327	0	0.2	6.6
Bangladesh	420221	Handbags; outer surface: leather	668	348	321	0	52.0	6.6
Myanmar	420221	Handbags; outer surface: leather	280	0	280	0	0.0	6.6
Myanmar	850431	Transformers (capacity not exceeding 1 kVA)	232	0	232	0	0.0	5.0
Bangladesh	411310	Leather of goats or kids further prepared	586	369	217	0	63.0	2.5

Table 18 India Imports from LDC Beneficiaries (2015)

Critical headings with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 80 million USD

HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
		Covered	Received under				
			LDC	MFN	Other Pref.		
0713	Dried leguminous vegetables, shelled, whether or not skinned or split	1'212'042	7'963	1'204'029	50	1	10
7108	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	1'136'546	0	1'136'546	0	0	10
2701	Coal; briquettes, ovoids, similar solid fuels from coal	217'804	0	217'804	0	0	3
2809	Diphosphorus pentoxide; phosphoric acid; polyphosphoric acids, whether or not chemically defined	195'300	0	195'300	0	0	5
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared	207'903	0	186'309	21'594	0	5
2711	Petroleum gases and other gaseous hydrocarbons	137'949	0	137'949	0	0	5
7204	Ferrous waste, scrap; remelting scrap ingots of iron/ steel	116'731	50	116'681	0	0	3
7102	Diamonds, whether or not worked, but not mounted or set	116'435	0	116'435	0	0	10
2603	Copper ores and concentrates	206'559	58'597	105'888	42'074	28	3
1301	Lac; natural gums, resins, gum-resins and oleoresins	98'261	2'428	95'780	53	2	29
2202	Waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages	90'618	0	90'618	0	0	30
2510	Natural calcium phosphates, natural aluminium calcium phosphates and phosphatic chalk	81'577	0	81'577	0	0	5

Table 19 India Imports from LDC Beneficiaries (2015)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 80 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				LDC	MFN	Other Pref.		
Myanmar	071331	Beans of the species Vigna mungo (L.) Hepper or Vigna radiata (L.) Wilczek	490'148	2'581	487'517	50	0.5	10
Tanzania	710812	Other unwrought forms of gold (including gold plated with platinum)	477'680	0	477'680	0	0.0	10
Myanmar	071360	Pigeon peas	234'904	2'110	232'794	0	0.9	10
Burkina Faso	710812	Other unwrought forms of gold (including gold plated with platinum)	216'748	0	216'748	0	0.0	10
Mozambique	270119	Coal other than anthracite and bituminous	207'026	0	207'026	0	0.0	2.5
Guinea	710812	Other unwrought forms of gold (including gold plated with platinum)	204'238	0	204'238	0	0.0	10
Senegal	280920	Phosphoric acid and polyphosphoric acids	195'300	0	195'300	0	0.0	5
Mali	710812	Other unwrought forms of gold (including gold plated with platinum)	167'042	0	167'042	0	0.0	10
Equatorial Guinea	271111	Liquefied natural gas	137'949	0	137'949	0	0.0	5
Tanzania	071360	Pigeon peas	98'613	0	98'613	0	0.0	10
Angola	710231	Non-industrial diamonds, unworked or simply sawn, cleaved or bruted	98'336	0	98'336	0	0.0	10
Eritrea	260300	Copper ores and concentrates	151'381	58'588	92'793	0	38.7	2.5
Nepal	220290	Non-alcoholic beverages	84'029	0	84'029	0	0.0	30

Table 20 South Korean Imports from LDC Beneficiaries (2016)

Critical headings with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 1.5 million USD

HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
		Covered	Received under				
			LDC	MFN	Other Pref.		
7801	Unwrought lead	10'068	0	9'214	854	0	3
6110	Jerseys, pullovers, cardigans and similar; knitted/ crocheted	64'212	31'592	8'091	24'529	49	13
6109	T-shirts, singlets and other vests; knitted or crocheted	82'459	51'447	7'831	23'181	62	13
6204	Women's or girls' suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches, and shorts (other than swimwear)	38'795	20'162	6'524	12'109	52	13
6201	Men's or boys' overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, other than those of heading 62.03	98'707	4'467	5'267	88'973	5	13
6203	Men's or boys' suits, ensembles, jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear)	83'659	38'475	4'892	40'293	46	13
0905	Vanilla	3'367	98	3'268	0	3	8
6202	Women's or girls' overcoats, car-coats, capes, cloaks, anoraks, wind-jackets and similar articles	75'212	2'376	3'174	69'661	3	13
6205	Men's or boys' shirts	44'982	24'265	2'716	18'001	54	13
4202	Trunks, cases, holsters and similar containers; travelling-bags, insulated food or beverages bags, of leather, sheeting of plastics, of textile materials; or other	21'326	5'560	2'466	13'299	26	8
6104	Women's or girls' suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted/ crocheted	27'355	7'137	1'823	18'395	26	13
6210	Garments	25'343	6'837	1'634	16'872	27	13



Table 21 South Korean Imports from LDC Beneficiaries (2016)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 1 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				LDC	MFN	Other Pref.		
Cambodia	611030	Jerseys, pullovers, cardigans, waist-coats, similar articles; knitted/ crocheted; man-made fibres	10'253	320	3'103	6'830	3.1	13.0
Cambodia	854442	Winding wire of copper	2'744	0	2'492	252	0.0	8.0
Myanmar	620193	Men's or boys' overcoats, car-coats, capes, cloaks, anoraks, wind-jackets, similar, of man-made fibres	85'094	477	2'351	82'266	0.6	13.0
Bangladesh	620193	Men's or boys' overcoats, car-coats, capes, cloaks, anoraks, wind-jackets, similar; man-made fibres	4'907	2'694	2'213	0	54.9	13.0
Madagascar	090510	Vanilla neither crushed nor ground	2'262	98	2'164	0	4.3	8.0
Cambodia	610910	Cotton t-shirts, singlets, other vests; knitted/ crocheted	11'630	1'955	2'131	7'544	16.8	13.0
Yemen	780191	Unwrought lead (antimony as other principal)	2'073	0	2'073	0	0.0	3.0
Mozambique	780199	Other unwrought lead	1'830	0	1'830	0	0.0	3.0
Cambodia	871200	Bicycles and other cycles, not motorised	1'650	0	1'274	376	0.0	8.0
Bangladesh	300490	Medicaments consisting of mixed or unmixed products, put up in packings for retail sale	1'236	0	1'236	0	0.0	8.0
Cambodia	611020	Cotton jerseys, pullovers, cardigans and similar; knitted/ crocheted, man-made fibres	6'793	855	1'160	4'777	12.6	13.0
Tanzania	780199	Other unwrought lead	1'152	0	1'152	0	0.0	3.0
Madagascar	090520	Vanilla - crushed or ground	1'104	0	1'104	0	0.0	8.0
Cambodia	621010	Garments of fabrics of felt or not-wovens	5'605	0	1'055	4'549	0.0	13.0

Table 22 Non-Covered Dutiable Imports (USD Thousands)

Partner	Total	Dutiable	Non Covered	Non-Covered (%)	MFN rate (%)
Bangladesh	83'609	73'948	68'012	92	9.2
Cambodia	77'261	63'390	58'215	92	8.5
Myanmar	56'424	34'813	30'502	88	9.9
Tanzania	14'353	3'905	3'905	100	4.3
Senegal	2'638	2'166	2'119	98	19.5
Lao People's Democratic Republic	15'546	1'778	1'620	91	6.2
Madagascar	45'921	1'514	1'488	98	8.7
Nepal	1'192	1'043	744	71	7.2
Haiti	3'555	634	634	100	5.3
Burkina Faso	704	520	519	100	5.8
Togo	1'635	387	378	98	5.5
Guinea	910	237	235	99	4.2
Sudan	641	234	127	54	4.2
Ethiopia	17'825	231	115	50	8.1
Comoros	51	22	21	98	3.1
Somalia	132	21	20	95	4.5
Niger	199	17	16	90	2.1
Bhutan	14	10	10	99	4.9
Afghanistan	14	7	3	44	4.5
Timor-Leste	416	2	2	95	10.9

### C.3. Additional Preliminary Results

Table 23 Australian Imports from LDC GSP Beneficiaries (2016)

Critical headings with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 1 million USD

HS Code	Product Description	Imports from LDCs (USD thousands)					UR (%)	PM (pp)
		Dutiable	Covered	Received under				
				GSP/LDC	MFN	Other Pref.		
6306	Tarpaulins, awnings, sunblinds; tents; sails for boats, sailboards or landcraft; camping goods	152'499	5'190	847	4'073	270	16.3	5.0
9029	Revolution counters, production counters, taximeters, mileometers, pedometers; speed indicators and tachometers, stroboscopes	11'924	2'668	0	2'668	0	0.0	5.0
4202	Trunks, cases, holsters and similar containers; travelling-bags, insulated food or beverages bags, of leather, sheeting of plastics, of textile materials	624'174	7'200	3'514	2'337	1'349	48.8	5.0
6403	Footwear, outer soles of rubber, plastics, leather or composition leather and uppers of leather	787'429	10'410	5'366	2'311	2'733	51.5	5.0
8712	Bicycles and other cycles, not motorised	189'950	1'821	0	1'821	0	0.0	5.0
8431	Parts of machinery and mechanical appliances	807'641	1'573	0	1'573	0	0.0	5.0
8708	Parts and accessories of motor vehicles	2'087'205	1'813	207	1'569	38	11.4	5.0
6404	Footwear, outer soles of rubber, plastics, leather or composition leather and uppers of leather	419'727	9'291	1'009	1'475	6'807	10.9	5.0
6202	Women's or girls' overcoats, car-coats, capes, cloaks, anoraks	141'549	3'873	2'345	1'378	150	60.6	5.0
6212	Brassières, girdles, corsets, braces, suspenders, garters, and similar articles and parts thereof, whether or not knitted/ crocheted	164'515	2'429	1'152	1'193	84	47.4	5.0

Table 24 Australian Imports from LDC GSP Beneficiaries (2016)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 600'000 USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)					UR (%)	PM (pp)
			Dutiable	Covered	Received under				
					GSP/LDC	MFN	Other Pref.		
Cambodia	610990	T-shirts, singlets, other vests, knitted/ crocheted of other textile than cotton	6'432	6'432	2'875	3'557	0	44.7	5.0
Bangladesh	630622	Cotton tarpaulins, awnings, sunblinds	3'991	3'991	441	3'550	0	11.1	5.0
Mali	902920	Revolution, production counters, taximeters, mileometers, pedometers	2'668	2'668	0	2'668	0	0.0	5.0
Cambodia	610463	Women's or girls' trousers, brace overalls, shorts of synthetic fibres	6'613	6'613	3'877	1'722	1'014	58.6	5.0
Cambodia	871200	Bicycles and other cycles, not motorised	1'371	1'371	0	1'371	0	0.0	5.0
Cambodia	620343	Men's or boys' trousers, brace overalls, breeches, shorts of synthetic fibres	3'422	3'422	2'372	1'050	0	69.3	5.0
Cambodia	621210	Brassières whether or not knitted/ crocheted	1'066	1'066	80	986	0	7.5	5.0
Haiti	610910	Cotton T-shirts, singlets, other vests, knitted/ crocheted	931	931	0	931	0	0.0	5.0
Cambodia	611030	Jerseys, pullovers, cardigans, waist-coats and similar articles, knitted or crocheted of man-made fibres	6'370	6'370	3'610	790	1'970	56.7	5.0
Cambodia	420292	Other containers with outer surface of plastic sheeting or of textile materials	1'191	1'191	139	745	307	11.7	5.0
Bangladesh	640391	Other footwear with outer soles of rubber, plastics covering the ankle	822	822	90	732	0	10.9	5.0

Table 17 Chinese Taipei Imports from LDC beneficiaries (2017) (continued)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports&gt; 200'000 USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)					UR (%)	PM (pp)
			Dutiable	Covered	Received under				
					GSP/LDC	MFN	Other Pref.		
Bhutan	870810	Parts and accessories of the motor vehicles, bumpers and parts thereof	714	714	0	714	0	0.0	5.0
Cambodia	640411	Sports footwear, with outer soles of rubber or plastics	6'940	6'940	254	640	6'047	3.7	5.0

Table 25 Norway Imports from LDC Beneficiaries (2016)

Critical headings with UR&lt;70%, PM&gt;2pp, MFN received imports&gt; 500'000 USD

HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
		Covered	Received under				
			GSP/LDC	MFN	Other Pref.		
6203	Men's or boys' suits, ensembles, jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear)	29'652	0	10'160	19'491	0	11
6104	Women's or girls' suits ... knitted or crocheted	24'133	0	8'565	15'568	0	11
6204	Women's or girls' suits ... (other than swimwear)	30'920	0	5'529	25'391	0	11
6210	Garments, of fabrics of heading 5602, 5603, 5903, 5906 or 5907	7'555	0	4'490	3'065	0	10
6201	Men's or boys' overcoats ... other than those of heading 6203 :	4'584	1'427	3'157	0	31	11
6202	Women's or girls' overcoats, car coats, capes, cloaks ... other than those of heading 6204	5'625	2'520	3'104	0	45	11
6205	Men's or boys' shirts	8'766	0	2'175	6'591	0	11
6102	Women's or girls' overcoats, car coats, capes, cloaks ... other than those of heading 6104	3'020	0	1'856	1'164	0	11
6103	Men's or boys' suits, ensembles, jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted or crocheted	5'996	0	1'565	4'432	0	11
6105	Men's or boys' shirts, knitted or crocheted	4'086	0	1'295	2'791	0	11
6206	Women's or girls' blouses, shirts and shirt-blouses	5'466	0	847	4'619	0	11
6211	Tracksuits, ski suits and swimwear; other garments	1'787	0	674	1'113	0	6
6101	Men's or boys' overcoats, car coats, capes, cloaks ... other than those of heading 6103	1'463	0	601	862	0	11
6106	Women's or girls' blouses, shirts and shirt-blouses, knitted or crocheted	1'953	0	578	1'375	0	11

Table 26 Norway Imports from LDC Beneficiaries (2016)

Critical products with UR&lt;70%, PM&gt;2pp, MFN received imports &gt; 1 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				GSP/LDC	MFN	Other Pref.		
Bangladesh	620342	Men's or boys' trousers, bib and brace overalls, breeches and shorts of cotton :	24'912	0	7'753	17'159	0	11
Cambodia	610463	Women's or girls' trousers, bib and brace overalls, breeches and shorts of synthetic fibers	5'122	0	4'415	707	0	11
Bangladesh	620462	Women's or girls' trousers, bib and brace overalls, breeches and shorts of cotton	22'414	0	3'590	18'824	0	11
Bangladesh	621050	Other women's or girls' garments of fabrics of heading 5602, 5603, 5903, 5906 or 5907	3'328	0	2'559	769	0	11

Table 15 Chilean Imports from LDC Beneficiaries (2015) (continued)

**Critical products with UR<70%, PM>2pp, MFN received imports> 1 million USD**

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	PM (pp)
			Covered	Received under				
				GSP/LDC	MFN	Other Pref.		
Cambodia	610990	T-shirts, singlets and other vests, knitted or crocheted of other textile materials :	3'929	1'423	2'506	0	36	11
Bangladesh	620193	Men's or boys' overcoats, raincoats, car coats, capes, cloaks and similar articles of man-made fibres	2'658	412	2'246	0	15	11
Bangladesh	620293	Women's or girls' overcoats, raincoats, car coats, capes, cloaks and similar articles of man-made fibres	2'479	508	1'971	0	20	11
Bangladesh	610990	T-shirts, singlets and other vests, knitted or crocheted of other textile materials	6'012	4'157	1'855	0	69	11
Cambodia	610462	Women's or girls' trousers, bib and brace overalls, breeches and shorts of cotton	1'958	0	1'437	521	0	11
Bangladesh	620520	Men's or boys' shirts of cotton	7'289	0	1'390	5'898	0	11
Bangladesh	620343	Men's or boys' trousers, bib and brace overalls, breeches, and shorts of synthetic fibers	1'838	0	1'153	686	0	11
Cambodia	611020	Jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted of cotton	3'326	2'197	1'129	0	66	11
Bangladesh	621040	Other men's or boys' garments of fabrics of heading 5602, 5603, 5903, 5906 or 5907	1'312	0	1'033	279	0	11

## C.4. Further evidence from Utilization Rates<sup>27</sup>

### C.4.1. Background

The Nairobi Decision on Preferential Rules of Origin for LDCs 2015 established for the first time a set of multilaterally agreed guidelines to support LDCs to benefit from the preferential market access granted by a number of WTO members.

It is recalled that paragraph 4.3 of the Nairobi Decision provides as follows:

*“Preferential Rules of Origin shall be notified as per the established procedures. In this regard, Members reaffirm their commitment to annually provide import data to the Secretariat as referred to in 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.”*

Four years later, most preference granting members have notified their utilization rates that constitute a valuable tool to identify specific difficulties that LDCs may face in complying with Rules of Origin, such as highlighted in the presentation made by the LDC Group at the last CRO meeting applying UNCTAD’s methodology.

The presentation established that utilization rates are critical in assessing the stringency of Rules of Origin, clearly showing that (1) some preference-granting countries exhibit low utilization rates across all products, and (2) high utilization rates may also hide large pockets of under-utilization in specific sectors, implying a significant share of LDC imports are subject to most-favored-nation (MFN) tariffs while eligible for preferential treatment.

It was recognized at the last CRO meeting that further steps to simplify origin rules and improve utilization should be considered. WTO members agreed that more research, therefore, needs to be conducted in order to better understand the causes behind the under-utilization of tariff preferences and identify specific issues. The LDC Group committed to circulating a paper analyzing the link between low utilization rates and Rules of Origin in advance of the next committee meeting.

This note is the first contribution of the WTO LDC Group. Further work may be elaborated in preparation for the next CRO meetings.

### C.4.2. The Swiss Utilization Rates

Following the proposal by the delegation of Switzerland to serve as a pilot country to study the link between utilization rates and Rules of Origin, the present document focuses on Swiss utilization rates.

Table 27 below reports the value of Swiss imports from LDC beneficiaries (column (1)), for tariff lines (column (2)) where the utilization rate (column (8)) is defined as the value of imports entering under LDC/GSP (column (6)) divided by the value of imports eligible for the preferential treatment (column (5)), lies below 70 percent. Observations for 2017 are sorted in descending order of import values that are received under MFN while covered for the preferential treatment (column (7)). It is important to keep in mind that all values reported in Table 27 are dutiable. The corresponding MFN-specific rate is reported under column (9).

<sup>27</sup> Technical note prepared by the authors of this compendium in April 2019, later submitted to the WTO by the Delegation of Tanzania, on behalf of the LDC Group (see WTO document G/RO/W/186 of 8 May 2019).

Table 27 Switzerland Imports from Least Developed Countries 2017– Tariff Lines

UR &lt; 70%, sorted in descending value of imports received under MFN &gt; 5 million USD

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)	Specific MFN duty
			Dutiable	Covered	Received under			
					GSP/LDC	MFN		
Bangladesh	62034200	Men's or boys' suits, ensembles, jackets, blazers, trousers [...] - of cotton	80'555	80'555	27'489	53'067	34	182 fr./100kg brut
Bangladesh	61091000	T-shirts, singlets and other vests, knitted or crotched - of cotton	49'890	49'890	13'469	36'421	27	152 fr./100kg brut
Bangladesh	61102000	Jerseys, pullovers, cardigans, waistcoats [...], knitted or crotched - of cotton	61'207	61'207	26'609	34'599	43	120 fr./100kg brut
Tanzania	71039100	Rubies, sapphires and emeralds	30'866	30'866	0	30'866	0	800 fr./100kg brut
Myanmar	71039100	Rubies, sapphires and emeralds	26'864	26'864	0	26'864	0	800 fr./100kg brut
Bangladesh	61103000	Jerseys, pullovers, cardigans, waistcoats [...], knitted or crotched - of MMF	42'075	42'075	16'311	25'764	39	300 fr./100kg brut
Mozambique	71039100	Rubies, sapphires and emeralds	14'425	14'425	0	14'425	0	800 fr./100kg brut
Bangladesh	62046290	Women's or girls' suits, ensembles, jackets, blazers, dresses, [...] - of cotton	24'336	24'336	10'334	14'002	42	302 fr./100kg brut
Madagascar	71039100	Rubies, sapphires and emeralds	10'229	10'229	0	10'229	0	800 fr./100kg brut
Bangladesh	62052000	Men's or boys' shirts. - of cotton	17'512	17'512	7'737	9'775	44	200 fr./100kg brut
Bangladesh	61051000	Men's or boys' shirts, knitted or crotched - of cotton	11'775	11'775	3'080	8'695	26	130 fr./100kg brut
Bangladesh	64039100	Footwear with outer soles of rubber, plastics, leather [...] - covering ankle	8'421	8'421	258	8'163	3	143 fr./100kg brut
Zambia	71039100	Rubies, sapphires and emeralds	7'865	7'865	0	7'865	0	800 fr./100kg brut
Bangladesh	62029300	Women's or girls' overcoats, car-coats, capes, cloaks, [...] - of MMF	9'249	9'249	1'474	7'775	16	575 fr./100kg brut
Bangladesh	61099000	T-shirts, singlets and other vests, knitted or crotched of other textile materials	8'665	8'665	1'561	7'104	18	391 fr./100kg brut
Cambodia	62034200	Men's or boys' suits, ensembles, jackets, blazers, trousers [...] - of cotton	8'993	8'993	1'951	7'041	22	182 fr./100kg brut
Bangladesh	61046200	Women's or girls' suits, ensembles, jackets, blazers, dresses, [...] - of cotton	15'415	15'415	8'590	6'825	56	165 fr./100kg brut
Cambodia	61099000	T-shirts, singlets and other vests, knitted or crotched of other textile materials	7'336	7'336	1'183	6'153	16	391 fr./100kg brut
Cambodia	61046200	Women's or girls' suits, ensembles, jackets, blazers, dresses, [...] - of cotton	8'020	8'020	1'914	6'105	24	165 fr./100kg brut
Cambodia	64039992	Footwear with outer soles of rubber, plastics, leather [...] - other	7'740	7'740	1'666	6'074	22	145 fr./100kg brut
Cambodia	61046300	Women's or girls' suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, trousers, bib - of synthetic fibres	6'835	6'835	1'137	5'698	17	418 fr./100kg brut
Bangladesh	62019300	Men's or boys' overcoats, car-coats, capes, cloaks, [...] - of MMF	6'196	6'196	904	5'293	15	497 fr./100kg brut
Haiti	33012930	Essential oils (terpeneless or not) [...] - other	5'230	5'230	0	5'230	0	3 fr./100kg brut
Bangladesh	62034300	Men's or boys' suits, ensembles, jackets, blazers, trousers [...] - of cotton	6'691	6'691	1'653	5'038	25	500 fr./100kg brut

Source: TAO database, 1 May 2019; Note: man-made fibers (MMF), knitted or crocheted.

Three main observations can be drawn from Table 27:

- Several LDCs experienced difficulties in benefitting from preferential treatment in the garment and clothing sectors. Bangladesh and Cambodia are particularly affected, with considerable values taxed at the MFN specific duty. Considering the first three tariff lines under HS chapter 61 and 62 together, the value of imports entering under MFN treatment while eligible for preferential treatment amounted to 124 million USD only for Bangladesh. As for Cambodia, out of almost 9 million USD total imports under a single tariff line (62034200), only less than 2 million USD received under the Swiss market duty-

free, leading to 7 million USD imposed by the MFN specific duty.

- Tariff line 71039100 is critical for all LDCs are exporting rubies, sapphires, and emeralds to Switzerland. All six countries concerned<sup>28</sup> exhibit a utilization rate of zero, for a total import value of 99.7 million USD.
- Haiti did not benefit from the preference granted for exports of essential oils (tariff line 33012930), leading to 5.3 million USD that could potentially enter duty-free the Swiss market but that instead are imposed the specific MFN duty.

**Table 28 Switzerland Imports from Least Developed Countries 2017 – HS Chapters  
UR < 70%, sorted in descending value of imports received under MFN > 3 million USD**

Partner	HS Code	Product Description	Imports from LDCs (USD thousands)				UR (%)
			Dutiable	Covered	Received under		
					GSP/LDC	MFN	
Bangladesh	61	Articles of apparel & clothing accessories, knitted or crocheted	259'491	259'491	100'900	158'590	39
Bangladesh	62	Articles of apparel & clothing accessories, not knitted or crocheted	207'387	207'387	74'000	133'388	36
Cambodia	61	Articles of apparel and clothing accessories, knitted or crocheted	76'149	76'149	28'204	47'945	37
Tanzania	71	Natural or cultured pearls, precious or semi- precious stones [...]	32'170	32'170	0	32'170	0
Cambodia	62	Articles of apparel & clothing accessories, not knitted or crocheted	41'447	41'447	11'677	29'770	28
Myanmar	71	Natural or cultured pearls, precious or semi- precious stones [...]	27'512	27'512	0	27'512	0
Cambodia	64	Footwear, gaiters and the like [...]	28'083	28'083	5'519	22'564	20
Myanmar	62	Articles of apparel & clothing accessories, not knitted or crocheted	23'669	23'669	6'924	16'745	29
Bangladesh	64	Footwear, gaiters and the like; [...]	20'325	20'325	5'016	15'310	25
Mozambique	71	Natural or cultured pearls, precious or semi- precious stones [...]	14'746	14'746	0	14'746	0
Madagascar	71	Natural or cultured pearls, precious or semi- precious stones [...]	10'383	10'383	27	10'356	0
Madagascar	62	Articles of apparel & clothing accessories, not knitted or crocheted	8'677	8'677	3	8'674	0
Zambia	71	Natural or cultured pearls, precious or semi- precious stones [...]	7'920	7'920	0	7'920	0
Bangladesh	63	Other made up textile articles [...]	8'184	8'184	2'723	5'461	33
Madagascar	61	Articles of apparel & clothing accessories, knitted or crocheted	7'151	7'151	1'785	5'367	25
Haiti	33	Essential oils and resinoids; perfumery, cosmetic [...]	5'318	5'318	0	5'318	0
Myanmar	61	Articles of apparel & clothing accessories, knitted or crocheted	9'618	9'618	4'723	4'896	49
Cambodia	87	Vehicles other than railway or tramway	5'624	5'624	808	4'816	14
Solomon islands	71	Natural or cultured pearls, precious or semi- precious stones [...]	4'413	4'413	0	4'413	0
Lao PDR	61	Articles of apparel & clothing accessories, knitted or crocheted	3'570	3'570	13	3'557	0
Bangladesh	42	Articles of leather [...]	3'390	3'390	187	3'203	6
Myanmar	64	Footwear, gaiters, and the like [...]	3'650	3'650	552	3'099	15

Source: TAO database, 1 May 2019.

28 In order of import values: Tanzania, Myanmar, Mozambique, Madagascar, Zambia and Afghanistan (1.679 million USD imports of product of tariff line 71039100 from Afghanistan not reported under Table 27).

Given the high number of tariff line – country pairs with utilization rates below 70 percent (8,601 cases out of 11,923 observations), Table 28 reports similar information as Table 27 but aggregated at the HS Chapter level, allowing to get a better understanding of the magnitude of the trade concerned by low utilization rates. In particular, the following observations can be made:

- In the garment and clothing sector, 292 million USD of imports of Chapter 61 and 62 from Bangladesh are receiving the MFN treatment while covered for duty-free entry. This value amounts to almost 78 million USD for Cambodia, 21.6 million USD for Myanmar, 14 million USD for Madagascar, and 6.3 million USD for Lao PDR<sup>29</sup> with preference margins ranging between 120CHF/100kg and 575CHF/100kg (see Table 27);
- Cambodia is facing difficulties in benefitting from the preferential treatment in other sectors than

garments and textile, in particular footwear of HS Chapter 64 (22.5 million USD imports receiving MFN treatment) and bicycles of HS Chapter 87 (4.8 million USD), with preference margins of respectively 145CHF/100kg and 23CHF/100kg; and

- Under HS Chapter 71, other tariff lines than Rubies, sapphires, and emeralds (71039100) are showing zero utilization rates. That is, for example, the case of diamonds imports (HS 71023900) from the Solomon Islands amounting to 4.4 million USD. Both tariff lines exhibit a preference margin of 800CHF/100kg.

Finally, it has to be noted that Tables 27 and 28 represent only a snapshot of the data and the list of tariff lines-country pairs where bilateral discussions could improve market access is not exhaustive. Other countries could potentially also face difficulties in some selected sectors that could be worth investigating further, as shown in Table 29.

Table 29 Switzerland Imports from Least Developed Countries 2017 – LDC Beneficiaries

Partner	Imports from LDCs (USD thousands)				UR (%)
	Dutiable	Covered	Received under		
			GSP/LDC	MFN	
Afghanistan	2'234	2'234	7	2'227	0
Angola	13	13	0	13	0
Bangladesh	504'850	504'850	185'833	319'017	37
Benin	380	380	214	166	56
Burkina Faso	1'016	1'016	11	1'005	1
Cambodia	158'521	158'521	51'155	107'366	32
Central African Republic	88	88	0	88	0
Chad	10	10	0	10	0
Comoros	991	991	0	991	0
Dem. Rep. of Congo	377	377	243	134	64
Djibouti	6	6	3	3	45
Eritrea	2	2	0	2	0
Ethiopia	3'945	3'551	1'057	2'495	30
Gambia	14	14	0	14	0
Guinea	156	156	19	137	12
Haiti	5'510	5'510	1	5'508	0
Lao PDR	8'389	8'389	514	7'876	6
Liberia	430	430	14	416	3
Madagascar	31'666	31'666	4'939	26'727	16
Malawi	9	9	0	9	0
Mali	537	526	31	495	6
Mauritania	329	329	0	329	0
Mozambique	34'933	34'933	19'580	15'353	56
Myanmar	67'103	67'103	14'000	53'104	21
Nepal	8'075	8'075	3'428	4'647	42
Niger	216	113	14	98	13
Rwanda	5	4	2	2	41
Senegal	10'813	10'813	7'337	3'477	68
Sierra Leone	345	345	0	345	0
Solomon Islands	20'236	20'236	15'587	4'649	77
Somalia	35	35	0	35	0
Sudan	3'941	3'941	3'940	1	100
Tanzania	50'574	49'024	16'576	32'448	34
Togo	375	372	279	92	75
Uganda	4'640	4'611	4'128	483	90
Zambia	8'073	7'978	18	7'960	0

Source: TAO database, 1 May 2019.

29 2.8 million USD of imports of Chapter 62 (not shown in the table) from Lao PDR are receiving the MFN treatment while covered for duty-free entry.



### C.4.3. Preliminary discussions linking Swiss Utilization Rates to Rules of Origin

Swiss utilization rates for garments and clothing imports of HS Chapters 61 and 62, ranging between zero and 49 percent (Table 28), are much lower than those observed in the EU that amount to 95 percent on average.<sup>30</sup> Given that EU and Swiss Rules of Origin for garments of Chapters 61 and 62 are identical, it is necessary to clarify the reasons for such lower utilization rates in the Swiss market.

Pearls and precious stones of HS Chapter 71 are primary products that should normally be considered as originating since they are mostly wholly obtained in the LDCs.

One possible explanation for such low utilization may be linked to the fact that Switzerland is a landlocked country near large distribution networks and hubs. Hence, low utilization may be due to certification and direct shipment requirements and related documentary evidence rather than the substantive Rules of Origin requirements (substantial transformation). Another explanation could also be the relatively low MFN-specific duty.

## C.5. Conclusion

It is clear that some countries have low utilization across all products. Even for countries with high utilization rates, there are large pockets of under-utilization with significant values of imports receiving MFN treatment while eligible for the preference. Even relatively small trade values on key items may hide potential for developing manufacturers (SMEs, etc.).

### C.5.1. Way forward

- Utilization rates are crucial to assess the stringency of RoO. We invite all PGC who have not yet notified their UR to do so in the near future and do so annually on a regular basis.
- Time series is more appropriate to conduct deep analysis, and we would welcome such notifications of historical data. Some PGC has already notified utilization rates from 2010-2017.
- A paper analyzing the link between low utilization rates and Rules of Origin will be circulated prior to the next CRO meeting.

---

<sup>30</sup> Utilization rates of HS 61 and 62, 2017: 97% for Bangladesh, 96% and 97% for Cambodia, 91% and 95% for Myanmar.

## D. RESUMING TECHNICAL WORK AFTER NAIROBI DECISION-TECHNICAL NOTES ON RULES OF ORIGIN CRITERIA AND RELATED ADMINISTRATIVE REQUIREMENTS

In the aftermath of the WTO Nairobi Ministerial Decision, it becomes progressively clear to the LDC WTO group that the preference-giving countries were of the opinion that their current Rules of Origin for LDC trade preferences were in line with the letter and spirit of the substantive paragraphs of the WTO Nairobi Decision.

Thus it was realized that further technical work was necessary to contrast the relevant substantive paragraphs of the Nairobi Decision with the current Rules of Origin and practices of the preference giving countries.

These technical notes were prepared to provide a sound basis for a productive discussion in the CRO on how to further make progress in identifying Rules of Origin and related administrative procedures that could facilitate and increase benefits from trade preferences granted to LDCs.

It was also considered that such debate could have a significant positive spill over on the overall debate on lessons learned from preferential Rules of Origin as a whole.

### D.1. Rules of Origin based on a change of tariff classification<sup>31</sup>

Almost four years have now passed since the adoption of the Nairobi Decision on preferential Rules of Origin for LDCs. Some progress has been recorded in achieving better transparency through the adoption of a notification template and the notification of the utilization rates of the Duty-Free Quota-Free (DFQF) schemes. However, there has not been parallel progress in implementing the substantive part of the Nairobi Decision; more precisely, the paragraphs concerning the substantial transformation and certification requirements. As we are now approaching the next WTO Ministerial Conference, it is of paramount importance to show that concrete progress has been made that could be adequately

reflected in the outcome of the forthcoming Ministerial. Thus it is now time to focus the debate in the Committee on Rules of Origin (CRO) on how to effectively implement the substantive aspects of the Nairobi Decision on preferential Rules of Origin for LDCs.

The LDC WTO group intends to progressively bring to the attention of the CRO the substantive aspects of Rules of Origin of preference giving countries that need reform by contrasting them with the relevant paragraphs of the Nairobi Decision and identified best practices. The ultimate goal is to achieve better utilization of the Duty-Free Quota-Free (DFQF) schemes and thus the development objectives of the UN Sustainable Development Goals (SDG), namely target 17.12: *Ensuring that preferential Rules of Origin applicable to imports from least developed countries are transparent and simple, and contribute to facilitating market access.*

In order to focus the debate, the LDC WTO group will submit a series of technical notes on each of the methodologies to define substantial transformation; namely, a) *ad valorem* percentage criterion, b) change of tariff classification c) specific working or processing as well as cumulation and certification procedure.

A first technical presentation on the change of tariff classification (CTC) has been made by the LDC Group in October (RD/RO/72), where several items have emerged. This note, without being exhaustive, further examines such initial considerations and lists some best practices.

It is recalled that paragraph 1.2 of the Nairobi Decision provides as follows:

*“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;*

<sup>31</sup> Technical note prepared by the author of this compendium in April 2019, later submitted to the WTO by the Delegation of Tanzania, on behalf of the LDC Group (see WTO document G/RO/W/184 of 7 May 2019).

- (c) *Introduce, where appropriate, a tolerance allowance so that inputs from the same heading or sub-heading may be used.*"

According to such paragraph, the general principle for applying a CTC is a change of tariff heading (CTH) or a change of tariff subheading (CTSH).

The second subparagraph (b) calls for an elimination of all exclusions or restrictions on such general principle of applying CTH or CTSH as general rules "except where the Preference-granting Member deems that such exclusions or restrictions are needed, including to ensure that a substantial transformation occurs."

In addition, Paragraph 1.4 covers situations where a combination of two requirements has to be complied with to obtain originating status. As examined in Annex I, both the EU and Japan use extensively a combination of CTC with other requirements. These combinations take the form of not using particular materials or combining the CTC requirement with an *ad valorem* percentage.

*"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 considering relaxing such requirements for that specific product upon due request by an LDC."*

CTC rules are mostly applied by the EU, Japan, Norway, and Switzerland. China is applying a CTH rule as an alternative, and India, in conjunction with an *ad valorem* percentage. The scope of this note is limited for the time being to the CTC as applied by the EU, Japan, Norway, and Switzerland (hereinafter referred to as the CTC Group).

It is recognized that following the reform of the EU Rules of Origin in 2011, there have been significant positive changes in the EU Rules of Origin that have also been adopted by Norway and Switzerland. It is also recognized that Japan has liberalized the Rules of Origin for chapter 61, garments, knitted or crocheted. As outlined in the submission of the WTO LDC in 2014,<sup>32</sup> in a number of cases, the EU Rules of Origin have provided best practices that should be

adopted by the remaining preference-giving countries. Such occurrences have been outlined in the above-mentioned submission. Nevertheless, it should be noted that also in the case of the EU, Norway, and Switzerland, there are product-specific Rules of Origin, especially in the agro-processing sector where further improvements may be necessary. As suggested in this note, several steps could also be undertaken by Japan to engage in an overall reform of Rules of Origin for LDCs.

The issues to be considered to bring into conformity with the paragraph 1.2 and 1.4 of the Nairobi Decision the current use of the CTC criterion by the CTC group are threefold:

- a. The exceptions to the general rules of CTH and CTSH are the norm rather than the exception for the CTC group. For instance, the Rules of Origin of Japan provides for CTH as a general rule. However, there are 26 pages of exceptions<sup>33</sup> to such general rule covering the majority of the HS chapters and, at times, entire HS chapters;
- b. The exceptions to the general rules are by far much stricter than the general rules going beyond any conceivable requirement for substantial transformation, and as such, they are not justifiable;
- c. In some cases, the same preference-giving countries have adopted more lenient Rules of Origin for the same products under FTAs that they have negotiated with other partners and/or there are existing best practices under other FTAs on how substantial transformation could be achieved adopting less stringent requirements.

Table 30 contains examples of such Rules of Origin that have been summarized in a comparative table of products specific exception to the general CTH and CTSH of the EU, Japan, Norway, and Switzerland. The table is not exhaustive and has been assembled to start a constructive debate.

Such comparison outlines a number of examples where the preference-giving countries are invited to introduce reforms to bring such Rules of Origin in conformity with the relevant paragraph of the Nairobi Decision.

- i. CTC Rules of Origin with restrictions and exceptions (in the EU, Japan, Norway, and Switzerland); why are they needed? How can they be justified in light of more liberal rules used in FTAs?

32 See WTO document G/RO/W/148 of 28 October 2014 "Challenges faced by LDCs in complying with preferential Rules of Origin under unilateral schemes."

33 See website of Japan Ministry of Foreign Affairs at <https://www.mofa.go.jp/files/000077857.pdf>.

- ii. CTC Rules of Origin in combination with value requirements (e.g., CTH and 40% Value of non-originating material (VNOM)); these rules should be avoided unless they are needed. Can Members who use such rules explain why they are needed or justified?
- iii. Bring examples of best practices and bring examples of difficulties in meeting combination rules or rules with restrictions.

Table 30 Comparison of Product Specific Rules of Origin between EU GSP and Japan GSP

EU		Japan		Comments	Technical elements	Suggested Best Practice RoO
EBA HS Chapter Product Description	EBA RoO	Japan HS Chapter Product Description	Japan RoO			
Chapter 9 Coffee, tea, maté, and spices;	Manufacture from materials of any heading		Change of Tariff Heading (CTH)	While in this case, the General CTC rule of CTH and CTSH is respected, there is a significant variation between the EU requirement providing for manufacture from any heading that includes the material classified in the same heading. i.e., a change of tariff subheading. In the case of Japan, the CTH requirement excludes that the process of roasting or decaffeinate the coffee is a substantial transformation.	Heading 09.01 coffee is subdivided into 09.01 Coffee:  0901.11 – Not decaffeinated 0901.12 – Decaffeinated -Coffee roasted  0901.21 – Not decaffeinated 0901.22 --Decaffeinated 0901.90 – Other	Manufacture from materials of any heading or CTSH.  Such a rule would recognize that roasting and decaffeinating, and blending coffee is a substantial transformation.  The Product-specific Rules of Origin in the EU-Japan FTA are CTSH; or Blending.
Chapter 16 Preparations of meat, of fish or of crustaceans, mollusks, or other aquatic invertebrates	Manufacture: — 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, mollusks, and other aquatic invertebrates of Chapter 3 used are wholly obtained	Preparations of meat, of fish or of crustaceans, mollusks, or other aquatic invertebrates  1) Containing less than 30% by weight of a meat and edible meat offal of bovine animals other than internal organs and tongues (containing rice), and cuttlefish and squid (containing rice) (prepared or preserved) other than those in airtight containers  2) Other	Manufactured from products other than those of Chapter 1, 2, 3, 5, 10, 11, 16 or 19  Manufactured from products other than those of Chapter 1, 2, 3, 5 or 16	Both CTC requirements are far exceeding the general CTH and CTSH as they exclude a number of HS chapters classifying materials that are the primary components of the products of chapter 16, i.e., for canned products like tuna and sausages, the rules require that the tuna and the meat are wholly obtained in the case of the EU. In the case of Japan, the exclusions are much more encompassing since they exclude the use not only of meat but also of live animals in chapter 1. In addition, the first rule of Japan also excludes the use of other ingredients that can be used to prepare finished products of chapter 16, such as rice, cereals, pasta products of chapter 19, etc.	The manufacture of processed foodstuff from ingredients should be considered a substantial transformation as it is normally a demanding industrial operation	A change to headings 1601 through 1605 from any other chapter (US-Singapore FTA).  Such a rule would recognize that making food preparations from primary products is a substantial transformation.

Table 30 Comparison of Product Specific Rules of Origin between EU GSP and Japan GSP (continued)

EU		Japan		Comments	Technical elements	Suggested Best Practice RoO	
EBA HS Chapter Product Description	EBA RoO	Japan HS Chapter Product Description	Japan RoO				
Chapter 19 Preparations of cereals, flour, starch or milk; pastrycooks' products	<p>Materials of any heading, except that of the product, in which:</p> <ul style="list-style-type: none"> <li>— the weight of the materials of Chapters 2, 3, and 16 used does not exceed 20% of the weight of the final product, and</li> <li>— the weight of the materials of headings 1006 and 1101 to 1108 used does not exceed 20 % of the weight of the final product, and</li> <li>— the individual weight of sugar (1) and of the materials of Chapter 4 used does not exceed 40 % of the weight of the final product, and</li> <li>— the total combined weight of sugar (1) and the materials of Chapter 4 used does not exceed 60 % of the weight of the final product</li> </ul>	19.01 Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 04.01 to 04.04, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:		Both rules by the EU and Japan are going far beyond the general requirement of CTH and CTSH as they are either limiting and/or excluding the use of a number of ingredients that are the essential components of products of chapter 19.	<p>The compliance with such rules requiring not to use a portion of ingredients or not use them at all are difficult to administer, requiring sophisticated accounting techniques. SMEs in LDCs may not possess the accounting expertise required to comply with such rules.</p>	<p>A change to headings 1901 through 1905 from any other chapter.</p> <p>This rule would recognize that the making of pasta products and other products of chapter 19 products from primary products of other chapters is a substantial transformation.</p>	
		(1) Malt extract	Manufactured from products other than those of Chapter 10, 11 or 19	<p>In the case of the EU, the rule requires limiting the use a) of non-originating fish and meat and preparations b) rice, wheat, starches, and sugar.</p> <p>In the case of Japan, the rules are much more demanding since they are excluding altogether the use of non-originating materials classified in entire chapters of the HS as detailed in the rule for the specific headings 19.01 to 19.05</p>			
		(2) Food preparations, containing more than 85% by weight of flour, groats, meal and pellets of rice, wheat, triticale or barley, starch, or any combination thereof, excluding cake-mixes and a kind used as infant food or dietetic purpose (mostly containing starch	Manufactured from products other than those of Chapter 4, 7, 8, 10, 11 or 19				
		(3) Other:		<p>The practice by Japan to assign different Rules of Origin within a heading on the basis of descriptions that are not matching the HS, like in the case of heading 19.01, is quite difficult to administer. In fact, it requires a double exercise of 1) classifying goods to apply the correct origin requirement and 2) comply with the applicable Rules of Origin.</p>			
		(i) Containing not less than 50% of sucrose by weight	Manufactured from products other than those of Chapter 4, 7, 8, 10, 11, 12, 17 or 19				
		(ii) Other	Manufactured from products other than those of Chapter 4, 10, 11 or 19				
		19.02 Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared	Manufactured from products other than those of Chapter 10, 11 or 19				
		19.03 Tapioca and substitutes, therefore, prepared from starch, in the form of flakes, grains, pearls, siftings, or in similar forms	Manufactured from products other than those of Chapter 7, 8, 10, 11 or 19				
		19.04 Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour, groats, and meal), pre-cooked or otherwise prepared, not elsewhere specified or included	Manufactured from products other than those of Chapter 10, 11 or 19				
		19.05 Bread, pastry, cakes, biscuits, and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper, and similar products:					
(1) Sweet biscuits, Arare, Senbei, and similar rice products, biscuits, cookies and crackers, crisp, savory food products, made from a dough based on potato powder	Manufactured from products other than those of Chapter 7, 8, 10, 11 or 19						
(2) Other	Manufactured from products other than those of Chapter 11 (excluding those of Chapter 11 manufactured from products of Chapter 7, 8, or 10, in the originating country or territory of the products of 19.05(2) on this list) or 19						

Table 30 Comparison of Product Specific Rules of Origin between EU GSP and Japan GSP (continued)

EU		Japan		Comments	Technical elements	Suggested Best Practice RoO
EBA HS Chapter Product Description	EBA RoO	Japan HS Chapter Product Description	Japan RoO			
Heading 20.06 Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized)	Manufacture in which the value of all the materials of Chapter 17 used does not exceed 30% of the ex-works price of the product	Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized)	Manufactured from products other than those of Chapter 7, 8, 9, 12, 17 or 20	The EU rules only place a limitation on the use of sugar in chapter 17. The Japan rule excludes the use of products classified in chapters 7 and 8 and other HS chapters as described in the rule. This rule is far exceeding any requirement of substantial transformation since it requires that almost all ingredients are originating.		A change to a good of heading 20.06 from any other chapter.  Such a rule would be recognized as a substantial transformation of the process of making such products from primary products of chapters 7 and 8 using non-originating sugar of chapter 17.
Heading 33.02 Essential oils and resinoids; perfumery, cosmetic or toilet preparations; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price 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	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages	Manufactured from products other than those of heading 33.02, provided that the value of non-originating products used does not exceed 50 % of the value of the products	Both rules under EU and Japan require, in addition to a CTC at CTH level, to meet an ad valorem percentage criterion.  The Japan rule is more restrictive since it requires a cumulative requirement, and each requirement is more restrictive than under the EU rules. i.e., a specific restriction on using heading 33.02 and a lower threshold of 40% of VNOM.	Products of heading 3302 are usually obtained by mixing in deliberate components and percentages of other primary materials of heading 3301.	A change to a good of heading 33.02 through 33.07 from any other heading.
Heading 44.16 Casks, barrels, vats, tubs, and other cooper's products and parts thereof, of wood, including staves	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	Casks, barrels, vats, tubs, and other cooper's products and parts thereof, of wood, including staves	Manufactured from products other than those of heading 44.16 excluding staves of wood (riven staves only one principal surface of which has been sawn, or sawn staves at least one principal surface of which has been curvilinearly sawn, each of which has not been worked other than sawing)	In this case, the EU rules require a CTH or ad valorem percentage requirement of 70%. The CTH requirements mean that assembly of staves into barrels is not origin conferring. Thus the only alternative is to comply with the 70% ad valorem percentage. In the case of Japan, the rule excludes all parts of barrels of HS 44.16, excluding staves of wood as further specified in the rule. In both cases, the rules appear overtly stringent as making barrels from staves is a rather complex manufacturing operation	Heading 44.16 is restricted to products of the cooper's trade. The heading also covers parts of articles of heading 4416. It means that there is no CTC possible within the heading.	Given the complexity of the rule of 44.16, The LDC WTO group will table a proposal at a later stage
Heading 52.07 Yarn and thread of cotton	The spinning of natural fibers or extrusion of man-made fibers accompanied by spinning	Cotton yarn (other than sewing thread) put up for retail sale	Manufactured from chemical products, from products of heading 47.01 to 47.06, or from natural textile fibers, man-made staple fibers, or textile fiber waste, neither carded nor combed	In this case, the EU is not using a CTC but a specific working or processing operation requiring to carry out the spinning and the extrusion. The Japan rules require that the textiles fibers are not carded or combed and additionally not use wood pulp or other cellulose materials classified from heading 47.01 to 47.06. This latter use of the CTC rule appears to be an additional requirement of extraordinary complexity.	Heading 5207 is composed of two subheadings:  5207.10: containing 85% or more by weight of cotton  5207.90 other	Given the complexity of the chapter, including products of a different nature, The LDC WTO group will table a proposal at a later stage

Table 30 Comparison of Product Specific Rules of Origin between EU GSP and Japan GSP (continued)

EU		Japan		Comments	Technical elements	Suggested Best Practice RoO
EBA HS Chapter Product Description	EBA RoO	Japan HS Chapter Product Description	Japan RoO			
Chapter 65 Footwear, gaiters, and the like; parts of such articles; except for:	Manufacture from materials of any heading, except from assemblies of uppers affixed to inner soles or to other sole components of heading 6406	Footwear, gaiters, and the like; parts of such articles;	Manufacture from products other than those of the different tariff heading (excluding heading 64.06) of the product	The EU rules are rather liberal since they allow a CTH, only excluding the use of particular parts of shoes that are assemblies of uppers affixed to inner soles to other sole components. This means that all other parts of shoes can be used to assemble shoes. In the case of Japan, the use of non-originating parts of shoes is not allowed as it excluded all materials classified in heading 6406.	Parts of shoes are classified under heading 64.06 that is further subdivided into five subheadings	As EU
Heading 72.16 Flat-rolled products, bars, and rods, angles, shapes, and sections of iron or non-alloy steel	Manufacture from ingots or other primary forms or semi-finished materials of heading 7206 or 7207	Angles, shapes, and sections of iron or non-alloy steel	Manufactured from products other than those of heading 72.07 to 72.16	Under the EU rules, The CTC required the manufacturing of angles shape and sections from two specific headings, namely 7206 (ingots) or 7207 (semi-finished products obtained by hot rolling or forging ingots). In the case of Japan, the same rules are excluding products of heading 7207. This means the process of forging or hot rolling has to be carried out in LDCs.		Given the complexity of the chapter, including products of a different nature, The LDC WTO group will table a proposal at a later stage
Chapter 84, Nuclear reactors, boilers, machinery, and mechanical appliances; parts thereof; except for:	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.	Change of Tariff Heading (CTH)		The EU Rules of Origin are obviously more lenient than the Japanese since they allow Change of tariff heading or to fulfill ad valorem 70% of VNOM.  The Japanese rule formally complies with paragraph 2.1 of the Nairobi Decision. However, given the nature of the HS, there are a series of heading where a CTH rule applied across the chapter is counterintuitive and demanding. As an example, few would question that the assembly of parts of turbojets or rocket engines into finished engines of turbojets and rocket engines of 84.12 is a substantial transformation. However, a CTH rule does not recognize such complex processes as origin conferring.	Chapter 84 is a complex HS chapter with 87 headings, and the HS has not been conceived for Rules of Origin purposes	Given the complexity of the chapter, including products of a different nature, The LDC WTO group will table a proposal at a later stage.

Table 30 Comparison of Product Specific Rules of Origin between EU GSP and Japan GSP (continued)

EU		Japan		Comments	Technical elements	Suggested Best Practice RoO
EBA HS Chapter Product Description	EBA RoO	Japan HS Chapter Product Description	Japan RoO			
Chapter 85, Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles; except for.	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.	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles	Manufactured from products provided that the value of non-originating products used of the different tariff heading from that of the products does not exceed 40 % of the value of the products, and the value of non-originating products used of the same tariff heading as that of the product does not exceed 5 % of the value of the products	<p>In the case of Japan, the General CTC rule of CTH and CTSH is not respected since there is an additional requirement that the material classified in another heading does not exceed 40% VNOM. The CTC rules of Japan are placing a limitation on the use of non-originating materials classified in other headings of 40% of the value of the finished product. In the context of such a rule, the 5% allowance of non-originating materials classified in the same heading does not liberalize the rule.</p> <p>The EU Rules of Origin are obviously more lenient than the Japanese since they allow Change of tariff heading (a general tolerance rule of up to 15% of the value of the product) or to fulfill ad valorem 70% of VNOM</p>		Given the complexity of the chapter, including products of a different nature, The LDC WTO group will table a proposal at a later stage.
Heading 87.12 Bicycles	Manufacture in which the value of all the materials used does not exceed 70 % of the ex-works price of the product	Bicycles	Manufactured from products provided that the value of non-originating products used of the different tariff heading from that of the products does not exceed 40 % of the value of the products, and the value of non-originating products used of the same tariff heading as that of the product does not exceed 5 % of the value of the products	<p>In this case, the EU is not using the CTC but an ad valorem percentage criterion of 70% VNOM. In the case of Japan, the General CTC rule of CTH and CTSH is not respected since there is an additional requirement that the material classified in another heading does not exceed 40% VNOM. This means that parts of bicycles classified in heading 87.14 can be used up to 40 of VNOM in the case of Japan and 70% in the case of the EU. The further provision of Japan of allowing materials classified in the same heading up to 5% of the value of the products does not significantly liberalize a restrictive rule.</p>		Manufacture from materials of any heading, except that of the product or Assembly operation of parts of heading 8714 into a complete article provided that is not a simple assembly of parts as defined in EU legislation or similar legislation



## D.2. Direct consignment rules and low utilization of trade preferences<sup>34</sup>

The note presented by the WTO secretariat at the Committee on Rules of Origin, “Utilization rates under preferential trade arrangements for Least Developed countries under the LDC duty scheme”<sup>35</sup> (hereinafter the WTO note), identified a series of issues related to paragraph 3.1 of the Nairobi decision on documentary evidence.

The main issues discussed in the WTO note relate to the low utilization of trade preferences for agricultural products. More specifically, the WTO note identified a number of country-product pairs where low utilization of trade preferences was recorded, and direct consignment requirements were indicated as possible reasons for such low utilization. In fact, the products identified, mainly fruits, vegetables, and mineral products, were subject to a wholly obtained origin criterion<sup>36</sup> that is usually easily complied with, given the nature of the products. The WTO note indicated that documentary evidence related to the direct consignment requirement could explain the reason for such low utilization.

In particular, the WTO note identified a number of cases “show[ing] that direct transportation and certification requirements also have a direct impact on utilization.”

In the same vein, another WTO document titled “Impact of the direct consignment requirement on preference utilization by least developed countries”<sup>37</sup> further corroborates the analysis made in the previous WTO document: “The calculation of utilization rates in this note offers a clear indication that direct consignment requirements have a significant influence on the ability of LDCs to utilize trade preferences, particular those of landlocked LDCs.”<sup>38</sup>

The fact that documentary evidence related to direct consignment requirements could be an insurmountable obstacle to utilization of trade preferences by LDCs,

especially landlocked and islands LDCs, has been initially identified by UNCTAD<sup>39</sup> and repeatedly raised by the LDC Group a number of times.

Such concern was reflected in paragraph 1.8 of the Bali Ministerial Decision:

*“The documentary requirements regarding compliance with the Rules of Origin should be simple and transparent. For instance, a 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.”*

Paragraph 3.1 of the Nairobi Ministerial Decision reiterates such concern providing the following:

“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 an LDC but shipped across other countries unless there are concerns regarding transshipment, manipulation, or fraudulent documentation; and
- (b) Consider other measures to further streamline customs procedures, such as minimizing documentation requirements for small consignments or allowing for self-certification.”

The LDC Group has faced opposition from some preference-giving Members during the negotiations leading to the Nairobi decision on the issue of direct consignment. Such resistance to change was, in some cases, deliberate, while in other cases, it was also deriving from a misunderstanding about the requests from the LDCs.

34 Technical note prepared by the author of this compendium in September 2019, later submitted to the WTO by the Delegation of Tanzania, on behalf of the LDC Group (see WTO document G/RO/W/191 of 7 October 2019).

35 See WTO document G/RO/W/185 dated 9 May 2019.

36 See paragraph 6.5 and 6.6 of WTO document G/RO/W/185 dated 9 May 2019.

37 See WTO document G/RO/W/187 dated 1 October 2019.

38 See paragraph 6.1 of WTO document G/RO/W/&\_7 dated 4 October 2019

39 See UNCTAD training materials prepared for the CRO LDCs dedicated session of July 2015 and UNCTAD Handbooks on Duty-Free and Quota-Free Market Access and Rules of Origin for Least Developed Countries, UNCTAD/ALDC/2018/5 (Part I), and UNCTAD/ALDC/2018/5 (Part II)

In this technically complex area, it is important to clarify the issue at stake and what action is required by preference-giving Members to bring their requirements into conformity with the Bali and Nairobi Ministerial Decisions.

Direct consignment requirements are provisions inserted in most Preferential Trade Agreements (PTAs), either of a unilateral or reciprocal nature, to ensure that the originating goods exported from country A are the same as those imported into country B and that they have not been manipulated or further processed during transportation through third countries. Invariably, every PTA recognizes that due to geographical or logistic reasons, the originating goods from country A may have to transit through a third country in order to be delivered to country B.

However, where the practices of the majority of PTAs and especially the DFQF provisions of preference-giving Members differ widely is the documentary evidence to be provided at the time of importation in country B in case of passage through the territory of a third country.

The majority of administrations require documentary evidence of non-manipulation during the transit in the territory of the third country and that the goods have not entered the customs territory of the third country. Such documentary evidence in the majority of preference-giving Members is 1) a through bill of lading covering the transit through the third country, and 2) a certificate of non-manipulation provided by the customs authority of the country of transit stating that the goods have remained under customs control, etc.

The issue is that such documentary evidence is not easy to obtain and/or may entail a high cost. As contained in Table 31 for QUAD countries and Table 32 for other preference-giving Members, the documentary evidence related to direct consignment is often a through bill of lading covering the passage through the third country or a statement by the customs of the third country of transit that the goods have not been manipulated during transit besides unloading, loading, and/or other operations necessary to preserve them in good condition. None of these documents are easy to obtain. Indeed, a through bill of lading may be impossible to produce because of the following:

1. Geographical or commercial reasons: in the case of some landlocked or island countries, there may simply be no shipping agent capable of issuing a through bill of lading and/or it may be too expensive or not convenient; and
2. The goods are sold by the LDC exporter or producer to an intermediary or to a hub and from that intermediary or hub are subsequently shipped to the country of final destination.

In these cases, it is simply impossible to comply with the kind of documentary evidence of direct consignment demanded by some preference-giving Members, such as a through bill of lading or a certificate of non-manipulation. Such requirements are unduly penalizing goods that are originating in LDCs, especially SMEs that are often selling to traders rather than directly to the client located in the preference-giving Members. Landlocked and island countries may be particularly disfavoured due to geographical location or for being far from commercial routes.

The Canadian requirements for direct consignment and the Eurasian Customs Union's requirements for direct purchase on the one hand, and the EU GSP corresponding provisions, on the other hand, are at the opposing poles of the existing practices in this area.

The Canadian General Preferential tariff provisions for the documentary evidence of direct consignment contains unusually strict and detailed requirement as follows:<sup>40</sup>

#### ***“Direct shipment requirements***

*The goods must be shipped directly on a through bill of lading (TBL) to a consignee in Canada from the LDC in which the goods were certified. Evidence in the form of a TBL (or a copy) showing that the goods have been shipped directly to a consignee in Canada must be presented to the CBSA upon request.*

*The TBL is a single document that is issued prior to the goods beginning their journey when the carrier assumes care, custody, and control of the goods, and it is used to guarantee the direct shipment of goods from the country of origin to a consignee in Canada. It generally contains the following information:*

- (a) *Identity of the exporter in the country of origin;*
- (b) *Identity of the consignee in Canada;*
- (c) *Identity of the carrier or agent who assumes liability for the performance of the contract;*
- (d) *Contracted routing of the goods identifying all points of transshipment;*
- (e) *Full description of the goods and the marks and numbers of the package; and*
- (f) *Place and date of issue.*

40 Available from <https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/ldct-tpmd-eng.html?wbdisable=true>

*Note:*

*A TBL that does not include all points of transshipment may be accepted if these are set out in related shipping documents presented with the TBL.*

*On a case-by-case basis, and amended TBL may be accepted as proof of direct shipment where documentation errors have occurred, and the amended TBL corrects an error in the original document.*

*In such cases, the carrier must provide proof that the amended TBL reflects the actual movement of the goods as contracted when the goods began their journey. Documentation presented must clearly indicate the actual movement of the goods.*

*Air cargo is usually transhipped in the air carrier's home country, even if no transshipment is shown on the house airwaybill. Therefore, where goods are transported via airfreight, the house airwaybill is acceptable as a TBL.*

*Under the LDCT treatment, goods may be transhipped through an intermediate country, provided that:*

- They remain under customs transit control in the intermediate country;*
- They do not undergo any operation in the intermediate country, other than unloading, reloading;*
- Splitting up of loads or any other operation required to keep the goods in good condition;*

- They do not enter into trade or consumption in the intermediate country;*
- They do not remain in temporary storage in the intermediate country for a period exceeding six months.*

*A consignee in Canada must be identified in field No. 2 to ensure that the exporter in the beneficiary country certified the origin of the goods according to Canadian Rules of Origin. The consignee is the person or company, whether it is the importer, agent, or other party in Canada, to which goods are shipped under a through bill of lading (TBL) and is so named in the bill. The only exception to this condition may be considered when 100% of the value of the goods originates in the beneficiary country in question, in which case no consignee is required."*

The combination of such requirements is simply overwhelming in the context of today's business transactions and does not correspond to commercial realities. The requirement that a consignee in Canada should be identified in the certificate of origin practically nullifies any possibility for trade through intermediaries or third country invoicing.

Canada has granted special waivers<sup>41</sup> from such stringent consignment requirements to Mexico, Haiti, and China to take into account their special situations but not to LDCs, although it was so requested during the negotiations leading up to the Nairobi Decision.

---

41 See paragraph 82 Memorandum D&&-4-4, Ottawa, 16 October 2017: "Some exceptions exist where goods may be entitled to alternative shipping requirements. For more information, please refer to Memorandum D11-4-9, Goods Originating in Mexico, Deemed to be Directly Shipped to Canada for the Purposes of the General Preferential Tariff (GPT), Memorandum D11-4-10, Instructions Pertaining to the China Direct Shipment Condition Exemption Order, or Memorandum D11-4-28, Haiti Goods Deemed to be Directly Shipped to Canada for the Purposes of the General Preferential Tariff (GPT) and the Least Developed Country Tariff (LDCT)."

Table 31 QUAD countries requirements in terms of documentary evidence of direct consignment<sup>42</sup>

WTO Member	Administrative Requirements	Other requirements	Compliance with paragraph 3.1 of Nairobi Decision
European Union (EBA) <sup>i</sup>	Non-alteration principle: documentary evidence of direct consignment is not required unless EU customs have doubts	In case of doubt, EU customs authorities may request evidence of non-alteration by “any means.”	YES, most liberal since the reform of EBA RoO in 2011
United States (GSP) <sup>ii</sup>	1. Goods remained under customs control in the country of transit 2. The US Port director is satisfied that the importation results from the original commercial transaction; and 3. Goods were not subjected to operations other than loading and unloading (Source: 19 CFR 10.175) <sup>iii</sup>	Shipping and other documents must show the US as the final destination	NO, first there is the requirement that the US is shown as the final destination, and for goods not showing the US as country of final destination, a number of requirements apply.
United States (AGOA) <sup>iv</sup>	Same as above	Same as above	NO, evidence is required
Japan <sup>v</sup>	1. A through bill of lading; 2. A certification by the customs authorities or other government authorities of the transit countries; or 3. Any other substantiating document deemed sufficient <sup>vi</sup>		NO, evidence is required
Canada <sup>vii</sup>	– The goods must be shipped directly on a TBL to a consignee in Canada from the beneficiary or LDC in which the goods were certified. – Evidence in the form of a TBL (or a copy) showing that the goods have been shipped directly to a consignee in Canada must be presented to the CBSA upon request.	Special waiver exists for goods coming from Mexico; Haiti; and Hong Kong, China, where the documentary evidence is substantially relaxed	NO, evidence is required

i See G/RO/LDC/NEU/1.

ii See G/RO/LDC/N/USA/1.

iii § 10.175 Imported directly defined as follows:

*“Eligible articles shall be imported directly from a beneficiary developing country to qualify for treatment under the Generalized System of Preferences. For purposes of § 10.171 through 10.178, the words “imported directly” mean:*

- (a) *Direct shipment from the beneficiary country to the United States without passing through the territory of any other country; or*
- (b) *If the shipment is from a beneficiary developing country to the US through the territory of any other country, the merchandise in the shipment does not enter into the commerce of any other country while en route to the US, and the invoice, bills of lading, and other shipping documents show the US as the final destination; or*
- (c) *If shipped from the beneficiary developing country to the United States through a free trade zone in a beneficiary developing country, the merchandise shall not enter into the commerce of the country maintaining the free trade zone, and*
  - 1. *The eligible articles must not undergo any operation other than:*
    - (i) *Sorting, grading, or testing;*
    - (ii) *Packing, unpacking, changes of packing, decanting or repacking into other containers,*
    - (iii) *Affixing marks, labels, or other like distinguishing signs on articles or their packing, if incidental to operations allowed under this section; or*
    - (iv) *Operations necessary to ensure the preservation of merchandise in its condition as introduced into the free trade zone.*
  - 2. *Merchandise may be purchased and resold, other than at retail, for export within the free trade zone.*
  - 3. *For the purposes of this section, a free trade zone is a predetermined area or region declared and secured by or under governmental authority, where certain operations may be performed with respect to articles, without such articles having entered into the commerce of the country maintaining the free trade zone; or*
- (d) *If the shipment is from any beneficiary developing country to the US through the territory of any other country and the invoices and other documents do not show the US as the final destination, the articles in the shipment upon arrival in the US are imported directly only if they:*
  - 1. *Remained under the control of the customs authority of the intermediate country;*
  - 2. *Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the Centre Director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the latter’s sales agent; and*
  - 3. *Were not subjected to operations other than loading and unloading, and other activities necessary to preserve the articles in good condition; or...*”

iv G/RO/LDC/N/USA/3.

v G/RO/LDC/N/JPN/1.

vi The provision related to the documentary requirement for proof of direct shipment is found in paragraphs 3 and 5 of Article 31, Cabinet Order for Enforcement of the Temporary Tariff Measures Law. (Extract of the Cabinet Order for Enforcement of the Temporary Tariff Measures Law, provisional translation) Article 31, paragraph 3: “Any person who intends to have paragraph 1 or 3 of Article 8-2 of the Temporary Tariff Measures Law applied to those products enumerated in subparagraph (2) or (3) of paragraph 1 shall, at the time of import declaration of such products, submit one of the following documents, as a document proving that such products fall under either of such subparagraphs. However, this shall not apply to those products for which the total amount of customs value is not more than 200,000 yen.

- (1) *A copy of a through bill of lading for transportation of such products from a beneficiary of references as their origin to the port of importation in Japan.*
  - (2) *A certificate issued by Customs or any other competent government authorities in a country of non-origin where the products were transhipped, temporarily stored or displayed at exhibitions, etc., as provided for in subparagraph (2) or (3) of paragraph 1.*
  - (3) *Any documents which are considered by the Director-General of Customs to be appropriate, excluding those enumerated in the preceding two subparagraphs.”*
- Article 31, paragraph 5: “The following items shall be described in the certificate provided for in subparagraph (2) of paragraph 3.
- (1) *Marks, numbers, descriptions, and quantities of the products under consideration.*
  - (2) *Dates on which such products were loaded on board and/or unloaded from a vessel, aircraft, or vehicle in the country of non-origin and names, registered marks, or kinds of such vessels, aircraft, or vehicles.*
  - (3) *Details of the handling of such products in the country of non-origin where the loading or unloading as provided for in the preceding subparagraph took place.”*

vii G/RO/LDC/N/CAN/1 and G/RO/LDC/N/CAN/2.

42 Tables 31 and 32 have been drafted on the basis of existing notifications made to WTO, expanding the first version prepared by UNCTAD in 2015 ([https://unctad.org/meetings/en/Presentation/alcd2015\\_06-agenda6\\_wto\\_en.pdf](https://unctad.org/meetings/en/Presentation/alcd2015_06-agenda6_wto_en.pdf)). The authors are open for discussions to improve the content of the tables.

Table 32 NON-QUAD countries requirements in terms of documentary evidence of direct consignment

WTO Member	Administrative Requirements	Compliance/ comments
Norway <sup>viii</sup>	– The WTO notification appears to not have been updated. The latest Customs legislation available on the internet provides for the non-alteration rule <sup>ix</sup>	Yes, according to the latest legislation
Switzerland <sup>x</sup>	– According to information from the Swiss delegation, Switzerland adopted the non-alteration principle in 2017.	NO, unclear
New Zealand <sup>xi</sup>	– Not required at point of import. Any normal transaction/commercial documents on request.	YES
Australia <sup>xii</sup>	– There are no direct shipment requirements for LDC preferences	YES
Eurasian CU <sup>xiii</sup>	– Goods must be directly purchased by the importer; – Goods must be delivered directly; – Not clear if documentary evidence of direct delivery is required. <sup>xiv</sup>	NO, a direct purchase is a unique requirement
China <sup>xv</sup>	– As regards imported goods transiting a third country (region), relevant documents that, according to the Customs of China, are necessary to certify that the goods remain under customs control. <sup>xvi</sup>	NO, evidence is required
India <sup>xvii</sup>	– Requirement of direct shipment; – The following shall be produced to the customs authority of India at the time of importation: (a) a through Bill of Lading issued in the exporting country; (b) a certificate of origin issued by the Issuing Authority of the exporting beneficiary country; (c) a copy of the original commercial invoice in respect of the product; and (d) supporting documents in evidence that other requirements of rule 7 (direct shipment) have been complied with.	NO, evidence is required
Rep. of Korea <sup>xviii</sup>	With respect to the goods which are not imported directly from the country of origin, but via a third country, if the relevant customs office, the institution authorized to issue certificates, or the chamber of commerce and industry of the third country confirms the country of origin of the relevant goods or issues a certificate to that effect, the country of origin and a certificate to that effect shall be confirmed based on the certificate of origin issued by the country of origin for the relevant goods.	NO, Evidence is required
Chinese Taipei <sup>xix</sup>	Excerpt from the notified text “The exporters from LDCs could present the self-proof documentary of direct shipment to Customs.”	Unclear
Thailand <sup>xx</sup>	(a) An Air Waybill, a through Air Waybill, a Bill of Lading, a through Bill of Lading, or a multimodal or combined transportation document, that certifies the transport from the exporting DFQF beneficiary country to the Kingdom of Thailand, as the case may be. In the case of not having a through Air Waybill or through Bill of Lading, supporting documents issued by the customs authority or other competent entity of other DFQF beneficiary country(s) or non-beneficiary country(s) that authorized this operation, according to its domestic legislation, are required; (b) An original Certificate of Origin (Form DFQF) issued by the issuing authorities of exporting DFQF beneficiary country; and (c) A commercial invoice in respect of the goods.	NO, evidence is required

viii G/RO/LDC/N/NOR/1.

ix See Regulations to the Act on Customs Duties and Movement of Goods (Customs Regulations), January 2019 Section 8-4-38, Direct transport:

- (1) “The products that are declared for importation to Norway shall be the same as those that are exported from the GSP country where they are regarded as originating from. They must not have been changed, converted in any way, or undergone treatments other than treatments that have the purpose of keeping them in good condition before they are declared. Storage of products or consignments and splitting of consignments may occur if this takes place under the responsibility of the exporter or a subsequent holder of the goods and the products remain under the customs authorities’ supervision in the transit country(ies).
- (2) Sub-section (1) is deemed to be met unless the customs authorities have reason to believe that the opposite is the case. In that respect, the customs authorities may request that the declarant or customs debtor proves compliance. Proof can be provided with the assistance of any means, including contractual transport documents such as, for example, bill of lading or factual or specific evidence based on labeling or numbering of packages or any form of evidence associated with the actual goods.
- (3) Sub-sections (1) and (2) apply correspondingly for cumulation pursuant to Section 8-4-35.”

x G/RO/LDC/N/CHE/1.

xi G/RO/LDC/N/NZL/1.

xii G/RO/LDC/N/AUS/1 and G/RO/LDC/N/AUS/1/Rev.1.

xiii G/RO/LDC/N/RUS/1 and Decision No. 60 of the Council of the Eurasian Economic Commission dated 14 June 2018.

xiv See for further details Decision No. 60 of the Council of the Eurasian Economic Commission dated 14 June 2018.

xv G/RO/LDC/N/CHN/1.

xvi Excerpt from notification made to WTO:

3. “Transport documents covered the whole route from the beneficiary country to ports of entry in China;
4. For goods transported into the territory of China through other countries or regions, importers shall submit certified documents issued by customs of that country or region or other documents accepted by China customs. Those certified documents mentioned above are not compulsory when customs has obtained electronic data information of certified documents via a related electronic data system for transshipment. If the transport documents are determined by China customs to be sufficient to fulfill the requirement of the Direct Consignment, importers are not required to submit certified documents. Supporting documents required when the transport of consignment involves transit:
  - Customs Announcement No. 57, promulgated in 2015; and
  - Customs Announcement No. 52, promulgated in 2016.”

xvii G/RO/LDC/N/IND/1.

xviii G/RO/LDC/N/KOR/1.

xix G/RO/LDC/N/TPKM/1 and G/RO/LDC/N/TPKM/1/Corr.1.

xx G/RO/LDC/N/THA/1.

The LDC Group has observed the positive evolution of EU requirements in terms of documentary evidence related to direct shipment. The standard formulation of the documentary evidence of direct consignment in the EU FTAs and previous GSP regulations has traditionally been as follows:

- “1. *The preferential treatment provided for under the Agreement applies only to products, satisfying the requirements of this Protocol, which are transported directly between the Community and FTA partner country or through the territories of the other countries referred to in Articles 3 and 4 with which cumulation is applicable*

*However, products constituting one single consignment may be transported through other territories with, should the occasion arise, trans-shipment or temporary warehousing in such territories, provided that they remain under the surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition;*

2. *Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing country by the production of:*

- (a) *a single transport document covering the passage from the exporting country through the country of transit; or*
- (b) *a certificate issued by the customs authorities of the country of transit:*
  - (i) *giving an exact description of the products;*
  - (ii) *stating the dates of unloading and reloading of the products and, where applicable, the names of the ships or the other means of transport used;*
  - (iii) *certifying the conditions under which the products remained in the transit country; or*
  - (iv) *failing these, any substantiating documents.”*

As discussed in Inama (2020)<sup>43</sup> and contained in the EU manual<sup>44</sup>, the proof required for documentary evidence under such standard formulation could take any of the three forms outlined in paragraph (2). *“In the absence of a single transport document (e.g., a through bill of lading), the customs authorities of the countries through which the goods transit must provide documentary proof that the consignment was at all times under their surveillance when on their territory. Such proof must contain the details outlined in paragraph (2) above. In simple terms, such documentary proof must detail the history of the journey of the consignment through their territory and the conditions under which the surveillance has been conducted. This documentary proof is known as a certificate of non-manipulation. In the absence of either of the foregoing proofs, any other substantiating documents can be presented in support of a claim to preference. However, it is difficult to envisage any other documents (e.g., commercial documents) that would adequately demonstrate that all the conditions of paragraph 1 of the Article were satisfied.”*

Most recently, the EU introduced the concept of non-alteration with significant trade facilitating provisions. According to the non-alteration formulation introduced in the EU GSP and progressively in many EU FTAs such as the EU-Japan FTA (Box 1) reproduced below. According to the non-alteration concept only in case of doubt, the European Union customs authorities request the declarant to provide evidence of compliance (Paragraph 4 of article 3.2 below of the EU Japan FTA). Without reasonable doubt, it will be assumed that direct consignment requirements are met. Systematic evidence of direct consignment is no longer required.

It is important to emphasize that, even in the case where documentary evidence is requested, the proof of direct consignment may be given “by any means.” The leniency of such a provision contrast with the usual provisions of many preference-giving Members in Tables 31 and 32, where often the proof of direct consignment may be given only by a through bill of lading or documentary evidence in the form of a certificate or statement of non-manipulation provided by the Customs authorities of the country of transit.

43 See “Rules of Origin in international trade” Stefano Inama, Cambridge University Press, 2020.

44 A User’s Handbook to the Rules of Preferential Origin used in trade between the European Community, other European Countries and the countries participating to the Euro-Mediterranean Partnership.

A guide from the EU further specifies the difference between the old legislation on evidence of documentary evidence and the new non-alteration principle:

*“An important difference between the previous direct transportation requirement and non-manipulation clause (non-alteration principle) lies in documentary evidence to be provided. Until 31 December 2010, with direct transport in all cases where the goods were transported via another country, except where the country of transit was one of the countries of the same regional group, the EU importer was required to present documentary evidence that the goods did not undergo any operations there (in the country of transit), other than unloading, reloading or any operation designed to keep them in their condition. The types of the referred documentary evidence were strictly defined in the law. The new non-manipulation (non-alteration principle) clause shall be considered as satisfied a priori unless the customs authorities have reasons to believe the contrary; in such cases, the customs authorities may request the declarant to provide evidence of compliance, which may be given by any means.”<sup>45</sup>*

The LDC Group believes that the non-alteration principle provision introduced by the EU or similar arrangements such as those adopted by Australia and New Zealand may constitute a best practice that should be progressively adopted by other preference-giving Members. The LDC Group calls to the other preference-giving Members to start considering the move to a similar approach abandoning requirements for a through bill of lading and certificate of the non-manipulation that do not adhere to business realities and trade facilitation practices. The LDC Group will enter into consultations with the EU to share the experience gained from the adoption of the non-alteration principle and the advantages to be gained in adopting similar best practices. The results from such consultations will be shared in the forthcoming CRO meetings to accelerate the adoption of best practices in line with trade facilitation objectives and simple and transparent Rules of Origin for LDCs.

## Box 1 Non-alteration provision in EU-Japan FTA

### ARTICLE 3.10 Non-alteration

An originating product declared for home use in the importing Party shall not have, after exportation and prior to being declared for home use, been altered, transformed in any way or subjected to operations other than to preserve them in good condition or other than adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing Party.

Storage or exhibition of a product may take place in a third country, provided that it remains under customs supervision in that third country.

Without prejudice to Section B, the splitting of consignments may take place in a third country if it is carried out by the exporter or under its responsibility and provided that they remain under customs supervision in that third country.

In case of doubt as to whether the requirements provided for in paragraphs 1 to 3 are complied with, the customs authority of the importing Party may request the importer to provide evidence of compliance, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on marking or numbering of packages or any evidence related to the product itself.

<sup>45</sup> The European Union's Rules of Origin for the Generalised System of Preferences A Guide For Users, May 2016.

## D.3. Rules of Origin based on the ad-valorem percentage criterion<sup>46</sup>

### D.3.1. Introduction

As pointed out in the previous submission by the LDC WTO Group,<sup>47</sup> almost five years have now passed since the adoption of the Nairobi Decision on preferential Rules of Origin for LDCs. Some progress has been recorded in achieving better transparency through the adoption of a notification template and the notification of the utilization rates of the DFQF schemes. However, there has not been parallel progress in implementing the substantive part of the Nairobi Decision, more precisely, the paragraphs concerning the substantial transformation and certification requirements. As we are now almost past the fifth anniversary of the Nairobi Decision and we are heading for a new WTO ministerial, possibly in 2021, it is of paramount importance to make concrete progress. It is now time to focus the debate in the Committee on Rules of Origin (CRO) on how to effectively implement the substantive aspects of the Nairobi Decision on preferential Rules of Origin for LDCs.

As previously stated, the LDC WTO group intends to progressively bring to the attention of the CRO the substantive aspects of Rules of Origin of preference-granting countries that need reform by contrasting them with the relevant paragraphs of the Nairobi Decision and identified best practices. The ultimate goal is to achieve better utilization of the DFQF and the development objectives of SDG, namely target 17.12: *Ensuring that preferential Rules of Origin applicable to imports from least developed countries are transparent and simple and contribute to facilitating market access.*

In order to focus the debate, the LDC WTO group will submit a series of technical notes on each of the methodologies to define substantial transformation; namely, a) ad valorem percentage criterion, b) change of tariff classification c) specific working or processing as well as cumulation and certification procedure.

A first technical presentation on the change of tariff classification (CTC) has been made by the LDC Group in October (RD/RO/72), where several issues emerged.

The presentation has been substantiated by a Submission of LDC on Change of Tariff Classification<sup>48</sup> that identified a number of examples where the CTC has been used by some preferences-giving countries in a non-consistent manner with the relevant paragraph of the Nairobi Decision. A number of bilateral meetings have been held with the EU and Japan to discuss how such inconsistencies could be resolved. The LDC WTO group will resume as soon as possible the bilateral meetings with these two countries and report the results to the CRO.

This note, without being exhaustive, examines the use of the ad valorem percentage by preference giving countries contrasting them with the relevant paragraphs of the Nairobi Decision and list some best practices and areas of improvement of the existing Rules of Origin to bring them into line with the Nairobi Decision.

### D.3.2. Substantial Transformation when Applying an Ad-Valorem Percentage Criterion: Recalling Paragraph 1.1 of the Decision

On the *ad valorem* percentage criterion to determine substantial transformation, the Nairobi Decision provides that preference-granting Members shall:

*“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 the use of the value of non-originating materials by such Preference-granting Members when reviewing their preference programmes.*

*Consider, as the Preference-granting Members develop or build their individual Rules of Origin arrangements applicable to imports from LDCs, allowing the use of non-originating materials up to 75 percent 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. Consider the deduction of any costs associated with the transportation and insurance of inputs from other countries to LDCs.”*

46 Technical paper prepared by the authors of this compendium in October 2020, later submitted to the WTO by the LDC Group (see WTO document G/RO/W/202 of 30 October 2020).

47 See G/RO/W/194 5 March 2020.

48 See G/RO/W/184 7 May 2019.



Accordingly, the issues to be considered to bring into conformity with paragraph 1.1 of the Nairobi Decision the current use of the Ad valorem criterion by the preference granting countries are threefold:

- a) With the exception of Australia, New Zealand, TPKM, and the US, all preference granting countries are using a method of calculation based on a value of non-originating materials. A positive development would be the adoption by the US and other countries mentioned above of a method of calculation based on the value of non-originating materials. It has to be noted in fact that the US, as well as the other preference giving countries consistently, use a methodology based on the value of materials in all FTAs of recent generation;
- b) With the notable exception of Canada, none of the preference granting countries is allowing a percentage of non-originating materials up to 75 percent of the final value of the product;
- c) None of the preference granting countries allows the deductions of costs associated with transportation and insurance, and/or provisions are unclear on this vital issue.

In addition, there are horizontal issues that need to be considered to carry out a balanced analysis of the use of ad valorem percentage criterion by preference giving countries, namely, but not limited to 1) extent of the cumulation granted under each preferential arrangement and 2) the existing practices of a preference granting country under other preferential agreements.

In fact, the quantitative (with which countries is possible to cumulate?) and qualitative (full or diagonal) extent of the cumulation that preference-granting countries allow under each individual scheme play a role in the restrictiveness or leniency of an ad valorem percentage. This holds true also for other drafting techniques such as CTC and specific working or processing, but it becomes particularly evident when using an ad valorem percentage criterion that is most of the time used across the board, i.e., applicable to all

products. It has also been observed that modern Rules of Origin contained in FTAs show that the percentage criterion is mostly used in combination with a CTC and is seldom used as a standalone criterion. The maintenance of an unaltered stand-alone ad-valorem percentage criterion from 1974 in the case of the US onwards can be hardly considered a best practice, especially when there are strong indications and findings that such ad valorem percentage is not trade-creating as raised by the LDC WTO group since 2014.<sup>49</sup>

Another important aspect to be assessed is that some preference granting countries have adopted more lenient Rules of Origin for the same products under FTAs that they have negotiated with other partners and/or they adopted existing best practices under other FTAs on how substantial transformation could be achieved adopting less stringent requirements. These findings indicate that some preference-giving countries are hesitant to engage in the necessary reforms to implement better Rules of Origin for LDCs and adhere to the spirit and letter of the Nairobi decision and the ongoing process in the CRO to monitor implementation that is now lasting five years.

This note addresses point (a) and point (c) above, namely the methodology of the ad valorem percentage calculation and the issue of insurance and freight of non-originating materials. Point (b), the level of percentages, will be the subject of a separate note given the relevance of the topic.

Table 33 below summarizes the current status quo of the different preference granting countries with respect to the above-mentioned issues.

---

49 See "Accounting for Underutilization of Trade Preference Programs: The U.S. Generalized System of Preferences" by Shushanik Hakobyan Middlebury College, August 2012, and previous submission of LDC WTO Group, see Challenges faced by LDCs in complying with preferential Rules of Origin under unilateral preference schemes Paper Presented by Uganda on Behalf of the LDCs Group G/RO/W/148 28 October 2014

Table 33 Summary of the Use of Ad-Valorem Percentage by Preference giving countries

Country	Percentage Level	Numerator	Denominator	Distance from the LDC proposed level of percentage	Adoption of VNOM	Deduction of insurance and freight
Australia	Value added by addition (50%)	Allowable factory cost	Ex-factory cost	25% + IFI	No	N/A
Canada	Max. VNOM 60% for LDCs (80% applying cumulation)	VNOM	Ex-factory price	IFI	Yes	No
Chile	Calculation by subtraction of non-originating materials (50%)	FOB price - VNOM	FOB price	25% + IFI	Yes	N/A
China	Min. value added by subtraction 40%	Price of goods minus the price of materials originating from the beneficiary country	FOB price	15% + IFI	Yes	No
European Community (EBA)	Max. VNOM 70%*	VNOM	Ex-works price	5% + IFI	Yes	No/unclear
Eurasian CU	Max. VNOM 55% <sup>50</sup>	Customs value**	Ex-works price? **	20% + IFI	Yes	No
India	Min. 30% value added by subtraction	FOB price minus the VNOM	FOB price	5% + IFI	Yes	No
Japan	Max. VNOM 40%*	VNOM	FOB price	35% + IFI	Yes	Unclear
New Zealand	Value added by addition (50%)	Cost of materials + expenditures in other items of Factory or work cost in New Zealand or LDCs	Ex- factory cost	25% + IFI	No	N/A
Norway	Max. VNOM 70%	VNOM	Ex-works price	5% + IFI	Yes	No
South Korea	Max. VNOM 60%	VNOM	FOB price	15% + IFI	Yes	No
Switzerland	Max. VNOM 70%	VNOM	Ex-works price	5% + IFI	Yes	No
Taipei, Chinese	Value added by addition (50%)	Production process	FOB price	25% + IFI	No	N/A
Thailand	Calculation by subtraction of non-originating materials (50%)	FOB price - VNOM	FOB Price	25% + IFI	Yes	N/A
United States (GSP & AGOA)	Min. 35%	Cost of materials produced in the preference-receiving country plus the direct cost of the processing carried out there	The appraised value of the article at the time of entry into the United States	10% + IFI and methodology of calculation	No	No

Note: Most used percentages, \*\*English translation of the legal text not available, VNOM: Value of Non-Originating Materials, IFI: Issue of Freight and Insurance; N/A: Not Applicable.

50 See Decision No. 60 of the Council of the Eurasian Economic Commission dated June 14, 2018.

### D.3.3. Discussion on non-conforming ad-valorem percentages Rules of Origin and practices by preference granting countries

The LDCs wish to bring to the attention of preference-granting members a series of issues that are not in conformity with the spirit and the letter of the Nairobi decision as follows:

#### Use of a methodology for the calculation of the ad-valorem percentage criterion different from a value of materials methodology

As illustrated previously by the WTO LDC group and in recent literature,<sup>51</sup> there are different methodologies for the calculation of the ad valorem percentage. The methodology used by Australia, New Zealand, TPKM, and the US uses what is commonly defined as a value-added calculation by addition as shown below:

- a) Value-added calculation by addition

$$\frac{\text{Direct cost of processing} + \text{value of originating material}}{\text{Appraised value (ex - factory price)}} = \dots \%$$

Paragraph 1.1 of the Nairobi decision calls for the adoption of a methodology for the calculation of the ad valorem percentage based on the value of non-originating materials that could be expressed as follows:

- b) Value of material calculation

- i) Value added by subtraction of non-originating materials:

$$\frac{EW - VNOM}{EW} = \dots \%$$

- ii) The maximum value of non-originating materials:

$$\frac{VNOM}{EW} = \dots \%$$

Where

EW: Ex-Works price;

VNOM: Value of non-originating materials;

VOM: Value of Originating Materials.

EW is replaced by FOB in certain administrations

It has been recognized in various instances and literature that the methodology of calculation based on Value-added calculation by addition is not a best practice. The large majority of FTAs at present use a value of material methodology.

In fact the definition of direct processing costs is complicated as there is a distinction in the direct processing costs of manufacturing of a finished product that could be considered as value-added as follows:

- “a) *Items included in the direct costs of processing operations: like labor, dies, mold, research, inspection;*
- b) *Items not included in the direct costs of processing operations: like profit, general overhead expenses.”*

A simple search in the US customs ruling website available online<sup>52</sup> reveals that there are around 375 to 800 records about the definition of direct costs of processing. This is rather compelling evidence of the complexities to define and interpret such direct costs of processing costs.

The disadvantages of a value-added calculation by addition could be summarized as follows:

- Itemization of costs to the single unit of production. It requires accounting, and discretion may be used in assessing the unit costs.
- Currency fluctuations may affect the results of the calculation.
- Low labor costs in LDCs may result in low value-added and, instead of being a factor of competitiveness, may penalize LDC producers.

In addition:

- The value added-content requirement may necessitate the submission of additional evidence of manufacturing costs.
- Evidence may include product specifications, bills of materials, product cost sheets, payment records, overhead allocation schedules, raw material purchases, proof of factory labor, and support for manufacturing overhead.

51 See “Convergence on the Calculation Methodology for Drafting Rules of Origin in FTAs Using the Ad-Valorem Criterion by Stefano Inama and Pramila Crivelli, Global Trade and Customs Journal, Volume 14, Issue 4 © 2019, See also “The methodologies of drafting the *ad valorem* percentage criterion” Existing practices in African RECs and way forward in AfCFTA Note drafted by the Division for Africa, Least Developed Countries and Special Programmes of the United Nations Conference on Trade and Development (UNCTAD) in preparation of the AfCFTA 7th Technical Working Group Meeting on Rules of Origin available at [https://unctad.org/system/files/officialdocument/aldc2018\\_AfCFTA\\_TWGRoO7\\_tn\\_advalorem\\_en.pdf](https://unctad.org/system/files/officialdocument/aldc2018_AfCFTA_TWGRoO7_tn_advalorem_en.pdf)

52 <https://rulings.cbp.gov/home>

- Production records must establish the value of the materials used in the originating article on a lot-by-lot, batch-by-batch, and shipment-by-shipment basis.
- Documentation and records supporting originating status must be verifiable by linkage to inventory and accounting records, including summary records such as monthly production reports and accounts payable records.

**Adjustments to Value of non-originating materials-issue of deduction of the cost of insurance and freight**

In a calculation methodology based on the value of the non-originating materials as numerator as shown in (b) above, the computation of the value of such non-originating materials has a bearing on the final outcome of the percentage calculation. This holds especially true when it is considered that the cost of insurance and freight of inputs to an LLDCs or SIDS may be almost equivalent to one-third of the value of the shipment, if not more.

Cost of insurance and freight of non-originating materials are exogenous factors depending on geographical locations and have little to do with substantial transformation.

The deduction method suggested by LDCs is based on adjustments made to the value of non-originating materials permitting the deduction of insurance and freight costs from the customs value of non-originating materials. The deduction of the cost of insurance and freights from the value of non-originating materials ensure a fair comparison.

This method of calculation of the value of materials used in manufacturing may greatly facilitate compliance with the Rules of Origin for LLDCs (16 LDCs) and SIDS (11 LDCs).

Consider the following example:<sup>53</sup> A manufacturer based in Lilongwe, Malawi, is manufacturing steel frames using imported steel tubes. The applicable RoO is a 70 percent allowance of non-originating materials. The manufacturer purchase steel tubes from China to manufacture the steel frames for 10.000 USD. After manufacturing the steel tubes into steel frames by cuttings, soldering, galvanizing, coating, the manufacturer sell the frames sold to a South African importer at an ex-works price of 16.000 USD. It follows the value-added calculation below:

$$\frac{10.000}{16.000} = 0,625 = 62.5\% < 70\%$$

The frames are therefore originating.

However, if the value of non-originating material is based on a CIF basis, the cost of insurance and freight from China to Lilongwe -an average of 1.250 USD for ocean freight and 3.600 USD for inland<sup>54</sup> transport has to be added to the cost of purchasing the container of steel tubes. Thus, the calculation will be as follows:

$$10.000 + 3.600 + 1.250 = 14.850 \text{ USD}$$

$$\frac{14.850}{16.000} = 0,928 = 92,8\% > 70\%$$

The frames are, in this case, largely exceeding the threshold of 70 percent.

53 Example excepted from “The methodologies of drafting the ad valorem percentage criterion” Existing practices in African RECs and way forward in AfCFTA Note drafted by the Division for Africa, Least Developed Countries and Special Programmes of the United Nations Conference on Trade and Development (UNCTAD) in preparation of the AfCFTA 7th Technical Working Group Meeting on Rules of Origin available at [https://unctad.org/system/files/officialdocument/aldc2018\\_AfCFTA\\_TWGRoO7\\_tn\\_advalorem\\_en.pdf](https://unctad.org/system/files/officialdocument/aldc2018_AfCFTA_TWGRoO7_tn_advalorem_en.pdf)

54 UNCTAD estimates based on field visits.

Table 34 Example of the relevance of Freight and Insurance

	Without Freight and Insurance	With Freight and Insurance
(a) Foreign Materials	10,000	10,000
(b) Ocean Freight	1250	1250
(c) Inland Freight	3600	3600
(d) Ex-Works Price	16,000	16,000
(e) Value Added Calculation	$\frac{a}{d} = \frac{10000}{16000} \times 100\%$ $= 62.5\% < 70\%$	$\frac{a + b + c}{d} = \frac{10000 + 3600 + 1250}{16000} \times 100\%$ $= 92.8\% > 70\%$
Rule Satisfied?	YES	NO

The same calculation logic and costs of transport and insurance of non-originating materials to the factory in Malawi is applied if the same steels frames are exported from Malawi to the preference granting countries. The exorbitant cost of transport and insurance is crippling any effort to comply with the ad valorem percentage requirement.

#### D.3.4. Initial expectations of the LDCs on the implementation of the Nairobi decision on ad-valorem percentage

LDCs expect the following best practices to be implemented by Preference granting countries:

- Whenever it is used, the method of calculation should be based on the value of materials methodology based on the value of non-originating materials out of the ex-works price or FOB with deduction of the cost of insurance and freight of the non-originating materials used.

- Australia, New Zealand, TPKM, and the US are called to introduce the necessary reforms in their Rules of Origin to adhere to such best practices.
- Notwithstanding the above, in some sectors, other methodologies such as CTC and Specific working or processing may be used as recent practices in FTAs have shown to better reflect the processing stages of the global value chains. A forthcoming note of the LDCs will further illustrate this issue.
- All preference-giving countries should allow the deduction of the cost of insurance and freight from the value of non-originating materials.

## E. THE APPROACHING OF THE 5TH ANNIVERSARY OF THE NAIROBI DECISION<sup>55</sup>

### E.1. Introduction

The LDCs believe that the Nairobi Decision on preferential Rules of Origin of 2015 is a landmark achievement matured thanks to the relentless efforts of the Least-Developed Countries (LDC) WTO group and WTO member states. Yet, after five years, the time has come to acknowledge that, with few exceptions, implementation of the Decision is lagging behind in terms of reform of Rules of Origin by preference-granting Members.

From 2015 to the present, the LDC WTO group has made several submissions to the CRO to identify the reforms on Rules of Origin that the preference-granting Members should undertake to make the use of trade preferences more effective. The submissions of the WTO LDC group have shed light on aspects of Rules of Origin that have benefitted not only the LDCs but also the international trading community at large. Such work should be continued and expanded as there would be gains to open discussion on Rules of Origin at a multilateral level in terms of transparency and best practices.

It is now time to recognize that the work done in the CRO is promising but that a wider mandate with a work program and a time horizon should be adopted at the next Ministerial Conference to achieve better Rules of Origin for LDCs.

### E.2. A summary of main steps undertaken for implementing Nairobi decision: notifications and utilization rates (2016-2017)

During 2016, the CRO's efforts for the implementation of the Nairobi Decision are summarized as follows:

- (a) *"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;."*<sup>56</sup>
- (b) Calculation of utilization rates of trade preferences granted to LDCs; and
- (c) Developing a template for notification of RoO.

The development of a template took most of the CRO work during 2016 as it was hoped that preference-giving countries would notify according to such template the eventual improvements to their RoO to comply with the deadline of 31 December 2016 provided in paragraph 4.2 above of the Nairobi Decision.

However, it took until the WTO CRO meeting of March 2017 to achieve consensus on the template with the LDCs insisting on notifications to be made according to the new template to allow for a comprehensive review to be held at the 2017 October session of the CRO.<sup>57</sup> Similarly, the methodology to calculate the utilization rates was agreed upon at the end of 2016, as reported by the Chairman during the CRO meeting of March 2017.

The meeting of the CRO of October 2017 was a litmus test of the implementation of the Nairobi Decision as the majority of preference-granting Members notified their rules according to the template allowing a first assessment. At this CRO meeting, the LDCs made substantive presentations on all items of the Nairobi

---

55 Technical note prepared by the author of this compendium in February 2020, later submitted to the WTO by the Delegation of Tanzania, on behalf of the LDC Group (see WTO document G/RO/W/194 of 5 March 2020).

---

56 See paragraph 4.2 of the Nairobi Decision on Preferential Rules of Origin for LDCs.

57 See documents G/RO/M/68 and G/RO/84.

Decision,<sup>58</sup> contrasting them with the notifications made by preference-granting members. Such presentations made by the LDCs showed in a clear and unambiguous language the significant gaps and divided among the notifications made by preference granting countries who believed to be in compliance with the Nairobi Decision and the views and expectations of the LDC WTO group arising from the same Decision.

In particular, the existing data on utilization rates was used to make a comprehensive presentation by the LDC WTO group<sup>59</sup> showing the impact that reforms of RoO in the EU and Canada had on trade flows and utilization rates. The presentation also highlighted that no positive trade dynamics were observed in the US and Japan, given the absence of such reforms.

Yet, no meaningful response was received from preference-granting Members to the arguments raised by the LDC in their presentations in the form of substantive submissions that could have contributed to a constructive dialogue.

Finally, the 2017 report of the CRO at the General Council pointed out that notifications of some preference-granting Members on utilization rates were lagging behind as it was shown in trade data (i.e., import statistics) not available at that time for the following WTO preference-granting members: China, Iceland, Kazakhstan, Kyrgyz Republic, New Zealand, Russian Federation, Tajikistan, and Turkey.

### E.3. Steps made by preference-granting members to implement the Nairobi decision

The 2017 report of the CRO to the WTO General Council<sup>60</sup> reported, as a summary of the efforts made to comply with the Nairobi Decision, that China had adopted new legislation introducing a series of simplifications to its RoO, Canada had announced changes to facilitate the requirements for some apparel items. Norway announced that it allowed for cumulation among LDCs, while Australia stated it was conducting a comprehensive review of its Generalized System of Preferences (GSP). The Eurasian Economic Union also revised its GSP, and Thailand reported its intention to review its preferential Rules of Origin.

The remaining preference-granting members expressed the view either formally or informally during the various CRO meetings held during 2016 and 2017 that their existing preferential RoO for LDCs was already complying with the Nairobi Decision.

### E.4. Further submissions made by LDCs to build up a dialogue in the CRO implementation of the Nairobi decision (2018-2019)

Faced with implicit or explicit statements by preference-granting Members that their Rules of Origin were in conformity with the Nairobi decision, the WTO LDC group renewed efforts in 2018 and 2019 to bring new evidence at the CRO meetings to start a constructive dialogue.

These renewed efforts focused on:

- (1) A progressive examination of each of the substantive components of the Nairobi Decision to show to preference-granting Members that their RoO deviated from the Nairobi Decision. Several possible best practices that could be adopted were also indicated; and
- (2) Evidence from the analysis of utilization rates that some of the existing RoO were linked to low utilization of trade preferences.

58 See the following presentations made at the 2017 October meeting: “Developments Regarding Methods of Calculation of the Percentage Criterion” (Paragraph 1.1 of the Nairobi Decision and Item 1 of document G/RO/W/169) – Presentation by Tanzania and Laos (RD/RO/52); “Developments Regarding Methods using a Change of Calculation of Tariff Classification Criterion to Determine Substantial Transformation” (Paragraph 1.2 of the Nairobi Decision and Item 2 of Document G/RO/W/169) – Presentation by Benin (RD/RO/53); “Developments Regarding Methods using a Specific Manufacturing or Processing Operation Criterion to Determine Substantial Transformation” (Paragraph 1.3 of the Nairobi Decision and Item 3 of document G/RO/W/169) – Presentation by Myanmar (RD/RO/54); “Developments Regarding Methods using a Combination of Requirements to Determine Substantial Transformation” (Paragraphs 1.4 and 1.5 of the Nairobi Decision and Item 4 of document G/RO/W/169) – Presentation by Tanzania (RD/RO/55); “Developments Regarding Cumulation Provisions (Paragraphs 2.1 and 2.2 of the Nairobi Decision and Item 5 of document G/RO/W/169)” – Presentation by Cambodia (RD/RO/56); “Developments Regarding Documentary Requirements (Paragraph 3 of the Nairobi Decision and Item 6 of document G/RO/W/169) – Presentation by Nepal (RD/RO/57).

59 See Utilization Rates under Preferential Trade Arrangements for Least developed countries (Paragraph 4.3 of document WT/L/917/Add.1) – Presentation by Yemen (RD/RO/58).

60 See document G/RO/85.

Under (1), the LDCs initiated a process in 2018 to examine each of the different substantive issues covered by the Nairobi Decision. On the issue of change of tariff classification (CTC), a technical presentation was made by the LDC Group in October 2018<sup>61</sup> containing several issues for consideration by preference-granting Members.

A further submission in May 2019<sup>62</sup> examined in more detail where and how product-specific Rules of Origin of the EU and especially Japan were found not to be in compliance with Paragraphs 1.2 and 1.4 of the Nairobi Decision.

A detailed annex was attached to the submission by the LDC countries containing samples of product-specific Rules of Origin that were found to be overly stringent and not in compliance with the Nairobi Decision. The annex also contained suggestions of product-specific Rules of Origin that could be adopted by the EU and Japan on the basis of best practices.

While EU and Japan appreciated the submission and engaged in bilateral meetings with the WTO LDC group, no concrete steps have been undertaken to respond to the concerns raised in the submission and its annex besides asking the LDC WTO group to come back with a list of priorities.

However, it has to be recalled that for some products, these priorities were already spelled out in the LDC submission at the product-specific level. The request for priorities with no attempt to explain why so many exceptions to the CTC basic rule were needed did not signal a genuine attempt to engage in discussions.

To date, neither the EU nor Japan offered any response or justification on the reasons why so many additional exceptions are needed to the simple CTC. During the bilateral meetings with Japan, it emerged that Japan would undergo a scheduled revision of its GSP scheme in 2021. The pressing issue is whether Japan will consider the issues and proposals made by the LDCs in their submissions and engage in a constructive dialogue. The WTO LDC group would like to recall that the submission clearly indicated that “several steps could also be undertaken by Japan to engage in an overall reform of Rules of Origin for LDCs.”

In a similar vein, the LDC submitted a substantive paper on direct consignment<sup>63</sup> at the 2019 CRO meeting. As in the case of the submission concerning CTC, this document contained tables clearly showing where and how the legal text of some preference-granting Members was not in conformity with the Nairobi Decision. The same document indicated the best practices that could be adopted by those who did not conform with the Decision, namely, the adoption of the non-alteration principle as applied by the EU. Yet, there has been limited response to such submission by preference-granting members.

Because of time limitation, the WTO LDC group has not been able to analyze in-depth the shortcomings and lack of conformity with the Nairobi Decision of the remaining preference-granting Members using ad valorem percentage criterion or specific working of processing. Yet, it is rather clear that even the initial analysis conducted in 2017<sup>64</sup> shows that the large majority of the preference-granting members do not meet the request of the LDCs of 75 percent of non-originating materials, nor other LDCs’ requests concerning cumulation or other elements of the Nairobi Decision. These remaining issues could be discussed in a subsequent CRO meeting before the Ministerial Conference.

Under (2) above on utilization rates, the WTO LDC Group made extensive presentations at the CRO of October 2017<sup>65</sup> and 2018<sup>66</sup> based on the data available at that time. The presentations outlined a number of impressive findings, including:

- (a) The possible impact that direct consignment rules could have on utilization rates later confirmed by the findings of the WTO Secretariat;<sup>67</sup>
- (b) According to the data notified by Members to the WTO Secretariat, some preference-granting Members, like India, showed close to zero utilization rates; and

61 Developments regarding Methods using a Change of Tariff Classification Criterion to Determine Substantial Transformation (Paragraphs 1.2 and 1.4 of the Nairobi Decision) (RD/RO/72) - Elia N. Mtweve, Tanzania on behalf of the LDC Group

62 See “Note on Change of Tariff Classification Paragraphs 1.2 and 1.4 of Nairobi Decision” (RD/RO/79) – Elia N. Mtweve, Tanzania on behalf of the LDC Group

63 Impact of Direct Consignment Requirements on Preference Utilization by Least Developed Countries (G/RO/W/187) 4 October 2019.

64 See footnote 4 above.

65 See Utilization rates under preferential trade arrangements for LDCs (Paragraph 4.3 of WT/L/917/Add.1), presentation by Yemen on behalf of the LDCs, October 2017.

66 See Utilization rates under preferential trade arrangements for LDCs (Paragraph 4.3 of WT/L/917/Add.1), presentation by Tanzania on behalf of the LDCs, October 2018.

67 See document G/RO/W/185.



- (c) The fact that multiple preferences available to LDCs under other preferential arrangements have to be taken into account in order to correctly assess the impact of Rules of Origin under each preferential scheme.

Such presentations were followed by other submissions prepared by the LDCs on the utilization rates of Switzerland<sup>68</sup> and, most recently, China,<sup>69</sup> where again significant findings were shown. In relation to Switzerland, it was found that there are sectors showing persistent low utilization rates (even for products subject to product-specific Rules of Origin identical to those of the EU, where utilization rates are higher). Bilateral meetings are underway with Switzerland to address this issue, and indications are that this could be related to direct consignment obligations.

The analysis of China's utilization rates again showed, as in the case of India, that there are significant trade flows where utilization rates are minimal or zero.

The clarifications provided by China at the CRO meeting of October 2019 showed that utilization rates under other preferences<sup>70</sup> could explain the low utilization of China's LDC preferences by ASEAN LDCs. This response emphasized the need for a correct and complete dataset on utilization rates again as an indispensable transparency and assessment tool. Yet, China has notified utilization rates for only one year (2016) and only for DFQF preferences. Incomplete data means that a full analysis is currently not possible.

According to the latest status report of the WTO Secretariat,<sup>71</sup> there are issues related to the notification of utilization rates concerning:

- (1) Lack of notification or incomplete notification of import statistics by preference-granting members (Russia Federation and Turkey, for instance);
- (2) Even more importantly, there are concerns over the quality and accuracy of the data notified to the WTO Secretariat (for instance, only one year for India (2015) and for China (2016)). Consultations with these delegations to improve the quality of their submissions have yet to produce tangible results; and

- (3) The data notified must encompass import statistics under other preferential schemes available to LDCs (preference-granting members should progressively notify the utilization rates of other preferences granted to LDCs to make possible a transparent and efficient assessment of the use made of their DFQF schemes).

## E.5. What the LDCs are expecting from MC 12

- 5.1. As briefly summarized above, there is an imbalance between the efforts deployed by LDCs in the CRO since the Nairobi Decision in terms of submissions, analysis, and the level of the response so far received from preference-granting Members. Implementation of the Ministerial Decision should remain a shared responsibility and not rest exclusively on evidence brought by the LDC Group. Ensuring that "preferential Rules of Origin applicable to imports from LDCs are transparent and simple and contribute to facilitating market access."<sup>72</sup> is a clear objective of the multilateral community embedded since 2005 in the Hong Kong WTO Ministerial Decision and reinforced in target 17.12 of the Sustainable Development Goals (SDGs).<sup>73</sup>

The LDCs believe that it is, therefore, necessary to strengthen the mandate of the Committee on Rules of Origin at the 12th Ministerial Conference by:

- a. setting clearer obligations for preference granting members regarding the intensification of their efforts to monitor the impact of their RoO on LDCs' imports and to simplify requirements in line with the provisions of the Nairobi Decision and the best practices as illustrated by the LDC Group in past submissions to the CRO, and
- b. strengthening the role of the WTO Secretariat to monitor conformity with Nairobi Decision. This will have significant spillover benefits for the entire international trading system in an area that is currently unregulated.

68 See document G/RO/W/186.

69 See document G/RO/W/192.

70 In the specific case ASEAN-China Free Trade Area.

71 See document G/RO/W/163/Rev.7 of 24 February 2020.

72 See Hong Kong WTO Ministerial Decision on Measures in Favour of Least-Developed Countries, 2005.

73 Target 17.12 of SDG 17 reads as follows Realize timely implementation of duty-free and quota-free market access on a lasting basis for all least developed countries, consistent with World Trade Organization decisions, including by ensuring that preferential Rules of Origin applicable to imports from least developed countries are transparent and simple, and contribute to facilitating market access.

A strong mandate of the Committee on Rules of Origin will lead to effective participation by both Geneva and capital-based experts in the Committee meetings with a clear agenda on the work ahead.

To reach this objective, the LDC group will engage with preference-granting Members to develop appropriate language to be submitted for consideration of Ministers at the next Ministerial Conference.

## REFERENCES

### **European University Institute**

<https://globalgovernanceprogramme.eui.eu/research-project/trade-facilitation-and-rules-of-origin/>

<https://globalgovernanceprogramme.eui.eu/event/executive-training-rules-origin-least-developed-countries-ldcs/>

### **UNCTAD**

<https://unctad.org/topic/vulnerable-economies/least-developed-countries/enhanced-integrated-framework>



