



**Ministerial Conference
Ninth Session
Bali, 3-6 December 2013**

PREFERENTIAL RULES OF ORIGIN FOR LEAST-DEVELOPED COUNTRIES

DRAFT MINISTERIAL DECISION

The Ministerial Conference,

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

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

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

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

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

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

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

Decides as follows:

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

A. ELEMENTS FOR PREFERENTIAL RULES OF ORIGIN

1.2. Preferential rules of origin should be as transparent, simple and objective as possible. It is recognized that other than wholly obtained products, origin may be conferred by substantial or sufficient transformation, which can be defined in a number of ways, including through: (a) *ad valorem* percentage criterion; (b) change of tariff classification; and (c) specific manufacturing or

processing operation. It is also recognized that these methods in certain cases may be used in combination.¹

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

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

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

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

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

B. DOCUMENTARY REQUIREMENTS

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

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

² The precise percentage may vary depending on the calculation methodology used in different schemes.

³ This is without prejudice to the meaning of customs value as defined by the 1994 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on Customs Valuation).

C. TRANSPARENCY

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

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

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