

Committee on Rules of Origin

**REPORT OF THE COMMITTEE ON RULES OF ORIGIN TO THE GENERAL COUNCIL
ON PREFERENTIAL RULES OF ORIGIN FOR LEAST DEVELOPED COUNTRIES**

DRAFT

Revision

This report is being submitted by the Committee on Rules of Origin (CRO) to the General Council following the 2022 Decision on Preferential Rules of Origin and the Implementation of the Nairobi Ministerial Decision, which states that the "CRO should report its work to the General Council ahead of the Thirteenth Ministerial Conference" ([G/RO/95](#)).

In addition, it also discharges the requirements of the 2013 (Bali) and 2015 (Nairobi) Ministerial Decisions on preferential rules of origin for least developed countries (LDCs) ([WT/L/917](#) and [WT/L/917/Add.1](#) respectively), which stipulate that the CRO "shall annually review the developments in preferential rules of origin applicable to imports from LDCs" and report to the General Council.

1 INTRODUCTION	2
2 TRANSPARENCY AND DATA AVAILABILITY (NOTIFICATIONS)	2
2.1 Preferential Rules of Origin.....	2
2.2 Preferential Tariffs and Preferential Import Statistics	3
3 RECENT DEVELOPMENTS REPORTED TO THE CRO	4
4 IMPLEMENTATION OF THE BALI AND NAIROBI MINISTERIAL DECISIONS.....	4
4.1 Requirements for the Assessment of Sufficient or Substantial Transformation	5
4.1.1 <i>Ad valorem</i> percentage Criterion	5
4.1.2 Change of Tariff Classification Criterion.....	5
4.1.3 Specific Working and Processing Criterion	5
4.2 Cumulation.....	5
5 DOCUMENTARY REQUIREMENTS	6
5.1 Proof of Origin	6
5.2 Trade Facilitation Measures for Small Consignments	6
5.3 Documentary Evidence of Direct Consignment.....	6
6 IMPACT OF PREFERENTIAL RULES OF ORIGIN ON PREFERENCE UTILIZATION: THE ANALYSIS OF PREFERENCE UTILIZATION RATES.....	7
6.1 Linking Preference Utilization Rates and Preferential Rules of Origin	7
6.2 Modalities for the calculation of Utilization Rates	7
6.3 Preference Utilization by LDCs	7
6.4 Discussion on different factors that could affect the Utilization of Trade Preferences.....	8
7 [NEXT STEPS/CONCLUSION]	9

8 REFERENCES TO DOCUMENTS CONSIDERED BY THE CRO (2013-2023)	9
ANNEX 1	10
ANNEX 2	12
ANNEX 3	13
ANNEX 4	14

1 INTRODUCTION

1.1. This document reports on the work conducted by the CRO from 2017 to October 2023 pursuant to the April 2022 "Decision on Preferential Rules of Origin and the Implementation of the Nairobi Ministerial Decision" ([G/RO/95](#)), [ALT (EU): which responded to the proposal of the LDC Group to strengthen the discussion on preferential rules of origin¹]. This Decision was also acknowledged in the Outcome Document of the Twelfth Ministerial Conference.² [ALT (LDCs) In particular this document reports the different views and content of the debates between the LDC WTO group and the preference giving members on the implementation of the Nairobi decision during the above-mentioned period. These different views extend to the rationale of this report. On one hand, the WTO LDC group believes that the rationale for this report stems from their proposal to strengthen the mandate of the CRO made at the Fifth anniversary to address an imbalance between the efforts deployed between LDC and PGM on the contributions to the debate on the implementation of the Nairobi Decision, on the other hand, the PGM are of the view that the mandate for this report arises from MC12 and in particular the CRO decision ([G/RO/95](#))].

1.2. Against this background, this report describes progress in the different areas of work of the CRO related to preferential rules of origin for LDCs. It highlights the main issues discussed and the state of play reached on the main components of the work. When relevant, it indicates lessons learned and [discusses practices/best practices on] the use of preferential rules of origin, including from the point of view of LDCs. Finally, it provides guidance for the future work of the Committee to advance further in the identification of possible best practices and lessons learned.

2 TRANSPARENCY AND DATA AVAILABILITY (NOTIFICATIONS)

2.1. The work of the CRO on preferential rules of origin requires access to the following types of information:

- (i) Preferential rules of origin applied to LDCs by preference-granting Members (rules of origin and the related administrative requirements).
- (ii) Preferential tariffs and preferential imports under preferential trade arrangements (or other preferential trade agreements); and
- (iii) Information about the procedures for the request and delivery of certificates of origin applied by LDC beneficiaries.

2.1 Preferential Rules of Origin

2.2. The CRO has made substantial progress in terms of the availability of information regarding preferential rules of origin applied to LDCs in the context of non-reciprocal trade preferences. As required by paragraph 4.3 of the Nairobi Ministerial Decision³, Members adopted a template in 2017 for the notification of preferential rules of origin and origin requirements ([G/RO/84](#)). A new document series was created for the circulation of these notifications ([G/RO/LDC/N](#)). The template has been instrumental in making detailed and standardized information about Members' current practices available. In addition, it has allowed for the preparation of documents that describe, analyse, and compare the current practices of preference-granting Members.

¹ Document [G/RO/W/194](#).

² Document [WT/MIN\(22\)/24](#), paragraph 8.

³ Paragraph 4.3 reads: "[...] Furthermore, the CRO shall develop a template for the notification of preferential rules of origin, to enhance transparency and promote a better understanding of the rules of origin applicable to imports from LDCs".

2.3. All preference-granting Members (except Armenia, Iceland, and Morocco) have notified their preferential rules of origin applied to LDCs under their non-reciprocal trade arrangements.⁴

2.4. In addition, Members took note of two significant developments to access this information:

- (i) All notifications submitted to the Secretariat are available on the WTO Preferential Trade Arrangements database and in the WTO's three official languages (<http://ptadb.wto.org>); and
- (ii) all rules of origin and origin requirements notified were made available through the "Origin Facilitator" tool (<https://findrulesoforigin.org>). The Facilitator is a free, publicly available online tool which allows users to retrieve most-favoured-nation (MFN) and preferential tariff rates as well as requirements related to origin at the tariff-line level. The Facilitator is the result of a collaboration between the WTO Secretariat, the International Trade Centre, and the World Customs Organization.

2.5. The Committee encourages all preference-granting Members to ensure that their notifications are complete and up to date, including any Internet links.

2.2 Preferential Tariffs and Preferential Import Statistics

2.6. MFN and preferential tariff rates, and preferential import statistics are needed to calculate the utilization rates of non-reciprocal LDC trade preferences. Tariff rates are needed to identify the existence of a preference (that is, the fact that the tariff is above zero on an MFN basis). Information about preferential import statistics is used to calculate the proportion of imports that receive preferential treatment under at least one preferential arrangement.

2.7. Members made significant progress in improving the availability of data on preferential tariffs and imports in compliance with the *Transparency Mechanism for PTAs* (<WT/L/806>). However, significant gaps remain in this area that impact the ability of the Secretariat to conduct a comprehensive analysis of current rates of preference utilization. To date:⁵

- (i) Complete data⁶ is available for: Australia; Canada; Chile (since 2014); China; European Union; Iceland; India (since 2015); Japan (since 2015); Republic of Korea; Montenegro (since 2017); Switzerland (since 2012); Chinese Taipei; Thailand (since 2015); Türkiye; United Kingdom (since 2020); and United States. In addition, China and India provided to the Secretariat enhanced datasets to facilitate a more accurate analysis of the uptake in their Generalized System of Preferences (GSP preferences); and
- (ii) No data, or only partial information, is available for: Armenia; Kazakhstan; Kyrgyz Republic; Morocco; New Zealand (tariffs only); Norway; Russian Federation; and Tajikistan.

2.8. In addition, one significant gap that has emerged concerns the availability of information on imports entering under "other" preferential schemes, whether these be regional trade agreements, other preferential arrangements, or special regimes which offer tariff concessions.⁷ Such data is needed for a full analysis of trade between LDCs and preference-granting Members. In this sense, Members currently are encouraged – but are not obliged – to notify to the WTO their preferential imports and tariffs under such schemes.⁸ Some Members have been providing the Secretariat with detailed import statistics concerning their regional trade agreements and other concessions available, including Australia; Canada; China; European Union; Iceland; India; Japan; Montenegro; Switzerland; Chinese Taipei; Türkiye; United States of America.

⁴ Document series <G/RO/W/163> has been updated regularly to describe in detail these notifications.

⁵ Document series <G/RO/W/163> has been updated regularly to describe in detail these notifications.

⁶ Complete data refers to the submission of annual preferential imports (under preferential trade arrangements for LDCs) as well as preferential tariffs. Data is available for all Members since 2010 unless otherwise indicated.

⁷ Tariff concessions include any special programme which allow imports of certain goods to be temporarily or permanently exempt from the "normal" import duty. They may be implemented for social, humanitarian, economic or industry assistance purposes. Typical concessionary regimes include imports into free trade zones and duty drawback for manufacturing exporters.

⁸ See paragraph 2 of the IDB Decision "*Modalities and operation of the Integrated Database (IDB)*" (<G/MA/367>).

2.9. The Committee encourages all Members to consider the details of their IDB notifications and to improve them where possible. The Secretariat shall, upon request, provide technical assistance in relation to the submission of the data required for the IDB.⁹

3 RECENT DEVELOPMENTS REPORTED TO THE CRO

3.1. A number of developments relating to preferential rules of origin and related administrative requirements have been reported to the Committee since 2017, including the following:

- (i) Thailand initiated stakeholder consultations with a view to extending the duration of its preferential trade arrangement for LDCs. The consultation would also aim at expanding the coverage of eligible products and improving the rules of origin ([G/RO/77](#); [G/RO/91](#));
- (ii) China introduced a series of improvements, including new cumulation options (bilateral and regional cumulation). The government also implemented simplified documentary requirements for origin certification, allowing for the use of an importer's declaration based on any advance origin ruling issued by the customs administration of China. A *de minimis* value for low-value shipments (not more than CNY 6,000) was also introduced for which no certification was required. Finally, a system of electronic certification was rolled out to further simplify certification procedures ([G/RO/77](#); [G/RO/85](#));
- (iii) Australia reported that it had initiated a comprehensive review process of its GSP, including the applicable preferential rules of origin (paragraphs 4.1 to 4.7 of [G/RO/M/67](#); [G/RO/85](#));
- (iv) Japan informed Members about the simplification of preferential rules of origin for knitted apparel of HS Chapter 61 ([G/RO/77](#); [G/RO/81](#); [G/RO/85](#));
- (v) the European Union (EU) updated the Committee on several occasions on the introduction of its Registered Exporter System (REX System) for self-certification ([G/RO/79](#); [G/RO/94](#)). The REX System is also being utilized for imports to Norway ([G/RO/85](#)), Switzerland and Türkiye ([G/RO/87](#));
- (vi) Iceland reported that new legislation governing non-reciprocal preferences for LDCs was being prepared and would be notified in due course ([G/RO/89](#));
- (vii) the Russian Federation highlighted the key elements of its revised preferential rules of origin for LDCs being implemented under the Eurasian Economic Union (EAEU)'s Common System of Tariff Preferences, which had entered into force in January 2019. The new rules are based on a calculation of the value of non-originating materials ([G/RO/91](#));
- (viii) the United Kingdom updated Members on the continuation of its trade preferences for LDCs during the transition period until 31 December 2020 and after its withdrawal from the European Union ([G/RO/91](#)). The UK also informed Members about its Developing Countries Trading Scheme (DCTS) and the revised rules of origin to be implemented under it. The new rules simplified product-specific rules, introduced cumulation with up to 95 other eligible Members, and continued to allow the possibility of deducting freight and insurance costs from the calculation of the value of non-originating materials ([G/RO/97](#));
- (ix) Canada introduced changes to allow additional apparel products to qualify for duty-free treatment when imported into Canada in 2017 ([G/RO/82](#));
- (x) Norway expanded cumulation possibilities in 2017 by introducing cumulation among LDCs after an inter-ministerial working group had examined the Norwegian GSP scheme in light of the Nairobi Ministerial Decision ([G/RO/85](#)); and
- (xi) New Zealand is working to finalise revised rules of origin (including Product Specific Rules) for New Zealand's GSP scheme to make them more aligned with the approach undertaken in New Zealand's Free Trade Agreements, taking into account, where practicable, the preferences signalled by LDCs. New Zealand will communicate these formally once the review is completed.

4 IMPLEMENTATION OF THE BALI AND NAIROBI MINISTERIAL DECISIONS

4.1. Around 18 Different submissions and 14 presentations have been made, mostly by the LDC Group, comparing the existing practices of preference-granting Members with the relevant paragraphs of the Nairobi Decision in order to highlight the aspects that, in the view of the LDC Group, needed to be reformed (Annex 1 contains a full list of such submissions and presentations).

⁹ Members may contact the Secretariat through the following email address: ldb@wto.org. See document [G/MA/367](#), paragraph 12, 23-254 on technical assistance.

However, views about the status of implementation of the Nairobi Decision sometimes diverged between the LDC Group and preference granting Members.

4.1 Requirements for the Assessment of Sufficient or Substantial Transformation

4.1.1 *Ad valorem* percentage Criterion

4.2. Different submissions by the LDC Group have analysed preference-granting Members' practices in light of paragraphs 1.1(a); 1.1(b); and 1.1(c) of the Nairobi Ministerial Decision. These submissions have noted that:

- (ii) all preference-granting Members whose rules were based on the *ad valorem* percentage criterion already used a method of calculation based on the value of non-originating materials, except for Australia, New Zealand, and the United States;
- (iii) currently, only Canada and the United Kingdom met the threshold of 75% of the value of non-originating materials, which the Nairobi Decision noted was an option for preference-granting Members to consider; and
- (iv) currently, only the United Kingdom explicitly allowed for the deduction of the costs of freight and insurance from the value of non-originating materials, which the Nairobi Decision noted was an option for preference-granting Members to consider. Other preference-granting Members do not have such an allowance, or their rules were unclear in this respect;
- (v) rules of origin contained in more recent Free Trade Agreements (FTA) use the percentage criterion in combination with the change of tariff classification criterion rather than as a standalone criterion.

4.1.2 Change of Tariff Classification Criterion

4.3. Different submissions by the LDC Group have analysed preference-granting Members' practices in light of paragraphs 1.2(a); 1.2(b); and 1.2(c) of the Nairobi Decision. The submissions, focused on the rules applied by the European Union; Japan; Norway; and Switzerland, and noted the following:

- (i) The LDC Group reiterated the Group's preference, most notably, for the elimination of exclusions and restrictions associated with CTC rules and the elimination of rules which impose a combination of two or more criteria for the same product;
- (ii) according to the LDC Group, exclusions and restrictions continue to be common and, in most cases, not justifiable. Such rules are often also stricter than the rules of origin which have been agreed to in the context of free trade agreements; and
- (iii) The LDC Group also circulated a detailed list of product-specific rules used by Japan which, in its view, should be reformed ([G/RO/W/209](#)). The submission contained detailed alternative rules of origin and comments for consideration. Following this submission, bilateral consultations took place between the LDC Group and Japan in 2019. The LDC Group and Japan held different views about the complexity or simplicity of product-specific rules used by Japan and bilateral discussions need to be pursued.

4.1.3 Specific Working and Processing Criterion

4.4. The LDC Group has noted in different submissions that this criterion could be usefully used for textiles and clothing provided that it reflects a single transformation requirement (for example, "manufacture from fabric" for items of HS Chapter 62, as applied by the European Union and Japan). The same criterion could be used for HS Chapters 28 to 30 (namely, "chemical reaction"). This issue has, however, not yet been discussed in the CRO but can be taken up in the future.

4.2 Cumulation

4.5. The LDC Group pointed out that cumulation possibilities can provide important flexibility. However, cumulation possibilities should not be a substitute for simple and [flexible] rules of origin, since cumulation is often associated with a series of administrative procedures and conditions. In this sense, the general and product-specific rules of origin had to be considered together with cumulation for a full appraisal of the leniency or stringency of the rules bearing in mind that [flexible] product specific rules of origin should be a priority.

4.6. In this respect, the LDC Group noted difficulties related to the use of cumulation by Cambodia under the European Union's GSP ([G/RO/W/220](#)). The submission raised important cross-cutting issues concerning cumulation, the procedures attached to cumulation, and the graduation of LDCs and neighbouring countries in the same regional group. The submission shared practices used by some preference-granting Members, which could be replicated to facilitate the functioning of value chains through the use of cumulation possibilities. It was noted that Cambodia had to go through a cumbersome procedure to request for extended cumulation to the European Union in December 2022. This request was approved in September 2023.

5 DOCUMENTARY REQUIREMENTS

5.1 Proof of Origin

5.1. Paragraph 1.8 of the Bali Ministerial Decision recognizes self-certification as a useful trade facilitating practice. In that context, the LDC Group noted that the European Union, Norway, and Switzerland had introduced self-certification under the Registered Exporter System (REX). Australia's ASTP; the Canadian GSP; the US AGOA; the US Caribbean Basin Economic Recovery Act (CBERA) and the Nepal Preference Program also provided for self-certification, while Japan allowed for self-certification of origin in certain instances. The United Kingdom's Developing Countries Trading Scheme also permits self-certification. China allowed for self-declaration for consignments that benefited from an advance origin ruling. The LDC Group requested the delegations of Chile; China; India; the Republic of Korea; the Russian Federation; Chinese Taipei; and Thailand to introduce self-certification as an option for certain goods.

5.2. Proof of origin is a key component of rules of origin and trade facilitation. A note prepared by the WTO Secretariat ([G/RO/W/212](#)) indicated that preferences allowing for self-certification tend to be associated with higher levels of utilization than preferences requiring certificates of origin.

5.2 Trade Facilitation Measures for Small Consignments

5.3. The issue of "minimizing documentation requirements for small consignments" has not yet been discussed in the Committee but can be taken up in the future.

5.3 Documentary Evidence of Direct Consignment

5.4. As noted in a submission of the LDC Group¹⁰, documentary evidence related to direct consignment could constitute an obstacle for certain LDCs, especially landlocked and island LDCs. In this respect, the LDC Group noted that most preference-granting Members required documentary evidence of non-manipulation in case of transit (either a through-bill of lading or a certificate of non-manipulation). Similarly, other preference-granting Members, such as the United States, did not require documentation related to non-manipulation if the final destination of the shipment from an LDC is marked as the United States. In this sense, the LDC Group noted that the "non-alteration" rule introduced by the European Union could constitute a better practice in this area.

5.5. An important difference between the EU's previous direct transportation requirement and its new non-manipulation clause (non-alteration principle) lies in the documentary evidence to be provided. Under the new non-manipulation (non-alteration principle) clause, the requirements are considered as satisfied unless the customs authorities have reasons to believe the contrary. In such cases, the customs authorities may request the importer to provide evidence of compliance, which may be given by any means.¹¹ Hence, no documentary evidence has to be provided to prove direct shipment unless customs administrations have a doubt. The LDC submission concluded that this provision, or similar arrangements, such as those adopted by Australia and New Zealand¹², constituted a best practice that other preference-giving Members should progressively adopt.

¹⁰ Document [G/RO/W/191](#).

¹¹ 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

¹² New Zealand does not require any certification or documentation (including for proof of origin) for LDC imports.

6 IMPACT OF PREFERENTIAL RULES OF ORIGIN ON PREFERENCE UTILIZATION: THE ANALYSIS OF PREFERENCE UTILIZATION RATES

6.1. Further to paragraph 4.3 of the Nairobi Ministerial Decision¹³, Members have:

- (i) Agreed to modalities for the calculation of utilization rates; and
- (ii) considered several notes, prepared both by the LDC Group, a preference-granting Member, and the WTO Secretariat, describing patterns of utilization of trade preferences by LDCs.

6.1 Linking Preference Utilization Rates and Preferential Rules of Origin

6.2. Preference utilization rates are a useful marker to examine the impact of origin-related requirements. In fact, customs will only grant preferential treatment to goods which are deemed to "originate" in the beneficiary LDC. In practice, a good must simultaneously satisfy three requirements:

- (i) A good must be wholly obtained in the beneficiary LDC or comply with minimum substantial transformation requirements (that is, satisfy general or product-specific rules of origin);
- (ii) a good must demonstrate compliance with such requirements by being accompanied by the prescribed proof of origin (namely, a certificate of origin delivered by a designated competent authority or certifying body, or a self-declaration of origin); and
- (iii) a good must in principle be directly consigned from the beneficiary LDC to the preference-granting Member to avoid any risks of further manipulation in third or transit territories or, in case of transit, goods must satisfy the prescriptions in relation to documentary evidence about non-manipulation (or non-alteration) in transit.

6.3. If a preference is fully utilized (that is, a utilization rate of 100%), it *necessarily* indicates that these three requirements have been simultaneously met, and therefore that origin requirements did not hinder the utilization of the preference.

6.4. If, on the contrary, a preference is not being utilized, it could be an indication that different factors are hindering preference utilization, including some factors related to rules of origin and origin requirements. [Insert text to be provided by the LDC Group and China].

6.2 Modalities for the calculation of Utilization Rates

6.5. The Committee agreed to a modality for the calculation of utilization rates in 2016. Annex 4 contains the agreed formula as well as references to more recent discussions held in the CRO in this respect.

6.3 Preference Utilization by LDCs

6.6. Presentations¹⁴ on utilization rates made by the LDC group showed that (1) some preference-granting Members 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-favoured-nation (MFN) tariff rates despite being eligible for preferential treatment.

6.7. The examination of import statistics for the 2015-2019 period indicates that utilization of preferences can be improved in all preferential arrangements. It also suggests that utilization rates vary significantly across different preference-granting Members. Even in cases of overall high levels of utilization, there might also be "pockets" of non-utilization in certain sectors, and some preferential arrangements show a low or very low level of utilization. In addition, preference utilization rates show significant annual variations, which confirms the benefits of examining multiple

¹³ Paragraph 4.3 reads: "[...] Members reaffirm their commitment to annually provide import data to the Secretariat as referred to 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".

¹⁴ Presentations [RD/RO/58](#) and [RD/RO/73](#).

years to identify structural patterns and trends. Strong variations of utilization depending on trade values could also be an indication that the utilization of preferences is influenced by trade values.

6.8. While the discussions in the CRO were useful to better understand the impact of rules of origin on preference utilization, they also highlighted various limitations in the data that require the Committee's further consideration. [In many cases, the relevant preference-granting Member identified discrepancies between the analyses and their own internal research, while in certain other cases, temporary tariffs and other factors not available to the Secretariat were identified as limiting the scope of the analysis. For this reason, it is recommended that preference-granting Members collaborate with the Secretariat and other stakeholders for the calculation of utilization rates. [To be edited in light of text to be submitted by the deletations of China and the LDCs]]

6.9. A submission prepared by the LDC group, showed large pockets of underutilization in Switzerland's trade preferences.¹⁵ It was observed that Swiss utilization rates for garments and clothing imports of HS Chapters 61 and 62 (0-49%), were lower than those observed in the EU (95%) on average. Given that the EU and Swiss rules of origin were identical, it was deemed necessary to identify the reasons for such lower utilization rates in the Swiss market. Constructive bilateral consultations took place between Switzerland and the LDC group and pointed to the effect of direct consignment requirements on utilization. Internal consultations to improve utilization rates of preferences granted to LDCs are ongoing in Switzerland.

6.10. Another submission¹⁶ analyzed the utilization of China's preferential arrangement. [The submission found low utilization rates on a wide range of tariff lines: from raw materials, natural products, and agricultural products (see sugar cane) to garments and other industrial products (motors, static converters, etc.). China objected to these findings, explaining that utilization of other preferences or duty relief schemes could explain the low utilization of China's LDC preferences. Subsequently, China submitted a detailed response ([G/RO/M/73](#)) showing that the ASEAN-China FTA benefitted Cambodia and Myanmar and that the Asia Pacific Trade Agreement benefitted Bangladesh. This response emphasized the need for a correct and complete dataset on Utilization Rates as an indispensable tool. The analysis also showed that duty relief schemes are granted erga omnes, cannot be considered as a preference and hence must be excluded from the calculation of utilization rates.

6.11. A subsequent submission by the LDC group¹⁷ found similar patterns of utilization in China's and India's preferential arrangements. A wide range of tariff lines, including wholly obtained products, clothing and textile, and precious stones are not receiving preferential treatment. The LDC Group acknowledged that the data used was incomplete and therefore called on China and India to redouble efforts to provide the WTO secretariat with an appropriate and complete set of data. China and India's representatives objected to the findings of the LDCs' submission, stating that the methodology used by the LDCs to calculate utilization rates did not take into account other duty relief schemes. [To be edited in light of text to be submitted by the deletations of China and the LDCs]

6.4 Discussion on different factors that could affect the Utilization of Trade Preferences

6.12. It was also discussed in the CRO that additional factors could help explain low rates of preference utilization, including:

- a) The existence of several preferential schemes or the availability of other tariff concessions (for example, Australia grants trade preferences to Cambodia under the "Australian System of Tariff Preferences" (ASTP) and under the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) and under the Regional Comprehensive Economic Partnership (RCEP) As a result, low preference utilization under one scheme may indicate that better rules of origin or preferential margins are provided under a FTA rather than through unilateral preferences under the DFQF initiative. These aspects need to be properly analysed to identify ways and means to improve rules of origin in the context of duty free and quota free initiatives for LDCs.
- b) economic operators may not be aware of the availability of preferences or may simply choose not to claim any preferential benefits, including because they perceive these benefits to be

¹⁵ Document [G/RO/W/186](#).

¹⁶ Document [G/RO/W/192](#).

¹⁷ Document [G/RO/W/222](#).

- insignificant (such as a tariff margin that is too small) or because they perceive compliance costs to be too high (for example, the time or documentation needed to obtain a certificate of origin is too long, or the costs of consigning goods directly are too high);
- c) the utilization of trade preferences also varies greatly from one LDC to another. Going forward, a better understanding of these differences – and particularly the case of LDCs who managed to improve their utilization rates, such as Afghanistan or Rwanda – could yield useful insights about the mechanics behind better preference utilization;
 - d) there might be a "learn by doing effect". In other words, the utilization of preferences increases with time, as operators become increasingly familiar with the preference and its requirements. This is noted at least in one PTA-LDC (Chile). It would be useful to better understand any strategies that were implemented to increase awareness of, and compliance with, preferential origin requirements;
 - e) direct consignment obligations and the related documentary evidence seem to have a significant impact on the ability of LDCs to utilize their available trade preferences. Landlocked LDCs find it more difficult to benefit from trade preferences. In fact, the analysis shows that there is a significantly lower utilization of preferences in the case of landlocked LDCs;
 - f) the modalities concerning proofs of origin also seem to have a significant impact on the ability of LDCs to utilize trade preferences. Self-certification is associated, in general, with better preference utilization. Nevertheless, these findings need to be interpreted with caution given limitations in the methodology and data, as well as the difficulties in isolating the impact on origin certification of other factors;
 - g) better preference utilization also depends from effective technical assistance provided by preference-grating Members and aid for trade initiative to fund trade facilitation reforms in beneficiary LDCs, in particular to promote trade preferences among economic operators, and facilitate and simplify the administrative procedures for the application and delivery of certificates of origin; and
 - h) In addition, the following events were organized which explored the factors that influence the utilization of trade preferences, including rules of origin:
 - A first [Webinar](#) organized by the Secretariat 2021 "What drives the utilization of trade preferences";
 - a second, follow-up [Webinar](#) organized by the Secretariat in 2022 on "What drives the utilization of trade preferences"; and
 - a [webinar](#) organized by the delegation of the United States during the 8th WTO Aid for Trade Review on "How can exporting countries improve utilization of US Trade Preference Programs?"

6.13. Going forward, some preference-granting Members have noted that it would be useful for preference-granting Members and beneficiary LDCs to strengthen their cooperation for the calculation of utilization rates, and to strive together to improve the accuracy of the relevant research. Members are also encouraged to carry out their own studies about the utilization of LDC-PTAs and share them in the CRO.

6.14. In relation to the utilization of trade preferences, Members also took note of the launch by UNCTAD of the online platform "[Database on Generalized System of Trade Preferences Utilization](#)". This tool provides information on the utilization of the GSP schemes, as well as other trade preferences granted to developing Members and LDCs by Canada, the European Union, Japan, and the United States.

7 [NEXT STEPS/CONCLUSION]

7.1. [Insert text to be provided by the LDC Group and the European Union]

8 REFERENCES TO DOCUMENTS CONSIDERED BY THE CRO (2013-2023)

Annex 1 contains a list of documents submitted by delegations. Annex 2 contains the list of background notes prepared by the WTO Secretariat. Annex 3 contains the list of annual reports from the CRO to the General Council on preferential rules of origin for LDCs since 2013.

ANNEX 1

DOCUMENTS CONCERNING PREFERENTIAL RULES OF ORIGIN FOR LDCS

List of Documents Submitted by the LDC Group on Preferential Rules of Origin for LDCs (2013-2023)

Document Symbol	Title	Member	Date of Discussion
G/RO/W/148	Challenges faced by LDCs in complying with preferential rules of origin under unilateral preference schemes	LDC Group	November 2015
G/RO/W/154	Elements for a discussion on preferential rules of origin for LDCs	LDC Group	April 2015
G/RO/W/159	Implementation of Nairobi Ministerial Decision on Preferential Rules of Origin for least developed countries	LDC Group	April 2016
G/RO/W/169	Possible agenda items for a dedicated session of the CRO meeting on preferential rules of origin for LDCs	LDC Group	October 2017
RD/RO/52	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)	Tanzania and Lao PDR (on behalf of the LDC Group)	October 2017
RD/RO/53	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)	Benin (on behalf of the LDC Group)	October 2017
RD/RO/54	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)	Myanmar (on behalf of the LDC Group)	October 2017
RD/RO/55	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)	Tanzania (on behalf of the LDC Group)	October 2017
RD/RO/56	Developments regarding cumulation provisions (Paragraphs 2.1 and 2.2 of the Nairobi Decision and Item 5 of Document G/RO/W/169)	Cambodia (on behalf of the LDC Group)	October 2017
RD/RO/57	Developments regarding documentary requirements (Paragraph 3 of the Nairobi Decision and Item 6 of Document G/RO/W/169)	Nepal (on behalf of the LDC Group)	October 2017
RD/RO/58	Utilization rates under preferential trade arrangements for least developed countries (paragraph 4.3 of document WT/L/917/Add.1)	Yemen (on behalf of the LDC Group)	October 2017
G/RO/W/174	Implementation of the Nairobi Ministerial Decision on Preferential Rules of Origin for Least Developed Countries	LDC Group	April 2018
RD/RO/73	Identifying low utilization of trade preferences due to the stringency of rules of origin: new evidence	Tanzania (on behalf of the LDC Group)	October 2018
G/RO/W/184 and Rev.1 RD/RO/79 (presentation)	Rules of origin based on a change of tariff classification	LDC Group Tanzania (on behalf of the LDC Group)	May 2019
G/RO/W/186 and RD/RO/80 (presentation)	Further evidence from utilization rates	LDC Group Bangladesh (on behalf of the LDC Group)	May 2019

Document Symbol	Title	Member	Date of Discussion
G/RO/W/191 and RD/RO/82 (presentation)	Direct consignment rules and low utilization of trade preferences	Cambodia (on behalf of the LDC Group)	October 2019
G/RO/W/192 and RD/RO/84 (presentation)	Further evidence from utilization rates: utilization by LDCs of China's preference	LDC Group Tanzania (on behalf of the LDC Group)	October 2019
RD/RO/87	Fifth anniversary of the Nairobi Ministerial Decision: Review of implementation, identification of gaps and the way forward	Yemen and Cambodia (on behalf of the LDC Group)	March 2020
G/RO/W/202 and RD/RO/91	Submission of LDC to the Committee on Rules of Origin ad valorem criterion - Communication from the LDC Group	LDC Group Tanzania and Afghanistan (on behalf of the LDC Group)	November 2020
G/RO/W/197	Further Clarification on the LDC Group's Report of Utilization by LDCs of China's Preference"	China	July, 2020
G/RO/W/198	Submission of Chad on behalf of the LDC Group - Preferential rules of origin for least developed countries	LDC Group	November 2020
G/RO/W/209	Further submission on rules of origin based on a change of tariff classification - The case of rules of origin used by Japan	LDC Group	October 2021
G/RO/W/210	Taking note of the implementation of the Bali and Nairobi Ministerial Decisions at MC12	LDC Group	October 2021
G/RO/W/211	Examination of existing origin-related documentary requirements (paragraph 1.8 of the Bali Decision and paragraph 3.1 of the Nairobi Decision)	LDC Group	April 2022
G/RO/W/216	Preliminary examination of proposed new rules of origin under the UK Developing Countries Trading Scheme (DCTS)	LDC Group	October 2022
G/RO/W/220	The impact of GSP graduation on LDCs and cumulation – The case of Cambodia	Cambodia	June 2023
G/RO/W/222 and RD/RO/102 (presentation)	Further evidence from utilization rates - Utilization by LDCs of China and India's preference	Djibouti (on behalf of the LDC Group)	June 2023
RD/RO/103	Alternative methods of assessing utilization of preferential rules of origin of LDCs	China	June 2023

ANNEX 2

LIST OF BACKGROUND NOTES PREPARED BY THE SECRETARIAT ON PREFERENTIAL RULES OF ORIGIN FOR LDCS (2013-2023)

Document Symbol	Title	Date of discussion
G/RO/W/161	Modalities for the calculation of "Preference utilization"	7 September 2016
G/RO/W/168/Rev.1	Utilization rates under preferential trade arrangements for least developed countries under the LDC duty scheme	4 October 2017
G/RO/W/178	Preferential rules of origin for least developed countries - Rules of origin based on the criterion of change of tariff classification	15 October 2018
RD/RO/W/179	Utilization rates under preferential trade arrangements for least developed countries under the LDC duty scheme	15 October 2018
G/RO/W/185	Utilization rates under preferential trade arrangements for least developed countries under the LDC duty scheme	15 May 2019
G/RO/W/187/Rev.1 and RD/RO/81 (presentation)	Impact of direct consignment requirements on preference utilization by least developed countries	17 October 2019
G/RO/W/203 and RD/RO/89 (presentation)	Calculation of utilization rates under preferential duty schemes for Least Developed Countries : the case of minerals and metals	13 November 2020
G/RO/W/204 and RD/RO/94 (presentation)	Utilization of trade preferences by Least Developed Countries - 2015 - 2019 patterns and trends	20 May 2021
G/RO/W/212 and RD/RO/99 (presentation)	Certification of origin and the utilization of trade preferences by least developed countries	6 June 2023

ANNEX 3

LIST OF REPORTS TO THE GENERAL COUNCIL ON PREFERENTIAL RULES OF ORIGIN FOR LDCS

Year	Annual Reports to the General Council	
	Draft	Adopted
2014	-	G/RO/76
2015	G/RO/W/156	G/RO/77
2016	G/RO/W/164/Rev.2	G/RO/79
2017	G/RO/W/173	G/RO/85
2018	G/RO/W/180	G/RO/87
2019	G/RO/W/188/Rev.1	G/RO/89
2020	G/RO/W/201	G/RO/91
2021	G/RO/W/207	G/RO/94
2022	G/RO/W/213/Rev.1	G/RO/97
2023	[To be issued]	[To be issued]

ANNEX 4**METHODOLOGY FOR THE CALCULATION OF PREFERENCE UTILIZATION RATES**

1. The Committee adopted the following modality for the calculation of utilization rates:

$$pur_{i,p}^{value} = \frac{\sum_j \sum_p PTA_{j,p}^{reported}}{\sum_j \sum_p PTA_{j,p}^{eligible}}$$

$pur_{i,p}^{value}$: PREFERENCE UTILIZATION RATE (per cent) based on import value by preference granting Member

where: I = preference granting Member
 J = preference receiving Member
 P = product
 $PTA^{reported}$ = imports reported to have taken place under the PTA preferential duty scheme
 $PTA^{eligible}$ = imports under any eligible tariff line, i.e. preferential duty < MFN duty rate.

2. More recently, the notes of the Secretariat have also used "underutilization" as a complementary methodology for the discussion of preference utilization rates. The use of this methodology allows for a comprehensive analysis of the factors that define trade between LDCs and preference-granting Members. Underutilization rates reflect the proportion of imports which pay MFN duties despite being eligible for *at least one* trade preference programme. Nevertheless, under this methodology, different preferential arrangements, with their own individual rules of origin, are lumped together. For this reason, underutilization rates alone do not allow to make policy conclusions about the rules of origin applied in individual preferential arrangements. However, a combined use of both methods can be useful.

3. The methodologies for the calculation of preference utilization rates as well as data requirements for such calculations are discussed in greater detail in document [G/RO/W/161/Rev.1](#).