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**Committee on Rules of Origin**

**MINUTES OF THE MEETING OF 25 OCTOBER 2007**

Chairperson: Ms. Vera Thorstensen

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**I. ELECTION OF OFFICERS**

1.1 The CRO re-elected Ms. Vera Thorstensen (Brazil) as Chairperson and Mr. Yoshitomo Kondo (Japan) as Vice-Chairman of the Committee on Rules of Origin (CRO) for 2007.

**II. REPORT OF THE WORK OF THE TECHNICAL COMMITTEE ON RULES OF ORIGIN**

Non-preferential rules of origin

2.1 The representative of the World Customs Organization (WCO) stated that the Technical Committee on Rules of Origin (TCRO) held its 25th Session on 5 and 6 February 2007 at WCO Headquarters in Brussels, chaired by Mrs. L. Ghrairi (Morocco).

2.2 As part of its permanent responsibilities, the TCRO adopted its Eighth Periodic Report and its Eighth Annual Review on technical aspects of the implementation of the WTO Agreement for the period from 1 January to 31 December 2006.

2.3 During this Session, the WTO representative reported on the work carried out by the CRO in 2006, especially the discussions focusing on agricultural products, cement, chemicals, leather, textiles and footwear in June 2006. He also referred to the CRO Chairperson's proposals regarding the machinery sector. The Technical Committee took careful note of all this information, as the customs community was poised to prepare for the practical implementation of the WTO Agreement on Rules of Origin and, when the time would come, to undertake the technical work likely to be asked of it by the CRO.

#### Preferential rules of origin

2.4 On the basis of a document drafted by a WCO Member, the TCRO had held initial discussions on the issue of the multiplication of Free Trade Agreements comprising preferential rules of origin. The private sector was encountering ever more problems in using these rules and customs authorities in monitoring them, given that their numbers were increasing with every month that goes by. In a Contracting Party where there were several preferential agreements and comprising different preferential rules, traders and customs officials often had difficulties applying these rules. That was why the WCO had decided to launch an action plan to help its Members and users of rules of origin. This plan can be summarized as follows:

- The WCO should work to establish a database of preferential arrangements to support Customs services and the business community;
- A study on existing preferential arrangements should be launched to examine the existing rules and administrative arrangements with a view to identifying and establishing standards and best practices for WCO Members;
- Common interpretations of technical rules should be prepared to improve their understanding and application;
- Work should be undertaken to deepen the relationship between Customs services and the business community in the area of the management and application of rules of origin;
- There should be greater use of risk management to support controls and to ensure compliance with the rules;
- Targeted technical assistance should be provided (in so far as resources allow) on a regional basis to those WCO Members who request it.

This plan was approved by the WCO Council in June 2007 and is currently being implemented.

#### Technical assistance activities

2.5 The Secretariat undertook three technical assistance activities relating to the harmonization of non-preferential rules of origin and the main characteristics of the preferential rules. A regional seminar was held in Malaysia in April 2007 and two national seminars were organized, one in Ecuador in December 2006 and the other in Montenegro in January 2007.

Other information

2.6 The WCO now has 171 Members, with Montenegro and the Lao People's Democratic Republic recently becoming Members of the Organization.

2.7 The CRO took note of the report and expressed appreciation for the TCROs continued valuable work.

**III. TECHNICAL ISSUES IN THE HARMONIZATION WORK PROGRAMME (JOB(07)/84/REV.1, G/RO/W/111) – REPORTING OF THE INFORMAL CONSULTATIONS**

3.1 Based on the informal consultations the Chairperson had held with Members concerned, the Chairperson stated as follows:

**A. OVERALL ARCHITECTURE**

1. Scope of Application

One delegation stated that the deletion of the original General Rule 1 "Scope of Application" may lead to confusion in the scope of application of the harmonized rules of origin in non-preferential commercial policy instruments. They are of the view that the original General Rule 1 should be retained until the General Council has a decision on implications issue.

2. General Rule 4

It was noted that General Rule 4 is applicable only for Appendix 1 as well as for the tariff-shift rules or specific process rules provided in the Appendix 2. The meaning of the Rule should be interpreted in accordance with the HS GIR5 and, therefore both "packing for retail sale" and "packaging for shipment are normally covered by this Rule if they are classified with the good.

3. General Rule 6

- (a) It was noted that the phrase "packaging or presenting goods for sale" should read "(iii) packaging or presenting goods for sale".
- (b) It was also noted that General Rule 6 would be applicable to the certain product-specific rules of Appendix 2 which contain the term "wholly obtained in one country".
- (c) It was further noted that the value of minimal operations are not to be taken into account in the context of Appendix 1, nor of Appendix 2 product-specific rules which contain the term "wholly obtained in one country".
- (d) One Member welcomed General Rule 6 and agreed that it should also apply to non-wholly obtained goods as well. However, the wordings of the rule should be accordingly amended to reflect such a change: "Operations or processes undertaken, by themselves or in combination with each other for the purposes listed below, are considered to be minimal and shall not be taken into account in determining the origin of a good."

4. Appendix 1 – Definition 1(b)

One Member questioned whether bacteria and viruses should be included therein.

5. Appendix 1 – Definition 2

- (a) It was noted that definition 2 should be renumbered in a consistent manner with definition 1.
- (b) Some Member expressed their concern over the ambiguity of definition 2(i) and (ii) of the expression "the sea outside a country", whilst others stated that the expression seems only one possible solution at this stage.
- (c) One Member expressed concern over the expression "the country whose flag the vessel that carries out those operations is entitled to fly".
- (d) One Member stated that on the issue of "Fish taken from the Sea of the Exclusive Economic Zone" under Definition 2(i) in Appendix 1, they support the "flag criterion" but maintain their reservation in making explicit reference to the UNCLOS in the Definition. They also noticed that a footnote relating to UNCLOS has been added under definition 2(iii) on p. 6. The Secretariat was requested to elaborate on the purpose and meaning of the footnote.

6. Appendix 2, Rule 2(f)

- (a) It was noted that Rule 2(f) could further be clarified.

7. Appendix 2, Rule 3

- (a) It was noted that numbers "(g) – (l)" should read "(a) – (f)"
- (b) It was also noted that criteria to apply to Appendix 2, Rule 3(f) should be prepared for each chapter.
- (c) One Member found the "Primary Rules" under Rule 3 of Appendix 2 unhelpful in the determination of origin. It does not address the situation where a specific stage of production has been designated as origin-conferring.

8. Appendix 2, Rule 5

- (a) One Member stated that a special customs procedure is needed to implement Rule 5, whilst some other Member pointed out that "an inventory management method" is a common practice employed by some government agencies, like customs and an internal revenue agency.
- (b) It was noted that examples of interchangeable materials are bolts and nuts, side mirrors of cars, etc.

9. Residual Rules for agricultural products resulting from mixing Chapters 2-24:

- (a) It was noted that the whole text should be in square brackets.
- (b) One Member suggested changing "85% in volume of alcohol content for spirits (heading 22.08)" to "85% in volume of alcohol content for spirits, liquors and other

spirituous beverages (heading 22.08)". Another Member reserved their position on the expression "alcohol content".

- (c) One Member suggested adding "vermouth" (heading 22.05) to the exception list 5(i) "85% in volume for wine (heading 22.04)".

10. Appendix 2, Rule 6

- (a) One Member expressed concern that if 10% De Minimis rule is applicable to the value-added rule, the 35% threshold could be reduced to 25%

**B. DOCUMENT G/RO/W/111**

Ch 3

It was noted that the wording of the rules referring to "country in which they have been captured" should be clarified.

Value-added Rule

One Member preferred "FOB price" to "ex-work price" as a calculation method of percentage of value-added.

Residual Rule for Ch. 59

One Member doubted that this residual rule is needed for Ch. 59.

Residual Rule for Ch. 61

One Member requested the proponent of this rule to clarify the meaning of "the most significant assembly operation".

Note for Ch. 62

It was noted that the phrase "[or the knitting or crocheting]" should be deleted in Chapter Note (a).

Dyeing or Printing (Chs 50-63)

One delegation stated that they would consider and submit a list of preparatory and finishing operations for the dyeing or printing rule.

Chapter 63

It was noted that a rule "CTH, provided the starting a material is pre-bleached or unbleached fabric" should be in square brackets.

Non-Origin Conferring Rules

It was noted that Appendix 2, Rule 2(d) includes a list of non-origin conferring operations; therefore it was agreed that the Secretariat delete all rules or notes which are equivalent to the non-origin conferring operations referred to in Appendix 2, Rule 2(d).

Heading 70.19

It was noted that product-specific rules of origin of subheading 7019.51 should read "CTSH, except from subheadings 7019.52 or 7019.59; subheading 7019.52, "CTSH, except from subheadings 7019.51 or 7019.59; and subheading 7019.59, "CTSH except from subheadings 7019.51 or 7019.52".

Chs 82-83

It was agreed that the title of Note "Assembly" should read "Blanks rule" for Chs. 82 and 83.

Heading 82.15

One Member suggested, for the sake of coherence, changing sets rule for heading 82.15 to "CC, except when resulting only from putting up in sets" for subheadings 8215.10 and 8515.20; "CTH, except when resulting only from putting up in sets" for headings 8215.91 and 8215.99.

Notes for Chs. 84-90 Applicable to Primary Rules contained in Column D

It was noted that numbers "2 - 5" of Notes C(b) should read "1 - 4".

Primary Rules for Chs. 84-90 Applicable to Primary Rules contained in Column C

- It was noted that further clarification for the meaning of "the major portion of that material or component" in Rule A.2(b) from the proponent of the rule is needed.
- It was noted that further clarification for the meaning of Rule A.2(c)(3)(i) and (ii) from the proponent of the rule is needed.

Ch 97

It was noted that residuals rules in this Chapter should be in square brackets.

**C. DOCUMENT JOB(07)/84/REV.1**

No. 1 (Chs 1-24)

China supports Option B.

No. 4(iii) (Chs 1-24)

Thailand supports Option C.

No. 13 (Chs 1-24)

Thailand supports Option A.

No. 30 (Chs 1-24)

Japan supports Option B.

No. 46 (Chs 1-24)

Japan supports Option A.

No. 51 (Chs 1-24)

The EC supports the Chair's compromise proposal (CC)

No. 82 (Chs 1-24)

Korea supports Option A.

No. 83 (Chs 1-24)

Japan supports Option B.

No. 108 (Chs 1-24)

- The EC strongly supports the option "CTH, except from heading 22.04"
- Korea and Japan support CTH, but can join consensus.

No. 115 (Chs 1-24)

It was noted that either (i) the rule of heading 15.18 should be "CTH, or change by chemical reaction"; or (ii) the definition of chemical reaction should be changed to an origin-conferring rule.

Nos. 3, 7, 24 (Chs 28-40)

The EC reserves its position on these issues. Japan reserves its position on issue No. 7.

No. 30 (Chs 28-40)

Japan reserves its position on this issue.

No. 5 (Chs 50-63)

Hong Kong, China supports Option A.

No. 36 (Chs 50-63)

Korea supports Option A.

No. 60 (Chs 50-63)

Hong Kong, China has an open mind to further discuss this issue.

No. 74 (Chs 50-63)

Korea supports Option B for Ch 43 (fur), and accepts Option A for Ch 42 (leather). Hong Kong, China has an open mind to further discuss this issue. Japan reserves its position on this issue.

No. 81 (Chs 50-63)

Japan; Hong Kong, China; and Korea support Option A; but Korea can be flexible. The EC questions the coherence between this rule and other agreed rules in these chapters.

Nos. 9, 10 and 11 (Chs 68-70)

The EC strongly supports Option A. Japan reserves its position on this issue.

No. 10 (Chs 74-81)

Japan reserves its position on this issue.

No. 1 (Ch 92)

China supports Option A. Japan reserves its position on this issue.

No. 6 (Chs 93-97)

Thailand supports Option A.

**Egypt's Position**

1. Issue No. 2 (Chs 1-24)

Option B

2. Issue No. 17 (Chs 1-24)

Option A

3. Issue No. 3 (Chs 1-24)

Option A

4. Issue No. 79 (Chs 1-24)

Option A

5. Issue No. 15 (Chs 1-24)

Option A

6. Issue Nos. 58, 59 and 60 (Chs 1-24)

CTH "Chair's Proposal"



7. Issue No. 64 (Chs 1-24)  
CTH Option B
8. Issue No. 77 (Chs 1-24)  
Option A - CTH
9. Issue No. 78 (Chs 1-24)  
Option A - CC
10. Issue No. 98 (Chs 1-24)  
Option A – CTH/CTSH
11. Issue No. 99 (Chs 1-24)  
Option B
12. Issue No. 1 (Chs 25-27)  
CTH, No Residual Rule
13. Issue No. 8 (Chs 28-40)  
Option A
14. Issue No. 7 (Chs 41-43)  
Option C – CTHS Exception from
15. Issue No. 46 (Chs 50-63)  
Option B
16. Issue No. 50 (Chs 50-63)  
Option B
17. Issue Nos. 48, 55, 59, 61, 62 and 69 (Chs 50-63)  
Option C – Origin of the Country of Fabric
18. Issue Nos. 63-67 and 71 (Chs 50-63)  
Option C  
Issue No. 9 (Chs 64-67)  
Option A

19. Issue Nos. 11-14 (Chs 64-67)
- 11: Option C
  - 12: Option C/2
  - 13: Option A
  - 14: CTH
20. Issue Nos 3a, 3c and 5 (Chs 72-73)
- |                     |      |
|---------------------|------|
| ex72.10(b):         | CTH  |
| ex72.10(d):         | CTH  |
| ex72.12(b):         | CTH  |
| ex72.16(d):         | CTH  |
| 72.17:              | CTH  |
| ex72.19(d):         | CTHS |
| ex72.20(d):         | CTHS |
| ex72.22(e):         | CTH  |
| ex72.22(f):         | CTHS |
| ex72.25(d):         | CTHS |
| ex72.26(d):         | CTHS |
| ex72.28(e):         | CTH  |
| ex72.28(f):         | CTHS |
| 72.29:              | CTH  |
| 7303; ex7304.10(a): | CTH  |
| 7305, 7306:         | CTH  |

3.2 The Chairperson also proposed the following timelines for Members' comments on document G/RO/W/111:

- |                   |   |
|-------------------|---|
| 30 November 2007: | Agricultural products and fish (Chs 1-24) |
| 31 January 2008:  | Other goods of Chs 28-83, 91-97.          |
| 15 February 2008: | Machinery                                 |
| 28 February 2008  | Overall architecture                      |

3.3 The representative of New Zealand stated that they had participated in part of the informal consultations. But he admitted that the time set aside for these consultations came to a surprise to them, given the pressures on delegations, which might account for a somewhat sparse attendance at the consultations. They had expected that these discussions would be folded into the regular session of the CRO. They were certainly ready to support technical work in the CRO, as provided for by the decision of the General Council. They also recalled that the Chair of the General Council would be consulting with Members on specific aspects of the Harmonized Work Programme (HWP) and was looking forward to that. It was not clear to them what the difference, in terms of approach, was at this point from what the delegations were doing before the General Council had considered the CRO Chair's report in July. They would not stand in the way of this work but their views on the utility of this exercise and their concerns had not changed about respecting the original purpose of the mandate for this work.

3.4 The representative of Australia agreed with the statement the representative of New Zealand made and emphasized a couple of points. They were certainly, as he had said in the informal consultations, grateful for the enormous amount of work that had gone into the preparation of documents by the Secretariat. Looking back as to where these meetings sat within the context of the HWP, the CRO took from the General Council the understanding that a couple of issues, particularly the implications issue and machinery issue, were to be carved out or put aside for the consideration in the General Council. The second part of what was decided was that the technical work would continue on the regular work of the CRO. Australia would hold a similar resource and time concerns as raised by New Zealand. That should not be seen in isolation because part of this work in the CRO should be based on Members' drive and Members' inputs and also be seen in the context of the big outstanding issue that is with the General Council. They sensed that there was a great amount of time put aside for the technical discussion but that there was a lack of engagement; that might have had something to do with the big document circulated just before the meeting. They held concerns over any extensive meetings scheduled outside of the regular work of the CRO and believed that it should be brought back to the CRO.

3.5 The representative of the Philippines recollected that the decision taken by the General Council carved out the issues on the implications and on the dual-rule approach. At the same time there was a sense, from the technical experts in the CRO, that there was room to work out the technical issues which were still pending. The meeting scheduled for this week was for that particular purpose. She understood very well why a good number of delegations could not participate as actively as they would wish: for example, timing of the issuance of the document, although it was fully understood that the delay was caused by the volume of the document which put all things together. It was important for the CRO to ask itself what the delegations wanted to do about the technical issues. In the end it was the delegations' responsibility to decide where the CRO wanted to move with regard to the work.

3.6 The representative of the United States stated that the timelines set for comments on documents containing technical issues would help the delegations, particularly in capital, look at the extensive amount of documents and comment by e-mail which could be circulated to other Members, thereby getting the technical underbrush cleared away. The resource constraints were real and this was a good way for the delegations to get things done without having to call frequent meetings. He also thought that the way the CRO was proceeding was within the mandate given to the CRO by the General Council. The discussion on the technical aspect of the overall architecture was to tie up the loose ends of the current texts as far as possible without considering the implications issue which were in the hands of the General Council.

3.7 The representative of the European Communities agreed with the statement made by the representative of the United States. She also interpreted the decisions of the General Council as putting aside the implications issue and the double-rule approach for the assembly issue. But, in the meantime, the CRO had to continue working on technical issues. The Secretariat had done a marvellous job in producing the document G/RO/W/111 which was a solid base for future work but which was also only a draft document. The CRO has to go through the document to check whether the document reflects correctly the decisions taken by the CRO. Setting a timeline for the work would be useful for all delegations to work together. Responding to the observations by some delegations that the work should be done in the regular session of the CRO, she pointed out that the formal meetings of CRO were always preceded by informal consultations and that the meetings organized in this week were in accordance with the practice of the CRO. She supported the continuation of the practice of the CRO.

3.8 The representative of Japan echoes the views expressed by the US and the EC. Those technical matters, particularly how the general rules should relate to the rules in the chapter level or product-specific rules of origin, should be carefully considered. All rules are now placed in the

columns in Appendix 2 matrix of document G/RO/W/111; but delegations would have to check whether those rules correctly reflected the decisions taken by the CRO. The timelines suggested by the CRO Chair appeared to be useful for the delegations to carry out their work in a timely manner.

3.9 The representative of Switzerland agreed with the statements made by the previous three speakers on the mandate given by the General Council. He thought that the CRO were on the right track. The suggested timelines seemed useful in carrying out consultations with industries.

3.10 The representative of Korea shared the views expressed by previous four speakers, and stated that the new documents clearly showed what would be technical issues to be carried out by the CRO. The timelines were necessary for the CRO to move forward.

3.11 The representative of Hong Kong, China stated that it was necessary and useful to continue the technical discussions. The CRO should be able to better prepare and organize its work, especially now that a good and big document was available. An organizational arrangement, titled "a timeline for Members to submit their comments to the Secretariat for future consideration/discussion" would be useful for delegations to plan ahead.

3.12 The representative of India stated that the technical work should be continued and completed. He also stated that a consideration might be shown in scheduling for future informal meetings, because they had found it difficult to devote sufficient time for these meetings due to the intensification of negotiations.

3.13 The representative of China echoed the comments made by the previous seven delegations. He supported an early completion of the technical work which had been going on for the last 12 years.

3.14 The representative of Chinese, Taipei stated that the technical work was mandated by the General Council. On the other hand, he shared the concern with Australia and New Zealand over the bigger framework, but he thought the CRO would be able to make a final judgement of the usefulness of the whole package after the General Council would provide its guidance.

3.15 The representative of Malaysia thanked the Secretariat for the tremendous amount of work for the new document. The timelines suggested by the Chair could facilitate CRO's technical work, but it was uncertain that capital would be able to meet the timelines.

3.16 The representative of Turkey stated that given the complexity of the issue, they fully supported the understanding that the technical work would continue, and that setting some timelines was useful in order to keep momentum.

3.17 The representative of Mexico stated that there was a lot of technical work to be done and that the CRO should proceed as it had been doing. She also stated that the Harmonized System with which the CRO had worked was the 1996 version, and questioned whether there was a plan to rectify the results of the HWP on the basis of the future version of the HS.

3.18 The Chairperson stated that the rectification of the results of the HWP on the basis of the HS 2007 would be carried out as soon as the HWP based on the HS 1996 would be completed.

3.19 The CRO took note of the statements made.

**IV. TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA (WT/L/432, WT/ACC/CHN/49, PARAS 97-102, G/RO/W/108)**

4.1 The Chairperson noted that in accordance with paragraph 18 of the Protocol of Accession of the People's Republic of China, the CRO was to report to the Council for Trade in Goods on the outcome of the Review which would then report to the General Council. The Chairperson drew attention to a document, G/RO/W/108 containing questions from Japan.

4.2 The representative of Japan stated that they had two questions, as follows: (1) Japan would like China to explain what kind of rules of origin, such as change in tariff classification, value-added criterion or other rules, apply for trade remedy purposes; and (2) Japan would like China to explain whether same rules of origin apply for trade remedy purposes and general trade purposes.

4.3 The representative of China replied that he would read out a prepared statement by the head of the Chinese delegation on the transitional review of China by the CRO and thanked the Chairperson for allowing him to address the CRO to respond to the questions and comments from Japan, which they received prior to the meeting. With regard to the rules of origin applied for trade remedy purposes, pursuant to the regulations of the People's Republic of China on the origin of import and export goods, where more than one country or region is concerned in the production of the goods, the country or region where the last substantial transformation has been carried out should be determined as the origin of these goods. And, the basic criterion to determine substantial transformation, as provided in Article 3 of these regulations, shall be change in tariff classification. If the change in tariff classification is not applicable to the determination of the origin of the goods such criteria as *ad valorem* percentages and/or manufacturing or processing operations should be the supplementary criteria. To answer the second question posed by Japan, he confirmed that the same rules of origin apply to importation of general trade purposes.

4.4 The CRO took note of the statements made and agreed that the Secretariat prepare a short factual report under the Chairperson's responsibility, together with the minutes of the meeting for further detail, to be sent to the Council for Trade in Goods.

**V. NOTIFICATIONS UNDER ARTICLE 5 AND PARAGRAPH 4 OF ANNEX II OF THE AGREEMENT ON RULES OF ORIGIN (G/RO/N/47-55)**

5.1 The Chairperson recalled that since the last review on notifications by the CRO the Secretariat had circulated nine documents informing delegations of notifications submitted by Albania; Saudi Arabia; the Democratic Republic of Congo; Peru; Australia and New Zealand, Trinidad and Tobago, and Zimbabwe. To date, 77 Members had made notifications of non-preferential rules of origin and 84 Members had made notifications of preferential rules of origin.

5.2 The Chairperson expressed concern that a number of Members had not yet complied with the notification requirements. She urged Members who had not yet notified to do so as early as possible.

5.3 The CRO took note of the statement.

**VI. ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT ON RULES OF ORIGIN (G/RO/W/109/REV.1)**

6.1 The Chairperson noted that the Secretariat had circulated, in document G/RO/W/109/Rev.1, the draft Review of the Implementation and Operation of the Agreement, and that this would be revised in light of the discussion at this meeting of the CRO.

6.2 The Committee adopted the Annual Review of the Implementation and Operation of the Agreement on Rules of Origin.

**VII. ANNUAL REPORT (2007) TO THE COUNCIL FOR TRADE IN GOODS (G/RO/W/110)**

7.1 The Chairperson noted that the Secretariat had circulated a draft of the CRO's report to the Council for Trade in Goods, as required by Article 6.1 of the Agreement (G/RO/W/110), and that this would be revised in light of the discussion at this meeting of the CRO.

7.2 The CRO adopted its annual report to the CTG (G/L/831).

**VIII. OTHER BUSINESS**

A. DATES AND AGENDA FOR THE NEXT MEETING

8.1 The Chairperson suggested that the dates and agenda for the next meeting be set in consultation with delegations.

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