

*Presentation on WTO Agreement on  
Rules of Origin*

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## *Definition*

- Rules of Origin are laws, regulations and administrative determination of general application to determine the country of origin of goods (that is, where made, grown, etc.).
- Exception: Such rules of origin would not apply to preferential trading agreements.

# *Application*

- Such rules of origin are to be used for various non-preferential commercial policy instruments. Illustrative examples are:
  - Extending MFN treatment under various GATT Articles (I, II, III, XI and XIII).
  - Anti-dumping and countervailing duties.
  - Safeguard measures.
  - Origin marking requirements.
  - Application of QRs or TRQs.
  - Government Procurement.
  - Trade statistics.



# *Scope*

- Rules of Origin would apply equally for all purposes as set out in the Agreement.
- Such Rules should be administered in a consistent, uniform and impartial manner.
- Transparency requirements-laws be published, advance ruling, no retrospective changes.
- Provision for judicial review and confidentiality clause.

# *Harmonisation Work Programme (HWP)*

- Certain WTO Members already have their own non-preferential ROO
- India does not have such non-preferential ROO
- The Agreement seeks to harmonize, that is, have common rules of origin for all WTO Members.
- The expected benefit is to provide more certainty in the conduct of world trade.

# *Principles of HWP*

- Rules of Origin should be objective, understandable and predictable.
- They should not be used as instruments to pursue trade objectives.
- They should be coherent.
- They should be based on a positive standard.

## *Disciplines during transition period*

- ROO, including specifications relating to ST, be clearly defined
- ROO be not used as a trade policy instrument
- ROO by itself should not create restrictive, distorting, or disruptive effects on international trade
- ROO should not require fulfillment of conditions not related to mfg. or processing of product in question
- ROO applied to trade be not more stringent than those applied to determine whether a good is domestic
- ROO should not discriminate between Members

# *Criteria for HWP*

- Origin of a good would either be the country where it is wholly produced and in case of multi-country production of goods, the country where the last substantial transformation took place.
- The basis for HWP is the Harmonised System (HS) tariff classification developed by WCO (total HS subheadings-5113).
- Discussion on product sector basis represented by various Chapters or Sections (15 product sectors).

## *Criteria for HWP (contd.)*

- Wholly obtained and minimal operations or processes that do not confer origin (examples: milk, eggs, crops, fruits obtained in one country; packaging, preservation operations).
- Substantial transformation for multi-country production-CC, CTH, CTSH, CTHS, CTSHS.

## *Criteria for HWP (contd.)*

- CC-Change of Chapter
- CTH- Change of Tariff Heading
- CTSH- Change of Tariff Sub-heading
- CTHS- Change of Tariff Heading Split
- CTSHS- Change of Tariff Sub Heading Split
- HS 9.01-Coffee, whether or not roasted or decaffeinated; coffee substitutes containing coffee in any proportion.
  - -coffee not roasted
  - -coffee roasted

## *Criteria of HWP (Contd.)*

- Ch. 19.05- Bread, Pastry, Cakes and Similar Products
- 190590- Others
- 190590 (a)- Pizzas- CTSHS
- 190590 (b)- Cooked Pizza base- CTH
- Supplementary criteria for substantial transformation-value addition, manufacturing or processing operations.



## *Progress of HWP*

- Work initiated in July 1995.
- Initial deadline for completion was July 1998.
- Due to technical and voluminous nature of work and trade policy considerations for several issues, deadline had to be extended repeatedly.
- Negotiations for first three years was conducted in TCRO in Brussels in 17 formal sessions.

## *Progress of HWP (contd.)*

- Results of discussions in TCRO presented to CRO in June 1999-agreed Rules (Basket 1) for endorsement and unresolved issues (486) for decision.
- As on date, 350 issues resolved and 136 issues are outstanding.



## *Remaining Work of HWP*

- The remaining outstanding issues are some of the most complex and sensitive.
- Sectors with largest number of unresolved issues are agricultural products, textiles and machinery.
- Machinery sector has another large number of outstanding issues linked to the resolution of the Assembly Rule.

## *Remaining Work of HWP (contd.)*

- Architecture of the rules of origin to be finalised-one contentious issue is origin of products of sea fishing.
- Implications of rules of origin for other WTO Agreements.

## *Ways to complete HWP*

- A new working methodology adopted since April 2001 Meeting of CRO.
- Chairman's recommendation for each issue is the basis for further negotiation
- 276 issues resolved after adopting this approach (in 4 CRO Sessions) compared to 54 issues resolved between September 1997 to March 2001 (in 25 Sessions).
- Progress slowed in 2002. 300 Issues resolved in 4 CRO Sessions in 2001 but only 18 resolved in 2 CRO Sessions in 2002. Work is even slower since then.

## *Ways to complete HWP (contd.)*

- Countries to give reasoned explanation where Chairman's recommendation not acceptable and suggest compromise solutions.
- 92 Issues identified as core policy level issues in CRO meeting of June 2002.
- These referred to the General Council for decision.

# *Important Resolved Issues in Textile Sector*

- Cotton (HS 52.02): Country in which cotton is obtained in its natural or unprocessed state (WO).
- Carded or Combed Cotton (HS 52.03): CC
- Cotton Sewing Thread (HS 52.04): CTH by core spinning from yarn or fibres
- Cotton Yarn (HS 52.05): CTH, except from HS 52.04
- Cotton Fabrics (HS 52.08): CTH

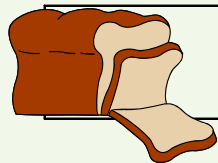
## *Important Resolved Issues in Textile Sector (Contd.)*

- Sewing thread of man made filament (HS 54.01):  
CTH, except from HS 54.02-54.06
- Man made filament yarn (HS 54.02-54.05): CTH,  
except from HS 54.01 or 54.06
- Filament yarn; put up for retail sale (HS 54.06):  
CTH, except from HS 54.01-54.05
- Fabrics of filament yarn (HS 54.07): CTH
- Similar rules agreed for silk (Ch 50) and wool (Ch 51)



Wheat  
(HS 10.01)

The goods are obtained in their  
natural or unprocessed state



Wheat flour  
(HS 11.01)

CC



Pasta  
(HS 19.02)

CTH

Cooked pizza base  
(HS ex 1905.90(b))

CTH

Pizzas  
(HS ex 1905.90(a))

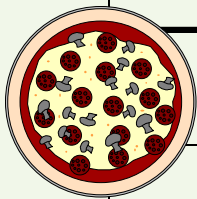
CTSHS

Food preparations of flour  
(HS 1901.90)

CTH

Preparations for infant use,  
put up for retail sale  
(HS 1901.10)

CTSH, except when the change  
results only from putting up  
for retail sale



## *Core Unresolved Issues*

- Out of 92 core issues, 24 relate to textiles which is the 2<sup>nd</sup> largest after agriculture (45 Issues).
- Some important unresolved issues for textile sector relate to dyeing, printing, coating, embroidery, assembly and making of flat products.
- India favours liberal rules i.e. favours origin for all these processes.

# *Important Unresolved Issues in Textile Sector*

## 1. Printing or Dyeing of Yarn or Fabric (Including dyeing white):

Yes:

- Permanent printing or dyeing from unbleached or pre-bleached yarn/fabric with at least two preparatory or finishing operations (EC, AUS, IND, TUR-50% VA, KOR, NZ, PHL+Chairman's recommendation)
- Dyeing or printing plus at least one other preparatory or finishing operation (HKC, MYS)

# *Important Unresolved Issues in Textile Sector (Contd.)*

- Dyeing and printing plus two or more of specified finishing operations: bleaching, shrinking, fulling, napping, decating, permanent, stiffening, weighting, permanent embossing or moireing. (USA)

No: Neither printing nor dyeing confers origin (ARG, BRA, CAN, MEX, THA).

# *Important Unresolved Issues in Textile Sector (Contd.)*

## Making of flat products (bed sheets, pillow covers, etc. from fabrics)

Yes (CTH) (COL, IND, MYS, PHL, VEN).

Yes, provided both cut or knitted to shape and assembled in the same country (otherwise, origin is the country of fabric) (HKC, EEC, TUR); for goods of knitted or crocheted material; CTHS, provided the change is attained by complete making-up) (EC, TUR).

No, origin should be the country of fabric (ARG, BRA, CAN, JPN, MEX, THA, USA)

Chairman's compromise proposal: CTH, provided the starting material is pre-bleached or unbleached fabric) (supported by AUS, IND, NOR, NZ, PAK).

## *Some important issues for India*

- Agriculture- mixture issue, roasting or toasting of coffee, making curry by mixing spices, etc.
- Textiles- Dyeing, printing, making of flat products, etc.
- Footwear- manufacture of shoes from formed uppers to which an inner sole has been attached permanently
- Wholly obtained goods- origin of fish caught in EEZ of a country should go to that country and not the flag/country of registration of the vessel.

# *Disciplines for Preferential ROO*

- Annex II of Agreement on ROO contains Common Declaration With Regard To Preferential Rules of Origin (PROs)
- Preferential rules of origin are used to determine whether goods qualify for preferential treatment under contractual or autonomous trade regimes leading to the granting of tariff preferences going beyond the application of paragraph 1 of GATT 1994

# *Disciplines for PROs*

- Where criteria is CTH, subheadings or headings be clearly specified
- Where criteria is *ad valorem*, method of calculating the percentage shall be specified
- Where criteria is a prescribed manufacturing or processing operation, it will be precisely specified
- PRO be normally based on positive standard
- PROs be published

## *Disciplines for PROs (contd.)*

- Advance ruling within 150 days of a request for assessment of a PRO- normally valid for 3 years
- Changes will not be retrospective
- There should be a provision for prompt review by judicial, arbitral or administrative tribunals
- Confidentiality of information which are by nature confidential or which are provided on a confidential basis



Thank You.