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UN LDC IV: Reforming Rules of Origin in Preference-Giving Countries

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Executive Summary

Rules of origin (RoO) confer an economic nationality on products in international trade and are a necessary and integral part of preferential trade regimes. They account for much of the “fine print” associated with international trade agreements. They are directly linked to any preferences granted under a trade agreement, whether it is reciprocal or non-reciprocal. Rules of origin define how much processing must take place locally before goods and materials are considered to be the product of the exporting country. Goods that comply with the conditions set by the RoO are rewarded with preferential market access, while non-compliant goods are subject to a country’s normal treatment of such imports.

Over the past four decades least-developed countries (LDCs) have received preferential access to the markets of most of the major developed countries under various generalized system of preferences (GSP) programmes. While a number of GSP programmes offer duty-free and quota-free access to the beneficiary country for virtually all products, the RoO that underlie such access are often considered to be overly restrictive and inflexible and not conducive to LDCs taking advantage of the preferences granted. In the absence of a binding World Trade Organization (WTO) agreement on preferential RoO, the make-up of RoO has been left to the country granting the trade preferences. To this day, many countries continue to consider the design of such RoO to be their own prerogative and have resisted attempts to harmonize them or link them to a common standard. As a result, there continues to be little overlap in the RoO methodologies employed by developed countries, and LDC beneficiaries are faced with a multitude of different processing requirements depending on the intended export market.

Part of the reason for the current plethora of RoO regimes and methodologies relates to the fact that no single test for substantial transformation stands out as being the most appropriate in conferring origin across all product categories. Within the framework of the non-agricultural market access (NAMA) negotiations, the LDC Group submitted a proposal on RoO reform that considers a value-based methodology with appropriate thresholds. The latest draft text (Fourth Revision of Draft Modalities for Non-Agricultural Market Access) calls on members to use the model proposed by the LDC Group in the design of RoO for their autonomous preference programmes.

Adopting a new standard on preferential RoO in non-reciprocal trading arrangements will continue to present a major challenge, and any consensus and implementation is likely to be a long way off given the lack of appetite among grantors of GSP preferences to harmonize their unilateral preferences. This is despite the fact that many developed countries have

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acknowledged either explicitly or implicitly that some reform is necessary and that there has been a relatively limited uptake of GSP, especially by LDCs. This is at least in part related to the structure of existing RoO.

Meanwhile LDCs should push for alternative options to encourage reform of GSP and related RoO. This may require an expansion of the rules related to cumulation, which may be politically more acceptable and defensible in the short to medium term. To achieve this, existing regimes would need to be retrofitted with the appropriate technical amendments and should consider extending cumulation to all beneficiaries under a specific GSP as well all other countries that are parties to a free-trade agreement (FTA) (with the preference-giving country) as well as in product categories that already enjoy duty-free access to the preference-giving country under most-favoured nation (MFN) concessions. In addition, the extension of cumulation between all LDCs should be considered, and their respective RoO regimes should be regarded as being of an equivalent nature in order to deal with likely concerns that may emanate from the fact that there are some technical issues related to cumulation in the face of dissimilar RoO.

1. Rules of Origin in International Trade

1.1 The rationale for rules of origin

Rules of origin (RoO) confer an economic nationality to products in international trade. In preferential trade regimes, RoO define how much local processing must take place before a good will be considered to be a product of the exporting country. Thus, they have a direct link to any preferences offered under a trade agreement. Compliant products are rewarded with preferential market access, while noncompliant products are subject to a country's normal import duties.

The main purpose of RoO is to prevent trade deflection, which takes place when goods are shipped via the customs territory of a country having more favourable market access to the destination country. Such a scenario not only undermines any given preferential trade arrangement, but also means that little or no processing and thus no economic development takes place in the intermediary country. Therefore, without RoO in place there would be little purpose in establishing preferential trade areas.

Broadly speaking there are two types of RoO: preferential and non-preferential RoO. The latter are utilized by countries for purposes such as the application of MFN treatment, statistical record keeping, safeguard measures, origin marking, government procurement and so forth and are not the focus of this study. Preferential RoO, however, are linked to tariff (and quota) preferences and include those that form part of a preferential trade area, whether reciprocal or non-reciprocal. Therefore, they would include non-reciprocal preferential arrangements, such as the generalized system of preferences (GSP), or reciprocal bilateral agreements, such as the economic partnership agreements (EPAs) between the European Union (EU) and African, Caribbean and Pacific (ACP) countries. It is sometimes noted that while non-preferential RoO are used to allocate origin, preferential RoO determine origin.

Rules of orgin remain relevant as long as there are differentiated tariffs and other trade measures globally. Differentiated tariffs lead to preference margins, which can be defined as the difference in market access benefits under a preferential trade arrangement versus exporting goods under normal tariff relations. From a trader's perspective, the preference margin also refers to the difference in tariff and quota applicable to shipping from one country versus from a competitor country. A producer exporting clothing from Lesotho to the United States of America (US) might have a 15 percent preference margin compared with an exporter shipping the same goods to the US from Bangladesh.

It thus stands to reason that the margin of preference is directly related to the opportunity cost of not complying with the relevant RoO. By ensuring that sufficient local transformation has taken place (sometimes at additional cost), goods are accorded more favourable entry to the final destination. The higher the margin of preference, the greater might be the willingness of producers to comply with the specifications of these rules. When a destination country's tariff within a specific product category is very low or zero-rated, exporters will have little incentive to comply with any measures required by the RoO that they would not already undertake for commercial reasons.

Although preventing trade reflection is the main and arguably only legitimate reason for preferential RoO, they have also been widely used as a 'discretionary' trade policy instrument, or at least to complement existing trade and industrial policies. When RoO are designed in a manner that imposes an inordinate burden on producers and exporters they become trade barriers in their own right. This is because restrictive RoO undermine the

ability of producers to source inputs in an efficient and commercially sound manner. In the process, they canprevent or undermine trade expansion and in effect act as a form of protection for incumbent producers in the destination country. This would happen when the dynamics within supply chains and the availability of certain raw materials changes significantly over the years without any changes in the RoO (this could be construed as inadvertent protectionism), or when countries impose particularly restrictive local processing requirements to protect local firms from the competition of competing goods exported from preferential trade partners.

1.2 Rules of origin as a trade barrier

RoO can act as a trade barrier by imposing various costs on producers and exporters. RoO can have a negative impact on production cost as they affect business and production decisions to the extent that they lead to an outcome that is different than what would otherwise be the case given commercial realities unencumbered by RoO restrictions. Where RoO directly restrict producers in sourcing inputs from the most competitive sources globally, this may lead to economically sub-optimal outcomes, often resulting in products no longer being internationally competitive. International competitiveness is after all the cornerstone of successful exportation.

Where RoO differ depending on the target market, producers are obliged to adapt their manufacturing processes in order to comply with the various conditions that they impose, which often undermines potential economies of scale. As will be discussed later, there is still no binding standard on preferential RoO, and their design - particularly in non-reciprocal schemes - remains the prerogative of preference-giving countries (and usually the stronger negotiating partner in a bilateral arrangement).

Preference-giving countries can also design RoO in ways that promote their own interests, both through bilateral cumulation arrangements (dealt with later) and RoO designed to favour the sourcing of donor country raw materials and semi-processed goods for further processing in the recipient country. In that sense RoO can also act as indirect subsidies for domestic exporters, with producers in the preference-receiving country being encouraged - through the RoO - to utilize inputs from the donor country.

For example, there is evidence that US exports of yarn and fabric and semi-processed garments are boosted by arrangements that reward their use when further processed by the beneficiary country. Under the Caribbean Basin Initiative (CBI), a number of RoO categories of clothing receive preferential market access if they are manufactured from (alone or in combination) US manufactured thread, yarn, fabric and cut fabric and re-exported to the US. Full-year 2010 data show, for example, that 45 percent of qualifying garment consisted of knit apparel from regional or US fabric from US yarn, and 23 percent of qualifying garments were T-shirts made from regional fabric from US yarn. Similar evidence exists under the Andean Trade Preference Act (ATPA) although less so under the African Growth and Opportunity Act (AGOA), presumably because the logistics of the distances involved make this unfeasible.

Rules of orgin also impose administrative compliance costs. Traders are required to adhere to onerous requirements for making declarations on compliance with the relevant RoO, based on (at times) complicated cost accounting and apportionment, detailed and lengthy record keeping, exporter registration and so forth. While some of these processes are clearly commensurate with doing business internationally, others are a burden directly related to the applicable RoO regime. Administrative costs are not limited to traders, but also represent a burden to customs authorities. Particularly in less developed countries, customs administration is often far less developed than in developed countries, which increases the time and cost factor related to international trade. Where verification procedures are required, they place an additional burden on the trade process and can raise the cost of doing business internationally.

When RoO are designed in a way that clearly goes beyond the prevention of trade deflection, this will result in exporters from partner countries (recipients of preferences) being less likely to comply while incumbent producers in the preference-giving country will be protected from additional competition. This protection is through an absence of (or lower) imports, or a price premium resulting from duties levied on noncompliant imports.

1.3 Criteria used for defining rules of origin

A number of different criteria may be used to determine (local) origin. There is no universally recognized "best practice" with respect to the design of RoO, except for some guiding principles (transparency, administration in a consistent manner, uniformity, impartiality and

based on a positive standard)[1]. In practice, this means that preference-giving countries alone determine the RoO contained in their preferential trade areas. This applies particularly to non-reciprocal RoO, where the design of minimum local processing requirements remains the prerogative of the preference-giving country. As a result, LDCs are often faced with a variety of rules, depending on the export destination. These are often incompatible with each other or substantially dissimilar and reduce the chance of achieving economies of scale in production. RoO are usually based on the following tests:

- **Wholly produced**

When a good's entire production life cycle takes place in one country, it is considered to be wholly obtained there, and the determination of origin is automatic. This would be the case for products that are processed from locally extracted minerals and metals, agricultural products grown and harvested locally (or agro-processed products made from locally sourced agricultural inputs), fish products made from locally caught fish, or any other further processed manufactured good that is made up of locally sourced materials. Most RoO protocols provide an extensive 'positive' list of what is considered to be wholly produced and thus originating in the country.

- **Substantial transformation**

Most processed goods that are exported are made up from both local and foreign inputs. For this reason, RoO are needed to determine how much local processing should take place on non-originating materials before a final product is considered to be of local origin. The challenge remains determining the threshold at which a product should be considered local. Using the example of a T-Shirt, where the shirt is made elsewhere and imported with only minor value-adding activities, such as logo and printing taking place locally, a strong argument can be made that RoO that permit this within a preferential trade area would serve neither the interests of the preference-giving country nor the recipient country. At the same time, RoO that require all materials (fabric) to be made locally from local inputs (cotton, fibre, yarn) could be considered excessively onerous and few producers would be able to comply let alone remain internationally competitive. The challenge, therefore, is to design rules that ensure substantial transformation takes place locally, but without merely serving as a prohibitive barrier to undermine trade.

Three methodologies can be used in the design of RoO to ensure "substantial (local) transformation" - these are the change in tariff heading (CTH), the technical requirement / specific processing (SP) and a minumumvalue-added (VA) or percentage test[2]. The CTH requirement considers products to be of local origin when the inputs used in the production process are classified within a different tariff classification using the HS nomenclature[3]. Normally this methodology uses the HS4-digit disaggregation although in some cases a change in chapter (HS2-digit) or even change in sub-heading (HS6-digit) is considered sufficient to confer local origin. The VA-based methodology often sets a value threshold based on the cost of imported materials (whereby a certain value of imported content is permitted), or a local or regional value content calculation (whereby transformation is based on a minimum amount of local materials or content) based on the material cost, total content, factory cost or factory price. A number of other derivatives exist. The restrictiveness of the applicable nominal threshold is also largely dependent on the underlying cost denominator (a local materials threshold based on total material cost will typically be greater than one based on factory selling price).

The SP test is based on individual rules tailored for each product or general product category, and necessitates line-by-line negotiations or specification. RoO regimes often use a combination of methodologies, and in many instances provide exporters with two or three alternative requirements that must be met in order to qualify.

1.4 Strengths and weaknesses of different rules of origin methodologies

At face value, the CTH methodology is relatively easy to understand and administer, since a change in tariff heading is based on the internationally used and largely standardized HS nomenclature. The CTH test is also largely immune to exogenous influences, such as exchange rate movements, commodity cycles and so

1 Source: Rules of Origin Technical Information http://www.wto.org/english/tratop_e/roi_e/roi_info_e.htm

2 The "VA test" is often referred to generically as the value-added criterion, although in reality there are many different derivatives of the percentage-based test, including 'value of materials', 'value of non-originating materials', build-up (local content as a percentage of an agreed denominator such as ex-works cost or price), 'build down' (usually derived by reducing a numerator by the value non-originating content) and so forth.

3 Harmonized Commodity Description and Coding System.

forth, which might disqualify products under a different RoO methodology. For example, a depreciation in the local currency would increase the value of imported content. Under this test, compliance with the RoO is assured provided it can be demonstrated that imported inputs are classified under a different heading than the product for which trade preferences are sought. Many RoO regimes use the CTH methodology at least in part, including the EU RoO, the Common Market for Eastern and Southern African States (COMESA), the Southern African Development Community (SADC), Japan GSP, the Economic Community of West Africa (ECOWAS) and so forth.

One of the greatest drawbacks of this test for substantial transformation is rooted in the fact that the harmonized system (HS) nomenclature on which the CTH is based was never developed with RoO in mind. This means that a tariff heading jump imposes different burdens on different product categories: in some instances, minimal processing would ensure a CTH (fresh and dried vegetables are classified under different headings) while in other instances both processed and unprocessed goods and materials are classified within the same heading (rough vs. cut and polished diamonds). This inherent weakness requires other rules to deal with these anomalies, something that is only partly achieved through inclusion of a negative list of "insufficient processing", which seeks to prevent situations where largely similar goods and materials along a value chain are classified under different headings and the determination of origin is based on this.

The VA test is used widely and for the most part is conceptually straightforward. However, its application depends on a number of variables that directly impact on the level of restrictiveness imposed by RoO where this test for substantial transformation is used. The simplest VA derivative conceptually is most probably a test that measures the value of local content (cost of labour, materials and direct overheads) against the factory selling price of a product, with products qualifying as being of local origin when local content exceeds a certain threshold. An administratively simpler application of this rule might be where the applicable threshold sets a maximum for imported content. In such cases, the invoice value of imported materials (subject to further defining what ancillary costs - such as transportation - may be included or excluded from the cost calculation) is used against the factory selling price of the product.

Various RoO regimes use VA-tests as a means to determine origin. These include the US GSP and the AGOA, which use the percentage value test almost exclusively, and many others that prescribe a value threshold for at least some products, such as the EU regimes and the SADC. Others give producers the choice of meeting the requirements for substantial transformation either through a value-based test or CTH (examples include COMESA and ECOWAS). Although a distinct advantage of this methodology is that it could potentially be tailored to specific countries or sectors - less developed countries with fewer local resources could be subject to a lower local content requirement than others - this methodology is also prone to a number of weaknesses.

One such weakness is that any value-based rule is subject to a range of exogenous influences, as referred to earlier. These include, but are not limited to, exchange rate movements; the impact on input costs of commodity cycles; the fact that local cost efficiencies translate into lower local content value, which may be prejudicial in terms of meeting the RoO (all things being equal) and so forth. Administratively, this methodology can also be the most cumbersome for demonstrating compliance, especially to customs authorities, with detailed accounting records required.

The VA methodology is also by definition more susceptible to the cyclical patterns of commodity prices, which could qualify or disqualify products from one week to the next as the value of raw material prices fluctuates without any changes to the manufacturing process. Although these input price movements will sometimes lead to higher final selling prices (and hence the local VA percentage might remain similar), there are many situations where international prices are "sticky", and higher production costs as a result of fluctuating currency or commodity prices cannot always immediately be passed on to retailers or final consumers. The VA methodology may also serve as a disincentive against efficiency improvements in the production process if non-originating input costs are already close to the (maximum allowable) qualifying threshold. This is because local production efficiency improvements may lead to lower production costs and reduce the cost component that may be attributed to local VA.

The SP methodology in turn requires individual local processing requirements to be set for each product or product category. Tailored rules mean that the different dynamics and complexities prevailing in each

sector can be taken into account. Specific processing per se does not suffer from some of the weakness attributed to both the CTH and VA methodologies, since the product-specific approach can be used to mitigate against situations where other methodologies impose a very uneven burden on local producers and exporters. However, the need to determine rules on a line-by-line basis is ultimately also one of the SP test's greatest drawbacks, as not only does it consume huge negotiating time and resources (it requires technical and economic knowledge of each sector in order to negotiate effectively and devise RoO that are equitable and reasonable) but also it is most vulnerable to protectionist influences. A tightening of a product's local processing requirements can lead to a suppression of trade and protect incumbent firms and those that would suffer from increased competition from abroad. This issue becomes even more relevant in non-reciprocal preference schemes where the 'donor' country determines the RoO.

1.5 Cumulation

Cumulation provisions are derogations from the principle that working and processing required to confer origin on non-originating materials and semi-processed goods must take place within a single country. Cumulation therefore permits two or more parties to a preferential trade agreement to jointly fulfill the relevant local processing requirements, usually subject to various administrative conditions. Thus, cumulation has the effect of reducing the restrictiveness of the relevant RoO.

Cumulation normally requires, at least at the theoretical level, that the RoO and market preferences with regard to the destination country must be alike. Different forms of cumulation exist: at its most basic level, cumulation between the preference-giving and preference-receiving countries (for example in the case of non-reciprocal GSP) allow inputs sourced from the one party to be considered as originating in the exporting country (and thus counted as local content) when further processed there. Other forms of cumulation permit countries in a regional group to contribute originating inputs - based on an application of the RoO - for further processing by regional trade partners while full cumulation is the broadest form of cumulation where each step along a production chain may contribute to the fulfilment of the relevant requirements (without themselves having to confer origin to intermediary goods) of substantial transformation.

2. The Rules of Origin for LDCs in Key Preference-Giving Countries - a Brief Overview

The WTO Agreement on RoO has as one of its primary objectives the harmonization of RoO. However, the Agreement applies only to non-preferential rules used in allocating origin and not to the RoO used in preferential trade areas and related to the granting of tariff preferences. Preference-giving countries are therefore free to design their own RoO; in reciprocal agreements the design of RoO is (at least in theory) the result of bilateral negotiations, while in non-reciprocal trade programmes the design of RoO remains largely the prerogative of preference-giving countries.

As shown in the previous section, no single methodology for determining local origin is without advantages and drawbacks. As a result, different RoO regimes have developed over the years. While there is some overlap, for the most part exporters in beneficiary countries are required to comply with fundamentally different criteria and administrative requirements when exporting to major international markets. For example, an exporter based in Tanzania will face completely different rules when exporting goods to Europe, the US, Japan or Canada, each of which also differs when compared to the RoO under the regional COMESA trade agreement. This undermines achieving economies of scale and imposes a substantial administrative burden on traders located in many poor countries.

The EU currently offers LDCs preferential access to its market through the Everything but Arms Agreement (EBA), which forms part of its GSP but offers duty and quota-free market access for virtually all products. The programme's RoO are based on goods being substantially transformed according to product-specific criteria, which in turn are based on the CTH, VA or SP methodology. Recent amendments, implemented from the beginning of 2011, offer some additional flexibility to LDCs and involve mainly RoO based on the (maximum) foreign content methodology, as well as wider regional cumulation possibilities. All EU schemes also offer bilateral cumulation (with the EU) while some offer diagonal cumulation (with other EU beneficiaries). In fact, the EBA/GSP RoO are virtually identical to the RoO contained in each of the EU's other preferential trade programmes, except for differences in the cumulation provisions (EBA/GSP offers very limited cumulation), some product-specific (notably in textiles and fish) as well as administrative and documentation (completion of EUR.1 versus Form A) differences.

Exporters to Japan must comply with RoO that are mostly based on the CTH principle, where a tariff-heading jump (non-originating inputs must be classified under a different heading than the final export product) qualifies products for preferential access. However, this rule is subject to many exceptions both in terms of product scope and with respect to quotas ("ceilings"), cumulation and tariff treatment. LDCs qualify for duty-free treatment in many product categories, while others are subject to preferential duties. With respect to cumulation, beneficiary countries are permitted to cumulate production with Japan (bilateral cumulation), although a significant number of products are excluded from bilateral cumulation. Only five pre-defined countries (Indonesia, Malaysia, the Philippines, Thailand and Vietnam) are considered as a single territory for RoO purposes and may thus cumulate production under Japan's GSP.

LDC exporters to the US under its GSP, Caribbean Basin Initiative (CBI) or the AGOA are subject to RoO based on the value-added principle. No special dispensation exists for LDCs, although under the AGOA, beneficiary countries may qualify for additional RoO-related privileges particularly for clothing exports. A reform process, which may eventually lead to the graduation of a number of countries out of its preference schemes, is also underway in the US, although benefits for LDCs are likely to continue. The US GSP and AGOA schemes require that 35 percent of the direct cost of processing and materials come from local sources, and permit limited bilateral cumulation (up to 15 percent out of 35 percent of "local" materials may comprise US materials). Full cumulation is permitted between AGOA beneficiaries, while under the GSP cumulation is permitted within six pre-defined regional groupings.

The Canada GSP contains RoO that are relatively similar to those of the US GSP. Goods must be either wholly obtained locally or may contain imported content based on the ex-works price of the product of up to 40 percent, or percent in the case of LDCs. Preferences are available for most products with notable exceptions, including certain textiles, footwear, products of the chemical, plastic and allied industries and various specialty steels, among others. Canada offers attractive cumulation possibilities to LDC beneficiaries by permitting global cumulation with all other beneficiaries of the Canadian GSP scheme. This means that of the 40 percent local content requirement, a portion could have been sourced from other GSP beneficiaries. Bilateral cumulation is also permitted with Canada as the donor country.

The Australian GSP requires than at least 50 percent of the total factory or works cost must be local materials, labour and overhead. Under flexible cumulation rules, LDCs are offered bilateral cumulation with Australia as well as diagonal cumulation with other developing countries. Cumulation with other developing countries (other than LDCs) is limited to 25 percent of the total factory cost of the product.

Norway's GSP contains different categories of preferences, with a special category reserved for LDCs. Countries must apply to be accepted under Norway's preferential trade regime, and to date a number of LDCs are able to receive benefits. Preferences involve duty and quota-free market access, although special regulations apply to some product categories. Norway's preferential RoO for LDCs are virtually the same as those employed by the EU. A 5 percent value tolerance rule is in place (although textiles and clothing are excluded) and cumulation is permitted with Norway as donor country, EU countries and Switzerland. The GSP also contains cumulation provisions for some regional cumulation, such as withinthe Association of Southeast Asian Nations (ASEAN).

New Zealand's GSP generally offers duty and quota-free access to LDCs for all product lines, although a number of products are contained in a list of exceptions and are not covered. These include certain motor vehicle parts, footwear and clothing. The RoO require that at least 50 percent of a product's value is of local origin, although under the programme's cumulation rules, bilateral cumulation with New Zealand is possible as well as diagonal cumulation with other LDCs. Cumulation is not permissible between countries falling into the developing country group on the one hand, and the LDC group on the other.

It is clear from the above that producers in LDCs are subject to a wide range of RoO regimes when exporting to international markets, let alone under regional trade regimes each of which has its own set of local processing requirements to confer origin. The methodologies used for determining "substantial transformation" vary significantly with relatively little overlap between preferential trade areas, a factor that is related to the absence of a binding agreement within the WTO. Rules of origin in GSP programmes are an extension of countries' respective preferential trade regimes and trade policies, and are therefore mostly geared toward achieving a high level of consistency with the RoO contained in countries reciprocal preferential trade agreements. Regulations regarding cumulation, which

allows inputs from other countries within a cumulation zone to be considered as being of local origin when further processed there (in other words, they take on local economic origin without having to comply with the country of final destination's requirements for substantial transformation), also differ widely. Some developed countries allow fairly broad cumulation with other developing countries or LDCs (Australia and Canada) while others (Norway, and to some extent the EU and New Zealand) have far more restrictive cumulation rules. In this respect, there is little reason cumulation should not be possible on a much wider scale, for example in all goods and materials that are already duty-free or with other bilateral trade partners, as the threat of trade deflection remains very low if not nonexistent.

3. Harmonizing Rules of Origin for Ldcs - Some History and Recent Developments

3.1 Background to harmonization of rules of origin at the international and multilateral level

Preference-giving countries have long held the view that the design of preferential RoO remains their prerogative and have to various degrees resisted initiatives to harmonize these at the multilateral level. Nevertheless, efforts to develop standards and agree on some form of consistency among preferential RoO regimes have been ongoing since at least the 1950s, when the International Chamber of Commerce tried to get its members to adopt uniform rules concerning the nationality of goods.

In 1986 the concept of a GSP was formally adopted by the United Nations Conference on Trade and Development (UNCTAD) partly in response to arguments that the MFN principle created a disincentive for developed countries to lower their import duties and other trade barriers for exporters from LDCs. UNCTAD also maintained that the RoO contained in various GSP programmes should be consistent with each other, although in 1979 the Organisation for Economic Co-operation and Development (OECD) declared that such RoO were the prerogative of preference-giving countries. While the General Agreement on Tariffs and Trade (GATT) formulated waivers to the MFN principle, these became a permanent feature through the Enabling Clause on Differentiated and More Favourable Treatment (Enabling Clause) also in 1979 thus continuing to facilitate preferential access for LDCs.

The Uruguay Round negotiations led to the adoption of a WTO Agreement on RoO. Article 1 defines RoO as "those laws, regulations and administrative determinations of general application applied to determine the country of origin of goods except those related to the granting of tariff preferences".[4] This means that only non-preferential commercial policy instruments are covered, including MFN treatment, anti-dumping and countervailing duties safeguard measures and so on.

The WTO Agreement also established a consultative Committee on Rules of Origin (referred to as the "Committee"), composed of representatives of all Member States, which would deal with issues relating to the RoO Agreement. At the same time the Agreement also advised on the establishment of a Technical Committee on Rules of Origin (referred to as the "Technical Committee"), which was convened by the World Customs Organization (WCO) - formerly known as the Customs Cooperation Council. Together, the Committee and Technical Committee are responsible for carrying out the Harmonization Work Programme (HWP), which *inter alia* has as its objective the development of harmonized definitions for the principle of "wholly obtained", "CTH" and where relevant other conditions for substantial transformation, as well as standards for "minimal operations". The structure and responsibilities of each of the Committees is defined in some detail in the Agreement on RoO. As the work is completed, it must be approved by the Ministerial Conference after which it becomes an Annex to the Agreement on RoO and binding.

The timeframe for completion of the HWP was set at three years (1998) following the entry into force of the Agreement, but due to the complexity of the issues at hand the work has not been completed. In March 2010 the outgoing Chair of the Committee reported that agreement had been reached on rules for 55 percent of products[5]. Considering the complexity involved in dealing with harmonization of non-preferential RoO, and given the stance expressed by preference-giving countries on this matter, making any real progress with respect to harmonizing preferential RoO remains a major challenge.

4 Rules of Origin: Technical information (WTO). www.wto.org/english/tratop_e/roi_e/roi_info_e.htm
5 Source: http://www.wto.org/english/news_e/news10_e/roi_25mar10_e.htm

3.2 LDC proposals on rules of origin and state of play

In the context of the duty-free and quota-free (DFQF) initiative for LDCs and its introduction into the Singapore Ministerial Declaration in 1996 there has been extensive debate on the harmonization of preferential RoO with respect to market access granted to LDCs. However, little if any real progress was made while the proliferation and expansion of preferential trade regimes continued. At the 6th WTO Ministerial Conference held in Hong Kong in 2005, a reference to RoO was finally included in Paragraph 47 as well as in Annex F ("Special and Differential Treatment") of the Ministerial Declaration.

On the subject of RoO, Paragraph 47 states that[6]

> 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, in accordance with 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 so as to facilitate exports from LDCs.

The relevant text in Annex F referred to in the above Paragraph states that WTO Members agree to[7]

> (b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

The text does not go into detail on what future (harmonized) preferential RoO for LDCs should look like, although at the time its inclusion was nevertheless considered to represent significant progress. The text formed the basis for more detailed proposals on RoO reform presented by the LDC Group at the WTO later in 2006. Between 12 and 30 June 2006, a detailed Communication[8] containing proposals on RoO was presented by Zambia on behalf of the LDC Group to the NAMA, Agriculture and the Special Session of the Trade and Development Committees (CTDSS). The intention was to focus debate on the substance of RoO reform rather than more generic discussions on principles and objectives relating to RoO, although subsequent meetings with the delegations of preference-giving countries did not result in much progress being made in recognizing the substance of the LDC proposals.

The LDC proposal on RoO sets out technical aspects of preferential RoO and discusses different RoO methodologies, cumulation, and the principle of *de minimis* (value tolerance) and provides some detail on the strengths and weaknesses of each test for substantial processing. The proposal also provides a detailed text on a preferred RoO methodology, which entails definitions for "wholly obtained" and "substantial transformation". In terms of a preferred test for substantial transformation, the proposal lists the value-based methodology and offers the option of alternate requirements, being the value-added *(build-down)* and local content *(build-up)* calculations (see table). In other words, exporters in LDCs would be able to meet the RoO and thus obtain market preference based on either of these calculations (each with their own thresholds). The key points of the proposal focus on gaining acceptance of an across-the-board application of the value-based methodology. The proposal did not include details on specific percentage thresholds to be used in the application of either of these value-based calculations, presumably to avoid discussions becoming stuck at this level of detail rather than focusing on the concepts and substance contained in the document. While the proposal focused on value-based calculations - which would have been motivated to a large extent in order to avoid a line-by-line approach to RoO negotiations - the possibility remains that for certain sectors the methodology would need to be augmented by other requirements, as these may be more appropriate in certain situations.

6 Source: http://www.wto.org/english/thewto_e/minist_e/min05_e/final_text_e.htm

7 (b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

8 TN/CTD/W/30; TN/MA/W/74 and TN/AG/GEN/20 respectively.

Formulas for build-down and build-up method of determining substantial transformation, as contained in the LDC proposal on RoO reform[9]

Build-down method:

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

Build-up method:

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

LVC = Local value content expressed as a percentage. This can also refer to regional value content in the context of cumulation rules
P = The adjusted value or ex-works price of a good
VOM = Value of originating materials
VNOM = Value of non-originating materials

In calculating the value of originating and non-originating materials, the LDC proposals make specific provision for the treatment of transportation charges, insurance, wastage, internal taxes and so forth, specifically with the objective of accommodating the circumstances that LDCs often find themselves in and which negatively impact their international competitiveness. In effect, these provisions would allow LDCs to remove certain incidental and shipping expenses on non-originating materials from the value of non-originating materials (VNOM) used in the build-down calculation, while adding regional or intra-LDC shipping expenses to the cost of local materials (VOM) when using the build-up method.

Other RoO regimes often include these expenses, for example by valuing non-originating goods on a CIF (cost plus insurance plus freight) basis, which means that the often large expense involved in bringing non-originating inputs to the local place of manufacture significantly penalizes the local exporter. When excluded from the calculation as proposed, this will lead to a relatively lower value of non-originating content. The LVC threshold stipulated by the RoO based on the build-down method would typically be higher than the threshold used for the build-up method.

Despite the level of detail at which the proposal was presented earlier, the NAMA Chair in his introduction of the Draft NAMA Modalities on 17 July[10] stated (in Para 38):

> 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 how they wish to proceed. Certainly, there is no consensus I can report or propose at this stage on the basis of the discussion in the Negotiating Group. I would note that harmonizing preferential rules of origin may not be the optimal solution and that there are best practises among Members that could be readily adopted to enhance the effectiveness of these programs.

To some extent this text was perhaps a reflection of some of the resistance to the proposals. With respect to the "best practices" referred to above, the text is somewhat inconclusive and adds little in moving forward on RoO reform. In March 2008, a revised text of the Draft NAMA Modalities was published, and the language used with respect to RoO was somewhat different. In Paragraph 15, it states *inter alia*

> (b) to ensure that preferential rules of origin applicable to imports from LDCs will be transparent, simple and contribute to facilitating market access in respect of non-agricultural products. In this connection, we urge Members to use the model provided in document TN/MA/W/74, as appropriate, in the design of the rules of origin for their autonomous preference programs.

The text as it stands above is repeated in subsequent drafts of the text (namely in May 2008, July 2008, August 2008 and in the most recent version of December 2008[11]). In the August and December versions, Paragraph 15 is expanded in terms of the proposed commitments on DFQF (the December version removes

9 TN/CTD/W/30; TN/MA/W/74 and TN/AG/GEN/20 respectively.
10 See full text here: www.wto.org/english/tratop_e/markacc_e/namachairtxt_17july07_e.doc
11 For the various versions of the Draft Text see: http://www.wto.org/english/tratop_e/markacc_e/markacc_chair_texts07_e.htm

the implementation date earlier included in the August version), and specifies that developed Member countries should provide DFQF on a lasting basis for all products originating in LDCs. These commitments may be phased in, although there is no commitment on timing. DFQF may also be provided for only 97 percent of tariff lines. While this is not directly related to RoO, it is of some relevance as the 3 percent exclusion could translate into key product categories for LDCs since their exports are often highly concentrated within a few product lines.

3.3 Rules of origin in the context of declining preference margins

RoO stand in a direct relationship with preference margins, which can be generically described as being the difference between accessing a market under normal trade relations, for example under MFN tariffs, and the benefits associated with entering under the preferences set out in a preferential trade area. Preference margins may also relate to quantitative limitations that might apply to trade under 'normal' rules, as opposed to a preferential trade regime. Preference margins may also be represented by the difference in market access to a destination market compared with the preferences available in that market to a competing country.

While the preference margin represents somewhat of a net benefit available to exporters, this often also involves a cost particularly with regard to products that are not wholly obtained or produced from local inputs. The cost associated with RoO is essentially two-fold and entails the administrative compliance cost of meeting the RoO requirements (additional documentary evidence and so forth), as well as aspects of production cost where the RoO induce production of a good in a manner that is different, and perhaps more costly, than would be the case otherwise. For a producer and exporter, the additional cost of complying with the RoO must therefore be measured against the additional benefit derived from trading under preference.

Where the production and administrative compliance cost exceeds the benefit of trading under preference, the preferential RoO lose their impact. Given the DFQF access that LDCs currently enjoy with regard to key export markets, wide-ranging tariff cuts envisaged under the Doha Round especially in key sectors of importance - notably textiles and fish - would reduce LDC's preference margins and would have an impact on the restrictiveness of preferential RoO currently applied to LDC exports. In this context, even relatively low RoO-related costs could become prohibitive.

4. Expanded Cumulation as a Cornerstone of Improved Rules of Origin for LDCs

4.1 Choice of rules of origin criterion

Some of the challenges facing LDCs with respect to preferential RoO reform relate to the absence of an internationally binding standard on RoO, continued resistance to RoO reform (in the context of some of the non-reciprocal preferences extended to LDCs), a lack of a standout or clearly superior methodology for determining 'substantial transformation' and the fact that relatively little real progress has been made following LDC proposals on RoO reform. Ddeveloped countries' RoO regimes often differ substantially from one another, in terms of basic RoO methodology, product coverage and various principles, such as territoriality, *de minimis* and cumulation.

Preference-giving countries have mostly defended the view that the design of RoO - especially in non-reciprocal arrangements - remains their own prerogative. Many of the RoO regimes in existence are almost four decades old, having changed little since their introduction, despite the fact that global trading conditions, locations of production, specialization and other factors are today fundamentally different than they were at the time the respective RoO were designed. In most cases, non-reciprocal RoO also tie in with countries' general trade policies and the RoO applied in other reciprocal agreements. In terms of standards and so-called best practices, countries generally regard their own rules to comply with such standards and will not readily consider other regimes and methodologies to be substantially superior or see compelling arguments to adopt them.

With the LDC proposal currently on the table, especially with regard to the value-based model it embraces, some progress has been made, and countries that already use similar tests for substantial transformation, such as Canada and the US, may find it easier than others to embrace reform. While the EU's system is based on a line-by-line approach, it is engaged in a process of RoO reform, and current proposals on the table are considering moving to a value-based methodology initially in the context of its GSP and then on a bilateral basis with reciprocal trade partners (with the latter, subject to negotiation). Already the EU has introduced revised value-based criteria for LDCs in its GSP. However, it remains unlikely that a broader

solution will be found in the short to medium term and a harmonized (in terms of approach, if not in terms of thresholds) RoO methodology will remain technically and politically challenging for the foreseeable future. However, this should not prevent LDCs from continuing their efforts aimed at achieving RoO reform.

Although preferential RoO should primarily ensure that there is no trade deflection, the requirements and restrictions faced by LDCs can often be construed as a form of protectionism usually without much technical justification. Some product-specific RoO (which in many instances are the same for LDCs and other developing countries) clearly go well beyond the objective of preventing trade deflection and are often most prevalent in product categories in which LDCs have some form of competitive advantage. This includes textiles, fish, certain processed agricultural products and a range of manufactures.

A long-term objective should involve implementing a single RoO methodology as far as possible across all GSP programmes, rather than the current mix of programme criteria. For countries already offering DFQF market access, this concession - a harmonized approach to RoO for LDCs - would represent an opportunity of a “value-added DFQF” of sorts. The LDC proposal goes a long way in addressing the criteria issue and despite the uncertainty of whether it will be embraced by preference-giving countries LDCs should continue pushing for this.

While a value-based approach (offering exporters two or more different ways of deriving a specific local processing percentage threshold) would ensure that a defined percentage is attained across all product categories without product-specific interventions, another option would be to push for a CTH approach, although this would not only necessitate lengthy “insufficient processing” rules (at the risk of protectionist elements permeating this) but also represent a very unequal burden on producers in different economic sectors. After all, the harmonized system nomenclature on which CTH is based was never designed with RoO in mind. However, with respect to improved RoO for LDCs a line-by-line approach should be avoided, given the known weaknesses of this approach on a broader level and the difficulty involved in achieving overall consensus.

This raises the issue of “who” should design improved RoO. Theestablished view is that this remains the prerogative of preference-giving countries, and there is probably some merit to this, except that it is unlikely to lead to any form of consensus or harmonization. An alternative is the WTO institutional approach, which to some extent is being followed by LDCs, although any forward momentum depends largely on the LDCs. The practical reality is that progress is slow, and a positive outcome is in no way assured. As a third alternative, the movement toward RoO reform could be led by an independent international body tasked with the design of an appropriate methodological basis.

Another school of thought exists that LDCs themselves should set the criteria according to their own development priorities[12]. While this approach holds merit the drawbacks include a lack of available technical expertise and the risk of a “race to the bottom”, where individual countries could use excessively liberal RoO as a means of competing for investment with little regard for local value-addition. This could however be somewhat mitigated by tasking regional bodies (groups of LDCs or regional institutions) to manage or oversee this process. Tasking the LDCs (or an international body) with this function could improve prospects for success over confining this to WTO processes.

4.2 Expanding cumulation

A key issue and one that could hold significant prospect for success and for delivering substantial improvements relates to ‘cumulation’. The application of cumulation provisions currently stands out in terms of its often peculiar and overly restrictive application in numerous RoO regimes. All preferential RoO allow some form of cumulation, which essentially permits goods and materials originating elsewhere to be considered as local origin if they are further processed locally[13]. The most common form is bilateral cumulation (between a preference-giving country and a recipient country), followed by regional or full cumulation (among beneficiaries) and diagonal cumulation (with certain outside countries, such as a neighbouring developing country belonging to a regional economic integration community). Cumulation can be extremely useful to recipients as it increases their sourcing flexibility without penalizing countries

12 See David Laborde “Comments on the recommendations of working session 1: Enhancing Trade and Market Diversification”, OECD/CPD International Dialogue on “Exploring a New Global Partnership for the Least Developed Countries (LDCs) in the context of the UN LDC IV” (November 2010).

13 Note that under cumulation, ‘further processing’ need only go beyond a list of ‘insufficient processing’ (mere packaging, breaking into parts, simple mixing, preservation etc.), rather than complying with the full RoO requirements.

that are unable to individually comply with the whole spectrum of RoO requirements.

Currently, cumulation regulations range from bilateral cumulation and very limited regional cumulation among five pre-defined groups (for example the EU GSP) to cumulation on a bilateral level plus with all other beneficiaries (for example: Canada and Australia). Under the US GSP cumulation is permitted on a bilateral basis and within six pre-defined regional groups although coverage is incomplete (for example, in Africa 11 countries from two regional groups qualify, but countries may only cumulate with other countries belonging to the same group). However, AGOA significantly extends the cumulation possibilities and overlaps with the GSP. In Japan, cumulation is also only permitted on a bilateral and limited regional basis (within pre-defined groups), while New Zealand offers bilateral and intra-LDC cumulation but not cumulation between LDCs and developing country beneficiaries. Norway's cumulation rules are even stricter than the EU's with only bilateral cumulation and cumulation with EU countries and Switzerland possible.

Many of the major GSP regimes have in common that DFQF market access is provided to LDCs for virtually all products. Many of the major developing countries have also phased out import duties on a wide range of products. Likewise, most of these countries have concluded preferential trade agreements on a reciprocal and bilateral basis that phase out - or expect to phase out - most import duties between them. However, despite this, countries continue to maintain restrictive cumulation rules even where there is no possibility of trade deflection, or where the risk of trade deflection is extremely low and certainly outweighed by other benefits that would accrue from international trade.

To provide some illustrative examples: Country [A] manufactures items of clothing that qualify for preferential (duty-free) market access in country [B]. In country [C], which also qualifies for preferential market access to Country [B] under similar RoO, a trader sources "qualifying" garments from the original producer from [A] and adds further value - embroidery, printing and so forth. Despite both countries having preferential access to the final destination country [B] the garment would be disqualified from preferential market access for a number of reasons and would as a result most likely be unable to compete there. The absence of cumulation would mean that the exporter in country [C] did not comply with the RoO, and the exporter in country [A] would have been disqualified for failing to ship directly to the final destination without the product entering the commerce of a third country, irrespective of the product otherwise having qualified. In this scenario, no harm was done to the interests of the importing country [B] yet for [A] and [C] this three-way trade scenario earns no preference in [B] despite going beyond the processing that would have initially qualified for preference when exported from [A].

Using a second example, two LDC producers manufacture fabric from imported yarn [A], and clothing from regional fabric [B]. These two countries are geographic neighbours located in Africa and both qualify under the EU's EBA initiative, which currently requires that qualifying clothing is manufactured locally from yarn, a two-stage process. Since they are not permitted to cumulate production neither will be able to export to the EU under preference.

In a third illustrative scenario, country [A] has a reciprocal FTA with the EU and has phased out import duties on certain goods and materials. Country [B] is a LDC and uses materials imported from [A] for further processing locally, and subsequent onward export to the EU. Even when a good or material that on its own qualifies for duty-free access to the EU when shipped from country [A] is used by LDC country [B] for further processing that goes beyond 'insufficient processing' but does not on its own fulfil the RoO, such exports from the LDC country [B] are disqualified from obtaining preference to the EU market.

By expanding the cumulation provisions relating to LDCs, this could help unlock trade flows and improve the market access LDCs have with respect to key developed countries. Although cumulation generally requires that the RoO contained in the respective preferential trade arrangements are the same or similar, in order to reduce the risk of trade deflection, this should not be seen as an insurmountable challenge with respect to preferences for LDCs. In fact, retrofitting existing trade arrangements with expanded cumulation provisions

is likely to be politically far more palatable than redesigning RoO to an agreed international standard.

LDCs should aim for expanded cumulation rules that would include the following:

- All GSP schemes should permit full cumulation among all GSP beneficiaries within their respective (own) group;
- Cumulation should be permitted across preference programmes (whether GSP or bilateral FTAs etc.) in all product categories where duties have been phased out;
- Intra-GSP cumulation should be permitted among all GSP beneficiaries in all categories where import duties tariffs have been phased out.

With regard to the first objective outlined above, this facility is already provided for in some GSP programmes while in others cumulation among beneficiaries of a specific programme is still not permitted or severely restricted.

The second objective would remove some of the artificial restrictions that are currently in place, since there is little or no risk of trade preferences being undermined through cumulation. For example, GSP beneficiaries should be able to cumulate production with all countries that have a separate preferential trade agreement with the "donor" country, in all product categories where the FTA partners have phased down duties either completely, or remain below a certain threshold. Such a facility would also reduce possible complications that occur when a GSP beneficiary graduates from the scheme and concludes a reciprocal agreement with the preference-giving country. For example, a LDC like Bangladesh would be able to cumulate production with Mexico or South Africa (each having a FTA with the EU), but will also face only limited preference erosion when a neighbouring country like India concludes its FTA with the EU at some point in future[14].

In this context, the issue of LDCs and non-LDCs belonging to the same Customs Unions is also relevant. In Africa, a number of these configurations are in place, such as within the East African Community (EAC) and the Southern African Customs Union (SACU). Expanded cumulation should not undermine these existing regional integration groups and cumulation should from the perspective of LDCs extend to the whole group. While processing in the LDC concerned should go beyond minimal operations in order to prevent trade deflection, there should otherwise be little basis for not expanding cumulation to this group given that administrative cooperation arrangements would already be in place.

The concept of expanded cumulation as per the second objective has received some support from the European Commission inter alia in proposals presented to the SADC and EAC[15] regional groups currently negotiating economic partnership agreements (EPAs) with the EU. Broadly speaking, these proposals envisage cumulation (for the ACP States) that includes intra-ACP cumulation and extra-ACP cumulation in all product categories subject to MFN zero duty, GSP/EBA zero duty and EU FTA zero duty. A revised EU GSP programme was also implemented in January 2011, and contains new value-based RoO for LDCs but also changes to the cumulation provisions to facilitate limited cumulation between countries of a regional group yet who have different levels of market access to the EU.

The third objective would also entail retrofitting existing GSP programmes with the necessary clauses to facilitate this, and likewise should not entail a major risk of trade deflection as a result of this facility. Although dissimilar RoO remain a technical issue, the various schemes' specific RoO could be considered alike by broadly embracing the concept of equivalence, with a political decision taken to allow this form of cumulation. If the LDC proposal (TN/MA/W/74) discussed earlier involving a value-based RoO methodology for determining substantial transformation is accepted, this would in effect largely facilitate interventions outright in pursuit of this last objective.

5. Conclusions

RoO continue to be an issue of utmost relevance to trading nations, and in particular LDCs, in that they represent the fine-print attached to preferential market access. Four decades of special trade preferences available to LDCs, mostly through various non-reciprocal GSP programmes, have had a relatively limited impact on integrating these countries into the global economy. While supply side issues and a range of other factors have contributed to LDC's limited share in world trade, the relevant RoO have often imposed conditions that these countries have not been able to meet.

14 The EU and India have been engaged in negotiations towards a FTA since 2007.

15 Southern African Development Community and East African Community respectively.

The absence of binding WTO disciplines with respect to the design of RoO, coupled with the fact that the different methods for determining origin each have strengths and clear weaknesses, has resulted in a wide range of RoO regimes currently in use. In many cases the RoO applicable to LDCs are the same, or similar, to the RoO a country applies to all other preferential trade partners, and are often oriented toward domestic policy prerogatives. RoO frequently go beyond their primary objective, namely preventing trade deflection, and in effect become a trade policy tool.

The reform of preferential RoO has long been an issue in various national and multinational fora, especially with regard to LDCs. More recently, the LDC Group presented proposals to the WTO on RoO reform relating mainly to the test used in determining when substantial transformation has taken place. While this proposal is not necessarily seeking harmonized RoO per se, the approach taken is to seek consensus on a harmonized methodology for determining origin. Specifically, the proposal advocates RoO based on the percentage value test, under which substantial transformation would be deemed to have taken place when local content exceeds a certain percentage, or when the value of imported content does not go above a predetermined threshold.

A uniform means of determining substantial transformation would have many benefits for LDCs, not least that different markets would have the same or similar origin requirements (obvious benefits might include economies of scale in production), but also that a uniform approach as advocated by the LDC Group would lead to more equitable and transparent RoO. The proposal is likely to face hurdles, given developed countries' well-known resistance to a possible loss in autonomy in the design of preferential and especially non-reciprocal RoO. While a more harmonized approach to determining origin with respect to LDC trade is very important, this paper considers that a redesign of the cumulation provisions could yield more noticeable and more immediate benefits for LDCs.

A number of preferential trade regimes - even where these offer DFQF access for most products originating in LDCs - contain very restrictive or essentially non-existent cumulation provisions. This can be severely limiting on LDCs especially where the RoO cannot be met individually and from local resources only. Cumulation also lowers the effective restrictiveness of RoO without undermining the preference-giving country, as the requirements for substantial transformation are simply met in more country than one.

The upcoming UN LDC Conference provides an opportunity to reinvigorate the debate around preferential RoO for LDCs. While RoO reform, in particular a revision and standardization of the methodological basis for determining origin is needed and should continue in parallel, this paper proposes that the more immediate focus should be on substantially expanded cumulation provisions pertaining to all LDC exports. This would entail retrofitting existing agreements with the necessary provisions to facilitate this, and should at the very least include full cumulation among all LDC beneficiaries under a given trade regime, cumulation between LDC beneficiaries on the one hand and FTA partners of the preference-giving country on the other, and full cumulation among all LDCs in product categories where import duties in the destination country have been abolished or reduced below a certain threshold.

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