

Committee on Rules of Origin

**REPORT BY THE CHAIRMAN OF THE COMMITTEE ON RULES OF ORIGIN
TO THE GENERAL COUNCIL**

Background

1.1 Pursuant to Article 9.2(a) of the Agreement on Rules of Origin, the harmonization work programme for non-preferential rules of origin (HWP) was launched in July 1995 and scheduled to be completed within three years of its initiation, i.e. by July 1998. The deadline was extended until the end of 1999, but even the extended deadline was passed without completion of the HWP.

1.2 On 15 December 2000, the General Council adopted the following decision to expedite the completion of the HWP:

"Members undertake to expedite the remaining work on the harmonization of non-preferential rules of origin, so as to complete it by the time of the Fourth Ministerial Conference, or by the end of 2001 at the latest. The Chairman of the Committee on Rules of Origin (CRO) shall report regularly, on his own responsibility, to the General Council on the progress being made. The first such report would be submitted to the Council at its first regular meeting in 2001, and subsequently at each regular meeting until the completion of the work programme." (WT/L/384)

1.3 Such report has been made to the General Council meeting on 9 February, 9 May and 18-19-July 2001 respectively. This is a comprehensive report to the General Council Special Session on Implementation, setting out the achievements of the HWP as well as the remaining work.

1. Assessment of the progress of the HWP

2.1 In June 1999 when the WCO Technical Committee on Rules of Origin submitted the final results of its technical work on the Harmonization Work Programme, 486 outstanding product-specific issues were before the Committee (G/RO/41). Despite its best efforts, the Committee had resolved only 22 issues by September 2000, averaging less than one consensus per each of its 23 meetings over the three-year period (G/RO/M/11-33).

2.2 The pace of the HWP began to pick up in October 2000, when the Chairman of the General Council sent a letter to the Chairman of the Committee, indicating the General Council's determination to complete the harmonization work programme before the Doha Ministerial Conference. An awareness of the need to expedite the work was reflected in the flexibility shown by many Members during the Committee meeting in November 2000, with the result that consensus was reached on eight issues (G/RO/M/34).

2.3 Since then, as summed up in the following table, the number of resolved issues increased exponentially; 24 issues in March; 42 issues in May; and 67 issues in July 2001.

Number of issues referred to the CRO	Number of resolved issues
486	September 1997-September 2000: 22 (less than 1 per session) November 2000: 8 March 2001: 24 May 2001: 42 July: 2001: 67 Total: 163 (with 323 outstanding issues)

2.4 This encouraging progress was made also thanks to the new working methodology adopted by the CRO in April 2001 (G/RO/M/35, paragraph 8.3). The positions recommended by the Chairman under the new methodology served as a neutral basis for negotiations and many Members showed welcome flexibility to support the Chairman's recommendations.

2.5 Another important issue discussed at the CRO since the 15 December 2000 Decision of the General Council is the implications of the implementation of the harmonized rules of origin on other WTO Agreements. The discussion took place at the meeting of the CRO held on 23 July 2001, on the basis of the CRO discussion held since May 1998. In this context, submissions had been received from the Dominican Republic and Honduras (G/RO/W/33), El Salvador (G/RO/W/34), India (G/RO/W/28/Rev.1, G/RO/W/30, 42 and 50), Japan (G/RO/W/66), Korea (G/RO/W/38) and the United States (G/RO/W/32, 48 and 56).

2.6 The summary of CRO discussions on 23 July 2001 is as follows:

- The informal discussion on the implications of the HWP for other WTO agreements was conducted with respect to (1) the implications of the completed harmonized rules and (2) the implications of the proposed rules for harmonization.
- Discussions on both subjects were lively and helped to identify many of the important problems that should be addressed both before and after the completion of the HWP. However, the discussion could not lead to any agreement on concrete actions.
- All the Members agreed that any discussion on the implications of the HWP should be conducted in such a manner as to facilitate the HWP and should not hinder its progress.

2. Assessment of the remaining work

3.1 Although the HWP has clearly been expedited and the resolution of 141 issues over the last ten months is significant, it should be recognized that 323 issues are still before the Committee. (The September session of the CRO is being held on 24 September- 8 October, and its outcome has not been reflected in this comprehensive report).

3.2 The following table is the sectoral and statistical analysis of the issues resolved and those still to be resolved. As the table shows, significant progress was made in Chapters 25-27 (mineral products), 28-40 (chemicals), 41-43 (leather), 44-49 (wood and paper), 68-70 (ceramics), 74-81 (non-ferrous metals) and 82-83 (articles of metal). In contrast, a large number of outstanding issues from Chapters 1-24 (agricultural products), 50-63 (textiles), 64-

67 (footwear), 71 (precious stones and metals), 72-73 (steel), 84-90 (machinery), 91 (clocks and watches), 93-97 (miscellaneous articles) remain unresolved.

PRODUCT GROUPS	NUMBER OF ISSUES REFERRED TO THE CRO	NUMBER OF RESOLVED ISSUES	%
1-24 (Agricultural products)	125	29	23
25-27 (Mineral products)	10	8	80
28-40 (Chemicals)	38	19	50
41-43 (Leather)	8	6	75
44-49 (Wood and paper)	11	7	64
50-63 (Textiles)	83	31	37
64-67 (Footwear)	14	6	43
68-70 (Ceramics)	12	6	50
71 (Precious stones and metals)	5	0	0
72-73 (Steel)	12	2	17
74-81 (Non-ferrous)	24	14	58
82-83 (Articles of metal)	17	12	71
84-90 (Machinery)	86	9	10
91 (Clocks and watches)	6	1	17
92 (Musical instruments)	2	1	50
93-97 (Miscellaneous articles)	33	12	36
TOTAL	486	163	34

3.3 In his report to the General Council on 18-19 July 2001, the CRO Chair identified the major obstacles facing the HWP as follows:

(Confirmation of the General Council's mandate) The delegates at the CRO should be firmly reminded that the HWP is to be completed by the Fourth Ministerial.

(Identification of the threshold rule) With respect to most of the issues remaining before the CRO, solutions can be found only through agreement on the applicable threshold rule. As an example, there is no question that assembly is origin-conferring. However, assembly cannot be always origin-conferring. Thus, the real question is to identify the threshold of the assembly work, over which assembly can be considered as "substantial transformation".

So far, there has been no meeting of mind on this critical issue. Some delegations believe that value-added rule can provide a general threshold rule, especially for machinery chapters. Other delegations find it difficult to accept value added rule for technical difficulties involved. For this reason, no substantial progress could be made in the CRO's discussion held on 9-11 July on the machinery chapters. Without the resolution of this critical issue, further meaningful progress in the HWP is difficult to be expected" (WT/GC/M/66, pages 48-49).

3.4 The General Council took note of the above report and provided further guideline as follows:

- "- With respect to the confirmation of the General Council's mandate, the General Council reaffirmed commitment to complete the Harmonized Work Programme by the agreed deadline.
- That would require delegations in the CRO to work even harder, and show a more pragmatic and flexible attitude. The trade-facilitating aspect of the work of the Committee on the HWP was a point that had to be borne in mind as well.
- The Chairman of the General Council asked Members to convey the tenor of this discussion to their representatives in the Committee, and ensure that it would be reflected in its future work. Despite its technical nature, this was important work and deserved high-level attention within missions.
- The Chairman also asked delegations to consider senior-level representation at the upcoming September-October meeting.
- With respect to the threshold rule in particular, the Chairman urged Members to show increased flexibility and pragmatism on the "threshold" rules, as that was a key for a successful outcome.
- The Chairman reminded the Council that there was also the implementation-review mechanism of the Special Session of the General Council, which must at least be open if the General Council wished to follow up." (WT/GC/M/66, paragraph 181).

3.5 The CRO takes note of the General Council's guideline as cited above, and would continue to make best efforts so that maximum progress should be made within the period mandated by the General Council through its Decision of 15 December 2000.

WORLD TRADE ORGANIZATION

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Committee on Rules of Origin

REPORT BY THE CHAIRMAN OF THE COMMITTEE ON RULES OF ORIGIN TO THE GENERAL COUNCIL

Addendum

Background

1.1 Pursuant to Article 9.2(a) of the Agreement on Rules of Origin, the harmonization work programme for non-preferential rules of origin (HWP) was launched in July 1995 and scheduled to be completed within three years of its initiation, i.e. by July 1998. The deadline was extended until the end of 1999, but even the extended deadline was passed without completion of the HWP.

1.2 On 15 December 2000, the General Council adopted the following decision to expedite the completion of the HWP:

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1.3 Such report has been made to the General Council meeting on 9 February, 9 May and 18-19 July 2001, respectively. A comprehensive report was also made to the General Council Special Session on Implementation on 3 October 2001. This is a supplementary report to the comprehensive report, covering the outcome of the work subsequently carried out by the Committee on Rules of Origin (CRO) in its session held from 24 September – 8 October 2001.

2. Progress made at the September/October 2001 Session of the CRO

2.1 Since the comprehensive report, the CRO held another negotiating session from 24 September to 8 October 2001. The outcome of the session was very positive; consensus has been reached on no less than 115 issues. The progress since 1997 is summed up in the following table:

Number of issues referred to the CRO by the Technical Committee on Rules of Origin	Number of issues resolved by the CRO
486	September 1997-September 2000: 22 (less than 1 per session) November 2000: 8 March 2001: 24 May 2001: 42 July 2001: 67 September/October 2001: 115 Total: 268 (with 208 outstanding issues)

2.2 In this connection, the renewed guideline from the General Council issued at its meeting on 18 and 19 July 2001 should be recalled and appreciated for the encouraging progress achieved at the recent session of the CRO. The positive impact of the General Council's guideline was most conspicuous in the CRO's discussions on machinery chapters (Chapters 84, 85 and 90), which had been reported to the General Council as examples of the most difficult chapters.

2.3 In the discussion on these chapters, some Members moved away from the position that any assembly resulting in a new good with new characteristics should be origin-conferring. Some other Members advocating the value-added rule agreed to delete many issues that, after the resolution of differences specific to those issues, could be dealt with under the generic assembly issue or the blanks issue, under the following conditions:

- (1) In the non-paper (JOB(01)/52), a registry would be provided to list all the issues deleted under such conditions. This registry would list generic issues, the resolution of which is still pending.

(e.g. under Issue No. 1, if the generic rule involved is the assembly rule.)
- (2) Two remaining options (one favoured by Members supporting the value-added rule and the other favoured by other Members) shall be kept in the matrix (G/RO/45) as well as in the registry cited in the above subparagraph (1).

3. Assessment of the remaining work

3.1 The CRO agreed to hold another negotiating session, and continue to make best efforts so that maximum progress would be made within the period mandated by the General Council through its Decision of 15 December 2000.

3.2 In this connection, the following methodology was agreed upon at the CRO in its session from 24 September-8 October 2001:

- (1) Identification of major outstanding issues: it was agreed to make a list of major outstanding issues in view of the fact that a large number of issues have already been resolved, or are close to being resolved. The list would have no legal implication other than reminding Members of the overall scope of major remaining issues.

- (2) Active search for a compromise option: it was advised that Members, especially when and if they have to stick to an option supported by a small number of Members, should actively develop a compromise option or search for a package of options for a group of issues acceptable as a whole in view of balance of interests within the group.
 - (3) Preparations for a structured discussion on horizontal issues: to facilitate the discussion on relevant horizontal issues (assembly rule, mixture rule, architecture, etc.) in the November-December 2001 session, it was agreed to compile issue papers on the basis of Members' submissions. One full-day session has already been allocated for the discussion of the assembly rule. Appropriate time will be allocated to discuss the mixture rule and the overall architecture of harmonized rules depending upon the scope of the specific issues identified by Members.
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