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From: Mr Changsheng Li *py A*
Chairman, Committee on Rules of Origin

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Rules of Origin

Annotated Agenda

I am pleased to invite your delegation to the next informal consultations of the CRO which will be held on **20 November 2012 at 15:00** in room CR-I. For this informal consultation, I would like to focus discussions on the following items:

1. Overall architecture;
2. Technical issues raised by Members at previous informal consultations;
3. Proposal by the delegation of El Salvador to hold a technical workshop on Rules of Origin and Labelling Requirements;
4. Transposition of draft harmonized rules into more recent versions of the HS; and
5. Amendments to the harmonized rules of origin (future transposition exercises).

Below is a short summary of these items. All documents cited (with the exception of RD/RO/4) are available on the WTO Members' website, including in the "Documents for meetings" facility.

1. Overall Architecture

There are few issues pending with respect to Appendix 2 of the draft Harmonized Rules of Origin (G/RO/W/111/Rev.6). As a result, my objective is to finalise the architecture of our harmonized rules as soon as possible. I am therefore proposing new language for some Rules of Appendix 2. My proposal is contained in the Annex to this invitation. My intention is to have a substantive discussion on that proposal and on Rules 1 and 2 of Appendix 2. The European Union has also submitted a communication proposing revisions and new language for Appendix 2 (document RD/RO/2).

The main questions for discussion by delegations are as follows:

- a. **Rule 1(e):** While Rule 1(d) covers cases in which a good and a material are classified in the same heading or subheading, Rule 1(e) would cover cases where the good and the material are classified in different tariff subdivisions. Rule 1(e) appears particularly useful in cases where the primary rule contains an exception such as in the rule "CTH except for heading 58.11" as well as in cases in which the rule is "CTH" but the changes occur at the subheading level. Some delegations strongly argued that originating materials do not need to be considered for purposes of this Rule. One delegation, however, preferred to keep the second sentence of the Rule in order to cover all possible circumstances and argued that Rule 1(e) should be a primary rule. It seems to me that, while potentially unnecessary, there is no harm in keeping the Rule as it is.
- b. **Rule 1(f):** One delegation preferred that Rule 1(f) be placed before 1(e). Another delegation stated that, since, Rule 1(e) should be considered as a primary rule, it could not support the change of order of Rule 1(f) and Rule 1(e). In my view, rules 1(d) to 1(i) under consideration here appear to be residual rules. Moreover, I believe that changing the order of the rules and placing Rule 1(f) as the first Residual Rule would not alter the structure and intention of the text, especially as there are very few Chapter residual rules (only found in Agriculture, Cement, Chemicals, and Apparel).
- c. **Rule 1(h):** One delegation expressed a preference to refer to both originating and non-originating materials in this Rule. I do not see any difficulty in accepting this.
- d. **Rule 1(i):** Chinese Taipei proposed new language for this Rule, which would clarify and simplify the Rule:

"where the criterion specified for the application of Rule 1(h) is weight or volume, and neither of these criteria can be used to determine the country of origin, the criterion of value shall be used; where the criterion specified for the application of Rule 1(h) is value and this criterion cannot be used to determine the country of origin, the criterion of weight or volume, as appropriate, shall be used."

Since one delegation argued we could further clarify the language, I suggest a slight change of the phrase *"and neither of these criteria can be used to determine the country of origin"* to read *"and the application of neither of these criteria can determine the country of origin"*.

2. Technical issues raised by Members in previous consultations

There are two issues on which discussions are pending since the last meeting of the CRO in June 2012 (Section II.B in document G/RO/M/58): (1) Chapters 28-32 and (2) Chapters on Machinery.

3. Technical workshop on Rules of Origin and Labelling Requirements

The delegation of El Salvador has submitted a communication (document RD/RO/3) in which it proposes that a technical workshop on Rules of Origin and Labelling requirements be organised at the next meeting of the CRO in 2013. Members will be invited to discuss that proposal.

4. Harmonized System (HS) transposition

Having completed the first draft of the transposition of the Consolidated Text rules to the 2002 version of the Harmonized System (JOB/RO/2), the Secretariat has moved to transpose the draft rules to the next version of the HS, that is, 2007. Document JOB/RO/3 contains the outcome of the work carried out by the Secretariat on transposing the draft Consolidated Text of non-preferential Rules of Origin into the 2007 version of the HS. Members are invited to discuss whether the proposed rules of origin are correctly rectified.

In addition, I would like to remind you that the informal meeting will be followed by a **technical workshop on the transposition of the Consolidated Text to HS 2007 (JOB/RO/3) on 21 November 2012 in room CR-II.**

5. Future amendments to harmonized rules of origin

As requested by some delegations at the last CRO meeting, the Secretariat has been instructed to prepare a Background Note on future amendments to the harmonized non-preferential rules of origin (to be issued with the document symbol RD/RO/4). On the basis of that note, Members will be invited to discuss procedural options to conduct future amendments to the harmonized rules of origin.

ANNEX

Chair's proposal for Appendix 2 of G/ROW/111/Rev.6 (Agenda item 1)

APPENDIX 2 - Product Specific Rules of OriginResidual Rules

- (d) **The country of origin of a good is the country where a residual rule at the chapter level is satisfied;**
- (e) **When a good is produced by further processing of a material which is classified in the same subdivision¹ as the good, the country of origin of the good shall be the single country in which the material originated;**
- (f) **When a good is produced by further processing a material that does not satisfy the primary rule for the good, the country of origin of the good shall be the single country in which the material originated. For the purposes of this rule, account shall be taken of both originating and non-originating material;**
- (g) **The country of origin of a good shall be the country of origin of material or materials incorporated in the good by further processing, provided the origin of material or materials is a single country;**
- (h) **When a good is produced from materials of more than one country, whether originating or non-originating, the country of origin of the good shall be the country in which the major portion of those materials originated, as determined by the criterion specified in the Chapter where the good is classified;**
- (i) **where the criterion specified for the application of Rule 1(h) is weight or volume, and the application of neither of these criteria can determine the country of origin, the criterion of value shall be used; where the criterion specified for the application of Rule 1(h) is value and the application of this criterion cannot determine the country of origin, the criterion of weight or volume, as appropriate, shall be used.**

¹ The term "subdivision" relates to the lowest level of classification of the good, i.e. heading, subheading, split heading or split subheading, at which a primary rule is specified in this Appendix.