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Committee on Rules of Origin

Original: English

**NOTIFICATION OF PREFERENTIAL RULES OF ORIGIN FOR
LEAST DEVELOPED COUNTRIES**

AUSTRALIA

Revision

The following communication, dated 13 September 2019, is being circulated at the request of the delegation of Australia.

Paragraph 4.3 of the 2015 Ministerial Decision on preferential rules of origin for least developed countries (WT/L/917/Add.1) requires preference-granting Members to notify preferential rules of origin as per the established procedures¹. In addition, as mandated by the Ministerial Decision, the Committee on Rules of Origin agreed, at its meeting of 2 March 2017, to a template for such notifications (G/RO/84).

Following such requirements, the following revised notification has been received from: Australia.

A. BASIC INFORMATION

1)	Notifying member	Australia
2)	Date of entering into force of Rules of origin and any substantive modification thereof	12 April 1966 Most recent amendments made in 2003.
3)	Date of expiration of Rules of origin if applicable	Not applicable.
4)	Title of the preferential scheme for which legislation on Rules of origin is applicable	Australian System of Tariff Preferences (ASTP)
5)	Authority(ies) granting the preferential treatment	Australian Border Force https://www.abf.gov.au/
6)	National authorities in charge of Rules of origin administration	Australian Border Force Trade Policy Section Telephone: +61 131 881 / +612 6196 0196 https://www.abf.gov.au/importing-exporting-and-manufacturing/free-trade-agreements/developing-countries-or-least-developed-countries

¹ The relevant notification requirements are contained in Paragraph 2(d) of Annex 1 of the Transparency Mechanism for Preferential Trade Arrangements (WT/L/806) and in Paragraph 4 of Annex II of the Agreement on Rules of Origin.

B. INFORMATION ON RULES OF ORIGIN**I. BENEFICIARIES**

1)	List of Beneficiaries	https://www.abf.gov.au/importing-exporting-and-manufacturing/tariff-classification/current-tariff/schedule-1
2)	Eligibility	A country that was recognised as a least developed country by the United Nations in 2003 (when Australia extended duty-free and quota-free treatment to all goods from least developed countries) receives least developed country preferences under the ASTP.

II. CRITERIA FOR DETERMINING SUBSTANTIAL TRANSFORMATION

1) General criteria, if applicable for all products		
	(a) Definition of wholly obtained products	Goods claimed to be the produce of a country are the produce of that country if they are its unmanufactured raw products.
	(b) Describe the criteria for not-wholly produced products	Goods are the manufacture of an Least Developed Country (LDC) if: the last process in the manufacture of the goods was performed in an LDC; and the allowable factory cost of the goods is not less than 50% of the total factory cost of the goods. For LDC preferences, at least 25% of the allowable factory cost of the goods must be from one or more LDCs, with at least 25% from other countries in the qualifying area.
	(c) Insert the formula for calculating <i>ad valorem</i> percentage	$\% = \text{Allowable Factory Costs} / \text{Total Factory Costs}$ Section 153B of the Customs Act defines "allowable factory cost" and "total factory cost" in terms of materials, labour and overhead. Sections 153D and 153E of the Customs Act establish rules for calculating the total expenditure and allowable expenditure respectively in regard to materials received at the factory.
2)	Product specific rules of origin, where applicable	No product specific rules of origin.
	(a) Insert the link where the complete list of product specific rules of origin can be found.	
	(b) Insert the formula for calculating <i>ad valorem</i> percentage, when applied for product specific rule	
3)	Definition of non-originating material and originating material, if any	Not applicable.
4)	List of insufficient working process, if any	The manufacturer of the preference claim goods must perform the last process in the manufacture of those goods. The last process of manufacture must be determined on a case-by-case basis with due regard to the nature of the goods concerned and the processes to which they have been subjected. Manufacture does not include restoration, refitting and/or repair of goods. The manufacturer must be making a different thing from that out of which it is made.

5)	Rules for application of cumulation and related procedures if any	LDC goods qualify for preference if a specified percentage (50%) of the total factory cost in producing those goods constitutes allowable expenditure in relation to the particular "qualifying area". For LDCs the qualifying area is a minimum of 25% allowable costs from least developed countries, Papua New Guinea, Forum Island countries and up to 25% from developing countries as per list in question BI 1).
6)	Any other information that member deems necessary	-

III. DOCUMENTARY REQUIREMENTS

1) Certificate of origin and other proofs of origin		
	(a) Requirement for certificate of origin and/or any other proof of origin, if any	Australia accepts certificates of origin or declarations of origin made by the overseas manufacturer of goods imported into Australia to support a preference claim, provided: (a) the certificate of origin or declaration of origin clearly identifies the goods to which it applies; (b) the certificate of origin or declaration of origin specifies that the last process in the manufacture of the goods was performed in the LDC and that the manufacturer's allowable factory cost is at least 50% of their total factory cost; and (c) there is no reason to doubt the veracity or reliability of the certificate of origin or declaration of origin There is no prescribed form for certificate of origin or declaration of origin by the manufacturer. It should, however, describe the goods and refer to the particular provision in Division 1A of Part VIII of the Customs Act that the goods meet. Also, the name of the person signing the certificate or declaration, together with their position and the company or entity represented, should be clearly stated. The declaration may be on the commercial documents or form a separate document.
	(b) Authority to be designated for issuance of certificate of origin	No designated authorities for LDC certificates of origin.
	(c) Prescribed form of Certificate of origin and/or any other proof of origin	There is no prescribed form of certificate of origin or declaration of origin. However, Form A in the Australian GSP manual may be used to claim LDC preferences under the ASTP. Form A can be found at: http://unctad.org/Sections/gsp/docs/gsp_form_a_new_en.pdf
	(d) Any other procedures applied for certificate of origin and/or any other proof of origin, if any	The Australian Border Force may seek further evidence of preference entitlement for any specific reason or a simple intuitive selection, irrespective of the existence of a certificate or declaration.
2) Direct shipment		
	(a) Rules applicable for direct shipment, if any	There are no direct shipment requirements for LDC preferences.
	(b) Documentary requirement for proof of direct shipment including when the transport of consignment involves transit through one or more intermediate countries, if any	Not applicable.

IV. VERIFICATION AND PENALTIES

1)	Procedure for verification of proofs of origin	Verification of origin is done under general powers provided by the Customs Act 1901. Legislation available: https://www.legislation.gov.au/Details/C2017C00028 Relevant sections include: - Section 30 Customs control - Section 68 Importation of goods - Section 186 General powers of examination of goods subject to customs control - Section 186AA General powers of examination of goods loaded onto or unloaded from ships or aircraft - Part XII, Division 1 - Subdivision J—General powers to monitor and audit - Sections 240 (Commercial documents to be kept), 240AA (Authorised officer may require person to produce commercial documents), 240AB (Verifying communications to department, 240AC (Authorised officer may require person to produce record).
2)	Penalties for fraud and false declarations	Customs Act 1901, sections 243U and 243T and section 234 (Customs offences) https://www.legislation.gov.au/Details/C2017C00028
3)	Authorities and procedures for appeal in the case of dispute on verification	Traders have access to internal review by the Australian Border Force as well as merit review by an external tribunal: the Administrative Appeals Tribunal (http://www.aat.gov.au/) and judicial review by the Federal Court of Australia (http://www.federalcourt.gov.au/).
4)	Requirement for preserving the documents related to issuance of certificate of origin	Requirement for preserving the documents related to issuance of certificate of origin in the Customs Act 1901, section 240. Commercial documents must be kept for five years after the goods were imported into Australia.
5)	Any other relevant information	-

V. REFERENCE TEXTS

(a)	The legislative texts in one of the official WTO languages containing the preferential rules of origin applicable under a PTA granted under the Decision on Measures in Favour of Least-Developed Countries (Annex F of the Hong Kong Ministerial Declaration)	Customs Act 1901: https://www.legislation.gov.au/Details/C2017C00219 Customs (International Obligations) Regulation 2015 https://www.legislation.gov.au/Details/F2019C00083 Customs Regulation 2015 https://www.legislation.gov.au/Details/F2019C00566
(b)	The full text of the administrative regulations concerning modalities for issuance, acceptance, retrospective issuance and replacement of certificates of origin or any equivalent declarations to be made, including any requirements related to stamps to be used along with notification of stamps	

(c)	The full text and related administrative regulations of the modalities for the proof of movement of the consignment of the goods from the beneficiary countries to preference-giving countries including transit through third countries	
(d)	The full texts of the modalities of the verification procedures and related penalties	
