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Brussels, 28 September 2011

8th Meeting of the Group of Experts in charge of Rules of Origin
ACP House, Brussels
27 – 28 September 2011

SUMMARY OF DISCUSSIONS

The Group of Experts in charge of Rules of Origin held its 8th meeting in Brussels, on 27 and 28 September 2011.

The meeting was attended by Experts from the African Union, ECOWAS, CEEAC, COMESA, the PACIFIC FORUM, SADC and UEMOA.

Representatives of UNCTAD, the World Customs Organisation and ACP Missions and Embassies in Brussels also participated in the meeting.

The list of participants is hereto attached.

The meeting was convened as a follow-up action to a decision taken by the ACP Council of Ministers at its 93rd Session held in June 2011.

The purpose of the meeting was to:

- take stock of the negotiations and the implementation of the rules of origin in the various regional entities;
- identify existing difficulties and challenges;
- share experiences in order to benefit from them;
- examine the European Commission's new proposals regarding preferential rules of origin to ensure that they take into account the needs and concerns of the ACP Group, and
- make recommendations to help move the negotiating process forward in this area.

The meeting was chaired by Dr. Moses Tekere, Chief Technical Adviser to COMESA.

The deliberations of the Group of Experts were based on two main items on the agenda, namely:

- Presentation of progress reports by the various regional entities;
- Commission's presentation of its new proposals concerning preferential rules of origin.

Presentation of progress reports by the various regional entities

At the Chairman's request, the various regional entities took turns to present the state-of-play of their negotiations in the area of rules of origin. All those who took the floor emphasised the importance and complex nature of the rules. In their view, it would be difficult to benefit from the preferences if the rules of origin are not simplified. While acknowledging that some progress has been made in this area, the delegates felt that there were still many challenges to be met if they were to establish rules that are not only compatible with the level of development of the ACP countries, but also take account of their major concerns.

During the presentations and discussions that followed, the delegates identified certain key elements which should be borne in mind whenever the issue of rules of origin is to be discussed, namely:

- The need for simple, development-driven rules;
- The need to base the negotiations on the *acquis* of the Cotonou Agreement and to do everything possible to improve upon it. This is especially relevant to the principle of cumulation and value tolerance;

- The need for asymmetry to take account of the level of development of the parties in the negotiations.

The regional entities also highlighted points of disagreement with the European Union, most of which have to do with the issues mentioned above.

Other issues were also raised during the discussions and focused on the following:

- a) Concern over the exclusion of South African products from ACP cumulation. Participants held the view that this provision could undermine the ongoing regional integration efforts;
- b) The need to strike a balance between the rights and obligations of the parties concerned so as to take account of the low EU customs duties;
- c) The need to re-examine the issue of the revision clause to determine the most appropriate period for the revision exercise (3 or 5 years);
- d) The need to simplify the conditionality whereby an administrative cooperation agreement is required to be able to benefit from cumulation, so that it does not become a non-tariff barrier to trade.

At the Chairman's request, the representatives of the African Union, UNCTAD and the World Customs Organisation (WCO) took the floor to update participants on the activities they had undertaken or were currently undertaking in this area and gave some tips to help the ACP countries in the negotiation of development-driven rules.

Mrs. Mette AZZAM, the WCO representative, stressed the need to pay special attention to the cumulation issue since it has a significant impact at the national and regional level.

She also indicated that it was better to take the necessary time to negotiate a sound agreement instead of doing so in haste.

Mr. Stefano Inama, the UNCTAD representative, indicated, for his part, that the practical impact of the new EU proposal on cumulation needed to be assessed. He felt it would be useful to provide examples of how cumulation could be more beneficial to the ACP countries than other proposals. He also recommended that the new EU proposals concerning rules of origin be assessed within the EPA framework and be compared with those relating to the GSP since the latter are more liberal and offer more flexibility than in the past.

The WCO and UNCTAD indicated that they were prepared to provide technical assistance to the ACP Group in this area, both during the negotiating process and after the signing of the Agreements, to facilitate their implementation.

The experts concluded this item on the agenda by laying emphasis on the need to negotiate a sound agreement even if this would take some time. The various entities were also requested to share the outcome of their negotiations with others with the aim of arriving at a coherent approach for all members of the ACP Group.

The Commission's new proposals concerning preferential rules of origin

The new proposals in question were presented by the competent services of the European Commission. After explaining what had prompted the European Commission to review the EU's preferential rules of origin, the Commission's representatives highlighted the innovations introduced, the major aspects which have been modified, the requirements to be met in order to benefit from the advantages offered by these new rules, and the exceptions to these new provisions.

The Commission's presentation is hereto attached.

The presentation gave rise to considerable discussion which led to the following conclusions:

- While acknowledging the European Commission's efforts to improve the existing rules, the experts indicated, however, that they still had concerns regarding these new rules. The following elements were highlighted:
- Experts felt that there was need to assess the impact of these new proposals in terms of market access for ACP countries;
- They felt that the conditionalities could limit or even nullify the advantages expected from these new proposals. In their view, these conditionalities could even undermine regional integration efforts;
- Experts also expressed serious concerns over the exclusions and exceptions made in these new proposals (tuna, agricultural products, list of South African products excluded from cumulation);
- Experts also expressed concern over the fact that there was no regional cumulation provision for the ACP regions and that a request must be submitted to the EU to be able to benefit from certain cumulation possibilities.

The discussions held by the Group of Experts led to the following recommendations:

- 1) All the major concerns raised during the meeting should be brought to the attention of the organs of the ACP Group and taken up with the European side at the next ACP-EU Ministerial Trade Committee meeting scheduled for 12 December 2012;

- 2) Within ten days, all the regional entities should submit the results of their negotiations on rules of origin (Texts, Protocols) to the Secretariat;
- 3) UNCTAD was requested to prepare a matrix on the basis of the regional submissions and to distribute it to all the regional entities. The matrix, which is meant to highlight the best practices in the EPA configurations, will be presented to the ACP Trade Ministers at the next meeting of the Ministerial Trade Committee scheduled to be held early in December. The underlying idea is to coordinate the ACP positions so as to present a coherent ACP position vis-à-vis the Commission.
- 4) To ensure that the administrative cooperation agreements do not prevent the ACP countries from fully enjoying the benefits of the preferences provided for in the framework of their trade arrangements with the EU, the WCO was requested to quickly (within one month) draft a simplified model of an administrative cooperation agreement to be made available to the ACP regional entities to give them an idea of what this entails.

The report was adopted by the Group of Experts, with a few amendments.
