



**Short update on Rules
of Origin in EPAs
(and why they are
important for business)**

Eckart Naumann
tralac Associate



trade law
centre for
southern africa

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- A few practical scenarios: why RoO matter to business
- The status quo, and where are we heading?
- Some RoO challenges ahead

- **Scenario 1**

- **A South African producer wishes to export mixed packages of nuts to the EU.**
- **Around 20% of the nut-mix consists of Cashew nuts sourced from Mozambique (these nuts are either unavailable in RSA, or are significantly more expensive than from Mozambique rendering the final product uncompetitive in the EU).**



- Can this product qualify for EU market preferences?

NO

- The rule for chapter 08 products states that
 - All the fruit and **nuts** must be **wholly obtained**
 - value of non-originating sugar content limited to 30% ex-works
- Exporter pays normal duties

- **Scenario 2**

- **A global clothing brand is considering expanding its South African presence to produce a range of denim jeans and jackets for the European market.**
- **The Cape Town factory would be required to source the denim from any of its licensed and accredited denim mills.**
- **The use of accredited denim mills ensures that the global brand is able to achieve consistency in quality and look of the fabric**



- Does this product qualify for EU market preferences?

NO

- The rule for heading 6203 products requires
 - ‘manufacture from yarn’
- This entails that foreign yarn may be used, but must be woven into denim and made up into the finished garment locally
- Exporter pays normal duties

- **Scenario 3**

- **An Indian-owned fishing company sets up operations in South Africa,**
- **purchases a South African-made fishing fleet**
- **sells a 49% share to a South African JV partner**
- **employs a South African captain and crew,**
- **sails under the flag of South Africa, and**
- **fishes for Yellowfin tuna in South African waters 30km south of Cape Point.**



- Can this tuna be exported to the EU preferentially?

NO

- The rule for chapter 03 products requires that fish be
 - ‘wholly obtained’
 - In order to be ‘wholly obtained’, any fish caught beyond the 12 mile territorial waters must *inter alia* be caught with vessels that are **at least 50% locally owned** in addition to various other requirements (crew, flag, board of directors, captain and master etc.)
- Exporter pays normal duties

- SADC: Current EU market preferences through Cotonou, GSP / EBA and TDCA
- And Rules of Origin
 - TDCA / Cotonou Rules largely the same
 - GSP mostly same ROO, but no cumulation
- Post 2007: EPA or...
 - SA has TDCA,
 - Lesotho, Angola, Mozambique and Tanzania have EBA,
 - Swaziland, Namibia and Botswana left with “ordinary” GSP
- **...and the same Rules of Origin**

- Intention was to re-negotiate RoO for EPAs
- Slow progress made – both sides
- No time left for re-negotiation, focus now on an improved interim solution (or so-called **Cotonou+** RoO)
- The EC last week presented identical proposals for a RoO protocol to SADC, Cariforum etc.
- Looks like Cotonou, little convergence with recent ACP proposals
 - The EC setting the tone

Key elements:

- Retains cumulation – provided same RoO
 - With product exclusions (and special list relating to SA)
- Some cosmetic (?) changes:
 - e.g. wholly obtained (for fish, removes crewing component)
 - Chapter 03: 15% non-originating materials (what about *de minimis*?)
- Notable proposals:
 - “willing to consider single stage transformation for chapters 50-63”
 - At what price?

- SADC proposals to the EU loosely based on SACU-EFTA RoO
- Similar line-by-line architecture but improvement in large number of line items (c/w Cotonou and TDCA)
 - Improvement, e.g.
 - fish: CTH (i.e. processing confers origin)
 - clothing: single stage plus min. 40% local content
 - Simplification, e.g.
 - Chapters 28-38 from SP to CTH
 - Some uncertainties...
 - In some product lines, not clear whether proposal represents improvement on Cotonou

Many challenges remain...

- Harmonisation with ESA / cumulation / overlapping agreements (issue Malawi etc)
- EU desire for similar RoO across EPAs – need for all-ACP process?
- For proposed future switch to VA methodology **must** engage business to work out acceptable thresholds
- How to deal with regional differences – e.g. SA / Lesotho
– same or different RoO requirements? Investment and industrial policy?
- Short term: need to formulate a proposal on chapters 50-63
- “integrate with world economy”...RoO can play a role (through greater flexibility in sourcing)
- RoO need to reflect that production is increasingly dispersed across world

- From a RoO perspective, January 2008 is not very different to December 2007
- Is EC willing to make meaningful commitments for interim period?