



**Rules of Origin in EPAs:  
Recent developments and  
some challenges for a  
development-friendly ROO  
outcome for Southern Africa**

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**The relevance of Rules of Origin (ROO)**

**Towards new EU - SADC / ESA ROO – the process so far**

**Recent EC Proposals on ROO**

**Challenges for development-friendly ROO**

- **The relevance of Rules of Origin (ROO)**

- A fundamental part of **EPAs**
- Rules of Origin matter as long as there are **preference margins**
- Original purpose to **prevent transshipment** (economic vs geographic origin) but used also as **trade policy instrument**

- **But...**

- Can **undermine int. competitiveness** by restricting access to cheap inputs
- **Discriminate against low income countries** where scope for local sourcing limited
- Different ROO regimes can impose technical and financial burden on traders

## ▪ **Towards a new EC – ACP ROO framework**

- **EC process formally started with Green Paper in 2003**
  - Green Paper first stage consultation with stakeholders
  - 2005 EC Communication on future EC ROO
  - 2005 Working Paper on choice of value-added methodology
  - 2007 draft convention on ROO to ACP
- **ACP process formally started when EPAs launched**
  - ACP Study on ROO 2005, to guide negotiations
  - Ministerial Decision for ROO to be negotiated at all-ACP level
  - Design of draft template ROO – process commenced October 2006

## ▪ EC proposals to EPA regions

- Single value-based system to allocate origin
  - Additional conditions “where necessary”
  - No clarity on “sufficient processing threshold”
  - Reverts to ex-works basis [LVC = Ex-works – Customs Value NOM]
- Emphasis on control
  - Shared responsibility & customs’ liability
  - Centralised administration – customs (not Chambers of Commerce etc.)
  - Exporter registration system – stringent ongoing obligations
  - Integrated electronic exporter database

- **Cumulation**

- Emphasises cumulation / ROO link
- Cumulation “convention”:
  - cumulation content  $\geq$  cumulation threshold

- **Definition of processing / manufacture**

- *...process that requires special skills or machines...especially produced or installed for carrying it out...*
- *...shall result in a product presenting objective differences (properties, specific qualities...) with the materials used...*
- Above conditions to help define value-adding activities... !!

- **Development challenges in Southern African context**
  - **ROO as a tool for development?**
    - EC “model”: regional sourcing, cumulation, restrictive ROO as driver for development? Appropriate for developing countries?
    - Has it worked (e.g. clothing industry)?
  - **Alignment issues: EPAs and existing RI initiatives**
    - Inclusion of South Africa
    - Impact on SADC(8) EPA bargaining position?
  - **Practical challenges:**
    - Capacity to develop offensive and defensive position
    - SADC EPA: 5 LDCs, 2 DCs, South Africa

- **EC proposals: Choice of ROO methodology development-friendly?**
  - Will value-based work best?
    - **Drawbacks:** admin. ; e-rate; commodity prices;
    - disincentive for productivity improvement;
    - some sectors be worse off?
  - What is an appropriate threshold? 10% / 25% / >35% ?
    - Sector-specific thresholds or across-the-board?
    - Must permit producers to source from most efficient suppliers
    - Development will not flow from restrictive ROO
      - *Producers prefer local suppliers if possible!*



- **Cumulation – at what price?**
  - Little evidence that in important sectors ACP countries export goods that are used as inputs by other ACP in production of final goods
  
- **Cost-Benefit: cost of compliance vs. margins of preference**
  - Must consider the exporter!

## *In summary:*

- To be development-friendly, ROO must fit in with **commercial realities**, recognise value chain dynamics etc.
- Idea that restrictive ROO will induce local development is flawed; **only unrestrictive ROO will promote development**
- **Cumulation** not a mitigating factor for restrictive ROO, but should be a given under future EU-ACP ROO dispensation
- Complexity of ROO must bear relation to **preference margins** (NB ongoing NAMA negotiations)
- **Least possible compliance costs:** paperwork, registration, validation