Improving Trade Flow within EAC
Format of Presentation

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- The Role of Rules of Origin in Trade
- Methods of Determining Origin
- Certificates of Origin
- Conclusion
Rules of Origin in the Context of EAC

• Article 14 of the Protocol on the establishment of the East African Community Customs Union provides that, goods shall be accepted as eligible for the community tariff treatment if they originate in the Partner States.
• Goods shall be considered to have originated in the partner state if they meet the criteria set out in the Rules of Origin that were developed and adopted under the Article.
• The origin criteria are provided under Rule 4 of the East African Community Rules of Origin.
Rules of Origin in the Context of EAC

- The origin criteria as set out in Rule 4 of the EAC Rules of Origin, is that goods shall be accepted as originating in a partner state where they are consigned directly from the partner state to a consignee in another partner state and where:
  - they have been wholly produced
  - they have been produced in a partner state wholly or partially from material imported from outside the partner state or of undetermined origin by a process of production which effects a substantial transformation of those materials such that
Rules of Origin in the Context of EAC

• The c.i.f. value of those materials does not exceed 60% of the total cost of the materials used in the production of the goods
• The value added resulting from the process of production accounts for at least 35% of the ex-factory cost of the goods
• The goods are classified or become classifiable under a tariff heading other than the tariff heading under which they were imported.
Concerns Around RoO

- Can be designed to restrict trade flows
- Can be a large burden on Customs
  - Especially with the proliferation of FTAs each with their own RoO
- Has been subject to very little discipline during the 50 years of GATT/WTO
- Determination of origin => become more difficult as technology changed
The importance of Rules of Origin

- The rules of origin are the criteria used to determine the nationality of a product.
- At one time it was seen that the identity of the originality signified a certain level of technological development and every country felt proud to label its products ‘Made in ----’
- Once the origin of a good is known the importing country can apply any country-specific or trade area specific trade preferences or restrictions to the imported good such as;
  - duty free entry for goods originating in a free trade area,
  - quantitative restrictions on goods originating in a country subject to a quota,
Role of Rules of Origin

- The role of Rules of Origin is to ascertain the country of origin or nationalities of imports, the production processes involved and ascertain trade relationships between countries in either a Preferential Area or Customs Union.
- Essentially the rules of Origin are key to Preferential Trade Areas and their success are highly dependent on flexibilities on the rules.
- Once the nationality of the product has been ascertained, a country is in a better position to apply basic trade policies such as fixing of tariffs, quantitative restrictions, and anti-dumping.
Role of Rules of Origin-cont’d

- It is often common for certain countries put in place preferential Rules of Origin which form part of the structure of Preferential Trade Areas
- The Preferential rules of Origin form the basis to ensure that only goods from a country that has been designated to enjoy these preferences
Role of Rules of Origin – cont’d

- There are concerns around Rules of Origin being designed to restrict trade flows whereby some countries, though able and competitive cannot access the restricted market simply because, that particular country is not a member of the PTA arrangement.

- In some quarters, the Customs Department is overburdened scrutinizing various FTA’s Rules of Origin requirements.
Role of Rules of Origin cont’d

- There are no agreed international standards for regulating formulation of Rules of Origin. Each FTA has a choice to formulate its own set of regulations and apply them as they deem right.
- There is tremendous technological development and changes in the manufacturing processes are increasingly becoming very difficult to determine
Defining Origin

- When a product is produced in a single stage or is wholly obtained in one country, the origin is very easy to establish.
- For example, production of natural products which usually require a single or double transformation.
- The complexity in defining the origin of a product arises when two or more countries have been involved in the production of a particular product.
- There has to be a mechanism to ascertain the origin and the basic conditionality is that there has been sufficient working or processing on the product that result in substantial transformation.
Methods of Determining Originality

- When a product is manufactured in, assembled in, or uses materials originating in more than one country, it becomes difficult to determine the origin of the product.
- The criterion of substantial transformation is the most widely used one.
- There are at least four methods or criteria used for determining origin of goods. Whichever method that is employed to determine origin, each seeks to prevent simple assembly and packaging operations from conferring origin
Substantial Transformation

- There are at least four methods or criteria used for determining origin of goods. Whichever method that is employed to determine origin, each seeks to prevent simple assembly and packaging operations from conferring origin.
- The transformation of a good requires more than just a change in the article; it requires an article be transformed into a new and different article having a distinctive name, character or use.
Value-Added Percentage Test

- The value added test defines the degree of transformation required to confer origin on the good in terms of minimum percentage of value that must come from the originating country or of a maximum amount of value that can come from the use of imported parts and materials.
- If the flow percentage is not reached or the ceiling percentage is exceeded, the last process will not confer originality
- c. Specific Manufacturing Processes
Specific Manufacturing Processes

- The specified process tests of origin, also referred to as technical tests, prescribe certain production or sourcing processes that may (positive test) or may not (negative test) confer originating status.

- The specified process test serves as a useful supplemental test because it is easily tailored to meet a specific situation. The country is in a better position to apply basic trade policies in a clear and precise manner.
Change in Tariff Classification

- The change in tariff classification method determines the origin of a good by specifying the change in tariff classification of the harmonized system of tariff Nomenclature (Harmonized System) required to confer origin on a good.
- Because the Harmonized System has been adopted by countries representing 90% of the world’s trade,
- It provides a uniform, hierarchical nomenclature to be used in defining origin determinations for all products in international trade. This system has universal acceptance among trading nations.
**Table 5.1: Summary of the Different Approaches to Determining Origin**

<table>
<thead>
<tr>
<th>Rule</th>
<th>Advantages</th>
<th>Disadvantages</th>
<th>Key Issues</th>
</tr>
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<tbody>
<tr>
<td><strong>Change of Tariff Classification in the Harmonised System</strong></td>
<td>Consistency with non-preferential rules of origin. Once defined, the rule is clear, unambiguous and easy to learn. Relatively straightforward to implement.</td>
<td>Harmonized System not designed for conferring origin, as a result there are often many individual product specific rules, which can be influenced by domestic industries. Documentary requirements maybe difficult to comply with. Conflicts over the classification of goods can introduce uncertainty over market access.</td>
<td>Level of classification at which change required – the higher the level the more restrictive. Can be positive (which imported inputs can be used) or negative (defining cases where change of classification will not confer origin) test – negative test more restrictive.</td>
</tr>
<tr>
<td><strong>Value Added</strong></td>
<td>Clear, simple to specify and unambiguous. Allows for general rather than product specific rules.</td>
<td>Complex to apply – requires firms to have sophisticated accounting systems. Uncertainty due to sensitivity to changes in exchange rates, wages, commodity prices etc.</td>
<td>The level of value added required to confer origin. The valuation method for imported materials – methods which assign a higher value (e.g., CIF) will be more restrictive on the use of imported inputs.</td>
</tr>
<tr>
<td><strong>Specific Manufacturing Process</strong></td>
<td>Once defined, clear and unambiguous. Provides for certainty if rules can be complied with.</td>
<td>Documentary requirements can be burdensome and difficult to comply with. Leads to product specific rules. Domestic industries can influence the specification of the rules. Can quickly become obsolete due to technological progress and therefore require frequent</td>
<td>The formulation of the specific processes required – the more procedures required the more restrictive. Should test be negative (processes or inputs which cannot be used) or a positive test (what can be used) – negative test more restrictive.</td>
</tr>
</tbody>
</table>
Cummulation

- This is an arrangement which allows producers to import materials from a specific country or regional group to be used in the manufacturing process of a certain product.
- The final product will be completely different from the individual parts and that these imported materials are treated as being of domestic origin.
- Cummulation is very important in today’s globalised production due to the fact that a manufacturing company from one country can source cheap supplies of raw materials /parts from across the borders.
Certificate of Origin

- After determining the originality of the product for export what follows then is the issuing of the Certificate of Origin.
- The main purpose of this document is to establish in the importing country the right of the product to preferential treatment in terms of duties to which it may be entitled.
- Certificates of Origin may also be needed to prove that goods do not come from a country against which the importing country has trade restrictions.
- Each country designates a competent body to issue the Certificate of Origin.
Certificate of Origin-cont’d

- The International Chambers of Commerce (ICC) whose headquarters are in Paris has memberships across the globe and its members all over the world are signatories of Certificates of Origin.
- In Tanzania, the competent body appointed by the Government and vested with the responsibility to issue all Certificates of Origin is the Tanzania Chamber of Commerce, Industry and Agriculture (TCCIA)
Authority to Issue of Certificates of Origin

- Since 1999 when this responsibility was passed on from BET, TCCIA has demonstrated professionalism in executing this noble responsibility with high ethics and diligence and has not been subject to verification by our trading partners.
- At present TCCIA issues the following Certificates of Origin
  - International (ICC) Certificates
  - EAC Certificate of Origin
  - SADC
  - SACU-MMTZ
  - EUR1
  - AGOA
  - GSP
  - SPT-CHINA
  - COMESA
International (ICC) Certificates

- This certificate is globally recognized and is being used as a document signifying that the goods being exported have been proved to originate from the exporting country.
- Most countries demand this type of certificate to satisfy themselves that there is no trade diversion and that the product actually originates from the exporting country.
EAC Certificate of Origin

- The East African Community has set its own rules for origin applicable to identify originality of goods produced by Partner States in the region.
SADC Certificates of Origin

- SADC is another organization made up of free and sovereign states with a common vision of establishing an economic community in the near future.

- Members of SADC are:
  - Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Malawi, Mozambique, Mauritius, Madagascar, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

- Any exporter of products to any SADC country is assured of getting an authentic and genuine certificate of Origin from the offices of TCCIA.
SACU-MMTTZ

- The South African Customs Union-Malawi, Mozambique, Tanzania, Zambia is another trading arrangement by the South African government that allows special quotas of Textiles and Clothing from the four least developed countries within SADC into South Africa.

- Certificate of origin for exporters who meet the standard requirements and the quota are obtainable at TCCIA.
The biggest trading partner of Tanzania is the European Union.

This traditional destination of most of our products. The number of countries representing the EU is now 25 and this trading block is the destination of 50% total exports from Tanzania.
AGOA

- The Africa Growth Opportunity Act (AGOA) is a trade initiative of the American government extended to 37 least developed countries of Sub-Saharan Africa.
- Tanzania along with other members from Sub-Saharan Africa is a beneficiary. The range of products is well over 6000 and an exporter to the US can obtain AGOA Certificate of origin from TCCIA
The Generalized System of Preferences is an arrangement whereby some developed countries allow duty free and quota free access of manufactured products from Least developed countries in an effort to bolster their industrialization process.

The certificate of Origin can also be obtained at the TCCIA office.
SPT-CHINA

• China is the fastest growing economy in the world has all along been interested in the welfare of the people in the third world.
• This country is now sourcing raw materials and encourages trade between our countries
• in fact within a very short period, that is one year alone, the amount of exports from Tanzania to China has exceeded all trade statistics of AGOA.
• Members of the business community can obtain certificates of origin for the SPT arrangement from the offices of TCCIA
COMESA

- The Common Market for eastern and Southern Africa (COMESA) is an organization of free independent sovereign states whose vision is to the business community to take maximum advantage of trade and economic regional integration.
- The present membership status is comprised of:
  - Angola, Burundi, Comoros, Egypt, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Sudan, Swaziland, Uganda, Democratic Republic of Congo (DRC), Zambia, and Zimbabwe.
- The COMESA Certificate of Origin is applicable to these countries and is available at TCCIA.
Issuing Authority Of Certificate of Origin in Tanzania

- ALWAYS CONTACT TCCIA FOR Certificate of Origin
Conclusion

- Smooth way of doing export trade within EAC when you have Certificate of Origin
- Always make sure you understand rules of origin governing your exports
- Insist you get authorised Certificate of Origin
- Always export value added products
Thank you