



With the support of the
Erasmus+ Programme
of the European Union



THE UNIVERSITY
of ADELAIDE

ACTIVITY E2 Bi-Annual Public Seminar (webinar) Reforming EU-Africa Rules of Origin

Report by Professor Peter Draper, Institute for International Trade

As part of our broader outreach on relevant international trade topics we decided to focus on a relatively obscure, but consequential, aspect of trade agreements: rules of origin. Our primary purpose was to educate a global audience on why these matters, particularly in relation to economic development of poor countries, and notably those that are least developed since Asia contains a number of LDCs. The approach we took was to benchmark EU practices in negotiating rules of origin with the region of the world that contains the most LDCs: Sub-Saharan Africa.

Accordingly, we commissioned a former staff member with deep expertise on the topic to compile a presentation, anchor a public webinar, and produce an opinion editorial.

All deliverables were accordingly produced, including a recording of the webinar. Participation at the webinar was high, with 75 people staying the course for a rather technical discussion.

<https://iit.adelaide.edu.au/news/list/2022/10/28/reforming-eu-rules-of-origin-applied-to-trade-agreements-with-africa-webinar>

<https://iit.adelaide.edu.au/news/list/2022/11/15/reforming-eu-rules-of-origin-applied-to-trade-agreements-with-africa>



The **Institute for International Trade (IIT)**, through its **Centre of Excellence in International Trade & Global Affairs**, invite you to join us for a presentation on the case for **Reforming EU Rules of Origin Applied to Trade Agreements with Africa**. African countries' post-colonial trading relations with Europe have been regulated by a succession of trading arrangements over time. Under the earlier Lomé and Cotonou Agreements sub-Saharan African countries could cumulate with each other and export their resulting products to the European Union duty-free. Unfortunately, since the conclusions of EPAs with most developing African countries, and African LDCs having to trade under Everything but Arms, continental-wide cumulation is no longer possible for African producers wanting to export value-added products to the EU. This is in conflict with the Africa-wide market that African countries (including North Africa) are attempting to build under the African Continental Free Trade Agreement.

Accordingly, this webinar's main objective is to propose reforms to the current multiplicity of rules of origin that characterises the EU's current trade relationships with different African countries. Mike Humphrey will present the results of recent work exploring the possible creation of a single set of rules of origin that applies across all Africa's trade agreements with the EU, arguing that this will facilitate (but not guarantee) intra-African trade and the export of value-added African exports to the EU

Date: Thursday, 10 November 2022

Time: 6.00pm to 7.00pm (Adelaide Time ACDT) | 09.30am – 10.30am (Central African Time CAT) | 10.30am – 11.30am – (East African Time EAT)

SPEAKERS

Mike Humphrey (*Presenter*), is an independent Trade Expert with extensive African experience including, managing the EU support program for SADC's EPA negotiations for 5 years; trade advisor to the Eswatini International Trade Department; advisory roles at SADC, SACU, COMESA and the EAC; designing the EU support program for the AfCFTA Support Unit at the AU Secretariat; providing rules of origin (RoO) training for public sector officials and the private sector in African, South Asian & Pacific countries; and running a training program for officials in Indonesia's RoO Unit negotiating a FTA with the EU.

Professor Peter Draper (*Moderator*), Executive Director, Institute for International Trade, the University of Adelaide & Jean Monet Centre of Excellence in International Trade and Global Affairs.

Latifa Said Omar (*Discussant*), Customs Official. Latifa is a trainer in RoO at the Kenyan Customs Training School, she is an expert in EAC RoO and has also done work on implementing the AfCFTA RoO for Kenyan Customs.

Jacqueline Pimer (*Discussant*), International Trade Lawyer. Jackie has over 12 years' experience in leading projects on the African integration, investment, non-tariff barriers, trade in services, standards integration and most recently on the AfCFTA.

REGISTER HERE



THE UNIVERSITY
of ADELAIDE



With the support of the
Erasmus+ Programme
of the European Union



Reforming EU Rules of Origin Applied to Trade Agreements with Africa

Thursday, 10th November 2022

6.00pm - 7.00pm (ACDT – Adelaide Time)
09.30am – 10.30am (SAST – South Africa Time)
10.30am – 11.30am (EAT – Kenya & Uganda Time)

5.45 – 6.00pm	Attendees log in to zoom meeting	All
6.00 – 6.05pm (5 minutes)	IIT/University of Adelaide Welcome Introduction of Topic & Formalities Introduction of Presenter / Discussants Introduction of Mike Humphrey	Peter Draper , Executive Director, IIT, University of Adelaide
6.05 – 6.20pm (15 minutes)	Presentation	Mike Humphrey
6.20 – 6.25pm (5 minutes)	Discussion – remarks	Latifa Said
6.25 – 6.30pm (5 minutes)	Discussion - remarks	Jacquiline Pimer
6.30 – 6.50pm (20 minutes)	Discussion Questions & Answers Questions from Attendees	Moderated by Peter Draper
6.50 - 6.54pm (4 minutes)	Final Remarks	Latifa Said Jacquiline Pimer (2 minutes each)
6.54 – 6.58pm (4 minutes)	Final Remarks	Mike Humphrey
6.58 – 7.00pm (2 minutes)	Thanks & closing remarks	Peter Draper
7.00pm	Event Concludes	All



Reforming EU Rules of Origin Applied to Trade Agreements with Africa

*Mike Humphrey, Senior Trade Consultant
Institute for International Trade
The University of Adelaide*



THE UNIVERSITY
of ADELAIDE

10 November 2022

Jean Monnet Centre of Excellence in
International Trade & Global Affairs



With the support of the
Erasmus+ Programme
of the European Union

**make
history.**

INTRODUCTION

In this presentation I will attempt to propose what can be done to change the Rules of Origin (RoO) that regulate the EU's trade with Africa to make them:

- more development friendly by facilitating increased African beneficiation of its primary exports; and
- more supportive of Africa's continental trade ambitions

The European Commission's support for the production of this presentation does not constitute an endorsement of the contents, which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

WHAT ARE RoO AND WHAT ROLE DO THEY PLAY (i)

The RoO are a set of laws, regulations and procedures that determine which goods qualify for the preferences on offer under a specific trade agreement, and which goods don't

They ensure that only **qualifying goods** produced by the parties to the agreement benefit from its provisions

The purpose of RoO is to prevent non-signatory countries to the agreement from benefiting from the agreement

WHAT ARE RoO AND WHAT ROLE DO THEY PLAY (ii)

Rules of Origin (RoO) are an integral part of all trade agreements. Each trade agreement has its own set of RoO that are **unique** to that agreement. RoO can be either:

- agreed between the parties to a negotiated trade agreement

OR

- determined by one of the parties – as is the case with trade arrangements such as the Generalised System of Preferences (GSP) which developed countries offer to developing or Least Developed Countries (LDCs)

THE EVOLUTION OF EU- AFRICA TRADE RELATIONS (i)

The first Lomé Convention was signed in February 1975, after which there were three further extensions (1979, 1984 and 1990)

Under these Agreements the EU granted ACP countries non-reciprocal duty and quota free access to the EEC/EU for almost all products. A limited number of products had specific quotas – including bananas, beef and sugar. The banana protocol was challenged at the WTO in 1997 by the US as discriminatory against Central American banana producers

The Lomé Conventions were replaced by the Cotonou Agreement in mid-2000. A special dispensation was granted to the EU by the WTO which gave the EU and ACP up to 31 December 2007 to conclude WTO compliant reciprocal trade agreements. The EU and mostly Developing African countries subsequently concluded WTO compliant EPAs. African LDCs that did not sign EPAs continued to benefit from duty free access to the EU through the non-reciprocal EBA

Under the Lomé and Cotonou Agreements ACP products were required to meet the test of product specific RoO, and cumulation was allowed with any other ACP or EEC/EU country

THE EVOLUTION OF EU- AFRICA TRADE RELATIONS (ii)

Cumulation: allows producers to import inputs from other countries that are contracting parties to a trade agreement and count these inputs as if they had originated in their own country

a) **Bi-lateral Cumulation-** allows any of the parties to an agreement to cumulate with each other. For instance, under Cotonou a Ghanaian company could import inputs from Germany and count these imported inputs as local content when it exported its final product to Germany

b) **Diagonal Cumulation-** is intended to promote regional trade and co-operation among members of a regional grouping by allowing exporting countries to count inputs originating from any other contracting party in their region as if these inputs originated in their own country

THE EVOLUTION OF EU- AFRICA TRADE RELATIONS (iii)

Unfortunately, the cumulation rules that apply to the various EU-African EPAs and EBA do not allow countries to cumulate with countries in other EPAs, or with other EBA countries

For cumulation to be allowed between countries in different EPAs, or between African EBA qualifying countries¹, specific approval needs to be applied for, and granted, by the EU. The usual EU rule is that cumulation is only allowed for products where the RoO are exactly the same

¹**Note:** most non-African LDC's can cumulate with other LDCs in their regional groupings.

THE EVOLUTION OF INTRA-AFRICAN TRADE RELATIONS (i)

At the time of their independence most African governments have believed that promoting regional trade and economic integration is the best way of reducing poverty and their dependence on the export of raw materials to the developed countries

This resulted in a plethora of Regional Trade Agreements (RTAs) and regional integration initiatives throughout Africa, with many countries joining a number of these simultaneously. These include CEMAC, COMESA, EAC, ECOWAS, SACU, SADC and various attempts to include North African countries such as AMU and SEN-SAD

A common feature of all these RTAs is that they allowed cumulation between their member states

THE EVOLUTION OF INTRA-AFRICAN TRADE RELATIONS (ii)

However, despite these attempts at creating regional markets, intra-African trade has not grown substantially. Most African countries remain exporters of un-processed or semi-processed primary commodities to the EU and the rest of the world

At the Africa-wide level the OAU (later AU) launched various attempts to create an Africa-wide market. The first of these was the 1980 Lagos Plan of Action aiming at the creation of a single Africa-wide market by 2000. This Plan was superseded by the 1994 Abuja Treaty – which envisaged the creation of an African Economic Community (AEC) by 2028

As a part of this initiative the AU launched the AfCFTA negotiations in mid-2015 which would be the first step towards creating the AEC. Despite the fact that not all elements of the AfCFTA had been concluded, the AU decided to activate the AfCFTA from 1 January 2021 – allowing trading under those provisions that had been agreed. The agreed provisions included cumulation with any AfCFTA country. At that time, all AU member countries (except Eritrea) had signed the Agreement and 41 had ratified it. Since then a further 3 countries have ratified

WHAT'S TO BE DONE?

So, finally, we can now examine the issue I raised at the start of this presentation:

what can be done to change the multiplicity of RoO that currently regulate the EU's trade with Africa to make them:

- more development friendly by facilitating increased African beneficiation of its primary exports; and
- more supportive of Africa's continental trade ambitions

My proposal:

African exporters to the EU should be allowed to cumulate with any other African country and with EU countries

This is not a “quick fix” solution as implementing this proposal will require:

WHAT DOES THIS ENTAIL (i)

- Standardising the RoO of the five African EPAs this will involve negotiations with the separate EPA regional signatories to agree on (i) a single rule for each of the products that currently have different RoO in the different EPAs, and (ii) any other RoO that either side would wish to amend for other products;
- Aligning the EBA RoO with the revised African EPA RoO and allowing African LDCs to cumulate with each other as a group. All LDCs would benefit from this. If the EU only wanted these changes to apply to African LDCs they could apply for a WTO waiver (like the US has for AGOA); and
- Standardising the RoO of the North African countries with the revised African EPA RoO

WHAT DOES THIS ENTAIL (ii)

Were this proposal implemented in full, the African market would be more attractive for existing and potential African and EU investors in value added production for export to the EU. Mobilising this new investment is key to the transformation of the continent's export mix

However, on their own these reforms will facilitate this investment, not guarantee that it will eventuate.

For the latter to occur there is need to simultaneously address the other challenges constraining investment in African value-added production. These challenges vary from country to country, but include inconsistent investment incentive and macroeconomic policies, infrastructural deficiencies and the lack of transparent and functioning legal systems.

Thank You/ Asante Sana

Please note: This presentation is a synthesis from “Making Rules of Origin More Development Friendly for Africa” a study for GIZ by Mike Humphrey (May 2022) [forthcoming publication]