



RULES OF ORIGIN (RoO)

What are they?

1. Rules of Origin are a set of agreed guidelines that are used worldwide during trading to determine the source or origin of the goods that are being traded.
2. There are two categories of Rules of Origin: Non-preferential Rules of Origin and Preferential or Discriminatory Rules of Origin.
3. Non-preferential Rules of Origin are rules that are not given any special treatment in terms of import taxes; but are used mainly for the purpose of showing where the goods are made and come from; for example, if goods are manufactured and coming from Switzerland e.g. Swiss watches, then the Swiss government through its mandated institution / authority (usually chambers of commerce and industry, Ministry in charge of trade or Revenue Authority) shall issue proof of origin (a certificate of origin) that will state that the watches are of Swiss origin.
4. Preferential Rules of Origin or discriminatory **Rules of Origin** are rules that have been agreed upon by particular trading partners, it can be at a bilateral level, for example between two countries Zambia and Malawi, at a regional level e.g. among COMESA Member States or an inter-regional level for example those that apply when African countries export their goods to European Union.
5. They are called preferential Rules of Origin because the trading partners agree to discriminate goods coming from each other while charging import taxes. This means for example, if Zambia and Malawi together (bilateral) agree that goods made in their territories can be traded on an import tax free basis, then, when either country exports to the other partner, those goods are given preferential treatment and therefore charged zero import tax. But if similar goods came from outside the two countries, then import tax will be charged on those goods as they do not originate in the preferential trade area.
6. They are called discriminatory Rules of Origin because they are applied selectively only to the members of the agreement to the rules, e.g. COMESA Rules of Origin only apply to Member States of COMESA. They can be found in a publication called Protocol on Rules of Origin

Importance of Rules of Origin

7. It is necessary to have Rules of Origin for the following reasons:

- a. If the rules applicable are the Non-preferential Rules of Origin, then the country receiving the goods may have to collect taxes on the goods coming in by way of import/customs duty.
 - b. The opposite of the point above is that, if the applicable rules are preferential as explained earlier, then the receiving country may either charge zero duty or according to the agreed preferences. It helps to determine which countries get charged zero import duties or get preferential treatment.
 - c. At times, some countries may not wish to trade with others; for example where there are economic sanctions; and so the Rules of Origin reveal the source of the goods. In addition to this, sometimes there can be a ban on certain goods from certain countries due to health reasons e.g. the 'mad cow' disease that broke out in United Kingdom (UK) in the 90s that led to many countries banning beef imports from UK. Also in early 2000s the "Bird Flu" that broke out in some Asian regions resulted in some countries refusing to import chicken from the affected areas.
 - d. Another important reason is to inform the receiving country what volume of goods is coming into its territory from a particular country. This is important because, in case the volumes are too much such that they can cause an industry that is manufacturing similar goods in the receiving country to close down, the receiving country can put in place some measures to protect its industry. Such measures are called safeguards.
 - e. Furthermore, some countries who produce too many goods and are looking for alternative markets can send large volumes of their goods to another country while charging very low prices just to gain entry into that market; at times the prices charged are even lower than their own domestic market prices and this can cause industries producing similar goods in the receiving country to close down. This practice is called dumping. Knowing the Rules of Origin, the receiving country can know the source of the goods and therefore charge taxes over and above the normal rate to frustrate the unfair low pricing. Such measures are called countervailing duties.
8. Therefore it is only through proof of origin that the receiving country can know where the goods are coming from and take the necessary actions as explained above.

COMESA Rules of Origin

9. The COMESA Rules of Origin are in the preferential category and they have five independent principles under which goods can be accepted in the importing country as having been produced /manufactured in another COMESA country. These principles are:
- a. **Wholly produced rule:** The goods should be produced totally in the exporting Member State such that there are no foreign materials added to the manufacturing process. Such goods are live animals, agricultural produce e.g. maize, cotton, etc;

- b. **Material content rule;** Goods that are made with some foreign materials added to the manufacturing process and those foreign materials should not be over than 60% of the C.I.F(Cost Insurance and Freight) value;
- c. **Value addition rule:** Goods made with foreign raw materials, in the course of the manufacturing process and which should have at least 35% value addition
- d. **Change in Tariff Heading rule or CTH;** the Tariff heading of the final product should be different from the tariff heading of the foreign raw materials when the goods companies make use foreign raw material during the manufacturing process;
- e. **Goods of particular economic importance rule.** These are goods that are on the list approved by the Ministers in charge of Trade in COMESA Member States (also called the Council of Ministers) which are regarded as very important in the economic development of either the exporting member or the region and that, in the process of manufacturing, there should be at least 25% value addition; goods such as mini buses that are assembled in some Member States fall into this category.

Proof of origin

10. In order to show the receiving country that goods have indeed been produced in the sending country, a document is attached to the other papers such as an invoice etc that gives confirmation of the origin of goods. This is called COMESA Certificate of Origin. If a Member State sends goods to another member without attaching this certificate, then, those goods will not be given discriminatory or preferential treatment and they might even suffer import duty taxes.

11. The COMESA certificate is usually issued by Revenue Authorities such as Zambia Revenue Authority, (ZRA), Malawi Revenue Authority (MRA) and other Government institutions such as Uganda Export Promotion Board (UEPB), Ministry of Foreign Trade (General Organization of Export and Import Control) of Egypt and so on. Particular officials from these organizations are given permission to sign the certificates and are called Authorised Signatories.

12. In the 20th meeting of the Council of Ministers it was decided that all Member States should send their electronic specimen signatures of authorised signatories to the secretariat so that they are circulated from a central point to all Member States. The Member States are then supposed to circulate those specimens to all their customs administrations so that when goods arrive from another Member State, they should be facilitated without a problem.

13. If a problem arises because at times some customs entry points do not have the specimen signatures or they are not legible, then a query is sent to the secretariat which authenticates the specimen signature and then goods can be released.

14. This is how COMESA Member States are enjoy import tax free markets in each other's territories when they are members of the COMESA Free Trade Area (FTA). In addition, this one reason the volume of trade among the COMESA Member States has been increasing steadily and reached over USD14 billion in 2008, from just a mere USD 3 billion in 2000 before the Free Trade Area was operational. Since the COMESA Rules of Origin

favour the Member States, the region has benefitted from increased economic activity at national level as well as the fact that some Member States companies are undertaking cross-border investments by setting up companies in other Member States. So gradually COMESA's vision of raising the living standards of its ordinary people is becoming a reality.