



EAST AFRICAN BUSINESS COUNCIL (EABC)

TRADE & POLICY ADVOCACY UPDATES AS AT 19th APRIL, 2016



EABC MADE SUBMISSIONS ON TAX PROPOSALS TO EAC SECRETARIAT FOR 2016/17 CET REVIEW



Aiming at improving the adoption rates of annual tax proposals submitted by the Private Sector to EAC Policy organs, EABC Secretariat conducted a Private Sector Common External Tariff (CET) Review Mission to EAC Partner States from 7th to 21st Feb 2016. The Review Mission focused on four selected items: Flavours & Seasoning for Food and Beverages; Plastic tubes for packing toothpaste & cosmetics; Paper & Paperboard products and Iron & Steel Products.

To reach consensus on recommendations arising from the Review Mission, EABC organized Validation Meetings involving all Manufacturers Associations from EAC Partner States in Arusha, Tanzania on 11th March 2016.

Some of the agreed and harmonized EABC Tax proposals for 2016/17 Budget Year include:

- **Flavours and Seasoning for Food and Beverages (HS.2103.90.00, HS.210690.00 & HS.3302.10.00):**
 - a) Add the word **“food”** in addition to “beverages” in tariff line **HS.2106.90.20** so that the tariff lines reads **“Preparations of a kind used in manufacturing of beverages and food”**;
 - b) Reduce the duty rate for tariff lines **HS.21.06.90.20** and **HS.3302.10.00** from **10%** to **0%**;
 - c) Introduce the World Customs Organization (WCO) conform tariff line **“HS.2106.90.00-Noodle Soup Pre-Mixed Seasoning Powder”** to a duty rate of **0%**.

- **Plastic tubes for packing toothpaste & cosmetics (HS.3923.90.20; 3920.10.01 & 3920.10.90):**
 - a) Reviewing (printed and unprinted) packaging materials (chapter 39 plastic and 48) during the upcoming comprehensive EAC CET review.

- **Paper & Paper products – (HS.4804.11.00, HS.4804.19.90, HS.4804.29.00, HS.4804.42.00, HS.4804.51.00, HS.4804.52.00, HS.4805.11.00, HS.4805.19.00, HS.4805.24.00, HS.4805.25.00, HS.4805.91.00, HS.4805.92.00, HS.4805.93.00, HS.4810.31.00, & HS.4810.32.00):**
 - a) Review the tariff structure of chapter 48 to address stay application, misuse and misclassification as well as interests of paper mills and paper converts.

- **Iron and Steel Products – (HS.7208.54.00, HS.7208.90.00, HS.7213.10.00, HS.7213.20.00, HS.7213.99.00, HS.7217.20.00, HS.7227.10.00, HS.7227.20.00, HS.7227.90.00, HS.7308.10.00, HS.7308.20.00, HS.7308.40.00, HS.7318.15.00, HS.9406.00.90):**
 - a) Increase import duty for **HS.7208.54.00** and **HS.7208.90.00** from 0% to 10%;
 - b) Increase the import duty rate for **HS.7213.99.00** from 0% to 25%;
 - c) Increase the import duty rate for **HS.7213.10.00; HS.7213.20.00; HS.7227.10.00; HS.7227.20.00; HS.7227.90.00; HS.7308.10.00; HS.7308.20.00; HS.7308.40.00; HS.7318.15.00** and **HS. 9406.00.90** from 10% to 25%;
 - d) Consider the specific duty ranging from USD 150 to 250/MT or 25% whichever is higher for the following tariff lines: **HS.7212.40.00; HS.7213.10.00; HS.7213.20.00; HS.7213.99.00; HS.7214.10.00; HS.7214.20.00; HS.7214.30.00; HS.7214.91.00; HS.7214.99.00; HS.7215.10.00; HS.7215.50.00; HS.7215.90.00; HS.7216.10.00; HS.7216.21.00; HS.7216.22.00; HS.7216.50.00; HS.7216.61.00; HS.7216.69.00; HS.7216.91.00; HS.7216.99.00; HS.7227.10.00; HS.7227.20.00; HS.7227.90.00; HS.7228.00.00; HS.7302.20.00; HS.7308.10.00; HS.7308.20.00; HS.7308.40.00; & HS.7318.15.00;**
 - e) Review tariff rate structure for Chapters 72 and 73 of the EAC CET.

The EABC Tax Proposals and Study Report on EAC CET Review 2016 will be circulated by the EAC Secretariat to the Sectoral Council responsible for tax matters and the Ministries responsible for finance in EAC affairs in all EAC Partner States. This will enable each country to conduct country consultations prior to EAC Pre-Budget Consultations of Ministers of Finance which will be held May 2016.

NEW EAC RULES OF ORIGIN 2015 MADE MORE PRODUCTS QUALIFY FOR COMMUNITY TARIFF TREATMENT

The new EAC Rules of Origin (RoO), 2015 was approved by the Council of Ministers in November 2014. The RoO came into force in January 2015 vide Legal Notice EAC/3/2015 of 23rd January 2015. Unlike the previous Rules of Origin, the revised ones are trade facilitative, simpler and supportive to the value chain in the EAC market hence supporting investment in value adding activities.

Following the application of the new EAC Rules of Origin various products which did not qualify for the Preferential Community Tariff Treatment under the old Rules of Origin now qualify under the new EAC Rules of Origin. Some of these products include:

- **Metal Products: Nails, chain links, welded wire mesh and BRC.**



The EAC verification report undertaken on the 17th -29th March 2014 established that nails, chain links, welded wire mesh and BRC did not qualify under Change of Tariff Heading criterion of the EAC Rules of Origin, 2004.

However, following the coming into force of the revised EAC Rules of Origin, 2015 the EAC Secretariat has analyzed the following products nails, chain links, welded wire mesh and BRC based on the new EAC Rules of Origin 2015 and confirmed that all nails classified under the Heading 73.17, chain links classified under the Heading 73.14, welded wire mesh and BRC classified under the Heading 73.14 produced from wire rods classified under the Heading 72.13 qualify under Rule 6 of the EAC Rules of Origin, 2015. Therefore these products should be accorded Community Preferential Tariff Treatment which is 0% import duty.

- **Products Manufactured by East African Breweries Limited: Smirnoff vodka red & blue; Smirnoff ice black & red, and Gilbey's**



The EAC verification report undertaken on the 3rd -7th November 2014 to determine whether Smirnoff vodka red & blue; Smirnoff ice black & red, and Gilbey's qualify under the Community Tariff Treatment established that they did not qualify under Change of Tariff Heading criterion of the EAC Rules of Origin, 2004.

Following coming into force of the revised EAC Rules of Origin, 2015 the EAC Secretariat has analyzed the products namely Smirnoff vodka red & blue; Smirnoff ice black & red, and Gilbeys classified under 22.08 and confirm that they qualify under Rule 6 of the EAC Rules of Origin, 2015 thus should be accorded Community Preferential Tariff Treatment which is 0% import duty.

- **Models of Motor Vehicles Assembled by General Motors**



The following models did not qualify for origin under all criteria of EAC Rules of Origin, 2004: TFR32 (1190); TFR 32 (1190)VAN; TFR 54(1190); TFR 54 (1190)Van; TFS

85 S/C(1190); TFS 85 S/C (1190)VAN; TFS 85 (1190) D/C; NKR 66LU TANKER(WATER); NPR 66 CAB TANKER(WATER); FRS 33H; NQR 66RU CABTANKER (WATER); FVR23M; FVZ23S TANKER(WATER); NQR 66CAB; FRR 33L; FVR23M TANKER WATER & FVX 23S TANKER WATER.

However; following coming into force the revised EAC Rules of Origin, 2015, the Secretariat has analyzed the above products models to ascertain whether they currently meet the criteria as specified in Article 6 of the EAC Rules of Origin, 2015.

The Secretariat confirmed that all the above models of motor vehicles assembled from completely knock down kits by General Motors qualify under Rule 6 of the EAC Rules of Origin, 2015 thus should be accorded Community Preferential Tariff Treatment which is 0% import duty.

- **Models of Motor Vehicles Assembled by Kenya Vehicle Manufacturers**



The following models did not qualify under all the criteria of the EAC Rules of Origin: PKF 210 TRUCK; NU 41 TRUCK & CWB 450 TRUCK; FE51B8RB11; FE635E6RB11 & FE659F6RB11.

However, following the coming into force of the revised EAC Rules of Origin, 2015, the EAC Secretariat has analyzed the above models based of new Rules and confirmed that all the above models of motor vehicles assembled from completely knocked down kits by Kenya Vehicle Manufacturers on behalf of Simba Colt Motors Ltd & Cooper Motors Cooperation (CMC) qualify under Rule 6 of EAC Rules of Origin, 2015 thus should be accorded Community Preferential Tariff Treatment which is 0% import duty.

- **Wheat Flour**



The verification undertaken on 31st January -07th February 2011 to determine whether wheat flour qualify under Community Tariff Treatment established that the wheat flour manufactured by Mikoani Traders Ltd did not qualify for preferential tariff treatment under 4(1)(b) (ii) of the repealed rules-EAC Rules of Origin, 2004.

Following the coming into force the revised EAC Rules of Origin, 2015, the Secretariat has analyzed wheat flour and confirmed that wheat flour qualify under Rule 6 of the EAC Rules of Origin, 2015 thus should be accorded Community Preferential Tariff Treatment which is 0% import duty.

The Sectoral Council on Trade, Industry, Finance and Investment (SCTIFI) held a meeting on 26th February 2016 to agree on the recommendations made by the EAC Secretariat on the above mentioned items as follows:

- a) Took note that the following items qualify under Rule 6 of the EAC Rules of Origin, 2015 and should be accorded Community Preferential Tariff Treatment : nails classified under Heading 73.17, chain links classified under Heading 73.14, welded wire mesh and BRC classified under Heading 7314 produced from the wire rods classified under Heading 72.13; Smirnoff vodka red and blue, Smirnoff ice black and red , and Gilbeys classified under Heading 22.08; motor vehicles manufactured from Completely Knocked Down Kits (CKDs) and wheat flour manufactured by Mikoani Traders Ltd;
- b) Directed the Secretariat to monitor the implementation of the revised Rules of Origin and ensure compliance by Partner States.

RESOLVING EAC RULES OF ORIGIN ISSUES ON COOKING OIL MANUFACTURED IN EAC REGION



In March 2016, Rwanda Revenue Authority (RRA) issued a *Public Notice* informing importers, clearing agents and the general public that cooking oil manufactured in the EAC Partner States, no longer qualifies for preferential treatment. The Notice insisted that effective from 1st April 2016 all cooking oils will attract a 25% import duty on importation to Rwanda.

There was an outcry from the business community across the region over the *Public Notice* especially manufacturers of cooking oil that use locally wholly produced raw materials such as soya beans, sunflowers, simsim, corn, and cotton seeds. EABC's position was that the *Public Notice* was premised on a wrong assumption that all manufacturers of cooking oil in the EAC region import their raw materials. Aiming at resolving the matter, the EABC Secretariat wrote to the EAC Secretariat seeking clarifications on the matter.

In response to EABC's request, the EAC Secretariat issued a clarification that the Rwandan *Public Notice* was premised on the revised EAC Rules of Origin where animal and vegetation oils and fats have to be manufactured from materials from any heading except that of the product provided under the 1st Schedule of the EAC Rules of Origin.

However, the EAC Secretariat went further and made the following observations and provided a technical interpretation and guidance as provided in the Customs Management Act:

First, some of the cooking oil manufactured in the region is produced from wholly produced raw materials such as sunflower, simsim, soya beans, maize, cotton seeds, groundnuts and castor seed. These materials fall in Chapter 12 while finished product fall in Chapter 15 of the CET, hence do not fall under the same 4 digit

heading. Some firms have started extracting palm oil from palm kernels in the region enabling them to meet the origin criteria.

Second, the origin criteria on the working and processing operation under the 1st schedule of the Rules of Origin should be read together with Rules 6 (10) in relation to tolerance levels. In regards to cooking oil, where the net weight of imported products does not exceed 15% of the weight of the product, then such goods qualify for the Rules of Origin irrespective of the criteria specified in the schedule.

Third, Rules of Origin and its Manual specify the procedure of raising queries if a Partner State is not satisfied with the origin status of the product. Accordingly, such queries should be applied on a case by case basis and the necessary verifications undertaken.

Fourth, Issuance of a Public Notice generalizing withdrawal of Community Tariff Treatment to a product is inconsistent with the EAC Rules of Origin procedures and it may unfairly discriminate some products without due analysis.

Fifth, The Secretariat has noted that the criteria on cooking oil in the EAC manufactured from imported crude oil requires further review to establish the level of transformation undertaken in relation to the capital investment of the firms, the level of employment and economic benefit to the region. This matter will be presented for consideration in the upcoming technical and policy meetings.

The EAC Secretariat concluded by advising Rwanda Revenue Authority to treat the transfer of cooking oil from other Partner States on a case by case basis and where necessary further analysis and verification should be undertaken to establish the material content.

These EAC Secretariat observations and technical guidance have been officially sent to the Rwanda Ministry of East African Community Affairs and shared to all Commissioners of Revenue Authorities and Ministries responsible for EAC affairs of all EAC Partner States.

PROMOTION OF THE TEXTILES AND LEATHER INDUSTRIES IN EAC REGION

The Sectoral Council on Trade, Industry, Finance and Investment (SCTIFI) held its meeting in Arusha on 26th February 2016 and considered the progress of implementation of the Summit directive on textile and leather sectors. The Summit directed the Council of Ministers to study the modalities for the promotion of the textiles and leather industries in the region as well as mechanism for cease the importation of used clothes, shoes, and other leather products from outside the region.

The SCITIFI was informed that the EAC Secretariat had carried out national consultations to establish the current status of cotton, textiles and apparels industry and leather, as well as the situation of the industry at the national and regional levels and prepared policy papers which were considered by the Sectoral Committee on Industrialization (SCI). Key findings from the consultations are as follows:

- **Cotton, Textile and Apparel**



- i) Cotton is grown to commercial scale on all Partner States except Rwanda, 70-85% of cotton lint produced in the region is exported;
- ii) The spinning and textiles mills in most Partner States operate between 40-50% capacity due to unavailability of cotton lint;
- iii) The main products from textile mills include khanga and kikoi which are mainly exported in the region and partly to SADC and COMESA countries;
- iv) Most of the apparel industries in the region use imported fabrics partly due to the low quality of locally available fabric;
- v) The textile mills and apparel industries raised concern on the impact of second hand clothes on their business as these products sell cheaply due to ineffective taxation and smuggling.

- **Leather and Footwear**



- i) The region is endowed with raw materials for leather and footwear: Tanzania has a total of 22.8 million cattle; Kenya- 17.5million cattle, Uganda- 12.8 million cattle, Rwanda- 0.991 million cattle and Burundi has 0.74 million cattle;
- ii) Currently all Partner States process their leather up to a wet blue stage. Between 80 to 90% of wet blue leather is exported; only 10% remains for processing to finished leather which caters for footwear and artisanal shoe makers;
- iii) The footwear industry in the region is underdeveloped and has been negatively impacted by second hand shoes and synthetic imports;
- iv) All Partner States currently apply an 80% export tax on raw hides and skins. As a result, tanneries are able to get raw materials for processing to the wet blue stage;
- v) There was concern across Partner States on smuggling of raw hides and skins both from within the EAC countries and outside the region;
- vi) The demand for footwear in the region is significant although an 80% of the demand is met through imports out of which 60% are second hand clothes.

Based on these observations the 33rd Meeting of the Council of Ministers which was held on 29th Feb 2016 adopted the SCTIFI Report and made following directives:

- a) Partner States to ensure that all imported second hand shoes and clothes comply with Sanitary requirements in the country of exportation and importation;

- b) Partner States to consider banning the export of raw hides and skins outside the EAC region;
- c) Partner States to procure their textile and footwear requirements from within the region where quality and supply capacities are available competitively;
- d) The EAC Secretariat to carry out a comprehensive study on modalities for promotion of automotive industries, leather and textile industries taking into account the effect of the proposals to the commitment of the region with other organisations.

Furthermore the 17th Ordinary Summit of the EAC Heads which was held on 2nd March, 2016 issued the following directives on the matter:

- a) Council to expedite the process of finalization of the comprehensive study on automotive industry in the EAC and issue a report to 18th Summit;
- b) Partner States to ensure that all imported second hand shoes and clothes comply with Sanitary requirements in the Partner States;
- c) Partner States to consider banning the export of raw hides and skins outside the EAC region;
- e) Partner States to procure their textile and footwear requirements from within the region where quality and supply capacities are available competitively with view of phasing out importation of used textiles and footwear within three years;
- f) Partner States to sensitize all stakeholders and directed the Council to provide the Summit with an annual review with a view to fast tracking the process.

END

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