

INFORMATION ON THE IMPLEMENTATION OF THE ECOWAS TRADE LIBERALISATION SCHEME (ETLS)

SOURCE: ECOWAS Commission-WAMI Report of Study on Trade Capacity of Member States of the WAMZ, Accra, Ghana - August 2012

1.0 Introduction

The ECOWAS trade liberalisation scheme (ETLS) was adopted by ECOWAS to serve as a tool for the establishment of a common market. The ETLS came into existence first in 1979 and only covered agricultural goods, artisans, and handcrafted products. However, in 1990 it was expanded to include industrial goods. The expansion created the need for rules defining the notion of ECOWAS “originating products”. The rules of origin define whether an industrial product can be considered as originating from the ECOWAS region. Taking advantage of proximity and the large ECOWAS market, and other trade supporting protocols discussed in Part One, it has been expected that through active participation in the scheme, from 1979 to to date, at least in some products, each Member State would be experiencing the following: increased competitive advantage in a number of production areas, economies of scale, technological responsiveness, investment and economic growth, acceleration of reforms and definition of national economic policies.

The objective of this section is to take stock of progress made in the implementation of the scheme, uncover challenges encountered, identify gaps and proffer recommendations for effective implementation of the scheme in the zone.

After this introduction, the rest of the sections are organised as follows: an overview of ETLS is covered in section two, status of compliance of Member States to the ETLS is recounted in section three, section four enumerates the challenges of implementing ETLS, while section five concludes and provide recommendations.

2.0 Overview of the ETLS

The following product groups will benefit from ETLS provided they originate from the ECOWAS region:

1. agricultural and livestock products,
2. fishery products from the sea, rivers or lakes,
3. mining products,
4. artisanal handicrafts, and
5. industrial goods.

The following goods do not require an ETLS certificate of origin to be traded duty free within the region but the appropriate sanitary and phyto-sanitary certificates must be obtained from the countries of origin for agricultural goods:

1. Agricultural and livestock products,
2. handmade articles manufactured with or without the use of tools, instruments or implements directly operated by the craftsman (see Trading in the ECOWAS Free Trade Area, ETLS Rules for Traders, first edition 2012).

Exemption from customs duties and from taxes with similar effects does not however include value added tax and excise duties if they prevail in a member state. Industrial goods in transit

proceeding to and from member states are exempt from customs duties and taxes with similar effects.

2.1 Criteria for determining originating products

2.1.1 Mandatory Registration

A National Approvals' Committee shall be established to receive applications for registration of companies and products under the ETLS ordinarily resident in their jurisdiction. Every participating Member State shall constitute a National Approvals' Committee comprising the following Ministries, agencies, and organisations: Ministry of Trade, Ministry of Industry, Ministry of Finance (Customs Department), Ministry of Integration (ECOWAS National Unit), National Chamber of Commerce and Industry and any other institution that may be deemed appropriate. The NAC shall be presided over by the representative of the national authority designated to grant such approvals. It is the responsibility of Member States to give approval to their enterprises and products that fulfil the conditions of rules of origin and forward the list of such approved products and related dossiers to the ECOWAS Commission. The ECOWAS Commission is responsible for the distribution of the list of approved products sent by Member States. Companies and goods must be registered by the National Approvals' Committee and must appear on the list of approved products published by ECOWAS Commission. The registration of products and companies is done by the National Approvals' Committee of each Member State. The approval information is transmitted to the ECOWAS Commission for a region-wide notification.

2.1.2 Rules of Origin of Community Goods

Goods shall be considered as originating from Member States if they have been wholly produced in Member States (see Appendix 2 for goods wholly produced in the Member States), in accordance with the provisions of Article 3 of the protocol on ETLS; or they have been produced in Member States but contain raw materials which were not wholly obtained from Member States, provided that such materials have undergone operations and processes that confer Community origin, as defined in Article 4 of this protocol⁷.

Originating products consisting of materials wholly produced or sufficiently transformed in one or several Member States shall be considered as products originating from the Member State in which the last processing or transformation took place, in as much as the processing or transformation carried out there exceeds the processing and transformation defined in Article 5 of this protocol.

However, for goods not wholly produced in the community, but their production requires the exclusive use of materials which are to be classified under a different tariff heading from that of the product, this rule shall be accompanied by a list of exemptions mentioning the cases where the change in the heading is not a determining factor or, imposing additional conditions. The list shall be established by a Regulation of the Council of Ministers.

⁷ The Protocol referred to is the ECOWAS Trade Liberalisation Scheme, Protocols and Regulations, May 2004

If the use of local content in the production of a good constitutes a value-addition of at least 30 percent of the ex-factory price of the finished goods, it shall be considered of community origin.

Box 1: ECOWAS Rules of Origin

Rule 1:

Wholly produced goods: Goods are regarded as wholly produced within ECOWAS if atleast 60 percent of the total quantity of raw materials used originate from the ECOWAS region.

Rule 2:

Change in tariff heading: Every product can be classified according a list developed by the World Customs Organisation (WCO) (the HS tariff classification). This list is made up of numbers broken down in:

“Chapters” – 2 digits,
“Headings” – 4 digits,
“sub-headings” six digits

If the finished product requires the exclusive use of materials which are classified under a different tariff heading from that of the finished product it can be traded duty free. There is a list of exceptions to this rule mentioning the cases where the change in tariff heading is not substantial enough to grant originating status.

Rule Three

If input materials received a value addition of at least 30 percent of the ex-factory price of the finished goods. The goods are considered as originating from the region and can be traded duty free within the region. #

Source: ECOWAS Commission

2.1.3 Certificate of origin

All goods registered under the ETLs must have certificate of origin. Goods must appear on the list of products annexed to the decisions liberalising trade in these products. See figure 1 below for sample certificate of origin.

Figure 1: ETLS Certificate of Origin

ECOWAS/UEMOA		REPUBLIC OF		
CERTIFICATE OF ORIGIN N°				
1. Producer (Name or trade name and address) Registration No.		3. Criteria determining origin (1) <input type="checkbox"/> Goods wholly produced in the Community <input type="checkbox"/> Goods sufficiently processed or worked: - according to the criterion of changing of tariff position <input type="checkbox"/> - according to the criterion of value added <input type="checkbox"/> (2)		
2. Consignee (Name or trade name and address)		<input type="checkbox"/> ECOWAS scheme (in compliance with the provision of Protocol A/P/03/03 articles 2,3,&4) <input type="checkbox"/> JF&IC scheme (in compliance with the provisions of Protocols No. CEGUEMCA/01)		
4. Quantity, nature of goods and number of packages	5. Tariff & Statistical Nomenclature	6. Approval no of goods	7. Gross weight or other measure	8. Invoice value
9. Declaration by exporter I, the undersigned declare that the above-mentioned particulars are correct, and that the goods satisfy the requirements for the issue of this certificate. Place and date Signature				
10. Certification by the appropriate Authority Declared criterion of origin certified correct Place & date Signature and stamp (3)		11. Certification by Customs I, the undersigned Customs officer, declare that this certificate is authentic and accurate. Export document: Model No. Dated Place & date Signature & stamp (3)		
12. Request for Verification To (address of issuing Customs office) Verification of authenticity and accuracy of this certificate is required Place & date Signature & Stamp (3)		13. Verification Verification establishes that this certificate (1): <input type="checkbox"/> has been issued by this office and that the particulars are correct <input type="checkbox"/> does not satisfy the conditions of authenticity and accuracy. Place & date Signature & Stamp (3)		

(1) Mark a cross in the box as applicable
 (2) State percentage of value-added
 (3) Name of signatory and rank in block capitals (otherwise, indicate registration number)

Source: ECOWAS Commission

INSTRUCTIONS

1. Use block capitals except for names and signatures.
Do not write in margins or in between lines.
Any unused space must be struck through in such a manner as to make any later additions impossible..
2. The certificate must contain no erasures or words written over one another. Alterations should be made by crossing out the incorrect particulars and adding any corrections where necessary. All such alterations must be initialled by the person filling the certificate and endorsed by the Customs authorities of the issuing Member State.
3. This certificate is issued in a single original. All copies must bear the word "copy". In the event of loss of the original, a duplicate may be issued, bearing the word "Duplicate".
4. Goods must be described in accordance with commercial practice and in sufficient detail to enable their identification.
5. This certificate of origin covers one product only.
6. The period of validity of this certificate is six (6) months commencing from the date of issuance.

3.0 Country Compliance with ETLS

All WAMZ countries have signed up to the ETLS but the level of compliance varies from one country to another. While some countries are largely compliant with the provisions of the scheme by putting in place institutional frameworks for effective implementation of the scheme, others have the structures in place but the level of institutional coordination is too inefficient to allow for smooth functioning of the scheme.

Ghana

Ghana has adopted the ETLS and put in place relevant institutions and structures required for the effective implementation of the scheme. The scheme is being implemented and the country has as at December 2010, registered 300 companies and 900 products. However, the authorities had concerns relating to issues of reciprocity and other implementation matters citing the existence of prohibition list in other Member States as well as the computation of value addition method of some goods of community origin.

In respect of dissemination of relevant information relating to ETLS to the business community, Ghana has prepared a national sensitisation programme intended for a country-wide coverage and is seeking support from the ECOWAS Commission for implementation. However, in the interim the Ghana Revenue Authority Customs Division of CEPS have engaged a consultant to redesign its web page with sufficient ETLS content. Although the Ghana Revenue Authority Customs Division is member of the NAC, it has not been assigned a lead role in the screening of applicants for participation in the scheme.