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COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM MR KOVÁCS AND MR MANDELSON TO THE  
COMMISSION IN AGREEMENT WITH MR MICHEL**

**on the Rules of Origin in Economic Partnership Agreement regional negotiations**

## 1. INTRODUCTION

The six Economic Partnership Agreements (EPAs) have to be in place by 1<sup>st</sup> January 2008 to legally secure and improve the market access offered under the Cotonou Agreement, after a WTO waiver covering the current WTO-incompatible trade regime expires at the end of 2007. The main policy issue in the EPAs, which will establish a unique relationship and trade regime between these countries and the EU, is development.

A key element of the final agreement with each EPA region will be an agreement on the applicable rules of origin where the Commission needs to present an offer as a matter of urgency. As established in the negotiation directives (SEC(2002)351 final, approved by the Council in June 2002), negotiations shall be based on the rules of the Cotonou Protocol. The objective stated in the Cotonou Agreement (Article 37.7) is to improve the market access for the ACP countries through inter alia, a review of RoO. Since the current origin rules are restrictive for some products and constitute an obstacle to the exports from the ACP countries, the EU offer should contain improvements to facilitate the development of ACP exports in sectors of their interest, whilst taking into account the need for overall coherence of the Community preferential rules of origin.

## 2. ELEMENTS FOR AN EU OFFER

Due to time constraints and the lack of detailed and comprehensive requests from most of the EPA regions, it is proposed to focus the improvement of the Cotonou protocol on selected areas, namely agriculture and processed agricultural products, fish, and textile/clothing, where the greatest development potential of the ACP lies and which have been the subject of requests for more flexible rules of origin from them. All other rules would remain identical, although the EU should be prepared to consider specific requests put forward by the ACP at a later stage. In order to maintain a coherent international trading environment and avoid excessive complexity for economic operators and customs authorities, the same protocol will be presented to all six ACP EPA regions; the Commission should aim, to the maximum extent possible, to avoid divergences in the rules among the different EPAs, although specific requests reflecting special regional needs will be taken into account.

For *agricultural products* and *processed agricultural products*, the basic rules will remain the same as in the Cotonou agreement, whilst the EU would offer relaxation for a selected number of products of a particular interest for a given region. The protocol to be put forward therefore maintains the Cotonou rules whilst it opens the door to specific rules for selected products. Once the specific rules for a particular region will have been negotiated, they will replace the corresponding Cotonou rules; in cases where the specific, more relaxed rules, would apply within quantitative limits, the Cotonou rules would apply for exports beyond such caps. Draft specific rules are being made available for the SADC and ESA regions; these could be used as framework or model for proposals that can be made to the other four regions as soon as they have indicated the areas or products in which they are interested.

For *textile and clothing*, it is proposed to offer the possibility of shifting from the current double transformation requirement to single transformation, i.e. global sourcing (use of intermediate materials from any third country). The attached background paper shows that such a move would not harm the EU textiles industry. Nevertheless, the Commission will pay particular attention to the impact on the Community market of these provisions. Any

significant adverse effects, for example stemming from abuse or fraud, may be addressed under the safeguard mechanism of the EPA agreement in question, for example through a re-introduction of the double transformation rule. The proposal to switch to single transformation on this basis does not prejudge what the Community will propose in terms of preferential rules of origin to be applied to other countries or regions.

For *fisheries products*, it is proposed to allow 15% of non-originating materials in the finished product across the board, and to offer the possibility of lifting the crew requirements for those ACP EPA regions that may want. Specific provisions for the Pacific region are also proposed, according to which, without prejudice to requirements on the effective conservation and sustainable management of marine resources as well as in compliance with EC sanitary and phytosanitary requirements, and upon notification to the Commission, processed fish products, manufactured from fish caught anywhere by fishing vessels regardless of their nationality would be considered as originating in the Pacific EPA region and benefit from the preference.

The draft Protocol will also provide for the possibility of *cumulation of origin* between the EPAs and Overseas Countries and Territories provided that the standard conditions for cumulation – application of same rules and administrative cooperation among the concerned countries for control purposes – are met. The same cumulation of origin, if necessary, could be extended between the ACP countries and other EU preferential countries. For this option the same standard conditions for cumulation should apply, although in this case the list of countries and products benefiting from these provisions will be subject to a case-by-case analysis as a reaction to the specific needs raised by the ACP partners. In all cases, administrative cooperation would be reinforced with the EU and between the countries concerned to make cumulation possible and better fight against fraud.

The EPA text will establish that these origin rules are of a transitional nature, pending the general reform of the EU preferential RoO which it is intended should be based on the value added system. A revision clause shall be negotiated to establish that, within a period of time to be agreed upon, the EPA origin rules will be re-examined with a view to move towards the reformed rules of origin (the negotiating position of the Commission will be that the transitional period should not be longer than three years from the adoption of the reformed EU preferential rules of origin).

Such amendments to the Cotonou RoO Protocol, although limited in scope, focus on areas where the ACP countries have shown particular interest, and would significantly improve the access of ACP goods to the EU market without endangering the EU industry.

Two background documents contain an evaluation of the effects of the proposed amendments in the areas of fisheries (for the Pacific region) and textiles respectively.

A draft protocol of origin reflecting the proposed changes is also enclosed as an annex for information.

### 3. CONCLUSIONS AND PROPOSAL

It is proposed that the Commission endorses the presentation of an offer on the basis of the elements outlined above and in the attached background papers. This offer is based on the rules of origin of the Cotonou agreement with some specific changes and is also reflected in the annexed draft protocol of origin rules.

The College will be kept informed about the evolution of the negotiations on the rules of origin.

#### Enclosures:

- Background paper on fisheries (Pacific region)
- Background paper on textiles
- Draft protocol of origin reflecting proposed changes
- Particular conditions applicable to some agricultural and agricultural processed products in response to requests made by the SADC and ESA regions.