EAST AFRICAN COMMUNITY

MANUAL ON THE APPLICATION OF EAST AFRICA COMMUNITY RULES OF ORIGIN

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EAC SECRETARIAT
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PREFACE

The Manual on the Application of EAC Rules of Origin is an EAC publication which sets out guidelines on the operationalisation of the EAC Rules of Origin in order to accord community tariff preferences to goods that meet the origin criteria and are traded between the Partner States. The Manual spells out in detail the application of the four criteria in determining the origin status of goods, procedures of administering the rules, procedures for treatment of small scale cross border trade and institutional framework for the implementation of the Rules of Origin.

This Manual has been developed to enable uniform interpretation and application of the Rules of Origin in EAC. It is designed to enable Customs officers and other officers involved in the clearance of goods understand the mechanisms of according the Community tariff treatment to goods traded in EAC. It also intended to make the traders and other stakeholders understand the procedures and requirements for goods to qualify under the internal trade regime.

The Manual can be used both as an operational instrument and in training of Customs officers and Clearing Agents. Periodical review will be done on the manual to ensure that its consistent with any new changes in trade both at international and regional level for which EAC circumscribes to.

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1.0 INTRODUCTION

1.1 Background

The concept of Rules of Origin has become increasingly important for international trade. In fact, the implementation of Customs Union and the application of trade measures, such as, import bans and prohibitions, discriminatory restrictions, tariff quotas, among others, depend on the application of Rules of Origin.

The Treaty Establishing the East African Community, in Article 75 sets out the undertaking by Partner States to the effect that they, inter alia, shall; establish a Customs Union, details of which shall be contained in a Protocol which shall among others, include Rules of Origin.

The Protocol Establishing the East African Community (EAC) Customs Union(hereinafter referred to as the "Protocol" provides, in Article 14 that goods shall be accepted as eligible for Community Tariff treatment if they originate in the Partner States, and the definition of such products shall be as provided in Annex III of the Protocol of the EAC Customs Union.

The EAC Rules of Origin are the cornerstone of the EAC trade regime. The determination of the eligibility of products to EAC origin and the granting of Community Tariffs to goods originating in the Partner States are important processes in the implementation of the EAC trade regime. The effective and uniform implementation of the provisions of the EAC Rules of Origin by the Partner States is important as it helps in strengthening the EAC trade regime.

The implementation of the EAC Rules of Origin requires Partner States to apply common procedures in determining the eligibility of products to EAC origin and the granting of Community Tariffs as provided under the EAC trade regime.

1.2 Scope

This manual covers the provisions governing the determination of the origin status of goods under the intra-EAC trade, the administration procedures of the rules of origin, simplified procedures for small scale cross border trade and organizational requirements for implementing the rules of origin. In addition the manual is a useful tool for training purposes.

1.3 Purpose of the Manual

The purpose of this manual is to:

- Translate the EAC Rules of Origin for practical application
- Explain the basic origin criteria under the EAC preferential trade regime
- Provide guidance on the procedures for the approval and registration of exporters
- Provide guidance on the issuing of EAC Certificates of Origin
- Provide guidance on origin verification
- Explain the dispute settlement procedure under the EAC trade regime
- Give guidance on the organizational requirements for the effective implementation of the EAC Rules of Origin.

1.4 Users

This Manual is intended for use by customs administrations, government institutions, manufacturers, traders, other agencies and other stakeholders involved in intra-EAC trade.

CHAPTER 2

2.0 PROVISIONS GOVERNING THE DETERMINATION OF THE ORIGIN STATUS OF GOODS UNDER THE INTRA-EAC TRADE

Under the EAC trade regime, goods qualify for Community Tariff treatment if they originate in the Partner States. This means that all goods that meet the requirements of the EAC Rules of Origin qualify for Community Tariff treatment when they are traded within EAC.

2.1 EAC Rules of Origin

EAC Rules of Origin refers to a set of criteria that is used to distinguish between goods that are produced within the EAC Customs territory and are eligible to community tariff treatment against those produced outside the EAC customs territory that attract import duties specified in the Common external tariff

2.2 Origin Determination (Rule 4 of the EAC Rules of Origin)

(a) Article 14 of the Protocol establishing the East African Community Customs Union provides that goods shall be accepted as eligible for Community tariff treatment if they originate in the Partner States. Goods have to meet the criteria set out in the EAC Rules of Origin.

(b) A product is considered as originating in Partner State if it is consigned directly from a Partner State to a consignee in another Partner State.

(c) The EAC Rules of Origin provides under Rule 4 the criteria to enable the authorities in Partner States to determine which goods qualify as originating EAC.

(d) The criteria referred to relate to how the goods have actually been produced. They are four in number and only one of them must be complied with for any goods to qualify for EAC tariff treatment. The four criteria are as follows:

(i) goods wholly produced or obtained in a Partner State (that is, no materials from outside the EAC have been used); or

(ii) goods produced in the Partner States and the c.i.f. value of any foreign (that is, non-EAC) materials used does not exceed 60% of the total cost of all materials used in their production;

(iii) goods produced in Partner States whose value added resulting from the process of production accounts for at least 35% of the ex-factory cost of the goods;

(iv) goods produced in Partner States and are classified or become classified under a tariff heading other than the tariff heading under which they were imported, always provided that the change to the character and nature of the goods is such that it demands a change in the first four digits of the classification under the HS Tariff.

(e) The exporter is may base his/her claim to EAC community tariff treatment on any one of the four criteria described in (i) to (iv) above, according to which of them has been complied with in the production process. However, if all that was done in "producing" the goods was one or more of the simple processes listed in Rule 7 of the EAC Rules of Origin and nothing else, the goods will not be eligible for EAC tariff treatment since such processes are, by themselves, insufficient to enable the goods to be considered as having been produced in the Partner States.

2.3 Direct consignment

The goods should be consigned directly from one Partner State to a consignee in another Partner State. This implies that goods should be transported directly from a consignor in another Partner State.

However, goods consigned from and to land-locked Partner States may for purposes of transportation, transit through other countries.

2.4 Wholly produced goods –[Rule 4(1)(a)]

2.2.1 Goods under this category are regarded as those which have been wholly produced (contain no materials imported from outside the EAC) in a Partner State as defined in Rule 5 of the Protocol.

Under Rule 5 provides the following products considered as "wholly produced" in a Partner State.

(a) mineral products extracted from the ground or sea-bed of the Partner States;

(b) vegetable products harvested within the Partner States;

(c) live animals born and raised within the Partner States;

(d) products obtained from live animals within the Partner States;

(e) products obtained by hunting or fishing conducted within the Partner States;

(f) products obtained from the sea and from rivers and lakes within the Partner States by a vessel of a Partner State;

(g) products manufactured in a factory of a Partner State exclusively from the products referred to in sub-paragraph (f) of paragraph 1 of this Rule;

(h) used articles fit only for the recovery of materials, provided that such articles have been collected from users within the Partner States;

(i) scrap and waste resulting from manufacturing operations within the Partner State;

(j) goods produced within the Partner States exclusively or mainly from one or both of the following:

- products referred to in sub-paragraphs (a) to (i), above
- materials containing no element imported from outside the Partner States or of undetermined origin

2.2.2 Where electrical power, fuel, plant, machinery and tools(irrespective of their origin) was used in the production of goods, such goods shall always be regarded as wholly produced within the Partner States when determining the origin of the goods.

2.5 Material content criterion – [Rule 4(1)(b)(i) of the Protocol]

The goods have been produced in a Partner State wholly or partially from imported materials (or from materials of unknown origin) and the c.i.f. value of materials imported from outside the region does not exceed 60% of the total cost of materials used in production.

- The cost of the materials (domestic and imported) used in production is considered for purposes of determining origin.

- Materials whose origin is unknown are considered as "imported" for purposes of this rule, and their price shall be the earliest ascertainable price paid for them in the Partner State where they are used in a process of production.

- The value of the imported materials is the c.i.f. value accepted by Customs at the time of clearance for home consumption or under temporary admission procedures.

Formula for calculation of material content (%):

- Import material content:

Import material content =

$$\frac{\text{c.i.f. value of imported materials}}{\text{cost of local materials + c.i.f. value of imported materials}} \times 100$$

- Local material content:

This rule can also be expressed in terms of domestic materials, where a minimum of 40% local content should be achieved for the finished goods to qualify as originating in a Partner State.

Local material content =

$$\frac{\text{cost of local materials}}{\text{cost of local materials + c.i.f. value of imported materials}} \times 100$$

The value of local content includes delivery costs of the material to the factory.

2.6 Value-added criterion – [Rule 4 (1)(b)(ii)]

The goods have been produced in a Partner State wholly or partially from imported materials (or materials of unknown origin) and the value added resulting from the process of production accounts for at least 35% of the ex-factory cost of the finished product.

- The value added is the difference between the ex-factory cost of the finished product and the c.i.f. value of imported materials used in production.

- Ex-factory cost means the value of the total inputs required to produce a given product.

- In applying this criterion, domestic material content may be either low or non-existent in the composition of the products to be exported.

- Materials whose origin cannot be determined shall be deemed to have been imported from outside the region.

Calculation of ex-factory cost:

The following elements of costs, charges and expenses should be included;

(a) The cost of imported materials, as represented by their c.i.f. value accepted by the Customs authorities on clearance for home consumption, or on temporary admission at the time of last importation into the Partner State where they were used in a process of production, less the amount of any transport costs incurred in transit through other Partner States.

(b) The cost of local materials, as represented by their delivery price at the factory;

(c) The cost of direct labour as represented by the wages paid to the operatives responsible for the manufacture of the goods;

(d) The cost of direct factory expenses, as represented by:

(i) the operating cost of the machine being used to manufacture the goods;
(ii) the expenses incurred in the cleaning, drying, polishing, pressing or any other process, as may be necessary for the finishing of the goods;
(iii) the cost of putting up the goods in their retail packages and the cost of such packages but excluding any extra cost of packing the goods for transportation or export and the cost of any extra packages;
(iv) the cost of special designs, drawings or layout; and the hire of tools, or equipment for the production of the goods.

(e) The cost of factory overheads as represented by:

e) rent, rates and insurance charges directly attributed to the factory;

- indirect labour charges, including salaries paid to factory managers, wages paid to foremen, examiners and testers of the goods;
- power, light water and other service charges directly attributed to the cost of manufacture of the goods;

f) consumable stores, including minor tools, grease, oil and other incidental items and materials used in the manufacture of the goods;

g) depreciation and maintenance of factory buildings, plant and machinery, tools and other items used in the manufacture of the goods.

The following elements of costs, charges and expenses should be excluded:

(a) Administration expenses as represented by:
  (i) office expenses, office rent and salaries paid to accountants, clerks, managers and other executive personnel;
  (ii) directors' fees, other than salaries paid to directors who act in the capacity of factory managers;
  (iii) statistical and costing expenses in respect of the manufactured goods;
  (iv) investigation and experimental expenses.

(b) Selling expenses, as represented by:
  (i) the cost of soliciting and securing orders, including such expenses as advertising charges and agents' or salesmen, estimates and tenders.
  (ii) expenses incurred in the making of designs, estimates and tenders.

(c) Distribution expenses, represented by all the expenditure incurred after goods have left the factory, including
  (i) the cost of any materials and payments of wages incurred in the packaging of the goods for export;
  (ii) warehousing expenses incurred in the storage of the finished goods;
  (iii) the cost of transporting the goods to their destination.

(d) Charges not directly attributed to the manufacture of the goods represented by:
  (i) any customs duty and other charges of equivalent effect paid on the imported raw materials;
  (ii) any excise duty paid on raw materials produced in the country where the finished goods are manufactured;
  (iii) any other indirect taxes paid on the manufactured products;
  (iv) any royalties paid in respect of patents, special machinery or designs; and
  (v) finance charges related to working capital.

Example:
A producer in Tanzania makes wooden chairs for sale to a buyer in Uganda. The producer uses both local timber and imported timber from Kenya and Malaysia, respectively. The producer incurs the following costs per chair, but he is not sure whether the chairs qualify for Community Tariff treatment or not:

Materials	**Cost (currency unit)**
Timber:	
Local timber	200
Kenya timber	100
Malaysian origin	900
Other costs:	
Glue imported from China	5
Varnish imported from Germany	8
Factory overheads:	
Rent and rates	100
Depreciation of machinery	80
Direct labour	300
Ex-factory cost	**1693**

Calculations:
(a) Material content

(i) Import material content = $\frac{900+5+8}{200+100+900+5+8} = \frac{913}{1213} = 75\%$

or

(ii) Local material content = $\frac{200+100}{200+100+900+5+8} = \frac{300}{1213} = 25\%$

(b) Value added = $\frac{1693 - 913}{1693} = \frac{780}{1693} = 46\%$

The material content and value added should be calculated to the nearest whole number.

From the above the final product (chairs) satisfies the value added criterion although the same chairs would not satisfy the material content criterion, since imported materials exceed 60% of the total cost of materials used in producing the chairs. The chairs would therefore be eligible for Community tariff treatment.

2.7 Change in Tariff Heading (CTH) Rule – [Rule 4(1)(b)(iii)]

a) The goods have been produced in a Partner State wholly or partially from imported materials and are classified or become classifiable under a tariff heading other than the tariff heading of the imported materials.

b) Under this criterion, origin is conferred if the manufacturing or processing carried out in the Partner States is substantial and results in a product which falls under a heading of the Harmonized Commodity Description and Coding System (HS) which is different from that under which the non-originating materials used in its manufacture fall.

c) In applying the CTH Rule particular attention should be given to exclusions provided in the Second Schedule of the Rules of origin specifying the definitions of workings and processes leading to a change in tariff headings and exclusions from the principle for application of the EAC Rules of origin.

The application of this rule awaits the finalization of the negotiations by the Partner States

2.8 Cumulation of origin [Rule 4(2)]

a) For the purpose of implementing the EAC Rules of Origin, the Partner States shall be considered as one territory.

b) Raw materials or semi-finished goods originating in any of the Partner States and undergoing working or processing either in one or more States shall, for the purpose of determining the origin of a finished product, be deemed to have originated in the Partner State where the final processing or manufacturing takes place

c) In applying this rule, the evidence of originating status of raw materials or semi-finished goods imported from another Partner State is the Certificate of Origin issued by the Designated Issuing Authority in the exporting Partner State.

2.9 Processes not conferring origin [Rule 7]

Notwithstanding the fulfillment of conditions under rule [4(1)(b)], the following operations and processes under rule 7 are considered insufficient to support a claim that goods originate from a Partner State. Products resulting from these operations and processes retain their foreign origin and are thus not entitled to Community Tariff treatment. The list is as follows:

(a) packaging, bottling, placing in flasks, bags, cases and boxes, fixing on cards or boards and all other simple packaging operations;

(b) (i) simple mixing of ingredients imported from outside Partner States;

(ii) simple assembly of components and parts imported from outside the Partner States to constitute a complete product;

(iii) simple mixing and assembly where the costs of the ingredients, parts and components imported from outside Partner States and used in any of such processes exceed 60 per cent of the total costs of the ingredients, parts and components used.

(c) operations to ensure the preservation of merchandise in good condition during transportation and storage such as ventilation, spreading out, dying, freezing, placing in brine, sulphur dioxide or other aqueous solutions, removal of damaged parts and similar operations;

(d) changes of packing and breaking up of or assembly of consignments;

(e) marking, labeling or affixing other like distinguishing signs on products or their packages;

(f) simple operations consisting of removal of dust, sifting or screening, sorting, classifying and matching, including the making up of sets of goods, washing, painting and cutting up;

(g) a combination of two or more operations specified in sub-paragraph (a) to (f) of this Rule;

(h) slaughter of animals.

2.10 Unit of qualification [Rule 8(1)(2)]

In order for good to qualify for Community Tariff preferences, each item in the consignment shall be considered separately. However where goods are classifiable within the single heading in accordance with the HS Code interpretative rules, such goods shall be treated as one.

2.11 Split consignments [Rule 8(3)]

Unassembled or disassembled articles, which for transport or production reasons may have to be exported at different times shall for purposes of granting preference, be treated as one article.

This means that upon importation of the first consignment the importer should satisfy the Customs requirements for the goods to be treated as one article and hence a single proof of origin (certificate) should be produced.

2.12 Goods produced under Export Processing Zones and Manufacturing under Bond (EPZ's, MUB)

Goods produced in these schemes within the Partner States if sold in the EAC Customs territory shall not qualify for Community tariff treatment as provided under the Protocol.

2.13 Goods produced under licence

Goods produced under licence shall be granted Community Tariff treatment if they meet the requirements of the criteria under the EAC Rules of Origin. Companies manufacturing goods under licence of international firms should ensure that the name and address of the company producing the products in the Partner State is indicated on the product. This will enable the goods in question to be considered as goods of EAC origin.

CHAPTER 3

3.0 ADMINISTRATIVE PROCEDURES

3.1 Introduction

For effective administration of EAC preferential trade regime, common administrative procedures shall apply in the Partner States. This will ensure that only goods originating in the EAC region benefit from Community Tariff treatment.

3.2 Registration of exporters

Companies wishing to export under the EAC preferential tariff regime should be registered with the relevant Customs administration in the Partner State. The review of the registration of these companies shall be made periodically.

Minimum Requirements:

(a) Companies wishing to be registered as exporters should submit a written application to the Customs Authority on a form attached hereto as **Appendix I**

(b) Upon registration an exporter shall be issued with a registration number.

3.3 What the Exporter should do to obtain a Certificate of Origin

(a) An exporter intending to export goods to another Partner State and desiring to have such goods granted EAC tariff treatment in the importing Partner State must obtain a certificate of origin from the designated authority in his State. The certificate, when presented by the importer to the Customs Authorities in the importing Partner State will serve as evidence to enable the goods to be accorded the EAC tariff treatment that is being sought.

(b) In order to obtain an EAC certificate of origin, the exporter must present to the designated certifying authority evidence that the goods have been produced in conformity with the conditions specified in Rule 4 paragraph 1 of the EAC Rules of Origin.

(c) The evidence to be presented by the exporter should consist, inter alia:

- the form of certificate of origin completed by him and signed in that part of the form headed "Declaration by the Exporter/Producer/Supplier,"
- the Customs import entry relating to the imported (foreign) materials used in the production,
- the commercial invoice to be sent to the importer,

- a statement detailing how the ex-factory cost or total cost of materials used in the production was arrived at and any other information as may be required.

3.4 Action to be taken if the exporter is not the producer of the goods

(a) Where the goods have been produced by a company or enterprise that is not the exporter who is seeking the certificate of origin, then the exporting company or enterprise must obtain from the producer a declaration in the form and containing the information indicated in **Appendix II** concerning the specific origin laid down in Rule 4 which has been complied with in respect of the goods being exported.

(b) The exporter should satisfy himself/herself that the information furnished by the producer is true and correct and that on the basis of that information he/she can properly request the issuance of an EAC Certificate of Origin.

3.5 Completing the EAC Certificate of Origin

(a) The exporter must enter on the form of the certificate of origin all information required in Boxes 1 to 10 of the form, except Box 4, which is reserved for official use.

(b) This form may be filled by any process provided that the entries are indelible and legible. Neither erasures nor super-impositions are allowed on the form, and any alterations must be made by striking out the erroneous entries and thereafter making or inserting any required additions. Any such alterations must be initialled by the person who completed the form and endorsed by the authority or body designated to issue the certificate.

(c) Any unused spaces on the form should be crossed out in such a manner as to prevent any subsequent addition.

- **Box 1**: Exporter
  Details of the registered exporter, who is a registered company operating in the Partner State must be entered in this box.

- **Box 2:** Consignee
  Details of the consignee in the importing Partner State must be entered in this box.

- **Box 3**: Particulars of Transport

Details of transport used to ferry the goods from the exporting Partner State to the importing Partner State must be entered in this box. E.g*. Truck reg. no. 721 – 505 P*.

- **Box 4:** For Official use
  The Designated Issuing Authority can use this box to enter any pertinent information regarding the export shipment. e.g. where EAC originating goods are re-shipped from one Partner State to another, the reference number of the Certificate of origin issued by the first exporting Partner State can be entered in this box.

- **Box 5:** Marks and numbers; number and kind of package; description of goods.
  Any identifying marks and numbers of the packages should be entered in this box.

  - If the goods are not numbered in any way, the words "No marks and numbers" should be entered.

  - Number and kind of package:This refers to, for example, boxes, drums, bags, etc.

  - For goods in bulk, the words "in bulk" should be entered.

  - Description of goods: Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

- **Box 6**: Customs Tariff
  The tariff code as per the EAC tariff schedule must be entered in this box.

- **Box 7**: Origin Criterion
  The specific qualifying criterion under Rule 2 of the EAC Rules of Origin must be entered in this box. For this purpose, the following letter should be used against each item entered in the certificate, as appropriate.
    - "P" – for goods wholly produced;
    - "M" – for goods to which material content criterion applies;
    - "V" – for goods to which the value added criterion applies;
    - "X" – for goods which are classified or become classifiable under a heading other than that under

which the imported materials used in its manufacture fall; and

- **Box 8**: Gross weight or other quantity
  It is recommended that exporters give weights and other measures in metric system.

- **Box 9**: Invoice No.
  State the number(s) and date(s) of the invoice(s) relating to the goods described in box 6.

- **Box 10**: Declaration by Exporter/Producer/Supplier
  Before signing the Declaration, the Exporter should ensure that all the particulars entered by him in the form are correct.

  - While the exporter is free to decide who will sign declarations on his behalf, it is recommended that the person so authorized be a member of the exporting firm.

  - Declarations signed by shipping or forwarding agents and the like are not acceptable.

  - The signature must not be mechanically reproduced or made with a rubber stamp, as by signing the form, the exporter declares that the goods described in Box 6 qualify as EAC originating products. If this declaration is incorrect, the exporter would have committed an offence under the EAC Customs Management Act 2004.

  - The Exporter must furnish any additional evidence, which may be requested by the certifying authority for purposes of the issuance of the certificate.

- **Box 11**: Certificate of Origin
  This box should be filled in by the Designated Issuing Authority of the exporting Partner State.

  - The Authority should endorse its origin verification stamp in this box in the appropriate space. The impression of the stamp should be very clear to avoid raising doubt by authorities of the importing Partner State as to its authenticity.
  - Certificate of origin forms should be completed in triplicate.

d) The specifications of the certificate of origin shall be as follows:

- a yellow paper measuring 210 by 297mm with an EAC watermark
- the EAC Customs Union Seal
- a serial number on the top right hand corner

3.6 Procedures for processing the EAC Certificate of Origin

(a) The declaration furnished by an exporter claiming that the goods being exported by him are eligible for Community Tariff treatment must be issued by the designated authority and authenticated by the Customs authority of the exporting Partner State, if the goods are to be accepted by the importing Partner State as originating in a Partner State.

(b) The Designated/Customs Authority will process the certificate as follows:

(i) Ensure that the Certificate of Origin form has been completed in triplicate;

(ii) Confirm that product meets the requirements of the EAC Rules of Origin;

(iii) Confirm that the exporter's registration number has been entered in the appropriate box, i.e. on the top right hand corner of the certificate in the space "Ref. No…."

(iv) Compare the particulars entered in the certificate with those in the commercial invoice;

(v) If everything is in order, enter country of origin, stamp and sign the certificate in Box 11.

(vi) The stamp to be used is the is EAC Customs Union seal as provided under the East African Cummunity Customs Management Act 2004. The names and specimen signatures of officials that sign the certificate should be circulated to other Partner States through the Directorate of Customs of EAC.

(c) Distribution of the Certificate of Origin

Original copy should be returned to the exporter for onward transmission to the importer in the importing Partner State to which the goods are consigned to enable the importer to complete the necessary documents for entry of the goods.

Duplicate copy should be retained by the Customs authority.

Triplicate copy should be returned to the exporter for his records.

3.7 Period of retention of documents

(a) Persons and firms engaged in intra-EAC trade shall keep adequate records so that they can justify any statement or other information supplied in connection with any consignment of goods for which EAC tariff treatment is being or, has been, claimed. Such persons are under legal obligation under the Protocol and the EAC Customs Management Act to keep and produce any records on imports or exports for a period of five years.

(b) The records should carry some reference to the EAC certificate of origin to which they relate to assist in any subsequent checks that may become necessary.

(c) Producers and exporters should retain among others;

- copies of import entries and relevant invoices in respect of imported materials utilised in production,
- records of purchases of local materials,
- accounting records relating to wages, utilities and other expenses incurred in connection with the production of goods entering into intra-EAC trade.
- Copies of EAC Certificates.

(d) The Customs authorities in the exporting and importing Partner States should also retain copies of certificates of origin and other related documentary evidence issued and accepted in respect of goods traded under the EAC tariff treatment arrangements for a minimum period of five years.

(e) Any person who knowingly furnishes or causes to be furnished a document which is untrue in any material particularly for the purpose of obtaining a certificate of origin or during the course of any subsequent verification of such certificate, will be guilty of an offence and liable to penalties as provided in the EAC Customs Management Act 2004.

3.8 Re-exportation of EAC originating goods

(a) Re-exportation of EAC originating goods shall be allowed only when goods remain under customs control and do not undergo any operations except those meant to preserve the goods and unloading and reloading;

(b) Where a whole or a partial consignment of the originating goods is meant for re-exportation from one importing EAC Partner State to another EAC Partner State, the exporter in the second EAC exporting Partner State shall, make an application in the form. After approval the exporter shall submit an export customs declaration together with the EAC Certificate of Re-Exportation of

Originating Goods. A photocopy of the original certificate of origin shall be attached to the Certificate of re-Exportation of Originating Goods;

(c) If the Customs Authority in the second EAC exporting country are satisfied that the consignment being re-exported is originating from the exporting EAC Partner State, the Certificate of Re-exportation of Originating Goods shall be accordingly approved and provided to the re-exporter. The Customs Authorities in the second importing country shall accept this Certificate of Re-exportation of Originating Goods with the appropriate entries from the second exporting country to grant EAC preferential treatment;

(d) The Customs authority in the second importing country may in exceptional circumstances require, in case of doubt, further verification of the authenticity and accuracy of the statement contained in the certificate of re-exportation. Such request of verification should be made within three months from the date of issuance of the certificate of re-exportation. The re-exporting county should forward the result of the verification to the second importing country as soon as possible but not later than twelve weeks from the date of request being made; and

(e) The Original Certificate of Origin issued by the first exporting country and other relevant documentary evidence shall be preserved, by the appropriate authorities of the second exporting Partner State for at least five years.

(f) The EAC Certificate of Origin shall be used for this purpose as a Certificate of re-exportation of Originating goods printed with a words "Re-exportation of Originating Goods"

3.9 Issuance procedures of a Certificates of Origin.

(a) The declaration furnished by an exporter claiming that the goods being exported by him/her are eligible for tariff treatment under the EAC Treaty must be issued by a designated authority and authenticated by the customs authority by the exporting Partner State, if the goods are to be accepted by the importing Partner State as originating in a Partner State.

(b) Before such authentication (by the signing of the certificate in the certificate of origin form), the certifying authority is expected to satisfy itself that the requirements of the EAC Rules of Origin applicable to the goods for which tariff treatment is being claimed have been complied with. The certifying authority may call for any supporting evidence (for

example, the customs import entry relating to the imported foreign materials utilised in the production; details concerning the elements making up the ex-factory cost of the finished goods), deemed necessary to substantiate the particulars given in the exporter's declaration.

(c) Some practical steps in the certification process

(i) Having been presented with the exporter's declaration in the certificate of origin form, the certifying authority should ensure that the form is completely and correctly filled. The authority should compare the particulars entered in the commercial invoice with those in the certificate.

(ii) If the criterion on which the claim of EAC origin is based on the materials content criterion (Rule 4 (1) (b) (i), the certifying authority should, if considered to be necessary, call for such information as the customs import entry relating to the imported (foreign) materials utilised in production, evidence of the source and cost of other materials used and details of the costing in support of the declared total cost of materials used in the production of the goods covered by the certificate of origin.

(iii) If the criterion claimed is the percentage valued-added criterion specified in (Rule 4 (1) (b) (ii)), the authority should, again if it is considered necessary, call for such information as would establish the value of the imported (foreign) materials used (e.g., the Customs entry) and for details of the costing in support of the declared ex-factory cost of the goods produced.

(iv) If the criterion claimed is the change in tariff heading criterion (Rule 4(1) (b)(iii)), the authority should, again if considered necessary, call for such information as would establish substantial transformation processes of materials leading to a change in tariff heading of the final product from the materials used.

(v) The certifying authority may decide to visit the premises of the producer of the goods to check on the production process carried out. The authority should also develop techniques of presumptive yield so as to be able to more effectively relate quantities and values of imported materials to finished goods. An additional control device could be to require the producer/exporter to give notice of production schedules so as to improve monitoring of production operations.

3.10 Signing the Certificate

(a) The power to sign certificates of origin should only be entrusted to the authorised officials of the Customs/designated authority.

(b) Before endorsing the certificate of origin, the certifying official should insert a reference number which is the export entry number in the space provided at the top right hand corner of the form.

3.11 Furnishing Names and Specimen Signatures of Authorized Signatories

(a) Partner States must furnish lists of the names and specimens of the signatures of officials, authorized to sign the certificates of origin. This information should be kept up-to-date by promptly notifying any changes to the original notifications, which had been made. This information will be exchanged through the Directorate of Customs and Trade which will monitor the system on a regular basis to ensure its proper working.

(b) To minimize the possibility of any delay which could occur in supplying this information through the EAC Secretariat, Partner States may transmit the notifications directly to the other Partner States but should, at the same time send copies to the Directorate of Customs and Trade.

3.12 EAC Customs Union Seal

The EAC Customs Union Seal prescribed in the EAC Customs Management Act 2004 shall be the official seal for certification of origin of goods.

3.13 Verification of Certificates of Origin in the Importing Partner State.

(a) In order that goods may be admitted in any EAC Partner State as originating in another Partner State, the importer of the goods concerned must present to the Customs Authorities, along with the requisite import entry, a certificate of origin duly completed and signed by the exporter in the exporting Partner State and certified by the customs authority certifying authority of that Partner State.

(b) If the Customs Authorities in the importing Partner State are satisfied that the goods to which the documents relate are eligible for tariff treatment as claimed, they will be so admitted.

3.14 Checks which should be carried out

The checks which the Customs Authorities in the importing Partner State should carry out are:

- confirmation of the authenticity of the Customs Union seal
- a comparison of the signature of the certifying official appearing in the certificate of origin with that notified by the exporting Partner State.
- whether the particulars of the goods given in the certificate of origin correspond with the invoice and the Customs import entry.

3.15 Treatment of minor queries

The Customs Authorities may refuse a claim of EAC tariff treatment if there is reason to doubt the correctness of the particulars declared to them.

Minor inaccuracies or omissions of a clerical or similar nature detected on a certificate of origin (for example, the omission of the weight or other quantity, or insertion of an incorrect Customs tariff number), may be allowed to be put right by the importer without rejection of the claim to EAC treatment. Similarly, it may become necessary in some cases to direct that the goods be physically examined to dispel any doubt or uncertainty that may have arisen in the course of the processing of the import entry as regards the origin of the goods, without at that stage making a formal query or questioning eligibility for EAC tariff treatment. Foreign markings on the goods or other physical evidence (e.g. instructions in a foreign language, packaging of an unrelated kind) should not be overlooked in the Customs examination as these may point to the need for further enquiry into the claim to EAC tariff treatment.

3.16 Treatment of queries of a more serious nature

Where serious doubts arise about the eligibility of any consignment of goods for EAC tariff treatment (for example, claim of wholly produced for certain kinds of machinery, description of goods on the invoice different from that appearing in the certificate of origin, indication of dubious transport route, etc) a formal query of the evidence of origin may be communicated by the Customs Authority in the importing Partner State to the Customs Authority in the exporting Partner State where the certificate of origin was issued. The procedure governing the raising of queries and the subsequent verification of the evidence of origin is discussed in the next section of this Manual.

3.17 Action by the importing Partner State

(a) Where the Customs Authorities in an importing Partner State are in doubt about the correctness of the certificate of origin, they may request the submission of supporting evidence. Depending upon the nature of the query, basically two courses of action may be taken:

- the query may be such as to require the importer to contact the exporter for the evidence or other information called for by the Customs Authorities in the importing Partner State. The exporter may furnish the information sought to the certifying authority in his own State for onward transmission to the Customs Authorities in the importing Partner State or may send it directly to the importer.
- the Customs Authorities in the importing Partner State may decide to refer the query directly to the authority in the exporting Partner State that issued the certificate of origin in the first place.

(b) When a question of admissibility to EAC consignment of goods for tariff treatment is raised, the query sent should draw attention to the particular aspect of the transaction that has given rise to doubt in the minds of the Customs Authorities in the importing Partner State. Any information which is needed in such cases should also be clearly specified.

3.18 Provision of information in response to a query

(a) Verification requests should be dispatched within 48 hours of the query of EAC origin status. A copy of the "query" form should at the same time be given to the importer.

(b) Information in respect of which evidence of origin is required shall be made by the exporter or a customs authority and submitted to the requesting authority in the importing Partner State. The information shall be contained on the Form for Verification of Origin indicated in **Appendix III**

(c) In completing the form furnishing the information which is called for, only the relevant sections of Part A need to be completed according to the particular criterion in Rule 4 (1) (b) under which EAC origin status is claimed. It should be noted, however, that while the cost of exterior packing and profit mark-up are not part of the ex-factory cost, such information can prove useful in the comparison of the invoice price with the declared ex-factory cost.

(d) To facilitate the check of the information provided in Part A of the Form for verification of origin with the particulars of the goods covered by the certificate of origin under query, the total quantity or the unit of quantity of the goods to which the detailed manufacturing costs being supplied are related, and the period when the manufacture took place, should be stated in the response to the query.

(e) Where the value of any materials imported from the outside of the EAC cannot be readily determined, then the value which is to be inserted at Part A (3) of the form is the earliest ascertainable price paid for them in Partner States where they were used in a process of production.

(f) If the check in the exporting Partner State established that the goods do not meet the conditions laid down in the EAC Rules of Origin for them to be accepted as originating in a Partner State, the form should be returned under cover of a confidential note explaining the results of this further check and indicating what action, if any, is proposed against the exporter. It is important to note that in these circumstances, a full historical audit of the traders books in relation to all goods exported to other EAC Partner States should be regarded as normal procedure. All previous consignments for which EAC preference was incorrectly or fraudulently claimed should be identified and notified to the Customs in the importing Partner State to enable them to call for duty arrears and penalties thereof in accordance with the EAC Customs Management Act 2004.

(g) It is important that any query and the ensuing check be handled expeditiously since inordinately long delays in the verification process could prove both frustrating and costly to traders.

(h) Replies to queries should be furnished within twelve weeks. In the event that there has been no response within the twelve weeks, the EAC Secretariat should be notified.

(i) Customs should not withhold delivery of goods solely because further evidence has been called for. The importer should be allowed delivery of the goods, provided sufficient security has been given for any duty that is payable. Delivery may be withheld, however, where there is reason to believe that the goods are prohibited or restricted as provided in the EAC Customs Management Act 2004.

(j) Where the Customs Authorities in an importing Partner State refuse clearance of any consignment of goods and fail to activate the query/verification procedure, the importer of the goods shall proceed with appeal procedures specified in the EAC Customs Management Act 2004.

3.19 Joint on-the-spot investigation

In any case where despite the response to a query by an exporting Partner State affirming the original claim of EAC origin, doubts persist in the minds of the Customs Authorities in the importing Partner State about the validity of the claim, prompt steps should be taken to resolve the matter.

At the initiative of either the importing or the exporting Partner State, arrangements should be made with the minimum of delay for representatives

from both sides to meet in the Partner State where production is carried out to examine together "on the spot," evidence on which the claim of EAC originating status is based.

(a) The two parties should do the following, among others, before carrying out the joint investigation:

- Agree on the dates on which to carry out the joint investigation.
- The customs authorities of the importing Partner State should provide the Customs/designated Authority in the exporting Partner State with the names of the officials who will participate in the investigation so that it can arrange for their transport and accommodation in the exporting Partner State. However, the visiting delegation should meet its accommodation expenses.
- The Customs/designated Authority should also ensure that the visiting delegation has access to its records pertaining to the registered exporter who is to be investigated.
- Depending on the origin criterion that is applicable to the goods under investigation and the nature of the production process involved, the two authorities may agree to co-opt independent technical experts to assist in the investigations. The two authorities will share any costs incurred in co-opting the experts.

(b) Preparing for the visit to an exporter's premises

It is advisable for the registered exporter to be informed of the intended visit. Mutual co-operation and consultation between the Customs/designated Authority and registered exporter is important for successful verification to be carried out.

Before leaving for the visit, the investigating officials should:

(i) note any specific points requiring investigation

(ii) study the bills of entry and supporting documents carefully, noting any features that may require further enquiry.

(iii) Obtain the following information regarding the registered exporter:-

- past history of exportation
- Origin Ruling related to the registered exporter and the goods
- previous visit reports (if any) concerning the registered exporter
- information from other sources, e.g. Customs Investigations
- any other relevant information.

(c) Report of visit

The investigating officials should write a report after concluding the investigation.

The report of visit may include the following items:

- Date(s) of visit
- Name and position in company of person(s) seen.
- Registered exporter's function, e.g. distributor.
- Confirmation that the signature in box 11 of the Certificate of Origin was made by an officer or authorized representative of the company investigated, and that the signatory was in full possession of the facts and entitled to sign the certificate.
- Principal countries to which the goods are exported.
- Main types of goods imported by the registered exporter, e.g. raw materials, finished goods, etc.
- Purposes for which the goods are imported, e.g. own use, further manufacture, resale as imported.
- Details of procedures undertaken in auditing records and documents, whether held in computer or not.
- Details of any irregularities found in the course of the investigation.
- Any specific action taken against the registered exporter
- Any other relevant information.

(d) Results of the joint investigation

- At the conclusion of the investigations, the officials from the two authorities involved in the investigations should discuss and agree on the outcome of the investigation.

- The customs authorities of the importing Partner State should advise the EAC Secretariat of the outcome of the investigation.

- The EAC Secretariat should, in turn, notify the other EAC Partner States of the results.
- Normally, such joint-on-the-spot investigations should help in resolving the origin query, however, where the two parties fail to agree, Partner States should follow dispute settlement procedures covered in paragraphs that follow.

3.20 Arbitration

(a) Any dispute between Partner States relating to the application of the provisions of the EAC Rules of Origin shall, in so far as is possible, be settled by negotiation between them. A dispute which

is not so settled shall be referred the Committee on Trade Remedies which shall refer it to an Arbitration Panel comprising three (3) Partners. Each party to the dispute shall appoint one Partner to the Panel while the third Partner of the Panel shall be mutually agreed upon by the parties to the dispute.

(b) The parties to the dispute shall supply all documents and/or information to the Arbitration Panel. The documents and/or information so supplied shall also be supplied, at the same time, to the other party to the dispute and the Secretary General.

(c) The Arbitration Panel shall conduct the arbitration in such manner as it considers appropriate provided that the parties to the dispute shall be treated with equality and that during the proceedings, each party shall be given a full opportunity of presenting its case.

(d) Upon request by any party to the dispute during the arbitration proceedings, the panel shall hear evidence, oral or written, from any witness including experts invited by any party to the dispute.

(e) The general terms of reference of the Arbitration Panel shall be: - "*to examine, in the light of the relevant provisions of the Treaty establishing the East African Community and the Protocol on the Establishment of the East African Customs Union, the matter presented to it and to establish findings and make such recommendation(s) as would resolve the dispute in a manner consistent with the overall development objectives of the region and to the satisfaction of the parties to the dispute*".

(f) The Arbitration Panel shall consider the submissions from the parties to the dispute and any witness(es) and may request additional information or clarification from the parties to the dispute or the Secretary General, and make its recommendation(s).

(g) In making its recommendations, the Panel shall, in addition refer to any relevant authorities and provisions whether or not cited by the parties to the dispute.

(h) The Arbitration Panel shall hold its first sitting within a period of fourteen (14) days from the date of acceptance to serve on the Panel by the last panelist and shall, unless otherwise constrained, complete its task and submit its findings and recommendation(s) to the parties to the disputes and the Secretary General within a period of thirty (30) days from date of its first sitting.

(i) If the Arbitration Panel is unable, through its findings and recommendation(s), to resolve the dispute in a manner consistent

with the overall development objectives of the region and to the satisfaction of the parties to the dispute, it shall refer the matter, through the Secretary General, to the Court of Justice for a final ruling which shall be binding on all parties.

(j) Each party to the dispute shall bear the costs attributable to the Partner it appointed to the Panel while the costs attributable to the third Partner of the Panel shall be borne in equal part by the parties to the dispute.

3.21 Offences and Penalties

A person who furnishes or causes to be furnished false documents in support of claims conferring origin of goods shall be dealt with as provided in the EAC Customs Management Act 2004.

3.22 Role of the Directorate of Customs and Trade

(a) The EAC Secretariat has the Directorate of Customs and Trade established by the Council. Its primary function among others is to initiate policy, formulate strategy, coordinate and monitor the implementation and management of the EAC Rules of Origin. The Directorate of Customs and Trade develops standards, provide technical guidance and assistance, and undertake programmes to ensure application of international best practices.

(b) The Directorate of Customs and Trade shall monitor and evaluate the application of Rules of Origin in the region to identify areas that require review and make policy recommendations

(c) The Directorate of Customs and Trade shall provide technical advice and assistance to the Customs Services and other designated authorities of the Partner States and provide assistance on a "good offices" basis for investigations where there are serious doubts on the origin of the goods.

(d) The Directorate shall regularly carry out a training needs analysis, and, in co-operation with the Customs/designated Authorities of the Partner States, undertake training of the officials and stakeholders in line with identified needs.

(e) The Directorate shall ensure that regular and routine contact is maintained between the Customs/designated authorities in the Partner States and the Directorate on related matters such as the exchange of lists of officials authorised to sign certificates of origin. The Office will also arrange periodic meetings to maintain good liaison between them and the Partner States.

(f) The Directorate of Customs and Trade has further responsibility on editing, publishing and distribution of the EAC Rules of Origin and Manuals on EAC Rules of Origin. It shall research and undertake studies on the implementation of EAC Rules of Origin and make regular reports to the Council.

(g) The Directorate should provide adequate technical support and advice regarding interpretation and implementation of the EAC Rules of Origin where this is required by a Partner State.

(h) The Directorate should also be kept aware of the instances of the query and subsequent verification of evidence of EAC origin by being provided with copies of all query forms that are sent by the authorities in the Partner States, as well as copies of the verification responses by the exporting Partner States. This information will be circulated to other Partner States by the Directorate.

CHAPTER 4

4.0 SIMPLIFIED PROCEDURE FOR SMALL SCALE CROSS-BORDER TRADERS

4.1 Introduction

Small-scale cross-border traders play an important role to the economic and social development of Partner States. To facilitate small-scale border traders who import originating goods of a commercial nature not exceeding a value of US$500 for each consinement, an EAC simplified Certificate of origin shall apply. See **Appendix III**

4.2 Common list of approved products

(a) Partner States with common borders should exchange lists of originating goods that are commonly traded by the small-scale border traders.

(b) The goods can either be "wholly produced" or manufactured in the Partner States.

(c) Originating goods manufactured in the Partner States should have been produced by a manufacturer whose goods qualify for community tariff treatment.

(d) Wholly produced goods should satisfy Rule 5 of the EAC Rules of Origin

(e) The common list of products should be distributed to all offices of the Customs Authorities of the concerned Partner States for reference in authenticating the simplified certificate of origin.

(f) The Common list of goods should be updated regularly to ensure all goods that qualify under EAC Rules of Origin are covered.

4.3 Issuance of the EAC Simplified Certificate of origin

A small-scale border trader whose consignment qualifies should complete the EAC Simplified Certificate of origin and the Simplified EAC Customs Document, attach his invoice and present these documents to the Customs Authority at the point of exit for authentication.

The Customs Authority should confirm that the goods qualify for the simplified procedures. If satisfied, the Customs Authority should endorse its reference number on the certificate, stamp and sign it.

The certified Simplified Certificate of Origin will entitle the goods to the Community Tariff treatment in the importing Partner State.

Where the Importer makes an under declaration of value or splits the consignment in order to qualify for a simplified certificate origin he/she will have committed an offence and as provided in the EAC Customs Management Act 2004.

4.5 What Customs Authorities in the importing Partner State should do

The Customs Authorities will:

(i) Check that the goods declared by the trader on the simplified Certificate of origin in reference to the common list of approved products.

(ii) Confirm that the signature and stamp appearing on the certificate are the same as those notified by the Customs Authority of the exporting Partner State.

(iii) If everything is in order, the goods will be entitled to Community Tariff treatment in the importing Partner State.

(iv) Ensure that the importer has fulfilled all requirements for the qualification under the simplified procedure

CHAPTER 5

ORGANIZATIONAL REQUIREMENTS FOR IMPLEMENTING THE EAC RULES OF ORIGIN

5.1 Introduction

The effective implementation of the EAC Rules of Origin by the Partner States requires an efficient national system responsible for the administration of the EAC Rules of Origin. To achieve this, Partner States should meet the following organizational requirements:

5.2 Organisational structure

It is desirable for the effective implementation of the EAC Rules of Origin for Partner States to ensure that they have the following units in the administrative structures of their Customs/designated Authorities.

The Customs/designated authority should be organized in such a way that there is Headquarters as well as Zonal/Regional/local offices responsible for the administration of the EAC Rules of Origin.

Headquarters

In all Partner States, the headquarters of the Customs/designated authority necessarily assumes overall responsibility for the proper implementation of the EAC Rules of Origin by a Partner State.

The unit at the headquarters should be adequately manned with competent officers in the field of administration of Rules of Origin

Main functions of the Headquarters unit:

(i) The personnel should actively participate in EAC meetings, especially meetings of the Working Group of Experts on EAC Rules of Origin, Customs sub-committee, and Technical meetings of EAC. This ensures that national points of view and requirements are taken into account.

(ii) Prepare and issue instructions to ensure uniform application of the provisions of the EAC Rules of Origin by the Partner State.

(iii) Deal with appeals against decisions taken by regional/local officials and any difficult cases regarding the Rules of Origin.

(iv) Is responsible for the national database of all registered exporters.

(v) It will be responsible for submitting the names and signatures of officials authorized to sign EAC Certificates of Origin.

(vi) Carry out verification of origin upon requests by a Partner State.

(vii) It will communicate through the established hierarchy with authorities in other Partner States and the Directorate of Customs on matters relating to the EAC Rules of Origin.

(viii) The unit will also be responsible for arranging and undertake training of other officials and stakeholders.

Customs/Designated Regional/Local offices

To facilitate the issuance and verification of certificates of origin, Customs/designated authorities should have established offices in the major regions/towns within the Partner States.

- register exporters
- authenticate certificates of origin
- deal with enquiries relating to issuance of certificates of origin .
- carry out origin verification on requests from other Partner States.

This verification should be carried out with authority from Headquarters and the results of such investigations should be forwarded to Headquarters for onward transmission to the respective Partner States.

5.3 Competences of the Issuing Authority:

This issuance of the EAC Certificate of Origin by issuing authorities demands that they are competent to implement all the provisions of the EAC Rules of Origin and the EAC Customs Management Act. In particular, the authority must have competency in the following areas:

(i) The Harmonized Commodity Description and Coding System (Harmonized Systems or HS).

(ii) Customs Valuation of Goods and the WTO Valuation Agreement

(iii) Technical Information on Manufacturing Processes:

(iv) Investigation and Control of export and imports:

(v) Accounting knowledge:

(vi) Technical Knowledge of the EAC Rules of Origin

5.4 Exchange of information

Partner States should regularly exchange information on fraudulent or improper claims of EAC origin status. Such information, which is detected by any Customs Administration, should be circulated on a confidential basis through the EAC Secretariat for the information of the other Partner states.

CHAPTER 6

6.0 ADDITIONAL POINTS TO NOTE

6.1 The importance of effective Customs Administration

(a) The process where by the eligibility of goods for EAC tariff treatment is established should not be seen as confined to issuance and verification of the certificate of origin as provided for under the EAC Rules of Origin. The claim of EAC originating status for any goods can be considered as beginning with the production of the goods, either from materials that are wholly obtained from within the EAC or wholly or partially from materials obtained from non-EAC sources. The controls that are implemented under the EAC arrangements must, therefore, extend from the very early stage of the importation of inputs going into production in Partner States, through the production process(es) carried out, the actual exportation and importation of the finished goods and, where the occasions require, query and verification of the evidence of origin.

(b) If there are ineffective controls over the importation of the goods from Non-EAC sources, then it is not unlikely for finished foreign goods to enter a Partner State where the original import controls are deficient, under a false declaration as primary or semi-finished products, later to be misrepresented as products of the EAC. Similarly, import values could be so manipulated as to affect the application of the percentage value-added criterion in favour of the EAC exporter of the resultant finished goods.

6.2 Post Clearance or "Ex-post facto" verification checks

(a) In exercising controls over the flow of trade between the Partner States under the EAC arrangements, the Customs Authorities must strike a balance dictated by, on the one hand, the objective of promoting intra-EAC trade and, on the other, the need to guard against Customs fraud. To help overcome fears of risk to Customs revenue in responding to the charge to Partner States' customs administration as provided for under the EAC Treaty to, inter alia, "facilitate the speedy movement of goods and services across their frontiers," a system of ex-post facto checks is suggested.

(b) These checks would operate in the following manner: after goods accepted as of EAC origin have been cleared, the Customs Authorities in the importing Partner States could select a small percentage of the EAC documents processed by them and subject these to thorough checks (including going all the way through the normal query and verification process) to test the adequacy of their controls and the extent to which, in

seeking to facilitate the flow of intra-EAC trade, fraudulent or irregular transactions may be escaping detection.

(c) In making these random ex-post facto checks, selection of the transactions to be investigated could be guided by the sensitivity of certain kinds of goods where there may be a greater inducement to seek to evade Customs controls, or by the known past record of suspect traders. If an analysis is made of the highest risk traders, the highest risk transactions and the highest risk goods, and this is supplemented by information on traders who have previously been the subject of a detection of error or fraud then these can be combined into a data base and provide a useful tool to aid detection and control. It is then possible to concentrate manpower and resources on the areas of highest revenue risk.

(d) Where cases are identified which indicate serious error or fraud against the revenue, follow up visits to the trader, premises should be carried out to fully investigate the position and carry out a full historical audit. If a situation is identified in which it is clear that there has been a substantial loss of revenue, the arrears of duties should be called for from the importer and consideration as to whether this should be followed by Court proceedings given.

6.3 The role of the EAC Secretariat

It was explained earlier in connection with the mounting of investigations into doubtful claims of EAC origin that the EAC Directorate of Customs and Trade should participate in such on-the-spot investigations. The Directorate should also be kept aware of all instances where query forms are issued and the results of subsequent verification of evidence of EAC origin by being provided with copies of all query forms that are sent by the authorities in the importing Partner States, as well as copies of the verification responses by the exporting Partner States. This information should be circulated to the other Partner States by the Directorate of Customs and Trade.

6.4 Appendixes:

EAC Certificate of Origin
Form for verification
Declaration by Importer
EAC Simplified Certificate of Origin