

TRADE FORWARD
SOUTHERN AFRICA

KNOWLEDGE GUIDE SERIES

Preferential trade and proof of origin



What this Knowledge Guide covers

- 1 Background to the UK - SACU+M Economic Partnership Agreement (EPA)
- 2 Rules of Origin: What are these, why are they needed, and how are they designed
- 3 Proof of Origin and certification in the UK - SACU+M EPA

In force since
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1 The UK-SACU+M Economic Partnership Agreement (EPA)

In 2014, negotiations between the EU Member States and the 'SADC group' (comprising the 5 countries of the Southern African Customs Union: SACU, and Mozambique) resulted in a new, WTO-compatible trade agreement, called an Economic Partnership Agreement (EPA). Following the UK's withdrawal from the EU at the end of 2020, a new trade agreement was needed that would preserve and further enhance the trade preferences and other benefits previously negotiated under the EU-SADC EPA, and to cover future trade between the UK and Botswana, Eswatini, Lesotho, Mozambique, Namibia and South Africa. Since 1 January 2021, bilateral trade between the parties is regulated through the provisions of this new UK - SACU+M EPA.

● ● Preferential Market Access under the UK-SACU+M EPA: Key metrics

Botswana, Eswatini, Lesotho, Mozambique and Namibia

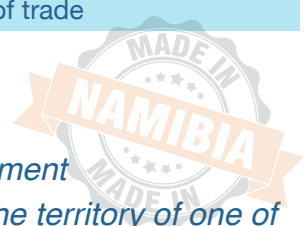
- *Duty and quota-free* access to the UK market for all goods, except arms
- The UK receives *duty-free* access to SACU for 74% of traded goods, and *tariff reductions* on a further 12% of trade
- The UK receives *duty-free* access to Mozambique for 74% of traded goods

South Africa

- *Duty-free* access to the UK market for 96% of all goods, and *tariff reductions* on a further 3% of traded goods
- UK receives *duty-free* access to SACU for 74% of traded goods and *tariff reductions* on a further 12% of trade

2 What qualifies a product for preferential market access?

- Preferences under the EPA are for the benefit only of the parties to the agreement
- Products claiming preferential market access must accordingly **originate** in the territory of one of the parties to the agreement
- The provisions to determine the origin status of a product are called the Rules of Origin (RoO)



What are the Rules of Origin in the UK-SACU+M EPA?

All trade agreements contain provisions that define when a product may be considered an 'originating' product, a necessary pre-condition that enables traders to claim *preference status* for their traded goods.

In the UK-SACU+M EPA, the RoO are set out in Protocol 1 of the Agreement (general provisions), along with its Annexes. The Annexes set out the product-specific origin criteria, and other supplementary info.

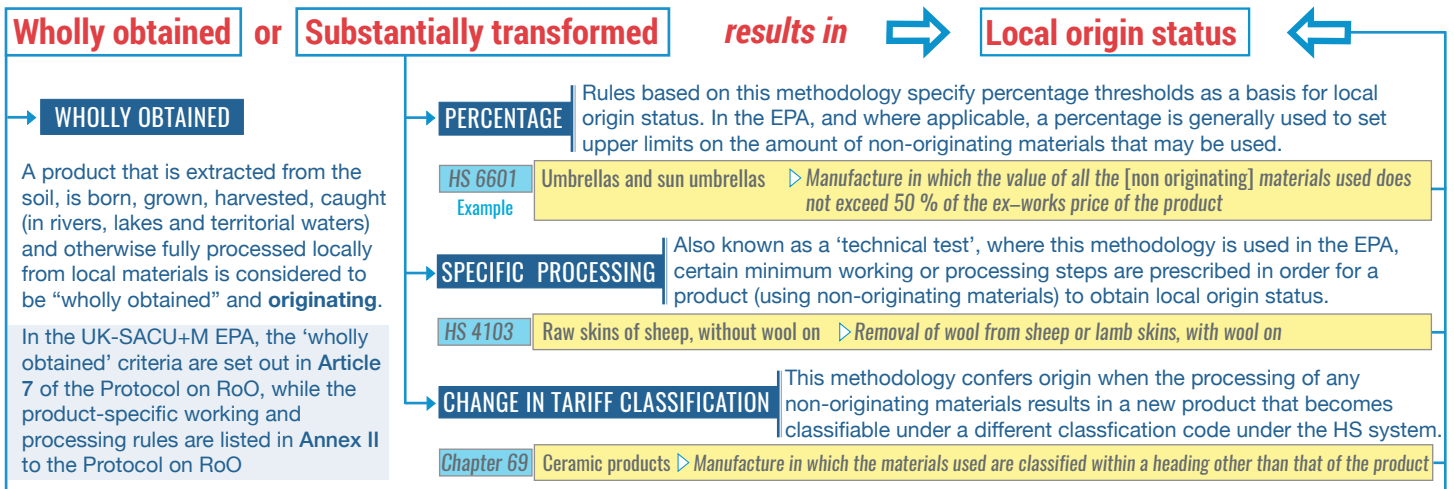
The RoO differentiate between goods that are wholly produced ('*wholly obtained*') in one or more parties to the Agreement, and those that are produced by combining local and non-originating materials.

In order for a good to be considered a qualifying locally-made product, any non-originating materials must be transformed in the exporting country, in line with the Agreement's prescribed RoO criteria.

2 What methodologies are used to determine origin status in the EPA?

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In the absence of a single harmonised and binding global standard for the design of RoO criteria, it is left to the parties to any trade agreement to agree on the minimum local processing criteria for products traded under that trade agreement to be considered an *originating* product. For this purpose, the UK-SACU+M EPA draws on each of the three primary RoO methodologies for determining origin status, being *tariff classification* criteria, *specific processing* criteria, and *percentage-based* criteria. It is important to note that the origin criteria in this agreement are specific to products or product groups, and do not apply across the board to all goods equally.



Cumulation of origin

‘Cumulation of origin’ is a concept that allows materials and processing from more than one country to jointly contribute to the RoO requirements set out in the UK-SACU+M EPA. This reduces the burden on individual producers and countries. The EPA contains various cumulation provisions: these allow cumulation of origin among the (SACU+M) EPA countries (as parties to the agreement), between the SACU+M countries and the UK, as well as through various other permutations. The different types of cumulation, as provided for under the EPA, are set out in Articles 3-6 of the Agreement’s Protocol on RoO.

Types of origin ‘cumulation’ in the UK-SACU+M EPA

- **Bilateral cumulation:** Exporters in the UK and SACU+M countries may count inputs originating in each others’ territories as materials originating in their own country, provided the further local processing goes beyond the list of ‘insufficient processing’ criteria (as set out in Art. 9).
- **Cumulation with EU-originating materials:** Exporters in the UK and SACU+M countries may count materials originating in a EU Member State as local materials, provided that the further local processing goes beyond ‘insufficient processing’, or domestic value added exceeds that of any other country.

Other RoO concepts and provisions in the EPA

‘Value Tolerance’ Principle

A provision in the EPA that allows minor deviation from an otherwise strict compliance with the product-specific origin rules, provided that the total value of any such deviation does not exceed 15% of the factory selling price of the product. Textiles and clothing products are, however, excluded, as are any RoO requirements that are already based on a percentage rule.

‘Absorption’ Principle

Materials and intermediate goods that themselves have obtained local origin status through processing activities may, for purposes of calculating local content under the EPA, be counted as 100% originating inputs when further processed locally. No regard shall be given to any non-originating content that is contained inside the input used, when transformed into a new product.

- **Cumulation with other African-Caribbean-Pacific (ACP) States and UK Overseas Territories (OCT):** Exporters in the UK and SACU+M countries may count inputs sourced from and originating in the ACP and OCT States as their own, provided that the further local processing goes beyond ‘insufficient processing’ (Art. 9), and the EPA State has at least provisionally applied an EPA with the EU or the UK respectively.
- **Cumulation with materials subject to MFN duty-free treatment in the EU:** Exporters in the SACU+M countries may count non-originating materials that are duty-free when imported into the UK on a general (MFN) basis, as originating in the SACU+M country for purposes of meeting the RoO criteria.

3 How does a trader go about proving the origin status of a product?

Proof of origin in the UK-SACU+M EPA: Two categories to demonstrate origin status

- ▶ **Origin declaration:** A statement confirming the origin status of the goods being exported, and typed on the invoice or another commercial document
 - ▶ May be used by exporters that are **registered with their local customs authorities**
 - ▶ Also for **low-value shipments** valued at <Euro 6,000 (irrespective approved exporter status)
- ▶ **Movement certificate: (Certificate of Origin)** Standard proof of origin certificate known as the EUR.1 certificate (similar to the certificate used by the EU, but on a different letterhead)
 - ▶ Used by **exporters without approved exporter status** from their local customs authorities
 - ▶ Required for shipments >Euro 6,000, unless origin declaration is used by approved exporters

Proof of origin: Who issues the certificate of origin?

- ▶ A movement certificate is issued by the **customs authority** of the **exporting country**, on application by the exporter
- ▶ The exporter (or authorised representative) completes application form (in ink / capital letters) and certificate
- ▶ The issuing authority verifies information provided, issues certificate of origin as soon as exportation has been ensured
- ▶ A proof of origin is valid for 10 months, and must be submitted to customs in the importing country within this time
- ▶ While the *certificate of origin* or *origin declaration* represents proof of origin, the exporter must preserve evidence in support of these declarations for no less than 3 years, e.g. accounts, production records, source of materials etc.