



Kenya-EU EPA Rules of Origin and Market Access Regulation (EU) - 2016/1076.

Kenya and the European Union are expected to negotiate and agree on the Protocol on rules of origin. The Parties in their Joint Statement on the rules of origin agreed that the protocol on the EAC-EU EPA rules of origin will be the basis for negotiation on the future Protocol of Kenya-EU EPA rules of origin. The EPA Council shall adopt a protocol governing the rules of origin at the latest 5 years after entry into force of the agreement.

In the absence of a protocol on the rules of origin, the applicable rules of origin for Kenyan products imported into the EU are those contained in Annex II of the Market Access Regulation (EU) 2016/1076 which was adopted by European Parliament and the Council on 8th June, 2016. The Regulation applies to certain African, Caribbean and Pacific countries where there is no Protocol on rules of origin. The rules of origin in Annex II are the applicable law of the importing country and are product specific rules of origin.

Annex II of the Market Access Regulations has seven (7) Titles and 38 Articles. The titles may be summarized as follows:

Title I - Definitions – Manufacturing, material, product, good, custom value, assembling, value of materials, chapters and headings among others.

Title II- Definition of the concept of originating products. There are articles on general requirements; wholly obtained products, sufficiently worked or processed products, insufficient working or processing operations, cumulation of origin, unit of qualification, spare tools, sets and neutral elements. These have been defined in line with the best practice on preferential rules of origin.

Title III – Territorial requirements with articles principles of territoriality – i.e. conditions and exceptions of acquiring originating status.

Title IV - Proof of origin with articles on general requirements and movement of certificate EUR I and procedures for the issue of a movement certificate.

Title V – Arrangement for Administrative Cooperation – with articles on Mutual assistance, verification of proof of origin, verification of suppliers' declaration, penalties, free zones among others.

Title VI – Ceuta & Melilla – Special conditions - for treatment of products from the term “Union” mentioned in the text. This does not cover products from Ceuta and Melilla.

Title VII Final Provisions – Appendices to the Annex II.

For exports to the EU, it is critical to cross check the product's harmonized coding system (HS) against what is provided in Appendix 2 and in Appendix 2A, where for some products, alternative rule of origin may apply. Appendix 2 contains the list of working or processing required to be carried out on non-originating materials for the product manufactured to acquire originating status.



It is important to note that, the Common Provisions under Appendix 2A of the Regulation sets out alternative rule that may also apply instead of the rules set out in Appendix 2 of Annex II. In Appendix 2A, one will find some chapters marked with an ex, meaning that, such Chapters have exceptions to the rule while others have headings without an ex. You may download the Market Access Regulation (EU) 2016/1076 with its Annex II via: <https://eur-lex.europa.eu/eli/reg/2016/1076/oj/eng>