



Distr.: GENERAL

ECA-NA/RABAT/ICE/XXI/ 3/II  
April 2006

ENGLISH  
Original: FRENCH

**UNITED NATIONS  
ECONOMIC COMMISSION FOR AFRICA**

---

**ECA Office for North Africa**

Twenty First Meeting of the Intergovernmental Committee of  
Experts (ICE)

Rabat, Morocco  
4-6 April 2006

**TRADE IN NORTH AFRICA**

**RULES OF ORIGIN**

**(Introductory Note)**

## Table of contents

|         |   |    |
|---------|---|----|
| I.      | Introduction .....  | 1  |
| II.     | What are the criteria for determining the rules of origin contained in the RTA? ...                     | 2  |
| III.    | What are the interest and the current news of the rules of origin for the North African countries?..... | 4  |
| IV.     | What is the optimal management of the RR in the face of challenges posed to these countries?.....       | 6  |
| V.      | International Cooperation for harmonizing the rules of origin. ....                                     | 8  |
| VI.     | Conclusion .....  | 9  |
| ANNEX 1 | Tables .....  | 10 |
| ANNEX 2 | Bibliographical references .....  | 14 |

## I. Introduction

1. The consolidation of the economic integration of North African countries comes up against a number of challenges such as the avoidance of economic and administrative costs as well as the increasing of efficiency gains achieved through the elimination of obstacles impeding trade exchanges. However, the North African experience reveals that the many regional trade agreements (RTA) have not really generated any increase in the inter-regional trade exchanges yet. One of the reasons of this deficit is the persistence of various non-tariff obstacles whose rules of origin are more and more conceived of as a means of fixing quotas, or rather a quasi-protectionist instrument, factor of trade diversion.

*But what is the notion of origin?*

2. The notion of origin allows us to confer an economic nationality to goods exchanged internationally. Given that more and more products result from accumulated contributions, values added belonging to many producers in different countries, the determining of the origin of the products has become a crucial notion. The rules of origin fix the modalities and the specific criteria which allow the conferring of a national origin to these products so as to apply some trade regulations (free trade agreements and preferential arrangements, or instruments of trade defence such as anti-dumping measures and countervailing duties).<sup>1</sup>

3. In the course of years, the question of the rules of origin gained importance. Due to the multiplication of the zones economic integration and preferential arrangements, these instruments had been more and more used, generating thus a complication of the notion of origin. In North Africa, where the countries are parties to many regional trade agreements (RTA), the consequences in terms of increase of administrative and transactional costs are considerable. To that, one can add the more or less restrictive character of the rules of origin.

4. The rules of origin are based on the principle of preferential and non preferential origin.

5. The preferential rules of origin aim at determining which products might benefit from the tariff preferences granted by virtue of agreements or particular regimes (free trade zones, customs unions, or preferential arrangements). Within the framework of RTA, these rules are used to avoid the circumventing consisting of fraudulent acquisition, by the third countries, of the preferential origin.

6. The non preferential rules of origin are included in the context of common law tariff regimes based on the “the most-favoured-nation” principle. The latter results granting all the partner countries the trade advantage given to one of them. Within the framework of the World Trade Organisation (WTO), the Agreement on the rules of origin defines the principles applicable to the rules of the non preferential rules of origin (neutrality, transparency, non-discrimination, and possibility to re-examine the administrative decisions). The fundamental aim of the agreement is to lead the countries to the adoption of a coherent whole of rules at the end of the harmonisation works, currently under way. The European Union is one of the rarest RTA which, in addition to the preferential rules of origin, also uses non preferential rules of origin.

---

<sup>1</sup> See table 1, annex 1: « the trade regulations justifying the resort to the rules of origin.

7. The present note, structured around four sections, suggests dealing with the questions which are at the heart of debates on the rules of origin. The first section will examine the criteria for determining the rules of origin included in the RTA and explicit certain key terms in order to better outline these notions. The second section will highlight the interest and the topicality of such a topic for North African countries. Indeed, the issues is related to how the rules of origin play a role in favour of, or penalise the economies of these countries. This will lead to the third section dedicated to the analysis of the challenges posed to these countries by these instruments. And that in the perspective of promoting an optimal management of the rule of origin as a key instrument of trade policy. After having established this analysis grill, a fourth section will allow tackling the question of international cooperation with a view to harmonising the rules of origin.

8. Our aim, while carrying out this presentation, is to follow up a request submitted by the ICI, during its nineteenth session. This requests consisted of evaluating the economic impact of the rules of origin in North Africa in a first stage, and then, and on the basis of this study, organize an ad hoc expert workshop where the findings of the study will be studied. The present note constitutes therefore the first stage allowing the tackling of this subject and the generating of a preliminary debate destined to nourish the study as well as the workshop which will follow. This is designed particularly, (i) to raise a certain number of questions linked to the challenges relative to the rules of origin; (ii) to invite the participants in this 21st session to discuss it; (iii) to validate the measure consisting of producing, on the basis of this note, a study which will be discussed during the experts workshop; (iv) to identify the actors concerned by these questions of origin and associate them with the workshop.

## **II. What are the criteria for determining the rules of origin contained in the RTA?**

9. According to the organisation for economic cooperation and development (OECD, 2002), the determination of the origin country must be done on the basis of a repartition of goods into two categories: the goods entirely obtained or produced in one country and the goods produced by more than one country. In the first category, the goods are considered as entirely obtained in a given country if the whole fabrication process had been realised in one and the same geographical and customs territory.

10. In the second category, one finds the goods having undergone the last substantial transformation (opening), determined by a series of complex rules. The three main criteria retained for the definition of a substantial transformation are:

- The change of the tariff position within the framework of the nomenclature of the harmonised system (HS) resulting from the transformation: transformation might be considered as “insufficient” if it engenders the classification of the product obtained into a tariff position different from that of the imported products. The WTO members are encouraged to use the nomenclature of the Harmonised System which is divided into 97 chapters inside which the products are classified according to the degree of opening, the raw material of the finished products, through the semi-finished products. The change of the tariff position (4 digits) indicates the existence of an “insufficient” transformation. The passage from a tariff position to another equals a qualitative jump (for example by passing from a “wooden board” position to an “estate” position).

- The percentage of the value added resulting from the transformation: according to this method, one considers that the product had been fabricated in the country in which a given percentage (40, 50 or 60% for instance) of the value added had been added.
- The use of a specific process during the transformation: there are cases in which, in the absence of change of tariff position, a transformation might however allow the attribution of the original character to a product when certain technical fabrication or of transformation operations, specifically mentioned in the list annexed to the agreement, were carried out.

11. Most RTA use these three criteria to different extents in order to determine whether a product has undergone a substantial transformation. That is the case with the biggest two RTA which had influenced that of others concluded in their periphery, namely the European Union and the NAFTA<sup>2</sup>.

12. On the basis of the substantial transformation in the case of the EU, the table 1 below illustrates according to the three criteria for the determination of the origin. In the first example (dishes made in China and ornamented in Pakistan), and on the basis of tariff change, the fixation of a suspension device suffices for the classification of the product into a different tariff position. Thus, these dishes destined to decoration might bear a label “Made in Pakistan”, country where the suspension device had been incorporated, even if it had been made entirely in China.

13. The second case (importation of tape recorders fabricated in Taiwan out of components coming from different countries) based on the criterion of value added, since the two countries (Taiwan and Malaysia) meet the criterion of 35%, the origin of the tape recorder will be that of the country where the components come from according to the highest percentage, that is Malaysia. In the third case (trousers making in Indonesia out of components coming from different countries) on the basis of the criterion of the specific opening, and by virtue of the provisions of the application of the community customs code (CCC) (annex 10), the entire making of trousers in Indonesia confer to them the Indonesian origin.

14. For its part, the NAFTA provides for three criteria in order to determine whether a product has undergone substantial transformation to be admissible, particularly (i) the criterion of tariff change; (ii) the criterion of regional or national percentage according to which a given percentage of the local value had been added in the country of origin; (iii) the technical criterion according to which the product must undergo certain transformations in the country of origin. It seems that there is a certain level of convergence between the criteria applied by the EU and those applied by the NAFTA, but it is important to examine in detail their respective rules of origin to draw their specificities.

---

<sup>2</sup> *The rules of origin of the various association agreements concluded with the countries of the North African sub-region as well as the rules of origin of the European free trade association (EFTA) had been inspired by those of the EU. The NAFTA has for its turn influenced the Mercosur Agreement and the Canada-Chili Agreement.*

15. Moreover, it is important to note that in addition to the criteria of determination of the origin, other general principles must be taken into account, such as the principle based on the application of the de minimis rules or tolerance rules, the likelihood of a list of operations considered as insufficient, the “drawback” provisions, and the double-dipping mechanisms (see table 2 of annex 1 which provides a definition of these different terms).

### **III. What are the interest and the current news of the rules of origin for the North African countries?**

16. The rules of origin are particularly important in the definition of a foreign trade policy. North African countries seek to integrate into a more and more globalised trade system, and the RTA which they had signed with different partners are the vector allowing the translation of this commitment into tangible programmes aiming at encouraging trade. It is within this perspective that they had led to define their own rules of origin which had been deeply influenced by those of the EU. Indeed, the countries tend to align with the typology of the rules of origin of the RTA with which they are more interested in exchanging with.

17. In view of the advantages resulting from the acquisition of a preferential origin, in a regional context in transition, like that of the North African countries, one might put forward that association agreements with the EU and the double-dipping mechanism accompanying it would have encouraged a consolidation of trade relations among the participating countries. These questions are more topical that these countries evolve in a more and more competitive international environment. Within this framework, the countries are required to seize the opportunities offered to them to generate more trade and investment flows.

18. Within this perspective, adherence to the RTA is important because it allows them to benefit from other economies offered by the integrated markets. The only problem is that the countries of the sub-region start also from other RTA which are not necessarily based on the same principles as those of the EU. This multiplicity of RTA which do not corroborate engenders an overlap of rules of origin that might generate important transaction costs. Another disadvantage lies in the application of different rules of origin for the same product.

**Table 1**  
**Criteria for determining origin in the framework of the EU**

|   |   |
|---|---|
| <b>FIRST CASE – THE CHANGE OF TARIFF POSITION</b>   | The final product is classified under a HS code different from that under which raw materials used in its fabrication are classified. |
| <p>The importation of porcelain dishes classified in tariff position 6913 made in China and then decorated in Pakistan where a suspension device had been added.</p> <p>To determine the origin of these imported dishes, and establish whether they have undergone a substantial transformation according to article 24 of Community Customs Code, it is worth <b>applying the non preferential rules of origin</b> and checking annex 11 of the provisions of the application of the Community Customs Code.</p> <p>The opening that confers the origin to this type of items is the decoration as long as it entails the classification of the goods obtained into a tariff position other than the one covering the materials used.</p> <p>The presence of a suspension device on the imported decorated dishes indicates that there is room for distinguishing them from crockery and other porcelain house or home economics items classified into tariff positions 6911 and 6912 and the use of which is mainly utilitarian.</p>   |   |
| <b>SECOND CASE – THE CRITERION OF VALUE ADDED</b>   | A given percentage of the value added must have been added during the fabrication of the finished product.                            |
| <p>The criterion of the value added: importation of tape recorders (code HS 8520) made in Taiwan out of different component such as indicated below:</p> <p>Components Origins Value (USD): Mechanical parts Taiwan 36.5 ; Capacitor Singapore 15.5 ; Amplifier Malaysia 45 ; Tuner Taiwan 19.6 ; Transformers South Korea 10.5 ; Integrated Circuits Malaysia 16 ; Antenna Taiwan 2 ; Loud speakers Malaysia 5 ; Transistor, diodes, resistors Taiwan 6 ; Miscellaneous 8.9 ; total value of components 165 ; Value labour force Taiwan 13 ; Benefit 5 ; Total value of the apparatus 183</p> <p>The criterion of the value added is used to determine the origin of the tape recorders. They will be considered as originating from the country where they will be assembled, when the acquired value resulting from the operations of assembling and incorporating parts originating from the considered country, represents at least 45% of their price at mill (PM).</p> <p>The value acquired in Taiwan due to the operation of assembly and incorporation of parts coming from this country represents 82,10 USD (36,5 + 19,6 + 2 + 6 + 13 +5; that is, a sum less than 45% of the PM which should be at least 82,35 USD.</p> <p>The origin Taiwan is not acquired since the first condition is not met.</p> <p>If the rule of the 45 % is not met, the origin of the tape recorder is therefore that of the country from which come the parts whose PM represents more than 35 % ; that is to say, at least 64,05 USD.</p> <p>Value of parts coming from Taiwan: 64,1 USD - Value of parts coming from Malaysia: 66 USD</p> |   |
| <b>THIRD CASE – THE CRITERION OF SPECIFIC OPENING</b>   | A well-defined operation must have been realised during the fabrication of the finished product                                       |
| <p>Trousers are made in Indonesia out of cloth imported from Thailand (5209) and with buttons (9606) and zip fasteners (9607) imported from Taiwan.</p> <p>By virtue of the provisions of the application of the Community Customs Code (annex 10), the whole making of trousers in Indonesia confer to them the origin Indonesia.</p> <p>Indeed, the expression « whole making » used in the list of annex 10 of the Community Customs Code means all the operations which follow the cutting of the cloth or the obtention directly in the form of knitted fabrics.</p> <p>However, small accessory finishing operations such as the placement of buttons and/ or other types of fastenings, the making of fabrics, the finishing of the inferior parts of trousers and sleeves or hems of skirts and dresses, the placement of shape facing and accessories such as pockets, labels, insignia, etc. ironing and other preparations of clothes destined to be sold as ready-to-wear, do not question the notion “whole making” and the determination of the origin.</p>   |   |

19. Another sector in which the rules of origin are full of stakes is that of agricultural products and agri-food industry by-products. In this specific and sensitive sector, the rules of origin have their importance in the framework of preferential agreements. Indeed, the origin of the products must be clearly identifiable not only in order to the trade preferences could be applied, but also for the respect of the sanitary and phytosanitary standards. That concerns particularly the exportation of commodities of animal origin that the notion of origin takes on its importance. For example, the Treaty of the EU provides for a high level of protection of human health, therefore, that of the consumers but also the protection of the territory of the EU against the introduction of animal and devastating illnesses. The BSE and the recent case of bird flu (H5N1) are enough reasons for the control of the origin of these products.

20. On the other hand, to the difference of manufactured items, the duties imposed on many agricultural products coming from the developing countries remain high in the developed countries. For these products whose exportation presents a big interest for the countries of the region of North Africa, a preferential access to the agricultural markets of the developed countries constitute a considerable economic advantage.

21. But the most preoccupying subject of topicality concerns the notion of tracking which is a procedure allowing the attestation, at all the stages of the transformation branch, of the origin of the food products. Tracking has become one of the pillars of the security of the consumers and more particularly the food security. It is required for the products benefiting from an official sign of quality (label, appellation of origin). It also allows giving reliable information to the consumer on the characteristics of the product.

22. Within the framework of agreements of partnership with the EU and the countries of North Africa, the North African enterprises have until January 2008 to set up tracking systems. Those who will not have those systems will no longer be able to export their products to Europe. True, countries like Tunisia have already acquired a good culture of protection of consumers, but tracking is almost inexistent. It is for the sake of filling this gap that the Tunisian codification enterprise (TUNICODE) organised, in December 2005, a seminar on “codification and the electronic trading for a better integration in the international distribution circuits”. This event was an occasion to present the outcome of a first experience of tracking carried out in the branch of olive oil, under the aegis of the ministry of industry, small and medium enterprises and energy<sup>3</sup>.

#### **IV. What is the optimal management of the RR in the face of challenges posed to these countries?**

23. For the countries of North Africa, the first challenge is internal: the rules of origin (preferential) allow the differentiation the foreign products from the national products so as to determine the measures of the applicable trading policy (antidumping and countervailing duties, safeguard actions, prescriptions of marking the origin or the discriminatory quantitative restrictions)

24. The second challenge concerning the rules of origin is that they can be more flexible due to the original double-dipping. Generally speaking, the possibility of double-dipping means that the products coming from one of the participating countries might take on the original character of the other party, without having to be submitted to a complementary operation. The aim of double-dipping is to increase trading among the countries having a preferential relation. In the double-dipping system, it is enough that the products coming from the zone undergo opening or transformation operations beyond the operations which do not confer the original character (opening or minimal transformation operations like for instance the operations of simple assembly). These products do not have to undergo sufficient opening or transformation. In the double-dipping, it is taken into consideration not only the country where the transformation took place but also the zone which regroups the countries participating in the double-dipping system.

---

<sup>3</sup> See annex for a detailed description of this Tunisian experience.

25. This mechanism allows the countries concerned to establish common principles and give them the opportunity to master their insertion into a more liberal world economy. However, these countries have to take into consideration the fact that the double-dipping is of a variable geometry in the sense that it is not applied to all the countries of the free trade zone. For instance, diagonal double-dipping among the EU, Algeria, Morocco and Tunisia subjects these three countries to a double conditionality: that of conforming to the rules of the EU but also to make sure that they have similar rules among themselves with a view to fully benefit from the advantages of the agreements. It should be noted that these three countries do not recognise the diagonal double-dipping with the other countries of the Mediterranean. This being the case, the diagonal double-dipping is but partial and does not include all the countries of the Euromed zone, the total diagonal double-dipping being expected for 2010 (Karray, 2005).

26. A third challenge consists of examining in what proportions the adoption of this system of original double-dipping can act as a strong signal for direct foreign investors.

27. Evolving in this context, a major challenge for these countries of the region consists of dynamising intra-regional trading and encouraging competitiveness of their producers through producing an offer integrated in the EU, based on a significant size of the market. A second challenge which these countries might face concerns the optimal management of administrative and transactional costs generated by the multiple rules of origin. At the time when more and more emphasis is put on the facilitation of trade through the reinforcement of the efficiency of customs institutions and the promotion of trading, it is crucial to possess the means to prevent the various negative effects linked to these costs.

28. A third challenge will be to make their rules of origin more flexible with a view to making them a real instrument of promoting intra-regional trading and foreign investments.

29. A third challenge for these countries of North Africa consists of appropriating the origin of certain agricultural products presenting a strategic interest for their economies. Examples of these products are argan oil in the case of Morocco, and white japonica rice in the case of Egypt.

30. In addition, the countries must face a fourth challenge consisting of setting up tracking systems in order to continue exporting their food products to the European market. That requires the elaboration of programmes of rehabilitating of enterprises, notably the SME, and also the setting up of coaching and quality support systems with a view to a complete adaptation to the international standards.

31. Finally, a last challenge, not less important, is to vulgarise the concepts of original double-dipping system, to raise awareness of all the individuals concerned, the civil servants as well as the businessmen. The latter must familiarise themselves with the challenges in order to better seize the opportunities offered by this system, but must also be able to evaluate its impact on their economies. Even if it is difficult, at present, to gauge in an adequate way, the previous experiences of the adoption of this system by other partners of the EU, combined with the goals and the expectations of the productive sectors of the countries of North Africa might shed light on the orientations to be followed.

## V. International Cooperation for harmonizing the rules of origin.

### At the level of countries

32. To remedy the drawbacks linked to the multiple rules of origin, it is important for each country to establish simple, consistent and predictable rules engendering but minimal costs of transactions to enterprises, particularly the SME. Indeed, rules of origin which vary according to products and according to RTA have perverse affects on the activities and the economic choices of the SME. Thus, to facilitate exchanges and encourage the economic actors, it is necessary to attenuate the restrictive character of the rules of origin, particularly through the application of minimum rules of tolerance.

### At the level of the EU

33. The mechanism of the original double-dipping was introduced within the framework of association agreements with the EU, in order to attenuate the effects resulting from the overlap between non concordant rules of origin. The most elementary form of double-dipping concerns the materials not coming from the country which looks forward to obtaining a preferential treatment but coming from another part of RTA (bilateral double-dipping between the members of a bilateral agreement; total double-dipping within the frame of a multilateral agreement whose parties are considered as one territory with regard to the rules of the preferential treatment). The diagonal double-dipping allows the materials provided by certain countries which are not parties to a free trade agreement to be considered as coming from the territory of free trade. The diagonal double-dipping generally means that the input coming from the countries of the system might freely be used in the process of production with a view to export them anew to the latter, and the importation of the finished product might be subjected to the preferential regime. In a market whose duties and taxes imposed on the input of the third countries are relatively high, a privilege of the sort ensures not only an important advantage of cost but also an enlargement of the possibilities of the market through varying the options of the resource. An example of diagonal double-dipping is constituted by the agreement between the EU and the countries who signed the Agadir Agreement.

34. In the pan Euromediterranean double-dipping<sup>4</sup>, the raw materials imported from the partner countries are not bound to be subjected to a sufficient opening. They cannot to respect the rules of origin when they are incorporated in a finished product in a country of the zone. Following are the conditions for the extension: (i) the agreement of all the participating countries; (ii) free trade agreements among the participating countries on the basis of identical rules of origin; (iii) device on the diagonal double-dipping in all the agreements.

### At the multilateral level

35. In the framework of the WTO, the agreement on the rules of origin aims at establishing common rules of origin (“harmonised”) applicable among all the members of the WTO, except for certain preferential exchange currents. For instance, the countries

---

<sup>4</sup> During the meeting of the Ministers of trade EuroMed in Brussels (May 2001), pan European double-dipping was enlarged to include 11 Mediterranean partners: Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria, Tunisia, Gaza and West Bank.

setting a free trade zone are authorised to apply different rules of origin for the products in their mutual trading. The agreement establishes a working programme for harmonisation, based on a whole of principles, notably the necessity to make the rules of origin objective, understandable and predictable. These works must have finished in July 1998, but the schedules have been constantly delayed. They are currently carried out by the Committee of the rules of origin of the WTO and a technical committee under the aegis of the World Customs Organisation in Brussels. The result will be a unique whole of rules of origin to be applied in all circumstances and in non preferential trade conditions by all the members of the WTO.

## VI. Conclusion

36. The importance of the rules of origin for the North African countries lies in the promotion of their size of global exchanges, but also in their capacity to make them an instrument for the facilitation of intra-regional trade integration in the RTA. However, it should be noted that if the free trade agreements present positive aspects allowing the promotion of exchanges, their application raises a number of questions, notably because of the sometimes limitative and very heterogeneous character of the different preferential rules of origin. In addition, these preferential rules of origin are usually established in a discretionary and unilateral way. At the bilateral level, and within the framework of certain RTA, efforts are exerted in order to harmonise these instruments through the mechanism of the original double-dipping.

37. At the multilateral level, the parallel pursuit of harmonisation of the non preferential rules of origin is considered today as a prerequisite for the facilitation of trade. In addition, a better transparency, and a better understanding of the rules of origin and of their impact are indispensable. Europe<sup>5</sup> recognises the urgency of the establishment of simpler rules of origin favourable to development, and for their part the countries of North Africa are more and more aware of the challenge represented by these rules even in a harmonised future context. It is therefore judicious that the countries of North Africa rationalise their rules of origin be that at the bilateral level or at the level of regional trade agreements. The integration of the North African countries in the pan European double-dipping system gives a significant opportunity to their economies to become competitive in order to meet the requirements of the European and international markets.

---

<sup>5</sup> « Avenir des règles d'origine préférentielles. Les règles d'origine dans les régimes commerciaux préférentiels Orientations pour l'avenir », Communication of the European Commission, 16 March 2005, available on-line [http://europa.eu.int/comm/regional\\_policy/sources/docconf/epa/doc/origin\\_fr](http://europa.eu.int/comm/regional_policy/sources/docconf/epa/doc/origin_fr)

## ANNEX 1

### TABLE 1

#### THE TRADE REGULATIONS JUSTIFYING THE RESORT TO THE RULES OF ORIGIN

|  |   |
|--|---|
| Preferential customs duties                        | Preferential regime; free trade zone ...  |
| Countervailing duties                              | Duties designed to compensate for the exportation subsidies                                     |
| Antidumping duties                                 | Measures for the protection of the domestic market  |
| Tariff quotas ; quantitative restrictions          |   |
| Safeguard measures                                 |   |
| Original marking                                   | For example. For the original appellations  |
| Application of sanitary and phytosanitary measures | Sanitary security question  |
| Labelling and marking                              | « Made in... »  |
| Trade statistics                                   | Destined to the importing countries   |
| Public markets                                     | Manage the contracting  |
| Most favoured nation treatment (1)                 | The same advantage granted to one of the partner countries is given to all the other countries. |

### TABLE 2

#### CONDITIONS FOR GIVING PREFERENCES : RULES OF ORIGIN APPLIED BY MOROCCO<sup>6</sup>

| APPLICATION RANGES   | ORIGINAL CHARACTER OF THE PRODUCT  |
|--|--|
| <b><i>Morocco-Tunisia Free Trade Agreement</i></b> (16 March 1999)   |  |
| Original products coming from the territory of each of the two countries, figuring in the lists:<br>T1, MT, T2, T3: Moroccan products exported to Tunisia.<br>M1, MT, M2: Tunisian products exported to Morocco <sup>7</sup>   | <ul style="list-style-type: none"> <li>• The entire obtention or</li> <li>• The sufficient transformation constituted by a local valorisation of at least 40% of the price at mill of the product;</li> <li>• The double-dipping of the materials between the contracting parties</li> <li>• The direct transport</li> </ul> |
| <b><i>Morocco-Egypt Free trade Agreement</i></b> (24 April 1999)   |  |
| Original products coming from the territory of each of the two countries, figuring in the lists 1, 2,7 and 8* as well as those subjected to the tariff dismantlement<br><br>* <b>Lists 1 and 7:</b> Egyptian products imported by Morocco<br><b>Lists 2 and 8:</b> Moroccan products exported towards Egypt. | <ul style="list-style-type: none"> <li>• The entire obtention or</li> <li>• The sufficient transformation constituted by a local valorisation of at least 40% of the price at mill of the product;</li> <li>• The double-dipping of the materials between the contracting parties</li> <li>• The direct transport</li> </ul> |

<sup>6</sup> « Les règles d'origine appliquées par le Maroc », document available on-line <http://www.douane.gov.ma/brochures/B8%20Fr%202005.pdf> , published in January 2005 by the Moroccan minister of finances

<sup>7</sup> Lists T1 and M1: freely exchanged products with exemption from importation duties and taxes of equivalent effects.  
List MT : freely exchanged products with payment of a unique tax of 17,5%  
List M2, T2, T3 : products subjected to tariff dismantlement over 10 years.

**TABLE 3**  
**THE RULES OF ORIGIN APPLICABLE TO TRADE EXCHANGES**  
**BETWEEN TUNISIA AND THE EUROPEAN COMMUNITY**

- **The criteria for determining the origin** such as defined below (for the case of the EU)
- **The original double-dipping:** the protocol N° 4 relative to the definition of the notion of « original products » and to the administrative cooperation provides for:
  - The bilateral original double-dipping: the products coming from Tunisia (or from the European Community) are considered as products coming from the community (or from Tunisia) provided they have been subjected to openings or to transformations beyond those considered as insufficient openings or transformations.
  - The double-dipping with the materials coming from Algeria or from Morocco: the materials coming from Algeria or from Morocco are considered as coming from Tunisia (or from the Community) provided that (i) these materials have been subjected to openings or transformations going beyond those considered as insufficient openings or transformations; and that (ii) the exchanges between Tunisia and Algeria, the Community and Algeria, Tunisia and Morocco, and the Community and Morocco are governed by the same rules of origin.
  - The double-dipping of opening or transformations: the openings or transformations done in the Community (or in Tunisia) or in Algeria or in Morocco are considered as having been done in Tunisia when the obtained products are later on subjected to openings or transformations in Tunisia.
- **Direct expedition:** the preferential regime provided for by the agreement is applicable only to products and materials which are transported between the territory of the Community and that of Tunisia without going through any other territory.
- **Proof of origin:** the proof of the original character of the products is done through a certificate of goods circulation.

**TABLE 4**  
**THE TUNISIAN TRACKING EXPERIENCE IN THE FIELD OF OLIVE OIL**

The Tunisian experience carried out in two olive oil enterprises, one of them is state-owned while the other is private witnessed the birth of the « Tunisian Quality Tracking » in the branch of olive oil.

The first stage of application of this system using a mobile information system, takes place in an orchard where it is proceeded to the collection of information on the treatment and the management of the daily harvests.

The second stage consists of dispatching information on the process of making olive oil to the laboratory.

The third stage is that in which the laboratory itself validates the analysis of each parcel in order to give the authorisation of conditioning (third stage) or deny it.

The fourth stage consists of dispatching all these information (soil, farm, parcel, varieties of olives, average age, culture, and date of bottling) to the conditioner so that he indicate them on the bottle.

This pioneering project sponsored by the Industrial Modernisation Programme, and which was carried out with big Tunisian enterprises, will have to be expanded to the whole branch of olive oil, but also to the SME.

**TABLE 5**  
**RULES OF ORIGIN: THE TERMS TO KNOW <sup>8</sup>**

|   |  |
|---|--|
| The rules of origin   | Specific modalities and criteria applied in order to define the national origin or the nationality of a product with a view to applying certain trade rules to it.   |
| The origin  | Are considered as coming from a country the goods entirely obtained in this country or which have undergone in this country the last substantial transformation or opening, economically justified, in an equipped enterprise to this end, in a way that this operation leads to a new product or constitute an important stage of fabrication.  |
| Preferential rules of origin                                  | Determine which products can benefit from tariff preferences granted by virtue of agreements or particular regimes (free trade zones, preferential regimes, customs union agreements, generalised preference systems).   |
| Non preferential rules of origin                              | Are included in the context of common law tariff regimes based on the principle of « the most favoured nation », principle of the WTO which leads to granting to all the partner countries the trading advantage given to the one of them.   |
| The entire obtention  | <p>Are considered as entirely obtained in a country :</p> <ul style="list-style-type: none"> <li>a. The mineral products extracted from its soil, from its territorial waters or from the depth of its sea or ocean ;</li> <li>b. The vegetarian products harvested in this country ;</li> <li>c. Living animals born and bred in this country;</li> <li>d. The products coming from living animals in this country;</li> <li>e. Products of hunting and fishing in this country;</li> <li>f. The products of sea fisheries and other products, extracted from the sea from the ships of this country;</li> <li>g. The goods obtained onboard factory-vessels of this country exclusively from the products mentioned in f) ;</li> <li>h. The products extracted from the ground or the sea underground situated out of the territorial waters, as long as this country exercises for exploitation purposes exclusive duties on this ground or underground ;</li> <li>i. The rejections and wastes of operations of transformation or of opening and the items out of use, collected in this country, and which cannot serve but the recuperation of the raw materials ;</li> </ul> <p>The goods obtained in this country exclusively from products mentioned in paragraphes a) to i).</p> |
| The substantial transformation/ opening (or sufficient/total) | To be considered as " <b>substantial</b> ", a transformation or an opening must modify the nature or the product(s) or confer to the product obtained functions or usage properties that the unfinished product or its components did not have.  |
| The value added   | A certain percentage of the value added must have been realised during the fabrication of the finished product.  |
| Tariff position change  | In the international trading, the goods are classified for customs purposes (to establish the customs tariffs and to set up the statistics of international trading) according to the Harmonised System (see below). According to this criterion, the final product is classified under a code HS different from the raw materials used in its fabrication.  |

<sup>8</sup><http://www.wcoomd.org/ie/fr/SujetsDouaniers/sujetsdouaniers.html> : website of the World Customs Organisation

|  |   |
|--|---|
| Harmonised Systems (HS)  | Elaborated under the aegis of the council of customs cooperation, this international system of classification of goods aims to facilitate the establishment of statistics on the exportations and the imports. The HS is elaborated and updated by the World Customs Organisation (WCO).  |
| Specific opening   | A well defined operation must have been realised during the fabrication of the finished product.  |
| Insufficient or minimal transformations/ operations/ processes | Should not be considered as substantial transformation or opening the operations which do not contribute or which contribute poorly to giving the goods their essential characteristics or properties and particularly the operations constituted exclusively of one or many of the following elements: <ul style="list-style-type: none"> <li>a. Necessary manipulation to ensure the preservation of goods during their transportation or their storage ;</li> <li>b. Manipulation destined to ameliorate the presentation or the quality of the products or to condition them for transportation, such as the division or the reunion of parcels, assorting and the classification of goods, the change of wrapping;</li> <li>c. Simple operations of assembly;</li> <li>d. Mixture of goods of various origins, as long as the characteristics of the product obtained are not essentially different from the characteristics of the goods which were mixed.</li> </ul> |
| Original double-dipping  | The producers can use non original materials coming from specified countries without losing the preferential status of the final product. The conditions of sufficient opening or of transformation are not necessary when the materials are from: <ul style="list-style-type: none"> <li>-the partner country (bilateral double-dipping ; bilateral agreement)</li> <li>-many partner countries (total double-dipping ; multilateral agreement)</li> <li>-a country other than the partner in the agreement (diagonal double-dipping)</li> </ul>   |
| Certificate of origin  | Document serving to justify the origin of the product. It is viewed by the Trade Chambers. The certificate of origin is usually required at the importation, because the origin of certain goods benefit from a preferential regime.  |
| <i>de minimis or tolerance rules</i>                           | These are rules which allow the use of a specified maximal percentage of non original materials without the modification of the determination of the origin (5% for the EU, 7% for the NAFTA and 10 % for the EFTA).  |
| Insufficient operations  | Independent of the principal criterion of the definition of the substantial transformation, many RTA contain a list indicating operations considered as insufficient in all circumstances to confer the origin (examples: operations of simple regroupement and conditioning, assembly, assorting of goods, etc.)   |
| « drawback » provisions  | One of the important aspects of the rules of origin of the RTA is that the deliveries between the partners of the RTA are no longer considered as « exportations » with an aim of regulation in terms of « drawback ». That means that the duties imposed on the non original products cannot be refunded when these products are incorporated in the products exported to the other partners of the RTA. This provision exercises indeed a disuasive effect on the importation of certain components coming from third countries and might have the same effect of redeployment of the current of exchanges as a restrictive rule of origin.   |

## ANNEX 2

### BIBLIOGRAPHICAL REFERENCES

1. Augier, Patricia, Michael Gasiorek and Charles Lai\_Tong (2003), The EU- Med Partnership, the Textile Industry and Rules of Origin.
2. Augier, Patricia, Michael Gasiorek and Charles Lai\_Tong, the Impact of Rules of Origin on Trade Flows.
3. Augier, Patricia and Michael Gasiorek (2002), The EU and the Southern Mediterranean: The Impact of Rules of Origin”.
4. Brenton Paul (2003), Notes on Rules of Origin with Implications for Regional Integration on Southeast Asia. Pacific Economic Cooperation Council (PECC) Trade Forum. April 22-23, 2003. Washington D.C.
5. Brenton Paul and Miriam Manchin (2002), Making EU Trade Agreements Work: The Role of Rules of Origin, CEPS Working Document No. 183. Brussels: Centre for European Policy Studies (March).
6. Cadot, Olivier, Jaime de Melo, Antoni Esteveordal, Akiko Suwa-Eisenmann and Bolormaa Tumurchudur (2002), “Assessing the effect of NAFTA’s Rules of Origin”. Mimeo.
7. Duttagupta, Rupa and Arvind Panagariya (2001), Free Trade Areas and Rules of Origin: Economics and Politics”. Seminar Paper.
8. Kalenga P. (2005), Rules of Origin and Regional Integration in Southern Africa. Paper prepared for the Workshop on “Monitoring Regional Integration in Southern Africa”. Windhoek, June 11-12, 2005.
9. Krishna, Kala (2002), “Understanding Rule of Origin”, (mimeo). 15 December.
10. Ministry of finances, Morocco (2005), Les règles d’origine appliquées par le Maroc, document available online <http://www.douane.gov.ma/brochures/B8%20Fr%202005.pdf>. Janvier 2005
11. OECD (2002), The Relationship between Regional Trade Agreements and Multilateral Trading System: The Role of Rules of Origin, Papis: OECD Working Party of the Trade Committee, 19 June.
12. Strict Rules and Broken Promises: Examining the Rules of Origin. Asian Labour Update.
13. WTO (2002), Rules of Origin Regimes in Regional Trade Agreements, Geneva WTO, Committee on Regional Trade Agreements (5 April).
14. CNUCED, « La Mondialisation et le Système Commercial International, Questions liées aux règles d’origine », doc. : UNCTAD/ITCD/TSB/2, 24 March 1998. Available on the website of CNUCED : <http://www.unctad.org/fr/docs/poitcdtsbd2.fr.pdf>
15. European Commission, «Avenir des règles d’origine préférentielles. Les règles d’origine dans les régimes commerciaux préférentiels Orientations pour l’avenir », Communication of the European Commission, 16 March 2005
16. Dipak Das Gupta, “Trade, Investment, and Development in the Middle East and North Africa: Engaging with the World”, *MENA (Middle East & North Africa) Development Report*, the World Bank, 2003.
17. Grynberg, Roman, *the Impact of Preferential Rules of Origin in the Textile and Clothing Sectors in Africa*, Commonwealth Secretariat, 2004\*
18. OECD, « La relation entre les accords commerciaux régionaux et le système commercial multilatéral, Règles d’origine». Document TD/TC/WP(2002)33/FINAL, published by the OECD, carried out by working group of the exchange Committee in 2002.