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The Legal Framework on Rules of Origin in Ethiopia and its Compatibility with the WTO Rules

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ABSTRACT

This paper discusses the rules of origin in Ethiopia and compatibility of the rules with the WTO agreement on the rules of origin. It have discussed both the preferential and non-preferential rules of origin in Ethiopia, with a particular emphasis to the later one. The Ethiopian Custom proclamation No.859/2014 and Directive on the rules of origin No.32/2009 are the national laws being applied to determine non-preferential rule of origin in Ethiopia. The rules recognizes the common criteria of determination of country of origin of goods (i.e., the wholly obtained and substantial transformation). This paper finally observes the compatibility of Ethiopia's rules of origin with WTO's agreement on rules of origin. By doing so it will identify both the harmonious and unharmonious rules of origin of Ethiopia with that of WTO's agreement. It has been found that most Ethiopia's rules of origin of goods are in harmony with WTO

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rules. However, the rules have some loopholes; the rules fails to provide some technical requirements by the agreement. Particularly, the rules fails to provide the method of applying the three criteria required by the agreement. They also do not provided the days within which assessments of the origin must be issued.

Key Words: Rules of Origin (ROO), World Trade Organization (WTO), Agreement on Rules of Origin (ARO), Compatibility, Ethiopia

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1. Introduction

One of the agreements under the WTO system is the agreement for harmonization of rules of origin. With the aim of facilitating the flow of international trade, the agreement sets out disciplines of rules of origin that will be applied by all member countries. Therefore, the rules of origins of member states should be compatible with the WTO harmonization rules of origin and ensure that such rules do not themselves create unnecessary obstacles to international trade. Ethiopia has its own laws destined to determine country of origin of goods exported from and imported in Ethiopia. Whether these laws are compatible with the WTO's disciplines for harmonization of rules of origin of goods is an important issue to be addressed. Thus, this paper intends to

address the Ethiopia's legal backgrounds on rules of origin and its compatibility with WTO agreements.

The second section of this paper explains the meaning and purpose of rules of origin. The third section describes the two methods to determine the rules of origin of goods (i.e., preferential and non-preferential rules of origin). The fourth section addresses the legal framework on rules of origin in Ethiopia. The fifth explicates the laws of origin of goods in Ethiopia, with special emphasis to the criteria's adopted by the laws to determine origin of goods and the factors expressly stated in the laws not be used to determine origin of goods. In this section the issue of origin marking and certificate of origin are also addressed. The sixth and the final section assesses the compatibility of the rules of origin in Ethiopia with WTO rules.

2. Meaning and Purpose of the 'Rules of Origin'

The Ethiopian Custom proclamation defines "rules of origin" as a procedure and criteria put in place to determine the origin of goods in accordance with international, regional or bilateral trade agreements.[1] The WTO's Agreement on Rules of Origin defines the terms 'rules of origin' as those rules applied to determine the country of origin for non-preferential purposes that they do not 'lead to the granting of tariff preferences going beyond the

[1] Ethiopian Customs Proclamation No. 859/2014, Article 2(35)

application of' GATT Article I:I.[2] Therefore, the meaning of Rules of Origins can be understood as laws or regulations, which emanate from national legislation or International agreement, and applies to determine the country of origin of goods. By 'country of origin of goods', it is the country in which the goods have been produce or manufactured, according to the criteria laid down for the purposes of application of the Customs tariff, tariff preference or of any other measure related to trade.[3] In short, the country from which product is exported becomes the country or place of origin.

The aim of rules of origin is to give recognition to those goods generally available in the territories of the parties, or a party, which are used in manufacturing and processing there, and to place limitations on such goods from other sources.[4] Precisely, the function of rules of origin is to provide criteria that distinguish between originating and non-originating goods.[5]

[2] Paragraph 1 of Article 1 of the WTO's Agreement on Rules of Origin.

[3] Aby Abraham, Sanjay Patro, *Country-of-origin' Effect and Consumer Decision-making, SAGE journals*, July21, 2015, p1.

[4] Ethiopian Revenues and Customs Authority (ERCA), *Guide to Understand Preferential Rules of Origin(P.6), www.ethiopianreview.com, acceded on11/24/19.*

[5] ibid

3. Methods to Determine Rules of Origin of Goods

There are two methods/types to determine of rules of origin: These are: Preferential and Non-preferential.

i. Preferential Rules of Origin of Goods

Preferential rules of origin, as they may appear in unilateral or reciprocal trade agreements, are essentially mechanisms for establishing the economic nationality of a product. Preferential ROOs are intended to distinguish among products of foreign origin, and have risen to prominence recently because of the growing importance of FTAs, where ROOs have an integral function in determining which products are partner products and therefore eligible for duty free entry.[6] As such, their nominal function is to prevent trade deflection wherein non-originating goods are shipped to a party to a free trade agreement with the lowest external tariffs and then re-exported to the party with higher tariffs in order to avoid paying these higher tariffs or products originating from non-beneficiaries of unilateral preferential schemes are transshipped through beneficiary countries.[7] Preferential rules of origin are applied in the case of Free Trade Agreements and other preferential duty schemes (e.g.

[6] Rod Falvey and Geoff Reed, *Effects of Rules of Origin*, JSTOR *Weltwirstchaftliches Archiv*, Bd.134, H.2, 1998, 209-229, p222

[7] UNCTAD, Rules of Origin and Origin Procedures Applicable to Exports from Least Developed Countries, UN,New York and Geneva, 2011, P2.

agreements where countries have agreed to eliminate or reduce import duties on goods produced in each other's territories).[8]

Coming to Ethiopia's Custom Proclamation, article 108 stated that the rules on preferential origin of goods shall be determined in accordance with rules of country of origin contained in international, regional or bilateral agreements providing for reduction or relief from duties, or taxes.[9] In other words, when Ethiopia is found to be member of preferential multilateral or bilateral trade agreement the rules contained in such agreement would apply. Therefore, the domestic custom proclamation, in such case, would have limited role of determining the rules of origin of goods.

ii. Non-preferential Rules of Origin of Goods

As stated above, where there is an international or regional agreement as to determine rule of origin non-preferential rules of origin do not have applicability. Non-preferential rules of origin are used to determining economic nationality of products subject to commercial policy measures. These policy measures include Most Favored Nations (MFN) application, antidumping & countervailing duties, discriminatory quantitative restrictions or

[8] Ethiopian Revenues and Customs Authority (ERCA), *Guide to Understand Preferential Rules of Origin(P.6), www.ethiopianreview.com, acceded on11/24/19.*

[9] Ethiopian Customs Proclamation No. 859/2014, Article 108; See also Art.5 of the Directive

tariff quotas etc.[10] since non-preferential rules of origin apply to MFN- trade, where all countries face the same tariff, there is normally no incentive to misrepresent origin. These rules are therefore in general less trade distorting than the preferential rules of origin.

The WTO agreement on Rules of Origin provides a work programme for harmonizing rules of origin and applying them to all non-preferential measures, including MFN treatment, anti-dumping and countervailing duties, marking requirements under Article IX of the GATT, and government procurement. It also establishes disciplines that individual countries must observe in instituting or operating rules of origin and provides for the framework for harmonizing rules and dispute settlement procedures.

4. Rules of Origin of Goods in Ethiopia

As I have tried to describe above there are two methods to determine rule of origin that are governed by different set of rules. i.e., preferential and non-preferential rules of origin.

Ethiopia has made various regional trade agreement and preferential trade arrangement. These include the Regional Free Trade Agreements concluded between Eastern and Southern Africa countries (COMESA) and the bilateral free trade

[10] Supra note 8, p7.

agreement between Ethiopia and Sudan and different unilateral preferential trade arrangements provided by the European Community, Norway and Switzerland, USA, Canada, Belarus, Japan, Turkey and Russian Federation under GSP, African Growth and Opportunity Act (AGOA) duty free arrangement with the United States of America , Special Preferential Tariff Treatment (SPTT) provided by P.R. China to LDC African countries, Duty Free Tariff Preference (DFTP) arrangement granted by India, South Korean Duty Free arrangement for LDC and preferential trade arrangement for certain African countries by Morocco. Therefore, regarding Ethiopia's concerns of rules of origin on preferential pattern reference will be made to the rules of the above agreements.

The Guide to understand the preferential Rules of Origin, which was issued by the Ethiopian Revenues and Customs Authority, sets out detail explanation regarding the relevant courses of action in applying rules of origin of goods. By doing so, it provides a guide to traders and customs officers to understand the concept of preferential rules of origin as applied within preferential trade arrangements.

Coming to non-preferential rules of origin, the following legislations had/have been applying to determine the country of origin of goods exported from and imported in Ethiopia.

i. The Ethiopian Customs Proclamation No 622/2009

This proclamation included the rules of origin under its Chapter 5; Article 47-50. It sets out the conditions to be considered and not to be considered when determining country of origin. This proclamation later amended by Custom Proclamation No. 859/2014.

ii. The Ethiopian Custom Proclamation No. 859/2014.

The rules of origin are included under Chapter three (Article 104-108) of the proclamation. The provisions of this proclamation in relation with determining origin of goods are similar with the previous proclamation. However, it excludes of power of the "Authority" to issue detail directives on the application of rules of origin.[11]

Rules of Origin Directive No 32/2009

Following the promulgation of Ethiopian Customs Proclamation No 622/2009, the Ethiopia's Custom Authority have issued this directive. Although the Custom Proclamation No. 859/2014 amended the custom proclamation (No 622/2009), the proclamation permits the application of the directive so long as the latter is not inconsistent with the amended proclamation. This is stated under article 181(3) of the 859/2014 custom

[11] Article 47(5) of Custom proclamation No.622/2009 have given such power to the Custom Authority of Ethiopia.

proclamation, which obliquely supports the application of the directive[12].

In addition, there is proposed amendment to some provisions of the recent Custom proclamation, which is Custom Amendment Proclamation No. .../2019. This proposed amendment has given "the commission" power of providing binding information of country of origin for export of goods, replacing article 119(5) of the Custom Proclamation No. 859/2014.[13] A regulation that has already determined the power and duties of the custom commission has been also entered into force in 2018.[14]

5. Ethiopia's Rules of Origin of Goods Explained

As mentioned above, the Ethiopia's Custom proclamation No.856/2014 and Directive No.32/2009 are destined to apply as a non-preferential rules of origin in Ethiopia. Regarding Ethiopia's preferential rules of origin, they are contained in each preferential trade arrangements that Ethiopia has made with another state(s). This sub-topic is going to explain the criteria's to determine the origin of goods adopted by Ethiopia in both preferential and non-preferential rules of origin, with reference to

[12] Article 181(3) of the proclamation stated that … existing regulations and directives shall continue in force until replaced by new regulations and directives issued hereunder.

[13] Article 26 of the proposed amendment to Ethiopian Custom Proclamation.

[14] Customs Commission Regulation No.437/2018.

Ethiopia's Custom proclamation No.856/2014 and Directive No.32/2009 and the guide to understand preferential rules of origin which was issued by ERCA.

a. Criteria's Determining Origin of Goods

The custom proclamation and the directive have provided criteria's to determine origin of goods imported to and exported from Ethiopia. The origin criteria are classified in to two broad categories as to the provisions of the proclamation and the directive. These are: "wholly obtained" and "substantial transformation of the good".

i. Wholly Obtained

A good is considered wholly obtained in one country or originating in a specific country if all the materials used in producing the product are from that country.[15] For example, wheat flour made exclusively from wheat that was grown in a country and milled in that country would be regarded as wholly produced.[16] Goods produced wholly in a given country shall be considered as originating if the product falls on one of the following product:[17]

a. Mineral produced extracted from its soil, from its territorial waters or from its sea bed;

[15] Directive on Rules of Origin No. 32/2009, Article 4(1)
[16] Supra note 8, p.9
[17] Directive No.32/2009, Art.4(2)

b. Agricultural products harvested or gathered in that country:
c. Live animals born and raised in that country; and Products obtained from live animals in that country;
d. Products obtained from hunting or fishing conducted in that country
e. products extracted from marine soil or subsoil outside that country's territorial waters, provided that the country has sole rights to work that soil subsoil;
f. products obtained aboard a factory ship of that country solely from products of the kind covered by paragraph (e) above;
g. Scrap extracted from marine soil or subsoil outside that country's territorial waters, provided that the country has sole rights to work that soil or subsoil;
h. Goods produced in that country solely from the products referred to in paragraphs (a) to (g) above.

In this regard the lists of products that are considered originating in a given country is stated in the directive is similar with the lists of same kind in preferential trade agreements that Ethiopia has entered, as explained in the guide prepared by ERCA.

ii. Substantial Transformation

This criteria is applied where two or more countries have taken

part in the production of the goods. As stated under article 104(1) of the Custom Proclamation; where two or more countries are involved in the production of a product, the origin of the product shall be the country in which the last substantial manufacturing or transformation process of economic value took place; provided, however, that such process was carried out in a plant equipped for this purpose and led to a substantial transformation of the product or the creation of a new product altogether. In addition, as enshrined under article Art 4(1) (b) and (c) of the directive, where two or more countries have taken part in the production of the goods, the origin of the goods should be determined according to the substantial transformation criterion. This means, country of origin should be the country in which the last substantial manufacturing or processing, considered sufficient to give the commodity its essential character, has been carried out. Substantially transformation can be defined by applying one or a combination of the following methods:[18]

i. Change of Tariff Classification

Change of tariff classification, whereby origin is conferred to a good if, as a result of the manufacturing operations in the country the tariff classification changes (e.g. from cotton yarn to fabric).[19] This criterion implies that origin is granted if the exported product

[18] Ethiopian Custom Proclamation No.859/2014, Art.104(2)

[19] Ethiopian Revenues and Customs Authority, Ethiopian Customs Guide, March 2017, p114.

is classified under a different number in the tariff classification of the Harmonized system for classification of goods to any of the imported inputs that are used in the production of the product.[20] Because the Harmonized System has been adopted by countries representing 90% of the world's trade, it provides a uniform, hierarchical nomenclature to be used in defining origin determinations for all products in international trade.[21] Normally it is specified that the change should take place at the heading level, which is four-digit level of HS.[22]

ii. The ad valorem percentage criterion

The value-added test defines the degree of transformation required to confer origin on the good in terms of a minimum percentage of value that must come from the originating country or of maximum amount of value that can come from the use of imported parts and materials.[23] This criteria operates according to which a certain minimum of value has to be added to a good in a country in order to confer origin.[24] When the value that is added to the product in a particular country exceeds a specified

[20] Supra note 8, p10.

[21] LaNasa, Joseph A. "An Evaluation of the Uses and Importance of Rules of Origin, and the Effectiveness of the Uruguay Round's Agreement on Rules of Origin in Harmonizing and Regulating Them" the American Journal of Law, vol.90,no4, 1996, pp.625-660, p655.

[22] Ibid

[23] Supra note 8

[24] Supra note 20.

percentage, the product is defined as originating.[25] This criterion can be defined in two main ways:[26] The minimum percentage of the value of the product that must be added in the exporting country (domestic or regional value content, VC); And a maximum percentage of imported inputs of the value of the product (import content, MC). The calculation of this rule can be based on different basis for valuation of the product such as the ex-works price (EXW), Free on Board (FOB), Cost Insurance and Freight (CIF).

Where the substantial transformation criterion is expressed in terms of the value added percentage rule, the values of the followings should be taken into consideration:[27]

- for the materials imported, the dutiable value at importation;
- for the goods produced, either the ex-works price or the price at exportation,

iii. Manufacturing or Processing Operation Criteria

This criteria establishes requirements for specific goods which must be complied with in order to confer origin. An item of goods is transformed if it has undergone the operations of process or

[25] Ibid

[26] Paul Brenton, Preferential Rules of Origin, Preferential Trade Agreement Policies for Development: A handbook, 161-178, 2011, p163. (pdfs at, semanticscholar.org).

[27] Gebremariam, Rules of Origin in Ethiopia, Academia.edu, 2003, p3.

manufacture.[28] This criterion prescribed for each product or products group certain manufacturing or processing operations that define origin (positive test) or that do not confer origin (negative test).[29]

b. Factors That are Not Used to Determine Origin of Goods.

The proclamation and the directive has excluded the following factors from being used to determine country of origin of goods.[30]

i. Negligible Operations

The following operations are not normally taken into consideration when determining the origin of imported goods.[31] These include:

a. Operations to ensure the preservation of products in good condition during transport and storage;
b. Operations carried out to facilitate transportation of goods;
c. Simple operations consisting of ventilation, removal of dust, screening, sorting, classifying or matching;
d. Changing the packaging and the breaking-up and

[28] Ibid

[29] Ibid, p4

[30] See the Ethiopian Custom Proclamation No.859/2014, Art.105 (1) and Directive No.32/2009 article 7.

[31] Ibid, Art.105(1)

assembly of consignments, placing in bottles, flasks, bags, cases or boxes, fixing on cards, boards or other things, and all other simple packaging operations;

e. Affixing marks, labels and other similar distinguishing signs on products or their Packaging;
f. Simple mixing of products, whether or not of different kinds, where one or more components of the mixture do not meet the conditions laid down by the Regulation to enable them to be considered as originating products;
g. Simple assembly of parts of products to constitute a complete product;
h. Animals slaughtering;
i. A combination of two or more operations.

The above operations do not confer origin, even if they are accompanied by a change in the tariff classification.[32]

ii. Accessories, Spare parts and Tools[33]

Accessories, spare parts and tools for use with a machine, appliance, apparatus or vehicle should be considered to have same origin as the machine, appliance, apparatus or vehicle, provided that they are imported and normally sold therewith and

[32] See article 104(3) of the Custom Proclamation
[33] Directive No.32/2009 art 4(3)

correspond, in kind and number, to the normal equipment.

iii. Split Consignments[34]

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

iv. Packing[35]

For the purpose of demising origin, pickings should be considered to have the same origin as the goods they contain unless the national legislation of the country of importation requires them to declared separately for tariff purposes, in which case their origin should be determined separately from that of the goods.

v. Natural Elements[36]

For the purpose of determining the origin of goods, no account shall be taken of the origin of the energy, plant, machinery and tools used in the manufacturing or processing of the goods.

vi. Cumulation

Cumulation provides for sharing of resources and giving recognition to substantial manufacturing processes conducted in

[34] Ibid art. 8(4)
[35] Ibid, art 10(1 and 2)
[36] Ibid, art. 4(3)

each other's territories, i.e wholly obtained or manufactured products obtained in the territories of the other party are considered as originating when used in the manufacturing process in another party.

c. Origin Marking

Origin marking refers to the affixing the name of the country of origin of imported goods on each good and the package.[37] As per article 107(1) of the custom proclamation, the name of the country of origin of imported goods shall be affixed, in English, on each good and the package thereof in a manner that such marking cannot be easily deleted, removed or altered. If there is no origin marking, goods are returned to the exporting country (Art107(2)). However, the requirement of origin marking does not apply to personal effects not destined for commercial use (Art107(3)).

d. Certificate of Origin

A certificate of Origin (CO) is an important international trade document attesting that goods in a particular export import shipment are wholly obtained, produced, manufactured or processed in a particular country.[38]

[37] George R Royer, Labeling Imported Articles with Country of Origin, Case Western Reserve of International Law, vol.1,(pp29-44) 1968, p32.

[38] Preferential and Non-preferential Certificate of Origin, https://addischamber.com, acceded on 12/11/2019

There are two types of COs. These are: preferential, and non-preferential certificate of origin.

Preferential certificate enables products to enjoy tariff reduction or exemption when they are exported to countries extending these privileges. The countries that extended duty free tariff treatment to Ethiopia's export products are USA, EU, Japan, Canada, Australia, Turkey, Russia China, India and Korea. All export products of Ethiopia enjoys duty free treatment in all developed and emerging economic countries. The preferential trade agreement signed between Ethiopia and Sudan allows product to enter to both country duty free if it is originated and comply origin requirements.[39]

The non-preferential certificate of origin is called "ordinary COs" which certify that the country of origin of a particular product does not qualify for any preferential treatment.[40] The purpose of this type of COs is to uses for purpose of trade statistics. It is mandatory documentary requirement in most importing country just to confirm where the goods is growth, produced or manufactured.

As per Art 11(1) of the directive the importer has the duty to submit certificate of origin to the tax officers. As per the custom laws of Ethiopia, submission of certificate of origin is mandatory requirement to clear the goods. Certificate of origin is filed by the

[39] Ibid
[40] Ibid

exporter company or the authority which is entrusted to issue certificate of origin of that country. When the custom authority have a doubt as to the accuracy of the certificate of origin it can made an investigation pursuant to Art 14 of the directive. Most of the time, it is through non-preferential certificate of origin that the origin of the goods is known and a duty tax is imposed up on the goods based up on the tariff. In Ethiopia there is no tariff reduction to these goods which are imported outside of the preferential agreements. Non-preferential rule of origin goods are taxed as to the actual tariff made by the law. Preferential certificates of origin, except for COMESA, are issued by ERCA, whereas COMESA and non-preferential certificates of origin are issued by ECCSA.[41]

6. Compatibility of Ethiopia's Rules of Origin with WTO Agreement on Rules of Origin

The WTO agreements on rules of origin recognizes, both preferential and non-preferential rules of origin and sets out some rules and standards that states have to ensure for the harmonization of rules of origin.

The WTO agreement has generated disciplines to be followed by the states with the aim of harmonization rules of origin.[42] The

[41] <http://www.ethiopianchamber.com/issuance-of-certificate-of-origin.aspx> as cited by ETHIOPIAN CUSTOMS GUIDE - MARCH 2017

[42] See Article 2, 3 and Annex II of WTO agreement on ROO.

agreement provides disciplines to be followed by the members both during and after the transition period. This paper, as follow, examine the compatibility of Ethiopia's rules of origin with the WTO's prescribed agreement on ROO.

a. The Ethiopia's Custom proclamation and the Directive have assumed the "substantial transformation" and the 'wholly obtained' criteria, respectively, to determine the country of origin of goods in harmonious with article 3(b) of WTO agreement on rules of origin. However, the criterion of change of tariff classification provided in the custom proclamation for the purpose of substantial transformation of the product does not clearly specify the subheadings or headings within the tariff nomenclature. Moreover, albeit that the criterion of manufacturing or processing operation is provided under the custom proclamation, the operation that confers origin on the good concerned has not been precisely specified. This makes it incompatible with the requirement of WTO agreement under article 2(1, a/iii/). Although the law does not clearly provided the method/ways of applying those three criteria's(change of tariff classification,

calculation of the ad valorem percentage and criterion of manufacturing or processing operation) ERCA has been applying the methods using the common standards which another states have been applying. Currently, most of the WTO members drive common standard of applying those criteria's. For instance, as provided somewhere in above, in applying change of tariff classification the Harmonized System has been adopted by countries representing 90% of the world's trade, which provides a uniform, hierarchical nomenclature to be used in defining origin determinations for all products in international trade. As we can understand from the guide of preferential rules of origin prepared by ERCA Ethiopia's method of applying those criteria is not distinct.

b. The rules of origin in the custom proclamation and the Directive are mainly based on a positive standard. Both article 104 and 4 of the proclamation and the Directive, respectively, provides positive standard to confer origin. Negative standards are prescribed exceptionally under article 105 of the proclamation and article 7 of the directive, seemingly to clarify the items/goods that do not fulfill the criteria's and/or

conditions provided under article 104 of the proclamation and art 4 of the directive. This makes the rules harmonious with article 2(f) of the WTO agreement.

c. Article 2(j) and 3(h) of the WTO agreement requires the a state to set up judicial, arbitral or administrative tribunals or procedures, which can review any administrative action in relation to the determination of origin, independent of the authority issuing the determination. In this regard, the Ethiopia's custom proclamation seems to have fulfilled the requirement. The Authority has established the "complaint review sections" which have the powers and duties to review and decide on complaints lodged against the decisions on the origin, valuation, description and tariff classification of goods.[43] The complaint review section of the Authority established at the head office have the powers to review and decide on appeals against decisions' given under complaint review sections (Art.153(2,a)). Any person who is aggrieved by the decision of the Review Sections stated above can also lodge an appeal to the Tax

[43] Ethiopian Custom Proclamation No.859/2014, article 152 and 153(1)

Appeal Commission established under the Income Tax Proclamation (Art. 155(1)). Moreover, any party dissatisfied with the decision of the Tax Appeal Commission on the ground of error of law may appeal to the Federal High Court within one month from the date of such decision (Art.155(3)). Therefore, the Ethiopian custom proclamation has sufficiently attuned with the WTO's agreement requirements of establishing the administrative actions review mechanisms.

d. Regarding the requirements of publication of rules, regulation and judicial decisions provided under article 2(g) and 3(e) of the WTO agreement, Ethiopia have published, the custom proclamation and the regulation defining the power, duties and organization of the customs commission, promptly in such a manner as to enable governments and traders to become acquainted with them. Moreover, the Ethiopian Revenues and Customs Authority (ERCA) has prepared the guide on preferential rules of origin determining the course of action that the rules of origin are applied in Ethiopia. It also published to make it accessible to the interested bodies. The directive is published promptly after the custom proclamation has entered into force, however, we could not find

its English version from the internet. This will create a difficulty to foreign traders since they would not easily acquaint with the provision of the directive. Moreover, we could not acquire the judicial decisions and administrative rulings regarding the determinations of country of origin, if any, published as required by the WTO agreement. These files may found in courts or in any other judicial and quisi-judicial bodies, but that could not enable the concerned bodies to become easily acquainted with them.

e. Article 2(h) of the AROO stated, "Upon the request of an exporter, importer or any person with a justifiable cause, assessments of the origin they would accord to a good are issued as soon as possible but no later than 150 day-after a request for such an assessment provided that all necessary elements have been submitted". However, neither the directive nor the proclamation have provided the days within which assessments of the origin must be issued.

7. Conclusion

This paper has addressed the Ethiopia's rules of origin and compatibility of the rules with the WTO agreement on ROO. It

has explained the criteria's used to determine origin of goods that provided under the custom proclamation and the directive to implement origin of goods. These laws have adopted the wholly obtained and substantial transformation criteria to determine origin of goods. As provided under the custom proclamation, Substantial transformation can be discerned by applying the Change of tariff classification; the ad valorem percentage criterion or the Manufacturing or Processing Operation Criteria or a combination of them. The paper has also explained the factors that are not used to determine origin of goods as stated under the custom proclamation and the directive.

The paper has finally explained the compatibility of Ethiopia's rules of origin with WTO rules. Generally, the rules governing the determination of country of origin of goods under the custom proclamation and the directive are in harmony with the WTO agreement on rules of origin since the provisions do not appear that they would create restrictive, distorting, or disruptive effects on international trade. They also do not pose unduly strict requirements or require the fulfilment of a certain condition not related to manufacturing or processing, as a prerequisite for the determination of the country of origin. The rules are published as required by the agreement. Any administrative actions in relation with determination of rules of origin are subject to review by the 'complaint review sections', which was established by the custom proclamation, as required by the agreement. Moreover, the custom proclamation and the directive have assumed the 'wholly

obtained' and 'substantial transformation' criteria, which was suggested by the agreement, to determine country origin of origin of goods.

However, the Ethiopia's rules of origin seems lacking some technical matters that required by the agreement. The first thing is that, the rules fails to provide the method of applying the three criteria's required by the agreement (i.e., change of tariff classification, calculation of the ad valorem percentage and criterion of manufacturing or processing operation). The criterion of change of tariff classification provided in the custom proclamation for the purpose of substantial transformation of the product does not clearly specify the subheadings or headings within the tariff nomenclature; the proclamation adopted ad valorem percentage criterion, but the method of calculation of the ad valorem percentage has not been elucidated under both the proclamation and the directive; and also the criterion of manufacturing or processing operation provided under the custom proclamation did not precisely specify the operation that confers origin on the good concerned. Another thing, which the custom proclamation and the directive are lacking, is that they do not provided the days within which assessments of the origin must be issued.

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