

# STUDY: AN ANALYSIS OF PREFERENTIAL TRADE AGREEMENTS IN SOMALIA

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## LIST OF ACRONYMS

Acronym or abbreviation	Full name
AFCFTA	African Continental Free Trade Area
AGOA	African Growth and Opportunity Act
AE	Approved Exporter
COMESA	Common Market for Eastern and Southern Africa
EU	East Africa Community
COMCEC	Standing Committee for Economic and Commercial Cooperation
COO	Certificate of Origin
DOC	Department of Customs of the Federal Ministry of Finance
DTIC	Department of Trade, Industry and Competition (South Africa)
EBA	Everything but Arms
ECTS	Electronic Cargo Tracking System
EEU	Eurasian Economic Union
EIF	Enhanced Integrated Framework
EPA	Economic Partnership Agreement
ER	Enhanced Regime
FMS	Federal Member State
FTA	Free Trade Agreement
GAFTA	Greater Arab Free Trade Area
GATT	General Agreement on Tariffs and Trade
GSP	Generalized Systems of Preference
IGAD	Intergovernmental Authority on Development
IGADD	Intergovernmental Authority on Drought and Development
IT	Information Technology
LDCS	Least Developed Countries
MFN	Most Favored Nation
MFTR	Memorandum on the Foreign Trade Regime
MOCI	Ministry of Commerce and Industry
MSMES	Micro, small and medium enterprises
NEC	National Economic Council

Acronym or abbreviation	Full name
NMC	National Monitoring Committee
NTBS	Non-Tariff Barriers
OIC	Organization of the Islamic Cooperation
PCA	Post-Clearance Audit
PRETAS	Protocol on the Preferential Tariff Scheme for TPS-OIC
PTAESA	Preferential Trade Area for Eastern and Southern African States
PTAS	Preferential Trade Agreements
ROO	Rules of Origin
RECS	Regional Economic Communities
REX	Registered Exporter system
RKC	Revised Convention of Kyoto
SANTE	Directorate General for Health and Food Safety (EU)
SOP	Standard Operating Procedures
TAXUD	Directorate General Taxation and Customs Union (EU)
TFA	Trade Facilitation Agreement
TIWG	Trade Integration Working Group
TPS-OIC	Trade Preferential System of the Organisation of the Islamic Conference
UK	United Kingdom
UNCLOS	United Nations Convention on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa
US	United States
USD	United States Dollar
WCO	World Customs Organization
WTO	World Trade Organization

# 1. BACKGROUND

Preferential Trade Agreements (PTAs) generally entail an increase in the administrative burden on both businesses and government administrations with trade-related responsibilities, such as Customs and Ministries of Trade.

Businesses need to put in place effective procedures for managing the trade preferences established by these agreements in order to take advantage of the benefits they offer. At the same time, they need to allocate a considerable amount of human and financial resources for dealing with the procedures related to their implementation. This is due to the fact that each trade agreement identifies in detail the products to which preferential tariff rates (reduced or zero) apply, and defines the specific conditions that economic operators must meet in order to benefit from the relevant preferential treatment. Such conditions include, among others, the modalities with which the preferential origin of goods can be proved, the rules to be followed to transfer them to their destination, the maximum thresholds of non-originating materials that must be respected for the final product to be considered as originating, and the documentation required to claim the preferential treatment at import. Some of these conditions can be extremely complicated to fulfill, especially in those cases where a product is manufactured by using several components, parts and raw materials originating from different countries.

All this becomes even more complicated if a country has in place several trade agreements (like in the case of Somalia) with different countries and regions. Indeed, each agreement has its own rules and procedures that economic operators need to learn, understand, and figure out how to apply. Rules of origin (ROO) are the most complex among such rules, and they usually change from one agreement to another. A good which qualifies for a PTA may not be able to qualify as an originating good in other PTAs.

Moreover, as one of the Least Developed Countries (LDCs),<sup>1</sup> Somalia benefits from a series of tariff concession schemes made available unilaterally (i.e., on a non-reciprocal basis) by certain countries and customs territories whose economies are in a more advanced stage of development. These arrangements also have their own ROO determining whether and at what conditions a product is eligible for preferential treatment. The Generalized Systems of Preference (GSP) of the European Union (EU) and other GSP schemes established by other developed economies, as well as the various LDC-specific schemes offered by some developing countries and territories worldwide are examples described in this study.

Regarding the government administrations that are most impacted by trade agreements and arrangements, Customs and Trade Ministries are at the forefront.

For Customs, its main tasks consist of: 1) the verification (either before or after customs clearance) that the conditions necessary to benefit from the preferential trade treatment invoked by traders have been correctly fulfilled and that such treatment is specifically applicable; 2) the assessment of the conditions necessary for traders to benefit from the various trade facilitation measures introduced by these agreements and arrangements; and 3) the implementation of the trade defense measures that provide a remedy to acts of unfair competition that can threaten the local industry. Achieving these three main tasks

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<sup>1</sup> The United Nations defines LDCs as countries having low levels of income and facing severe structural impediments to sustainable development. Specifically, countries that are included in the LDCs list are those that cumulatively meet the following 3 criteria : 1) their average per capita income is below USD\$1,018; 2) they perform low on the Human Assets Index (an indicator that measures health and education outcomes, including under-five mortality rate, maternal mortality, adult literacy rate and gender parity for secondary school enrolment); 3) they score high on the Economic and Environmental Vulnerability Index (an indicator that measures factors like remoteness, dependence on agriculture and vulnerability to natural disasters). To date, 45 countries worldwide are classified as LDCs. The relevant list is accessible here: <https://www.un.org/ohrls/content/list-ldcs>



requires a considerable amount of knowledge by this administration's staff as well as a strong commitment to engage in continuous learning through regular training programs.

While Customs' mandate consists of enforcing provisions and procedural requirements of trade agreements and arrangements, Ministries of Trade mainly have negotiation, management, and monitoring responsibilities. They oversee the general implementation of such trade frameworks by ensuring that national laws and regulations are developed or amended to comply with their provisions. Ministries of Trade also defend the private sector interests as they monitor implementation of such agreements to ensure that they do not cause trade diversion or damage to the local industry, if necessary, intervening to re-negotiate their terms. Given the importance of the role of such administration, it is therefore essential that it is equipped with an effective organizational structure, as well as the operational mechanisms, resources and capabilities necessary to effectively fulfill its missions.

The purpose of this study is to analyze the different trade agreements and arrangements of which Somalia is part of, is negotiating, or is a beneficiary, and assess their impact on the current activities of the Ministry of Commerce and Industry (MOCI) and the Department of Customs (DoC) of the Federal Ministry of Finance (MoF). The purpose is to identify weaknesses and gaps in the institutional structures, processes, and procedures of these two administrations, and recommend solutions to better address the commitments and responsibilities arising from the above trade frameworks. The study has been prepared within the context of the EU-funded Somali Dialogue on Investments and Trade (SDIT), Activity A1.4.1 – Economic or Trade Case Studies, Market Intelligence, Mapping, or Sectoral Studies.

## 2. SCOPE OF WORK AND METHODOLOGY

To kick off the work, an inception workshop was conducted on March 28<sup>th</sup>, 2024, wherein the research team, led by the senior main expert, presented to the MoCI and MoF Customs teams, the overview of the study, why this study is being undertaken, the specific objectives, the Trade Agreements and GSP focus, the need to identify the main responsibilities of MoCI and Customs, and the methodology and the critical coordination points. This provided the opportunity to set the agenda for the remainder of the study.

Ahead of an in-person country mission, a desk review of relevant literature was performed to examine among other things, the existing preferential trade agreements and arrangements of which Somalia is currently a part. Additional literature was requested from the stakeholders to better understand the main duties and responsibilities placed upon the MOCI and Customs in order to better understand how these two administrations have structured their organization and procedures in order to effectively manage such trade agreements/arrangements.

Further to this initial desk review and preparation phase, a diagnostic mission with relevant stakeholders was undertaken in Mogadishu, from 4<sup>th</sup> to 8<sup>th</sup> May 2024. A series of face-to-face interviews were conducted with key stakeholders from MOCI and the DoC, to analyze the current organizational structure, responsibilities, and processes these two central institutions. In addition, consultations were further held with the Chamber of Commerce of Somalia and the Ministry of Fisheries and Blue Economy to collect the information needed for the preparation of a brief case study describing the *general requirements* that Somali authorities and Somali exporters need to comply with in order to be able to export their products to the EU. Due to the pivotal role seafood exports play in Somalia's economy and their potential for growth, this brief case study focuses on the export to the EU market of fresh fish products. This case study is presented to supplement the core report findings, and is found annexed to this report in Appendix A.

On May 8, 2024, a wrap up session was held with representatives from the MOCI and Customs to discuss the main findings of the face-to-face diagnostic consultations. All meetings took place at the SDIT's project office in Mogadishu, at the Palm Business Park, between Medina Gate, Mogadishu International Airport and Medina checkpoint.

For Cowater SDIT, the meetings were attended by a team made up of:

- Mr. Danilo Desiderio, expert in trade policy and trade reforms, author of this study;
- Mr. Ali Abdulkadir Gutale, local expert in trade policy and trade reforms;
- Mr. Lee Sorensen, SDIT Team leader, key expert investment and trade);
- Mr. Abdirizak Hassan, key expert, finance and investment); and
- Ms. Khadija A. Hassan, assistant and coordinator of the EU Somalia Investment, Trade and Business Platform (ITBP).

A detailed list of the meetings is presented in Appendix B, while Appendix C summarizes the status of implementation of each trade agreement and trade arrangement in which Somalia entered, with the relevant challenges. The list of reviewed literature is presented Appendix E.

The findings from the interviews and review of documents have been used to develop a set of recommendations on organizational and procedural changes and other measures needed to optimize the administration and implementation of their preferential trade agreements/arrangements.

Findings of this study have been presented in a full-day workshop held in Mogadishu on 25<sup>th</sup> June 2024 with the participation of representatives from the MoCI, the Customs Department of the Ministry of Finance and

the SDIT Team. During the workshop, the whole study and the recommendations were discussed with the participants, who agreed with its conclusions, and provided additional comments that have been incorporated in this final version. A list of the participants is provided at the Appendix D.

### 3. MULTILATERAL, REGIONAL AND BILATERAL TRADE AGREEMENTS APPLICABLE TO SOMALIA

Somalia commenced its transitional path from protectionism to a more open-trade economy in the early 1980s, during the Siad Barre regime, when the country became a founding member and a signatory of the Preferential Trade Area for Eastern and Southern African States, the precursor of the Common Market for Eastern and Southern Africa (COMESA).<sup>2</sup> In 1986, Somalia also became a founding member of the Intergovernmental Authority on Drought and Development (IGADD), a regional community created by Horn of Africa countries to combat desertification and drought in the region,<sup>3</sup> which was replaced in 1996 by the Intergovernmental Authority on Development (IGAD), an organization with a broader mandate covering other areas of regional cooperation, including trade.

In 1991, the Siad Barre regime collapsed, and civil war ensued. This marked a period of deep isolation of Somalia from regional and global trade dynamics. When the members of the Preferential Trade Area for Eastern and Southern Africa (PTAESA) signed in November 1993 the Treaty that transformed this Community into COMESA, Somalia failed to negotiate the transition to the new bloc because of the absence of a government. Somalia joined COMESA in 2018, but still today it does not participate to its Free Trade Area, with the consequence that full customs duties are applied on imports from other COMESA countries, and vice versa. The COMESA Treaty still remains to be ratified.<sup>4</sup>

In 2001 Somalia also joined the Community of Sahel–Saharan States (CEN-SAD), a Regional Economic Community (REC) established on 4<sup>th</sup> February 1998 on initiative of Libya with the aim of establishing an economic union among its member countries.<sup>5</sup> Like IGAD, its member states never managed to achieve a Free Trade Area (FTA).

The regional and global integration processes and the path towards the advancement to a more open trading environment had an acceleration following the adoption of a new provisional Constitution in 2012. An application for membership to the World Trade Organization (WTO) was submitted in October of that year. Since then, the country has witnessed a surge in FTAs, but with important challenges related to their implementation that are described in this study, which are reflected in the fact that Somalia at present **does not implement any of them**. Somalia was also among the first countries to sign the African Continental Free Trade Area (AfCFTA), in 2018, and to obtain the Cabinet of Ministers' approval for its ratification, on 14 August 2020. Yet, this Agreement still remains to be ratified by the Parliament.

In addition, Somalia ratified the key agreements for the operationalization of the Trade Preferential System of the Organization of the Islamic Conference (TPS-OIC), an initiative that aims at promoting trade among

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<sup>2</sup> The Treaty establishing the Preferential Trade Area for Eastern and Southern African States was signed in 1981 by 18 Eastern and Southern African States (Angola, Burundi, Comoros, Djibouti, Ethiopia, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Rwanda, Somalia, Sudan, Swaziland – now Eswatini, Tanzania, Uganda, Zambia and Zimbabwe) as a first step towards higher forms of regional economic cooperation and integration. The Treaty entered into force in September 1992 following ratification by more than seven signatory states as provided for in Article 50 of the Treaty.

<sup>3</sup> The creation of IGADD is based on a recommendation adopted from the United Nations (UN) General Assembly in the resolution 35/90 of December 1980, with which the Horn of Africa States were urged to create 'an intergovernmental body with the responsibility for co-ordinating and supporting the countries' efforts to combat the effects of drought and other natural disasters and to deal with the problem of medium-term and long-term recovery and rehabilitation'. This intergovernmental body, according to the UN General Assembly, should have followed the example of the *Comité Permanent Inter Etat de la Lutte Contre la Sécheresse dans le Sahel* (CILSS), an organization established in 1973 among 13 Sahel countries to coordinate the fight against drought and famine in their fragile economies.

<sup>4</sup> According to the AfCFTA Implementation strategy, Somalia has not ratified the COMESA Treaty, but "it is not clear whether it has ratified the rules of origin protocol". Following discussions with the MOCI, the Ministry reported that Somalia's ratification of the COMESA Treaty never took place.

<sup>5</sup> Kraiss, J., Re-Centering Libya's History: Mediterranean Bulwark, Defender of Africa, or Bridge between Continents?, *Journal of Libyan Studies*, 2020.

the Member States of the Organization of the Islamic Cooperation (OIC) – of which Somalia is member since 1969.<sup>6</sup> Also in this case, the submission of the tariff concession lists to the Secretariat of the Standing Committee for Economic and Commercial Cooperation of the Organization of the Islamic Cooperation (COMCEC) has never been done, with the consequence that at present no preferential trade occurs between Somalia and OIC countries.

Furthermore, despite being a WTO observer since 2012, the Working Party guiding the accession to this Organization never met, and the negotiation process has even yet to start. Also, Somalia does not implement the WTO Trade Facilitation Agreement (TFA), which it never ratified.<sup>7</sup>

The country has also entered into trade negotiations with a number of countries, especially with neighboring and Middle East States such as Egypt, Sudan and Turkey, for the conclusion of FTAs.<sup>8</sup> At present, none of such agreements has been concluded. In addition, a customs and trade cooperation agreement with Kenya (focusing on border management) and a customs cooperation agreement with Qatar are in place.

On the other hand, the country has shown a strong commitment to joining the East Africa Community (EAC), by signing the Treaty of Accession on 15<sup>th</sup> December 2023, and ratifying it after less than 1 month, on 10 February 2024, with the deposit of the instrument of accession that occurred on 4<sup>th</sup> March 2024. A Special Presidential envoy to the EAC has been appointed to oversee and fast track accession to the EAC, while more recently, the Central Bank of Somalia became a member of the EAC Monetary Affairs Committee, the Committee charged with the task to coordinate the establishment of a monetary union between the member states of the EAC.

Notwithstanding this, the roadmap for Somalia's accession to the EAC (that is intended to guide the country in its efforts to domesticate the EAC regulation), has been finalized by Somalia and accepted by the EAC Secretariat in June 2024. Its implementation has not yet begun, but is expected soon.

Somalia has finally accessed on May 5<sup>th</sup>, 2023 to the Greater Arab Free Trade Area (GAFTA), a trade agreement entered into force in 1998 that allows a group of Arab countries to trade duty-free (see Section 3.6). However, to date it has not yet completed the last steps for full integration in this FTA.

To complete this scenario, Somalia accessed to the World Customs Organization (WCO) on 4 October 2012, but never became a contracting party to the WCO International Convention on the Simplification and Harmonization of Customs Procedures (as amended), also known as “Revised Convention of Kyoto” (RKC).<sup>9</sup> This Convention, as explained further on in this study, can be an important opportunity for Somali Customs to be certified as having their procedures in line with international customs standards, which, apart from paving the way to the access to critical capacity building and technical assistance activities opportunities offered from the WCO, can give such administration a stronger credibility in trade negotiations with other nations. Remaining outside this Convention is therefore a missed opportunity.

In summary, as a member of the above-described multilateral, regional and bilateral trade frameworks, Somalia is required to undertake several institutional, policy, and regulatory reforms to meet the requirements they introduce. To date, such reforms have not been fully completed, mainly because of their

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<sup>6</sup> As explained further on in this study, the TPS-OIC is an initiative that aims at promoting trade among the Member States of the Organization of the Islamic Cooperation (OIC) – of which Somalia is member since 1969.

<sup>7</sup> In this regard, it must be clarified that also countries that are not members of the WTO can still ratify the TFA, if they choose to do so, since the WTO membership is not a requirement to implement this agreement.

<sup>8</sup> Source: Somalia Trade Information Portal, Trade Agreements.

<sup>9</sup> The International Convention on the Simplification and Harmonization of Customs Procedures, better known as Kyoto Convention, was adopted in 1973 at the WCO Council Sessions in Kyoto, Japan, and entered into force in 1974. In 1999, it was amended by a Protocol that aligned its provisions to the new needs of international trade, and in particular to the use of new information technologies and modern customs control techniques (e.g., risk management, pre-arrival information, and post-clearance audits). The “revised” version of the Convention entered into force in February 2006 and has currently 136 contracting parties.

complexity and the relevant costs associated, that have not been quantified yet. In fact, these reforms require significant efforts in aligning the national legislation to the above frameworks, as well as investment in building the capacity of the various institutions and staff involved in their implementation. The lack of any strategy capable of guiding economic integration efforts of Somalia and evaluating the impact of trade-related agreements concluded or currently in course of negotiation complicates the achievement of these reforms.

### 3.1. The World Trade Organisation

Somalia became an observer to the WTO on 7 November 2016, after it submitted a request to access the Organization. The observer status to the WTO gives the right to Somalia to participate to the formal meetings of the General Council and its subsidiary bodies, with the exception of the Committee on Budget, Finance and Administration.<sup>10</sup> Informal meetings, on the other hand, are held without observers in attendance. Observers may also request technical assistance from the WTO Secretariat in relation to the operation of the WTO system in general, as well as to negotiations on accession.<sup>11</sup>

The Working Party (i.e., the body charged with the task to guide the negotiation process), was established on 7 December 2016, but as of yet it has never met, mainly due to a delay in the designation by the Somali government of a Chief Negotiator, and to the non-payment of the financial contributions (of 0.015 percent of the total WTO budget), that are due in connection with the acquisition of the observer status. Despite this, in May 2020, Somalia submitted to the WTO Secretariat the Memorandum on the Foreign Trade Regime (MFTR), i.e., the document that outlines the trade and economic policies of the country and the related development plans, with accompanying legislation and statistical data.<sup>12</sup>

In spite of the forgoing, in May 2023, the designation of a national Chief Negotiator was achieved and negotiations were resumed. In addition, arrears were cleared in February 2024. As a result, the first meeting of the Working Party is expected to be held in 2024, after that Somalia will reply to the requests of clarifications raised by some WTO members with regard to certain points of the MFTR, as well as the annexed Legislative Action Plan.<sup>13</sup>

Being categorized by the United Nations as an LDC, Somalia benefits from simplified and streamlined accession procedures to the WTO, by virtue of the **WTO Work Program for LDCs** that was adopted by WTO members at the end of the Doha Ministerial. This Program, among others, guarantees access to enhanced capacity-building and trade-related technical assistance to Somalia throughout the accession process, from the preparation of analytical documents, the development of market access proposals, to the setting up of the legislative infrastructure and enforcement mechanisms necessary to comply with the WTO requirements.<sup>14</sup>

Trade-related technical assistance is demand-driven. The onus remains with the acceding government itself to formulate its requests for assistance. Applicants have to therefore assess their needs, assign priorities

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<sup>10</sup> The WTO Committee on Budget, Finance and Administration is the body responsible to review the WTO budget, the financial statements presented by the Director-General, and matters related to audit and extra-budgetary funds. It meets between six and eight times per year and makes recommendations about these matters to the General Council. It also discusses any financial and administrative matters which are referred to it by the General Council or the Director-General.

<sup>11</sup> Williams, P. J., A handbook on accession to the WTO, WTO Secretariat, 2008.

<sup>12</sup> The MFTR is the basis for consideration of an application for a country's accession to the WTO.

<sup>13</sup> WTO Accessions, 2023 Annual Report by the Director General, WT/ACC/45 – WT/GC/265 of 20 March 2024.

<sup>14</sup> WTO Document WT/COMTD/LDC/11 of 13 February 2002, available at <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/COMTD/LDC11.pdf&Open=True>. On 20 January 2003, with the WTO Document WT/L/508, specific guidelines were also adopted to facilitate and accelerate the accession of LDCs to the WTO. They have been complemented in 2012 with an Addendum introduced with the WTO Document WT/L/508/Add.1 of 30 July 2012, available here: [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S009-DP.aspx?CatalogueIdList=117875,39614,3772&CurrentCatalogueIdIndex=1](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?CatalogueIdList=117875,39614,3772&CurrentCatalogueIdIndex=1)

and coordinate requests made by their different government agencies involved in the accession process, before forwarding their technical assistance request to the WTO Secretariat. These consolidated requests must be sent both to the Director of the Accessions Division and the Director of the WTO Institute for Training and Technical Cooperation.<sup>15</sup>

Based on discussions with stakeholders during the preparation of this study, there is a strong expectation that the accession to the WTO will boost Somalia trade, stimulate innovation and increase investments, thereby contributing to the economic growth of the country and to reduction of poverty.<sup>16</sup> This is because products from Somalia will benefit from a more open trade environment, with the opportunity to access new markets at lower customs duty rates and with reduced trade barriers. In fact, research shows that WTO accession results in a statistically significant improvement to trade intensity, both quantitatively and qualitatively.<sup>17</sup> A study made by the World Bank in 1991, based on a comparison between countries adopting trade openness models vs. protectionist policies, also notes that openness to trade stimulates innovation by triggering a virtuous circle in adding value in local productions. This happens because local producers need to increase the quality and sophistication of their products and services in order to remain competitive with imported ones, which in turn improves their potential to be exported.<sup>18</sup>

There is another important aspect to consider in the WTO accession, as this process provides an opportunity for Somalia to improve its governance, build strong economic institutions and strengthen the rule of law. This is due to the fact that the WTO accession requires Somalia to conduct an assessment to verify that its trade-related institutional architecture, as well as its domestic legislation and practices, comply with WTO requirements. In this regard, some concerns have also been expressed by the private sector in Somalia about the risk of arriving unprepared at the time when the country will join the multilateral trading system, due to the limited diversification of its economy, the low quality of manufactured products, the limited export capacities of local companies, and the large presence of infant industries that are in their early stages of development and thus not yet capable of competing against foreign competitors.<sup>19</sup> *Most of economic literature supports these concerns, as it has been widely documented that States not engaging in the needed structural or institutional reforms and that do not prepare adequately their entry into the multilateral arena, typically experience gradual de-industrialization and declines in production after accession.*<sup>20</sup>

Once Somalia becomes a full WTO member, ***its domestic industries may need protection against international competition until they become mature and stable***. One possible measure is to request support from Development Partners for enhancing capacity, expanding manufacturing and export potential and improve access to credit for micro, small and medium enterprises (MSMEs), especially for women and youth, to increase their competitiveness.

To complete the WTO accession process, Somalia will also need to put in place cross-ministerial and cross-institutional cooperation schemes in connection to all the areas of WTO coverage, including in core areas

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<sup>15</sup> The Institute for Training and Technical Cooperation (ITTC) is the body that coordinates the WTO's technical assistance and training by assisting beneficiary countries in enhancing trade capacity, addressing trade policy issues, exercising the rights of WTO membership and integrating more fully into the multilateral trading system and in multilateral trade negotiations.

<sup>16</sup> These expectations with respect to WTO accession and other multilateral, regional, and bilateral trade agreements are common to various African governments, as described in Chemutai, V., Low, P. African perspectives on trade and the WTO, Great Insights magazine, ECDPM, 22 December 2016.

<sup>17</sup> See Subramaniam, A., Wei, S. J., "The WTO Promotes Trade, Strongly but Unevenly," Journal of International Economy, 2007, and Escaith, H., Osakwe, C., Chemutai V., Yan, Y., "Transforming Accessions Data into Knowledge," in A. Kireyev and C. Osakwe, ed., 2017, quoted in Lim, J., Eryigit, B., Somalia's Accession to the WTO, Africa Arbitration Blog, 2018. Jonathan Lim and Burak Eryigit are members of the Somalia's negotiating team for the accession to the WTO.

<sup>18</sup> Harrison, A., Openness and Growth, A Time Series, Cross-Country Analysis for Developing Countries, World Bank Policy Research Work Paper WPS 809, 1991.

<sup>19</sup> Somali Chamber of Commerce, consultations held during the diagnostic mission.

<sup>20</sup> See, *ex pluribus*, Kolesnikova, I., "WTO Accession and Economic Development: Experience of Newly Acceded Countries and Implications for Belarus," 2013.

such as service liberalization and intellectual property-related matters. To this end, a good practice consists of the establishment of a **National Secretariat for WTO Accession** (or for WTO Affairs), made up of representatives of all the administrations involved in the WTO accession (see Section 6.3). This Secretariat, which is usually established at Ministries of Trade or of Foreign Affairs, should be in charge of overseeing the entire accession process and the related trade-policy reforms, including preparation of documents and consultations with the private sector.

### 3.2. The Africa Continental Free Trade Area

Somalia signed the Africa Continental Free Trade Area (AfCFTA) Agreement on 26 March 2018. The AfCFTA aims to create a single market for free trade in goods and services, achieve free movement of traders and investors across the continent, and expand business within Africa through better integration among the continental economies.

Even though the country was among the first African countries to obtain executive (Cabinet of Ministers) approval to join the AfCFTA, on 14 August 2020,<sup>21</sup> the agreement has not been tabled yet for ratification by the Parliament. After ratification, Somalia will also need to deposit the relevant instrument of accession with the African Union Commission Chairperson, as established by art. 24 of the agreement.

In September 2023, Somalia adopted a **National AfCFTA Implementation Strategy** with the financial and technical support of the United Nations Economic Commission for Africa (UNECA). To date, an AfCFTA National Committee still has to be appointed, even if its designation is planned for this year.

The National AfCFTA Implementation Strategy identifies the opportunities that the continental FTA presents for Somalia with the relevant challenges. *Among the challenges, the slow pace of accession efforts or of ratification of FTAs, the need to intensify efforts in aligning trade laws, policies, and regulations to the various regional trade agreements concluded or being negotiated, and the poor trade infrastructure (which is unable to connect the country with other African markets), are indicated as the main ones. The document also points out the low level of industrialization and value addition in the country, with most of Somalia's exports being currently represented by merchandises with limited value addition.* Among these, the main export product is livestock, which represented 26% of total exports of the country during the last five years. Other constraints raised by the National AfCFTA Implementation Strategy include the low level of trade with other African nations (the majority of Somalia trade is with Middle East and Asian countries), while trade with closer neighbors (Kenya, Ethiopia and Djibouti) is indicted as mostly informal, with limited records on its value and composition.

The AfCFTA national implementation strategy finally indicates that the movement of goods from one FMS to another is currently hampered by the **presence of numerous Non-Tariff Barriers (NTBs)**. Based on a perception survey of the Somalia business community conducted during the preparation of this strategy<sup>22</sup>, the document concludes that in Somalia, the top five NTBs that restrict trade and increase transaction costs for businesses are: unnecessary customs controls (20%); multiple testing agencies (14%); excessive documentation (14%); difficulty to comply with standards (12%); and unnecessary roadblocks (10%). Additional barriers are identified in the lack of preferential rules of origin (7%), ineffective and unharmonized (border) procedures (7%), visa and work permit requirements (6%), differences in tariffs across federal States (5%) and lack of coordination among agencies at borders (5%).

Both the AfCFTA and the EAC regulations include provisions to tackle NTBs. In particular, the AfCFTA Protocol on Trade in Goods contains a specific Annex (Annex V) dedicated to NTBs. Art. 6.2 of such Annex

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<sup>21</sup> AfCFTA National Implementation strategy.

<sup>22</sup> FGS (2022) AfCFTA perceptions Survey of the Somalia business community.



urges AfCFTA State Parties to establish **National Monitoring Committees (NMCs)** and **National Focal Points on NTBs** and to communicate their details to the AfCFTA Secretariat, where an NTB Coordination Unit is will oversee the process for elimination of NTBs by working together with national and regional Monitoring Committees. Annex V also foresees the establishment of a Sub-Committee on Non-Tariff Barriers composed of representatives duly designated from all the AfCFTA State Parties.

NMCs and National Focal Points on NTBs are also foreseen by the EAC Elimination of Non-Tariff Barriers Act, 2017, which urges EAC Partner States to made them operational at national level.<sup>23</sup> Such bodies are made up by government officials and private sector representatives, and are charged with the task to discuss and resolve complaints received by traders regarding barriers to trade. *At present, Somalia has not yet established any of these bodies.*

Another tool introduced by the AfCFTA which aims at simplifying export formalities within the context of the AfCFTA preferential trade is the “*Approved Exporter*” (AE) status. The AE is an authorization granted by Customs or other designated authority to habitual exporters - on their demand - that allows them to self-certify the preferential origin of goods whose value is superior to 5,000 USD, without the need to obtain an AfCFTA certificate of origin (COO). To this end, the AE must issue a specific statement on the invoice or another commercial document accompanying the shipment of the products exported in the context of the AfCFTA where he or she declares that the goods are originating from a said country, mentioning its/her EA authorization number.

According to the Annex 2 on Origin to the Protocol on Trade in goods of the AfCFTA, the AE status is the only mechanism available to exporters to self-certify the preferential origin of their products above the value threshold of 5,000 USD. Somalia customs legislation currently does not foresee this status. On the other hand, shipments below the 5,000 USD threshold, the self-declaration of origin can be issued irrespective of the possession of the AE status.

*It is also important to note that the AE status is foreseen by the majority of preferential trade agreements of the EU and of the United Kingdom, including by some GSPs arrangements granted to Somalia, as a means to facilitate the proof of origin.* Although the introduction of the AE is not mandatory, this status represents a facilitation for Somali exporters that would be beneficial to them and therefore appropriate to introduce in the internal legislation. *In this regard, a specific recommendation (n°10) is formulated in Section 6 of this study.*

### 3.3. The Common Market for Eastern and Southern Africa

As mentioned above, Somalia is one of the founding members of the Preferential Trade Area for Eastern and Southern African States (PTAESA), a REC established by a Treaty signed on December 21, 1981 by a number of Eastern and Southern African nations with the purpose of establishing a preferential tariff treatment for a specific list of products. The main purpose of that preferential trade area was to promote cooperation and development in the fields of trade, customs, industry, transport, communications, agriculture, natural resources, and monetary affairs, with a view to establish an economic community for the subregion. In November 1993, the members of the PTAESA signed a new Treaty which envisaged the transition to a common market, following a decision of the Authority of the Preferential Trade Area for Eastern and Southern African states taken at its 10<sup>th</sup> Meeting held in Lusaka, Zambia from 30 to 31 January 1992.

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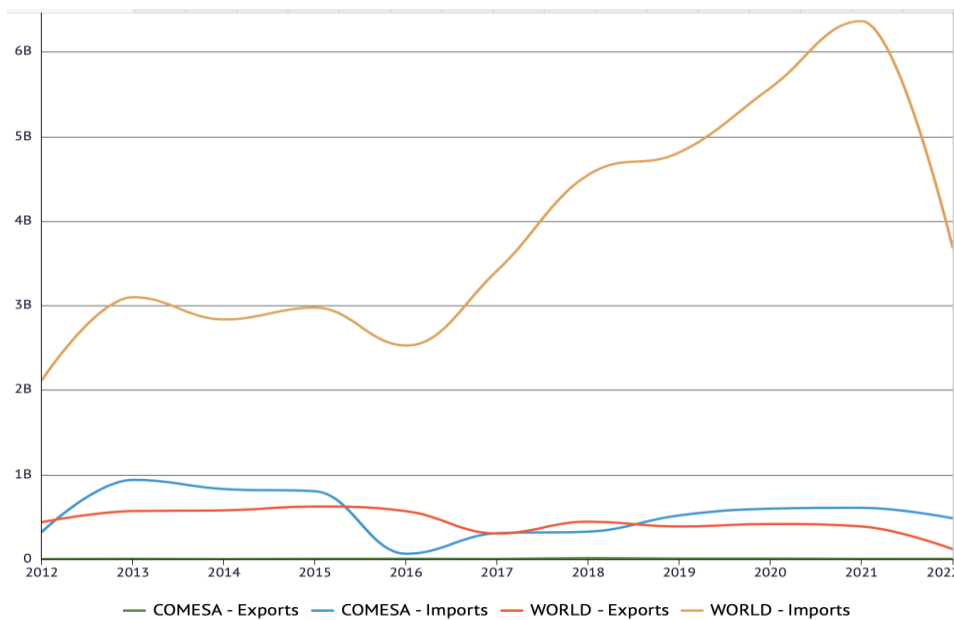
<sup>23</sup> The EAC Elimination of Non-Tariff Barriers Act, 2017 <https://www.eala.org/documents/view/eac-elimination-of-non-tariff-barriers-act-2017>

The COMESA Treaty came into force on 8 December 1994. Afterwards, nine of its member States,<sup>24</sup> in 2000, formed a free trade area, subsequently joined by Rwanda and Burundi in 2004, by Comoros and Libya in 2006, by Seychelles in 2009, by Uganda in 2015 and by Tunisia in 2020.

To date, 16 out of the 21 COMESA member States participate in the COMESA FTA. Somalia, on the other hand, failed to negotiate the transition to the new bloc because of the absence of a government at the time when the COMESA Treaty was signed. The country acceded to COMESA in 2018, but the COMESA Treaty still remains to be ratified, with Somalia not yet participating to the COMESA FTA. As a consequence, full customs duties are applied on both imports from other COMESA countries to Somalia and on Somali products that are exported to the other COMESA States. Like in the case of the AfCFTA, the main reasons of this reluctance in participating in the COMESA FTA is the large presence of infant industries in Somalia. Being such industries in their early stages of development, which may need protection against the risk of losing competitiveness with regard to competitors from other COMESA countries, once customs duties in trade exchanges with such countries will be completely eliminated. Somalia’s economy is largely based on agriculture and fishing although the government is committed to diversify into manufacturing and extraction activities. The manufacturing sector is not competitive and is still behind in terms of product sophistication.

Another reason is the fear of lack of revenue deriving from duty suppressions as a consequence of the entry into the COMESA FTA. However, given the fact that trade between Somalia and COMESA countries particularly is low compared with trade with the rest of the world (as shown in the graphic below), this risk is minimal.

Figure 1: Somalia intra-COMESA trade compared with trade with the rest of the world<sup>25</sup>



To participate to the COMESA FTA, Somalia must adopt the COMESA COO (that must accompany consignments exported to other COMESA countries) and designate an issuing authority that will be responsible for the endorsement of such certificate. In most COMESA member States, this authority is the customs administration. However, cases where the Ministries of Trade or Chambers of Commerce and

<sup>24</sup> Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe.

<sup>25</sup> Source: Comstat Data Hub (COMESA)

Industry have been designated as issuing authorities exist. COMESA is also one of the first RECs to have developed an electronic COO, under the COMESA Digital Free Trade Area (DFTA) initiative adopted by the COMESA Council of Ministers in 2018. Pilot tests, initially planned for 2020, have however proven complicated to organize. Due to these difficulties, they have been postponed many times, until 2023. Currently, the system is available in testing mode on a specific webpage, accessible upon registration.<sup>26</sup>

**At present Somalia does not implement any system of preferential ROO or origin self-certification scheme. This does not allow local exporters to access to the tariff reductions or exonerations laid down by trade agreements and arrangements of which Somalia is a party or a beneficiary.**

The only certificate which is currently issued in the country is the non-preferential (or common) Certificate of Origin, which is released to exporters by the Somali Chamber of Commerce. Also, the issuance of non-preferential COO is currently not regulated by any law, despite a request for expression of interest was launched at the end of 2023 by the Somali government (on a financing from the World Bank), for a consultancy work to draft a comprehensive ROO Act.<sup>27</sup>

**It is important to point out that the non-preferential Certificate of Origin issued by the Somali Chamber of Commerce does not give right to any preferential treatment in relation to goods that are exported from Somalia toward preference-giving countries.** It therefore accompanies exclusively exports to markets with whom Somalia does not have preferential trade agreements in place.

The National Trade Policy of Somalia 2021-2025 gives the main responsibility for issuing the certificates of preferential origin to the MOCI. Conversely, the responsibility to assess whether the goods may be eligible for a tariff preference is given to the MOCI port office and Customs, which are indicated as both responsible for conducting controls on the origin of the goods.

### 3.4. The Eastern African Community

The East African Community (EAC) is considered one of the most successful RECs on the African continent, having achieved the status of Customs Union and being in the process of consolidating a Common Market. The EAC is, similarly to IGAD, COMESA and CEN-SAD, one of the eight AU-recognized African RECs,<sup>28</sup> and has one the highest scores for regional integration amongst the RECs, with a share of Intra-EAC trade that reached about 15 percent in 2022, growing by 11.2 percent with respect to 2021.<sup>29</sup> Consequently, this Community has attracted an increasing interest from a number of States, reaching a total of eight (8) member States, the last two (Democratic Republic of Congo and Somalia), admitted respectively in April 2022 and November 2023. Somalia initially requested membership in 2012. In October 2023, also Ethiopia and Djibouti showed interest in joining the bloc, with Ethiopia reportedly in an advanced stage in the process.<sup>30</sup>

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<sup>26</sup> COMESA's test page for issuing online electronic Certificates of Origin: <https://test.eco.comesa.int>

<sup>27</sup> Request for expression of interests launched end of 2023 for a Consultancy to undertake the drafting of the rule of origin law for Somalia and its implementation plan. [https://somalijobs.com/jobs/Somalia/16764859842802174/REQUEST-FOR-EXPRESSION-OF-INTEREST-\(REOI\)-FOR-CONSULTANCY-TO-UNDERTAKE-THE-DRAFTING-OF-THE-RULE-OF-ORIGIN-LAW-FOR-SOMALIA-AND-ITS-IMPLEMENTATION-PLAN](https://somalijobs.com/jobs/Somalia/16764859842802174/REQUEST-FOR-EXPRESSION-OF-INTEREST-(REOI)-FOR-CONSULTANCY-TO-UNDERTAKE-THE-DRAFTING-OF-THE-RULE-OF-ORIGIN-LAW-FOR-SOMALIA-AND-ITS-IMPLEMENTATION-PLAN)

<sup>28</sup> This is due to a Decision adopted by the AU Assembly in July 2006, known as "Moratorium on the Recognition of RECs", where, to avoid a further proliferation of RECs, it decided to suspend, until further notice, the recognition of new RECs, except: 1) the EAC; 2) COMESA; 3) the Southern African Development Community (SADC); 4) the Economic Community of West African States (ECOWAS), 5) the Economic Community of Central African States (ECCAS); 6) IGAD; 7) CEN-SAD; and 8) the Arab Maghreb Union (AMU). The consequence of this Decision is that only these officially recognised RECs take part in the AU programmes, activities and mechanisms aimed at coordinating and harmonising their policies in view of the establishment of the future African Union Community as per art. 6 of the Abuja Treaty.

<sup>29</sup> EAC Secretariat, Trade and Investment Report (2022).

<sup>30</sup> Qorro, E. Ethiopia, Djibouti to join EAC, Daily News, Arusha, October 5, 2023. See also: KBC news, Ethiopia set to join EAC, CS Malonza says, April 8, 2024.

The EAC was created with a Treaty signed on 30 November 1999 between Kenya, Uganda, and Tanzania, which entered into force in July 2000 by reviving a previous attempt by these States to build an FTA in 1967. The original EAC existed for 10 years, until 1977, collapsing because of tensions that arose due to disagreements over the differential benefits accruing from the economic union. Indeed, after Kenya emerged as the primary industrial powerhouse in the region, Tanzania and Uganda realized that the integration process was unbalanced and that the lack of competitiveness of their manufacturing sectors was turning them into net importers of Kenyan products, losing vital customs revenues without gaining much in return.<sup>31</sup>

The EAC integration process roadmap includes a progression from a Customs Union to a Common Market, a monetary union, with the ultimate objective of achieving a complete political Union, namely a Political Federation of the East African States.

The Protocol for the establishment of the EAC Customs Union, signed on 1st July 2005, became fully operational in 2010. Apart from Somalia to date South Sudan and the Democratic Republic of Congo do not participate yet in this Customs Union. To operationalize it, in 2012 the EAC set up the Single Customs Territory, a geographical space where internal border controls on the circulation of goods are reduced to a minimum. The EAC path for the establishment of the Customs Union has been since then progressive. Its member States decided a transition period of five years from the coming into force of the EAC Customs Union Protocol which included the following milestones:

- a. elimination of internal tariffs for goods traded among Partner States that qualify under the EAC ROO;
- b. implementation of a Common External Tariff and;
- c. enactment (in 2004) and implementation of a regional Customs Code (Customs Management Act) and supporting regulations.

In 2012, as the transition period for the Customs Union implementation was coming to an end, the EAC Summit of Heads of States adopted the so-called **destination model**, whereby the import declaration is submitted in the country of destination of goods, which deals with the assessment, payment and collection of duties on imported goods while they are still at the first point of entry. In practice, 48 hours before a vessel reaches an East African port, it sends cargo information at the first port of entry, which in turn, sends this information to Customs in the destination country. The importer is then required to submit an import declaration in his country and pay customs duties and other taxes applicable. Once these levies are paid, the customs authorities assign a risk profile to the cargo that guide the verification activities by the customs office in the port of first entry. Risks profiles are four: 1) red=physical examination; 2) yellow=documentary control; 3) green=no control; 4) blue=post clearance control. **Accordingly, Somali customs will need to develop post clearance audit (PCA) units to comply with the destination model of the EAC** when the IT customs management system of the customs office of destination routes the shipment into the blue channel.

Once completed the control, the office of destination issues a release note so that the customs office at the first port of entry can release the goods. From the point of arrival of goods to the destination point, goods move under the coverage of an **electronic cargo tracking system (ECTS)** to avoid to be diverted while they move in transit. In Somalia, Customs do not use any ECTS to monitor the movement of transit goods in their territory. The country will need future support in developing this system and for interconnecting it with those that are used in the other EAC member States.

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<sup>31</sup> Langhammer, R. J., Hiemenz, U., Regional integration among developing countries, survey of past performance and agenda for future policy action, Kiel Institute of World Economics, December 1991.

### 3.5. The Trade Preferential System of the Organization of Islamic Cooperation

The Organization of Islamic Cooperation (OIC), formerly Organization of the Islamic Conference, is one of the largest inter-governmental organizations worldwide, with 57 member states spread over four continents. Established with a decision adopted during the Rabat summit of 25 September 1969, the OIC aims to strengthen intra-Islamic economic and trade cooperation in view of the establishment of a Common Market among these countries.

In 1998, OIC member States adopted a Declaration of Intent<sup>32</sup> for the establishment of a system of trade preferences among OIC countries called Trade Preferential System (TPS-OIC). The aim of such system is to promote and expand trade amongst such States through the exchange of trade concession based on the principles of equal and non-discriminatory treatment among all Participating States. To this end, the Declaration of Intent called for the development of a Framework Agreement defining the general rules and principles for the establishment and operation of such a system. The Framework Agreement was adopted in 1991 and entered into force in 2002, three months after the deposit of the instruments of ratification by ten OIC member States as provided by art. 18.

However, in order for the TPS-OIC to enter into force, two other complementary tools needed to be developed: 1) the Protocol on the Preferential Tariff Scheme for TPS-OIC (PRETAS) and; 2) the TPS-OIC Rules of Origin.

The PRETAS is the agreement that describes the tariff reduction program of the TPS-OIC and the timetable for its implementation. It entered into force in February 2010. The TPS-OIC ROO, needed for the determination of the origin of products eligible for preferential concessions under the scheme, entered into force in August 2011. The TPS-OIC system finally became operational on July 1<sup>st</sup>, 2022.

The Framework Agreement, the PRETAS and the TPS-OIC ROO have all been signed and ratified by Somalia, as shown in the Table 1 on the next page.

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<sup>32</sup> <https://www.comcec.org/wp-content/uploads/2021/05/Declaration.pdf>

Table 1: Countries that have signed and ratified the TPS-OIC

<b>COUNTRIES THAT SIGN AND RATIFY THE OIC TRADE PREFERENTIAL AGREEMENTS (TPS-OIC)</b>								
<i>(As of May 15, 2022)</i>								
No.	Member States	Framework Agreement		The Protocol on Preferred Scheme (PRETAS)		Rules of Origin		Presentation of Concession Lists
		Signature	Ratification	Signature	Ratification	Signature	Ratification	
1	United Arab Emirates	✓	✓	✓	✓	✓	✓	✓
2	Bahrain	✓	✓	✓	✓	✓	✓	✓
3	Bangladesh	✓	✓	✓	✓	✓	✓	✓
4	Benin	✓	---	✓	---	✓	---	
5	Brunei Darussalam	✓	✓	---	---	-	---	
6	Burkina Faso	✓	---	✓	---	✓	---	
7	Chad	✓	---	---	---	-	---	
8	Djibouti	✓	✓	✓	---	✓	---	
9	Indonesia	✓	✓	✓	---	✓	---	
10	Morocco	✓	✓	✓	✓	✓	✓	✓
11	Ivory Coast	✓	---	✓	---	✓	---	
12	Palestine	✓	✓	✓	✓	✓	✓	
13	Gabon	✓	✓	---	---	-	---	
14	Gambia	✓	✓	✓	✓	✓	✓	
15	Guinea	✓	✓	✓	---	✓	---	
16	Guinea-Bissau	✓	---	✓	---	✓	---	
17	Iraq	✓	✓	---	---	-	---	
18	Iran	✓	✓	✓	✓	✓	✓	✓
19	Cameroon	✓	✓	✓	✓	✓	---	
20	Qatar	✓	✓	✓	✓	✓	✓	✓
21	Comoros	✓	---	✓	---	✓	---	
22	Kuwait	✓	✓	✓	✓	✓	✓	✓
23	Libya	✓	✓	---	---	-	---	
24	Lebanon	✓	✓	---	---	-	---	
25	Maldives	✓	✓	---	---	-	---	
26	Malaysia	✓	✓	✓	✓	✓	✓	✓
27	Mauritania	✓	✓	✓	---	✓	✓	
28	Egypt	✓	✓	✓	---	-	---	
29	Niger	✓	---	✓	---	✓	---	
30	Nigeria	✓	---	✓	---	✓	---	
31	Pakistan	✓	✓	✓	✓	✓	✓	✓
32	Senegal	✓	✓	---	---	-	---	
33	Sierra Leone	✓	---	✓	---	✓	---	
34	Somali	✓	✓	✓	✓	✓	✓	
35	Sudan	✓	---	✓	---	✓	---	
36	Syria	✓	✓	✓	✓	✓	✓	✓*
37	Saudi Arabia	✓	✓	✓	✓	✓	✓	✓
38	Tunisia	✓	✓	✓	---	✓	---	
39	Turkey	✓	✓	✓	✓	✓	✓	✓
40	Uganda	✓	✓	---	---	-	---	
41	Oman	✓	✓	✓	✓	✓	✓	✓
42	Jordan	✓	✓	✓	✓	✓	✓	✓
		<b>42</b>	<b>32</b>	<b>33</b>	<b>18</b>	<b>32</b>	<b>18</b>	<b>14</b>

\*Membership of the Syrian Arab Republic has been sustained in accordance with the decisions taken at the 4<sup>th</sup> OIC Extraordinary Summit.

However, for the TPS-OIC to be implemented, another step is required from Somali authorities. This is the submission of the tariff concession lists to the COMCEC.<sup>33</sup> This formality must be accomplished by using a common format which is available on the website (See Table 2 below). At present, Somalia has not fulfilled yet this requirement.

Table 2: Sample Concession List Submission Format

SAMPLE TABLE FOR THE CONVERSION OF 2003 TARIFFS TO THE CURRENT APPLIED TARIFF CODES										
No	HS CODE (8 digits) 2003	Product Description 2003	MFN Rate (October 2003)	HS CODE (8 Digits) (Most Updated)	Product Description (Most Updated)	MFN Rate (Most Updated)	Proposed Specific Annual Installment (%)			
							1st Installment	2nd Installment	3rd Installment	4th Installment
1	0000.00.00									
2	0000.00.02									
3	0000.00.03									
4	0000.00.04									
5	0000.00.05									
6	0000.00.06									
7	0000.00.07									
8	0000.00.08									
9	0000.00.09									
10	0000.00.10									
<b>EXPLANATORY NOTE ON THE SAMPLE TABLE FOR CONVERSION OF CONCESSION LISTS</b>										
<p>Column B refers to 2003-based 8 digit HS Codes that was submitted in the original list.                      Column C refers to 2003-based product description that was submitted in the original list.                      Column D refers to 2003-based MFN rate, in accordance with the Article 2/2 of the PRETAS: "The base rate of the tariffs to be used for reduction shall be the MFN applied rate applicable on October 1st, 2003."                      Column E refers to conversion of 2003-based HS Codes to the most updated and applied 8-digit HS Codes.                      Column F refers to conversion of 2003-based product description to the most updated and applied product description.                      Column G refers to conversion of 2003 based MFN rate to the most updated or applied MFN rate.                      Column H, I, J and K refer to 4 annual installments for tariff reductions. In accordance with the relevant provision of the PRETAS, LDCs will make reductions in 6 installments.</p>										

Figure 2 TPS-OIC Certificate of Origin

Moreover, for the products to be exported preferentially to one of the OIC states that participates to the TPS-OIC, Somalia needs to adopt the TPS-OIC certificate of origin by communicating to the COMCEC the names of the officials authorized to sign them, together with the specimens of their signatures and stamps used to endorse such certificates.

The template of TPS-OIC COO is shown in Figure 2 on the right.

<b>TPS-OIC CERTIFICATE OF ORIGIN</b>			
<b>1. Exporter</b> (Name, full address, country)		<b>TPS-OIC Certificate of Origin No A000.000-TR</b>	
		See notes overleaf before completing this form.	
<b>2. Consignee</b> (Name, full address, country)		<b>3. Participating State in which the products are considered as originating</b>	
<b>4. Participating State of destination</b>			
<b>5. Transport details</b>		<b>6. Remarks</b> (*)	
		- Cumulation applied with ..... <i>(name of the country/countries)</i> - No cumulation applied. (*) <i>(insert X in the appropriate box).</i>	
<b>7. Item number HS code six-digits description of goods; Marks and numbers; Number and kind of packages<sup>(1)</sup></b>		<b>8. Gross weight (kg) or other measure (litres, m<sup>3</sup>, etc.)</b>	<b>9. Invoices number and date</b>
<b>10. Declaration by the Exporter</b> I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate.		<b>11. Endorsement of the Customs or the Competent Authorities</b> <i>Declaration certified</i> Export document <sup>(2)</sup>	
Place and date: _____		Office of the Customs or the Competent Authority Issuing Participating State _____ <b>Stamm</b>	
(Signature) _____		Place and date: _____ (Signature) _____	

(1) If goods are not packed indicate number of articles or state "in bulk" as appropriate.  
 (2) Complete only where the regulations of the exporting country or territory require.

### 3.6. Greater Arab Free Trade Area

The Greater Arab Free Trade Area (GAFTA), also called Pan-Arab Free Trade Area (PAFTA), or simply Arab Free Trade Area, is a trade agreement launched by the Economic and Social Council of the Arab League with the Resolution No. 1317 of February 19<sup>th</sup>, 1997 adopted during its 59<sup>th</sup> session in Cairo, Egypt.

The GAFTA Agreement, officially termed “Arab Free Trade Area Agreement”,<sup>34</sup> was concluded in 1997 by 14 Arab countries,<sup>35</sup> subsequently joined by an additional other four.<sup>36</sup> Entered into force on 1st January 1998, it provided for a gradual reduction of customs duties and other charges and taxes of a similar effect by equal annual percentages, until full liberalization of trade among participating countries. However, Palestine was subsequently exempted from reducing its customs duties due to the country’s special circumstances, pursuant to the Arab Summit Decision n. 274/2004. The complete elimination of tariffs on goods traded within the area was achieved in 2005, ahead of the date initially set in the GAFTA Agreement (December 31, 2007).

The preferential tariff treatment introduced by the GAFTA was initially based on the application of temporary ROOs approved by the Economic and Social Council of the Arab League in a separate decision (GAFTA Executive Program 1997, annexed to the GAFTA Agreement).

In 2020, final and detailed ROOs were adopted, including Products-Specific ROO indicating the minimal working or processing operations that is necessary to carry out on non-originating materials used in the manufacture of a product so that the latter can acquire the originating status of one of the GAFTA participating states.<sup>37</sup>

Although the GAFTA Agreement also aims at eliminating NTBs, including administrative, monetary, financial, and technical barriers that impede trade among its members, it remains mostly a “shallow”<sup>38</sup> agreement, since it only covers only trade in goods, focusing on tariffs and other border measures that directly affect market access. It does not cover trade in services, and lacks provisions on dispute settlement, competition laws, and harmonization of standards, among others.

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<sup>33</sup> The Secretariat of the Standing Committee for Economic and Commercial Cooperation of the Organization of the Islamic Cooperation (COMCEC) serves as a policy dialogue forum for producing and disseminating knowledge, sharing experience, and best practices, developing a common understanding and approximating policies among the Member Countries of the OIC. Its main objective is to address the economic challenges of the Islamic Community and to contribute to their development efforts. It works through six Working Groups for each of the six cooperation areas defined by its strategic plan (COMCEC Strategy), namely: 1) trade, 2) transport and communications, 3) tourism, 4) agriculture, 5) finance, and 6) poverty alleviation.

<sup>34</sup> Available at: [http://rtais.wto.org/rtadocs/16/TOA/English/Pan-Arab%20Free%20Trade%20Area%20Agreement%20\(1997\).pdf](http://rtais.wto.org/rtadocs/16/TOA/English/Pan-Arab%20Free%20Trade%20Area%20Agreement%20(1997).pdf)

<sup>35</sup> Syria, United Arab Emirates, Jordan, Lebanon, Tunisia, Iraq, Bahrain, Saudi Arabia, Qatar, Oman, Kuwait, Egypt, Morocco and Libya.

<sup>36</sup> Yemen, Sudan, Palestine and Algeria joined the GAFTA later.

<sup>37</sup> Products-Specific rules of origin, also known as “rules of list” use three main criteria for determining these minimal working or processing operations: 1) Change of Tariff Classification: the exported product must have a different tariff classification (at the level of Chapter, Heading or Sub-Heading of the Harmonized System), than that of any imported inputs used for its manufacture; 2) Specific Process: the imported materials must have undergone the process indicated in the rule (e.g., a chemical reaction, distillation, or treatment with solvents) in order to obtain the origin of the country where this process is carried out; 3) Value Content/Regional Value Content: the product must have a minimum threshold of local value content (or a certain percentage of the product's value has to be sourced from within the region to which the FTA applies), in order to be considered as originating from the concerned country. Sometimes, this rule is expressed in negative terms, as the maximum threshold of non-originating material that the finished product can incorporate, in order to be considered as originating of the country where the working or transformation has been carried out. If the product exceeds this threshold, it will not obtain the origin of the country where the working or transformation was made. The detailed GAFTA ROO are available (only in Arabic) at the following link: <https://www.economy.gov.lb/public/uploads/files/GzaleAnnexe02.pdf>

<sup>38</sup> See Lawrence, R. Z., *Regionalism, Multilateralism, and Deeper Integration*, Brookings, Washington DC, 1996. Shallow agreements are those trade agreements that simply aim at liberalizing trade by reducing or eliminating tariffs and/or trade barriers. By contrast, deep agreements go beyond the removal of border barriers, as they contain a variety of provisions covering multiple non-trade areas such as investment, labor, environment, and intellectual property rights, among others.



Further attempts to form a customs union among GAFTA members have stalled following the spread of the Arab Spring events. At present, intra-GAFTA trade as a share of total trade remains extremely low, well below 10 percent.<sup>39</sup>

Somalia officially joined GAFTA on May 5, 2023. However, there are still some steps that the country's authorities need to complete in order to be fully integrated into such FTA. These requirements include among others the finalization of the Somalia tariff concession list.

Requirements for joining such FTA are similar to the other agreements and include the transmission to the Arab League General Secretariat the names of officials and specimens of the signatures and stamps to be used for the endorsement of the GAFTA COOs. Customs will also need to issue a circular to guide Somali exporters on how to meet the other requirements of the GAFTA so that their exports will be eligible for tariff reduction in the country of import.

Figure 3: Specimen of the GAFTA COO

<p>جمهورية مصر العربية وزارة الصناعة والتجارة الخارجية الهيئة العامة للرقابة على الصادرات والواردات</p> <p>رقم الشهادة : تاريخها : 0745000</p> <p>شعار الدولة المصدرة شعار الجامعة</p> <p>اسم الفرع : شهادة متشأ</p> <p>بموجب أحكام اتفاقية تيسير وتنمية التبادل التجاري بين الدول العربية</p>	
1- المصدر وعنوانه كاملاً ،	2- المنتج وعنوانه كاملاً ،
3- المستورد وعنوانه كاملاً ،	4- بلد المنشأ ، 5- تم تطبيق التراكم مع دول أخرى ؟ نعم <input type="checkbox"/> اسم الدولة : لا <input type="checkbox"/>
6- تفاصيل الشحن ،	7- ملاحظات ،
8- وصف السلع ، العلامة التجارية (إن وجدت) ، عدد ونوع وأرقام الطرود ،	
9- الوزن القائم (كجم/كغم) أو مقاييس أخرى (لتر/متر ، مكعب .. الخ) ، رقم - 10 - رقم وتاريخ وشهادة الضوابط (الضوابط) ، مكعب .. الخ ،	
11- إقرار وتعهد المصدر ، أقر بأن جميع البيانات المذكورة أعلاه صحيحة وأن السلع الوارد وصفها أعلاه مستوفاة للشروط والمعايير اللازمة لاكتساب صفة المتشأ . المكان : التاريخ : التوقيع :	12- توقيع وخاتم الجهة المصدرة للشهادة ، التوقيع ، الخاتم ، التاريخ ،
13- تصديق الجهة الحكومية المختصة ، التوقيع ، الخاتم ، التاريخ ،	

<sup>39</sup> El-Sahli, Z., The Partial and General Equilibrium Effects of the Greater Arab Free Trade Agreement, International Trade Journal, 37(2), 2023.

## 4. OTHER TRADE-RELATED ARRANGEMENTS APPLICABLE TO SOMALIA

Being categorized by the United Nations (UN) as an LDC, Somalia benefits from a large range of unilateral, non-reciprocal, preferential tariff concession schemes offered by both developed and developing countries. Also in this case, at present Somalia does not implement any of them. This is due to the fact that Somali authorities have not yet put in place the administrative structures and procedures needed for Somali traders to access to such preferential regimes.

For instance, at present Somalia does not issue any **certificate of preferential origin**. Moreover, the country’s authorities have not formally designated any authority competent for their issuance, even though the National Trade Policy attributes this responsibility the MOCI, as explained further on in this study. Similarly, Somalia legislation does not foresee **any scheme for self-certification of origin**. Lastly, national authorities (and Customs in particular), have not put in place any system of **documentary checks** to verify the origin of products eligible for tariff preferences in case a control is needed or solicited by a foreign authority that is counterpart to an FTA concluded by Somalia.

Since controls on origin are typically carried out after the clearance of goods (at the trader’s premises, where records and accounting entries are generally kept),<sup>40</sup> and require the establishment of specialized control teams. The role of such teams is to conduct audit-based controls<sup>41</sup> at the manufacturing sites of producers and at headquarters of import-export companies. **Post-clearance audit teams** are currently lacking in the structure of the DoC, which is the authority that usually conducts origin verifications.

The unilateral and non-reciprocal preferential concession schemes offered to Somalia by the various countries and customs territories worldwide are shown in Figure 4 below.

Figure 4: List of preferential trade arrangements of which Somalia is a beneficiary



Source: WTO, Preferential Trading Arrangements Database (date of last access: 28<sup>th</sup> May 2024)

<sup>40</sup> Of course, ex-ante controls (i.e., controls to be carried out at the time of customs clearance and while the goods have not yet left the customs area) are also possible. However, the main drawback of this type of checks is that it does not give customs access to documentation on the product manufacturing process, as this documentation is normally kept at the company’s offices. Essentially, in this type of control, the customs office of exit must ensure that the data on the proof of origin matches that on the export declaration and other supporting documents.

<sup>41</sup> Audit-based are checks focusing on the analysis of books, records, business systems and commercial data held by traders. They are aimed at verifying the accuracy and authenticity of declarations submitted to Customs or other government agencies both in the country of establishment and abroad.

The above trade arrangements can be classified in two main categories:

- 1) Generalized Systems of Preferences (GSPs);
- 2) LDC-specific duty-free tariff preference schemes.

#### 4.1. Generalized Systems of Preferences (GSPs)

GSPs are unilateral preferential trade regimes whose objective is to facilitate the access of less developed economies to the markets of more industrialized countries. Such regimes were established in the 1970s' based on a proposal made by a group of delegations from industrialized countries during the first United Nations Conference on Trade and Development (UNCTAD I)<sup>42</sup>, held in New York in June 1964. Such group proposed to grant zero or reduced import duty rates to developing and less developed countries as a means to support their economic growth and promote their industrialization. Based on this proposal, UNCTAD issued, during its Second Conference held in New Delhi in March 1968, the Resolution 21(II)/1968<sup>43</sup> where it urged the most developed members of the United Nations to put in place a "*generalized, non-reciprocal and non-discriminatory system of preferences in favor of developing countries, including special measures in favor of the least developed countries*".

However, a major obstacle to the introduction of such a system of unilateral preferences was the Art. I, paragraph 1 of the General Agreement on Tariffs and Trade (GATT 1947),<sup>44</sup> which prohibits contracting parties from granting selective preferential access to their own markets: a principle known as the "Most Favored Nation" (MFN) clause. Because of this limitation, a group of industrialized countries represented by the Permanent Delegation of Norway to the GATT, submitted on April 19, 1971, a request to the GATT Council for Trade in Goods for a 10-year waiver of the MFN clause in accordance with GATT Article XXV:5.

The objective of this exemption was to authorize such countries to introduce a GSP-scheme into their respective legal frameworks in derogation to the MFN clause. The waiver, adopted by the GATT contracting parties in 1971<sup>45</sup>, was followed by the gradual introduction of GSP regimes by various countries and customs territories in the world, including the EU.<sup>46</sup>

Although the duration of these unilateral preference regimes was planned to last no more than 10 years (renewable only in exceptional cases), GATT members, at the Tokyo Round in 1979 adopted a Decision<sup>47</sup> (usually described as the "enabling clause"), that made such waiver an integral part of the WTO framework, extending its duration indefinitely.

Currently, Somalia benefits from the GSPs established by 12 countries and customs territories worldwide, as shown at the Table 3 on the next page. However, **the US-GSP officially expired on December 31, 2020**. Notwithstanding this, US Customs has instructed importers to continue flagging GSP-eligible products on

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<sup>42</sup> UNCTAD rebranded in "UN Trade and Development", on 9 April 2024, during the commemoration of the 60th anniversary from its foundation.

<sup>43</sup> UNCTAD Resolution 21(II) of 26th March 1968 on preferential or free entry of exports of manufactures and semi-manufactures of developing countries to the developed countries.

<sup>44</sup> The GATT is a multilateral agreement concluded in 1947 between several nations of the world to reduce tariffs to a substantial amount along with abolishing other trade barriers. It is customary to use the term "GATT 1947" to designate the original text of the GATT. Conversely, the term "GATT 1994" designates the GATT 1947 text complemented with a number of legal instruments that have entered into force from 1947 up to adoption of the WTO Agreement, on April 15, 1994. These instruments include protocols and certifications relating to tariff concessions, protocols of accession, decisions on waivers granted under Article XXV of GATT 1947, and decisions of the contracting parties to GATT 1947.

<sup>45</sup> Decision (L/3545) of 25 June 1971

<sup>46</sup> The EU was the first territory to adopt a GSP scheme, which happened on July 1, 1971. This was followed by Japan (August 1971); Norway (October 1971); New Zealand (January 1972); Switzerland (March 1972); Australia (July 1974); Canada (July 1974); the United States (January 1976); Iceland (January 2002); Turkey (January 2002), the Russian Federation (January 2010) and the Eurasian Economic Union (October 2016).

<sup>47</sup> Decision of the contracting parties to the GATT L/4903 of 28 November 1979 on "Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries".

import documents so that it may grant duty refunds should the US Congress reauthorize the program with retroactive application, as it has happened several times in the past.

*Table 3: List of GSPs that include Somalia as a beneficiary.*

#	Provider	Name	Type	Type of prove the preferential origin required
1	Australia	Generalized System of Preferences of Australia	GSP	FORM A COO
2	Canada	Generalized System of Preferences of Canada	GSP	FORM A
3	Eurasian Economic Union*	Common System of Preferences of the Eurasian Economic Union	GSP	FORM A
4	European Union	Generalized System of Preferences of the EU	GSP	REX system (FORM A no longer accepted)
5	Iceland	Generalized System of Preferences of Iceland	GSP	FORM A
6	Japan	Generalized System of Preferences of Japan	GSP	FORM A
7	New Zealand	Generalized System of Preferences of New Zealand	GSP	Certificate of origin not needed (an exporter declaration may however be requested by Customs)
8	Norway	Generalized System of Preferences of Norway	GSP	REX system (FORM A no longer accepted)
9	Switzerland	Generalized System of Preferences of Switzerland	GSP	REX system (FORM A no longer accepted)
10	Türkiye	Generalized System of Preferences of Turkey	GSP	FORM A (Turkey Customs also participate to the REX of the EU, but still accept the FORM A)
11	United Kingdom	Developing Countries Trading Scheme	GSP	FORM A
12	United States of America	Generalized System of Preferences of the United States ( <a href="#">*Expired on December 31, 2020, pending Congressional renewal</a> )	GSP	Certificate of origin not needed (an exporter declaration may however be requested by Customs)

\* Russia, Belarus, Kazakhstan, Kyrgyzstan, Armenia

It has also to be noted that the Russian Federation already introduced a GSP in 2010 which included Somalia among its beneficiaries. Following the establishment of a Customs Union with Belarus and Kazakhstan in 2010 (subsequently joined by Armenia and Kyrgyzstan in 2015), its GSP has been absorbed into the

Common System of Preferences of the Eurasian Economic Union (EEU), which is in application since October 10<sup>th</sup>, 2016.<sup>48</sup>

The United Kingdom (UK), on the other hand, after the exit from the EU, developed its own GSP, named "Developing Countries Trade Scheme" (DCTS), which was launched in August 2022 and entered into force on 19<sup>th</sup> June 2023.

Requirements for accessing to the tariff preferences established under each of the above schemes vary from one GSP to another. However, generally, all of them, except in a few cases (e.g., US and New Zealand) require the exporter to obtain a certificate of preferential origin from the competent authorities in his/her country that must be transmitted to the buyer in the country of import. However, most of the above countries/territories accept an exporter's self-declaration of origin (in the form of a statement declaring the origin of the product that is affixed on the invoice or another commercial document), *in lieu* of a preferential COO. In order to issue the certificate of origin, the designated authorities in the exporting country must send a notification or a letter of intent to the competent authorities in the country of import, together with the specimens of the stamps and signatures of the officials that will issue the preferential certificate of origin. Such notification or a letter of intent must be acknowledged and accepted by the competent authorities in the country of import. Usually, the preferential COO used in the various GSP schemes is the same for all countries, and it is called "**Form A**" (see the table 3 on page 20). It has to be shown by the importer to Customs in his country in order to benefit from the preference.

#### 4.1.1. The GSP of the EU

The EU's Generalized Scheme of Preferences is governed by the EU Regulation n. 978/2012<sup>49</sup> whose preferences, according to Art. 43, apply from 1 January 2014 until 31 December 2023.<sup>50</sup> However, in November 2023 the EU Commission decided to extend until December 2027 the application of this Regulation, pending the approval of a reviewed GSP Regulation by the European Parliament and the Council of the EU that, to date, has not yet been yet adopted. Therefore, the Regulation (EU) 978/2012 is still in force.

The EU GSP is made up of three sub-arrangements:

- the Everything but Arms (EBA);
- the general GSP (also called "GSP standard"); and
- the GSP+ (plus).

Each one of such sub-arrangements provides for distinct benefits and conditions, depending on the level of development of each beneficiary country.

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<sup>48</sup> The EEU GSP scheme was approved by the Decision of the Commission of the Customs Union No.130 of November 27, 2009 (available at: [https://doc.gov.lk/images/pdf/our\\_services/other\\_gsp/russian\\_federation\\_list\\_of\\_preferential\\_goods\\_gsp\\_of\\_cu.pdf](https://doc.gov.lk/images/pdf/our_services/other_gsp/russian_federation_list_of_preferential_goods_gsp_of_cu.pdf)). The list of beneficiary countries of such GSP has been subsequently revised; the latest revision is the Decision No.17 of March 5, 2021 of the Council of the Eurasian Economic Commission: <https://www.gub.uy/ministerio-economia-finanzas/sites/ministerio-economia-finanzas/files/2021-10/List%20of%20Developing%20Countries%20and%20Least-developed%20beneficiary%20countries%20-%20%28GSP%29.pdf>

<sup>49</sup> Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalized tariff preferences and repealing Council Regulation (EC) No 732/2008  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02012R0978-20230101>

<sup>50</sup> The GSP is renewed by the EU at regular cycles. As explained above, the current should have expired at the end of 2023, but its application was extended until December 31, 2027.

## 1) The EBA

The EBA is most favorable among the EU-GSP sub-arrangements. It is reserved to the countries categorized by the UN as LDCs and exonerates from the payment of customs duties on all products, with the only exception of arms and ammunitions, which are excluded from any preferences.

## 2) The GSP standard

The GSP standard sub-arrangement is open to those countries that are classified by the World Bank as lower or lower-middle income countries<sup>51</sup> and do not have a preferential access to the EU market through another FTA, such as for instance, an Economic Partnership Agreement (EPA).

This sub-arrangement grants tariff benefits on about 66% of all EU tariff lines, in the form of :

- full duty suspensions (0% duty), or
- reductions of 3.5 percentage points with respect to the ordinary tariff rates (for sensitive products).

An exception, however, is for textiles and clothing, for which a 20% duty reduction applies.

Another characteristic of the GSP standard is that certain products can be suspended by tariff preferences if they meet some specific “product graduation” criteria and the volume of imports in the EU exceeds certain thresholds for three consecutive years. In practice, when a country reaches a sufficient level of competitiveness in the production of a certain product and the quantities imported in the EU become particularly high, tariff preferences may be suspended.

## 3) The GSP+

Differently from the GSP standard, the GSP+ grants to beneficiary countries a complete duty suspension for products across approximately 66% of all EU tariff lines, irrespective of the sensitive or not-sensitive nature of these products. It is therefore more advantageous of the GSP standard, but less generous than the EBA. Like for the GSP standard, this sub-arrangement is open to those countries that are classified by the World Bank as lower or lower-middle income countries.

A key condition for accessing to the GSP+ is that those countries must prove to have a particularly vulnerable economy, due to a lack of export diversification and insufficient integration within the international trading system.:

- In order to meet the vulnerability criterion, the ratio of the beneficiary’s GSP-covered imports relative to the GSP-covered imports of all countries must be lower than 7.4%, and
- Likewise, the seven largest sections of GSP-covered imports must exceed a threshold of 75% of total GSP imports over a three-year period to fulfil the diversification criterion.

Furthermore, they must prove that they have ratified and comply with **27 international (UN) conventions** related to human rights, labour rights and environmental protection, as well as to climate change and good governance. Those Conventions are listed in Annex VIII of the Regulation (EU) 978/2012.

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<sup>51</sup> The World Bank categorizes the world’s economies into four income groups: 1) low, 2) lower-middle, 3) upper-middle, and 4) high. Such classifications are updated on July 1 of each year and are based on the Atlas method, a methodology used for calculating their level of development based on a series of indicators. The Atlas method is also used by the UN Trade and Development (former UNCTAD), which combines it with additional parameters in order to determining the level of development of a country. Such parameters relate to human assets (e.g., mortality rate under-five years, maternal mortality ratio, prevalence of stunting, completion rate of lower secondary school, adult literacy rate and gender parity index for lower secondary school completion); economic vulnerability (share of agriculture, forestry and fishing in gross domestic product, remoteness and landlockedness of the concerned country, merchandise export concentration, instability of exports of goods and services); environmental vulnerability (share of population in low elevated coastal zones, share of the population living in drylands, instability of agricultural production, and victims of disasters).

In order to access to the GSP+, interested countries must submit a written request to the European Commission with the accompanying documentation proving the ratification and the deposit of the relevant instruments of ratification of the above-mentioned conventions.

The table below shows the countries that benefit from the three EU GSP sub-arrangements. Most of African countries (including Somalia) benefit from the EBA, while the only African country that is a beneficiary of the GSP+ scheme is Cabo Verde.

*Table 4: List of the EU-GSP beneficiary countries (source: EU Commission, DG TRADE)*

	Standard GSP	GSP+	EBA	
1.	Congo	Bolivia	Afghanistan	Nepal
2.	Cook Islands	Cabo Verde	Angola	Niger
3.	India	Kyrgyzstan	Bangladesh	Rwanda
4.	Indonesia	Mongolia	Benin	Sao Tome & Principe
5.	Kenya	Pakistan	Bhutan	Senegal
6.	Micronesia	Philippines	Burkina Faso	Sierra Leone
7.	Nigeria	Sri Lanka	Burundi	Solomon Islands
8.	Niue	Uzbekistan	Cambodia*	Somalia
9.	Syria		Central African Republic	South Sudan
10.	Tajikistan		Chad	Sudan
11.			Comoros Islands	Tanzania
12.			Congo (DRC)	Timor-Leste
13.			Djibouti	Togo
14.			Eritrea	Tuvalu
15.			Ethiopia	Uganda
16.			Gambia	Vanuatu**
17.			Guinea	Yemen
18.			Guinea-Bissau	Zambia
19.			Haiti	
20.			Kiribati	
21.			Lao PDR	
22.			Lesotho	
23.			Liberia	
24.			Madagascar	
25.			Malawi	
26.			Mali	
27.			Mauritania	
28.			Mozambique	
29.			Myanmar	

\*preferences partially temporarily withdrawn

\*\*graduating from EBA on 1 January 2025

As mentioned above, in order to benefit from the preferences related to the various sub-arrangements of the EU-GSP, the EU Implementing Regulation 2015/2447 establishes that products imported from a beneficiary country must be accompanied by a certificate of (preferential) origin **Form A**. The specimen of such certificate is contained at the Annex 22-08 of the EU Regulation 2015/2447 and shown at figure 5 on the next page.

Figure 5: Specimen of certificate FORM A used for the proof of the preferential origin within the EU-GSP

1. Goods consigned from (Exporter's business name, address, country)		Reference No		<b>GENERALIZED SYSTEM OF PREFERENCES CERTIFICATE OF ORIGIN (Combined declaration and certificate) FORM A</b> Issued in ..... (country) See notes overleaf	
2. Goods consigned to (Consignee's name, address, country)					
3. Means of transport and route (as far as known)			4. For official use		
5. Item number	6. Marks and numbers of packages	7. Number and kind of packages, description of goods	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity	10. Number and date of invoices
<b>11. Certification</b> It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.  _____ Place and date, signature and stamp of certifying authority			<b>12. Declaration by the exporter</b> The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in ..... (country) and that they comply with the origin requirements specified for those goods in the Generalized System of Preferences for goods exported to ..... (importing country) _____ Place and date, signature of authorized signatory		

However, **Form A certificates are no longer accepted by Customs in the EU member States as from June 30<sup>th</sup>, 2020**. This is due to the fact that art. 79(4) of the Regulation 2015/2447 specifies that from this date, **all GSP beneficiary countries must adopt the Registered Exporter (REX) system of the EU for the certification of the GSP preferential status**. In practice, since June 30, 2020, the only way EU importers can claim a preferential tariff treatment under the EU-GSP is to submit to Customs an invoice or another commercial document that incorporates a statement on origin where the exporter in the GSP beneficiary country has self-certified the origin of his products.

The REX is an IT system developed by the EU Commission which is used for the registration of exporters. This system is a database accessible through internet where exporters can register their details and describe the type of goods they export (or intend to export) preferentially, by filling out an online pre-application form<sup>52</sup> (see Figure 6 on page 26), that must be returned to the competent authorities for validation. Traders

<sup>52</sup> EC's REX online pre-form application for exporters: <https://customs.ec.europa.eu/rex-pa-ui/#/create-preapplication>



that are not manufactures of the goods (e.g., trading companies, shippers, or freight forwarders) can also register to the REX, provided that they hold appropriate evidence of the origin of the products to be exported, to be shown to customs authorities upon their demand for the purpose of checks.

Figure 6: REX pre-application online form.

At the end of the registration process, the exporter receives from Customs a **REX number** made up of the ISO country code of 2 letters,<sup>53</sup> followed by the wording "REX" (3 letters) and a string that can reach up to 30 alphanumerical characters. This number must be mentioned in the statements on origin issued on invoices or other commercial documents.

The EU Commission puts the REX system also at the disposal of authorities of third countries for registration of their exporters. **Consequently, Somali authorities have the possibility to use this system for the registration of their national exporters so to enable them to benefit from the GSP of the EU.**

The access to the REX can be made by transmitting a request to the EU Commission to receive the credentials (login and passwords) for using the system for the purpose of registering Somali exporters. In order to use the system, the request must be sent to the EU Commission Directorate General Taxation and Customs Union (TAXUD), Unit A.6, by communicating the name of one or more REX local administrators that will access to the system with administrator privileges. It is customary for the countries that wish to do so, to send the request via their Embassies in Brussels.

Norway, Switzerland, and Turkey also participate to the REX of the EU. However, while Norway and Switzerland, like the EU, no longer accept Form A certificates issued by third countries authorities, Turkey still accepts them.

<sup>53</sup> The ISO country codes are internationally recognized codes that designate every country in the world through a two-letter or a three-letter combination. The ISO code for Somalia is SO.

Following the spread of the COVID-19, the EU Commission issued the Implementing Regulation (EU) 2020/750 of June 5, 2020. Such Regulation extended to the 31 December 2020 the above deadline for GSP-beneficiary countries which communicated to the EU Commission to have difficulties in implementing the REX system for registration of their exporters due to the pandemic. In Africa, Burkina Faso, Cape Verde, Lesotho, Madagascar, Mauritania, and Senegal asked for this extension.

Somalia, on the other hand, never accessed to the REX system. Therefore, products exported to EU Member States are currently **not eligible** for GSP tariff preferences, **except for shipments whose value is equal or lower than 6,000 EUR**. Beyond this threshold, Somali exporters need to be registered in the REX database in order to issue self-certifications of origin, which as explained above, is possible only if the Somali authorities will ask the EU Commission to be authorized to use this system.

#### 4.1.2. The GSP of the United Kingdom

Similar to the GSP of the EU, the DCTS of the UK is articulated in three sub-arrangements:

- a) Standard Preferences;
- b) Enhanced Regime (ER);
- c) Comprehensive Preferences for LDCs;

The above three schemes present the same characteristics and correspond exactly to the GSP standard, the GSP+ and the EBA schemes of the EU-GSP.

However, there is a substantial difference regarding the Enhanced Regime, which is accessible (upon demand) by those countries that prove to be particularly vulnerable (based on their lack of export diversification of their economies), without having to ratify or show compliance with the 27 international conventions requested under the incentive GSP+ of the EU.

Another difference is the fact that the United Kingdom does not participate to the REX system of the EU. Consequently, the Form A is still accepted by the UK Customs for proving the originating status of goods. In order to benefit from tariff preferences at the import in the UK, Somali Customs must therefore put in place a system for the issuance of such certificate, whose specimen is the same as the one presented in figure 5 at page 24.

#### 4.1.3. The African Growth Opportunity Act

The African Growth and Opportunity Act (AGOA) is a unilateral tariff concession scheme enacted by the US in 2000 and set to expire in September 2025. At present, an AGOA renewal bill is pending approval by the US Congress, which provides for the extension of the program until 2041.

Not strictly categorizable as a GSP, as it is open only to **eligible Sub-Saharan African countries** (and not to other developing and least developed countries from other regions of the world), it provides with duty-free access to the US market for over 6,500 tariff lines. Its objective is to promote economic growth, development, and poverty reduction in sub-Saharan Africa by granting such countries with a preferential access to the US market.

In addition, AGOA allows the importation tariff- and quota-free in the US of textile and apparel products, provided that the countries from which the products originate meet specific criteria that are specified in Public Law 93-618. These criteria, commonly referred to as “apparel visa system”, consist of the adoption by the beneficiary country (certified by the US authorities), of a series of measures that aim at preventing the illegal transshipment of the products and the use of counterfeit documents. These measures also

include the implementation of the required origin verification procedures and the transmission to the US Customs of the specimens of the stamps and signatures of the officials designated to endorse AGOA certificates of origin.

In addition, apparel manufacturers wishing to export duty-free to the US under the AGOA, are required to maintain complete records of the production and export of covered items, including materials used in production, for at least two (2) years after production or export. In case of export of non-textiles products, the producer or exporter must send the goods to Customs for a mandatory inspection before goods can be shipped to the US.

With regard to the preferential COO that can be used within the context of the AGOA, these are of two types:

- 1) For **non-textile** products, this certificate is represented by Form A, which has been described in the previous Sections.
- 2) For **textile and apparel products**, an AGOA Textile Certificate of Origin (COO) is needed, which is a US government document that the exporter must request to the customs authority or the Chamber of Commerce of the country of origin. An example is presented in the figure 7 below.

Figure 7: Example of Textile Certificate of Origin used within the AGOA

African Growth and Opportunity Act Textile Certificate of Origin (Revised May 2008)		
1. Exporter Name & Address:		3. Importer Name & Address:
2. Producer Name & Address:		4. Preference Group:
5. Description of Article:		
Group	Each description below is only a summary of the cited provision.	Legal Provision
1-A	Apparel assembled from U.S. fabrics and/or knit-to-shape components, from U.S. yarns. All fabric must be cut in the United States.	19 CFR 10.213(a)(1)
2-B	Apparel assembled from U.S. fabrics and/or knit-to-shape components, from U.S. yarns. All fabric must be cut in the United States. After assembly, the apparel is embroidered or subject to stone-washing, enzyme-washing, acid washing, perma-pressing, over-baking, bleaching, garment-dyeing, screen printing, or other similar processes.	19 CFR 10.213(a)(2)
3-C	Apparel assembled from U.S. fabrics and/or U.S. knit-to-shape components and/or U.S. and beneficiary country knit-to-shape components, from U.S. yarns and sewing thread. The U.S. fabrics may be cut in beneficiary countries, or in beneficiary countries and the United States.	19 CFR 10.213(a)(3) or 10.213(a)(11)
4-D	Apparel assembled from beneficiary country fabrics and/or knit-to-shape components, from yarns originating in the U.S. and/or one or more beneficiary countries.	19 CFR 10.213(a)(4)
5-E	Apparel assembled or knit-to-shape and assembled, or both, in one or more lesser developed beneficiary countries regardless of the country of origin of the fabric or the yarn used to make such articles.	19 CFR 10.213(a)(5)
6-F	Knit-to-shape sweaters in chief weight cashmere.	19 CFR 10.213(a)(6)
7-G	Knit-to-shape sweaters 50 percent or more by weight of wool measuring 21.5 microns in diameter or finer.	19 CFR 10.213(a)(7)
8-H	Apparel assembled from fabrics or yarns considered in short supply in the NAFTA, or designated as not available in commercial quantities in the United States.	19 CFR 10.213(a)(8) or 10.213(a)(9)
9-I	Handloomed fabrics, handmade articles made of handloomed fabrics, or textile folklore articles – as defined in bilateral consultations: Ethnic printed fabric.	19 CFR 10.213(a)(10)
0-J	Textile products of a lesser developed beneficiary country classifiable under chapters 50 through 60, or 63, that are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components or components knit-to-shape that are also the product of one or more such countries.	19 USC 3721(b)(8)
6. U.S./African Fabric Producer Name & Address:		7. U.S./African Yarn Producer Name & Address:
		8. U.S. Thread Producer Name & Address:
9. Handloomed, Handmade, or Folklore Article:		10. Name of Short Supply or Designated Fabric or Yarn:
I certify that the information on this document is complete and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document. I agree to maintain, and present upon request, documentation necessary to support this certificate.		
11. Authorized Signature:		12. Company:
13. Name: (Print or Type)		14. Title:
15. Date: (DD/MM/YY)	16. Blanket Period From: To:	17. Telephone: Facsimile:

As for its impact, AGOA has made strides in boosting exports from eligible African countries to the US. Between 2001 and 2021, the annual value of US imports from AGOA-eligible countries nearly tripled in nominal terms, from USD 8.15 billion to USD 21.8 billion. Trade preferences have benefited especially sectors like apparel, textiles, agriculture, and light manufacturing. However, AGOA's impact has been uneven across sub-Saharan Africa. Some countries have benefited more than others.

Available research indicates that :

- The countries with the greatest gains include South Africa, Kenya, Lesotho, Mauritius, Madagascar, Ethiopia, and Ghana.<sup>54</sup> These nations have used AGOA preferences to substantially increase their exports to the US, particularly in sectors like apparel, textiles, and light manufacturing.
- Kenya, where apparel-dominated exports to the US have grown from USD 55 million in 2001 to USD 603 million in 2022, is a shining example of growth in exports.
- On the other hand, Mauritius exported chocolate and basket- weaving materials, while Mali exported buckwheat, travel goods and musical instruments until its 2022 suspension.
- Mozambique exported sugar, nuts and tobacco, but with little growth of such exports to the US.
- Togo exported wheat, legumes and fruit juices, with little growth of such exports to the US.
- Lesotho achieved rapid export growth and job creation in its apparel sector, and this has contributed to new manufacturing jobs.
- Central and West African countries have not extensively used AGOA's benefits because of weaknesses in infrastructure, governance and global market integration.
- Burundi, the Central African Republic, Equatorial Guinea, Eritrea, The Gambia, Guinea-Bissau and Mali have seen little export growth and foreign direct investment, with little or no benefits.

The variation in AGOA's impact across sub-Saharan Africa is due to several factors:

- First, countries with better infrastructure, stable governance and conducive business environments are better positioned to attract foreign investment and increase exports.
- Second, the level of economic diversification and export capabilities is extremely important. Countries with more diversified export baskets and with established manufacturing sectors have managed to make the most of AGOA's opportunities.
- National policies and strategies to complement AGOA are also essential. Countries that have put in place policies to improve productivity, integrate value chains, and ease supply-side constraints have had more success under the AGOA.
- African countries with longstanding cultural relationship and large diaspora communities within the US, such as Kenya and Lesotho, appear to have benefited from AGOA more than others.

Based on these considerations and on lessons from the countries described above, Somalia's access to the AGOA program is not expected to produce significant results in the medium-term in terms of growth of exports, unless the country will manage to attract substantial foreign investments in manufacturing, especially by footloose industries.<sup>55</sup>

Yet, on 28<sup>th</sup> March 2023, the Somali government officially submitted an application letter to join the AGOA through the US Embassy in Somalia, following previously held discussions between the Presidents of the

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<sup>54</sup> Bedassa, T., The Impacts of the African Growth Opportunity Act on the Economic Performances of Sub-Saharan African Countries: A Comprehensive Review, Department of Economics, University of Minnesota–Duluth, US, 2024.

<sup>55</sup> Footloose industries are those industries which nearly remain indifferent with locational aspects of their plant. They relocate across borders in search of advantages such as minimum labor costs, proximity to raw materials, a favorable tax environment, etc. SOMO, Centre for Research on Multinational Corporations, Footloose Garment Investors in Southern and Eastern Africa, SOMO Paper, March 2008.

two countries at the Africa Leaders’ Summit in December 2022.<sup>56</sup> However, to meet the rigorous eligibility requirements of this scheme, Somalia must make considerable progress in establishing a market-based economy and create a stable and predictable environment for businesses to operate in its territory. Additionally, Somalia is required to enact policies to reduce poverty, combat corruption, and protect human rights.

## 4.2. LDC-specific duty-free tariff preference schemes

Differently from GSPs, which are typically granted by developed countries to both developing and least developed countries, LDC-specific duty-free tariff preference schemes are granted by developing countries exclusively to nations categorized as LDCs according to the UN classification.

These schemes are based on a commitment adopted by WTO members at the onset of the Doha Development Agenda negotiations, in November 2001, where they agreed to grant duty free/quota free access to products of LDCs imported in their territories. Subsequently, at the sixth WTO Ministerial Conference in Hong Kong in December 2005, an agreement was reached to deepen this commitment by providing duty free/quota free access to at least 97% of products originating from LDCs, by 2008.<sup>57</sup>

An example of such schemes is the duty-free treatment for African LDCs of Morocco, established with the Finance Law n. 55-00 for the fiscal year 2001. According to this Law, a series of products listed in the Annex I benefit from a total exoneration from the payment of customs duties, on condition that they are :

- originating from one of the African countries listed in Article 6, which includes Somalia, and
- accompanied by a certificate of (preferential) origin (COO) in compliance with the specimen presented in figure 8 below.

Figure 8: COO used for preferential exports to Morocco under the duty-free treatment for African LDCs

CERTIFICAT D'ORIGINE AU TITRE DE L'EXONERATION TOTALE DU DROIT D'IMPORTATION EN FAVEUR DE CERTAINS PRODUITS ORIGINAIRES ET EN PROVENANCE DE CERTAINS PAYS D'AFRIQUE (LA LISTE EST REPRIS AU VERSO)	
1. Exportateur (nom, adresse complète, pays)	C.O N° Consulter les notes au verso avant de remplir le formulaire
3. Destinaire (nom, adresse complète, pays)	2. Certificat utilisé dans les échanges préférentiels entre <b>LE ROYAUME DU MAROC</b> et
4. Informations relatives au transport	5. Observations
6. N° d'ordre ; marque ; numéro ; nombre ; désignation des marchandises et nature des colis (pour les marchandises non emballées indiquer le nombre d'objets ou incisions "en vrac")	7. Poids brut (kg) ou autre mesure (kg, m <sup>3</sup> , etc...)
	8. Factures (mention facultative)
9. VISA DE LA DOUANE Déclaration certifiée conforme Document d'exportation Modèle ..... N° Du ..... Bureau de douane Pays de délivrance A ..... (Signature)	10. DECLARATION DE L'EXPORTATEUR Je soussigné déclare que les marchandises désignées ci-dessus remplissent les conditions requises pour l'obtention du présent certificat. A ..... (Signature)
11. DEMANDE DE CONTROLE, à envoyer à :	
12. RESULTAT DU CONTROLE	
Le contrôle effectué a permis de constater que le présent certificat (s)	
<input type="checkbox"/> a bien été délivré par le bureau de douane indiqué et les mentions qu'il contient sont exactes	
<input type="checkbox"/> ne répond pas aux conditions d'authenticité et de régularité requises (voir les remarques ci-dessous)	
Le contrôle de l'authenticité et de la régularité du présent certificat est validé :	
A ..... Cetlet (Signature)	
C) Mentionner ici les conditions applicables.	
1. Le certificat ne doit comporter ni grattages, ni surcharges. Les modifications éventuelles qui y sont apportées doivent être effectuées en faisant les indications arrondées et en y ajoutant, le cas échéant, les indications voulues. Toute modification sans ordre doit être visée par les autorités douanières du pays de délivrance du certificat d'origine.	
2. Les articles indiqués sur le certificat d'origine doivent se suivre sans interligne et chaque article doit être précédé d'un numéro d'ordre. Immédiatement au-dessous du dernier article doit être tracée une ligne horizontale. Les espaces non utilisés doivent être blottés de façon à rendre impossible toute adjonction ultérieure.	
3. Les marchandises sont désignées selon les usages commerciaux avec les précisions suffisantes pour en permettre l'identification.	
Pays bénéficiaires Angola, Bénin, Botswana, Burkina Faso, Burundi, Cap-vert, Comores, Djibouti, Erythrée, Ethiopie, Gambie, Guinée, Guinée-Bissau, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritanie, Mozambique, République centrafricaine, Niger, Ouganda, Rwanda, Sierra Leone, Tchad, République Unie de Tanzanie, Swaziland, Soudan, Sao-Tomé et Principe, Togo, République démocratique du Congo, Zambie.	

<sup>56</sup> Ivudria, G., East Africa Business Week, Somalia pursues AGOA membership to bolster trade, 10 April 2023.

<sup>57</sup> World Trade Organization, Ministerial Declaration, Annex F. December 18, 2005, WT/MIN(05)/DEC.

A common characteristic to all the unilateral arrangements for developing and LDCs is that the access to the market of the country or territory granting the preference depends on the fulfilment of specific ROO that vary from arrangement to arrangement.

Furthermore, the exporter must obtain from the competent authorities a specific preferential COO certifying that the products originate from his/her country and transmit it to the importer.

The importer, in turn, has to show the certificate to Customs in his/her country to claim the relevant preferential tariff treatment. In some cases (e.g., Montenegro), the certificate of origin to be used is the Form A, as shown in Table 5 below. This table shows in detail the unilateral LDC-specific tariff concession schemes of which Somalia is a beneficiary, with the country or customs territory granting the preferences: 8 in total.

*Table 5: List of unilateral tariff LDC-specific concession schemes granted to Somalia*

#	Provider	Name	Type	Type of certificate used to prove the preferential origin
1	India	Duty-Free Tariff Preference Scheme for LDCs of India (DFTP)	LDC-specific	COO annexed to the Annexure-II of the Indian DFTP-Scheme <sup>58</sup>
2	Morocco	Duty-free treatment for African LDCs of Morocco	LDC-specific	COO annexed to the Circular No. 4666/2000 of Customs <sup>59</sup>
3	Chile	Duty-free treatment for LDCs of Chile	LDC-specific	COO annexed to the Supreme Decree of the Ministry of Finance n. 1432/ 2013 <sup>60</sup>
4	China	Duty-free treatment for LDCs of China	LDC-specific	COO for the Special Preference Treatment (Combination of Declaration and Certificate of Origin) <sup>61</sup>
5	Chinese Taipei (Taiwan)	Duty-free treatment for LDCs of Chinese Taipei	LDC-specific	Specimen of COO to be introduced by a decree of the Ministry of Finance according to the regulations of the Ministry of Finance of 2010-12-24
6	Montenegro	Duty-free treatment for LDCs of Montenegro	LDC-specific	FORM A
7	Tajikistan	Duty-free treatment for LDCs of Tajikistan	LDC-specific	COO to be issued in a specific format in line with requirements established by normative legal acts of the Republic of Tajikistan (art. 36 Customs Code)
8	Korea, Republic of	Preferential Tariff for LDCs of the Republic of Korea	LDC-specific	COO for Preferential Tariff for Least Developed Countries <sup>62</sup>

*Source: Our elaboration on data extracted from the WTO, Preferential Trading Arrangements Database*

Similar to the GSPs analyzed in the previous Section, in order to become a beneficiary of such schemes, a notification or letter of intent needs to be sent to the competent authorities in the country (which must acknowledge and accept it), together with the specimens of the stamps and signatures of the officials authorized to issue the relevant certificate of origin allowing the preferential treatment introduced by each scheme.

<sup>58</sup> <https://commerce.gov.in/wp-content/uploads/2023/06/Annexure-II-DFTP-Scheme-2008.pdf>

<sup>59</sup> Nouvelles dispositions en matière douanière contenues dans la loi de finances pour l'année budgétaire 2001  
<https://ugandatrades.go.ug/media/Morocco%20rules%20of%20origin%20for%20LDCs.pdf>

<sup>60</sup> <https://www.bcn.cl/levchile/navegar?idNorma=1059781>

<sup>61</sup> <https://docsonline.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/ROLD/CHN1.pdf&Open=True>

<sup>62</sup> [https://unctad.org/system/files/official-document/itcdtsbmisc75rev1\\_en.pdf](https://unctad.org/system/files/official-document/itcdtsbmisc75rev1_en.pdf)

## 5. MAIN STRUCTURES RESPONSIBLE FOR ADMINISTERING FTAS AND PREFERENTIAL CONCESSION SCHEMES

The main government agencies in Somalia that are responsible for the negotiation, administration and/or implementation of FTAs and other preferential trade arrangements of which the country is a beneficiary, are the MOCI and the DoC of the Federal Ministry of Finance.

The MOCI is the government agency responsible for conducting negotiations on trade agreements and for implementing commitments arising from membership to the AfCFTA and the other RECs to which the country participates. The MOCI is also responsible for the planning, formulation and administration of Somalia's trade policy. Customs, on the other hand, is primarily an enforcement agency, whose responsibility is to implement the national customs regulation as well as the provisions contained in the various trade agreements and arrangements applicable to Somalia. Representatives of this administration, however, participate regularly in the negotiations of trade agreements together with MOCI officials, particularly for what concerns the definition of customs-related provisions in such agreements or of other matters within their competence. Additionally, Somali Customs' mandate includes protecting society and facilitating trade. In this regard, its role is to promoting trade efficiency, supporting economic growth, and safeguarding the interests of society.

With regard to the trade policy of Somalia, it is set out in the **National Trade Policy 2021-2025**, which was adopted in February 2021 by the Somalia's Cabinet of Ministers. This document outlines the strategy of the Somali government on how to transform trade into an engine of sustainable economic development and overall development of the country, by identifying priority sectors where public support and promotion policies need to be focused. The policy also serves as a guidance for the negotiation of trade agreements between Somalia and other foreign countries. To this end, it encourages the integration of the Somali economy into regional and international trade markets. As for how this is to be achieved, the policy recommends promoting trade facilitation and to accelerate business flows by reducing or eliminating trade barriers.

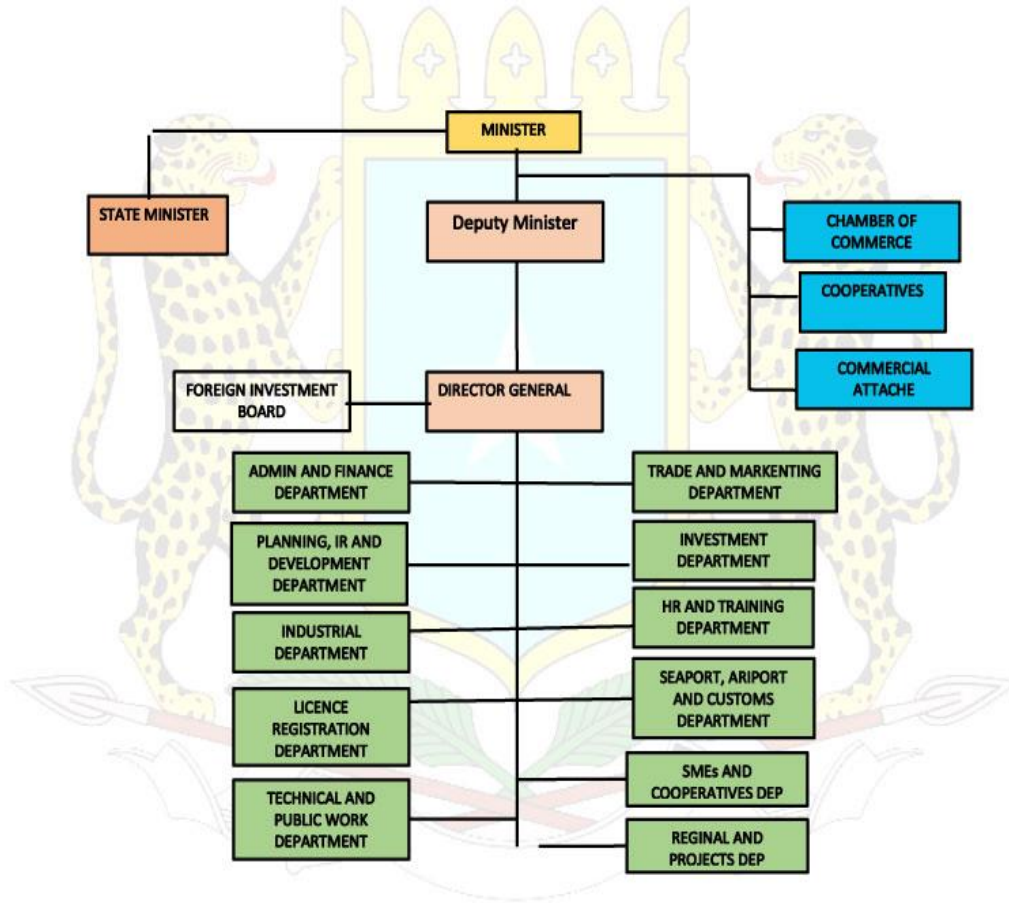
However, this document was elaborated before the adoption of the IGAD trade policy<sup>63</sup> and the EAC accession. Consequently, it will need to be revised to align its content with these two frameworks.

Importantly, the National Trade Policy recognizes the importance of developing trade remedies and defense mechanisms at national level (e.g., anti-dumping and countervailing measures, as well as safeguard measures), in order to protect local industries from unfair trade practices and cases of unexpected surge in imports that may injure the domestic industry. In this regard, Somalia, not being yet a member of the WTO, cannot invoke the WTO Agreement on Safeguards, Anti-Dumping and Subsidies. Consequently, it cannot activate any trade remedies to protect the interests of its domestic industry. However, a Foreign Trade Bill is currently pending before the Cabinet of Ministers for the introduction on a national regulation on trade remedies to fill this gap.

Currently, the MOCI has an organizational structure with an organic dotation of about 100 staff, including 12 trade attachés. The Department that is in charge of negotiations of trade agreements is the Trade and Marketing Department. The MOCI organogram is shown at the figure below.

<sup>63</sup> The IGAD trade policy is available at: <https://igad.int/intergovernmental-authority-on-development-regional-trade-policy-2022-2026>

Figure 9: Organizational Structure of the MOCI

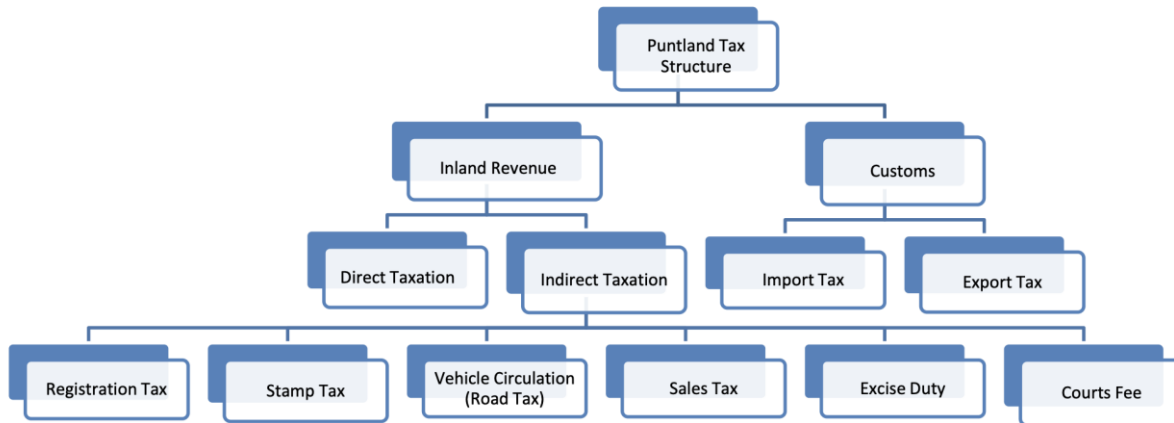


Notably, a structure that is missing within the MOCI organogram is a Department, Division or Unit able to conduct economic analysis on the impact of trade agreements being negotiated by the country. Because of this absence, the MOCI (and the Somali government in general) is obliged to rely on external analysis to take more informed policy decisions on trade-related matters.

With regard to the Somali DoC, this administration is placed under the Federal Ministry of Finance and is responsible for collecting a large range of customs and trade taxes including import duties, the import sale tax, export duties, excises, and other levies. The Customs Act of March 31, 1961, gives to the DoC jurisdiction over the entire federal territory of Somalia, by stipulating that all government services operating in the different customs areas of the country are placed under the authority of the Director of Customs (art. 2). However, in practice, each Federal Member State (FMS) has established and maintains its own taxation structures with national customs services that collect taxes in their territories independently from the Federal government. The revenue generated from this collection goes directly to FMS budgets without any redistribution or revenue sharing formula with the federal level. The diagram below shows for instance the organization of the taxation structure of the Puntland State.



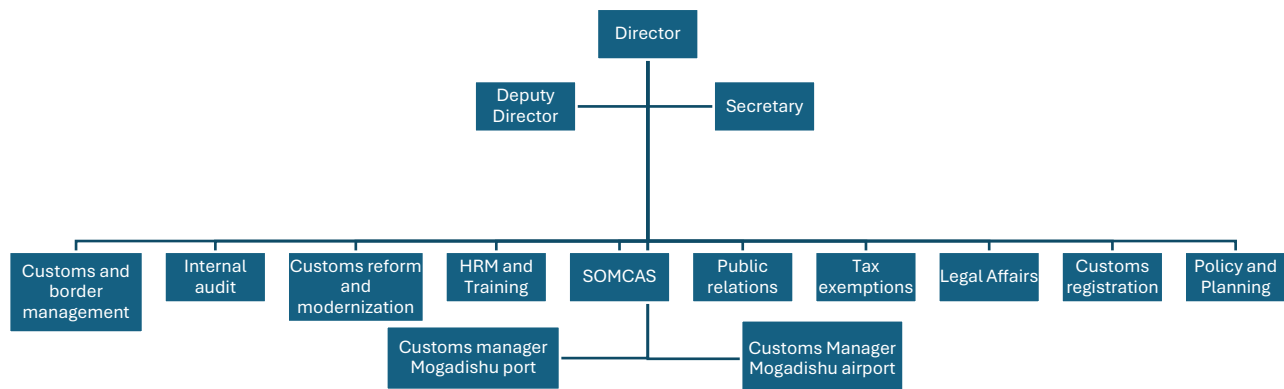
Figure 10: Puntland taxation structure



Source: Puntland Taxation Framework, revised edition 2014

Because of this *de facto* decentralized structure of Customs, the DoC has competence only over the Banaadir region, which, unlike other Somali regions, is considered a municipality and not a FMS. Specifically, the DoC controls the Mogadishu port and the Mogadishu airport, that are directed by two Customs Managers placed under the authority of the General Director of Customs, as shown at figure 11. As it can be noted, in the organizational structure of Customs there is currently no Unit or Division in charge of international relations (or affairs). Moreover, an Information Technology (IT) Division is lacking, despite a division was created for the administration of the IT Customs management system SOMCAS, deployed since October 2023 and currently fully operational only in Mogadishu seaport and airport.

Figure 11: Current Somali Customs structure.



Customs also has not established any structure dealing with origin verifications, and a Post-Clearance Audit Unit (which as described above is required also by the EAC regulation), is not foreseen. The location of the Legal Affairs Division within the Customs organization chart is atypical: this division should be at the top of the diagram to provide legal support to all the main Divisions of Customs; instead, it is put on the same level as the other divisions. However, Somali Customs have recently conducted a functional review of their organization which has proposed an updated structure aimed to enhance the efficiency and effectiveness

of customs operations. This revised structure aims at aligning Somali Customs' functions with international standards and is an important step towards its modernization.

However, Section 6.4 proposes two typical organograms of this administration which can be of further inspiration for revising the Somali Customs structure, based on international best practices. These organograms are based on:

- a standard structure that is typical of medium/large organizations, and
- one tailored to the needs of smaller administrations.

Also, it must be kept in mind that a revenue authority will need to be established within the next two years as part of the commitments arising from the EAC accession.

As explained above, while the administrative structure of Customs is decentralized, the Customs Act of 1961 is applicable over the entire Federal territory of Somalia and implemented by all customs services in the FMS. However, an exception is Somaliland, where Customs implement a different customs regulation (Customs Act n. 73/2016),<sup>64</sup> which replaced a former Customs regulation (Customs rules and procedures law no 91/96), now repealed.

At present, the enabling environment, administration, and operations of Customs are slowly being rebuilt after the government collapsed in 1991 and consequently, the entire Customs administration was dissolved. Decades of conflict have left Somalia's economic and social infrastructure in ruins, turning the country into an entirely informal economy, where trade transactions escaped to any form of government control. In recent years, Customs has made tremendous efforts to rebuild its operational capacity, and a new strategic plan and Standard Operating Procedures (SOP) defining its key competences and procedures are in course of adoption. These documents, not yet finalized and not publicly available, aim at deeply revising the organizational structure of such administration and to align it with the new responsibilities arising from its continually evolving role.

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<sup>64</sup> <https://slmof.org/wp-content/uploads/2020/10/Somaliland-Customs-Law-2016-English-converted.pdf>

## 6. RECOMMENDATIONS

This section focuses on recommended actions that the MOCI and the DoC should take into consideration in order to improve the administration of the FTAs and unilateral tariff concession schemes described above.

### Recommendation 1: Creation of an Economic Research and Analysis Unit within the MOCI

At present, all FTAs concluded by Somalia, both at bilateral, regional and sub-regional level, are not implemented. Moreover, some of them (e.g., COMESA Treaty and the AfCFTA), are still pending ratification from Parliament, despite they have been signed many years ago, as described above.

Based on discussions with stakeholders, a trend has been observed in Somalia where after an initial optimism in the adoption of such agreements, Somali authorities realize that the risk to become a loser from the process of regional integration is high. This concern, which often stems from fears raised by the private sector, is based on the awareness that the local industry has poor production and export capabilities and suffers from limited competitiveness against foreign competition.

As a result, after the initial enthusiasm, a cautious approach ends up prevailing, which leads to delays in the implementation of such agreements.

There is a need to develop a structure within the Somali government that is capable to carry out economic and strategic analysis on the impact of FTAs in which Somali authorities enter, so to take more informed trade policy decisions which benefit the country, avoiding going “blindly” into such agreements.

In July 2018, a **National Economic Council (NEC)** was established with the Presidential Decree No. 89, subsequently was reformed in November 2022 with the Presidential Decrees No. 61 and No. 62 of November 2022. Such a body, acting as an advisory body to the Office of the President, was created to serve as a platform for formulating national economic policies and plans and promote inclusive and sustainable economic growth for Somalia. The NEC is inspired by best practice that has been observed in many developing economies where a body connected to the top of government was established with the purpose of formulating and updating the reform strategies, coordinating and mobilizing resources for their implementation, and, crucially, nurturing the reformist political leadership over time.<sup>65</sup> However, the NEC generally does not carry out specific impact analyses of the economic impact of trade agreements, their level of utilization or implementation challenges. An exception is the EAC, since in October 2023 the NEC conducted a thorough impact assessment analysis on the accession to this Community, supported by similar studies conducted at multiple level - both on the Somali’s government mandate, and from independent institutes -<sup>66</sup> which explain the quick access by Somalia to this REC.<sup>67</sup>

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<sup>65</sup> Criscuolo, A., Palmade, V., Reform Teams, How the Most Successful Reformers Organized Themselves, Public Policy for the Private Sector, World Bank, February 2008.

<sup>66</sup> Among these, there are the studies: “Somalia’s accession to the East African Community: legal review, opportunities and challenges of the Horn of Africa Institute (November 2023), a policy note of the Uganda-based Economic Research Policy Centre (ERPC) of Nattabi, A., K., Luwedde, J., Okillong, P., Namuleme, H., titled “How does conflict affect the trade prospects of Somalia joining the EAC?”, August 2023, and the study on Opportunities and challenges for Somalia’s membership to the East African Community, of the Rift Valley Institute (2024).

<sup>67</sup> National Economic Council, Assessing the viability of Somalia’s integration into the East African Community, October 2023. Available at: <https://nec.gov.so/wp-content/uploads/2023/11/Lats-edition-EAC-working-paper.pdf>

A service/unit should be created - preferably within the organizational structure of the in the MOCI - to collect, collate and analyze trade data and disseminate research and business intelligence information<sup>68</sup> to several stakeholders, including the NEC. Such a structure should develop an institutional arrangement with the DoC to collect statistical data on trade and sharing information on main issues related to the implementation on trade agreements/arrangements. Diplomatic missions and consulates of Somalia in the countries concerned by the relevant agreements could also be involved in the elaboration of research, by collecting data and information needed for its preparation. Based on the analysis made by this structure/unit, the NEC should prepare elaborated more detailed policy briefs where it can advise on possible strategies and courses of action in case the outcomes from the implementation of each trade agreement differ from expected results.

Example of such structures exist in many African countries, including in Federal States like Nigeria, where the Ministry of Industry, Trade and Investment has an internal think tank (Division of Research and Statistics, placed under the Department for Policy, Planning, Research and Statistics), that conducts research into all areas of industry, trade, and investment by preparing publications, reports, and policy briefings on trade-related issues. This analysis is available and at the disposal also of other branches of the government for the elaboration of their sectoral strategies.

Similarly, in Kenya the Ministry of Investments, Trade and Industry, State Department for Trade has a Department of Research and Trade Policy Analysis<sup>69</sup> which conducts research on all areas related to the development of domestic and international trade, informing the policy decisions in the Ministry. Its tasks include the analysis and monitoring of the effects of implementation of the National trade Policy. Similarly, in South Africa an Economic Research and Coordination Unit operates within the Ministry of Trade (Department of Trade, Industry and Competition, DTIC), whose mandate is not just limited to trade research, as it also covers analysis on broader economic and industrial issues.

The MOCI should establish within its structure an Economic Research and Analysis Unit by initially assigning them a small research team of 2-3 members, which can be expanded in future as the needs analysis will grow. The MOCI should also explore possibilities to develop partnerships with universities and/or economic think tanks, or for funding the hire of short-term experts to conduct specific research tasks.

## Recommendation 2: Creation of a National Monitoring Committee dealing with NTBs identification and solution and of a national focal point

As described at Section 3.2, both the AfCFTA and the EAC mandate their members/State parties to establish **National Monitoring Committees (NMCs)** dealing with NTBs identification and solution, as well as national focal points. The EAC Elimination of Non-Tariff Barriers Act, 2017 does not give any indication where NMCs must be hosted, while with regard to National Focal Point, they must necessarily be situated at the Ministry responsible for EAC Affairs (art. 8.1).

At present, all EAC Partner States have established NMCs at their Ministries of Trade. However, Kenya is an exception, having established both structures (NMC and focal point) at the Ministry of EAC Affairs. The latter solution is not advisable. In fact, in Kenya, the location of the NMC at the Ministry of EAC Affairs has proven this Committee being less effective than in other EAC partner States, due to the fact that this

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<sup>68</sup> An example is the Briefs on International Trade (BITs) published by the Department of Commerce of Sri Lanka, short trade analysis and business intelligence reports that identify opportunities and challenges related to the implementation of trade agreements, their level of utilization and their impact on national traders: [https://doc.gov.lk/index.php?option=com\\_content&view=article&id=37&Itemid=126&lang=en](https://doc.gov.lk/index.php?option=com_content&view=article&id=37&Itemid=126&lang=en)

<sup>69</sup> The Department of Research and Trade Policy Analysis acts through four Divisions responsible, respectively, for Analysis on Trade in Goods Policy; Analysis on Trade in Services Policy; Analysis of Trade Information and Statistics and Training Curriculum Design and Material.

Ministry has no a specific mandate to make decisions on removal of NTBs.<sup>70</sup> Alternatively, Somali authorities can consider the establishment of the NMC within the structure of its National Trade Facilitation Committee (NTFC), which is operational in the country since March 2020. Such solution has been adopted for instance by Ethiopia, that recently renamed its NTFC in “National Trade Facilitation and NTB Monitoring Committee”.

In any case, the experience of EAC Partner States and of other countries implementing such type of structures shows that Ministries of Trade are the better administration where to host them, because of their general competence to make decisions on removal of NTBs. Conversely, the role of National Focal Point should be given to a high-ranking official within the Ministry of EAC Affairs that Somalia needs to create as a consequence of its accession to the EAC.

Regarding their composition, this is determined at national level. Table 6 shows examples in Kenya, Uganda and Tanzania.

*Table 6: Example of membership of National Monitoring Committees on NTBs*

No	Kenya	Tanzania	Uganda
1	Permanent Secretary Ministry of Trade and Industry	Permanent Secretary Ministry of Trade and Industry	Permanent Secretary Ministry of Tourism, Trade and Industry
2	Permanent Secretary Ministry of East African and Regional Cooperation	Permanent Secretary Ministry of East African Community	Permanent Secretary Ministry Foreign Affairs ( <i>in charge of EAC matters</i> )
3	Commissioner General Kenya Revenue Authority	Commissioner General Tanzania Revenue Authority	Commissioner General Uganda Revenue Authority
4	Commissioner of Customs and Excise	Commissioner of Customs and Excise	Commissioner of Customs and Excise
5	Commissioner of Domestic Taxes	Commissioner of VAT	Commissioners of VAT
6	Head of Weighbridges Department	Chief Executive Tanzania National Roads Agency (Tanroads)	Head of Weighbridges Department
7	Managing Director Kenya Bureau of Standards	Executive Director Tanzania Bureau of Standards	Executive Director Uganda National Bureau of Standards
8	Chief Executive Kenya Ports Authority	Chief Executive Tanzania Ports Authority	Uganda Representative Kenya Ports Authority
9	Chief Executive Kenya Railways Corporation	Chief Executive Tanzania Railways	Chief Executive Uganda Railways
10	Commissioner of Police	Commissioner of Police	Commissioner of Police
11	Chief Executive Kenya Plants Health Inspection Services (KEPHIS)	Chief Executive Tanzania Food and Drugs Authority	Chief Executive Food Inspection Agency
12	Chief Executive Pest Control Board	Chief Executive Officer Weights and Measures Agency	Chief Executive Officer Enterprise Uganda; or Permanent Secretary Ministry of Agriculture
13	Chief Executive Kenya Association of Manufacturers	Chief Executive Confederation of Tanzania Industries	Executive Director Uganda Manufacturers Association
14	Chief Executive Kenya International Freight and Warehousing Association	Chief Executive Tanzania Freight Forwarders Association	Chief Executive Uganda Freight Forwarders Association
15	Chief Executive Kenya National Chamber of Commerce and Industry	Chief Executive Tanzania Chamber of Commerce, Industry and Agriculture	Chief Executive Uganda Chamber of Chamber of Commerce and Industry
16	Chief Executive Export Promotion Council	Director General Board of External Trade	Chief Executive Uganda Export Promotion Board
17	Managing Director of a manufacturing company with substantial exports to the other 2 EAC countries	Managing Director of a manufacturing company with substantial exports to the other 2 EAC countries	Managing Director of a manufacturing company with substantial exports to the other 2 EAC countries
18	Town Clerk of relevant local authority	Town Clerk of relevant local authority	Town Clerk of relevant local authority
19	Permanent Secretary Ministry of Finance	Permanent Secretary Ministry of Finance	Permanent Secretary Ministry of Finance

<sup>70</sup> Horn of Africa Initiative, Non-Tariff Barriers (NTBs) monitoring systems in Africa: possible approaches for HoAI countries, Background paper, December 2023.

It is also important to highlight that a support will be needed in setting up the Somali NMC and for developing the capacity of its members, specifically regarding NTBs identification, reporting and solution, for which Somalia should petition assistance from Development Partners.

### Recommendation 3: Establishment of a National Secretariat at the MOCI to guide WTO Accession

Based on best practices adopted by other WTO-accessing countries, a Secretariat should be in charge of overseeing the entire WTO accession process and the related trade-policy reforms, including preparation of documents and consultations with the private sector. This body should be established at the MOCI and made up of a representative from each Ministry and government agency involved in the WTO accession process, so to ensure maximum coordination. The Secretariat should be chaired by the National Chief Negotiator.

Examples of countries in Africa that have established Secretariats for WTO accession (or for WTO affairs) are Sudan and Comoros (Comoros acceded to the WTO on 26 February 2024). Outside Africa, Azerbaijan, Syria, and Timor-Leste are other examples. All these nations have received financial and technical assistance for establishing such Secretariats from the WTO through the Enhanced Integrated Framework (EIF).<sup>71</sup> Somalia authorities should follow the same approach by asking a similar assistance to the EIF Executive Secretariat in setting up this body and developing the capacity of its members.

### Recommendation 4: Adoption of trade remedies and establishment of a trade remedy authority/ad hoc investigators team

Trade remedies are defense measures that allow governments to take remedial action against imports causing a material injury to local producers because of alleged price dumping, foreign subsidies or because of abnormal import surges. Such measures are adopted following the completion of a detailed investigation where all relevant economic factors having a negative impact on the domestic industry are evaluated. The launch of investigations usually begins by publishing a **public notice** where all interested parties (the sector/sectors that complains to have incurred in a prejudice) are invited to submit comments, data and evidence to prove the injury suffered. At the end of this phase, a decision is taken on the countermeasure to adopt to eliminate the prejudice.

Available countermeasures usually take the form of anti-dumping, countervailing, or safeguard measures:

- **Anti-dumping measures** target dumped exports, i.e., products exported by a foreign company at a price lower than the one which it normally charged on its own home market. They usually consist in the application of an anti-dumping duty which offsets the harmful effects of dumping by adding a tariff that is equal to the margin of dumping;
- **Anti-subsidy measures**, that target subsidized exports, i.e., products exported by a foreign enterprise that have benefited from financial contribution by the government or other public body in the exporting country, which has caused adverse effects to the interests of the local industry. Like in the case of the anti-dumping duties, the imposition of an anti-subsidy measure implies the

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<sup>71</sup> The EIF partnership of 51 countries, 24 donors and eight partner agencies that works closely with governments, development organizations and civil society to assist LDCs is using trade as an engine for development and poverty reduction. The EIF programme is supported by: 1) a Geneva-based Steering Committee that advises EIF stakeholders and serves as a forum for transparency and information exchange. It is comprised of all LDC partners, all EIF Donors and EIF Agencies; 2) a Board that serves as the key decision-making body, with strategic, operational and financial oversight, and comprised of three capital based LDC representatives, three EIF Donor representatives and members from EIF Agencies; and 3) a Multi-Donor Trust Fund managed by the United Nations Office for Project Services (UNOPS) as the EIF Trust Fund Manager.

need to prove the existence of a causal link between the subsidized export and the alleged injury in the importing country. They usually culminate in the application of a countervailing duty that offsets the effect of the subsidy;

- **Safeguard measures** target sudden increases in imports. Differently from anti-dumping and anti-subsidy measures, which are imposed only with regard to the country (or the countries) from which the allegedly dumped/subsidized products originate,<sup>72</sup> safeguard measures are applied to the products that caused a serious injury to the domestic industry, irrespective of where they originate.

As described in the previous Section, currently Somalia has not adopted any domestic arrangements to apply and investigate trade remedies. Such remedies are foreseen, among others, by two of the RECs to which Somalia belongs to, namely EAC and COMESA, which both establish procedures and structures responsible for overseeing their implementation that are very similar:

### EAC

- The body responsible for overseeing investigations leading to the application of a trade remedy is the **EAC Trade Remedies Committee**, which however has not yet been operationalized.
- The EAC Trade Remedies Committee is assisted by a **Trade Integration Working Group (TIWG)** which coordinates trade policy formulation and implementation among EAC partner states, identifies trade barriers, and develops strategies to enhance trade facilitation and market access within the EAC. Pursuant to art. 24 of the Protocol on the Establishment of the EAC Customs Union, the EAC Trade Remedies Committee is made up of experts qualified and competent in matters of trade, customs, and law that are appointed by Partner States. Each Partner State (including Somalia) is required to nominate **three (3) members** to this Committee.
- The EAC has also adopted: a) Anti-Dumping Measures Regulations, b) Subsidies and Countervailing Measures Regulations and c) Safeguard Measures Regulations.<sup>73</sup>
  - In particular, art. 5.1 of the Anti-Dumping Measures Regulations and art. 5.1. of the Subsidies and Countervailing Measures Regulations establish that EAC Partner States which do not have national legislation for the conduct of anti-dumping investigations and on subsidies and countervailing measures (like Somalia) **have to enact internal legislation that reflects the provisions of such regional Regulations and provides for the formation of an investigating authority** for the conduct of the relevant investigations. **The adoption of a national regulation on anti-dumping, subsidies and countervailing measures is therefore an obligation under the EAC rules which should be prioritized by Somalia.**
  - Regarding the safeguard measures, despite the absence in the EAC Safeguard Measures Regulations of a similar provision stipulating the obligation to introduce them at the national level, art. 2 of the Regulations clarifies that EAC Partner States should follow uniform procedures in the application of safeguard measures.
  - The same article also states that the process for the adoption of such measures must be, to the extent possible, transparent, accountable, fair, predictable and consistent with the provisions of the Protocol on the Establishment of the EAC Customs Union. Therefore, the future legislation with which Somalia intends to regulate trade remedies will necessarily need to be aligned with the three EAC Regulations mentioned above.

<sup>72</sup> Anti-dumping and anti-subsidy measures can even be applied selectively to the company/companies that perpetrated the dumping or the countervailing practice.

<sup>73</sup> All these Regulations are available at: <https://www.eac.int/documents/category/regulations>

## COMESA

Similar to the EAC, COMESA has adopted its own Regulation on Trade Remedy Measures.<sup>74</sup> Such Regulations are a binding instrument that member States must incorporate in their internal regulation on trade remedies so to ensure uniformity in the conduct of trade remedy investigations.

The full implementation of the COMESA Regulation on Trade Remedy Measures happened only recently, with the operationalization of the **Trade Remedies Committee**, on April 24, 2024, when this Committee held its first meeting.<sup>75</sup> The Trade Remedies Committee is responsible, together with a Group of Experts on Trade Remedies established in 2021,<sup>76</sup> for overseeing the application of the COMESA trade remedies and verifying that the investigatory processes initiated by COMESA member States for the application or extension of a trade remedy are compliant with the procedural requirements of the Regulation. The specific responsibilities of the COMESA Trade Remedies Committee are to examine the notifications of trade defense measures submitted by member States, and to produce an annual review of implementation and operation of the Regulation, by informing the COMESA Secretary General of any developments.<sup>77</sup>

## The AfCFTA

In addition, the AfCFTA Protocol on Trade in Goods contains a specific Annex (Annex 9) dedicated trade remedies that each AfCFTA State party can activate to take remedial actions against import surges from another State party which can cause injury to domestic industries. Moreover, specific AfCFTA Guidelines on Implementation of Trade Remedies are in course of elaboration. The AfCFTA Annex on trade remedies is broadly inspired by WTO trade remedies and contains rules that are very similar to the EAC and COMESA ones, foreseeing the establishment of a **Sub-Committee on Trade Remedies** composed of duly designated representatives from AfCFTA State Parties as an overseeing body charged with the task of supervising the application of the AfCFTA trade remedies.

In developing a national legislation on trade remedies, Somalia will also need to align the relevant provisions to the provisions in this Annex and appoint a representative to this Sub-Committee.

Based on literature reviews and lessons learned from other African countries, recommendations for effective implementation of trade remedies in Somalia can be summarized as follows:

- a) **Develop a Trade Remedy bill**, which establishes an authority responsible for administering trade defense measures. This bill should provide a clear mandate for this authority. In this regard, two models are possible:
  - i. The creation of a separate government authority to be placed under the supervision of the MOCI. This model has been followed by Kenya, that with the Section 3(1) of the Kenya Trade Remedies Act (2017), entered into force on 16th August 2017, has established the Kenya Trade Remedies Agency (KETRA). KETRA has the task of conducting investigations and to evaluate risks of dumping and subsidization of imported products in Kenya. This agency also evaluates requests for application of safeguard measures submitted by traders

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<sup>74</sup> Available at: <https://comesacourt.org/wp-content/uploads/2020/01/COMESA-Regulations-on-Trade-Remedy-Measures-October-2002.pdf>

<sup>75</sup> Gakunga, M., COMESA Begins Implementing Trade Remedies Regulations, COMESA Press release, 24/04/2024.

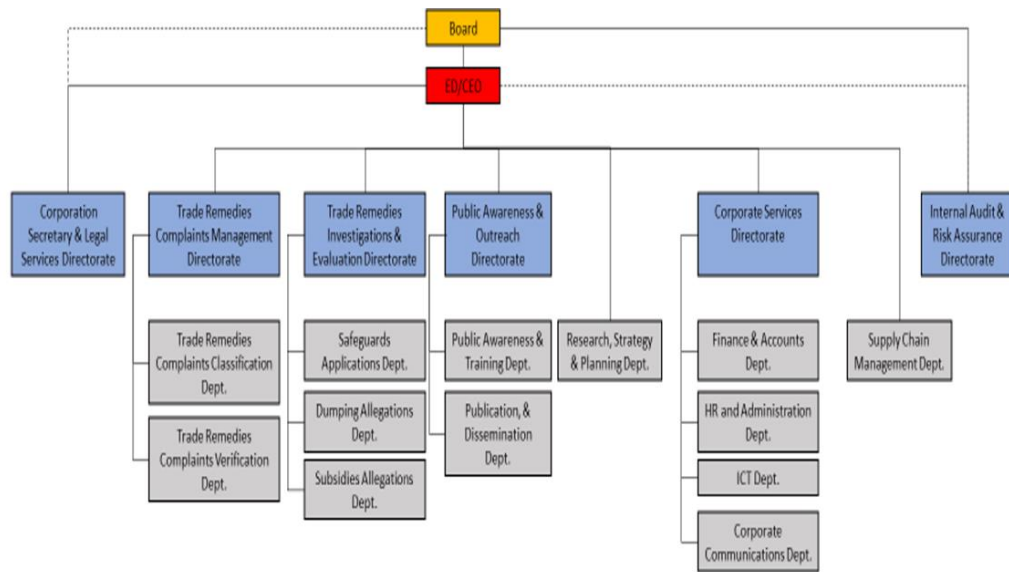
<sup>76</sup> The Group of Experts on Trade Remedies is composed of representatives of each COMESA Member states. Its main functions are to monitor, and report annually to the Trade and Customs Committee on the general implementation and operation of the Regulation and make recommendations towards its improvement; to find, upon request of an affected Member, whether or not the procedural requirements of the Regulation have been complied with in connection with a safeguard measure, and report its findings to the Committee; to assist Members, if they so request, in their consultations under the provisions of the Regulation; to review, at the request of the Member taking a safeguard measure, whether proposals to suspend concessions or other obligations are "substantially equivalent", and report as appropriate to the Committee; to examine existing safeguard measures and monitor the phase-out of such measures as appropriate; to receive and review all notifications provided for in the Regulation and report as appropriate to Trade and Customs Committee; and to perform any other function connected with the Regulation that the Trade and Customs Committee may determine.

<sup>77</sup> Gathii, J. T., African Regional Trade Agreements as Legal Regimes, Cambridge University Press, 2011.



on any product imported in Kenya and advises the Minister of Trade on the results and recommendations of its investigations. Other functions of KETRA include conducting public awareness and training activities on its functions and on trade remedies that can be activated by the local industry, as well as the publication and dissemination of manuals, codes, guidelines, and decisions relating to its functions. The KETRA organizational structure is shown in figure 12 below.

Figure 12: KETRA organizational structure



Among African countries that follow a similar model there are Botswana<sup>78</sup> and Ghana<sup>79</sup>, which have established Trade Commissions inspired to the International Trade Administration Commission of South Africa,<sup>80</sup> and Egypt and Namibia. In Egypt, the competent authority is the Anti-dumping, Subsidy and Safeguard Authority, placed under the supervision of the Ministry of Trade and Industry, while Namibia is currently deprived (like Somalia) of an authority and a legislation on trade remedies, but an International Trade Management Bill recently proposed by the government seeks to establish a Namibian Tariff Board to handle trade- and tariff-related matters, **including the administration of trade remedies.**<sup>81</sup>

- II. Alternatively, Somalia can confer the responsibilities for conducting investigations to the Department of Trade of the MOCI, by establishing a specific Unit or Division within this Department responsible for trade remedies. Among the countries that have adopted this model there is India, which has a Directorate General of Trade Remedies within the Ministry of Commerce,<sup>82</sup> Philippines,<sup>83</sup> and Turkey.<sup>84</sup> In Africa, examples of countries that have given the responsibility of administering trade remedies to their Ministries of Trade or Economy are more limited. Among them there is Mauritius.<sup>85</sup> It is important to note that among the

<sup>78</sup> Botswana Trade Commission <https://www.botc.org.bw>

<sup>79</sup> <https://www.gitc.gov.gh/public/public/>

<sup>80</sup> <https://www.itac.org.za/pages/about-itac/an-overview-of>

<sup>81</sup> Source: Namibia Ministry of Industrialization and Trade, AfCFTA national implementation strategy 2022-2027.

<sup>82</sup> <https://www.dgtr.gov.in>

<sup>83</sup> <https://www.dti.gov.ph/negosyo/imports/trade-remedies/>

<sup>84</sup> <https://www.trade.gov.tr/legislation/import/trade-defence-policy>

<sup>85</sup> <https://www.mauritiustrade.mu/en/trade-remedies>

main advantages of this solution, the main one is the lower operational cost, as Ministries of Trade can host this Department within its existing premises. Conversely, costs for establishing a separate government authority for trade remedies can be higher due to the need to procure specific infrastructure and office space.

- b) **Conduct capacity building programs** for trade officials particularly on trade defense mechanisms.
- c) Implement a **whistleblowing system** in conjunction with key private sector groups (e.g., Somali Chamber of Commerce and other Chamber of Commerce in FMS), which facilitates the reporting of dumping activities by other stakeholders within/outside Somalia.
- d) **Develop an online mechanism for submission of comments**, data, and evidence to prove that an injury has been caused to the local industry in Somalia, in order to streamline the investigation process and prevent delays. This online mechanism could be hosted on the website of the MOCI.

It is important to point out that putting in place national trade remedy legal frameworks and institutions can be very costly and take time. This is due to the fact that trade remedy investigations require a high level of expertise with a strong team of well-trained specialized experts (e.g., legal experts and economists, among others).

Among the main challenges that African countries have faced and currently face in establishing such bodies, there is the lack of experience and high costs associated with the conduction of the investigations. Trade remedy proceedings involve hearings, field investigations, and sometimes sending teams abroad, which can prove very expensive. As a matter of example, an anti-dumping action in South Africa costs on average 25,000 USD. In Egypt, it has taken six years and more than 10 million USD only to build up its trade remedy framework, while Mauritius has taken more than ten years to have in place its regulatory framework for anti-dumping and countervailing measures.<sup>86</sup>

As the cost of setting up a fully-fledged permanent investigating authority is prohibitively high, some African governments have decided to simply establish an **ad hoc team of investigators** who are only called in when a case is filed. This is the case of Mauritius for example, which adopted a transitory solution that Somalia could also consider, pending the establishment of a permanent trade remedy authority, which as indicated above is mandatory under both the COMESA and EAC regulations.

## Recommendation 5: Request access to the REX system of the EU

As explained in Section 3.1.1, currently Somali exporters can export their goods preferentially to the EU under the GSP only if the value of their shipment is not superior to 6,000 EUR. To this end, they must issue a statement of origin on the invoice or other commercial document accompanying the goods and transmit this document to their buyer in the EU member State of import so that he (or she) can claim the tariff exoneration. **For shipments above this threshold, the self-certification of origin is accepted by EU customs authorities only if Somali exporters are registered in the REX system developed by the EU Commission.**

For Somali exporters to register to the REX system, Somali authorities must notify an **undertaking** to the EU Commission (DG TAXUD, Unit A.6) at least 3 months before the date on which they intend to start using the REX system. In addition to the date when Somali authorities are willing to apply the system, the undertaking must specify the name of the unit that will be responsible for validating the requests of registrations submitted by local exporters. Somali authorities also need to indicate the names of one or more REX local administrators to which the EU Commission will transmit the credentials for accessing the

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<sup>86</sup> Illy, O., Trade remedies in Africa: Experience, challenges and prospects, GEG Working Paper, No. 70, University of Oxford, Global Economic Governance Programme (GEG), Oxford, 2012.

system with administrator privileges. Also, the undertaking must include a reference to the legal basis (law, circular or guideline), introducing the REX system in Somalia and giving instructions to the exporters on how to use it.

It is important to highlight that art. 70, paragraph 1 of the Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 sets an obligation for beneficiary countries accessing to the REX, **to provide administrative cooperation to the EU Commission and the customs authorities of the EU Member States** in the context of origin investigations. This means that the accession to the REX implies an obligation for the competent authorities in Somalia to put in place and maintain the **administrative structures and systems necessary for conducting verifications on origin**, for the correct implementation and management of the system.

Paragraph 2 of art 70 of the EU Regulation 2015/2447 further specifies that the above cooperation shall consist of:

- a. providing all necessary support, in case of request by the EU Commission, for the monitoring and proper management of the GSP scheme in the country concerned, including verification visits on the spot by the Commission or the customs authorities of the Member States;
- b. verifying the originating status of products and the compliance with the other conditions laid down in the applicable EU Regulation, including visits on the spot, where requested by the Commission or the customs authorities of the Member States in the context of origin investigations.

Hereunder is an example of undertaking for accessing to the REX system:

**To. Mr. ....**  
 Directorate General for Taxation and Customs Union,  
 Trade Facilitation, Rules of Origin and International coordination  
 Americas, Africa, Far East and South Asia, Oceania (TAXUD A.6)  
 European Commission

**NOTIFICATION OF IMPLEMENTATION OF REX SYSTEM EX ART. 70, PAR. 1 OF THE COMMISSION IMPLEMENTING REGULATION (EU) 2015/2447 OF 24 NOVEMBER 2015**

Dear Mr....,

*In accordance with the paragraph 1 of art. 70 of the Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015, we hereby notify that starting from ....., originating products exported from Somalia to the EU shall benefit from preferential tariff treatment upon submission of an invoice declaration made out by an exporter registered in the Registered Exporters System of the European Union (the REX system), in accordance with the [mention the regulation introducing the REX system in Somalia that is applicable].*

*The [mention the authority designated as responsible for providing administrative cooperation to the EU Commission and the customs authorities of the EU Member States] will be the competent authority in charge of registering Somali exporters in the REX system and providing the necessary administrative cooperation. The following official(s) has/have been designated as REX local administrator(s):*

Ms./Ms. .... Email..... Phone: .....	Ms./Ms. .... Email..... Phone: .....
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*We therefore kindly ask you to communicate to the above local administrators the necessary credentials to access and manage the REX system.*

## Recommendation 6: Establish offices at FMS-level competent for the issuance of preferential COO

In most countries, the authority competent for the issuance of preferential COO is Customs. The reason why this administration is normally designated to issue certificates of preferential origin is that Customs is better placed to carry out controls on origin, which usually focus on the analysis of accounting books, records and journals of the exporter. As such, these controls need to be assigned to teams endowed with specific competences in conducting them. These checks are customarily conducted at the trader's premises, where the accounting systems and records of exporters are usually kept. Ministries of Trade and Chambers of Commerce usually do not have units in their structure that can carry out these inspections. Therefore, they need to rely on other administrations to carry them out.

Somalia, at present issues only certificates of non-preferential origin (as indicated above, the competent authority is the Somali Chamber of Commerce), while the National Trade Policy 2021-2025 gives the competence for the issuance of preferential COO<sup>87</sup> to the MOCI.

Given the Federal structure of Somalia, and in order to make it easier for traders to obtain such certificates, it would be opportune to decentralize the competence for the issuance of such certificates to the Ministries of Trade in each FMS. Because of their proximity and the direct links they have with exporters, these Ministries can be the best option for the issuance of preferential COO.

In order to authorize the FMS Ministries of Trade to issue preferential COO, the MOCI should communicate to the relevant foreign counterparts in the various FTAs concluded by Somalia, the names of officials at these Ministries with the specimens of signatures and stamps they will use to issue the certificates.

In addition, the MOCI should conclude Protocols with the Ministries of Trade and customs administrations in each FMS to delegate to such administrations the execution of origin verifications each time they are needed or solicited by a foreign authority.

## Recommendation 7: Introduction of a decentralized system for issuance of advance rulings

**Customs in each FMS, should consider the possibility to issue, in collaboration with the Ministries of Trade, advance rulings on origin to traders.**

Advance rulings are written authoritative decisions of Customs or other designated authorities concerning the customs treatment applicable to goods. Their characteristic is that they are binding both for the private operator and the administration. Adopted on request of the trader before and in preparation of the importation of goods, they aim at clarifying doubts on the origin of the goods in case its determination is particularly complex. They are therefore a mechanism that provides certainty to economic operators, as it enables them to avoid the submission to Customs of import declarations with incorrect origin, thus preventing them from the application of any penalties.

The issuance of advance rulings is an obligation under the AfCFTA, which at art. 6 of Annex 4 of the Protocol on Trade in Goods stipulates that *“Each State Party shall issue, prior to the importation of a good into its territory, a written Advance Ruling within a reasonable period of time to an Applicant that has submitted a*

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<sup>87</sup> Preferential ROO are used to determine whether a product originates in a preference-receiving country or trading area and, hence, qualifies to enter the importing country or customs territory with reduced or zero tariff duties. Conversely, non-preferential ROO are used for all other purposes, including enforcement of product- and country-specific trade restrictions that increase the cost of, or restrict or prevent, market entry. Preferential ROO differ from non-preferential ones because they are designed to minimize trade deflection.

written application. The application shall contain all necessary information for the State Party to issue the Advance Ruling”.

Paragraph 2 of the same article clarifies that advance rulings can be issued not only with regard to origin, but also with regard to classification of goods any time the trader has a doubt on how to determine it.<sup>88</sup>

In order to issue advance rulings, the necessary legal basis needs to be developed. To this end, the Customs Act should be amended, or a specific Ministerial order should be adopted, to define in detail the procedure for their issuance with the standard application form to be used (to published also on the DoC website). It is recommended that the maximum validity of advance ruling on origin is set at **3 years**, since this is the time-limit that the WTO Agreement on Rules of Origin (art. 2, letter h) establishes for these decisions. In addition, the DoC should develop an internal database of advance rulings on origin where all the advance rulings issued by each FMS Customs are stored and accessible for consultation. To improve the transparency of the determination of the origin of goods, summaries (short versions) of the advance rulings issued should also be made publicly available on the Ministry of Finance or the Customs website (accessible to the public).<sup>89</sup> Such a way, both Customs officials and traders can use such database to retrieve data on previous advance rulings so to facilitate the determination of origin on similar goods.

## Recommendation 8 : Establishment of a Division for Administrative Cooperation and Assistance and PCA units within FMS Customs

Each FTA and preferential tariff concession scheme includes a section on mutual administrative cooperation which sets an obligation **to provide administrative cooperation to the counterpart of the trade agreement** (or arrangement) in the conduct of origin investigations. The AfCFTA agreement, for instance, stipulates this obligation in the Protocol on Trade in Goods, Annex 3 on Customs Co-operation and Mutual Administrative Assistance. The GSP of the EU and of other GSP-granting countries/customs territories include provisions on mutual administrative cooperation as well. In the case of the EU-GSP, such provisions are enshrined in art. 70 of the EU Regulation n. 2015/2447.

In order to offer such cooperation, the competent authorities in Somalia need to put in place an **administrative structure capable of conducting audit-based controls on origin**. Usually, these type of controls are conducted by Customs, by establishing within their structures a specific Department, Division or Unit dealing with the management of requests of mutual administrative assistance transmitted from other countries and with coordination of controls on origin. In some cases, requests of mutual administrative assistance also ask to verify that the origin of goods has been correctly determined by the exporter or that the ROO of the relevant trade agreement have been properly applied. When this happens, it will be necessary to arrange a control at the premises of the exporter to check its books, records and accounting systems to analyze all documents, contracts, transport documentation, correspondence and other information to prove that the origin declared was accurate.<sup>90</sup>

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<sup>88</sup> Advance rulings are also regulated by Article 3 of the WTO Trade Facilitation Agreement, which stipulates that each Member shall issue an advance ruling in a reasonable, time-bound manner to the applicant that has submitted a written request containing all necessary information. If the authority requested with the issuance of the advance ruling declines to issue it, it has to promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

<sup>89</sup> In this regard, the WTO TFA, at art. 1.1.1.(e), stipulates that WTO Members must publish information in a non-discriminatory and easily accessible manner on “... *administrative rulings of general application relating to rules of origin*”.

<sup>90</sup> Export origin checks are normally carried out a posteriori, i.e., after the merchandise to which the COO refers has left the country. In case of import, origin verifications are usually conducted at the moment of the clearance of goods, before the importer pays the customs duties. Of course, customs authorities can also release goods and defer controls by accessing to the premises of the importer. When this happens, the relevant controls can be assigned to a PCA unit.

In order to do conduct origin verifications, customs administrations in each FMS should establish a competent **Division for Administrative Cooperation and Assistance** for receiving requests of mutual administrative cooperation transmitted by foreign authorities (an example of such requests is shown at Figure 13). Such Divisions in each FMS should be coordinated by the DoC, that to this end should create within its structure a Division for International Relations (see next Section). Divisions for Administrative Cooperation and Assistance in each FMS, in turn, should create one or more Post-Clearance Audit (PCA) teams responsible for the material executions of origin verifications and, more generally, post-clearance audits on importers. Origin checks should be arranged by such Divisions both at the request of other foreign Customs under the various free trade agreements and preferential concession regimes applicable to Somalia (e.g., GSPs), and at the Customs' own initiative. In the latter case, these controls should be carried out both randomly and based on appropriate risk analysis procedures to be put in place.

Figure 13: Example of request on mutual administrative assistance.



Federale  
Overheidsdienst  
FINANCIEN

Antwerpen, 8 januari 2018

Algemene Administratie van de  
Douane en Accijnzen

Administratie Klantenmanagement  
en Marketing

Regio Antwerpen

Handwritten notes: 23/12/18 SEAA, DRC-D, 23/01/18

Address: Klantenbeheer, Nieuwstraat 9<sup>th</sup> verd. - Eilandenstraat 21 te B-2060 Antwerpen

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Your letter of	Your reference	Our reference 2017/5563/02994	Enclosures 2
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**Request to check certificates**

Dear Miss  
Dear Sir

With my letter of the 26.06.2017, I asked you to check the authenticity and the accuracy of the certificate EUR 1 no. A...

I didn't receive any reply until now.

As it is now six months since the date of the original enquiry, can it be confirmed that this matter is being dealt with and advise my office when it may be expected to receive the requested information.

Please note that failure to provide a satisfactory reply within 10 months after the initial request could result in the claim to preference being refused.

I would therefore appreciate, if you could give this outstanding request your most urgent attention.

Yours faithfully

For the regional director




Financial assistant

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Voor meer informatie over uw dossier kunt u terecht bij:

Carine MEIRE  
Tel: 0257 54491  
E-mail: [carine.meire@minfin.fed.be](mailto:carine.meire@minfin.fed.be)

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Openingsuren: na afspraak



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## Recommendation 9: Review the organizational structure of the DoC to adapt it to the responsibilities arising from FTAs and other preferential regimes.

As explained in Section 4, the organization of the DoC is not optimized to deal with tasks arising from the implementation of PTAs, FTAs, and preferential concession schemes applicable or granted to Somalia, despite a functional review process is ongoing to revise it.

In particular, a Division for International Relations (or International Affairs) is lacking within its structure. Such Division should be created to deal with requests of mutual administrative assistance received within the framework of FTAs and preferential concession schemes of which Somalia is a beneficiary, so that these requests can be dispatched to the competent Customs in the other FMS for the conduct of controls on traders through their respective PCA teams. Such Division should also represent Customs at meetings at both regional and international levels and be responsible for the implementation of WTO/WCO recommendations and other commitments made at regional and international levels.

The diagrams below (cf. figures 14 and 15 at page 47) show two typical organograms of Customs that could inspire future organizational reforms in Somali Customs administration. They suggest the creation also at central level of a PCA Unit in charge of conducting audit-based controls subsequent to the release of goods (included on origin) in the Banaadir region. The diagram on the left (Figure 13) is typical for medium/large organizations, while the one the right (Figure 14) is for smaller administrations.

It is important to note the positioning of the Legal/Internal Affairs Department (at the top of the organogram) and the inclusion of the post-clearance audit service within the same structure dealing with risk management, as the selection of traders to be audited should be conducted on the basis of risk analysis criteria, rather than at the discretion of Customs, as recommended by the WCO Guidelines on preferential origin verifications and by the WCO Guide to counter origin irregularities.

Figure 14: Example of how a customs administration may be organized: Medium to Large Administrations

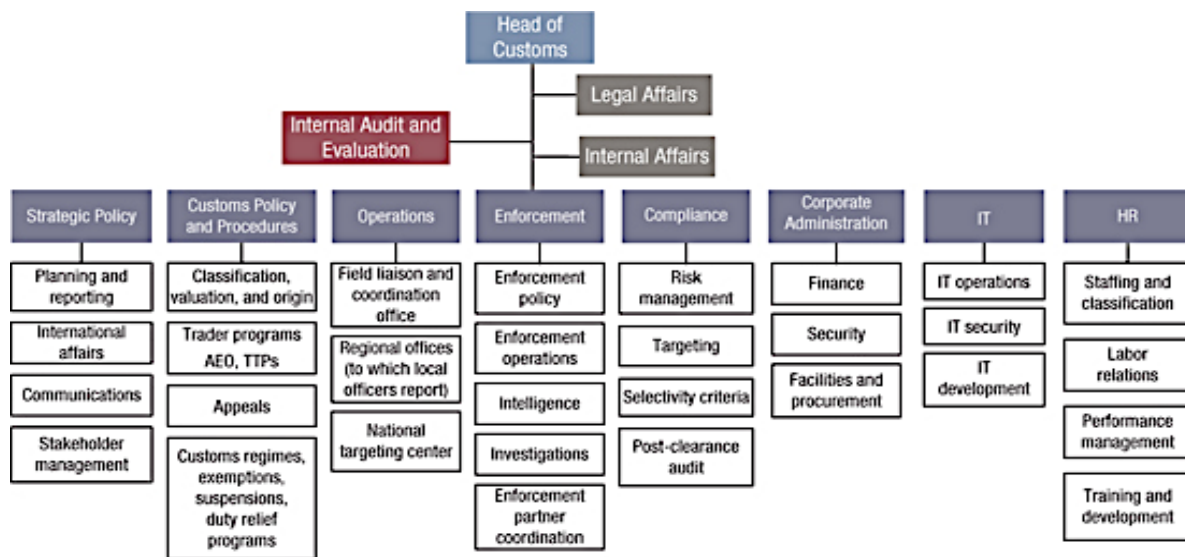
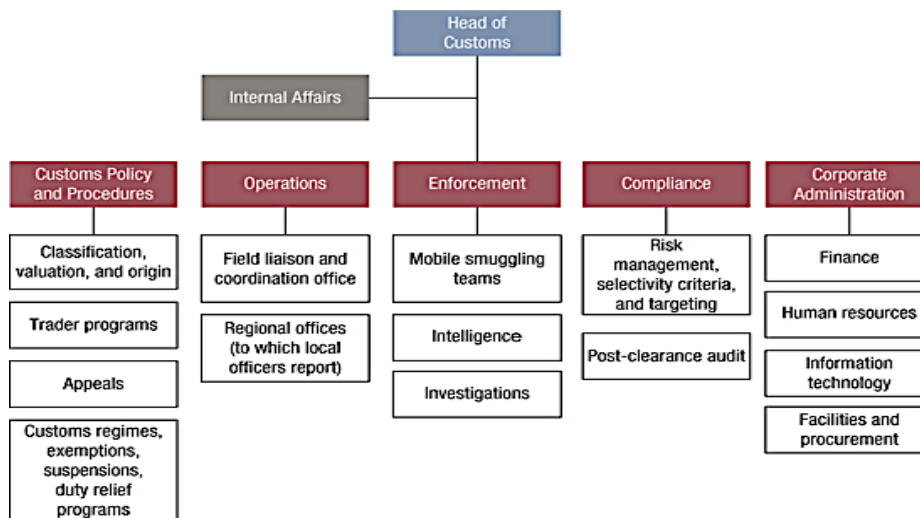


Figure 15: Example of how a customs administration may be organized: Small Administrations



(Source: Azcárraga, A. A. P., Matsudaira T., Montagnat-Rentier, G., Nagy, J., and Clark, R. J., Customs Matters, Strengthening Customs Administration in a Changing World, June 2022)

## Recommendation 10: Introduce a registration number to identify exporters.

At present, Somali Customs do not have any system of registration of exporters who intend to trade preferentially within the various applicable trade agreements and arrangements. These systems are foreseen by most FTAs as a requirement for applying for preferential certificates of origin and as a condition for exporters to trade under the reference agreement.

For instance, the Appendix I to the Annex 2 on Rules of Origin of the AfCFTA Protocol on Trade in Goods, states in the notes for completing the AfCFTA certificate of origin that the Box 1 of such certificate should display, where applicable, the exporter’s registration number. To implement such provision, many African countries have created a specific code that has to be mentioned in the AfCFTA certificate of origin.

Ghana, for instance, requires exporters that intend to trade under the AfCFTA to obtain, through their IT management system, an AfCFTA exporter registration number, which has to be mentioned in the AfCFTA COO. Similarly, the REX system of the EU requires exporters that register to it, to indicate their Trader Identification Number (TIN).

The guidelines to the REX<sup>91</sup> specify that the TIN is a data element, defined by the WCO, whose purpose is to uniquely identify economic operators in a country. They also clarify that the competent authorities in third countries may decide which TIN is more appropriate in their countries for the purpose of registration in the REX.

The WCO, has also developed specific Guidelines on Trader Identification Number<sup>92</sup> where it recommends Customs to adopt a unique identifier for identifying each economic operator. This identifier (the TIN) that can be used as a reference/key to access a larger set of information relating to the trader, such as its name, address, contact details, director/partners, and legal status.

<sup>91</sup>[https://taxation-customs.ec.europa.eu/document/download/e52c2675-8de0-4794-b8c3-c4fd45c592e5\\_en?filename=Registered%20Exporter%20System%20%28REX%29%20-%20Guidance%20document.doc.pdf](https://taxation-customs.ec.europa.eu/document/download/e52c2675-8de0-4794-b8c3-c4fd45c592e5_en?filename=Registered%20Exporter%20System%20%28REX%29%20-%20Guidance%20document.doc.pdf)

<sup>92</sup> WCO, Guidelines on Trader Identification Number, June 2018.



Nowadays, most of African Customs have adopted such unique identifiers. Somalia should also put in place one for identifying its national exporters. In this regard, a solution could be the use of the tax identification number of the trader preceded by the ISO country code at two digits (e.g., SO0123456A). This solution, for instance, has been adopted by Cote d'Ivoire Customs (circular of the Directorate General of Customs n. 2148 of 3 May 2021) for the purpose of identification of exporters that trade preferentially within the EPA they have in place with the EU.<sup>93</sup>

## Recommendation 11: Introduce the “Approved Exporter” status.

The Approved Exporter (AE) status is a customs facilitation that simplifies the formalities for proving the preferential origin of products exported preferentially abroad. This status consists of an authorization normally issued by Customs (or other designated competent authority) to habitual exporters which enables them to certify the origin of products, irrespective from their value, by affixing a specific mention on the commercial invoice or any other commercial document accompanying the goods (e.g., packing list). The statement to be used by the exporter is usually specified in the trade agreement that foresees this status, and usually is the following:

*“The exporter of the products covered by this document (customs authorization No...) declares that, unless clearly indicated to the contrary, these products have the preferential origin ... (indication of the country).”*

The AfCFTA foresees the AE status as a tool to facilitate proof of origin for shipments whose value is superior to 5,000 USD. It would therefore be advisable to introduce this status into the Somali legislation, so to offer national exporters the possibility of self-certifying the origin of their products, when they are exported to another state party to the AfCFTA. To this end, an application form should be made available to the operator (preferably online) and, before granting the authorization, the designated authority should verify that the applicant meets three (3) main conditions:

- 1) he/she regularly exports under the AfCFTA or other FTAs that foresee this status;
- 2) he/she is at all times in a position to provide proof of the origin of the goods to be exported (this needs to be reflected by the inclusion in the text of the authorization of a written undertaking by which he/she accepts full responsibility for any declaration of origin identifying him or her); and
- 3) he/she is in a position, on the basis of his records and other accounting entries, to give satisfactory guarantees regarding the originating status of the goods and to meet the obligations arising therefrom.

In most of the countries that have adopted the EA status, the relative authorization is normally granted by the customs administration, as this body has a general competence in trade facilitation matters. Moreover, the transitional standard n. 3.32 of Chapter 3 of the RKC and the related guidelines to the Chapter 3 of the General Annex to this Convention, specify that Customs should be responsible of administering special procedures activated at the request of the economic operator which aims at facilitating the movement of goods and at encouraging compliance with customs rules.

This is also the case of the EA status, which is a customs facilitation that aims at enabling the exporter to certify the preferential origin of his goods himself, without any value limitation. It therefore avoids the need to request a preferential certificate of origin and have it endorsed by Customs or another competent

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<sup>93</sup> [https://www.douanes.ci/sites/default/files/base\\_documentaire/c\\_2148.pdf](https://www.douanes.ci/sites/default/files/base_documentaire/c_2148.pdf)

authority<sup>94</sup> at the time of each export. In this way, such authorities are freed from bureaucratic administrative tasks, and can focus their resources on more productive activities.

The AE status translates into the release to the exporter of an authorization which includes a numerical code called **Approved Exporter Number**, which the exporter must mention on each statement on origin. It is also worth to note that the acceptance of declarations of origin issued by exporters with the AE status registered in other AfCFTA member countries, will in future depend on the creation of a common platform (the development of which will be the responsibility of the AfCFTA Secretariat), that will enable Customs and other competent authorities to exchange lists of approved exporters in the territories over which they exercise jurisdiction.

## Recommendation 12: Introduce an accounting segregation system

Both the GSP of the EU and the UK, as well as the AfCFTA (article 12 of Annex 2 on Origin of the Protocol on Trade in Goods), foresee the method of accounting segregation as a tool to simplify the process of storing fungible materials, both originating and non-originating, that are used in the manufacture of products exported under the preferences provided for by these trade arrangements. Fungible materials are materials that are of the same kind and commercial quality, have the same technical and physical characteristics, and cannot be distinguished from one another for origin purposes.<sup>95</sup>

Under normal circumstances, these materials have to be stored separately to prevent non-originating materials from being declared as originating, thus circumventing ROO. The principle of accounting segregation relaxes this rule, allowing the economic operator to replace the physical separation of stocks with an accounting system allowing him/her to track the exact quantities of both originating non-originating materials fungible goods that are used during the production process of the final product. This is particularly helpful if he/she intends to keep non-originating materials to a certain threshold in order not to lose the originating character of that product.

The reason why most of FTAs provide for the principle of accounting segregation is that, for certain producers (or in relation to certain products), the separate storage of materials of a similar nature and of different origin entails considerable costs or difficulties. The accounting segregation is therefore a trade facilitation tool which allows these producers to be authorized to replace, on their written request, the physical separation of inventories with an appropriate accounting system kept in accordance with the accounting principles generally accepted in their country.

Customs authorities may make the granting of this authorization subject to any conditions they deem appropriate. Moreover, once delivered, the authorization may be revoked whenever the beneficiary misuses it or fails to meet any of the other conditions stipulated by Customs.

Somali authorities should therefore consider the possibility to introduce in future this facilitation tool in the national legislation by virtue of a specific authorization to be granted to producers on their demand. In practice, a competent authority should be designated, preferably Customs, that authorizes exporters to use this facilitation, if they meet the following basic conditions:

- they prove, with satisfaction of Customs or other designated authority, that the physical segregation of the concerned goods is costly or impracticable;

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<sup>94</sup> Somali authorities have also the possibility to designate an authority other than Customs to issue and verify the criteria for granting AE status, as this is allowed by Article 20, Annex 2 of the Protocol on Trade in Goods of the AfCFTA.

<sup>95</sup> An example of fungible materials are the animal or vegetable fats of different origins that are used in the production of canned food preparation. Another example of a fungible material is sugar. When a producer uses both originating and non-originating sugar in the manufacture of its product, such materials in principles cannot be stored together.

- the manufacturer regularly exports to a certain preference-giving country (in the example above, the EU, the UK or another AfCFTA State party);
- the application for being authorized to use the accounting segregation method refers to originating/non-originating materials that are identical and inter-changeable in terms of their technical and physical characteristics; and
- the accounting system to be used is deemed adequate to track the movement and use of the fungible materials during the entire manufacturing process.

### Recommendation 13: Consider accession of Somalia to the RKC

It is widely recognized that the RKC accession brings considerable benefits to Customs. The first one is the so-called “announcement effect”. In fact, because of the legally binding nature of the RKC, Customs that have implemented the RKC are able to announce that they have implemented customs reform and modernization programs consistent with the best practices and international standards promoted by the Convention. More importantly, it shows a commitment to maintain cutting-edge customs procedures in line with such best practices and standards.

Furthermore, being a Contracting Party to this Convention sends a clear message to traders and other stakeholders both inside and outside the country that the government does not adopt a policy merely aimed at securing the movement of international trade and maximizing collection of customs revenue, but also at facilitating legitimate trade. Indeed, the benefits of the simplified and harmonized customs procedures embodied in the RKC have been well documented in the context of trade facilitation. According to existing literature, substantial benefits are achievable when the RKC is implemented, including reduced trade costs for businesses, faster release of goods at borders, increased revenue, and more FDI and economic competitiveness.<sup>96</sup>

The fact of adopting customs procedures that are aligned with the RKC also enables RKC Contracting Parties to fast-track negotiations of customs-related provisions in FTAs, especially with larger trade blocks. The EU Customs Code<sup>97</sup> for instance, mentions in two recitals the RKC as a reference that inspired the design of its procedures and measures. Customs provisions in preferential trade agreements adopted (or under negotiation) by the EU or other major trade blocks are largely inspired to the RKC.

Lastly, WCO Members that have expressed an intention to accede to the RKC have a greater likelihood of receiving capacity building related to the RKC measures, offered by the WCO, other international organizations, and donor countries. For example, the WCO has delivered many national and regional seminars for RKC candidate economies, as well as capacity building activities. In addition, being an RKC Contracting Party is considered to be an important benchmark of successful achievement in capacity building programs. Many Customs reform and modernization programs are designed to introduce customs procedures and techniques that are aligned with the RKC, such as risk management and post-clearance audit systems.<sup>98</sup>

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<sup>96</sup> McLinden, G., Fanta, E., Widdowson, D., Doyle T., Border Management Modernization, World Bank, 2011.

<sup>97</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.

<sup>98</sup> Yasui, T., Benefits of the Revised Kyoto Convention, WCO, Research and Strategy Unit, 2010.

## Recommendation 14: Implement a comprehensive capacity building program

A comprehensive program should be designed for building capacity of key staff in both the MOCI and the DoC in negotiating, administering and implementing trade agreements and arrangements. Some of its modules should also be open to representatives from the private sector (e.g., Chambers of Commerce, Customs Clearing Agents/Freight Forwarders' Associations, etc.) to enhance the understanding on how FTAs and preferential concession schemes operate, including the requirements to fulfil in order to access to tariff preferences.

This capacity building program should include a description of the main negotiating steps needed to arrive at an FTA and to make it enter into force, and what are the main responsibilities arising from the implementation of such agreements. In particular, it should draw attention to issues that may arise in the course of negotiations and to suggest ways in which they may be handled, how to organize consultations with the private sector and which rules are applicable to the areas of possible content of such agreements (e.g., goods, services and investment).

The program should also include a module on how to conduct origin verifications, and in particular: how to carry out audit-based controls on importers and exporters (at their premises) with the relevant time-limits, mutual administrative cooperation practices and how to detect cases of falsity or inaccuracy of the origin of goods. Lastly, it should provide clarity on which steps an importer must take to obtain preferential treatment for goods and under what conditions a preferential treatment can be denied. Also, it should describe how to deal with any difficulties that may arise in the administration of ROO.<sup>99</sup>

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<sup>99</sup> Many agreements establish a body composed of representatives of all parties (Committee on Rules of Origin) to deal with any difficulties that may arise in the administration of the rules of origin.

## 5. LIST OF APPENDICES

- A - Case study: Preferential export of seafood to the EU
- B - List of meetings held during the diagnostic mission
- C - Status of trade agreements/arrangements and challenges
- D – List of participants to the presentation workshop
- E - - Bibliography – Literature review

## Appendix A – Case study: Preferential export of seafood to the EU

The EU is the biggest single market for fish and fishery products worldwide as a consequence of the high consumption per capita of seafood. Spain is the world's third largest importer (USD 5.2bn) after Japan and the USA, followed by France (USD 4.2bn), Italy (USD 3.9bn), Germany (USD 2.8bn) and the United Kingdom (USD 2.8 bn).<sup>100</sup>

While the EU is a very attractive market for export of seafood, conditions for its imports (and more generally, of foodstuffs of animal origin), are very strict as the EU has one of the highest food safety standards in the world. These standards aim at protecting both the EU consumers health and the territory of the Union from the introduction of animal and animal-borne diseases.

The Directorate General for Health and Food Safety (DG SANTE) of the EU Commission is the authority responsible for food safety in the EU. It implements and monitors the application of a series of rules aimed at guaranteeing that all imports meet the same standards to which the products originating from the EU Member States are subject to. Such rules ensure that imported products respect the EU hygiene and consumer safety requirements and, if relevant, also the animal health status.

The DG SANTE has a specific **Department for Health and Food Audits and Analysis** (formerly known as the Food and Veterinary Office) that is responsible for the assessment of the equivalency of controls in the exporting countries with those in place in the EU. Teams of this Department regularly conduct audit missions in all countries exporting animals and products of animal origin (or that intend to export such products) to the EU to evaluate the control systems they have put in place. All the reports documenting the findings of the inspection visits are publicly available on the website of the DG SANTE.<sup>101</sup>

### EU Import Requirements

Seafood and other fishery products can be imported into the EU if they come:

- 1) from authorized countries, and
- 2) from approved processing plants, factory vessels, freezer vessels, cold stores and aquaculture establishments and areas.

While the authorization of the country to export seafood to the EU is given by the DG SANTE following an audit conducted in the country, the authority responsible for the approval of plants, vessels and cold stores to export to the EU must be a **government department** in the country of export. The competent authority must be designated by the EU following consultations with the government of the exporting country. This authority must be a government department able to monitor the preparation of seafood and fisheries products to be sent to the EU, and to ensure their safety and quality. It is usually the Ministry responsible for fisheries and aquaculture resources.

After the competent authority is designated, the EU concludes an agreement which gives the latter the responsibility for the implementation of the mandatory control measures before export, and for monitoring and verify that the relevant EU requirements are effectively complied with and enforced by local facilities.

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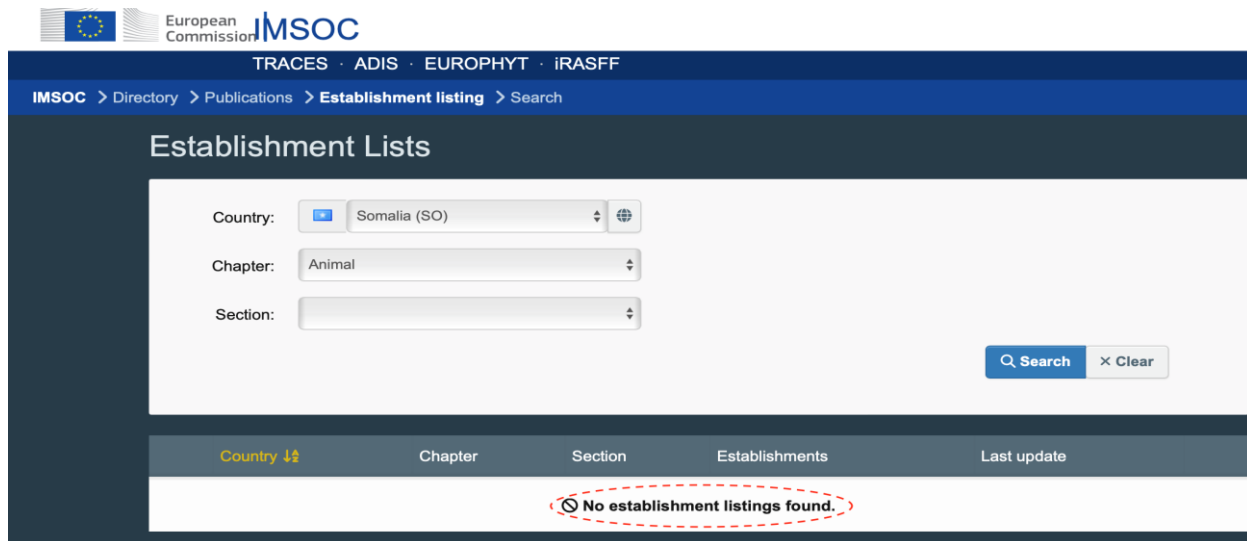
<sup>100</sup> International Trade Centre, Exporting seafood to the EU, Bulletin No. 84/2008/Rev.1

<sup>101</sup> European Commission, Food Safety, Audit Reports <https://ec.europa.eu/food/audits-analysis/audit-report>

The competent authority must also establish a register of the approved establishments and keep it updated. Once an establishment is approved, it is included in publicly accessible **establishment lists** as required by Article 18 of Regulation (EU) 2022/2292.<sup>102</sup>

Such lists are accessible from the TRACES-NT portal of the EU Commission.<sup>103</sup> At present, Somalia is not accredited for the export of animal products to the EU, and consequently there are no facilities included in the establishment lists, as shown in the figure 15. Therefore, at present Somali exporters are not allowed to ship seafood to the EU.

Figure 16: TRACES-NT portal of the EU Commission - Establishment Lists



### Procedure for starting export of seafood to the EU

In order to be able to export seafood to the EU market, Somalia needs to start the process of authorization by submitting a request to the DG SANTE of the EU Commission. In order to receive the authorization, Somalia will need to adopt regulations and capacity to ensure that prove that the fish and seafood caught and produced in the country meet the EU food safety requirements and pose no threat to European consumers. The DG SANTE guides the country asking the authorization in how to comply with these requirements, which are numerous and complex. In a nutshell, they imply the need to put in place Hazard Analysis and Critical Control Points (HACCP)<sup>104</sup> standards; a system to trace seafood back to registered fishing vessels or aquaculture farms, and controls for the certification of the safety of products (i.e., for analysis of histamine, contaminants, and residues levels for veterinary medicinal products as well as for parasites).<sup>105</sup>

<sup>102</sup> [https://eur-lex.europa.eu/eli/reg\\_del/2022/2292/oj](https://eur-lex.europa.eu/eli/reg_del/2022/2292/oj)

<sup>103</sup> <https://webgate.ec.europa.eu/tracesnt/directory/listing/establishment/publication/index#!/search>

<sup>104</sup> The HACCP is a management system in which food safety is addressed through the analysis and control of biological, chemical, and physical hazards from raw material production, procurement and handling, to manufacturing, distribution and consumption of the finished products.

<sup>105</sup> It is important to realize that for the export cultivated fish and seafood to the EU, the competent authority needs to obtain special approval based on a Residue Monitoring Plan (RMP). The RMP needs to get approval from the European authorities and will be audited separately every 2 or 3 years.

Once approved for the export of animal products to the EU, the competent authority in Somalia can start authorizing the facilities that are willing to export to the EU. This authority will be responsible for keeping the lists of establishments up to date and for communicating any changes to the EU through the TRACES-NT system.

In order to authorize the facilities to export to the EU, the competent authority in Somalia (once designated), will need to organize some teams of officials that will visit and audit regularly the establishments to ensure that the regulations are met. Key requirements are that such establishments need to meet are the implementation of HACCP standards and the ability to trace products.

It is important to clarify that EU regulations on food hygiene cover all stages of the production, processing, distribution and placing on the market of food intended for human consumption. Every two years, an audit team of the Department for Health and Food Audits and Analysis of the DG SANTE will visit Somalia to meet with the competent authority, auditing the systems in place and visiting some facilities throughout the supply chain in the country to see whether regulations are implemented properly. At the end of the audit, an audit report is produced that provide recommendations for possible improvement, if shortcomings are identified. If the recommendations are not met, the EU might eventually take measures against the country that can include, in the most extreme cases, a trade ban to the import of the concerned products.

### Health Certificate

In addition to the above requirements, seafood products that are exported to the EU must be accompanied by a health certificate issued by a competent authority of the country of origin. In Somalia, this authority is the Ministry of Fisheries and Blue Economy. However, at the moment the health certificates are not issued yet.

The Somali Ministry of Fisheries and Blue Economy needs therefore to introduce such certificates for the export of fishery products to the EU by adopting the model attached to the Appendix IV to Annex VI of the Regulation (EC) No 1664/2006 of 6 November 2006 (figure 16).<sup>106</sup>

In addition, this Ministry will need to develop a specific regulation guiding exporters on the regulatory requirements to be met in order to obtain such certificate. This regulation should include the possibility to request physical samples of the fish and fish products needed for the issuance of the certificate. However, at the moment, the Ministry of Fisheries and Blue Economy does not have any laboratory that can conduct analysis. It should therefore consider the possibility of accrediting private laboratories for their execution, on the basis of a set of parameters to be established in the above-mentioned regulation. Finally, this regulation should include the possibility to issue non-commercial health certificates to individuals when travelling and carrying a box of either frozen or chilled fish on ice as part of their luggage, with the relevant allowances.

After the issuance of the certificate, the Ministry will also need to put in place a continuous monitoring system of the whole production chain (from fishing vessel, landing sites, cold stores, factories, etc.), in the form of interim and spot check inspections, sampling of products and means used for their conservation (e.g., water, ice, etc.), for analysis.

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<sup>106</sup>Appendix IV to Annex VI of the Regulation (EC) No 1664/2006 of 6 November 2006 <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32006R1664>



Figure 17: Model of health certificate in use in the EU for imports of fishery products intended for human consumption.

COUNTRY		Veterinary certificate to EU			
Part I: Details of dispatched consignment	1.1. Consignor Name Address Postal code Tel No.	1.2. Certificate reference number	1.2.a.		
	1.3. Consignee Name Address Postal code Tel No.	1.3. Central Competent Authority			
	1.4. Country of origin ISO code	1.4. Region of origin Code	1.4. Local Competent Authority		
	1.5. Place of origin Name Address	1.6. Approval number	1.5. Country of destination ISO code	1.5.	
	1.6. Means of transport Aeroplane <input type="checkbox"/> Ship <input type="checkbox"/> Road vehicle <input type="checkbox"/> Other <input type="checkbox"/> Railway wagon <input type="checkbox"/>	1.7. Date of departure	1.6. Entry BP in EU		
	1.8. Description of commodity	1.8. Commodity code (HS code)	1.7. Identification of container/Seal number	1.7.	
	1.9. Temperature of product Ambient <input type="checkbox"/> Chilled <input type="checkbox"/> Frozen <input type="checkbox"/>	1.9. Quantity	1.8. Commodities certified for Human consumption <input type="checkbox"/>		
	1.10. Identification of container/Seal number	1.10. Number of packages	1.9. For import or admission into EU		
	1.11. Identification of the commodities Species (Scientific name) Nature of commodity Treatment type	1.11. Type of packaging	1.11. Approval number of establishments Manufacturing plant	1.11. Number of packages	1.11. Net weight
	Part II: Certification				
II. Health attestation		II.a. Certificate reference number	II.b. Fishery products		
II.1. Public health attestation					
I, the undersigned, declare that I am aware of the relevant provisions of Regulations (EC) No 1782/2002, (EC) No 853/2004, (EC) No 853/2004 and (EC) No 854/2004 and certify that the fishery products described above were produced in accordance with those requirements, in particular that they:					
<ul style="list-style-type: none"> <li>— come from (an) establishment(s) implementing a programme based on the HACCP principles in accordance with Regulation (EC) No 853/2004,</li> <li>— have been caught and handled on board vessels, landed, handled and where appropriate prepared, processed, frozen and thawed hygienically in compliance with the requirements laid down in Section VIII, Chapters I to IV of Annex III to Regulation (EC) No 853/2004,</li> <li>— satisfy the health standards laid down in Section VIII, Chapter V of Annex III to Regulation (EC) No 853/2004 and the criteria laid down in Regulation (EC) No 2073/2005 on microbiological criteria for foodstuffs,</li> <li>— have been packaged, stored and transported in compliance with Section VII, Chapters V to VIII of Annex III to Regulation (EC) No 853/2004,</li> <li>— have been marked in accordance with Section I of Annex II to Regulation (EC) No 853/2004</li> <li>— the guarantees covering live animals and products thereof, if from aquaculture origin, provided by the residue plans submitted in accordance with Directive 96/23/EC, and in particular Article 29 thereof, are fulfilled and</li> <li>— have satisfactorily undergone the official controls laid down in Annex III to Regulation (EC) No 854/2004.</li> </ul>					
II.2. (*) [Animal health attestation for products of aquaculture origin]					
I, the undersigned, declare that the fishery products described above originate from fish or crustaceans that were clinically healthy on the day of harvest, and have been transported under conditions that do not alter the animal health status of the products and certify, in particular that:					
<ul style="list-style-type: none"> <li>— (*) if from species susceptible (*) to ISA and/or EH-N, they: <ul style="list-style-type: none"> <li>— (*) originate from a source (*) considered free from ISA and/or EH-N in accordance with the relevant EU legislation or OIE Standard (*);</li> <li>— (*) have been slaughtered and eviscerated;</li> </ul> </li> <li>— (*) if from species susceptible (*) to VHS and/or IHN, they: <ul style="list-style-type: none"> <li>— (*) originate from a source (*) considered free from (*) VHS(*)/IHN in accordance with the relevant EU legislation or OIE Standard (*);</li> <li>— (*) have been slaughtered and eviscerated;</li> </ul> </li> </ul>					

### Catch certificate

Another requirement for fish or fish products to be exported to the European Union is that they must be accompanied by a **catch certificate** issued by the Somalia competent authority, which is also in this case the Ministry of Fishery and Blue Economy. At present the Ministry issues catch certificates for other States, not yet for the EU.

The catch certificate aims at preventing, deterring, and eliminating illegal, unreported, and unregulated fishing activity. Its objective is to guarantee the legal origin of fishery products entering the EU, while for Somali authorities, this document allows them to trace and to certify that the fish has been caught legally. Requirements and the specimen of the catch certificates are set out at Annex IV of the Council Regulation (EU) n. 1005 of 29 September 2008. The catch certificate includes information on the processing plant or the exporter (if different from the processing plant), the commodity code (also known as product code), with the quantity of fish being exported, the references to the health certificate (number and date) and the endorsement of the competent authority, as shown in the Figure below.

*Figure 18: Catch Certificate specimen.*

ANNEX IV

**Statement under Article 14(2) of Council Regulation (EC) No .../2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing**

I confirm that the processed fishery products: ... (product description and Combined Nomenclature code) have been obtained from catches imported under the following catch certificate(s):

Catch certificate number	Vessel name(s) and flag(s)	Validation date(s)	Catch description	Total landed weight (kg)	Catch processed (kg)	Processed fishery product (kg)

Name and address of the processing plant:  
.....  
.....  
.....

Name and address of the exporter (if different from the processing plant):  
.....  
.....  
.....

Approval number of the processing plant:  
.....

Health certificate number and date:  
.....

Responsible person of the processing plant:	Signature:	Date:	Place:

Endorsement by the competent authority:  
.....

Official:	Signature and seal:	Date:	Place:

**Labelling, Marking and Packaging Requirements**

Seafood products to be exported to the EU are subject to the general labelling rules for foodstuffs. However, specific labelling rules also apply to certain fishery products.

The Regulation (EU) 1169/2011 of the European Parliament and the Council of 25 October 2011<sup>107</sup> on the provision of food information to consumers establishes that all foodstuffs marketed in the EU must contain the following particulars:

- The name under which the product is sold;

<sup>107</sup>Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 Text with EEA relevance <https://eur-lex.europa.eu/eli/reg/2011/1169/oj>

- The net weight of pre-packaged products;
- The date of minimum durability;
- Any special conditions for keeping or use;
- The name or business name and address of the manufacturer, packager or seller established in the EU; and
- The lot marking (on pre-packaged products) with the marking preceded by the letter 'L'.

According to the Regulation, a nutrition declaration must be included in the label, with the indication of the energy value and the amounts of fat, saturates, carbohydrate, sugars, protein, and salt in the product. The content of the nutrition declaration may be supplemented with additional (voluntary) information on the amounts of mono-unsaturated fats, polyunsaturated fats, polyols, starch or fibre.

The EU Regulation n. 2018/775 describes how the information on the origin of the primary ingredient<sup>108</sup> should be displayed on labels, when it is not the same as the given country of origin or the given place of provenance of the food.

In accordance with Regulation (EU) 1379/2013 of the European Parliament and the Council of 11 December 2013, fishery and aquaculture products listed in the Table 7 below, irrespective of their origin or of their marketing method, may be offered for sale to the final consumer or to a mass caterer in the EU only if they bear an appropriate marking or labelling containing specific information.

*Table 6: Fishery and aquaculture products referred to in points (a), (b), (c) and (e) of Annex I to Regulation (EU)1379/2013*

Category	HS code	Description of the goods
a	0301	Live fish
	0302	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304
	0303	Fish, frozen, excluding fish fillets and other fish meat of heading 0304
	0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen
b	0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption
c	0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption
	0307	Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption
e	1212.2000	Seaweeds and other algae

The specific information to be included in the marking or labelling of the above products are the following:

- The commercial and scientific designation of the species (for this purpose, EU Member States publish a list of the commercial designations accepted in its territory);

<sup>108</sup> According to the Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25<sup>th</sup> October 2011, 'primary ingredient' means an ingredient or ingredients of a food that represent more than 50 % of that food or which are usually associated with the name of the food by the consumer and for which in most cases a quantitative indication is required.

- Production method indicated by using one of the following wordings: “...caught...”, “...caught in freshwater...”, or “...farmed...”;
- Information on the catch area: with the following options: a) caught at sea<sup>109</sup>; b) caught in freshwater (with the reference to the country of origin); c) aquaculture (with the reference to the country in which the product is farmed);
- Information on whether the product has been defrosted. However, this requirement does not apply to: a) ingredients present in the final product; b) foods for which freezing is a technologically necessary step in the production process; c) fishery and aquaculture products previously frozen for health safety purposes; d) fishery and aquaculture products which have been defrosted before the process of smoking, salting, cooking, pickling, drying or a combination of any of those processes;
- The date of minimum durability, where appropriate.

### Specific labelling rules for certain fishery products

The Council Regulation (EC) 2406/96 of 26 November 1996 lists some specific fishery products that may be marketed in the EU only if presented in packages with the following details clearly and legibly marked:

- Country of origin in roman letters at least 20 millimeters high;
- Scientific name and trade name;
- Presentation;
- Freshness and size categories;
- Net weight in kilograms;
- Date of grading and date of dispatch;
- Name and address of consignor.

The fishery products covered by the Council Regulation (EC) n. 2406/96 are shown in the following Table.

Table 7: Fishery products subject to the labelling requirement set forth by the Council Regulation (EC) 2406/96

Type	Designation
(a) Saltwater fish falling under HS code 0302:	<ul style="list-style-type: none"> <li>• Plaice (<i>Pleuronectes platessa</i>),</li> <li>• Albacore or longfinned tuna (<i>Thunnus alalunga</i>),</li> <li>• Bluefin tuna (<i>Thunnus thynnus</i>),</li> <li>• Bigeye tuna (<i>Thunnus</i> or <i>Parathunnus obesus</i>),</li> <li>• Herring of the species <i>Clupea harengus</i>,</li> <li>• Cod of the species <i>Gadus morhua</i>,</li> <li>• Sardine of the species <i>Sardina pilchardus</i>,</li> <li>• Haddock (<i>Melanogrammus aeglefinus</i>),</li> <li>• Saithe (<i>Pollachius virens</i>),</li> <li>• Pollack (<i>Pollachius pollachius</i>),</li> </ul>

<sup>109</sup> Art. 38 of Regulation (EU) 1379/2013 establishes that the indication of the catch or production area shall consist: (a) in the case of fishery products caught at sea, by indicating the name in writing of the sub-area or division listed in the FAO fishing areas, as well as the name of such zone expressed in terms understandable to the consumer, or a map or pictogram showing that zone, or, by way of derogation from this requirement, for fishery products caught in waters other than the Northeast Atlantic (FAO Fishing Area 27) and the Mediterranean and Black Sea (FAO Fishing Area 37), the indication of the name of the FAO fishing area; (b) in the case of fishery products caught in freshwater, a reference to the body of water of origin in the Member State or third country of provenance of the product; (c) In the case of aquaculture products, a reference to the Member State or third country in which the product reached more than half of its final weight or stayed for more than half of the rearing period or, in the case of shellfish, underwent a final rearing or cultivation stage of at least six months. In addition to such information, operators may indicate a more precise catch or production area.

Type	Designation
	<ul style="list-style-type: none"> <li>• Mackerel of the species <i>Scomber scombrus</i>,</li> <li>• Mackerel of the species <i>Scomber japonicus</i>,</li> <li>• Horse mackerel (<i>Trachurus</i> spp.),</li> <li>• Dogfish (<i>Squalus acanthias</i> and <i>Scyliorhinus</i> spp.),</li> <li>• Redfish (<i>Sebastes</i> spp.),</li> <li>• Whiting (<i>Merlangius merlangus</i>),</li> <li>• Blue whiting (<i>Micromestistius poutassou</i> or <i>Gadus poutassou</i>),</li> <li>• Ling (<i>Molva</i> spp.),</li> <li>• Anchovy (<i>Engraulis</i> spp.),</li> <li>• Hake of the species <i>Merluccius merluccius</i>,</li> <li>• Megrin (<i>Lepidorhombus</i> spp.),</li> <li>• Ray's bream (<i>Brama</i> spp.),</li> <li>• Anglerfish (<i>Lophius</i> spp.),</li> <li>• Dab (<i>Limanda limanda</i>),</li> <li>• Lemon sole (<i>Microstomus kitt</i>),</li> <li>• Pouting (<i>Trisopterus luscus</i>), and poor cod/Mediterranean cod (<i>Trisopterus minutus</i>),</li> <li>• Bogue (<i>Boops boops</i>)</li> <li>• Picarel (<i>Maena smaris</i>),</li> <li>• Conger (<i>Conger conger</i>),</li> <li>• gurnard (<i>Trigla</i> spp.),</li> <li>• mullet (<i>Mugil</i> spp.),</li> <li>• skate (<i>Raja</i> spp.),</li> <li>• Common flounder (<i>Platichthys flesus</i>),</li> <li>• sole (<i>Solea</i> spp.),</li> <li>• scabbardfish (<i>Lepidopus caudatus</i> and <i>Aphanopus carbo</i>),</li> <li>• Striped or red mullet (<i>Mullus barbatus</i>, <i>Mullus surmuletus</i>),</li> <li>• Black sea bream (<i>Spondyliosoma cantharus</i>),</li> <li>• Sprat (<i>Sprattus sprattus</i>);</li> </ul>
(b) Crustaceans falling under HS code 0306 whether presented live, fresh or chilled, or cooked by steaming or by boiling in water:	<ul style="list-style-type: none"> <li>• Shrimps (<i>Crangon crangon</i>) and pandalid shrimps (<i>Pandalus borealis</i>),</li> <li>• Edible crabs (<i>Cancer pagurus</i>),</li> <li>• Norway lobsters (<i>Nephrops norvegicus</i>);</li> </ul>
(c) Cephalopods falling under HS code 0307	Cuttlefish ( <i>Sepia officinalis</i> and <i>Rossia macrosoma</i> );
d) Common scallop and other aquatic invertebrates falling within the HS code 0307	<ul style="list-style-type: none"> <li>• Common scallop (<i>Pecten maximus</i>),</li> <li>• Common whelk (<i>Buccinum undatum</i>).</li> </ul>

Lastly, the Council Regulation (EC) 2406/96 prescribes that each lot of the above species must contain products of the same size and uniform freshness. The freshness category, size category and presentation must be clearly and in indelible marked, in characters of at least 5 cm. high, on labels affixed to the lot. The

information provided by labels must be easy to understand, easily visible, clearly legible and indelible and must appear in the official language(s) of the Member State where the product is marketed.

### Determination of origin of fish in the EU-GSP

The ROO applicable to the GSP of the EU are set forth in the EU Commission Delegate Regulation n. 2015/2446.<sup>110</sup> According to such a Regulation, in order for a certain good to benefit from GSP preferences, three conditions must be fulfilled:

- 1) it must originate in a beneficiary country in accordance with the EU GSP RoO;
- 2) during the transportation from the beneficiary country to the EU,<sup>111</sup> the good must not be altered, transformed or subjected to any operations other than those performed in order to preserve them in good condition; and
- 3) a valid proof of origin must be submitted (however, since 1 January 2017, the only possibility for exporters to prove the originating status of goods upon the threshold of 6,000 EUR, is to submit a statement of origin on invoice or other commercial document upon registration to the REX system as described at Section 3.1.1. above).

In the case of fish, this can be considered of Somali preferential origin if it is caught in the inland territory or territorial waters of Somalia. Fish captured **outside the territorial waters** of Somalia, as well as **processed fish products** which are made aboard factory ships, follow a different rule.

### Fish captured in the territorial waters of Somalia

The territorial waters are a belt of the sea adjacent to the coast of Somalia that is considered as an extension of its land territory. The boundaries of territorial waters of Somalia were first set by the Law on the Somali Territorial Sea and Ports, 1972,<sup>112</sup> that established the distance of such waters in 200 nautical miles (370 Km.) within the continental and insular coasts. In 1989, following the ratification by Somalia of the United Nations Convention on the Law of the Sea (UNCLOS), the limit of territorial was set in 12 nautical miles (i.e. 22 km.) from the coast, in compliance with this international agreement.

Fish caught inland or within the territorial waters of Somalia **is always considered wholly obtained**, and therefore originating from Somalia.

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<sup>110</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R2446>

<sup>111</sup> As the EU is a Customs Union, there are no duties or customs formalities in trade between EU Member States, and a common Customs tariff is applied on importation into the EU. Therefore, the EU is considered a single territory. So, once formalities have been completed and duty has been paid - or preference has been granted - in one of the EU Member States, then goods are considered to be in 'free circulation' in the European Union and can move from one Member State to another.

<sup>112</sup> Law on the Somali Territorial Sea and Ports, 1972 <https://faolex.fao.org/docs/pdf/som4925.pdf>

### Fish captured outside the territorial waters of Somalia

Fish caught on the high seas, i.e., outside the 12-mile zone of the territorial waters of Somalia, can be considered of Somali origin only if three criteria are met, that must be fulfilled cumulatively:

- 1) the vessel or the factory ship that captured fish must be registered<sup>113</sup> in Somalia;
- 2) the vessel must be sailing under the Somali flag;
- 3) the vessel or factory ship must be owned:
  - (a) at least 50% by Somali nationals, or
  - (b) by a company:
    - which have their head office and their main place of business in Somalia and
    - which is at least 50% owned by Somali public entities or nationals of Somalia.

### Illustrative Example - Fish and Fish Products

*A Somali fishing company sources fish from its own vessels operating off the Somali coast. It is active in the export market and focuses on tuna. Persons of various nationalities are employed by the company as crew and captain(s). Most of its vessels are registered in Somalia, although some are registered in a third country through a 50:50 joint venture subsidiary with a non-European company.*

Example	Case	Answer
<b>Example 1</b>	Tuna is caught outside the territorial waters of Somalia with crew and captain of different nationalities (<50% are nationals of the EU). The vessel is owned exclusively by a Somali company, is registered locally and flies under the Somali flag. All fish caught is landed locally and further processed locally into canned tuna.	According to the EU-GSP ROO, as crew requirement is not relevant for determining the origin of fish, the latter qualifies to preferential treatment irrespective of the further processing done locally.
<b>Example 2</b>	Tuna is caught outside Somalia territorial waters by a vessel registered in a third country but owned 49% by a Somali company and used exclusively in Somali waters, with relevant local fishing license in place. Fish is landed locally for further processing.	According to the EU-GSP ROO, fish cannot be considered as originating from Somalia, as it fails to meet the ownership (≥50%) criteria and the registration requirement.
<b>Example 3</b>	A Somalia-registered and owned vessel (sailing under the Somalia flag) catches tuna outside the territorial waters of the country. Half of the crew component is from a third country. Fish is landed and processed in Somalia.	According to the EU-GSP ROO, fish is considered originating as the crew requirement is not a requirement for obtaining the local origin, while local landing and processing have no relevance in the determination of the origin.

<sup>113</sup> Each time a ship is built, it is generally “registered” with a flag state. The flag state is the country that the ship is deemed to be a “national” of, and the country in which the ship’s owner is based. Once a ship is registered with a flag state, it will generally continue to bear that flag throughout its working life. A ship may change flag state only if its owner relocates to a different country, or if the ship is sold to an owner based in a different country. Moreover, an important development in recent years has been the increasingly widespread practice whereby a vessel registered in one State is permitted to bear the flag of a second State for a fixed period.

## Appendix B - List of meetings held during the diagnostic mission

Date/time	Meeting Official
5 <sup>th</sup> May 2024	<ul style="list-style-type: none"> <li>• <b>Ahmed Sheikh Abdullahi Warsame</b>, Director of Trade, Ministry of Commerce and Industry</li> <li>• <b>Mohamed Moallim Ahmed</b>, Director of Planning, Ministry of Commerce and Industry</li> </ul>
6 <sup>th</sup> May 2024	<ul style="list-style-type: none"> <li>• <b>Isse Farah Amalow</b>, Head of Customs reform and Modernization, Ministry of Finance, Department of Customs,</li> <li>• <b>Mohamed Abdi Jama</b>, Head of physical inspection at Mogadishu Sea Port, Ministry of Finance, Department of Customs,</li> <li>• <b>Fatima Mahad Abdullahi</b>, Head of customs Police, Ministry of Finance, Department of Customs,</li> <li>• <b>Amina Sayid Omar</b>, Head of Statistics, Ministry of Finance, Department of Customs.</li> </ul>
7 <sup>th</sup> May 2024	<ul style="list-style-type: none"> <li>• <b>Abdullahi A. Addow</b>, Project Coordinator (SSFDP) Somali Sustainable Fisheries (Badmaal) Development Project, Ministry of Fisheries and Blue Economy</li> <li>• <b>Isse Mohamed Halane</b>, Deputy Director General, Somali Chamber of Commerce</li> <li>• <b>Abukar Ahmed Mursal</b>, Ministry of Finance, Department of Customs, Director of Customs</li> <li>• <b>Isse Farah Amalow</b>, Head of Customs reform and Modernization, Ministry of Finance, Department of Customs</li> </ul>
8 <sup>th</sup> May 2024	<p><b>Wrap-up meeting:</b></p> <ul style="list-style-type: none"> <li>• <b>Ahmed Sheikh Abdullahi Warsame</b>, Director of Trade, Ministry of Commerce and Industry</li> <li>• <b>Mohamed Abdi Jama</b>, Head of physical inspection at Mogadishu Sea Port, Ministry of Finance, Department of Customs,</li> <li>• <b>Amina Sayid Omar</b>, Head of Statistics, Ministry of Finance, Department of Customs.</li> </ul>



## Appendix C – Status of trade agreements/arrangements and challenges

Agreement	Status	Challenges identified
<b>WTO</b>	Negotiations ongoing	Lack of a platform for cross-ministerial and cross-institutional cooperation to drive WTO accession (see Section 3.1). An in-depth economic analysis on the impact of the Agreement has not been conducted at national level. Weak buy-in from the private sector.
<b>AfCFTA</b>	The agreement received the Cabinet of Ministers approval on 14 August 2020. The Somalia Parliament has not yet approved the agreement	Economic impact analysis is needed as the effect from the implementation of the agreement are perceived as uncertain, despite an economic analysis on the impact of the Agreement has been conducted within the framework of the AfCFTA national implementation strategy. Entry in the AfCFTA is perceived as risky for the local industry due to their limited competitiveness compared to companies from other AfCFTA countries. Additional analysis may be needed to reinforce political will for effectively entering into the agreement.
<b>COMESA</b>	COMESA Treaty not ratified	Entry in COMESA FTA is perceived as risky by the local industry due to their limited competitiveness compared to companies from other COMESA countries. Fear of loss of revenues due to the suppression of duties on imports from COMESA countries. A comprehensive economic analysis on the impact of the Agreement has not been conducted.
<b>EAC</b>	Agreement, ratified. Implementation process still ongoing	The roadmap for Somalia's EAC accession has been developed and is ready for implementation, which however has not yet started. A comprehensive economic analysis on the impact of the Agreement has been conducted by the NEC and other research bodies and institutes which facilitated accession to the EAC Treaty.
<b>TPS-OIC</b>	Lists of tariff concessions not submitted yet to the COMCEC	The fear of loss of revenues due to the suppression of duties on imports from COMESA countries is high, as most of OIC-participating countries are Somalia's trade partners. An economic analysis on the impact of the Agreement has not been conducted.
<b>GAFTA</b>	Despite accession to the Agreement in May 2023, the process for the full integration in such FTA has not yet been finalized.	The fear of loss of revenues due to the suppression of duties on imports from GAFTA countries is high, as most of GAFTA-participating countries are Somalia's trade partners. An economic analysis on the impact of the Agreement has not been conducted.
<b>AGOA</b>	Somalia submitted a letter of application to the AGOA on 28 March 2023, through the US Embassy in Mogadishu. An assessment process is set to be initiated that will determine Somalia's eligibility to join the program.	An economic analysis on the impact of this arrangement has not been conducted. Based on lessons from other Sub-Saharan countries participating to the AGOA, Somalia's access to AGOA should not produce significant results in the medium-term in terms of growth of exports, unless the country will manage to attract substantial foreign investments in manufacturing, especially by footloose industries.

Agreement	Status	Challenges identified
<b>GSP of the EU</b>	Somalia is a beneficiary of the EBA sub-arrangement. However, the lack of implementation of the REX systems impedes Somali exporters to benefit from this scheme, except for shipments whose value is less than 6,000 EUR.	Need to implement the REX system as a condition for Somali traders to export preferentially to the EU above the 6,000 EUR threshold. Need to develop a legal basis at national level to regulate the system and of training materials (e.g., guidelines) to educate traders on its use.
<b>GSP of the UK</b>	Somalia is a beneficiary of the EBA sub-arrangement. However, Somali authorities have not implemented the Form A COO.	Need to implement the Form A and to identify the authority competent for its issuance. A decentralized system of issuance of such certificates would be preferable to facilitate traders in obtaining the certificates. Ministries of Trade in each FMS could act as issuing authorities.
<b>Other unilateral LDC-specific schemes</b>	Somali authorities have not implemented the COOs needed for exporting preferentially to the countries that grant such preferences.	Need to implement the COOs needed for exporting preferentially to the countries that established such schemes and to identify the authority competent for their issuance. A decentralized system of issuance of such certificates would be preferable to facilitate traders in obtaining the certificates. Ministries of Trade in each FMS could act as issuing authorities under the coordination of the MOCI.

## Appendix D –List of participants to the workshop

<b>Study Workshop: An Analysis of Preferential Trade Agreements in Somalia</b>			
<b>Tuesday, June 25, 2024</b>			
<b>No.</b>	<b>Name</b>	<b>Position</b>	<b>Stakeholder</b>
1	Mr. Abukar Sh Ahmed Mursal	Director of Customs	Somali Customs
2	Isse Farah Amalow	Head of Customs reform and Modernization	Somali Customs
3	Mohammed Abdi Jama	Head of physical inspection at Mogadishu Sea Port	Somali Customs
4	Omar Mohamud Barre	SOMCAS Manager	Somali Customs
5	Amina Sayid Omar	Head of Statistics	Somali Customs
6	Abdihalim Osman	Director of SMEs	MoCI
7	Mohamed Abdullahi	Trade	MoCI
8	Abdiaziz Abdullhi Elmi	Trade	MoCI
9	Amina Ali Mohamud	Trade	MoCI
10	Maryan Abdullahi	Trade	MoCI
11	Abdiqani Mohamud Mohamed	Sea Port and Airport	MoCI
12	Ramla Abdurahman Elmi	Trade	MoCI
13	Danilo Desiderio	Expert in Trade Policy and Trade Reforms	Cowater International
14	Ali Abdulkadir Ali	Junior Expert in Trade Policy and Trade Reforms	Cowater International
15	Lee Sorensen	Team Leader, SDIT	Cowater International
16	Abdirizak Said Hassan	Senior Investment Expert	Cowater International
17	Khadija Abdi Hassan	ITBP Coordinator/Project Assistant	Cowater International

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