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East African Community



MARKUP

EU-EAC MARKET ACCESS UPGRADE PROGRAMME

Towards effective implementation of the harmonised criteria for enhancing intra-EAC trade of pre-packaged foods

EU-EAC MARKUP Policy Brief No. 4





Solidaridad

MARKUP is a regional trade development initiative funded by the European Union with support from the Federal Government of Germany, which aims at addressing both the supply side and market access constraints of selected key export-oriented sectors in Burundi, Kenya, Rwanda, Tanzania and Uganda. The priority value chains are coffee, tea, cocoa, avocado, and selected horticultural products. The overall objective of the programme is to contribute to the economic development of the EAC region by increasing the value of both extra- and intra-regional agricultural exports, with the main focus on exports towards the European Union.

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1. Background

The *EAC Standardization, Quality Assurance, Metrology and Testing (SQMT) Act* of 2006 provides for development and harmonisation of standards, procedures, guidelines and frameworks to enhance efficiency and effectiveness in achieving product safety and quality for consumer protection and trade facilitation. To date, several standards have been harmonised and are being implemented by all the EAC Partner States' national standards bodies (NSBs). Goods manufactured based on the harmonised East African (EA) standards and certified by a standards body of one Partner State are deemed by standards bodies of the other Partner States as meeting quality and safety requirements set in the harmonised standards.

However, it has been observed that despite the existence of the SQMT Act requirement of mutual recognition of conformity assessments, the cross-border trade of food in the East African Community is hampered by unnecessary non-tariff measures (NTMs). Each of the six EAC Partner States has different regulations and procedures for the enforcement of food standards. Many of the differences are in the procedures for enforcement of Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) requirements, especially for foods manufactured based on international standard or national standards, in instances where there are no harmonised EA standards. The inconsistencies create a great deal of uncertainty for the business community trading in these commodities and increase the cost of doing business in the region.

Therefore, the EAC has developed a framework for facilitating the cross border trade of pre-packaged food and cosmetic products without medicinal claims under which it has adopted clear and transparent harmonised criteria for registration, certification and border verification/clearance of pre-packaged foods. The implementation of these criteria will achieve broader cooperation and collaboration among the different competent authorities of the EAC Partner States, enhance trade facilitation and protect consumers of pre-packaged foods. In principle, the criteria shall form a basis upon which the EAC Partner States accept the results of each other's' control systems for pre-packaged foods as providing the same level of protection.

This Policy Brief outlines the key harmonised requirements, processes and procedures as set in the EAC harmonised criteria for registration and certification of pre-packaged foods. It also outlines the roadmap towards adoption and effective implementation of the criteria.

2. What are pre-packaged foods?

Pre-packaged food means a product, resulting from the application of physical, chemical or biological processes to a "primary food commodity", and such food is packaged or made up in advance in a container and is intended for direct sale to the consumer, for direct use as an ingredient in the manufacture of food, for further processing or for catering purposes. Some pictures of pre-packaged foods are shown below.



3. What are the key simplified or harmonised processes and requirements?

The criteria prescribe clear, transparent and simplified requirements and processes for registration and certification as well as border verification of conformity for prepackaged foods in the EAC. Under the criteria four categories of pre-packaged foods are identified and a logical and clear guidance on how to reach the decision for registration and certification as well border clearance of prepackaged food is prescribed. The stepwise questions to be asked or answered are summarised in Figure 1. Further details of the processes are given here-under for each of the four categories of prepackaged foods deemed to be traded in the EAC.

Category 1: Pre-packaged food manufactured in conformity to EAC harmonised standards.

Prepackaged food products in this category shall be registered and certified by the national competent authorities and assigned the national certification marks. At border points, such products shall be allowed entry without further assessment or evaluation.

1. **Category 2: Pre-packaged foods manufactured in conformity to international standards, in instances where there are no harmonised East African Standards**

Such products shall be treated as products manufactured in conformity to harmonised EA standards.

2. **Category 3: Pre-packaged food manufactured in conformity to national standards, in instances where there are no harmonised East African or international standards.**

Prepackaged food products in this category shall be registered, certified and provided with the national certification mark, by the national competent authorities. Prior to export, the following steps shall be complied with:

- The exporting Partner State to notify the potential importing Partner States of the intention to export the pre-packaged foods and provide the full text of the national standards onto which the food is based.
- The importing Partner State to provide the exporting Partner State, with feedback on results of their evaluation, whether, such products may be accepted in the importing country, or not.

If the importing country grants import permit, these products shall be treated as having been certified based on harmonised EA standards, on reaching the port of entry.

3. **Category 4: Pre-packaged food manufactured in conformity to manufacturer standards in instances where there are no harmonised East African, international or national standards**

Prior to export of prepackaged foods manufactured based on manufacturer's own standards, the following procedure and requirements shall be fulfilled:

- Manufacturers of such products shall be required to prove the fitness of each batch or consignment against pre-set quality and safety requirements by conducting tests using a laboratory recognised by a competent authority in the country of origin.
- The product may be subjected to batch certification by the National Standards Body of the country of origin. The evaluation of such products shall be done using objective and transparent criteria which shall be declared on the certificate.
- At a port of entry, a batch certified product may be detained, sampled or tested and only released upon confirmation of conformance by the importing Partner State.

This is an important step towards facilitating international trade in novel products as it fast-tracks the development of standards for such products.

Figure: Decision process for registration and certification as well as border clearance of pre-packaged foods

EAC criteria for in-country and border procedures for approval of prepackaged foods



What are the necessary actions towards effective implementation of the criteria?

MARKUP urges the EAC Partner States to adopt the criteria in order to enjoy the benefits of enhanced intra-EAC trade of pre-packaged food. Some of the actions to be implemented in order to assure consistency and uniform implementation of the criteria across the EAC partner states are described in the Table.

Table: Milestones and interventions to implement the harmonised criteria for registration and certification of pre-packaged food

SN	Milestone	Interventions
1	<i>Create a mechanism to coordinate implementation of the framework and criteria</i>	<ul style="list-style-type: none"> a. Publish the framework and criteria b. Develop terms of reference (TORs) for the regional and national coordinating committees c. Constitute the national & regional coordinating committees for the implementation of the framework and criteria d. Organise a high-level inauguration of the regional and national coordination committees and launch implementation of the framework and criteria
2	<i>Raise awareness on the objectives & benefits of the framework and criteria</i>	<ul style="list-style-type: none"> a. Conduct national sensitisation and awareness of the framework and criteria among key competent authorities b. Conduct visits to border entry points within the EAC borders to engage and create awareness among the border stakeholders
3	<i>Support capacity building for effective implementation of the framework and criteria</i>	<ul style="list-style-type: none"> a. Identify competence gaps in conformity assessment and design and implement training to address identified gaps. b. Train technical staff in the relevant competent authorities on the requirements and implementation of the framework and criteria. c. Build the region's testing capacity to support effective implementation of the framework and criteria. d. Design and implement training on risk-based food control / conformity assessment and product notification systems.

4	<i>Develop and implement a peer assessment programme to enhance confidence, mutual trust and recognition among the Partner State National Competent Authorities</i>	a. Establish and implement a peer assessment programme involving all key competent authorities involved in the control of pre-packaged foods.
5	<i>Develop the tools required to support full & effective implementation of the framework and criteria</i>	a. Design and implement a harmonised risk framework for the implementation of a risk assessment required for the efficient implementation of the harmonised framework and criteria. b. Develop a catalogue of conformity assessment procedures and processes. c. Develop, publicise and continuously update the list of pre-packaged foods commonly traded in the EAC d. Identify priority products for harmonisation of standards-based on trade volumes
6	<i>Monitor implementation of the criteria and conformity of pre-packaged foods to standards and share the data with respective EAC organs and relevant EAC partner States competent Authorities</i>	a. Design data collection tools reporting templates and data collection modalities b. Assign responsibility for data collection and reporting c. Undertake border visits to assess impact of implementation of the harmonised framework and any challenges