

Customs Manual

on

Preferential Origin

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This Manual provides a guide to the interpretation of the law governing Preferential Origin which is set out in Commission Regulation (EEC) No. 2454/93 laying down the Implementing Provisions of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code and the various free trade agreements between the EU and third countries and it should be read in conjunction with these regulations.

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PREFERENTIAL ORIGIN

INTRODUCTION

Since the 1950's the European Union has concluded many free trade agreements with European, Mediterranean and other countries. These agreements, known as preferential trade agreements, permit goods to be traded between the countries party to the agreements at reduced or nil rates of duty. These duties are referred to as preferential rates of duty.

Each of these agreements includes rules of origin which must be adhered to in order for goods to be eligible for preferential treatment. Products complying with origin rules are referred to as "originating products". Free movement of goods is only permitted in the case of products originating in the EU or the relevant third country with which the EU has an agreement. Originating products are the qualifying goods that are traded under the terms of preferential agreements.

One exception to this rule is the Customs Union agreement with Turkey, which allows for certain goods classed as in 'free circulation' within the Community or Turkey to be eligible for preferential treatment. However, most agricultural and all coal and steel products are outside the 'free circulation' rule and must adhere to the origin rules.

The EU has preferential agreements with the Pan-Euro-Mediterranean countries, Turkey, the ACP countries (incorporating the African, Caribbean, and Pacific countries), and other countries such as Chile, Mexico and South Africa. The EU also has a Generalised System of Preferences with least developed and developing countries, and has on-going negotiations with the Western Balkan countries known as the Stabilisation and Association Agreements (SAA). These countries include Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo, and are all potential candidate countries for entry into the European Union.

The pan-European cumulation system was created in 1997 on the basis of the European Economic Area (EEA) agreement (1994) between the EC, the European Free Trade Association (EFTA) countries, the Central and Eastern European countries (CEEC) and the Baltic States. The Faroe Islands and the Mediterranean countries have been added and hence we have Pan-Euro-Mediterranean cumulation. This Pan-Euro-Med cumulation is based on a preferential agreement network, the origin protocols of which have to consist of identical rules. The aim of this system is

the establishment of free trade between the EU and its Mediterranean partners and amongst the partners themselves by 2010. Within the Pan-Euro-Med zone, products that have obtained originating status in any one of the 40 or so countries involved may be added to products originating in any of the others without losing their originating status within the Pan-Euro-Med zone. However, it is important to note that in order to avail of the Pan-Euro-Med cumulation, agreements have to be in place not only with the EC but also between the individual countries themselves.

For ACP countries the Cotonou Trade Regime expired on 31 December 2007 and since that date some ACP countries have initialled new agreements with the EU. Those ACP countries that have not signed new agreements must avail of GSP.

The EU has in place a Generalised System of Preferences (GSP) for Developing and Least Developed Countries. The GSP system is intended, through the elimination of, or reductions in, customs duties, to stimulate reciprocal trade in goods as well as access to the Community market for products of developing countries. The rules of origin currently used for the Pan-Euro-Med Cumulation Zone are also used in determining the originating status of products under the GSP.

1. PREFERENTIAL TRADE AGREEMENTS AND RULES OF ORIGIN

1.1 Preferential Trade Agreements

The European Union has concluded trade agreements with certain non - EU countries which allow exports from the EU to enter the markets of these countries at a reduced or nil rate of duty. They also permit imports of goods into the EU at a reduced or nil rate of duty. These agreements are known as Preferential Trade Agreements and the duties involved are referred to as preferential rates of duty.

Countries with which the EU has Preferential Trade arrangements include:

Albania, Algeria, Andorra, Bosnia-Herzegovina, Central America, Ceuta, Chile, Colombia, Costa Rica, Egypt, El Salvador, Faroe Islands, Guatemala, Honduras, Iceland, Israel, Jordan, Lebanon, Liechtenstein, Macedonia (FYROM), Melilla, Mexico, Morocco, Montenegro, Nicaragua, Norway, Panama, Palestine, Peru, San Marino, Serbia, South Africa, South Korea, Switzerland, Syria, Tunisia and Turkey.

Other countries are covered by preferential tariff schemes under the Generalised System of Preferences and the Cariforum-African-Caribbean-Pacific Economic Partnership system. These countries are listed in Appendix 2.

1.2 How goods qualify for preferential treatment

In order to qualify for preferential treatment, goods must meet the following conditions:

- They must be eligible for preference under the agreements.
- Non-originating raw materials or components used must be sufficiently worked or processed. They must be subject to a minimal level of processing. The criteria that must be satisfied are referred to as rules of origin.
- For most trade agreements all import duties must be paid on raw materials used in manufacture prior to the export of the finished product.
- The working or processing must be carried out without interruption in the Community or the Preference Agreement Country. (This is known as principle of territoriality).

- They must be accompanied by a documentary evidence of origin such as a Movement Certificate EUR.1 or an invoice declaration. In relation to Turkey, an A.TR form must be used, with the exception of Agricultural products and Coal and Steel products where a EUR.1 is used. A Movement Certificate EUR-MED or a EUR-MED Invoice Declaration is used where Pan Euro Med cumulation is involved.
- They must normally be transported directly from the export to the import market.

1.3 Rules of Origin

Preferential Rules of Origin are concerned with determining the nationality of goods. All Preferential Trade Agreements concluded by the EU with third countries specify criteria that must be satisfied so that processed or manufactured products are eligible for preferential treatment.

These criteria are commonly known as preferential rules of origin. When a product is manufactured in accordance with the relevant rule of origin it becomes an “originating product” and thus becomes eligible for preferential treatment on import or export. Unless products become “originating products” they cannot benefit from preferential treatment.

The Rules of Origin for the Agreement Countries of the Pan-Euro-Mediterranean Zone are set out in Appendix 1 - Annex I.

1.4 Originating/Non-Originating Goods

Staff should be aware of the distinction between originating and non-originating materials. Originating materials are those that have been produced in accordance with preferential rules of origin. Non-originating materials have not been produced in accordance with these rules. Both types of materials may be used in the manufacture of products for export. Once sufficient processing has been carried out on these materials the resultant product becomes an “originating product” and is then eligible for preferential treatment when exported.

In summary products obtain originating status by:

(a) being wholly obtained in the EU or relevant third country

OR

(b) have undergone sufficient working or processing beyond insufficient operations in either the EU or the relevant third country.

Note: Raw materials that have been sourced within Ireland or elsewhere within the EU do not automatically qualify as originating. Evidence of originating status should be supported by a supplier's declaration (see 1.21).

1.5 Wholly obtained products

1.5.1 The following products are considered as “wholly obtained” in the Community or a third country.

- (a) mineral products extracted from the soil or from the seabed of the Community or a third country;
- (b) vegetable products harvested there;
- (c) live animals born and raised there;
- (d) products from live animals raised there;
- (e) products obtained by hunting or fishing conducted there;
- (f) products of sea fishing and other products taken from the sea outside the territorial waters of the Community or third country by their vessels;
- (g) products made aboard their factory ships exclusively from products referred to in subparagraph (f);
- (h) used articles collected there, fit only for the recovery of raw materials including used tyres fit only for re-treading or for use as waste;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;
- (k) goods produced there exclusively from the products specified in subparagraphs (a) to (j).

1.5.2 The vessels and factory ships referred to in subparagraph in 1.5.1(f) and (g) must satisfy all the following conditions:

- (a) be registered or recorded in an EU Member State or third country;
- (b) sail under the flag of an EU Member State or of a third country;
- (c) be owned to an extent of at least 50 per cent by nationals of EU Member States or of the third country, or by a company with its head office in one of these States, of which the

manager or managers, Chairman of the Board of Directors or the Supervisory Board, and the majority of the members of such boards are nationals of EU Member States or of the third country and of which, in addition, in the case of partnerships or limited companies, at least half the capital belongs to those States or to public bodies or nationals of the said States;

- (d) the master and officers must be nationals of EU Member States or of the third country;
- (e) at least 75 per cent of the crew must be nationals of EU Member States or of the third country.

1.6 Sufficiently worked or processed products

Many goods produced in the modern economy contain raw materials or components which are imported from third countries not party to a trade agreement with the EU. Such materials and components can also be purchased within the territories of agreement countries.

The various trade agreements provide rules of origin that enable such materials and components when incorporated into finished products to become originating products. The rules are based on the principle that materials imported into an agreement country are regarded as originating there provided sufficient working or processing has taken place.

The main methods by which sufficient working or processing are determined:

- (a) A value added method. It is necessary in this case for the value added as a result of the working or processing to constitute a certain percentage of the value of the finished product. Or alternatively where the value of the imported materials does not exceed a particular percentage of the factory (ex-works) price of the finished product.
- (b) The manufacturing process method. Finished products are considered to be sufficiently worked or processed when particular specific working or processing activities are carried out.
- (c) The change of tariff heading method. Finished products are considered to be sufficiently worked or processed when the imported raw materials are classified within a tariff heading that is different from that of the finished product.
- (d) Combination of two or more of the methods outlined at (a), (b) and (c).

The nature of the working or processing that must be carried out on non-originating materials to enable the finished products to obtain originating status is contained in an annex to the Protocol on Origin of a preferential trade agreement.

Only the first four digits corresponding to the main customs tariff headings are used to determine origin. The rule of origin for each product is set out in tabular form. Split into titles, sections and chapters, it covers all goods. The classification in each chapter usually starts from raw materials or the least processed product and ends in manufactured products.

The first two columns of the annex give the heading, number or chapter number together with a description of the goods. The rule of origin is then specified in the remaining columns. For some products there are two alternative rules and a manufacturer may opt to apply either rule:

Extract from EU-Israel Agreement (Rule applies throughout pan-Euro-Med Cumulation Zone)

List of working or processing required to be carried out on **non-originating** materials in order that the product manufactured can obtain originating status.

HS Heading No.	Description of product	Working or processing carried out on non-originating materials that confers origination status	
(1)	(2)	(3) or	(4)
8521	Video recording or reproducing apparatus, whether or not incorporating a video tuner	Manufacture: <ul style="list-style-type: none"> – in which the value of all the materials used does not exceed 40% of the ex-works price of the products. – where the value of all the non-originating materials used does not exceed the value of the originating materials used. 	Manufacture in which the value of all the materials used does not exceed 30% of the ex-works price of the product.
8523	Prepared unrecorded media for sound recording or similar recording of other phenomena, other than products of Chapter 37.	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product.	
Note: The trader has a choice of rules for video recorders (8521) however, for products classified as 8523 the rule in column 3 must be satisfied.			

1.7 Insufficient working or processing operations

There are certain operations which are considered as insufficient working or processing to confer the status of originating product.

These operations are as follows:

- (a) processing operations to ensure that the products remain in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solution, removal of damaged parts, and like operations);
- (b) breaking-up and assembly of packages;
- (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- (d) ironing or pressing of textiles;
- (e) simple painting and polishing operations;
- (f) husking, partial or total bleaching, polishing and glazing of cereals and rice;
- (g) operations to colour sugar or form sugar lumps;
- (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
- (i) sharpening, simple grinding or simple cutting;
- (j) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (m) simple mixing of products, whether or not of different kinds;
- (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (o) a combination of two or more operations specified in (a) to (n);
- (p) slaughter of animals.

Note: All the operations carried out in either the EU or third country on a given product should be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient.

1.8 Tolerance

In some instances rules of origin specify that certain non-originating materials cannot be used in the manufacture of finished products. The various trade agreements, however, do make provision for the inclusion of small quantities of imported materials that have not been worked or processed to the required extent during manufacture or where use of such materials are excluded. It is possible to use such non-originating materials provided their value does not exceed 10% of the ex-works price.

The following additional conditions must be satisfied:

- 1) The rule does not apply to products of Chapters 50-63 of the Harmonised System (textiles).
- 2) The working or processing must be beyond minimal.
- 3) Where a rule of origin indicates that certain non-originating materials cannot exceed a stated percentage the tolerance cannot be used to exceed that limit.

Extract from EU-Israel Agreement (Rule applies throughout pan-Euro-Med Cumulation Zone)

List of working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status.

HS Heading No.	Description of product	Working or processing carried out on non-originating materials that confers origination status	
		(3) or	(4)
ex 2104	Soups and broths and preparations therefor	Manufacture from materials of any heading except prepared or preserved vegetables of heading Nos. 2002 to 2005	
<p>In this example because of the tolerance provisions contained in the Agreement it is in fact possible to use Heading's 2002 to 2005 up to a value of 10% of the ex-works price. The tolerance provision makes this possible even though the rule specifically excludes the use of the materials.</p>			

1.9 Unit of qualification

The unit of qualification for the application of the rules of origin is the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonised System.

Accordingly the following applies:

- (a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification;
- (b) when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying origin rules.

Where, under General Rule 5 of the Harmonised System, packaging is included with the product for classification purposes, it is also included for the purposes of determining origin.

1.10 Accessories, spare parts and tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, are regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

1.11 Sets

Sets, as defined in General Rule 3 of the Harmonised System are regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole is regarded as originating, provided that the value of the non-originating products does not exceed 15 per cent of the ex-works price of the set.

1.12 Neutral elements

In order to determine whether a product originates, it is not necessary to determine the origin of the following which might be used in its manufacture:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machine and tools;
- (d) goods which do not enter and which are not intended to enter into the final composition of the product .

1.13 Direct Transport/Non-Manipulation Rule

Preferential trade agreements provide that preferential treatment applies only to originating products which are transported directly between the Community and the relevant third country.

Products constituting one single consignment may be transported through other territories with, should the occasion arise, trans-shipment or temporary warehousing, provided that they remain under surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition. These provisions do not apply to products originating in any of the countries of the regional group when they pass through the territory of any of the other countries of the regional group whether or not further working or processing takes place there.

Evidence that the direct transport conditions are complied with can be given by any of the following:

- (a) a single transport document covering the passage from the exporting country through the country of transit; or
- (b) a certificate issued by the customs authorities of the country of transit;
 - (i) giving an exact description of the products;
 - (ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used; and
 - (iii) certifying the conditions under which the products remained in the transit country; or
- (c) failing these, any substantiating documents.

The GSP arrangement uses a less onerous “non-manipulation” rule. Goods will automatically be deemed to have met the non-manipulation requirement unless customs has reasonable doubts about compliance with the requirement. In such cases importers will be required to produce evidence of compliance. This may be given by any documentation which shows that the imported goods left the GSP country in which they are considered to originate and that they are the same goods as left that country.

Customs will only ask for evidence of compliance with the non-manipulation requirement where they have doubts as to whether the goods are the same as those which left the GSP beneficiary country concerned, or doubts as to whether the goods left that country in the first place.

The evidence which will be required must demonstrate that the goods imported are the same as those which left the GSP beneficiary country. It can for example, take the form of:

- a purchase order/contract with the supplier in the GSP beneficiary country together with
- a transport/shipping document/contract – bill of lading – showing that the goods were loaded in and transported from the GSP beneficiary country concerned. If the goods were transported from the beneficiary or for example, a feeder vessel and then consolidated with other consignments in a seaport en route to the EU then, there should be a transport document (bill of lading) for each leg of the journey. A document that similarly covers the leg from the consolidating port to the EU will not suffice as it will not show that the goods left the GSP beneficiary country for which preference is being claimed.
- a purchase order/contract with the supplier in the GSP beneficiary country together with
- a transport/shipping document/contract - bill of lading - showing that the goods were loaded in and transported from the GSP beneficiary country concerned. If the goods were transported from the beneficiary on for example, a feeder vessel and then consolidated with other consignments in a seaport en route to the EU there should be a transport document (bill of lading) for each leg of the journey. A document which simply covers the leg from the consolidating port to the EU will not suffice as it will not show that the goods left the GSP beneficiary country for which preference is being or has been claimed.

1.14 Principle of territoriality

This principle is enshrined in all the Preferential Trade Agreements. Effectively what the principle implies is that goods must acquire originating status without interruption in the Community or the relevant agreement third country. If goods exported to an agreement third country or indeed any

country and are returned they are considered as non-originating unless it can be demonstrated to the satisfaction of the customs authorities that:

- (a) the goods returned are the same goods as those exported, and
- (b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

1.15 Drawback or Exemption

Most preferential agreements provide for the prohibition of drawback of or exemption from customs duties. This is commonly referred to as the no drawback rule. Where an Irish company imports non-originating materials into inward processing and manufactures a compensating product for export to Norway, for example, a EUR1 certificate cannot be issued until all relevant import duties on the raw materials are paid. Thus, it is not possible to benefit from an exemption or drawback from such duties where a trader wishes to claim preferential treatment. The prohibition applies to any arrangement for refund, remission or non-payment, partial or complete, of customs duties or charges having an equivalent effect.

An exporter must be prepared to submit, upon request from Customs all documents proving that no-drawback has been obtained in respect of any non-originating materials used in manufacture of the product concerned and also that all customs duties applicable have actually been paid.

1.16 Cumulation

Cumulation is a concept used in preferential trade agreements which essentially widens the definition of originating products. There are basically three types of cumulation, bi-lateral, diagonal and full cumulation.

1.17 Bi-lateral cumulation

This type of cumulation as the name implies is between two countries. For instance, the EU-Chile agreement contains a bi-lateral cumulation provision. This enables originating materials imported from Chile to be regarded as originating when incorporated into a finished product in the EU. Bi-lateral cumulation makes this possible even though the materials do not originate in the EU. The provisions are designed to encourage greater trade in originating products between the partner countries. Cumulation in this instance makes it easier for traders to satisfy origin rules as it widens the definition of originating products. It is not necessary for the Chilean materials to undergo the normal working or processing when incorporated into a product in the EU.

1.18 Diagonal or Pan Euro-Med Cumulation

The Pan Euro-Med zone comprises the following countries.

Algeria	Jordan	
	Lebanon	Switzerland
Egypt	Liechtenstein	Syria
Faroe Islands	Morocco	Tunisia
Iceland	Norway	Turkey
Israel	Palestinian Authority of the West Bank and Gaza Strip	

EU agreements with these countries are linked by cumulation provisions, enabling products originating in these countries and imported into the EU to be simultaneously considered as originating in the EU when incorporated into EU products. The cumulation in this instance is known as diagonal cumulation as it involves a number of countries.

Products of Chapters 25 to 97 originating in Andorra and all products originating in San Marino and are considered to be originating in the EU.

For example, a trader wishes to export goods to Switzerland and imports raw materials originating in Iceland, Egypt and Norway. These materials are considered as originating when used in manufacturing a product as a result of diagonal cumulation. If this provision did not exist such materials would be non-originating and would make it more difficult to satisfy origin rules.

(It should be noted that as long as protocols are not in place between some countries other rules apply and therefore one should always check the list of arrangements at

http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_783_en.htm

In general the origin of the final product will be determined through the “last working or processing” carried out provided that the operations carried out are going beyond those referred to in section no. 1.7.

If, in the manufacture of a product, the originating materials are not subject to working or processing going beyond minimal operations in the country of manufacture, the country of origin should be the one where the highest value is added. To determine which country has added the highest value, the value added in the country of manufacture has to be compared with the values of the materials used originating in the other countries.

If no working or processing is carried out, the materials or products simply retain their origin if they are exported to one of the countries concerned.

PRACTICAL EXAMPLES DEMONSTRATING THE APPLICATION OF PAN EURO-MED CUMULATION

A. Example for allocation of origin through the last working or processing carried out.

Fabrics (HS 5112; obtained from lambs’ wool not combed or carded) originating in the Community are imported into Morocco; lining, made of man-made staple fibre (HS 5513) is originating in Tunisia.

In Morocco, suits (HS 6203) are made up.

The last working or processing is carried out in Morocco; the working or processing (in this case, making-up the suits) goes beyond operations referred to in Article 7 therefore, the suits obtain Moroccan origin.

B. Example for allocation of origin if the last working or processing does not go beyond minimal operations; recourse has to be taken to the highest value of the materials used in the manufacture.

The different parts of a suit, originating in two countries, are packed in Iceland. The trousers originating in Switzerland have a value of €180; the jacket, originating in the Community, has a value of €100. The minimal operation, carried out in Iceland (“packing”) costs €2. The ex-works price of the final product is €330.

To decide the origin, the value added in Iceland has to be compared with the customs values of the other materials used:

Value added in Iceland (which includes €2 for the operation = €330 (ex-works price) - (minus) €280 (180 + 100) = €50 = Iceland “added value”.

The Swiss value (180) is greater than the value added in Iceland and the values of all other materials used. Therefore, the final product will have Swiss origin.

C. Example for products that are exported without undergoing further working or processing.

A carpet, originating in the Community, is exported to Switzerland and is, without undergoing further operations, imported into Israel after 2 years. The carpet does not change origin and has still Community origin upon importation into Israel.

1.19 Full Cumulation

This applies within the European Economic Area and on the basis of some of the protocols with Tunisia, Morocco and Algeria. If in the manufacture of a product non-originating materials are processed in Norway without obtaining Norwegian origin the same materials can be further processed in the Community and obtain Community origin there. Effectively all the different steps of manufacture carried out on non-originating materials are counted together hence the principle of full cumulation.

1.20 Exhibitions

Preferential agreements make special provisions for originating products which are sent for exhibition in a country (other than in the Pan Euro-Med cumulation zone) and then sold after the exhibition for importation into the Community. Such products can benefit from preferential treatment provided that it is shown to the satisfaction of the customs authorities that:

- (a) the goods were consigned by an exporter from the Community or third country to the country of exhibition and were exhibited there. ;
- (b) the products were sold by the exporter to a person in the Community
- (c) products are consigned immediately after exhibition in the same state as they were sent for exhibition;
- (d) products have not, since they were consigned for exhibition been used for any other purpose other than demonstration at the exhibition.

A proof of origin must be submitted to the customs authorities of the importing country. The name and address of the exhibition must be indicated. Where necessary, additional documentary evidence of the conditions under which they were exhibited may be required. Preferential treatment will apply to any trade, industrial, agricultural or crafts exhibition provided it is not organised for private purposes and during which the products remain under customs control.

1.21 Supplier's Declarations

Suppliers of goods which are intended to be exported from the Community, either in the same state or after further working or processing, can furnish a declaration (without prior approval) concerning the status of the goods supplied in relation to the Communities' preferential origin rules.

These declarations can then be used by exporters as evidence in support of applications made for the issue of Movement Certificates EUR.1, EUR-MEDs, invoice declarations or EUR-MED invoice declarations.

Types of Declarations

Declarations can be issued for single consignments or, where the origin status is expected to remain constant for considerable periods of time, a long-term declaration valid usually for one year can be issued. The declaration can appear on the invoice or an annex to the invoice or on a delivery note or other commercial document relating to that shipment.

Format of Declaration

The wording for the standard declaration and the long-term declaration is set out in Appendix 2 - Annex II.

The declarations must be signed in manuscript by a responsible official of the company. However, where the invoice and the suppliers' declaration are established using electronic data-processing methods, the suppliers' declaration need not be signed in manuscript provided the responsible official in the supplying company is identified to the satisfaction of the customs authorities.

Information Certificate INF4

An INF4 is a document issued by a customs authority within the EU which confirms the authenticity of a supplier's declaration. The INF4 consists of an application form and a certificate. Application can be made by either a buyer or a customs office within the Community. The application form must be kept by the issuing office for at least two years.

INF4 certificates can be obtained on request from Origin and Valuation Unit. The verification procedures used here are similar to those for origin certificates (refer to section 3).

1.22 Definitions

- **Manufacture** means any kind of working or processing including assembly or specific operations.
- **Material** means any ingredient, raw material, component or part, etc., used in the manufacture of the product.
- **Product** means the product being manufactured, even if it is intended for later use in another manufacturing operation.
- **Goods** mean both materials and products.
- **Ex-Works Price** means the price paid for the product ex works to the manufacturer in the Community or third country in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported.
- **Value of materials** means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials.
- **Added value** means the ex-works price minus the customs value of each of the products incorporated which did not originate in the country in which those products were obtained.

- **Consignment** means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice.
- **Territories** include territorial waters.

2. PROOF OF ORIGIN

2.1 Introduction

Products originating in a third country with which the EU has a preference agreement can on importation into the EU benefit from a preferential rate of duty upon submission of either:-

- (a) a movement certificate EUR.1 or A.TR for Turkey or
- (b) an invoice declaration, (the declaration can appear on an invoice, a delivery note or commercial document)

Likewise products originating in the Community can on exportation to a third country benefit from a preferential rate of duty on submission of either of these documents.

(The EUR-MED Certificate or invoice declaration EUR-MED is to be used where Pan Euro-Med cumulation is invoked – see paragraph 1.18).

2.2 Procedure for issue of EUR.1 Certificate or A.TR (Turkey)

An exporter must make an application in writing to the officer at the point of export indicating that s/he wishes to have a Movement Certificate EUR.1/A.TR issued by the Irish customs.

The EUR.1/A.TR is composed of a movement certificate (pages 1 and 2) and an application form (pages 3 & 4). In addition to the exporter the application form can be completed by his/her authorised representative.

If the application is hand-written, it must be completed in ink in printed characters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through. On the reverse of the EUR.1/A.TR the exporter must specify the reasons why s/he considers that the goods in question meet the conditions required for the application of preferential arrangements.

All appropriate documents proving the originating status of the products concerned can be requested at any time by the certifying officer. The certificate is issued when the certifying officer is satisfied that the products originate in the Community or the relevant third country, and having examined both sides of the EUR.1/A.TR the certifying officer will then endorse box 11 with the approved specimen stamp. Sample of stamps at Appendix 2 - Annex III.

A Movement Certificate EUR.1/A.TR suitably endorsed should be made available to the exporter as soon as actual exportation has been effected or ensured.

2.3 Retrospective issue of Movement Certificate EUR.1/A.TR

A Movement Certificate may exceptionally be issued after exportation of the products to which it relates if:

- (a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
- (b) it is demonstrated to the satisfaction of the customs authorities that a movement certificate EUR.1/A.TR was issued but was not accepted for technical reasons.

The exporter must indicate in the application the place and date of exportation of the products to which the Movement Certificate EUR.1/A.TR relates. The certificate can only be issued retrospectively after verifying that the information supplied is correct.

The Movement Certificate EUR.1 issued retrospectively must be endorsed “issued retrospectively” in Box 7. The A.TR form issued retrospectively must be endorsed “issued retrospectively” in Box 8.

2.4 Issue of a Duplicate Movement Certificate EUR.1/A.TR

In the event of theft, loss or destruction of a Movement Certificate EUR.1 or A.TR form the exporter may apply to the customs authorities which issued it for a duplicate made out on the basis of the export documents in his/her possession. Any duplicate issued in this way must be endorsed with the word “Duplicate” in Box 7 for a EUR.1 and in Box 8 for an A.TR form. The certificate must bear the date of issue and the number of the original certificate and will take effect from that date.

2.5 Issue of Movement Certificate based on proof issued previously

When originating products are placed under the control of a customs office in the EU, it is possible to replace the original proof of origin by one or more certificates EUR.1 for the purpose of sending all or some of the products elsewhere in the EU.

The replacement certificate is issued by the customs office under whose control the products are placed.

2.6 Conditions for making out an Invoice Declaration or Invoice Declaration EUR-MED.

Most preferential agreements provide for the use of a simplified procedure for the issue of origin certification in the form of an invoice declaration or invoice declaration EUR-MED.

An invoice declaration or invoice declaration EUR-MED may be made out:

- (a) by an approved exporter,
- or
- (b) by an exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed €6,000. (No prior approval is required in this instance).

The exporter making out the declaration must be in possession of all appropriate documents proving the originating status of the products concerned and must be prepared to submit these at any time at the request of the customs authorities.

An invoice declaration EUR-MED can be made out if the products concerned may be considered as products originating in the Community or, in any of the countries participating in the Euro-Med zone with which cumulation is applicable. It must state if origin has been obtained by application of cumulation and if so state the country, or, if origin has been obtained without cumulation.

An invoice declaration or invoice declaration EUR-MED is made out by the exporter by typing, stamping or printing on the invoice the delivery note or other commercial document the declaration at Appendix 2 - Annex IV or Annex V.

Invoice declarations or invoice declarations EUR-MED must bear the original signature of the exporter in manuscript. However, approved exporters should not be required to sign such declarations provided they give a written undertaking accepting full responsibility for any invoice declaration or invoice declaration EUR-MED which identified the exporter as if the form had been signed in manuscript by him/her.

Any invoice declaration may be made out by the exporter when the products to which it relates are exported or after exportation on condition that it is presented in the importing country no longer than two years after the importation of the products to which it relates.

2.7 Approved Exporters - Application procedure

Any exporter who makes frequent shipments can be authorised to make out invoice declarations irrespective of the value of the products concerned.

An application form for the procedure can be obtained on the Revenue Website under Tax & Duty > Duties > Customs & Excise > Origin (Preferential Trade) Information and Tariff Quotas > Simplified Procedure for the issue of Origin Documentation, or on request from the Origin and Valuation Unit in Nenagh. Completed applications should also be returned to that Unit.

The exporter must indicate in the application the tariff code and description of the products that will be subject of the declaration.

The completed application is referred to the local regional office who will verify that the conditions for approval are satisfied. The application is then returned to the Origin and Valuation Unit. Where the exporter has satisfied the relevant conditions, the Origin and Valuation Unit will allocate a customs authorisation number to the exporter which will then be used on all future declarations issued. The authorisation number takes the following format: IE1/04, IE2/04, IE3/04 etc.

The local regional office should monitor the use of the authorisation by the approved exporter.

Origin and Valuation Unit, following consultation with the local Control Officer, may withdraw the authorisation at any time where:

- (a) the approved exporter no longer offers the guarantees necessary to verify the originating status,
- (b) the conditions laid down by customs are not fulfilled,
- (c) incorrect use of the authorisation is made.

Low Value Consignments

Approval to use this procedure is not required if the value of a consignment does not exceed €6,000. However in the case of Bosnia Herzegovina and the Territories of the West Bank and the Gaza Strip this value is reduced to €3,000. In the case of low value consignments all endorsements must be signed.

The approved wording for Invoice Declarations and EUR-Med invoice declarations are set out in Appendix 2 - Annex's IV and V.

2.8 Validity of Proof of Origin

A proof of origin is valid for four months from the date of issue in the exporting country and must be submitted within the said period to the customs authorities of the importing country. Where the proof is submitted outside this period it may be accepted for the purpose of applying preferential treatment where the failure is due to exceptional circumstances.

In other cases of belated presentation, the proof of origin may be accepted where the products have been submitted before the said final date.

2.9 Submission of Proof of Origin

Proofs of origin should be submitted to the customs authorities of the importing country in accordance with the procedures applicable in that country. The said authorities can request a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the Agreement.

2.10 Importation by instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing country, dismantled or non-assembled products within the meaning of General Rule 2 (a) of the Harmonised System falling within Sections XVI and XVII or heading Nos. 7308 and 9406 of the Harmonised System are imported by instalments, a single proof of origin regarding such products should be submitted to Customs upon importation of the first instalment.

2.11 Exemptions from Proof of Origin

Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage should be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade, have been declared as meeting the relevant origin requirements and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post, this declaration can be made on the customs declaration CN22/23 or on a sheet of paper annexed to that document.

Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families should not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

The total value of these products should not exceed €500 in the case of small packages or €1,200 in the case of products forming part of travellers' personal luggage.

2.12 Supporting Document Acceptable for Proving Originating Status

For the purpose of proving that products covered by a Movement Certificate EUR.1, an invoice declaration, a EUR-MED or an invoice declaration EUR-MED can be considered as originating products in the EU, the following documents may be accepted:

- (a) Direct evidence of the process carried out by the exporter or supplier to obtain the goods concerned contained in accounts or internal bookkeeping.
- (b) Documents proving the originating status of materials used, issued or made out in the EU or preference agreement country.
- (c) Documents proving the working or processing of materials in the EU or preference agreement country.
- (d) Movement Certificates EUR.1 or invoice declarations or EUR-MEDs or EUR-MED invoice declarations proving the originating status of materials used, issued or made out in the EU or preference agreement country.

2.13 Preservation of Proof of Origin and Supporting Documents

An exporter applying for the issue of a Movement Certificate EUR.1 must keep all supporting documents proving the originating status of the products concerned for a period of at least three years.

The customs officer in the export station issuing a Movement Certificate EUR.1/A.TR should keep the application submitted for at least three years. These must be stored at a suitable location in order to ensure easy access for verification and other purposes. The customs authorities of the importing country should keep, at the import station, for at least three years the Movement Certificates EUR.1/A.TR submitted to them.

Likewise an exporter making out an invoice declaration or EUR-MED or a EUR-MED invoice declaration must keep for at least three years copies of all such declarations as well as supporting documents.

In the case of invoice declarations being issued for the export of goods to South Korea, the supporting documentation must be kept for five years (as opposed to the three years for other countries).”

2.14 Discrepancies and Formal Errors

Where slight discrepancies are discovered between the statements made in the proof of origin and other documents submitted at time of importation, this of itself will not render the proof of origin null and void where the customs authorities establish that this document corresponds to the products submitted.

Obvious formal errors such as typing errors on a proof of origin should not lead to its rejection if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

2.15 Amounts expressed in €

The amounts expressed in € and their equivalents in the national currencies of the member states and third countries are communicated through the European Commission.

3. VERIFICATION PROCEDURES

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

3.1 Methods used to select exports for verification

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

3.2 Procedure used to verify exports

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

3.3 Companies that do not reply to verification requests

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

3.4 Goods that do not qualify for preference

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

3.5 Methods used to select imports for verification

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

3.6 Procedure used to verify imports

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

3.7 Refusal of preferential treatment without verification

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

4. TRADE WITH TURKEY

4.1 Customs Union between the EU and Turkey

A formal Customs Union has been established between the EU and Turkey. The Union is primarily concerned with industrial goods which qualify for preference if they are in free circulation in either

the Community or Turkey. Effectively goods can move freely between the two territories provided they are in free circulation. This is the nature of a Customs Union. It is not necessary for products to originate, as in the case of preferential agreements, for them to qualify for preference. The following goods are considered to be in free circulation:

- imports from outside the Community or Turkey on which:
 - all import formalities have been completed, and
 - any customs duties or equivalent charges have been paid and not repaid in whole or in part;
- goods manufactured in the Community and/or Turkey wholly or partly from materials or parts originating outside the Community or Turkey, provided that:
 - all import formalities for the materials or parts have been completed, and
 - any customs duties or equivalent charges have been paid and not repaid in whole or in part.

4.2 Goods not eligible for Preferential Treatment under Customs Union

(a) End-use control

Goods released under the end-use system cannot qualify for preference if they are exported to Turkey without having first been used as required by that system.

(b) Export of inward processing relief (IPR) goods

IPR goods exported to Turkey are not eligible for preference, as they are not in free circulation in the Community. Forms A.TR are therefore not to be completed and used with these goods.

(c) Turkish agricultural and marine products

Certain Turkish agricultural and marine products only qualify for preference if they originate in Turkey.

4.3 Evidence required for Preference (A.TR form)

The documentary evidence required to prove the necessary conditions for granting preference are fulfilled is the Movement Certificate A.TR form.

The A.TR form should be endorsed when the goods to which it relates are exported. It should be made available to the exporter as soon as exportation has been effected or ensured.

4.4 Goods not covered by an A.TR form.

Most agricultural products and all coal and steel products are excluded from the 'free circulation' element of the Customs Union agreement with Turkey and therefore an A.TR form cannot be used. An EUR.1 form or invoice declaration (or EUR-MED/invoice declaration EUR-MED) can be used for these products as they are covered under the traditional preferential arrangements whereby they qualify for preference only if they originate in the Community or Turkey in accordance with the preferential rules of origin. (See sections 4.14 and 4.15)

4.5 Procedure for issue of A.TR forms.

The procedure for the issue of A.TR forms is set out in section 2.2.

4.6 Retrospective issue of Movement Certificate A.TR

The procedure for the retrospective issue of A.TR forms is set out in section 2.3.

4.7 Division of certificates

The competent authorities of the Member States of the Community or Turkey can permit a consignment of goods and the A.TR certificate to be divided.

The office at which the division takes place will issue an extract of the A.TR certificate for each part of the divided consignment, using for this purpose an A.TR certificate.

4.8 Duration of validity of the certificate where the goods are stored in a free zone, free warehouse or customs warehouse

Where goods covered by a movement certificate A.TR remain in a free zone, free warehouse or customs warehouse, the validity period of the certificate is suspended during their stay.

To this end, the local control officer must certify the date of entry and exit of goods into and out of the free zone, free warehouse or customs warehouse on the certificate.

4.9 Provisions concerning the goods brought by travellers

Provided that they are not intended for commercial use, goods brought by travellers from one part of the customs union to the other part of the customs union can benefit from free movement without being the subject of an A.TR certificate when they are declared as goods fulfilling the conditions for free circulation and there is no doubt as to the accuracy of the declaration.

4.10 Postal consignments

Postal consignments (including postal packages) can benefit from free movement without being the subject of an A.TR certificate provided there is an indication on the packing or on the accompanying documents that the goods contained therein comply with the necessary conditions set out in Decision 1/98 (See Section 4.14).

4.11 Simplified procedure for the issue of certificates

Origin and Valuation Unit can authorise any person, hereinafter referred to as “approved exporter” who satisfies the relevant conditions to issue movement certificates A.TR, otherwise known as Pre-Authenticated A.TRs, without having to present them for endorsement to the relevant export station at the time of exportation.

The authorisation will be granted only to persons:

- (a) who frequently consign goods;
- (b) whose records enable the custom authorities to check their operations;
- (c) who have not made serious or repeated offences against customs or tax legislation;
- (d) who offer to the satisfaction of the customs authorities all guarantees necessary to verify the status of the goods.

An authorisation may be revoked where the approved exporter no longer fulfils these conditions. If the Control Officer discovers that the conditions of the authorisation are no longer met, a report detailing the case should be sent to Origin and Valuation Unit recommending withdrawal of the authorisation. Origin and Valuation Unit on examination of the case and officers report will write to the company and withdraw their authorisation.

An application form for the procedure can be obtained from the Revenue website under Tax & Duty > Duties > Customs & Excise > Origin (Preferential Trade) Information and Tariff Quotas >

Simplified Procedure for the issue of Origin Documentation, or on request from Origin and Valuation Unit. Completed applications should also be returned to that Unit.

The exporter must indicate in the application the tariff code and description of the products that will be subject of the declaration.

The completed application is referred to the local regional office/LCD who will verify that the conditions for approval are satisfied. The application is then returned to Origin and Valuation Unit. Where the exporter has satisfied the relevant conditions the Origin and Valuation Unit will issue an authorisation.

The authorisation should specify in particular:

- (a) the office responsible for pre-endorsement of the certificates;
- (b) the manner in which the approved exporter must prove that those certificates have been used.

The authorisation should also stipulate that the box reserved for endorsement by Customs must:

- (a) be stamped in advance with the stamp of the office responsible for the pre-endorsement and be signed by an official of that office; or
- (b) be stamped by the approved exporter with a special metal stamp approved by Customs. This imprint may be pre-printed on the certificates if the printing is entrusted to a printer approved for that purpose.

Not later than on exportation of the goods, the approved exporter should complete and sign the certificate and enter in Box 8 one of the following phrases:

“Procedimiento simplificado”

“Forenklet fremgangsmåde”

“Vereinfachtes Verfahren”

“απλοποιημένη διαδικασία”

“Simplified procedure”

“Procédure simplifiée”

“Procedura semplificata”

“Vereenvoudigde regeling”

“Procedimento simplificado”

“Yksinkertaistettu menettely”

“Förenklat förfarande”

“Basitleştirilmiş prosedür”.

The completed certificate, bearing the phrase specified and signed by the approved exporter, is equivalent to a document certifying that the conditions have been fulfilled.

(The ‘invoice declaration’ simplified procedure is not available for A.TR products).

4.12 Validity Period of A.TR

Movement certificate A.TR must be submitted, within four months of the date of endorsement by the customs authorities of the exporting country, to the customs authorities of the importing country where the goods are entered.

A.TR movement certificates presented to the customs authorities of the importing country after the time-limit specified above may be accepted where the failure to observe the time-limit is due to exceptional circumstances.

In other cases of belated presentation, the customs authorities of the importing country may accept A.TR movement certificates where the products have been submitted before the said time-limit.

4.13 Discrepancies and Formal Errors

The discovery of slight discrepancies between the statements made in the A.TR movement certificates and those made in the document submitted to Customs for the purpose of carrying out the import formalities for the goods should not *ipso facto* render the certificates null and void if it is duly established that the certificates correspond to the goods presented.

Obvious formal errors such as typing errors on A.TR movement certificates should not cause these certificates to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in these certificates.

4.14 Agricultural Products

Decision No. 1/98 of the EC-Turkey Association Council of 25 February 1998 consolidated the trade preferences on agricultural products between Turkey and the Community. It also provided for the rules of origin to be used in respect of such trade in a protocol similar to that used for preferential agreements between the Community and Third Countries already outlined in the instructions on preferential origin.

Since 1st January, 1999 Turkey is incorporated into the Pan-Euro-Med Cumulation Zone with respect to Agricultural products covered by Decision No. 1/98.

All the provisions outlined earlier in relation to preferential agreements apply i.e. means by which products originate, the territorial requirements, the prohibition of drawback, proof of origin and verification procedures.

Proof of origin is provided by an EUR.1 or Invoice Declaration or EUR-MED/Invoice Declaration EUR-MED.

4.15 European Coal and Steel Community (ECSC) products

ECSC products are those defined under the ECSC Treaty (Chapters 26, 27, 72 and 73). These products are not covered by the Association Agreement. However, they are covered by an Agreement between the European Coal and Steel Community and Turkey which entered into force on 1/8/96.

The rules applicable are the same as those for the Pan Euro-Med Cumulation Zone. The certificate to be used in preferential trade with these products is the EUR.1 or invoice declaration (or EUR-MED/invoice declaration EUR-MED).

5. ACCOUNTING SEGREGATION

5.1 Introduction

Accounting Segregation is a system of managing stocks of materials used in the manufacture of a product to facilitate the determination of origin of the finished product. If approved, the system allows a company to store originating and non-originating raw materials together provided that they can show through their book-keeping system that there is sufficient originating material in stock at all times to qualify their finished product as originating.

5.2 Guidelines

Since January 01 2001, the Origin protocol of all trade Agreements of the pan-Euro-Med Zone includes guidelines for the management of the Accounting Segregation system as follows:

- i. Authorisation to use accounting segregation for the management of stocks of materials used in the manufacture should be granted to any manufacturer who submits to Customs a written request to this end and who satisfies all the conditions for the grant of an authorisation.
- ii. The applicant must demonstrate a need to use accounting segregation on the grounds of unreasonable costs or impracticability of holding stocks of materials physically separate according to origin.
- iii. The originating and non-originating materials must be of the same kind and commercial quality and possess the same technical and physical characteristics. It must not be possible to distinguish materials one from another for origin purposes once they are incorporated into the finished product.
- iv. The use of the system of accounting segregation should not give rise to more products acquiring originating status than would have been the case had the materials used in the manufacture been physically segregated.
- v. The accounting system must:

maintain a clear distinction between the quantities of originating and non-originating materials acquired, showing the dates on which those materials were placed in stock and, where necessary, the values of those materials,

show the quantity of:

- (a) originating and non-originating materials used and, where necessary, the total value of those materials,
 - (b) finished products manufactured
 - (c) finished products supplied to all customers, identifying separately:
 - supplies to customers requiring evidence of preferential origin (including sales to customers requiring evidence other than in the form of a proof of origin) and
 - supplies to customers not requiring such evidence
 - (d) be capable of demonstrating either at the time of manufacture or at the time of issue of any proof of origin(or other evidence of originating status), that stocks of originating materials were deemed available, according to the accounts, in sufficient quantity to support the declaration of originating status.
- vi. The stock balance to which reference is made in paragraph 5 final indent should reflect both originating and non-originating materials entered in the accounts. The stock balance shall be debited for all finished products whether or not those products are supplied with a declaration of preferential originating status.
- vii. Where products are supplied without a declaration of preferential origin, the stock balance of non-originating materials only may be debited for as long as a balance of such materials is available to support such action. Where this is not the case the stock balance of originating materials shall be debited.
- vii.i The time at which the determination of origin is made (i.e. time of manufacture, or date of issue of proof of origin, or, other declaration of origin) shall be agreed between the manufacturer and Customs and be recorded in the authorisation granted by Customs.
- ix. At the time of the application to commence using a system of accounting segregation, Customs should examine the manufacturer's records to determine opening balance of originating and non-originating materials that may be deemed to be held in stock.
- x. The manufacturer must:
accept full responsibility for the way the authorisation is used and for the consequences of incorrect origin statements or other misuses of the authorisation;
make available to Customs when requested to do so, all documents, records and accounts for any relevant period.
- xi. Customs should refuse authorisation to a manufacturer who does not offer all the guarantees that the customs authorities deem necessary for the proper functioning of the accounting segregation system.

- xii. Origin and Valuation Unit, following consultation with the local Control Officer, may withdraw an authorisation at any time. This action must be taken if the manufacturer no longer satisfies the conditions or no longer offers specified guarantees. In this case, the proofs of origin or other documents justifying origin which have been incorrectly issued should be invalidated. A detailed report of the Control Officer's findings should be submitted to Origin and Valuation Unit before a final decision is made to withdraw an authorisation.

6. GENERALISED SYSTEM OF PREFERENCES (G.S.P.)

6.1 Introduction

The EU operates generalised tariff preferences for certain specified agricultural, industrial and textile goods which originate in one or more of approximately 170 developing countries. Various products are eligible, on importation into the Community, to benefit from the tariff preferences provided that they:

- are eligible for preference under the GSP scheme
- qualify as originating products under the conditions set down in the GSP regulations
- are accompanied by a valid Certificate of Origin Form A and relevant transport documents
- are transported directly from the beneficiary country to the EU (commonly referred to as the Direct Transport Rule).

In addition, the granting of preference is conditional on the authorities of the beneficiary countries having sent the names and addresses of their governmental authorities, who may issue certificates of origin (Form A), and specimens of stamps used by these authorities, to the European Commission.

The rules of origin currently used for the Pan Euro-Med Cumulation Zone are also used in determining the originating status of products under the GSP.

The GSP scheme provides for derogations from rules of origin in favour of least developed beneficiary countries when the development of existing industries or the creation of new industries justifies them. The relevant country or countries must submit a request to the Community together with reasons. Where derogations are availed of, Box 4 of the certificate of origin Form A must bear the words "Derogation - Regulation (EC) No.[XX/XXXX]."

Where imports of goods are adjudged to be causing considerable economic damage to the EU, to a member state or to a region, the EU Commission may carry out an examination of the case for the removal of GSP benefit.

6.2 Qualifying goods

For the purposes of the provisions concerning generalised tariff preferences granted by the Community to certain products originating in beneficiary countries, the following shall be considered to originate in the beneficiary country:

- products wholly obtained in that country
- products obtained in the beneficiary country, in the manufacture of which non-originating materials are used, provided that they have undergone sufficient working or processing.

6.3 Direct Transport Rule

Goods must be transported directly from the beneficiary countries to the EU. Compliance shall be considered as satisfied unless the customs authorities have reason to believe the contrary; in such cases, the customs authorities may request the declarant to provide evidence of compliance, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on marking or numbering of packages or any evidence related to the goods themselves

6.4 Countries and products excluded from GSP

The current GSP scheme is becoming more targeted in that preferences are being restricted to imports from developing countries. The GSP scheme focuses preferences on those countries most in need - least developed and poor economies with no other preferential channels to access the EU market.

6.6 Regional Cumulation

In certain circumstances, various beneficiary countries have been grouped together for the purposes of cumulation of origin under GSP. Cumulation is a term used to indicate the basis upon which a product may enjoy originating status, even though the normal origin rules would not confer origin on the basis of the work done in the country of last processing. Products manufactured in a beneficiary country which is a member of a regional group, may be further processed in another beneficiary country of the same group and will be treated as if they originate in the country of further manufacture.

Regional cumulation applies to three separate groups of beneficiary countries which benefit from GSP:

- **Group I** consisting of Brunei-Darussalam, Cambodia, Indonesia, Laos, Malaysia, Philippines, Thailand & Vietnam;
- **Group II** consisting of Bolivia, Columbia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Peru & Venezuela;
- **Group III** consisting of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan & Sri Lanka;
- **Group IV** consisting of Argentina, Brazil, Paraguay and Uruguay.

6.7 Cumulation with the EU

The current GSP arrangements provide for cumulation between the EU and beneficiary countries. Products originating in the Community which are subject in a beneficiary country to working or processing other than minimal (simple assembly), should be considered to have originated in the beneficiary country. Exports of Community originating products to GSP countries must be accompanied by a movement certificate EUR1.

6.8 Certificate of Origin Form A

Products originating in a beneficiary country must be accompanied by a certificate of origin Form A in order to benefit under the GSP scheme. The Form A serves as documentary evidence required. It is issued by the competent governmental authority in the beneficiary country on written request from the exporter or his/her authorised representative provided the product qualifies for preference. The certificate is made available to the exporter as soon as export has taken place or is ensured.

6.9 Completion of Certificate

The completion of Box 2 of the certificate is optional. Box 12 must indicate either “European Community” or one of the Member States.

The date of issue of the certificate must be indicated in Box 11. The signature of the competent authority which is entered in this box must be hand-written.

6.10 Form A issued retrospectively

In exceptional circumstances, a Certificate of Origin Form A may be issued after the actual exportation of the goods to which it relates, if it was not issued at exportation due to special circumstances. In this case, the competent authority must endorse Box 4 of the Form A with the words “Issued Retrospectively”.

6.11 Form A - Duplicate

In the event of theft, loss or destruction of a Form A, the exporter may apply to the competent authority for a duplicate to be issued. In this case, Box 4 of the duplicate Form A must bear the endorsement “Duplicate”, together with the date of issue and the serial number of the original certificate. The duplicate will take effect from the date of the original.

6.12 Validity of Certificate of Origin Form A

The certificate of origin Form A must be submitted within 10 months of the date of issue by the competent governmental authority of the beneficiary country to the customs authorities of the Member State of importation where the products are presented.

6.13 Acceptance of out of date certificates

The customs authorities in the Member States may accept a Form A when this 10 month validity period has expired where the failure to observe the time limit is due to exceptional circumstances. The trader in this instance should be requested to furnish a written explanation which should then be forwarded to Origin and Valuation Unit for consideration.

In other cases of belated presentation the customs authorities of the importing Member State may accept certificates where the products have been presented to them within the 10 month validity period.

6.14 Importation by instalments

At the request of the importer a single proof of origin may be submitted to the customs authorities of the importing Member State when the goods:

- (a) are imported within the framework of frequent and continuous trade flows of a significant commercial value;
- (b) are the subject of the same contract of sale, the parties of this contract established in the exporting country and in the Community;
- (c) are classified in the same code (eight digits) of the Combined Nomenclature;
- (d) come exclusively from the same exporter, are destined for the same importer, and are made the subject of entry formalities at the same customs office in the Community.

The proof is submitted with the first importation. This procedure can be used for periods of up to three months.

There is also provision for a single proof of origin for dismantled or non-assembled products within the meaning of General Rule 2 (a) of the Harmonised System, falling within Sections XVI and XVII or heading nos. 7308 and 9406 of the Harmonised System imported in instalments. The single proof of origin is produced on importation of the first instalment.

The customs authorities can request a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required.

The customs authorities of the beneficiary countries are permitted to issue certificates of origin Form A retrospectively. They are also permitted to issue duplicate certificates. Box 4 will contain either of the following:

Delivre a Posteriori *or* issued retrospectively

Duplicata *or* Duplicate

6.15 Issue of Replacement Certificate within EU

Where originating products are placed under the control of a customs office in the Community, it is possible to replace the original proof of origin by one or more certificates of origin Form A for the purpose of sending all or some of these products elsewhere within the Community or to Norway or Switzerland. The replacement certificate is issued by the customs office under whose control the products are placed on the basis of a written request by the re-exporter.

The following is the procedure for the issue of these certificates:

The top right hand box of the replacement certificate should indicate the name of the intermediary country issuing the replacement

Box 1: Name of re-exporter should be indicated

Box 2: Name of final consignee should be given

Boxes 3-9: All particulars of the re-exported goods appearing on the original certificate must be transferred to these boxes.

Box 4: Must contain the words “replacement certificate” or “certificat de remplacement” together with date of issue of the original certificate of origin and its serial number.

Box 10: References to the re-exporter’s invoice must be given.

Box 11: The customs authority issuing the replacement endorses this box

Box 12: The country of origin and destination should be taken from the original certificate and signed by the re-exporter.

Boxes 1-12 with the exception of Box 11 are completed by the re-exporter.

The Customs Office issuing the replacement certificate should note on the original certificate the weights, numbers and nature of the goods forwarded and indicate thereon the serial numbers of the corresponding certificate or certificates. It should keep the original for three years. A copy of the original can be annexed to the replacement certificate.

6.16 Invoice Declarations and Invoice Declaration EUR-MED

There is provision within the GSP origin rules in the Community Customs Code for the use of invoice declarations as evidence of the originating status of community products when sent to GSP beneficiary countries for the purpose of further manufacturing. The conditions for making out an invoice declaration or invoice declaration EUR-MED are set out in section 2.6.

6.17 Approved Exporters – application procedure

Any exporter who makes frequent shipments can be authorised to make out invoice declarations irrespective of the value of the products concerned. The application procedure is set out in section 2.7.

6.18 Issue of EUR.1 Movement Certificates

In addition to the use of invoice declarations evidence of the originating status of Community products can also be given by means of the production of an EUR.1 movement certificate.

The exporter or his/her authorised representative enters “GSP beneficiary countries” and “EC” in Box 2 of the EUR.1 movement certificate.

The certificate is then processed and authenticated in the normal way by the competent customs authority.

Note: EUR.1’s can only be used within GSP scheme for exports of Community originating goods to beneficiary countries.

Where the competent authorities of the beneficiary country issue certificates of origin Form A for products in the manufacture of which materials originating in the Community, Norway or Switzerland are used, Box 4 should contain the endorsement “EC cumulation”, “Norway cumulation” or “Switzerland cumulation”.

6.19 Treatment of Discrepancies and Formal Errors

Where slight discrepancies are discovered between the statements made in the proof of origin and other documents submitted at time of importation, this of itself will not render the proof of origin

null and void where the customs authorities establish that this document corresponds to the products submitted.

Obvious formal errors such as typing errors on a proof of origin should not lead to its rejection if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

6.20 Exemptions from Proof of Origin

Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage should be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements for claiming preference and where there is no doubt as to the veracity of such a declaration.

Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families should not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

The total value of these products should not exceed €500 in the case of small packages or €1,200 in the case of products forming part of travellers' personal luggage.

6.21 Arrangements for administrative co-operation

Under mutual assistance provisions of the GSP scheme the names and addresses of the government authorities which are empowered to issue certificates of origin Form A together with the specimen stamps used by those authorities are communicated via the Commission to each Member State.

The names and addresses of the relevant governmental authorities responsible for control of the certificates of origin are also communicated.

Specimen stamp impressions are sent by the European Commission to Irish Customs.. These stamp impressions are then referred to each Region/LCD for the attention of import staff. The stamps are valid as and from the date of receipt by the Commission of the specimens. Where a beneficiary country wants to replace previous stamps with new specimens, the Commission will indicate the date of entry into use of those new stamps. This information in turn will be forwarded by Origin and Valuation Unit to all Regions/LCD for notice of staff.

6.22 Verification of Proofs of Origin

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

7. ACP COUNTRIES

7.1 Introduction

Since the expiry of the African, Caribbean, Pacific (ACP) (Cotonou) Agreement on 31.12.2007 the EC has been negotiating reciprocal Economic Partnership Agreements (EPAs) with six regional groups of ACP Countries. When the EPAs are fully agreed and implemented, all remaining quota and tariff limitations on access to the EU market will be removed for the six ACP groups. With the exception of rice and sugar (for which Tariff reductions will be phased in) nil preferential rates of duty will be payable on all ACP products.

The negotiations on the EPAs are not yet complete. In the absence of final agreement, arrangements have been put in place under an interim regulation (Market Access Regulation – MAR), which was adopted by the European Council on 20/12/2007, to allow countries who have initialled a WTO-compatible agreement to benefit from the improved rules of origin.

For goods originating in all other ACP States, which are released to free circulation in the EC the only preferential rate of duty available is under the EC's Generalised System of Preferences (GSP). A certificate of origin Form A must be used to obtain GSP preference.

Importers should use the TARIC database to see up to date information regarding the preferential duty rates on a particular import by inputting the appropriate 10 digit TARIC code and the specific country of origin and clicking the 'Duty Rates' button.

7.2 Definition of Originating Products

The key conditions that must be satisfied for obtaining preferential treatment can be summarised as follows:

- Products must be eligible for preference under the relevant scheme.

- They must qualify as originating products under the conditions set down.
- Products must be accompanied by a valid Movement Certificate EUR.1 or GSP Form A and appropriate transport documents. The TARIC database indicates whether an EUR.1 or GSP Form A will apply.
- They must be transported directly from the beneficiary country to the EU (direct transport rule).

Products can obtain originating status by:

- (a) being wholly obtained in the beneficiary country
- (b) having undergone sufficient working or processing beyond insufficient operations in the beneficiary country.

7.3 Proof of Origin

If the country has signed up to the interim arrangement (Market Access Regulation) proof of origin will be by means of an EUR.1 (or an Invoice Declaration). If it has not signed up then a GSP Form A (or Invoice Declaration) must be used.

7.4 Validity Period

A Movement Certificate EUR.1 or a GSP Form A must be submitted within 10 months of the date of issue to the customs authorities of the importing state where the products are entered.

If submitted outside the 10 month validity period the EUR 1 or Form A may nevertheless be accepted where failure to submit is due to force majeure or exceptional circumstances. In such instances the importer should be requested to provide a written explanation of the relevant circumstances to the Customs Office where the entry was presented. A decision on the matter should then be communicated by that office to the importer. In other cases of belated presentation, the customs authorities of the importing state may accept the certificates where the products have been submitted to them prior to the 10 month validity period expiring.

7.5 Transit procedure and EUR.1's

The interim agreement (Market Access Regulation) provides that when products enter an ACP state or OCT other than country of origin, a further period of validity of 4 months will commence on the date on which the customs authorities in the country of transit enter the following in Box 7 of the certificate EUR.1

- The word “transit”
- The name of the country of transit
- The official stamp
- The date of endorsements.

7.6 Importation by instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonized System falling within Sections XVI and XVII or heading No's 7308 and 9406 are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

7.7 Exemptions from Proof of Origin

Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage can be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the necessary requirements and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post, this declaration can be made on the customs declaration CN22/23 or on a sheet of paper annexed to that document.

Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families should not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

The total value of these products should not exceed €500 in the case of small packages or €1,200 in the case of products forming part of travellers' personal luggage.

7.8 Cumulation Provisions

There is provision in the interim agreement (Market Access Regulation) for cumulation between the Community, signed-up ACP states and the OCT. It enables goods wholly obtained in the Community or in the OCT which undergo working or processing in the relevant ACP states to be considered as having been wholly obtained in the relevant ACP states. Likewise working and processing carried out in the Community or in the OCT should be considered as having been carried out in the ACP states when the materials undergo working or processing in the relevant ACP states. In these instances the working or processing includes the use of insufficient operations.

7.9 Suppliers Declarations

There is provision for the use of supplier's declarations as supporting evidence for Community goods used in ACP countries under cumulation provisions.

7.10 Direct Transport

In order to benefit from preferential treatment originating goods must be transported directly between the EU and the relevant third country or through the territories of the other countries that make up the Pan-Euro-Med cumulation zone or between the territory of the ACP States, of the OCT or of South Africa.

Products constituting a single consignment may be transported through other territories. They can also be the subject of trans-shipment or temporary warehousing in such territories provided that they remain under surveillance of the customs authorities in the country of transit and warehousing. However, they are not permitted to undergo any working or processing other than unloading, reloading or any operation to preserve them in good condition.

Traders can satisfy the customs authorities that the direct transport rule has been complied with by producing:

- (a) a single transport document covering the passage from the exporting country through the country of transit, or
- (b) a certificate issued by the customs authorities of the country of transit;
 - 1) giving an exact description of the goods;
 - 2) stating the dates of unloading and re-loading of the products and, where applicable, the names of the ships, or the other means of transport used; and
 - 3) certifying the conditions under which the products remained in the transit country; or
- (c) failing these, any substantiating documents.

7.11 Discrepancies or Formal Errors

Where slight discrepancies are discovered between the statements made in the proof of origin and other documents submitted at time of importation this of itself will not render the proof of origin null and void where the customs authorities establish that this document corresponds to the products submitted.

Obvious formal errors such as typing errors on a proof of origin should not lead to its rejection if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

7.12 Derogations

This is basically a temporary derestriction or relaxation of the rules of origin usually for the product of a particular country. Thus derogation allows preferential treatment to be accorded to products which may not strictly satisfy the criteria for originating products. Derogations are usually granted within annual quotas.

7.13 Verification of Proofs of Origin

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

7.14 Verification procedure

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

7.15 Arrangements for administrative co-operation

Under mutual assistance provisions the names and addresses of the government authorities which are empowered to issue movement certificates EUR.1 together with the specimen stamps used by those authorities are communicated via the Commission to each Member State.

The names and addresses of the relevant governmental authorities responsible for control of the certificates of origin are also communicated.

Specimen stamp impressions are sent by the European Commission to Irish Customs. These stamp impressions are then referred to each Region/LCD for the attention of import staff. The stamps are valid as and from the date of receipt by the Commission of the specimens. Where a beneficiary country wants to replace previous stamps with new specimens, the Commission will indicate the date of entry into use of those new stamps. This information in turn will be forwarded by Origin and Valuation Unit to all Regions/LCD for notice of staff.

8. BINDING ORIGIN INFORMATION

8.1 What is BOI?

Binding Origin Information (BOI) is a Community-wide system which enables traders to obtain a decision from an individual EU Member State on the origin of their goods which is legally binding throughout the EU. The BOI system is not mandatory but is available as an option for traders who may wish to have the origin of their goods clarified.

BOI decisions are issued at the trader's request by the Customs administrations in the various Member States. The legislative provisions for these decisions are contained in Council Regulation (EEC) No. 2913/92 and Commission Regulation (EEC) No. 2454/93.

8.2 Benefits of BOI for Traders

- It gives traders greater certainty as to origin of their goods and allows them to plan ahead on the basis of a legally binding decision,
- Where a BOI is invalidated due, for example, to a change in Community legislation, traders may be entitled to a period of grace in order to complete any binding contracts entered into on the basis of that BOI,
- It promotes greater uniformity in the application of the rules of origin throughout the Community for traders regardless of the Member State in which they operate,
- Traders will be informed if any origin changes occur which affect their BOI.

8.3 Types of BOI

Two types of BOI are available:

- (a) Preferential BOI provides confirmation that goods qualify for a reduced or nil rate of duty under preferential agreements negotiated by the EU and including the Generalised System of Preferences (GSP).
- (b) Non-preferential BOI provides confirmation that goods qualify for designation as EU or third country origin.

8.4 Obtaining BOI

Application forms can be obtained from the Revenue website under Taxes & Duty > Duties > Customs & Excise > Origin (preferential Trade) Information and Tariff Quotas > Binding Origin Information: Information and Application form. Information and forms can also be obtained from Origin and Valuation Unit. Applications should be made only where an actual commercial transaction is proposed. An application must be in respect of only one type of goods, e.g. goods, products or item relating to a single nomenclature code.

Information supplied for the purposes of obtaining BOI will be stored on a database of the Commission of the European Communities and may be used by Customs authorities throughout the Community to ensure uniform application of the rules of origin. However, any information in respect of which confidentiality is sought will not be included in the database.

Traders who disagree with the origin given on the BOI may appeal the decision to the Revenue Commissioners.

8.5 Using BOI

BOI may be invoked only by the holder, or an agent on behalf of the holder, making a customs entry in respect of goods covered by that BOI.

Where the holder or agent wishes to invoke BOI, it should be declared on the Single Administrative Document (SAD) to which it relates by inserting code “C627” and the “BOI Reference No.” in Box 44. In addition, a copy of the BOI document should be attached to the hard copy of the SAD.

For persons using the paperless system the code “C627” should be transmitted in Box 44 and where the declaration is routed “orange” or “red”, a copy of the BOI should be presented to Customs. Where the declaration is routed “green”, a copy should be retained with the other supporting documents by the declarant.

The normal documentary proof of origin will also be required.

8.6 Validity of BOI

In the ordinary course, BOI will be valid for a period of three years from the date of issue. It may, however, be invalidated earlier in circumstances where, for example, it is affected by EU or international Customs rules of origin or by a judgement of the EU Court of Justice.

Where the validity of a BOI is affected in this way, there is provision whereby it may continue to be invoked, for a period of up to six months, to take account of binding origin contracts entered into by the holder and for the duration of any import or export licence or advance-fixing certificate. Temporary extensions of application of BOI in such cases must be approved by Origin and Valuation Unit.

A BOI WILL BE TREATED AS VOID IF IT IS FOUND THAT IT WAS PROVIDED ON THE BASIS OF INACCURATE OR INCOMPLETE DATA FROM THE APPLICANT.

APPENDICES

APPENDIX 1

Annex I The Rules of Origin for the Agreement Countries of the Pan-Euro-Mediterranean Zone

APPENDIX 2

Annex II Wording for Supplier's Declaration and Long-term Declaration

Annex III Samples of official stamps.

Annex IV Wording for Invoice Declarations

Annex V Wording for Invoice Declaration Euro-Med

Annex VI Evidence of Entitlement to Preference form

Annex VII Standard Beneficiary Countries under GSP

Annex VIII List of Least Developed Developing Countries (GSP)

Annex IX List of GSP + Countries

Annex X List of African, Caribbean & Pacific States (ACP)