



ORIGIN OF GOODS



1) PREMISE

1.1. The concept of origin of goods has gained increasing relevance in international trade in recent years.

1.2. From a customs point of view, there are two types of origin:

- the **non-preferential origin** and
- the **preferential origin**;
- one is not the negation of the other, they are two very distinct concepts, with completely different rules and implications.

1.3. The notion of **non-preferential origin** identifies the geographical place (the country) in which the product was **entirely produced** or has undergone **the last substantial processing**, as defined by the new EU Customs Code (Reg 952/2013).

The non-preferential origin is declared to customs through the presentation of the **certificate of origin** issued by the Chamber of Commerce and allows:

- the application, by the customs authorities of the country of destination of the goods, of the so-called commercial policy measures – such as anti-dumping duties, prohibitions, limitations, quotas;
- the identification of "made in".

1.4. The notion of **preferential origin** identifies the origin of goods from a purely customs point of view, that is, the origin determined on the basis of the rules established in the free trade agreements that the European Union has signed with certain countries for the purpose of applying, in the country of destination of the goods, the *preferential tariff measures* i.e. reduction or exemption of duties.

1.5. To determine the preferential origin, it is first necessary to establish exactly the customs classification code of the finished product to be exported and, subsequently, to apply the corresponding list rule established in the free trade agreement signed by the EU with the country of destination of the goods.

The preferential origin of the goods can be declared on the invoice directly by the exporter for shipments of less than 6 thousand euros in value, while for higher amounts it will be necessary to attach a Eur1 certificate.



ORIGIN OF GOODS

2) THE NON-PREFERENTIAL ORIGIN

2.1) Concept

The non-preferential origin:

- provides **indication of the place of production of the goods** subject to customs operations;
- it is **the origin declared for customs purposes** in trade with all countries;
- it is **the origin indicated** in the **certificate of origin** issued by the Chamber of Commerce.

The non-preferential origin is also called **common or commercial origin** because it does not entitle to preferential duty treatments, but from the same derives the application of:

- the EU **customs tariff** (duties, equivalent charges, anti-dumping and countervailing duties, etc.),
- commercial **policy measures** (safeguard measures, quotas, bans, export refunds, PAC, CITES, etc.),
- **statistical** surveys of foreign trade,
- the rules regarding the **"made in"** labelling of origin.

2.2) Rules for attributing non-preferential origin

At the European Union level, the reference legislation for non-preferential origin is represented by *Regulation (EU) no. 952/2013* (hereafter "CDU"), the *Commission Delegated Regulation (EU) 2446/2015* (hereinafter "RD") and the *Commission Implementing Regulation (EU) 2447/2015* (hereinafter "RE").

In particular, **articles 31 and 32 of the RD** identify two reference criteria to determine the non-preferential origin.

2.3) Criterion of the goods entirely obtained and substantial processing or transformation

The non-preferential origin is conferred:

- to the country in which the goods are **"wholly obtained"**, or
- if two or more countries intervene in the manufacture of a product, to the country in which the goods have undergone **the last economically justified or substantial processing** or transformation, carried out by a company duly equipped for this purpose, which results in the manufacture of a new product or which represents an important phase of the manufacturing process.

2.4) Criterion of the last substantial transformation or processing

When two or more countries are involved in the manufacture of the product, the origin is attributed to the country in which:

- ✓ has been carried out the **last transformation or substantial processing** to be considered economically justified and carried out by a company equipped for this purpose;
- ✓ the **last transformation or substantial processing** ended with the manufacture of a **new product** or represents an important phase of the manufacturing process.

2.5) Minimum operations

The minimum operations are never considered suitable for the purposes of the substantial or economically justified transformation or processing for the assignment of the origin.



ORIGIN OF GOODS

Minimum operations are those involving:

- a) handling intended to ensure that the products are **kept in good condition** during their transport and storage (ventilation, spreading, drying, removal of damaged parts and similar operations), or operations aimed at facilitating shipment or transport;
- b) simple operations of **dusting, sieving or sorting**, selection, classification, assortment, washing, reduction into pieces;
- c) **packaging changes** and division and recombination of batches, simple operations for filling bottles, cans, flasks, bags, cases or boxes, or for fixing to cardboard supports or tablets and any other simple conditioning operation;
- d) the **presentation** of the goods **in series** or sets or their sale;
- e) the **affixing** on the products and on their packaging of **trademarks**, labels or other distinctive signs;
- f) simple **assembly of parts** of products to constitute a complete product;
- g) **disassembly** or change of use;
- h) the **combination of two or more transactions** among those referred to in letters a) to g).

2.6) Proof of origin

Although, in general, the non-preferential origin can be proved by any means of proof, some countries request the presentation of a **certificate of origin** attesting the declared non-preferential origin of the goods; others even demand that the certificate of origin is endorsed by their consulate and translated.

In Italy, the origin is attested by a certificate of origin (CO) issued by the Chambers of Commerce at the request of the exporter.

2.7) Spare parts

Spare parts for a material, machinery or appliance or vehicle previously released for free circulation or exported, are considered to be of the same origin as that of the material, machine, appliance or vehicle, provided they constitute spare parts essentially intended for that machinery.

This rule of origin is applicable only to spare parts and not to accessories and any tools.

3) THE PREFERENTIAL ORIGIN

3.1) Concept

The preferential origin allows products imported and/or exported from or to certain countries, and which meet specific requirements, **to avail themselves of customs tariffs benefits**.

These benefits concern the granting of a "**preferential customs tariffs treatment**", i.e. the reduction of duties or their exemption.

The applicable basis is generally an **agreement between the EU and other non-EU countries (so-called accordion countries)**, through which a "preferential customs tariffs treatment" is reserved for the exchange of certain products recognized as originating in one of the contracting countries.

3.2) The Protocols on rules of origin

The rules of origin are set forth by the annexes to the said agreements, called "Protocols on rules of origin".



ORIGIN OF GOODS

In essence, the said Protocols set forth the processes and transformations that EU non-originating materials must undergo in order for the final product to obtain the EU preferential original status, which will be released only after thorough checks aimed at assessing the compliance with the specific rules of origin are carried out.

3.3) The so-called minimal or insufficient processes

Certain processes are expressly indicated as insufficient for the attribution of origin; it is therefore necessary to thoroughly check, in each individual case, whether such operations have been carried out which exclude the possibility of conferring the preferential origin on a specific product.

3.4) Cumulation

Cumulation is a system that allows products originating in a certain country to be further transformed or incorporated into products originating in another country, as if they originated in the latter.

Cumulation applies between countries with which the EU has concluded commercial agreements and where the same rules of origin are present, and which have in turn concluded free trade agreements between them.

3.5) Proof of preferential origin

In order to obtain the preferential customs tariffs treatment in the country of destination, the importer must present appropriate documentation certifying the preferential origin of the products at the local offices responsible for this verification.

In the case of exports to certain countries with which the EU has concluded agreements with mutual preferential treatment, the certificate proving the origin of the goods will be issued by the Export Offices; alternatively, and under certain conditions, proof of the preferential origin of the goods can directly be declared on the invoice issued by the exporter.

In order to certify the preferential origin of the goods, the following documents are required:

- EUR 1 certificate: used in most preferential bilateral and multilateral free trade agreements
- EUR MED certificate: envisaged for products benefiting from preferential treatment based on the rules of cumulation and applicable to the countries of the Pan-Euro-Mediterranean agreement
- FORM A certificate: it is issued by the customs authorities of the country of export for products originating from developing countries (until 30/6/2020)
- ATR Certificate: relating to goods exchanged in free circulation between the EU and Turkey

In addition to the issue of certificates, exporters can certify the preferential origin of the products by means of a declaration on the invoice, certifying the originating nature of a specific product, provided that the total value does not exceed 6,000 euros.

If the invoice amount exceeds 6,000 euros, the sender must obtain the status of authorized exporter from the customs authorities with the release of the relative identification number to be indicated in the invoice declaration.

3.6) The REX system (Registered Exporters)

Another way to certify the preferential origin of products is represented by registration with the REX system (valid in trade with GSP countries, with Canada, with Japan), which is based on self-certifications issued by economic operators that are entered in a database managed and available to the European Commission.

The registration number obtained will then be used by the exporter to issue the origin declaration and must be indicated on it.



ORIGIN OF GOODS

3.7) The supplier's declaration

When the exporter is not the producer of the goods (but is a mere trader of goods), he must necessarily ask his supplier to provide **a specific written declaration** in which the supplier certifies whether or not the supplied goods have obtained the preferential origin pursuant to the rules of origin applicable with the country of destination of the goods.

Even if the exporter is the producer, he will have to request a specific declaration from the supplier in order to be able to assess whether the transformation made to the raw materials or semi-finished products used is sufficient or not to confer the preferential origin of the finished product.

The supplier's declaration can be issued per single supply, or, more frequently, in the long term for all supplies relating to a certain period, which occurred both before and after the issuance of the declaration itself.

The supplier's **long-term declaration** can be **valid** for a **maximum period of two years** from the date of issuance.

The supplier's long-term declaration **can be drawn up retroactively** for goods delivered before issuing of the same for a **maximum period of one year**.

For products that have obtained preferential origin, the supplier's declaration is completed in **accordance with annex 22-15 of Reg. 2447/2015**, or, in the case of supplier's long-term declarations, in accordance with **annex 22-16**.