

DUTIES AND THE ORIGIN OF GOODS

The origin of goods is of fundamental importance in trades between the European Union and other countries, because their tax treatment depends on their customs origin. The measure of duties applied between the EU and the other countries depends on the origin of goods, which come directly to a reduced duty or total exemption when the rules of origin provided for the preferential agreements occur.

Then, we need to determine the origin of any product, intended to be marketed on the national market, in EU countries or in non-EU countries: all products have an origin.

The definition of the concept of origin must be clear; the most common mistake is to consider the origin of a product equivalent to purchase it from a supplier from a certain country.

Definition of origin of goods

Goods **wholly obtained** in a single country shall be regarded as having their origin in that country.

When two or more countries have contributed to production goods, their origin is in the country where they underwent **their last, substantial, economically justified processing, in an undertaking equipped for this purpose**, which ended in the manufacture of a new product or represented an important stage in the manufacture.

The classification of goods

To precisely establish the customs treatment and the substantial processes, sufficient for the allocation of origin, precise classifications of products have been adopted internationally:

- the Harmonized System (HS)¹ is a nomenclature developed by the World Customs Organization (WCO);
- the Combined Nomenclature (CN)² is the EU's eight-digit coding system, which includes HS codes with further EU subdivisions;
- the integrated tariff (TARIC)³ adds two digits to each code (eight digits) of the Combined Nomenclature (TARIC subheadings)⁴, to accurately identify the goods.

Each commodity is therefore matched by a specific TARIC heading, used in international trade.

¹ https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/what-is-common-customs-tariff/harmonized-system-general-information_en

² https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/what-is-common-customs-tariff/combined-nomenclature_en

³ https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/what-is-common-customs-tariff/taric_en

⁴ Example:

64	Footwear, gaiters and the like; parts of those articles	(Chapter HS)
64 06	Parts of footwear (including shoe uppers, whether or not fastened to outer toes); removable insoles, heel pads and similar removable articles; gaiters, leg-gings and similar articles and parts thereof	(SA header)
6406 10	Uppers and parts thereof, excluding stiffening	(SA subtitle)
6406 10 10	Of leather	(CN code)
6406 10 10 10	Handmade	(Taric Codex)

The basic rule of determination of origin for machining (CTH)

When the production of a commodity is carried out in two or more countries, it is necessary to identify in which country its last substantial processing or processing is located: an agreed rule must therefore be applied between the countries, to establish when and where such an important and decisive production phase takes place.

Generally, **at the change of tariff heading** (the first four digits of the TARIC) takes place a sufficient processing at the change of origin of goods.

For example: for item TARIC 4802, paper used for printing, a TARIC 4901 book is obtained by processing (printing), and the book is of EU origin regardless of the country of origin of the paper. Other materials implementing the same finished product heading may be used up to a maximum of a certain percentage of the ex-works price of the product, referred to as the "**tolerance**".

Other alternative rules

In some cases, different rules apply.

Value added rule

This rule provides for maximum percentage value thresholds which must not be exceeded; these thresholds refer to non-originating rawmaterials which can be used in the manufacturing process, calculated on the ex-works price of the finished product.

Rules for specific features

For certain products, industrial changes conferring preferential origin on products are given in detail.

Insufficient working

Regardless of whether the above rules are met, some transformations and processes are always insufficient to give rise to the origin.⁵

⁵ These are:

- (a) storage operations to ensure that products remain in good condition during transport and storage;
- (b) the breakdown and composition of packages;
- (c) washing, cleaning; removal of dust, oxide, oil, paint or other coatings;
- (d) ironing or pressing textile products;
- (e) simple painting and polishing operations;
- (f) the cleaning, partial or total bleaching, cleaning and blasting of cereals and rice;
- (g) operations to color sugar or form sugar cubes;
- (h) peeling, pitting, shelling of fruit, nuts and vegetables;
- (i) sharpening, simple grinding or simple cutting;
- (j) screening, sorting, selection, classification, gradation, assortment (including the creation of sets of articles);
- (k) simple operations of insertion into bottles, cans, bottles, bags, crates or boxes, or of fixing them to cardboard supports or tablets and any other simple packing operations;
- (l) the affixing or printing of trademarks, labels, logos or other similar distinguishing marks on products or their packaging;
- (m) the simple mixture of products also of different species;
- (n) the simple assembly of parts of articles for the purpose of forming a complete item or disassembling products into parts;
- (o) the cumulation of two or more operations referred to in points (a) to (n);
- (p) the slaughter of animals.

PRACTICAL GUIDE TO VERIFYING THE ORIGIN OF GOODS

First, it is necessary to **identify exactly** the tariff heading of the specific goods: for this purpose, you can consult the TARIC⁶.

For customs purposes, the origin of the goods depends on the correct application of the provisions contained in the agreements concluded between countries: these agreements recognize "**preferential**" treatment (reduction of duties or their exemption, abolition of quantitative prohibitions or quotas) to goods of "**preferential**" origin (in accordance with the agreed conditions). The agreement between countries shall contain an Annex, containing a list of working or processing operations to be carried out on non-originating materials, so that the product manufactured may be originating, preceded by an introductory note.

All agreements concluded by the EU with third countries can be consulted on the European Commission's website⁷: the annexes always include in a first column a reference to the country or group of countries, the legal framework and publication in the Official Journal of the EU; in the second column the reference to the protocol containing the rules of origin, with an indication of the type of cumulation applied.

In conclusion, for each commodity, i.e. for each TARIC-item, it must be checked whether the conditions set out in the individual agreement are fulfilled (column 3 or 4 of the Annex).

Finally, preferential treatment may correspond to preferential origin.

THE SUPPLIER'S DECLARATION

The original character of the products exported from the EU must be determined considering the European Union as a whole, irrespective of the different Member States involved in the manufacture of the products.

Whether the EU exporter or the customs authority require complete information at the time of demonstrating the proof of origin and, in the case of subsequent verification, indicating originating or non-originating status and indications of the materials used in the manufacture of the product of which the origin is to be established.

This is the purpose of the "**supplier declaration**", which must be given by the supplier to the exporter. The origin mentioned in the supplier declarations must be the European Union and not a single Member State, even though the goods were entirely obtained in that country.

You need to establish and manage **information chain with your EU suppliers**, based on the applicable rules of origin.

BINDING INFORMATION ON ORIGIN (BOI)

If there is any doubt as to the origin of the products (p.es. for processors using products from different parts of the world as raw materials), a company may use BOI:

⁶ Italian: <https://aidaonline7.adm.gov.it/nsitaricinternet/TaricServlet>

⁷ https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/general-aspects-preferential-origin/arrangements-list_en

- (1) filing of an application to the Customs Agency for a declaration of the origin of a product, containing relevant information such as the description of the goods, the specification of the origin of the materials of which it is composed, and the place of processing,
- (2) within 30 days, the customs authorities shall verify whether the conditions for acceptance of such request are fulfilled,
- 3) within 120 days, the customs authorities shall notify the decision, which is binding on the Customs Agency and valid for three years.

REGULATORY FRAMEWORK

The general framework for origin is contained in Articles 64 to 66 of the Customs Code of the European Union, Regulation No 952/2013 (HRC)⁸, Articles 37 to 70 of Regulation No 2446/2015 (RD) and Articles 60 to 126 of Regulation No 2447/2015 (RE).

Also the website of the European Commission (taxation - duties - rules of origin) is useful⁹.

⁸ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:269:0001:0101:EN:PDF>

⁹ https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/general-aspects-preferential-origin_en