

This is a quick and handy summary of the most relevant course information.

1 Learning objectives

By the end of this 75-minute course, you will have learned about:

- why the origin of goods is important to customs;
- how the non-preferential rules of origin work;
- how the preferential rules of origin work;
- the different preferential arrangements;
- what a registered exporter is;
- what a Binding Origin Information (BOI) is and how it works once issued.

2 Origin - introduction

- As a metaphor, origin of goods in international trade can be compared to the nationality or identity of people.
- There are two kinds of origin:
 - **Non-preferential origin** is used for determining the origin of products subject to all kinds of measures or tariff quotas.
 - **Preferential origin** confers certain tariff benefits on goods traded between countries that have agreed such an arrangement (reciprocal) or where one side (unilateral) has granted it autonomously. The benefits usually comprise entry at a reduced rate or free of duty.
- Whereas all goods always have a non-preferential origin, they may also have a preferential origin if a preferential arrangement exists

2.1 Determination of Origin

- The origin can be conferred on wholly obtained products or processed products.
- The rules to determine the origin of a wholly obtained product or a processed product are set out in the EU legislation or in specific protocols on rules of origin of the trade arrangement. Goods may have a preferential origin different from its non-preferential origin.

2.2 List rules

- The list rules are lists of working or processing required to be carried out on non-originating materials in order for the manufactured product to obtain its origin.

- The rules provided are to be applied to goods based upon their classification in the Harmonized System (HS). So before being able to determine what processing a specific product must undergo, it is necessary to know its classification.

2.3 Proof of Origin

- The proof of origin is documentary evidence that gives customs assurance that goods originate in a certain country or territory.
- If one wants to benefit from preferential trade measures, a proof of origin must be provided.

2.4 Binding Origin Information (BOI)

- The BOI decision is a customs decision that provides legal certainty about the determination of the origin.
- An economic operator can apply for a BOI for the non-preferential as well as for the preferential origin.
(see section 6)

2.5 Administrative cooperation

- In order to verify the originating status by the Customs Authority, administrative cooperation procedures are established between the trading partner countries.
- These entail the exchange of information between competent authorities.

3 Non-preferential rules of Origin

3.1 Purpose of non-preferential origin

- Non-preferential origin is used for the **application of all kind of measures**, among others anti-dumping duties, countervailing duties, trade embargoes, safeguard measures, ...

3.2 Determination of non-preferential origin

- **Wholly obtained:** Goods wholly obtained in a single country or territory will be regarded as having their origin in that country or territory.
- **Processed products:** Goods for which the production involves more than one country or territory will be deemed to originate in the country or territory where they underwent their **last substantial and economically justified** processing or working, in an undertaking equipped for that purpose.

3.3 List rules for non-preferential origin

- The list rules applicable to determine the non-preferential origin of processed goods are set out in Annex 22-01 of the DA.

3.4 Proof of origin for non-preferential origin

- A proof of origin may be required for products in order to benefit from certain special non-preferential import arrangements, like tariff quota.
- The proof of origin takes the form of a **certificate of origin** (Annex 22-14 of the IA) issued by the originating country's competent authority or by a reliable agency.

- For all other cases, there is no systematic proof of origin to be provided, but only at the request of the customs authorities in the course of their verification actions.

3.5 Administrative cooperation

- Administrative cooperation **only relates to the application of special measures**. These special measures will only be applicable if the administrative cooperation has been set up and the following is communicated :
 - The names and addresses of the issuing authorities (see above 3.4) together with specimens of the stamps used by those authorities;
 - The names and address of the governmental authorities to which requests for the subsequent verification of certificates of origin are to be sent.

4 Preferential rules of Origin

4.1 Purpose of preferential origin

- Preferential origin **may confer certain tariff benefits** on goods traded between countries. Remember, in this case, **there must be a preferential arrangement** between the EU and the trading partner.

4.2 Determination of preferential origin

- **Wholly obtained**: the concept of wholly obtained should be checked in the specific protocols.
- **Processed products**: goods need to be **sufficiently** processed to obtain the originating status. The concept of 'sufficiently' and 'insufficiently' should be checked in the specific protocols on rules of origin.

4.3 List rules for preferential origin

- The list rules applicable to determine the preferential origin of processed goods are specific to each preferential arrangement and are **stated in the related protocols** on rules of origin

4.4 Tolerance rules for preferential origin

- Beside the list rules, tolerance rules may also apply when determining the preferential origin. It **permits** manufacturers to **use certain amounts of those non-originating materials**. However, it cannot be used to exceed the amounts specified in the list rules. Again, the tolerance rules are specific to each arrangement and are stated in the related protocols on rules of origin.

4.5 Cumulation

- Cumulation is the term used to describe a system that allows originating products from country A to be further processed or added in country B to products originating from country B, just as if they had originated from country B.
- In this case, products do not have to be 'sufficiently' processed as set out in the list rules. However they do have to go beyond 'insufficient' processing.
- This can only be applied if the countries have identical rules of origin.

- Bilateral cumulation is a basic type of cumulation which is common to all preferential arrangements. Other cumulation types are for example diagonal, regional, full and extended cumulation.

4.6 Transport rule

- When a product is exported from the country of export to the country of import, it will keep its originating status in so far as some rules related to transport are respected. (is it allowed to transit via a third country, is splitting of consignments allowed, what proofs of transit or non-alteration are required, ...)
These rules are further defined in the protocols on rules of origin of specific preferential arrangements.
- For the GSP, the rules are based on a non-alteration principle allowing storing and splitting of consignments in a country of transit

4.7 Proof of preferential origin

- The proof of origin takes the form as specified in the specific preferential arrangements.
- They can be either **certificates of origin** issued by a competent authority of the originating country **or statements on origin** provided by the exporter himself.

4.8 Administrative cooperation

- **Administrative cooperation is common to all preferential origin arrangements.**
It's the framework for the cooperation between the competent authorities of partner countries. It enables them to check that the rules are being properly applied

5 Types of preferential arrangements

5.1 Unilateral trade arrangements

- Through unilateral trade arrangements, the Union grants preferences to developing countries for reduced tariff or tariff-free access to the Union market. The preferential treatment is non-reciprocal.

5.1.1 Generalised Scheme of Preferences (GSP)

- **Reformed GSP of the Union** is set out by Regulation 978/2012. The scheme offered by the various donor countries and their rules of origin differ fundamentally. For example, goods complying with the conditions of the GSP of the USA, will not necessarily comply with the EU GSP.
- There are three main variants to the scheme:
 - **Standard/general GSP** arrangement: offers **partial or entire elimination of tariff** on two thirds of all product categories.
 - **GSP+**: offers **full elimination of tariff** on essentially the same product categories as those covered by the general arrangement.
 - Everything but arms (**EBA**): grants to the **Least Developed Countries (LDC's)** **duty-free and quota-free access to all products, except for arms and ammunitions.**

- As proof of origin, the exporter should provide a **statement on origin**. The exporter must be a Registered Exporter (**REX**). This means he must have been registered in the REX system by the competent authority of the originating country.
A transition period allows in some conditions beneficiary countries to continue to use the certificate of origin Form A until end of June 2020.

5.1.2 Autonomous Trade Measure (ATM)

- The Union uses different types of **autonomous trade measures** to grant preferences on a **temporary basis** to different categories of countries, taking into account their specific situation. One such type is for example offered to the Western Balkans.

5.1.3 Overseas Countries and Territories (OCTs)

- The **OCTs are not part of the customs territory of the Union**. They are however **constitutionally linked** to four Member States (Denmark, France, the Netherlands and the United Kingdom).
- The EU grants **unilateral trade preferences to all products** originating from the OCTs. For the purpose of defining the origin, the **OCTs are considered as a single territory**.
- The origin can be proofed with a movement certificate, EUR.1 (issued by the competent authority of the originating country)

5.2 Bilateral and multilateral agreements

- On behalf of the EU, the European Commission negotiates and implements bilateral and multilateral trade agreement with non-Union countries
- Most of the EU's multilateral trade agreements are coordinated through the World Trade Organisation (WTO).
- Free trade agreements (FTAs) can be bi- or multilateral, depending on the number of countries involved.

6 Binding Origin Information (BOI)

6.1 BOI decision-taking

- To apply for a BOI, the economic operator must **lodge** his **application** at the Customs Authority **where** he is **established** or **where** the BOI will be **used**.
- The Customs Authority will verify if the economic operator has an EORI number and the application relates to an intended use of the BOI decision or an intended use of a customs procedure.
- The application will not be accepted if an identical application is or has already been made by or on behalf of the same applicant
- If additional information is required, the applicant will be requested to provide it.
- If all conditions are met, the Customs Authority takes the decision and notifies the applicant.

- The BOI decision is binding on Customs authorities of all Members States as well as on the holder of the decision. The decision is valid for a maximum of 3 years from the date on which the decision takes effect.

6.2 Management of BOI decisions

- After a BOI decision is taken, it can be annulled, cease to be valid or be revoked before then end of its 3-year validity period. A BOI decision cannot be amended.
- **Annul** a BOI decision:
 - A BOI decision will be annulled if the BOI decision was taken on the basis of inaccurate or incomplete information from the applicant.
 - The holder of the decision has the right to be heard before the BOI decision is annulled.
 - The annulment takes effect from the date on which the initial decision took effect.
- **Cease to be valid:**
 - A BOI decision will cease to be valid :
 - if it no longer conforms to the law as a result of the adoption of a new regulation or conclusion of an new agreement;
 - if it is no longer conform with the Agreement on Rules of Origin established by the WTO, or with the explanatory notes, or an origin opinion adopted for the interpretation of that Agreement.
 - The BOI decision will cease to be valid at the moment it no longer conforms to the legislation.
- **Revoke** a BOI decision:
 - A BOI decision will be revoked if it is no longer compatible with a judgement of the Court of Justice of the European Union
 - The holder of the decision has the right to be heard before the BOI decision is revoked.
 - The revocation enters into effect from the date of publication of the operative part of the judgement in the Official Journal of the European Union.
 - The European Commission may adopt decisions requesting Members States to revoke BOI decisions to ensure correct and uniform determination of the origin of goods.
- **Extend the use** in case the BOI decision ceases to be valid or is revoked
 - The holder of the decision may be entitled to request a period of extended use. The purpose of the concession is to avoid economic operators being adversely affected by circumstances over which they have no control. An extended use cannot be applied for a BOI relating to export.

Remember, this is a quick and handy summary of the most relevant course information. Only the European Union legislation published in the Official Journal of the European Union is deemed authentic. The Commission accepts no responsibility or liability whatsoever with regard to the training.