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The European Union's

RULES OF ORIGIN

For the Generalized System of Preferences

A GUIDE FOR USERS

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CONTENTS

European Union GSP Rules of Origin - Summary in a Nutshell[1]

What is European Union (EU) GSP?

This is a system of tariff preferences granted unilaterally by the European Union to products originating in developing countries. Duty is reduced or even zero. The least developed countries enjoy duty-free access for virtually all their exports.

What are *rules of origin?*

These are the means by which we determine where goods originate, i.e. not where they have been shipped from, but where they are deemed to have been produced or manufactured.

Why are they *necessary for EU GSP?*

In order to ensure that the preference goes only to those whom the GSP is intended to benefit.

How *do they work?*

Some products clearly originate in a given country, e.g. because they are grown there from local seed. These are called "wholly obtained" goods. But increasingly in today's world, others are not produced in a single country. There is a list containing details of operations that must be carried out in the beneficiary country on given imported goods in order to confer originating status on the obtained products for GSP purposes. Broadly, there are three types of criterion - change of HS tariff heading; value percentage; and specific process. But some minor operations can never confer origin.

Are there any *relaxations?*

Yes:

- *Where* goods originating in the European Union (or Norway, Switzerland and Turkey in future) are used in the manufacture in the beneficiary country, the products can be considered as originating there, provided more than a minimum amount of processing is done there - this is known as "bilateral cumulation".

- The rules recognise a number of regional groups where goods originating in one member of the group and further processed in another may be considered as originating in the latter - this is known as "regional cumulation". At the request of a beneficiary country such cumulation may take place between individual countries of certain groups.

Under certain conditions, where goods originating in a country with which the EU has a free-trade agreement in accordance with Article XXIV of the GATT in force, are used in the manufacture of a product in the beneficiary country, provided more than a minimum amount of processing is done there - this is known as extended cumulation

- A beneficiary country may apply for a temporary derogation from the EU GSP rules of origin where internal or external factors temporarily deprive it of the ability to comply with rules of origin, or where it requires time to prepare itself to comply with rules of origin.

What proof is required?

Usually a certificate of origin Form A issued by the competent authorities in the beneficiary country is required. In certain cases a so-called "invoice declaration" may be used. Movement certificates EUR.1 and invoice declarations are used for supplied goods originating in the European Union (or Norway, Switzerland and Turkey in future) for the purpose of "bilateral cumulation".

NOTE: This summary is intended only as a brief introduction. Readers should consult the relevant part(s) of the text for a fuller explanation.

As from 1 January 2017, so-called "statements on origin" could be made out by the exporters themselves.

How is fraud prevented?

The tariff preferences cannot be granted until a proper system of administrative co-operation by the beneficiary country is in place, which in particular allows the European Union authorities to request post-exportation checks.

Where *can* I *find the rules of origin?*

These are contained in Articles 70 - 112 and Annexes 22-06, 22-07, 22-08, 22-09 and 22-10 of Commission Implementing Regulation (EU) 2015/2447 (the implementing provisions of the Union Customs Code – hereafter referred to as Implementing Act - IA) and Articles 37, 41 – 58 and Annexes 22-03, 22-04, 22-05 of Commission Delegated Regulation (EU) 2015/2446 (the delegated provisions of the Union Customs Code – hereafter referred to as Delegated Act - DA.

PART I

Section 1 – General

Terms used in the Guide

Article(s) ...	Reference to Articles of Commission Implementing Regulation (IA) 2015/2447 and Commission Delegated Regulation (DA) 2015/2446 (see Appendix II)
Annex ..	Annexes to Implementing (IA) and Delegated (DA) Regulations (Appendix II, Appendix III and Appendix IV)
Beneficiary countries:	Countries actually admissible for preferential treatment under the EU GSP scheme (as listed in the GSP Regulation - see Appendix I)
Competent authorities:	In the beneficiary countries, the Governmental authorities competent for the issue and verification of proof of origin under the EU GSP; in the EU, the national customs administrations of the Member States
Eligible countries:	All developing countries listed in Annex I of Regulation No 978/2012 - See Appendix I - among which feature the beneficiary countries
EU:	European Union, consisting of the following 28 Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Latvia, Lithuania, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom
EU GSP:	The European Union's Generalised System of Preferences or Scheme of Generalised Tariff Preferences laid down in the GSP regulation[2]
EU GSP RoO:	The regulations relating to the rules of origin (RoO) of the EU GSP scheme. These are Commission Implementing Regulation (IA) 2015/2447 and Commission Delegated Regulation (DA) 2015/2446.
Form A:	Certificate of origin Form A
GSP:	Generalised System of Preferences
HS or Harmonised System:	Harmonised Commodity Description and Coding System
Materials	The input materials used to manufacture a "product".
Product:	The final product made from "materials".
Proof of origin:	Certificates of origin Form A, invoice declarations, movement certificates EUR 1 and as of 1 January 2017, statements on origin

[2] Since 1.1.2014, Council Regulation (EU) No. 978/2012. This Regulation has already been amended on several occasions: Please see GSP pages of DG Trade for links to all relevant legal texts.

Registered exporter:	(a) an exporter who is established in a beneficiary country and is registered with the competent authorities of that beneficiary country for the purpose of exporting products under the scheme, be it to the Union or another beneficiary country with which regional cumulation is possible; or (b) an exporter who is established in a Member State and is registered with the customs authorities of that Member State for the purpose of exporting products originating in the Union to be used as materials in a beneficiary country under bilateral cumulation; or (c) a re-consignor of goods who is established in a Member State and is registered with the customs authorities of that Member State for the purpose of making out replacement statements on origin in order to re-consign originating products elsewhere within the customs territory of the Union or, where applicable, to Norway, Switzerland or Turkey ('a registered re-consignor');
Statement on origin:	A statement made out by the exporter indicating that the products covered by it comply with GSP rules of origin, for the purpose of allowing either the person declaring the goods for release for free circulation in the European Union to claim the benefit of preferential tariff treatment or the economic operator in a beneficiary country importing materials for further processing in the context of cumulation rules to prove the originating status of such goods.

What this Guide is about?

The aim of this Guide is to provide assistance in understanding and applying the rules of origin currently in force in the framework of the EU GSP. Although this Guide is written primarily for exporters in beneficiary countries and importers in the EU, it should also be useful for the officials in beneficiary countries involved in the issuing and/or verification of origin evidence as well as, hopefully, anyone else looking for information on the subject.

The list of beneficiary countries of the EU GSP is in Annex II of the GSP Regulation (see Appendix I) and the legal text of the rules of origin is in Articles 70 to 112 IA and 37, 41 to 58 DA (see Appendix II) and Annexes 22-06 IA, 22-07 IA, 22-08 IA, 22-09 IA, 22-10 IA and 22-03 DA, 22-04 DA, 22-05 DA (see Appendix III and Appendix IV).

Warning: the list of beneficiary countries is however rather a list of **potential** beneficiaries, since some countries may not meet the conditions to actually benefit from EU GSP. For instance, some countries may not yet have complied with the administrative cooperation requirements laid down in Article 73 IA, which are a pre-condition for goods to be granted the benefit of tariff preferences. If in doubt, your competent authorities will advise you.

The EU GSP and its aims

The GSP provides for preferential duty treatment (a reduced rate of import duty or, even, duty-free) of imported goods originating in beneficiary countries. The principle was agreed at the United Nations Conference on Trade and Development (UNCTAD), and is a facility granted to developing countries ("beneficiary countries") by certain developed countries ("donor countries"). Following the so-called "Everything But Arms" initiative introduced in 2001, the EU GSP grants the least developed countries (see Appendix I) duty-and quota-free access for almost all their exports. The system is **granted** to the beneficiary countries and not negotiated with them; the preferential treatment is non-reciprocal.

For fuller details, see the GSP pages of DG Trade, which include all legal texts and give access to an Export Helpdesk for developing countries.

This Guide **only** deals with the rules of origin of the EU **GSP.** The GSP schemes offered by the

various donor countries differ fundamentally both in respect of the goods and countries covered as well as the origin criteria used. Therefore, it should be borne in mind that goods complying with the conditions of the GSP of the USA, will not necessarily comply with the EU GSP.

Are all goods covered by the EU GSP?

The EU GSP does not cover each and every product. Basically, all products of Chapters 25 - 97 of the HS that are subject to duty upon entry into the EU (raw materials are, generally, duty-free) are covered, but coverage of agricultural products (Chapters 1 - 24) is restricted. It should be noted that the list of eligible products is not the same for all beneficiary countries.

Annex II of the EU GSP Regulation lists the beneficiary countries (see Appendix I) while Annex V[3] thereof contains the list of products involved. When exports to the EU from a GSP beneficiary country exceeds certain value thresholds over a certain period of time, the tariff preference is suspended for the category of products and the country(ies) concerned. These suspensions are announced by means of Commission Implementing Regulations (see for instance Regulation (EU) No 1213/2012). Information about specific products (both coverage and duty rates) is also available from EU delegations which are situated in most of the beneficiary countries and/or from the competent authorities. It may also be obtained from the Commission's customs data-base at the following address:

http://ec.europa.eu/taxation customs/dds2/taric/taric consultation.isp?Lang=en

What are the conditions to benefit from the GSP?

In order for goods to benefit from the EU GSP upon importation into the EU, three conditions must be fulfilled:

- the goods must **originate** in a beneficiary country in accordance with the EU GSP RoO (see Section 2);
- during transportation from a beneficiary country to the EU, the goods must not be altered, transformed or subjected to operations other than operations performed in order to preserve them in good condition; and
- a **valid proof of origin** must be submitted (certificate of origin Form A, issued by the competent authorities in the beneficiary country, or invoice declaration, or as of 1 January 2017, statement on origin) (see Section 4).

It is pointed out that proof of origin should be issued only if there is a legal basis to do so (i.e. a preference exists) at the time of export. In addition, preference must also exist at the time of acceptance of the declaration for release for free circulation in the European Union: if between the time of export and the time of acceptance of the declaration for release for free circulation the products concerned cease to be eligible for preference (e.g. because they have been graduated or the country of origin has ceased to be a beneficiary country), then preference cannot be granted, even though a proof of origin validly issued at export exists.

As the EU is a Customs Union, there are no duties or customs formalities in trade between EU Member States, and a common Customs tariff is applied on importation into the EU. Therefore, the EU is considered a single territory. So, once formalities have been completed and duty has been paid - or preference has been granted - in one of the EU Member States, then goods are considered to be in 'free circulation' in the European Union and can move from one Member State to another.

[3] See the GSP pages of DG Trade for links to all legal texts

Section 2 - Origin

Origin: why and how?

The implementation of trade policy measures often requires differentiation in the treatment of goods coming from different countries. Examples of such trade policy measures are the application of preferential rates of duty, anti-dumping duty, import licensing requirements, quotas, embargoes, and so on.

If such treatment only depended on the country where the goods were sent from, it would soon be found that products from all over the world were travelling via the country that enjoys the most favourable (or the least restrictive) treatment. Therefore, something more is necessary in order to make these trade policy measures work: namely to link these measures to the economic nationality of a product.

In order to establish the economic nationality, - the country of origin - certain criteria - rules of origin - are applied. A complication is that there is no such thing as a general set of rules of origin that can be applied world-wide in every possible situation. Countries have their own rules of origin, which more often than not vary in substance depending on their purpose. Even for the purposes of the GSP, the various donor countries apply different rules of origin. Therefore if a product satisfies the rules of origin in the framework of, for example, the USA GSP scheme, it cannot be taken for granted that it also fulfils the rules of origin laid down for the EU GSP scheme and *vice versa.* Origin criteria used in the GSP schemes offered by the donor countries often differ fundamentally. Therefore, if goods are to be exported to/imported into the EU under the EU GSP scheme, the only origin criteria to be taken into consideration are those laid down by the EU in the appropriate legislation (see Appendix II and Appendix III). However, the EU, Norway (NO) and Switzerland (CH) have the same GSP RoO (at least in so far as industrial goods are concerned), which has allowed a connection between the different schemes on certain aspects, as explained below, which is implemented through an exchange of letters. Turkey will be in the same position once it has aligned its GSP RoO with those of the EU.

Application of the rules of origin provides the answer to the following question: does the product originate in the beneficiary country in question? A positive answer means the product is eligible for preferential tariff treatment upon importation into the EU.

For the purpose of the application of the EU GSP RoO, the beneficiary countries are normally each regarded as an individual territory but in some cases they can work together using 'regional cumulation' (see point 2.7). They may also work together with the Member States of the EU (which constitute a single territory) or Norway and Switzerland (and Turkey in the future) within the framework of bilateral cumulation.

The basic structure of the EU GSP rules or origin

Products originate in a particular beneficiary country if they are:

- wholly obtained in that country, or
- sufficiently worked or processed there.

As explained later in point 2.7, the same rules of origin are applied to establish whether a product has EU (or NO, CH or TR) origin in cases where bilateral cumulation is being used.

What are 'Wholly obtained products'? (Article 44DA)

In general terms, products are wholly obtained in a particular beneficiary country (or in the EU, in the case of bilateral cumulation) if only that country has been involved in their production. Even the smallest addition or input from any other country disqualifies a product from being "wholly obtained".

Therefore, it applies mainly to things occurring naturally and to goods made entirely from them. What can be considered as "wholly obtained" in a beneficiary country, or in the European Union, is laid down in an exhaustive list in Article 44(1) DA).

a. mineral products extracted from its soil or from its seabed;
b. plants and vegetable products grown or harvested there;
c. live animals born and raised there;
d. products from live animals raised there;
e. products from slaughtered animals born and raised there;
f. products obtained by hunting or fishing conducted there;
g. products of aquaculture where the fish, crustaceans and molluscs are born and raised there;
h. products of sea fishing and other products taken from the sea outside the territorial waters by its vessels;
i. products made on board its factory ships exclusively from the products referred to in point (h);
j. used articles collected there fit only for the recovery of raw materials;
k. waste and scrap resulting from manufacturing operations conducted there;
l. products extracted from the seabed or below the seabed which is situated outside its territorial waters but where it has exclusive exploitation rights;
m. goods produced there exclusively from the products specified in (a) to (l).

Most of the list is self-explanatory; with the exception of the fishing products mentioned in (h) and (i), which deserve some further explanation.

Products of sea fishing and other products taken from the sea

"Territorial waters" within the context of these rules of origin is strictly limited to the 12-mile zone, as laid down in the UN International Law of the Seas (1982 Montego Bay Convention). The existence of an Exclusive Economic Zone with more extensive coverage (up to a 200- mile limit) is not relevant for this purpose.

Fish caught outside the 12-mile zone ("on the high seas") can only be considered to be wholly obtained if caught by a vessel that satisfies the definition of "its vessels" and "its factory ships". Fish caught inland or within the territorial waters is always considered to be wholly obtained.

The definition of its "vessels" and "its factory ships" (laid down in Article 44(2) DA) consists of a number of cumulative criteria - so *all* criteria listed must be fulfilled.

Fish caught on the high seas can be considered to originate in the beneficiary country in question (or in the EU) if:

the vessel used is registered in the beneficiary country and is sailing under its flag (or an EU Member State) and

They meet one of the following conditions:

(a) they are at least 50% owned by nationals of the beneficiary country or of Member States or

(b) they are owned by companies
- which have their head office and their main place of business in the beneficiary country

or in Member States and

- which are at least 50% owned by the beneficiary country or Member States or public entities or nationals of the beneficiary country or Member States.

The *conditions related to vessels may each be fulfilled in Member States or in different beneficiary countries insofar as all the beneficiary countries benefit from regional cumulation in accordance with Article 55 (1) to (5) or (6) DA where applicable. In this case, the products shall be deemed to have the origin of the beneficiary country under which flag the vessel or factory ship sails in accordance with the flag criterion.*

These conditions shall apply only provided that the provisions of Article 55 (2) (b), (c) and (d) DA have been fulfilled.

What are 'Sufficiently worked or processed' products? (Article 45 DA)

In practice, except for naturally-occurring and related products, situations where only a single country is involved in the manufacture of a product are relatively rare. Globalisation of manufacturing processes has resulted in many products being made from parts, materials etc. coming from all over the world.

Such products are not of course, wholly obtained (as explained in 2.3), but they can nevertheless obtain originating status. The condition is that the non-originating materials used (in practice: the materials imported into the beneficiary country) have undergone "sufficient working or processing". It must be stressed that **only** the **non**-originating materials need to be worked or processed sufficiently. If the other materials used are by themselves already originating (either by virtue of being wholly obtained, or by having been worked or processed sufficiently), they do not have to satisfy the conditions set out.

What can be considered as sufficient working or processing, depends on the product in question. Annex 22-03 DA contains a list of products in which the conditions to be fulfilled are set out, product-by-product. Part I of Annex 22-03 DA explains how to use the list.

The 'List of working or processing required to be carried out on non- originating materials in order that the product manufactured can obtain originating status' (Annex 22-03 DA). (see Appendix III)

The structure of this list has to be understood in order to be able to apply the origin criteria. The list consists of 3 columns,

column 1 states the *HS heading or sub-heading,*

column 2 contains the description of the goods which come under the HS heading or subheading in question and column 3 contains the applicable criteria.

For certain headings and sub-headings,a differentiation has been done for least developed countries and other beneficiary countries. The third column is split between the qualifying operation applicable to least-developed countries and the qualifying operation applicable to other countries.

The countries benefiting from the special arrangement for the least developed countries are listed in Annex IV to Regulation (EC) No 978/2012.

In order to be able to use this list, the classification of the product in question has to be established in the Harmonised System Nomenclature (on a 4-digit level or sometimes on a 6 digit level). It is also necessary to know the HS-classification of the non-originating materials used in the manufacture of the product. As criteria differ between products, using the correct HS classification is important. Where necessary national Customs administrations will be able to assist you in establishing the HS classification.

Basically, the list uses one of four methods, or combinations of these methods, to lay down what amount of working or processing can be considered as "sufficient" in each case:

a) The **change of heading criterion** (also known as the change of tariff heading or tariff jump criterion). This means that a product is considered to be sufficiently worked or processed when the product obtained is classified in a 4-digit heading of the Harmonised System Nomenclature which is different from those in which all the non-originating materials used in its manufacture are classified.

• *An example is the manufacture of a straw basket, classified under heading 4602 of the HS. The list shows for the whole of Chapter 46 the criterion "manufacture in which all the materials used are classified within a heading other than that of the product". As the basket is classified under 4602, while the straw material was imported under 1401, the origin criterion is clearly satisfied.*

In some cases the change of tariff sub-heading (at a 6 digit level) rule applies. It works in the same manner as the change of heading rule.

b) The **value or ad valorem criterion,** where the value of non-originating materials used may not exceed a given percentage of the ex-works price of a product. (The notions "ex-works price" and "value" are two of the definitions in Article 37 DA.)

• An example *is the manufacture of umbrellas of HS heading 6601, where column 3 in the list reads "manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product". Here a comparison has to be made between the ex-works price of the product and the value of all non-originating materials.*

c) The **specific process criterion,** when certain operations or stages in a manufacturing process have to be carried out on any non-originating materials used.

• *Many examples of this kind of origin criterion can be found in the textile sector, e.g. woven fabrics of cotton of headings 5208 to 5212 of the HS, for which column 3 in the list reads among other "weaving accompanied by dyeing or by coating". For example the manufacture of a garment starting from non-originating yarn confers origin. This means that weaving and all subsequent manufacturing stages must be carried out in the beneficiary country. A process criterion of this kind implies that starting from an earlier manufacturing stage (e.g. chemical material or natural fibers) also confers originating status, while starting from a later stage (e.g. dyeing only) does not.*

d) Working or processing is carried out on certain wholly obtained materials.

- An example is the manufacture of preparations used in animal feeding of heading 2309. According to the list rule applicable to this product, all the materials of Chapters 2 (Meat and edible meat offal) and 3 (fish) used in the manufacture of such products are to be wholly obtained.

N.B: As explained in point 2.6 below, certain types of working and processing are always considered to be insufficient, even if the criteria of the list are satisfied.

Also there is a 'tolerance rule' allowed in some cases where not all the non-originating materials have to comply with the basic conditions in the list - see point 2.9 below.

Why is there "insufficient working or processing" and what does it mean? (Article 47 DA)

Article 47 DA contains a list of operations which are considered, on their own or in combination with each other, never to be sufficient to confer origin. This list applies **only to situations where no other operations have been carried out.** It serves a double function, firstly within the framework of the "normal" list rules of origin (i.e. those set out in Annex 22-03 DA) and secondly in the framework of cumulation (see 2.7 below). However, the purpose is the same - in cases where the amount of actual processing done is minimal, it should not confer origin.

As regards the list rules, it should be noted that there can be cases where, even if the criteria for sufficient working or processing set out in the list have been satisfied, the amount of the actual processing done might still be minimal. In such cases the product does not obtain origin. In fact the list of insufficient working or processing should actually be consulted before the list of sufficient working or processing.

Conversely, it must also be understood that if an operation is not listed as "insufficient", it does not automatically mean that it is "sufficient" to confer origin on the product. There is a "grey" area where operations are more than insufficient but at the same time not actually sufficient under the terms of the specific list rule which applies. The list of sufficient working and processing with specific criteria for the product in question must be consulted to see what conditions do have to be met.

As regards cumulation (whether bilateral or regional), where the list rules do not apply, the working or processing carried out must simply be more than insufficient. This means that an operation which fell into the "grey" area in the framework of the list rules could be acceptable in a cumulation context.

The list of insufficient (or minimal) operations reads as follows:

(a) preserving operations to ensure that the products remain in good condition during transport and storage;

(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 and textile articles;

(e) simple painting and polishing operations;

(f) husking and partial or total milling of rice, polishing and glazing of cereals and rice;

(g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;

(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, mixing of sugar with any material;

(n) simple addition of water or dilution or dehydratation or denaturation of products;

(o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;

(p) slaughter of animals

(q). a combination of two or more of the operations specified in points (a) to (p);"

Operations are considered "simple" when neither special skills nor machines, apparatus or tools especially produced or installed for those operations are required for their performance.

Examples:

A product *is made by simple assembly using only originating parts: the end product is originating as*

*the list of "minimal" working or processing does **not** apply to originating materials, whether they be wholly obtained, or already sufficiently worked or processed.*

*A product is manufactured solely by assembling non-originating parts where neither special skills nor machines, apparatus or tools are required for performing such assembly. The product does **not** obtain origin as (o) applies.*

A product is manufactured by assembling non-originating parts and subsequently by a sufficient operation. The assembly is irrelevant since there is subsequently a sufficient operation, and origin is therefore obtained.

A product is obtained using a combination of both originating and non-originating material, when the last operation carried out is on the list of "insufficient working or processing". We have to see if the working or processing set out in the main list of sufficient working or processing is carried out on the non-originating materials used. For example, if a manufacturer of fruit juice in a beneficiary country uses fruit and sugar, wholly obtained in his country, to produce fruit juice and he subsequently bottles the juice in imported non- originating bottles. He does not have to be afraid that bottling would remove the originating status from the juice just because bottling is listed as an insufficient operation. But he does need to see if he is allowed to use imported bottles. The origin criterion in column 3 of the list for HS 2009, bottled fruit juice, reads: "Manufacture from materials of any heading, except that of the product, in which the weight of sugar[4] used does not exceed 40% of the weight of the final product ". Thus he can use imported bottles as they are classified under HS 7010.

A *product is obtained by the simple assembly of non-originating materials which are subsequently painted, packed and labelled. These are all insufficient operations and even when taken together they are still considered to be insufficient to confer origin on the product.*

What is meant by "cumulation of origin"?

Generally, all working and processing for origin purposes must have been carried out in the individual beneficiary country of export. However, there are two exceptions to this principle:

Bilateral Cumulation (Article 53 DA)

Under bilateral cumulation, materials *originating in the EU,* within the meaning of the EU GSP RoO, and further worked or processed in a beneficiary country, are considered to originate in the beneficiary country. However the working or processing carried out there has to be more than the "insufficient working or processing" explained in 2.6.

This concept is also known as "donor country content".

Example: for *embroidered handkerchiefs (classified HS 6213) to obtain GSP origin in a beneficiary country, the one of the criteria to be applied is " Manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product "; meaning that non-originating unembroidered fabric may be used but representing a value not exceeding 40% of the ex-works price of the product. However, if the fabric used originates in the EU, then the cumulation provisions allow it to be considered to be originating in the beneficiary country as the further manufacturing process goes beyond "insufficient" within the meaning of Article 47 DA. See point 4.2 below for evidence of the EU origin for materials to be used for bilateral cumulation.*

The same concept applies to materials (other than agricultural products or products covered by a derogation) which originate in Norway or Switzerland (and Turkey in future). When such materials undergo more than minimal working or processing in a beneficiary country, they are considered to

[4] See Introductory Note 4.2.

originate in that beneficiary country, and may be exported to the EU, to Norway or Switzerland (and Turkey in future) (see Article 54(1) DA). Note that the arrangements are reciprocal, so also apply to materials of European Union origin which undergo more than minimal working or processing in a beneficiary country and are then exported to Norway or Switzerland (and Turkey in future).

Regional Cumulation (Article 55 DA)

This operates between the countries of one of the regional groups recognised by the EU GSP[5]. Materials originating in one country of the group which are further worked or processed in another beneficiary country of the same group are considered to originate in the latter country. Cumulation is also possible between individual countries of cumulation Group I and Group III, upon request and under certain conditions.

In order to comply with the new GSP scheme for the period 2014-2023, under which a certain number of countries have been removed from the list of beneficiary countries and remain simply eligible countries, the Commission has introduced by Regulation No 530/2013 of 30.06.2013 a rule providing that "regional *cumulation between countries within the same group shall apply only where [...] the countries involved in the cumulation are, at the time of exportation of the product to the Union,* ***beneficiary countries****".* It is also important to bear in mind that the countries listed as belonging to regional cumulation groups are countries which are **eligible** for the GSP scheme **(some of them not being beneficiaries).** The principle that regional cumulation may only be performed among beneficiary countries has to be respected in addition to the obligation that all countries involved must be listed under Article 55 (1) DA. It is worth noting in this respect that Singapore, albeit belonging to the Association of Southeast Asian Nations (ASEAN) is not listed under regional group I because this country is not eligible for the EU GSP scheme.

Regional cumulation between countries within the same group applies in only four conditions (Article 55(2) DA).

1, The first condition is that the countries involved in the cumulation are, at the time of exportation of the product to the Union, beneficiary countries for which the preferential arrangements have not been temporarily withdrawn in accordance with Regulation (EU) No 978/2012.

2, The second condition is that, for the purpose of regional cumulation between the countries of a regional group, the rules of origin laid down in Subsection 2 of the DA (Definition of the Concept of Originating Products Applicable within the framework of the GSP of the Union) apply..

3, The third condition is that the countries of the regional group have undertaken to comply or ensure compliance with the GSP rules of origin; and to provide the administrative cooperation necessary to ensure the correct implementation of GSP rules of origin both with regard to the Union and between themselves.

4, The fourth condition is that the undertakings referred above have been notified to the Commission by

[5] The regional groups (listed in Article 55 DA) are:

- Group I: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar/Burma, Philippines, Thailand, Vietnam;
- Group II: Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Peru, Venezuela;
- Group III: Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka.
- Group IV: Argentina, Brazil, Paraguay, Uruguay.

From 01.01.2014, the following countries are no longer **beneficiary** countries: Brunei and Malaysia (for Group I); Venezuela (for Group II); Argentina, Brazil and Uruguay (for Group IV). These countries remain however eligible countries which might be reinstated as beneficiary countries under certain circumstances/conditions.

From 01.01.2015, the following countries are no longer **beneficiary** countries: Thailand (for Group I), Ecuador (for Group II), Maldives (for Group III).

From 01.01.2016, the following countries are no longer beneficiary countries: Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama and Peru (for Group II).

the Secretariat of the regional group concerned or another competent joint body representing all the members of the group in question.

For the purposes of the second condition, where the qualifying operation laid down in the list rules (Part II of Annex 22-03 DA) is not the same for all countries involved in cumulation, the origin of products exported from one country to another country of the regional group for the purpose of regional cumulation is determined on the basis of the rule which would apply if the products were being exported to the Union.

Where countries in a regional group have already complied with the third and fourth conditions before 1 January 2011, a new undertaking is not required.

Regional cumulation between countries in the same regional group shall apply only under the condition that the working or processing carried out in the beneficiary country where the materials are further processed or incorporated goes beyond the minimal operations considered as insufficient working or processing and, in the case of textile products, also beyond the operations set out in Annex 22-05 DA. Where the condition above is not fulfilled, the products shall have as country of origin the country of the regional group which accounts for the highest share of the customs value of the materials used originating in the countries of the regional group.

Where the country of origin is determined pursuant to this method, that country shall be stated as country of origin on the proof of origin made out by the exporter of the product to the European Union, or, until the application of the registered exporter system, issued by the authorities of the beneficiary country of exportation.

The materials listed in Annex 22-04 DA are excluded from regional cumulation in the case where a cross appears in the table at the crossing point of a product description row and a regional group column; this is because:

(a) the tariff preference applicable in the European Union is not the same for all the countries involved in the cumulation; and

(b) the materials concerned would benefit, through cumulation, from a tariff treatment more favourable than the one they would benefit from if directly exported to the European Union.

Thus goods will not necessarily have the origin of the country in the group which exports them to the EU. Where this is so, care should be taken to find out if that other member country of the regional group is subject to restrictions for these goods under the EU GSP. Indeed, preferences may be removed for countries - which is referred to as "withdrawal of preferences" - or for a specific category of products (corresponding to a 'GSP section') originating in a GSP beneficiary country - which is called "suspension of preference" - when they exceed a certain percentage of the total value of Union imports of the products concerned (for fuller details, see respectively Articles 8 and 19 of the GSP Regulation).

Example : a *shirt (classified HS 6205) made in country B from fabric originating in country A (which is a member of the same regional group) will originate in country B, if the value of the fabric amounts to less than 47,5 % of the shirt's value, otherwise it will originate in A. It should be noted that, in the second case, the issuing authority of country B will have to issue a Form A certificate of origin, stating that the shirt originates in country A.*

Example: products originating in country A are exported to country B (value: €900), where they are used to manufacture a product with country B origin (value: €2,000) which is exported to country C. In country C these are incorporated with components of country D (value: €3,000). The value added in country C is €5,000. The final product is exported from there to the European Union with the origin of country C.

See point 4.2 below for the evidence of the regional origin for the materials used in regional cumulation.

Both bilateral and regional cumulation provisions may be used together in combination

(Article 57 DA)

Example: a clock (of HS Chapter 91) *is manufactured from imported materials (raw materials, spare parts, etc.) originating in the EU and materials originating in another member-country of the same regional group. The list of working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status says that a clock originates in a beneficiary country if the value of all the imported materials used (raw materials, spare parts, etc.) does not exceed 70 % of the ex-works price of the clock. In other words, the value-added in the beneficiary country must amount to at least 30 %: If those materials (or some of them) are processed* ***sufficiently*** *(to acquire the origin of the beneficiary country concerned), then it may be possible for other materials to be imported from a third country. Thanks to both donorcountry content and regional cumulation, it is possible to meet the required criterion, since the first materials are counted as if they originated in the beneficiary country of final assembly.*

Extended Cumulation (Article 56 DA)

Extended cumulation is a system, conditional upon the granting of an authorisation by the Commission, further to a request lodged by a beneficiary country and whereby certain materials, originating in a country with which the European Union has a free-trade agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade (GATT) in force, are considered to be materials originating in the beneficiary country concerned when further processed or incorporated in a product manufactured in that country (the working or processing carried out in the beneficiary country concerned needs to go beyond the operations described in Article 47(1) DA).

In order that this cumulation applies, the following steps need to be fulfilled:

1) The interested beneficiary country needs to submit a written request to the European Commission. The request may be prepared in a free form, as no specimen for the request is provided for in the legislation. However, the request must contain the information specified in Article 56 (1) DA, notably that as regards the provision of information to the EU on the materials concerned by the cumulation. It is important to note that materials falling within Chapters 1 to 24 of HS are excluded from extended cumulation.

2) Countries involved in the extended cumulation must comply with administrative cooperation requirements.

a) In this regard, it is first important to check whether the involved countries have notified the European Commission of the names, addresses and specimen impressions of stamps of the governmental authorities situated in their territory, empowered to issue relevant proofs of origin (in future register exporters) and verify proofs of origin.

b) The country with which the European Union has concluded a free-trade agreement in force and which has agreed to be involved in extended cumulation with a beneficiary country shall also agree to provide the latter with its support in matters of administrative cooperation in the same way as it would provide such support to the customs authorities of the Member States in accordance with the relevant provisions of the free-trade agreement concerned (see Article 111 IA applicable until the application of the registered exporter system (on 1 January 2017 at the earliest) or 108 (1) IA applicable once the registered exporter system is applied).

It is thus required (see Article 56 (1) DA) that the countries involved in the cumulation undertake to comply with the GSP rules of origin and to provide the administrative cooperation necessary to ensure the correct implementation of the rules of origin both with regard to the European Union and also between themselves. A written undertaking to this end, endorsed by all parties involved in the cumulation, needs accordingly to be submitted to the European Commission by the beneficiary country concerned. If you are specifically interested in extended cumulation, the Commission may propose you a form of the draft undertaking.

3) The involved countries should take account of the requirements laid down in Article 56 (2) DA as to the determination of the origin of the materials used and of the products to be exported to the European Union, as well as the applicable documentary proof of origin.

4) Once received the request from the beneficiary country accompanied by the undertaking endorsed by the countries concerned by the cumulation, the European Commission will consider the request. After having verified whether all conditions are met, it will take a decision, of which the applicant will be informed.

5) When extended cumulation is granted and applies, until the application of the registered exporter system, the competent governmental authorities of the beneficiary country called on to issue a certificate of origin Form A for products in the manufacture of which materials originating in a party with which cumulation is permitted are used, shall rely on the proof of origin provided by the exporter's supplier and issued in accordance with the provisions of the relevant free-trade agreement between the European Union and the country concerned. According to Article 76 IA in the case of extended cumulation, Box 4 of origin Form A shall contain the indication "extended cumulation with country x". The same endorsement shall be present on invoice declarations made out by exporters in accordance with Article 76 IA.

Cross-regional cumulation (Article 55 (5) DA

This type of cumulation is based on similar principles as extended cumulation: it aims to allow countries from neighbouring regions I and III to use materials under cumulation as if they belonged to the same region. The principles are very similar: Cross-regional cumulation is conditional upon the granting by the Commission of an authorisation, further to a written application prepared jointly by the countries wishing to establish a cumulation system. As for extended cumulation, materials have to be identified and cumulation in the country of further processing may only operate if:

- the working or processing carried out in this latter country goes beyond minimal operations (as described in Article 47 DA), and

- all the countries involved remain *beneficiary* countries as explained earlier.

Like for extended cumulation, the countries involved in cross-regional cumulation have to submit to the Commission a joint undertaking in which they commit themselves to comply and ensure compliance with the GSP rules of origin, as well as provide each other with the necessary administrative cooperation.

The Commission takes its decision after internal examination and consultation of EU Member States on a draft act. The granting of the authorisation may be made conditional upon any requirements deemed necessary.

It is recalled that the applicants to this type of cumulation (as well as extended cumulation) may only be countries at governmental level and that private entities are not entitled to lodge such requests.

What more do I need to know about the EU GSP origin rules?

Unit of qualification (Article 49 DA): *i.e. the unit for the purposes of determining origin. This is the same as the basic unit used when determining classification using the HS nomenclature. Therefore where a consignment consists of a number of identical products classified under the same heading, each product must be considered individually. Where packaging is included with the product for classification purposes, it is included for origin purposes too.*

Accessories, spare parts and tools (Article 50 DA): *where dispatched with a piece of equipment, machine, apparatus or vehicle and part of the normal equipment and included in the price thereof or not separately invoiced, these are regarded as one with the piece of equipment, machine, apparatus or*

vehicle in question.

Sets of goods (Article 51 DA) *are normally originating products when all the component items making up the set are originating. Nevertheless, when a set is composed of originating and non-originating items, the set as a whole may be regarded as originating if the value of all the non-originating items taken together does not exceed 15 % of the ex-works price of the set.*

Example: a women's blouse (value €30) and a skirt (value €30) originating in a beneficiary country are put into a set together with a scarf imported from a third country (value €2). *The value of the three piece set is €62, which means that it originates in the beneficiary country, as the value of the scarf at €2 represents less than 4 % (€2.48) of the value of the set.*

Neutral elements (Article 52 DA): *In order to determine whether a product is an originating product, it is not necessary to consider the origin of the energy, equipment or tools used for processing the goods (though the cost of any fuel used will contribute to the ex-works price of the goods).*

Are there any relaxations to the origin rules?

The tolerance rule (Article 48 DA)

Non-originating materials may be used in the manufacture of a given product even if the rule in the sufficient working or processing list is not fulfilled, provided that their total value does not exceed:
(a) 15% of the weight of the product for products falling within Chapters 2 and 4 to 24, other than processed fishery products of chapter 16;

(b) 15% of the ex-works price of the product for other products, except for products falling within Chapters 50 to 63 of the Harmonized System, for which the tolerances mentioned in Notes 6 and 7 of Part I of Annex 22-03 DA, shall apply.

The tolerance rule shall not apply to products wholly obtained in a beneficiary country. However, without prejudice to the provisions concerning minimal operations and the unit of qualification (Article 47 DA and 49 (2) DA), the tolerance shall nevertheless apply to the sum of all the materials which are used in the manufacture of a product and for which the rule laid down in the list in Annex 22-03 DA for that product requires that such materials be wholly obtained.

Example: a doll *(classified HS 9502) will qualify if it is manufactured from any imported materials which are classified in a different heading. This means a manufacturer in a beneficiary country is allowed to import raw materials such as plastics, fabrics etc. which are classified in other chapters of the HS. But the use of doll's parts (e.g. Doll's eyes) is not normally possible as these are classified in the same heading (HS 9502). However, the tolerance rule allows the use of these parts if they amount to not more than 15 % of the doll's value.*

Derogations (Article 64 (6) UCC).

Derogations may be granted to beneficiary countries upon Commission's initiative or in response to a request from the beneficiary country, where:
(a) internal or external factors temporarily deprive it of the ability to comply with the applicable rules of origin where it could do so previously, or

(b) it requires time to prepare itself to comply with the "normal" rules of origin.

A request for derogation is made in writing to the Commission. It states the reasons as indicated in paragraph 1 why derogation is required and contains appropriate supporting documents.

The derogation, if granted, will be subject to conditions and applicable for a limited period (though this

may be extended if still justified). To ensure that imports are easily identified, the phrase **"Derogation-Regulation (EU) No …./…."** must ***always*** appear on the proof of origin **(e.g. in box 4 of the Form A pending the implementation of the REX system).** Failure to do this means that goods will not be treated in accordance with the derogation.

In addition, since derogations are subject to quantitative limits, they should be used only where the goods cannot acquire origin under any other provisions. If for example goods to be exported comply with the conditions for regional cumulation of origin, then there is no need to use the derogation-regulation.

> Example: *derogation for certain processed fish products originating in Cape Verde was granted to this country upon its request because its industry was insufficiently developed to allow it to meet the normal criteria (manufacture in which all fish and fishery products are wholly obtained). Thus in the framework of the derogation the country's producers were entitled to use imported (non-originating) raw fish in the manufacture of the processed fish products, which subsequently were eligible for the GSP preferential treatment when imported into the European Union. In order to allow the operation of the derogation to be monitored effectively, the Commission must be sent details of Form As issued under the derogation. See* Regulation (EU) No 439/2011 (EU Official Journal L 119, 7.5.2011, p. 1) and Regulation (EU) No 440/2012 (EU Official Journal L 135, 25.5.2012, p. 39).

What if I'm not sure? Binding Origin Information (BOI)

If, having considered the legal text and available guidance (this guide or material issued by the national customs authorities), you are still in doubt about the origin of your products, or if you simply want legal certainty, you may apply for a Binding Origin Information decision (BOI) Please note that for being entitled to apply for such a decision you should be able to demonstrate that your enquiry relates to an import or export operation actually envisaged in the EU.

BOIs may be issued for both export and import. They are binding on all customs administrations in the European Union for a period of 3 years from their date of issue where the goods being imported or exported and the circumstances governing the acquisition of origin correspond in every respect with what is described in the BOI.

They may be annulled if it transpires that they were issued on the basis of incorrect or incomplete information, or revoked or amended if for example there is a subsequent change in the law.

Application should be made in writing to the competent customs authorities in the Member State or Member States in which the information is to be used, or to the competent customs authorities in the Member State in which the applicant is established. A list of the authorities responsible for issuing BOIs is published in the EU Official Journal (OJ C 106, 06.04.2011, p. 6).

Note that the existence of a BOI does not exempt you from the requirement to provide proof of origin, as described in Section 4 below.

Section 3 - Territorial requirements and non-manipulation

Working or processing outside the territory of the beneficiary country (without prejudice to cumulation) is not permitted. Originating goods exported and subsequently returned may be considered as originating only if it can be demonstrated that they are the same as those exported, and that they have not undergone any operations beyond those necessary to preserve them in good condition.

Free zones are part of the territory of a country for origin purposes. This means that goods produced in a free zone in a beneficiary country may benefit from EU GSP but must comply with the origin criteria to do so.

The previously existing direct transport rule was replaced from 1 January 2011 by a more flexible non manipulation principle, as described in Article 43 DA.

The products declared for release for free circulation in the European Union shall be the same products as exported from the beneficiary country in which they are considered to originate. They shall not have been altered, transformed in any way or subjected to operations other than operations to preserve them in their condition, prior to being declared for release for free circulation. Storage of products or consignments and splitting of consignments may take place where carried out under the responsibility of the exporter and the products remain under customs supervision in the country(ies) of transit.

Compliance with the previous paragraph 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.

These rules apply *mutatis mutandis* when cumulation under Articles 53 DA, 54 DA, 55 DA or 56 DA applies.

An important difference between the previous direct transportation requirement and non manipulation clause lies in documentary evidence to be provided. Until 31 December 2010, with direct transport in all cases where the goods were transported via another country, except where the country of transit was one of the countries of the same regional group, the EU importer was required to present documentary evidence that the goods did not undergo any operations there (in the country of transit), other than unloading, reloading or any operation designed to keep them in their condition. The types of the referred documentary evidence were strictly defined in the law. The new non-manipulation clause shall be considered as satisfied a *priori* unless the customs authorities have reasons 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.

Section 4 - Proof of Origin (Documentary Requirements) according to the procedures applicable until 2017

What is a 'proof of origin'?

In the same way that a passport is evidence of the nationality of a person, an origin certificate is evidence that the goods have satisfied the rules of origin and is evidence of the economic nationality of a product.

What is the EU GSP proof of origin?

There are three principal forms of proof used in the context of the EU GSP[6]:

The certificate of origin Form A, used as proof of origin at import into the EU and in regional cumulation, see point 2.7 above (Article 74 IA and Annex 22-08 IA)[7].

The Invoice Declaration, which can be used for low value GSP exports (Article 75 IA and Annex 22-09 IA).

The Movement Certificate EUR1, which may be used as well as an invoice declaration, when goods are exported to beneficiary countries from the EU in the context of bilateral cumulation, see 2.7 above (Article 77 IA and Annex 22-10 IA).

These are contained in Appendix IV. For information about how they are to be completed and issued see Sections 5 and 6 below.

From 2017 onwards, the statement on origin made out by registered exporters will constitute the new standard proof of origin for the purpose of the EU GSP scheme (see Section 6.3).

How are these documents used?

The ***Form A and invoice declaration*** are used by importers in the EU for GSP imports as evidence in support of their request that the goods be imported at preferential rates of customs duty (often nil). They are therefore important documents and have a value equal to the amount of customs duty that is waived by the EU. In this sense they serve a similar function to a cheque, a banknote or banker's draft and must be treated with similar respect.

Like a banknote, the **Form A** must be printed to a very precise specification in terms of colour and background pattern (see Annex 22-08 IA) and, like a cheque or banker's draft, it must be carefully completed. Guidance on the completion of the Form A is given in point 5.6 below.

The Form A is also used as evidence of origin for the purpose of applying the regional cumulation of origin provisions (see point 2.7). In a regional group, goods originating in country A should be accompanied by a certificate of origin Form A if they are exported to country B (of the same regional group) for further processing before being exported to the EU (Article 55 DA).

The ***invoice declaration*** must also conform to a very precise formulation (see Annex 22-09 IA and below) and may be used by exporters in beneficiary countries when exporting goods of a low value (see point 5.12 below for further information).

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[6] The statement of origin, which will be issued in the framework of the registered exporter system applicable from 2017 (see Section 6), will replace the three mentioned forms of proofs.

[7] Annex 22-08 IA has been updated to reflect the 2007 and 2013 changes. EU **Member States accept the latest (2007 or 2013) versions as well as continue to accept earlier ones. It is stressed that all versions of the notes are acceptable in all *28* Member States.**

The **movement *certificate EUR.1*** is used by exporters in the EU, as well as in Norway or Switzerland, when they send originating goods to beneficiary countries for the purpose of bilateral cumulation.

EU exporters who are "approved exporters" may use an invoice declaration (instead of a movement certificate EUR.1), when exporting materials or parts of EU origin to a GSP beneficiary country for incorporation into a product there for export to the EU (or Norway or Switzerland or Turkey in future) as an originating product under the EU, Norway, Switzerland or Turkey respective GSP schemes.

EU exporters who are not "approved exporters" may use an invoice declaration for low-value consignments only (point 5.12). Otherwise, they must use a movement certificate EUR.1.

The invoice declaration reads:

French version

L'exportateur des produits couverts par le présent document [autorisation douanière no … (1)] déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle … (2) au sens des règles d'origine du Système des préférences tarifaires généralisées de l'Union européenne et … (3).

English version

The exporter of the products covered by this document (customs authorisation No … (1)) declares that, except where otherwise clearly indicated, these products are of … preferential origin (2) according to rules of origin of the Generalised System of Preferences of the European Union and … (3).

Spanish version

El exportador de los productos incluidos en el presente documento (autorización aduanera n o … (1)) declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial … (2) en el sentido de las normas de origen del Sistema de preferencias generalizado de la Unión europea y … (3).

(place and date) (4)

Signature of the exporter; in addition the name of the person signing the declaration has to be indicated in clear script) (5)

(1) When the invoice declaration is made out by an approved European Union's exporter within the meaning of Article 77(4) of Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 (See page 558 of this Official Journal.), the authorisation number of the approved exporter must be entered in this space. When (as will always be the case with invoice declarations made out in beneficiary countries) the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(2) Country of origin of products to be indicated. When the invoice declaration relates, in whole or in part, to products originating in Ceuta and Melilla within the meaning of Article 112 of Implementing Regulation (EU) 2015/2447, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol 'CM'.

(3) Where appropriate, enter one of the following indications: 'EU cumulation', 'Norway cumulation', 'Switzerland cumulation', 'Turkey cumulation', 'regional cumulation', 'extended cumulation with country x' or 'Cumul UE', 'Cumul Norvège', 'Cumul Suisse', 'Cumul Turquie', 'cumul regional', 'cumul étendu avec le pays x' or 'Acumulación UE','Acumulación Noruega', 'Acumulación Suiza', 'Acumulación Turquía', 'Acumulación regional', 'Acumulación ampliada con en país x'.

(4) These indications may be omitted if the information is contained on the document itself.

(5) See Article 77(7) of Implementing Regulation (EU) 2015/2447 (concerns approved European Union's exporters only). In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

For how long is proof of origin valid?

Under the EU GSP, the certificate of origin Form A, the invoice declaration and the movement certificate EUR.1 are all valid for 10 months only from the date of issue in the exporting country (Article 94 IA). They must be presented within this period to the customs authorities of the importing country.

However, proofs of origin presented to the customs authorities of the importing country after the expiry of the period of validity may be accepted for the purpose of applying tariff preferences where the failure

to submit them in time was due to exceptional circumstances. In other cases of belated presentation, they may be accepted where the goods were presented before the final date.

In certain circumstances, in the case of certain dismantled or non-assembled products or where goods are imported within the framework of frequent and continuous trade flows of a significant commercial value (Article 96 IA), the importer may request that a single proof of origin be submitted at the importation of the first consignment. The customs authorities will lay down conditions. In the latter case, the period allowed may not exceed three months and the goods must be the subject of the same contract of sale (the parties being established in the exporting country or in the European Union), be classified in the same 8-digit CN code, come exclusively from the same exporter, be destined for the same importer, and be declared at the same customs office in the European Union.

Section 5 - Responsibilities of Exporters in Beneficiary Countries

As an exporter, in a beneficiary country, why is it important that I understand the origin rules and the documentary procedures?

Before a Form A is issued the authorities in your country should verify that everything is in order and that the goods concerned are originating ones. But there are also regulations governing the operation of the EU GSP which require the Customs Authorities in the importing Member State of the European Union to ask the authorities in the exporting country to carry out further checks from time to time on goods which have already been exported to the European Union under the GSP. If these post-exportation, or subsequent (a *posteriori* in French or Spanish), verification checks show that your goods did not satisfy the rules of origin, then your customer in the European Union will have to pay customs duty at the full (non-preferential) rate. If this happens you could be faced with claims for compensation or even with non-payment for the goods supplied. You may even lose future business, as customers will not want to run the risk of receiving further unexpected duty demands for goods they have purchased from you.

It is therefore in your **own interest** to MAKE SURE THAT YOU UNDERSTAND THE ORIGIN RULES, AND APPLY THEM CORRECTLY.

Do not tell your customers that they can claim preferential tariff treatment or provide them with evidence of origin unless you are certain that the goods you are exporting satisfy the rules of origin.

How do I work out if my goods satisfy the rules of origin?

Section 2 of this guide gives a detailed explanation of the different types of origin rule. In short, an **originating product** (i.e. a product which has satisfied the origin rules) is either:

a product *which has been 'wholly obtained'; this term applies only to products listed in point 2.3 above; or*

a product incorporating materials or parts which have not been wholly obtained but which have undergone 'sufficient working or processing'.

You should take the following steps to find out if your goods are 'originating products'.

Step 1
Find out whether your products are 'wholly obtained' (see point 2.3). If they are, they originate. If they do not, move to step 2.

Step 2
Find out which four-figure HS heading covers the product you are exporting. If in doubt, ask your customs authority or your competent national authority which is responsible for issuing certificates of origin Forms A.

It is most important that you establish the correct HS heading for your goods, otherwise you could apply the wrong rule. If it is later found that the product did not have origin then the import duties in EU need to be paid. Your customer will not be pleased.

Step 3
Establish whether the working or processing which has been carried out in your country is among the minimal processes listed in Article 47 DA (see point 2.5). If it is, then the resulting goods cannot be regarded as originating goods. Go to step 4 if the working or processing undertaken is *more* than minimal

Step *4*
Turn to Annex 22-03 DA and identify the rule for your product. Read the accompanying notes carefully, and make sure you understand them.

Step *5*
Establish whether your product has met the relevant rule contained in the list in Annex 22-03 DA (see APPENDIX III). The guidance and examples in point 2.4 will help you do this.

Do not forget to include both material and non-material costs in the calculation of your ex-works price where the products are covered by a percentage rule which limits the value of non-originating materials which can be used in the manufacture of the finished product.

Remember to take into account any special provisions which may apply, for example;

the general tolerance for *non-originating materials or parts (point 2.9 and Article 48 DA).*

bilateral cumulation using European Union (or NO, CH or TR in future) content (point 2.7 and Article 53 DA and 54 DA),

regional and cross-regional cumulation (point 2.7 and Article 55 DA),

extended cumulation (point 2.7 and Article 56 DA) and

derogations granted to your country/products (point 2.9 and Article 64 (6) UCC).

Do not hesitate to contact your national authority competent for the issue of Forms A if, having read this guide, you do not understand any aspect of these rules or are uncertain as to whether your goods satisfy them.

What evidence will you need to show your authorities that your goods have satisfied the rules of origin?

To help you decide whether your product satisfies the rules of origin you may need information about the materials or parts you buy-in.

It is not enough to show that the materials or parts were purchased locally. You must get from your local supplier a statement about the *origin* of the goods he has supplied. Your supplier will therefore need to understand the rules of origin as well and it is your responsibility as the exporter to help him in this respect.

In some cases it may be sufficient to find out how the goods were made. For example, if you are making knitted or crocheted garments and the origin rule requires *'knitting and making- up',* it will be sufficient for you to obtain evidence from your local fabric supplier that the fabric was knitted or crocheted locally. The manufacture from an imported (non-originating) knitted or crocheted fabric will not satisfy the rule of origin for export as originating garments.

If you acquire any materials or parts from a supplier in the EU (or Norway, Switzerland or Turkey in future) and you wish to apply the cumulation of origin provisions (see point 2.7) you will need to obtain evidence of the European Union (or Norwegian, Swiss or Turkish in future) origin of those goods from your supplier. This will either be a movement certificate EUR1 or an invoice declaration.

If you acquire any materials or parts from a supplier in one of the countries of the regional group to which your country belongs and you wish to apply the regional cumulation provisions (see point 2.7) then evidence of the origin of these materials or parts in the other member country will need to be obtained from the supplier and you should ask him for a Form A. Please be aware that the supplying partner country in the regional group must also be a beneficiary country and not simply an eligible country for the EU GSP (see point 2.7 above).

Where the origin rules require a calculation of the value of any non-originating materials or parts used as a percentage of the ex-works price of the finished product, you will need to maintain sufficient records to enable the appropriate calculations to be made for each exportation.

You must keep these records and all other records of origin evidence for at least three years to enable checks to be carried out to verify that for any given consignment the origin rules were satisfied. Note that the three year period is a minimum required from all countries but that some of them apply longer retention period (up to ten years).

Where can you obtain a Form A?

The competent national authority for the issue of forms A, often customs, will be able to tell you how to obtain a Form A for completion.

Who can fill in a Form A?

As the exporter you know whether the goods satisfy the rules of origin so you should normally complete the Form A yourself. However, you can authorise a representative to complete the Form on your behalf. If you do this you must provide your representative with written authorisation for each consignment showing clearly which goods are to be included on the Form A as goods satisfying the rules of origin. You remain responsible for the accuracy of the information given by your representative.

How should the Form A be completed?

The Form A must be made out in either English or French. If you are completing the form by hand you must use ink and capital letters throughout.

Box 1

Insert the full name and business address of the exporter.

Box 2 - Consignee

The completion of this box is optional, but you are recommended to insert the name and address of the consignee where this is known. For exports to exhibitions which are later sent on to the EU insert also the name and address of the exhibition.

Box 3 - Transport details

You should complete this box, if you can, on the basis of available information. If you do not have details of the transport arrangements, then leave this box blank.

Box 4 - For official use.

This box is reserved for the use of the certifying authority.

Box 5 - Item number

If different types of goods are shown separately on the invoice(s), show each type separately on the Form A and itemise them (1, 2, 3 etc), so they can be crossed checked to the invoice if necessary.

Box 6 - Marks and numbers

Insert the identifying marks and numbers that appear on the packages. If the packages are marked with the address of the consignee, state the address. If they are not marked in any way, put 'No marks and numbers'. If both originating and non-originating goods are packed together, add 'Part contents only' at the end of each entry.

Box 7 - Number and kind of packages, description of goods

Bulk Goods

Identify the goods by giving a reasonably full commercial description e.g. *'photocopiers'* or *'typewriters'* rather than *'office machinery'.* However if the invoices give full identifying details (which need not necessarily include details of the marks and numbers of the packages) only a general description is needed.

For goods in bulk which are not individually packed, insert 'In *bulk'.* The quantity shown must be the same as, or relatable to, the quantity shown on the invoice for the goods (e.g. if the invoice shows 100 cartons and these are loaded on to 10 pallets, specify **'100 cartons' NOT '10 pallets').**

Mixed consignments

For consignments containing both originating and non-originating goods, describe only the originating goods on the Form A. You may be unable to avoid showing originating and non- originating goods on the same invoice. In this case, mark the invoice (for example, with an asterisk) to show which goods are non-originating and put an appropriate statement in Box 7 immediately below the description of the goods, e.g. 'Goods marked * on the *invoice are non- originating and are not covered by this certificate of origin Form* A'.

The same considerations will apply if you have a mixed consignment of goods qualifying by virtue of a derogation and others which are not covered by that derogation (see point 2.9 above).

Unused space

Draw a horizontal line under the final item in this box and rule through the unused space with a 'Z-shaped' line.

Box 8 - Origin criterion

This box signifies to the customs authorities in the EU which origin rule has been applied to the goods. As described in the note about it on the reverse of the Form A, enter the code P for wholly-obtained goods and the code W, followed by the HS heading, where the goods have been sufficiently-worked or -processed goods (thus for wholly-obtained goods of, say,

HS heading 96.18, the indication should read: "P"; for sufficiently-worked or - processed goods of the same HS heading, it should read: "W" 96.18.) **Failure to complete this box correctly (e.g. by inserting the wrong tariff heading) could lead to the rejection of the Form A.**

Special note for exporters to the Czech Republic, Hungary, Poland and Slovakia using Form As bearing the 1996 notes on the back, and for exporters to Bulgaria using the 1996, 2004 or 2005 version: please disregard note III(b)(4). The indication to be made since their accession to the EU is that specified by note* III(b)(3) for the *European Union. *(See also the footnote to point 4.2).*

Box 9 - Gross weight or other quantity

You should give quantities in metric units (e.g. kilograms, litres etc), but imperial measures (e.g. tons, pounds (lbs.), imperial gallons) will be accepted.

Box 10 - Number and date of invoice

The completion of this box is optional, but you are recommended to insert details as required.

Box 11 - Certification

Leave this blank.

Box 12 - Declaration by the exporter

Complete this box by inserting the name of the country in which the goods are considered to have originated. You should take into account that, where the provisions for regional cumulation have been applied (see point 2.7), that country may not be the same as the country of final processing or the country of exportation. For the importing country you must put 'European *Union';* you may put the name of the particular Member State concerned in as well. **Indicating a different donor country (e.g. Canada) could lead to the Form A not being accepted.**

Only the exporter, or a person duly authorised by the exporter (see point 5.5), can sign this declaration. Forwarding agents acting simply in that capacity are not exporters and must not sign this box. By signing this form you declare that the goods qualify under the provisions of the EU. **If the declaration is incorrect you will have committed an offence which may incur penalties.**

Where and when do I present the completed Form A for certification?

Shortly before the goods are exported, the exporter or his representative should take the completed Form A to the competent certifying authority. The Form should be accompanied by a written application for the issue of the Form A, in the format and manner prescribed by the competent authorities. The application should be supported by the appropriate documents showing that the products to be exported qualify for the issue of the Form A (see point 5.3).

The certifying authority will examine the application, the supporting documents and the Form A to make sure that you have supplied all the information necessary. If they are satisfied that the goods seem to qualify for the issue of the certificate and the exportation has taken place or is ensured, they will stamp and sign the Form A and return it to you for you to send, immediately, to your customer in the European Union. Your customer will then present the Form A to the European Union Customs Authorities when the goods are imported in order to claim the lower rate of duty.

If the contract for the supply of the goods requires that the Form A is *sent first* to a bank, you should do this and remind the bank of the *need* to send the *original Form A on* to your customer as soon as possible so that he can use it *at* import.

Can the certifying authority refuse to issue the Form A?

Yes. If they do not think you have adequately demonstrated that the goods have originating status they **will** do this. If you have just completed the form incorrectly it will be returned to you with appropriate instructions about any corrections/amendments that need to be made.
The certifying authority may also ask you to provide additional evidence to demonstrate that the goods have indeed satisfied the rules of origin. They may also decide to undertake other checks or controls, including a visit to your factory/business premises, to confirm the accuracy of the information you have provided.

Can a Form A be issued retrospectively after the goods have been exported? (Article 74 (2) and (3) IA)

Yes, but you should make every effort to complete a Form A for issue at the time of exportation. However, a Form A may be issued after exportation of the goods, if:

one was not *issued at the time of exportation because of errors, accidental omissions or special circumstances;*

or

it is demonstrated to the satisfaction of the certifying authority that a Form A was issued, but was not accepted on importation for technical reasons, rather than ones of substance.

or

the final destination of the products concerned was determined during their transportation or storage and after possible splitting of a consignment, in accordance with Article 43 DA.

A Form A will be rejected for 'technical reasons' by the Customs authorities of the importing EU Member State if Box 12 ("Declaration by the exporter") has not been completed for example.
Circumstances in which Forms A may be issued after exportation include, for example, those where, at the time of exportation, the necessary evidence of origin of materials or parts used was not available to the exporter.

For a Form A to be issued after your goods have been shipped, you must:

apply *in writing to the certifying authority stating that no valid Form A was issued at the time of exportation; and explaining why, or*

explain what were the technical measures for the original certificate being rejected. provide

a correctly completed Form A;
give details of the place and date of exportation of the goods to which the certificate refers; and

supply a copy of the export invoice and evidence (see point 5.3) which demonstrates that the goods have satisfied the provisions for the issue of the Form A.

The competent certifying authority will only issue the form if they are satisfied that their conditions for the issue of a Form A after the exportation of the goods are met and that the information you have provided corresponds with that in their records. The words 'Issued Retrospectively' or 'Délivré a Posteriori' or "emitido a posteriori" shall be indicated in Box 4 of the form.

It is pointed out that "exceptional circumstances" do not include cases where a preference exists at the time of declaration for release for free circulation, but where no preference existed at the time of export. Form A cannot be issued retrospectively where there would have been no legal basis to

do so at the time of export.

What happens if a Form A is lost, stolen or destroyed?: duplicate certificates (Article 74 (4) IA)

If this happens, the exporter, or his duly authorised agent, may apply to the competent authority which issued the Form A for a **duplicate** to be made out on the basis of the export documents in their possession. You should:

state *in writing why you need a duplicate;*

provide a completed Form A; and

supply a copy of the export invoice and/or any other supporting evidence on the basis of which the original form was issued.

After verifying that the information provided agrees with that in their files, the competent authority will issue a duplicate Form A on the basis of the export documents in their possession provided that they are satisfied that your request is genuine. The words 'Duplicate' or 'Duplicata" or "Duplicado", the date of issue and serial number of the original certificate shall be indicated in Box 4. The period of validity (see point 4.4) of the duplicate certificate will take effect from the date of the original.

What are replacement certificates of origin Form A? (Article 95-IA)

Replacement certificates of origin Form A should not be confused with duplicate certificates (see point 5.10). They may be issued on the basis of the original issued in the beneficiary country:

- by EU customs authorities, where originating products are placed under the control of a customs office in the European Union and all or some of them are to be sent elsewhere within the European Union or to Norway or Switzerland (and Turkey in future);

- by the authorities of Norway or Switzerland (and Turkey in future), where the goods are transported through Norway or Switzerland (and Turkey in future), re-consigned to the EU and the non-manipulation principle is met (see point 3 above).

Where a replacement certificate is required, the re-exporter must make a written request.

Are there any special provisions for the export of low value consignments?

Yes, both for certain consignments of a commercial nature (Article 75 IA) and for products sent as small packages from *private* persons to *private* persons, or which form part of a *traveller's personal luggage* (Article 97 IA).

Consignments of a *commercial* nature which contain originating products of a value not exceeding € 6,000 may be accompanied by an invoice declaration (the text of which appears in Annex 22-09 IA and is also reproduced at point 4.3 above) in place of the Form A. The declaration may be written on the invoice, the delivery note or any other commercial document relating to the consignment and describing the product. The exporter must:

issue only one invoice declaration for each consignment;

make the declaration in either French, English or Spanish by writing, typing, or stamping it or by having it printed onto the relevant document. N.B. ink and block capitals must be used if you are writing the declaration by hand;

sign the declaration in manuscript; and

be prepared to submit at any time, all appropriate documents substantiating the originating status of the goods concerned at the request of the competent authority.

Neither a Form A nor an invoice declaration is needed for products sent as small packages from *private* persons to *private* persons, or which form part of a *traveller's personal luggage.* These items will be admitted at the appropriate preferential tariff rate of duty by the EU Customs authorities provided the goods are not imported by way of trade (the imports are occasional and consist solely of products for the personal use of the recipients or travellers or their families and it is evident from the nature and quantity of the products that no commercial purpose is in view), and there is no reason to doubt that they satisfy the rules of origin. However the total value of the products must not exceed €500 in the case of small packages, or €1200 in the case of the contents of travellers' personal luggage. If the value is higher than this then documentation will be required or duty will have to be paid. There is no provision for getting evidence later and reclaiming duty already paid.

Section 6 - Registered exporters under the procedure applicable from 2017

From 1 January 2017, a system of registered exporters will apply. It is important to note that the system shall apply in the following cases (Article 78 IA):

(a) in cases of originating goods exported by a registered exporter within the meaning of Article 86 IA.

(b) in cases of any consignment of one or more packages containing originating products exported by any exporter, where the total value of the originating products consigned does not exceed € 6,000.

The value of originating products in a consignment is the value of all originating products within one consignment covered by a statement on origin made out in the country of exportation.

What are the beneficiary countries' responsibilities in this system (Article 79 IA)?

Beneficiary countries shall start the registration of exporters on 1 January 2017.

However, where the beneficiary country is not in a position to start registration on that date, it has to notify the Commission in writing by 1 July 2016 that it postpones the registration of exporters until 1 January 2018 or 1 January 2019.

During a period of 12 months following the date on which the beneficiary country starts the registration of exporters, the competent authorities of that beneficiary country shall continue to issue certificates of origin Form A at the request of exporters who are not yet registered at the time of requesting the certificate.

Without prejudice to Article 94(2) IA, certificates of origin Form A issued in accordance with the previous paragraph shall be admissible in the Union as proof of origin if they are issued before the date of registration of the exporter concerned.

The competent authorities of a beneficiary country experiencing difficulties in completing the registration process within the above 12-month period may request its extension to the Commission. Such extensions shall not exceed six months.

Exporters in a beneficiary country, registered or not, shall make out statements on origin for originating products consigned, where the total value thereof does not exceed EUR 6 000, as of the date from which the beneficiary country intends to start the registration of exporters.

Exporters, once registered, shall make out statements on origin for originating products consigned, where the total value thereof exceeds EUR 6 000, as of the date from which their registration is valid in accordance with Article 86(4).

All beneficiary countries shall apply the registered exporter system as of 30 June 2020 at the latest.

The competent authorities of the beneficiary country shall establish and keep up to date at all times an electronic record of registered exporters located in that country (Article 79 IA). The record shall be immediately updated where an exporter is withdrawn from the register in accordance with Article 89 (2) IA.

The record shall contain the following information:

(a) name and full address of the place where Registered Exporter is established/resides, including the identifier of the country or territory (ISO alpha 2 country code);

(b) number of Registered Exporter;

(c) products intended to be exported under the scheme (indicative list of Harmonized System chapters or headings as considered appropriate by the applicant);

(d) dates as from and until when the exporter is/was registered.

(e) the reason for withdrawal (registered exporter's request / withdrawal by competent authorities). This data shall only be available to competent authorities.

The competent authorities of the beneficiary countries shall notify the Commission of the national numbering system used for designating registered exporters. The number shall begin with ISO alpha 2 country code.

What do the exporters have to do (Article 86 IA)?

To be registered, exporters shall lodge an application with the competent authorities of the beneficiary country referred to in Article 72(1)(a) IA, using the form a model of which is set out in Annex 22-06 IA. By the completion of the form exporters give consent to the storage of the information provided in the database of the Commission and to the publication of non-confidential data on the internet (Articles 82 and 83 IA).

The application shall be accepted by the competent authorities only if it is complete.

Exporters, registered or not, shall comply with the following obligations (Article 91 IA):

(a) they shall maintain appropriate commercial accounting records for production and supply of goods qualifying for preferential treatment;

(b) they shall keep available all evidence relating to the material used in the manufacture;

(c) they shall keep all customs documentation relating to the material used in the manufacture;

(d) they shall keep for at least three years from the end of the year in which the statement on origin was made out, or more if required by national law, records of

(i) the statements on origin they made out; and
(ii) their originating and non-originating materials, production and stock accounts.

The records referred to in point (d) may be electronic but shall allow the materials used in the manufacture of the exported products to be traced and their originating status to be confirmed.

The obligations of exporters shall also apply to suppliers who provide exporters with supplier's declarations certifying the originating status of the goods they supply.

Exporters are communally registered for the purposes of exports under the GSP schemes of the Union, Norway and Switzerland as well as Turkey, once that country fulfils certain conditions.

A registered exporter number is assigned to the exporter by the competent authorities of the beneficiary country with a view to exporting under GSP schemes of the Union, Norway and Switzerland as well as Turkey, once that country fulfils certain conditions, to the extent that those countries have recognised the country where the registration has taken place as a beneficiary country. The registration is valid as of the date on which the competent authorities of a beneficiary country or the customs authorities of a Member State receive a complete application for registration.

The competent authorities of a beneficiary country or the customs authorities of a Member State should inform the exporter, or where appropriate the re-consignor of goods, of the number of registered exporters assigned to that exporter or re-consignor of goods and of the date from which the registration is valid.

Where a country is added to the list of beneficiary countries (Article 88 IA) in Annex II to Regulation (EU) No 978/2012, the Commission shall automatically activate for its GSP scheme the registrations of all exporters registered in that country provided that the registration data of the exporters are available in the REX system and are valid for at least the GSP scheme of Norway, Switzerland or Turkey, once that country fulfils certain conditions.

In this case, an exporter who is already registered for at least the GSP scheme of either, Norway, Switzerland or Turkey, once that country fulfils certain conditions, need not lodge an application with his competent authorities to be registered for the scheme of the Union.

The re-consignors of goods, whether registered or not, who make out replacement statements on origin as referred to in Article 101 IA shall keep the initial statements on origin they replaced for at least three years from the end of the calendar year in which the replacement statement on origin was made out, or longer if required by national law.

What are the documents to be used (see Articles 92 IA, 93 IA and 99 IA)?

The ***statement on origin*** is made out by the registered exporter when the products to which it relates are exported, if the goods concerned can be considered as originating in the beneficiary country concerned or another beneficiary country in accordance with the second sub-paragraph of Article 55 DA or with the second sub-paragraph of Article 55 (6) DA.

The statement on origin shall be provided by the exporter to his customer in the European Union and shall contain the particulars specified in Annex 22-07 IA. A statement on origin shall be made out in either English, French or Spanish. It may be made out on any commercial document allowing to identify the exporter concerned and the goods involved.

This applies *mutatis mutandis* to statements on origin made out in the Union for the purpose of bilateral cumulation.

When cumulation under Articles 53 DA, 55 (1) DA, or 55 (5) DA and 55 (6) DA applies (bilateral cumulation and regional cumulation), the exporter of a product in the manufacture of which materials originating in a party with which cumulation is permitted are used shall rely on the statement on origin provided by its supplier. In these cases, the statement on origin made out by the exporter shall, as the case may be, contain the indication "EU cumulation", "Regional cumulation", or "Cumul UE", "Cumul régional", or "Accumulación UE", "Accumulación regional".

When cumulation under Article 54 DA applies (cumulation with Norway, Switzerland or Turkey), the exporter of a product in the manufacture of which materials originating in a party with which cumulation is permitted are used shall rely on the proof of origin provided by its supplier and issued in accordance with the provisions of the GSP rules of origin of Norway or Switzerland (and Turkey in future), as the case may be. In this case, the statement on origin made out by the exporter shall contain the indication "Norway cumulation", "Switzerland cumulation", "Turkey cumulation", or "Cumul Norvège", "Cumul Suisse", "Cumul Turquie", or "Accumulación Noruega", "Accumulación Suiza", "Accumulación Turquia".

When extended cumulation under Article 56 DA applies (extended cumulation), the exporter of a product in the manufacture of which materials originating in a party with which extended cumulation is permitted are used shall rely on the proof of origin provided by its supplier and issued in accordance with the provisions of the relevant free-trade agreement between the European Union and the party concerned. In this case, the statement on origin made out by the exporter shall contain the indication "Extended cumulation with country x", or "cumul étendu avec le pays x", or "Accumulación ampliada con el pais x".A statement on origin shall be made out for each consignment.

A statement on origin may be made out after exportation ('retrospective statement') on condition that it is presented in the Member State of declaration for release for free circulation no longer than two

years after the export. A statement on origin shall be valid for twelve months from the date of its making out by the exporter.

Where the splitting of a consignment takes place in accordance with Article 43(4) DA and provided that the two-year deadline referred to in the previous paragraph is respected, the statement on origin may be made out retrospectively by the exporter of the country of exportation of the products. This applies mutatis mutandis if the splitting of a consignment takes place in another beneficiary country or in Norway, Switzerland or, where applicable, Turkey.

A single statement on origin may cover several consignments if the goods meet the following conditions:

(a) they are dismantled or non-assembled products within the meaning of general rule 2(a) of the Harmonized System,

(b) they are falling within Section XVI or XVII or heading 7308 or 9406 of the Harmonized System, and

(c) they are intended to be imported by instalments.

Are there any cases for withdrawal (Articles 89 and 90 IA)?

Registered exporters who no longer meet the conditions for exporting any goods under the scheme, or no longer intend to export such goods, shall inform the competent authorities in the beneficiary country who shall immediately remove them from the record of registered exporters kept in that beneficiary country.

Without prejudice to the system of penalties and sanctions applicable in the beneficiary country, where registered exporters intentionally or negligently draw up, or cause to be drawn up, a statement on origin or any supporting document which contains incorrect information which leads to irregularly or fraudulently obtaining the benefit of preferential tariff treatment, the beneficiary country's competent authorities shall withdraw the exporter from the record of registered exporters kept by the beneficiary country concerned.

Without prejudice to the possible impact of irregularities found on pending verifications, withdrawal from the record of registered exporters shall take effect for the future, i.e. in respect of statements made out after the date of withdrawal.

Exporters who have been removed from the record of registered exporters by the competent authorities in accordance with the second paragraph above may only be re-introduced into the record of registered exporters once they have proved to the competent authorities in the beneficiary country that they remedied the situation which led to their withdrawal.

Section 7 - Responsibilities of Exporters in the EU

As an EU exporter why should I read this section?

When products of EU origin are used as materials in the manufacture of a product in a GSP beneficiary country, they count (under the cumulation of origin rules, see point 2.7) as originating in that country. This can help the finished product satisfy the rules of origin for importation into the European Union at a preferential rate of duty. It is important, therefore, that goods exported for this purpose are accompanied by evidence of their EU originating status. The manufacturer in the GSP country will need to present this evidence in support of his application for a Form A to accompany the goods he sends to the EU.

Bilateral cumulation (see point 2.7 above) applies only if the exported goods have EU originating status (European Union customs status obtained through release for free circulation is not enough) certified by an EUR.1 (or by a statement on origin after 1 January 2017), and they are subject to more than a minimal operation in the country concerned (and also provided no non-originating material is added during the operation).

If you are exporting goods to a beneficiary country under the Outward Processing Relief (OPR) arrangements, you may wish to consider whether the materials or parts you are sending out for processing qualify as originating goods and whether the returning product would then be entitled to receive additional tariff advantages under the EU GSP scheme.

Under EU GSP bilateral cumulation, the re-imported product will be granted the benefit of the GSP arrangements; on the other hand, as a compensating product for OPR, Article 259 of the Union Customs Code ("the Code" – Parliament and Council Regulation (EU) No 952/2013) will apply; however, by combining both, Article 75 DA should apply. The amount of possible additional OPR duty relief will depend on the GSP duty rate to be applied to goods of the same kind as those temporarily exported. Note however that the method of taxation based on the cost of the processing operation (Article 86 (5) and (6) of the Code and Article 75 DA) could not be applied in such a situation, where the temporary export goods could have been subject to the preferential GSP duty, unless proof is given that it had not been released for free circulation at a duty rate of zero.

It is vitally important therefore to ensure that any declaration you make about the origin of the exported materials or parts is correct. An incorrect declaration may lead to a false claim to preferential tariff treatment in respect of the products subsequently imported into the EU which in turn may lead to penalties being imposed on the importer.

What are the rules of export applying to goods exported from the EU?

The rules which determine the origin of goods produced in GSP countries apply to goods exported from the EU to the GSP countries as well. The general guidance provided in point 5.2 for working out how goods satisfy the rules of origin applies also when goods are exported from the EU.

What evidence will I need to show that my goods have satisfied the rules of origin?

If you are already exporting under one of the EU's preferential trading arrangements, you will be familiar with the evidence that must be obtained and the records that must be maintained. Otherwise you should seek advice from your national customs administration, but you may read the appropriate parts of this guide to get an idea of what you will have to do. In this regard, Chapter 2, Section 2, Subsection 1 of the IA applies within the European Union. It lays down procedures such as supplier's declarations to facilitate the issue of movement certificates EUR.1 and the making-out of invoice declarations.

What evidence must I send to the GSP country to show that my goods have satisfied the rules of origin?

Normally, you must provide your customer in the GSP country with a movement certificate EUR 1 (see Annex 22-10 IA). EU exporters who are not familiar with this document should seek further advice from their national customs authorities.
However, if you are a European Union *Approved Exporter'* then you may use an *invoice declaration,* stating that the products are of EU preferential origin *'according to the rules of origin of the Generalised System of Preferences of the European Union'.*
After 1 January 2017, you will have to lodge an application with your national authorities to become a *registered exporter.* To certify the EU origin of the goods you export to a GSP beneficiary country, you will have to provide your customer in this country with a statement on *origin.*

Where and when do I present a completed EUR.1 for certification?

You should follow the procedures laid down by your national customs authority.

Is there anything else I should know about the EUR.1 and the invoice declaration?

The rules concerning certificates issued after the goods have been exported, lost certificates and invoice declarations for low value consignments covered in points 5.9, 5.10 and 5.12 essentially also apply to EUR 1s and invoice declarations issued for exports from the EU.

Accounting segregation of EU exporters' stocks of materials

If originating and non-originating fungible materials are used in the working or processing of a product, the customs authorities of the Member States may, at the written request of economic operators, authorise the management of materials in the European Union using the accounting segregation method for the purpose of subsequent export to a beneficiary country within the framework of bilateral cumulation, without keeping the materials on separate stocks.

The customs authorities of the Member States may make the granting of authorisation subject to any conditions they deem appropriate.

The authorisation shall be granted only if by use of the accounting segregation it can be ensured that, at any time, the number of products obtained which could be considered as 'originating in the European Union' is the same as the number that would have been obtained by using a method of physical segregation of the stocks.

If authorised, the method shall be applied and the application thereof shall be recorded on the basis of the general accounting principles applicable in the European Union.

The beneficiary of the accounting segregation method shall make out or, until the application of the registered exporter system, apply for proofs of origin for the quantity of products which may be considered as originating in the European Union. At the request of the customs authorities of the

Member States, the beneficiary shall provide a statement of how the quantities have been managed.

The customs authorities of the Member States shall monitor the use made of the authorisation.

They may withdraw the authorisation in the following cases:

(a) the beneficiary makes improper use of the authorisation in any manner whatsoever, or

(b) the beneficiary fails to fulfil any of the other applicable conditions.

Section 8 - Responsibilities of Importers in the EU

As an EU importer why should I read this section?

Importing under preference carries certain risks. It is therefore important that you should be aware of these risks and of how you can protect your interests.

The customs authorities in the importing Member State of the EU can ask the authorities in the exporting country to carry out further checks and controls on goods which have already arrived in the EU and which may even have already been released for free circulation at a preferential rate of duty (see point 9.5). This is often called "a subsequent verification" (see point 9.5 to see what happens in the beneficiary country).

If the goods have not already been put into free circulation and the competent authorities decide to suspend the granting of tariff preferences while awaiting the results of the verification, you may be required to pay security. Where they consider that checks which they have undertaken may result in a higher amount of import duties being due than that resulting from the particulars in the declaration, they shall always require the lodging of a security sufficient to cover the difference (Article 195 of Regulation (EU) No 952/2013).

Where a verification check shows that the goods do not qualify for preferential tariff treatment, customs will refuse preference or you will lose the benefit of it. You should also note that European Union legislation provides for the collection of duty from the importer up to 3 years after the goods have been imported.

How can I check that the goods I am importing meet the required origin rules?

In *your own interests you should check as far as you can that any proof of origin you present to customs is valid and that the goods covered by it are entitled to the reduced rate of customs duty you are claiming, to avoid unpleasant repercussions later on.*

If you suspect the accuracy or validity of the preference document you hold or have reason to doubt that the goods are entitled to a reduced rate of duty, you should not claim that preferential rate of duty. If you do so, you will run the risk of having committed an offence which may incur penalties.

Before you make your claim for a reduced rate of duty (by entering the code 2 in box 36 of the customs declaration form (SAD), or even before you order the goods, you should yourself:

find out the origin rule for the product concerned (see Annexes 22-03, 22-04 and 22-05 DA);

remind your overseas supplier of the rule and ask for written confirmation that it has been, or will be, met. You could also ask your supplier to provide some information that demonstrates compliance with the rule. For example, if you are importing garments, you might ask about the origin of the fabric used or where the yarn comes from.

You could, in addition, consider whether you would be able to include and enforce a clause in your contract allowing you to recover duty from your supplier. If not, you will be out of pocket if post import verification reveals that the certificate was invalid or that the goods had not met the rules.

If you suspect the accuracy of any of the information received you should **seek further clarification** from your supplier.

You should **consult your customs authorities** if, having received a response from your supplier, you are still unsure that your goods are entitled to a preferential rate of duty to see what they think. But

their advice will not be binding.

If you are already claiming a preferential rate of duty on goods which have not been subjected to the above checks, you should consider whether it would be advisable to make appropriate enquiries of your supplier. **You must STOP making claims to preference immediately if the enquiries show that your goods are not meeting the origin rules.**

If you are intending to import the same kind of goods over a long period of time, you may wish to consider making regular checks with your supplier to ensure that there has been no change in the manufacturing process or in the origin of the materials or parts used. **You must STOP making claims to preference immediately if these checks show that your goods are no longer meeting the origin rules.**

You should keep a record of all action taken. Your customs authorities may wish to see what steps you have taken to ensure that your goods are entitled to the reduced customs charges that you are claiming. This might help providing you acted in "good faith" if something goes wrong or might reduce the amount of duty you will have to pay.

From 1 January 2017, you will be able to check yourself from an EU website whether the exporter in the GSP beneficiary country is a valid registered exporter. **You must STOP making claims to preference immediately if these checks show that the exporter doesn't have a valid registration or its registration was revoked by his national customs authorities.**

Can I make a belated claim?

Yes, if your checks subsequently confirm that any goods which you have already imported, and on which you have paid the full duty, are entitled to a preferential rate of duty, a belated claim may be made up to three years from the date on which the goods were originally released for free circulation.

Section 9 - Responsibility of the Competent Authority in Beneficiary Countries until the Application of the Registered Exporter System (until 2017)

How does administrative co-operation work?

The governmental authorities of the beneficiary country, the European Commission and customs authorities of the EU need to jointly manage a system of co-operation in order to ensure the correct and effective application of the GSP and to ensure that its advantages are only enjoyed by those whom it is meant to aid.

It should be noted that goods cannot obtain the benefit of tariff preferences until the beneficiary country has complied with the administrative cooperation requirements.

In accordance with Article 73 IA, the beneficiary country informs the Commission of the names and addresses of the **governmental authorities** within the beneficiary territory which are empowered to **issue** certificates of origin Form A as well as those responsible for the **control (or verification)** of certificates of origin Form A and invoice declarations. In principle, the EU only accepts the nomination of governmental authorities, such as customs authorities or the Ministries of Trade, for the issue of Forms A as it considers that a certificate of origin is a blank cheque, which will be drawn on the EU budget and, accordingly, it should only be issued by a body which involves the government of the beneficiary country. Other bodies like chambers of commerce to whom the power has been delegated by a governmental authority could be accepted for the **issue** of certificates, insofar as this activity remains under the effective control of the government. But they **cannot** be accepted for control, as their links with private interests could prejudice the correct control of their members. This must always be exercised by a governmental authority, with no possibility of delegation. This is particularly important, since, if the EU finds it necessary to withdraw a beneficiary country from its GSP (e.g. for fraud or for lack of administrative co-operation), then it is entirely the government's responsibility.
The beneficiary country must also send to the European Commission **original, legible specimens of stamps,** representing the official signature[8], used by those authorities to issue certificates.

Copies of the specimens of stamps are distributed to the EU customs authorities. As they are not publicly available (except for reference at the time of the importation, when the European importer is allowed to verify if the certificate of origin he received from the supplier of his goods seems to be in order), they contribute in ascertaining the authenticity of the certificate of origin.

The bodies in charge of the issue of the certificates of origin must inform the European Commission of any changes to the stamps. If they do not, then the exported goods could be presented to a European Union customs authority which is not aware of the existence of such a stamp; it would therefore refuse to grant a preference. Communicating new or additional stamps promptly (together with the date of entry into use of the new stamp) is the only way to avoid this problem. The competent authority must also immediately inform the Commission of any stamps that have been stolen or mislaid.

The beneficiary country must inform the Commission (communication of information to individual Member States is not sufficient) of any change to the names and addresses of the governmental authorities responsible for the verification of the certificates of origin Form A and the invoice declarations, so that there is no breakdown in communication. It is also recommended to have a different governmental body in charge of the subsequent verification to the one in charge of issuing certificates of origin Form A as this will guarantee a better control. The European Union relies on the beneficiary country for the proper working of the system.

For example, if the goods exported were to be further worked or processed after their exportation

[8] Names of individual authorised officials and specimens of the signatures are **not** however required.

from the beneficiary country, then they would no longer correspond to the Form A and only the authorities of the beneficiary country would be able to state if the goods imported into the EU corresponded to the ones which were exported together with the Form A.

It should be noted, in the case of bilateral cumulation of origin using goods originating in the EU, that the official bodies of the beneficiary country may send back the movement certificate EUR. 1 to the EU issuing authorities for verification, if they wish.

What is the first responsibility of the governmental authority of the beneficiary country?

The governmental authorities of a beneficiary country must provide guidance to their exporters. Such assistance could consist of offering training, explanations and of explanatory notices about the rules of origin.

What must the governmental authority of the beneficiary country do before issuing Form A?

The authority must verify that information concerning the origin of the goods, presented to it with the written application for a certificate of origin, is correct and that the goods have originating status.

For example, the *origin criteria for cloth garments with manufacture yarn states that such a product qualifies under EU GSP origin rules only if all the industrial processes necessary to obtain origin take place in the beneficiary country. Thus evidence of the importation of the yarn (if it is not already originating) and of the manufacture of the fabric must be provided.*

The authority must also ensure that any endorsements required are inserted in box 4: e.g. "Issued retrospectively" or "Délivré a posteriori or “emitido a posteriori” (see section 5.9), "Duplicate" or "Duplicata" or “Duplicado” (see section 5.10), "Derogation-Regulation (EC) No /...." (see section 2.9).

What must the governmental authority of the beneficiary country do after issuing Form A?

After the issue of the Form A, the authorities of the beneficiary country must keep records for at least three years, as these authorities may be asked by the EU customs authorities to verify a certificate of origin during this period.

How should the authorities of the beneficiary country comply with an EU request for subsequent verification?

The authorities in charge of subsequent verification are expected to reply to a request for verification within six months. However, if there is no reply after six months, the EU's customs authorities will send a reminder and a further period of four months will be allowed for the reply. In order to reply, the authorities must carry out any checks that may be required, such as asking for further documentary evidence of the origin of the goods, checking on exporters records and accounts, or even carrying out a factory inspection.

Note that beneficiary countries benefiting from regional cumulation as part of a regional group give an undertaking to provide administrative cooperation not only to the European Union, but also to each other (see Article 55(2)(c)(ii) DA). Inter *alia,* this means that where a Member State makes a request for subsequent verification, it will correspond with the authorities of the member of the group which issued the Form A, and those authorities must liaise as appropriate with the authorities of other group members involved.

The customs authorities of the EU need a complete answer; "I confirm the origin of the goods" is not enough. They require detailed explanations, such as the description of the industrial process, description of the materials used, and the cost-break down of the process.

It is stressed that if the ten-month deadline is not met, this could entail important consequences for the EU importer whose goods, especially if there are grounds for reasonable doubt concerning the true origin, will not benefit from the tariff preference.

What are the requirements and the consequences of failure to provide adequate administrative cooperation?

Where a country or territory has been removed from Annex II to Regulation (EU) No 978/2012, the obligation to provide administrative cooperation laid down in Articles 55(8) of DA and Articles 72, 80 and 108 IA shall continue to apply to that country or territory for a period of three years from the date of its removal from that annex (Article 70(4) IA).

Where there are grounds for doubt concerning the proper application of the preferential arrangements in the beneficiary country, the Commission may publish a warning notice to importers in the *Official Journal of the European Union.*

Failure by the competent authorities of a beneficiary country to maintain the necessary administrative structures and systems to manage the rules and procedures related to GSP, or systematic failure to comply with the administrative cooperation requirements may, in accordance with Article 21 of Regulation (EC) No. 978/2012, entail temporary withdrawal of preferences under the scheme for that country.

Section 10 - Responsibility of the Competent Authority in Beneficiary Countries in the System Applicable From 2017

In the framework of the system applicable from 2017, some obligations of the competent authorities in the beneficiary countries are similar to the obligations laid down in the system applicable until 2017. But they are adapted to the system of registered exporters. The main obligations are the following.

Obligations of the competent authorities related to administrative structures

- To undertake to put in place and to maintain the necessary administrative structures and systems required for the implementation and management in the beneficiary country of the rules of origin and procedures related to GSP, including where appropriate the arrangements necessary for the application of cumulation (Article 70(1)(a) IA);

- to ensure that the competent authorities will cooperate with the Commission and the customs authorities of the Member States (Article 70(1)(b) IA);

- to provide all necessary support in the event of a request by the Commission for the monitoring by it of the proper management of the scheme in the country concerned, including verification visits on the spot by the Commission or the customs authorities of the Member States (Article 70(2)(c) IA);

- to verify the originating status of products and the compliance with the other conditions related to GSP rules of origin, including visits on the spot, where requested by the Commission or the customs authorities of the Member States in the context of origin investigations (Article 70(2)(d) IA);

- to submit the undertaking referred to in Article 70(1) IA to the Commission at least three months before the date on which they intend to start the registration of exporters (Article 70(3) IA);

- to notify the Commission of the names and addresses of the authorities situated in their territory which are:

(a) part of the governmental authorities of the country concerned, or act under the authority of the government, and empowered to register exporters and to modify, update and withdraw them from the record of registered exporters;
(b) part of the governmental authorities of the country concerned and responsible to support the Commission and the customs authorities of the Member States through administrative co-operation (Article 72(1) IA);

- to inform the Commission immediately of any changes to the above-mentioned information (Article 72(3) IA).

Obligations of the competent authorities related to registered exporters' records

The competent authorities of beneficiary countries and the customs authorities of Member States shall upon receipt of the complete application form referred to in Annex 22-06 IA assign without delay the number of registered exporter to the exporter or, where appropriate, the re-consignor of goods and enter into the REX system the number of registered exporter, the registration data and the date from which the registration is valid in accordance with Article 86(4) IA.

Where the competent authorities consider that the information provided in the application is incomplete, they shall inform the exporter thereof without delay.

Where a country or territory has been removed from Annex II to Regulation (EU) No 978/2012, the competent authorities of the beneficiary country shall keep the access to the REX system as long as required in order to enable them to comply with their obligations.

Other obligations include:

- to establish and keep up to date at all times an electronic record of registered exporters located in the country (the record shall be immediately updated where an exporter is withdrawn from the register) (Article 80(4) IA)

- to remove registered exporters who no longer meet the conditions for exporting any goods under the scheme, or no longer intend to export such goods (Article 89(3)(b) and (c) IA)

- to withdraw from the record of registered exporters the exporters who have intentionally or negligently drawn up, or cause to be drawn up, a statement on origin or any supporting document which contains incorrect information leading to irregularly or fraudulently obtaining the benefit of preferential tariff treatment (Article 89(3)(d) IA

Obligations of the competent authorities related to administrative cooperation

To carry out verifications of the originating status of products at the request of the customs authorities of the Member States and regular controls on exporters on their own initiative (Article 108 IA).

How does administrative cooperation works? (Article 109 IA)

The controls shall ensure the continued compliance of exporters with their obligations. They shall be carried out at intervals determined on the basis of appropriate risk analysis criteria. For that purpose, the competent authorities of the beneficiary countries shall require exporters to provide copies or a list of the statements on origin they have made out.

The competent authorities of the beneficiary countries shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts and, where appropriate, those of producers supplying him, including at the premises, or any other check considered appropriate.

Subsequent verifications of statements on origin shall be carried out at random or whenever the customs authorities of the Member States have reasonable doubts as to their authenticity, the originating status of the products concerned or the fulfilment of other requirements of the GSP rules of origin.

Where the customs authorities of a Member State request the cooperation of the competent authorities of a beneficiary country to carry out a verification of the validity of statements on origin, the originating status of products, or of both, it shall, where appropriate, indicate on its request the reasons why it has reasonable doubts about the validity of the statement on origin or the originating status of the products.

A copy of the statement on origin and any additional information or documents suggesting that the information given on that statement is incorrect may be forwarded in support of the request for verification.

The requesting Member State shall set a 6-month initial deadline to communicate the results of the verification, starting from the date of the verification request, with the exception of requests sent to Norway or Switzerland (and in future Turkey) for the purpose of verifying replacement statements on origin made out in their territories on the basis of a statement on origin made out in a beneficiary country, for which this deadline shall be extended to eight months.

If in cases of reasonable doubt there is no reply within the period specified in the paragraph above, or if the reply does not contain sufficient information to determine the real origin of the products, a second communication shall be sent to the competent authorities. This communication shall set a further deadline of not more than 6 months.

Administrative cooperation in the framework of cumulation

The provisions related to the control of origin and the administrative cooperation also apply to exports from the European Union to a beneficiary country for the purpose of bilateral cumulation and to exports from one beneficiary country to another for the purpose of regional cumulation.

Particularly, regional cumulation operates under the condition that the countries of the regional group have undertaken to provide the administrative cooperation necessary to ensure the correct implementation of the GSP rules of origin both with regard to the European Union and between themselves (Article 55(2)(c)(ii) DA). These undertakings must be notified to the Commission by the Secretariat of the regional group concerned or another competent joint body representing all the members of the group in question.

To the extent that Norway and Switzerland (and in future Turkey) have concluded an agreement with the European Union stating that they shall provide each other with the necessary support in matters of administrative cooperation, the verifications of the originating status of products apply *mutatis mutandis* to requests sent to the authorities of Norway or Switzerland (and in future Turkey) for the verification of replacement statements on origin made out on their territory, with a view to requesting these authorities to further liaise with the competent authorities in the beneficiary country.

Extended cumulation is only permitted under Article 56 (1) and (2) DA, if a country with which the European Union has a free-trade agreement in force has agreed to provide the beneficiary country with its support in matters of administrative cooperation in the same way as it would provide such support to the customs authorities of the Member States in accordance with the relevant provisions of the free-trade agreement concerned.