

Preferential origin

Legal basis

Preferential origin is primarily based on Free Trade Agreements (FTA). FTAs are reciprocal. Based on the FTA between the EU and Morocco, products of EU preferential origin can be imported at preferential duty rates into Morocco and products of Moroccan preferential origin can be imported at preferential duty rates into the EU.

In order to understand the rules of origin we need access to each individual FTA. Every FTA has a protocol that is dedicated to these rules of origin. The European Commission maintains a list with links to the various FTAs the EU has signed up to. This list can be accessed here: [EU FTA List](#)

In addition to the reciprocal FTAs, the EU also grants preferential origin benefits on a unilateral basis. These legal provisions can be found here:

Articles 64 - 68 [UCC](#) (Union Customs Code)

Articles 37 - 70 [UCC-DA](#) (Union Customs Code Delegated Act)

Articles 60 - 126 [UCC-IA](#) (Union Customs Code Implementing Act)

Preferential rules of origin

Rule 1 - wholly obtained

Goods are of non-preferential origin in the single country or territory where these goods are wholly obtained. This reference to country or territory includes territorial waters. It also includes the seabed or subsoil beneath the seabed to which a country has exclusive exploitation rights.

Some examples:

- Crude produced in the USA is of USA origin
- Crude produced outside The UK, from seabed or subsoil beneath the seabed to which The UK has exclusive exploitation rights, is of UK origin
- Diesel produced in Norway out of crude of Norwegian origin is of Norwegian origin under this rule as the product is wholly obtained in a single country

Rule 2 - non originating materials having undergone sufficient working or processing

This is a very specific rule of which the details will differ per FTA. Each FTA contains an annex that contains detailed rules per CN Code on the requirements that need to be fulfilled in order to generate a product that is of preferential origin. In order to determine preferential origin, the applicable FTA needs to be consulted, but as a general rule the following elements can play a role in determining preferential origin:

- Refining processes generally are sufficient to make the product qualify as having preferential origin
- Blending processes generally are not sufficient to make the product qualify as having preferential origin
- A change of tariff heading (first 4 digits of the CN Code) is generally sufficient to make the product qualify as having preferential origin
- There can be value restrictions as to the maximum amount of non-preferential materials that can be used in a production process
- There can be quantity restrictions as to the maximum amount of non-preferential materials that can be used in a production process

Each FTA also contains a detailed list of activities that are deemed to be an insufficient working or processing. Those activities will never result in a product that has preferential origin.

There is no residual origin rule in relation to preferential origin. If a product meets all requirements, it is of preferential origin. If it doesn't meet all requirements the product is not of preferential origin.

Direct Transport

In order to maintain the preferential origin, each FTA requires that the product is directly transported from the country of origin to the country of importation. However, products may be transported through other territories provided that they remain under the surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition. The importer claiming preferential origin at import has to provide evidence to customs that the direct transport rule has been met. Any evidence can be provided to demonstrate compliance with the direct transport requirement.

Examples of this are:

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

In some FTAs this requirement is referred to as the non-alteration clause. This clause functions the same way as the direct transport clause.

In most FTAs the burden to prove compliance with the direct transport rule is on the importer, but exceptionally an FTA deems this rule to be met and requires the customs authorities to provide evidence that this direct transport rule has not been met.

Proof of preferential origin

The exporter of the goods arranges for the proof of preferential origin. The way this is done depends on the applicable FTA and simplifications applied for by the exporter.

The standard proof of preferential origin is the EUR.1 certificate. This certificate is issued by customs of the country of export upon request of the exporter. The EUR.1 certificate is a paper certificate of which the original hard copy needs to go to the importer in order to enable the importer to claim the reduced preferential import duty. The mandatory template of the EUR.1 is included in the annex of each FTA that still recognizes the EUR.1 as proof of origin. Customs will only issue the EUR.1 if there is evidence that the product meets the preferential origin criteria. This evidence is provided via a supplier's declaration. Via this supplier's declaration customs can follow the supply chain back to the place where the product obtained its preferential origin. In our case this is usually the refinery that produced the fuel.

Exporters who are authorized by customs as approved exporter can replace the EUR.1 certificate by a so-called invoice declaration. This invoice declaration is a statement about the preferential origin that the approved exporter can print on the invoice or on any other commercial document. The wording of this statement is provided for in the annex of each FTA in each official language. It is not allowed to deviate from this wording. An origin statement that deviates from the version prescribed in the FTA does not qualify as a valid preferential origin statement.

The approved exporter permit contains a list of locations from where we can export preferential product by issuing a preferential statement of origin on a commercial document. If we want to use this permit from other locations we need to notify customs in advance and add this location to our permit. This doesn't take a lot of time, but needs to happen.

The approved exporter permit is based on a description of our internal procedures and our internal risk management processes, called AO-IB. Customs only grants the approved exporter permit if they are confident that we have implemented strong processes to avoid that we issue a preferential statement on origin for products that do not qualify as having preferential origin. Customs will periodically perform an audit to ensure that we still apply the agreed procedures as described in our AO-IB.

In short, the process to self issue a preferential statement on origin is as follows:

1. Request
2. Include following details:
 - a. The document on which the preferential statement of origin has to be printed
 - b. The deal number
 - c. The country of destination. This information is necessary to identify the applicable FTA
 - d. Evidence that the goods qualify as having preferential origin. Usually this is a supplier's declaration issued by our supplier.
3. Based on this information the request will be processed. The document holding the preferential statement on origin will be send by e-mail to the requestor for further distribution to customer

Revision #3

Created 7 March 2025 08:21:05 by Admin

Updated 7 March 2025 08:23:15 by Admin