

Preferential origin

Preferential origin refers to the economic nationality of a product as determined under the terms of a **preferential trade agreement (PTA)** between two or more countries. It establishes whether a product qualifies for **preferential (reduced or zero) customs duties** upon importation into a partner country.

Unlike non-preferential origin, which determines general origin for trade statistics or labelling, *preferential origin* is specifically used to access **preferential tariff treatment** under free trade agreements (FTAs), association agreements, or economic partnership agreements.

- General principles
- General Procedure: Determination of Preferential Origin
- Case law

General principles

Introduction and Context

1 Meaning of Preferential Origin

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Unlike non-preferential origin, which determines general origin for trade statistics or labelling, *preferential origin* is specifically used to access **preferential tariff treatment** under free trade agreements (FTAs), association agreements, or economic partnership agreements.

To obtain preferential origin, a product must either:

- Be **wholly obtained** in one of the partner countries; or
- Be **sufficiently worked or processed** according to the *Product-Specific Rules (PSR)* set out in the agreement.

The rules ensure that only goods genuinely produced within the parties' economies benefit from preferential tariff treatment.

2 Direct Transport Requirement

Under most **FTAs**, goods claiming **preferential origin** must be **transported directly** between the territories of the contracting parties (e.g. from the EU to the UK, or vice versa) to qualify for preferential treatment. This rule ensures that the goods are not altered, substituted, or traded through third countries in a way that could compromise their originating status. Temporary storage, transshipment, or splitting of consignments in a third country is generally permitted only if the goods remain under **customs supervision** and do not undergo any operation other than unloading, reloading, or other actions necessary to preserve their condition.

To **substantiate compliance**, traders must be able to provide documentary evidence demonstrating the continuity and integrity of transport. Typical proofs include:

- **Transport documents** such as bills of lading, airway bills, or CMR consignment notes showing the direct routing between the two FTA territories;
- **Through bills of lading** covering the entire route;
- **Customs control certificates** or warehouse records proving the goods remained under customs supervision when transiting through a third country;
- In some cases, a **commercial invoice** or **shipping company statement** confirming that no alteration occurred during transit.

Maintaining these documents is essential to uphold preferential origin claims during customs verification.

3 Purpose of Preferential Origin Procedures

The purpose of establishing and verifying preferential origin is to:

- Ensure correct application of preferential duty rates;
- Prevent abuse of trade preferences through simple transshipment or minor processing;
- Guarantee fair competition between partner countries;
- Provide customs authorities with a verifiable framework for origin determination;
- Enable exporters and importers to confidently claim tariff preferences.

4 Legal Basis

For the European Union, preferential origin is governed by:

- The individual trade agreements concluded by the EU (e.g. the EU-UK TCA, a full list of a list can be accessed [here](#));
- Articles 64–68 of the **Union Customs Code (Regulation (EU) No 952/2013)**;
- Relevant implementing and delegated acts.

General Procedure: Determination of Preferential Origin

Before making the effort to determine the Preferential origin, verify if the goods concerned attract any import duties in the country of import to begin with. The purpose of determining Preferential origin is to benefit from lower import duties, but sometimes certain goods do not attract import duties at all and the effort would be a waste of time!

Once it is confirmed, in general, the following steps are to be considered in terms of Preferential origin determination. Please note that the applicable Trade Agreement is always leading!

Step 1 - Identify Applicable Agreement

Determine whether a preferential trade agreement exists between the **exporting** and **importing** countries.

If such an agreement exists, it provides the basis for preferential tariff treatment.

Step 2 - Determine Tariff Classification

Identify the product's tariff classification at the HS 6- or 8-digit level. The tariff heading determines which **Product-Specific Rule (PSR)** applies.

Step 3 - Consult the Product-Specific Rule (PSR)

Locate the relevant PSR in the annex to the applicable agreement. Typical PSR formats include:

- **Wholly obtained** requirement;
- **Change in Tariff Heading (CTH)**;
- **Value limitation rule** (maximum % of non-originating materials);
- **Specific manufacturing process**.

Step 4 - Identify and Value Materials

- List all **originating** and **non-originating** materials used in production.
- Calculate the **ex-works price** of the final product.
- Apply the PSR to verify compliance.

Step 5 - Apply Cumulation (if permitted)

Cumulation allows originating materials or processing from another partner country to count as originating.

- **Bilateral cumulation**: between the two agreement partners.
- **Diagonal or full cumulation**: only if explicitly allowed (e.g. not in the EU-UK TCA).

Step 6 - Verify Beyond Minimal Operations

Check that the processing carried out exceeds the - minimal operations - defined in the agreement (e.g., simple packaging, mixing, or labelling do not confer origin).

Step 7 - Prepare Proof of Origin

The type of origin document depends on the agreement:

- **Statement on Origin** (self-certification); or
- **Movement Certificate (EUR.1)** where applicable.

Step 8 - Record-Keeping and Evidence

Maintain all origin-related documents for at least **3-5 years**:

- Supplier declarations;
- Cost breakdowns;
- Production records;
- Tariff classification evidence.

Step 9 - Verification by Customs

Customs authorities may request post-clearance verification. Failure to substantiate origin claims may result in retroactive duty recovery.

Case law

Topic	Case (link)	Date	Key holding (one line)	Practical takeaway
Preferential origin - improper claim / recovery procedures	C-589/17 - Prenatal S.A. (EUR-Lex) (EUR-Lex)	29 Jul 2019	Court clarified duties recovery where preferential origin has been wrongly claimed and limits on administrative remediation.	Ensure documentary proof for preferential claims is kept and be prepared for administrative recovery; origin certificates must be scrutinised in post-clearance checks.
Preferential origin - products from territories under restrictive measures	C-67/23 (interpretation of Reg. 194/2008 re Burma/Myanmar) (CURIA) (Curia)	5 Sep 2024	Interprets when certificates of origin / preferential treatment can be refused for goods connected to sanctioned or restricted territories; processing in third countries does not automatically negate special measures.	Where sanctions/restrictive regimes apply, do not assume certificates of origin are decisive - check materially whether the goods fall within the scope of restrictive rules before granting preferential treatment.
Territorial scope of preferential agreements / disputed territories	C-104/16 P - Council v Front Polisario (EUR-Lex) (EUR-Lex)	21 Dec 2016	EU agreements cannot lawfully be applied to a disputed territory (Western Sahara) without consent of its people - preferential treatment cannot be extended unlawfully.	When relying on preferential trade deals, verify territorial scope - products from disputed territories may be excluded regardless of certificates issued by the controlling state.
Preferential origin / disputed territory - national application	C-266/16 - Western Sahara Campaign UK (CURIA) (Curia)	27 Feb 2018	Reaffirmed that preferential treatment under EU agreements cannot be extended to Western Sahara without legal/consensual basis; national authorities must respect Court's interpretation.	Customs declarations for goods from disputed territories require extra diligence; preferential claims can be challenged and annulled.