



**Economic Policy Programme**  
Initiative of the European Union

**An overview:  
EU rules of origin**

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HM Customs and Excise

**Background Brief 1**  
**February 1997**

## **Background Brief**

### **AN OVERVIEW: EU RULES OF ORIGIN**

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The Economic Policy Programme is funded by the European Community (EC) and coordinated by the Ministry of Economy and Trade in collaboration with the London School of Economics and Political Science. The two-year project is an initiative launched as part of the European Community's programme of assistance to the Palestinian population of the West Bank and Gaza Strip. The objective is to provide the Palestinian Authority (PA) with policy support that will both assist it in clarifying and shaping trade policy and strengthen its capacity to negotiate with current and potential trading partners on economic and trade policy issues. The programme, which was launched in May 1996, works with a team of leading international experts - economists, political scientists and trade lawyers - in support of the ministry's policy agenda, and has held in collaboration with the ministry a number of roundtables on trade-related issues.

### **Economic Policy Programme**

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## **Background Briefs 1**

### **An overview of the EU rules of origin**

The European Community grants preferential tariff treatment (often nil rates of duty) to goods which meet certain rules of origin. The main elements of these rules of origin are set out below:-

#### **The origin criteria**

The origin criteria contains two basic elements. The first identifies those goods which meet the rules of origin by virtue of having been **wholly obtained**. This is a simple concept of origin to understand. It covers such things as fresh produce eg fruit and vegetables grown and harvested in the country of exportation, or mineral products mined there. Note, however, that the concept of wholly obtained does not necessarily mean the total exclusion of any imported element. For example the rule says 'vegetable products harvested there'. That does not preclude the use of imported seed.

The second element deals with all products which cannot meet the rule of wholly obtained. In other words, it identifies how a product made from 'non-originating' materials or parts (often, but not necessarily always, imported materials or parts) can nevertheless become an originating product. The EC legislation describes this element in terms of non-originating materials or parts undergoing **sufficient working or processing**.

The sufficient processing requirement is divided into three basic elements. The first says that non-originating materials or parts are considered to have been sufficiently worked or processed if the end product (known in the legislation as the 'product obtained') is classified in a four figure tariff heading which is different from the heading of any of the non-originating materials or parts used. (This is often referred to as the Change of Tariff Rule.)

Unfortunately, relatively few goods are allowed to satisfy the rules of origin by application of a simple change of tariff heading. For the rest, therefore, the origin protocol contains an Annex which lists, on a product-by-product basis, specific rules that have to be met. These rules fall into two broad categories, **processing** requirements and **value** requirements.

A processing requirement says how the product should be manufactured to acquire origin. For example the rule for a shirt of heading 6205 requires the manufacture from the yarn stage. Some rules say what process does **not** confer origin. For example the rule for footwear of Chapter 64 allows manufacture from materials of any tariff heading except for assemblies of uppers affixed to inner soles or to other sole components of heading 6406. This means that if a shoe manufacturer in the West Bank and Gaza (WBG) imported (say from Taiwan) all the materials already cut and formed into assemblies of uppers affixed to inner soles for final assembly then the finished shoe would not be regarded as an originating product for the purposes of obtaining tariff relief on entry to the Community.

A value requirement says what percentage of the value of the finished product can be made up on non-originating materials or parts. For example a motor car engine of heading 8407 will qualify if

the value of the non-originating materials or parts used does not exceed 40% of the ex-works price of the finished engine. This rule introduces two new concepts - 'value' and 'ex-works price'. 'Value of materials' here means the customs value at the time of importation, or if this is not known, the first ascertainable price paid for the materials.

'Ex-works price' on the other hand is a concept unique to rules of origin. It is defined as the price paid to the manufacturer. It is intended to be a factory gate price, not fob or cif. But often 'the price paid to the manufacturer' is not a factory gate price. The ex-works price is therefore very rarely the same as the commercial invoice price. The ex-works price is the bench mark against which percentage value rules are judged.

A rule, which sets out to determine what constitutes sufficient working or processing, invites the question what is **insufficient working or processing?** Each origin protocol therefore contains an article which lists a number of minor processes which are regarded as insufficient to confer origin eg making-up of sets of articles, washing, painting, sorting, placing in bottles, fixing marks or labels and simple assembly.

The insufficient or minor processes enter into the origin equation when applying the cumulation rules.

## **Cumulation**

There are three types of cumulation. All the Community's preferential rules of origin now include a provision allowing **bilateral** cumulation. This allows goods of Community origin to be processed in a partner or beneficiary country as if they were goods originating in that partner or beneficiary country, on condition that the processing goes beyond minimal (insufficient). Where the preference is reciprocal, eg the proposed Agreement between the EC and WBG, the provision operates in exactly the same way in reverse.

The cumulation provisions, therefore, encourage the use of materials and parts originating in the EC or partner country rather than materials and parts of, say, Japanese or US origin. For example, WBG does not produce poly/cotton fabric but wishes to manufacture poly/cotton shirts for export to the EC. The origin rule for such shirts requires production from non-originating materials that are at no later stage of manufacture than yarn. If WBG imports fabric from the USA its shirts will not satisfy that rule. That would not be the case if EC originating fabric were used. The EC fabric would be treated as originating in WBG (the making-up of a shirt from fabric being more than a minimal process) and the shirts would qualify for entry into the EC at a nil rate of customs duty (in 1997 a saving of 12%).

The second type of cumulation is known as **diagonal** cumulation. Diagonal cumulation operates within a preference group eg the group proposed by the EU comprising certain Mediterranean countries (including WBG). Here materials or parts originating in one or more countries within the group may be further processed (provided it is more than minimal) in another country within the group as if the materials or parts were of the origin of the country in which they are processed. For example, shoes assembled in Palestine from components originating in Israel and the EC. The commercial benefits of using cumulation can also be clearly demonstrated using the textile industry.

Trousers made-up in Palestine from fabric imported from the Far East would be subject to 12% import duty on entry into the EU. But the same trousers made from fabric of Egyptian (Israeli etc) origin would attract a zero rate of duty.

All diagonal cumulation provisions contain a provision for determining the origin of the end product. In the case of the provisions governing the proposed Agreements between the EC and each of the Mediterranean Countries, the rule envisages that the product will take the origin of the country of final processing if the value added there exceeds the value of the materials originating in any one of the other countries of the regional group. If this is not so, then the origin is attached to whichever country supplies the originating materials or parts representing the highest value.

**Full cumulation** provides additionally for the working or processing carried out in one country to be carried forward to another and be counted as if it were carried out in the country of production of the final product. It applies in the most advanced agreements (eg the EEA). Taking again the example of the poly/cotton shirt where the rule requires manufacture from yarn. This time the shirt is made up in Norway from fabric supplied from the EC. Under bilateral cumulation rules that fabric would have to be EC - originating fabric (the rules require manufacture from the pre-yarn stage) if the shirt made in Norway is to qualify as an originating product. However, under full cumulation the fabric produced in the EC can be produced from non-originating yarn and the processing from yarn to fabric (not in itself a process conferring origin) can be counted as if it took place in Norway. Thus the shirt will have been manufactured from the yarn stage and qualify as an originating product.

In agreements containing full cumulation provisions, the allocation of origin - when goods are produced from materials or parts coming from two or more countries within the group - is simple. The product obtained is deemed to have originated in the country of final processing, provided that is more than minimal.

**Allan Waight**  
**January 1997**

**Allan Waight**

Mr Allan Waight, a British national, joined Her Majesty's Customs and Excise in 1959. Since 1989 he has been responsible for implementing E legislation in the UK in relation to customs aspects of all the Community's preferential trading arrangements. Having both policy and operational duties he has gained experience in handling appeals which challenge the official interpretation of the law governing the granting of preferential status. Since 1990 he has attended, as the UK Customs delegate, meetings in Brussels of the E Customs Code Committee - Origin Sector, the legislative committee responsible for drafting Community legislation covering origin aspects of preferential trade.

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