

# Preferential Origin

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## Preferential Rules of Origin

### Introduction

[http://europa.eu.int/comm/taxation\\_customs/customs/customs\\_duties/rules\\_origin/index\\_en.htm](http://europa.eu.int/comm/taxation_customs/customs/customs_duties/rules_origin/index_en.htm)

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## Overview (1)

- Preferential arrangements (*table of arrangements*)

- agreements
- autonomous arrangements

### Preferences based on origin of products

- tariff or non tariff preferences
- unilateral or reciprocal preferences

- Customs Unions based on customs status

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## Overview (2)

- Preferential rules of origin: where to find them  
*(Article 27 Community Customs Code)*
  - in Free Trade Agreements
  - in the Overseas Countr. & Terr. Decision
  - in a Council Regulation for Ceuta & Melilla
  - in the IP Code for other autonomous arrangements (GSP, western Balkans ATMs)

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## Purpose of the presentation

- Reminder on Basic Principles
- 'Pan European' rules of origin as a reference
- Special features in individual:
  - agreements
  - autonomous arrangements
  - customs unions
- Information on new developments

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## Preferential Rules of Origin

### Basic Principles

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## Originating Status

Originating Products are either:

- Wholly obtained (no imported materials)  
or
- Sufficiently worked or processed from non originating imported materials  
in the country concerned

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## Sufficient working or processing

### **Manufacture conditions** (“list rules” & criteria)

- apply to imported non originating materials
- established for all HS products even if not covered by the preferential arrangement
- ‘absorption’ principle
- value tolerance rule

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## Insufficient working or processing 'Minimal Operations' (1)

A 'negative test' for the originating status

- Operation which does not confer originating status even if products are sufficiently worked or processed according to list rules
- Applies only if non originating material is involved in the operation



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## Territorial requirements

- Principle of territoriality
- Direct transport
- Exhibitions
- Free zones

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## Other elements

- Unit of Qualification: HS classification rules
- Accessories, spare parts and tools: normal equipment, dispatched/invoiced together with the product
- Sets: threshold of 15% EWP of NO products
- Neutral elements

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## Cumulation

- **Objective:** expand the ‘originating zone’ by considering materials originating in partner countries as originating in the country
- **Types:**
  - Bilateral cumulation (in all arrangements)
  - Diagonal cumulation (ex: PanEuro)
  - Full cumulation (ex: EEA, Maghreb, ACP/OCT)
  - Regional cumulation (GSP)

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## 'Minimal Operations' (2)

**A criterion for the allocation of origin  
within a cumulation zone**

- Originating status in the country of the last operation 'more than minimal'
- Can be associated with a value added criterion
- No working or processing: initial origin is retained

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## Bilateral Cumulation

- Operates between two countries on the basis of a free trade agreement or unilateral preferences
- Allows to consider as originating in the beneficiary country products originating in the other country and which are subject to an operation more than 'minimal'
- Applicable in ALL arrangements

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## Diagonal Cumulation

- Operates between more than two countries
- Requires a network of free trade agreements containing identical rules of origin and diagonal cumulation provisions involving all the countries of the zone
- Product is originating in the country of the zone where it has been subject to the last operation more than 'minimal' OR to the highest VA

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## Full Cumulation

- Operates between two or more countries
- Agreement between parties providing for full cumulation between them
- Working or processing may be done on non-originating materials in any partner country:  
"cumulation of processing"

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## Establishing preferential origin within the EC

- Council Regulation (EC) N° 1207/2001  
(*OJ L165 21/06/01 + Corr. L170 29/06/02*)
  - Supplier's declaration and Certificate INF4
  - 'Single authorisation' for approved exporters



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## Proofs of origin

- Certificate EUR.1/Form A(GSP)
  - issued by customs authorities on application by the exporter
  - Retrospective issue : errors or involuntary omissions or ‘special circumstances’ OR rejection at importation for ‘technical reasons’
  - Duplicates (theft, loss or destruction)
  - Replacement

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## Proofs of Origin

- Invoice declaration
  - made out by exporter for consignments of a value less than 6,000 €
  - made out by “approved exporter” for consignments of a value higher than 6,000 €
  - after exportation if submitted at import within 2 years

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## Approved Exporter

- Self-certification
- Prior audit and authorisation (conditions):
  - frequent shipments
  - all guarantees necessary to verify originating status and fulfilment of other requirements
- Monitoring of the use of the authorisation
- Withdrawal of the authorisation

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## Proofs of Origin

- Validity of the proof
  - 4 months / 10 months  
except in exceptional circumstances
- Rejection of the proof/Refusal of the preference
  - 'technical reasons'
  - inapplicable proof

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## Proofs of Origin

- Exemption from proof of origin
  - products sent as small packages from private to private persons and declared as originating (500 EUR) - Post: CN22/CN23 Declaration
  - products forming part of travellers' personal luggage and not imported by way of trade (1,200 EUR)

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## Instruments for Administrative Co-operation

- Providing names and addresses of customs or government authorities responsible for issuing and checking certificates of origin
- Providing specimens of stamps used to authenticate the certificates
- Update that information where appropriate
- Co-operation and Participation in inquiries

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## Subsequent verifications of proofs

- No reply from the exporting country within 10 months or no sufficient information to determine the authenticity of the proof or the real origin of the products →
- Refusal of the preference (except in exceptional circumstances)
- Ref.: Doc. TAXUD/1438/02 Rev.1 agreed by CPG (FM) of 10 July 2002

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## Explanatory Notes

- Agreed between the EC and partner countries (PanEuro, Mexico, ACP, Chile)
- Tools for interpretation and implementation of Agreements
- Not legally binding: rules of origin as laid down in the Protocols have primacy
- Published in OJ



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## Notice to Community Importers (1)

- Objectives (*COM(2000) 550 final – OJ C348 of 5.12.2000*)
  - warn the Community importers and customs administrations on ‘reasonable doubts’ concerning fraud or failure to provide administrative cooperation
  - protect the economic and financial interests of the Community
- Publication by the Commission in the OJ of the EC (*C series*): *see list of notices to importers in force*

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## Notice to Community Importers (2)

### ● Consequences:

- necessary precaution to be taken by the importers (*good faith* cannot be claimed for a request ex Article 220(2)b CCC for non recovery of debt)
- requests for subsequent verifications & necessary precautionary measures from MS in order to confirm or no the doubts
- search for a settlement in order to restore a correct application of the rules
- possible decision to suspend/withdraw autonomous preferences

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## Pan European Rules of Origin

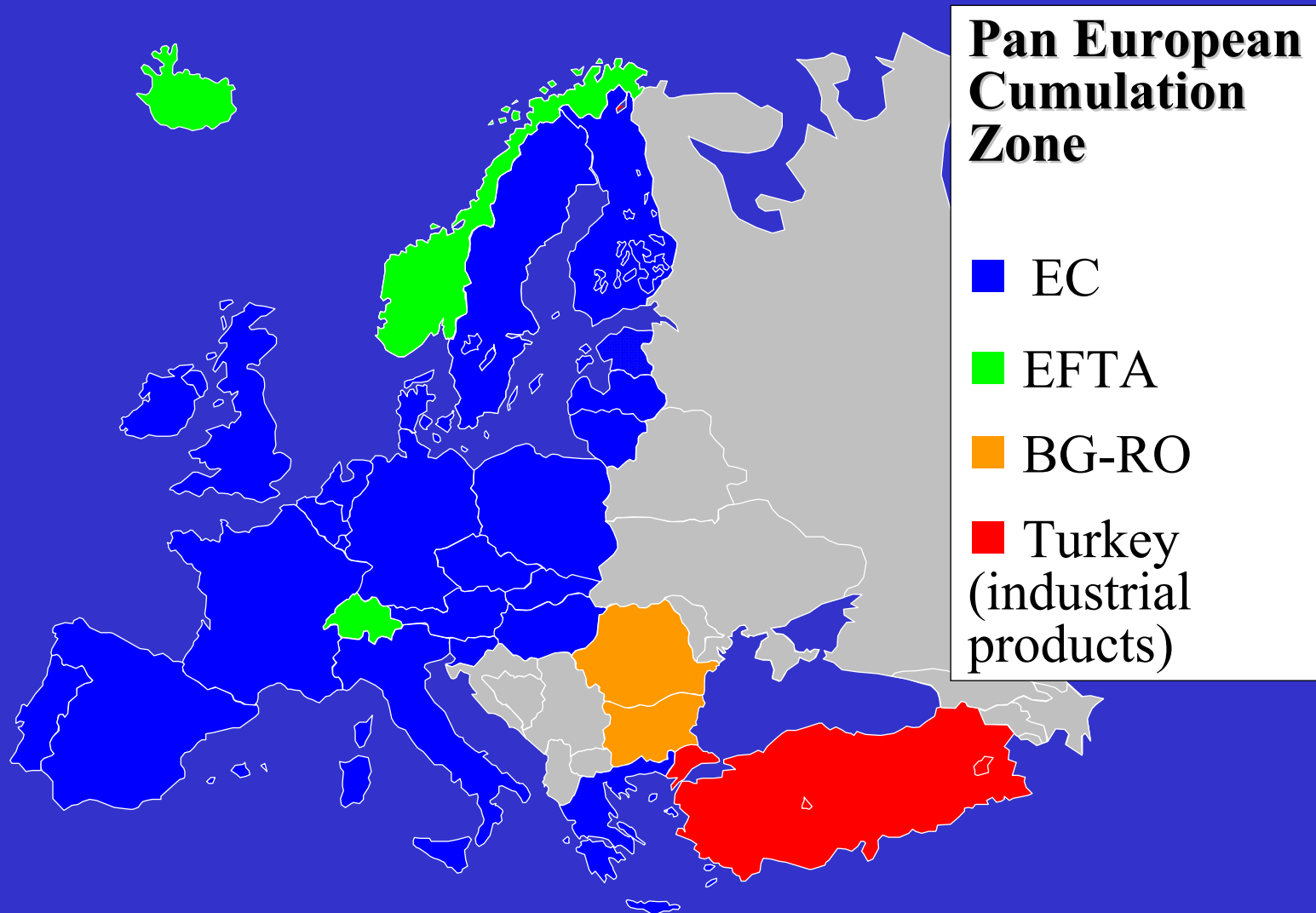
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## Pan European Diagonal Cumulation

- Operates since 1997 between the EC, the EFTA countries, the CEECs and since 1999 with Turkey (industrial products)
- Table of the network of free trade agreements in *OJ C100 of 29 April 2002*: number of countries involved reduced following the last enlargement
- Under extension to Mediterranean countries, Faeroe Islands and Turkey (agriculture/coal & steel)

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## Special features

- Diagonal and Full Cumulation
- Derogation to territoriality
- No drawback rule
- Accounting segregation

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## Difference between Diagonal and Full Cumulation

- Only originating products can be cumulated under diagonal cumulation (PanEuropean)
- Non-originating products can be cumulated under full cumulation but working or processing requirements must be fulfilled in the cumulation zone (EEA)

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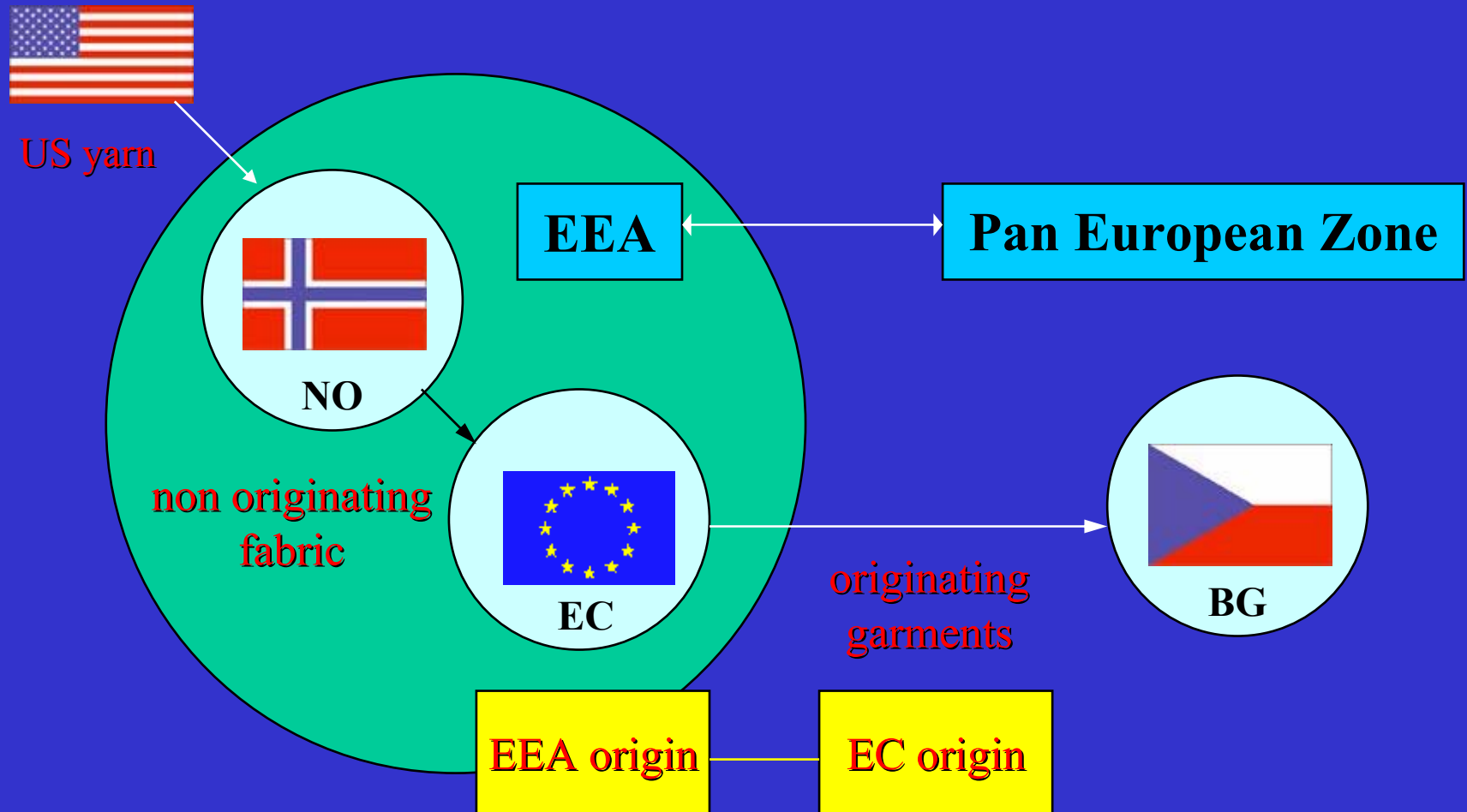
## EEA

- Includes Iceland, Norway, Liechtenstein and the EC
- EEA originating status
- Full cumulation system inside the pan-European system of cumulation of origin
- Specific supporting documents: supplier's declaration and long term supplier's declaration
- Joint declaration makes the “bridge” between Pan-European system and the EEA



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## Linkage between EEA and PanEuropean cumulation zones



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## Reminder on principle of Territoriality

- All working or processing must be carried out inside the country/the cumulation zone without interruption
- Conditions to fulfil to preserve the originating status of returning goods

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## Derogation to Principle of Territoriality

### Conditions

- Goods exported must be originating or to have undergone more than minimal working or processing
- Re-imported goods must result from working or processing in the third country on the previously exported products
- Added value cannot exceed 10% of ex-works price
- This derogation does not apply to textiles products

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## No Drawback Rule

- Content: Prohibition of any refund, remission or non payment of duties on non-originating materials, granted when obtained products are exported
- Objectives are:
  - to create a level playing field between economic operators throughout the zone
  - to ensure equal treatment of products imported from preferential country and products produced locally
- Not foreseen in autonomous arrangements
- Progressively expanded to all preferential agreements

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## Accounting Segregation

- Authorisation issued by customs authorities
- Conditions are that exporter must
  - regularly export originating products
  - need accounting segregation because physical segregation impossible or too costly
  - offer adequate guarantees
  - use accounting system in keeping with national standards

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## Faeroe Islands

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## Legal Framework

- **Protocol no. 3** of the Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part (OJ No L 53, 22.02.1997)
- Amended once to introduce accounting segregation (OJ No L 104, 20.04.2002)

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## Special features

- Only bilateral cumulation applies (until PEM cumulation is in force)
- Pan-European model, including accounting segregation



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## Pan Euro- Mediterranean Cumulation

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## Pan-Euro-Mediterranean Cumulation Zone

- Creation of the equivalent of a free trade area of 42 countries (Pan-Euro + Turkey + Meds&Faeroe)
  - European Union (25 Member States)
  - Iceland, Liechtenstein, Norway and Switzerland (EFTA)
  - Bulgaria and Romania
  - Turkey (industrial products) + (agricultural and coal & steel products)
  - Morocco, Algeria, Tunisia, Egypt, Israel, Palestinian Territories, Jordan, Lebanon, Syria
  - Faeroe Islands (some fishes excluded from PEM cumulation)
- PanEuroMed Working Group

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## Pan-Euro-Mediterranean Cumulation Zone

- Harmonisation and liberalisation of rules of origin in order to:
  - increase possibilities for sourcing of raw materials
  - create new markets for raw materials
  - boost investments in the region
- Conditions:
  - network of free trade agreements allowing PEM cumulation
  - identical rules of origin & no drawback rule (transitional partial drawback)
  - notification of entry into force (first day of the month following publication in *OJ C series*)
  - distinction between Pan-Euro and Pan-Euro-Med: EUR-MED certificates and invoice declarations

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## PEM Cumulation – Proofs of origin

- In pan-European cumulation, no additional information is required because :
  - all partners apply one single set of identical origin requirements
  - pan-European cumulation is in place between all countries of the zone
- In pan-Euro-Mediterranean cumulation, additional information is required because :
  - partners can apply different origin requirements in bilateral trade (e.g. drawback, full cumulation)
  - pan-Euro-Mediterranean cumulation will not be immediately in place between all countries of the zone ('variable geometry')

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## Why EUR-MED proofs of origin ?

- to indicate whether pan-Euro-Med or bilateral origin requirements were respected
  - example of bilateral rules : drawback granted or full cumulation (Maghreb countries)
- to indicate with which countries cumulation was applied
  - implementation of variable geometry

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## State of play of PEM cumulation

- **Pan-Euro-Med Protocols are in force**  
(1st Matrix of Protocols in OJ C18 of 25/01/2006):
  - within EEA
  - between:
    - EU & Switzerland, Norway, Iceland, Faeroe, Israel, Morocco
    - Switzerland & EU, Israel, Morocco
    - Faeroe & EU, Iceland, Norway
    - Israel & EU, Switzerland, Iceland, Norway
    - Iceland & EU, Faeroe, Israel, Morocco
    - Morocco & EU, Switzerland, Iceland,, Norway, Turkey
    - Tunisia & Turkey
    - Turkey & Morocco, Tunisia

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## Western Balkans

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## Overview 1

- All five countries in the western Balkans [**Albania, Bosnia-Herzegovina (BiH), Croatia, the former Yugoslav Republic of Macedonia (fYRoM), Serbia and Montenegro (S&M)**] participate in the EU Stabilisation and Association process, which offers the prospect of membership of the Union once conditions have been met.



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## Overview 2

- Two different situations:
  - Autonomous trade measures: Albania, BiH, S&M
  - Bilateral agreements: Croatia, the fYRoM

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## Legal Framework 1

### Autonomous measures (Albania, BiH, S&M)

- EU unilateral trade concessions on the basis of Council Regulation (EC) No 2007/2000
- Benefit subject to compliance with **rules of origin** contained in Regulation (EEC) No 2454/93 (Title IV, Chapter 2, section 2)

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## Special features 1

### **Autonomous measures (Albania, BiH, S&M)**

- Bilateral cumulation (one way only)
- No derogation to territoriality principle
- No prohibition of drawback
- Only Community can issue a replacement EUR.1
- Only Community can authorise approved exporters
- No accounting segregation
- No dispute settlement
- Validity of the proofs: 4 months

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## Legal Framework 2

### **Bilateral Agreement with CROATIA**

- Bilateral concessions on the basis of the Stabilisation and Association Agreement of 29 October 2001
- Benefit subject to compliance with **rules of origin** contained in **Protocol 4** "concerning the definition of the concept of 'originating products and methods of administrative cooperation"

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## Special features 2

### Bilateral Agreement with CROATIA

- Bilateral cumulation
- Partial drawback with flat rates until 31/12/2005
- No accounting segregation
- Proofs of origin: EUR 1 certificates of origin/Invoice declaration (validity: 4 months)

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## Legal Framework 3

### Bilateral Agreement with the fYRoM

- Bilateral concessions on the basis of the Stabilisation and Association Agreement of 9 April 2001
- Benefit subject to compliance with **rules of origin** contained in Protocol 4 "concerning the definition of the concept of 'originating products and methods of administrative cooperation'"

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## Special features 3

### Bilateral Agreement with the fYRoM

- Bilateral cumulation
- No derogation to territoriality principle
- Partial drawback with flat rates until 31/12/2005
- No accounting segregation
- Proofs of origin: EUR 1 certificates of origin/Invoice declaration (validity: 4 months)

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## New developments

- A Stabilisation and Association Agreement is being negotiated with **Albania, BiH and S&M**
- The possibility to create **EU-SAP diagonal cumulation of origin** to be applied to the countries of the region with SAAs with the EU is being discussed



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## Africa Caribbean Pacific States (ACP)

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## Overview

- ACP means 77 countries in Africa, the Caribbean and the Pacific
- EC is granting unilateral trade preferences to most products originating in the ACP States
- Important element of ACP/EC development co-operation

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## Legal Framework

- ACP/EC Partnership Agreement, signed in Cotonou on 23 June 2000 (OJ L 317, 15.12.2000)
- Annex V: trade regime (applied as transitional measures as from 1.3.2000)
- Protocol 1: rules of origin
- Explanatory notes (OJ C 228, 25.9.2002)

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## Special features: cumulation

- ACP-EC-OCT bilateral, diagonal and full cumulation
- cumulation with South Africa: not yet entered into force
- cumulation with neighbouring developing countries (other than ACP): not applied so far

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## Special features

- requirements for wholly obtained fish: at least 50% of the crew, master and officers included, must be nationals
- value tolerance: 15 %
- no accounting segregation
- no derogation for extra-territoriality
- no prohibition of drawback
- validity of the proofs: 10 months

# Preferential Origin

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## Special features: derogations

- Article 38 of the Protocol and Council Decision 2000/399/EC (OJ L 151, 24.6.2000)
- Objective: temporary relaxation of the rules
- Decision of the ACP/EC Customs Co-operation Committee laying down: scope of derogation, product coverage, quantities, management, validity (normally 5 years)

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## Special features: derogations

- Request addressed to the EC co-chair of the ACP-EC Customs Co-Operation Committee
- Commission submits draft common position to the opinion (vote) of the Customs Code Committee (Origin Section): qualified majority
- EC submits common position to the ACP within 75 working days (if not: request deemed to be granted)

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## Special features: derogations

- Derogations for preserved tuna and tuna loins (HS heading ex 16.04) are granted automatically within an annual quantity of 8000 tonnes and 2000 tonnes respectively (*Decision No 2/2005 of the ACP-EC Customs Cooperation Committee of 1 March 2005 - OJ L 61, 8.3.2005, p. 48*)
- Other Derogations in force: *see the list*



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## New developments

- Current trade regime is transitional (WTO enabling clause 1994)
- by 1.1.2008: Economic Partnership Agreements (EPAs) with reciprocal tariff preferences shall enter into force
- 6 EPA regions: Western Africa, Central Africa; Eastern & Southern Africa; Southern Africa; Caribbean; Pacific

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## Overseas Countries and Territories (OCT)

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## Overview

- OCTs are not part of the Community territory, but have specific constitutional links with four of the Member States (DK, FR, NL, UK)
- OCTs are associated with the EC through the Treaty and receive unilateral trade preferences for all originating
- Important element for the economic and social development of the OCTs

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## Legal Framework

- Council Decision of 27.11.2001 on the association of the overseas countries and territories with the EC (OCT-decision) (OJ L 314, 30.11.2001 and L 324, 7.12.2001)
- Annex III: rules of origin

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## Special features

- OCT-EC-ACP bilateral, diagonal and full cumulation
- no cumulation for agricultural products (HS Chapter 1 to 24) originating in the EC and for which export refunds have been paid
- special provisions (including quantitative limits) on cumulation for sugar and rice

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## Special features

- requirements for wholly obtained fish: at least 50% of the crew, master and officers included, must be nationals
- value tolerance: 15 %
- no accounting segregation
- no derogation for extra-territoriality
- no prohibition of drawback
- validity of the proofs: 10 months

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## Special features: derogations

- Article 37 of Annex III to the OCT-Decision and Council Decision 2000/399/EC (OJ L 151, 24.6.2000)
- Objective: temporary relaxation of the rules
- Commission Decision lays down: scope of derogation, product coverage, quantities, management, validity (normally 5 years)
- Derogations in force: *see the list*

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## Special features: derogations

- Request addressed to the Chairman of the Customs Code Committee (Origin Section)
- Commission submits draft decision to the opinion (vote) of the Customs Code Committee (Origin Section): qualified majority
- Commission decision on the request within 75 working days (if not: request deemed to be granted)



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## New developments

- global review of the OCT-decision before 31.12.2007
- proposal for the adoption of a new OCT-decision by 1.1.2012 (current OCT-decision expires on 31.12.2011)

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## South Africa

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## Overview

- Trade, Development and Cooperation Agreement (TDCA): establishment of a free trade area between the EC and SA
- Progressive abolition of tariffs over 12 (SA) and 10 (EC) years, starting from 1.1.2000
- Trade with the EU has grown substantially in value and quantity since the entry into force of the TDCA

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## Legal Framework

- Agreement on Trade, Development and Cooperation, signed in Pretoria on 11.10.1999 (OJ L 311, 4.12.1999). Trade regime applied provisionally as from 1.1.2000.
- Annexes II and III: tariff dismantling for different categories of products
- Protocol 1: rules of origin

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## Special features

- SA-EC bilateral cumulation
- diagonal cumulation with ACP States: not yet entered into force (but draft agreement on cumulation with SADC ACP countries)
- full cumulation with SACU (South African Customs Union= SA+BLNS): not yet implemented

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## Special features

- value tolerance: 15 %  
(10 % for products of chapters 3 and 24 and HS headings 1604, 1605, 2207 and 2208)
- no accounting segregation
- no derogation for extra-territoriality
- no prohibition of drawback
- no derogations from the rules of origin
- validity of the proofs: 10 months

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## New developments

- SA requested amendment to list rules for 10 products
- agreement reached on principle of amending the list rules (permanent or temporary) for tea, refined lanolin, preserved vegetables and fruits, and flavoured waters
- implementation still pending written confirmation by SA

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**Mexico**



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## Legal Framework

EU–Mexico Economic Partnership, Political Co-ordination and Cooperation Agreement:

- Decision No 2/2000 of the Joint Council (OJ L 157 of 30 June 2000, p. 10)
- Annex III to Decision No 2/2000 (OJ L 245 of 29 September 2000, p. 953)

The trade part of the Agreement is in force since 1 July 2000

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## Special features

- List of minimal operations
- No extra-territoriality
- No Article on Exhibitions
- Prohibition of drawback since 1 January 2003
- Ministry of Economy as certifying authority
- Shorter period of time for acceptance of a EUR. 1 issued retrospectively

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## Special features - 2

- Shorter period of time for making out an invoice declaration after exportation
- 10 months validity of proof of origin
- Amounts expressed in euro / Confidentiality
- Legal basis for Explanatory Notes
- Tolerance rule set out in note 5.1 to Appendix 1

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## Special features - 3

- A limited number of 'list rules' (Appendix II) differ to the 'standard' ones
- Appendix II(a) and Joint Declarations
- Inclusion of tariff classification in box 8 of movement certificate EUR. 1
- Explanatory Notes

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## Recent developments

- Adaptations to HS 2002 changes – Decision No 5/2002 of the Joint Council (OJ L 44 of 18 February 2003, p. 1)
- Reviews undertaken in accordance with Joint Declarations – Decision No 1/2002 of the Joint Committee (OJ L 44 of 18 February 2003, p. 97)
- Adoption of a revised version of the Explanatory note to Article 17

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Chile

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## Legal Framework

EU – Chile Association Agreement:

- Council Decision of 18 November 2002 (OJ L 352 of 30 December 2002, p. 1)
- Annex III to the Association Agreement (OJ L 352 of 30 December 2002, p. 935)

The trade part of the Agreement is in force since 1 February 2003

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## Special features

- Wholly obtained fish and fishery products
- List of minimal operations
- No extra-territoriality
- No prohibition of drawback until 1 January 2007
- Economic Directorate of Ministry of Foreign Affairs as certifying authority



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## Special features - 2

- Instructions on completion of EUR. 1 certificates and making out of invoice declarations moved to Appendixes III and IV
- 10 months validity of proof of origin
- Exemptions from proof of origin
- Article on confidentiality
- Legal basis for Explanatory Notes

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## Special features - 3

- A very limited number of 'list rules' (Appendix II) differ to the 'standard' ones
- Appendix II(a) and Joint Declarations
- Agreement on a set of Explanatory Notes

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## Generalised System of Preferences (GSP)

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## GSP Overview

- Council Reg. 980/2005 of 27/06/2005 = GSP/GSP+/EBA
- Autonomous and not reciprocal
- Includes many ACP countries and countries having an agreement with EC - operators may choose which to use
- Preference only if countries have complied with administrative cooperation

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## GSP RoO Legal Framework

- IP Code (Reg. No. 2454/93, as amended by Regs. Nos. 12/97, 1602/2000 and 881/2003)
- Reg. 881/2003 amends list of minimal operations; updates list rules to HS 2002; and merges 2 regional cumulation groups (all from 1/6/2003)
- Consolidated text in GSP RoO Guide for traders

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## GSP RoO Users' guide

- Available in EN, FR and ES on TAXUD web-site - includes copy of consolidated legal provisions  
([http://europa.eu.int/comm/taxation\\_customs/common/publications/info\\_docs/customs/index\\_en.htm](http://europa.eu.int/comm/taxation_customs/common/publications/info_docs/customs/index_en.htm))
- Text updated on internet only.

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## GSP Special features

- GSP Regional cumulation
- 'Triangular' cumulation EC/NO/CH
- Derogations
- Direct transport (Hong Kong)

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## GSP Regional Cumulation (features)

- 3 ‘regional groups’ (Groups I, II, III)
- Materials originating in one country of the group used in another one are considered as originating therein
- Goods will always have the origin of 1 country of the group - Art. 72a determines which one
- Each group is a single territory for “direct transport” purposes



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## GSP Regional Cumulation (operation)

- Final product is originating in the country of the last operation if:
  - this operation is more than ‘minimal’ AND
  - the value added there is greater than the highest value of the materials used, originating in any one of the other countries of the group
- Otherwise, origin of the country in the group accounting for the highest customs value

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## GSP Regional Cumulation (operation)

- A country of the group exporting to another member certifies origin acquired or retained
- Form A for product exported to EC will be issued by country of export but may show that goods originate in a different member of the group

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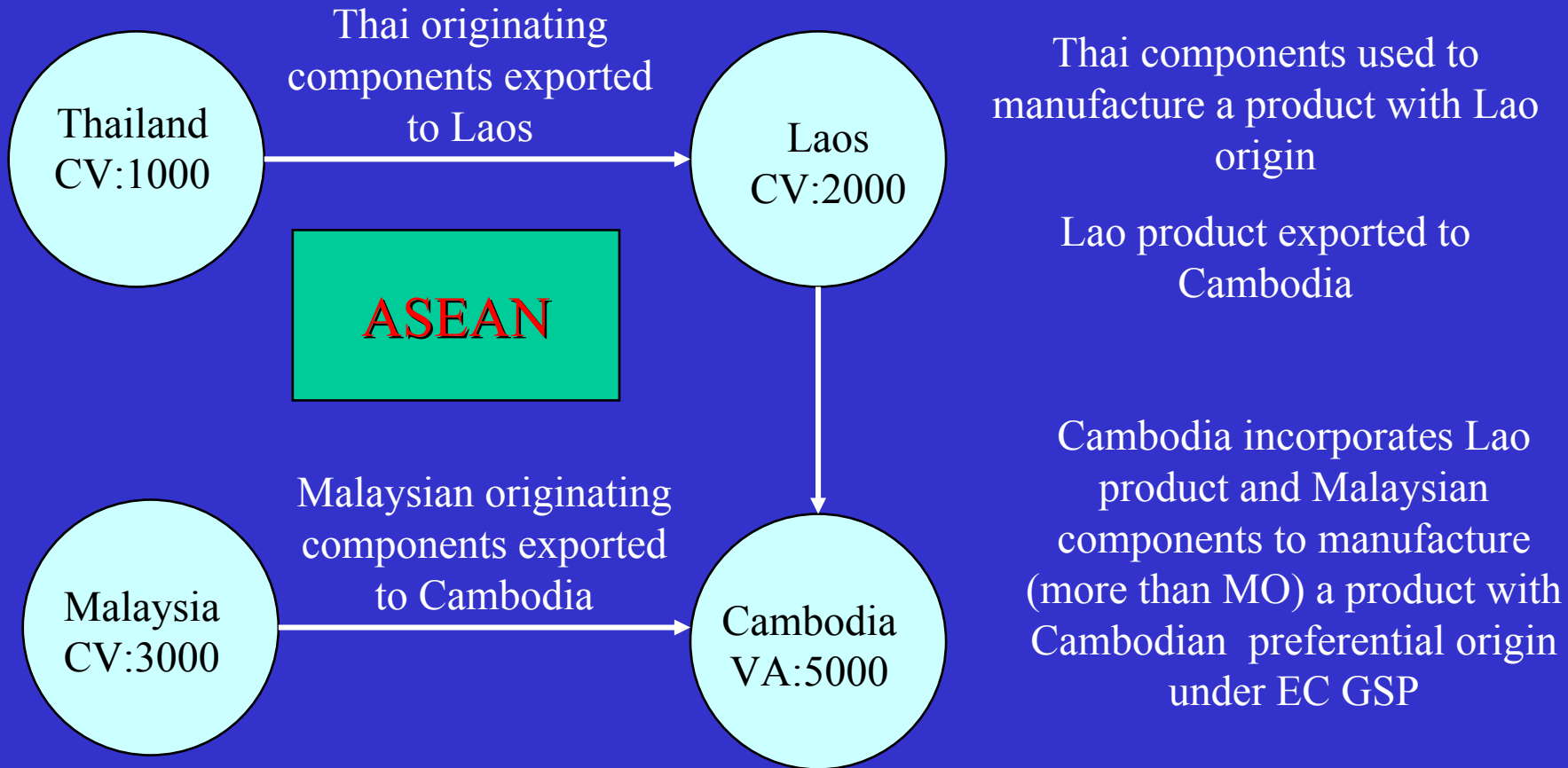
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## GSP Regional Cumulation (operation)

- Regional cumulation may apply even if materials are supplied from a ‘non beneficiary’ country of the group (Art. 5(3) R. 980/2005)
- Bilateral and Regional cumulation may be combined

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## GSP Regional Cumulation - Example



**Ex-Works Price = 10000 & 5000 > 3000 > 2000**

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## 'Triangular' Cumulation EC/NO/CH Texts

- Articles 67, 78 and 87 of Regulation No. 2454/93
- Agreement EC/NO/CH - exchange of letters (OJ L 38, 8/2/2001, p. 24)
- Explanatory notes still to be finalised

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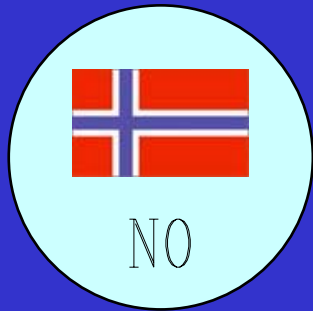
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## 'Triangular' Cumulation EC/NO/CH Features

- Is reciprocal: EC/NO/CH goods treated as equivalent in each of the 3 parties (except if derogation)
- Direct transport rule
- Possibility of issuing replacement Form As

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## GSP EC/NO/CH Cumulation - Example



Linen fabric of NO  
origin exported to  
India



Fabric is cut and  
made into garments  
in India and exported  
to EC

‘TRIANGULATION’



Finished garments  
have obtained  
Indian preferential  
origin under EC GSP



# Preferential Origin

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## Derogation from GSP RoO (conditions)

- Legal basis: Article 76 of IP Code (R2454/93)
- Relaxation from normal rules for LDCs only
- Justification: development of existing/creation of new industries
- Submission by the country of a request supported by reasons/information
- Commission Regulations (committee procedure)



# Preferential Origin

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## Derogation from GSP RoO (implementation)

- Derogation for certain textile products originating in Cambodia, Laos, Nepal until 31.12.2006
- Only one processing operation instead of two
- Cumulation with ASEAN/SAARC/ACP countries + No Value-added criterion
- Constraints: Quantitative limits/Reference to Derogation on Form A/Monthly statistics on issue of Form A to COM

# Preferential Origin

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## Direct transport: agreement on Chinese origin goods sent via Hong Kong

- Special agreement with China for Chinese origin goods transiting Hong Kong: proof by
  - a through bill of lading covering passage from China through Hong Kong; OR
  - Stamp of China Inspection Co. Ltd. (CICL) in Box 4 of Form A; OR
  - “Non-manipulation certificate” issued by CICL

# Preferential Origin

中國檢驗有限公司  
CHINA INSPECTION COMPANY LIMITED

香港北角蜆殼街 9-23 號秀明中心 5 樓  
5/F Seabright Plaza, 9-23 Shell Street, North Point H.K.  
Tel: 2503 1011, 2503 1988  
Fax: 2512 0353, 2512 0262

A. FULL NAME OF THE AUTHORIZED BODY:

CHINA INSPECTION COMPANY LIMITED

中國檢驗有限公司

B. ADDRESS:

5/F., SEABRIGHT PLAZA, 9-23 SHELL STREET,  
NORTH POINT, HONG KONG.

TEL NO.: 2503 1988 2503 1011

FAX NO.: 2512 0353 2512 0262

C. THE NEW STAMP IN BOX 4 WILL BE USED FROM 1ST OF NOV., 1997:



# Preferential Origin

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## Form A

- Not a Community form, but an UNCTAD form
- UNCTAD revised the notes on the back to take account of last enlargement, then Community law will have to be amended
- In the meantime, the existing version will continue to be used
- Compliance with technical requirements
- Validity: 10 months

# Preferential Origin

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## Ceuta and Melilla

# Preferential Origin

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## Overview

- Ceuta and Melilla are not part of the EC customs territory
- Preferential (duty free) regime on trade in goods between the EC customs territory and Ceuta & Melilla (reciprocal)

# Preferential Origin

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## Legal Framework

- Preferential regime: Protocol 2 of the Act of accession of Spain to the EC
- RoO: Council Regulation (EC) N° 82/2001 of 5 December 2000 (OJ L 20 of 20/01/2001)

# Preferential Origin

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## Special features

- Cumulation provisions on Ceuta & Melilla in preferential arrangements with other trade partners
- Exporters either from Ceuta and Melilla or from the CE have to choose **ONLY ONE** cumulation system for those products obtained, either in Ceuta and Melilla or in the CE



# Preferential Origin

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## Special features

- List of countries and the date on which cumulation may be applied (OJ C 108 of 04/05/2002)
- Verification of origin on a “case by case” basis by Spain

# Preferential Origin

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## Turkey

### Customs Union & Preferential Rules of Origin

# Preferential Origin

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## Overview

- Customs Union for industrial and processed agricultural products
- Preferential Agreements for:
  - Agricultural products
  - Coal and Steel products
- Pan European Cumulation of Origin except for agricultural products (until PEM cumulation is in force)

# Preferential Origin

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## Legal framework

- Ankara Association Agreement 1963 and Additional Protocol 1970
- Ass Council Decision 1/95: Customs Union
- 1996 Agreement on Coal and Steel
- Ass Council Decision 1/98: Agriculture
- Customs Co-operation Committee Decisions

# Preferential Origin

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## Institutional framework

- Association Council (Ankara Agreement)
- Association Committee (Dec. 3/64)
- Sub-Committee N° 8 on Customs, Taxation, Drugs & Money Laundering (Dec. 3/2000)
- Customs Co-operation Committee (Dec. 2/69)
- Customs Union Joint Committee (Dec. 1/95)
- Coal and Steel Agreement Joint Committee

# Preferential Origin

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## Customs Union

- Scope of the CU: Decision 1/95
- CU Internal aspects: free movement of goods
  - Elimination of tariff and non tariff measures
  - Processed agricultural products
- CU External aspects: customs tariff and commercial policy
- Trade defence instruments
- Approximation of other laws

# Preferential Origin

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## Customs Provisions (1)

- Approximation of Customs Laws  
*(Article 28)*
- Empowerment of the Customs Co-operation Committee for implementation
- Mutual Assistance on customs matters  
*(Annex 7)*

# Preferential Origin

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## Customs Provisions (2)

- CCC‘Bridge’ Decision 1/2001 as amended by Dec. 1/2003
  - Trade in goods between the 2 parts of the CU: AT.R movement certificate, approved exporter, exemptions of certificate (travellers, postal consign.)
  - Trade in goods with third countries: customs value, OPR, returned goods



# Preferential Origin

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## Agriculture (1)

- Dec.1/98 of 25/02/1998 on the trade regime for agricultural products
- Reciprocal preferential agreement for products covered by Annex I of EC Treaty
- Distinction between agricultural products (Dec. 1/98 - proof of origin) and PAPs (Dec. 1/95 - AT.R)

# Preferential Origin

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## Agriculture (2)

- Protocol 3 'Origin': special features
  - Bilateral cumulation
  - 'Old' list of minimal operations
  - No derogation to principle of territoriality
  - Special arrangement for partial drawback
  - No accounting segregation

# Preferential Origin

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## Coal and Steel

- Scope and principles of the 1996 Agreement
- Protocol 1 'origin' (amended JC Dec. 2/1999): special features
  - Pan-European cumulation
  - No accounting segregation

# Preferential Origin

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## Customs Union and Pan-European Cumulation

- CCC Dec. 1/1999: tracing back origin behind the CU customs status in order to allow preferential trade and cumulation with partner countries (supplier's declaration and INF4)
- CCC Dec. 1/2000: acceptance of proofs of EC/TR origin issued in countries of the Pan-European zone as proofs of CU customs status
- To be both incorporated in a new Bridge-Decision

# Preferential Origin

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## Current issues & New developments

- Clarification of the scope of Dec. 1/98 (doc. TAXUD/1433/02 final of 15.03.2004: list of agricultural products)
- Inclusion of agricultural and coal and steel products into Pan-Euro-Mediterranean cumulation

# Preferential Origin

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## Andorra

### Customs Union & Preferential Rules of Origin

# Preferential Origin

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## Overview

- Customs Union for Chapter 25 to 97 HS
- Preferential arrangement for agricultural products (Chapters 1 to 24 HS) originating in Andorra, imported in the EC
- MFN treatment for products originating in the EC, imported in Andorra
- Preferential arrangement for some tobaccos manufactured in the EC, imported in Andorra

# Preferential Origin

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## Legal and institutional framework

- CU Agreement 1990
- Joint Committee Decisions:
  - JC Dec. 1/1999, amending the Appendix on rules of origin for agricultural products
  - JC Dec. 1/2003 ('Bridging Legislation')
- Council Reg. (EC) N° 2302/2001, applying Art. 12(2) of the Agreement on tobaccos



# Preferential Origin

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## Customs Union

- Scope of the CU: Chapters 25 to 97 HS
- CU Internal aspects: free movement of goods
  - Elimination of tariff and non tariff measures
  - Processed agricultural products
- CU External aspects: customs tariff and commercial policy → Joint Declaration in EC preferential agreements

# Preferential Origin

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## Customs Provisions in Customs Union Agreement

- Approximation of Customs Laws (*Art. 7*)
- Competent Community customs offices (*Art. 8*)
- Special duty/tax relief for travellers (*Art. 13*)
- Empowerment of the Joint Committee for implementation

# Preferential Origin

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## CCC Decision 1/2003

### *'Bridging Legislation' (1)*

- Alignment of Andorra onto EC customs provisions
- Mutual assistance for recovery of claims
- Trade in goods between the 2 parts of the CU:  
extension of Community transit, justification of  
customs status (T2L)

# Preferential Origin

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## CCC Decision 1/2003

### *'Bridging Legislation' (2)*

- Trade in goods with third countries:
  - Customs value, IPR, OPR, returned goods
  - Application of rules of origin in preferential arrangements with third countries on products covered by the CU

# Preferential Origin

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## CCC Decision 1/2003 (3) RoO in Preferential Arrangements

- Art. 62: Andorra shall apply EC RoO in preferential trade & subsequent verifications of origin in Andorra autonomous preferences are made by EC customs offices
- Art. 63 : replacement certificates
- Art. 64: Andorra shall apply *mutatis mutandis* Reg. 1207/2001 (supplier's declaration)

# Preferential Origin

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## RoO in EC-Andorra Preferential Arrangement on Agriculture

- Appendix 'Origin': special features
  - Bilateral cumulation
  - 'Old' list of minimal operations
  - No derogation to principle of territoriality
  - No accounting segregation

# Preferential Origin

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## San Marino Customs Union

# Preferential Origin

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## Overview

- Customs Union for all products except Coal and Steel
- No preferential arrangement based on origin



# Preferential Origin

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## Legal and institutional framework

- Co-operation and CU Agreement 1991  
(*OJ L 84 of 28.3.2002*)
- Co-operation Committee Decisions:
  - CC Dec. 1/92 to 3/92
  - CC Dec. 4/92, as amend. by Dec. 1/2002, on movement of goods and administrative co-operation

# Preferential Origin

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## Customs Union

- CU Internal aspects: free movement of goods
  - Elimination of tariff and non tariff measures
- CU External aspects: customs tariff, customs provisions and commercial policy
- Community Declaration on preferential agreements →  
Joint Declaration on San Marino in the EC preferential agreements