EU-Canada Comprehensive Economic and Trade Agreement (CETA)

Guidance on the Rules of Origin

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General disclaimer

These guidance documents are of an explanatory and illustrative nature. Customs legislation takes precedence over the content of these documents and should always be consulted. The authentic texts of the EU legal acts are those published in the Official Journal of the European Union. There may also be national instructions.

Drafting procedure

These guidance documents have been drafted by the Customs Project Group "Guidance for rules of origin in CETA" (CPG 128) under Customs 2020. They have been endorsed by the Customs Expert Group – Origin Section (CEG-ORI).

Acronyms:

CETA Origin Protocol: the Protocol on rules of origin and origin procedure of CETA

UCC: Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013

UCC-DA: Commission Delegated Regulation (EU) 2015/2446

UCC-IA: Commission Implementing Regulation (EU) 2015/2447

1. Exporters' 'customs authorisation number' - Value limit

Relevant provisions

a) CETA Origin Protocol

i. Article 18
ii. Article 19
iii. Annex 2

b) EU legal base

i. Article 68(4) UCC-IA
ii. Article 68(5) UCC-IA, as amended by Regulation (EU) 2017/989

In the EU

According to Article 18 in the CETA Origin Protocol, the proof of origin to be used in CETA is the origin declaration.

Article 19 in the CETA Origin Protocol refers to the internal legislation of the Parties as regards the conditions that must be fulfilled by an exporter completing an origin declaration.

In the EU, the Registered Exporter System (REX) applies according to Article 68(1) UCC-IA.

Annex 2 of the CETA Origin Protocol contains the text of the origin declaration, which refers to a '(customs authorization No…)'. Footnote 2 of that Annex specifies that in the EU, when the origin declaration is completed by a registered exporter, that number is the exporter's registration number.

Concerning EU exports to Canada, the origin declaration should therefore include a REX-number.

However, according to article 68(4) UCC-IA, an exporter who is not a registered exporter may complete a document on origin up to the value threshold of EUR 6 000, for each consignment. In such cases, footnote 2 of Annex 2 of the CETA Origin Protocol sets out that the words in brackets concerning the '(customs authorization No…)' in the origin declaration shall be omitted or the space left blank.

In the context of CETA, and according to Article 68(5) UCC-IA, EU approved exporters are entitled to make out an origin declaration using their approved exporter number as if it was a REX number until 31 December 2017 provided they have not yet been registered by the Member State concerned. This is applicable over the value threshold EUR 6 000, for each consignment, but is not compulsory below this threshold given that no number is needed below this threshold.

In Canada

For the most part, exporters of commercial goods in Canada will have a business number, as it is mandatory for all exporters of commercial goods required to be reported to the Canada Border Services Agency (CBSA), to have a Business Number. However, there may be situations where an exporter of a good is not required to have a business number, such as,

where the exported good is a non-commercial good. In cases where the exporter does not have a business number, the exporter will complete field 5 of the origin declaration by including the signature and the name of the exporter.

2. Origin declaration: making out - waiver from signature

Relevant provisions

a) CETA Origin Protocol

i. Article 19(1)
ii. Article 19(3)
iii. Footnote 5 of Annex 2

b) EU legal base

Article 68(7) UCC-IA, as amended by Regulation (EU) 2018/604

In the EU

A signature is not required for origin declarations made out in CETA.

Article 19(3) of the CETA Origin Protocol provides for origin declarations to be completed and signed by the exporter 'unless otherwise provided'.

In accordance with Article 68(7) UCC-IA, where a preferential arrangement allows the EU to waive the requirement for an origin declaration[1] to be signed by the exporter, no such signature shall be required.

For registered exporters (REX), the waiver from the requirement to sign the origin declaration in Free Trade Agreements is also included in Chapter 6, paragraph 2, point 5 of the REX guidance.

"No handwritten signature of the exporter is required on statements on origin. In the context of an FTA, when a document on origin is made out by a registered exporter, that document on origin does not need to be signed by the registered exporter provided that the text of the FTA foresees that the document on origin may not be signed."

The REX guidance can be found at the following link.

https://ec.europa.eu/taxation_customs/sites/taxation/files/registered_exporter_system_rex_-_guidance_document_v1_en.pdf

In Canada

1) Origin declaration

Under CETA, commercial businesses in Canada exporting products to the EU are required to provide the business number assigned by the Canada Revenue Agency on the origin declaration, as per the footnote instructions contained in Annex 2 of the Protocol on Rules of Origin and Origin Procedures. Field 5 may be left blank where the exporter in Canada includes a Business Number.

2) Business number

[1] Referred to as a "document on origin" in Article 68(7) of UCC-IA

For the most part, exporters of commercial goods in Canada will have a business number, as it is mandatory for all exporters of commercial goods required to be reported to the CBSA, to have a Business Number. However, there may be situations where an exporter of a good is not required to have a business number, such as, where the exported good is a non-commercial good. In cases where the exporter does not have a business number, the exporter will complete field 5 of the origin declaration.

For more information about the business number:

https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/registering-your-business/you-need-a-business-number-a-program-account.html

The Business Number represents the first 9 numbers of the Program Account Number.

Example

Program account number		
Business Number (BN)	**Program Identifier**	**Reference Number**
1 2 3 4 5 6 7 8 9	**R P**	**0 0 0 2**

3. Validity of exporters' registration in the EU

Relevant provisions

a) CETA Origin Protocol

Not applicable

b) EU legal base

Article 26 UCC

In the EU

Registration of an EU exporter in the REX database is according to Article 26 UCC valid throughout the customs territory of the Union and consequently the REX number assigned to an exporter may be used irrespective of the place where products are declared for exportation and where the real export is taking place. This means that the REX number can be used to export the products from different Member States and not only from a Member State where it was assigned.

In Canada

Not applicable

4. Transitional arrangements

Relevant provisions

a) CETA Origin Protocol

No legislation

b) EU legal base

No legislation

In the EU

The provisions of the Agreement may be applied to goods which comply with the provisions of the CETA Origin Protocol and which on the date of provisional application of CETA are/were either in transit or are/were in the Union in temporary storage in customs warehouses or in free zones, subject to the submission to the customs authorities of the importing country, of an origin declaration issued according to the provisions of Article 18 and 19 of the CETA Origin Protocol.

In case such goods were released for free circulation with the application of MFN duty rates, an origin declaration can be presented within two years (Article 19(4) of CETA Origin Protocol) from the date of the importation of the goods. This does not apply to goods released for free circulation into the EU before the provisional application of the agreement.

When the goods have been exported from Canada before the provisional application of the agreement and are either in transit or are in the Union in temporary storage in customs warehouses or in free zones, the origin declaration should be made on a copy of the invoice or on the copy of another commercial document related to the goods sent to the importer. The date of the declaration of origin, as provided by Annex 2 of CETA Origin Protocol, cannot be omitted (see footnote 4 of Annex 2) and it should be the date of the making out of the declaration which cannot be before the provisional application of the agreement.

In Canada

For imports into Canada, the Canada Border Services Agency (CBSA) will extend the CETA preferential tariff treatment to products released from customs control on or after the date of the provisional application of the agreement. Granting of the CETA preference will not be based on production or shipping date.

5. Origin quotas

Relevant provisions

a) CETA Origin Protocol

Annex 5-A

b) EU legal base

Commission Implementing Regulation (EU) 2017/1781

In the EU

The CETA Origin Protocol provides for alternative product specific rules, as a derogation from the product specific rules set out in Annex 5, for some categories of products within limited quantities (origin quotas). The categories of products, the quantities and the alternative product specific rules to be applied within the limits of annual origin quotas are provided for in Annex 5-A.

Exporters are reminded that, as per the Protocol on Rules of Origin and Origin Procedures of the CETA, the exporter of the product is required to provide an Origin Declaration to the importer.

In order to benefit from origin quota allocation, reference to Annex 5-A must be made on the invoice or on the commercial document on which the origin declaration is made out (Note 4 of Annex 5-A). Thus, in addition to the text of the origin declaration, the following text is recommended to be written on the same document:

"Products originating according to the provisions of Annex 5-A"

In Canada

Information on the application of quotas on goods exported from Canada to the EU can be found at the following link.

http://www.international.gc.ca/controls-controles/prod/ceta_origin_quotas-contingents_origine_aecg.aspx?lang=eng

Exporters are reminded that, as per the Protocol on Rules of Origin and Origin Procedures of the CETA, the exporter of the product is required to provide an Origin Declaration to the importer.

In order for the exporter in Canada to identify origin quota exports to the EU and to inform the importer of the application of Annex 5-A, the exporter is to include a reference to Annex 5-A on the commercial invoice or other commercial document and if an export permit was obtained, provide the importer with a copy of that permit.

6. Advance rulings - Binding Origin Information (BOI)

Relevant provisions

a) CETA Origin Protocol

Article 33

b) EU legal base

i. Articles 9, 33, 34 and 170 UCC
ii. Articles 19-22 UCC-DA
iii. Articles 16, 18-19 and 22-23 UCC-IA

Introduction

Binding origin information / advance rulings are decisions by the competent authorities, which are binding for the issuing customs authorities against the holder of the decision 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 Binding origin information / advance rulings.

In the EU

General guidance on BOI is available on the EU website.

https://ec.europa.eu/taxation_customs/sites/taxation/files/guidance_boi_en.pdf

Canadian exporters, EU importers or exporters may apply for a Binding Origin Information according to Article 33 UCC.

The application for a BOI decision shall be submitted to the competent authorities in the Member State in which the information is to be used:

http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2017.029.01.0019.01.ENG&toc=OJ:C:2017:029:TOC

In Canada

The CBSA will issue advance rulings directly to EU exporters or producers and importers in Canada. For further detail and information on how to apply for an advance ruling, refer to CBSA's Advance Ruling Departmental Memorandum

http://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-4-16-eng.html

7. Full cumulation - supplier's statement

Relevant provisions

a) CETA Origin Protocol

i. Article 3, paragraphs 4 to 7
ii. Annex 3

b) EU legal base

No legislation

In the EU

It is recommended, for the purpose of full cumulation referred to in Article 3(2) of the CETA Origin Protocol, to use the model of supplier’s statement provided in Annex 3 of the CETA Origin Protocol.

However, in accordance with Article 3(5) of the CETA Origin Protocol, other equivalent documents containing the same information as in Annex 3 can be used irrespective of the format.

The supplier's statement may cover a single invoice or multiple invoices on the same statement.

In Canada

Other equivalent documents containing the same information as Annex 3 of the Origin Protocol can be used irrespective of the format.

8. Replacement of origin declarations

Relevant provisions

a) CETA Origin Protocol

Not applicable

b) EU legal base

Article 69 UCC-IA, as amended by Regulation (EU) 2018/604

In the EU

General guidance of replacement of proofs of origin can be found at:

http://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/customs/customs_duties/rules_origin/preferential/movement_certificates_en.pdf

When goods are imported from Canada and a replacement of a proof of preferential origin is issued for the purposes of sending all or some of those products elsewhere within the EU then Article 69 UCC-IA shall apply. There are no provisions in CETA on this.

Where an origin declaration is issued or made out previously for the purposes of a preferential tariff measure, and the originating products,

- have not yet been released for free circulation, and
- are placed under the control of a customs office in the EU,

then the initial origin declaration may be replaced by one or more replacement proofs of origin for the purposes of sending all or some of those products elsewhere within the EU, as referred to in Article 69(1) UCC-IA.

According to Article 69(2), subparagraph 1 UCC-IA the replacement origin declaration should be made out:

- in the same form as the initial document (in the case of CETA using the wording in Annex 2 of the CETA Origin Protocol), or

- in the form of a replacement statement on origin, drawn up mutatis mutandis in accordance with Article 101 UCC-IA and Annex 22-20 UCC-IA.

Depending on the total value of originating products in the initial consignment the replacement document on origin can be made out by:

a) an exporter approved or registered in the EU and re-consigning the goods (irrespective of the value of originating products in the initial consignment),

b) a re-consignor (neither approved nor registered) of the goods in the EU where the total value of originating products in the initial consignment to be split does not exceed the value threshold of 6.000 Euro,

c) a re-consignor (neither approved nor registered) of the goods in the EU where the total value of originating products in the initial consignment to be split exceeds the value threshold of 6.000 Euro, and a copy of the initial document on origin is attached to the replacement document on origin.

According to Article 69(2) subparagraph 2 UCC-IA in cases where a re-consigner is neither approved nor registered and the value of originating products in the initial consignment to be split exceeds the value threshold of 6.000 Euro and for any reason it is not possible to attach a copy of the initial document on origin (e.g. business secret), the replacement document on origin may be issued in the form of a movement certificate EUR.1 by the customs office under whose control the goods are placed.

In this case the EUR.1 shall be made out as follows:

- Box 4 should be identical to the country of origin mentioned in the initial proof of origin
- Box 11 should contain the endorsement of the customs office issuing the replacement certificate
- Box 12 should be signed by the re-consignor.

The following table provides a summary.

Replacement document on origin	REX	Approved Exporter	Not REX or Approved exporter		
			< EUR 6 000	> EUR 6 000	
				Copy of original	No copy of original
Origin declaration	Yes	Yes	Yes	Yes	No
Statement on origin	Yes	Yes	Yes	Yes	No
EUR.1	No	No	No	No	Yes

9. Accounting segregation

Relevant provisions

a) CETA Origin Protocol

Article 10

b) EU legal base

Article 14(1) UCC

In the EU

Accounting segregation is provided for in many of the EU's Free Trade Agreements, some of which authorisation is mandatory.

If originating and non-originating fungible materials are used in the working or processing of a product, the management of the materials could be realized by using the accounting segregation method without keeping the different materials in separate stocks.

The CETA-Agreement provides for the application of accounting segregation of fungible materials and also of certain fungible products. In the meaning of the Agreement fungible materials or products means materials or products that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes.

As a suitable inventory (stock) management system is needed to apply this method correctly and in the case of subsequent verifications the evidence of origin of the products needs to be reproduced, the EU exporter should preferably ask his customs authorities for support before applying this system. The provision of information by the customs authorities to any person requesting the application of customs legislation is governed by Article 14 of the UCC.

In Canada

Under CETA, no authorization from CBSA is required should the exporter choose to apply an inventory (stock) management system to demonstrate that materials or goods are originating. However, should the CBSA conduct a verification where fungible materials or products was applied, the CBSA would establish whether the appropriate inventory (stock) management method was used by reviewing; a) the processes of purchasing, receiving, storage, removal from storage, shipping, and b) associated documents such as purchase orders, commercial invoices, bills of materials.

General Information

Unlike all other EU agreements providing accounting segregation, the requirements in CETA for using this method are less strict.

According to other agreements the accounting segregation method can only be used for managing stocks of identical and interchangeable originating and non-originating **materials**, where c**onsiderable cost or material difficulties** arise in keeping separate stocks of these originating and non-originating materials. This is not the case in CETA.

Example

Production of wheat flour (HS 11.01) from wheat (HS 10.01) in the European Union.

The product specific rule for sufficient production for the wheat flour (HS 11.01) is:

"Production in which all the material of heading 07.01, subheading 0710.10, Chapter 10 or 11, or heading 23.02 or 23.03 used is wholly obtained."

Originating wheat and non-originating wheat of the same quality are stored together in a silo. As the wheat has the same quality and is no longer distinguishable in the silo, it can be considered as fungible materials. Furthermore, it is not possible to distinguish in the finished product "wheat flour" whether originating or non-originating wheat has been used.

In that case the management of the materials "wheat" could be realized by using the accounting segregation method.

When the wheat flour is exported to Canada as originating in the European Union, it is sufficient to demonstrate only on the basis of the stock records that sufficient originating wheat was available for that quantity of wheat flour at the time of the production.

In CETA this method can be applied when fungible materials are used. The only requirement is a suitable inventory (stock) management system.

Furthermore it is applicable not only for fungible materials but also for fungible products of certain chapters or headings of the HS.

Fungible Products

The accounting segregation method for fungible products is restricted to certain products:

- Chapter 10 — Cereals
- Chapter 15 — Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes
- Chapter 27 — Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes
- Chapter 28 — Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes
- Chapter 29 — Organic Chemicals
- Headings 3201- 3207 — Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter;
- Headings 3901 - 3914 — Plastics in primary forms

A typical characteristic for all the useable fungible materials and products is that they are normally stocked in big silos or tanks.

The main requirement for the inventory (stock) management system is that it must be possible to retrace the stock of originating and non-originating materials or products at any time and therefore to ensure that only the valid amount of products receive originating status.

10. Exemptions from origin declarations

Relevant provisions

a) CETA Origin Protocol

Article 24

b) EU legal base

i. Article 68 UCC-IA, as amended by Regulation (EU) 2018/604
ii. Article 103 UCC-IA

In the EU

Article 24(1) of the CETA Origin Protocol indicates that a Party may, in accordance with its domestic legislation, waive the requirement to present an origin declaration for low value shipments of originating products from another Party and for originating products forming part of the personal luggage of a traveler coming from another Party.

Article 24(3) of the CETA Origin Protocol indicates that the Parties may set value limits for products referred to in paragraph 1, and that they shall exchange information regarding those limits.

Article 68(6) UCC-IA stipulates that under certain conditions, which are laid down in Article 103 UCC-IA, it is allowed to exempt originating products from the requirement to provide an origin declaration.

According to Article 103 UCC-IA, products that are exempted from the requirement to submit origin declarations are those,

a) not exceeding EUR 500 sent as small packages from private persons to private persons

b) not exceeding EUR 1200 for products forming part of travelers' personal luggage

These products must not be imported by way of trade, must have been declared as originating and where there is no doubt as to the accuracy of such a declaration.

In Canada

1) Low value shipments

Concerning imports to Canada, the requirement for importers to have the origin declaration in their possession is waived for commercial products valued at CAD $1600 or less. Rather the importer is required to have a commercial invoice with any statement attesting to the products originating status. This requirement to waive the presentation of an origin declaration is contained in Canada's *Proof of Origin of Imported Goods Regulations* which will be amended to include CETA[2].

2) Personal luggage of travellers

2 See information provided by the Canada Border Services Agency website at the following address: http://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-4-13-eng.html

In Canada, all goods acquired that are not intended for resale, meaning non-commercial, are considered casual goods. The origin declaration is not required for casual goods, but rather the Canada Border Services Agency (CBSA) applies the marking of the good, or lack thereof, to determine origin. Therefore, if the good does not bear a mark and nothing indicates that the goods are products of a non-EU country, then the goods will receive the CETA preferential tariff treatment.

11. Multiple shipments of identical originating products

Relevant provisions

a) CETA Origin Protocol

i. Article 19(5)
ii. Annex 2

b) EU legal base

None

In the EU

Article 19(5) of the CETA Origin Protocol stipulates that the customs authority of the Party of import may allow the application of an origin declaration to multiple shipments of identical originating products that take place within a period of time that does not exceed 12 months as set out by the exporter in that declaration.

The EU as Party of import is not at the moment in a position to allow such application of an origin declaration to multiple shipments in the absence of EU legislation providing a legal base.

Where the origin declaration is completed with the dates mentioned in field 1 of Annex 2 of the CETA Origin Protocol, customs authorities in the EU will accept the origin declaration only for the first consignment.

In Canada

The CBSA promotes the use of a single origin declaration to apply to multiple shipments of identical products, up to a period of 12 months. This period is determined by the exporter. In Canada, this is commonly referred to as a “blanket period”. Thus the EU exporters, should they intend to export identical products to Canada, may provide importers in Canada with an origin declaration that relates to multiple shipments, from the provisional application of CETA.

12. Origin declaration – country of origin

Relevant provisions

a) CETA Origin Protocol

Footnote 3 of Annex 2

b) EU legal base

None

In the EU

Footnote 3 of Annex 2 states the origin of the products should be "Canada/EU". However, a flexible interpretation allows the origin declaration to also be endorsed with the mention "Canada" or "EU".

Concretely, it means that Canada would not reject origin declarations made out in the EU by EU exporters for EU originating products bearing either the mention "Canada/EU" or "EU", while the EU would not reject origin declarations made out in Canada by Canadian exporters for Canadian originating products bearing either the mention "Canada/EU" or "Canada".

Exceptionally, where EU originating products return to the EU without having undergone any process in Canada, the EU would not reject origin declarations made out in Canada by Canadian exporters for EU originating products bearing either the mention "Canada/EU" or "EU". Equally, where Canadian originating products return to Canada without having undergone any process in the EU, Canada would not reject origin declarations made out in the EU by EU exporters for Canadian originating products bearing either the mention "Canada/EU" or "Canada".

Where the origin declaration mentions "Canada/EU" the importer must know and declare the origin of the products as Canada or EU, as appropriate, on the import declaration.

The EU can also be written "European Union" and Canada can be abbreviated by ISO alpha code 2 as "CA" or by ISO alpha code 3 as "CAN" on the origin declaration.

13. Sets

Relevant provisions

a) CETA – Protocol on rules of origin and origin procedures

Article 12

b) EU legal base

Not applicable

In the EU

The origin rule for sets applies only to sets within the meaning of General Rule 3 for the interpretation of the Harmonized System. In the meaning of General Rule 3, goods put in sets for the purpose of retail sale are goods which:

- consist of at least two different articles which are, at first, classifiable in different headings;

- consist of products or articles put up together to meet a particular need or carry out a specific activity and

- are put up in a manner suitable for sale directly without repacking

Each originating product of which the set is composed, must fulfil the origin criteria for the heading under which the product would have been classified if it were a separate product and not included in a set regardless of the heading under which the whole set is classified in accordance with the text of the General Rule referred to above.

A set is originating when **all** of the set's component products are originating. This is the same as the rules for sets in other agreements.

However, there are different rules when a set contains at least one non-originating component product. According to CETA a set is originating when:

- at least one of the component products or all of the packaging material and containers for the set is originating; and

i) the value of the non-originating component products of Chapter 1 through 24 of the Harmonized System does not exceed 15 per cent of the transaction value or ex-works price of the set;

ii) the value of the non-originating component products of Chapter 25 through 97 of the HS does not exceed 25 per cent of the transaction value or ex-works price of the set; and

the value of all of the set's non-originating component products does not exceed 25 per cent of the transaction value or ex-works price of the set.

Thus, when non-originating component products are included in a set, at least one component product or all packaging materials and containers must be originating and the value of all non-originating components of the set shall not exceed 25% of the transaction value or ex-works price of the set. Furthermore, if a set has also non-originating components from Chapters 1-24 of HS their value shall not exceed 15% of the transaction value or ex-works price of the set.

When for determining the origin of the product which, under the text of the General Rule referred to above, determines the classification of the whole set the tolerance provided for in Art. 6 has been applied, the provisions remain applicable and that product is added to the percentage of originating components when determining the origin of the set.

Example 1:

*A **drawing set** consisting of a ruler (HS 90.17), a plastic eraser (HS 39.26), a pair of compasses (HS 90.17), a pencil (HS 96.09) and a transparent packaging (HS 39.23); Classification under heading HS 90.17.*

- *ex-works price of the set: 10 €*
- *originating component products: ruler (HS 90.17), pair of compasses (HS 90.17),*
- *non-originating component products: plastic eraser (HS 39.26) 1,00 €, pencil (HS 96.09) 0,60 €, transparent packaging (HS 39.23) 0,10 €*

The value of all non-originating component products is 1,70 €. This corresponds to 17% of the ex-works price.

The conditions of Article 12 are fulfilled and the set is originating

Example 2:

*A **set for the preparation of a spaghetti meal** consisting of uncooked spaghetti (HS 19.02), a bag of grated cheese (HS 04.06) and a tomato sauce (HS 21.03), packed together in a cardboard box(HS 48.19); Classification under heading HS 19.02*

- *ex-works price of the set 5 €*
- *originating component products: tomato sauce (HS 21.03), cardboard box (HS 48.19) are originating component products*
- *non-originating component products: grated cheese (HS 04.06) 0,15 € (uncooked spaghetti HS 19.02) 0,65 €*

The value of all non-originating component products is 0,80 €. This corresponds to 16% of the ex-works price.

Thus the value of all non-originating component products does not exceed 25% of the transaction value or ex-works price of the set, but as the value of non-originating component products of Chapter 1-24 of HS exceeds 15% of the ex-works price of the set, not all conditions of Art 12 are fulfilled and the set is non-originating.

Notice: These rules do not apply to products classified as sets in the Combined Nomenclature whether they are sets in the meaning of General Rule 3 for the interpretation of the Harmonized System. For these sets the rules in Annex 5 shall apply.

Example 3:

Sets of heading 8206.

A set of 1 handsaw, 3 pliers (including 1 cutting pliers), 2 files and 5 non-adjustable hand-operated spanners, is classified in heading 8206, "Tools of two or more of headings 8202 to 8205, put up in sets for retail sale" and it is also a set in the meaning of General Rule 3 for the interpretation of the Harmonized System.

Even though the set also fulfils the condition for a set in the meaning of General Rule 3 (at least two different articles, classifiable in different headings and put up in sets for retail sale), the rule applied for determining the origin for this set shall be the rule in Annex 5

That is:

- *A change from any other heading, except from heading 82.02 through 82.05 ; or*

- *A change from heading 82.02 through 82.05 , whether or not there is also a change from any other heading, provided that the value of the non-originating component products of heading 82.02 through 82.05 does not exceed 25 per cent of the transaction value or ex-works price of the set.*

Ex-works price of set is 50 euros

Originating tools are the handsaw 20 euros, the spanners 12 euros and the files 6 euros

Non-originating tools are the pliers 12 euros.

The set is originating, as the non-originating materials are less than 25 % of its ex-works price.

14. Direct transport

Relevant provisions

a) CETA – Protocol on rules of origin and origin procedures

i) Article 14

ii) Article 22

b) EU legal base

Not applicable

In the EU

The products imported in the European Union shall be the same products as exported from Canada. They shall not be 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 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.

For transshipment or temporary warehousing in a third country it is necessary to be able to prove that the consignment or, in case of splitting of consignments the parts of the consignment, that have left the exporting party are the same as that which arrives in the importing country.

The customs authorities of the importing party may require documents to prove that the originating products have not undergone any processing operation that is not permitted. The proof required can take any of the forms outlined in Article 22. In simple terms such documentary proof must detail the history of the transport details of the consignment and the conditions under which the surveillance has been conducted. The customs control document can also be a document which is known as certificate of non-manipulation.

15. Tolerances

Relevant provisions

a) CETA Origin Protocol

i) Article 6
ii) Annex 1

b) EU legal base

No legislation

In the EU

Introduction

The provisions of tolerance rules allow the departure from sufficient production conditions set out in the list rules (Annex 5 of the CETA origin protocol - product specific rules of origin). It means that tolerance rules provide a certain level of relaxation by allowing a certain percentage (a small amount) of non-originating materials to be incorporated in the production process without affecting the origin of the final product.

CETA has both a general tolerance rule (Article 6) and specific tolerance rules for textiles and clothing (Annex 1).

General tolerance rule

The general tolerance rule permits manufacturers to use non-originating materials (that if used would mean the origin rule is not met) when the total value does not exceed 10 per cent of the transaction value or the ex-works price of the product.

Example:

Product: cocoa butter of HS 18.04

Rule: a change from any other heading

According to the rule, non-originating materials classified in HS 18.04 (e.g. cocoa fat or oil) cannot be used in the production of the originating product, nevertheless the final product could obtain originating status if the value of non-originating materials of HS 18.04 used does not exceed 10 per cent of the transaction value or the ex-works price of the final product.

If the product specific rule already allows the use of non-originating materials, the tolerance cannot be used to exceed the percentage amount specified in the list rules. It means that, where there are percentages listed in the list rules for a maximum value or weight of non-originating materials, the maximum in the list rules cannot be exceeded by applying this tolerance. The maximum content of non-originating materials will always be that allowed in the list rules. It means that the 10% tolerance rule is applicable with rules based on classification and is not applied in cases where the rule is based on percentage limits expressed in value/weight only.

Example:

Product: cars of HS 87.03

Rule: production in which the value of all non-originating materials used does not exceed 50 per cent of the transaction value or ex-works price of the product

Following the concept of the tolerance rule in the production process of the final product the determined threshold of 50 per cent could not be increased by adding + 10 per cent.

In the case where the origin rule stipulates that materials used in the production have to be wholly obtained, the tolerance applies to the sum of these materials. However, tolerance is not to be applied to wholly obtained products within the meaning of article 4 of CETA origin protocol where those wholly obtained products are not a material used for further processing.

Example – wholly obtained materials

Product: yogurt (not containing added sugar or other sweetening matter) of HS 04.03 obtained from wholly obtained milk and non-originating milk

Rule: a change from any other chapter, except from dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids, provided that:

(a) all the materials of Chapter 4 used is wholly obtained, and

(b) the net weight of non-originating sugar used in production does not exceed 20 per cent of the net weight of the product

The final product could obtain originating status if the value of non-originating milk and other materials of Chapter 4 used does not exceed 10 per cent of the transaction value or the ex-works price of the final product.

Example – wholly obtained products

Product: wheat seeds of HS 10.01 a part of which are harvested in EU and another part (up to 10 per cent) are of unknown origin.

Rule: all the cereals of Chapter 10 are wholly obtained.

The final product could not obtain originating status as the tolerance rule is not applicable to wholly obtained products.

Specific tolerances for textile and apparel products

The general tolerance rule does not apply to textile goods of Chapters 50 to 63. It means that the tolerance rules that are applied to textile and apparel products, are different from the general tolerance rule. Specific tolerance rules for textile goods are included in Annex I of the CETA Origin Protocol.

Note 2 - non-originating materials outside of Chapters 50-63

According to the note 2 of Annex I, non-originating materials, which are not classified within Chapters 50 to 63, may be used freely in production of textile products of Chapters 50 to 63,

whether or not they contain textiles. For instance, metal or plastic items, such as buttons, may be used freely, because buttons are not classified within Chapters 50 to 63. For the same reason slide-fasteners may be also used freely, even though slide-fasteners normally contain textiles.

Note 3 – weight tolerance (10%) for mixed products using 2 or more basic textile materials

According to the note 3 of Annex I, non-originating basic textile materials, which are not allowed to be used in the manufacturing process of the final product, may nevertheless be used provided that their total net weight represents 10 per cent or less of the net weight of the product. This kind of tolerance is conditional as it is allowed only to mixed products which have been produced from two or more basic textile materials. Basic textile materials are listed in Table 1 of Annex I CETA Origin Protocol.

Example:

Product: woven fabric, of HS 51.11, made from originating and non-originating wool yarn of HS 51.06 and silk yarn of HS 50.04, is a mixed fabric.

Rule: spinning of natural fibres accompanied by weaving.

The final product could obtain originating status if the non-originating wool yarn or non-originating silk yarn or a mixture of them does not exceed 10 per cent of the net weight of fabric.

Example:

Product: yarn of HS 52.05, made from cotton fibres of HS 52.03 and synthetic staple fibres of HS 55.06, is a mixed yarn.

Rule: spinning of natural fibres or extrusion of man-made fibres accompanied by spinning

The final product could obtain originating status provided that total weight of non-originating synthetic staple fibres does not exceed 10% of the weight of the yarn

Note 4 and 5 – extended weight tolerance (20% or 30%) for specific basic textile materials used in mixed products

However in two specific cases (notes 4 and 5 of Annex I), namely for:

- textile and apparel products produced using one or more basic textile materials and non-originating yarn made of polyurethane segments with flexible segments of polyether;

- textile and apparel products produced using one or more basic textile materials and non-originating strip consisting of a core of aluminum foil or of a core of plastic film whether or not coated with aluminum powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film;

tolerances are set at higher levels - 20% and 30% of weight respectively.

Example:

Product: woven fabric, of HS 52.11, produced from originating cotton yarn and non-originating synthetic yarn of high tenacity of HS 54.02 made of polyurethane segments with flexible segments of polyether (operations of dyeing, coating or printing in the production process were not applied)

Rule: spinning of natural or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by weaving

The final product could obtain originating status if the weight of non-originating synthetic yarn of high tenacity does not exceed 20 per cent of the weight of the final product.

Note 6 – value tolerance (8%) of non-originating textile materials used in products of Chapters 61-63

In cases of products of Chapters 61 – 63 (note 6 of Annex I), non-originating textile materials, which are not allowed to be used in the manufacturing process of the final product, may nevertheless be used provided that their value does not exceed 8 per cent of the transaction value or ex-works price of the product and they are classified in a heading other than that the product. However this tolerance is not applied for linings and interlining used in the production of product of Chapter 61-63.

Example:

Product: jacket of HS 61.03 made from: cotton yarn of HS 52.05, non-originating lace of HS 58.08 and originating lining of HS 54.07.

Rule: knitting or crocheting and making-up (including cutting).

The final product could obtain originating status if the value of lace does not exceed 8 per cent of the transaction value or ex-works price of the jacket.

Note 7 – exclusion of tolerance for PSR based on maximum weight or value of non-originating materials

Similarly to the general tolerance rule, application of the above mentioned tolerances for textile and apparel products cannot lead to the situation that percentages for maximum value or weight of non-originating materials used in production, determined by an origin rule for a particular product, would be exceeded.

Annex

Table I – Basic textile materials

1. silk
2. wool
3. coarse animal hair
4. fine animal hair
5. horsehair
6. cotton
7. paper-making materials and paper
8. flax
9. true hemp
10. jute and other textile bast fibres
11. sisal and other textile fibres of the genus Agave
12. coconut, abaca, ramie, and other vegetable textile fibres
13. synthetic man-made filaments
14. artificial man-made filaments
15. current-conducting filaments
16. synthetic man-made staple fibres of polypropylene
17. synthetic man-made staple fibres of polyester
18. synthetic man-made staple fibres of polyamide
19. synthetic man-made staple fibres of polyacrylonitrile
20. synthetic man-made staple fibres of polyimide
21. synthetic man-made staple fibres of polytetrafluoroethylene
22. synthetic man-made staple fibres of poly(phenylene sulphide)
23. synthetic man-made staple fibres of poly(vinyl chloride)
24. other synthetic man-made staple fibres
25. artificial man-made staple fibres of viscose
26. other artificial man-made staple fibres
27. yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped
28. yarn made of polyurethane segmented with flexible segments of polyester, whether or not gimped
29. a material of heading 56.05 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film
30. any other material of heading 56.05

16. Cumulation

Relevant provisions

a) CETA Origin Protocol

Article 3

b) EU legal base

No legislation

In the EU

1. Introduction

Cumulation is a facilitation provided for in preferential arrangements for the acquisition of preferential origin.

General information on cumulation is available on the EU website at the following address:

https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/general-aspects-preferential-origin/common-provisions_en

2. Application of cumulation in CETA

A. Bilateral cumulation (Article 3(1) of CETA Origin Protocol)

Bilateral cumulation is a system, where products/materials originating in the EU can be considered as materials originating in Canada if they are further processed in Canada or incorporated into the product obtained there. Likewise, products/materials originating in Canada may be considered as materials originating in the EU if they are further processed or incorporated into the product obtained there.

Bilateral cumulation does apply even if the processing does not go beyond the insufficient production (Article 7 of the CETA Origin Protocol).

However, bilateral cumulation does not apply if:

- the object of this production, as demonstrated on the basis of a preponderance of evidence, is to circumvent financial or fiscal legislation of the Parties (anti-circumvention clause – Article 3(3) of the CETA Origin Protocol), and

- the processing does not go beyond the operations referred in Article 7 (Insufficient production)

Two scenarios can occur:

- The production is more than insufficient:

Example: EU originating products are exported to Canada where they undergo a production more than insufficient. The final products can be exported to the EU as Canadian origin (see example N° 1).

- The production is insufficient (and no circumvention of financial or fiscal legislation)

Example: EU originating products are exported to Canada where they undergo only an insufficient production. The final products can be exported to the EU as Canadian origin (see example N° 2).

Proof of origin needed to apply bilateral cumulation

The exporter of the final product, issuing an origin declaration, must hold an origin declaration from his supplier in the other Party. The model of origin declaration and its languages versions is set out in Annex 2 of the CETA.

B- Full cumulation (Article 3(2) of CETA Origin Protocol)

In the context of CETA, full cumulation applies between Canada and the EU. The operations carried out successively in the two Parties shall be considered together in order to comply with the product specific rules of origin. The final product obtained in a Party can benefit from a preferential treatment at import in the other Party.

Full cumulation does not apply if:

- the object of this production, as demonstrated on the basis of a preponderance of evidence, is to circumvent financial or fiscal legislation of the Parties (anti-circumvention clause – Article 3(3) of the CETA Origin Protocol), and

- the processing does not go beyond the operations referred in Article 7 (Insufficient production)

Two scenarios can occur:

- The production is more than insufficient:

Example: EU non-originating materials, that have undergone a production in the EU but do not fulfil the product specific rules of origin, are exported to Canada and undergo a further production more than insufficient and the resulting final product fulfils the product specific rules of origin. The final products can be exported to the EU as Canadian origin (see example N° 3).

- The production is insufficient (and no circumvention of financial or fiscal legislation)

Example: EU non-originating products which have undergone insufficient production are exported to Canada where they have equally undergone insufficient production. The product specific rule of origin is met regarding the final good taking into account the production carried out in the EU and then in Canada. The final products can be exported to the EU as Canadian origin (see example N° 4).

Procedure to be followed for the application of full cumulation

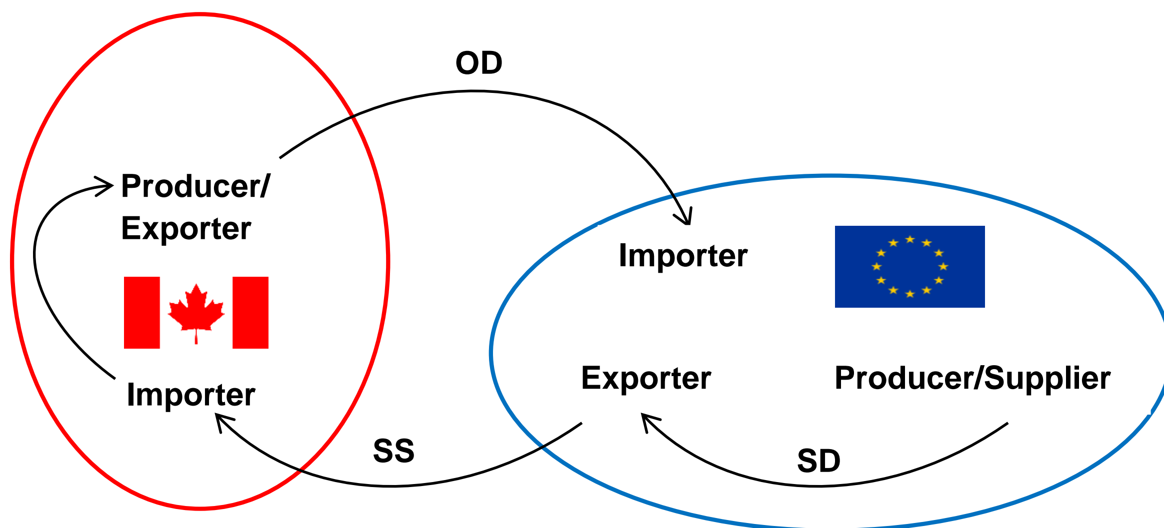
The supporting documents needed to apply full cumulation are the following:

- the exporter in one Party (for instance EU) who exports processed non-originating products shall provide a supplier's statement to his customer in the other Party (Canada). The supplier's statement should mention the information contained in Annex 3 of CETA origin protocol

- the exporter (in Canada) of the final product should make out an origin declaration to his customer (in EU).

As regards the conditions for issuing a supplier‘s statement, see chapter 7 Full cumulation – supplier's statement.

Within the EU, where the exporter is not the producer, the exporter needs from the producer a supplier's declaration for products not having preferential origin status (see Annex 22-17 and Annex 22-18 of UCC-IA).



SD – supplier's declaration
SS – supplier's statement
OD – origin declaration

3. Examples of cumulation

Example No. 1: Bilateral cumulation (more than insufficient production)

A glass paperweight (HS 70.13) originating in the EU is exported to Canada, where the motifs of the maple leaf are burned inside the paperweight using a special laser machine. Glass paperweights with motifs of a maple leaf (HS 70.13) are exported back to the EU from Canada. The burning of the motifs is done on a special machine where also special skills are needed, so it can be considered **this operation is more than insufficient production** but

does not meet the product specific rules of origin. The glass paperweight with motifs can be exported from Canada to the EU as originating in Canada.

Example No. 2: Bilateral cumulation (insufficient production)

Perfume in 20 litre containers (HS 33.03) and glass flasks (HS 70.10), both originating in the EU, are exported to Canada. In Canada the perfume is filled into the glass flasks, the perfume brand is added to the glass flasks which are packed into boxes. The final product is perfume for retail sale (HS 33.03), which is exported from Canada back to the EU. Placing in flasks, simple packaging operations and affixing of labels are **production operations which cannot be considered as more than insufficient production** (Article 7 (1) (k) and (l) of the CETA Protocol). The perfume for retail sale can be exported from Canada to the EU as originating in Canada even though the production operation is insufficient.

Example No. 3: Full cumulation (more than insufficient production)

Non-originating cotton threads (HS 52.05) are imported into the EU where they are woven into fabrics (HS 52.08). These fabrics are then exported from the EU to Canada without obtaining preferential originating status in the EU, as the product specific rules of origin is not fulfilled. In Canada the fabrics are cut and sewn to make men's shirts (HS 62.05); **this operation is more than insufficient production**. In accordance with the rules of full cumulation, processing (weaving) carried out in the EU and the making-up (cutting and sewing) in Canada is considered together.

The men's shirts can be exported from Canada to the EU as originating in Canada as the final product meets the product specific rules of origin taking all processes together in the EU and Canada.

Example No. 4: Full cumulation (insufficient production)

Non-originating candles (HS 34.06) are imported into Canada from China, where they are further decorated with, for example, special paper (decoupage). The final products are decorated candles (HS 34.06), where the value of the non-originating material (Chinese candles) is 28% of the ex-works price. These candles are packed in 100-piece boxes and exported to the EU without obtaining Canadian origin. The product specific rule of origin applicable to HS 34.06 is change of tariff heading and non-originating materials of the same heading may also be used if their value does not exceed 20% of the ex-works price of the product. This condition was not met.

In the EU, the candles are affixed with the manufacturer's logo and are divided into boxes of 10 pieces. Simple packaging operations and affixing of labels are **production operations which cannot be considered as more than insufficient production** (Article 7(1)(k) and (l) of the CETA Protocol). The final products are still decorated candles (HS 34.06), but now the value of the non-originating material (Chinese candles), after the labelling and repackaging operations carried out in the EU, is 19% of the ex-works price of the final product.

The candles for retail sale can be exported from the EU to Canada as originating in the EU even though the production operation is insufficient, provided that the sole aim of this

production in the EU is not to circumvent import duties in Canada (Article 3(3) of the CETA Origin Protocol).