

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. Product Specific Rules of Origin

Relevant provisions

a) CETA Origin Protocol

- i) Article 5
- ii) Annex 5

b) EU legal base

No legislation

Introduction

A product is originating if it has been wholly obtained within the meaning of Article 4, has been produced from only originating materials or has undergone sufficient production on non-originating materials within the meaning of Article 5.

As long as the production is more than “insufficient” (according to Article 7), a product has undergone sufficient production (according to Article 5) when the conditions in Annex 5 are fulfilled. These conditions and rules are called Product Specific Rules (PSR) or list rules.

The list rules specify what type of working or processing is required to be carried out on non-originating materials in order for the product to obtain originating status. The more commonly used and known list rules are a change in tariff classification e.g. change of tariff heading (CTH), change of tariff sub-heading (CTSH) etc., value added of non-originating materials or a specific processing which must be undertaken. In CETA the name and description of the list rules are different to those in other EU free trade agreements.

This document provides guidance on how to interpret the list rules in CETA by providing the following information:

- (1) the list rule in CETA
- (2) a short explanation of the list rule together with an example in CETA of a product by Harmonised System (HS) where the rule applies
- (3) a comparison to the same type of rule referred to in other Free Trade Agreements (FTA), e.g. PEM convention.

In the introductory notes to Annex 5 definitions and descriptions are provided.

Paragraph 8(a-j) mentions the different types of list rules with some explanations which are further explained below.

The PSR as described in Annex 5, Paragraph 8(a–j)

Paragraph 8(a)

1. Type of PSR

If a product specific rule of origin requires:

a) a change from any other chapter, heading, or subheading, or a change to product x⁽¹⁾ from any other chapter, heading, or subheading, only non-originating material classified in a chapter, heading, or subheading other than that of the product may be used in the production of the product;

(1) In these notes product x or tariff provision x denotes a specific product or tariff provision, and x per cent denotes a specific percentage.

2. Explanation of the rule

This means that the non-originating material used can come from any chapter, heading or sub-heading other than that of the final product.

In this rule product “x” means the specific final product. In other words, the final product “x” is manufactured using non-originating materials coming from any other chapter, heading, or sub-heading than the final product “x”.

For example, HS heading 22.03 (Beer made from malt) has the rule:

A change from any other heading

The rule for the example HS heading 22.03 is fulfilled if the non-originating materials used are not classified under HS heading 22.03.

3. Comparison of the rule in other FTA

In other FTA (e.g. PEM-convention) this type of product specific rule is written as:

“Manufacture from [non-originating] materials of any heading, except that of the product.”

For example, rule HS heading 80.02 (Tin waste and scrap).

Paragraph 8(b)

1. Type of PSR

If a product specific rule of origin requires:

(b) a change from within a heading or subheading, or from within any one of these headings or subheadings, non-originating material classified within the heading or subheading may be used in the production of the product, as well as non-originating material classified in a chapter, heading, or subheading other than that of the product;

2. Explanation of the rule

The non-originating material used can come from any heading and a change of heading or sub-heading is not needed. This means that the processing needs only to be more than insufficient.

For example, HS heading 96.14 (Smoking pipes (including pipe bowls) and cigar or cigarette holders, and parts thereof:) has the rule:

“A change from within this heading or any other heading”

A cigar holder is made from different parts that are non-originating and also classified under HS heading 9614. It has undergone processing that is more than insufficient. The cigar holder is then originating according to the origin rules.

3. Comparison of the rule in other FTA

In other FTA (e.g. PEM-convention) this type of product specific rule is written as:

"Manufacture from [non-originating] materials of any heading"

For example, rule HS heading 09.02 (Tea, whether or not flavoured).

Paragraph 8(c)

1. Type of PSR

If a product specific rule of origin requires:

(c) a change from any heading or subheading outside a group, only non-originating material classified outside the group of headings or subheadings may be used in the production of the product;

2. Explanation of the rule

This means that in the production of the product only non-originating material outside a specific group of materials (headings or subheadings) may be used.

For example, for HS heading 41.07 (Leather further prepared after tanning or crusting, including parchment dressed leather, of bovine (including buffalo) or equine animals, without hair on, whether or not split, other than leather of heading 4114:) has the rule:

“A change from any other heading, except from subheading 4104.41, 4104.49, 4105.30, 4106.22, 4106.32 or 4106.92.”

A piece of buffalo leather is produced from non-originating material from sub-heading HS 4104.11 (wet blue buffalo leather). This buffalo leather is originating because in the production of this final product no material from these excluded six sub-headings has been used.

3. Comparison of the rule in other FTA

In other FTA (e.g. PEM-convention) this type of product specific rule is written as:

“Manufactured from [non-originating] materials of any heading, except (those) headings [...] to [...]”.

For example, rule for HS heading 49.09 (printed postcards).

Paragraph 8(d)

1. Type of PSR

If a product specific rule of origin requires:

(d) that a product is wholly obtained, the product must be wholly obtained within the meaning of Article 4 (Wholly Obtained Products). If a shipment consists of a number of identical products classified under tariff provision x, each product shall be considered separately;

2. Explanation of the rule

This means that only wholly obtained products are originating.

For example, for HS Chapter 10 (cereals) has the rule:

“All the cereals of Chapter 10 are wholly obtained”.

Wheat is harvested in the EU and fulfils the condition of Article 4 (Wholly obtained). This product is originating. There is no possibility of using tolerance.

In cases where a shipment contains identical products within the same tariff classification (tariff provision x), each product shall be considered as a separate product.

For example, HS heading 01.01 (Live horses, asses, mules and hinnies:) has the rule:

“All animals of Chapter 1 are wholly obtained”

Each horse must be treated individually whether it is wholly obtained or not. This means that even if it is the same species of horse, with the same appearance, weight, tariff classification and price, it will still be necessary to determine for each horse, whether it is "wholly obtained" in the Party within the meaning of Article 4.

3. Comparison of the rule in other FTA

In other FTA (e.g. PEM-convention) this type of product specific rule is written as:

“Manufacture in which all the materials of Chapter [] used are wholly obtained”

For example, rule for HS Chapter 3 (Fish and crustaceans, molluscs and other aquatic invertebrates).

Paragraph 8(e)

1. Type of PSR

If a product specific rule of origin requires:

(e) production in which all the material of tariff provision x used is wholly obtained, all of the material of tariff provision x used in production of the product must be wholly obtained within the meaning of Article 4 (Wholly Obtained Products);

2. Explanation of the rule

This means that from the said heading "X" only wholly obtained materials can be used and the wholly obtained materials are those meeting the conditions set out in Article 4.

For example HS headings 11.01-11.09 (Products of the milling industry; malt; starches; inulin; wheat gluten;) has the rule:

"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."

Potato starch of HS sub-heading 1108.13 is produced from wholly obtained potatoes of HS heading 07.01. This final product is originating because in the production of this final product only wholly obtained material from these listed chapters, headings or sub-headings has been used.

However, the tolerance rule of Article 6 may be used.

3. Comparison of the rule in other FTA

In other FTA (e.g. PEM-convention) this type of product specific rule is written as:

"Manufacture in which all the materials of Chapter [] used are wholly obtained"

For example, rule for HS Chapter 11 (Products of the milling industry; malt; starches; inulin; wheat gluten).

Paragraph 8(f)

1. Type of PSR

If a product-specific rule of origin requires:

(f) a change from tariff provision x, whether or not there is also a change from any other chapter, heading or subheading, the value of any non-originating material that satisfies the change in tariff classification specified in the phrase commencing with the words 'whether or not' is not considered when calculating the value of non-originating materials. If two or more product-specific rules of origin are applicable to a heading, subheading, or group of headings or subheadings, the change in tariff classification specified in this phrase reflects the change specified in the first rule of origin;

2. Explanation of the rule

This means that if for a product it mentions two PSRs, where the first one is a change of tariff provision, this first rule allows the use of non-originating materials from a tariff heading other than that of the product. The alternative rule is a value added rule and a change of tariff provision. This allows the use of non-originating materials in the same tariff provision up to the value mentioned. Non-originating materials from any other tariff provision without any value restriction could also be used.

For example a product of HS heading 38.12 (Prepared rubber accelerators; compound plasticisers for rubber or plastics, not elsewhere specified or included; anti-oxidising preparations and other compound stabilisers for rubber or plastics) there are two PSRs possible, namely:

*A change from **any other heading**; or*

*A change from **within this heading**, whether or not there is also a change from **any other heading**, provided that the value of non-originating materials of this heading does not exceed 20 per cent of the transaction value or ex-works price of the product.*

If all non-originating materials used come from a different heading than that of the final product, then the first PSR is sufficient to obtain originating status.

However, when non-originating materials of the same heading are used the first PSR is not applicable and the second PSR may be used. In this case non-originating materials of heading 38.12 can be used up to a value limit of 20% of the ex-works price of the final product and as well non-originating materials from any other heading without limitation.

3. Comparison of the rule in other FTA

In other FTA (e.g. PEM-convention) this type of product specific rule is written as:

‘Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed /___/ % of the ex-works price of the product’.

For example, the first rule for HS heading 38.24 (e.g. mixture of salts having different anions)

Paragraph 8(g)

1. Type of PSR

If a product-specific rule of origin requires:

g) that the value of non-originating materials of tariff provision x does not exceed x per cent of the transaction value or ex-works price of the product, only the value of the non-originating material specified in this rule of origin is considered when calculating the value of non-originating materials. The percentage for the maximum value of non-originating materials as set out in this rule of origin may not be exceeded through the use of Article 6 (Tolerance);

2. Explanation of the rule

This means that only the value of the used non-originating material of the named tariff provision shall not exceed the percentage of the ex-works price (or of the transaction value) of the product, as determined in the product-specific rule. The use of non-originating materials of other tariff provisions is not restricted by this rule.

Furthermore it's not permitted to apply the tolerance of Article 6 to meet the percentage specified in the rule.

For example, HS heading 38.20 (Anti-freezing preparations and prepared de-icing fluids):

“A change from subheading 2905.31 or 2905.49, whether or not there is also a change from any other heading, provided that the value of non-originating materials of subheading 2905.31 or 2905.49 does not exceed 50 per cent of the transaction value or ex-works price of the product.”.

In order to produce originating “Anti-freezing preparations and prepared de-icing fluids” with an ex-works price of EUR 20,00 the processing has to go beyond the operations referred to in Article 7 and it is permitted to use non-originating materials of subheading 2905.31 or 2905.49 up to a total value of EUR 10,00. The use of non-originating materials from other subheadings is allowed regardless of their value.

3. Comparison of the rule in other FTA

An example of this rule in another FTA is the PEM-convention where the same type of list rule, e.g. for graphite in paste form of HS heading 38.01 is as follows:

“ex 3801:

Manufacture in which the value of all the [non-originating] materials of heading 3403 used does not exceed 20 % of the ex- works price of the product.”

Paragraph 8(h)

1. Type of PSR

If a product-specific rule of origin requires:

(h) that the value of non-originating materials classified in the same tariff provision as the final product does not exceed x per cent of the transaction value or ex-works price of the product, non-originating material classified in a tariff provision other than that of the product may be used in the production of the product. Only the value of the non-originating materials classified in the same tariff provision as the final product is considered when calculating the value of non-originating materials. The percentage for the maximum value of non-originating materials as set out in this rule of origin may not be exceeded through the use of Article 6 (Tolerance)

2. Explanation of the rule

This means that the value of non-originating materials that are classified in the same tariff provision as the final product must not exceed a certain percentage calculated by reference to the transaction value or the ex-works price of the final product. Non-originating materials that are classified in another tariff provision than the final products are not taken into consideration when calculating the value of non-originating materials. When the list rule already allows the use of non-originating materials, the tolerance cannot be used to exceed the percentage amount specified in the list rules.

For example, HS heading 73.21 (Stoves made from iron) has the rule:

A change from within this heading, whether or not there is also a change from any other heading, provided that the value of non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.

Non-originating parts of the stove in the same heading as the stove can be used up to 50% of the transaction value or the ex-works price of the stove and non-originating parts or materials from other headings can be used without limit.

3. Comparison of the rule in other FTA

A similar type list rule can be found in the PEM-convention.

For example, for the HS heading 73.15 (Skid chain) list rule states:

Manufacture in which the value of all the [non-originating] materials of heading 7315 used does not exceed 50% of the ex- works price of the product.

Paragraph 8(i)

1. Type of PSR

If a product-specific rule of origin requires:

(i) that the value of all non-originating materials does not exceed x per cent of the transaction value or ex-works price of the product, the value of all non-originating materials is considered when calculating the value of non-originating materials. The percentage for the maximum value of non-originating materials as set out in this rule of origin may not be exceeded through the use of Article 6 (Tolerance);

2. Explanation of the rule

This means that the value of all non-originating materials used in the processing must be equal to or below a certain percentage calculated by reference to the transaction value or the ex-works price of the final product. The tariff classification of the materials is not taken into account, unlike rules 8 (g) and 8 (h).

For example, HS heading 87.01 (Tractors) has the rule:

Production in which the value of all non-originating materials used does not exceed 45% of the ex-works price or transaction value of the product.

This means that the value of all the non-originating materials, regardless of the tariff provision, used to make a tractor cannot exceed 45% of the transaction value or ex-works price of the tractor.

3. Comparison of the rule in other FTA

An example of this rule in another FTA, is the PEM-convention where the same type of list rule is for example in the list rule HS heading 71.16, Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed),

Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product

Paragraph 8(j)

1. Type of PSR

If a product-specific rule of origin requires:

(j) that the net weight of non-originating material of tariff provision x used in production does not exceed x per cent of the net weight of the product, the specified non-originating materials may be used in the production of the product, provided that it does not exceed the specified

percentage of the net weight of the product in accordance with the definition of 'net weight of the product' in Article 1. The percentage for the maximum weight of non-originating material as set out in this rule of origin may not be exceeded through the use of Article 6 (Tolerance).

2. Explanation of the rule

This means that the net weight of specified non-originating material used in the processing of the product must not exceed the specified percentage of the net weight of the product. The net weight of the product means the weight of a product not including the weight of packaging. In addition, if the production includes a heating or drying operation, the net weight of the product may be the net weight of all materials used in its production, excluding water of HS heading 22.01 added during production of the product.

For example HS heading 2009.81 (Cranberry juice):

A change from any other heading, provided that the net weight of non-originating sugar used in production does not exceed 40 per cent of the net weight of the product,

This means that in producing cranberry juice the weight of the added sugar cannot exceed 40% of the weight of the cranberry juice. For calculating the weight of sugar, Article 16 of the CETA origin protocol should be applied.

3. Comparison of the rule in other FTA

In the GSP rules, the same type of list rule is described as:

ex Chapter 20

Preparations of vegetables, fruit, nuts or other parts of plants; except for:

Manufacture from [non-originating] materials of any heading, except that of the product, in which the weight of sugar used does not exceed 40 % of the weight of the final product.

2. 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 heading 18.04

Rule: a change from any other heading

According to the rule, non-originating materials classified in HS heading 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 heading 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 heading 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 heading 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 material 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 heading 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 heading 51.11, made from originating and non-originating wool yarn of HS heading 51.06 and silk yarn of HS heading 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 heading 52.05, made from cotton fibres of HS heading 52.03 and synthetic staple fibres of HS heading 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 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;

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

Example:

Product: woven fabric, of HS heading 52.11, produced from originating cotton yarn and non-originating synthetic yarn of high tenacity of HS heading 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 heading 61.03 made from cotton yarn of HS heading 52.05, non-originating lace of HS heading 58.08 and originating lining of HS heading 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

3. Insufficient production

Relevant provisions

a) CETA Origin Protocol

Article 7

b) EU legal base

No legislation

General information

Article 7 contains an exhaustive list of operations which are insufficient to confer origin on a product. This so-called ‘insufficient production’ are operations which, when carried out either individually or in combination, are regarded as being of such minor importance that they cannot confer the originating status of the goods.

By their nature, insufficient production is a preventative measure to avoid that product specific rules are fulfilled by only executing relatively simple operations.

In general, there are two ways of approaching insufficient production:

- When non-originating materials undergo a production process that only consists of one or more insufficient operations, there is no need to verify whether the product specific rule of the final product was fulfilled, since it can never confer the originating status of the goods.
- When the product specific rule of origin is met, it still needs to be verified if (the total of) the operations carried out are more than insufficient in order to determine whether the originating status of the goods has been conferred.

Example: raw coffee (HS heading 09.01) from Colombia is imported in bulk into Canada, where it is processed and then exported to the EU. In Canada the goods are only dusted, sorted and simply split up into different packages. As neither dusting nor sorting nor splitting up and repackaging are sufficient to confer origin, there is no need to verify whether the product specific rule is fulfilled. In this case, the conditions for the coffee to be originating in Canada cannot be fulfilled and the coffee cannot be exported to the EU under preference.

A difference with other agreements is that in CETA, in case of bilateral cumulation, insufficient production carried out in the EU or Canada on an EU or Canadian originating product also confers origin, as long as the object of this production process is not to circumvent financial or fiscal legislation of the Parties. Similar rules apply to full cumulation on non-originating products (see guidance on Article 3 (cumulation of origin) for more information).

List of the insufficient operations

The list of insufficient operations are the following:

- (a) *operations exclusively intended to preserve products in good condition during storage and transport⁽¹⁾.*

(1) preserving operations such as chilling, freezing or ventilating are considered insufficient within the meaning of subparagraph (a), whereas operations such as pickling, drying, or smoking that are intended to give a product special or different characteristics are not considered insufficient.

Example: vegetables and fruit are imported into the EU from Kenya. To preserve the freshness of these products they are stored in special cooled warehouses. This chilling of the products is considered as an insufficient operation, which does not confer the origin of the goods.

However, some other operations that are used to preserve products can be considered as more than insufficient. For example, when salmon of Norwegian origin (HS heading 03.02) is imported into the EU where it is smoked to get smoked fish (HS heading 03.05), the smoking of fish (or drying of fish) gives the fish different characteristics in flavour and shelf-life, and thus these operations can be considered as more than insufficient according to the footnote.

(b) breaking-up or assembly of packages;

Example: one consignment of 100,000 lipsticks is imported into the EU from China and is split into 10 consignments for export to Canada. This is an insufficient operation.

(c) washing, cleaning, or operations to remove dust, oxide, oil, paint, or other coverings from a product;

Example: removing dust (dusting) from raw coffee beans is to be considered as an insufficient operation, which does not confer origin.

(d) ironing or pressing of textiles or textile articles of Chapter 50 through 63 of the HS;

Example: ironing of men's shirts, even with a special ironing machine specifically made for this purpose, is to be considered as an insufficient operation.

(e) simple painting or polishing operations.

The term "simple" applies both to painting and polishing.

Example: the painting of terracotta pots in one colour without any design by hand is an insufficient operation. However, the painting of Delft pottery which requires special skills goes beyond simple painting and would not be an insufficient operation.

(f) husking, partial or total bleaching, polishing, or glazing of cereals or rice of Chapter 10 that does not result in a change of chapter.

Example: Rice is imported into the EU from Asia and the husk is removed (husking). The husked rice remains in Chapter 10 and so is an insufficient operation.

(g) operations to colour or flavour sugar of heading 17.01 or 17.02; operations to form sugar lumps of heading 17.01; partial or total grinding of crystal sugar of heading 17.01;

Example: crystal sugar (HS heading 17.01) is grinded into sugar powder. The final product is not considered to have undergone a more than insufficient operation.

(h) *peeling, stoning or shelling of vegetables of chapter 7, fruits of chapter 8, nuts of heading 08.01 or 08.02 or groundnuts of heading 12.02, if these vegetables, fruits, nuts or groundnuts remain classified within the same chapter.*

Example: Cashew nuts from HS heading 08.01 are imported into the EU from Brazil and after importation the shell is removed. The shelled cashew nut remains in Chapter 8 and is thus an insufficient operation.

However, tomatoes (HS heading 07.02) that have been peeled are then classified as peeled tomatoes under HS heading 20.02. This peeling process is considered to be a more than insufficient operation.

(i) *sharpening, simple grinding, or simple cutting;*

Example: the cutting of wood into shorter pieces for wood burning stoves is to be considered as simple and thus an insufficient operation, whereas the cutting of diamonds is to be considered as a more than simple cutting operation because special machinery and skills are needed.

(j) *simple sifting, screening, sorting, classifying, grading, or matching;*

The six operations should all be considered as being “simple” operations for insufficient operations to apply.

Example: Different types, sizes and quality of potatoes are imported in bulk from Egypt. The sorting of potatoes by hand is to be considered as simple and so an insufficient operation. However, a specialised machine which automatically sorts the potatoes could be considered as more than simple sorting and would therefore go beyond an insufficient operation.

(k) *simple packaging operations, such as placing in bottles, cans, flasks, bags, cases, boxes, or fixing on cards or boards;*

Example: the placing of watches in jewellery cases is to be considered as simple and so an insufficient operation.

The bottling of wine from barrels and the placing of perfume into flasks are insufficient operations. However, the placing of medicines into a glass ampoule which requires special skills or apparatus would go beyond simple packaging and thus would not be considered an insufficient operation.

(l) *affixing or printing marks, labels, logos, and other like distinguishing signs on the products or their packaging;*

Example: putting stickers on boxes indicating that they contain fragile products is to be considered as an insufficient operation.

(m) *mixing of sugar of heading 17.01 or 17.02 with any material;*

Example: mixing of sugar of HS heading 17.01 or 17.02 with cacao powder is to be considered as an insufficient operation.

(n) *simple mixing of materials, whether or not of different kinds; simple mixing does not include an operation that causes a chemical reaction as defined in the notes to Chapter 28 or 29 of Annex 5.*

Example: the (simple) mixing together of apple and pear juice is considered to be an insufficient operation. However, mixing together according to a fixed recipe of different dried vegetables and spices of Chapters 7 and 9 to obtain a product of HS heading 09.10 is not considered to be an insufficient operation as it requires special skills.

Also, the mixing of materials of any heading which generates a chemical reaction as defined in Chapters 28 and 29 of Annex 5 is not to be considered as simple mixing, and so is not an insufficient production process.

A 'chemical reaction' is a process (including a biochemical process) that results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds or by altering the spatial arrangement of atoms in a molecule.

The following are not considered to be chemical reactions:

- (a) dissolution in water or in another solvent;
- (b) the elimination of solvents, including solvent water; or
- (c) the addition or elimination of water of crystallization.

Example: the mixture of formic acid (HS heading 29.15) and propyl alcohol (HS heading 29.05) to create propyl formate (HS heading 29.15). This fulfils the definition of a chemical reaction and therefore, this mixing is not to be considered as an insufficient production.

However, the mixing of water and alcohol does not result in a chemical reaction and is therefore an insufficient operation.

(o) *simple assembly of parts of articles to constitute a complete article of chapter 61, 62 or 82 through 97 of the HS or disassembly of complete articles of Chapter 61, 62 or 82 through 97 into parts.*

Example: a dining table is assembled in the EU by fixing a wooden table top to 4 wooden table legs using only non-originating materials. The materials represent less than 50 per cent of the transaction value or ex-works price of the final product. Although the list rule of Chapter 94 is fulfilled, the table as a whole does not obtain EU originating status because this assembly is to be considered simple.

However, a piano is imported in parts and assembled by a piano maker. This requires special skills which also contribute to the characteristics of the piano. This would not be a simple assembly and would therefore not be an insufficient operation.

(p) *a combination of two or more operations specified in subparagraphs (a) to (o);*

Example: the grinding of crystal sugar to sugar powder and putting the product in small packages, is both as two separate operations but also as a whole, to be considered as an insufficient production process.

(q) *slaughter of animals;*

Any form of slaughtering of animals will always be considered as an insufficient operation.

The term 'simple'

Some operations can be clearly identified as insufficient operations, but there are also operations which are “simple” operations, such as ‘simple grinding’ or ‘simple painting’, that need to be interpreted on a case-by-case basis. For these cases, CETA Origin Protocol contains a definition of ‘simple’ in Article 7 (3):

For the purpose of paragraph 1, an operation shall be considered simple when neither special skills, nor machines, apparatus, or tools especially produced or installed for those operations are required for their performance or when those skills, machines, apparatus, or tools do not contribute to the product’s essential characteristics or properties.

Using special skills, machines, apparatus or tools are in themselves not enough for the operation to go beyond “simple” operations. These special skills, machines, apparatus or tools must also contribute to the product’s essential characteristics or properties.

For example, the painting of Delft pottery, which requires special skills, goes beyond simple painting (point e) and is more than an insufficient operation since those special skills of painting have contributed to the essential characteristics of the Delft pottery.

The term “simple” operations and examples can be found in points e), i), j), k), n) and o).

All production in Canada and the EU is considered together

All operations carried out on a product in the EU and in Canada are included in determining whether a more than insufficient operation has taken place, Article 7 (2):

In accordance with Article 3, all production carried out in the EU and in Canada on a product is considered when determining whether the production undertaken on that product is insufficient within the meaning of paragraph 1.

Example: cork of HS heading 45.02 is imported from third countries to the EU, where it is cut into pieces for use as coasters (for placing drinks on) of HS heading 45.03. It is then printed with the maple leaf symbol. In Canada originating decorative boxes are made and sent to the EU. The printed coasters are then placed in these decorative boxes and exported to Canada. These three operations (simple cutting, printing marks and simple packaging) should all be included in determining whether a more than insufficient production has taken place.

In the example, the product specific rule of origin for coasters, HS heading 45.03, is change of tariff heading, which is met and so the coasters would acquire originating status in the EU. However, as simple cutting, printing marks and simple packaging are all insufficient operations this would mean the process has not gone beyond insufficient operations and so the coasters are not originating in the EU.

Nevertheless, taking all production together in the EU and Canada, and as the decorative box is originating in Canada, the final product has gone beyond insufficient operations. The coasters exported to Canada are therefore originating in the EU.

This means that there is already a more than an insufficient operation if at least one material is originating in Canada or the EU and is used in the production of the final product (regardless of the value of that material).

4. 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).

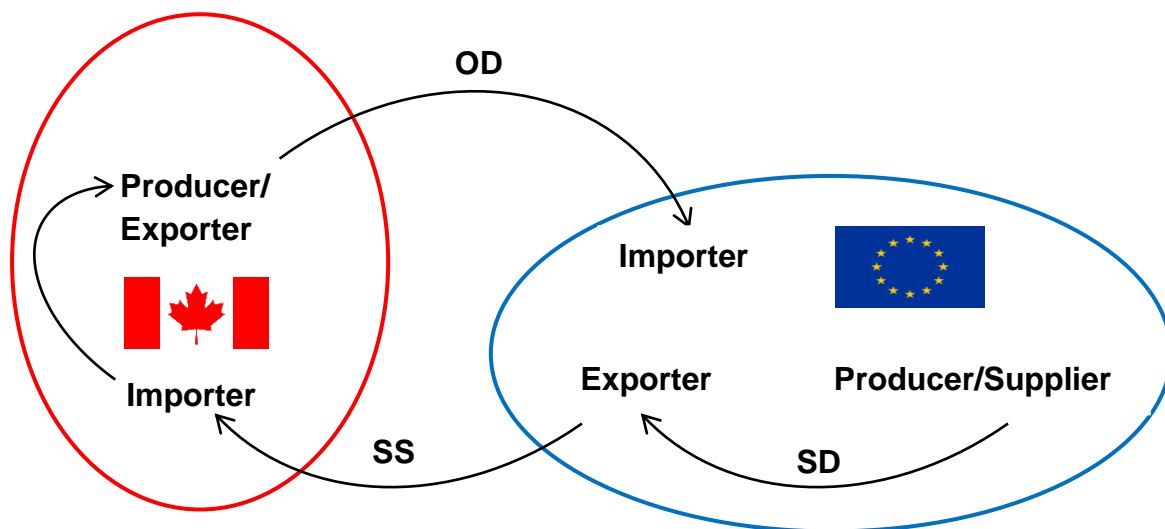
Procedure to be followed for the application of full cumulation

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 4a 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 heading 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 heading 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 heading 33.03) and glass flasks (HS heading 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 heading 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 heading 52.05) are imported into the EU where they are woven into fabrics (HS heading 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 heading 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 heading 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 heading 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 heading 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 heading 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).

4a. 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.

5. 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 (Canada Border Service Agency) 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 were 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 **considerable 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 heading 11.01) from wheat (HS heading 10.01) in the European Union.

The product specific rule for sufficient production for the wheat flour (HS heading 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 32.01- 32.07 Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter;

- Headings 39.01 – 39.14 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.

6. 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 HS 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
- iii) 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 heading 90.17), a plastic eraser (HS heading 39.26), a pair of compasses (HS heading 90.17), a pencil (HS heading 96.09) and a transparent packaging (HS heading 39.23); Classification under heading HS heading 90.17.

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

The value of all non-originating component products is EUR 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 heading 19.02), a bag of grated cheese (HS heading 04.06) and a tomato sauce (HS heading 21.03), packed together in a cardboard box (HS heading 48.19); Classification under heading HS heading 19.02

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

The value of all non-originating component products is EUR 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 Article 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 HS heading 82.06.

A set of 1 handsaw, 3 pliers (including 1 cutting pliers), 2 files and 5 non-adjustable hand-operated spanners, is classified in HS 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 EUR 50

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

Non-originating tools are the pliers EUR 12.

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

7. 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.

8. Origin declaration

8a. 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.

8b. 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.

8c. 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.

8d. 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 declaration¹ 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		
<u>Business Number (BN)</u>	<u>Program Identifier</u>	<u>Reference Number</u>
1 2 3 4 5 6 7 8 9	R P	0 0 0 2

8e. 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

8f. 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 EUR 6 000,

- 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 EUR 6 000, 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-consignor is neither approved nor registered and the value of originating products in the initial consignment to be split exceeds the value threshold of EUR 6.000 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

8g. 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 traveller 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 travellers' 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 CETA².

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>

2) Personal luggage of travellers

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.

8h. 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 the EU to Canada 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.

9. 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 (known in the CETA Origin Protocol as 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.

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>

10. 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.

11. Verification

Relevant provisions

a) CETA Origin Protocol

Articles 21 and 28-32

b) EU legal base

Articles 61-66 UCC-IA

1. Cooperation and origin verification

The Parties, EU and Canada, can send a request for verification to verify whether the stated origin in the origin declaration is correct and all other requirements of the origin protocol are fulfilled.

The Parties shall cooperate through their customs authorities and assist each other in verifying the originating status of the products. The verification is done by the exporting Party but the final decision is taken by the importing Party.

Three differences of the verification procedure in CETA compared to older standard FTA's are:

- a) More information in reply to a verification request

In older standard EU Free Trade Agreements the reply in general is limited to the conclusion of whether the products are originating or not. The reply in CETA however, must be in the form of a written report and therefore shall contain more specific information on the results of the verification procedure.

- b) The final decision is taken by the importing Party

In CETA, the exporting Party presents the result of its verification to the importing Party, who then takes its decision on the originating status of the goods.

- c) The verification procedure is longer

Unlike older standard FTAs which typically have a verification period of 10 months, the exporting Party in CETA has 12 months to reply to a verification request from the importing Party.

2. The procedure for request

The customs authority of the importing Party may request the customs authority of the exporting Party to conduct a verification in order to verify if a product is originating.

The importing Party may, where appropriate, request specific documentation and information from the exporting Party (Article 29(4) of the CETA Origin Protocol). This should be relevant to the origin of the product, such as:

- for live animals born and raised in Canada (Article 4(1)(c) of the CETA Origin Protocol) documentary proof, that, for example a horse was born and raised in Canada and not, for instance, in the USA.
- for products obtained by hunting, trapping, or fishing conducted there, but not beyond the outer limits of the Party's territorial sea (Article 4(1)(f) of the CETA Origin Protocol) documentary proof of the place where the fish was caught. For instance, that the freshwater fish from the Great Lakes of North America were caught in Canadian territory and not in the USA.

3. The origin verification

The origin verification is conducted by the customs authority of the exporting Party where the origin declaration has been made out.

The customs authority of the exporting Party informs the exporter of the request and is authorized to request all necessary information to verify the origin of the goods and the fulfilment of the other requirements of the CETA Origin Protocol (Article 29 (6) of the CETA Origin Protocol). This may include:

- Request documentation,
- Call for any evidence,
- Visit the premises of the exporter or the producer to review the supporting documents,
- Observe the facilities used in the production of the product.

Supporting documents may include documents relating to the following (Article 25 of the CETA Origin Protocol):

- (a) the production processes carried out on the originating product or on materials used in the production of that product;
- (b) the purchase of, the cost of, the value of, and the payment for the product;
- (c) the origin of, the purchase of, the cost of, the value of, and the payment for all materials, including neutral elements, used in the production of the product; and
- (d) the shipment of the product.

If supporting documents are requested, the exporter's consent must be obtained if these documents are to be transmitted to Canada, particularly where confidential information is involved. In the case where the exporter does not give such consent and therefore the importing Party may not be able to determine if the product is originating or not, the importing Party may deny the preferential duty.

When the exporter agrees to the sending of confidential information, both customs authorities are obliged to comply with the rules of confidentiality (Article 32 of the CETA Origin Protocol).

Multiple shipments of identical products

This is applicable only for EU exports to Canada.

If an origin declaration for multiple shipments is verified, the exporter must be aware that the originating status of the identical products of all consignments made during the validity period of this declaration has to be verified.

Supplier's declarations

In the case of verifying a supplier's declaration within the EU the procedure with the Information Certificate INF4 will be used according to EU legislation (Articles 64 - 66 of UCC-IA). The customs authorities may then request the exporter or trader to obtain from the supplier an Information Certificate INF4. This is a document used to certify the accuracy and authenticity of the supplier's declaration. The INF4 shall be issued by the customs authorities of the Member State in which the supplier's declaration has been made out. The form set out in Annex 22-02 UCC-IA shall be used.

Since the reply from the EU to Canada should be in the form of a written report providing more information than in older EU-FTAs, the INF4 procedure is not sufficient as it only states whether the products are originating. The customs authority in the EU must therefore use an "extended procedure" additional to the one in the UCC-IA.

This extended procedure will apply equally to the EU-Japan EPA and other free trade agreements for which the EU has to complete a written report similar to that found in CETA.

There are two possibilities to obtain the additional information.

a) Exporter request to supplier

The exporter will ask the supplier to obtain an INF4 from his customs authority and the exporter must state to the supplier that this request is in relation to a verification from Canada. In completing the INF4, the customs authority of the supplier must include all the necessary information in the form of a written report covering all the information (Article 29(8) of the CETA Origin Protocol) needed for the report to be sent to Canada. This report is made available to the supplier to provide to his exporter.

The customs authority of the exporter should make the exporter aware that if the exporter chooses to contact his supplier for the INF4 then this report will contain detailed information which may be considered confidential by the supplier. As such, the supplier may be unwilling to follow this normal procedure. If so, the exporter should inform his customs authority to contact directly the customs authority of the supplier to complete the INF4.

However, where the supplier has received the INF4 and the report, which he decides is sensitive, he may choose to only provide his exporter the INF4 indicating that the report cannot be passed to the exporter. In this case, there are two options regarding the accompanying report:

- i) the exporter asks his customs authority to contact the customs authority of the supplier to send the accompanying report.

- ii) the supplier asks his customs authority to provide the accompanying report directly to the customs authority of the exporter.

b) Customs request to customs

The customs authority in the Member State receiving the verification request from Canada may request an INF4 directly from the customs authority in the Member State where the supplier's declaration was made out.

The customs authority of the supplier will send the completed INF4 directly to the requesting customs authority along with the accompanying report.

The conclusion of the verification of the supplier's declaration and the reason why the products are originating or non-originating, are communicated to the supplier that issued the suppliers declaration before the customs authority formally confirms the INF4 and finalizes the report.

4. The written report

The exporting Party should reply as soon as possible and no later than within 12 months after receiving the request for verification.

With the written report it should be possible to determine if the product is originating or not and it should contain (Article 29(8) of the CETA Origin Protocol):

- (i) the results of the verification;
- (ii) the description of the product subject to verification and the tariff classification relevant to the application of the rule of origin;
- (iii) a description and explanation of the production sufficient to support the rationale concerning the originating status of the product;
- (iv) information on the manner in which the verification was conducted; and
- (v) where appropriate, supporting documentation

When it is appropriate, specific documentation, as mentioned in Article 29(4) of the CETA Origin Protocol, can be requested by the importing Party. Any documentation can only be that which is relevant to determining the origin of the product and the fulfilment of the requirements of the Origin Protocol (Article 26 (5)(a) of the CETA Origin Protocol).

Specific documents or information sent with the written report should have the consent of the company involved (exporter or supplier).

The exporter shall be informed of the result of the verification.

5. Denial of preference and consultations

The importing Party may deny preferential tariff treatment to the goods if the importer fails to comply with any requirement under the CETA Origin Protocol.

In accordance with Article 29(11) of the CETA Origin Protocol, when the customs authority of the importing Party does not receive a written report, or that report is not sufficient to determine origin, it may deny preferential tariff treatment.

Furthermore, following a verification reply from the exporting Party, the customs authority of the importing Party may come to another conclusion than the one presented by the customs authority of exporting Party in its reply to a verification request. After consultations between the Party of import and export in trying to resolve the differences, the customs authority of the importing Party may deny preferential treatment to the product in question.

The settlement of disputes between the importer and the customs authority of the importing Party shall always be under the legislation of the importing Party.

After the final determination of the origin of the product by the customs authority of the importing Party, the importer has the right to appeal. (Article 30 of the CETA Origin Protocol).

12. Duty drawback

Relevant provisions

a) CETA

Article 2.5

b) EU legal base

Not applicable

Prohibition of duty drawback

The EU-Canada Comprehensive Economic and Trade Agreement (CETA) entered into force provisionally on 21 September 2017 and has applied since that time for preferential origin.

Article 2.5 of CETA provides a restriction on the refund, deferral or suspension on customs duties for imported materials that are subsequently incorporated into a product exported to the other Party under preference. That restriction, however, only applies three years after the entry into force of CETA.

This means that as from 21 September 2020, it will no longer be possible for EU operators to be refunded customs duties on materials imported in to the EU when those materials are incorporated in to a product exported to Canada under preference.