

Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code

TITLE II

**FACTORS ON THE BASIS OF WHICH IMPORT OR EXPORT DUTIES AND OTHER MEASURES IN RESPECT OF TRADE IN GOODS ARE APPLIED**

*CHAPTER I*

*Origin of goods*

*Section 1*

*Non-preferential origin*

*Article 31*

**Goods wholly obtained in a single country or territory(Article 60(1) of the Code)**

The following goods shall be considered as wholly obtained in a single country or territory:

- (a) mineral products extracted within that country or territory;
- (b) vegetable products harvested there;
- (c) live animals born and raised there;
- (d) products derived from live animals raised there;
- (e) products of hunting or fishing carried on there;
- (f) products of sea fishing and other products taken by vessels registered in the country or territory concerned and flying the flag of that country or territory from the sea outside any country's territorial waters;
- (g) goods obtained or produced on board factory ships from the products referred to in point (f) originating in that country or territory, provided that such factory ships are registered in that country or territory and fly its flag;
- (h) products taken from the seabed or subsoil beneath the seabed outside the territorial waters provided that that country or territory has exclusive rights to exploit that seabed or subsoil;
- (i) waste and scrap products derived from manufacturing operations and used articles, if they were collected there and are fit only for recovery of raw materials;
- (j) goods produced there exclusively from products specified in points (a) to (i).

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### Article 32

#### **Goods the production of which involves more than one country or territory(Article 60(2) of the Code)**

Goods listed in Annex 22-01 shall be considered to have undergone their last substantial processing or working, resulting in the manufacture of a new product or representing an important stage of manufacture, in the country or territory in which the rules set out in that Annex are fulfilled or which is identified by those rules.

### Article 33

#### **Processing or working operations which are not economically justified(Article 60(2) of the Code)**

Any processing or working operation carried out in another country or territory shall be deemed not to be economically justified if it is established on the basis of the available facts that the purpose of that operation was to avoid the application of the measures referred to in Article 59 of the Code.

For goods covered by Annex 22-01, the Chapter residual rules for those goods shall apply.

For goods not covered by Annex 22-01, where the last working or processing is deemed not to be economically justified, the goods shall be considered to have undergone their last substantial, economically justified processing or working, resulting in the manufacture of a new product or representing an important stage of manufacture, in the country or territory where the major portion of the materials originated, as determined on the basis of the value of the materials.

### Article 34

#### **Minimal operations(Article 60(2) of the Code)**

The following shall not be considered as substantial, economically justified processing or working for the purposes of conferring origin:

- (a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, removal of damaged parts and similar operations) or operations facilitating shipment or transport;
- (b) simple operations consisting of the removal of dust, sifting or screening, sorting, classifying, matching, washing, cutting up;
- (c) changes of packing and the breaking-up and assembly of consignments, the simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards, and all other simple packaging operations;
- (d) putting up of goods in sets or ensembles or putting up for sale;
- (e) affixing of marks, labels or other similar distinguishing signs on products or their packaging;

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- (f) simple assembly of parts of products to constitute a complete product;
- (g) disassembly or change of use;
- (h) a combination of two or more operations specified in points (a) to (g).

#### *Article 35*

#### **Accessories, spare parts or tools(Article 60 of the Code)**

1 Accessories, spare parts or tools which are delivered with any of the goods listed in Sections XVI, XVII and XVIII of the Combined Nomenclature and which form part of its standard equipment shall be deemed to have the same origin as those goods.

2 Essential spare parts for use with any of the goods listed in Sections XVI, XVII and XVIII of the Combined Nomenclature previously released for free circulation in the Union shall be deemed to have the same origin as those goods if the incorporation of the essential spare parts at the production stage would not have changed their origin.

3 For the purposes of this article, essential spare parts shall mean parts which are:

- a components without which the proper operation of a piece of equipment, machine, apparatus or vehicle which have been put into free circulation or previously exported cannot be ensured; and
- b characteristic of those goods; and
- c intended for their normal maintenance and to replace parts of the same kind which are damaged or have become unserviceable.

#### *Article 36*

#### **Neutral elements and packing(Article 60 of the Code)**

1 In order to determine whether goods originate in a country or territory, the origin of the following elements shall not be taken into account:

- a energy and fuel;
- b plant and equipment;
- c machines and tools;
- d materials which neither enter into the final composition of the goods nor are intended to do so.

2 Where, under general rule 5 for the interpretation of the combined nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87<sup>(1)</sup>, packing materials and packing containers are considered as part of the product for classification purposes, they shall be disregarded for the purpose of determining origin, except where the rule in Annex 22-01 for the goods concerned is based on an added value percentage.

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## Section 2

### **Preferential origin**

#### Article 37

#### **Definitions**

For the purposes of this Section, the following definitions shall apply:

- (1) 'beneficiary country' means a beneficiary country of the generalised system of preferences (GSP) listed in Annex II to Regulation (EC) No 978/2012 of the European Parliament and of the Council<sup>(2)</sup>;
- (2) 'manufacture' means any kind of working or processing including assembly;
- (3) 'material' means any ingredient, raw material, component or part, etc., used in the manufacture of the product;
- (4) 'product' means the product being manufactured, even if it is intended for later use in another manufacturing operation;
- (5) 'goods' means both materials and products;
- (6) 'bilateral cumulation' means a system that allows products which originate in the Union, to be considered as materials originating in a beneficiary country when they are further processed or incorporated into a product in that beneficiary country;
- (7) 'cumulation with Norway, Switzerland or Turkey' means a system that allows products which originate in Norway, Switzerland or Turkey to be considered as originating materials in a beneficiary country when they are further processed or incorporated into a product in that beneficiary country and imported into the Union;
- (8) 'regional cumulation' means a system whereby products which according to this Regulation originate in a country which is a member of a regional group are considered as materials originating in another country of the same regional group (or a country of another regional group where cumulation between groups is possible) when further processed or incorporated in a product manufactured there;
- (9) 'extended cumulation' means a system, conditional upon the granting by the Commission, on a request lodged by a beneficiary country and whereby certain materials, originating in a country with which the Union has a free-trade agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade (GATT) in force, are considered to be materials originating in the beneficiary country concerned when further processed or incorporated in a product manufactured in that country;
- (10) 'fungible materials' means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another once they are incorporated into the finished product;
- (11) 'regional group' means a group of countries between which regional cumulation applies;

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- (12) 'customs value' means the value as determined in accordance with the 1994 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on Customs Valuation);
- (13) 'value of materials' means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the country of production; where the value of the originating materials used needs to be established, this point should be applied *mutatis mutandis*;
- (14) 'ex-works price' means the price paid for the product ex-works to the manufacturer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs related to its production, minus any internal taxes which are, or may be, repaid when the product obtained is exported.
- Where the actual price paid does not reflect all costs related to the manufacturing of the product which are actually incurred in the country of production, the ex-works price means the sum of all those costs, minus any internal taxes which are, or may be, repaid when the product obtained is exported;
- Where the last working or processing has been subcontracted to a manufacturer, the term 'manufacturer' referred to in the first sub-paragraph may refer to the enterprise that has employed the subcontractor.
- (15) 'maximum content of non-originating materials' means the maximum content of non-originating materials which is permitted in order to consider a manufacture as working or processing sufficient to confer originating status on the product. It may be expressed as a percentage of the ex-works price of the product or as a percentage of the net weight of these materials used falling under a specified group of chapters, chapter, heading or sub-heading;
- (16) 'net weight' means the weight of the goods themselves without packing materials and packing containers of any kind;
- (17) 'chapters', 'headings' and 'sub-headings' mean the chapters, the headings and sub-headings (four- or six-digit codes) used in the nomenclature which makes up the Harmonized System with the changes pursuant to the recommendation of 26 June 2004 of the Customs Cooperation Council;
- (18) 'classified' refers to the classification of a product or material under a particular heading or sub-heading of the Harmonized System;
- (19) 'consignment' means products which are either:
- (a) sent simultaneously from one exporter to one consignee; or
  - (b) covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such document, by a single invoice
- (20) 'exporter' means a person exporting the goods to the Union or to a beneficiary country who is able to prove the origin of the goods, whether or not he is the manufacturer and whether or not he himself carries out the export formalities;
- (21) 'registered exporter' means:

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- (a) an exporter who is established in a beneficiary country and is registered with the competent authorities of that beneficiary country for the purpose of exporting products under the scheme, be it to the Union or another beneficiary country with which regional cumulation is possible; or
  - (b) an exporter who is established in a Member State and is registered with the customs authorities of that Member State for the purpose of exporting products originating in the Union to be used as materials in a beneficiary country under bilateral cumulation; or
  - (c) a re-consignor of goods who is established in a Member State and is registered with the customs authorities of that Member State for the purpose of making out replacement statements on origin in order to re-consign originating products elsewhere within the customs territory of the Union or, where applicable, to Norway, Switzerland or Turkey ('a registered re-consignor');
- (22) 'statement on origin' means a statement made out by the exporter or the re-consignor of the goods indicating that the products covered by it comply with the rules of origin of the scheme.

#### *Subsection 1*

#### ***Issue or making out of proofs of origin***

#### *Article 38*

#### **Means for applying for and the issuing of Information Certificates INF 4(Article 6(3)(a) of the Code)**

1 Application for the Information Certificate INF 4 may be made by means other than electronic data-processing techniques and shall comply with the data requirements listed in Annex 22-02.

2 The Information Certificate INF 4 shall comply with the data requirements listed in Annex 22-02.

#### *Article 39*

#### **Means for applying for and the issuing of approved exporter authorisations(Article 6(3)(a) of the Code)**

Application for the status of approved exporter for the purpose of making out proofs of preferential origin may be submitted and approved exporter authorisation may be issued by means other than electronic data-processing techniques .

## Article 40

### **Means for applying to become a registered exporter(Article 6(3)(a) of the Code)**

Applications to become a registered exporter may be submitted by means other than electronic data-processing techniques.

## Subsection 2

### ***Definition of the concept of originating products applicable within the framework of the GSP of the union***

## Article 41

### **General principles(Article 64(3) of the Code)**

The following products shall be considered as originating in a beneficiary country:

- (a) products wholly obtained in that country within the meaning of Article 44;
- (b) products obtained in that country incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing within the meaning of Article 45.

## Article 42

### **Principle of territoriality(Article 64(3) of the Code)**

1 The conditions set out in this Subsection for acquiring originating status shall be fulfilled in the beneficiary country concerned.

2 The term 'beneficiary country' shall cover and cannot exceed the limits of the territorial sea of that country within the meaning of the United Nations Convention on the Law of the Sea (Montego Bay Convention, 10 December 1982).

3 If originating products exported from the beneficiary country to another country are returned, they shall be considered as non-originating unless it can be demonstrated to the satisfaction of the competent authorities that the following conditions are fulfilled:

- a the products returned are the same as those which were exported, and
- b they have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.

## Article 43

### **Non-manipulation(Article 64(3) of the Code)**

1 The products declared for release for free circulation in the Union shall be the same products as exported from the beneficiary country in which they are considered to originate. They shall not have been altered, transformed in any way or subjected to operations other than operations to preserve them in good condition or the adding or affixing of marks, labels, seals or

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any other documentation to ensure compliance with specific domestic requirements applicable in the Union, prior to being declared for release for free circulation.

2 The products imported into a beneficiary country for the purpose of cumulation under Articles 53, 54, 55 or 56 shall be the same products as exported from the country in which they are considered to originate. They shall not have been altered, transformed in any way or subjected to operations other than operations to preserve them in good condition, prior to being declared for the relevant customs procedure in the country of imports.

3 Storage of products may take place provided they remain under customs supervision in the country or countries of transit.

4 The splitting of consignments may take place where carried out by the exporter or under his responsibility, provided that the goods concerned remain under customs supervision in the country or countries of transit.

5 Paragraphs 1 to 4 shall be considered to be complied with unless the customs authorities have reason to believe the contrary; in such cases, the customs authorities may request the declarant to provide evidence of compliance, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on marking or numbering of packages or any evidence related to the goods themselves.

#### *Article 44*

#### **Wholly obtained products(Article 64(3) of the Code)**

- 1 The following shall be considered as wholly obtained in a beneficiary country:
- a mineral products extracted from its soil or from its seabed;
  - b plants and vegetable products grown or harvested there;
  - c live animals born and raised there;
  - d products from live animals raised there;
  - e products from slaughtered animals born and raised there;
  - f products obtained by hunting or fishing conducted there;
  - g products of aquaculture where the fish, crustaceans and molluscs are born and raised there;
  - h products of sea fishing and other products taken from the sea outside any territorial sea by its vessels;
  - i products made on board its factory ships exclusively from the products referred to in point (h);
  - j used articles collected there that are fit only for the recovery of raw materials;
  - k waste and scrap resulting from manufacturing operations conducted there;
  - l products extracted from the seabed or below the seabed which is situated outside any territorial sea but where it has exclusive exploitation rights;
  - m goods produced there exclusively from products specified in points (a) to (l).
- 2 The terms ‘its vessels’ and ‘its factory ships’ in paragraph 1(h) and (i) shall apply only to vessels and factory ships which meet each of the following requirements:
- a they are registered in the beneficiary country or in a Member State;
  - b they sail under the flag of the beneficiary country or of a Member State;
  - c they meet one of the following conditions:



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- (i) they are at least 50 % owned by nationals of the beneficiary country or of Member States, or
- (ii) they are owned by companies:
  - which have their head office and their main place of business in the beneficiary country or in Member States, and
  - which are at least 50 % owned by the beneficiary country or Member States or public entities or nationals of the beneficiary country or Member States.

3 The conditions of paragraph 2 may each be fulfilled in Member States or in different beneficiary countries insofar as all the beneficiary countries involved benefit from regional cumulation in accordance with Article 55(1) and (5). In this case, the products shall be deemed to have the origin of the beneficiary country under which flag the vessel or factory ship sails in accordance with point (b) of paragraph 2.

The first sub-paragraph shall apply only provided that the conditions laid down in Article 55(2)(a), (c) and (d) have been fulfilled.

#### *Article 45*

#### **Sufficiently worked or processed products(Article 64(3) of the Code)**

1 Without prejudice to Articles 47 and 48, products which are not wholly obtained in the beneficiary country concerned within the meaning of Article 44 shall be considered to originate there, provided that the conditions laid down in the list in Annex 22-03 for the goods concerned are fulfilled.

2 If a product which has acquired originating status in a country in accordance with paragraph 1 is further processed in that country and used as a material in the manufacture of another product, no account shall be taken of the non-originating materials which may have been used in its manufacture.

#### *Article 46*

#### **Averages(Article 64(3) of the Code)**

1 The determination of whether the requirements of Article 45(1) are met, shall be carried out for each product.

However, where the relevant rule is based on compliance with a maximum content of non-originating materials, in order to take into account fluctuations in costs and currency rates, the value of the non-originating materials may be calculated on an average basis as set out in paragraph 2.

2 In the case referred to in the second sub-paragraph of paragraph 1, an average ex-works price of the product and average value of non-originating materials used shall be calculated respectively on the basis of the sum of the ex-works prices charged for all sales of the products carried out during the preceding fiscal year and the sum of the value of all the non-originating materials used in the manufacture of the products over the preceding fiscal year as defined in the country of export, or, where figures for a complete fiscal year are not available, a shorter period which should not be less than three months.

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3 Exporters having opted for calculations on an average basis shall consistently apply such a method during the year following the fiscal year of reference, or, where appropriate, during the year following the shorter period used as a reference. They may cease to apply such a method where during a given fiscal year, or a shorter representative period of no less than three months, they record that the fluctuations in costs or currency rates which justified the use of such a method have ceased.

4 The averages referred to in paragraph 2 shall be used as the ex-works price and the value of non-originating materials respectively, for the purpose of establishing compliance with the maximum content of non-originating materials.

#### *Article 47*

### **Insufficient working or processing(Article 64(3) of the Code)**

1 Without prejudice to paragraph 3, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 45 are satisfied:

- a preserving operations to ensure that the products remain in good condition during transport and storage;
- b breaking-up and assembly of packages;
- c washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- d ironing or pressing of textiles and textile articles;
- e simple painting and polishing operations;
- f husking and partial or total milling of rice; polishing and glazing of cereals and rice;
- g operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;
- h peeling, stoning and shelling, of fruits, nuts and vegetables;
- i sharpening, simple grinding or simple cutting;
- j sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
- k simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- l affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- m simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
- n simple addition of water or dilution or dehydration or denaturation of products;
- o simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- p slaughter of animals ;
- q a combination of two or more of the operations specified in points (a) to (p).

2 For the purposes of paragraph 1, operations 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.

3 All the operations carried out in a beneficiary country on a given product shall be taken into account when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

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### *Article 48*

#### **General tolerance(Article 64(3) of the Code)**

1 By way of derogation from Article 45 and subject to paragraphs 2 and 3 of this Article, non-originating materials which, according to the conditions set out in the list in Annex 22-03 are not to be used in the manufacture of a given product may nevertheless be used, provided that their total value or net weight assessed for the product does not exceed:

- a 15 % of the weight of the product for products falling within Chapters 2 and 4 to 24 of the Harmonized System, other than processed fishery products of Chapter 16;
- b 15 % of the ex-works price of the product for other products, except for products falling within Chapters 50 to 63 of the Harmonized System, for which the tolerances mentioned in Notes 6 and 7 of Part I of Annex 22-03, shall apply.

2 Paragraph 1 shall not allow to exceed any of the percentages for the maximum content of non-originating materials as specified in the rules laid down in the list in Annex 22-03.

3 Paragraphs 1 and 2 shall not apply to products wholly obtained in a beneficiary country within the meaning of Article 44. However, without prejudice to Articles 47 and 49(2), the tolerance provided for in those paragraphs shall nevertheless apply to the sum of all the materials which are used in the manufacture of a product and for which the rule laid down in the list in Annex 22-03 for that product requires that such materials be wholly obtained.

### *Article 49*

#### **Unit of qualification(Article 64(3) of the Code)**

1 The unit of qualification for the application of the provisions of this Subsection shall be the particular product which is considered as the basic unit when determining classification using the Harmonized System.

2 When a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each individual item shall be taken into account when applying the provisions of this Subsection.

3 Where, under General Interpretative rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

### *Article 50*

#### **Accessories, spare parts and tools(Article 64(3) of the Code)**

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the ex-works price thereof, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

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#### Article 51

##### **Sets(Article 64(3) of the Code)**

Sets, as defined in General Interpretative rule 3(b) of the Harmonized System, shall be regarded as originating when all the component products are originating products.

When a set is composed of originating and non-originating products, the set as a whole shall however be regarded as originating, provided that the value of the non-originating products does not exceed 15 % of the ex-works price of the set.

#### Article 52

##### **Neutral elements(Article 64(3) of the Code)**

In order to determine whether a product is an originating product, no account shall be taken of the origin of the following which might be used in its manufacture:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;
- (d) any other goods which do not enter, and which are not intended to enter, into the final composition of the product.

#### Subsection 3

##### ***Rules on cumulation and management of stocks of materials applicable within the framework of the GSP of the Union***

#### Article 53

##### **Bilateral cumulation(Article 64(3) of the Code)**

Bilateral cumulation shall allow products originating in the Union to be considered as materials originating in a beneficiary country when incorporated into a product manufactured in that country, provided that the working or processing carried out there goes beyond the operations described in Article 47(1).

Articles 41 to 52, and provisions concerning subsequent verification of proofs of origin shall apply *mutatis mutandis* to exports from the Union to a beneficiary country for the purposes of bilateral cumulation.

#### Article 54

##### **Cumulation with Norway, Switzerland or Turkey(Article 64(3) of the Code)**

1 Cumulation with Norway, Switzerland or Turkey shall allow products originating in these countries to be considered as materials originating in a beneficiary country provided that

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the working or processing carried out there goes beyond the operations described in Article 47(1).

2 Cumulation with Norway, Switzerland or Turkey shall not apply to products falling within Chapters 1 to 24 of the Harmonized System.

#### *Article 55*

### **Regional cumulation(Article 64(3) of the Code)**

- 1 Regional cumulation shall apply to the following four separate regional groups:
  - a group I: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar/Burma, Philippines, Thailand, Vietnam;
  - b group II: Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Peru, Venezuela;
  - c group III: Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka;
  - d group IV: Argentina, Brazil, Paraguay and Uruguay.
- 2 Regional cumulation between countries within the same group shall apply only where the following conditions are fulfilled:
  - a the countries involved in the cumulation are, at the time of exportation of the product to the Union, beneficiary countries for which the preferential arrangements have not been temporarily withdrawn in accordance with Regulation (EU) No 978/2012;
  - b for the purpose of regional cumulation between the countries of a regional group the rules of origin laid down in Subsection 2 apply;
  - c the countries of the regional group have undertaken:
    - (i) to comply or ensure compliance with this subsection, and
    - (ii) to provide the administrative cooperation necessary to ensure the correct implementation of this subsection both with regard to the Union and between themselves;
  - d the undertakings referred to in point (c) have been notified to the Commission by the Secretariat of the regional group concerned or another competent joint body representing all the members of the group in question.

For the purposes of point (b), where the qualifying operation laid down in Part II of Annex 22-03 is not the same for all countries involved in cumulation, the origin of products exported from one country to another country of the regional group for the purpose of regional cumulation shall be determined on the basis of the rule which would apply if the products were being exported to the Union.

Where countries in a regional group have already complied with points (c) and (d) of the first subparagraph before 1 January 2011, a new undertaking shall not be required.

- 3 The materials listed in Annex 22-04 shall be excluded from the regional cumulation provided for in paragraph 2 in the case where:
  - a the tariff preference applicable in the Union is not the same for all the countries involved in the cumulation; and
  - b the materials concerned would benefit, through cumulation, from a tariff treatment more favourable than the one they would benefit from if directly exported to the Union.

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4 Regional cumulation between beneficiary countries in the same regional group shall apply only under the condition that the working or processing carried out in the beneficiary country where the materials are further processed or incorporated goes beyond the operations described in Article 47(1) and, in the case of textile products, also beyond the operations set out in Annex 22-05.

Where the condition laid down in the first subparagraph is not fulfilled and the materials are subject to one or more of the operations described in Article 47(1) (b) to (q), the country to be stated as country of origin on the proof of origin issued or made out for the purposes of exporting the products to the Union shall be the country of the regional group which accounts for the highest share of the value of the materials used originating in countries of the regional group.

Where the products are exported without further working or processing, or were only subject to operations described in Article 47(1)(a), the country to be stated as country of origin on the proof of origin issued or made out for the purposes of exporting the products to the Union shall be the beneficiary country appearing on the proofs of origin issued or made out in the beneficiary country where the products were manufactured.

5 At the request of the authorities of a Group I or Group III beneficiary country, regional cumulation between countries of those groups may be granted by the Commission, provided that the Commission is satisfied that each of the following conditions is met:

- a the conditions laid down in paragraph 2(a) and (b) are met; and
- b the countries to be involved in such regional cumulation have undertaken and jointly notified to the Commission their undertaking:
  - (i) to comply or ensure compliance with this Subsection, Subsection 2 and all other provisions concerning the implementation of the rules of origin; and
  - (ii) to provide the administrative cooperation necessary to ensure the correct implementation of this Subsection and Subsection 2 both with regard to the Union and between themselves.

The request referred to in the first sub-paragraph shall be supported with evidence that the conditions laid down in that sub-paragraph are met. It shall be addressed to the Commission. The Commission will decide on the request taking into account all the elements related to the cumulation deemed relevant, including the materials to be cumulated.

6 When granted, regional cumulation between beneficiary countries of Group I or Group III shall allow materials originating in a country of one regional group to be considered as materials originating in a country of the other regional group when incorporated in a product obtained there, provided that the working or processing carried out in the latter beneficiary country goes beyond the operations described in Article 47(1) and, in the case of textile products, also beyond the operations set out in Annex 22-05.

Where the condition laid down in the first subparagraph is not fulfilled and the materials are subject to one or more of the operations described in Article 47(1)(b) to (q), the country to be stated as country of origin on the proof of origin for the purposes of exporting the products to the Union shall be the country participating in the cumulation which accounts for the highest share of the value of the materials used originating in countries participating in the cumulation.

Where the products are exported without further working or processing, or were only subject to operations described in Article 47(1)(a), the country to be stated as country

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of origin on the proof of origin issued or made out for the purposes of exporting the products to the Union shall be the beneficiary country appearing on the proofs of origin issued or made out in the beneficiary country where the products were manufactured.

7 The Commission will publish in the *Official Journal of the European Union* (C series) the date on which the cumulation between countries of Group I and Group III provided for in paragraph 5 takes effect, the countries involved in that cumulation and, where appropriate, the list of materials in relation to which the cumulation applies.

8 Articles 41 to 52 and provisions concerning the issue or making out of proofs of origin and provisions concerning subsequent verification of proofs of origin shall apply *mutatis mutandis* to exports from one beneficiary country to another for the purposes of regional cumulation.

#### Article 56

#### Extended cumulation(Article 64(3) of the Code)

1 At the request of any beneficiary country's authorities, extended cumulation between a beneficiary country and a country with which the Union has a free-trade agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade (GATT) in force, may be granted by the Commission, provided that each of the following conditions is met:

- a the countries involved in the cumulation have undertaken to comply or ensure compliance with this Subsection, Subsection 2 and all other provisions concerning the implementation of the rules of origin, and to provide the administrative co-operation necessary to ensure the correct implementation of this subsection and Subsection 2 both with regard to the Union and also between themselves;
- b the undertaking referred to in point (a) has been notified to the Commission by the beneficiary country concerned.

The request referred to in the first sub-paragraph shall contain a list of the materials concerned by the cumulation and shall be supported with evidence that the conditions laid down in points (a) and (b) of the first sub-paragraph are met. It shall be addressed to the Commission. Where the materials concerned change, another request shall be submitted.

Materials falling within Chapters 1 to 24 of the Harmonized System shall be excluded from extended cumulation.

2 In cases of extended cumulation referred to in paragraph 1, the origin of the materials used and the documentary proof of origin applicable shall be determined in accordance with the rules laid down in the relevant free-trade agreement. The origin of the products to be exported to the Union shall be determined in accordance with the rules of origin laid down in Subsection 2.

In order for the obtained product to acquire originating status, it shall not be necessary that the materials originating in a country with which the Union has a free-trade agreement and used in a beneficiary country in the manufacture of the product to be exported to the Union have undergone sufficient working or processing, provided that the working or processing carried out in the beneficiary country concerned goes beyond the operations described in Article 47(1).

3 The Commission will publish in the *Official Journal of the European Union* (C series) the date on which the extended cumulation takes effect, the countries involved in that cumulation and the list of materials in relation to which the cumulation applies.

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### Article 57

#### **Application of bilateral cumulation or cumulation with Norway, Switzerland or Turkey in combination with regional cumulation(Article 64(3) of the Code)**

Where bilateral cumulation or cumulation with Norway, Switzerland or Turkey is used in combination with regional cumulation, the product obtained shall acquire the origin of one of the countries of the regional group concerned, determined in accordance with the first and the second sub-paragraphs of Article 55(4) or, where appropriate, with the first and the second sub-paragraphs of Article 55(6).

### Article 58

#### **Accounting segregation of Union exporters' stocks of materials(Article 64(3) of the Code)**

1 If originating and non-originating fungible materials are used in the working or processing of a product, the customs authorities of the Member States may, at the written request of economic operators established in the customs territory of the Union, authorise the management of materials in the Union using the accounting segregation method for the purpose of subsequent export to a beneficiary country within the framework of bilateral cumulation, without keeping the materials on separate stocks.

2 The customs authorities of the Member States may make the granting of authorisation referred to in paragraph 1 subject to any conditions they deem appropriate.

The authorisation shall be granted only if by use of the method referred to in paragraph 1 it can be ensured that, at any time, the quantity of products obtained which could be considered as 'originating in the Union' is the same as the number that would have been obtained by using a method of physical segregation of the stocks.

If authorised, the method shall be applied and the application thereof shall be recorded on the basis of the general accounting principles applicable in the Union.

3 The beneficiary of the method referred to in paragraph 1 shall make out or, until the application of the registered exporter system, apply for proofs of origin for the quantity of products which may be considered as originating in the Union. At the request of the customs authorities of the Member States, the beneficiary shall provide a statement of how the quantities have been managed.

4 The customs authorities of the Member States shall monitor the use made of the authorisation referred to in paragraph 1.

They may withdraw the authorisation in the following cases:

- a the holder makes improper use of the authorisation in any manner whatsoever, or
- b the holder fails to fulfil any of the other conditions laid down in this subsection, Subsection 2 and all other provisions concerning the implementation of the rules of origin.



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#### Subsection 4

### **Definition of the concept of originating products applicable within the framework of the rules of origin for the purposes of preferential tariff measures adopted unilaterally by the Union for certain countries or territories**

#### Article 59

##### **General requirements(Article 64(3) of the Code)**

1 For the purposes of the provisions concerning preferential tariff measures adopted unilaterally by the Union for certain countries, groups of countries or territories (hereinafter referred to as ‘beneficiary country or territory’), with the exception of those referred to in Subsection 2 of this section and the overseas countries and territories associated with the Union, the following products shall be considered as products originating in a beneficiary country or territory:

- a products wholly obtained in that beneficiary country or territory within the meaning of Article 60;
- b products obtained in that beneficiary country or territory, in the manufacture of which products other than those referred to in point (a) are used, provided that those products have undergone sufficient working or processing within the meaning of Article 61.

2 For the purposes of this subsection, products originating in the Union, within the meaning of paragraph 3 of this Article, which are subject in a beneficiary country or territory to working or processing going beyond that described in Article 62 shall be considered as originating in that beneficiary country or territory.

3 Paragraph 1 shall apply *mutatis mutandis* in establishing the origin of the products obtained in the Union.

#### Article 60

##### **Wholly obtained products(Article 64(3) of the Code)**

1 The following shall be considered as wholly obtained in a beneficiary country or territory or in the Union:

- a mineral products extracted from its soil or from its seabed;
- b vegetable products harvested there;
- c live animals born and raised there;
- d products from live animals raised there;
- e products from slaughtered animals born and raised there;
- f products obtained by hunting or fishing conducted there;
- g products of sea-fishing and other products taken from the sea outside the territorial waters by its vessels;
- h products made on board its factory ships exclusively from the products referred to in (g);
- i used articles collected there, fit only for the recovery of raw materials;
- j waste and scrap resulting from manufacturing operations conducted there;
- k products extracted from the seabed or below the seabed which is situated outside its territorial waters but where the beneficiary country or territory or a Member State has exclusive exploitation rights;

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- 1 goods produced there exclusively from products specified in (a) to (k).
- 2 The terms ‘its vessels’ and ‘its factory ships’ in paragraph 1(g) and (h) shall apply only to vessels and factory ships which fulfil the following conditions:
  - a they are registered or recorded in the beneficiary country or territory or in a Member State;
  - b they sail under the flag of a beneficiary country or territory or of a Member State;
  - c they are owned to the extent of at least 50 % by nationals of the beneficiary country or territory or of Member States or by a company with its head office in that beneficiary country or territory or in one of the Member States, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of that beneficiary country or territory or of the Member States and of which, in addition, in the case of companies, at least half the capital belongs to that beneficiary country or territory or to the Member States or to public bodies or nationals of that beneficiary country or territory or of the Member States;
  - d the master and officers of the vessels and factory ships are nationals of the beneficiary country or territory or of the Member States;
  - e at least 75 % of the crew are nationals of the beneficiary country or territory or of the Member States.
- 3 The terms ‘beneficiary country or territory’ and ‘Union’ shall also cover the territorial waters of that beneficiary country or territory or of the Member States.
- 4 Vessels operating on the high seas, including factory ships on which the fish caught is worked or processed, shall be considered as part of the territory of the beneficiary country or territory or of the Member State to which they belong, provided that they satisfy the conditions set out in paragraph 2.

#### *Article 61*

#### **Sufficiently worked or processed products(Article 64(3) of the Code)**

For the purposes of Article 59, products which are not wholly obtained in a beneficiary country or territory or in the Union shall be considered to be sufficiently worked or processed provided that the conditions set out in the list in Annex 22-11 are fulfilled.

Those conditions indicate, for all products covered by this Subsection, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials.

If a product which has acquired originating status by fulfilling the conditions set out in the list is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

#### *Article 62*

#### **Insufficient working or processing(Article 64(3) of the Code)**

- 1 Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 61 are satisfied:

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- a preserving operations to ensure that the products remain in good condition during transport and storage;
  - b breaking-up and assembly of packages;
  - c washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
  - d ironing or pressing of textiles and textile articles;
  - e simple painting and polishing operations;
  - f husking, partial or total milling, polishing and glazing of cereals and rice;
  - g operations to colour or flavour sugar or form sugar lumps; partial or total milling of sugar;
  - h peeling, stoning and shelling, of fruits, nuts and vegetables;
  - i sharpening, simple grinding or simple cutting;
  - j sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
  - k simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
  - l affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
  - m simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
  - n simple addition of water or dilution or dehydration or denaturation of products;
  - o simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
  - p slaughter of animals;
  - q a combination of two or more of the operations specified in points (a) to (p).
- 2 All the operations carried out in either a beneficiary country or territory or in the Union on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

### *Article 63*

#### **Unit of qualification(Article 64(3) of the Code)**

1 The unit of qualification for the application of the provisions of this Subsection shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonised System.

Accordingly, it follows that:

- a when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification;
- b when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying the provisions of this Subsection.

2 Where, under general interpretative rule 5 of the Harmonised System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

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#### *Article 64*

### **General tolerance(Article 64(3) of the Code)**

1 By way of derogation from the provisions of Article 61, non-originating materials may be used in the manufacture of a given product, provided that their total value does not exceed 10 % of the ex-works price of the product.

Where, in the list, one or several percentages are given for the maximum value of non-originating materials, such percentages must not be exceeded through the application of the first subparagraph.

2 Paragraph 1 shall not apply to products falling within Chapters 50 to 63 of the Harmonised System.

#### *Article 65*

### **Accessories, spare parts and tools(Article 64(3) of the Code)**

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

#### *Article 66*

### **Sets(Article 64(3) of the Code)**

Sets, as defined in general interpretative rule 3 of the Harmonised System, shall be regarded as originating when all the component products are originating products. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating provided that the value of the non-originating products does not exceed 15 % of the ex-works price of the set.

#### *Article 67*

### **Neutral elements(Article 64(3) of the Code)**

In order to determine whether a product is an originating product, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;
- (d) goods which do not enter, and which are not intended to enter, into the final composition of the product.

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### *Subsection 5*

#### ***Territorial requirements applicable within the framework of the Rules of Origin for the purposes of preferential tariff measures adopted unilaterally by the Union for certain countries or territories***

#### *Article 68*

#### **Principle of territoriality(Article 64(3) of the Code)**

The conditions set out in Subsection 4 and in this subsection for acquiring originating status must continue to be fulfilled at all times in the beneficiary country or territory or in the Union.

If originating products exported from the beneficiary country or territory or from the Union to another country are returned, they shall be considered as non-originating unless it can be demonstrated to the satisfaction of the competent authorities that the following conditions are fulfilled:

- (a) the returned products are the same as those which were exported;
- (b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

#### *Article 69*

#### **Direct transport(Article 64(3) of the Code)**

1 The following shall be considered as transported directly from the beneficiary country or territory to the Union or from the Union to the beneficiary country or territory:

- a products transported without passing through the territory of any other country;
- b products constituting one single consignment transported through the territory of countries other than the beneficiary country or territory or the Union, with, should the occasion arise, transshipment or temporary warehousing in those countries, provided that the products remain under the supervision of the customs authorities in the country of transit or warehousing and they do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition;
- c products which are transported by pipeline without interruption across a territory other than that of the exporting beneficiary country or territory or of the Union.

2 Evidence that the conditions set out in paragraph 1(b) are fulfilled shall be supplied to the competent customs authorities by the production of any of the following:

- a a single transport document covering the passage from the exporting country through the country of transit;
- b a certificate issued by the customs authorities of the country of transit:
  - (i) giving an exact description of the products;
  - (ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used, and
  - (iii) certifying the conditions under which the products remained in the country of transit;

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- c or, failing these, any substantiating documents.

### *Article 70*

#### **Exhibitions(Article 64(3) of the Code)**

1 Originating products, sent from a beneficiary country or territory for exhibition in another country and sold after the exhibition for importation into the Union, shall benefit on importation from the tariff preferences referred to in Article 59, provided that they meet the requirements of Subsection 4 and this subsection entitling them to be considered originating in that beneficiary country or territory and provided that it is shown to the satisfaction of the competent Union customs authorities that:

- a an exporter has consigned the products from the beneficiary country or territory directly to the country in which the exhibition is held and has exhibited them there;
- b the products have been sold or otherwise disposed of by that exporter to a person in the Union;
- c the products have been consigned during the exhibition or immediately thereafter to the Union in the state in which they were sent for exhibition;
- d the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2 A movement certificate EUR.1 shall be submitted to the Union customs authorities in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the nature of the products and the conditions under which they have been exhibited may be required.

3 Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

## *CHAPTER 2*

### *Value of goods for customs purposes*

#### *Article 71*

#### **Simplification(Article 73 of the Code)**

1 The authorisation referred to in Article 73 of the Code may be granted where the following conditions are met:

- a the application of the procedure referred to in Article 166 of the Code would, in the circumstances, represent disproportioned administrative costs;
- b the customs value determined, will not significantly differ from that determined in the absence of an authorisation.

2 The grant of the authorisation is conditional to the fulfilment, by the applicant, of the following conditions:

- a he complies with the criterion laid down in Article 39(a) of the Code;

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- b he maintains an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held and which will facilitate audit-based customs control. The accounting system shall maintain a historical record of data that provides an audit trail from the moment the data enters the file;
- c he has an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions;

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- (1) Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ([OJ L 256, 7.9.1987, p. 1](#)).
- (2) Regulation (EC) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 ([OJ L 303, 31.10.2012, p. 1](#)).



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