

Rules of Origin



Customs Brokers
Training

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Performance Objective:

To raise awareness and build capacity in the area of Rules of Origin in accordance the CARICOM Agreement and the CARIFORUM-EC Economic Partnership Agreement.

Enabling Objectives:

- Define the term “Rules of Origin”
- Introduce preferential and non-preferential rules of origin and their importance in trade agreements
- Explain the Rules of Origin Systems for CARICOM and EPA
- Identify the documentation required under the treaty and agreement
- Use case studies to apply the rules of origin

Introduction

The determination of the origin of goods is essential for both tax and non-tax purposes.

For tax purposes the origin of goods can determine whether a general, reduced or even zero rate will be applied, according to the trade or preferential agreement signed with third countries.

From a non-tax point of view, trade policy is based on origin-related proceedings that allow, facilitate, restrict or prohibit the free access of goods from a given geographical area.

Trade agreements include provisions for:

- Preferential rules
- Non-preferential rules

CARICOM treaty includes provisions for trading goods between Caribbean countries (member states of CARICOM) in accordance with the rules of the origin. The customs officers have the responsibility for ensuring that only eligible goods are granted preferential treatment and that non qualifying goods are charged the applicable duties. As Customs Brokers you have the responsibility to ensure that your clients comply with the laws by completing and presenting proper and accurate documents.

Rules of Origin

DEFINITION: The laws, regulations and administrative arrangements used by individual states to determine the country of origin of goods.

In other words, rules of origin are used to identify the "nationality" of goods traded in international commerce.

Rules of origin are divided into two categories:

- (i) Rules relating to preferential treatment
- (ii) Rules relating to non-preferential treatment.

Preferential Rules of Origin

There are no internationally agreed upon rules of origin for preferential purposes.

Each country or jurisdiction administers a regional trade agreement - presently establishes its own rules of origin.

The complexity of overlapping rules of origin applying to different preferential trading arrangements makes it difficult to understand and costly to implement.

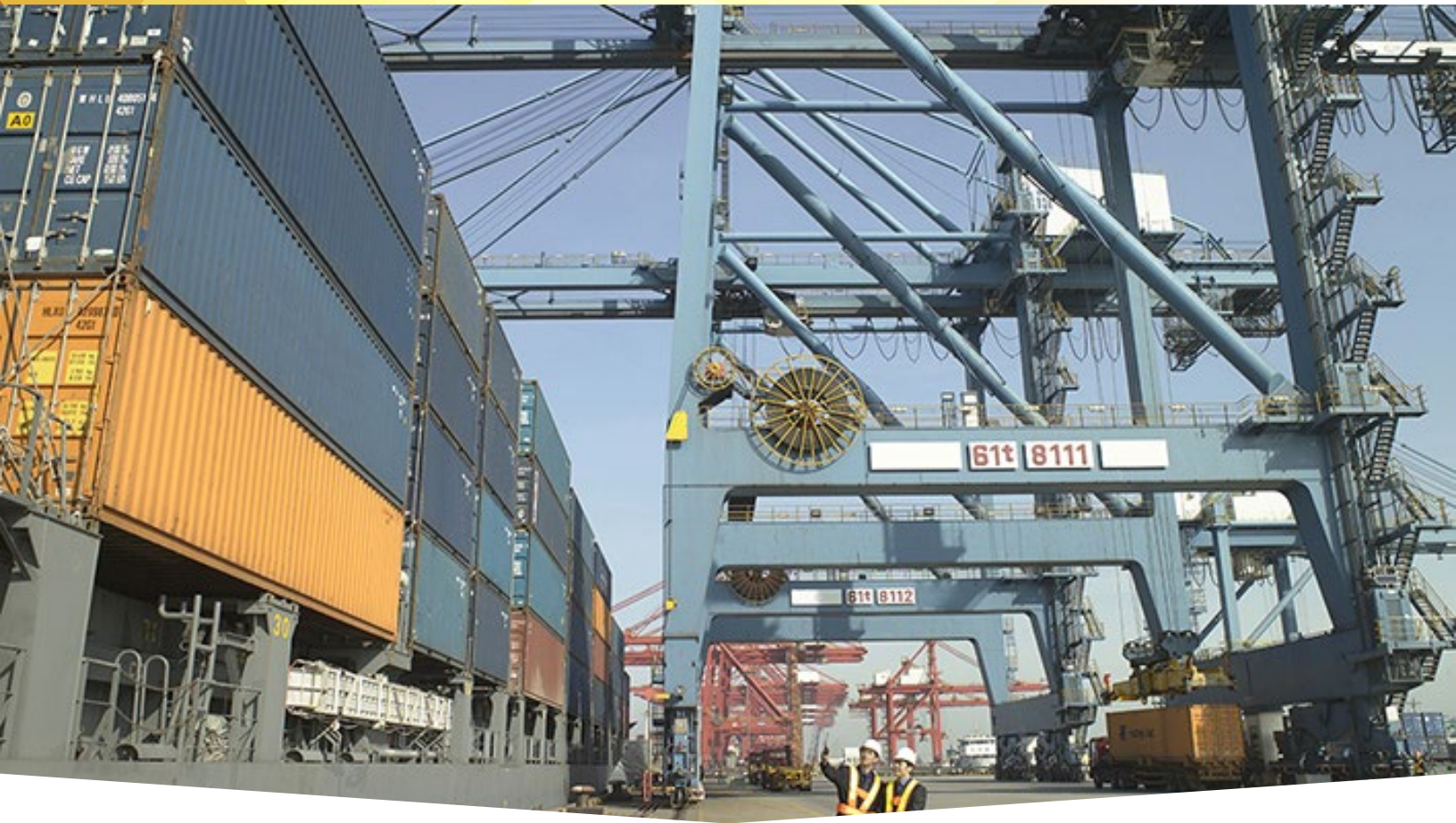
In some circles it is known as the “spaghetti bowl” phenomenon because of the entanglement of laws regulations and administrative requirements.

Some people believe that a uniform set of plain and unambiguous provisions should be adopted for all preferential trading arrangements.

Non-Preferential Rules of Origin

As part of the General Agreement on Tariffs and Trade (GATT) Uruguay Round, an agreement was reached to introduce harmonised non-preferential origin rules within the World Trade Organisation (WTO) framework. The harmonization exercise is still currently in progress.

This (draft) agreement on rules of origin sets out important provisions relating to the application and administration of rules of origin, providing for the harmonization of non-preferential rules of origin.



They do not compose a trade instrument by themselves, however the draft agreement covers only rules of origin used in non-preferential commercial policy instruments, such as:

- Most favoured nation (mfn) treatment
- Anti-dumping and countervailing duties
- Safeguard measures
- Origin marking requirements
- Discriminatory quantitative restrictions or tariff quotas
- Trade statistics
- Government procurement

By securing transparency in trade policy, this harmonization is expected to facilitate international trade. Non-preferential rules of origin can be used as an important trade and commercial policy measure.

CARICOM - RULES OF ORIGIN

ARTICLE 84 - SPECIFIES THE QUALIFICATION AND ORIGIN CRITERION:

- Wholly Produced “CM”
- Substantial Transformation:
 - Change of tariff heading - “X” (HS heading)
 - In accordance with list - “L” (HS heading)

Wholly Produced:

- A. Mineral products
- B. Vegetable products
- C. Live animals born and raised
- D. Products from such animals
- E. Products from hunting and fishing
- F. Marine products
- G. Goods produced from goods of
 - a - f, above:
- H. Waste and scrap material resulting from manufacturing and processing operations carried out in member states
- I. Articles which have been used in member states but are no longer fit for any purpose other than the recovery of their material.

Fish and Marine Products

Vessel must: -

- A. Registered in a member state
- B. Carries a compliment of crew (including the master) of which not less than 3/4 are nationals of member states
- C. Is majority owned and operated by nationals of a member state
 - A government of a member state
 - A statutory cooperation of a member state

Substantial Transformation

Change of Tariff Heading

Classification of raw materials used in the manufacture of a finished product must be different to the classification of the finished product

No item of raw material of third country origin used to make a finished product within a member state, should have the same classification as the finished product

Example:

Chair.....Hs 9401

Raw Materials:

Wood.....	HS 4409
Fabric.....	HS 5208
Glue.....	HS 3506
Screws.....	HS 7318
Paint.....	HS 3208

Conditions Specified in the List

Goods which qualify for common market treatment other than under the qualifying conditions “wholly produced” or “the change of tariff heading” have been included in a list (schedule 1)

Structure of List

The list carries four columns which provide for the following:

Column 1 - Tariff number

A Four-digit HS number. In some instances the HS number is preceded by “ex”, the whole heading is not included but only those goods actually referred to in column 2

Column 2 - Product

Where the whole of the four –digit heading is referred to, the description in the HS is used.

Where “ex” precedes the tariff number in column 1, in most instances the items referred to are specified by name or in others the HS heading with a listing of the items excluded is given.

Column 3 – The conditions to be complied with where production takes place in the MDCS.

Column 4 – The conditions to be complied with where production takes place in the LDCS.

Conditions Specified in The List

(EXAMPLE 1) - . Produced from Certain Regional Materials

HS 20.09 - FRUIT JUICES -

Made from regional materials of chapter 07 and 08 and 1701”

(EXAMPLE 2) Percentage % Value Added Condition

HS 8504 - ELECTRICAL TRANSFORMERS

“Production in which the value of extra regional materials used does not exceed 50% of the export price of the finished product” (MDCs) NB./. 60% IN LDCs - “L 85 04”

HS 94 04 - ARTICLES OF BEDDING

The value of extra regional used does not exceed 60% of the export price of finished product “L 9404”

(EXAMPLE 3) - Produced by specific process

HS 25.15 - MARBLE AND LIKE STONE

“Produced by sawing”

(EXAMPLE 4) - Produced from certain materials not included in a specified HS heading

22.08 – SPIRITS - Production from materials not included in heading 22.07

Heading 22.07 includes spirits of an alcoholic strength of 80% or higher.

If a producer of rum of heading 22.08 utilized extra regional neutral spirits, the rum will not qualify for preferential treatment.

Qualifying Condition On Beef

Fresh chilled or frozen beef produced from animals imported from outside the region will qualify for CCM treatment if on importation the animals each weighed no more than 270 kg.

--Beef produced from animals born and raised in the common market qualify as wholly produced. Wholly produced qualifying condition is always a desirable option.

Other Important Features of the System

- a) The list of minimal processes
- b) The treatment of packing
- c) The treatment of repaired goods
- d) The “safeguard mechanism”

A) The List of Minimal Processes

Any product (other than a wholly produced item) which has been produced solely by one or more of the following processes would be ineligible for CCM treatment, whether or not the change of tariff heading takes place or the percentage added value is claimed to be achieved:

- a) Operations to ensure preservation of goods during transport and storage (ventilation, spreading out, drying out, chilling, placing in salt, sulphur dioxide or aqueous solution, removal of damaged parts, and like operations);
- b) Simple operations consisting of removal of dust, sifting or screening, sorting, grading, classifying, matching (including the making up of sets of articles), washing, painting and cutting up resulting in mere reduction of size;
- c) Changes in packing;
- d) Affixing marks, labels or other like distinguishing signs on goods or their packaging
- e) Simple mixing of extra regional materials if the characteristics of the goods as a whole are not essentially different from the characteristics of the materials which have been mixed;
- f) Operations which consists solely of welding, soldering, fastening, riveting, bolting and like operations, or otherwise putting together of all finished parts or components to constitute a finished product.

EXAMPLE 1:

Cod liver oil imported from extra regional sources in fifty litre containers to produce one hundred and fifty millilitre bottles of cod liver oil. - Such a product would not qualify for CCM treatment.

B) The Treatment of Packing

The qualifying condition which are to be complied with have to be fulfilled for the actual goods exclusive of their packing, *except* where the percentage value added qualifying condition applies

EXAMPLES:

- 46.01 mats – “produced from regional materials of 14.01” these mats can be put up in extra regional gift boxes and still qualify for CCM treatment since the qualifying condition applies only to mats and not the gift boxes.
- Maraschino cherries of heading 20.06 packed in extra regional bottles must be included in calculating the value of extra regional materials used, as the percentage value added qualifying condition applies on maraschino cherries

It is not necessary to ascertain the origin or HS classification of energy, fuel, plant, machinery and tools used in the production or of the materials used to maintain such plant and machinery. These items are always treated as wholly of common market origin.

C) The Treatment of Repaired Goods

Where an extra regional product is sent to another member state for repairs, renovation or improvement, the product on return to the member state from which it was exported may be granted common market treatment if the value of extra regional materials used in repair, renovation or improvement did not exceed 65% of the cost of repair, renovation or improvement in an MDC or 80% if in an LDC.

D) The “Safeguard Mechanism”

- For many items falling in chapters 1 -24 of the HS, the qualifying condition is either wholly produced or produced from certain regional materials.
- In order to continue production and trade when supplies of those regional materials becomes unavailable, an arrangement has been included in the origin system under which substitute extra regional materials may be used while regional supplies are unavailable, with the final product not losing common market treatment.
- This arrangement operates under a certificate issued by the secretary general on behalf of the council.

Certification and Verification

There are procedures put in place for the certification and subsequent verification (where necessary) of claims of common market treatment

Certification

- Application for certificate of origin must be completed and presented by the exporter to the certifying authority or agency who is designated to issue certificates.
- Full and accurate information must be provided
- Exporter must undertake to provide additional information that may be required and to facilitate any checks to be made on the production process itself.

Notification of certifying authority or authorised body

- Member states are required to notify each other of the agencies or bodies that are authorised to issue certificates of origin and to provide the names and specimens of the signatures of all authorised signatories of the agencies or bodies.

The combined declaration by exporter and certificate of origin

- This prescribed form is completed and presented to the certifying authority by the exporter along with a commercial invoice
- On the reverse side of the form there are notes explaining how the form should be completed.

Origin criterion must be inserted as follows:

- ✓ Wholly produced - “CM”
- ✓ Change of tariff heading - “X” preceding the HS heading of the finished article
- ✓ Condition on the list – “L” preceding the HS heading of the finished article
- ✓ % value added - “L” preceding the hs heading of the finished article followed by the value of extra regional materials expressed as a percentage of export price in brackets - “L” HS 20.08 (45%)

Determination of The Qualifying Condition

- I. Establish the four-digit HS heading for the item
- II. If the HS heading is not in the list, the qualifying condition will either be “wholly produced” or “the change of tariff rule”;
- III. If the HS heading is without “ex” before it, the qualifying condition to be complied with is that specified in column 3 or 4.
- IV. If the HS heading number appears in the list preceded by “ex”, check whether the description in column 2 covers the item.

If not, the qualifying condition will either be “wholly produced” or “the change of tariff heading rule”.

Verification

- Any document, statement declaration or other information furnished in support of a claim that goods qualify for CCM treatment is subject to verification.
- Customs authorities in the importing state may seek additional information or supporting evidence concerning the declaration from the trader or by means of a request to the customs authorities or the governmental authorities in the exporting state
- A copy of the request for verification should be given to the importer at the same time it is dispatched to the certifying authority in the exporting state
- Where the clearance of a consignment is refused and the verification procedure is not activated, the ministry responsible for CARICOM matters in that member state should be notified along with the CARICOM secretariat.
- The secretariat would consult with the member states concerned with a view to having the query resolved
- The goods may be delivered provided that some form of security is held to safeguard the duty pending the completion of the verification process

Small Value Consignments

Consignments for personal use

- Goods must be for personal use and not resale
- Value must not exceed US\$100.00
- May be accord CCM treatment without usual documentation if satisfied that goods are of cm origin being imported as passenger baggage
- Consigned from a private individual in one-member state to another private individual in another member state

Commercial consignment not exceeding US\$100.00

- May be accorded cm treatment without usual documentation if commercial invoice carries a declaration signed by the exporter stating that goods are all of CARICOM origin.

Ship stores and private gift packages

- May be accorded cm treatment without evidence of origin if value does not exceed US\$100.00
- There is no doubt that goods qualify upon examination



Baggage, household effects and crew effects

- May be accorded CCM treatment if examining officer is reasonably satisfied that goods are of CM origin

In general, such transactions are allowed at the discretion of customs authorities in the importing country.

Case Studies

Present Case studies and provide time for completion

The following case studies are intended to demonstrate your understanding of the rules of origin and the qualifying conditions of the system. Use the information provided below and in the attached CARICOM invoices to determine the appropriate qualifying conditions in each case. The tasks should be completed individually.

Case Study 1

A shipment of 20 Washing machines - HS 84.50 was manufactured by "C.J. Assembles Ltd and is being shipped to Saint Lucia. The following facts are known:

Raw materials used in production per unit are as follows:

Assemble Kit containing

HS Heading	Description	Value \$XCD	Origin
73.18	Nuts & Bolts	10.00	Canada
8451.9	Parts (Painted Metal Panels)	140.00	USA
8451.9	Parts (Metal Tub)	90.00	Canada
3926.909	Plastic Knobs and Fittings	60.00	USA

Export price of finished article-XCD \$600.00

Do these items qualify for common market treatment? If so prepare a Certificate of origin for signature by the certifying authority.

Case Study 2

A shipment of 100 ctns men's shirts HS 62.05 was manufactured by Guy's Shirt Factory and is being presented for shipment to Antigua. Each carton contains 12 shirts. The following facts are known:

Raw materials used in production per dozen are as follows:

RULES OF ORIGIN

HS Heading	Description	Value \$XCD	Origin
52.11	Fabric	60.00	China
9606.21	Buttons	12.00	USA
5401.101	Thread	3.00	France

Export Price of finished goods - \$XCD 180.00 per dozen

Do these items qualify for common market treatment? If so prepare a Certificate of origin for signature by the certifying authority.

Case Study 3

A shipment of 20 ctns guava jelly (HS 20.07) was manufactured by Confectionary Supplies and is presented for shipment to Trinidad. Each ctn contains 20 x 5 kgs jars. The following facts are known:

Raw materials used in production per 100 kg are as follows:

HS Heading	Description	Value \$XCD	Origin
0804.501	Guavas	50.00	Dominica
17.01	Sugar	40.00	Barbados
2106.909	Preservatives	30.00	USA
7010.912	Glass Jars	80.00	France

Export Price of finished goods - \$XCD 400.00 per carton

Do these items qualify for common market treatment? If so prepare a Certificate of origin for signature by the certifying authority.



Review Answers to Cases Studies

Review answers and distribute completed certificates of origin with correct answers.

Conclusion

- Stress the importance of rules of origin
- The different perspectives on rules of origin
- The role of customs brokers /tariff clerks in ensuring that the provisions of the trade agreements are complied with
- Issues relating to non-preferential rules are enforced.
- Qualifying goods are accorded preferential treatment.

CARIFORUM / EU - Rules of Origin

Outline

1. Qualifying Conditions for goods of CARIFORUM / EC Origin
2. Certification and Verification of CARIFORUM /EU market origin
3. Application and Review of EPA Case Studies
4. Conclusion

EPA Rules of Origin

Article 10 deals with the application of the Rules of Origin as contained in PROTOCOL I. PROTOCOL I provides for the definition of the concept of 'originating products' and methods of administrative cooperation

ANNEX I to Protocol I: Introductory notes to the list in **Annex II**

ANNEX II to Protocol I: List of working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status

According to Protocol I - For the purpose of the CARIFORUM/EC EPA, the following products shall be considered as originating in the regions:

For the purpose of origin, the CARIFORUM States shall be considered as being one territory;

Originating Products - Wholly Obtained

The following shall be considered as wholly obtained in the territory of the CARIFORUM / EC:-

- A. Mineral products from their soil or from their seabed
- B. Fruit and vegetable products harvested there
- C. Live Animals born and raised there
- D. Products from live animals raised there
- E. a) Products from hunting or fishing conducted there b) Products of aquaculture, including mari-culture, where the fish are born and raised there
- F. Products of sea fishing and other products taken from sea outside their territorial waters by their vessels
- G. Products made aboard their factory ships exclusively from products referred to in (F)
- H. Used articles collected there fit only for the recovery of raw, materials including used tires fit only for retreading or for use as waste
- I. Waste and scrap resulting from manufacturing operations conducted there
- J. Products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil
- K. Goods produced there exclusively from the products specified in (A) to (J)

The terms “their vessels” and “their factory ships” apply only to the vessels and factory ships:

- A. Which are registered in a member state of the EU or CARIFORUM
- B. Which sail under the flag of a member state of the EU or of a CARIFORUM State
- C. Which meet one of the following conditions-
 - They are at least 50% owned by nationals of a member state of the EU or CARIFORUM
 - They have their head office and their main place of business in a member state of the EU or in a CARIFORUM State and
 - They are at least 50% owned by a Member State of the EU or by a CARIFORUM State, public entities or nationals of that State

Originating Products – Sufficiently Worked or Processed

Products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the “list” are fulfilled; (Art 7)

The “list” to Protocol I in the CARIFORUM/EU Economic Partnership Agreement contains all the HS Tariff headings from chapters 1 - 97, with the only exception being chapter 93

The “list” specifies **ALL** the working or processing required to be carried out on non-originating materials in order that the products manufactured can obtain originating status

Explaining the List

The first column gives the heading number or chapter number used in the Harmonised System

The second column gives the description of goods used in that system for that heading or chapter.

For each entry in the first two columns a rule is specified in columns 3 or 4.

Where, in some cases, the entry in the first column is preceded by an 'ex', this signifies that the rules in columns 3 or 4 apply only to the part of that heading as described in column 2.

Where, for an entry in the first two columns, a rule is specified in both columns 3 and 4, the exporter may opt, as an alternative, to apply either the rule set out in column 3 or that set out in column 4.

If no origin rule is given in column 4, the rule set out in column 3 has to be applied.

Change of Tariff Heading

Manufacture in which all the raw materials used are classified within a heading other than that of the finished product (HS Jump)

e.g. Substantially worked or processed

Chair..... HS 9401

Raw materials used:

Wood..... HS 4409

Fabric..... HS 5208

Glue..... HS 3506

Screws..... HS 7318

Paint..... HS 3208

Specified List Condition

e.g. Fruit Drinks..... HS 2202

List condition - "any fruit juice used (with the exception of orange, grape, grapefruit, pineapple and lime juices) must already be originating"

Percentage Value Added

e.g. HS 8504 – power supply units for automatic data processing units

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 has been used in its manufacture.

NB: Non-originating materials which, according to the conditions set out in the list should not be used in the manufacture of a given product may nevertheless be used provided that:

Their total value does not exceed 15% of the ex-works price of the product

Any of the percentages given in the “List” for the maximum value of non-originating materials are not exceeded through the application of this rule

Insufficient Working or Processing

Article 8 - The following operations shall be considered as insufficient working or processing to confer the status of originating products:

- Operations to ensure the preservation of products in good condition during transport and storage
- Breaking up and assembly of packages
- Washing, cleaning; removal of dust, oxide, oil, paint or other coverings
- Ironing and pressing of textiles
- Painting and polishing operations
- Husking, partial or total bleaching, polishing, and glazing of cereals and rice
- Operations to color sugar or form sugar lumps, partial or total milling of crystal sugar
- Peeling, stoning and shelling, of fruits, nuts and vegetables
- Sifting, screening, sorting, classifying, grading, matching (including the making up of sets of articles
- Sharpening, simple grinding or simple cutting
- Simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packing operations
- Simple mixing of products, whether or not of different kinds; mixing of sugar with any other material
- Simple assembly of parts of articles to constitute a complete article or disassembly of products into parts
- A combination of two or more operations specified in (a) to (n)
- Slaughter of animals

All operations carried out in the EU or CARIFORUM States 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.

General Rules

The unit of qualification for the application of the provisions shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the HS.

Article 9.1 - 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.

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 protocol.

Article 9.2 - Where under General 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.

Article 10 - 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

Article 11 - Sets as defined in rule 3 of the HS, shall be regarded as originating when all component products are originating

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

Article 12 - Neutral Elements

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

Energy and fuel

Plant and equipment

Machines and tools

Goods which do not enter and which are not intended to enter into the final composition of the product.

Article 14 - Direct Transport between CARIFORUM State and EC Party and the exceptions for trans-shipment or temporary warehousing provided that they remain under customs surveillance and undergo no other operations except unloading, reloading or or any operation designed to preserve them in good condition.

Article 16 - Proof of Origin

Products originating in a CARIFORUM or the EC Party shall, on importation into a CARIFORUM State, benefit from the provisions of the Agreement upon submission of either:

(a) movement certificate EUR.1,

or

(b) 'invoice declaration', given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified;

An invoice declaration as referred to in Article 16(1)(b) may be made out:

(a) by an approved exporter within the meaning of Article 22; (Authorised by Customs)

or

(b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed EUR 6,000.

The Customs Authorities in the CARIFORUM States and the Member States of the EU are responsible for issuing and verifying the Movement Certificates (EUR 1), and invoice declarations or supplier's declarations.

The CARIFORUM / EU States shall provide each other with the addresses of the customs authorities responsible for issuing and verifying, and with specimen impressions of the stamps used in their customs offices for the issue of these certificates;

The CARIFORUM / EU States shall provide each other with the addresses of the customs authorities responsible for issuing and verifying, and with specimen impressions of the stamps used in their customs offices for the issue of these certificates;

Case Studies

- Present Case studies and provide time for completion.
- Review Answers to Cases Studies

Conclusion

- Recap and review objectives