

Practical Guide

Determination of non-preferential origin

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Warning

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Who is this practical guide for?

This practical guide is targeted at any person who purchases goods internationally, and who wishes to verify their [non-preferential origin](#). This practical guide explains the method and rules to follow to determine the non-preferential origin of goods imported, exported or marketed within the European Union (EU).

As the rules for non-preferential origin are not harmonized worldwide, certificates of non-preferential origin produced in the country of export generally are non-binding on the customs authorities of the destination country.

Why must one determine a non-preferential origin?

Non-preferential origin guarantees the proper application of commercial policy measures applicable in the country in which the product is imported, whether on import into the customs territory of the EU or on export from the EU to a third country (for example, anti-dumping duties, commercial embargoes, commercial restrictions and certain tariff quotas, safeguard measures, etc.).

Non-preferential origin also allows to determine commercial statistics, public procurement, and origin marking ("made in").

In addition, EU export refunds as part of the common agricultural policy are often based on non-preferential origin.

What to do if you have a doubt concerning a non-preferential origin?

The non-preferential origin of goods is that of the country in which the goods were entirely obtained or, if several countries are involved in the manufacturing process, that of the country in which the goods were last substantially worked or processed.

If there is any doubt on the non-preferential origin of goods, the operator may request a [Binding Origin Information](#) from the Customs and Excise Administration.

Understanding the implications of a non-preferential origin

The **Non-Preferential Origin (NPO) of goods** is determined by the conditions of their manufacture and, in principle, the NPO never changes unless the goods are subject to substantial processing or working in another country. One must distinguish the NPO:

- from the provenance of the goods, which is a geographical notion and provides information on the physical flow of the goods between several countries (for example the place where an unloading or reloading of the goods occurred). Goods with Vietnamese provenance do not necessarily originate in Vietnam: the origin of the goods may be China.
- from **Union Goods status** that allows goods that were released for free circulation to circulate freely within the EU, without however giving the goods the EU origin unless substantial transformation occurred in the EU territory. For example, if a bear of Russian origin (born and raised in Russia), is released for free circulation in the European Union and if this bear is, after acquiring the status of Union goods, sent to Switzerland to be sold to a zoo, this bear is still of Russian origin.
- from **preferential origin**, to the extent that:
 - it does not enable to receive a reduction in the rate of custom duties due in the countries that are partners to a free trade agreement or similar agreement. In fact, it serves only to monitor compliance with commercial policy measures that could involve payment of anti-dumping duties, etc.
 - the production of proof of NPO is only mandatory when is explicitly provided by custom law (Article 57 of the [Implementing Regulation \(EU\) 2015/2447 of the Commission of 24 November 2015](#) and its Annex 22-14). Whereas, to receive a reduction in the customers rate, proof of preferential origin is still mandatory.
 - Proof of NPO on export is established by the Luxembourg Chamber of Commerce, whereas for preferential origin this proof is established by the Customs and Excise Administration or by the operator itself, previously authorised by the Customs and Excise Administration to do that
 - when one or more countries take part in the production of a product whose origin is to be determined, the rules to follow to determine NPO or preferential origin are different. See below and our guide “Determination of Preferential Origin”.

It is useful to specify that the same goods may have two different origins.

Take for example, an **aluminium wheel manufactured in China, imported into Switzerland where it is subject to various services prior to being imported into the EU.**

- The free-trade agreement between Switzerland and the EU requires, as a condition of acquisition of Swiss preferential origin, an added-value generated in Switzerland. Such **added-value requires that some operations are carried out on the wheel, but these operations, even if they are minimal, are not adequate** to constitute "substantial working or processing" in the meaning of non-preferential origin (see the list of minimal operations in point IV hereinafter)
- for example, some of the following fees **may allow Swiss preferential origin without modifying the non-preferential origin of the goods**: fees for calibrating, assembling, testing, modifications of the presentation of goods/fees for bringing up to compliance with Union standards/fees for

royalties and licensing/fees for design and marketing, etc.

- the wheel may thus in some conditions obtain **Swiss preferential origin while keeping its Chinese non-preferential origin**
- **customs duties will not be due** when it is released for free circulation in the EU, but **anti-dumping duties will remain payable**.

Method of determining a non-preferential origin

When NPO is determined at the time of an import in the Union, Articles 31 to 36 of [Delegated Regulation \(EU\) 2015/2446 of the Commission of 28 July 2015](#) (the “Delegated Regulation”) – and especially Article 33 – should be taken into account and have priority over any other consideration bearing on the added-value rule.

I. Prior preparation

Prior to determining the NPO of the product, one must know:

- the **product's tariff classification**, by determining at least its tariff heading (made up of the first four digits of its customs nomenclature) and, for some products, the tariff subheading (six first digits of the customs nomenclature)
- See our practical guide "[Determination of tariff classification](#)"
- the **supply chain** and its chronology, from the supply of the raw material up to the last intervener enabling the production of the finished product
- the **price elements** of each step of the supply chain (price of the various components, and the ex-factory price of the finished product)

II. 1st assumption: the supply chain involves one single country

Goods entirely obtained in a single country acquire the NPO of that country.

Goods entirely obtained in one single country or territory (including its territorial sea) are the following (Article 31 of the Delegated Regulation – further specified that the EU is considered as a single country or territory):

- mineral products** extracted within that country or territory
- plant products** harvested there
- live animals** born and raised there
- products derived from live animals raised there**
- products of hunting or fishing** carried out there
- 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
- goods obtained 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
- 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).

III. 2nd assumption: the supply chain involves several countries

If the supply chain involves several countries, the goods are considered as originating from the country in which the goods were last **substantially worked or processed**.

The concept of last transformation must meet several conditions:

- it must be **economically justified**
The transformation must be part of a normal cycle of production and Article 33 of the Delegated Regulation specifies that its sole objective is not to circumvent the application of commercial policy measures
- it must be carried out in an undertaking **equipped for this purpose**
The undertaking must own the equipment necessary for the processing or working
- it must result **in the manufacture of a new product or representing an important stage of manufacture**
The product resulting from the transformation must present its own specific properties and a composition that it did not have prior to that processing or working

In practice, the condition of substantial working or processing is the most difficult to establish. The following sections explain what kind of working or processing may be considered as substantial.

Substantial working or processing

IV. Minimal operations never constitute substantial working or processing

These are the following types of operations, defined in Article 34 of the Delegated Regulation, that thus cannot confer non-preferential 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
- 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).

V. Identification of the processed or worked product

The identification of the processed or worked product allows to determine whether the rules in Appendix 22-01 or in the table of list rules published by the European Commission must be used, pursuant to the requirements specified in Articles 32 and 33 of the Delegated Regulation:

If the processed or worked product is shown in Appendix 22-01 of the [Commission Delegated Regulation 2015/2446 of 28 July 2015](#), the primary or residual rules shown in Appendix 22-01 are applied to determine whether the processing or working was sufficient to give the product the NPO of the country in which that processing or working took place.

If the processed or worked product is not shown in Appendix 22-01, the primary or residual rules shown in [the table of list rules](#) published on the website of the European Commission are applied to determine whether the processing or working was sufficient to give the product the NPO of the country in which the processing or working took place. This document however is non-binding.

VI. Substantial processing or working: Preponderance of the primary rules

In order to determine whether a processing or working is substantial and therefore influences the NPO of goods, one must first verify the existence of a primary rule for the product concerned.

The primary rules may be found at the beginning of the chapter concerned (chapter rules) or in the table listing each product (list rule).

The primary rules can designate the following, for the determination of the NPO:

- either the **country of origin** directly
Example: heading "2204 wine of fresh grapes intended for the preparation of vermouth containing added must of fresh grapes, concentrated or not, or alcohol", the primary rule designates the country in which the grapes were obtained in their natural or unprocessed state
- or the **last country of production**, provided that the requirements stated in the primary rule has been fulfilled in this country. The requirements may consist in:
 - a **change in tariff heading or subheading**: The tariff heading for non-original materials must be different from that of the final product
Example: heading "ex 4910 ceramic calendars of any kind, printed, including calendar blocks, decorated", the primary rule requires a change in tariff heading
 - an **added-value** resulting from manufacturing: the increase in value acquired as a result of the processing/working must represent a certain percentage of the ex-factory price of the product.
Example : heading "5201 – Cotton, not carded or combed, bleached", the primary rule requires manufacturing from raw cotton, the value of which does not exceed 50% of the ex-works price of the product.
 - **specific working/processing**
Example: heading "4203 articles of apparel of leather or of composition leather", the primary rule requires that the apparel is completely made-up.

VII. Substantial processing or working: Application of residual rules

If the conditions laid down by the primary rule are not met (see VI), or if the operation is a minimal operation (see IV), or if the operation is not economically justified (see III), residual rules apply, that differ depending on whether the product appears in Appendix 22-01 or in the table of list rules of the European Commission.

VII.1. Product appearing in Appendix 22-01: application of the **major portion rule**. If the product is made of materials originating:

- from the same country: this country is considered to be the country where the last substantial transformation took place
- from several countries: **the major portion rule must be applied, based on the weight or value**, as defined in the beginning of each chapter

Example: chapter 52 specifies as residual rule that the country of origin is the country in which the major portion of the materials originated, as determined on the basis of the value of the materials.

Note: the **agricultural products mentioned in chapters 1 to 24 have specific residual rules** for mixtures that prevail over the major portion rule.

VII.2. Product not shown in Annex 22-01:

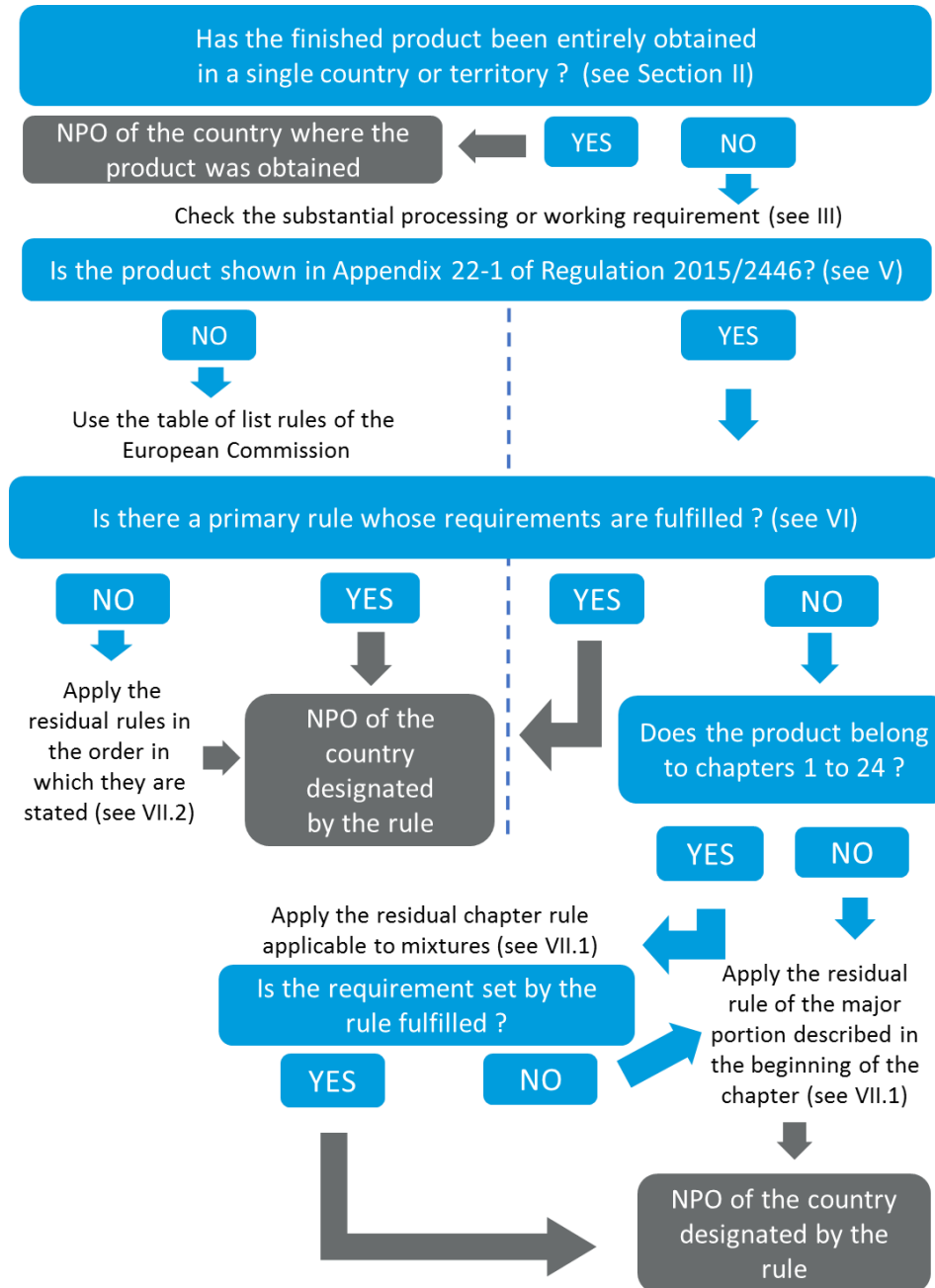
- If the criterion of economic justification is not met, **the major portion rule applies**, determined on the basis of the value
- If the **primary rule cannot apply or if the operation carried out is minimal, the following residual rules** must be applied, in the order given below:
 - If the initial product and the processed product are classified in the same tariff classification subdivision, the country of origin is the single country in which the initial product originated
 - If not applicable, the country of origin is determined as indicated in the residual rules specified at the chapter level
 - If not applicable, when the goods are produced from materials that all of which originated in a single country, the country of origin of the goods is the one from which those materials originated
 - If not applicable, when the good is produced from materials from several countries, the **major portion rule** applies: the country of origin is the one in which the major portion of those materials originated, determined on the basis of value, unless specified otherwise in a note to the chapter.

These principles are illustrated in the following decision-making trees.

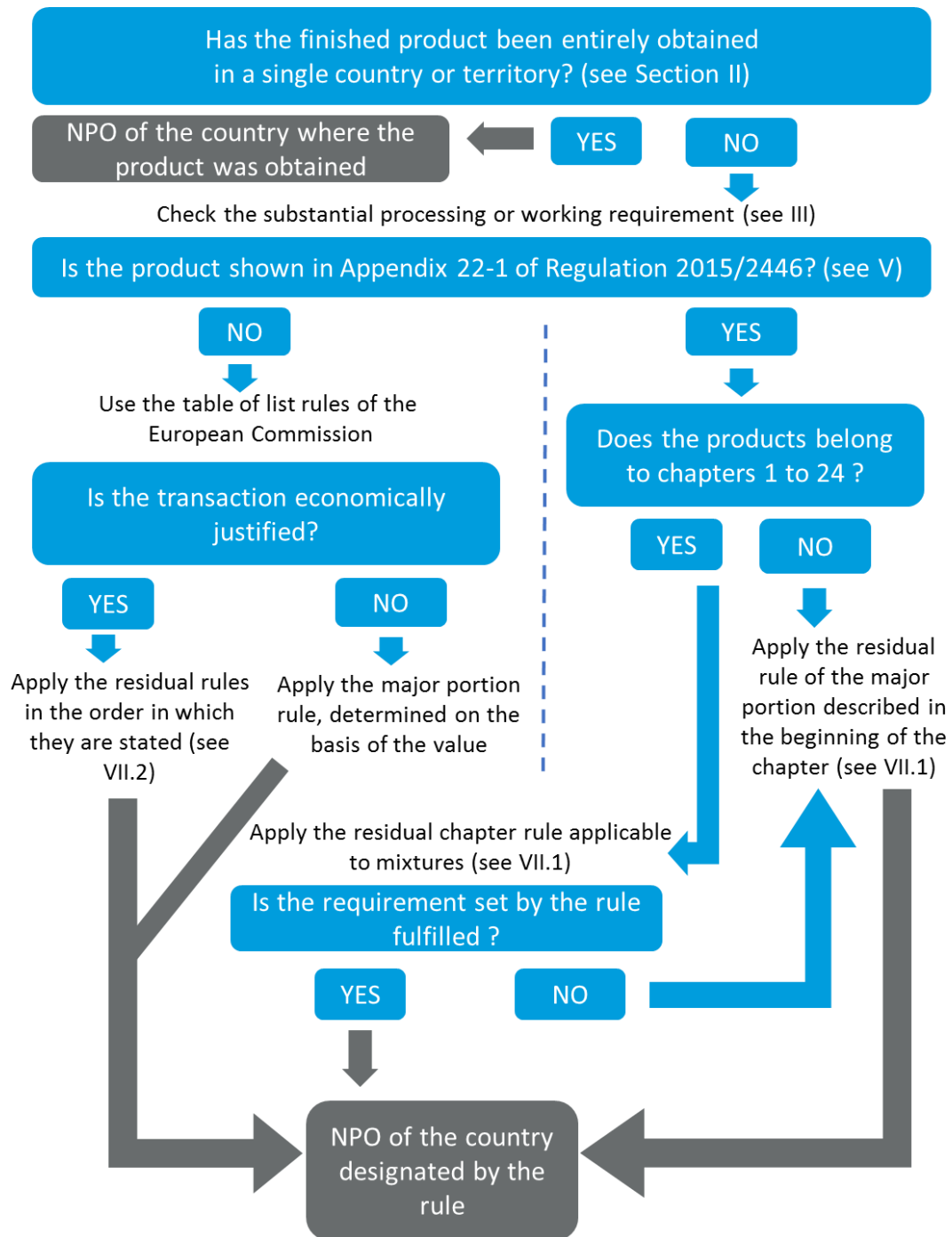
Decision-making trees for the determination of non-preferential origin

Prior to any analysis, one must collect the data concerning the products for which the Non-Preferential Origin (NPO) needs to be determined (see Section I of this guide).

The decision-making tree shown below concerns products whose **transformation, that is economically justified, has initiated operations that go beyond minimal operations** (see Section IV for the definition of minimal operations):



The decision-making tree shown below concerns products whose transformation has initiated **operations that do not go beyond minimal operations** (see Section IV for the definition of minimal operations):



Special cases of containers, packaging and sets

Article 36 of the Delegated regulation specifies the following special rules for containers and packaging:

If the application of rule no. 5 for the interpretation of the combined nomenclature confirms that the tariff classification of containers and packaging is that of the product that they contain, these containers and packaging are not taken into account in determining NPO. However if the rule in Annex 22-01 for the goods in question is founded on a percentage of the added value (see VI.), then the containers and packaging are taken into account in determining the NPO.

In the terms of this article, containers and packaging are defined as follows:

- › containers: cases, boxes, and similar containers designed to hold an article or a set, intended for extended use and presented with the articles for which they are intended
- › packaging: other containers, packaging, envelopes, and media that are not part of a transport device, containers, tarps, accessories, or any other accessory transport materials.

More information on rule no. 5 for the interpretation of the combined nomenclature is available on page 5 of our guide « Method of Tariff Classification »

They « *are considered as classified with the product that they contain* ».

Contrary to what is specified for preferential origin, NPO does not have any tolerance expressed as a percentage for the **items in a set**, that would have a different origin than the one used for the non-preferential origin (see our guide « Determination of preferential origin »).

For further information

[Table of list rules](#) published by the European Commission

[Introductory notes](#) to the table of list rules published by the European Commission

Appendix 22-01 of the Commission [Delegated Regulation \(EU\) 2015/2446](#) of 28 July 2015

[Binding Origin Information](#) on the Luxembourg Customs and Excise Portal

[The Luxembourg customs general information website](#)

The [certificate of origin](#) form used by all Member States of the European Union.

[Regulation \(EU\) no. 952/2013 of the European Parliament and the Council of 9 October 2013](#) establishing the Union Customs Code: Articles 59 to 63

[Delegated Regulation \(EU\) 2015/2446 of the Commission of 28 July 2015](#): Articles 31 to 36