



Caribbean Community (CARICOM) Secretariat



EPA

ECONOMIC PARTNERSHIP AGREEMENT

THE RULES OF ORIGIN UNDER THE
CARIFORUM-EU

Economic Partnership Agreement (EPA)

The EPA logo is displayed in a large, white, sans-serif font with a slight shadow effect, set against a light blue background that features a faint map of the Caribbean region.

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THE RULES OF ORIGIN UNDER THE
CARIFORUM-EU
Economic Partnership Agreement (EPA)

foreword



Foreword

The Economic Partnership Agreement (EPA) between the Caribbean Forum of African, Caribbean and Pacific (CARIFORUM) States and the European Union (EU) has been provisionally applied since 29th December, 2008.

The EPA Implementation Unit in the CARIFORUM Directorate of the CARICOM Secretariat, as part of its programme of assistance to CARIFORUM States, is in production of a public education-styled booklet series which is intended to sensitize the private and public sectors and other stakeholders with respect to the provisions of the EPA.

This booklet forms part of the series and explains the **Rules of Origin under the CARIFORUM-EU Economic Partnership Agreement (EPA)**.

Interested parties are encouraged to utilize or reproduce the text of the booklet, in whole or in part, with a request that there be an acknowledgement of the source.

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Contents

FOREWORD
BACKGROUND

PARAGRAPH

I	INTRODUCTION	1-2
II	WHAT ARE ORIGINATING PRODUCTS: THE MAIN PROVISIONS AND ANCILLARY REQUIREMENTS OF PROTOCOL 1	3-33
-	Products that are wholly obtained	6
-	Defining "their vessels" and "their factory ships"	7-8
-	Products not wholly obtained/wholly produced: the requirement of sufficient working or processing	9-10
-	Cumulation among CARIFORUM States and with <i>other</i> ACP States, OCTs, and EU Member States	11-12
-	Cumulation in the EU	13
-	Cumulation with neighbouring developing countries	14-15
-	Applying the primary rule of sufficient working or processing and the related provisions of Protocol I	16-22
-	Insufficient working or processing	23-24
-	Unit of qualification in the application of the rules of origin	25
-	Treatment of packing	26
-	Treatment of accessories, spare parts and tools forming part of equipment	27
-	Goods put up in sets	28
-	Treatment of energy, fuel, plant and equipment, and machines and tools	29
-	The place of production	30

-	Temporarily exported and returned goods	31
-	The requirement of direct transport	32
-	Originating goods sent for display at exhibitions, fairs or trade shows	33
III	ESTABLISHING PROOF OF ORIGIN: THE DECLARATION AND CERTIFICATION OF THE ORIGINATING STATUS OF PRODUCTS	34-52
-	Application for, and issuance of, a movement certificate EUR. 1	35-40
-	Making of an invoice declaration	41-42
-	Products imported in instalments	43
-	Provisions concerning validity of, and exemptions from, proof of origin	44-45
-	Evidence required for purposes of cumulative treatment	46-47
-	Required period of preservation of proof of origin and other supporting documents	48-49
-	Treatment of discrepancies and formal errors	50-51
-	Value of early consultation with the customs authorities	52
IV	COOPERATION BETWEEN THE CARIFORUM STATES AND EU MEMBER STATES AND OTHER PARTIES IN THE IMPLEMENTATION OF THE PREFERENTIAL TRADE ARRANGEMENTS	53-59
-	Establishing the authenticity of the tendered evidence of origin	53-55
-	Verification of supplier's declarations	56
-	Disputes arising in the verification process	57
-	Special arrangements regarding free zones	58-59

V	DEROGATION FROM THE CRITERIA DEFINING ORIGINATING PRODUCTS	60-63
-	Procedures in addressing a derogation request	62
-	The decision making process	63
VI	MONITORING THE IMPLEMENTATION OF THE PROTOCOL	64-65
-	The Special Committee on Customs Cooperation and Trade Facilitation	64-65
VII	SOME EXAMPLES TO ILLUSTRATE THE APPLICATION OF THE RULES OF ORIGIN REQUIREMENTS OF PROTOCOL 1	66
VIII	THE FORMS PRESCRIBED FOR USE IN THE APPLICATION, CERTIFICATION, VERIFICATION, AND DEROGATION REQUEST PROCESSES	67
-	Application for a movement certificate	
-	Movement certificate EUR 1	
-	Invoice declaration	
-	Supplier's declaration for products having preferential origin status	
-	Supplier's declaration for products not having preferential origin status	
-	Information certificate	
-	Form for application for a derogation	

THE *OTHER* AFRICAN, CARIBBEAN AND PACIFIC (ACP) STATES AND THOSE OVERSEAS COUNTRIES AND TERRITORIES (OCTs) LOCATED IN THE CARIBBEAN

ATTACHMENT

ACRONYMS

ACP	-	African, Caribbean and Pacific
CARIFORUM	-	Forum of the Caribbean Group of African, Caribbean and Pacific States
EPA	-	Economic Partnership Agreement
EU	-	European Union
HS	-	Harmonised Commodity Description and Coding System
OCTs	-	Overseas Countries and Territories





Background

In a companion publication, one in a public education-styled booklet series on the nature and scope of the CARIFORUM-EU Economic Partnership Agreement (EPA), the arrangements concerning the progressive reduction by the CARIFORUM States of their customs duties on goods which **originate** in EU Member States were described at length. This follow-up publication, a booklet for use by private sector operatives and public sector officials, is intended to provide a comprehensive explanation of the requirements and operational features of the rules of origin set out in Protocol 1 of the Agreement based on which the eligibility of goods for preferential treatment under the EPA trade regime is to be determined.

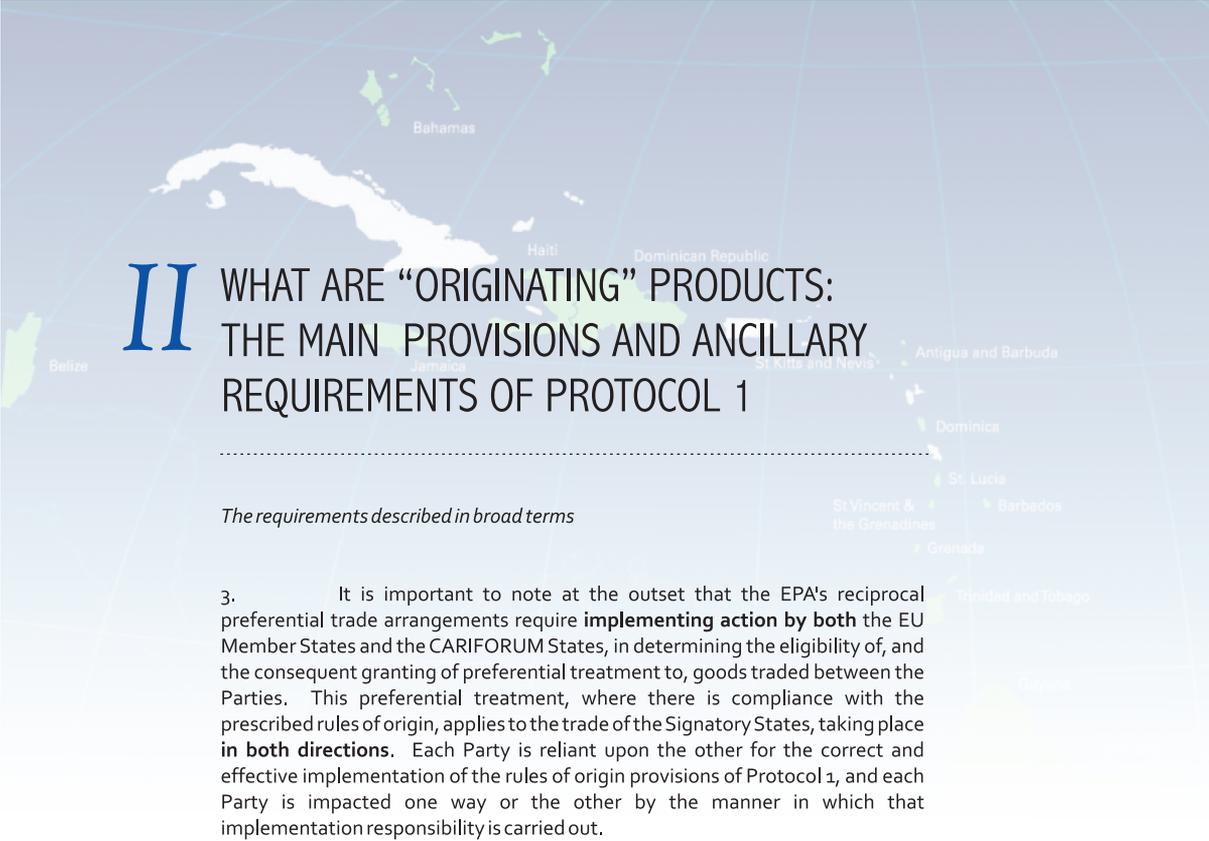
The Agreement, which was signed in October 2008, establishes, inter alia, a preferential trade arrangement in which the CARIFORUM States and European Union (EU) Member States are engaged in reciprocal, albeit asymmetrical, trade liberalisation. This asymmetry in the trading arrangement provides for the **immediate** duty-free and quota-free entry of goods which originate in the CARIFORUM States into the markets of EU Member States. In the case of goods originating in EU Member States, the CARIFORUM States are able to implement a more measured rate of liberalisation of access to their markets; for those goods not excluded from market access liberalisation, the CARIFORUM States are allowed a transitional period of up to twenty five (25) years to progressively eliminate the customs duties on imports of such goods from EU Member States. The EPA Signatory States have agreed these transitional and asymmetrical arrangements in recognition of the unequal levels of development of EU Member States on the one hand, and of the CARIFORUM States on the other.

I Introduction

1. The rules of origin provisions of Protocol 1 of the CARIFORUM-EU Economic Partnership Agreement (EPA) are reviewed and explained in this booklet. Protocol I details the conditions that must be met for goods traded between the CARIFORUM States and the Member States of the European Union (EU) to be accorded preferential market access treatment. These rules of origin requirements apply in respect of the trade moving in **both directions**, that is, exports from the CARIFORUM States to the EU and exports from the EU Member States to the CARIFORUM States.

2. The provisions of Protocol 1 are examined in seven sections in this booklet¹. Commencing in Section II, the central provisions of the Protocol defining the scope and application of the rules for achieving “**originating status**” of products are introduced. Section III details the requirements for establishing proof of the “originating status” of products, covering the declaration and certification processes. Section IV addresses the imperative of cooperation among the customs services of the EPA Signatory States in the implementation of the rules of origin regime. The possibility of derogation from specific origin rules criteria, **available only to CARIFORUM States**, is dealt with in Section V, while the role of the special Institution established to oversee and facilitate the operation of the Protocol provisions is described in Section VI. To demonstrate how the rules of origin provisions of the Protocol are interpreted and applied in practice, a number of product examples are presented in Section VII. Section VIII lists the forms to be used in the implementation of the Protocol provisions.

1. Users of this booklet should note that its purpose is to explain the rules of origin requirements of Protocol 1 of the EPA. The Protocol 1 provisions remain the legal reference regarding the conditions which must be satisfied for goods to be treated as having acquired originating status under the Agreement.



II WHAT ARE “ORIGINATING” PRODUCTS: THE MAIN PROVISIONS AND ANCILLARY REQUIREMENTS OF PROTOCOL 1

The requirements described in broad terms

3. It is important to note at the outset that the EPA's reciprocal preferential trade arrangements require **implementing action by both** the EU Member States and the CARIFORUM States, in determining the eligibility of, and the consequent granting of preferential treatment to, goods traded between the Parties. This preferential treatment, where there is compliance with the prescribed rules of origin, applies to the trade of the Signatory States, taking place **in both directions**. Each Party is reliant upon the other for the correct and effective implementation of the rules of origin provisions of Protocol 1, and each Party is impacted one way or the other by the manner in which that implementation responsibility is carried out.

4. **What are “originating” products?** Broadly described, originating products are those that meet all the conditions set down in Protocol 1, being either wholly obtained within the territory of a CARIFORUM or an EU Member State, or resulting from the utilization of non-originating/foreign materials in their production, in conformity with the provisions of the Protocol. Wholly obtained products, for the most part, present no difficulty in identifying them. However, for products that are not wholly obtained within either a CARIFORUM State or an EU Member State, quite detailed conditions are set out in Protocol 1 that have to be satisfied, to enable the (resulting) products to be accorded treatment as originating in the territory of an EU Member State or of a CARIFORUM State. The operational requirements of this broadly stated definition of originating products are explained below.

5. Under the Protocol, the territories of the CARIFORUM States are treated as one territory in the determination of the origin of a product of those States. This treatment allows materials obtained in any CARIFORUM State, and production operations carried out in two or more CARIFORUM States to count towards the determination of the originating status of a product of a CARIFORUM State.

The detailed explanations

Products that are wholly obtained

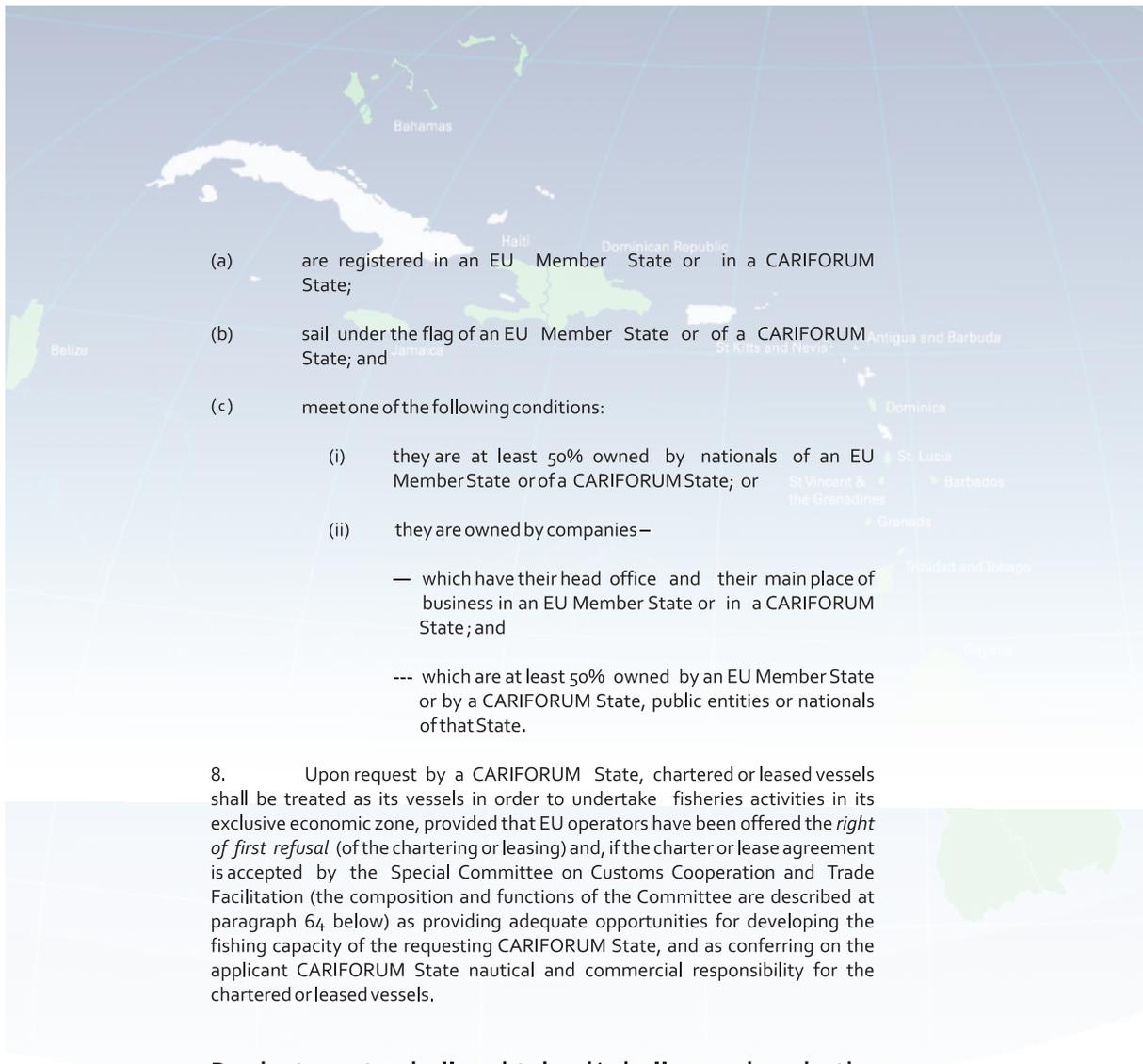
6. The following are considered as **wholly obtained** in the CARIFORUM States or the EU Member States:

- (a) mineral products extracted 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)
 - (i) products obtained by hunting or fishing conducted there;
 - (ii) products of aquaculture, including mariculture, where the fish are born and raised there;
- (f) products of sea fishing and other products taken from the sea outside the territorial waters of the EU Party or of a CARIFORUM State by their vessels;²
- (g) products made aboard their factory ships exclusively from products referred to in (f) above;
- (h) used articles collected there fit only for the recovery of raw materials including used tyres 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).

Defining “their vessels” and “their factory ships”

7. The terms “their vessels” and “their factory ships” used at paragraph 6 (f) and (g) above apply only to vessels and factory ships which :

2. Reference to territorial waters is to the internationally recognized twelve (12) mile limit over which a country exercises jurisdiction and control, while the exclusive economic zone (see also paragraph 8) is the coastal waters and the sea bed around a country's shores to which it claims exclusive rights for fishing, oil exploration, etc.



- (a) are registered in an EU Member State or in a CARIFORUM State;
- (b) sail under the flag of an EU Member State or of a CARIFORUM State; and
- (c) meet one of the following conditions:
 - (i) they are at least 50% owned by nationals of an EU Member State or of a CARIFORUM State; or
 - (ii) they are owned by companies—
 - which have their head office and their main place of business in an EU Member State or in a CARIFORUM State; and
 - which are at least 50% owned by an EU Member State or by a CARIFORUM State, public entities or nationals of that State.

8. Upon request by a CARIFORUM State, chartered or leased vessels shall be treated as its vessels in order to undertake fisheries activities in its exclusive economic zone, provided that EU operators have been offered the *right of first refusal* (of the chartering or leasing) and, if the charter or lease agreement is accepted by the Special Committee on Customs Cooperation and Trade Facilitation (the composition and functions of the Committee are described at paragraph 64 below) as providing adequate opportunities for developing the fishing capacity of the requesting CARIFORUM State, and as conferring on the applicant CARIFORUM State nautical and commercial responsibility for the chartered or leased vessels.

Products not wholly obtained/wholly produced: the requirement of sufficient working or processing

9. With respect to products which are not wholly obtained/wholly produced in a CARIFORUM State or in an EU Member State, detailed conditions are set out in the Protocol which are to be met where foreign/non-originating materials are used in the manufacture of such products. These qualifying conditions reflect the procurement by manufacturers of materials and intermediate production inputs from a variety of sources and at varying stages of fabrication. The basic requirement to be satisfied is that such foreign inputs undergo a sufficient degree of working or processing as would confer on the resulting final product the status of an originating product. The final “substantive” manufacturing operation(s) must be carried out in a CARIFORUM State or an EU Member State.

10. A particular feature of the provisions of the Protocol is the treatment of production inputs that are sourced by CARIFORUM or EU manufacturers from *other* ACP States, OCTs and, **in the case of CARIFORUM States only, from certain developing countries neighbouring the CARIFORUM States**, to be used in final production in CARIFORUM States and in EU Member States.³ This treatment, which is referred to as cumulation of origin (*cumulative treatment*), is described at paragraphs 11 to 15 below. The primary rule of sufficient working or processing and the related requirements of the Protocol are further explained at paragraphs 16 *et. seq.*

Cumulation among CARIFORUM States and with *other* ACP States, OCTs and EU Member States

11. The CARIFORUM States may treat materials originating in *other* ACP States, OCTs and the EU as their own, and working and processing operations carried out in those States (provided such operations are not within the category of insufficient working or processing), as working and processing performed in a CARIFORUM State towards the fulfilment of the sufficient working and processing requirements of Protocol 1. In other words, the contribution by way of materials supplied and/or working or processing performed on these materials is “accumulated” towards the determination of compliance by the final CARIFORUM producer/exporter with the sufficient working or processing requirement applicable for the end product of the CARIFORUM State.

12. For purposes of the application of the cumulation provisions involving the OCTs and *other* ACP States, arrangements for administrative cooperation between them and the CARIFORUM States towards the proper implementation of these provisions must be established and notified to the EU through the Commission of the European Communities.

Cumulation in the EU

13. Provisions on cumulation that are identical to those described at paragraphs 11 and 12 above apply for purposes of satisfying the working and processing requirements of the Protocol by the EU Member States. The EU Member States are required to notify the CARIFORUM States, also through the Commission of the European Communities, of particulars of the administrative cooperation agreement entered into with the OCTs and the *other* ACP States for purposes of ensuring compliance with the provisions of the Protocol.

³ ACP and OCT are references to the African, Caribbean, and Pacific States, and the Overseas Countries and Territories, respectively. The *other* ACP States and those OCTs located in the Caribbean are listed in the Attachment to this booklet.



Cumulation with neighbouring developing countries

14. Cumulative treatment involving *neighbouring developing countries* (neighbouring the CARIFORUM States) applies only in respect of the sourcing of materials from an agreed list of such countries,⁴ which may be utilized by CARIFORUM States in their production processes. The working or processing carried out by a CARIFORUM State on any such materials must exceed those *insufficient* working or processing operations listed in paragraph 23 below. CARIFORUM States desirous of benefiting from this facility are required to submit a request to that effect to the Special Committee on Customs Cooperation and Trade Facilitation.

15. Application of cumulation with neighbouring developing countries, available only for CARIFORUM States, is subject to the concluding of an agreement on adequate administrative cooperation procedures between the CARIFORUM States, the EU Party and the neighbouring developing countries concerned.

Applying the primary rule of sufficient working or processing and the related provisions of Protocol I

16. The working or processing operations and related requirements which are described in the succeeding paragraphs cover –

- (a) Sufficient working or processing operations;
- (b) Insufficient working or processing;
- (c) Unit of qualification;
- (d) Treatment of accessories, spare parts and tools;
- (e) Treatment of goods put up in sets;
- (f) Treatment of energy and fuel, plant and equipment, and machines and tools.

It was noted earlier that for all products that are not wholly obtained or wholly produced, the basic requirement to be met is that the non-originating (foreign) materials used in their production, in either a CARIFORUM State or an EU Member State, must have undergone sufficient working or processing to confer on the

⁴ These countries are Colombia, Costa Rica, Cuba, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, and Venezuela.

resulting product(s) "originating status". The working or processing to be carried out on non-originating materials to enable the resulting products, identified according to their respective HS classifications,⁵ to qualify as "originating", is set out in a List in the Protocol.

The structure and content of the List

17. **The List covers all products.** It comprises four columns described and numbered as is shown below:

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

HS Heading No. (1)	Description of product (2)	Working or processing carried out on non-originating materials that confers originating status (3) or (4)	

18. The products are detailed in the List in HS-based order.⁶ In some cases, a four digit HS heading (e.g. 0304) or a whole HS chapter (e.g. Chapter 02) is used to identify the products for which the working or processing requirement in column (3) or column (4) applies. A partial HS heading carrying the prefix "ex" indicates that only the products listed against that HS heading in column (2) are covered. For example, ex 0920 is in the List with the description in column (2) reading "Mixtures of spices". The requirements in columns (3) and (4) refer then only to mixtures of spices and not to the other items in Heading 0910. Where the prefix "ex" is placed before a Chapter number, it indicates that the product coverage is the whole of the Chapter, except for goods shown in any headings of the Chapter. For example, the List provides for ex Chapter 18 and then separately for "ex 1806" within that Chapter. The entry "ex Chapter 18" appearing in the List therefore refers to all of the Chapter 18 products except for those listed against ex 1806.

19. For some products in the List, different working or processing requirements are shown in column (3) and column (4). The producer of those products so identified is *free to choose* between the alternative working or processing requirements that are shown against the products concerned. A number of detailed introductory notes which precede the *List of working or processing* operations clarify the application of the qualifying criteria for particular products to acquire originating status.

5. The HS, properly the Harmonised Commodity Description and Coding System, is an internationally used commodity description system under which products are identified by unique numeric codes for purposes of customs tariff classification. The Customs Tariffs of the CARIFORUM States and the EU Member States are based on the HS classification system.

6. To ascertain the origin rules qualifying criteria under the Protocol for individual products, the List should be perused applying the rules of product classification of the HS to identify the product in question.



20. As indicated earlier, the working or processing operations that are described in the List specify different conditions to be complied with by manufacturers in the transformation of the non-originating (foreign) starting materials that are utilized, into originating products. For example, for certain products classified in HS Chapter 09 (coffee, tea and some spices), all the materials falling in that HS Chapter that may be used must be wholly obtained. For mustard powder and meal, and prepared mustard falling within HS heading 2103, manufacture can be from materials of any HS heading.



For toilet paper classified in HS heading 4818, manufacture must be from paper-making materials of HS Chapter 47, while for letter pads falling under HS heading 4820, the value of all the (non-originating) materials used in manufacture must not exceed 50% of the ex-works (ex-factory) price of the pads. In the textiles sector, a range of different requirements, such as specifying the condition of the foreign (that is, non-originating) starting materials that may be used, or the naming of those materials, or the listing of a combination of a stated processing operation and a percentage limit on the value of the foreign starting materials, are detailed in the List. Only the conditions specified in the List for individual products have to be complied with for those products. Producers and exporters in CARIFORUM States will need to peruse the List to ascertain the stated working or processing operations that confer originating status. The complete List, which forms Annex II to the Protocol, and the introductory notes which are in Annex I, can be found at the following websites where the EPA is posted:

www.caricom.org or www.crnmm.org

Other requirements that must be complied with

21. Where an intermediate product *which has acquired the status of an originating product* is utilized in a CARIFORUM State or an EU Member State in the manufacture of another product, no account is taken of any foreign content of that intermediate product in the determination of the status of the resulting final product as an originating product. The manufacture of the input may be carried out in any (other) CARIFORUM or EU State, or in another ACP State or an OCT country or territory. In addition, this rule applies where the production takes place

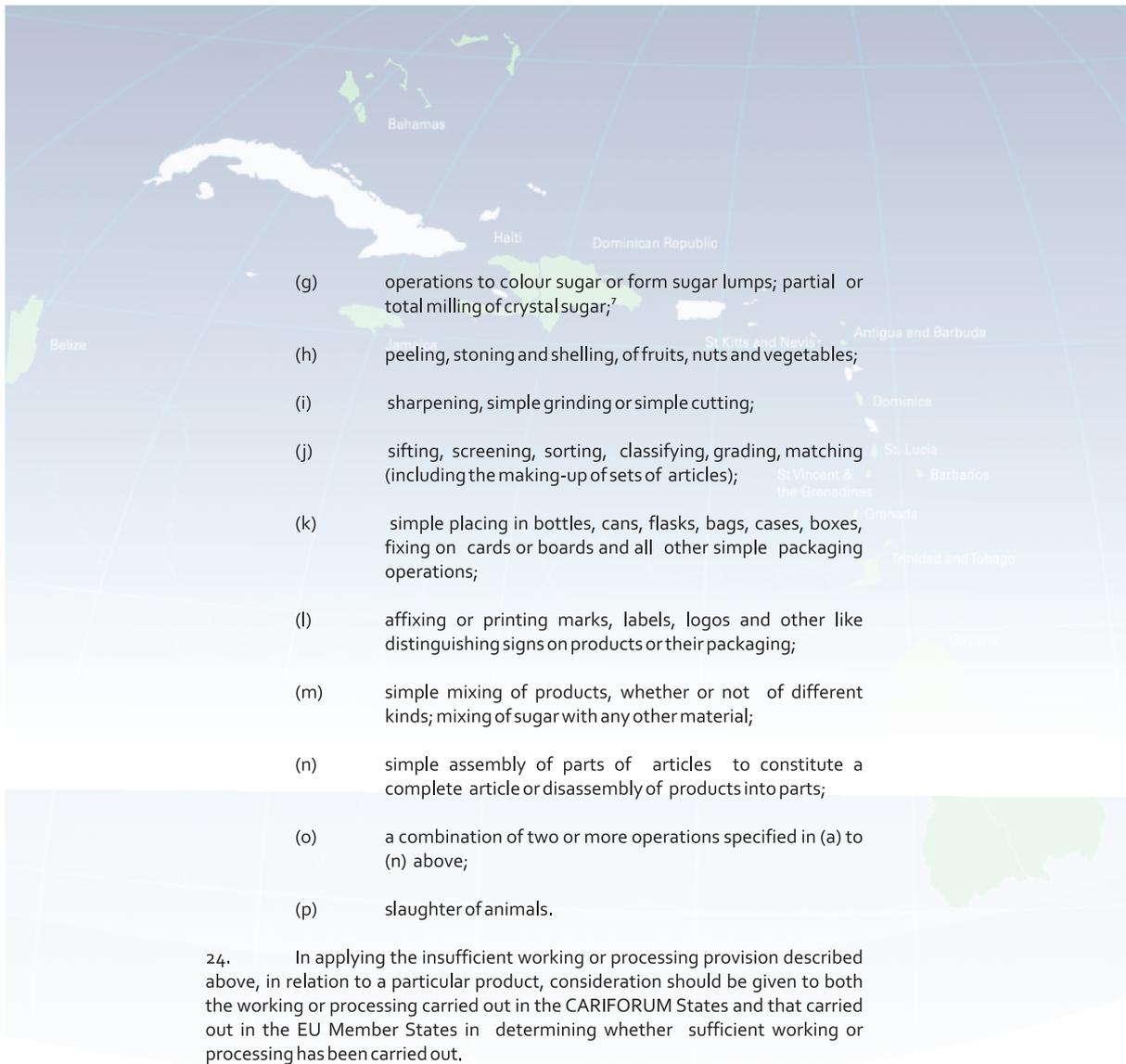
in an integrated enterprise. To give an example: the List requires that in the production of bread and biscuits of HS heading 1905, all inputs of HS Chapter 11 (products of the milling industry) that are used must be originating. The List provides that flour is considered as originating where non-originating wheat is used in production. Where such wheat flour is later used in the production of bread or biscuits, no account is taken of the non-originating wheat that had been used in producing the wheat flour, and that use of originating flour allows that the bread and biscuits are originating.

22. Where the provisions of the Protocol preclude or limit the use of non-originating materials in the manufacture of a product, the use of such materials, not exceeding in value 15% of the ex-works price of the finished product, is permitted on two conditions – the production process must exceed those considered as insufficient working or processing (discussed in paragraph 23 below), and where the qualifying condition in the List is a value-added one, the percentage prescribed in the List may not be exceeded as a result of application of this provision. The example of breakfast cereal of HS heading 1904 will illustrate how this provision would apply in practice. The List specifies that a manufacturer of breakfast cereal classified in that HS heading may only use cereal and flour in his/her production if those inputs (the cereal and flour) are wholly obtained. However, by application of this particular provision, use of non-originating cereal and flour the value of which does not exceed 15% of the ex-works price of the breakfast cereal is allowed. The requirement that the value of any (non-originating) materials of HS Chapter 17 used must not exceed 30% of the ex-works price of the breakfast cereal is unaffected.

Insufficient working or processing

23. The Protocol provides a list of working or processing operations that are considered “too minimal” to be accepted as conferring origin. This list is exhaustive. Where the process of production carried out reflects only one or more of these listed processes, the goods concerned will not be considered as originating. The list of **insufficient** working or processing is as follows:

- (a) operations to ensure the preservation of products 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;
- (e) painting and polishing operations;
- (f) husking, partial or total bleaching, polishing, and glazing of cereals and rice;



- (g) operations to colour sugar or form sugar lumps; partial or total milling of crystal sugar;⁷
- (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 other material;
- (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (o) a combination of two or more operations specified in (a) to (n) above;
- (p) slaughter of animals.

24. In applying the insufficient working or processing provision described above, in relation to a particular product, consideration should be given to both the working or processing carried out in the CARIFORUM States and that carried out in the EU Member States in determining whether sufficient working or processing has been carried out.

Unit of qualification in the application of the rules of origin

25. The rules of classification of the HS apply, in cases where goods are comprised of a group or assembly of articles, in determining what is the product to which the origin rule applies. Thus, where the classification of a group or assembly of articles is under a single HS heading, the qualifying condition in the List against that heading will be applicable to the group or assembly.

7. This is understood to mean the reduction of the size of the sugar particles as a result of grinding or milling.

Treatment of packing

26. Packing which is normal to the goods contained therein and is classified under the HS with those goods is treated as one with the goods in applying the rules of origin provisions of the Protocol. In other words, the qualifying condition set down with respect to the goods will apply.

Treatment of accessories, spare parts and tools forming part of equipment

27. In the case where accessories, spare parts and tools form part of equipment traded, for example, tools for a vehicle, and are not separately invoiced, they are regarded as one with the related equipment in determining the originating status of the equipment.

Goods put up in sets

28. The treatment under the rules of origin of goods put up in sets draws upon the classification rules of the HS with regard to sets. Where all the components of the set are originating, the set is considered as originating. Where the set is made up of a mix of originating and non-originating components, the set would be considered as originating only where the value of the non-originating components **does not exceed** 15% of the ex-works price of the set.

Treatment of energy, fuel, plant and equipment, machines and tools

29. Energy, fuel, plant and equipment, machines and tools, and other items that are used in the manufacture but do not form a part or component of the product which they are used to produce are not considered when determining the originating status of the product.

The place of production

30. Production of goods must be carried out without interruption in CARIFORUM States or in the EU Member States except where there is cumulation involving ACP States or OCTs, or the neighbouring developing countries.

Temporarily exported and returned goods

31. Where originating goods are exported from a CARIFORUM State or an EU Member State and are subsequently returned, their originating status is not considered to be prejudiced if the customs authorities are satisfied that the returned goods are the same as those exported, and that they were not subjected



to any operations other than those necessary to preserve them in good condition while in the country to which they were exported, or while being exported.

The requirement of direct transport

32. The requirement regarding the transport of originating goods is that such goods must be **transported directly** from the exporting country to the importing country. If it is necessary to transport the goods through a third country, the conditions that are to be satisfied are that—

- (a) the transport documents must clearly show the final destination of the goods to be a CARIFORUM State or an EU Member State, as the case may be;
- (b) the goods concerned must remain under customs supervision in the country of transit;
- (c) no interference with those goods is permitted during transit beyond unloading and reloading, and what may be necessary to preserve them in good condition.

Originating goods sent for display at exhibitions, fairs, or trade shows

33. An exporter in a CARIFORUM State or in an EU Member State may send originating goods for display at an exhibition, fair or other trade show in another country, and then sell those goods for importation in an EU Member State or a CARIFORUM State, respectively. The requirements that are to be satisfied if those goods are to be treated on their importation to such EU Member State or another CARIFORUM State as “originating” are:

- (a) evidence of the original exportation and actual display at the exhibition or fair;
- (b) evidence of the subsequent sale or disposal to an importer in an EU Member State or a CARIFORUM State, as the case may be;
- (c) evidence that the exported products were not used for any purpose other than display at an exhibition, fair, or similar trade show;
- (d) the requisite proof of origin in the prescribed form showing the name of the exhibition or fair is presented to the authorities in the importing EU Member State or CARIFORUM State, as the case may be.⁸

8. The provisions of the Protocol as regards establishing proof of origin, including the forms to be submitted in the process, are addressed in the next section.

III ESTABLISHING PROOF OF ORIGIN: THE DECLARATION AND CERTIFICATION OF THE ORIGINATING STATUS OF PRODUCTS

34. In this Section, the process of making claims, by way of formal application, and the certification of such claims of "originating status" for EPA preferential treatment are discussed.

Application for, and issuance of, a movement certificate EUR.1

35. A claim of originating status for products involves the submission by the exporter of the goods of a written application in a prescribed form titled "Application for a Movement Certificate" to the customs authorities in the exporting CARIFORUM State or EU Member State, as the case may be, for the issuance of a movement certificate EUR.1.⁹

36. The exporter is required to fill out both the application form and the movement certificate EUR. 1 itself, completing all sections of the forms, and complying with all the stated notes for their preparation. The exporter must be prepared to furnish all appropriate documents in support of the claim of originating status. The customs authorities of the exporting CARIFORUM State or EU Member State, in their check of the information presented by the exporter, may call for any additional evidence and may carry out any inspection of the exporter's accounts or any other check deemed necessary.

37. Where the customs authorities in the applicant CARIFORUM State or EU Member State are satisfied as to the correctness of the claim by the exporter of the originating status of the products, a movement certificate EUR.1 will be issued.

38. The movement certificate EUR.1 should be issued by the customs authorities and made available to the exporter as soon as actual exportation has occurred.

39. In exceptional circumstances, a movement certificate EUR.1 may be issued after exportation of the products to which it relates if--

9. **There are specific requirements to be observed in regard to movement certificates.** Each certificate must measure 210 by 297 mm, a tolerance of up to plus 8mm or minus 5mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than 25g/m². It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye. CARIFORUM States may reserve the right to print the certificates themselves or may have them printed by approved printers. In the latter case, each certificate must include a reference to such approval. Each certificate must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it can be identified.



- (a) it was not issued at the time of exportation because of errors or inadvertent omissions, or other special reasons; or
- (b) it is demonstrated to the satisfaction of the customs authorities that a movement certificate was issued but was not accepted at importation for technical reasons.

40. A duplicate movement certificate EUR.1 may be issued in the event of theft, loss, or destruction of the originally issued one. The replacement certificate must be endorsed "DUPLICATE" in the Remarks box of the form and it must bear the date of issue of the original certificate. Additionally, on the basis of proof of origin accepted previously for goods under the control of the issuing customs authorities, the **original** movement certificate EUR.1 may be replaced by individual movement certificates to facilitate staggered shipments of the originating goods.

Making of an invoice declaration

41. A declaration by an exporter on an invoice, a delivery note, or other commercial document, may be accepted in place of a movement certificate where the consignment consists of one or more packages containing originating products, the total value of which does not exceed 6000 euros.

42. The same requirement as regards the supply of supporting evidence of the originating status of the goods as applies for the issue of a movement certificate EUR.1, must be met in the tendering of an invoice declaration. The invoice declaration is to be endorsed by typing, stamping, or printing on the invoice, delivery note, or other commercial document, or hand written in ink or printed characters, and signed and dated by the exporter. The invoice declaration is to read "The exporter of the products covered by this document (customs authorization number ...) declares that, except where otherwise clearly indicated, these products are of ^(origin of product) preferential origin."

Products imported in instalments

43. Where a dismantled or non-assembled product is imported in instalments under conditions approved by the customs authorities, a single movement certificate EUR.1 or other proof of origin may be submitted on importation of the first instalment of the product.

Provisions concerning validity of, and exemptions from, proof of origin

44. Evidence of originating status of products is valid for a period of **ten months** from the date of issue of the movement certificate EUR.1. Where there is a failure of compliance with this deadline and the omission is deemed to be inadvertent, the customs authorities may accept proof of origin.

45. A relaxation of the normal proof of origin requirements may be allowed for products in small packages not sent as trade by private persons, and in travellers' personal luggage, declared and accepted as meeting the origin rules requirements, where the value of the former category of products does not exceed 500 euros, and the latter category not exceeding 1,200 euros.

Evidence required for purposes of *cumulative* treatment

46. In cases of claims from an EU Member State or a CARIFORUM State, of *cumulation* in respect of the use of materials from an EPA partner, an ACP State other than a CARIFORUM State, or an OCT, or of working or processing carried out in those countries (which was discussed at paragraphs 11 to 13 above), the evidence to be furnished to the customs authorities in support, is--

- (a) for materials supplied, a movement certificate EUR.1, or a supplier's declaration;
- (b) for working or processing carried out, a separate supplier's declaration.

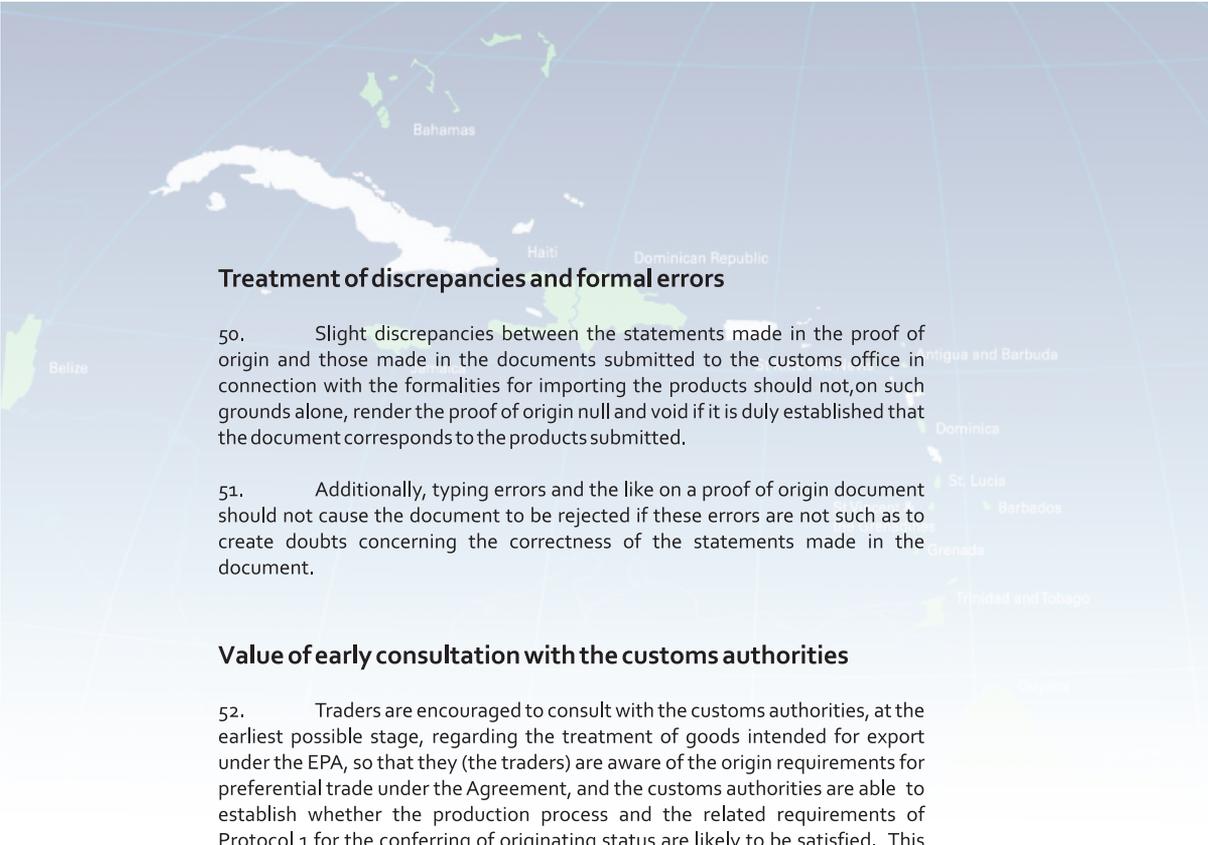
Separate forms are prescribed for use according to whether or not, the products supplied have preferential origin status.

47. A separate supplier's declaration is to be submitted on the invoice, delivery note, or other commercial document, in respect of **each consignment** of materials supplied, fully describing those materials.

Required period of preservation of proof of origin and other supporting documents

48. To assist any verification checks that may become necessary, exporters and suppliers are required to keep, for *at least three (3) years*, copies of the supporting documentation which are presented to the customs authorities, including movement certificates EUR. 1, invoice declarations, and suppliers' declarations.

49. Similarly, the customs authorities of the exporting country issuing a movement certificate EUR.1 are required to keep for *at least three (3) years* the associated application form received from the exporter. The customs authorities in the importing country are also required to keep for a *similar three (3) year period* the movement certificates EUR.1 and the invoice declarations submitted to them.



Treatment of discrepancies and formal errors

50. Slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs office in connection with the formalities for importing the products should not, on such grounds alone, render the proof of origin null and void if it is duly established that the document corresponds to the products submitted.

51. Additionally, typing errors and the like on a proof of origin document should not cause the document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in the document.

Value of early consultation with the customs authorities

52. Traders are encouraged to consult with the customs authorities, at the earliest possible stage, regarding the treatment of goods intended for export under the EPA, so that they (the traders) are aware of the origin requirements for preferential trade under the Agreement, and the customs authorities are able to establish whether the production process and the related requirements of Protocol 1 for the conferring of originating status are likely to be satisfied. This advance enquiry would provide the trader with awareness as to whether the goods will be eligible to be treated as originating, and would help to assure completion of the certification process and the avoidance of delays in the export transaction.



IV COOPERATION BETWEEN THE CARIFORUM STATES AND EU MEMBER STATES AND OTHER PARTIES IN THE IMPLEMENTATION OF THE PREFERENTIAL TRADE ARRANGEMENTS

Establishing the authenticity of the tendered evidence of origin

53. Essential to the proper working of the EPA's preferential trade arrangements is the **verification** of claims of the originating status of goods traded between the CARIFORUM States and EU Member States. Requests for verification may be made at random, based on risk assessment, or where there is reasonable doubt with respect to the documentation tendered, or following examination of the goods, or failure to meet any other conditions in Protocol 1. The following are features of the verification process:

- (a) the query will be raised by the customs authorities of the importing country who will return the movement certificate EUR. 1 and the related invoice, the invoice declaration, or a copy of these documents, to the customs authorities of the exporting country with an indication of the reasons for the request for verification;
- (b) any documents and other information obtained by the customs authorities of the importing country which suggest that the information given in the claim of originating status of the products concerned is incorrect, will be forwarded to the customs authorities of the exporting country in support of the request for verification;
- (c) on-site checks of the manufacturing operations, and the inspection of the exporter's accounts or any other verification checks considered to be appropriate, will be carried out by the customs authorities of the exporting country;

54. Where the customs authorities of the importing country decide to suspend the granting of preferential treatment to the goods concerned while awaiting the results of the verification checks, release of the goods may be offered to the importer on provision of security for the revenue involved. The results of the verification check carried out must be reported as soon as possible to the customs authorities of the importing country which requested the



verification, clearly indicating whether the documents were found to be authentic. In cases of reasonable doubt, a response to the request for verification should be provided **within ten (10) months of the date of such request**. If there is no response within that time, or the reply received does not provide sufficient information to determine the authenticity of the evidence presented of the true origin of the products under query, the customs authorities of the importing country shall, except in exceptional circumstances, refuse the claim to the preference.

55. Where the verification procedure or any other available information appears to indicate that the origin rules provisions of the Protocol are being contravened, the exporting country shall, on its own initiative or at the request of the importing country, carry out appropriate enquiries or arrange for such enquiries to be carried out with due urgency to identify and prevent such contravention. The exporting country may invite the participation of the importing country in such an exercise.

Verification of supplier's declarations

56. For reasons similar to those occasioning queries of the evidence of origin described at paragraphs 53 to 55 above, investigations into the authenticity of supplier's declarations may be initiated. The procedures to be observed in the handling of such queries are as follows—

- (a) the customs authorities to which the supplier's declaration has been submitted may request the customs authorities of the State where the declaration was made to issue an information certificate;
- (b) alternatively, the customs authorities to which a supplier's declaration has been submitted may request the exporter to produce an information certificate issued by the customs authorities of the State where the supplier's declaration was made;
- (c) the customs authorities requesting the verification are to be informed as soon as possible of the results of the verification check carried out, such results indicating clearly whether the information given in the supplier's declaration is correct, thereby making it possible for the customs authorities to determine whether, and to what extent, the supplier's declaration could be taken into account for issuing a movement certificate EUR 1, or for the making out of an invoice declaration;
- (d) the verification is to be carried out by the customs authorities of the country where the supplier's declaration was made out;

- (e) a copy of an information certificate that is issued is to be preserved by the issuing office for at least three years;
- (f) any movement certificate EUR.1 or invoice declaration issued or made out on the basis of an incorrect supplier's declaration will be considered null and void.

Disputes arising in the verification process

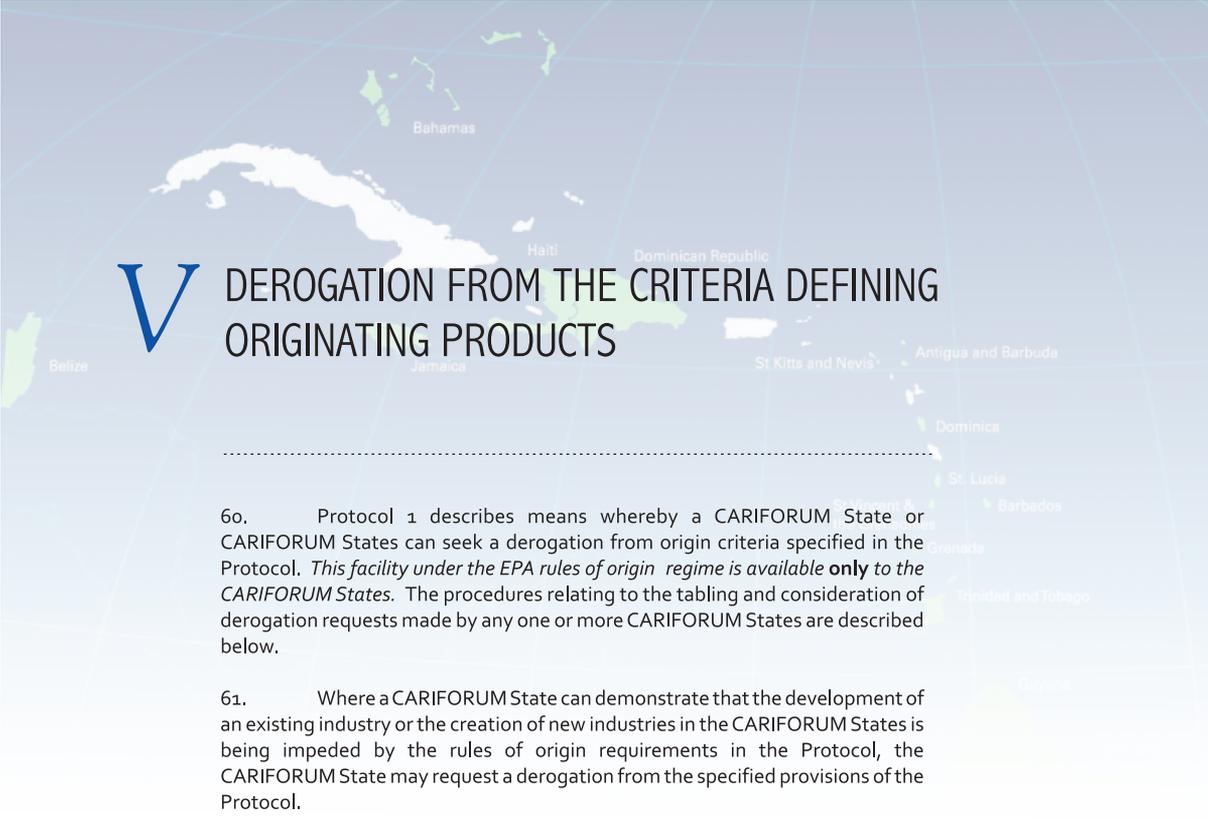
57. Where disputes arise in relation to the verification procedures described above, which cannot be settled between the customs authorities requesting a verification and the customs authorities responsible for carrying out this verification, or where the interpretation of Protocol 1 is at issue, such disputes are to be submitted to the Special Committee on Customs Cooperation and Trade Facilitation (The Committee's functions are described at paragraph 64 below).

Special arrangements regarding free zones

58. While goods traded between the CARIFORUM States and the EU Member States under cover of a proof of origin or a supplier's declaration may be allowed to transit free zones situated in their territories, the CARIFORUM States and the EU Member States are committed to taking all necessary steps to ensure that those goods are not substituted by other goods, and do not undergo handling other than normal operations designed to prevent their deterioration.

59. As an exception to the arrangement described in the preceding paragraph, when originating products are imported into a free zone situated in a Signatory State under cover of a proof of origin and undergo treatment or processing, the authorities concerned are required to issue a **new** movement certificate EUR.1 at the exporter's request, if the treatment or processing carried out complies with the provisions of Protocol 1.





V DEROGATION FROM THE CRITERIA DEFINING ORIGINATING PRODUCTS

60. Protocol 1 describes means whereby a CARIFORUM State or CARIFORUM States can seek a derogation from origin criteria specified in the Protocol. *This facility under the EPA rules of origin regime is available only to the CARIFORUM States.* The procedures relating to the tabling and consideration of derogation requests made by any one or more CARIFORUM States are described below.

61. Where a CARIFORUM State can demonstrate that the development of an existing industry or the creation of new industries in the CARIFORUM States is being impeded by the rules of origin requirements in the Protocol, the CARIFORUM State may request a derogation from the specified provisions of the Protocol.

Procedures in addressing a derogation request

62. A request for a derogation from a specified criterion of the rules of origin of the Protocol must be submitted to the Special Committee on Customs Cooperation and Trade Facilitation and, either before or upon such submission by the CARIFORUM State or States concerned, notification is to be provided of this action to the EU. The reason for the request should accompany the submission which is to be made in a specified form.

The decision-making process

63. The Special Committee on Customs Cooperation and Trade Facilitation, which is empowered to make decisions on derogations requested by the CARIFORUM States, is required to ensure that its decisions are reached as soon as possible and in any case **not later than seventy-five (75) working days after a request is received** by the EU.



VI MONITORING THE IMPLEMENTATION OF THE PROTOCOL

The Special Committee on Customs Cooperation and Trade Facilitation

64. References were made earlier in this booklet to the Special Committee on Customs Cooperation and Trade Facilitation which, in addition to its functions in regard to requests for derogations, is assigned the role of monitoring the implementation and administration of the customs and trade facilitation provisions of the Agreement. The Committee is also specifically entrusted with responsibilities under Protocol 1 to take decisions on cumulation with designated neighbouring developing countries (see paragraph 14 above). The Committee is made up of representatives of the Signatory States, and the office of Chairperson is to rotate annually between the EU and CARIFORUM.

65. The EPA will be reviewed within the first five years following its signature towards simplifying the concepts and methods used for determining originating status in light of the development needs of the CARIFORUM States, and taking into account the development of technologies, production processes and all other factors which may require changes to the Protocol.

VII SOME EXAMPLES TO ILLUSTRATE THE APPLICATION OF THE RULES OF ORIGIN REQUIREMENTS OF PROTOCOL 1

66. The following examples illustrate how Protocol I is applied in practice. It is to be remembered that the rules of origin criteria specified in the Protocol apply equally to goods produced in the CARIFORUM States for export to EU Member States, as they do to EU exports to the CARIFORUM States.

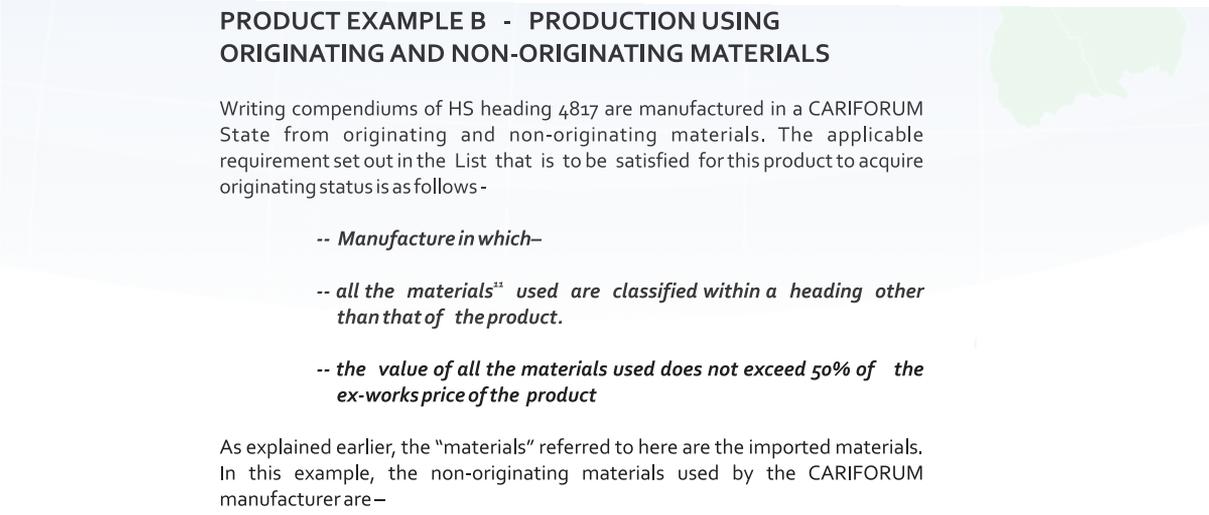


PRODUCT EXAMPLE A - PRODUCTION USING SPECIFIED ORIGINATING MATERIALS

Bread, pastry and biscuits of HS heading 1905 are produced in a CARIFORUM State utilizing wheat flour that is made in a CARIFORUM State from non-originating wheat of HS heading 1001. The rules of origin for products of HS heading 1905 set out in the List¹⁰ is as follows –

Manufacture in which all the products of Chapter 11 used are originating

The rules of origin for wheat flour of HS heading 1101 specifies manufacture from non-originating materials falling in any heading other than the heading for wheat flour (heading HS 1101). Since the wheat flour is produced from wheat of HS heading 1001, the wheat flour is an originating product. Because the wheat flour of HS Chapter 11 used in the production of the goods of HS heading 1905 (bread, pastry, biscuits, etc.) in a CARIFORUM State is originating, then the bread, pastry, biscuits, etc., of HS heading 1905 produced from the originating wheat flour of HS heading 1101 satisfy the conditions in Protocol 1 and are therefore originating products.



PRODUCT EXAMPLE B - PRODUCTION USING ORIGINATING AND NON-ORIGINATING MATERIALS

Writing compendiums of HS heading 4817 are manufactured in a CARIFORUM State from originating and non-originating materials. The applicable requirement set out in the List that is to be satisfied for this product to acquire originating status is as follows -

-- *Manufacture in which--*

-- *all the materials¹¹ used are classified within a heading other than that of the product.*

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

As explained earlier, the “materials” referred to here are the imported materials. In this example, the non-originating materials used by the CARIFORUM manufacturer are –

10. The structure and content of the List of working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status is described at paragraphs 16 *et seq.* above.

11. It should be borne in mind that the references to “materials” is to non-originating materials.

glue of HS heading 3506 valued 8,000 currency units imported from Holland, (a supplier's declaration is furnished to the importer);

paper and paperboard of HS heading 4810 imported from Canada valued 90,000 currency units, and;

envelopes of HS heading 4817 valued 12,000 currency units imported from the United Kingdom (an information certificate from the UK supplier endorsed by the customs authorities there is provided to the CARIFORUM manufacturer).

The ex-factory price of the writing compendiums is 200,000 currency units. The value of the non-originating materials used, that is, the paper and paperboard obtained from Canada, amounts to 45% of the ex-works price of the compendiums (of 200,000 currency units), which is within the permitted limit specified in Protocol 1. Although the envelopes used are classified in the same HS heading (4817) as the final product (the compendiums), the supply of the envelopes is in compliance with the rule on cumulative treatment of the EU (UK) input, hence the compendiums satisfy both applicable requirements and qualify as an originating product.

PRODUCT EXAMPLE C - PRODUCTION SATISFYING A NUMBER OF REQUIREMENTS

Cotton fabric of ex HS Chapter 52 valued 500,000 currency units is printed and finished in a CARIFORUM State from non-originating grey, unbleached and unprinted cotton fabric imported from India (which is valued 200,000 currency units).

Protocol 1 allows the manufacturer to choose between two production options specified in the origin rules on which originating status for the fabric may be claimed (see columns (3) and (4) in the List and paragraph 4 of Note 2 in Annex I to the Protocol setting out Introductory Notes to the List forming Annex Π). The choice made by the manufacturer in this example is the following as set out in column (4) in the List:

Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product.

The non-originating grey unbleached fabric imported from India valued 200,000 currency units was bleached, mercerized, and printed in the CARIFORUM State utilizing caustic soda and sodium chloride imported from the USA. No limit is placed on the value or the source of the materials used in the printing and finishing operations, the only requirement being the carrying out of two preparatory or

finishing operations specified. The total value of 200,000 currency units of the non-originating unprinted fabric used represents 4.0% of the ex-works price of the printed, finished fabric, thus conferring on the finished product originating status.

PRODUCT EXAMPLE D - PRODUCTION UTILISING SPECIFIED MATERIALS REGARDLESS OF THEIR ORIGIN

Steel reinforcing bars of HS heading 7213 are made in a CARIFORUM State from iron ore pellets imported from Brazil. The applicable origin rule requirement for this product set out in the List is as follows –

Manufacture from ingots or other primary forms or semi-finished materials of (HS) headings No.7206 or 7207

The iron ore pellets, a primary material classified in HS heading 7203, sourced from Brazil, is mixed with CARIFORUM-sourced scrap iron and limestone and charged in a furnace that is electrically heated using locally-generated electricity. The resulting steel bars/rounds made in a CARIFORUM State qualify as an originating product having been manufactured from a primary material.

VIII THE FORMS PRESCRIBED FOR USE IN THE DECLARATION, CERTIFICATION, VERIFICATION, AND DEROGATION REQUEST PROCESSES

67. Specimens of the forms listed below will be found in the Annexes to Protocol I (as shown here alongside their titles.) The paragraphs in this booklet where their use is described are also inserted alongside the titles of the forms.

- Application for a movement certificate (see para. 35) Annex III
- Movement certificate EUR 1 (see para. 36) Annex III
- Invoice declaration (see para. 42) Annex IV
- Supplier's declaration for products having preferential origin status (see para. 46) Annex VA

12. Protocol 1 can be found at the following websites: www.caricom.org or www.crnw.org

EPA

- Supplier's declaration for products not having preferential origin status (see para. 46) AnnexVB
- Information certificate (see para. 56(a)) AnnexVI
- Form for application for a derogation (see para. 62) AnnexVII





Attachment

The *other* African, Caribbean and Pacific (ACP) States and those Overseas Countries and Territories (OCTs) located in the Caribbean.

A. The *other* ACP States

- Angola
- Benin
- Botswana
- Burkina Faso
- Burundi
- Cameroun
- Cape Verde
- Central African Republic
- Chad
- Cook Islands
- Comoros
- Ivory Coast
- Democratic Republic of Congo
- Djibouti
- Equatorial Guinea
- Eritrea
- Ethiopia
- Federal States of Micronesia
- Fiji
- Gabon
- Gambia
- Ghana
- Guinea
- Guinea Bissau
- Kenya
- Kiribati
- Lesotho
- Liberia
- Madagascar
- Malawi
- Mali
- Marshall Islands
- Mauritania
- Mauritius
- Mozambique
- Namibia
- Nauru
- Niger
- Niue
- Nigeria
- Palau
- Papua New Guinea
- Republic of Congo
- Rwanda
- Samoa
- Sao Tomé and Principe
- Senegal
- Seychelles
- Sierra Leone
- Solomon Islands
- Somalia
- Sudan
- Swaziland
- Tanzania
- Togo
- Tonga
- Tuvalu
- Uganda
- Vanuatu
- Zambia
- Zimbabwe

B. The OCTs located in the Caribbean

- Aruba
- Cayman Islands
- Montserrat
- Turks and Caicos Islands
- British Virgin Islands
- Netherlands Antilles comprising --
 Anguilla, Bonaire, Curacao, Saba,
 Saint Eustatius, Saint Maarten

