

COMMISSION DELEGATED REGULATION (EU) 2021/1934**of 30 July 2021****amending Delegated Regulation (EU) 2015/2446 as regards certain provisions relating to the origin of goods**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Articles 62 and 65 thereof,

Whereas:

- (1) Article 60 of Regulation (EU) No 952/2013 lays down rules for the determination of the non-preferential origin of goods. In accordance with paragraph 1 of that Article, goods wholly obtained in a single country or territory are to be regarded as having their origin in that country or territory. In order to clarify how to determine the non-preferential origin of vegetable products that are to be considered as wholly obtained in a single country or territory, it is necessary to amend Article 31, point (b), of Commission Delegated Regulation (EU) 2015/2446 ⁽²⁾ to specify that the vegetable products must not only have been harvested, but also grown only in the relevant country or territory.
- (2) In order to align the determination of the non-preferential origin of products for which the processing or working operations are not economically justified, covered or not by Annex 22-01 to Delegated Regulation (EU) 2015/2446, it is necessary to amend the third paragraph of Article 33 of that Regulation, to specify that the criterion concerning the determination of the major portion of the materials used should be based on the weight or on the value of the said materials. The specification should be done per Chapter of the Nomenclature of the Harmonized Commodity Description and Coding System, adopted by the Organization set-up by the Convention establishing a Customs Cooperation Council, done at Brussels on 15 December 1950 (Harmonized System).
- (3) In accordance with Article 34 of Delegated Regulation (EU) 2015/2446, minimal operations are not considered as substantial, economically justified processing or working for the purposes of conferring non-preferential origin. Therefore, in cases where the last transformation of the goods consists of a minimal operation, it is necessary to establish a method allowing the determination of the non-preferential origin of the goods concerned. Article 34 of Delegated Regulation (EU) 2015/2446 should be supplemented to set out that such goods should be considered to have undergone their last substantial working or processing in the country or territory where the major portion of the materials originated, based on either the weight or the value of the materials, as appropriate per Chapter of the Harmonized System.
- (4) According to Article 35(2) of Delegated Regulation (EU) 2015/2446, essential spare parts for use with goods listed in specific Sections of the Combined Nomenclature previously released for free circulation in the Union are to be deemed to have the same origin as those goods if the incorporation of the essential spare parts at the production stage would not have changed their origin. For the sake of consistency, the definition of 'essential spare parts' in Article 35(3) of that Regulation should be amended to remove the reference to goods previously exported in point (a) of that provision.
- (5) Annex 22-01 of Delegated Regulation (EU) 2015/2446 sets out specific rules for determining the country where certain goods have undergone their last substantial transformation within the meaning of Article 32 of that Regulation. The rules provided in that Annex are to be applied to goods listed there on the basis of their classification in the Harmonized System. Since the Harmonized System has been amended in its 2022 version, Annex 22-01 should be updated accordingly.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

- (6) Annex 22-03 of Delegated Regulation (EU) 2015/2446 lays down the conditions for products to be considered as originating in beneficiary countries for the purpose of the Generalised System of Preferences ('GSP'). The rules provided in that Annex are to be applied to those products in particular on the basis of their classification in the Harmonized System. Since the Harmonized System has been amended in its 2022 version, Annex 22-03 should be updated accordingly.
- (7) Annex 22-04 of Delegated Regulation (EU) 2015/2446 lists the materials excluded from regional cumulation in the context of the GSP. The rules provided in that Annex are to be applied to those materials in particular on the basis of their classification in the Harmonized System. Since the Harmonized System has been amended in its 2022 version, Annex 22-04 should be updated accordingly.
- (8) The Harmonized System's version of 2022 will only apply from 1 January 2022, and therefore the amendments to Annexes 22.01, 22.03 and 22.04 of Delegated Regulation (EU) 2015/2446 stemming from the Harmonized System's 2022 version should apply from 1 January 2022.
- (9) Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2015/2446 is amended as follows:

- (1) in Article 31, point (b) is replaced by the following:
 - (b) 'vegetable products grown and harvested only there;';
- (2) in Article 33, the third paragraph is replaced by the following:

'For goods not covered by Annex 22-01, where the last working or processing is deemed not to be economically justified, the goods shall be considered to have undergone their last substantial, economically justified processing or working, resulting in the manufacture of a new product or representing an important stage of manufacture, in the country or territory where the major portion of the materials originated. Where the final product is to be classified under Chapters 1 to 29 or 31 to 40 of the Harmonized System, the major portion of the materials shall be determined on the basis of the weight of the materials. Where the final product is to be classified under Chapters 30 or 41 to 97 of the Harmonized System, the major portion of the materials shall be determined on the basis of the value of the materials.';

- (3) in Article 34, the following subparagraph is added:

'For goods covered by Annex 22-01, the Chapter residual rules for those goods shall apply. For goods not covered by Annex 22-01, where the last working or processing is deemed to be a minimal operation, the origin of the final product is the country or territory where the major portion of the materials originated. Where the final product is to be classified under Chapters 1 to 29, or 31 to 40 of the Harmonized System, the major portion of the materials shall be determined on the basis of the weight of the materials. Where the final product is to be classified under Chapters 30 or 41 to 97 of the Harmonized System, the major portion of the materials shall be determined on the basis of the value of the materials.';

- (4) in Article 35(3), point (a) is replaced by the following:
 - (a) components without which the proper operation of a piece of equipment, machine, apparatus or vehicle which has been put into free circulation cannot be ensured; and';
- (5) Annex 22-01 is amended as set out in Annex I to this Regulation;
- (6) Annex 22-03 is amended as set out in Annex II to this Regulation;
- (7) Annex 22-04 is amended as set out in Annex III to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Points (5), (6) and (7) of Article 1 shall apply from 1 January 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 30 July 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Annex 22-01 to Delegated Regulation (EU) 2015/2446 is amended as follows:

- (1) in the introductory notes, in point 2.1, the third sentence is replaced by the following:

‘“Harmonized System” or “HS” means the goods nomenclature established under the International Convention on the Harmonized Commodity Description and Coding System, as amended by Recommendation of the Customs Cooperation Council of 28 June 2019 (“HS 2022”).’;

- (2) throughout the text the words ‘HS 2017 Code’ are replaced by the words ‘HS 2022 Code’;

- (3) in Section IV, Chapter 20, point (2) of the Chapter residual rule applicable to mixtures is replaced by the following:

‘(2) The origin of a mixture of products of this Chapter shall be the country of origin of the materials that account for more than 50 % by weight of the mixture; however, the origin of a mixture of products of heading 2009 (fruit or nut juices (including grape must and coconut water) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter) shall be the country of origin of the materials that account for more than 50 % by weight of dry matter of the mixture. The weight of materials of the same origin shall be taken together.’;

- (4) in Section IV, Chapter 22, the text of the title ‘Chapter residual rule’ at the end of the Chapter is replaced by the following:

‘Where the country of origin cannot be determined by application of the primary rules and the other Chapter residual rule[s], the country of origin of the goods shall be the country in which the major portion of the materials originated, as determined on the basis of the weight of the materials.’;

- (5) in Section XVI, Chapter 85, in the row for heading ‘8541’, in the column ‘Description of goods’, the text is replaced by the following:

‘Semiconductor devices (for example, diodes, transistors, semiconductor based transducers); photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED), whether or not assembled with other light-emitting diodes (LED); mounted piezo-electric crystals.’.

ANNEX II

Annex 22-03 to Delegated Regulation (EU) 2015/2446 is amended as follows:

- (1) in the introductory notes, in point 2.1, the following sentence is added:

‘“Harmonized System” or “HS” means the goods nomenclature established under the International Convention on the Harmonized Commodity Description and Coding System, as amended by Recommendation of the Customs Cooperation Council of 28 June 2019 (“HS 2022”).’;

- (2) in the title of column 1 of the table in Part II of the Annex, the words ‘Harmonised System heading’ are replaced by the words ‘HS 2022 Code’;

- (3) in the row for heading ‘0305’, the text in the column ‘Description of product’ is replaced by the following:

‘Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process’;

- (4) in the row for heading ‘ex 0306’, the text in the column ‘Description of product’ is replaced by the following:

‘Crustaceans, whether in shell or not, dried, salted or in brine; smoked crustaceans, whether in shell or not, whether or not cooked before or during the smoking process; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine’;

- (5) in the row for heading ‘ex 0307’, the text in the column ‘Description of product’ is replaced by the following:

‘Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; smoked molluscs, whether in shell or not, whether or not cooked before or during the smoking process’;

- (6) between the row for heading ‘ex 0307’ and the row for ‘Chapter 4’, two new rows are inserted as follows:

‘ex 0308	Aquatic invertebrates other than crustaceans and molluscs, dried, salted or in brine; smoked aquatic invertebrates other than crustaceans and molluscs, whether or not cooked before or during the smoking process	Manufacture in which all the materials of Chapter 3 used are wholly obtained
ex 0309	Flours, meals and pellets of fish, crustaceans, molluscs and other aquatic invertebrates, fit for human consumption	Manufacture in which all the materials of Chapter 3 used are wholly obtained’

- (7) in the row for ‘ex Chapter 15’, the text in the column ‘Description of product’ is replaced by the following:

‘Animal, vegetable or microbial fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes; except for:’;

- (8) in the row for heading ‘1516 and 1517’, the text in the column ‘Description of product’ is replaced by the following:

‘Animal, vegetable or microbial fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared;

Margarine; edible mixtures or preparations of animal, vegetable or microbial fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats and oils or their fractions of heading 1516’;

- (9) in the row for ‘Chapter 16’, the text in the column ‘Description of product’ is replaced by the following:

‘Preparations of meat, of fish, of crustaceans, molluscs or other aquatic invertebrates, or of insects’;

- (10) in the first row for heading 'ex 1702', the text in the column 'Description of product' is replaced by the following:
'Other sugars, including chemically pure lactose and glucose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel';
- (11) in the row for heading '6306', the text in the column 'Description of product' is replaced by the following:
'Tarpaulins, awnings and sunblinds; tents (including temporary canopies and similar articles); sails for boats, sailboards or landcraft; camping goods';
- (12) in the row for heading '8548', the text in the column 'Description of product' is replaced by the following:
'Electrical parts of machinery or apparatus, not specified or included elsewhere in this Chapter';
- (13) between the row for heading '8548' and the row for 'Chapter 86', a new row is inserted as follows:

'8549	Electrical and electronic waste and scrap	(a) LDC Manufacture from materials of any heading, except that of the product or Manufacture in which the value of all the materials used does not exceed 70 % of the ex-works price of the product.	(b) Other beneficiary countries Manufacture from materials of any heading, except that of the product or Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product.'
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- (14) in the row for 'Chapter 94', the text in the column 'Description of product' is replaced by the following:
'Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; "luminaires and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings'.

ANNEX III

Annex 22-04 to Delegated Regulation (EU) 2015/2446 is amended as follows:

- (1) in the title of the first column of the table, the words 'Harmonised System or Combined Nomenclature code' are replaced by the words 'HS 2022 or Combined Nomenclature Code';
- (2) in the row for Harmonized System or Combined Nomenclature code '2009', the text in the column 'Description of materials' is replaced by the following:

'Fruit or nut juices (including grape must and coconut water) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter'.
