

## Procedural description of determination non-preferential Origin

The rules applicable to determine the non-preferential origin are those of the country of import. In absence of these rules it is practice in the EU, also for the Chamber of Commerce, to apply the so-called Euro Chambre guidelines. Furthermore, insights and rules are derived from the Harmonized Working Package (HWP).

Non-preferential origin (Trade politics) is not to be mistaking with Preferential origin (financial benefits). The rules to determine Preferential origin allowing reduction of import duties is always governed by trade agreements.

### **Discharge**

A non-preferential certificate of origin can be presented upon the discharge of goods. There are no tax-related measures on the non-preferential origin of goods; therefore these certificates are accepted for information only. The origin listed on the certificate will be registered in ERP.

### **Loading**

Upon loading of vessels a non-preferential certificate can be issued at the request of a principal. In practice there are two type of documents mentioning the non-preferential origin<sup>1</sup>:

1. Official certificate that can be obtained by exporters by contacting a competent Chamber of Commerce or customs authorities; and
2. Commercial document stating the non-preferential origin (Statement of Origin).

In case of an official certificate requested by the competent Chamber of Commerce or customs authorities the determination of the non-preferential origin is done by the respective authority.

### **Issuing Statement of Origin**

We can issue documents in which we give a statement on the non-preferential origin in accordance with the rules for determination of the origin, provided:

1. We have sufficient information on the origin of the parcels if needed;
2. We use the name "Statement of origin";
3. To a certain extend it remains subjective, so common sense is required. Basically:
  - a. When a customer is blending to get to a certain spec (upgrading his product to meet a new spec), this is EU non-preferential origin conferring;
  - b. When the product already meets a certain spec and the customer is blending to add product to maximize margin (downgrading, whereby the ultimate spec continues to be met), there is no 'new' product created so the blending in itself is not origin conferring. In this case the major portion rule applies based on value (which means we typically need info of the customer unless it is obvious what parcel(s) represent the biggest value

---

<sup>1</sup> "Nationality" of a good when entering a country, used for the implementation of all the non-preferential commercial policy instruments (application of the most-favoured-nation treatment, anti-dumping duties, safeguard measures, tariff quotas, trade statistics, etc).

AND the origin of the parcels is clear (often we do not have this info so we can't state anything about the origin); or

- c. When it always concerns the same product, for example, all products concern diesel 10 ppm, no processing takes place and it merely concerns storage. In that case, we apply accounting segregation and the parcels keep their origin administratively, provided that we avail of information regarding the origin of the parcels (e.g. suppliers declaration)

### Rules for determination of the non-preferential origin:

#### 1. Last substantial transformation

*“Goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.”*

In accordance with the HWP the above includes the deliberate and proportional blending. This is applied when our customer blend various product to obtain a product specification that meets specific market criteria such as RON or Sulphur content (IMO).

In practice, if the blended product is of a different “Product description” or “CN code” than that of the majority of the components, it can be assumed that our customer is deliberately and proportionally blending towards a product specification suitable for a specific market. In below example you can see that the ‘base product’ is “Cutterstock” to which various other products are added to get to HSFO. This can be assumed to be a blend performed by our customer to get to a product that has properties and a composition of its own which it did not have before the process.

Situation before blend						
Tank	Client	Product	CN Code/Tariq	Status	Kilogram	Liters 15
T09	Shell Trading Rotterdam BV	1-030S <i>RMK 500</i>	2710196800	AAD	462,780	461,028
T09	Shell Trading Rotterdam BV	1-030S <i>RMK 500</i>	2710196800	AAD	227,506	226,645
T09	Shell Trading Rotterdam BV	1-051 <i>HSFO</i>	2710196800	AAD	4,293,050	4,276,798
T09	Shell Trading Rotterdam BV	1-012S <i>IMO</i>	2710196800	AAD	6,058,208	6,035,274
T09	Shell Trading Rotterdam BV	1-042 <i>cutterstock</i>	2710196800	T1	47,550,867	47,370,858
Situation after blend						
Tank	Client	Product	CN Code/Tariq	Status	Kilogram	Liters 15
T09	Shell Trading Rotterdam BV	1-051S	2710196800	AAD	462,780	461,028
T09	Shell Trading Rotterdam BV	1-051S	2710196800	AAD	227,506	226,645
T09	Shell Trading Rotterdam BV	1-051S <i>HSFO</i>	2710196800	AAD	4,293,050	4,276,798
T09	Shell Trading Rotterdam BV	1-051S	2710196800	AAD	6,058,208	6,035,274
T09	Shell Trading Rotterdam BV	1-051S	2710196800	T1	47,550,867	47,370,858

Below a ruling of the European Court of Justics on the matter of 'substantial processing or working' that provides context to our view.

## JUDGMENT OF THE COURT / Case C-260/08 / HEKO Industrieerzeugnisse GmbH

**With regard to goods classified under heading 7312 of the Combined Nomenclature constituting Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1719/2005 of 27 October 2005, 'substantial processing or working' within the meaning of Article 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, may cover not only such processing or working as leads to the goods which have undergone the process being classified under a different heading of the Combined Nomenclature, but also such processing or working as results, without such a change of heading, in the creation of a product with properties and a composition of its own which it did not have before the process.**

In such a case the origin of the different components is irrelevant because our customers are creating a 'new' product.

In case different products of different origins that are not deliberate and proportionally blended as such, the blending is not origin conferring. We consider this minimal operations. This is the case, for example, when our customers have product that meet certain specifications as such, but the customer can 'downgrade' the product to the extend it still meets the specification it needs for a specific market. This could be the case when the starting point of the above example was HSFO instead of Cutterstock. In that case you would be adding LMFO, HSFO and RMK 500 but still end up with HSFO.

### **2. Minimal operations**

*"Mixing of goods of different origin, provided that the characteristics of the resulting product are not essentially different from the characteristics of the goods which have been mixed."*

In this case the origin is determined based on the components after the major portion rule. In order for us the produce Statement of Origin's, we require further information from our customers showing the value (invoices) of the materials in a blend. As long as we do not have this information available, we cannot issue a Statement of Origin because of the simple fact that we have no information available to do so.

#### **⇒ Special cases of qualification for origin**

*"Major portion rule*

*Where the country of origin cannot be determined by application of the general or special rules of origin, the country of origin of the goods shall be the country in which the major portion (value based on price) of the materials originated."*

General examples:

1. Blend CN code X	EU value 30%	Russian value 70%
--------------------	--------------	-------------------

⇒ Major portion Russian, resulting in the statement on the document that the product is of **Russian** non-preferential origin.

2. Blend CN code X	Russian value 30%	Libyan value 30%	EU Value 40%
--------------------	-------------------	------------------	--------------

⇒ Major portion EU, resulting in the statement on the document that the product is of **EU** non-preferential origin.<sup>2</sup>

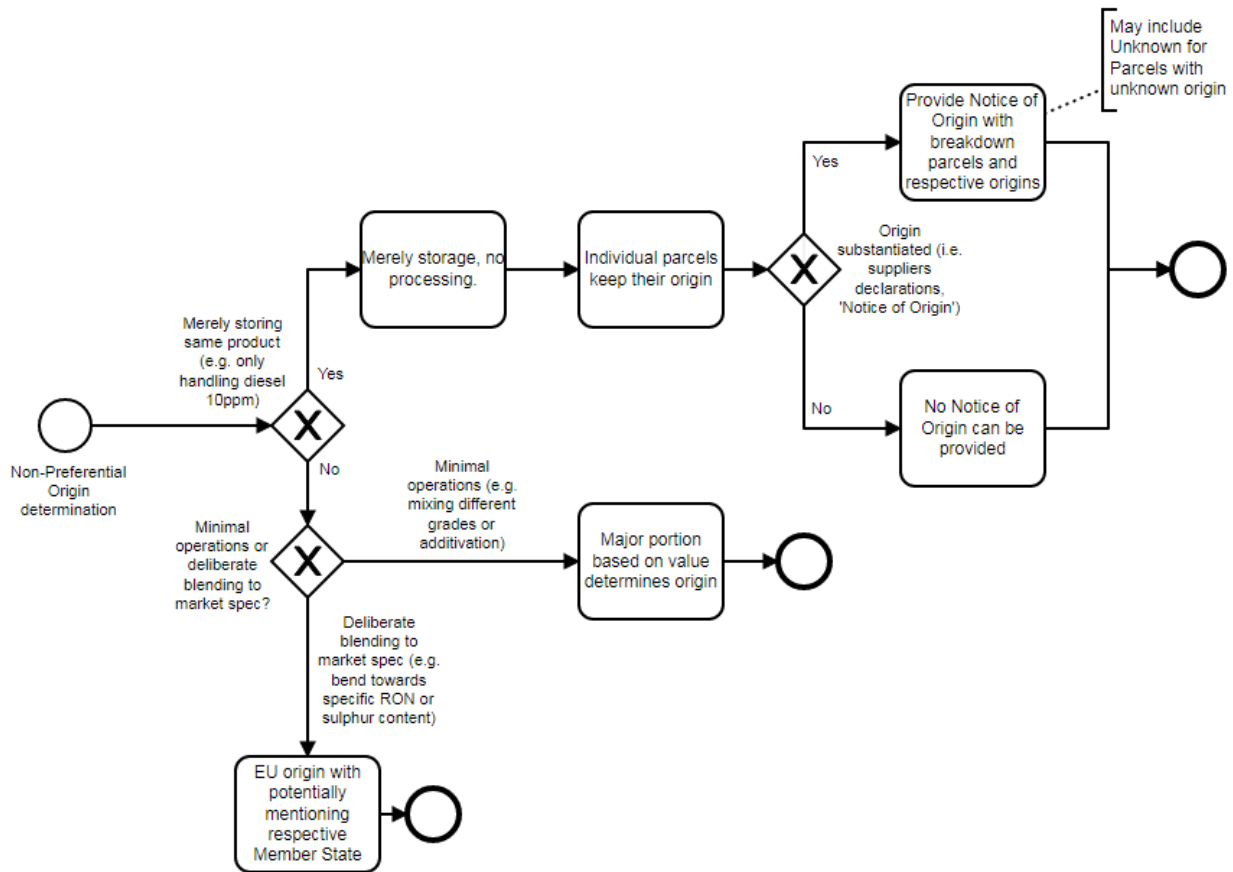
3. Blend CN code X	Israeli value 49%	Italian value 11%*	Netherlands value 40% *
--------------------	----------------------	--------------------	-------------------------

⇒ Major portion EU (\*EU Member States such as Italy + the Netherlands are taken into account as one (EU)), resulting in the statement on the document that the product is of **EU** non-preferential origin.

When operations concern merely storage (i.e. same CN code), the individual parcels keep their respective origin. The above can be translated to the following process:

---

<sup>2</sup> The document can mention that the product is blended in a particular country. For example, a commercial document stating the origin can mention that the product is of EU non-preferential origin and specify that the product is blended in Cyprus (EU Member State).



**It is important to note that we only issue a declaration of origin if we are able to conclude on the origin. Logically, if the origin cannot be determined there is no ground for stating anything about the origin by means of issuing a document.**

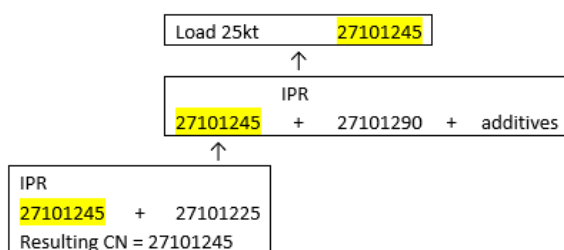
# Practical Examples

1. Origin for parcels unknown, no Statement of Origin can be issued - Customer requests for Statement of Origin for specific blend comprised of parcels for which we are not provided documentation stating the origin. Hence, the origin of the parcels (or some of the parcels) is unknown whereby we cannot conclude on the origin in general or, if applicable, apply the major portion rule based on the value. No Statement of Origin can be provided.

Original										
Tag ID	Order ID	Order Type	Prod Code	Prod Desc	Customs Status	Origin Country	Load Port	Vessel	Parcel Size	Uom
T301	59621	DBA	1-111	Diesel <= 10 ppm	AAD		Belgium	Gigantia	523,275	KGV
T301	59620	DBA	1-111	Diesel <= 10 ppm	AAD		Belgium	Velocity	2,838,525	KGV
T301	59512	DBA	1-111	Diesel <= 10 ppm	AAD		Belgium	Rygo	3,146,953	KGV
T301	59607	DBA	1-111	Diesel <= 10 ppm	AAD		Netherlands	Aquamarin	2,306,654	KGV
T301	59667	DBA	1-111	Diesel <= 10 ppm	AAD		Belgium	Compaan	1,668,763	KGV
T301	59510	DBA	1-111	Diesel <= 10 ppm	AAD		Belgium	Maike	2,133,197	KGV
T301	59516	DBA	1-111	Diesel <= 10 ppm	AAD		Belgium	Tyro	2,364,670	KGV
T301	59558	DBA	1-111	Diesel <= 10 ppm	AAD		Netherlands	Charlois	335,321	KGV

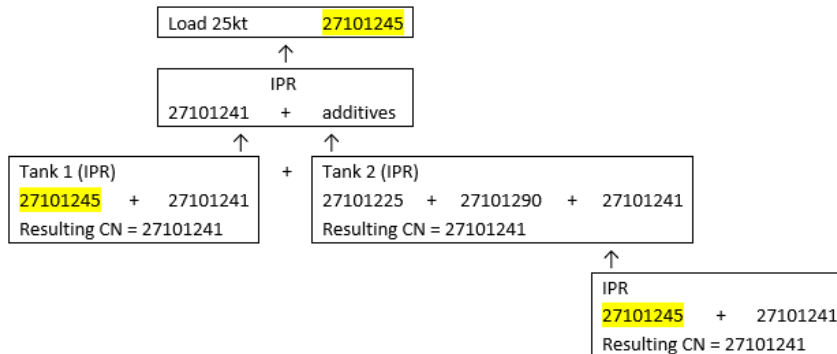
- ⇒ Please note that in the event the blend would qualify as ‘deliberate and proportional blending’, which is (EU) origin conferring, the origin of the parcels is irrelevant as this information is not needed to determine the origin of the blend.
- ⇒ If the customer is seeking a breakdown of the parcels we can provide this separately indicating the Load ports. By no means this is done by means of a Statement of Origin because there is nothing to say about the origin.

2. Additions to ‘base’ product, no deliberate or proportional blending:



- ⇒ Products are added to the ‘base’ product likely improving the product but not changing the very nature of the product. Considered minimal operations not origin conferring. Because here it is not merely storage but blending, the major portion rule applies provided that we are informed on the origin by the customers substantiated by documentation stating this origin. This relates to at least the parcel that constitutes the major portion on the basis of the value. If the origin of the other parcels are unknown that is not an issue.

3. Various components mixed to specific product (that was also used as component), considered deliberate and proportional blending and thereby origin conferring:



⇒ The processed product is a result of various significant components. The fact that one of the components has the same CN code as the end product does not affect this. Quantity wise it is not considered the 'base' product to which minimal operations are performed. Therefore, here a new product is created.

4. Various components (falling under the same CN-code, but different technical characteristics) mixed to specific product, considered deliberate and proportional blending and thereby origin conferring, under condition that the end product has new technical specifications / attributes that it didn't have before blending. The fact that all components have the same CN code as the end product makes no difference.

Situation before blend						
Tank	Client	Product	CN Code/Tariq	Status	Kilogram	Liters 15
T09	Shell Trading Rotterdam BV	1-030S <i>RMK 500</i>	2710196800	AAD	462,780	461,028
T09	Shell Trading Rotterdam BV	1-030S <i>RMK 500</i>	2710196800	AAD	227,506	226,645
T09	Shell Trading Rotterdam BV	1-051 <i>HSFO</i>	2710196800	AAD	4,293,050	4,276,798
T09	Shell Trading Rotterdam BV	1-012S <i>IMFO</i>	2710196800	AAD	6,058,208	6,035,274
T09	Shell Trading Rotterdam BV	1-042 <i>cuttestoch</i>	2710196800	T1	47,550,867	47,370,858
Situation after blend						
Tank	Client	Product	CN Code/Tariq	Status	Kilogram	Liters 15
T09	Shell Trading Rotterdam BV	1-051S	2710196800	AAD	462,780	461,028
T09	Shell Trading Rotterdam BV	1-051S	2710196800	AAD	227,506	226,645
T09	Shell Trading Rotterdam BV	1-051S <i>HSFO</i>	2710196800	AAD	4,293,050	4,276,798
T09	Shell Trading Rotterdam BV	1-051S	2710196800	AAD	6,058,208	6,035,274
T09	Shell Trading Rotterdam BV	1-051S	2710196800	T1	47,550,867	47,370,858