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Comité des règles d'origine

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**NOTIFICATION AU TITRE DE L'ARTICLE 5 DE L'ACCORD  
SUR LES RÈGLES D'ORIGINE**

**RÈGLES D'ORIGINE NON  
PRÉFÉRENTIELLES**

1. D'après l'article 5:1 de l'Accord sur les règles d'origine, chaque Membre communiquera au Secrétariat, dans un délai de 90 jours après la date à laquelle l'Accord sur l'OMC entrera en vigueur pour lui, ses règles d'origine et ses décisions judiciaires et administratives d'application générale concernant les règles d'origine applicables à cette date. Si, par inadvertance, une règle d'origine n'a pas été communiquée, le Membre concerné la communiquera immédiatement après que ce fait sera connu. L'article 5:2 de l'Accord dispose en outre que, pendant la période visée à l'article 2, les Membres qui apporteront des modifications autres que *de minimis* à leurs règles d'origine, ou qui introduiront de nouvelles règles d'origine, feront paraître un avis à cet effet au moins 60 jours avant l'entrée en vigueur de la règle modifiée ou nouvelle, de manière que les parties intéressées puissent avoir connaissance de leur intention de modifier une règle d'origine ou d'introduire une nouvelle règle d'origine, à moins que des circonstances exceptionnelles n'apparaissent ou ne risquent d'apparaître pour un Membre.

2. Eu égard à ces règles, la notification ci-après a été reçue:

**UKRAINE**

**A. RÈGLES D'ORIGINE NON PRÉFÉRENTIELLES**

Loi n°3261-IX du 14 juillet 2023 portant modification du Code des douanes de l'Ukraine concernant la procédure de détermination du pays d'origine des marchandises conformément au Code des douanes de l'Union et la mise en œuvre des accords de libre-échange de l'Ukraine, portant approbation d'une nouvelle version de la Section II du Code des douanes de l'Ukraine, à savoir le chapitre 6 "Pays d'origine des marchandises et critères de la transformation suffisante des marchandises. Documents sur l'origine des marchandises" et le chapitre 7 "Confirmation du pays d'origine des marchandises".

La Loi est entrée en vigueur le 11 août 2023.

Le texte peut être consulté à l'adresse suivante: <https://zakon.rada.gov.ua/laws/show/3261-20#Text> (en ukrainien).

Une traduction non officielle en anglais figure ci-après en annexe.<sup>1</sup>

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<sup>1</sup> En anglais seulement.

**ANNEXE**



***LAW OF UKRAINE***

**“On Amendments to the Customs Code of Ukraine on the Procedure for Determining the Country of Origin of Goods in accordance with the Union Customs Code and Ensuring the Implementation of Ukraine's Free Trade Agreements”**

The Verkhovna Rada of Ukraine resolves:

I. To introduce the following amendments to the Customs Code of Ukraine (Vidomosti Verkhovna Rada of Ukraine, 2012, Nos. 44-48, Art. 552):

1. In paragraph 7 of part seven of Article 33-1, the words "title of the country of origin" shall be replaced with the words "name of the country of origin".
2. Section II shall be read as follows:

**The Section II**

**Country of origin of goods**

**The Chapter 6. Country of origin and criteria for sufficient processing of goods. Documents on the origin of goods**

**Article 36. Determination of the country of origin of the goods**

**Article 36. Determination of the country of origin of goods**

1. The provisions of this Code establish non-preferential rules for determining the country of origin of goods transported across the customs border of Ukraine in order to apply

1) rates of customs duties, rules for their collection to the goods, which are granted the most favoured nation treatment, except for tariff exemptions (preferences) established by the international agreements of Ukraine, ratified by the Verkhovna Rada of Ukraine

2) measures of non-tariff regulation of foreign economic activity;

3) other measures in accordance with the requirements of the World Trade Organisation related to the determination of the country of origin of goods.

2. The country of origin is the country in which:

1) the cargo were fully received;

2) the goods have been subjected to the latest economically feasible production and technological processing operations that led to the production of a new product or are an

important stage of production, provided that the criteria for sufficient processing are met in this country, the list of which is established by the Cabinet of Ministers of Ukraine.

3. If the criteria for sufficient processing are not established for a particular product, the rule applies according to which the country of origin of the product is determined by the country of origin of the materials used in processing with the highest value.

4. The country of origin of goods may be understood as a group of countries, customs unions of countries, region, territory or part of the country, if it is necessary to identify them in order to determine the origin of the goods.

5. Fully received or sufficiently processed goods of preferential origin are determined in accordance with the laws of Ukraine, as well as international treaties of Ukraine, ratified by the Verkhovna Rada of Ukraine.

6. Peculiarities of determination of the country of origin of goods imported from the territories of special (free) economic zones located on the territory of Ukraine are established by law. Article 37. Goods fully obtained in the country of origin

#### **Article 37. Goods fully obtained in the country of origin**

1. Goods fully obtained in the country of origin shall be considered to be:

1) mineral products (minerals) extracted from the subsoil of this country, in its territorial waters or on its seabed

2) plant products grown or harvested in the country of origin;

3) live animals born and raised in this country;

4) products obtained from live animals raised in this country;

5) products obtained as a result of hunting or fishing in this country;

6) products of marine fisheries and other products obtained by a vessel registered in this country and flying the flag of this country outside the territorial waters of any country;

7) products obtained or produced on board a processing vessel of this country exclusively from the products specified in clause 6 of this part, provided that such processing vessel is registered in this country and flies its flag;

8) products obtained from the seabed or from the sea subsoil outside the territorial waters of this country, provided that this country has the exclusive right to develop this seabed or this sea subsoil;

9) scrap and waste resulting from industrial processing operations in this country, as well as second-hand products collected in this country and suitable exclusively for the recovery of raw materials;

10) goods obtained in this country exclusively from the products specified in paragraphs 1-9 of this part.

#### **Article 38. Production and technological operations that are economically unjustified**

1. Production and technological operations are considered to be economically unreasonable in a particular country if such operations are carried out with the aim of evading the application of measures specified in part one of Article 36 of this Code.

2. Regardless of the provisions of paragraph 2 of part two of Article 36 of this Code, the operations that do not meet the criteria of sufficient processing are considered economically unjustified for the purposes of obtaining the status of origin:

1) operations related to ensuring the preservation of goods in proper condition during transportation or storage (ventilation, splitting, drying, removal of damaged parts and similar operations), or operations that simplify the delivery or transportation procedure;

2) simple operations of dust removal, sieving, sampling or cleaning, sorting, classifying, arranging, picking, ironing, cutting;

3) change of packaging, fragmentation and batching, simple operations of placing in bottles, cans, flasks, bags (packages), boxes, crates, fixing on cardboard sheets or boards and all other simple packaging operations;

4) forming goods into sets or kits or operations to prepare goods for sale;

5) application of signs, inscriptions or other similar distinctive marks to goods or their packaging;

6) simple assembly of components (parts) of the product to obtain a whole product;

7) disassembling or changing the intended use of the product;

8) combination of two or more operations specified in this part.

#### **Article 39. Determination of the country of origin of accessories, spare parts or tools**

1. Accessories, spare parts or tools supplied together and constituting integral parts of goods classified in Sections XVI, XVII and XVIII of the UKTZED<sup>1</sup> are considered to originate from the same country as the said goods.

2. Basic spare parts for use with any goods classified in Sections XVI, XVII and XVIII of the UKTZED and previously released into free circulation shall be deemed to originate in the same country as the goods in question, if the inclusion of basic spare parts at the production stage does not change their origin.

3. For the purposes of parts one and two of this Article, the main spare parts shall be deemed to be the parts that are components (sub-assemblies) ensuring the operation of parts of machines, devices, units or vehicles released into free circulation or previously exported, inherent in these goods, as well as intended to ensure their operation and replacement of identical spare parts of these goods damaged or unsuitable for operation.

#### **Article 40. Neutral elements and packaging materials and containers that are not taken into account when determining the country of origin**

1. For the purposes of determining the country of origin, the origin of the following neutral elements shall not be taken into account:

1) energy and fuel

2) equipment and machinery

3) machinery and tools;

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<sup>1</sup> UKTZED<sup>1</sup> - Ukrainian Classification of Goods for Foreign Economic Activity

4) materials that are not included and not intended for the final composition of the goods.

2. If, in accordance with the fifth basic rule of interpretation of the UKTZED established by the Customs Tariff of Ukraine, packaging materials and containers are considered as part of the goods during classification, they are not taken into account when determining the country of origin of the goods, unless the criterion established for such goods in the list of criteria for sufficient processing determined in accordance with paragraph 2 of part two of Article 36 of this Code is based on the percentage of added value.

## **Chapter 7. Confirmation of the country of origin of the goods**

### **Article 41. Documents confirming the country of origin of goods**

1. The documents confirming the country of origin of goods are the certificate of origin of goods or a certified declaration of origin of goods, or a declaration of origin of goods, or a certificate of regional name of goods.

Electronic documents on the non-preferential origin of goods created, transmitted, stored or converted by electronic means into a visual form may be used as documents on the origin of goods on paper in compliance with the legislation in the field of electronic documents and electronic document management, as well as in the field of electronic trust services.

If the declarant creates an electronic document on the origin of goods and a hard copy document that are identical in terms of documentary information and details, each of these documents is an original and has the same legal force.

2. The country of origin of the goods shall be declared (declared) to the customs authority by indicating the name of the country of origin of the goods and information on the documents confirming the origin of the goods in the customs declaration, unless the mandatory submission of the original of such document for the purposes of determining the country of origin of the goods is provided for by the laws of Ukraine or international treaties of Ukraine, ratified by the Verkhovna Rada of Ukraine.

3. A certificate of origin is a document that clearly indicates the country of origin of the goods and issued by the competent authority of that country or the country of export, if in the country of export the certificate is issued on the basis of a certificate issued by the competent authority in the country of origin of the goods.

4. In case of loss of the certificate, its officially certified duplicate is accepted.

5. A certified declaration of origin is a declaration of origin of goods certified by a state organization or a competent authority vested with the relevant powers.

6. The declaration of origin is a written statement regarding the country of origin of goods made in respect of the export of goods by the manufacturer, seller, exporter (supplier) or other competent person on a commercial invoice or any other document relating to the goods.

7. A certificate of regional name of goods is a document confirming that the goods meet the definition specific to the relevant region of the country, issued by the competent authority in accordance with the legislation of the country of exportation of goods.

8. If the documents on the origin of the goods contain discrepancies in the information on the country of origin of the goods or the customs authority establishes other information on the

country of origin of the goods than those specified in the documents, the declarant or a person authorized by him/her shall have the right to provide the customs authority with additional information to confirm the information on the declared country of origin of the goods.

9. Additional information on the country of origin of goods shall be the information contained in the consignment notes, packing lists, shipping specifications, certificates (conformity, quality, phytosanitary, veterinary, etc.), customs declaration of the country of export, passports, technical documentation, expert opinions of the relevant authorities, other materials that can be used to confirm the country of origin of goods.

10. The documents confirming the origin of goods shall be stored in the manner and within the terms specified in Article 355 of this Code.

#### **Article 42. Procedure for confirming the country of origin of goods**

1. In case of transportation of goods across the customs border of Ukraine, the country of origin of goods shall be declared (declared) to the customs authority by indicating in the customs declaration the name of the country of origin of goods and information on the certificate of origin of goods

1) for goods to which, depending on their country of origin, quantitative restrictions (quotas) or measures taken by the state regulatory authorities of foreign economic activity within the powers defined by the Laws of Ukraine "On Protection of National Producers from Dumped Imports", "On Protection of National Producers from Subsidized Imports", "On Application of Safeguard Measures on Imports to Ukraine", and "On Foreign Economic Activity" are applied;

2) if the customs authority has established that the goods originate from a country whose goods are prohibited from moving across the customs border of Ukraine in accordance with the legislation of Ukraine;

3) if, for the purposes of determining the country of origin of the goods, this is stipulated by the laws of Ukraine and international treaties of Ukraine, the consent to be bound by which is granted by the Verkhovna Rada of Ukraine.

2. Documents confirming the country of origin of goods are not required if:

1) goods transported across the customs border of Ukraine are not subject to a written declaration in accordance with this Code;

2) goods are imported by citizens;

3) goods are imported into the customs territory of Ukraine under the temporary import regime with conditional full tax exemption;

4) goods are moved through the customs territory of Ukraine in transit;

5) it is provided by international treaties of Ukraine, ratified by the Verkhovna Rada of Ukraine;

6) samples of flora, fauna, soils, stones, etc. for scientific research, taken at the facilities of Ukraine located in the polar regions or on islands in the neutral waters of the World Ocean, which are of scientific interest to Ukraine, are moved across the customs border of Ukraine.

**Article 43. Verification of documents confirming the country of origin of goods after completion of customs clearance**

1. Verification of the documents confirming the country of origin of the goods referred to in Article 41 of this Code shall be carried out in accordance with this Article after the completion of customs clearance.

2. In case of doubts regarding the validity of the documents of origin of goods and/or the correctness of the information contained therein, in particular, regarding the information on the country of origin of the goods, the customs authority may verify the fact of issuance of the certificate and/or its content on the website of the competent authority (organization) that issued the certificate, or apply in paper or electronic form to such competent authority (organization) with a request to verify the authenticity of the document of origin of goods and compliance of the origin of goods with the rules of origin, established by this Code.

3. The request for an inspection must contain a statement of the circumstances that gave rise to doubts about the authenticity of the declared country of origin of the goods, a reference to the rules for determining the origin of goods applied in Ukraine, as well as other necessary information.

4. The request shall be accompanied by the original of the document to be verified or a copy thereof, as well as, if necessary, other documents and information that may facilitate the verification.

5. The request for an audit shall be sent within 1095 days from the date of submission of the document on the origin of the goods, unless such an audit is initiated in conjunction with criminal proceedings.

**Article 44. Issuance of certificates of origin of goods from Ukraine****Article 44. Issuance of Certificates of Origin of Goods from Ukraine**

1. In case of exportation of goods from the customs territory of Ukraine, the certificate of origin of goods from Ukraine, if it is necessary and reflected in the national rules of the country of importation or provided for by international treaties of Ukraine, ratified by the Verkhovna Rada of Ukraine, shall be issued by the competent authority (organization) authorized to do so in accordance with the law, rules of origin established by this Code, or rules of origin of the country of destination of goods.

2. The competent authority (organization) that issued the certificate of origin of goods from Ukraine shall keep a copy of it on paper or an electronic copy and other documents on the basis of which the origin of such goods from Ukraine is certified, not less than 1095 days from the date of its issuance.

**Article 45. Verification (verification of authenticity) of certificates and declarations of origin of goods from Ukraine**

1. Verification (verification of authenticity) of certificates and declarations of origin of goods from Ukraine is carried out by customs authorities in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

2. The competent authority (organization) authorized to issue certificates of origin of goods from Ukraine, manufacturers and/or exporters of goods, which have issued declarations of origin from Ukraine, are obliged at the request of the customs authorities to provide them

with free information related to the issuance of certificates or declarations necessary to carry out their verification.

3. In order to establish the authenticity of the data specified in the certificate and the declaration of origin of goods from Ukraine, customs authorities may request and receive from manufacturers and/or exporters of goods, which received a certificate of origin from Ukraine from the authorized body or issued a declaration of origin of the goods from Ukraine, the documentation necessary to verify the data specified in such certificate or declaration, as well as to carry out directly at enterprises the inspection of the production of goods and primary documentation related to such production, in accordance with the procedure established by law.

4. In order to establish the reliability of the data specified in the certificate and the declaration of origin of goods from Ukraine, customs authorities can conduct research (analysis, examination) of samples (samples) of such goods in the manner prescribed by this Code.

#### **Article 46. Grounds for refusal to release goods**

1. The customs authority refuses to release the goods if these goods originate from a country whose goods are prohibited for transportation across the customs border of Ukraine in accordance with the legislation of Ukraine.

2. Goods the origin of which is not reliably established shall be released by the customs authority into free circulation on the customs territory of Ukraine, subject to payment of import duty at the full rates of the Customs Tariff of Ukraine.

3. If it is impossible to establish the country of origin of goods subject to special types of duties (anti-dumping, countervailing, special or additional import duties), such goods are released for free circulation in the customs territory of Ukraine, subject to payment of special types of duties.

4. 4. The most favored nation treatment is applied (restored) to the goods, provided that the customs authority receives a duly executed relevant document on their origin no later than 1095 days after the date of customs clearance of these goods."

3. In the title and part one of Article 212, the word "produced" shall be replaced with the words "received or produced".

4. In clause 9 of part one of Article 238, after the word "certificates", add the words "and declarations of", and replace the numbers "47" with the numbers "45".

5. In sub-clause "g" of paragraph 5 of part eight of Article 257, the word "name" shall be replaced with the word "title".

6. Part one of Article 281 shall be supplemented with a second paragraph as follows:

"The Cabinet of Ministers of Ukraine shall approve the concept of "origin of goods" and methods of administrative cooperation in accordance with the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand, which shall be applied from the date of entry into force of the relevant decision of the Subcommittee on Customs Cooperation established in accordance with Article 83 of Chapter 5 of Section IV of the mentioned Agreement, which shall be published in accordance with the procedure established by the Cabinet of Ministers of Ukraine.



7. In paragraph 14 of part two of Article 544, the words "on the origin of goods" shall be replaced with the words "and declarations of origin of goods".

8. Section XXI "Final and Transitional Provisions":

in subparagraph 2 of paragraphs 9<sup>12</sup>, the words and figures "part four of Article 45, part two of Article 46, part four of Article 48" shall be replaced with the words and figures "part five of Article 43, part two of Article 44, part four of Article 46";

add paragraphs 9<sup>29</sup> as follows:

"9<sup>29</sup>. During the period of martial law imposed by the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" of February 24, 2022 No. 64/2022, approved by the Law of Ukraine "On Approval of the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" of February 24, 2022 No. 2102-IX, provided that the preferential rules of origin to international free trade agreements contain rules for the direct transportation of goods from the country of their origin, it is allowed, taking into account geographical, transport, economic reasons, to move goods originating from countries with In this case, the goods must be in an unchanged condition and no operations must be carried out with them, except for operations to ensure the safety and transshipment of goods.

Confirmation of the presence of goods under customs control in third countries, unless otherwise provided by the preferential rules of origin to international free trade agreements of Ukraine, is carried out by submitting one or more of the following documents at the choice of the company

1) certificates issued by the customs authorities of the transit countries confirming the conditions of stay of these goods in the transit country and containing

full description of the transported goods;

dates of unloading and reloading of goods;

names of vessels or other vehicles used (if necessary);

2) customs declarations in the customs regime of transit (when goods are stored under customs control, a customs declaration or other document executed when placing them in the customs regime of a customs warehouse, free customs zone or for temporary storage);

3) TIR Carnet (Carnet TIR) provided for by the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention) (TIR Convention) of 1975;

4) a confirmation letter on the official letterhead of the customs authorities of the transit countries;

5) a single transport document that regulates the transportation of goods from the country of export through the country(s) of transit;

6) shipping documents certified by the customs authority of the country of export, with information on the imposition of customs security."

II. Final provisions

1. This Law shall enter into force on the day following the day of its publication.

2. The Cabinet of Ministers of Ukraine shall, within three months from the date of entry into force of this Law:

ensure adoption of regulatory legal acts necessary for the implementation of this Law;

bring its regulatory legal acts into compliance with this Law;

to ensure that ministries and other central executive authorities bring their regulatory acts into compliance with this Law.

**President of Ukraine**

**V. ZELENSKYY**

Kyiv  
July 14, 2023  
No. 3261-IX

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