

Information sheet for project beneficiaries and partners on the Rules of Origin

According to Article 21.6. of REGULATION (EC) No 1638/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL:

‘All supplies and materials purchased under contracts financed under this Regulation shall originate in the Community or a country eligible under this Article. The term ‘origin’ for the purpose of this Regulation is defined in the relevant Community legislation on rules of origin for customs purposes.’

Above that, Point 2.2. of Annex IV. of the Grant Contract signed by the Beneficiary and the Joint Managing Authority describes:

*(...) the tenderer must state the origin of supplies. For the purpose of this annex, the term "origin" is defined in articles 23 and 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code and other Community legislation governing non-preferential origin. Contractors must present proof of origin to the Beneficiary no later than when the first invoice is presented, **for equipments and vehicles of a unit cost on purchase of more than € 5 000. The certificate of origin must be made out by the competent authorities of the country of origin of the supplies and must comply with the rules laid down by the relevant Community legislation.***

Therefore, the beneficiary and partners shall:

- **purchase ALL supplies and materials from the eligible countries (see Annex 1)**
- **present for the auditor/national controller a certificate of origin for equipments and vehicles of a unit cost on purchase of more than €5 000.**

Be advised that this rule is applicable only on ‘purchases’ and not on leasing, rental, etc.

Certificate of origin

What is the certificate of origin?

A certificate of origin is an international customs document proving that the goods originate from a certain country.

Where can you acquire it?

Usually it is the Chamber of Commerce, which issues the certificate of origin.

Consistency with national procurement rules?

Member States: Public administrations of the Member States use their national procurement rules.¹ Generally, in Member States, procurement rules prohibit the contractor to narrow down the countries a material or equipment may come from. However, as the eligible

¹ See Point 8.2. of Annex IV. of the Grant Contract

countries are stipulated in a regulation by the Council (which is directly applicable in all Member States), it is allowed to derive from the national rules in this regard. Please, always cite the relevant article of this Council Regulation, when drafting your Call in the procurement process.

Ukraine: Council regulation is not directly applicable in Ukraine, but as materials or equipments are financed from the European Union, all Ukrainian partners purchasing from the ENPI contribution shall take the rule of origin into account.

Also, according to the Financing Agreement between the European Commission and Ukraine, no restrictions exist in Ukraine regarding the rule of origin and regarding eligible countries.

Exception to the rule:

Exceptions could only be granted by derogation and they have to be addressed to the Joint Managing Authority. Grounds for exceptions are to be found in Art. 2.3.2 of PRAG (http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/documents/2008new_prag_final_en.pdf#page=14)

How to obtain a certificate of origin? (General rules)

Case 1, if materials have to be procured (they are above the procurement thresholds): It is advised to request from the supplier the certificate of origin already in the tender dossier and do not accept invoices without the certificate of origin.

Case 2, if materials don't have to be procured (they are below the procurement thresholds): The Beneficiary/partner has to request the Chamber directly to issue the certificate of origin. It is described in each country in detail what supporting documents have to be presented to prove the origin of the goods. Generally, a manufacturer's declaration is needed, which can be obtained directly from the manufacturer of the goods or indirectly from the seller, supplier etc.

Country specific rules:

Hungary	
Who?	The regional Chambers of Commerce are entitled in Hungary to issue certificates of origin (' Származási bizonyítvány '), except for agricultural products. webbpage: http://www.mkik.hu/index.php?id=71 http://www.szabkam.hu/index.php?id=1607
How much?	One set of certificate of origin costs 6.000 HUF for the members of the Chamber and 13.000 for non-members. Several items can be listed on the same certificate (no limitation on the materials, equipments, it may contain several invoices, etc).
Specific rules	<ul style="list-style-type: none"> ▪ It is not necessary to request for Certificates of Origin at every single purchase. However, the interval between the date of the issue of the CO and the date of issue of the invoice must not exceed 90 days. ▪ It is possible to issue a preliminary proof of origin. It means, that the B/P has the possibility to contact the Chamber and request it for opinion whether the goods planned to be purchased is from an eligible country or not. Thus, the B/P will not run into difficulties when the goods are already purchased but it turns out that the purchasing price of which cannot be considered an eligible cost.

	Please note, that this preliminary proof of origin is for information only and shall not supplement the final certificate to be submitted to the Joint Managing Authority.
	Slovakia
Who?	Slovak Chamber of Commerce and Industry http://web.scci.sk/view.php?cislocianku=2003112901&lmenu=301 http://web.sopk.sk/file.php?id=4_1152176882_cert_o_povode_tovaru-vzor_formularu
How much?	The prices for issuing a certificate of origin is according to the following price-list: http://web.scci.sk/view.php?cislocianku=2003112901&lmenu=301
Specific rules	There are no specific rules. The title of the project shall be indicated in the comments part of the certificate of origin document.
	Romania
Who?	The Chamber of Commerce and Industry (National Chamber or Regional Chamber of Commerce)
How much?	The cost of the template of the certificate of origin is 1 EUR – 4,2 RON. The issuing of the certificate is 365 RON/piece or of two or more are issued, than 292 RON/piece.
Specific rules	Certificates of origin are issued for direct Romanian export, as well as for SAPARD / PHARE /ENPI financing programs, at national level. To issue certificates of origin required by external financing funds, CCIR requires the Romanian company/project partner to establish the origin of goods (Romanian or EU) by completing an application form. The following are also required: <ul style="list-style-type: none"> • declaration of origin issued by the manufacturer; • related invoices; • certificate of registration at the National Trade Register Office; • financing contract (between the final beneficiary and the funding agency); • delegation; • other documents proving the origin: foreign certificate of origin, custom clearance, etc. Regarding the above mentioned documents, the applicant must submit the originals or the certified copies of the originals. <p>A single certificate of origin may be issued for several types of goods.</p>
	Ukraine
Who?	Ukrainian Chamber of Commerce and Industry http://www.ucci.org.ua/en/about.html (including regional branches)
How much?	The cost for the certification of the goods can be found here (Chamber of Commerce and Industry of Kiev): http://www.kiev-chamber.org.ua/exp2-ua
Specific rules	The certification can be issued for the good which are moved in the frame of the custom territory of Ukraine. In this case the special type of the certificate Y-1 can be provided. The procedure for the obtaining of the Y-1 certificate is described on the web site of the Ukrainian Chamber of Commence and industry http://www.ucci.org.ua/ru/servorig.html

ANNEX 1: Eligible countries (according to Annex A2 to PRAG (General Annexes) "Eligibility – Programmes 2007-2013", second section on ENPI

a. Natural persons who are nationals of, or legal persons who are established in:

- a Member State of the Community:

Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

- a country that is a beneficiary of this Regulation:

Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestinian Authority of the West Bank and Gaza Strip, Russian Federation, Syria, Tunisia, Ukraine.

- a country that is a beneficiary of an Instrument for Pre-Accession Assistance set up by Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA):

Croatia, The former Yugoslav Republic of Macedonia, Turkey.
Albania, Bosnia, Montenegro, Serbia, including Kosovo.

- a Member State of the EEA:

Iceland, Liechtenstein, Norway.

b. In duly substantiated cases participation of natural persons who are nationals of, and legal persons established in, a country having traditional economic, trade or geographical links with neighbouring countries.

c. All natural persons who are nationals of, or legal persons established in a country under reciprocity.

d. International organisations:

(a) international public-sector organisations set up by intergovernmental agreements, and specialised agencies set up by such organisations;

(b) the International Committee of the Red Cross (ICRC);

(c) the International Federation of National Red Cross and Red Crescent Societies;

(d) the European Investment Bank and the European Investment Fund.

- e.** In duly substantiated exceptional cases participation of natural persons who are nationals of, and legal persons established in, countries other than those referred to in points (a) to (c).
- f.** Whenever Community funding covers an operation implemented through an international organisation, participation in the appropriate contractual procedures shall be open to all natural or legal persons who are eligible pursuant to points (a) to (c) as well as to all natural or legal persons who are eligible pursuant to the rules of that organisation, care being taken to ensure that equal treatment is afforded to all donors.
- g.** Whenever Community funding covers an operation co-financed with a Member State, with a third country, subject to reciprocity or with a regional organisation, participation in the appropriate contractual procedures shall be open to all natural or legal persons who are eligible pursuant to points (a) to (c) as well as to all natural or legal persons who are eligible under the rules of such Member State, third country or regional organisation.
- h.** The above mentioned points shall be without prejudice to the participation of categories of eligible organisations by nature or by localisation in regard to the objectives of the action.
- i.** Where Community assistance under this Regulation is managed by a joint managing authority the procurement rules shall be those laid down in the implementing rules.

ANNEX 2: Rules on rule of origin according to the Customs Code

Customs Code: Council Regulation 2913/1992

Art. 23:

Goods originating in a country shall be those **wholly obtained or produced** in that country

- The expression „goods wholly obtained in a country" means:
 - (a) mineral products extracted within that country;
 - (b) vegetable products harvested therein;
 - [...]
 - (j) goods which are produced therein exclusively from goods referred to in subparagraphs (a) to (i) or from their derivatives, at any stage of production

Art. 24:

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**.