

EU Rules of origin

EU Rules of Origin

EU-Japan - Brussels – 17 March 2004

EU Rules of origin

Overview of the presentation

- Non preferential rules of origin
- Preferential rules of origin
- EU Enlargement and rules of origin
- Future of rules of origin
- RoO TAXUD Web-site

Customs Concept of Origin

A link between a product and a country

- depending on:

- the location of the production
- the conditions of the production

- in order to:

- decide about applying a measure/grant an advantage to a given country

EU Rules of origin

Non Preferential Rules of Origin

EU-Japan - Brussels – 17 March 2004

EU Rules of origin

A) Scope of application

- MFN Tariff quota
- Surveillance, retaliation and safeguard measures
- Quantitative limits (textiles)
- AD duties
- Origin marking and labelling
- Agricultural refunds
- Public tenders

EU Rules of origin

B) Determination of the origin of a product

- 1) Only one country is involved : wholly obtained products (Article 23 CCC).
- 2) More than one country is involved (Article 24 CCC) :
 - last substantial processing or working,
 - economically justified,
 - in an undertaking equipped for that purpose,
 - new product or important stage of manufacture.

EU Rules of origin

B) Determination of the origin of a product : **Last substantial transformation**

Textiles products :

- “Complete” process (Art. 36 & 37 of IP of CCC) :
CTH or Annexes 9 and 10 of IP of CCC
- Insufficient working or processing (Art. 38).

EU Rules of origin

B) Determination of the origin of a product : **Last substantial transformation**

Other products :

- Products mentioned in Annex 11 of IP of CCC :
working or processing described in column 3
(+ introductory notes in Annex 9)
- Other products not mentioned in Annex 11:
Interpretation of Article 24

EU Rules of origin

C) Proofs of origin :

Proofs for imports :

- Universal origin certificates :
 - Conditions of Art. 47 of IP of CCC
- Certificates for certain agricultural products subject to special import arrangements :
 - Corresponding with the model of Annex 13 of IP of CCC, filled in accordance with Art. 56 to 62
 - Provisions on administrative cooperation :
Articles 63 to 65

EU Rules of origin

C) Proofs of origin :

Proofs for exports

- Certificates issued in Member States :

Corresponding with the model of Annex 12 of IP of CCC, filled in accordance with Art. 48 to 54

Additional proofs

Additional proofs may be requested by the customs (Article 26 of CCC)

EU Rules of origin

WTO Agreement on Rules of Origin

- **Results of Uruguay Round (Final act, Marrakesh 1994)**
- **Major objective: harmonize the non-preferential rules of origin (trade facilitation)**
- **Harmonization Work Program**
- **2 new institutions: Committee on Rules of Origin (CRO) and Technical Committee on Rules of Origin (TCRO)**

EU Rules of origin

TCRO and CRO

- Task of TCRO (WCO, Brussels): definition of wholly obtained, minimal operations, products specific rules (last substantial transformation defined as CTH, value added, manufacturing or processing operations or combinations of rules).
- Task of CRO (WTO, Geneva): endorse unanimous TCRO proposals and solve unresolved issues, however no agreement until agreement on all HS-positions

EU Rules of origin

State of play

CRO identified 93 CPI's + implications

Informal bilateral and multilateral consultations

Proposal by July 2004 to General Council

CRO to resolve 90 technical issues by end 2004

Overall coherence

Entering into force 2007??

EU Rules of origin

Preferential Rules of Origin

EU-Japan - Brussels – 17 March 2004

EU Rules of origin

Overview of preferential rules of origin (1)

- Preferential arrangements (*list of arrangements*)
 - autonomous arrangements
 - agreements
- Preferences based on origin of products
 - tariff or non tariff preferences
 - unilateral or reciprocal preferences
- Customs Unions based on customs status

EU Rules of origin

Overview of preferential rules of origin (2)

- Preferential rules of origin: where to find them
(Article 27 Community Customs Code)
 - in agreements and in the OCT Decision
 - in a Council Regulation for Ceuta & Melilla
 - in the Code IP for other autonomous arrangements (GSP, Western Balkans ATMs)

EU Rules of origin

Managing preferential origin within the EC

- Council Regulation (EC) N° 1207/2001
(*OJ L165 21/06/01 + Corr. L170 29/06/02*)
 - Supplier's declaration and Certificate INF4
 - 'Single authorisation' for approved exporters

EU Rules of origin

Originating Status

Originating Products are either:

- Wholly obtained (no imported materials)

or

- Sufficiently worked or processed from non originating imported materials (“list rules”)

in the country

EU Rules of origin

Wholly Obtained Products

- Primary products from Agriculture, Mining and Fishing
- Products obtained only from them
- Used articles collected for recycling
- Waste and scraps

EU Rules of origin

Sufficient working or processing

Conditions (“list rules” & criteria)

- apply to imported non originating materials
- established for all HS products even if not covered by the preferential arrangement
- concern also products to be wholly obtained or manufactured from wholly obtained materials
- ‘absorption’ principle & value tolerance rule

EU Rules of origin

‘Minimal’ Operations

A ‘negative test’ for the originating status

- Operation which does not confer originating status even if products are sufficiently worked or processed according to list rules
- Applies only if non originating material is involved in the operation

EU Rules of origin

Other elements

- Unit of Qualification: HS classification rules
- Accessories, spare parts and tools: normal equipment, dispatched/invoiced together with the product
- Sets: threshold of 15% EWP of NO products
- Neutral elements

EU Rules of origin

Cumulation

- **Objective:** expand the ‘originating zone’ by considering materials originating in partner countries as originating in the country
- **Types:**
 - Bilateral cumulation
 - Diagonal cumulation (ex: PanEuro)
 - Full cumulation (ex: EEA, Maghreb, ACP/OCT)
 - Regional cumulation (GSP)

EU Rules of origin

Bilateral Cumulation

- Operates between two countries on the basis of a free trade agreement or unilateral preferences
- Allows to consider as originating in the beneficiary country products originating in the other country and which are subject to an operation more than ‘minimal’
- Applicable in ALL arrangements

EU Rules of origin

Diagonal Cumulation

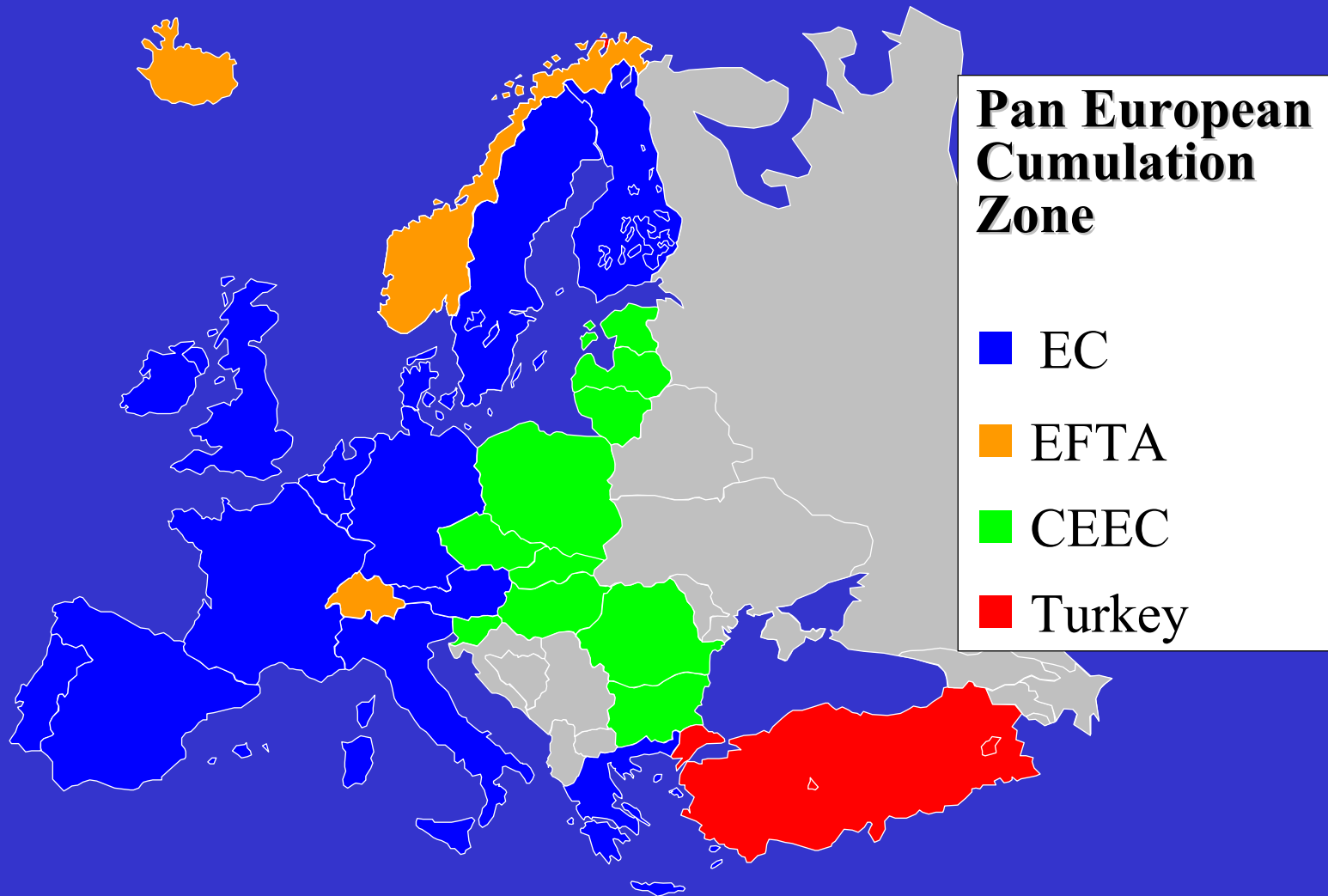
- Operates between more than two countries
- Requires a network of free trade agreements containing identical rules of origin and diagonal cumulation provisions involving all the countries of the zone (table in OJ C100 of 29 April 2002)
- Product is originating in the country of the zone where it has been subject to the last operation more than 'minimal' or to the highest VA

EU Rules of origin

Pan European Diagonal Cumulation

- Operates between the EC, the EFTA countries, the CEECs and Turkey (see map)
- Table of the network of free trade agreements in *OJ C100 of 29 April 2002*
- To be extended to Mediterranean countries and Faeroe Islands

EU Rules of origin



EU Rules of origin

Full Cumulation (European Economic Area)

- Agreement between parties providing for full cumulation between them
- Working or processing may be done on non-originating materials in any partner country
- Products are originating in the EEA

EU Rules of origin

Diagonal and Full Cumulation

- Only originating products can be cumulated under diagonal cumulation (PanEuropean)
- Non-originating products can be cumulated under full cumulation but working or processing requirements must be fulfilled (EEA)
- Linkage between EEA and PanEuropean cumulation zones

EU Rules of origin

GSP Regional Cumulation (1)

- Operates between countries belonging to one of three ‘regional groups’ (ASEAN, CACM-CAN, SAARC)
- Materials originating in one country of the group used in another one are considered as originating therein

EU Rules of origin

GSP Regional Cumulation (2)

- Final product is originating in the country of the last operation if:
 - this operation is **more than 'minimal'** AND
 - the **value added there is greater** than the highest value of the materials used, originating in any one of the other countries of the group

EU Rules of origin

Territorial requirements

- Principle of territoriality/derogation
- Direct transport
- Exhibitions
- Free zones

EU Rules of origin

No Drawback Rule

- Prohibition of any refund, remission or non payment of duties on non-originating materials, granted when obtained products are exported
- Objective is to prevent distortions in trade & unfair competition
- Not foreseen in autonomous arrangements
- Progressively expanded to all preferential agreements, with possible transitional ‘partial drawback’

EU Rules of origin

Accounting Segregation

- Not in all arrangements
- Authorisation issued by customs authorities
- Conditions are that exporter must
 - regularly export originating products
 - need accounting segregation because physical segregation impossible or too costly
 - offer adequate guarantees
 - use accounting system in keeping with national standards

EU Rules of origin

Proofs of origin

- Certificate EUR.1/Form A
 - issued by customs authorities on application by the exporter
 - Retrospective issue : errors or involuntary omissions or ‘special circumstances’ OR rejection at importation for ‘technical reasons’
 - Duplicates (theft, loss or destruction)
 - Replacement

EU Rules of origin

Proofs of Origin

- Invoice declaration
 - made out by exporter for consignments of a value less than 6,000 €
 - made out by “approved exporter” for consignments of a value higher than 6,000 €
 - after exportation if submitted at import within 2 years

EU Rules of origin

Approved Exporter

- Self-certification
- Prior audit and authorisation (conditions):
 - frequent shipments
 - all guarantees necessary to verify originating status and fulfilment of other requirements
- Monitoring of the use of the authorisation
- Withdrawal of the authorisation

EU Rules of origin

Proofs of Origin

- Validity of the proof
 - 4 months EUR.1/ 10 months (Form A)
except in exceptional circumstances
- Rejection of the proof/Refusal of the preference
 - ‘technical reasons’
 - inapplicable proof

EU Rules of origin

Proofs of Origin

- Exemption from proof of origin
 - products sent as small packages from private to private persons and declared as originating (500 EUR) - Post: CN22/CN23 Declaration
 - products forming part of travellers' personal luggage and not imported by way of trade (1,200 EUR)

EU Rules of origin

Administrative Co-operation

- Names/addresses of authorities responsible for issuing and checking proofs of origin
- Specimens of stamps
- Subsequent verification of proofs of origin
- Refusal of the preference
- Notices to importers (OJ C 348 5.12.2000)

EU Rules of origin

Explanatory Notes

- Tools for interpretation and implementation of Agreements
- Not legally binding: rules of origin as laid down in the Protocols have primacy
- Agreed between the EC and partner countries (PanEuro, Mexico, ACP, Chile)
- Published in OJ
(PanEuro: C 90 of 31.3.1999 & C 49 of 22.2.2002)

EU Rules of origin

Rules of Origin Accession Transitional Measures

CCCOS - Brussels - 17/18 November 2003

EU Rules of origin

Art.2 Act of Accession: principle

- Principle: MS apply from the date of accession the "Acquis communautaire"
- Exception: as provided in Act of Accession
 - goods moving between old-new MS
 - goods moving between new MS
 - goods moving between MS and third countries

EU Rules of origin

Customs measures

Annex IV n° 5 Act of Accession

Main principle

Goods that on the date of accession are in free circulation in an acceding or an old MS will be in free circulation throughout the enlarged community

EU Rules of origin

Trade within the enlarged community

Proof of pref origin ISSUED before accession

⇒ ACCEPTED as evidence of status

if

- goods on the date of accession are under a customs procedure
- prohibition of drawback applies on non originating materials

EU Rules of origin

Cyprus/Malta

- No EUR 1 as proof of status (no clause of no drawback exists)
- should use a different document to prove "community status" (T2L, T2M. ...)

EU Rules of origin

Trade within enlarged Community

Proofs issued before 1st may 2004 and where customs formalities are necessary in respect of trade between MS (old-new or between new) the provisions of relevant protocols in force between them on that date applies

EU Rules of origin

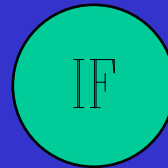
Trade within enlarged Community

Verification of EUR1 documents as "status
documents"

EU Rules of origin

Trade with third countries

I) Proofs issued by third countries before accession (under agreement with CC) shall be accepted



- EU 15 would also accept this proof
- proof of origin and transport documents issued before accession
- submitted to Customs by 1st September 2004

EU Rules of origin

Trade with third countries

II) Proof issued (by third parties)

RETROSPECTIVELY could be ACCEPTED
if

- goods declared for importation in the candidate country before 1 may 2004
- proof is submitted by 1st september 2004

EU Rules of origin

Request for verification

- ACCEPTED for a period of 3 years from the date of issue of the proof of origin
- may be ISSUED for a period of 3 years after acceptance of proof of origin

Future of Preferential Rules of Origin

EU-Japan - Brussels – 17 March 2004

EU Rules of origin

Green Paper of the Commission of 18 December 2003

- Reasons for a review of preferential RoO
- Structure and content of the GP
- Follow up

EU Rules of origin

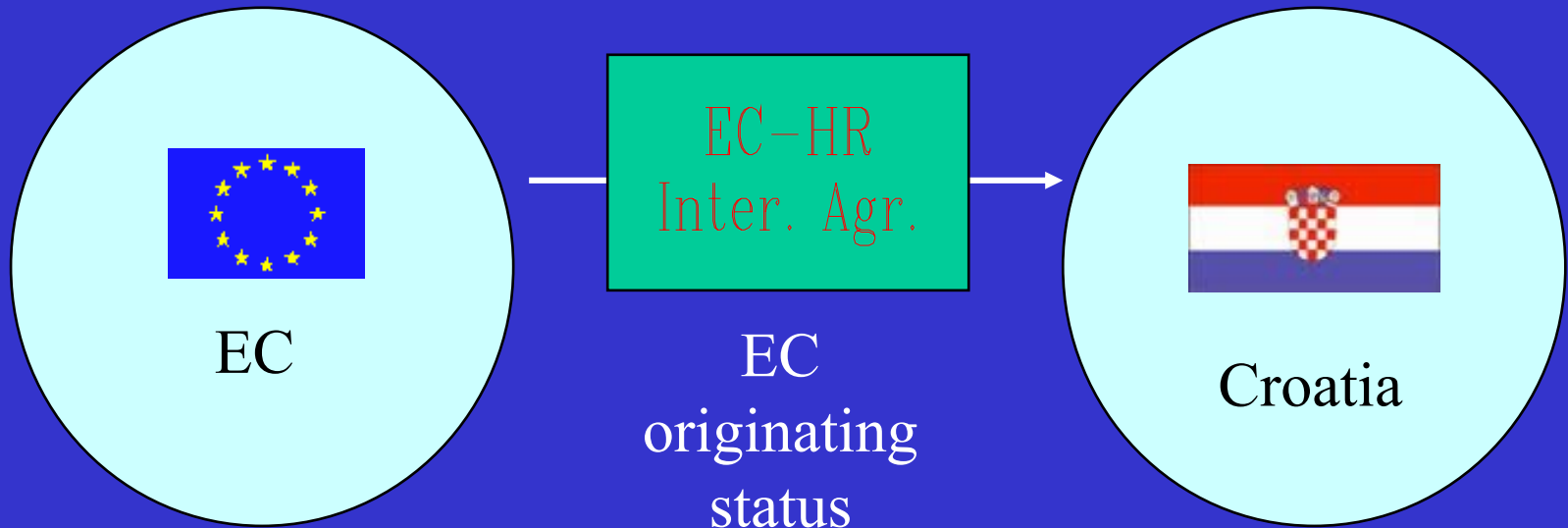
Practical Cases

EU Rules of origin

Potato flakes
(HS2005)
obtained in EC
from US
Potatoes
(HS0701)

CTH Example

Rule for ex HS 2005: “Manufacture from materials of any heading except that of the product”



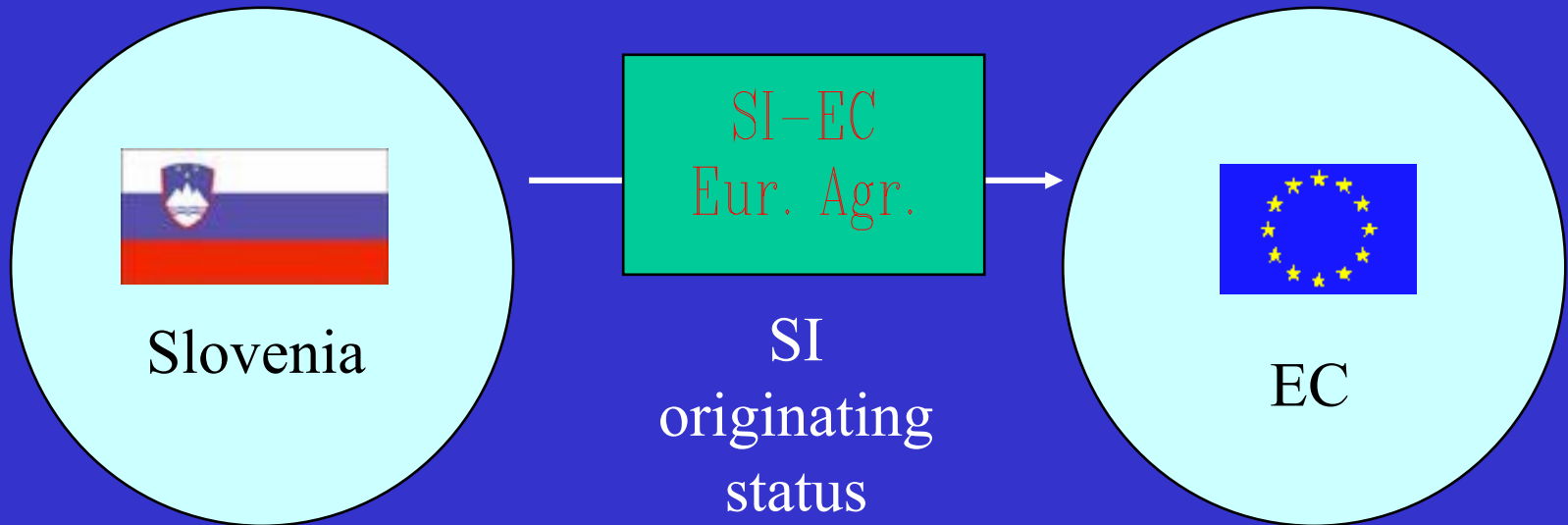
EU Rules of origin

Flavoured Sugar
(HS170191)

obtained in SI partly
from RU raw beet
sugar (HS170112)
= 25 % of the ex-
works price

VP Example

Rule for ex HS 1701: “Manufacture in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product”

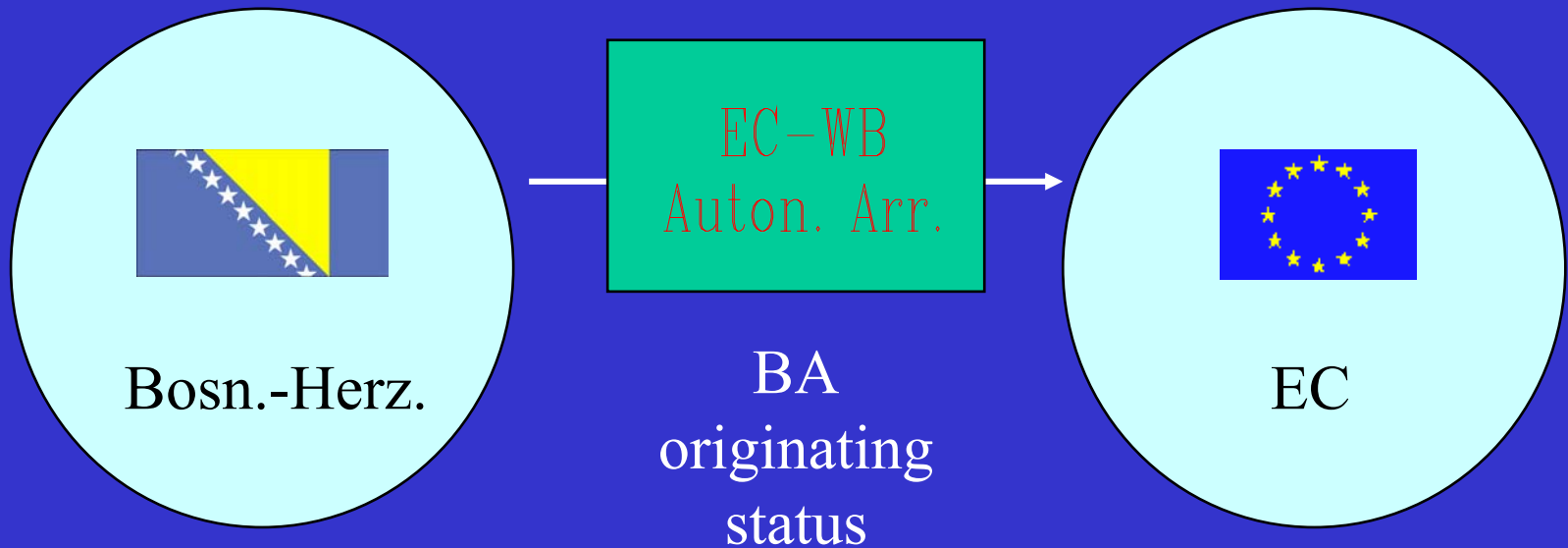


EU Rules of origin

Flour (*HS1106*)
obtained in BA
from beans
(*HS070820*)
imported from
Chile

SP Example

Rule for ex HS 1106: “Drying and milling of leguminous vegetables of heading 0708”

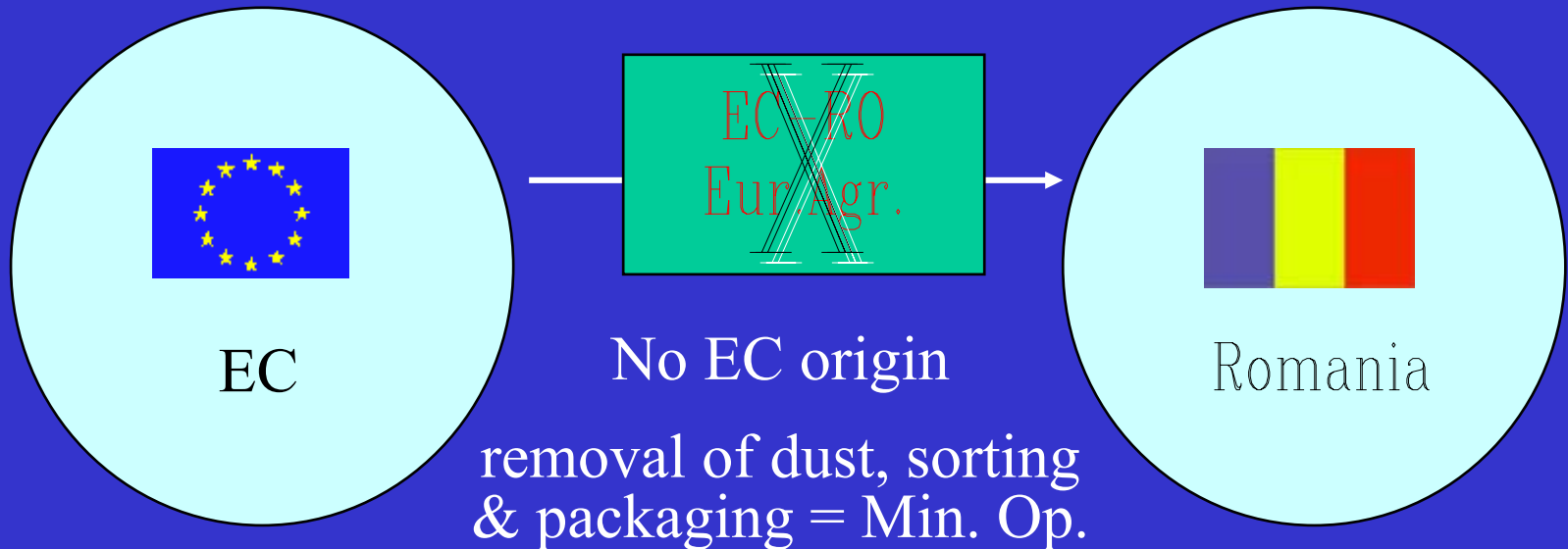


EU Rules of origin

MO Example

Colombian raw coffee (*HS0901*) is de-dusted, sorted and split-up into different packaging in the EC

Rule for ex HS 0901: “Manufacture from materials of any heading”



EU Rules of origin

Bilateral Cumulation - Example

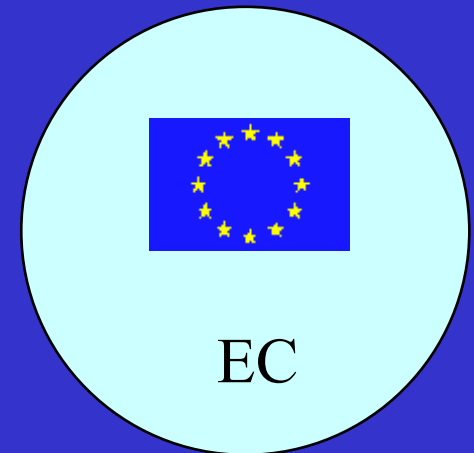
Yarn, wholly obtained
in FYROM, is
exported to the EC



In the EC the yarn is
considered as EC-
originating when
woven into fabric for
re-export to FYROM

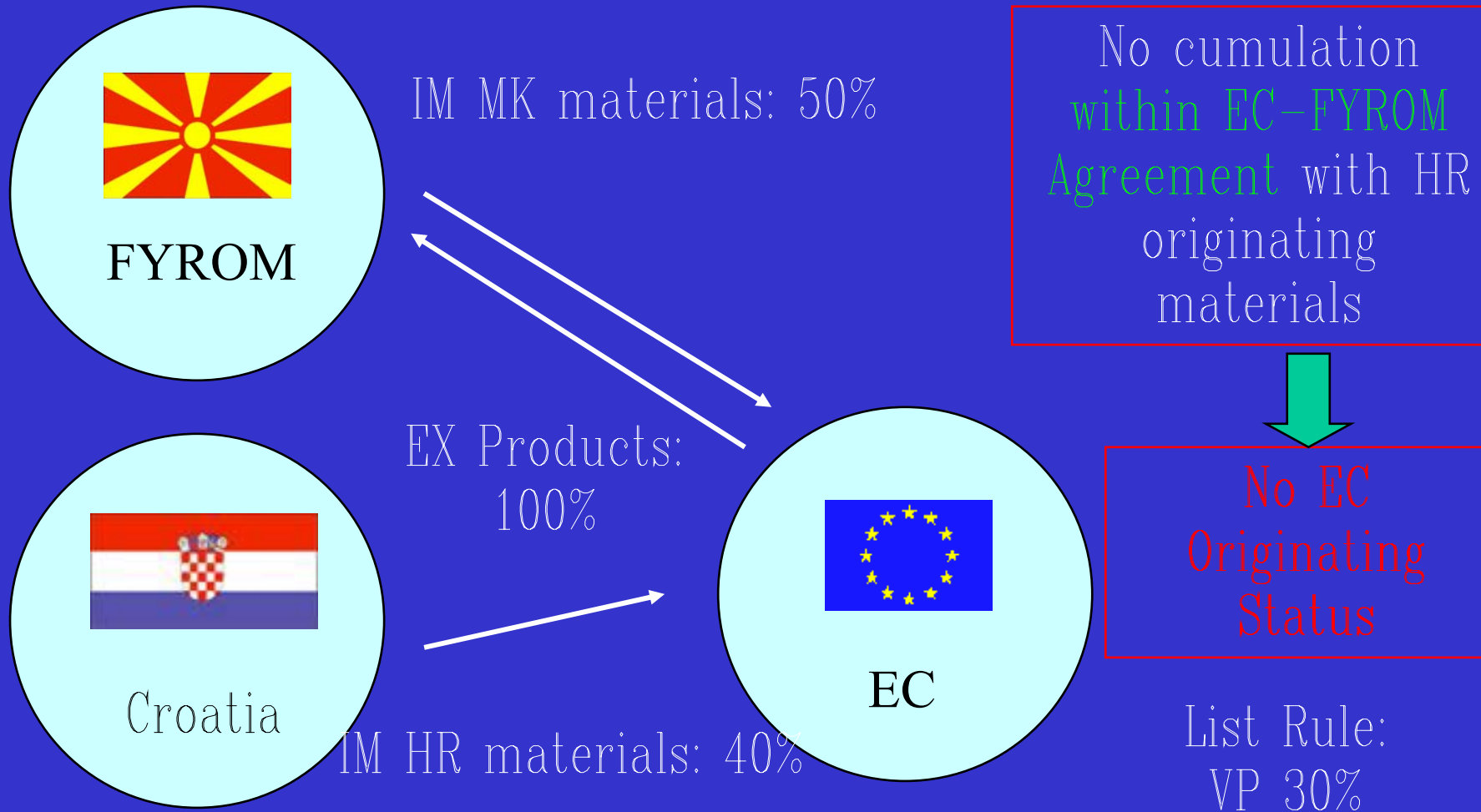


The woven fabric
has EC
preferential origin
on importation
into FYROM



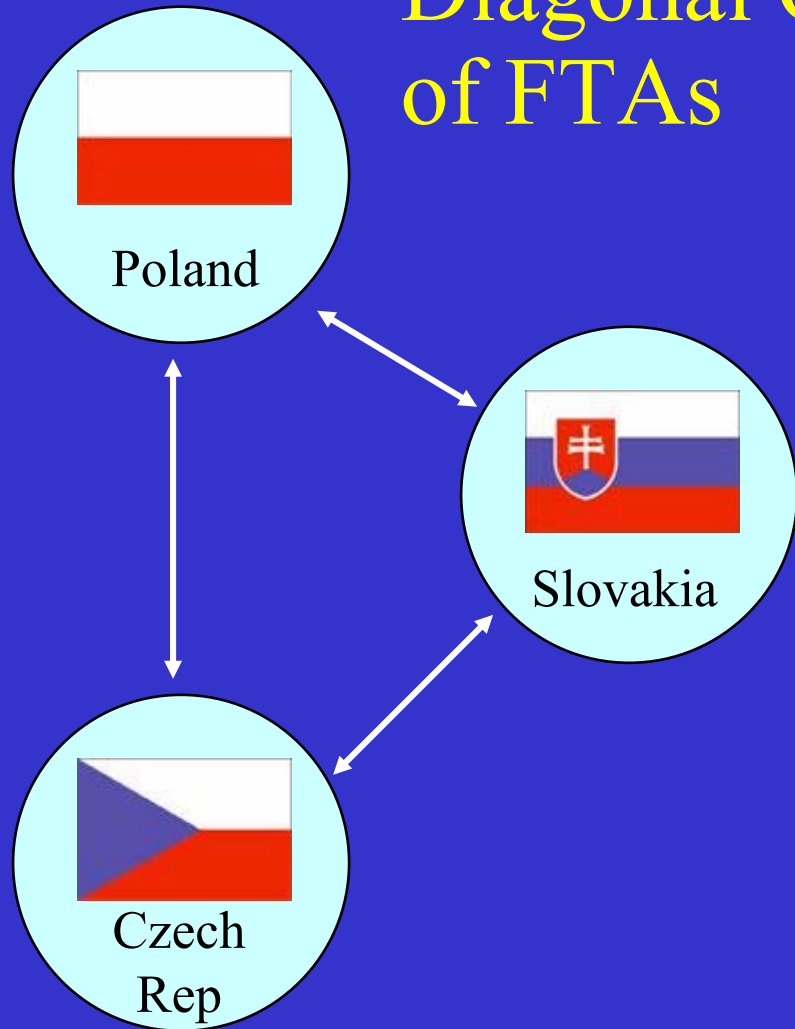
EU Rules of origin

Bilateral Cumulation - Limits



EU Rules of origin

Diagonal Cumulation: a network of FTAs



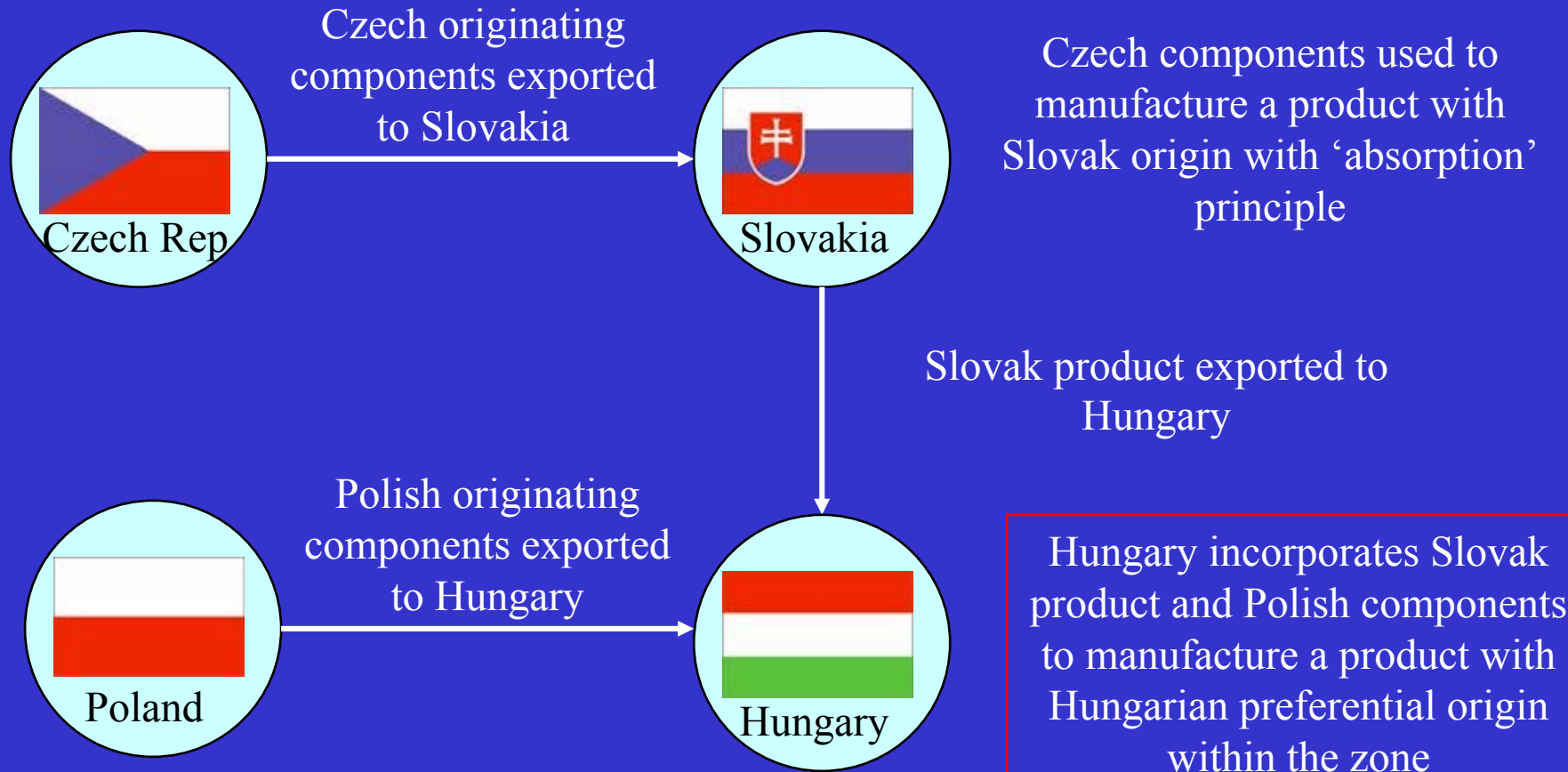
Slovakia has agreements with Poland and Czech Republic containing identical origin rules and cumulation provisions

Poland has an identical agreement with Czech Republic

Slovakia can use products with Polish and Czech origin to manufacture products that have Slovak origin when exported within the zone

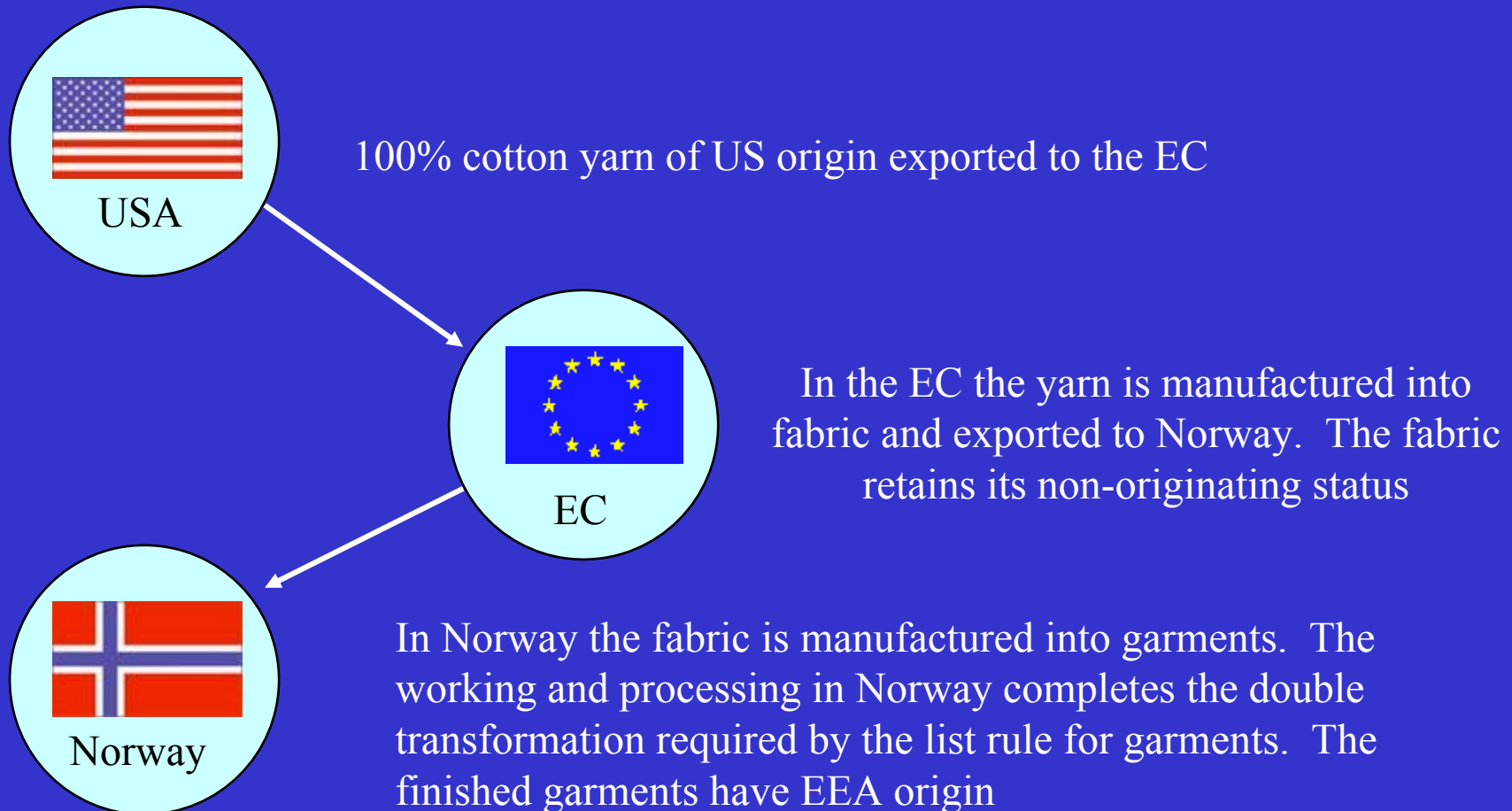
EU Rules of origin

Diagonal Cumulation - Example



EU Rules of origin

Full Cumulation - Example



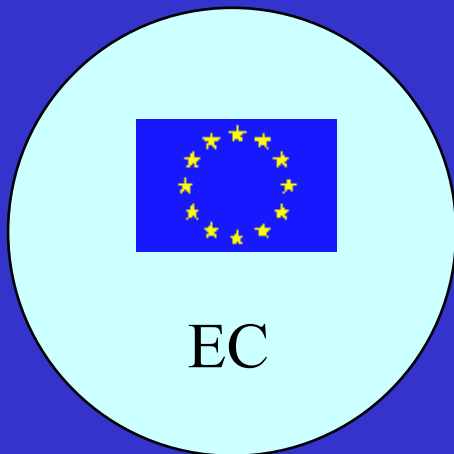
EU Rules of origin

GSP Bilateral Cumulation - Example

Linen fabric of EC
origin exported to
India (EUR1)



Fabric is cut and
made into garments
in India and exported
to EC



Finished garments
have obtained



Indian preferential
origin (Form A)



EU Rules of origin

GSP EC/NO/CH Cumulation - Example



Linen fabric of NO
origin exported to
India



Fabric is cut and
made into garments
in India and exported
to EC

‘TRIANGULATION’



Finished garments
have obtained
Indian preferential
origin under EC GSP

