

# Rules of origin

This flyer explains why they matter, what they mean, and how to use them in your business.

## Why do they matter?

When the Transition Period ended on 31 December 2020, the UK left the EU Customs Union and Single Market. Just ahead of the end of the Transition Period, the UK and the EU agreed the terms of a bilateral free trade agreement contained in the Trade and Cooperation Agreement (TCA).

A bilateral free trade agreement allows two parties to trade on preferential terms, but only if the goods satisfy the rules of origin agreed between the parties. These rules are contained in the TCA and are summarised below.

## What do they mean?

### Overview

There are three ways in which products can satisfy the rules of origin agreed between the UK and EU.

1. They are “wholly obtained” within either the UK or EU.
2. They are produced “exclusively from originating materials” in either the UK or EU.
3. They incorporate “non-originating materials” but satisfy specific requirements set out in the TCA.

## Wholly obtained

There are several criteria for products to satisfy to be wholly obtained within either the UK or EU. Those criteria can be summarised as follows.

### Animal, vegetable, or mineral...

In broad terms, animals reared in the UK or EU, plants and vegetables grown and harvested, and minerals extracted from the soil will all be treated as wholly obtained in the respective territory.

### Fishing

If fish are taken from outside territorial waters by a vessel registered in the UK or EU, they will be treated as wholly obtained in either the UK or EU as appropriate. There are

specific rules to determine whether a vessel is registered in either territory.

### Seabed and subsoil

If the UK or EU have rights to extract products from the seabed or subsoil outside their territorial waters, they will be treated as UK or EU products if they have extraction rights.

### Waste and scrap

Waste and scrap from production operations in either territory or waste and scrap collected in either territory, provided anything collected is only fit for the extraction of raw materials.

## Exclusively from originating materials

Products made from raw materials exclusively obtained in either the UK or EU, will be treated as originating products.

The TCA contains several clauses to clarify what is meant by originating material, cumulation of material across both the UK and EU, tolerances for non-originating material, insufficient production processes, together with a number of other important criteria. In broad terms, these clauses are intended to tightly control what can be treated as an originating product, which can then be shipped free of import duties between the UK and EU.

Once a product has gained originating status, it is considered 100% originating. This means that if that product is incorporated in the production of a further product, its full value is considered originating and no account is taken of non-originating materials within it.

### Cumulation

If a finished product originates in the UK and is then used as material in the production of a product in the EU (or vice versa), the UK product can be treated as originating material in the EU. This allows cross border production processes across the UK and EU, for example car production, to continue without the loss of origin status at each stage of the production process.

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## Tolerances

The TCA contains several provisions to control the amount of “non-originating materials” which can be used in the production of a product which can move tariff free between the UK and EU. For example,

- 15% by weight of the final product for agri-food goods
- 10% by value of the value the final product for manufactured goods (except clothing and textiles).

If the above tolerances are met then the product can be classed as originating, even though it contains non-wholly produced materials. This is an important consideration when dealing with these areas of the Tariff as this may ensure the finished product qualifies as originating.

## Insufficient production

This clause lists several processes, which cannot count towards the production of an originating product, such as

- Preserving operations such as drying, freezing, or keeping in brine
- Washing, cleaning, removal of dust etc
- Ironing or pressing of textiles
- Simple painting or polishing

The full listing can be found on Pages 30 to 31 of the TCA (Article ORIG.7).

To help illustrate the dividing line between insufficient production and something more substantial, this clause draws a distinction between preserving and “operations such as pickling, drying or smoking that are intended to give a product special or different characteristics.” If the process sufficiently changes the nature of the product, it may therefore qualify as an originating product for the purposes of tariff free movement between the UK and EU.

Generally, where a UK/EU process would change the Tariff Heading of the raw material or component (either by manufacturing or assembly onto a finished product), this would be sufficient.

## Non-originating materials

The TCA contains an extensive list of product specific rules, which can override the general rules on origin. These product specific rules use the tariff classification of the product as a frame of reference. In overview, the product specific rules deal with situations in which a process is applied to alter the nature or characteristics of the non-originating material. For example:

## Dairy produce

Dairy produce is in Chapter 4 of the Tariff. The production process must use “wholly obtained” materials covered by Chapter 4 and must not contain more than 20% by weight of non-originating sugars and syrups from Tariff headings 17.01 or 17.02.

## Preparations of vegetables

These are covered by Chapter 20 of the Tariff. To take one specific example, mango chutney has a Tariff classification of 2001 9010 00. Mango chutney can be treated as an originating product within the UK or EU, if any non-originating materials used in the production do not appear under the 4-digit tariff classification “2001”. The mangoes used in mango chutney would be classified under 0804 5000 00. All other raw ingredients would be similarly listed in other parts of the tariff outside heading 2001. This means of reclassification is referred to in the TCA as “CTH” (Change of Tariff Heading). A finished product can be made from non-originating materials of any Tariff heading, except for the 4-digit level of the Tariff.

## How to use the rules of origin

If you are buying or selling originating products within the free trade area of the UK and EU, you will need to take certain practical steps to ensure that the goods can benefit from tariff free movement.

### Buying

As the importer, you are responsible for the submission of an import entry to HMRC. This import entry is the basis for any claim for tariff free importation of goods into the UK. The TCA states that any claim for preferential tariff treatment must be based on

- a) a statement on origin that the product originates in the EU; or
- b) your knowledge that the product originates in the EU.

The TCA does not envisage that any preference certificates will be used, such as EUR1 certificates, to accompany the movement of goods.

A statement on origin must contain details set out in the TCA, but can be provided in any format, whether on the sales invoice or a separate document.

If you self-certify that the goods are of EU origin, you will need to hold sufficient detail that the product originates in the EU.

## Selling

As the exporter, it is clearly in your interests to provide a statement on origin to your customer to ensure that the products can be shipped tariff free to the EU.

The TCA states that the statement on origin should contain the following details:

“(Period: from \_\_\_\_\_ to \_\_\_\_\_ (1))

The exporter of the products covered by this document (Exporter Reference No ... (2)) declares that, except where otherwise clearly indicated, these products are of ... (3) preferential origin.

.....(4)

(Place and date)

.....

(Name of the exporter)

(1) If the statement on origin is completed for multiple shipments of identical originating products within the

meaning of point (b) of Article ORIG.19(4) [Statement on Origin] of this Agreement, indicate the period for which the statement on origin is to apply. That period shall not exceed 12 months. All importations of the product must occur within the period indicated. If a period is not applicable, the field may be left blank.

(2) Indicate the reference number by which the exporter is identified. For the Union exporter, this will be the REX authorisation number. For the United Kingdom exporter, this will be the UK EORI number. Where the exporter has not been assigned a number, this field may be left blank.

(3) Indicate the origin of the product: the United Kingdom or the Union.

(4) Place and date may be omitted if the information is contained on the document itself.”

The statement on origin can be included in your sales invoice or provided separately. It can also cover multiple shipments over at least a 12 month period. HMRC can extend this to 24 months within the terms of the TCA.

## Conclusion

The rules of origin underpin the free trade agreement between the UK and the EU. Unless your goods originate in either the UK or the EU, they cannot be shipped without paying import duties.

If you are buying goods from an EU supplier, you need to understand the production process and you need to trust your supplier, as you are liable for any unpaid import duty and associated penalties for a false import entry.

If you are selling goods, you need to understand your own production process and be able to substantiate that to your customers, so that they can place faith on your statement on origin supplied with your goods. This will include if necessary, a detailed knowledge of the Tariff classification of both raw materials and finished goods.

We are here to help you transition from the EU Customs Union to the bilateral trade agreement which now governs the movement of goods between the UK and EU.

## Contacts



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