

Rules of Origin

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Origin

- Origin - the economic nationality of goods:
 - Where do the goods originate?
 - Is the country of origin party to a trade agreement?
- EU – UK Trade and Cooperation Agreement (TCA) - Preferential Origin – products meeting Rules of Origin (RoO) qualify for reduced/nil rate of duty



Background



Some common provisions but details vary per individual FTA



Rules are specific to products (product specific rules i.e. list rules)



Origin must be proven in order to claim preference – recent agreements allow for the use of the Registered Exporters (REX) system



Exemptions only apply to non-trade movements e.g. goods in a traveller's personal luggage

Common provisions

- Originating status – products have originating status if they are “wholly obtained” or sufficiently worked – applies to all preferential origin arrangements
- Wholly obtained – applies mainly to natural products and to goods made entirely from them
- Sufficiently worked or processed – non-originating materials/components must be sufficiently worked, in accordance with the list rules, in order to obtain origin
- Cumulation – **bilateral**, diagonal, regional, **full**
- Territoriality – means that any working/processing must be carried out in the territories of the parties.

Common provisions

- Direct transport/non-alteration – the goods must travel directly between the partner countries or be under customs control if they transit through a 3rd country
- Tolerance – the general tolerance rule allows the final product to obtain originating status using a small amount of non-originating materials not allowed by the PSR (e.g. tolerance level for agricultural products in the TCA is 15%).
- Cannot apply both the general tolerance rule and derogation from principle of territoriality at the same time

Examples of origin obtained as wholly obtained goods

- Live animals born and raised there
- Products from live animals raised there
- Mineral products or other non-living natural resources extracted or taken from there
- Vegetables, plants and plant products harvested or gathered there



Sufficiently worked or processed products

- The List Rules/Product Specific Rules in an FTA specify the working or processing that non-originating products must undergo to qualify as originating under that FTA
- The main methods by which sufficient working or processing are determined:
 - a) Value-added method, e.g. Production in which the value of non-originating materials used does not exceed xx% of the ex-works price i.e. the factory price of the product (materials + labour + overheads + profit)
 - b) Specific process method as set out in the Product Specific Rule
 - c) Change of tariff heading method
 - d) Combination of two or more of a, b and c above

Cumulation

Bilateral cumulation

- Materials originating in one Partner country can be regarded as originating in the other Partner country
- Working or processing on originating materials from the FTA Partner country does not need to fulfil the list rule but must normally go beyond insufficient working or processing.
- Bilateral cumulation is the standard form of cumulation in free trade agreements between 2 countries

Cumulation

Full cumulation

- Applies to working and processing on non-originating materials
- The working or processing in the Product Specific Rules can be carried out on non-originating materials in the Parties to the FTA
- Operations carried out successively in the Parties can be considered together in order for the final product to obtain origin
- It operates between the EU and UK and for example, countries of the EEA, the Overseas Countries and Territories of EU countries, African/Caribbean/Pacific countries

- The product specific rule (PSR) for Heading 2309 outlines change of Tariff Heading, provided that:
 - all the materials of Chapters 2 and 4 used are wholly obtained;
 - the total weight of non-originating materials of headings 10.01 to 10.04, 10.07 to 10.08, Chapter 11, and headings 23.02 and 23.03 used does not exceed 20 % of the weight of the product; and
 - the total weight of non-originating materials of headings 17.01 and 17.02 used does not exceed 20% of the weight of the product.

- It is important to note that a claim for preferential tariff treatment:
 - for imports into Ireland can be made only where the goods are of UK origin.
 - for imports into the UK can be made only where the goods are of EU origin.under the Rules of Origin in the TCA
- The PSR specifies the working or processing required for non-originating goods to qualify as preferential origin.

Cumulation of origin: Cumulation may be used under EU-UK TCA - Article ORIG.4

1. A product originating in a Party shall be considered as originating in the other Party if that product is used as a material in the production of another product in that other Party.
2. Production carried out in a Party on a non-originating material may be taken into account for the purpose of determining whether a product is originating in the other Party.
3. Paragraphs 1 and 2 do not apply if the production carried out in the other Party does not go beyond the operations referred to in Article ORIG.7 [Insufficient production].
4. In order for an exporter to complete the statement on origin referred to in point (a) of Article ORIG.18(2) [Claim for preferential tariff treatment] for a product referred to in paragraph 2 of this Article, the exporter shall obtain from its supplier a supplier's declaration as provided for in Annex ORIG-3 [Supplier's declaration] or an equivalent document that contains the same information describing the non-originating materials concerned in sufficient detail to enable them to be identified.



Example - Preparations of a kind used in animal feeding - 2309.10 **Dog food put up for retail sale**

Materials used in the manufacture of the dog food product by weight:

- EU origin: meat of chapter 2 = 20%.
- UK origin: wheat of heading 10.01 = 50%; sugar of heading 17.01 = 30%.
- To obtain EU origin for the finished dog food product, the UK wheat and sugar materials can be deemed as EU origin materials using cumulation.
- Using bilateral cumulation the PSR conditions limiting the non-originating materials of wheat and sugar to 20%, do not need to be met.
- As there is more than insufficient processing the dog food acquires EU origin under the Rules of Origin.

Where do we find the detailed rules for animal feed sector?

- The Rules of Origin are included in Part 2, Chapter 2 of the TCA, page 27.
- The product specific rules for agriculture products are included in Annex ORIG – 2 starting at page 423 of the EU-UK TCA.
- Annex ORIG – 1 includes introductory notes.
- https://ec.europa.eu/info/sites/info/files/brexit_files/info_site/tca-20-12-28.pdf
- The agriculture sector is covered in chapters 1 to 24.

Documentary proof of origin

- Certificates authorised by customs (EUR.1, A.TR, GSP Form A certs)
- Declarations made out on invoices or other commercial documents by ‘Approved Exporters’ under ‘simplified procedure’
- Declarations made out on invoices or other commercial documents by registered traders - REX
- Importer’s knowledge

Verification procedures

- Importers and exporters should keep documentary evidence for at least 3 years proving origin of the goods
- Customs authorities may request such proof from importers and exporters under the terms of free trade agreements



THANK YOU

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