

RULES OF ORIGIN

A Step-by-Step Guide & Workbook to Determine the Origin of Goods

Brexit continues to be a significant challenge for UK-EU trade despite the 11th hour cooperation agreement. On the face of it, this agreement brought duty free trade between the regions, but on closer scrutiny there are difficult strings attached in terms of complicated rules of origin requirements.

Back in September 2020 we wrote an article titled 'The Greatest Brexit Challenge You've Never Heard About' detailing the possible challenges surrounding this subject. Nothing since has changed our minds!

This Guide and the accompanying Workbook have been developed by Go Exporting to help you make sense of the new rules and determine the origin of your products to see if they qualify to claim preferential 0% duty.

01. WHAT ARE RULES OF ORIGIN?

Think of Origin as the 'Economic' nationality of your goods. It is their passport to the way they are dealt with in international trade in terms of duties, standards and compliance with relevant trade agreements. As such Origin can have a profound effect on the viability of your product.



02. IS ORIGIN NOT OBVIOUS?

In this day and age of complex supply chains, defining the Origin of a product can be difficult. It is not where the final goods are shipped from, or even where they are produced, account must be taken of the origin of the components which make up a final product and the processing carried out in the country claiming Origin. Many products are made up from raw materials and components sourced from several countries.

Rules of Origin take all these factors into account to develop a decision-making framework between countries or economic blocks that are party to a trade agreement, known as Preferential Rules of Origin.

Where a Free Trade Agreement does not exist, the World Trade Organisation (WTO) has guidelines for countries to follow and common duty rates, known as Non-Preferential Rules of Origin, or Most Favoured Nation status.



03. WHAT ARE THE PRINCIPALS OF RULES OF ORIGIN?

There are two key principals generally accepted and used in trade agreements to ascertain the country of origin of goods, although the specific rules vary between trade agreements. We will look at the specific rules in the UK-EU Trade & Cooperation Agreement in the next section.

• WHOLLY OBTAINED

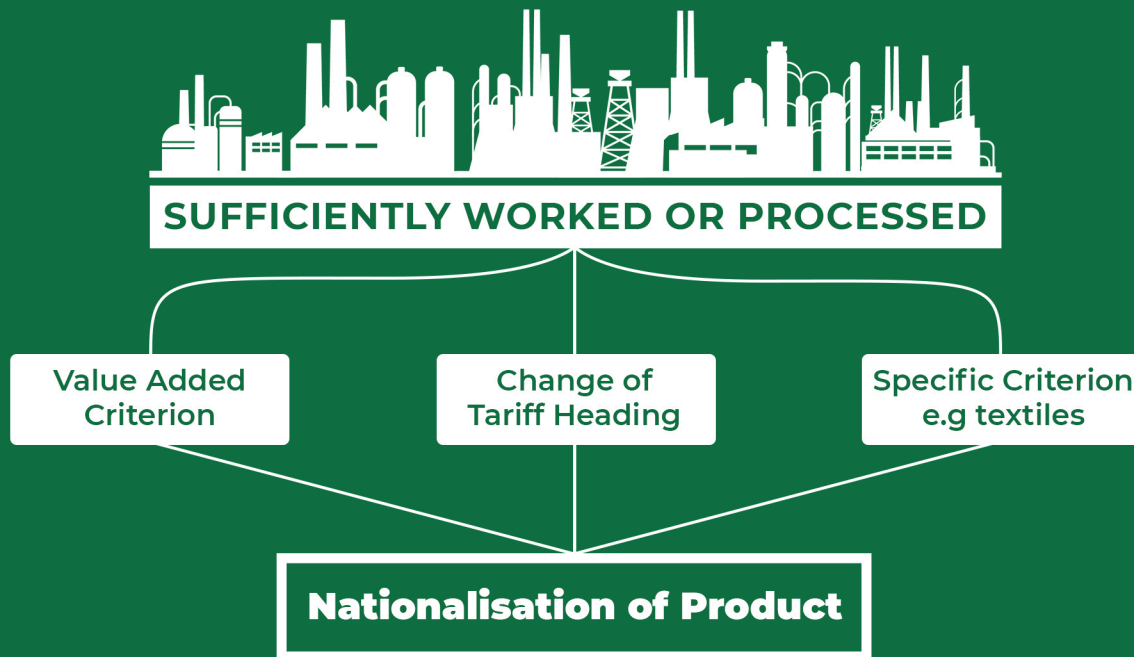
Products obtained entirely from one country without additions.
Grown, born, bred or mined.



In these instances, country of origin is never in doubt.

• SUBSTANTIAL TRANSFORMATION

In today's complicated supply chains, products may be manufactured from materials or components originating from several different countries. To determine the origin of the final product it is necessary to prove there has been substantial transformation carried out in the country claiming origin. This can be shown in one of three ways as detailed in the illustration below.



✓ VALUE ADDED CRITERION

The additional value added to the product by processing in the country claiming origin to the extent required in the trade agreement. This is sometimes referred to in reverse as the maximum value of non-originating (MaxNOM) materials allowed.

Some agreements allow for the concept of Bilateral Cumulation, which in effect means that the materials and processing from the country/region of one party to the agreement, count towards origin of the second party when included in the final product. So, for example a UK manufacturer can claim the value of EU goods/components in its products towards UK origin. This is a significant allowance given today's complicated supply chains. Read the small print, however, as the agreement may well require a qualifying level of processing on those materials to qualify.

✓ CHANGE OF TARIFF

The product is sufficiently worked or processed in the country claiming origin to change the HS Code to the extent required in the trade agreement.

✓ SPECIFIC CRITERION

The trade agreement may agree that a specific process carried out on a particular product is sufficient to confer origin in the country where that process takes place. Often used examples are turning yarn into fabric, coating or heat treatment of metals.

04. WHAT DOES THE UK-EU TCA SAY ABOUT RULES OF ORIGIN?

The agreement broadly follows the principals detailed in the previous section for setting rules of origin, including the concept of Bilateral Cumulation. Where origin can be proven, there is 0% duty on all qualifying goods moving from the UK to the EU and vice versa.

There are some caveats however:

THERE ARE DIFFERENT RULES OF ORIGIN FOR DIFFERENT PRODUCTS

■ **Insufficient Transformation**

There is a list of processes included in the TCA which are deemed 'Insufficient' to change the origin of a product. A full list can be found in the 'Insufficient Processing' sheet of our Rules of Origin Workbook supplied with this guide. If you only carry out one or more of these processes then you cannot claim origin and preferential duty rates.

• **Import from EU, Hold in Stock in UK, Resell to EU**
OR

Import from UK, Hold in Stock in EU, Resell to UK
Insufficient Transformation = Duty

• **Import from EU, Repack/Relabel in UK, Resell to EU**
OR

Import from UK, Repack/Relabel in EU, Resell to UK
Insufficient Transformation = Duty

• **Import from EU, Processed/Manufactured in UK, Resell to EU**
OR

Import from UK, Processed/Manufactured in EU, Resell to UK
Assuming Sufficient Transformation = 0% Duty

• **Import from outside EU e.g. China, insufficient processing, sell to UK**
Or

Import from outside UK e.g. China, insufficient processing, sell to EU

In this case, there will be duty on importing from China AND your customer will again pay duty on entry into their country. Twice the duty.

If you are affected by this rule, please contact us for further advice as there are solutions we can suggest helping you and your customers avoid unnecessary duty costs.

■ **The MaxNOM% Exw**

This relates to the Maximum Value of Non-Originating Products as a percentage of the Exw selling price of the final product. It ranges from 40% to 70%

■ Change in HS Code Tariff Heading

Different products have different levels of change in the products HS classification required to qualify for origin, such as:

CC	Change of HS Chapter (first 2 digits must change)	4401.22.10 becomes 4601.29.10
CTH	Change of HS Tariff Heading (second 2 digits must change)	4401.22.10 becomes 4402.90.00
CTSH	Change of HS Tariff Subheading (third 2 digits must change)	4401.22.10 becomes 4401.40.10

■ Tolerance Rule

Tolerance rules allow you to use a limited quantity of non-originating materials that are normally prohibited by the product specific rule. So, even if you do not pass the change in tariff heading rule above, a certain amount or tolerance of non-originating material may be allowed. Different tolerances are allowed for different products, generally 10-15%.

■ Bilateral Cumulation

The good news is this is included in the TCA. So, EU goods count towards UK origin and vice versa. The bad news is it only applies where sufficient processing has taken place in the country claiming origin.

One of the unfortunate consequences is that if you import a product from the EU, do not process it sufficiently, and then re-export to the EU, it will incur duties as a third country under WTO terms. This is the issue widely reported for Marks & Spencer's Percy Pig product. It is manufactured in Germany, transported to the UK and the sold back to the EU without any processing at all. Under the terms of the agreement duty will be applied on re-entry into the EU!



05. HOW TO ASSESS THE ORIGIN OF YOUR PRODUCTS

We have created a Workbook which combines with this guide to take you through Step-by-Step the procedure for assessing the origin of your products, summarised below:

STEP ONE	Check HS code for Rules of Origin for your products Each HS code may have different rules	For UK Go to https://www.gov.uk/check-duties-customs-exporting 1. Enter destination country (for EU choose any EU state) 2. Enter HS Code	For EU Go to https://trade.ec.europa.eu/access-to-markets/en/home 1. Enter HS Code 2. Enter Country of Origin 3. Enter Destination Country
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STEP TWO	List the Duty Rates	Enter in the table
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STEP THREE	List the product specific rules of origin	Mark in the table
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STEP FOUR	Check Insufficient Processing List on the sheet Tab	Do you only carry out processes which are deemed Insufficient to bestow UK/EU origin?
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STEP FIVE	Check your product vs Change in Tariff Heading Rules of Origin	Description	Example	Mark Box if Applies - Goods qualify as UK/EU Origin
	CC	Change of HS Chapter (first 2 digits must change)	4401.22.10 becomes 4601.29.10	
	CTH	Change of HS Tariff Heading (second 2 digits must change)	4401.22.10 becomes 4402.90.00	X
	CTSH	Change of HS Tariff Subheading (third 2 digits must change)	4401.22.10 becomes 4401.40.10	

STEP SIX	Check any product specific processing rules which apply	Do you carry out the process on your product?	Yes/No
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STEP SEVEN	Check the tolerance rule applies	If Step 5 does not apply and no MaxNOM% is stated, then does your product have less than the allowed tolerance of non-originating materials?	Yes/No
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STEP EIGHT	Check the MaxNOM% of your products	Use the worksheets to calculate the value of non-originating products to compare with the requirement for your product	Qualifies as UK/EU origin if MaxNOM% is less than the rule in the trade agreement
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Follow the steps in order and complete the workbook to ascertain the origin of your products.

06. SUMMARY

We hope you will find this Guide and the accompanying Workbook easy to follow and useful in determining the origin of your products. It can still be complicated, however, and we would be pleased to work through the assessment for your products on your behalf. For further details contact info@goexporting.com or call +44 (0)800 689 1423.

Once you are confident on the origin of your products and the components/materials you buy, the next stage is to hold the correct evidence, make the right declarations and prove origin if challenged. Look out for our next Guide and Checklist coming soon.



Go Exporting is a specialist export consultancy that launches businesses just like yours into new international markets. As such we have made it our mission to keep exporters informed about the challenges Brexit will bring and provide support services to help them along the journey.

Whether you have a single question or are looking for a full Brexit audit, we offer cost-effective flexible support.

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