European Commission

Introductory Guide for Traders

to the Rules of Origin provisions of the EU-UK Trade and Cooperation Agreement

Taxation and Customs Union

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On 24 December 2020, the EU and the UK reached an agreement on the terms of their future relationship following the UK's withdrawal from the EU. The EU-UK Trade and Cooperation Agreement (TCA) formally entered into force on 1 May 2021 and provides for zero tariffs and zero quotas on all trade of EU and UK goods that comply with the appropriate rules of origin. As part of the agreement, preferential rules of origin apply.

Preferential origin is conferred on goods from countries with which the EU has signed trade agreements, and which have fulfilled certain criteria in order to benefit from tariff free trade. The trader must be able to demonstrate – among other things – the origin of the goods in order to claim the preferential origin.

In the case of the EU-UK TCA, only goods considered as originating in the EU (i.e. having EU origin) and imported into the UK, or originating in the UK (i.e. having UK origin) and imported into the EU, are entitled to benefit from preferential treatment i.e. zero tariffs, zero quotas.

All other goods (i.e., those mainly manufactured in a non-EU country other than the UK, or which have had insufficient processing in the EU or in the UK) are considered to be non-originating. These non-originating goods will be subject to tariffs (customs duties) in the importing country.

FOREWORD

This document can serve as a first point of reference for your business, providing general answers to the most common questions about the preferential rules of origin of the EU-UK Trade and Cooperation Agreement, and how they should be applied.

For more detailed and precise information on EU rules, you can consult the official guidance document on Section 2 on origin procedures available **here**. Please note that the provisional numbering of the Trade and Cooperation Agreement (TCA) has been updated following the formal entry into force of the Agreement on 1 May 2021. This document refers to both the provisional numbering and the final numbering, which have equivalent legal value.

The European Commission has also put together an **importer's and exporter's checklist** of the 10 steps an EU business should take when exporting to the UK or importing from the UK.

However, should you have a question relating to your specific case, you should contact your national authorities for further assistance.

For information on UK rules, the Commission is not liable for information on a third country's policies and invites you to consult the UK government website for more details.

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GENERAL RULES FOR PREFERENTIAL TRADE IN THE CONTEXT OF THE EU-UK TRADE AND COOPERATION AGREEMENT

01 What goods can be considered as “originating”?

In the context of the TCA, in order to claim preferential treatment i.e. not pay duties, the product must originate in the EU or in the UK. Compliance with the origin criteria generally requires that the goods must either (1) be manufactured from raw materials or components which have been grown or produced in the beneficiary country (i.e. wholly obtained) or, should that not be the case, (2) at least undergo a specific amount of production in the beneficiary country (i.e. sufficient processing).

Such EU or UK goods are considered to be «originating» and can therefore benefit from tariff-free trade in the context of the EU-UK TCA.

02 What should I do for my products to benefit from the preferences?

In general, the main elements that you need to consider to be sure that the goods exported from the EU can benefit from preferential tariff treatment in the UK are:

- The product that you are exporting needs to be originating in the EU, i.e. the product has to be wholly obtained in the EU, or the production process carried out in the EU has to satisfy a list of requirements. There are several relevant elements that you have to consider to be sure that your product is originating (see point 3).
- Your product has to be sent directly to the UK, i.e. it has to respect the ‘non-alteration’ rule.
- The UK importer may require that you provide him/her with a statement on origin, indicating that your product originates in the EU.
- Your statement on origin should contain the information required under the EU-UK TCA Agreement (Annex 7 TCA (ex-Annex ORIG-4)). This statement should appear on an invoice or on any other document that describes the product well enough for it to be identified.

03 How do I know if my product is originating?

If you are an EU exporter, you will need to assess whether your product is originating or not in the event the importer asks you to provide him/her with a statement on origin.

If you are an EU importer, you need to assess if your product is originating in the case that you are claiming the origin based on your knowledge. If you are importing based on a statement on origin you will rely on the statement made by the UK exporter (See point 4).

The product that you are exporting or importing should either be wholly obtained in the EU (see Article 41 (ex Article ORIG.5) of the TCA) or satisfy the requirements set out in the Product-specific rules of origin (see Annex 3 (ex Annex ORIG-2) of the TCA) to be considered originating.

The step-by-step guide in the Commission's ROSA tool can help you to assess whether your product satisfies the requirements of the Product-specific rules of origin. You need to introduce the classification code of your product in the ROSA tool. The tool will describe the working or processing that your product needs to fulfil to satisfy the origin requirements for your product.

The ROSA tool will guide you through this, giving you:

- the rules of origin for your product under the TCA,
- a step-by-step check-list to see if your product meets the criteria for preferential rules of origin treatment,
- an explanation of rules of origin requirements and terms,
- practical examples,
- direct access to legal texts,
- a tailored self-assessment report based on your answers that you can download or print,
- an overview of rules of origin procedures.

Other relevant elements to consider when determining whether your product is originating are elements such as tolerances, cumulation, list of insufficient operations, the use of drawback, etc. You may find a short explanation on these additional elements at the end of this document (Point 10).

04 How to claim preferential tariff treatment in the EU or in the UK

The importer can claim preferential tariff treatment in the EU or in the UK in two different ways:

- by using a **statement on origin**, or
- by using **'importer's knowledge'**

A. Statement on origin

The **statement on origin** is made out by the **exporter** of the goods. The TCA states that a statement on origin can be made out *"in an invoice or on any other document that describes the originating product in sufficient detail to enable the identification of that product."*

Therefore, any document meeting that condition is acceptable to make out a statement on origin. It is up to the exporter to make sure they themselves are in possession of the necessary information to make out the statement on origin and to ensure that the information provided is correct. To fulfil this obligation, the exporter can make use of any relevant source of information allowing the origin of the products to be determined, such as the so-called **'supplier's declarations'** which provide in particular a description and the value of the non-originating materials used. **For the first year of the application of the EU-UK TCA (1.1.2021 – 31.12.2021), an exceptional trade facilitation measure is in place for the provision of supplier's declarations to EU exporters (see point 6)**.

A statement on origin can be made out for a **single shipment** of one or more products. A statement on origin can also be made out for **multiple shipments of identical products** imported within a period of time specified in the statement on origin (max 12 months). The exporter does not need to sign the statement on origin: their name is sufficient.

As an **EU exporter**, in order to make out a valid statement on EU origin for products to be exported to the UK, you must first be registered in the EU **Registered Exporter System (REX)** as you will need to include your REX number in the statement on origin. To register, you need to fill in an application form and return it to your competent national authorities, who will give you a registered exporter number and enter it into the REX system. More information on the REX system can be found here.

For small consignments of less than EUR 6 000, you do not need to register in REX to make out a valid statement of origin. Therefore, you do not need to include any number in the statement.

For UK exporters, the statement on origin should include an EORI number beginning with "GB" when exporting to the EU under preferences, no matter the value of the consignment. For more information on the **GB EORI**, please consult the UK government website.

B. Importer's knowledge

Alternatively, **the importer** can claim preferential treatment based on his or her own knowledge, in cases where they already have the necessary information to prove that the product is originating.

Importer's knowledge may be based on **any supporting documents** or records provided by the exporter or manufacturer of the product and which contains information providing **valid evidence** that the product qualifies as originating.

A claim based on importer's knowledge should be used only in cases where the importer has the necessary information to prove the origin of the product.

C. Making the claim

At the time when the claim for preferential treatment is made, **the importer must choose** between the two possible ways to claim preference: statement on origin, or importer's knowledge. Once the choice has been made and the preference claimed, **it is not possible to change track**.

For example, if a claim for preference has been made using importer's knowledge but the importer does not have sufficient evidence to support the claim, they cannot adapt their claim by using a statement on origin. Only by amending the import declaration and under the conditions established in customs legislation (the Union Customs Code and its implementing provisions) can this be allowed, in which case the importer must have a valid statement on origin made out by the exporter.

D. Retrospective claims

If preference has not yet been claimed, the importer can make a claim for preferential treatment of the imported goods up to three years after the importation took place. This will allow the repayment or remission of the duties that were initially paid at the time of importation. This provision applies for both EU imports from the UK and for UK imports from the EU. The retrospective claim may be submitted on the basis of a statement on origin or on the basis of the importer's own knowledge.

05 Origin information to include in your customs declaration

Depending on the basis of the claim, the code to be supplied in the customs declaration will vary.

- For a claim made on the basis of a statement on origin, the code is **U116**.
- For a claim made on the basis of importer's knowledge, the code to be used is **U117**.
- The code **U118** should be used for statements on origin for multiple shipments of identical products.

06 Exceptional transitional measures to make out statements on origin in the EU

In order to facilitate trade during the first year of application of the TCA, the European Commission has allowed the exporter to make out statements on origin even if he does not have all the related supplier's declarations at that moment (including long-term supplier's declarations). EU exporters have until the end of 2021 to ensure they have all those declarations in their possession. If the supplier's declarations have not been provided to the exporter by the end of 2021, the statement on origin is invalid.

The exporter is responsible for the validity of the statement on origin, the information provided and for informing the importer if the necessary supplier's declarations are not in his/her possession. In cases where the exporter is not in possession of the supplier's declaration at the end of the one-year transitory period, the exporter has up to 1.2.2021 to inform the importer.

See the Guidance on statements on origin made out on the basis of supplier's declaration for more information.

07 Verification of origin

Once a claim for preferential treatment has been made by the importer, the relevant authorities in the EU or in the UK, will assess whether or not the products comply with the relevant rules of origin and whether preferential treatment of the goods can be granted.

In cases where there is doubt as to the origin of the goods, a request for verification may be addressed by the relevant customs authorities of import either to the importer, or to the customs authorities of export. The addressee depends on the basis on which the origin was claimed, i.e. the knowledge of the importer or a statement on origin.

If the former, verification will only be addressed to the importer and the importer needs to provide all the relevant information to demonstrate that the product is originating. If the importing customs authorities are not satisfied with the information provided, the preference could be denied.

If the latter, the verification may be addressed to the importer, but the importer is only obliged to submit the statement on origin. If he/she does so, customs cannot deny the preference and the importing customs will continue the verification by requesting from the exporting customs the needed information to determine the origin of the product.

08 Small consignments

For small consignments not shipped by way of trade (i.e. not of a commercial nature), there is an exemption from the requirement to have a statement of origin or the knowledge of the importers. To qualify as a 'small consignment' in the EU, the value of the goods originating in the UK must not exceed EUR 500 for products sent in small packages from a private person to a private person, or EUR 1 200 in the case of products contained within a traveller's personal luggage entering the EU.

That said, the exemptions listed above do not alleviate traders and individuals from the responsibility of fulfilling their obligations vis-à-vis the rules of origin i.e. to ensure that the product is originating in the UE or the UK to benefit from zero duty treatment. If the importing authorities have reasons to doubt the veracity of the declaration, duties could apply.

For small consignments going from the EU into the UK, the exemption from the requirement to have a statement of origin or the knowledge of the importers applies in so long as the total value of the product does not exceed GBP 1 000. This applies to all low value consignments, including a product that is part of a traveller's luggage, small consignments sent from private person to private person or other low value consignments.

Small consignments exempted from providing a statement on origin

EU imports

Private to private person	Traveller's luggage
500 €	1200 €

Not part of a series of importations

Not by way of trade

Online stores excluded from the scope

UK imports

Private to private person	Traveller's luggage	Other small consignments

1000 £

Not part of a series of importations

This exemption does not apply to imports into the EU from UK online stores. EU consumers who order goods by small consignment from online retailers based in the UK should be aware that they may be liable for import VAT and for customs duties if the product is not originating or if the origin is not proven.

09 Record-keeping

Importers must be in possession of statements on origin made out by exporters (if the claim for preferential treatment was based on a statement on origin) or hold all records demonstrating that the products satisfy the requirements for obtaining the originating status (if the claim was based on importer's knowledge) for a minimum of 3 years. Exporters must keep a copy of the statement and all other relevant records for a minimum of 4 years.

If you imported small consignments (point 8) you do not need to keep records.

10 Further key elements of rules of origin

Tolerances

The tolerance is an instrument to further facilitate the acquisition of origin.

The general tolerance rule permits manufacturers to use non-originating materials - which in principle cannot be used at all - up to a specific percentage of the ex-works price of the product or up to a specific weight.

However, should the product specific rule already allows the use of non-originating materials up to a certain percentage, the tolerance cannot be used to exceed that percentage.

For example, a product specific rule for a machine provides that the value of non-originating materials should not exceed 50% of the ex-works price of the machine. The tolerance for industrial products, including machines is of 10% in value. However, the product cannot contain 60% of non-originating materials (50+10), but 50% only, as the maximum will always be that allowed by the product specific rule (50% in this case).

The percentage of the tolerance allowed by the rules of the TCA can be found in Article 42 (ex Article ORIG.6) and Annex 2 (ex Annex ORIG-1) (Specific tolerance rules applied to textile goods of Chapters 50 to 63).

Cumulation

Cumulation is the term used to describe a system that allows materials originating or transformed in country A to be considered as originating or transformed in country B when further processed in country B. This system can be used to facilitate the acquisition of origin of the product in country B that incorporates those materials from country A.

An important point to remember is that in the case of cumulation, the production carried out in each partner country on the products of the other country needs to go beyond so-called 'insufficient operations', i.e. a list of minimal processing such as labelling, simple packing, etc. (see below).

The EU and the UK have agreed to bilateral full cumulation. This means that not only originating materials but also materials processed in one Party (without being yet originating there) can be used in the other Party for cumulation purposes, as provided in Article 40 (ex Article ORIG.4).

However, the EU-UK TCA does not allow the use of materials from third countries for cumulation purposes.

Insufficient operations[1]

Insufficient operations are those listed in Article 43 (ex Article ORIG.7). They refer to operations implying a low degree of processing. If in a Party no more than one or more of those insufficient operations is carried out, the resulting product cannot be considered originating, even if the Product Specific Rule was satisfied.

For example, if the product specific rule for a machine provides that the value of non-originating materials does not exceed 50% of the ex-works price of the machine and this was satisfied, but the only processing carried out in the Party was a "simple assembling" of the parts (one of the operations listed as insufficient) the machine does not obtain origin.

Furthermore, in the case of cumulation, if the Party using the materials of the other Party only performs one or more of those insufficient operations on the materials of the other Party, cumulation cannot be activated and the Party cannot grant its origin to the product.

Duty drawback

The term 'drawback' refers to the refunding of duties paid on imported goods that are used in the production of goods that are exported. A 'no drawback' provision is included in some EU FTAs to prohibit this from happening when the goods are exported under the preferences provided by the FTA.

In the context of the EU-UK TCA, duty drawback is allowed for at least the first two years of application of the agreement.

Accounting segregation

Originating and non-originating materials used in the production of a product that is going to benefit from preferences need to be kept separately. However, in the case of fungible materials, originating and non-originating materials may be stored together under the conditions provided in Article 50 (ex Article 14), as far as there is an accounting method in place. This method must ensure that the quantity of finished products which are considered originating during a certain period is no more than that quantity that would have been obtained if there had been a physical segregation of those fungible materials.

[1] Guidance on insufficient operations including a list of illustrative examples is under preparation.

Averaging

In the case that the Product Specific Rule applicable to your product is based on a maximum percentage of non-originating materials that can be used in the production of the originating product, Note 4 of Annex 2 (ex Annex ORIG-1) of the TCA introduces a facility for the application of the rule. The value of the non-originating materials used in the production of the product may be calculated on the basis of the weighted average value formula or other inventory valuation method under accounting principles which are generally accepted in the EU or in the UK.

SOME FREQUENTLY ASKED QUESTIONS[2]

UK distribution centres

My company uses a distribution centre based in the UK which imports EU goods that are subsequently re-exported to another EU Member State. Can these goods benefit from preferential treatment?

As a result of the UK's decision to withdraw from the EU's Single Market and Customs Union, supplies of goods to the EU from distribution centres in the UK are subject to customs formalities and controls, and may also be subject to customs tariffs.

EU goods supplied to UK-based distribution centres from the EU and then reimported into the EU without any processing cannot benefit from preferential treatment in the EU, as those products have not obtained the UK originating status.

However, transit and returned goods procedures may enable businesses to import those goods to the EU from UK distribution centres without incurring tariffs. These procedures have to be used under the conditions and within the limitations set out in EU's customs legislation.

For further guidance on using distribution centres located on the UK, please consult the detailed guidance document.

When to make out a statement on origin

My company is exporting goods to Northern Ireland from an EU Member State. Should I complete a statement on origin?

No. From 1 January 2021, the Protocol on Ireland and Northern Ireland applies. EU goods brought from an EU Member State to Northern Ireland, or vice versa, will be treated as an intra-Union transaction. There will be no customs formalities and therefore no statement on origin is required.

[2] These questions and answers are presented here for illustrative purposes, a more detailed and comprehensive list of questions and answers is available here.

Do I need to complete a statement of origin for small consignments being moved from the UK to the EU as part of my personal luggage?

Small consignments as part of personal luggage not being imported by way of trade are exempted from the requirement to have a statement of origin. Their total value must not exceed EUR 1 200.

Do I need to complete a statement of origin for goods sent in small packages as gifts from the UK to the EU?

No, small consignments sent from a private person to a private person as a gift or otherwise, and which is not dispatched by way of trade, does not need a statement of origin. For the parcel to qualify as a "small package" it must however not exceed EUR 500 in value.

What about for online purchases? Do I need a statement on origin for these parcels?

This depends on if you are a consumer based in the EU or in the UK.

- **For EU importers**

For goods bought in UK online stores, which are then dispatched to the EU, a statement of origin would be required.

- **For UK importers**

The UK applies an exemption for goods sent from a private person in the EU to a private person in the UK, and also to other small consignments that are brought from the EU into the UK. A statement of origin is therefore not required if the value of the goods is below a threshold of GBP 1 000.

For shipments between the EU and the UK, a claim for preferential tariff treatment shall be based on either a statement on origin made out by the exporter or on the importer's knowledge that the product is originating.

Originally, I declared origin based on importer's knowledge. Can I change my declaration to be based on a statement of origin?

Importers originally claiming preferential treatment based on importer's knowledge may subsequently change their claim and base it on a statement of origin only within the possibilities provided in the UCC to modify the import declaration and provided that they have a statement on origin issued before the claim.

I heard there is a transitory period for providing a statement on origin until the end of 2021. Is this correct?

Not quite. The transitory period concerns the requirement for EU exporters to have, at the time of making out the statement on origin, the supplier's declaration that is used as a basis for the statement on origin. The transitory period provides some flexibility to the EU exporters to adapt to the new rules of the TCA. However, at the end of the transitional period they need to have all the supplier's declarations. Otherwise, it means that the statement cannot be not substantiated and therefore they have to inform the importer accordingly.

For further guidance on statements on origin and supplier's declarations, please consult the relevant guidance.

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