

Meeting the new origin rules (Lecture B1244 – 12.46 minutes)

For tariff free trading under the UK-EU Trade and Cooperation Agreement, traders must meet the new preferential rules of origin. Under these rules, preferential tariffs only apply to goods that originate in the UK (or the EU); goods that do not meet the origin rules will have duty applied.

This article takes a more detailed look at how we meet the new origin rules when trading with the EU from 1 January 2021.

When considering the origin of a product, the general rules contained within the Trade and Cooperation Agreement must be considered alongside the product specific rules for each product.

Wholly obtained

A product is said to be an originating product if it was wholly obtained or produced in one country's territory, without using materials from any other country. Wholly obtained products are products obtained entirely in the territory of a party without the addition of any non-originating materials. These automatically qualify for preferential treatment when trading with the EU, with no duty payable.

Some examples of wholly obtained products includes:

- plants, vegetables, fruit grown and harvested in the UK
- livestock, meat and dairy provided that the animal was born and reared continuously in UK
 - for meat it needs to be born, raised and slaughtered in the UK
 - milk must come from cows raised in the UK

Substantially transformed

Under bilateral cumulation, EU materials used in UK production are regarded as being of UK origin where the goods have been sufficiently transformed in the UK.

For example, 'simple painting and polishing operations' or 'peeling, stoning and shelling, of fruits, nuts and vegetables' will not confer originating status by themselves and the trader would need to rely on a product specific rule.

Let's have a look at a couple of examples.

HS Code 0406.20 – Grated cheese

For grated cheese to qualify as originating in the UK, all of the dairy produce (Chapter 4) used must be wholly obtained, and the total weight of non-originating materials of headings 17.01 and 17.02 (sugars) must not exceed 20% of the weight of the product.

What if the cheese is imported from the EU and grated in the UK? Is that a sufficient transformation for bilateral cumulation? If this is classed as "simple cutting" then it will not qualify as this is a process listed within Article: Orig 7 as being 'Insufficient Production'. However, if the grating required special skills or a machine produced or installed for the processing, the grated cheese may be treated as originating in the UK.

HS Code 081190 – Frozen nuts

For frozen nuts to qualify as originating in the UK, the edible nuts (Chapter 8) used must be wholly obtained in the UK and the total weight of non-originating materials of headings 17.01 and 17.02 (sugars) must not exceed 20% of the weight of the product.

Nuts originating from the EU would be treated as of UK origin if the processing went beyond ‘Insufficient Production’. However, the shelling of nuts is considered an insufficient transformation under Article: Orig 7, even if machinery is used for the processing. bilateral cumulation is not available.

Tolerance

If a product does not meet its product-specific rules, it can still be originating if only a limited amount of non-originating materials are used in the production of that product. This is known as tolerance.

However, tolerance can only be applied to certain types of product-specific rules.

If the rule is “wholly obtained”, tolerance may allow a small amount of those materials to be not wholly obtained. If using “change in tariff heading” rule, an element of same tariff heading can be allowed

Specific tolerance rules

The Trade and Cooperation Agreement allows a tolerance of:

- 15% by weight of the final product for agri-food goods; and
- 10% by value of the value the final product for manufactured goods.

Textile and clothing products classified under HS50-63 are subject to specific tolerance thresholds that are detailed in Notes 7 and 8 of Annex ORIG-1.

To clarify what we mean by tolerance, let’s have a look at a couple of examples.

HS Code 1509 – Olive oil

Olive oil production requires that all the vegetable materials used are wholly obtained in the country of origin. This means that the olives used in making the olive oil must be grown and harvested in the UK (or EU by cumulation).

The tolerance rule permits the use of non-originating olives if the total weight of non-originating olives does not exceed 15% of the net weight of the product. So if olives are imported from Mexico amounted to 5% of the net weight of the exported olive oil, tolerance would allow the olive oil to obtain originating status.

HS Code 9503 – Dolls

Under the rule for dolls, non-originating material used in the production of a doll must be from a different tariff heading than the doll. Doll’s eyes fall into the same heading as a doll which breaches this rule.

However, the non-originating doll's eyes constitute 10% or less of the ex-works price of the doll, and so under the tolerance rule, the final doll would be considered as originating.

Accounting segregation

Accounting segregation can be used to record originating and non-originating fungible materials, allowing them to be stored together, prior to production.

Fungible materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes.

A good example is sugar. Originating and non-originating sugar can be stored together while accounting segregation enables the relative quantities of originating and non-originating sugar to be recorded using accounting methods.

Fungible products may be exported without any further processing, provided the stock of originating materials is sufficient to cover the quantity of product exported.

For example, UK manufacturers of ethylene (HS2901) can store originating and non-originating ethylene in the same tank before exporting it to the EU provided an accounting segregation method is used. The supplier must ensure that the amount of originating materials does not exceed the amount that would receive originating status if stored separately. Clearly a very good inventory management system would be needed.

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