

Product specific origin rules (Lecture B1245 – 14.17 minutes)

When establishing whether a product is of UK origin, free trade agreements have product-specific rules (PSRs) that must be met to ensure a traded product qualifies for preferential tariff treatment. Satisfying these origin rules means that no duty is payable.

It is important that businesses determine the correct product specific tariff code for their exported product so that they can establish the relevant rule(s) within the UK-EU Trade and Cooperation Agreement product-specific rules list. These rules are set out in ANNEX ORIG-2 of the Trade and Cooperation Agreement, with definitions within ANNEX ORIG-1. Each of these rules describes the nature or value of processing that must be carried out on any non-originating materials, so that the final product meets the origin requirements.

Types of rule

There are four types of rule that a product may be required to meet in order to confer origin

1. Wholly obtained
2. Change of tariff code
3. Value added/percentage rule; and
4. Specified processes

The product specific code may require one or more of these rules to apply.

Wholly obtained

This was covered in detail in the last article so here are just a couple of examples to confirm our understanding.

- Meat has an HS code of 0203 and so falls within Chapter 2. Within ANNEX ORIG-2, all materials of Chapters 1 and 2 used must be wholly obtained to qualify for preferential tariff treatment. This states that if meat is produced from animals born, raised and slaughtered in the UK, then the product is wholly obtained, so originating in the UK and qualifies for preferential tariff treatment.
- Barley has an HS code of 10 and so falls within Chapter 10. Within ANNEX ORIG-2, all materials of Chapters 10 used must be wholly obtained to qualify for preferential tariff treatment. Barley would satisfy this rule if it was grown and harvested in the UK and qualify for preferential tariff treatment.

Change in tariff classification (HS Code)

Where non-originating material is used to make a product, some product-specific rules of origin require a change of classification to take place before preferential tariff treatment applies.

There are no limits on the amount of non-originating materials used but any non-originating material used in the production of the product must be classified in a chapter, heading or subheading other than that of the final product:

- Chapter or “CC” classification change: This means that the first 2-digits of the Harmonized System must change;
- Heading or “CTH” classification change: This means that the reclassification must take place at the 4-digit level of the Harmonized System; or
- Subheading or “CTSH” classification change: This means that the reclassification must take place at the 6-digit level of the Harmonized System.

These abbreviations (CC, CTH and CTSH) are referred to throughout the Trade and Cooperation Agreement. Each product specific code will indicate which, if any, of the above reclassifications is required.

Change of Chapter (CC)

Let us consider an example where the specific product rule states that the CC must change.

Manufactured yachts (HS code of 8903) fall within Chapter 89 (Ships, boats...). The product rule specifies CC or MaxNOM 40% EXW. Remember, it is possible that a product specific rule may state more than one rule. We will return to the ‘MaxNOM 40% EXW’ later in this article. For now, let’s focus on the CC.

The rule is fulfilled if the yacht is manufactured in the UK from non-originating parts from chapters other than Chapter 89. This means that unlimited non-originating parts of steel (HS Chapters 72 and 73) or glass (HS Chapter 70) could be used, regardless of their value.

This is a relatively generous provision and is allowed in this way as they want to encourage the manufacture of yachts. Using materials obtained outside the UK is fine provided the materials are from a different chapter heading.

Compare this with the position where the yacht was imported and then fitted out before being exported. Here, the CC rule would be breached, as the imported yacht would also be Chapter 89.

Change of Tariff Sub-Heading (CTSH)

Let us move on and consider a product specific rule that requires a change in the sub-heading.

Sunflower-seed oil (HS code of 151219) is in Chapter 15 (Animal or vegetable fats...) and within this Chapter, HS code 151219 is classified as CTSH. To satisfy the rule, the final product must be made from a product that has a different CTSH or 6-digit HS code. So if the sunflower seed oil is manufactured from non-originating crude sunflower oil (HS 152111), the rule is satisfied. It does not matter how much of the crude sunflower oil is imported for this test.

Same heading

If a product-specific rule of origin allows production from non-originating materials of any heading, the product can include non-originating materials of the same heading. This means that a change of heading does not need to take place.

However, to qualify, processing of non-originating materials does need to be more than insufficient. You may remember that we covered 'insufficient production' this last month's article.

Let's consider an example.

Crushed or ground pepper (HS code 090412). This falls in Chapter 9 (Coffee, tea, maté, spices...). The rule specifies "Production from non-originating materials of any heading". Provided the source material is sufficiently processed in the UK, it can be imported and the final product will obtain preferential tariff treatment.

Pepper has the same heading as ground pepper. By crushing and grinding the pepper, sufficient processing has taken place in the UK and the product specific rule has been satisfied. Although the pepper was imported, by processing in this way in the UK, it qualifies for preferential tariff treatment.

Value and weight limit percentage

If the use of an ingredient, material or component is limited by value and/or weight, the rule concerning tolerance (discussed in the previous article) cannot be used.

Under a value limitation rule, the value of non-UK or non-EU originating materials may not exceed a given percentage of the ex-works price. The product specific rule will stipulate what that percentage is.

HS Code 920120 – Grand pianos

Grand pianos (HS code 920120) fall in Chapter 92 (Musical instruments...) and the product specific rule states "MaxNOM 50% (EXW).

MaxNOM means the maximum value of non-originating materials expressed as a percentage, calculated as:

$$\text{VNM/EXW} \times 100$$

VNM, the value of the non-originating material, is its customs value at time of importation including freight and insurance. Let's say £400.

EXW is normally the price charged to the customer, excluding freight and insurance. Let's say £1,000 in our example.

In our example, the value of our non-originating materials expressed as a percentage is 40%, calculated as £400/£1,000. This is less than the 50% stated in the product specific rule and so the origin rule is met. No duty will be payable on the piano when it is exported to the EU.

HS Code 17049030 – White chocolate

White chocolate (HS code 17049030) falls in Chapter 17 (Sugar and sugar confectionary). The product specific rule for this code is CTH, provided that:

- a) all the materials of Chapter 4 (Dairy produce) used are wholly obtained and
- b) either:
 - i) the total weight of non-originating materials of headings 17.01 and 17.02 (sugars) used does not exceed 40% of the weight of the product, or
 - ii) the total value of non-originating materials of 17.01 and 17.02 (sugars) does not exceed 30% of the ex-works price of the product.

When checking to see whether white chocolate qualifies for preferential tariff treatment, all of the dairy content must be wholly obtained in the UK, but we must check that the percentage of any non-originating sugar added is not too high. Note that this product specific rule only requires one of the percentage tests, weight or value, to be satisfied.

Let's assume that 22.2g of non-originating sugar is used in making each 60g bar of white chocolate. As 37% (22.2/60) is less than 40%, the weight percentage rule above is satisfied. As this rule is satisfied, we don't actually need to check the value percentage. The white chocolate is treated as originating, with no duty payable when it is moved to the EU.

However, so that we are clear on how the value percentage calculation would work, if 20p of non-originating sugar is included in an 80p bar of white chocolate, the value test is also satisfied. 25% (20/80) is less than the maximum 30% stated in the product specific rule.

Specific process

Our last example considers a product that requires specific processes to be carried out.

As an example, for cotton men's shirts (HS Code 620520) to be treated as UK originating requires 'weaving and making-up' of the shirts to be carried out in the UK.

However, with bilateral cumulation of processing, these processes can be divided between the UK and EU. For example, the weaving of the fabric could be done in the EU, whilst the making-up of the shirt could be done in the UK. The final product can then be exported back to the EU tariff-free as an 'originating' product.

Conclusion

The rules that we have discussed over our three sessions are complex. We must not lose sight of the fact that to qualify for UK-EU Trade and Cooperation Agreement preferential zero rate tariff, the relevant product-specific rules must be satisfied so that goods are treated as being of UK origin.

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