



# Rules of Origin: What are they and how do they affect your business?

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# Introduction

- The UK is no longer a member of the European Union. From 1<sup>st</sup> January 2021 customs formalities have applied to goods that are traded between the UK and any of the EU member states.
- This means export and import declarations are required for all goods moving between the UK and the EU and vice versa.
- A bilateral free trade agreement - the UK-EU Trade and Cooperation Agreement (TCA) came in to force on January 1<sup>st</sup> 2021. It secures tariff and quota free trade subject to rules of origin.



# What are Rules of Origin?

Rules of Origin are used to determine the country of origin of imported goods so that they receive the appropriate treatment at their importation.

There are 2 types of Rules of Origin.

Non-preferential rules of origin are used when there are no preferential trade agreements applying. They are therefore used to enforce trade measures set by both the WTO and national legislations, such as anti dumping duties, quotas, labels, etc.

There are two concepts of defining the non-preferential rules of origin.

The goods will have their origin in a country if the goods are wholly obtained from a single country or the country in which goods have undergone last substantial transformation.

## What are Rules of Origin?

The origin category of “Wholly obtained goods” covers the cases in which a good is entirely obtained, extracted, or manufactured in a single country without using parts imported from other countries.

There is wide variation in the practice of governments with regard to the rules of origin. While the principle of substantial transformation is universally recognized, some governments apply the ad valorem percentage criterion, others the change of tariff criterion and yet others the criterion of manufacturing or processing operations.

- "Tariff Classification" Criterion - Origin is based only on the tariff classification of a final good and the components used using the Harmonised System (HS).
- “Percentage” or “Value” Criterion - Origin is based on a product characteristics, such as its final price (“value”), the price and the proportion of foreign or local inputs.
- "Specific Processes" Criterion - Origin is based on specific manufacturing or other specific processes which were necessary to produce a good.

# What are Rules of Origin?

Preferential Rules of Origin will be agreed as part of a free trade agreement and will be very precise about what products qualify for preferential treatment under what circumstances.

It is essential to read the trade agreement to see which criteria have been chosen for the Rules of Origin relating to the commodity code you're importing or exporting.

There are 3 main Rules of Origin that can be used to qualify goods for preferential treatment;

1. Tariff shift rule
2. Value-percentage rule
3. Specific Process rule



## What are Rules of Origin

Examples of what the Rules of Origin could look like;

- "Tariff Classification" criterion: Change of Tariff heading" all material used (inputs) must be classified in a tariff subheading different from the final product.
- "Percentage" or "Value" criterion: At least 60% of the final value of the goods must have been added locally. Non originating materials (imported inputs) must not be more than 40% of the final price.
- "Specific Process" criterion: Origin is determined by the place where a process listed in the FTA was performed.

## Cumulation

- Bilateral
- Diagonal
- Regional
- Full



## Additional Considerations

- Principle of territoriality
- Direct transport rule
- No Drawback rule
- Accounting Segregation
- Accessories, spare parts and tools; and origin determination for sets.



## Process to Determine Preferential Origin

1 – Find out from HMRC Tariff which 4 figure tariff heading covers the goods (finished product, raw materials, components etc.)

<https://www.trade-tariff.service.gov.uk/sections>

2 - Refer to the rules of the relevant trade agreement to find out what rules of origin are applicable to the HS code <https://www.gov.uk/government/collections/the-uks-trade-agreements>

3 – Decide which rule is most suitable for your circumstances – tariff shift, value percentage or specific process.

4 – If you are using the value percentage rule and it is a complex finished product but only a small percentage of the inputs are non-originating check if you can use the General Tolerance rule.

5 – If you are using the specific process rule check the annex of the rules of origin section of the FTA to ensure your process confers originating status.



## Proving Preferential Origin

- Certificate of Origin
- EUR1
- Statement on invoice
- Long-term supplier declaration
- Bill of Materials
- Authorised Exporter Status



## FAQs???

What is the situation if an overseas company has misled a UK company over the origin of the materials - who would be liable here?

Can you give some guidelines in classifying kits where the goods are from different countries and have different tariff codes?

Is the HS code the same for any one product? e.g. If you import from the US and export from the UK, do you declare the US import/export HS code or the UK import/export HS code.

If we were importing a product fully manufactured in China and selling into Europe, would we need a CofO from China or still from the UK?



## 2022 Updates

- Import Declarations
- Commodity Codes



## Useful links

<https://www.gov.uk/guidance/check-your-goods-meet-the-rules-of-origin>

<https://www.gov.uk/guidance/claiming-preferential-rates-of-duty-between-the-uk-and-eu>

<https://www.gov.uk/guidance/claiming-preferential-rates-of-duty-between-the-uk-and-eu>

<https://www.gov.uk/guidance/import-and-export-goods-using-preference-agreements> (previously notice 826)

<https://www.gov.uk/guidance/get-proof-of-origin-for-your-goods> (previously notice 827)

<https://www.gov.uk/guidance/import-and-export-goods-using-preference-agreements> (previously notice 828)

<https://www.gov.uk/guidance/use-the-generalised-scheme-of-preferences-to-import-and-export-goods> (previously notice 830)

<https://www.gov.uk/guidance/import-and-export-goods-using-preference-agreements> (currently notice 832)

<https://www.gov.uk/guidance/summary-of-the-uk-turkey-trade-agreement> (currently notice 812)

<https://www.gov.uk/guidance/apply-for-a-binding-origin-information-decision> (previously notice 831)

<https://www.gov.uk/guidance/import-and-export-goods-using-preference-agreements>

<https://www.gov.uk/government/collections/rules-of-origin-for-goods-moving-between-the-uk-and-eu>





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