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Rules of Origin

How and why it is important to navigate the complex rules

AN ESSENTIAL GUIDE FOR THE MANUFACTURING AND ENGINEERING SECTOR

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2022 is the year that UK businesses need to understand how to determine the “origin” of the goods that they export from the UK and to understand the impact of the rules for imported goods.

Why is this important?



The rules around the paperwork relating to origin are tightening up. They are a key part of the trade agreement and UK businesses have been allowed a soft landing during the first year.

This has now ended

There are potential penalties and impact to commercial relationships by assuming that your goods are UK origin if they meet one set of criteria. Under the FTA, goods exported to the EU as UK origin must meet specific rules. Getting it wrong can result in goods being rejected at the border and penalties for incorrectly applying zero-tariff arrangements.

The transitional period, for ensuring satisfactory supporting evidence of origin, allowed under the trade agreement expired on the 31st December 2021. UK companies who have exported goods to the EU under cover of a Statement on Origin must have all the required evidence, that covers 1st January 2021 onwards, in place by the 31st December 2021 otherwise there could be a liability for civil penalties and customers being subjected to back-dated duty assessments.



At MHA we can assist your business in ensuring it has the full supporting evidence to meet its obligations under the trade agreement.

UK/EU Trade Cooperation Agreement (TCA)



This agreement provides the basis for trading between the UK and EU as of the 1st January 2021. Contained within the agreement are the terms with which UK and EU importers can benefit from zero customs duty tariffs on 'originating' goods.



UK importers and exporters who trade with EU businesses must have an understanding of how these rules affect the duty impact in their supply chains. We have seen many instances where assumptions are made which could cause significant risk of non-compliance and hefty customs duty bills.



The risks differ depending on whether you are an importer or exporter so it is important to understand the impact that a lack of understanding may have.

Exporting

UK businesses who export goods must specify the origin of its products on any commercial invoices issued for shipping goods to the EU. To support this, the UK business must retain evidence for HMRC to be satisfied that the goods have the correct origin stated.

The UK exporter must use the correct declaration (see below) to allow the goods to be imported under the TCA's zero-tariff arrangements.



(Period: from.....to.....⁽¹⁾)

The exporter of the products covered by this document (Exporter Reference No...⁽²⁾) declares that, except where otherwise clearly indicated, these products are of...⁽³⁾ preferential origin.

.....⁽⁴⁾
(Place and date)

.....
(Name of the exporter)



Importing

Qualifying goods can be imported into the UK under zero-tariff arrangements, and, in most cases, must be supported by a valid invoice declaration as shown in Annex ORIG-4 of the TCA.



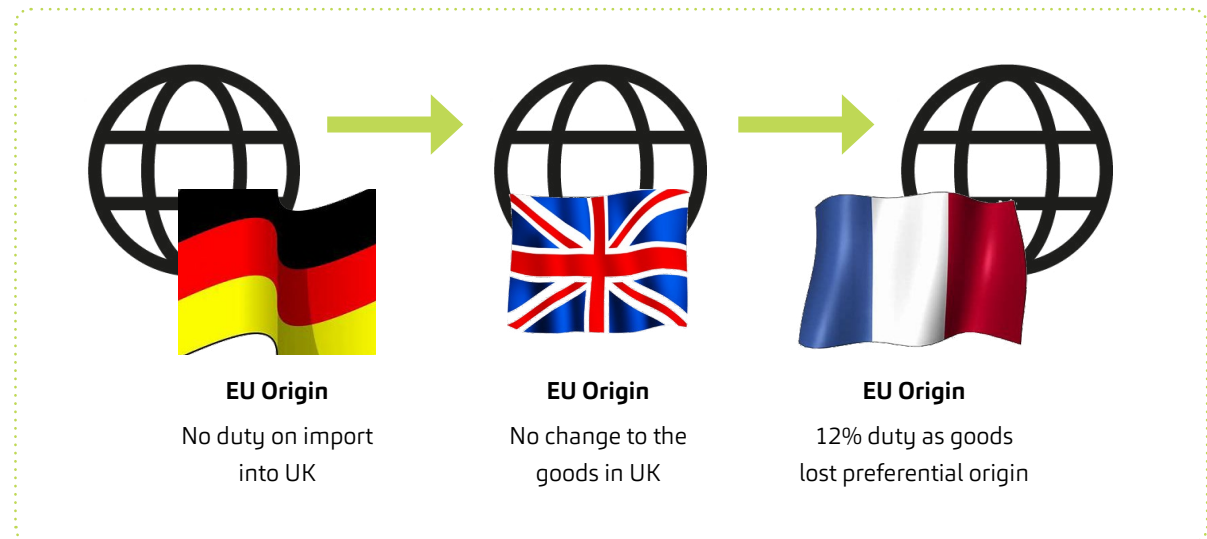
The other alternative to the declaration is “importers knowledge” and further details on this can be found [here](#).

Registered Exporter (REX) – One of the differences between the UK and EU policies for operating the invoice declarations is that EU companies have to have a REX authorisation to export consignments of EU originating goods valued in excess of €6,000. By holding a REX authorisation, the EU company has to be able to provide satisfactory evidence that the EU goods qualify as “originating” under the trade agreement. UK-established companies cannot apply for a REX authorisation as approval is only granted to companies who meet the EU Customs establishment rules. This will cause issues with exporting goods from the EU as the reduced-tariff cannot be claimed in the importing country.

Common Problems

A key part of the trade agreement that has been misunderstood is that zero-tariff arrangements will, if complex customs procedures are not applied, only apply once. Basically, if you import finished goods from the EU, any onward supply back into the EU will be liable to the full rate of customs duty as the goods will have lost their EU preferential status.

Below shows an example of a consignment of t-shirts from Germany. The t-shirts can be imported into the UK if they meet the rules of origin. In this case they do so zero-tariff is applicable on import into the UK.



The UK company then receives an order for t-shirts from a company in France. Under the trade agreement the t-shirts have lost their EU preferential status. Even though the origin has not changed, the t-shirts will be liable to the full rate of customs duty on import into France.

Supplier's Declaration



From the 1st January 2022, all UK exporters sending goods under cover of a Statement on Origin must have the required supporting evidence to confirm the goods meet the rules of origin.

Where finished goods are purchased from UK businesses, the exporter will be required to obtain a Supplier's Declaration (in the format as set out in ANNEX ORIG-3 of the TCA) from its supplier to confirm the rule of origin has been met for the supplied goods. Without this evidence HMRC will reject the originating status claim which could impact the EU customer as they will be liable to pay backdated customs duties.

Where the Value Added (MAXNom) rule of origin is used to confirm the origin of the finished good, the exporter will need to obtain Supplier's Declarations for all components/materials sourced from within the UK which are considered to be of UK origin. There may also be a need to obtain a Supplier's Declaration where a qualifying process is completed in the EU (e.g. Spinning of Yarn).



SUPPLIERS DECLARATION

I, the undersigned, the supplier of the products covered by the annexed document, declare that:

- The following materials which do not originate in (indicate the name of the relevant party) have been used (indicate name of relevant party) to produce these products:

Description of the products supplied ⁽¹⁾	Description of non-originating materials used	HS heading of non-originating materials used ⁽²⁾	Value of non-originating materials used ^{(2) (5)}
Total value			

- All the other materials used in (indicate the name of the relevant party) to produce those products originate in (indicate the name of the relevant party)

I undertake to make available any further supporting documents required.

.....(Place and Date)

.....

(Name and position of the undersigned, name and address of company)

.....(Signature)(6)

Again, without this evidence HMRC will reject the originating status claim which could impact the EU customer as they will be liable to pay backdated customs duties.

We are seeing instances where manufacturers and resellers are not willing to complete the required action and therefore the preferential status cannot be confirmed. If you are experiencing difficulties with suppliers then let us know as we can assist those supplier's with managing this administrative burden efficiently.



Checklist

To confirm whether rules of origin need to be considered a business must complete the following initial steps:

- 1 Confirm the commodity code for the finished product
- 2 Check the [Europa TARIC](#) to confirm if an EU tariff applies for the commodity code.
- 3 If an EU tariff (e.g. 4.7%) applies, then check the Rule of Origin in the TCA ([TCA Annex ORIG-2: Product Specific Rules of Origin](#)) to confirm rule applicable to the finished product.
- 4 If an EU tariff does not apply (e.g. 0% Duty) then [non-preferential rules](#) apply.

Advance Origin Ruling (AOR)

A UK company can apply for an AOR for a product it intends to import or export. This is particularly useful where the origin is unclear. The ruling will provide confirmation of the origin, which is recognised by the EU if an application is made against the TCA.

Rules of origin can be very complex and differ greatly depending on the area of the customs tariff the goods fall under.



Our experienced team can navigate the TCA and assist your company in confirming the origin of your goods.

The team



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