Customs Guides

RULES OF ORIGIN

British Chambers of Commerce

Customs Guides

RULES OF ORIGIN

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About this Guide

- This is one of a series of three Guides to help businesses understand Rules of Origin, Tariffs and Customs Declarations now that we have left the EU single market.
- The Guides are focused on practicalities and helping businesses to understand the actions they need to take.
- In the Guides you will learn what these concepts are, how they apply to you now we have left the EU single market.
- The Guides provide you with an overview, with links to more detailed information on the British Chambers of Commerce website.
- If you have any specific questions please get in touch with your local Accredited Chamber of Commerce that can provide expert help in trade facilitation matters.
- This information is correct on 1st March 2021.

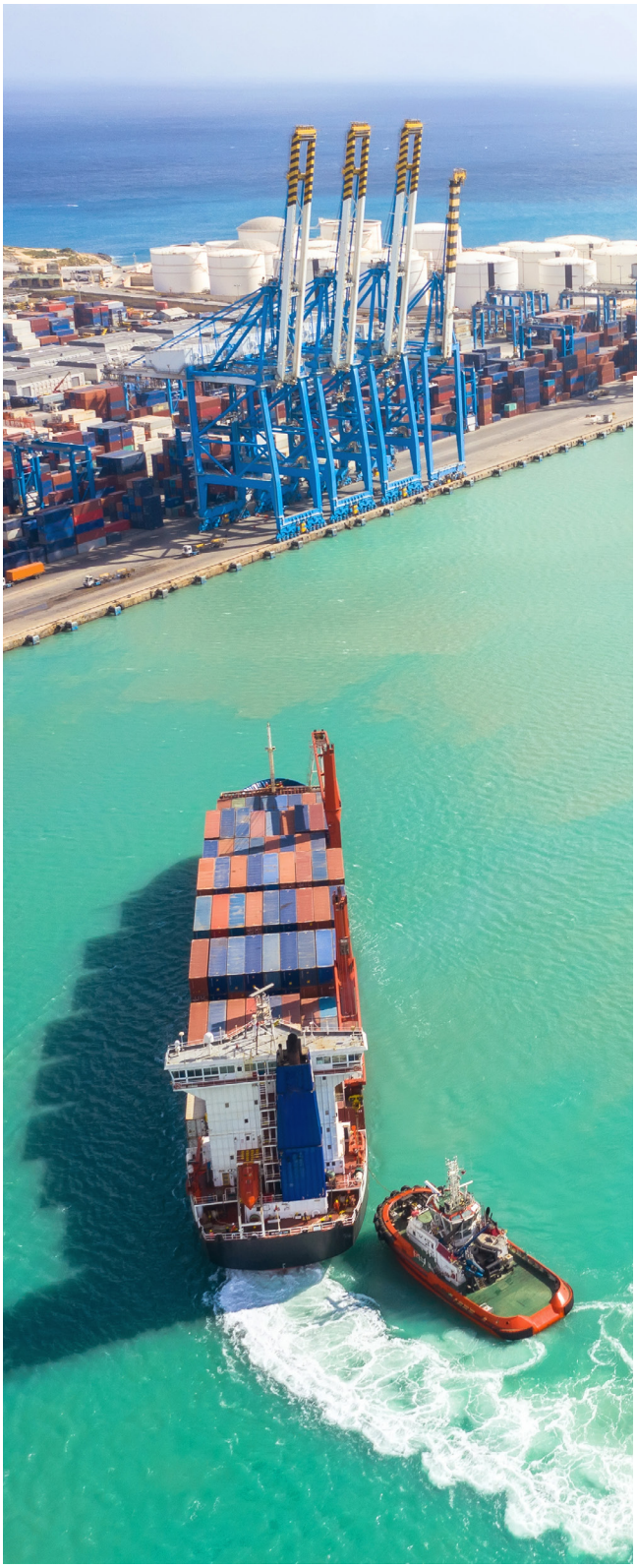
EXECUTIVE SUMMARY

1 What is origin and what role does it play in international trade?
Origin is the economic nationality of the product. Each imported and exported product has an origin. Rules of origin help to determine where the goods are from.

2 How does origin affect importers and exporters?
Non-preferential origin rules are used for a number of purposes such as determining what trade policy measures apply to imported goods. Preferential origin rules are used under trade agreements to determine whether the goods are eligible for preferential discounted tariffs.

3 What are the current requirements/rules in the UK?
The UK currently has around 60 Free-Trade agreements in place and the preferential rules of origin can be found in these agreements. For non-preference rules of origin the UK follows the principles laid down in the Kyoto agreement.

What are rules of origin and what role do they play in international trade?



Every year, more than £12 trillion worth of goods are traded amongst the world's nations in nearly every language on the globe. How do customs and regulatory authorities know where the goods are coming from in order to impose the applicable duty or product standards?

"Origin" can be understood as the economic nationality of the goods. All internationally traded goods are required to have an origin when they are declared to customs at the point of import and at the time of export.

The question "where are your products from?" seems simple at first glance, but what does it really mean? Is it where the goods were produced, or where they were shipped from? And if the goods were manufactured in several different countries, where is the cut-off point? Rules of origin enable customs to answer similar questions and enable them to determine the origin of goods.

Rules of origin in more detail

There are two different types of rules of origin

1. **Non-preferential rules of origin.**
   Each internationally-traded product has a country of origin. Non-preferential rules of origin are used to determine where the product comes from. Non-preferential origin is used for a number of purposes such as determining what trade policy measures apply to imported goods (for example quotas, anti-dumping and countervailing duty). It is also used for trade statistics and for the purpose of labelling. Each country establishes its own non-preferential rules and these are based on two main principles:

   - **Wholly obtained:** products obtained entirely in the territory of one country without the addition of any non-originating materials.

   - **Last substantial transformation:** in a case where more than one country was involved in the production of the goods, the country where the last substantial transformation took place determines the origin of the goods.

2. **Preferential rules of origin.**
   Preferential rules are used to determine origin under trade agreements. They help to establish whether the product qualifies for the preferential tariff (reduced duty rate) under the trade deal.

   There are a series of requirements that goods traded under a free trade agreement need to comply with in order to be eligible for preferential duty rates. Preferential rules of origin are set under each trade agreement – they differ for each trade deal. However, in principle, there are a few main ways in which preferential rules of origin can be established:

   - **Wholly obtained:** products obtained entirely in the territory of one country without the addition of any non-originating materials.

   - **Substantial transformation:** requires the product to undergo a certain processing in order to be considered originating. This can be based on one of three principles:

     a. **Change in tariff classification:** a rule that requires non-originating materials to have undergone a change to tariff classification in order to obtain originating status (please see the British Chambers of Commerce Tariff Guide).

     b. **Value-added calculations:** a rule that requires a certain percentage of the total value of the final product to be added.

     c. **Specific processing:** a rule that requires that a specific processing be undertaken at a particular stage of the production process.

How does origin affect importers and exporters?

The origin of goods needs to be declared on a customs declaration each time goods are imported or exported (see the British Chambers of Commerce Customs Declarations Guide).

Declaring origin will be particularly important when importing goods. When there is a preferential trade deal in place, preferential origin is declared to obtain a reduced rate of duty. In the absence of a trade agreement, non-preferential origin needs to be declared to ensure that appropriate trade policy measures are applied.

Declaring an incorrect country of origin may lead to non-compliance or even be considered fraud. For example, if the product imported from China is subject to anti-dumping duty but the duty is not paid because the importer declares it as originating in India, this would be viewed as an attempt to avoid tax. The exporter/producer is responsible for determining the origin of goods and providing proof of origin when requested by the importer; however it is the importer who is liable if the origin is incorrect.

Non-preferential origin is confirmed by a Certificate of Origin which can be obtained from Chambers of Commerce across the UK. A Certificate of Origin is not mandatory and, in most cases, it is enough to declare non-preferential origin.

Preferential origin is certified in a number of ways, depending on the text of the agreement. Preferential certificates take the form of an EUR1, an EUR-Med or a GSP FORM A document, or an exporter declaration on an invoice, for some agreements you also need to be a HMRC Approved Exporter. A preferential origin certificate must be submitted as part of import documentation in order for the company to be able to profit from preferential duty rates.

In many cases, the exporter is not the manufacturer of at least some, if not all, of the parts/inputs used to produce the final goods. In such cases, the exporter is required to confirm the origin of these parts/inputs with their supplier.

For importers, relying on the exporter's origin determination can be risky. While the proof of origin is provided by the exporter/producer, it is the importer who is legally liable for the correctness of information provided to customs authorities at the time of import. If a preferential proof of origin is rejected by customs for any reason, the importer will have to pay the full duty rate.

Related origin requirements: Establishing origin also depends on various other terms and administrative requirements being satisfied. These include conditions around record-keeping, invoicing and transport of the goods. Exporters must also be familiar with the all these additional, origin-related requirements. Your local Chamber of Commerce can advise you on this process.

What are the current requirements in the UK?

The UK currently applies EU origin rules.

The UK's non-preferential rules of origin are defined in internationally agreed protocols. The UK's preferential rules of origin are attached to all UK trade agreements in the form of annexes or protocols. The UK is currently a party to around 60 free trade and preferential trade agreements (see the full list here). This gives UK businesses access to a number of markets on preferential terms and vice versa. Preferential rules of origin for the UK's unilateral preference programme for developing and least developed countries, Generalised Scheme of Preferences, can be found in the UK Customs Code.

The UK also applies origin requirements in terms of origin certification and other requirements related to origin, such as record-keeping, period of validity/invoicing and transport requirements for originating goods.

What has changed now we have left the EU Single Market?

Now the UK has left the EU Single Market, exporters can no longer take advantage of EU Free Trade Agreements.

The UK Government has rolled over most of the EU Free Trade Agreements with continuity agreements which will ensure the continuity of trade with majority of the existing FTA partners (e.g. Japan, Canada Chile, Switzerland and Faroe Islands, and an Economic Partnership Agreement with Eastern and Southern Africa countries). A list of "continuity" agreements signed to date can be seen here.

The majority of these agreements have now come into force and the rules of origin for each agreement vary slightly, some allow for "extended cumulation" of EU parts in goods manufactured in the UK, while others do not. The percentage of originating materials required to confer origin can also vary per agreement and commodity code. To ensure your goods now qualify as being of UK origin, exporters will need to check the rules of origin contained in each free trade agreement for their product by commodity code.

Goods that have not been processed in the UK will not qualify for tariff relief under these Free Trade Agreements. For example goods of German origin imported into the UK tariff free under the UK EU trade agreement cannot be exported back to the EU tariff free as they would not be of UK origin!

Similarly UK goods exported to the EU cannot be imported back into the UK tariff free unless they have been processed in the EU. This may cause an issues for companies which need to bring goods back to be repaired for instance and they will need to look at different HMRC reliefs to see if this can be done tariff free using one of the schemes available.

UK content will no longer count as originating under EU trade agreements. UK businesses may, under some circumstances, be required to provide a non-preferential certificate of origin to prove that the goods have been primarily produced in the UK.

In agreement with the UK Government, the British Chambers of Commerce Issuing Body network have started to issue UK certificates of Origin from the 1st January 2021 to replace the EC Certificates of Origin issued previously.

For the latest information please visit the Trade Hub on the British Chambers of Commerce website.

How do I find out more information about this?

Accredited Chambers of Commerce can be found in every region and nation of the UK, providing your business with on-the-ground support. Click here to find out more.

FOR MORE INFORMATION ON NO-DEAL PREPARATIONS VISIT
WWW.BRITISHCHAMBERS.ORG.UK/PAGE/BREXIT-HUB

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