

THE EU-UK TRADE AND COOPERATION AGREEMENT

Rules of Origin Q&A

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I. Identification of the exporter

Questions I.1. Exporter's identification number in the UK

1. **Question:** *The exporter reference used by UK exporters will be their EORI number. Will this number be mandatory on a statement on origin made out in the UK? Or, will it be possible to use a statement on origin without an EORI number for importing into the EU?*

Answer: According to the information received from the UK, in all cases UK exporters have to introduce their GB EORI number on the statement on origin for the statement to be valid.

- *Will there be an open database to check UK EORI numbers?*

Answer: The UK has a [national GB EORI checker](#) that is publicly accessible. This allows you to check a GB EORI number against the internal HMRC database. The search will indicate if the GB EORI is valid or invalid. It could be that the system displays also the name of the relevant company and their address if the company allows for it.

- *Does this mean that the EUR 6,000 minimum threshold for being registered in REX applies for goods going from the EU to the UK only?*

Answer: Yes. For an EU exporter, for a consignment valued at more than EUR 6,000, the EU exporter must be registered in REX. For a consignment valued at less than EUR 6,000, there is no obligation to be registered in REX.

- *Does this mean that a statement on origin is required for every originating consignment imported from the UK to the EU, irrelevant of the value?*

Answer: This means that the GB EORI number has to be introduced in all statements on origin made out by UK exporters, regardless of the value of the consignment. This does not mean that a statement on origin is the only way by which EU importers can claim preferences for UK products. There is also the possibility of the 'knowledge of the importers'.

2. **Question:** *What information must be in the statement on origin of a UK exporter? Do UK exporters need to have an EU Registered Exporter (REX) number?*

Answer: The draft EU-UK Agreement sets out the rules for statements on origin (Article ORIG.19) as well as the format for these statements on origin (Annex ORIG-4). A reference number by which the exporter is identified needs to be indicated in the statement on origin. For UK exporters, the number will be assigned according to the UK rules, which establish the GB EORI number as identification number for their exporters. The UK will not use the REX system.

As the Commission is not liable to provide information on third countries policies, as a first step before verifying with the UK authorities, you might wish to consult the following webpages of the UK government:

- [‘The Trade and Cooperation agreement \(TCA\): detailed guidance on the rules of origin’](#): (in particular its point 2.3.2); and
- [‘Get an EORI Number’](#). The validity of an EORI number beginning with GB (issued by the UK) can be checked through that page or directly [here](#).

3. **Question:** *Do EU exporters need to indicate their EORI number on the invoice? Our understanding was that this cannot be a requirement (and is actually only necessary with a certain delivery condition -Incoterm DDP- if the EU company imports into the UK). Otherwise not.*

Answer: For exports from the EU to the UK, the EU-UK TCA nor EU internal legislation do not require that the EU exporter introduce the EORI number on the statement on origin. EU exporters are required to introduce their REX number for consignments of more than EUR 6,000 (this means that for EU exporters to make out valid statements on origin they have to be registered in REX and introduce that number in the statement). For consignments of less than EUR 6,000 EU exporters do not need to be registered and do not need to introduce any number on the statement.

Questions I.2. Exporter’s identification number in the EU

4. **Question:** *We have been informed that exporters from the EU shall have to be registered in the REX system when exporting consignments above EUR 6,000.*

As we did not find such an information in the text of the Agreement, could you please confirm for us whether this information is correct or not?

Answer: The EU-UK Trade and Cooperation Agreement (TCA) provides for each Party to assign reference numbers to its respective exporters under the TCA 'in accordance with its laws and regulations':

- Article ORIG.18(2) TCA provides for the claim for preferential tariff treatment to be based on either a statement on origin that the product is originating made out by the exporter; or the importer's knowledge that the product is originating;
- Article ORIG.2(c) TCA defines the "exporter" as a person, located in a Party, who, in accordance with the requirements laid down in the laws and regulations of that Party, exports or produces the originating product and makes out a statement on origin;

- Footnote 2 of Annex ORIG-4 TCA provides for the reference number by which the exporter is identified to be indicated in the statement on origin (for the Union exporter, this will be the number assigned in accordance with the laws and regulations of the Union; for the United Kingdom exporter, this will be the number assigned in accordance with the laws and regulations applicable within the United Kingdom); where the exporter has not been assigned a number (see below the waiver from registration applicable in the EU), this field may be left blank.

Insofar as the European Union is concerned, that reference number is assigned to EU exporters in accordance with Article 68(1) of Commission Implementing Regulation (EU) 2015/2447 (UCC-IA), which means registration in the REX system of 'registered exporters'. If an exporter was already registered in REX for the purpose of other preferential trade arrangements (e.g. with Canada, Japan, Vietnam, ESA; or for GSP cumulation), they do not need to register again for the purpose of the TCA with the UK. In addition, for EU exporters making out statements on origin for consignments of a value not exceeding EUR 6 000 each, Article 68(4) UCC-IA provides for a waiver from that requirement to be registered in the REX system.

For further information, see our [Guidance on Rules of Origin procedures](#).

Insofar as the United Kingdom is concerned, the Commission is not liable to provide guidance on third countries policies. Please refer to the UK laws and regulations, as presented in the guidance published by the UK Government, as mentioned above in the Answer to Question 2. That guidance indicates that the EORI number of UK exporters shall be used as a reference number and is to be included for the purpose of the TCA in any statement on origin, regardless of the value of the consignment.

5. **Question:** *Why does the Agreement not clearly state the use of the REX system as the way to apply for the preferential treatment like in other EU FTAs? There have been many EU operators asking who should issue the statement on origin for consignments over 6000€ since the text of the Agreement does not set a rule on this nor does it mention the term 'REX system'.*

Answer: In the most recent FTAs of the EU, which refer to self-certification of origin by exporters (e.g. the EPA with Japan or the FTA with Vietnam), the choice was left to each Party to decide about the way to identify/register its exporters eligible to export under the FTA, 'in accordance with the laws and regulations' of that Party. This is therefore done outside of the agreement itself, as an implementing measure on each side.

As mentioned above, for the EU, the requirement to use REX, and the waiver from that requirement for consignments not exceeding 6000 euros, are laid down in Article 68 of the UCC-IA.

6. **Question:** *What happens if an EU exporter makes a statement on origin without being registered in REX?*

Answer: For consignments of more than EUR 6,000, the statement will be invalid. Please note however, that if the EU exporter is not yet registered in REX, they may nonetheless make out the

statement after exportation - once they are registered - and the UK importer can claim the preference retrospectively. For the possibility for the UK importer to defer the import declaration including the preference claim during the first 6 months of 2021, see question 7.

For consignments of less than EUR 6,000, it is possible for an EU exporter to make out a statement on origin without being registered in REX and, therefore, without introducing an exporter identification number in the statement. In this case, however, it is advised that the exporter introduce their full address.

For further information, see our [Guidance on Rules of Origin procedures](#)

- 7. Question:** *Will there be a transitional period during which statements on origin may be accepted by the UK and therefore may be made out without a REX number for exports of products originating in the EU exported to the United Kingdom, irrespective of the value of the consignment?*

Answer: The Commission is not liable to provide information on third countries policies. However, according to UK public information the importer in the UK seems to have up to 6 months to do the import declarations including to make out the preferential claim. That claim will nevertheless need to be supported by a statement on origin made out by the EU exporter, who has to be a registered exporter (except for consignments of less than EUR 6,000).

- 8. Question:** *In the process of registering an exporter in REX, does the customs authority need to already check the veracity of the information provided as regards the products that will be exported and their fulfilment of the product specific rules (PSR)?*

Answer: This question is not specific to the use of REX in the EU for the purpose of the TCA with the UK. The general answer is that the information required for an application for registration in REX to be accepted by the competent customs authorities is clearly indicated in Annex 22-06A of the UCC-IA. It refers mainly to the particulars of the exporter to be registered (name, address, contact detail, EORI number, main activity). It also includes an indicative description of the goods which are intended to qualify for preferential treatment. However, this does not imply a verification by customs that those goods are indeed originating. In particular keeping in mind that an EU exporter may use their REX number for the purposes of different preferential trade arrangements, which may include different rules of origin. The registration in REX is just a registration procedure, not an approval procedure. It should be completed as soon as possible.

Questions I.3. Registration in REX

- 9. Question:** *Customs administrations are facing an abnormally high inflow of requests for registration in REX. They normally handle the requests on paper but in view of the volume they would prefer to*

do it electronically to avoid delays. The relevant implementing act states that this is possible provided that there is an authentication method. How can this be done?

Answer: This question is not specific to the use of REX in the EU for the purpose of the TCA with the UK. The general answer is that the registration number is assigned by Member States customs by using the REX Member States application. This can be done either based on an electronic request made via the [REX Trader Portal](#) or by the MS customs after using their own portals and collecting the requests. The electronic request via the REX Trader Portal (available from 25 January 2021 at the usual EUCTP link) is more convenient for the trader and customs.

- 10. Question:** *In relation to the Statement on Origin can it be issued by a REX different from the Exporter on the Export declaration (different Exporter definitions)?. In practice storage facilities doing the export formalities are not the owner of the product and have contracts with non-EU established companies. These companies have EU group companies that supplied the goods that are exported and are REX, who do not own the product at the moment of Export.*

Answer: This question is not specific to the use of REX in the EU for the purpose of the TCA with the UK. The general answer is that the statement on origin may indeed be made out by a person ('exporter') different from the exporter defined in Article 1(19) UCC-DA, who lodges the export declaration. However, the 'exporter' making out the statement on origin shall be established in the EU to be registered in REX (for shipments beyond EUR 6,000) for preferential origin purposes. The rules on REX do not exclude that a customs representative established in the EU be registered in REX if they fulfil the conditions to be an 'exporter' for preferential origin purposes.

- 11. Question:** *Where a UK entity exports products from the EU with a representative acting as exporter on the export declaration, can the UK entity be registered as REX?*

Answer: To be registered in REX in the EU you need to be established in the EU. However, our rules do not exclude that a customs representative established in the EU be registered if they fulfil the conditions to be an 'exporter' or a 'reconsignor' for preferential origin purposes.

- 12. Question:** *Will similar contingency measures apply for the first 3 months on parties that could not get registered in REX in time?*

Answer: There are no three months contingency measures for EU exporters be registered in REX. EU exporters need to be registered in REX to make out valid statement on origin for consignments of more than EUR 6,000. However, it should be considered that, a) to register as an exporter in REX is a simple registration procedure; b) that in any case, if the EU exporter is not registered yet, the importer in the UK is not yet able to claim the preference at the moment of import but they may claim the preference afterwards once the EU exporter is registered and is able to make out a statement on origin; and c) the UK system provides for the possibility of deferral of the import declaration for imports into the UK from the EU up to six months. Therefore, there is time for the making out of a statement on origin on the basis of which to make the claim.

13. Question: *In the following scenario, how can origin be proved/declared? The product is EU originating, it is supplied by an EU supplier to an UK customer but the goods stay in the EU in an EU warehouse. The UK customer (who has an EU EORI number) wishes to export the goods to the UK under preferences. He/she cannot be registered in REX. As the UK customer cannot register for REX, can the EU supplier issue the preference statement?*

Answer: Let us clarify first that if the UK customer got an EORI number as a person established in the EU, especially if they lodge the export declaration, they may also obtain a REX number insofar as they are in a position to determine and prove the EU origin and then to make out statements on origin. On the contrary, they could not have a REX number if they are not established in the EU, even with an EORI number given to a non-established person.

The EU supplier may make out also a statement on origin if they are registered in REX for consignments of more than EUR6000. They will be the exporter for the purposes of the application of the provisions on origin of the EU-UK TCA, though the UK customer may be the exporter of the goods from the perspective of the export customs procedures. The EU supplier/exporter will be responsible for the information provided in the statement on origin and they will have to fulfil the conditions established in the Chapter on origin of the TCA.

II. Supplier's declarations

Questions II.1. Transition period under Regulation (EU) 2020/2254

- 14. Question:** *In relation to Commission Regulation (EU) 2020/2254, if after one year supplier's declarations are not presented, should REX number be revoked and all previous duties have to be paid?*

Answer: If after the end of the transition period provided in Reg. (EU) 2020/2254 all the relevant supplier's declarations are not in the possession of the exporter, and the exporter does not have other means to demonstrate the origin, then the statement on origin cannot be substantiated and the exporter has to inform the importer accordingly. This will have the related impact on the preferential claim of the UK importer. The fact that the exporter does not manage to have all the supplier's declaration does not mean, however, that the exporter should be withdrawn from the list of EU registered exporters. On the contrary, the draft Guidance indicate that, as far as the exporter inform the importer, MS are advised not to impose penalties on the exporter (and a fortiori it is not a sufficient reason to withdraw him from the REX system, unless there are other grounds for such withdrawal in accordance with Article 89 UCC-IA).

- 15. Question:** *Reg. (EU) 2020/2254 applies only to preferential exports to the UK. What about preferential exports to EU?*

Answer: Indeed this Regulation only applies to preferential exports from the EU to the UK. For preferential exports from the UK to the EU, the Commission is not liable to provide information on third countries policies. However, it appears that the UK has put in place a similar one-year transitory period for their exporters to make out statements on origin.

- 16. Question:** *A one-month period to revise statements would probably be too short for most suppliers to claim origin in confidence. Given the number of suppliers and complexity of calculations involved, a 3 to 6 month period would be needed to ensure the waiver for supplier declaration could provide meaningful relief.*

Answer: The transition period is of one year (no one month). EU exporters have up 1.1.2022 to revise and collect all the supplier's declaration related to the statements on origin that they are making out during 2021. On 1.1.2022 at the latest the EU exporter will have to have in their possession the relevant supplier's declarations substantiating the statements on origin made during 2021. If it is not the case, the export will have to inform the importer that he cannot substantiate the statements that he made for the importer. He will do that before 1.2.2022. So the EU exporter has one month to inform the UK importer after the limit period and one whole year to collect all the needed supplier's declarations.

17. Question: *If the exporter uses the one-year transitory period and by 1.1.2022 he does not have in his possession the relevant supplier's declarations and cannot demonstrate the originating status of the product by other means, the statement on origin cannot be considered valid. May the exporter then still request from his suppliers a long-term supplier's declaration after 31.12.2021?*

Answer: No. Normally, the exporter at the moment of making out a statement on origin should have the supplier's declaration demonstrating the origin. Thanks to the Regulation, the exporter may not have all the supplier's declarations at the time of making out the statement, but all the supplier's declarations should be at the possession of the exporter 1.1.2022 at the latest. If 1.1.2022 the exporter does not have the supplier's declaration (and do not have other means to confirm the originating status of the exported products) then it will be understood that the statement cannot be substantiated.

18. Question: *Is there a standard form and content that must be met when informing the importer about the change in the statement of origin for a product?*

Answer: There is no special form to be used. Exporters are simply required to inform importers that a statement of origin they made out cannot be considered valid due to missing relevant supporting information at the end of the transitory period. That can be done by any appropriate means.

The Regulation does not create an obligation for the exporter to report to its customs authorities that he/she informed the importer. However, the exporter should be in a position to demonstrate upon request from the responsible customs authorities that he/she provided the information to the importer.

The responsible authorities in that case should normally be the ones of the Member State having registered the exporter in REX. In the absence of such registration in REX, because the consignments did not exceed the 6000 euros value threshold, the authorities should be the ones of the Member State having given the exporter his/her EORI number)

Questions II.2. Long-term supplier's declarations

19. Question: *Scope of application of Commission Regulation (EU) 2020/2254: Does this point also cover long-term supplier's declarations according to Article 62 UCC-IA?*

Answer: Both recital (4) and the introductory phrase of Article 1 of Commission Implementing Regulation (EU) 2020/2254 of 29 December 2020 on the making out of statements on origin on the basis of supplier's declarations for preferential exports to the United Kingdom during a transitory period, refer to Article 62 UCC-IA on long-term supplier's declarations. Those declarations are therefore covered.

20. Question: *In the case of products built in the end of 2020 in the EU, shipped in 2021 to the UK, to issue a statement on origin we have LTSDs (Long Term Supplier Declarations) made out in 2020 but, of course, without referring to the UK on them (but to other EU partner countries with which the EU had FTAs in 2020), can we prove the preferential origin for these products with the current available LTSDs of 2020 (without UK) for the export into UK? Perhaps covered by Article Orig.30 of the FTA with the UK?*

Answer: Insofar as long-term supplier's declaration for products having a preferential origin are concerned, the supplier declares that the goods listed in the document originate in the EU or a given country or group of countries and satisfy the rules of origin governing preferential trade with a given country or group of countries. The declaration may refer to several origins and preferential arrangements but only if the products have a preferential origin under each of those arrangements. However, since the UK and the EU-UK Trade and Cooperation Agreement are not indicated in existing long-term supplier's declarations, to cover them the declarations should be replaced by new ones referring to them (if the goods listed in are originating as well under the EU-UK TCA), or separate declarations should be made out to cover goods in the context of the TCA.

You may also consult the [Guidance on the Application in the European Union of the provisions concerning the supplier's declaration](#).

21. Question: *In case of parts made by an UK supplier and supplied to an EU supplier in 2020 for further processing, does the EU exporter of the finished product have to be sure that these products are EU originating without the aforementioned UK content? Are EU origin LTSDs issued by UK suppliers before 1st January 21 no longer valid and the goods they relate to (even though they are located in the EU today) are no longer deemed EU originating?.*

Answer: Yes, supplier's declarations made by UK suppliers before 1.1.2021 become invalid after 1.1.2021. Furthermore, any production carried out in the UK before 1.1.2021 is considered from 1.1.2021 as made in a third country. The producer needs therefore to consider those materials as non-EU originating.

22. Question: *What is the origin of a product made in the UK in 2020 and that is now shipped to the EU?*

Answer: It will be originating in the UK provided that the provisions on rules of origin of the EU-UK FTA are respected.

23. Question: *Do UK goods acquire EU origin when transformed in the EU before the end of the transition period? EU stock in the UK in 2020, what would it be its origin in 2021?*

Answer: UK goods located in the EU or incorporated in EU goods become non-EU originating after 1.1.2021. They are therefore to be treated as non-originating materials for the purpose of the determination of the originating status of the products in the production of which they are used. EU goods located in the UK or incorporated in UK goods are non-UK originating after 1.1.2021, with the

limited exceptions provided in Article 30 of the TCA. The EU stock that was in the UK before the end of the transition period has neither EU nor UK origin in 2021.

24. Question: *If a LTSD is issued on 15.01.2022 may it cover the period from 16.01.2022 to 14.01.2023?*

Answer: A LTSD issued on 15.1.2022 may have a start date on 16.1.2021 (12 months maximum before the date of issue) and an end date on 15.1.2023 (24 months maximum after the start date).

25. Question: *Based on that LTSD issued on 15.01.2022 with a start date on 15.1.2021 and an end date on 15.1.2023, may the exporter demonstrate the originating status of the goods for which he made out a statement of origin from 15.01.2021 to 14.01.2022?*

Answer: No, a LTSD may indeed be made out 15.1.2022 with the starting date 16.1.2021 and end date 15.1.2023 but cannot validate the statements on origin that were made out during the transition period provided in Regulation (EU) 2020/2254. The maximum date to have the all the supplier's declaration in possession of the exporter is 1.1.2022 to substantiate the statements made during 2021. The LTSD that you put as example could be used to make out statements on origin only after 15.1.2022 but cannot be used to cover statements on origin made before 15.1.2022.

26. Question: *What is the logical hierarchy between the transitional period of one year and the use of the LTSD with retroactive effect of one year? Or how can the use of LTSD fit into the context of the one-year transitional period?*

Answer: No hierarchy: the conditions laid down in Article 62(2) UCC-IA regarding the period of validity of LTSD and those laid down in Regulation 2020/2254 are cumulative.

Let imagine a statement on origin made 1.5.2021. The exporter does not have the supplier's declarations. The Regulation allows him still to make out the statement (what normally should not be the case). During 2021 nobody is going to put in question the statement but for this statement to be considered valid in 2022, the exporter needs to have before 1.1.2022 the supplier's declarations. It could be that he receives a LTSD made out 1.11.2021 with a start date 1.11.2020 and end period 1.11.2022, i.e. covering the shipments of materials that were used to produce the product for which the statement is made 1.5.2021. This would be fine. But if he LTSD is issued after 1.1.2022, it cannot be used to substantiate the statement on origin made out 1.5.2021, whichever the start date is.

Questions II.3. Supplier declarations issues for goods supplied in 2020

27. Question: *It is ok for the suppliers to issue the declaration for the EU components supplied within the EU in 2020 (no export) confirming the compliance with the EU-UK TCA that came into force in 2021?*

Answer: Supplier's declaration for products having obtained preferential originating status may indeed be issued from 1.1.2021 for goods that were supplied before 1.1.2021. Article 61(3) of the UCC IA establishes that the supplier may provide the declaration at any time, even after the

materials have been delivered. Insofar as long-term supplier's declarations would be made out for such products, Article 62(2)(b) UCC IA provides for their time coverage in the past not being more than 12 months before their date of issue (making out). From the perspective of the application of the TCA and the supplier's declaration the relevant moment is not the moment of production of the goods or of the materials or when the materials were delivered in the EU but the moment in which the supplier's declaration is made out. That moment needs to be after 1.1.2021 but the supplier's declaration may refer to goods delivered before, provided that the supplier is able to determine the origin of those goods according to the rules of the TCA. This is without prejudice of the relationship between the suppliers and the exporter and how the making out of these supplier's declarations may have been considered in their contracts/relationship for deliveries in 2020.

28. Question: *It which instances should the supplier's declaration provided in the Annex ORIG-3 [Supplier's declaration] to the TCA be used?*

Answer: Annex ORIG-3 of the TCA refers to a supplier's declaration for non-originating goods, made out in one Party by a supplier of such goods to producers in the other Party, and to be used there for the purpose of the bilateral 'full' cumulation referred to in Article ORIG.4(2)&(4) of the TCA.

Full cumulation allows a production carried out in a Party on a non-originating material, though not being sufficient to confer it an originating status, to be nevertheless taken into account for the purpose of determining whether a product is originating in the other Party.

The supplier's declaration is thus one of the documents which can help the producer in the second Party to identify the non-originating materials used in the production of the goods supplied from the first Party and to take into account that production in the determination of the originating status of the final product to be re-exported to the first Party, and the making out of the corresponding statement on origin. It is nevertheless worth mentioning that Article ORIG.4(4) of the TCA provides for the supplier's declaration may be replaced by *'an equivalent document that contains the same information describing the non-originating materials concerned in sufficient detail to enable them to be identified'*.

29. Question: *In order for an exporter to complete a statement on origin in the cases of full cumulation, should the exporter obtain from its supplier a supplier's declaration as provided for in Annex ORIG-3 [Supplier's declaration] or an equivalent document that contains the same information describing the non-originating materials concerned in sufficient detail to enable them to be identified. What is the equivalent document in this context?*

Answer: The suppliers can either use the template for supplier declaration provided in Annex ORIG-3 or any other document containing the same information, describing the product in sufficient detail (in another format).

III. Statements on Origin

Questions III.1. Document on which the statement is made out

30. Question: *Can only “commercial documents” be accepted to make out the statement on origin?*

Answer: The text of the TCA refers to a document without the qualification of “commercial”. Art. ORIG.19(2): “A statement on origin shall be made out using one of the language versions set out in ANNEX ORIG-4 [Text of the statement on origin] in an *invoice or on any other document* that describes the originating product in sufficient detail to enable the identification of that product”.

31. Question: *Will a signature be required in the declaration of origin?*

Answer: A signature is indeed not required in statements on origin made out for the purposes of the EU-UK TCA, as shown in the text of the statement on origin, in Annex ORIG-4 of the TCA.

32. Question: *What is the “Name of the exporter” included in the statement on origin? Is this only the name of the company and/or the name of the person who issue the commercial document and the Statement on Origin?*

Answer: According to Article ORIG.2, Definitions (c), “exporter” means a person, located in a Party, who, in accordance with the requirements laid down in the laws and regulations of that Party, exports or produces the originating product and *makes out a statement on origin*. Therefore, the name of the exporter is the name of the person who makes out the statement on origin.

Questions.III.2. Validity of a statement of origin

33. Question: *In article ORIG-19 stands following: “3. A statement on origin shall be valid for 12 months from the date it was made out or for such longer period as provided by the Party of import up to a maximum of 24 months.” What is the validity period for imports into the EU?*

Answer: When the EU is the importing Party, the validity period is 12 months. The Commission is not liable to provide information on third countries policies. However, it appears that for the UK as importing Party the validity is 24 months.

34. Question: *May the Parties choose the validity of the statement? Why are there 2 validity periods?*

Answer: The validity will be of 12 months, unless a Party decides to provide for a longer period (up to 24 months). The Commission is not liable to provide information on third countries policies.

However, it appears that the UK has decided to provide for such a longer period for imports in the UK of EU originating goods.

35. Question: *Is it possible in the EU to accept statements for multiple shipments?*

Answer: Yes, it is possible in the EU to accept statements for multiple shipments. You may wish to consult Sub-Section II-4 of this Compendium and also the [Guidance on Rules of Origin procedures](#).

Questions III.3. Abbreviations to be used in statements on origin

36. Question: In accordance with the Annex ORIG-4 (text of the statement of origin) under the footnote (3) – origin of the product – the United Kingdom or Union should be indicated. We are interested in whether the statement of origin is acceptable if the abbreviations UK, GB, EU, and UE are indicated under this footnote.

Answer: The origin of the products may be indicated either in full or using abbreviations. For the EU, the origin may be indicated as: the Union, European Union, EU, UE etc. For the UK, the origin may be indicated as: the United Kingdom, UK or GB etc. On statements made out in the EU, the indication of individual Member States in whatever form shall be avoided.

37. Question: *For the UK, the origin may be indicated as the United Kingdom, UK or GB etc. If we accept “GB” then Northern Ireland (NI) can also be indicated, for example in the case that the origin rules of the TCA are fulfilled in Northern Ireland. If the originating goods are exported to the EU via GB – in the statement on origin, can “UK” or “NI” be indicated as country of origin?*

Answer: No, “Northern Ireland” origin does not exist. There is only the origin: ‘United Kingdom’. A different issue is that the code ‘GB’ covers the United Kingdom (including Northern Ireland) and therefore, for the purposes of the statement ‘GB’ could also be accepted, to be understood as: ‘the United Kingdom’.

Questions III.4. Statement on origin for multiple shipments

38. Question: *Will the EU allow granting the preferential origin based on a long-term declaration of origin (for multiple consignments)? For example, the EU-Canada agreement (CETA) provides for this possibility but the EU does not use it.*

Answer: Article ORIG.19(4) of the TCA stipulates that ‘A statement on origin may apply to:

(a) a single shipment of one or more products imported into a Party; or

(b) multiple shipments of identical products imported into a Party within the period specified in the statement on origin, which shall not exceed 12 months’.

Contrary to the EU-Canada CETA, that provision does not leave a Party the discretion to apply point (b). Therefore, as in the case of the EU-Japan EPA, EU importers and UK importers may use statements on origin for multiple shipments to claim preferential tariff treatment under the TCA.

You may wish to consult the [Guidance on Rules of Origin procedures](#)

39. Question: *An importer in the EU claims on 17.1 2021 for a preferential treatment for imports from the UK and submits a statement on origin for multiple shipments made out by the exporter on 11.1.2021 to be valid for the period 1.1.2021 to 31.12. 2021. May the statement on origin be accepted?*

Answer: *It cannot be accepted for preferential imports made before the issuance date.*

IV. Knowledge of the importers

Questions IV.1. Importer's knowledge – one track

40. Question: *Article ORIG.21 (2) [Importer's knowledge] establishes: "Before claiming the preferential treatment, in the event that an importer is unable to obtain the information referred to in paragraph 1 of this Article as a result of the exporter deeming it to be confidential information or for any other reason, the exporter may provide a statement on origin so that the importer may claim the preferential tariff treatment on the basis of point (a) of Article ORIG.18(2) [Claim for Preferential Tariff Treatment]."*

If the importer claims preferential treatment based on importers knowledge but is unable to prove the preferential origin:

- *during the verification phase, is it possible to lodge a statement on origin and change the basis of the claim, or*
- *after a failed verification, is it possible to request reimbursement based on a statement on origin?*

Answer: This paragraph was introduced to make sure that the exporter could not be forced by the importer to provide him with confidential information on the production of the product under the reason that the importer was going to claim preference based on his knowledge. The paragraph tries to make clear that the exporter can make out a statement on origin for the importer instead of giving him confidential information.

If the importer claims the preferential treatment based on the importer's knowledge, he or she cannot afterwards change the basis of his or her claim during or after the verification process. In the case of verification, the importer has to demonstrate that the product is originating and provide to customs with the information requested. The importer knowledge has to be based on information demonstrating that the product is originating. In the absence of such information, the importer should not use this possibility to claim the preference. He could instead ask for a statement on origin from the exporter and base his or her claim on the statement.

If the importer does not have a statement on origin either, he should not claim the preference.

If he did not claim the preference at the moment of importation, he has in any case still the possibility to claim the preference retrospectively up to three years after importation if the needed conditions are fulfilled.

Questions IV.2. Demonstration of the knowledge

41. Question: *Is there an exhaustive list of information that can be checked in the case of preference claimed on the basis of knowledge of the importers? In case of refusal of the preferences on importer's knowledge, can the importer afterwards submit to the customs office a statement on origin?*

Answer: The information that the importer must provide to customs is contained in Article ORIG 24 i.e information pertaining to the fulfilment of origin criteria, which is:

(i) where the origin criterion is “wholly obtained”, the applicable category (such as harvesting, mining, fishing) and the place of production;

(ii) where the origin criterion is based on change in tariff classification, a list of all the non-originating materials, including their tariff classification (in 2, 4 or 6-digit format, depending on the origin criterion);

(iii) where the origin criterion is based on a value method, the value of the final product as well as the value of all the non-originating materials used in the production of that product;

(iv) where the origin criterion is based on weight, the weight of the final product as well as the weight of the relevant non-originating materials used in the final product;

(v) where the origin criterion is based on a specific production process, a description of that specific process.

If the importer has claimed preference based on his knowledge, he cannot afterwards, i.e. during or after verification to submit a statement in case he is not able to demonstrate that the product was originating.

42. Question: *How the importer can demonstrate his knowledge on the origin. What documents and what procedure (letter or verbal information) can be used?*

Answer: The importer's knowledge is based on information in the form of supporting documents or records provided by the exporter or manufacturer of the product, which are in the importer's possession, which provides valid evidence that the product qualifies as originating. The TCA does not impose and the EU does not require that such information is provided at the time of the claim but it may be requested in case of verification.

The relevant information which may be requested is limited to the information listed in paragraph 2 (b) of Art. ORIG.24, as a first step of verification. In a second step, the customs authority of the importing Party may request additional information in accordance with Paragraph 5 of that Article.

V. Claiming preferential tariff treatment

Questions V.1. Need for claiming preference

43. Question: *For products subject to a 0% MFN tariff rate imported into the EU and UK, can you confirm that:*

- a. There is no need to comply with preferential rules of origin to benefit from this 0% MFN tariff rate, and*
- b. That there is no need for an origin statement?*

Answer: We confirm that if there is no need to claim the preference for a concrete product (because there is zero MFN duties applicable to that product), then there is no need to make out a statement on origin. As a side note, however, it could be still useful to have a statement on origin for cumulation purposes in the EU if the UK product would be further processed and is then exported back to the UK.

Questions V.2. Errors in claiming the preference

44. Question: *What would it happen if by mistake the wrong code U117 instead of U116 is issued?. The importer has in fact a statement on origin and presents this during the verification. Can the U-code be changed in this case?*

Second, what if there were no verification but the company understand that they have used the wrong code. They have statements on origin. Can they in this case change the customs declaration within 3 years according to article 173(3)?

Answer: The importer introduced a customs declaration claiming preference on the basis of the Knowledge of the importers and then he wants to change to a claim based on the importer's knowledge (article 173 UCC). He may do so changing the import declaration provided that he is respecting the EU legislation and provided he has a valid statement issued before the claim.

Questions V.3. Retrospective claims

45. Question: *Is repayment of customs duties (ex art 117 UCC) possible with a statement on origin when the initial claim was based on importer's knowledge?*

Answer: No, the provision on retrospective claims applies only to the cases where at the time of importation there was no claim of the preference.

- 46. Question:** *An importer may retroactively claim preferential treatment up to three years after the date of importation, provided that the importer retains all the necessary information to prove that the product is of preferential origin, according to article ORIG 18a. But Article ORIG 19 stands that a statement on origin shall be valid for 12 months from the date it was made out or for such longer period as provided by the Party of import up to a maximum of 24 months.*

How can an importer claim preferential treatment three years after importation, when the statement on origin has expired? We cannot find rules in the EU-UK agreement regarding issuing statement on origin retrospectively. If there is no article indicating issuing statement on origin retrospectively, we assume that this is not possible?

Answer: A retrospective claim of origin may be done by the importer when the importer has not claimed the preference at the moment of importation. If he did not claim the preference at the moment of importation, it may be because he does not know that the product qualifies for preferential treatment or because the exporter was not in a position to make out a statement on origin at that moment. So in principle, at the moment of importation there is no statement on origin made out yet.

After the import moment (up to three years of the importation), the importer may realise (by any means) that the product in fact qualified for preferential treatment and/or the exporter is in a position to make out a statement on origin. It is at that moment that the exporter produces the statement on origin and on its basis the importer claims the preference. The period of validity for the statement on origin starts to count at the moment that it is made out.

For the sake of an example, we are going to imagine an importer who imports in the EU a product from the UK 1 April 2021 without claiming any preference. The EU MFN duties are paid. One year later the exporter confirms the importer that the product was originating and fulfilled all the other criteria and makes out a statement on origin at that moment (1 April 2022). On the basis of this statement the importer claims the preference in the EU retrospectively i.e. 1 May 2022 in full validity of the statement on origin.

- 47. Question:** *If the exporter did not have a REX number at the time of export of goods to UK, then the EU exporter will not be able to issue a statement on origin above 6000 euro. Would it then be possible for the exporter in EU to issue the statement on origin to the importer in UK afterwards, when the exporter got a REX number and can the importer then use the rule in article ORIG 18a (2) and claim preferential treatment.*

Answer: Yes, indeed the situation you describe in your e-mail is a possibility: the exporter may make out the statement on origin after the exportation of the product and the importer may claim the preference on the basis of such statement up to three years after the importation.

48. Question: *If a statement of origin cannot be made on time, can it be made retrospectively?*

Answer: Yes. EU importers can introduce a retrospective claim for preferential treatment of goods imported from the UK, for up to three years after the date of importation. This also applies for EU exports to the UK. This provision is destined to provide for the reimbursement of duties already paid, but does not exempt the importer from having a statement of origin to be able to benefit from preferential treatment (unless the importer claims the preference on the basis of his own knowledge on the basis of relevant origin information already at his disposal).

49. Question: *How does the provision on repayment or remission of duties of the TCA (Article 'ORIG.18a: Time of the claim for preferential tariff treatment') relates to the provision on repayment or remission of duties of Article 117 UCC?*

Answer: The provision on retrospective claim of the EU-UK TCA and the provision on remission or repayment of duties of the UCC need to be considered together as they are drafted in a coherent manner.

Since the remission or repayment of duties is possible in the EU in the case of preferences under an EU preferential arrangement, the provision on retrospective claim has the main effect to ensure that the partner country, in this case the UK, will also apply a similar scheme for EU exports. In any case, the application of such a provision will be made in the case of the EU through the remission or repayment of duties of art 116-117 UCC.

50. Question: *Could the Commission clarify the time periods in relation to documentation for rules of origin in EU-UK trade: For a retrospective claim for preference after import, the EU-UK deal provides for a period of 3 years to make the claim. Additionally, there is a period until end of 2021 for the provision on suppliers declaration. What is the relationship?*

Answer: The possibility provided in the EU-UK TCA to claim preference retrospectively applies to the cases when the importer has not claimed preferential treatment at the time of import. He has in that case up to three years after importation to claim the preference retrospectively.

The period provided under EU internal legislation (Commission Implementing Regulation (EU) 2020/2254 of 29 December 2020) provides for a transitory period for EU exporters to make out statements on origin because of supplier's declarations that he may not have in his possession at that moment provided that those statements will be in his possessions 1.1.2022. In those cases, as the statement is made out, the importer in the UK may claim the preference at the moment of import (no need for retrospective claim).

Finally, the importer may claim the preference based on his knowledge. In these cases, the importer does not need a statement on origin.

Questions V.4. Transitional period for imports in the EU from the UK?

51. Question: *Could you confirm that as of 01.01.2021 preferential treatment may be granted on imports from the United Kingdom solely on the basis of the TARIC code U116/U118 (statement on origin), although the importer is not in possession of a valid statement on origin at the time of import clearance? Is it sufficient within a transitional period if the importer receives a valid statement on origin from its exporter in the United Kingdom at a later date?*

Answer: There is no transitional period established for the provisions of the Agreement related to the claim for preferential treatment. This means that if the importer is claiming the preference in the EU on the basis of a statement on origin, a statement on origin needs to exist at the moment of the claim.

The transitional period established under the EU internal legislation does not refer to the importer or to the claim for preferential treatment. The transitional period is for the EU exporter to make out the statement on origin on the basis of supplier's declarations that he may not have at the moment of making out the statement. At the end of the transitional period he needs to have all the supplier's declarations, as otherwise it means that the statement is not substantiated and therefore he has to inform the importer accordingly. Indeed this is the transitory period contained in doc TAXUD//7513444/20.

This transitional period is a possibility that the EU has established internally for EU exporters.

From the UK side, it seems that there is the possibility for a deferral for the importers in the UK to do the import declarations during the first six months (all import declarations, preferential and non-preferential). This seems to mean that the importer in the UK may make the import declaration including the claim for the preference after the goods entered into the UK, but when he will claim the preference he will have to have the statement on origin made out by the EU exporter.

The Agreement foresees also other possibilities as the retrospective preferential claim up to 3 years after the importation took place.

52. Question: *What about the EUR.1 for shipments from the UK to the EU?*

Answer: A EUR.1 movement certificate cannot be used for claiming preferential treatment under the EU-UK TCA.

As per Articles ORIG.18 and ORIG.19 of the EU-UK Trade and Cooperation Agreement, for shipments from the UK to the EU "a claim for preferential tariff treatment shall be based on:

- a) a statement on origin that the product is originating made out by the exporter; or
- b) the importer's knowledge that the product is originating."

In order to claim preference, the basis of the claim should be indicated at the same time as the customs import declaration is submitted.

Statements on origin made out in the UK will indicate as reference number the exporter's GB EORI number which is necessary to identify the exporter (for all value of consignments). Please consult the UK national authorities for more information. On the other hand, an EU exporter must be registered in the EU Registered Exporter System (REX) for all consignments superior to 6,000€ in value and indicate the REX number as reference number in the statement.

For further information, we invite you to look at the answers of questions 25 and 26 of the FAQ drafted by the European Commission which address the making out of statements of origin and the movement of goods from the UK to the EU and the [Guidance on Rules of Origin procedures](#).

VI. Transitory provisions: goods in transit or in customs control at the entry into application of the Agreement

Questions VI.1. Goods in transit or under customs control

53. Question: *In draft Trade and Cooperation Agreement between EU and UK, article 30 (Transitional provisions for products in transit or storage) it is indicated that products which on the date of entry into force of this Agreement are either in transit from the exporting Party to the importing party or under customs control in the importing party may apply the provisions of the Agreement and apply for preferential treatment.*

In which cases can we implement this article as goods already on their way from the EU to the UK, before midnight on 31 December that arrive at their final destination only after 1 January 2021 or vice versa can be considered as intra-EU goods?

Answer: The question refers to goods moved from the EU to the UK where the movement begins before the end of the transition period and the goods arrive to their final destination after this date, namely 31 December 2020 at 0h00 CET. In this case, we have two possibilities, namely the goods are Union goods or non-Union goods.

If the goods moved from the EU to the UK before the end of the transition period are Union goods, then Article ORIG.30 TCA does not play a role in this question because Article 47 WA applies and therefore it is an intra-Union movement, i.e. not subject to customs formalities, which entails that preferential origin is not an issue here.

If the goods are non-Union goods, then Article 47 WA does not apply. Article 49 WA would only apply if the goods are in Temporary Storage or under a special procedure (i.e. under customs supervision) in the UK at the end of the transition period. In this case, Article ORIG.30 TCA would also apply in this case if the provisions of Article ORIG-30 are met. It may also be used considering the cases where the goods moved from one Party to the other were to be used further in the importing Party for bilateral cumulation purposes.

54. Question: *How about ORIG.30 Transitional provisions for products in transit or storage, does this mean that products produced in 2020 can be imported with preference? And can LTSDs be issued by suppliers for 2020?*

Answer: Article ORIG.30 may be understood as a provision supplementing Article 47 and 49 of the Withdrawal Agreement. Pursuant to Art 47 WA, Union goods in movement before the end of the transition period and entering into the territory of the other Party afterwards keep their Union

status. Therefore, there is no need to proof the originating status of those goods under the EU-UK TCA. Article ORIG.30 TCA was introduced to cover the situations, where there would be goods of preferential origin that could not fulfil the conditions of article 47 WA and to enable not only that the goods are put in free circulation after 31.12.20 free of duties but also that they can be subject later on to cumulation in the partner country.

VII. Distribution centres

Questions VII.1. Treatment granted to 'EU originating goods' in the EU

55. Question: *Can a product originating in the EU and exported to the UK where it is released for free circulation and not processed, be re-imported into the EU with a statement on origin indicating 'EU origin' and benefit from the preferential tariff? This is possible under CETA and for certain products under the agreement with Switzerland and I wondered whether this was also possible in the context of the EU-UK agreement.*

Answer : In order to answer your question, two situations need to be distinguished:

(a) If the products originating in the EU were already in the UK before the end of the transition period, have not undergone any processing and are re-imported into the EU (after 1/1/2021), those products do not originate in the EU within the meaning of the Trade and Cooperation Agreement (TCA) since they left the territory of the EU before 1/1/2021 (territoriality principle) with the limited exception of Article ORIG-30 of the EU-UK TCA. Nor do these products originate in the United Kingdom. They are therefore not eligible for preferences within the meaning of the Trade and Cooperation Agreement.

The provisions of the Union Customs Code on returned goods (Article 203 of the Union Customs Code and Article 158 of the Delegated Act) could potentially apply if all the conditions of these provisions are fulfilled.

(b) If the products originating in the EU have been exported and released for free circulation in the United Kingdom after the entry into force of the Trade and Cooperation Agreement and are then re-imported into the EU without having undergone any processing in the United Kingdom, then they have not acquired UK origin within the meaning of the Agreement and cannot benefit from the preferences provided for in the Agreement when they are released for free circulation in the Union.

In fact, preferences can only be granted to goods originating in the other Party to the agreement (i.e. on importation into the EU only to goods originating in the United Kingdom).

The provisions of the Union Customs Code on returned goods (Article 203 of the Union Customs Code and Article 158 of the Delegated Act) could potentially apply if all the conditions of these provisions are fulfilled.

For further information, please consult the [guide published by the Commission](#) (in particular point A.4.1) and also the specific [Guidance on distribution centres](#).

Questions VII.2. The UK as a distribution centre: scenarios

56. Question:

Scenario 1 - Non-originating [non-EU or UK] goods which are imported into the UK and are not altered or processed in the UK before being re-exported to the EU.

The goods may incur tariffs if they are cleared for free circulation in the UK and may incur further tariffs on re-importation into the EU. Correct?

Answer: Correct from the perspective of the application of the EU-UK TCA. However, it could be that some provisions of the EU internal legislation may be applied to have duty relief. In this case, if the non-originating products were union goods when exported from the EU to the UK and then they are not altered in the UK, the provision on returned goods (art 203 UCC) could be of application if all the requirements would be respected.

Scenario 2 - Non-originating [non-EU or UK] goods which are imported into the UK and undergo processing under Customs supervision using the Inward Processing Procedure in the UK before being re-exported to the EU.

Where the non-originating goods undergo processing in the UK under Customs supervision using the Inward Processing Procedure, the duty liability in the UK is discharged if the goods are re-exported to the EU. The amount of processing on the goods will determine if duties must be paid on re-export to the EU. These goods can only qualify for preferential origin under the EU-UK Trade and Cooperation Agreement (TCA) on re-export to the EU if the processing meets the requirements as specified in the Product Specific Rule (PSR) for the product in the EU-UK TCA. If the UK preferential origin can be proven, preferential origin can be claimed on re-export to the EU under the TCA. Correct?

Answer: Correct. This is because the TCA allows duty drawbacks (DDBs).

Scenario 3 - Non-originating [non-EU or UK] goods which are imported into the UK and undergo processing in the UK not under Customs supervision before being exported to the EU.

Where the non-originating goods undergo processing in the UK NOT under Customs supervision these goods may qualify for preferential origin under the EU-UK Trade and Cooperation Agreement (TCA) on re-export to the EU if the processing meets the requirements as specified in the Product Specific Rule (PSR) for the product. If UK preferential origin can be proven, preferential origin can be claimed on export to the EU under the TCA. Any tariffs due on the materials used in the processing in the UK have to be paid on import to the UK.

Answer: Correct

Regarding scenario 2 and 3 above, under full cumulation as provided for in the EU-UK TCA, if some processing is carried out in the UK and further processing is carried out in the EU that enables the non-originating goods to qualify as EU originating under the Product Specific Rule for the product, the product can be re-exported to the UK from the EU at zero tariff duty under preference.

Answer: Correct: Full cumulation enables to consider the processing carried out in the UK as carried out in the EU (and vice-versa) for the final product to be considered as originating in the EU and be exported under preferences to the UK.

Non-originating goods are exported from the EU to the UK. Duties are paid and the goods are released in the UK. In the UK they are further processed but not sufficiently, so the goods are exported from the UK to the EU as still non originating. In the EU the products are imported and duties are paid. The products are further transformed and acquired EU origin by virtue of full cumulation (considering the processing carried out in the EU and in the UK together). They are exported to the UK . No duties are paid in the UK under the EU-UK TCA.

Though this may happen, there is the possibility to combine full cumulation with inward processing in order to avoid to pay the duties on the materials, as follows: Non-originating goods are exported from the EU to the UK. Duties are not paid in the UK as the goods are put under inward processing (or other scheme in the UK that is covered by the definition of duty drawbacks). In the UK they are further processed but not sufficiently, so the goods are exported from the UK to the EU as still non originating. In the EU the products do not pay duties as they are put under inward processing. The products are further transformed and acquired EU origin by virtue of full cumulation. They are exported to the UK as originating in the EU (as DDB is allowed). No duties are paid in the UK under the EU-UK TCA for the final goods.

57. Question: *A product which was manufactured in a Member State in January 2019 was acquired by an UK agent during February 2019. The product was sold by the UK agent to an UK customer in March 2019. The customer uses the product for two years and then sells it to a MS company in February 2021.*

The company imports the product into the EU soon afterwards. The questions that arise are the following:

- *Is the product to be treated as a UK, non-originating import, which will not benefit from preferential treatment and is subject to full import duty and VAT?*
- *Will the product be treated as an EU originating product and can be returned to the EU in accordance to the provisions of article 203 UCC?*

If more than 36 months have passed from when the product had originally been sent from the EU to the UK (for example January 2017) and the date of re-importation into the EU (for example February 2021), will it still be considered as an EU originating product and as such can be returned to the EU without the payment of import duty?

Answer: According to the given situation (goods sent to the UK in 2019 and returning in February 2021), the goods were located in the UK at the end of the transition period and they were not transformed there. The products cannot benefit from a preferential treatment under the EU-UK Trade and Cooperation Agreement because, pursuant to Article GOODS 5, the prohibition of

customs duties only applies, upon import in the EU, to originating goods of the UK. Those goods as they were not produced or transformed in the UK cannot be originating in the UK and receive preferences in the EU under the EU-UK TCA.

In order to use the provisions on returned goods provided for in Article 203 of the UCC, Articles 158 UCC Delegated Act and Articles 253 and 255 of UCC Implementing Act, the product does not need to be considered as EU originating, but the conditions of these provisions need to be fulfilled instead

As stated in the guidance note, the end of transition period for the withdrawal of the UK from the EU is not one of the special circumstances that would allow exceeding the three-year period referred to in Article 203(1) UCC.

58. Question: *EU finished goods that are imported into GB hubs and subsequently re-exported to other parts of the EU and NI are facing serious problems because of provisions on rules of origin in the new UK-EU Trade and Cooperation Agreement (TCA).*

The section on cumulation of origin (Article ORIG.4) which links to the section on insufficient production (Article ORIG.7) means that finished EU goods that are exported to the UK and undergo no production/transformation while in GB before they are re-exported to the EU would not qualify as UK originating and would face the full EU Common External Tariff on return to the EU.

Many business have shipments from EU factories that are split at hubs in GB, with some goods remaining in the UK while others are re-exported to the EU. Because of the rules of origin, this is no longer possible without payment of the full EU tariff.

Could standard provisions under 'Article ORIG.15 Returned Goods' could be interpreted in such a way as to offer a solution?

Answer: The starting point to examine the questions you raise is that, as indicated in the Commission notices on Brexit, from the end of the transition period any EU goods in the UK (other than sailing goods) will be treated upon importation into the EU as a third country goods. The Commission has been issuing notices on the subject since January 2018¹ and this was restated in the Commission communication of 9 July 2020² and more explicitly in section 5.3 of the notice³ whose first version was published already on 4 June 2018.

Against this background, there could be no expectation that the future agreement with the EU would change this situation, since the EU proposal published on 18 March 2020 established in its draft Article GOODS.5 (which is the same as that contained in the TCA as it was agreed) that the prohibition of customs duties applied only for the import into one Party of goods originating in the other Party. In the same way, it could not be expected that the provisions on cumulation and other

¹ https://ec.europa.eu/info/sites/info/files/file_import/customs_and_indirect_taxation_en.pdf

² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0324&from=EN>

³ https://ec.europa.eu/info/sites/info/files/notice_to_stakeholders_brexit_customs_procedures-rev4_en.pdf

rules of origin of the future agreement with the UK would have changed this situation: the provisions on this matter contained in the EU proposal, published on 18 March are – with some exceptions, which have rendered the rules more flexible but not more restrictive – essentially those finally incorporated in the TCA.

Therefore, operators in both the EU and the UK had had early warning that any EU originating goods stored in the UK would not benefit from duty free treatment when imported into the EU, and also had sufficient advance notice to rearrange their supply chains and stocks.

With respect to the possible ways to address the concerns you mention, the rules provide for the following:

1. If goods having the customs status of Union goods (being or not originating in the EU under the TCA), originally transferred to and stored in the UK before the end of the transitional period, are afterwards re-imported into the EU in the same state within a period of three years, then the importer can request duty relief provided that the conditions applicable to returned goods are fulfilled (Art. 203 UCC and Art. 158 UCC Delegated Act). Art. 203.5 UCC establishes that they have to be returned in the state in which they were exported, and Art. 158 UCC DA clarifies this condition is met if the goods “have not received a treatment or handling other than that altering their appearance or necessary to repair them, restore them to good condition or maintain them in good condition”. The concept ‘in the same state’ has to be assessed on a case-by-case basis. To the extent that the operations carried out in distribution centres does not modify the nature or characteristics of goods, they should not deprive the goods from the possibility to get relief as returned goods under Art 203 UCC, particularly taking into account that this allows the return of only part of the goods previously exported.
2. If the goods have been exported to the UK after the transitional period, there are the following possibilities:
 - a. if the goods have not undergone any processing or alteration in the UK, then the regime of “returned goods” can apply if all the conditions are met (see point 1 above);
 - b. in case they have undergone any processing in the UK:
 - i. if the processing does not go beyond the “insufficient production” under Art. ORIG.7 TCA, then the good would not acquire UK origin and would therefore not be entitled to preferential treatment;
 - ii. if the goods are subject to processing that goes beyond insufficient production, then the product could in principle acquire UK origin through

cumulation in accordance with Article ORIG.4 TCA, and in that case they could be entitled to preferential treatment.

3. An alternative way under which goods originating in the EU could be sent to the UK and from there back to the EU without the payment of custom duties, would be the use of the common transit T2 procedure, both for the movement of such goods first from the EU into the UK, and then from the UK back to another part of the EU (for all or part of the consignment). This would require that the conditions laid down in Articles 2 and 9 of the Common Transit Convention are met: as provided for under Article 9.3 of the Common Transit Convention, the goods would have to remain under customs supervision (placed under a warehousing procedure) and could not be subject to any manipulation – they should have received no treatment other than that needed for their preservation in their original state, or for splitting up consignments without replacing the packaging. In those cases the goods would have maintained the Union goods status and then could be freely be moved back to the EU.

With respect to a possible interpretation of Article ORIG.15 TCA, this provision refers to a product originating in one Party which is exported to a third party and then returned to the same Party: the UK cannot be considered as a “third country”, as it is a Party to the Agreement and therefore cannot be considered as being both a third country and a Party.

59. Question: *What is the tariff treatment of goods exported from the EU to the UK that are stored, unpacked and repacked in the UK and subsequently sold on to the EU from the UK? If tariffs apply in this situation, can this be offset under the provisions of the TCA (Article ORIG.15: Returned products) and what proofs would be required?*

The TCA also provides that repaired goods (article 8) should not attract customs duties where the product is temporarily exported for repair and returned. Logically, a product that is temporarily exported and re-imported with no alteration at all should also not attract customs duties.

Can this be managed through the Returned Goods Relief which allows an Importer re-import goods without payment of customs duty when those goods are re-imported within three years of export as long as those goods were originally exported from the EU and have undergone only treatment necessary to maintain them in good condition?

Answer: To reply to this question it is needed to consider some aspects such as if the goods exported from the EU are EU originating goods or union goods , if they are under customs control in the UK in a warehouse, if there is no transformation other than unpacking and repacking operation, if they left the EU under a transit procedure, etc.

There are two possibilities:

- The application of the EU-UK FTA preferential treatment: For that it would be needed that the goods are originating in the EU and that in the UK production beyond insufficient operations are carried out (repacking may be considered as insufficient if it is a simple packaging operation). If both conditions would be fulfilled, then it could be considered that cumulation applied and that the goods obtained the UK originating status. Preferential treatment could be granted in the EU to those UK originating goods.
- The application of EU internal legislation providing for duty relief or preservation of the union goods status:

For this, it would be needed that the goods leaving the EU are union goods. The application of duty relief would be linked to the application of the provisions on returned goods (Article 203 UCC) and the preservation of the union goods status would be linked to the provisions on transit (T2 procedure), provided that the requirements related to both are respected.

Article ORIG 15 is not applicable to this situation as it covers the cases where goods originating in a Party leave the territory of that Party towards a third country and not to the other Party. It should be understood as an exception to the principle of territoriality, i.e. origin should be obtained in the territory of a Party without interruption

The scope of Article GOODS 8 (repaired goods) is different to the preferential treatment granted to goods originating in the Parties. Article GOODS 8 refers to goods regardless of their origin that re-enter the Party's territory after that good has been temporarily exported from its territory to the territory of the other Party for repair.

60. Question: *We export fresh meat from the EU to the UK (EU origin), some of it is - after processing in a plant in the UK – supposed to be re-exported to EU. Apparently it's not possible to do so currently because EU listing systems.*

In the case that there is EU origin when exported to the UK, all would depend on what the processing is at the UK plant . Could you please list the different “results” – i.e. what origin to declare - (if no processing, if minimal processing or more than minimal processing)?

Answer:

a) Meat originating in the EU. It is exported to the UK and released for free circulation there. It is not transformed.

This meat cannot acquired UK preferential origin and therefore the EU-UK FTA preferences cannot be used when importing back in the EU. There is no “production” in the UK and therefore there is no cumulation possibilities with the EU meat (Article ORIG 4 TCA).

You may consider if the provisions of the EU internal legislation on returned goods (duty relief) may be used if the requirements are fulfilled (i.e. meat has not received a treatment other than that altering their appearance or necessary to repair them, restore them to good condition or maintain them in good condition and other requirements of Article 203 UCC, Article 158 and 159 UCC DA).

b) Meat originating in the EU. It is exported to the UK and released for free circulation there. It is subject to small processing such as simple packaging, keeping them in good condition, labelling...

This meat cannot be considered as UK originating (insufficient operations impeding cumulation – Article ORIG 4 TCA-) under the EU-UK TCA. Therefore, the EU-UK FTA preferences cannot be used when importing back into the EU. Insufficient operations are those listed in Article ORIG 7 TCA. Those more relevant for meat are:

- preserving operations such as drying, freezing, keeping in brine and other similar operations where their sole purpose is to ensure that the products remain in good condition during transport and storage (Preserving operations such as chilling, freezing or ventilating are considered insufficient, whereas operations such as pickling, drying or smoking that are intended to give a product special or different characteristics are not considered insufficient);
- breaking-up or assembly of packages
- affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging
- simple packaging operations
- simple grinding or simple cutting
- sifting, screening, sorting, classifying, grading, matching including the making-up of sets of articles

You may again consider provisions on returned goods (duty relief) if the requirements established in the EU internal legislation, as mentioned above, are fulfilled.

c) Meat originating in the EU. It is exported to the UK and released for free circulation there. The meat is subject to transformations beyond insufficient operations, i.e. meat is sliced and cooked,..

The meat acquires UK origin by virtue of cumulation (Article ORIG 4) and may be exported under the EU-UK TCA preferences to the EU.

Finally, the operator should also consider EU SPS legislation applied on imported processed meat.

61. Question: *On re-importation of EU originating fresh meat: There are very real operational problems regarding the re-importation of goods (fresh meat) that have been rejected by the UK customer. Until now, veterinary certificates were not required for trading with the UK. Now they are, but for the return of goods, vets in the UK cannot certify the goods as "EU origin". In these cases, how can meat rejected by the UK customer returned frictionlessly to the EU so the goods do not spoil? Overall, can the whole issue of EHCs be reconsidered, to help practical solutions to be developed?*

Answer: Official Controls Regulation (EU) 2017/625 (OCR) does not provide possibility for re-import of animals and goods rejected by customer based on commercial reasons. Therefore in the situations when consignments are rejected by the UK customer due to commercial reasons the standard requirements for entry into the Union apply. The same apply for all third countries.

62. Question: *If an EU spirit entirely produced in the EU is shipped to the UK for its ageing process – with no additions to the product or any alteration beyond the ageing process itself – before being brought back to the EU to be mixed with other spirits from the EU and bottled there,*

- *will the product keep its EU origin provided it is placed under customs control while in the UK?*

Answer: Under the EU-UK TCA, there can be a duty exempt import of EU origin products into the UK or of UK origin products into the EU but it is not possible to import duty-free EU origin products into the EU. This is the case where a product exported from the EU to the UK with an EU preferential origin under the TCA is brought back to the EU without having acquired in the UK a UK preferential origin, e.g. through the bilateral cumulation of origin referred to Article ORIG.4(1)&(3) of the TCA.

For the purpose of that bilateral cumulation of origin, an ‘ageing process’ should meet two main conditions: (a) it should be considered as a “production” process; and (b) if so, it should go beyond an ‘insufficient production’.

(a) Article ORIG.2(h) defines a ‘production’ as ‘*any kind of working or processing including assembly*’. It seems difficult considering the mere fact to leave goods ‘ageing’ as such as a ‘working or processing’ operation, unless the ageing process is accompanied by actual ‘working or processing’ operations. This is valid for the ageing of imported non-originating goods for determining the originating status of the exported products, as for the ageing of originating goods for the purpose of bilateral cumulation.

(b) Insofar as ‘ageing’, in combination with ‘working or processing’ operations, would be considered as a ‘production’, that production should not consist only of one or more of the operations conducted on non-originating materials, which are considered ‘insufficient production’ in accordance with Article ORIG.7 of the TCA. Ageing is not in the list of such operations, likely because it should not be considered as such as a ‘production’, as mentioned under point (a).

In effect, ageing could not be considered a 'manufacturing operation', since it only involves storing a product for a certain period of time.

A case by case analysis would in any event be needed, taking into consideration elements such as whether the resulting product is a new and different product with specific characteristics, confirming that it actually results from a ‘production’ process.

- *Will the finished product be able to benefit from EU FTAs with third countries?*

Answer: Understanding that the finished product is the mix of aged spirit in the UK with FR spirits, even if the aged spirit used in the production of the finished product may come back as UK originating, the UK aged spirit should be considered as non-originating for the purposes of exporting the final product to other EU FTAs, as for the time being no EU FTA provides for diagonal cumulation with the UK..

A possibility to consider, however, would be the provision on returned goods of the EU FTAs with other third-countries. If the two conditions established in those FTAs are met: i.e. the goods returned in the EU are same goods as that exported; and have not undergone any operation other than what was necessary to preserve them in good condition while in that third country (in this case the UK) or while being exported, the goods would keep their EU-origin for the purposes of the EU FTAs with other third countries.

- *Should the product not be placed under a duty suspension procedure under customs control while in the UK, can you confirm that it would not incur tariffs once re-exported to the EU*

Answer: If the product is not placed under a duty suspension procedure under customs control in the UK, a possibility for the product imported back in the EU not to incur tariffs would be to apply the provisions on returned goods under Articles 203 UCC and 158 UCC DA provided that the related conditions are fulfilled.

- 63. Question:** *Will duties apply to EU goods that remained in GB after 31-12-2021 but are going to be re-exporting back to the EU?. If they were located in the UK, is total relief only possible using 'Returned Goods' or can they use preference for those EU goods (I assume that if preference is allowable, it would also include VAT?). And if they were located in Northern Ireland?*

Answer: Union goods (not necessarily EU originating) that were located in Northern Ireland before 1.1.2021 are in free circulation in the EU. If the goods were located in GB, they lost their Union status on 1.1.2021. These goods can be imported into the EU with duty relief if they qualify as "returned goods" under Articles 203 UCC and 158 UCC DA (understanding that the movement of those goods from the EU to the UK before 1.1.2021 can be considered an "export"). Those goods cannot benefit, however, from the EU-UK TCA provisions as those goods will not be considered as UK originating. As regards VAT, Article 143(1)(e) of the VAT Directive provides for the exemption of import VAT upon the re-importation, by the person who exported them, of goods in the state in which they were exported, where those goods are exempt from customs duties.

- 64. Question:** *Can the TCA be used for the movement of goods from the EU to the UK, and then the UCC article 203 on 'Returned goods' be used for moving goods from the UK to the EU (to Ireland for example)?*

Answer: Yes, in principle this could be done, provided that the goods exported from the EU meet all the relevant requirements of the TCA (referring to their 'EU originating status'), to benefit from preferential tariff treatment in the UK), and all the conditions of the UCC (referring to the customs status of those goods as 'Union goods'), to benefit from duty relief when returned to the EU.

- 65. Question:** *Can the Commission provide further details on the criteria to be able to use transit for the use of repackaging of goods?*

Answer: Very limited handling is possible for transit to be used. Art 9 CTC refer to the obligation for the goods to be stored in special spaces and have received no treatment other than that needed for

their preservation in their original state, or for splitting up consignments without replacing the packaging.

66. Question: *If goods are exported from the EU to the UK through a third country under the transit procedure, is the splitting of consignments allowed according to the TCA? This would be crucial in many cases, for instance, if there is a change of size, depending on types of transport used (e.g., from shipments to trucks).*

Answer: According to the EU non-alteration rule of the EU-UK TCA, yes, splitting of consignments in a third country is permitted.

67. Question: *In the case of preferential documents issued by a third country for goods stored in warehouses in the UK or in the EU before then being shipped to the EU or to the UK, is this stopover possible for claiming preferences?*

Answer: Yes, it is. However, the goods would not be covered by the EU-UK TCA but by the relevant FTA with that third country and it would be needed that the provisions on direct transport/ non-alteration of those FTAs are respected.

68. Question: *Which of the following scenarios does the provision of letter a and b of Article ORIG.15 “Returned products” cover (maintaining the “originating”-status of a good and benefiting from preferential duty free/reduced re-import):*

1. *Product of EU origin is exported to UK, later re-imported into the EU*
2. *Product of EU Origin is exported to UK, later from UK exported to China (third country), later re-imported into the UK*
3. *Product of EU Origin is exported to UK, later from UK exported to China (third country), later re-imported into the EU*
4. *If non of these scenarios is covered, what scenario is Art. ORIG.15 taking care of instead?*

Answer: Article 15 of the EU-UK TCA is for goods exported to a third country and returned to any of the Parties (i.e. the EU or the UK). It does not cover goods moved from one Party to the other and returned from there.

69. Question: *In the scenario where UK originating products are shipped to an EU distribution hub Imported with preferential tariffs and sold & shipped to an UK Customer. Would this qualify as EU originating product?*

Answer: To reply to the question, we need to know if there is any transformation in the EU distribution hub. In case there is none or the transformation is an ‘insufficient production’ not allowing bilateral cumulation (Articles ORIG.4(3) and ORIG.7 of the TCA), the goods cannot obtain EU origin to export them under preferences to the UK under the EU-UK TCA. As the goods are imported in the UK, it would be for the UK customer importing back the goods to see if there is any customs procedure in the UK (i.e. as the one established in the EU legislation for returned goods) to be used in order to apply duty relief on those goods. Such duty relief would likely not relate to the initial

origin of the goods. However, we cannot elaborate on this because this does not pertain to the EU legislation and the Commission is not responsible for the legislation and policies of third countries.

70. Question: *I noted, that simple “re-import” of EU-originating products from UK to EU does not benefit from TCA preferential tariff. Only by way of UCC provisions (transit, returned goods) a tariff free re-import is possible?.*

Answer: Correct, provided that the requirements of the EU provisions on returned goods and transit are respected

71. Question: *Goods can return from the UK under a T2 procedure provided that the transformations in the UK did not imply more than preservation.*

However, if this concerns export to the UK the T2 transit declaration contains the additional code 20300. When, after storage in a customs warehouse in a common transit country, the goods return to the EU a new T2 declaration may be lodged with the code 20300 (see Article 9(4) of the Common Transit Convention. According to Article 2(3) point a) last subparagraph of the CTC these goods should be considered as non-Union goods. They can only return to the EU without paying duties as returned goods if they comply with Article 203 UCC.

If the movement concerns an intra EU movement to Ireland, to be recognized because the code 20300 is missing, T2 procedure can end in the UK by storing them in a Customs Warehouse. The goods can return under a T2 procedure to the EU. When ending the transit procedure it's important that the goods are still part of an intra EU movement for VAT.

Answer: We need to distinguish two different situations in relation to the distribution centres, as follows:

- a) The goods are exported from the EU and put under a T2 transit procedure (with code 20300-export) with the UK as destination. The goods arrive to the UK and are warehoused. The goods do not lose their Union good status in the UK [Article 2(3) point a) last subparagraph of the CTC does not yet apply to this case]. According to Article 9 (3) CTC the goods can be re-consigned under the T2 procedure as Union goods with the EU as destination. The transit declaration must specify the code 20300 that indicates to customs that the goods were originally declared for export. When the goods arrive to the EU, [Article 2 (3) CTC applies now] goods will be considered as non-Union goods because they were originally declared for export in the EU.
- b) The goods are under transit procedure T2 (not exported) with the EU as destination. They arrive to the UK and are warehoused. According to Article 9 (3) CTC the goods can be re-consigned to the EU under the T2 procedure as Union goods. The goods do not lose their Union goods status at any moment. When the goods arrive to the EU, they are still considered as union goods.

Conclusion:

If in the EU the transaction is an export followed by transit (first export declaration from EU, then transit declaration opening of a transit movement until UK), the goods lose the Union status at

arrival into the EU, because they have been exported from the EU. As discussed, once the goods have lost their Union status and as they are not UK originating either, the only possibility to re-enter the Union duty-free is Art 203 UCC on returned goods. This being said and as mentioned during the meeting, the provisions on returned goods are not necessarily conceived for distribution or to be used systematically as a basis of a business model.

By contrast, as you mention, if pure transit is used – only a transit declaration is launched in the EU, from FR to IE via UK – the goods preserve their Union status.

72. Question: *Can Article ORIG.15 and Art. 203 UCC also be interpreted in such a way that the product is sent from one third country to another third country and later returns to the country of origin?*

Answer: Article ORIG.15 on ‘Returned products’ is similar to provisions existing in origin rules of other FTAs (e.g. Article 12(2) of the PEM Convention) and should be read the same way. It constitutes an exception to the ‘principle of territoriality’ laid down in Article ORIG.3(3) and addresses the matter of originating products that leave the territory of either Party for a third country and, for whatever reason, are returned to that same Party. Those products should normally lose their originating status but, subject to the fulfilment of the conditions of Article ORIG.15, they can keep their origin and thus benefit from preferential tariff treatment where exported to the other Party. To benefit from Article ORI.15, the returned products must have been initially exported from a Party, not from a third country. However, that provision does not exclude that an originating product is exported from a Party to a third country, and then moved to one or more other third countries (e.g. for the purpose of successive temporary admission and/or transit and/or storage operations in those countries) before being returned to the same Party, insofar as the conditions laid down in Article ORIG.15 remain fulfilled.

Article 203 UCC provides for a relief from import duty to be granted to non-Union imported goods, which after having originally be exported as ‘Union goods’ (as a customs status, not as an originating status) ‘outside the customs territory of the Union’, are returned there ‘in the same state’ (as defined in Article 158 UCC-DA) within a period of three years. That duty relief compensates the fact that the goods are losing their status of Union goods when leaving the customs territory. Again, nothing prevents the Union goods to be exported from the Union to a third country and then moved to one or more third countries, before being returned. They may be granted duty relief if they meet the conditions of Article 203 UCC and 158 UCC-DA.

73. Question: *Is our understanding correct, that Art. ORIG.15 also applies to returned products from GB? Is it correct that such an approach would be covered both by Art. 203 UCC and Sec. 33(5) UK Taxation (Cross-border Trade) Act 2018?*

Answer: Article ORIG.15 applies to exports from a Party to a third country when the product then return to that Party without having been transformed in the third country. However, outside the scope of the EU-UK TCA, Article 203 of the UCC may be of application if the required conditions are respected.

74. Question: EU originating goods exported to the UK and returning without having had sufficient transformation in the UK: will they still benefit from the EU origin they initially had? For example, apples exported to the UK that are then packed in the UK and reshipped to the EU.

Answer: Under the EU-UK TCA, there can be preferences for EU originating products imported into the UK or of UK origin products imported into the EU but it is not possible to import duty-free EU origin products into the EU. Therefore, if the operation carried out in the UK on the EU originating apples is an insufficient operation (you refer to “packing” and “simple packing is an insufficient operation), cumulation cannot be activated and the UK origin cannot be obtained. As a consequence, preferences cannot be granted to these apples when coming back into the EU.

For the purposes of other EU FTAs signed with third countries other than the UK, the EU originating apples exported to the UK and reshipped to the EU can keep their EU origin if the FTA contains a provision on “returned goods” and the apples are not transformed in the UK, or a provision on “outward processing” if the conditions established therein are met. For that you need to look at the relevant provisions of the EU FTA.

75. Question: *It is understood that an import into the EU of an EU originating product which has been in the UK for more than 36 months, is not to be considered as a returned good and hence cannot benefit from the provisions of Article 203 UCC. On the other hand, an import into the EU of a UK originating product which has been manufactured 48 months ago, can still benefit from preferential treatment on origin according to the provisions of the TCA.*

In a way, we see this as giving an advantage to the UK originating product over an EU originating product (both of which are over 36 months old). Are we right in our interpretation?

Answer: The situation you describe would be the same each time a new FTA starts applying with a third country, i.e. goods exported from the EU before the application of the FTA (not originating) to such country fulfilling the requirements of returned goods could be entered into the EU without paying duties up to the three years as provided in Article 203 UCC, while goods produced in the partner country and fulfilling the Rules of Origin of the FTA could enter duty free under the FTA whenever they were produced in that partner country. The exceptional circumstance with the UK is the concept of EU goods in the UK existing up to 31.12.2020, which obviously does not exist with other FTAs. But goods originating in the EU located in the UK cease to be EU originating 1.1.2021, an important element not to forget.

Note however that we don't consider this an unfair discrimination. On the opposite, it is a logical consequence of the UK having left the EU. In the situation described, the product manufactured in the EU remains exactly the same. It has not been enhanced, repaired or improved in the UK. After the UK has left the Union, there is no reason to keep the business margins made by UK agents that simply re-sale EU products. Operators wishing to buy products manufactured in the EU more than 3 years ago placed in the UK without paying import duties can in most cases buy those products in the EU.

76. Question: *What is the issue at stake with the UK as a distribution centre for EU goods?*

Answer: Supplies of goods to the EU from distribution centres in third countries, such as the UK, are subject to customs formalities and controls, as well as to the application of origin rules to benefit from tariff preferences. These conditions do not apply to goods supplied from EU-based distribution centres.

77. Question: *Can transit or returned goods procedures work instead?*

Answer: On paper, both procedures can alleviate the issues being raised by stakeholders. However, traders may find that the requirements carry significant logistical and administrative burdens.

78. Question: *Would it be possible to introduce a derogation of the rules of origin for distribution centres?*

Answer: This issue is a consequence of the UK's decision to leave the EU's Single Market and Customs Union, and arise as a result of the close geographical and economic ties between the EU and the UK. No EU FTAs contain any such general opt-outs from rules of origin provisions.

And it is simply not possible to grant exemptions or derogations in order to ensure fairness in treatment for third countries with whom the EU holds FTAs and businesses alike who have already prepared to mitigate the effects of Brexit.

Businesses in both the EU and the UK had early warning that any EU originating goods stored in the UK would not benefit from duty free treatment when imported into the EU, and had sufficient advance notice to rearrange their supply chains and stocks.

VIII. Small consignments and personal luggage

Questions VIII.1. Small consignments imported in the UK

79. Question: *Should Article ORIG.23(1)(c) of the Agreement be interpreted as meaning that waiver to produce documentary evidence of the origin of goods for the preferential treatment of other low value consignments is applicable to goods brought in the EU from the UK? If so, what consignments are intended to be covered by such waiver?*

Answer: Article ORIG.23(1)(c) of the EU-UK Trade and Cooperation Agreement (TCA) refers to a waiver to produce documentary evidence of the origin of goods to claim preferential tariff treatment for “other low value consignments”. That waiver is only applicable to goods imported in the United Kingdom from the European Union. In addition, according to Article ORIG.23(2)(c) TCA, such waiver is excluded for products whose total value exceeds the limits set under the domestic law of the United Kingdom. The limits are established at 1000 GBP

The Commission is not liable to provide information on third countries policies. As a first step before verifying with the UK authorities, you might wish to consult the [following webpage of the UK government](#) (in particular point 2.2.2 of the document “The Trade and Cooperation Agreement (TCA): detailed guidance on the rules of origin”).

80. Question: *UK Guidance indicates that the waiver concerning small consignments for import into the UK is £1000, regardless of whether they are imported for commercial or non commercial purposes. Can the Commission confirm this information ?*

Answer: Correct, the exemption of this article would apply, in the case of imports in the UK, also for goods imported by way of trade (for small consignments from private person to private persons, traveller’s luggage and other low value consignments) provided that the value does not exceed 1000 pounds.

Questions VIII.2. Small consignments and the requirement for a statement on origin

81. Question: *Do you have any insights please into the non-requirement for Statement on Origin for imports under €500 and for €1200 personal baggage allowance? Could these goods be of non-UK origin and thus unlawfully avoid correct customs duty?*

Answer: To address more specifically the aspects you have raised, that reply may be supplemented as follows:

Article ORIG.23 on 'small consignments' of the EU-UK Trade and Cooperation Agreement (TCA) only provides for the replacement of the usual claim for preferential tariff treatment (to be based on either a statement on origin made out by the exporter or on importer's knowledge) by a declaration by the importer that the products contained in such consignments are originating and meeting the other requirements of the Origin Chapter of the TCA. Those products are deemed to meet those requirements and therefore eligible to the preferential tariff treatment, if the customs authority of the importing Party has no doubts as to the veracity of that declaration (Article ORIG.23(1) of the TCA).

That procedural simplification does not however exempt the products to comply with the requirements provided for in the Origin Chapter. The importer remains responsible for that compliance and the correctness of his declaration. Products not being originating in the UK in accordance with the TCA cannot therefore enjoy preferential treatment. And the customs authority of the importing Party is responsible to control that compliance and enforce those obligations. There is no difference in this respect between the TCA and any EU FTA providing for a similar simplification for 'small consignments' (Article ORIG.23(3) of the TCA).

It is also important recalling that, regarding preferential imports in the EU under the TCA, that simplification can only apply to products sent in a small package from private persons to private persons or forming part of a traveller's personal luggage (Articles ORIG.23(1)(a)&(b) and 23(2)(b)(ii) of the TCA), AND not being imported "by way of trade" (Article ORIG.23(2)(b)(i) of the TCA). The possibility to apply it to 'other low value consignments' exists only for the United Kingdom (Articles ORIG.23(1)(c) & 23(2)(c) of the TCA).

Therefore, insofar as a 'consumer' in the EU buys in and imports products from the UK, even if the total value of the consignment does not exceed EUR 500, if the sale does not occur between private persons and has a 'trade' nature, it cannot benefit from the simplification provided by Article ORIG.23 of the TCA.

"On-line shopping" from the UK to the EU should then in most cases fall outside the scope of that provision.

In addition, in the absence of any reference to an 'intrinsic value' of the products in this particular context, the value thresholds referred to in that provision should be considered being made to the total "customs" value of the products contained in the "small package" or the "traveller's personal luggage". "Customs value" is defined in Note 4(a) of ANNEX ORIG-1: INTRODUCTORY NOTES TO PRODUCT-SPECIFIC RULES OF ORIGIN.

82. Question: *Shall the application of conditions set out in Article ORIG.23(1)(a)and(b) regarding application of preferential tariff treatment (customs duty of 0%) to goods sent in small packages by*

one natural person to another with the total value not exceeding EUR 500 and goods forming part of a traveller's personal luggage with the total value not exceeding EUR 1 200, be concurrent with application of conditions for applying exemption from import duties in accordance with Articles 25-27, Article 41 of the Regulation No 1186/2009? For example, how should tax exemptions and preferential treatment be applied if personal luggage contains products purchased in the UK with a value of EUR 1000 and inspection of the goods reveals that the information provided on the packaging indicates that part of the goods worth EUR 200 are of UK origin, while the rest of the products worth EUR 800 have originated in other third countries .

Answer: Article ORIG.23 of the EU-UK Trade and Cooperation Agreement (TCA) on 'Small Consignments' does not relate to the autonomous EU system of relief from customs duty (Council Regulation (EC) No 1186/2009) nor to VAT exemptions under the EU VAT legislation, which shall apply with no consideration of the origin of the goods or any preferential tariff treatment. This is the same for provisions of Article 23 of the Council Regulation (EC) 1186/2009 might be applicable for small consignments of negligible value not exceeding 150 EUR. As a principle, autonomous duty reliefs or exemptions and preferential tariff treatments are two separate tariff measures, non-preferential for the former, and preferential for the latter.

Article ORIG.23 of the TCA only provides for the replacement of the usual claim for preferential tariff treatment (to be based on either a statement on origin made out by the exporter or on importer's knowledge) by a declaration by the importer that the products contained in such consignments are originating and meeting the other requirements of the Origin Chapter of the TCA. Those products are deemed to meet those requirements and therefore eligible to the preferential tariff treatment as defined in Article GOOD.5 of the TCA, if the customs authority of the importing Party has no doubts as to the veracity of that declaration (Article ORIG.23(1) TCA).

It is important recalling that, regarding preferential imports in the EU under the TCA, that simplification can only apply to products sent in a small package from private persons to private persons or forming part of a traveller's personal luggage (Articles ORIG.23(1)(a)&(b) and 23(2)(b)(ii) of the TCA), and not being imported "by way of trade" (Article ORIG.23(2)(b)(i) of the TCA). The possibility to apply it to 'other low value consignments' exists only for the United Kingdom (Articles ORIG.23(1)(c) & 23(2)(c) of the TCA).

Therefore, insofar as a 'consumer' in the EU buys in and imports products from the UK, even if the total value of the consignment does not exceed EUR 500, if the sale does not occur between private persons and has a 'trade' nature, it cannot benefit from the simplification provided by Article ORIG.23 of the TCA.

In the case presented, the situation would be the following:

- as the total value of the goods in the personal luggage is above the monetary thresholds mentioned in Article 7 of Directive 2007/74/EC (value added tax), to which Article 41 of Regulation 1186/2009 (customs duties) refers, reliefs from customs duty and exemption from VAT will not be granted for the part of the goods above the threshold. They may be

- granted for the other part insofar as that does not imply splitting up the value of an individual item.
- when calculating the customs duties due on the part of the goods above the threshold defined in Article 41 of Regulation 1186/2009, the customs authorities may grant the duty-free treatment for the goods originating in the UK.
 - as the value of the goods is below EUR 1200, and insofar as the goods are not imported by way of trade, Article ORIG.23 on 'small consignments' of the TCA allows the replacement of the usual claim for preferential tariff treatment by a declaration by the importer that the products are originating and meet the other requirements of the Origin Chapter of the TCA. Those products are deemed to meet those requirements and therefore eligible to the preferential tariff treatment under the TCA, if the customs authority has no doubts as to the veracity of that declaration.

The zero duty of the EU-UKTCA can only be applied to UK originating products. So, in this example, the goods worth EUR200 with UK origin could be imported at zero rate in the Union customs territory if there are no doubts on the origin.

If the goods are contained in the passenger's luggage, the VAT exemption applicable in the concrete Member State will determine the amount of goods that can be admitted free of import duties, pursuant to Art 41 of Reg 1186/2009. Strictly speaking, the goods of UK origin are not admitted free of import duties but under a preference so they should not be counted in determining when the national threshold has been reached (i.e. if the national threshold is EUR 430, that amount of 3rd country goods could be admitted free of import duties in the Member State without "counting" the EUR 200 UK goods.

83. Question: *According to article ORIG.23 of the Trade and Cooperation Agreement, paragraph 2 (b) (i), the imports which are occasional and consist solely of products for the personal use of the recipients are not to be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is intended. Those products are excluded from the obligation of the presentation of a statement of origin.*

We would appreciate a clarification whether the above exclusion applies to the cases of small consignments which concern purchases made from online stores and are intended for the personal use of the recipient, with a total value not exceeding EUR 500.

Could you please clarify whether these products can benefit from the duty-free treatment without the presentation of a statement of origin?

Answer: The exemption provided in Article ORIG 23 of the EU-UK TCA applies on the EU side (imports in the EU) only to the cases of small consignments from private person to private persons and traveller's luggage not imported by way of trade, not exceeding 500 Euros and 1200 Euros, respectively, and not being part of a series of importations that may reasonably be considered to have been made separately for the purpose of avoiding the requirements related to the claim of

preferential treatment. The exemption does not cover therefore purchases made from online stores.

The text of this provision for imports in the EU is not different from provisions included in other EU FTAs and therefore the interpretation should be in line with current EU practice. You may consult [the following guidance](#) on this.

The UK applies the exemption also to small consignments other than those sent from private person to private person and traveller's luggage including also imported by way of trade with a value limit of 1000 pounds. This applies for imports in the UK from the EU.

84. Question: *We would like to inquire regarding Article ORIG 23 of the EU – UK TCA regarding small packages. In the case when it is clear enough that the goods at stake are not of EU origin, does the exemption from a statement on origin still apply?*

Answer: The statement on origin only is needed for goods that are originating and for which preference is claimed but if the goods are not originating then a statement on origin cannot be made out. Therefore the case would be out of the scope of Article ORIG 23, which refers to the cases of specific type of products which are originating and which, in order to obtain the preference, do not need to claim the preference on the basis of a statement or of the importer's knowledge (because of its low value and other characteristics).

Furthermore you refer to EU origin, when from the perspective of application of this provision, it would be the UK origin the relevant one for MS customs.

85. Question: *Concerning Article ORIG.23: Small consignments, exemption to present proof of origin (Paragraph No 2 letter b) and the 500/1200 Euro thresholds, is B2C E-commerce covered?*

Answer: No, the exemption to provide a proof of origin refers to small consignments of less than 500 Euros from private person to private person and not sales by business to consumers.

86. Question: *The exemption from the submission of the proof of origin is not the same like "exemption from being of "EU-Origin", right?*

Answer: Correct, it is exemption to have a statement on origin, not to be originating.

IX. Northern Ireland

Questions IX.1. Origin of Northern Ireland goods

87. Question: *What is the origin of raw materials processed in Northern Ireland: is it GB origin? If so can it go to the UK?*

Answer: Under the EU-UK TCA, Northern Ireland is part of the UK's customs territory. Therefore, goods produced in Northern Ireland are to be considered as of UK origin. For the movement of goods from Northern Ireland to Great Britain, the provisions on the Protocol on Ireland/Northern Ireland of the Withdrawal Agreement will apply.

88. Question: *Goods that are manufactured in Northern Ireland have the status of Union goods according to the Withdrawal Agreement. Do these goods also have the preferential origin "GB" according to the trade and cooperation agreement?*

Answer: The customs status of goods and preferential origin of the same good are distinctive.

Therefore, the two concepts cannot be mixed. On the one hand, if a good obtained a Union customs status, free circulation applies within the EU.

On the other hand, a good produced in Northern Ireland will be considered as produced in the UK under the EU-UK TCA for the purposes of obtaining the UK origin, provided that the origin requirements established in the EU-UK TCA are fulfilled.

X. Other questions (PEM, GSP, third country imports, cumulation)

Questions X.1. UK GSP Scheme

89. Question: *Which is the documentation to make possible a re-consignment of goods originating in an EU GSP country that have been in a customs warehouse in the UK and are exported to the EU considering that the UK cannot now make out replacement statement on origin? What would it be needed for goods originating in an UK GSP country that have been in a customs warehouse in the EU and are exported to the UK?*

Answer: The UK should be considered from 1.1.2021 as a third country and the non- alteration rule (direct transport) needs to be respected and if there is a need for a replacement of a statement on origin, it has to be made out in the GSP country. The exporter in the UK cannot make out a replacement statement for the importer, being the only possibility that the exporter in the GSP country makes out another statement on origin under his responsibility.

If the GSP originating goods would be in the UK before 1.1.2021 in free circulation, the preferential origin of the GSP country would be lost and the products could not be exported to the EU under preferences.

Questions X.2. Impact on trade with EU partner countries

90. Question: *Do you have information if UK has any interest in becoming a part of Pan-Euro-Med?*

Answer: The Commission acting as the Secretariat of the Pan Euro Med Convention Joint Committee has not received up to now any information by the UK to join the Pan Euro Med Convention. Requests for accession should be addressed in writing to the General Secretariat of the Council of the European Union acting as the depositary of the Convention.

91. Question: *How an EU partner country should treat proofs of origin issued/made out before the end of the transition period?*

For example: Proofs of origin issued/made out in the UK, or in relation to goods with UK content, or exported before or at 31.12.2020. Can we consider these proofs of origin as valid proofs in relation to Article 23(1) of Appendix I of PEM Convention, since the UK is not part of PEM Convention and not part either of the EU FTAs?

Answer: Indeed, proofs of origin issued/made out in the UK before the end of the transition period, and goods with UK content exported from the EU with a proof of origin issued in the EU also before the end of the transition period are to be considered as valid proof of origin if imported in an EU partner country afterwards, provided that the export of the consignment has been effected or ensured before the end of the transition period.

The validity is limited to the period established under the relevant EU trade preferential arrangements, for the purpose of being used at importation in the partner country in accordance with the relevant provisions of the EU preferential arrangements. Meaning that in this scenario, Article 23(1) of Appendix I of PEM Convention is applicable.

92. Question: *Goods are imported from the UK in an EU partner country and goods are in a warehouse in that partner country. Everything is done before 31.12.2020. Economic operator wants to put in free circulation in that partner country (not to export) goods from warehouse after 31.12.2020.*

Can we apply preferential treatment on this goods after 31.12.2020 and is there some exact period of time during which the goods must be customs cleared in BiH in order for preferential treatment to be applied to the goods? This time period is important because economic operator may want to customs clear goods from warehouse in some period of time, not all goods at once.

Answer: Proofs of origin issued/made out in the UK before the end of the transition period are to be considered as valid proof of origin, provided that the export of the consignment has been effected or ensured before the end of the transition period. If the goods in that partner country keep the proof of origin issued before the end of the transition period and is used in its period of validity, preferences can be granted. Beyond these cases, preferences cannot be granted.

As the export prior the placement in the warehouse in the partner country took place before 01.01.2021, the release into free circulation can take into account the proof of origin as long as this was issued still before 31.12.2020 and it is within the period of validity. However, it remains in question the time limit in which this may be done. It will depend on the national legislation of the partner country if the proof of origin validity (of 4 months) may be extended by the time the goods remain in the warehouse.

93. Question: *Concerning the cumulation of fruit and vegetables in the context of triangular trade. If tomatoes are imported from Morocco into the EU and then re-exported to the UK, are these goods of EU origin (and therefore can claim preferences at import into the UK)?*

Answer: No, this is not possible. The EU-UK TCA provides for full bilateral cumulation only, i.e. cumulation is possible only between the EU and the UK. No diagonal cumulation is possible with third country goods in the rules of the TCA. In this 'Moroccan tomato' scenario, other options could be explored, i.e. if the tomatoes could claim preference in the UK under the UK-Morocco FTA if the tomatoes would respect the direct transport/non alteration rule of that FTA. However, the Commission cannot comment on third country legislation or policies.

94. Question: *If fish products processed in the EU do not have EU origin we have to pay duties when importing this fish in the UK. But, do we have to pay duties if a salmon from Norway is smoked in a Member State and then imported into the UK? Smoking does not imply a change of HS Chapter because smoked salmon still classified in Chapter HS 03. And if the HS Chapter changes, what happens with products like herring with origin in Norway and processed in a Member State in jars or cans and sent to the UK?.*

Answer: Fish caught by fishermen or produced in farms in Norway and Iceland are considered as non-originating materials under the EU-UK TCA. Diagonal cumulation with EEA countries is not foreseen in the EU-UK TCA. Therefore materials of these countries are considered as non-originating for the purposes of the application of the rules of origin requirements.

In your examples,

- If salmon from Norway is smoked in a Member State and then imported into the UK, the Norwegian salmon will be considered as non-originating for the purposes of assessing if the smoked salmon is originating and if it may receive preferential treatment under the EU-UK FTA.
- If herring from Norway is processed in a Member State in jars or cans and sent to the UK, again it will be considered as non-originating

For an assessment on the origin of the final product exported to the UK and as the EFTA inputs are non-originating, there are several elements that need to be considered as the classification of the final product and of the non-originating materials used and the concrete processing carried out in the EU. For example, the processing needs to go beyond the insufficient production foreseen in Article ORIG.7 and the product specific rules of Annex ORIG-2 need to be met.

95. Question: *According to Article ORIG.4: Cumulation of origin, para 2 “production carried out in a Party on a non-originating material may be taken into account for the purpose of determining whether a product is originating in the other Party”.*

The term “non-originating” seems to imply that products from a third country could be processed within one of the Party’s thus gaining the status of originating within that Party. If a company in a Member State imports shrimps from Iceland for processing in that Member State: Would the processed product gain originating status in the EU (when having been subject to sufficient production i.e. more processing than listed in article ORIG.7)?

Answer: The paragraph to which you are referring reflects full bilateral cumulation, i.e. cumulation on processes carried out in the other Party, as it exists in the EU-Japan EPA or in CETA. This implies that a Party may consider the production carried out in the other Party as its own production for the final product to obtain origin (i.e. not only materials originating in the other Party, -normal bilateral cumulation, but also processes-. The final product needs to succeed the rule of origin applicable to it in any case.

In your example, if a the company in a Member State imports shrimps from Iceland for processing in that Member State and exports them to the UK, this situation is falling outside the scope of the provision on bilateral cumulation with the UK, as there are no materials or processing of the UK used in the Member State for the production of the shrimps. There is no diagonal cumulation with third countries (in this case an EFTA country –Iceland-) in the EU-UK TCA . Therefore the shrimps imported in the Member State from Iceland can only be considered as completely non-originating. You do not specify what type of production is made in the Member State on the shrimps but as the product specific rule for the shrimps is “wholly obtained” it is clear that the product does not satisfy such a rule.

- 96. Question:** *Some agreements between the EU and third countries contain a no drawback clause – which is for instance the case in the EU-Chile agreement. We fear that the import of glass bottles from the UK for EU spirits at 0% rate because of the new EU-UK agreement could contravene this “no drawback clause”, once the finished product (EU spirits in a UK-produced bottle) is exported to Chile. Does the ‘no drawback’ rule have any impact on the origin of the product and the ability for the Irish spirits producer to benefit from the EU-Chile agreement?*

Answer: The ‘no drawback’ rule of the EU-Chile Agreement is not infringed because of the import of bottles in the EU from the UK under the EU-UK TCA preferences. The prohibition of duty drawback under the EU-Chile Agreement covers any arrangement for refund, remission or non-payment, partial or complete, of customs duties applicable in the Community to materials used in the manufacture, where such refund, remission or non-payment applies, expressly or in effect, when products obtained from the said materials are exported and not when they are retained for home use there. Therefore, it does not cover cases of non-payment of duties because of a preferential regime as the EU-UK TCA.

- 97. Question:** *Third country origin products are not eligible for preferential trade with the UK, correct?*

Answer: Correct, there is no diagonal cumulation with any third country under the EU-UK TCA.

Questions X.3. Product Specific Rules (PSR)

- 98. Question:** *The interpretation of sufficient transformation and therefore acquisition of origin under the EU-UK agreement does not apply when goods are moving within the same Chapter/ heading (e.g. from 0303 to 0304). Are we correct in thinking this?*

Answer: The basic concept used is sufficient transformation and may apply in a different manner depending on the product. In the case of products falling in HS headings 0303 to 0304, the sufficient transformation refers to production in which all the materials of Chapter 3 used are wholly obtained. This means indeed that there is no possibility to use non-originating materials falling within the same chapter (e.g. to use non-originating products falling in HS headings 0303 to produce products falling in HS heading 0304). To be more precise, the fish need to fulfil the wholly obtained

conditions of Article ORIG 5.1 (h) and 5.2. which refers to the requirements that the vessel making the capture flies the flag of the EU, is registered in the EU and is owned by EU companies or persons.

- 99. Question:** *Is there a retrospective loss of EU origin for goods (jackets) stocked in a warehouse (since 2018) in the EU which were processed in a Member State from British materials (fabrics). Do they still qualify for EU origin? For exports to EU FTA partners and to the UK?*

Answer: The UK content becomes non-originating after 1.1.2021. Therefore if the UK content is relevant for the origin of the product, the jackets produced in the EU lose their EU origin for the purposes of EU FTAs, including the EU-UK TCA. Considering the product specific rule applicable to the jackets and that the UK content is the fabric, indeed it may be the case that the jackets become non-EU originating.

- 100. Question:** A UK manufacturer imports European spare parts to manufacture vehicles that he is returning to the EU once the product is finished. Is it fair to say that if the UK and/or the EU parts account for at least 55 % of the final value of the product, no customs duty applies when vehicles are exported to the EU?

Answer: The specific rule of origin for vehicles equipped with an internal combustion engine stipulates that the value of all non-originating materials may not exceed 45 % of the ex-works price of the finished product. It is therefore fair to say that if the UK and/or European parts account for at least 55 % of the final value of vehicles equipped with an internal combustion engine, no customs duty applies when these vehicles are exported to the EU.

The specific rule of origin for plug-in hybrid cars (recharging via a plug) and electric cars applicable from 1 January 2027 requires in addition that battery blocks of heading 85.07 of a kind used as the main source of electricity for propulsion of the vehicle be originating. These cars, as well as hybrid cars, benefit from more flexible rules during the first 6 years of the agreement, in line with Annex ORIG-2B [Product specific transitional rules for electric accumulators and electric vehicles].

- 101. Question:** *A company manufactures sweets in the EU before sending them for packaging to the UK (no duties) and then returning the finished product to its European subsidiaries. We have been told that the product need to pay duties when imported back in the EU.*

If so, how to explain the difference in treatment between the manufacturer of cars (who also brings parts from the EU before returning his finished product to the EU without paying any duties) and the distributor of sweets? Is it because the assembly of car parts is considered to be sufficient processing compared to the mere packaging of sweets? Or simply because the rules on trade in food products are stricter?

Answer: In order for goods from the EU to acquire the UK origin and thus benefit from the preferences of the EU-UK TCA (and therefore not to pay a customs duty when they are re-exported to the EU), they must have undergone processing in the UK going beyond insufficient operations

such as simple packaging (bottling, simple packaging, etc.), keeping them in good condition, labelling, etc.

This rule applies to all goods without distinction.

Please, note that apart from the EU-UK Agreement, the Union Customs Code provides for other possibilities for returned goods and the customs transit procedure, but these are subject to certain conditions.

102. Question: *An EU company imports fabric from China to make clothes which it then exports across the Channel. Is this processing sufficient to consider it to be an originating product, so that no customs duty applies?*

Answer: The rules of origin for clothing are mainly based on the European approach “double transformation”. For a garment to be considered as originating in the EU or in the UK, either the weaving of the fabric and the making up of the garment must have been carried out in the territory of the EU or the UK, or its make-up preceded by the printing of the fabric. This latter alternative means that fabrics may be imported if the operator carries out a printing of the fabric accompanied by at least two preparatory or finishing operations.

On the other hand, textiles and clothing may benefit from tolerances, meaning that a certain percentage of non-originating materials (e.g. imported fabrics) can be used in the manufacture of clothing without affecting the origin of the final product.

103. Question: *Let us take the example of Japan, which has a trade agreement with the UK and with the EU. Suppose that under these agreements a motor vehicle must consist of at least 55 % of “originating products” in order to be exempted from customs duties. Let us also assume that an EU manufacturer wishes to export to Japan its cars with a Member State A (10 %), Member State B (20 %), Member State C (10 %) and British (5 %) parts. Is it right here to say that, in view of the end of cumulation of origin, it is no longer 55 % but only 50 % of the product which consists of ‘originating’ products, so that duties will have to apply?*

Answer: EU exports of cars to Japan must comply with the rules of origin of the EU-Japan Economic Partnership Agreement (please consult the relevant product specific rule for your product in the EU-Japan Economic Partnership Agreement) and car parts from the United Kingdom will no longer be able to count as parts of European origin from 1 January 2021, as the United Kingdom is no longer part of the European Union and of the EU-Japan Economic Partnership Agreement.

Questions X.4. Tolerance

- 104. Question:** *A European fish factory imports cod roe from Iceland which has a product code in Chapter 3, and would like to use it in its production of goods for sale to the UK. Will article ORIG.6(1) on tolerances mean that the fish factory may mix Icelandic Chapter 3 cod roe for up to 10% of the product's price in together with European cod roe and continue to declare preferential origin in the EU? Can they use 15% of the product's weight?*

Answer: Yes, it is possible to apply the tolerance to products for which the PSR refers to the requirement that the materials of a concrete chapter are wholly obtained. The tolerance applicable, indeed , is 10% in value. The 15% tolerance in weight is not applicable to this product.

- 105. Question:** Article ORIG.6.1.(b): “ (b) the total value of non-originating materials for all other products, except for products classified under Chapters 50 to 63 of the Harmonised System does not exceed 10% of the ex-works price of the product;...”

Would the 10% refer to the price of the final product as exported to the other Party (UK) or would it refer to the price of the raw material when entering into the production of the final product?

Answer: The provision that you have identified is the provision on tolerance expressed on value, applicable to all products except to agricultural products and textile and clothing. It is the same in practically all EU FTAs, so it should be applied as has always been, i.e.:

The product specific rule may identify concrete non-originating materials that cannot be used for the final product to be originating. For example, a rule that refers to a CTH implies that non-originating materials falling in the same heading as the one of the product cannot be used. The tolerance implies that still (a little of) those non-originating materials may be used provided that their customs value does not exceed 10% of the ex-work price of the final product in which those materials have been incorporated.

The comparison points are, therefore, the value of the non-originating materials (which is its customs value at the time of importation, including freight, insurance if appropriate, packing and all other costs incurred in transporting the materials to the importation port in the Party where the producer of the product is located) and the value of the final product expressed on ex-work price. The value of the first should not exceed 10% of the value of the second.

- 106. Question:** *Could you explain the application of the tolerance rule in relation to agricultural products? Is for example sugar sector affected by this rules? Can you explain the background for this tolerance and specify the relevant cases of application for agricultural products?*

Answer: Article ORIG.6 follows the standard EU approach on tolerances. It applies to for example sugar of HS heading 17.01 where the rule is CTH (you can import up to 15% by weight of non-originating raw sugar when refining white sugar). You cannot apply additional tolerance when there is another percentage threshold in the rule, such as in the sugar restriction for confectionary or biscuits.

The tolerance rule is relevant for all agricultural products where the applicable rules does not contain a percentage threshold for a particular material but an absolute restriction, e.g. requiring that a material is wholly obtained or that it undergoes a change of tariff classification.

Questions X.5. Duty drawback

107. Question: *Article ORIG 17: “Not earlier than 2 years from the entry into force of this Agreement, at the request of either Party, the Trade Specialised Committee on Customs Cooperation and Rules of Origin shall review the Parties’ respective duty drawback and inward-processing schemes...”*

Does it mean that duty drawback will be allowed the first 2 years and after that it must be reviewed?

Answer: During the first two years after the entry into force of the EU-UK TCA, there will not be prohibition of duty drawback schemes for the purposes of the preferential treatment of goods between the Parties.

After those two first years if a Party so requests, the Trade Specialised Committee on Customs Cooperation and Rules of Origin may review the Parties’ respective duty drawback schemes. After such a review, the Committee may recommend the amendment of the related provisions in the Agreement (i.e. the Chapter on rules of origin) to introduce limitations on the use of duty drawbacks.

Questions X.6. Tariff quotas

108. Question: *Could you please explain whether non-preferential and preferential tariff quotas will be used and what origin documents will be required for the application of non-preferential and preferential tariff quotas (Article 16 of Chapter 1 of Title I of Part Two of Title I of Part Two of the EU-UK Agreement) Chapter 2 of Title I of Part One of the EU-UK Agreement Article 18)?*

Answer: Article GOODS.5 of the EU-UK TCA provides for zero tariffs and zero quotas on all trade in goods originating in the EU or the UK, from 1 January 2021. That preferential tariff treatment applies between the Parties instead of their respective MFN tariff commitments, including in the form of tariff quotas, in the context of WTO for goods originating in the other Party.

As a result, except for those quotas derogating to the TCA preferential rules of origin mentioned in Annex ORIG-2A of the TCA, no request for quotas for products originating in the UK will be accepted by the EU.

In addition, Article GOODS.18 TCA stipulates that products originating in one Party shall not be eligible to be imported into the other Party under existing WTO Tariff Rate Quotas ('TRQs'). For the purposes of applying those non-preferential tariff quotas, the originating status of the products shall be determined on the basis of non-preferential rules of origin applicable in the importing Party (determined in the EU on the basis of Article 60 of the Union Customs Code). In the EU, the origin shall be indicated in the customs declaration and the customs authorities may require the declarant to prove that origin. A certificate of origin shall be obtained by the declarant in the country of exportation and provided upon importation in the EU in only a very limited number of cases. The declarant is nevertheless in all cases responsible for the correct origin determination and should hold the information enabling the origin to be determined (exact production process, tariff classification, value and origin of the input materials...). Origin may be proven by all evidence submitted to support the declared origin. This evidence is not subject to any specific conditions.

109. Question: *Is it furthermore correct to say that the Autonomous Tariff Quota- ATQ Regulation over-rides/takes precedence over the Rules of Origin?*

Is it further still correct to say that the regulation of countermeasures introduced by the EU takes precedence over both the ATQ and a substantial transformation rule?

There is for example a 10,000t ATQ for Pacific Salmon incl. 0304 fillets at 0%. Does the countermeasure regulation dominate, or the ATQ at import?

Answer: It is not exactly a question of precedent of the ATQ legislation over the preferences under an EU FTA. Both systems apply in parallel, and it remains a choice of the operator to choose which one best fits to its needs. If there is an autonomous ATQ on concrete products, no - or sometimes reduced - duties are applicable to the products imported in the EU under the quota conditions, including the fulfillment of non-preferential rules of origin, and therefore a preferential claim is not needed in those cases. However, products satisfying the rules of origin requirements under the EU-UK TCA may always benefit from the preference if the importer would wish to claim the preference instead of applying for the autonomous tariff quota (the decision may depend on the different requirements). Regarding the ATQs laid down in the Council Regulation (EU) 2020/1706 opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the 2021–2023 period, the quotas apply to products which comply with specific conditions foreseen in this Regulation in art. 2, 3 and 4 related to end-use customs procedure, human consumption and specific operations.

It should also be taken into account that Article GOODS 18, provides for the non-use of the 'existing WTO TRQs' quota [i.e. those tariff rate quotas which are WTO concessions of the European Union included in the draft EU28 schedule of concessions and commitments under GATT 1994 submitted to the WTO -for clarity: these TRQs are not the ATQs-] to goods originating in the UK or in the EU. It should be considered, however, that in this case, the concept of origin is based on the non-preferential rules of origin of the Parties and not on the preferential RoO of the EU-UK TCA. The non-preferential rules of origin of the EU and of the UK contain different requirements to those I mentioned above.

Finally, you mention the countermeasures regulations. If you refer to those provided for in Regulation 2020/1646, it imposes additional customs duties on imports into the Union of certain products originating in the United States (including some products under heading 0304). This Regulation refers therefore to goods originating in the US (according again to the non-preferential RoO of the EU) and has no relation to imports under the EU-UK TCA. In the case that there would be an ATQ on the same products, the Regulation applying the additional duties on the US goods would apply and imports of goods originating in the US should pay 25% duties.

Questions X.7. Re-consignment of goods within the EU

110. Question: *If a company in a Member State wants to re-consign goods from the UK to another EU Member State, would it then be according to the rules in the UCC IA article 69?*

Answer: Replacement of proof of origin/statement on origin within the EU is considered as internal legislation. Indeed, Article 69 of the UCC IA is the correct legal basis. Hence, there is no need in international agreements to be specific.

Questions X.8. Use of ATA-carnets

111. Question: *Is it possible to use ATA-carnets for the temporary movement of goods?*

Answer: ATA carnets for the temporary movement of goods are documents whereby goods can be placed under the so-called “temporary admission” regime, which allows for goods to enter the customs territory of the European Union without payment of customs duties or VAT. You can find general information on the temporary admission regimes in EU law on [our dedicated webpage](#).

For more detailed information and concrete elements on the procedures to be followed, we would suggest to get in touch directly with the national customs authorities of the Member State into which they wish to bring the goods. A provision on Temporary admission has been included in the EU-UK TCA also.