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Post Transition Business Forum

Thursday 18 February 2021

**NEW RULES FOR BUSINESS
WITH EUROPE ARE HERE**

Correct as of 17.02.2021

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Feedback from the last forum



What topics would you like us to cover at upcoming forums?

Labelling rules for 2021, 2022 and beyond

Sector Specifics

Selling online to EU customer

steel tariffs and quotas

supplying services to EU customers

UKCA Marking **EU VAT**

Rules of Origin

Trading services **VAT** specific Q&As AEO simplification

postponed vat accounting RoO Movement of people

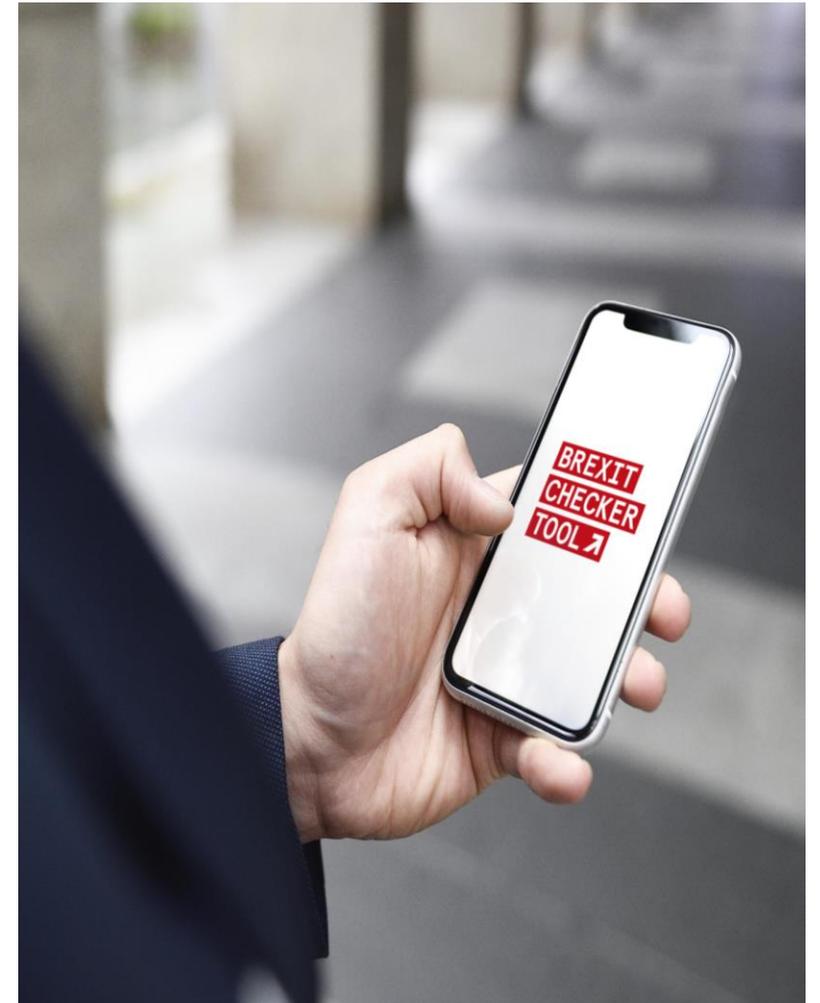
Specific help for micro and very small businesses

Short-term business visits to and from EU

Northern Ireland

NEW RULES FOR BUSINESS

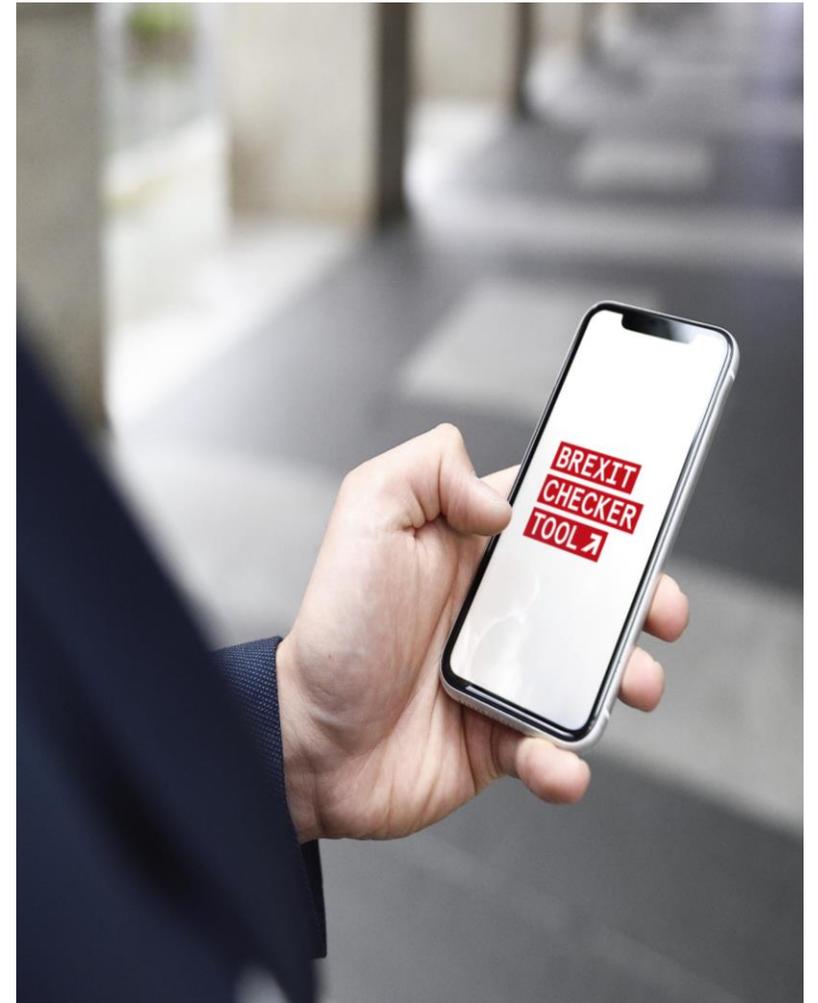
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Agenda

14:00 – 14:05	Introduction	Andy Harrison, <i>Department for Business, Energy and Industrial Strategy</i>
14:05 – 14:55	Rules of Origin update and Question & Answer Session	Niall Creighton-Macentee and Amy Brooks, <i>Department for Business, Energy and Industrial Strategy</i>
14:55 – 15:00	Wrap-up	Andy Harrison, <i>Department for Business, Energy and Industrial Strategy</i>

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TARIFFS AND RULES OF ORIGIN

**NEW RULES FOR BUSINESS
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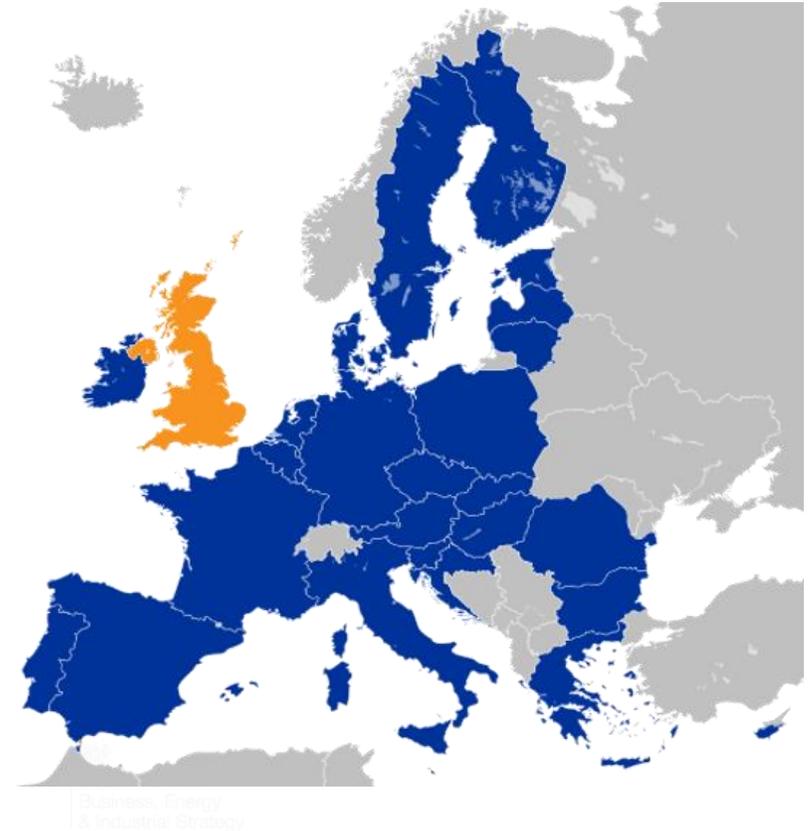
Niall Macentee-Creighton,
Department for Business, Energy and Industrial
Strategy

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TRADING WITH THE EU FROM 1 JANUARY 2021

- **The UK is no longer part of the EU Customs Union.** Trade is now governed by the UK-EU Trade and Cooperation Agreement (TCA) (the Northern Ireland Protocol applies to Northern Ireland).
- As of 1 January 2021, **UK goods exported to the EU are eligible for zero tariffs if the goods meet the Rules of Origin requirements** set out in the Agreement and have the right documentation. **If not, the goods may be subject to EU tariffs.**
- The same applies for EU goods imported into the UK.



WHAT ARE RULES OF ORIGIN?

- **Rules of Origin determine the ‘economic nationality’ of a good.** They are a standard part of free trade agreements (FTAs).
- Rules of Origin in the UK-EU Trade and Cooperation Agreement ensure that only goods produced in the UK or EU benefit from the zero tariff agreement.
- Different goods must comply with different rules. This presentation sets out the types of rules products may need to comply with as well as the documentation required to comply.

DISTRIBUTION vs. PRODUCTION

- The UK is no longer part of the EU Customs Union. This means that goods imported into GB cannot move freely between GB and EU Member States or vice versa. To be eligible for zero tariff export to the EU, these goods must still comply with Rules of Origin.
- **This means there must be a qualifying level of production in the UK.** This applies to EU origin goods as well as to goods from the rest of world.
- If traders move goods through GB from one EU Member State to another without the goods entering UK customs territory (i.e. without entering free circulation in GB), the goods may not need to meet Rules of Origin.



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EXPORTING GOODS TO THE EU

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EXPORTING: HOW DO I COMPLY WITH RULES OF ORIGIN?

If you are a UK exporter and your EU importer wants to claim zero tariffs on your goods, there are 3 key steps to work out whether your goods comply with rules of origin:

1. Classify your good
2. Understand whether your good meets the applicable rule of origin
3. Understand how to demonstrate origin to the customs authorities.

The following slides will explain what action you need to take for each of these steps.

You may choose to use a customs agent to help you with Rules of Origin. There is guidance available on GOV.UK on how to find a customs agent. You may still need to provide supporting evidence to your customs agent.

CLASSIFYING GOODS FOR INTERNATIONAL TRADE

- For the purposes of international trade, all goods are classified under the Harmonised System, an internationally standardised system of descriptions and numbers to identify goods. **You need to know the classification of your goods to find the applicable rule of origin.**
- The Harmonised System forms the first 6 digits of the 10-digit classification (commodity) code when importing goods into the UK or the EU.
- Goods are categorised into chapters (2 digits), headings (4 digits), and subheadings (6 digits)

For example, tempered safety glass is classified under:

Chapter 70 – Glass and glassware

Heading 7008 – Safety glass

Subheading 700811 – Toughened (tempered) safety glass

You can use the trade tariff look-up tool to classify your goods.

STEP 2: UNDERSTAND WHETHER YOUR GOOD MEETS THE APPLICABLE RULES OF ORIGIN

- You need to understand your supply chain to know where your materials or inputs come from – whether they originate in the UK or EU, or whether they come from rest of world (non-originating).
- You can count EU origin materials and processing when considering whether your UK exports to the EU meet rules of origin requirements, if there is a qualifying level of production in the UK – this is called 'cumulation'.
- **If the good you export incorporates non-originating material, you need to comply with the relevant Product Specific Rule.**
- There are different rules for different goods. You will need to understand whether your goods comply with the applicable rule for that good.
- You should refer to the list of Product Specific Rules in the TCA to find the applicable rule for your goods.

THERE ARE FOUR TYPES OF RULE A PRODUCT MAY NEED TO MEET

1. Wholly Obtained (WO)

If a good is fully grown, born or extracted from the UK it is eligible for preferential treatment. This mainly applies to agricultural products e.g. vegetables grown in the UK, but could also apply to e.g. mineral products extracted from the soil of the UK.

2. Change in Tariff Code (CTC)

Some rules of origin require that non-originating inputs used in production of a good must be classified in a different chapter, heading or subheading of the Harmonised System.

3. Value Added, or 'maximum non-originating material'

If a rule requires a "maximum level of non-originating material" (MaxNOM), a certain proportion of the value of the final good must be generated in the UK, or the EU. This can include UK-originating parts, or value added in the production such as labour and manufacturing costs.

4. Specific Processing Rule (SPR)

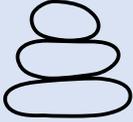
Some rules require a specific operation or set of operations to take place in the UK, in order for that good to be classed as UK-originating. For example, for certain chemicals, a chemical reaction must take place in the UK.

EX-WORKS PRICE

- (b) "EXW" or "ex-works price" means:
- (i) the price of the product paid or payable to the producer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs incurred in the production of the product, minus any internal taxes which are, or may be, repaid when the product obtained is exported; or
 - (ii) if there is no price paid or payable or if the actual price paid does not reflect all costs related to the production of the product which are actually incurred in the production of the product, the value of all the materials used and all other costs incurred in the production of the product in the exporting Party:
 - (A) including selling, general and administrative expenses, as well as profit, that can reasonably be allocated to the product; and
 - (B) excluding the cost of freight, insurance, all other costs incurred in transporting the product and any internal taxes of the exporting Party which are, or may be, repaid when the product obtained is exported.
 - (iii) For the purposes of point (i), where the last production has been contracted to a producer, the term 'producer' in point (i) refers to the person who has employed the subcontractor.

Change in Tariff Heading rule: Ceramic mug example

- The product specific rule for a mug of HS heading 6911 is a **Change in Tariff Heading** (4 digit HS code).
- Any non-originating (non-UK or EU originating) materials used in the production of the mug must be classified in a heading other than 6911.

Materials	UK Processing	Does the product qualify for tariff-free access?
 <p>UK company imports clay from China (HS heading 2508)</p>	 <p>UK company manufactures a mug (HS 6911) from the imported Chinese clay (HS 2508)</p> <p>The mug is exported to the EU.</p>	 <p>The non-originating clay is classified under a different HS heading to the final mug.</p> <p>This qualifies under the 'change in tariff heading' rule. The mug can be exported tariff-free.</p>
 <p>UK company imports mug without handle from China (HS heading 6911)</p>	 <p>The UK company attaches a wooden handle to the mug.</p> <p>The mug is exported to the EU.</p>	 <p>The imported non-originating product is classified in the same HS heading as the exported product.</p> <p>This UK processing does not meet the 'change in tariff heading' rule. The product would face a tariff upon export to the EU.</p>

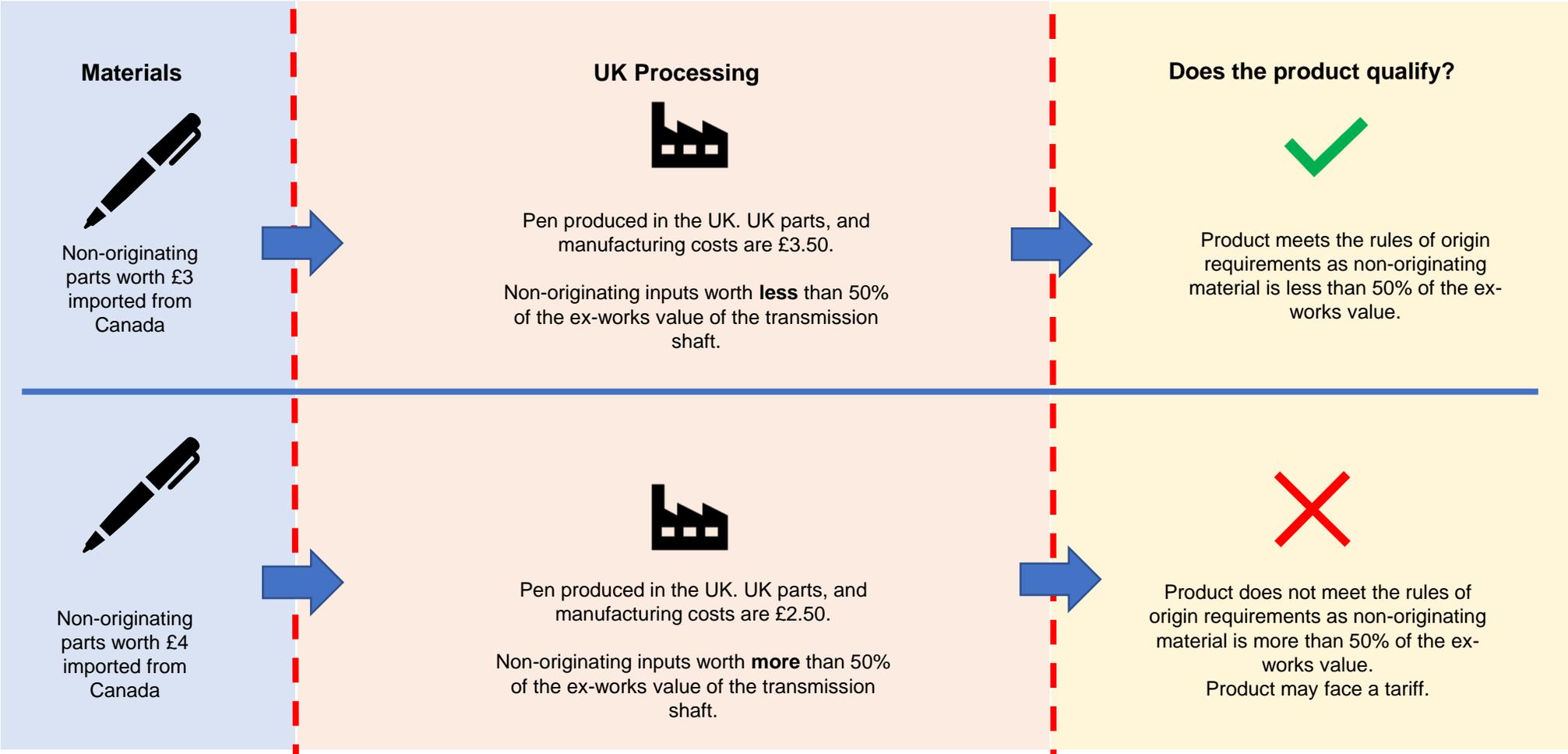
Maximum Non-Originating Materials (MaxNOM) example: Valves

- The product specific rule for a valve of HS heading 8481 is a Change in Tariff Subheading (6 digit HS code) **OR a Maximum of 50% non-originating material.**
- The exported product cannot be made of more than 50% (of the ex-works price) components from outside the UK and EU.
- So 50% of the ex-works price of the product must be made up of UK and EU parts or manufacturing costs.

Imported materials	UK Processing	Does the product qualify for zero tariff trade?
 <p>Non-originating pneumatic actuator imported from China, worth £200.</p>	 <p>Valve produced in the UK. UK manufacturing costs are £2000. Ex-works price of the valve is £2500.</p> <p>Non-originating inputs worth less than 50% of the ex-works value of the finished valve.</p>	 <p>The product meets the 50% maximum non-originating material rule.</p>
 <p>Non-originating pneumatic actuator, control valve and other parts imported from China. Parts worth £1500.</p>	 <p>Valve produced in the UK. UK manufacturing costs and UK parts are worth £1000. Ex-works price of the valve is £2500.</p> <p>Non-originating inputs worth more than 50% of the ex-works value of the finished valve.</p>	 <p>The valve does not meet the rule as non-originating (non-UK or EU) material is worth more than 50% of the ex-works price.</p> <p>The valve may be able to meet the alternative rule for valves, which is a CTS (see previous slide). If not, the product may face a tariff.</p>

Value Added / Maximum Non-originating Material (MaxNOM) rule: Ballpoint pen example

- The product specific rule for a ballpoint pen (HS 9608) requires maximum 50% non-originating (non UK or EU originating) materials



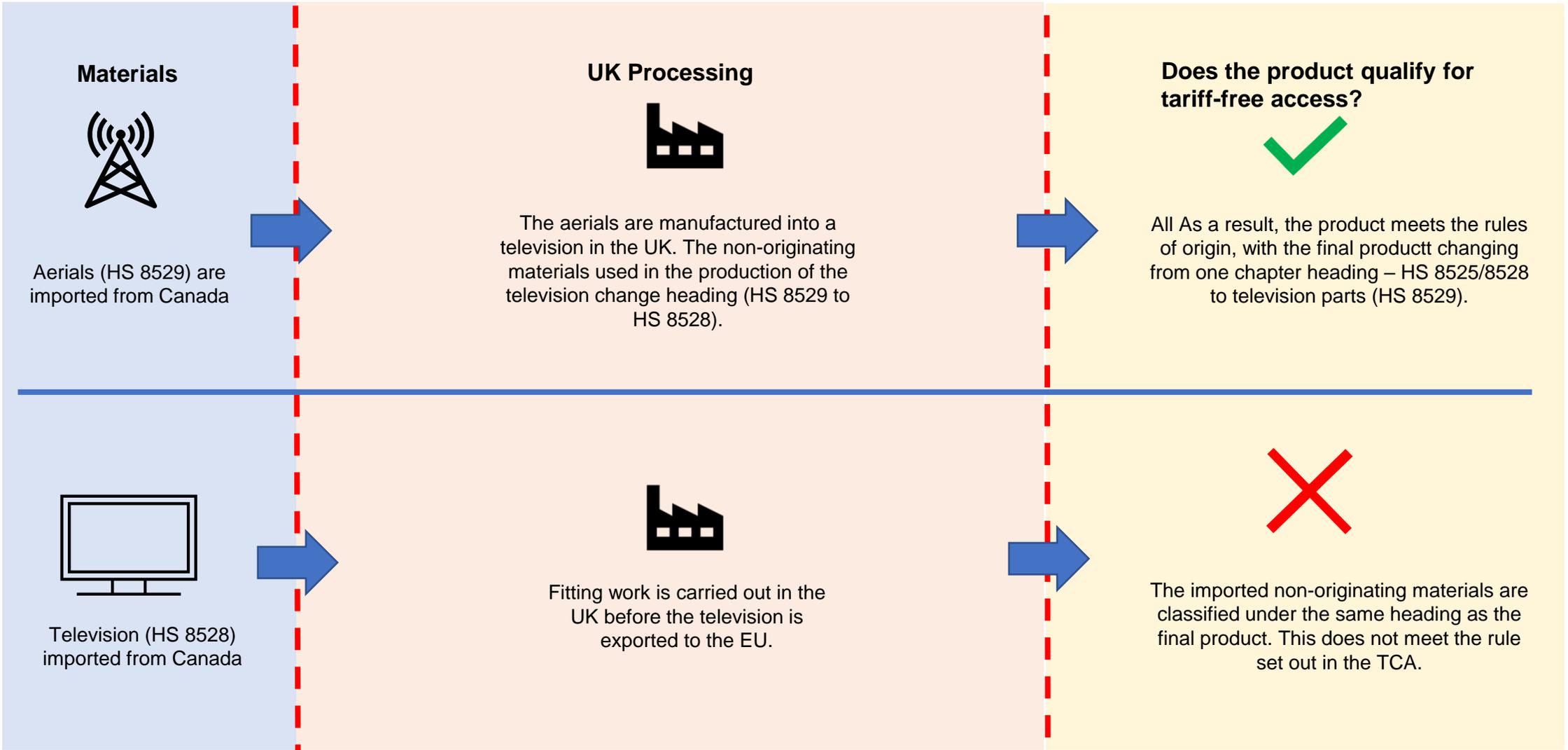
Example of Specific Processing Rule: Spectacle lenses (9001.50)

- The product specific rule for spectacle lenses HS 9001.50 has a **Specific Processing Rule**.
- This means exporters can comply with the rule by demonstrating that the product has been manufactured in the exporting country following the specific process set out in the product specific rule annex.

<p>9001.50</p> 	<p>CTH;</p> <p>Surfacing of the semi-finished lens into a finished ophthalmic lens with optical corrective power meant to be mounted on a pair of spectacles;</p> <p>Coating of the lens through appropriated treatments to improve vision and ensure protection of the wearer;</p> <p>or</p> <p>MaxNOM 50 % (EXW).</p>
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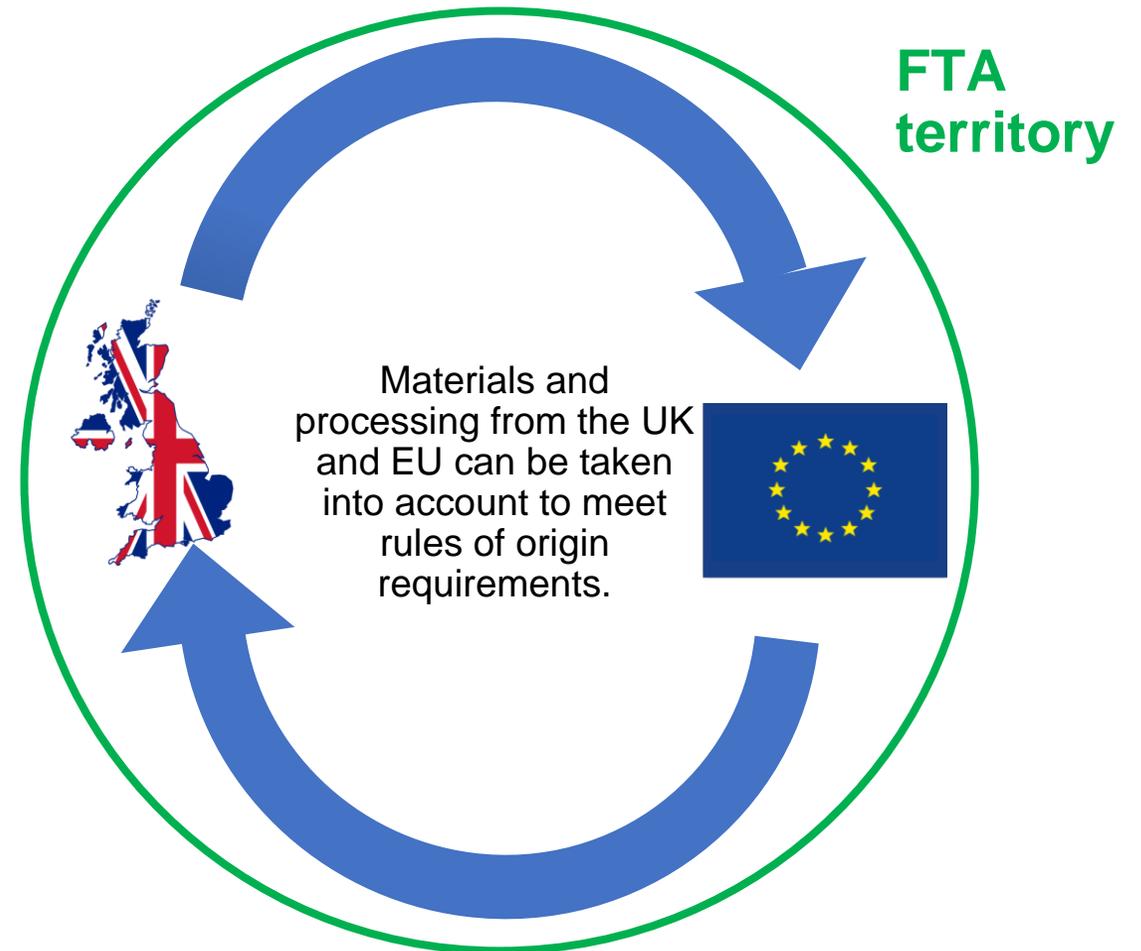
Example of distribution vs production: Televisions

- The rule of origin for televisions is a **Change in Tariff Heading**. There is also an option to use the Maximum 50% Non-Originating Materials rule.
- Any non-originating parts must be classified in a different HS Heading (4-digit code) to the final television.



CUMULATION

- Bilateral cumulation allows you to use both UK and EU content to meet a rule of origin
- If you are importing EU products and using them in UK production to re-export to the EU, the UK production must be deemed 'sufficient'
- The list of processes that are not considered 'sufficient' is outlined in the text



CUMULATION & INSUFFICIENT PRODUCTION

To cumulate EU materials and export them back to the EU tariff-free, the processing in the UK must go beyond the list of processes deemed ‘insufficient’.

The following are examples of ‘insufficient production’ (the full list is available in the TCA):

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	breaking-up or assembly of packages	washing, cleaning; removal of dust, oxide, oil, paint or other coverings
affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging	simple painting and polishing operations	sharpening, simple grinding or simple cutting
sifting, screening, sorting, classifying, grading, matching including the making-up of sets of articles	simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations	simple assembly of parts of articles to constitute a complete article or disassembly of products into parts

“operations shall be considered simple if neither special skills nor machines, apparatus or equipment especially produced or installed are needed for carrying out those operations.”

STEP 3: PROVE TO THE CUSTOMS AUTHORITY THAT YOUR GOOD QUALIFIES

- You must have evidence to prove your goods meet rules of origin.
- You may also require evidence of origin from your supplier, such as a supplier declaration.
- **You can self-declare that your goods meet the Rules by making out a statement on origin and sending this to your customer with your export.** Your customer can use this as the basis of their claim for zero tariffs. The template text for the statement on origin can be found in the TCA.
- **Importers can alternatively claim for zero tariffs based on importer's knowledge.** Where this option is used, you do not need to provide your customer with a statement on origin, though they may ask you to provide other information about the goods to support their claim for zero tariffs.
- **Until 31 December 2021, UK and EU exporters do not need supplier's declarations in place when the goods are exported,** but they must be confident that the exported goods meet the Rules of Origin requirements. Businesses may be asked to retrospectively provide a supplier's declaration after this date.

STATEMENT ON ORIGIN TEXT

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.

(Period: from _____ to _____ ⁽¹⁾)

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

..... ⁽⁴⁾

(Place and date)

.....

(Name of the exporter)

¹ If the statement on origin is completed for multiple shipments of identical originating products within the meaning of point (b) of Article ORIG.19(4) [Statement on Origin] of this Agreement, indicate the period for which the statement on origin is to apply. That period shall not exceed 12 months. All

USING IMPORTER'S KNOWLEDGE

'Importer's knowledge' is an option that allows the importer to claim preferential tariff treatment based on their own knowledge about the originating status of imported products. It can be used as an alternative to a [statement on origin provided by the exporter](#). As the importer is making a claim using their own knowledge, the exporter or producer does not need to take any action to officially state the originating status of the goods.

The exporter or producer may have to provide information about the production to the importer. Such information might include:

- the HS code of the product and origin criteria used
- a brief description of the production process
- if applicable, a description of the originating and non-originating materials used in the production process
- if the origin criterion was based on a value method, the value of the product as well as the value of all the non-originating and/or originating materials used in the production
- if the origin criterion was based on a change in tariff classification, a list of all the non-originating materials including their tariff classification number under the Harmonized System (in 2, 4 or 6-digit format depending on the origin criteria); or
- the information relating to the compliance with the provision on non-alteration (if applicable), for example a certificate of non-manipulation from the Customs Authority in the country of transit



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IMPORTING GOODS FROM THE EU

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IMPORTING: HOW TO COMPLY WITH RULES OF ORIGIN

- To access zero tariffs when importing into the UK from the EU, you will need to claim preference on your customs declaration. You will need to hold proof that the goods you are importing meet the Rules of Origin.
- **Under the TCA, preference is claimed either with a statement on origin or using importer's knowledge that the goods are originating.** You can choose which option to use.
- A statement on origin should be provided to you by the exporter on a commercial document.
- To use importer's knowledge, you will need to obtain sufficient evidence that the goods meet Rules of Origin. This may involve the exporter providing a range of supporting documentation.
- **The UK is taking a staged approach to customs controls.** This allows traders to make a record in their own commercial records at the point of entry of goods into GB and submit a customs declaration and any claim for preference to HMRC within six months of the point of import. This easement is only for UK companies importing from the EU.

IMPORTANT LINKS

- How to claim preferential (zero) tariffs when trading with the EU: <https://www.gov.uk/guidance/claiming-preferential-rates-of-duty-between-the-uk-and-eu-from-1-january-2021>
- Full guidance on Rules of Origin when trading with the EU: <https://www.gov.uk/government/publications/rules-of-origin-for-goods-moving-between-the-uk-and-eu-from-1-january-2021>
- Trade Tariff tool to classify your goods: <https://www.trade-tariff.service.gov.uk/sections>
- Online tool to check which Rules of Origin apply to your exports: <https://www.gov.uk/check-duties-customs-exporting>.
- Online tool to check which Rules of Origin apply to your imports: <https://www.get-rules-tariffs-trade-with-uk.service.gov.uk/choose-country/>
- For help on importing & exporting, contact HMRC using the guidance here: <https://www.gov.uk/government/organisations/hm-revenue-customs/contact/customs-international-trade-and-excise-enquiries>.
- Information on staged customs controls when importing into the UK:: <https://www.gov.uk/government/publications/the-border-operating-model>



Questions

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SME BREXIT SUPPORT FUND

- Government has announced a new **£20 million SME Brexit Support Fund**, which offers support to help small businesses adjust to the new trading rules.
- SMEs who trade only with the EU can apply for grants of up to £2000 to pay for practical support, including training and professional advice.
- For further details, including eligibility, click [here](#).



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