EU-UK TCA: CHAPTER ON RULES OF ORIGIN

Q&A following the meeting between the European Commission and members of the TCG on 15.01.2021

In this document, DG TAXUD answers the questions raised orally during the meeting of 15.01.21 on the Rules of Origin Chapter of the EU-UK TCA, sent in the chat box of the virtual meeting or sent in writing prior to the meeting and a few days after.

As for the application of and in the UK of the TCA rules, 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: 'The Trade and Cooperation agreement (TCA): detailed guidance on the rules of origin': https://www.gov.uk/government/publications/rules-of-origin-for-goods-moving-between-the-uk-and-eu

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1 Questions relating to customs declarations

Question by IPCSA: I´m especially interested to get a clear statement from the UK side if they are going to request "Exit Summary Declarations" for the cases of goods leaving the UK into the direction of other third countries and if yes, where can we find the appropriate information.

Answer: The Commission is not responsible for the legislation and policies of third countries. We can just mention that according to the UK Border Operating Model (BOM), exit Summary Declarations are required for exports to the EU from the UK. From 1 January 2021 until 31 March 2021, however, there may be a temporary waiver for safety and security requirements on exports from Great Britain for two categories of movements only:

• empty pallets, containers and vehicles being moved under a transport contract to the EU;

• goods in RoRo vehicles.

You can consult the following UK website:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/949579/December_BordersOPModel__2_.pdf

2 Questions on cumulation with third countries

Question by Freshfel: 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 respect the direct transport/non alteration rule of that FTA. However, as explained above, the Commission cannot comment on third country legislation or policies.

Question by ESC/EUROPRO: 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 apples to the UK that are then packed in the UK and returned reshipped to the EU.

Answer: Under the EU-UK TCA, there can be duty exemption at 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 originating products into the EU.

For the purposes of FTAs signed by the EU with other third countries, EU 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 conditions established therein have been met.

3 Claiming origin, making out a statement on origin and supplier's declarations

Question by CLEPA: How many times can a trader modify a claim for preferential treatment and how long they have to do so before penalties apply?

Answer: If this question is related to the application of Commission Implementing Regulation (EU) 2020/2254 of 29 December 2020, the modification of a claim for preferential tariff treatment by UK importers and the penalties applicable to the UK importers are not regulated by the EU. The Regulation does not cover either the claim for preferential treatment in the EU nor the penalties applicable to the EU importer. The Regulation refers only to the making out of statements on origin by EU exporters.

Question by CLEPA: 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? So disregard the value add from the UK supplier prior to 2020? I think the presentation clarified that EU origin LTSDs issued by UK suppliers (pre 1st Jan '21) are no longer valid and the goods they relate to (even though they are located in the EU today) are no longer deemed EU originating, but I was wondering if my interpretation is right.

Answer: Yes, supplier's declarations made out 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.

Question by Toyota: Is it ok for the supplier 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 nor 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.

We understand, in any case, that this is not a specific issue of the EU-UK TCA but that a similar situation appears each time that a new EU FTA enters into application.

Question by AMFORI: 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.

Questions by AUDI concerning the possibility to grant a simplification for the products and their preferential proof (for all industries) that were built in the end of 2020.

We have vehicles built in the end of 2020 (production place: Germany, Belgium and Hungary) which are now (2021) shipped to the UK. To issue a preferential statement, we usually have to have the proof of preference by the production date. Therefore, for these cars we need to have the LTSDs (Long Term Supplier Declarations) for 2020. We do have all the necessary LTSDs but of course without UK on them (only countries with existing FTA like Switzerland, Ukraine, Israel etc.)

1. *Can we prove the preferential origin for these cars 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 or 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 are also originating 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.

Article ORIG.30, refers to a separate issue: it covers the situation of goods in warehouse or transit (under customs control) in the UK of goods that are originating in the EU according to the EU-UK FTA at the moment of entry into application of the EU-UK TCA.

2. *Or could it be already covered, since the UK was still in the transition period till the end of 2020 and, was therefore, an European country?*

Answer: No, it is not possible to use LTSDs made out before the entry into force of the TCA to state the EU originating status of goods for the purpose of the TCA. See in addition the answer to your question 1 above.

3. *Can we prove the origin for these cars with the supplier's declarations of 2021, assuming that the origin of the parts would also be the same should a declaration for 2020 exist? – Perhaps it´s possible to implement such a simplification in something like an implementation regulation.*

Answer: When the supplier's declaration is made out in 2021 the conditions related to the preferential origin of those parts need to be assessed under the EU-UK TCA. See the answer to your question 1 above.

4. *Or, do we need new LTSDs that cover UK in the text for the vehicles produced in 2020?*

Answer: See the answer to your question 1 above.

Question by OCEAN/UECBV: It which instances should the supplier's declaration provided in the Annex 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 sufficient to confer 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 that 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'.

Question by EuroChambers: Question on the handling of long-term supplier's declarations from British companies: do UK goods acquire EU origin when transformed in the EU before the end of the transition period? Such as EU stock in the UK in 2020: what is its origin in 2021?

Answer: A supplier's declaration made out on the basis of internal legislation and considering UK components as EU originating before the end of the transition period is no longer valid after 1 Jan 2021 if the UK is relevant for the acquisition of the EU origin. 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 and 'sailing goods' under the WA provisions. The EU stock that was in the UK before the end of the transition period has neither EU nor UK origin in 2021.

Question by SpiritsEurope: For products subject to a 0% MFN tariff rate – such as the vast majority of spirits imported into the EU and UK – can you confirm that:

1. There is no need to comply with preferential rules of origin to benefit from this 0% MFN tariff rate, and
2. That there is no need for an origin statement.

If so, could this be stated in an updated version of the customs & rules of origin stakeholders notice? Numerous EU importers are now requesting that UK spirits exporters integrate the exporter's statement of origin into commercial invoices, even though this does not appear to be necessary for goods for which the MFN duty for the product in question is zero. This creates unnecessary costs and red tape.

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.

4 UK or EU as distribution centre

Questions by SpiritsEurope: If an EU spirit entirely produced in France 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 France to be mixed with other spirits from France 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).

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 form 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 (France in this case)?

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. .

Question by EuroCommerce: Our member believe duties will continue on products such as baby food and textile and they are still assessing which lines are the most affected, depending on their origin. But one specific question they have asked for clarity on whether duties will apply to EU goods that remained in GB after 31-12-2021 but are going to be re-exporting back to the EU (RoI). I understand it is not a problem if these goods were in NI, but 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 RoI VAT?)

Answer: Union goods (not necessarily EU originating) that were located in NI 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.

Question by Digital Europe: 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.

Question by FoodDrinkEurope: Can the Commission provide further details on the criteria to be able 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.

Question by Freshfel Europe: 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: If the question relates to the non-alteration rule of the EU-UK TCA, then yes, splitting of consignments is permitted.

Question by IPCSA: 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.

Question from IPCSA: If a cheese is cut or grated and then packed, would this be considered sufficient processing in your opinion? These processes require specialised equipment and knowledge.

Answer: In principle simple cutting as well as simple packaging are insufficient operations. However, Article ORIG.7 of the TCA on 'insufficient production' needs to be strictly applied, as that only those operations reflected in the list may be considered as insufficient and not others. A case by case analysis (exact description of the operations) is needed to assess if the type of operation described could fall under the provision on insufficient production.

Question by EuroChambers : 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.

Question from CLEPA: in the scenario UK originating product → shipped to EU distribution hub (Imported w/ preferential tariff) → sold & shipped to 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.

Question from EuroChambers: 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.

Question by EuroCommerce 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.

5 Use of REX

Question by FETSA: In relation to the Statement on Origin we would like to raise a question on the REX. Based on our interpretation the Statement on Origin can 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: Indeed, the statement on origin may be made out by a person different to the exporter producing the export declaration. However, the person making out the statement has to be registered in REX (for shipments beyond 6000 Euros) and be established in the EU. The rules on REX do not exclude either that a customs representative established in the EU is registered in REX if he/she fulfils the conditions to be an 'exporter'.

Question by SpiritsEurope: Where a UK entity exports product from EU with a representative acting as exporter on the export declaration, can the UK entity be registered as REX? I understand not. In a live example, the customs representative (3rd party agent) has been advised they cannot act 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 is registered if he/she fulfils the conditions to be an 'exporter' or a 'reconsignor' for preferential origin purposes).

Question by UPS: 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 beyond 6000 Euros. However, it should be considered that, **a)** to become a REX exporter is a simple procedure of registration, **b)** that in any case, if the EU exporter is not registered yet, the importer in the UK may not claim the preference at the moment of import but may claim the preference afterwards once the EU exporter is registered and may make 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 claim and for the making out of a statement on origin on the basis of which to make the claim.

Question from CLEPA: Question regarding who can issue the preferential statement on origin in the EU. For example, in the following scenario: EU supplier sells to UK customer → Products shipped to UK customer's EU warehouse → UK Customer exports products (EU EORI registered; broker acting as indirect representative). How can origin be proved/ declared? As the UK Customer cannot register for REX, can the EU supplier issue the preference statement?

Answer: In the scenario that 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. It is mentioned that he/she cannot be registered in REX.

If this is the scenario 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, as described below for the EU 'supplier'. 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 beyond 6000 Euros. 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.

6 Direct transport and transitory provisions

Question by CLEPA: Is there a direct transport requirement?

Answer: Yes, there is a 'no alteration' rule.

Question by AUDI: 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 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 residual cases that would not fall under Article 47 WA, in particular, the import either in the Union or in UK of goods that, on 1.1.2021, were placed in transit or in other special procedures, and goods in temporary storage. Art ORIG.30 also applies for cumulation purposes.

7 Small consignments

Questions by EuroChambers: 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.

- 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.

- Third country origin products not eligible for preferential trade, correct?

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

8 Duty drawback clause

Question by SpiritsEurope: 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 unilateral exemptions or repayments of duties on materials used in the production of a product that is exported. However, it does not cover cases of non-payment if duties because of a preferential regime.

9 Northern Ireland

Question by EuroChambers: 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 EU-UK TCA provisions will not be of application but the provisions on the Protocol on Northern Ireland of the Withdrawal Agreement.

Business Case 2) SDs/SoS management: How to combine SDs and Statements on Origin with involvement of Northern Ireland?

An EU supplier supplies raw materials to Northern Ireland. (Intra Union transaction, no export to third country) The raw materials were sufficiently processed and the finished product will be send from NI to e.g. England or Wales.

Is it necessary that in that case the Northern-Irish supplier make a Statement on origin for the delivery of the goods to England under TCA preferential conditions?

Answer: No, goods moving from Northern Ireland to Great Britain are not covered by the EU-UK TCA but by the Protocol on Ireland / Northern Ireland.

What is the proof of origin he must receive from his EU supplier? A supplier's declaration 2015/2447 or an Statement on origin?

Answer: Neither a statement of origin nor a supplier declaration is necessary as this movement from NI to GB would not be claiming the application of preferences under the EU-UK TCA.

Can you confirm the following "proof-chain"? FR to NI (SD á la UCC); NI (last substantial processing) = origin changes from "EU" to "GB"; for export from NI to GB: Statement on Origin stating origin "GB".

Answer: The movement of goods that are in free circulation from FR to NI is an intra-Union movement, pursuant to the Protocol on Ireland/Northern Ireland. This means that there is no import declaration or claim for a preference and, therefore, there is no need for a statement on origin. The level of transformation of the goods in Northern Ireland is irrelevant, as goods will not be exported under the EU-UK TCA when moving to Great Britain.

Business Case 3) Retrospective loss of EU-Origin for goods (Jackets) stocked in warehouse (since 2018) which were processed in Romania from British material (fabrics). Do they still qualify for EU-origin? For export to EU-27 FTA-Partners and/or 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 Romania lose their EU origin for the purposes of EU FTAs, including the EU-UK TCA (if the UK content is the fabric, indeed it may be the case).

10 Communication and guidance

Common question by CER and CLEPA: Does DG TAXUD plan further communication to the market to raise the level of awareness regarding fulfilment of export and other customs obligations and to provide further guidance?

Answer: We have already produced detailed guidance that has been shared with the EU Member States and that we are completing with further origin aspects.

Question by Toyota: Would it be possible for DG TAXUD (when the guidance will be extended) to include this item in the guidance so that the EU manufacturers/exporters can re-assure the suppliers that it is ok to issue such a declaration even if it concerns the before TCA deliveries?).

Answer: We will take note of this request and will propose a point on this aspect

11 Further legislative developments

Question by CER: Could DG TAXUD please elaborate which customs particularities are still being further detailed, following on the TCA, and therefore in which areas further changes can be expected?

Answer: There is the possibility to develop structured and recurrent exchange of information, customs cooperation on RoRo and also mutual recognition of customs safety and security.

Question by CER: Could DG TAXUD please inform us whether the negotiations are ongoing in regard to the EU-UK Customs Security Agreement (similar to the one with Switzerland and Norway)? If so, what is the state-of-play and outlook?

Answer: There are no such negotiations at the moment considering the UK opposition to align with EU security standards for the time being.

Question by CER: After 01/01/2021 there are a lot of additional paper-based documents required for EU<->UK transit, such as, in particular, documents of origin and health & safety documents. Are there any options for paperless, electronic settlement foreseen?

Answer: For the perspective of origin related documents under the EU-UK TCA they can be submitted in electronic format.

12 Linguistic remarks

Remark by Eurochambers: We observed a deviation in Annex Orig-4: Footnote 3 stating the origin of the respective good: “Indicate the origin of the product: the United Kingdom or the Union.”. This English version deviates from other EU-FTAs: “European Union”. It also deviates from other language versions such as German: “Europäische Union”. If there is no possibility to correct it in the TCA, it should be explained in the Guidance and stated that “European Union” is acceptable as well! This should be communicated to HRMC accordingly.

Answer: It is a common practice in EU FTAs that together with the official indication of origin, in this case, "the Union" and "the United Kingdom", abbreviations and other close indications are also accepted, such as "European Union" or "EU" for the Union, and "UK", "GB", etc. for the United Kingdom. We have had exchanges with the UK on this and it is agreed that such indications will be accepted in the respective statements on origin.

13 Questions other than on RoO

Question by CER: Regarding the requirement to have a paper copy of the TAD on the train itself, it appears that everyone relevant has electronic copies of the TADs which could be presented to customs. It would be a great improvement if the paper copy of the TAD did not need to be carried on the train.

Answer: The issue of the TAD relates to the common transit Convention. The paper TAD is needed to record incidents en route that cannot yet be processed by NCTS.4. As of the introduction of NCTS 5, no paper TAD will be required anymore in the EU and a similar approach is foreseen for the CTC, if all contracting parties agree. The sooner the UK and the countries concerned implement NCTS 5, the better for railways.

Question by EurTradeNet-ETN: We have been analysing the change of the Dutch Customs Declaration system from AGS to DMS, which is supposed to happen soon. We have found that they currently cannot provide any updates or a potential roadmap for implementation yet. The Dutch customs have indicated that the delay is due to the changes that should happen to Annex B of the UCC (they do not specify whether this is the DA, IA or any other act). Would you be able to shed some light on when Annex B might be updated or whether the discussion is still ongoing?

Answer: Pursuant to the UCC Work Programme and Art 278 UCC, Member States have until 31.12.2022 to upgrade their national import systems in accordance with Annex B UCC DA/IA. This Annex has indeed been reviewed and will be very soon enacted in the respective amendments to the UCC DA/IA.

Question by Orgalim on the definition of averaging: Can you please explain what is averaging for materials?

Answer: Averaging refers to a flexibility to calculate the value of the non-originating materials in the case of product specific rules based on a maximum percentage of non-originating materials. It allows not to consider the specific value of the non-originating materials used in every final product, but the average value of the non-originating materials used during a declared period of time or other accounting method used by the trader.

Question by FETSA on accounting segregation: For mineral oils, is accounting segregation allowed when for example 95% ex works value EU origin is stored in tank together with 5% non originating material (e.g. Russian). Components and end product is likely to be of same HS code. It can be that within the HS code there is proportionate and deliberate blending. For example to achieve certain Sulphur content. Product loaded from EU to be exported to UK.

Answer: Accounting segregation can be used for products or the materials listed in the EU-UK TCA which are of the same kind and commercial quality, with the same technical and physical characteristics. However, if e.g. blending takes place during the storage, the end product will be different than the original product, therefore, accounting segregation cannot be applied.

For the specific scenario presented above, further elements would be needed to determine if in this specific case accounting segregation is allowed or not.