

# Indirect Tax Alert

Global Trade - no. 58

What does the EU-UK trade deal mean from a global trade perspective?



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## Executive summary

On 24 December 2020, negotiations to conclude the [EU-UK Trade and Cooperation Agreement](#) (EU-UK TCA) ended. The EU-UK TCA will provisionally enter into force as of 1 January 2021 pending to full ratification from the EU and UK. The trade deal will not release companies from the obligation to file customs declaration at the borders. There will however be tariff-free, quota-free access for products traded between the EU and UK if products originate from either the EU or UK. This alert covers the first highlights and a more detailed analysis will be provided in due course. The customs authorities are frequently providing additional guidance which needs to be taken into consideration when taking action.

## Detailed discussion

### What does the EU-UK TCA mean?

#### 1. *What are the headlines?*

The EU-UK TCA does not remove the need for companies to make changes to their operations. It does bring some certainty on many of the new trading rules that will apply after the end of the transition period, most notably tariffs. There will be tariff-free, quota-free access for products traded between the EU and UK under the EU-UK TCA if the goods originate from the EU or UK. However, this is accompanied by a number of new customs procedures and formalities, including new 'rules of origin' requirements, which are needed in order to qualify for the tariff-free, quota-free treatment. As another highlight, specific annexes were agreed to reduce the non-tariff barriers for medical products, automotive, chemical products, organic products and wine.

#### 2. *Does this mean that Brexit is now done?*

No. One of the take-aways from the deal is that Brexit is not done. The first task for both sides will be to implement the EU-UK TCA across the broad range of issues and trade covered.

#### 3. *What happens on 1 January 2021?*

There is no phase-in or grace period. Businesses will need to meet many of the new requirements imposed as a result of the UK leaving the EU's single market and customs union from 1 January 2021. These include new customs documentation and procedures.

#### 4. *Are all products exported from the EU to the UK (and vice versa) free of import duties?*

No. Only two categories of products will be free of import duties:

- i. Products that are unconditionally free of import duties. Check here if products attract import duties ([UK](#) or [EU](#)).<sup>1</sup>
- ii. Products originating from either the EU or UK based on the customs rules of origin.

Hence products which do not originate from the EU or UK do not qualify for preferential treatment under the EU-UK TCA.

#### 5. *When does a product originate from the EU or UK?*

To qualify for the EU-UK TCA there are general origin rules and then product specific origin rules based on a product's tariff classification. These rules are broadly comparable with other EU and UK Free Trade Agreements (FTAs).

Whilst varied across the tariff, for most classifications there are two options for meeting the product specific origin rules: a difference in the tariff classification of the finished product and its non-originating materials at

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<sup>1</sup> These websites can be used as guidance. We do recommend to always validate if the tariffs comply with the latest legislation.

the heading or sub-heading level (first 4 or 6 digit tariff code change); or a maximum percentage value of non-originating materials (MaxNOM) in the finished product, most commonly 50%.

In assessing MaxNOM the cumulation rules allow both EU and UK originating materials and production costs to be treated as qualifying FTA content in the relevant calculation.

The agreement does not permit cumulation with other countries that both the EU and UK have separate bilateral FTAs with, i.e. no diagonal cumulation. This will not impact the UK FTAs that do permit EU content to be diagonally cumulated, e.g. Switzerland-UK.

Accurate tariff classification will be critical for businesses, whether to determine the product specific rule of origin or in assessing qualification with that rule of origin.

### **What to do next?**

To make use of preferential duty treatment, companies should take the following steps (subject to change in context of new guidance):

1. Determine the correct product tariff classification.
2. Validate if the products are subject to import duties in the EU or UK, or if the products are zero rated. Check here if your import duties attract import duties ([UK](#) or [EU](#)).<sup>2</sup>
3. If import duties are applicable, check if products originate from the EU or UK based on the customs rules of origin laid down in the EU-UK TCA. Make the necessary product-specific origin assessments (calculations). Take into account rules such as “insufficient production” as per the EU-UK TCA.
  - In case of doubt, apply for Binding Origin Information with the Customs Authorities (which is basically a customs ruling on origin).
4. Validate that the administrative records and organization is set-up correctly in order to claim usage of the EU-UK trade deal.
5. Make sure proof of origin is available:
  - a. a statement on origin that the product is originating made out by the exporter:
    - i. For EU-UK flows: statement on origin can be made out by any exporter where the value of the consignment is 6,000 euros (currently £5,700) or less. Above this amount the EU exporter must have a Registered Exporter (REX) number and include it in the statement.
    - ii. For UK-EU flows: include your EORI number in any statement you issue to your EU customer, regardless of the value.
  - b. the importer’s knowledge that the product is originating.
6. Inform brokers that about utilizing preferential treatment and provide brokers with the required origin documentation.

EY Global Trade team can assist companies with assessing whether products are eligible for preferential duty treatment under the EU-UK TCA, as well as assisting with setting-up processes and procedures in order to be allowed to benefit from the EU-UK trade deal.

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The above is based on our interpretation of current tax legislation and case law published to date. This Indirect Tax Alert provides general information with no pretence of completeness, and it is not a tax advice.

#### Information

For more detailed information about the matters discussed in this Alert, please contact one of EY's tax advisers listed below.

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