

DEFRA Rules of Origin Sector Specific Business Guidance – Cereals and Cereal Products

Introduction

In order to access preferential tariff treatment in the TCA, all products must comply with the Rules of Origin. Failure to meet the rules and provide the supporting documentation will mean UK or EU MFN tariffs will be applied when trading between the UK and EU. For cereals and products derived from cereals, these tariffs can be high.

Bilateral Cumulation

UK producers can use EU-originating ingredients in their final product without it losing originating status. This is known as 'bilateral cumulation' - a standard feature of FTAs, which allows each member of the agreement to use products originating in the other FTA partner.

If you are using EU-originating ingredients in your product, they must be further processed. If you only perform a single or combination of the below insufficient processes on the EU ingredients, your final product cannot be considered originating.

The relevant insufficient processes for cereals and cereal products are:

- husking and partial or total milling of rice; polishing and glazing of cereals and rice; bleaching of rice;
- simple cutting;
- **simple** placing in bags, cases and all other simple packaging operations;
- affixing or printing marks, labels, logos or other like distinguishing signs on products or their packaging;
- **simple** mixing of products, whether or not of different kinds; mixing of sugar with any material;

'Simple' refers to operations that do not require special skills or machinery specifically installed to perform the process.

Tolerance

To acknowledge global supply chains and production there is a tolerance level for using foreign content. In TCA there is a tolerance rule for fish (ch3) & processed fish in Ch16 of 10% by value. All other agri-food products have a 15% weight tolerance.

- In cereals, this means;
 - Wholly Obtained wheat could contain 15% of 3rd party wheat.
 - Flour could use 15% 3rd party wheat in its production
 - Where non-originating meat is restricted to 20% in Chapter 19, pasta could use all 3rd party meat, so long as the weight did not exceed 20% of the weight of the final product.

Accounting Segregation

The TCA recognises it's not always practical to store originating and non-originating materials separately – for example a hopper of sugar to use in production. In these cases, accounting segregation method may be used.

The use of accounting segregation must be approved by customs authorities and run an inventory management system allowing HMRC to verify quantities of originating and non-originating material.

Materials must be fungible – the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes.

UK manufacturers must ensure that the amount of materials or product that is receiving originating status through accounting segregation does not exceed the amount that would receive originating status through physical segregation.

TCA allows accounting segregation at products level for chapters 10 and 15 to be stored in a Party before exportation without being physically separated. Fungible products may be exported without any further processing, provided the stock of originating materials is sufficient to cover the quantity of product exported.

Rules for Cereals and Cereal Products (Chapters 10, 11 and 19 of the Harmonised System)

The UK and EU have agreed the following product rules;

Chapter 10 - Cereals

Production in which all the materials of Chapter 10 used are wholly obtained.

Chapter 10 products exported to the EU (wheat, rye, barley, oats, maize, rice, sorghum and other cereals) must be grown in the UK. They could be grown in the EU using 'bilateral cumulation' but their must be some processing in the UK – such as drying, grading and dressing. The use of imported seedstock to grow the cereal is permitted.

Chapter 11 - Products of the milling industry; malt; starches; inulin; wheat gluten

Production in which all materials of Chapters 10 and 11, headings 07.01, 07.14, 23.02 to 23.03 or subheading 0710.10 used are wholly obtained.

All cereals, cereal residues, rice, potatoes and edible tubers used to produce products of Chapter 11 for export to the EU must be grown in the UK or EU. Flour is a product of Chapter 11 and is frequently made with North American wheat. In this case, the flour could not be exported under preference as it would not meet the Rule of Origin.

Chapter 19 - Preparations of cereals, flour, starch or milk; pastrycooks' products

CTH, provided that:

- *the total weight of non-originating materials of Chapters 2, 3 and 16 used does not exceed 20% of the weight of the product;*
- *the total weight of non-originating materials of headings 10.06 and 11.08 used does not exceed 20% of the weight of the product; an*
- *all the materials of Chapter 4 used are wholly obtained; and*
- *the total weight of non-originating materials of headings 17.01 and 17.02 used does not exceed 40% of the weight of the product.*

If the inputs used to produce products of Chapter 19 for export to the EU are imported from third countries, they must be from another heading within the Harmonised System. For example, a pizza (19.05) could be exported under preference if it was made from imported dough (19.01), as the third country content is from another heading. In this case, the Rule of Origin would be met.

Chapter 19 has further restrictions on specific ingredients that are in addition to the ‘change to heading’ rule.

All **dairy materials** (Chapter 4) must be Wholly Obtained. This means any dairy ingredient used in production must be originating in the UK or EU.

Third country inputs of **meat and fish** (Chapters 2, 3 and 16) used in the product are restricted to 20% of the net weight of the final product, (weight of final product minus packaging).

Third country inputs of **rice and starch** used are also restricted to 20% of the net weight of the final product. If you imported wheat (10.01) and made starch, the use of this starch is not limited. The restriction only applies to ready-made starch of (11.08), not the source material such as wheat (10.01) or potatoes (07.01).

The use of third country sugar and syrups classified in 17.01 and 17.02, either imported directly or produced in the UK from the refining of imported raw material, e.g. cane sugar, is limited to 20% of the net weight of your final product. If the product exceeds 40% by weight, and the manufacturer uses beet sugar and cane sugar in a mixed storage facility, they can use **accounting segregation** by proving that they have met the threshold over a number of shipments.

The use of EU-originating ingredients is provided for through bilateral cumulation.

Case Study Examples

1. Brown Rice (10.06) is imported from Pakistan to the UK. It is milled and turned in white rice (10.06). This would not meet the Rule of Origin as the rice must be grown in the UK or EU. Using the same example, if the brown rice was imported from the EU, the Rule of Origin could be met using the ‘bilateral cumulation’ provision as the milling of rice is an insufficient process.
2. The UK and the EU both have a trade agreement with Ukraine. Malt (11.07) is made in the UK from barley (10.03) imported from the Ukraine. It is exported from the UK to the EU. The malt cannot be exported under preference as it is not made from UK or EU grain.
3. A chocolate covered biscuit (19.05) is made in the UK for export to the EU using the following ingredients, all of which have some element of imported content:

40% weight	Flour (imported from Turkey)	(11.01)
30% weight	Sugar (imported from Belize, refined in the UK)	(17.01)
25% weight	Butter (domestically produced from UK milk)	(04.05)
5% weight	Chocolate imported from Belgium)	(18.06)

The ‘CTH’ (change to Heading) rule has been met as nothing has been imported under the same heading as the product (1905).

There are no restrictions on flour.

None originating sugar is below the 40% threshold

Butter is from the UK, so the restriction does not apply

There are no restrictions on chocolate

This product does meet the Rule of Origin and would qualify for preferential tariffs.

Origin Certification

If you are importing goods from the EU which meet the Rules of Origin, a claim for preferential treatment will be made on the basis of;

1. A statement on origin made out by the exporter on a commercial document; or
2. Importer's knowledge whereby the importer has sufficient evidence that goods are originating from information they have received from the exporter.

If you are exporting goods to the EU which meet the Rules of Origin, you will similarly need to provide your importer with a statement on origin or provide sufficient supporting information about the goods to allow the importer to claim the Rules of Origin have been met on the basis of 'importer's knowledge.' This will allow the importer to import the good under preferential tariffs.

In order to provide the importer with sufficient information to prove that the goods meet the Rules of Origin, the exporter will require information from suppliers on the origin of any ingredients used. These are known as supplier declarations.