

# The UK-EU trade deal What you need to know

5 January 2021





POLL: Which one of these describes your business best?

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A close-up photograph of a computer keyboard with a glowing blue light. The key in the foreground is labeled "Vote" in a white, sans-serif font, followed by a white icon of a ballot box with a ballot being inserted. Other keys with symbols like "}", "]", and "!" are visible in the background.

Vote

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# Headlines from the deal – trade and customs

## ○ What the Free Trade Agreement says

- 100% tariff liberalisation
- No tariffs/quotas on movement of goods produced between UK & EU

## ○ What this means for businesses

- No tariffs apply for goods sold to the EU
- No tariffs apply for goods received from the EU

# Headlines from the deal – trade and customs

- In order for tariff free trade to apply businesses must meet Rules of Origin requirements
- They must evidence goods are of EU or UK origin
- While this in theory allows you to price goods as now, note:
  - Exchange rate differentials still apply
  - New customs procedures and documentation applies
    - Dispatches become exports
    - Arrivals become imports
  - Additional costs for product and regulatory compliance
  - Requirement to evidence origin

The deal provides the opportunity to compete on price if businesses can introduce efficient customs and trade procedures

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# Agreement on cumulation

## ○ What the Free Trade Agreement says

- Bilateral cumulation applies
- Allows EU inputs and processing to be counted as UK input in UK products exported to the EU, and vice versa

## ○ What this means for businesses

- EU goods and materials will be counted as UK input for origin purposes when exported to the EU

# Agreement on cumulation

- Same principle applies for UK inputs and processing being counted as EU inputs when exported from the EU to the UK
- Allows integrated supply chains to continue, for example:
  - Shoes imported from Portugal to the UK and then exported from the UK to Ireland
  - Car parts imported from Poland to the UK and then exported from the UK to Belgium
- Bilateral cumulation applies – EU and UK materials can be used but not parts from other third countries
- EU content can be included in a number of UK trade deals with third countries



# Principles underpinning origin - 1

## Proof of origin

Importer is required to declare they hold proof that goods comply with Rules of Origin to benefit from preferential tariffs when:

- importing into the UK from the EU
- importing into the EU from the UK

## Statement on origin

- provided on invoice or any other commercial document (excluding bill of lading)
- describes originating product in sufficient detail for it to be identified
- exporter is responsible for it being correct

# Principles underpinning origin -2

- Trade practice is underpinned by **‘importer’s knowledge’**
- Allows importer to claim preferential tariff based on evidence they have obtained about the originating status of imported products
  - eg a statement of origin or supplier’s declaration

## Supplier’s declarations (until 31 December 2021)

If claiming preference on basis of importer’s knowledge or making out a statement on origin:

- You do not need to hold a supplier’s declaration at the time they are claiming preference
- Applies for goods imported from or exported to the EU

# Principles underpinning origin - 3

- UK exporters will not need to be REX (Registered Exporter) or be Approved Exporters although they must hold a GB EORI number
- Importer & exporter must maintain records for at least four years
  - Records can be stored in an electronic format

# Rules of Origin

## ○ What the Free Trade Agreement says

- Only 'originating' goods are able to benefit from tariff free access

## ○ What this means for businesses

- Rules of Origin are based on tariff codes

# Rules of Origin

- Goods 'wholly obtained' in either the EU or UK benefit from tariff free access
- Goods made exclusively from materials produced in either the EU or UK benefit from tariff free access
- Goods containing materials imported from countries outside the EU and UK need to meet product-specific rules of origin (listed by tariff heading) to benefit from tariff free access

# Sector examples: motor vehicles

## Different origin requirements apply by product type / tariff line

"MaxNOM" means the maximum value of non-originating materials expressed as a percentage

- Chapter 87: 'Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof'
  - Subheading 87.01 MaxNOM 45% (EXW)
- Subheadings 87.02, 87.03 and 87.04: Battery cells, battery modules, and parts
- Intended to be incorporated into an electric accumulator of a kind used as the primary source of electrical power for propulsion of vehicles of headings
  - MaxNOM 70 % (EXW)
- vehicles with both internal combustion engine and electric motor as motors for propulsion other than those capable of being charged by plugging to external source of electric power ('hybrid')
  - MaxNOM 60 % (EXW)

# Sector Examples: medical goods

- There is mutual recognition of quality assurance and inspections through GMP authorisations (good manufacturing practice)
- There is an ability to amend, extend, or suspend recognition of manufacturing process unilaterally (with a requirement for 60 days notice)
- There is a working group on medicinal products which assists all parties on the technical barriers to trade

	Percentage Rule
<b>Medicines (30.03)</b>	MaxNOM 50%
<b>All other pharmaceutical products (Chapter 30 exc. 30.03)</b>	MaxNOM 50%
<b>Inorganic chemicals (Chapter 28)</b>	MaxNOM 50%
<b>Organic chemicals (Chapter 29)</b>	MaxNOM 50%
<b>Medical instruments and appliances (90.18)</b>	MaxNOM 50%
<b>Medical furniture (90.42)</b>	MaxNOM 50%

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# VAT

## ○ What the Free Trade Agreement says

- Either party (UK or EU) can make a request of other to recover unpaid customs duties, excise or VAT on its behalf

## ○ What this means for businesses

- For more information, please review the UK Customs Academy webinar on VAT implications for UK exporters in 2021 at:
- [www.ukcustomsacademy.co.uk/resources/webinars/](http://www.ukcustomsacademy.co.uk/resources/webinars/)

# Customs and Trade Facilitation (CTF)

## ○ What the Free Trade Agreement says

- The principles of the WTO Trade Facilitation agreement and Revised Kyoto Convention apply

## ○ What this means for businesses

- Customs and trade principles with the EU become the same as trade with the Rest of the World

# Customs and Trade Facilitation (CTF)

- Allows the UK and its businesses to implement best practice in customs and trade procedures
  - Including use of Customs authorisations and special procedures
- Mutual recognition of Authorised Economic Operator (AEO) Safety & Security Schemes
  - Fewer safety and security checks when moving goods across borders
  - Facilitates legitimate trade by addressing administrative barriers for traders
- The CTF Chapter indicates that measures can be agreed that are bespoke to the UK-EU trading relationship, such as:
  - cooperation at 'roll-on roll-off' ports like Dover and Holyhead
  - exploring possibility of sharing import and export declaration data
    - including setting up pilot programmes where appropriate

# Customs authorisations and procedures

Consider:

- Customs Freight Simplified Procedures (CFSP)
- Inward processing
- Customs warehousing
- Outward processing
- End-use
- Temporary admission
- Approved Exporter
- Authorised Economic Operator (AEO)

# Customs authorisations and procedures

- Most EU FTAs include a 'no drawback' clause meaning tariff preferences cannot be claimed if the exporter has obtained a duty exemption through use of special procedures
- This clause does not exist in the EU UK TCA therefore both parties can enjoy reduction in duty
- Customs special procedures provide many benefits for businesses including
  - Deferment of tariffs (duties) and VAT until the goods are moved into free circulation (into the domestic economy)
  - Processing of raw materials / components into finished goods
  - Storage of finished materials before re-export
  - Import tariffs (duties) and VAT eliminated upon re-export

# Customs authorisations and procedures

- CFSP, Approved Exporter and AEO authorisations allow for trade facilitation benefits
- Trade in 2021 will result in increased use of these authorisations and procedures
- Additionally in 2021 financial guarantees are no longer required for use of customs special procedures
  - With the exception of high-risk traders

# An example of customs authorisations and procedures

2020		
<b>Goods imported from China subject to import tariffs and VAT</b>	Goods enter a production process in the UK	Finished goods sold to the EU

2021		
<b>Goods imported from China Import tariffs and VAT suspended</b>	Goods enter a production process in the UK	Finished goods <u>exported</u> to the EU, with no import tariffs and VAT payable as goods re-exported

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# Product and regulatory conformity

- To provide goods to both the UK and the EU markets you must meet both sets of standards and regulations
- There will be 'grace periods' for goods placed on the UK market
  - eg CE marking and for food labelling

# Sanitary and Phytosanitary (SPS) measures

- SPS Chapter states the UK and EU can maintain fully independent SPS rules to protect human, animal and plant life and health
- Each party maintains their right to independently regulate these rules
- New requirements for business include Export Health Certificates and Phytosanitary Certificates

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# Financial services

- The UK and the EU have declared an intention to reach a Memorandum of Understanding with a view to both sides recognising each other's financial regulations as equivalent
- Passporting is not being considered

# Mutual recognition of professional qualifications

- The UK and EU have agreed a framework for the recognition of qualifications based on the EU's recent FTA agreements
- Awaiting clarity on this but it may be the case that applications may have to be made to some individual countries for qualifications to be accepted

# Rules for business travel

- UK short-term business visitors can travel to the EU for 90 days in any 180-day period
- The UK and EU have also agreed not to impose work permits on business visitors for establishment purposes

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# Digital trade

The agreement includes a chapter on digital trade indicating:

- Electronic transmissions shall be considered as the supply of a service
  - neither UK nor EU will impose customs duties on electronic transmissions
  
- Services can be provided digitally by default without requiring prior authorisation
  - neither the UK or EU will discriminate against electronic signatures or electronic documents on the basis they are in digital format
  - There are some sectors to which this will not apply
  
- Overall commitment to cooperate on digital trade issues in the future
  - Including areas such as consumer protection and emerging technologies (eg AI and blockchain)



# Data transfers

- UK has agreed to recognise EU data standards as equivalent for transfers from the UK
- EU has not yet issued an adequacy decision in respect of transfers to the UK
- In order to provide time to reach an adequacy decision and avoid any immediate issues the UK and EU have agreed to a "data bridge" for up to four months
  - which can be extended by a further two months
- During this period, EU originating personal data may be transferred to the UK unimpeded
  - subject to UK agreeing to maintain its data protection regime as it stands on December 31, 2020

The Information Commissioners Office recommends:

“As a sensible precaution, before and during this period, the ICO recommends that businesses work with EU and EEA organisations who transfer personal data to them, to put in place alternative transfer mechanisms, to safeguard against any interruption to the free flow of EU to UK personal data”.

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# Trade marks from 2021

- Registered European Union Trade Marks (EUTM) will no longer be protected in UK
  - Instead protected as domestic UK trade marks
  - Automatically from 1 January 2021
  - Mirroring particulars of relevant EUTM
- From 1 January 2021, rights holders can rely on these new comparable UK rights in enforcement proceedings
- Owners of pending EUTMs on 31 December 2020 can retain trade mark protection in the UK by re-filing in the UK from 1 January 2021 until 30 September 2021
- From 1 January 2021, all new UK trade mark proceedings, must include a UK address for service

# UK Global Import Tariff

- The UK has a new import tariff which applies to trade where there are no trade deals
- The UK Global Tariff has a number of liberalisations and simplifications compared to the EU tariff
  - Some raw materials and component parts no longer subject to import tariffs

# Trade continuity agreements

- Trade continuity agreements have been signed with several countries
- For more information visit: <https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries>

# Generalised System of Preferences

- The UK GSP allows goods from a range of countries to be imported at a reduced or zero rate of duty from developing and least developed countries
- Principles of regional cumulation will apply

# Tariff rate quotas

- The following notice sets out the tariff rate quota volumes which do not operate on a calendar year basis:

<https://www.gov.uk/government/publications/tariff-rate-quotas-interim-volumes-available-from-1-january-2021/notice-made-under-regulation-64-of-the-customs-tariff-quotas-eu-exit-regulations-2020>

# Commodity codes

- Remain aligned to the EU
- These may change over time, but for now commodity codes will match EU changes



# Enforcement mechanisms, standards and rebalancing clauses

- Mutual commitments apply not to lower standards on the environment, workers rights and climate change as well as provisions ensuring mutual enforcement
- Mutual right to "rebalance" the agreement in the event of significant divergences between the UK and the EU that impact trade
- Rebalancing clause is much stricter than measures found in other EU trade deals.
- Tariffs could be introduced if either the UK or EU diverges from the other
  - with a binding arbitration system agreed as a means of policing the overall agreement
- Either party can impose anti-dumping duty, countervailing duty or safeguard measures to the other parties, as long as they comply with the conditions of the WTO rules

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