

Rules of Origin and the EU's Free Trade Agreements

Each of the EU's Free Trade Agreements (FTAs) contains rules that determine whether a product has "originating status" and thereby qualifies for the preferential treatment given by that FTA. Put simply, from our perspective, the rules stipulate what needs to be done in the EU to an imported input to ensure that the resulting output is an EU product. If it is not deemed to be of EU origin, it will not qualify for preferential treatment.

If/when the UK leaves the Customs Union, any processing carried out in the UK will no longer be EU processing. It will therefore be necessary for EU steel consumers to check whether using UK-origin steel will stop the products they make from having EU origin, if those products are being sold to a country with which the EU has an FTA.

There are two common methodologies for determining this:

1. By reference to the tariff headings of the input(s) and the end product – the "change in tariff heading rule". For example, the rule may specify that making an end product from products that have different four digit tariff headings from the end product will automatically confer "originating status" on that end product. Some times the use of certain other headings will not be allowed: frequently for example the rule will not allow mere assembly from components to qualify as conferring originating status, even though those components are classified under a different heading.
2. By reference to the proportionate value of non-originating materials and components used in the manufacture of a product.
3. A hybrid methodology is often used too. This will start by applying rule 1, but then if rule 1 is not met, rule 2 will be used. In other words a product that is made entirely from sub-products classified under other headings will acquire originating status, but if it contains one or more inputs from a "prohibited" heading, then a value-based rule will be applied instead.

It should be noted that once a product has obtained originating status, the entire value of that product is considered as originating for the purposes of calculating rule 2 above when it undergoes any further processing. For example, if a component made in the EU uses UK steel, but sufficient processing is undertaken for that component to acquire EU origin, then the whole value of the component is

considered to be EU and will be treated as entirely of EU origin when a car maker subsequently calculates the EU content of the vehicles he produces.

Implications for steel

Because steel is frequently used at the start of a long supply chain, there will be many instances where a product made in the EU containing imported steel will acquire EU origin through the “change of heading rule”. The origin of the steel itself is then irrelevant to subsequent users of the product further down the supply chain.

Thus it will normally be safe for EU customers to buy UK steel for use in products where a “change in heading rule” is specified. The main caveat to this will be where a product is made using both steel products and components classified under its own heading. In such a case the “change in heading” will not have been achieved.

Unfortunately, not all agreements contain the same rules for the same products.

The spreadsheet entitled “Simplified summary of rules of origin affecting steel products” summarises the rules contained in the EU’s FTAs with the larger countries for the main steel-containing products. This by definition is not complete, but should give an indication of products/markets where EU consumers will be able to use UK steel without losing preferential tariff treatment under the EU’s FTAs. In the grid, the following key is used:

H	Means that a simple “change in four-digit tariff heading” rule is used, i.e. if a product is made entirely from materials or goods classified under a different heading, then originating status is acquired.
H+	Means that in addition to the simple “change in tariff heading” rule, originating status will not be acquired if products classified under certain other headings are used; or it might restrict the value of goods used from certain specified headings. This might for example be used to prevent the mere assembly of an end-product from its component parts to confer originating status.
A number, e.g. 20	Indicates that a value based rule is applied. For example, “20” means that the value of non-originating materials and components used must not exceed 20% of the ex works value of the product.
e.g. H&20	Indicates a double rule: Both a change in tariff heading is required AND the value of non-originating materials and components used must not exceed the stated % of the ex works value of the product.
e.g. 20+	Indicates that additional criteria are applied on top of the straight value based rule. It might for example restrict the value of goods to be used that are classified under the same heading as the product.
/	Indicates there are two options. E.g. "H/20" means either a “change in tariff heading” rule OR a value based rule can be used.
C	Denotes a rule too complex to summarise.

As a general rule of thumb, if “H” or “H/x” is indicated (and frequently also “H+”) , then there is a high probability that an EU customer will be able to use UK-origin steel without losing the EU origin of his end product. Care should however be taken if a steel product is being used directly (i.e. without undergoing some intermediate processing) by a manufacturer of a complex product, such as a spare part or component for a machine.

In cases where members have an interest in a specific transaction, where defining the rule of origin that will be applied by the processor of their steel – or further downstream – is critical to a commercial decision, they are strongly advised to consult the detailed rules of origin contained in the relevant FTA. Appendix 1 contains links to each of the FTAs analysed, together with advice on where to find the rules of origin.

Steel rules of origin

The FTAs have different rules of origin for steel products than the EU norm (its non-preferential rules of origin). There are two models, which are labelled as S1 and S2 in the spreadsheet. The effects are as follows:

S1	<p>Ingots have the origin of the country in which the steel was melted and cast. Continuously cast semis have the origin of the country in which they are cast. Semis rolled from ingots retain the origin of the ingot.</p> <p>For hot rolled flat, bars, rods, sections & rails; cold rolled/drawn flat & long products; and coated products: if produced from continuously cast semis they retain the origin of the steel as originally cast. (If produced from ingot-route semis however they acquire the origin of the country in which the hot rolling takes place.) Thus, when the UK leaves the Customs Union, if a UK concast semi is hot rolled, then cold rolled, then coated in an EU country, the final product will still retain UK origin.</p> <p>Wire, seamless tubes and welded tubes also retain the origin of the semis from which their feedstock was produced.</p>
S2	<p>Ingots have the origin of the country in which the steel was melted and cast. Continuously cast semis have the origin of the country in which they are cast. Semis rolled from ingots acquire the origin of the country in which they are rolled.</p> <p>Hot rolled flat and long products (other than rails) acquire the origin of the country in which they are rolled.</p> <p>Further processing beyond this does not change origin: cold rolled and coated products retain the origin of the HR.</p> <p>Wire, seamless tubes and welded tubes retain the origin of the semis from which their feedstock was produced.</p> <p>Rails and railway products retain the origin of the country in which their ingots or semis were melted and cast.</p>

Note:

The rules summarised here are only used to determine whether steel supplied to an EU customer undergoes sufficient further processing in the EU to enable the end-

product to be of EU origin for the purposes of gaining preferential treatment in the EU's FTAs. These rules cannot be used for determining a steel product's origin for customs declarations. If the UK leaves the EU without a deal, then the EU's non-preferential rules of origin will be used to determine the steel's origin when imported into the EU. If the UK leaves the EU with a negotiated future arrangement (e.g. on 31 December 2020), then the applicable rules are likely to be set by that agreement.

Customs Unions

The EU has customs unions with Turkey, Andorra and San Marino, covering processed agricultural and industrial products.

In a customs union, goods that are in free circulation in one partner country are automatically free to circulate in the other partner. To qualify as being in free circulation, goods must either:

- Have been produced in the territory of one of the two;
- Or have been imported, and the full customs duties paid.

There is therefore no need for rules to establish "originating origin" in the EU's three Customs Union.

Note:

The EU/Turkey and EU/San Marino Customs Unions do not apply to ECSC steel products (i.e. semis; hot rolled, cold rolled and coated flat products (other than CR narrow strip <600mm); hot rolled bars and rods; hot rolled sections). For these products there is a separate EU/Turkey Free Trade Agreement – see Appendix 1 for a link.

1 April 2019

Resources

The Harmonised System – i.e. the internationally agreed system for coding products at a 6-digit level – can be found here:

<http://www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/hs-nomenclature-2017-edition/hs-nomenclature-2017-edition.aspx>.

LINKS TO DETAILED RULES OF ORIGIN

Following are links to each of the EU's Free Trade Agreements that have been analysed, together with help on where the detailed rules of origin can be found.

[Algeria](#)

See Annex II to Protocol 6. Relevant sections start at page 174.

[Canada](#)

See Annex 5. Relevant sections start at page 529.

[Chile](#)

See Appendix II to Annex III. Relevant sections start at page 1006.

[Colombia, Peru and Ecuador](#)

See Appendix 2 to Annex II. Relevant sections start at page 145.

[Egypt](#)

See Annex II to Protocol 4. Relevant sections start at page 160.

[Israel](#)

See Annex II to Protocol 4. Relevant sections start at page 117.

[Japan](#)

The above links directly to Annex 3B which covers rules of origin. Relevant sections start at page 123.

[Korea](#)

See Annexes 1 and 2. Relevant sections start at page 1389.

[Mexico](#)

See page 34 onwards.

An explanation of the abbreviations used is [here](#).

[Morocco](#)

See Annex II to Protocol 4. Relevant sections start at page 144.

[Norway, Iceland and Liechtenstein](#)

See Appendix II. Relevant sections start at page 115.

[Serbia](#)

See Annex II to Protocol 3. Relevant sections start at page 408.

[South Africa](#)

Annex II to Protocol 1. Relevant sections start at page 365.

[Switzerland](#)

Note: this agreement dates from 1972 and is not available in English. The link above is to the French version. The bigger problem is that it uses old tariff headings, with no easy read-across to the Harmonised System in use today. For this reason it has not been possible to summarise the rules in the spreadsheet. The default setting appears to be that for many products a change in 4-digit tariff heading will confer origin, but as with more recent agreements the rules for machinery are complex.

[Tunisia](#)

Annex II to Protocol 4. Relevant sections start at page 130.

[Turkey](#)

This links to the Free Trade Agreement for ECSC products only. Other industrial products are covered by the EU/Turkey Customs Union, for which there are no rules of origin.

See Protocol 1, Annex II.

[Ukraine](#)

Annex II to Protocol I. Relevant sections start at page 2075.

[The EU's non-preferential rules of origin](#). These are included for completeness, but are only relevant to trade between the EU and countries that do not have FTAs with the EU. If the UK leaves without a deal, they will apply to UK sales into the EU.