

Voluntary Report – Voluntary - Public Distribution

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Report Name: EU-UK Trade Agreement - Potential Impacts of Rules of Origin

Country: United Kingdom

Post: London

Report Category: Agricultural Situation

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Report Highlights:

At 2300 local time on December 31, 2020, the United Kingdom (UK) completed its departure from the European Union (EU). The two sides successfully negotiated and agreed that there are no tariffs or tariff free quotas on each other's goods. However, England, Wales, and Scotland's departure from the EU's customs union and single market introduces some changes that could affect business operations, such as Rules of Origin, that will affect the movement of some third country goods.

General

On December 24, 2020, the EU and UK successfully concluded negotiations for a Trade and Cooperation Agreement (TCA), finalizing the outstanding disagreements between the EU and UK and establishes the EU-UK trade relationship post Brexit. The agreement went into effect on January 1, 2021, and received Royal Assent, becoming UK law in the early hours of December 31, 2020. The EU Ambassadors have given provisional approval of the deal but the European Parliament still has to vote on ratifying the deal.

In summary, there will be no tariffs or tariff-free quotas on goods that meet the required standards traded between the UK and EU. However, there are Rules of Origin (RoO) requirements which could impact the re-export of imported third country goods from the UK to the EU (or vice versa) if insufficiently processed in the UK or the EU.

In addition, the Northern Ireland (NI) Protocol, which will be reviewed in four years, is a legal and political mechanism that allows Northern Ireland to remain aligned with EU food law and agricultural policy. Thus, the majority of trade policy changes for food and agriculture that affect third countries are applicable to Great Britain (England, Wales, and Scotland) only, thereby, effectively creating an administrative border with the EU in the Irish Sea.

The full TCA text can be found [here](#)

RoO can be found on page 423, with specific rules for agricultural goods starting on page 431. Specific rules cover a large range of products including, but not limited to, meats, dairy, cereals including rice, animal and vegetable fats, sugar and confectionary, flours and pastry cook's products, beverages, spirits, vinegar, residues and wastes for food preparations.

On page 30 of the agreement, there is a list of processes that constitute **insufficient** UK or EU production or processing to constitute a change in origin and, therefore, does not allow tariff-free trade between the two entities if a product is coming from a third party:

- preserving operations such as drying, freezing, keeping in brine and other similar operations where their sole purpose is to ensure that the products remain in good condition during transport and storage;
- breaking-up or assembly of packages;
- washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- ironing or pressing of textiles and textile articles;
- simple painting and polishing operations;

- husking and partial or total milling of rice; polishing and glazing of cereals and rice; bleaching of rice;
- operations to color or flavor sugar or form sugar lumps; partial or total milling of sugar in solid form;
- peeling, stoning and shelling, of fruits, nuts and vegetables;
- sharpening, simple grinding or simple cutting;
- sifting, screening, sorting, classifying, grading, matching including the making-up of sets of articles;
- simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- affixing or printing marks, labels, logos and other distinguishing signs on products or their packaging;
- simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
- simple addition of water or dilution with water or another substance that does not materially alter the characteristics of the product, or dehydration or denaturation of products;
- simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- slaughter of animals.

Sugar: Under these rules, sugar refined in the UK and shipped to the EU would incur a €41.90/ton import tariff, while the UK would impose a £35/ton import tariff on such sugar coming from the EU.

Rice: Rice produced outside the EU but milled in the EU or UK will also be affected by the RoO standards.

Meat: Tariff and quota-free trade in meat products will only be allowed if that product only contains meat from animals born and raised in either the UK or EU.

On a related front, any animal product customs cleared in Great Britain (GB) will require a GB issued export health certificate to be re-exported to the EU (or elsewhere). If the intent is to import these products into GB for onward shipment to the EU then they should enter with a transit certificate. Similar requirements face animal products customs cleared in the EU, albeit GB is phasing the implication of documentary requirements with full checks only being enforced from July 2021. More detail are available [here](#)

Her Majesty's Government (HMG) has published guidance on Claiming Preferential Rates of Duty between the UK and EU and additional guidance on Rules of Origin for goods moving between the UK and EU from 1 January which includes – on the final page 37 Annex B – a form of self-certification which can be used for this as a default alternative to completing the relevant section of the customs declaration. While industry is calling for more detailed guidance, the existing information seems to suggest that there may be some temporary easements available on timing, at least, for products coming from the EU to the UK:

“In particular for goods imported from the EU to the UK (but not vice-versa) between 1 January 2021 and 30 June 2021, traders will have up to six months to submit a full customs declaration and pay any necessary tariffs. This also includes declaring any proof of origin.”

A UK Department for Environment, Food, and Rural Affairs (Defra) business guidance presentation on RoO is attached and available [here](#)

An independently produced guide to the border between GB and NI is available [here](#)

Current Status at the Border

Challenges associated with the additional paperwork and checks between GB and NI, and GB and the EU, are starting to surface just a few days into the new arrangements.

According to the British Retail Consortium (BRC), at least 50 large UK retailers are exposed to the risk of EU tariffs due to RoO, either when they serve online customers based in the EU, when they ship certain products to their own EU-based stores, or move product through GB from one part of the EU to another (e.g. Belgium to Northern Ireland). Steve Rowe, the CEO of Marks & Spencer, said that “tariff-free does not feel like tariff-free when you read the fine print [of the TCA]. For big businesses, there will be time-consuming workarounds – but for a lot of others this means paying tariffs or re-basing into the EU.”

It is notable that even major UK retailers with international outlets who no doubt are aware how tariffs and RoO work are finding themselves with consignments held at GB and EU ports, and displaced product.

Such is the seriousness of the situation that HMG is holding a series of sector specific webinars with industry. With some hauliers temporarily suspending operations in order to avoid trucks being delayed or detained, a particular risk for groupage containers, this suggests there is much work ahead if smooth trade flows are to be maintained.

In part due to the late signing of the TCA, it is to be expected that even more RoO issues and other practical consequences of Brexit will come to light in the coming weeks, as both UK and EU businesses

unpack the ramifications of the TCA for their supply chains in this highly complex and specialized area of trade law.

For U.S. exporters, it is of paramount importance that they understand their importer's needs. Where an importer, be they GB, NI, or EU based, is re-exporting the product, or reprocessing it insufficiently to meet the RoO conditions, then consideration should be given to ensure these goods reach the final customer with minimal additional costs so as not to lose market share.

These RoO conditions and costs are specifically applicable to third country goods. Most of the other increased paperwork requirements and costs are equally applicable to UK and EU goods that do not subsequently cross the GB border.

Attachments:

No Attachments.