



## Rules of origin in an EU-UK FTA

### A 'hidden hard Brexit' for food and drink exporters?

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# Foreword

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## A 'hidden hard Brexit' for food and drink exporters?

Food and drink is at the heart of our national security - the first duty of the government is to ensure the country is fed and watered. There is no sector with more at stake in the Brexit negotiations than the UK's £112 billion 'farm to fork' food and drink industry which employs four million people.

Leaving the EU will inevitably change the terms on which food and drink are traded between the UK and the EU. As with all other products and services, these goods will go from being traded seamlessly in the EU single market to being exports and imports between the EU and the UK. With over 70% of our food and non-alcoholic drink exports going to the EU, policymakers and businesses in the EU and the UK will need to undertake a wide range of mitigating actions to manage the disruption this change will bring and help businesses get to grips with the new trading environment.

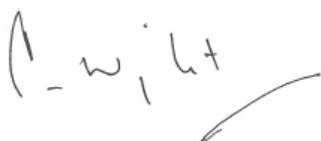
Assuming the UK doesn't agree to a future customs union with the EU, one of the greatest challenges facing businesses, large and small, would come in the form of 'rules of origin'. The UK government has set out its intention to negotiate an ambitious free trade agreement with the EU. We hope this will avoid the introduction of tariffs on food and drink traded between the UK and EU. However, to benefit from that preferential access, business on both sides will need to comply with origin requirements.

Rules of origin are the complex requirements that determine whether or not a product is produced 'locally' in the UK or the EU - its economic nationality. If it is not deemed to be sufficiently British, it may not qualify for these preferential tariff rates.

This is a hugely important issue for food and drink manufacturers, in both the EU and the UK. The UK, like the EU, is a major producer and exporter of high-quality food, selling over £22 billion in overseas markets. But like most modern economies, the ingredients in those UK products are a rich mix of goods from the UK and around the world, many of which are not produced in the UK or not in sufficient quantity throughout the year.

The levels at which global content will be allowed in such food and drink products will be set during negotiations to determine our future trading relationship with the EU. When this happens, producers may find themselves shut out of preferential trade between the EU and the UK. In effect, as this report sets out, they face a 'hidden hard Brexit'.

This is why we asked Global Counsel to offer constructive solutions as to how we might minimise the impact of these stringent rules on the UK's manufacturers of food and drink. As many of the issues it raises also apply for EU exporters to the UK, we hope it will be read as widely in Brussels as in Whitehall. At the heart of the dilemma is how the EU and the UK design a new agreement that avoids disruption to supply chains that are central to the economy and to food security. In short, how the EU and UK provide shoppers and consumers with the fantastic array of safe, affordable and nutritious food and drink that they currently expect to enjoy every day.



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# Executive summary

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## Origin rules: a ‘hidden hard Brexit’ for food and drink manufacturers?

The imposition of rules of origin on trade between the EU and the UK is often poorly understood as an important factor in managing the impact of a UK exit from the EU. While it is generally expected that the UK and the EU will ultimately trade with each other on a largely or completely tariff-free basis via a preferential trade agreement, accessing the preferential terms of such an agreement will require that exporters in both directions comply with origin rules. These are the detailed local content requirements that goods must meet to benefit from a preferential trading framework.

Brexit makes this relevant in two ways. First, UK and EU food and drink manufacturers may find that the products they make with imported commodities for the current EU/UK market will not meet origin requirements for preferential trade between the two. Second, they may also find that products manufactured from a mix of EU and UK inputs and exported to existing EU FTA partners - such as Canada - no longer qualify for preferential tariff treatment after the UK’s exit from the EU. This report focuses primarily on the first challenge, although it also highlights potential policy solutions to the latter.

Modern European and UK foodstuff manufacturing is an internationalised business, routinely sourcing inputs from across the EU single market, but also globally. This reflects not only the fact that UK production of key ingredients is insufficient to meet industry demand all year round, but also that many key ingredients - such as tropical fruits - are simply only produced in parts of the world outside of Europe’s temperate zone. This imported content currently has no bearing on a product’s right to be traded freely between the EU and the UK. Under any future origin framework, it will.

Many EU and UK producers have built supply and distribution models in the single market framework that may fail to comply with origin requirements in a future framework, and therefore will be ineligible for preferential trade terms. Because the EU (and, in the future, UK) are likely to maintain high basic tariffs for many processed food and drink products, some

producers excluded from preferential terms may face the prospect of either costly restructuring of supply chains, or de facto barring from EU-UK trade. This would be to impose a ‘hard Brexit’ on these businesses, even if the EU and the UK were able to reach an accommodation on tariff-free trade.

**Section 1 of this report explains how origin requirements work and why they pose a particular challenge in a Brexit context.**

**Section 2 of this report uses a series of case studies of common foodstuff products to demonstrate the ways in which various approaches to origin requirements are likely to impact current supply and distribution models.**

Origin rules for food and drink in an EU-UK FTA should be designed for the globalised industries that they will impact. They should not unnecessarily discriminate against food and drink producers that use a combination of local and global ingredients. There are a number of steps that the UK and the EU can take to minimise the disruption caused by the re-imposition of origin requirements on EU-UK trade in foodstuffs, and other manufactured goods.

- There should be a basic *de minimis* allowance for non-local content in all goods, set at 10% by value in addition to any other product-specific allowances.
- The EU and the UK must ensure that any origin requirements imposed on EU-UK trade are cumulative, meaning that goods originating in either market are treated as originating in both for the purposes of meeting origin requirements. French wheat used in a UK biscuit, should be treated as local content in the free trade zone created by an EU-UK FTA and vice versa. This would help protect the dense networks of sourcing and supply that exist inside the single market for food and drink manufacturing today and give business more choice and consumers ultimately lower prices.
- The EU and UK could consider innovative ways to protect the global supply chains of EU and UK food and drink manufacturers from disruption as a result of the re-imposition of origin requirements on EU-UK trade. This is especially important where they include exporters in the world’s poorest countries, or in markets

where the EU (including the UK) currently has a free trade agreement in place designed to liberalise trade in food and drink goods. In the former case, and especially for Least Developed Countries (LDCs), the EU and the UK could jointly agree to exclude all originating imports from origin determination calculations for the purposes of EU-UK trade. For the latter, the EU and the UK could agree a similar exclusion for a time-limited period while they seek to formalise ‘diagonal cumulation’ arrangements between the three parties. The EU and the UK could agree that, for a small number of origin protocols for sensitive food and drink products, inputs where the UK and the EU share a common external tariff are excluded from origin calculations.

- The EU and the UK should ensure that origin protocols agreed between them reflect the unique forms of value added by premium manufacturing and other forms of high-value production that often characterise the EU and UK food and drink sector. Some origin methodologies based on simple physical transformation of goods, or weight-based ratios of ingredients fail to capture other forms of value added through proprietary methods or skilled manufacture. It is important that alongside such calculation methods, EU and UK producers always have access to value-ratio approaches that can better capture these kinds of transformation.
- The EU and the UK should simplify the administrative burden of complying with origin requirements to the greatest extent possible, especially for small importers and exporters. This should include wider use of self-certification, extended validity for origin designations to minimise reapplications and exemptions for low value shipments. Both the EU and the UK need to improve the availability of clear origin determination guidance to traders, especially SMEs.

**Section 3 of this report sets out these and other practical recommendations in greater detail.**

# 1. Rules of origin: what they are and why they matter

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Rules of origin are an integral part of the global trading landscape, although often a poorly understood one. They are the counterpart of the preferential tariff rates granted between two or more WTO members when they agree free trade agreements (FTAs) between them. To avoid these preferential rates being abused by importers merely shipping goods from other markets through one of the signatories of the FTA, the parties agree criteria for what constitutes a product ‘originating’ in each of their markets. Goods that cannot qualify under these tests of origin cannot benefit from preferential import terms.

FTA partners will generally design their rules of origin provisions to encourage trade in both finished and intermediate goods between the parties. They can do this by making origin determinations ‘cumulative’ - meaning that goods meeting origin requirements in one party to an FTA can be treated as such in the others. This helps encourage and enable production across the zone created by the FTA as well as trade in finished products.

This makes rules of origin an important part of any free trade agreement. They can even be a determinant in how effective trade liberalisation between two markets will be. Benefiting from tariff cuts in an FTA requires meeting, and documenting compliance with, rules of origin. So the ease with which companies can do this given their supply chain structure or even administrative capacity can be a factor in how widely the preferential tariffs agreed in an FTA are actually used by importers and exporters.

For all of these reasons, rules of origin raise a number of issues in a world of globalised supply chains. While they are an important way of protecting preferential tariffs from abuse, they inevitably discriminate against firms that are part of global operations for reasons of cost and efficiency and unable to meet local content or transformation requirements for this reason. Striking the right balance in this respect is vital in designing rules of origin.

## Rules of origin and the food and drink sector

Rules of origin play an important role in preferential trade agreements that cover the food and drink sector. They help ensure that products imported into the UK from a preferential trading partner genuinely originate there, which is important for fair competition. They also benefit UK farmers and foodstuff producers by creating clear incentives for local manufacturers to use local goods, where possible, in producing food and drink for export if they want to access preferential tariff rates abroad.

However, the UK’s food and drink sector is also highly globalised, often bringing basic commodities or produce from around the world to process and manufacture in the UK into finished products. UK manufacturing businesses use global commodities such as cereals, sugar, coffee and chocolate in producing a wide range of manufactured products for both the local market and export. This can leave them vulnerable to losing preferential trade opportunities if rules of origin do not reflect both the importance of local content and the reality of global supply chains in an effective balance.

## Conferring national origin on exports

Origin requirements can take a number of forms, but they are complied with in two basic ways:

- By showing that a product ‘wholly originates’ in a particular market; or
- By showing that a product’s components have been sufficiently transformed in that market to make the product they constitute a local, or ‘originating’, product.

### *Wholly originating goods*

Wholly originating goods are goods for which there is no doubt that they originate in the market in question. This includes:

- Extracted minerals or plants; and
- Live animals born and raised or hunted, trapped or caught in one of the parties, and the products that are derived from them.

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\* In this report, ‘originating’ and ‘local’ are taken to have the same technical meaning. Thus, ‘local content’ is used to describe the originating content of a product under the various methodologies used. A local product is a product that has originating status.

### *The concept of sufficient transformation*

Rules for determining sufficient transformation apply to any product that is not determined to be wholly originating. They are much more complex, and generally take a product-specific form, with different precise rules for different goods. There are three basic ways in which sufficient transformation is generally determined to have occurred.

- **Changes of tariff heading.** A product of one tariff classification is shown to be the outcome of the transformation of a good or goods from another different tariff classification or classifications. This shift of tariff heading between the inputs to a product and the finished product is treated as representing sufficient transformation to confer origin. Rules of this kind will generally require either one change of tariff heading or two to reach sufficient transformation.
- **Local content requirements by value.** The value of the non-originating or originating content of a product as a share of the total value of the product as captured in the price charged for it to its first purchaser at the end of the production process, or a proxy value if no such buyer exists. This is rendered as either a maximum percentage of non-originating value added, or a minimum percentage of local value added, respectively. Certain basic processes such as simple packaging, sorting, washing, mixing or assembly are generally explicitly excluded from being counted in determining the local inputs in such calculations. Most modern FTAs will allow originating goods in either party to be treated as local in both - a process known as cumulation.
- **Local content requirements by weight.** The weight of the non-originating or originating content of a product as a share of the total weight of the product as captured in its weight at the end of the production process. This is rendered as either a maximum percentage of non-originating content, or a minimum percentage of local content, respectively. This approach has been adopted by the EU in a number of recent FTAs for food and drink products as a means of neutralising the impact of large fluctuations in market prices of agricultural commodities such as sugar on origin designation. However, this has also made it harder for several EU food and drink exports to qualify for preferential tariff treatment under these agreements.

These approaches are often used in combination, or in some cases as alternatives for importers seeking to determine and demonstrate origin.

**Box 1: what is an ‘originating’ export?**

An originating export is a good that is deemed, for the purposes of a preferential trading arrangement, to originate in the market from which it is exported. There are four basic ways for determining such originating status.

Method	Calculation	Example
Wholly originating goods	These are generally minerals, food or animal products that have been extracted, grown, raised or caught in the market of origin.	A cereal grown and harvested in the UK.
Sufficient transformation by change of tariff heading	In this case, inputs from other markets may be used, but origin is determined by the extent to which inputs have been transformed from one or more tariff headings (and, in some cases, subheadings) into another.	A mango chutney made in the UK contains imported sugar and fruit. The transformation of the mangoes (HS 08 04 50 00 10), onions (HS 07 03 10) and malt vinegar (HS 22 09) into the chutney (HS 20 01 90) is sufficient to confer origin in the UK.
Sufficient local content by weight	In this case, inputs from other markets may be used, provided they remain below a defined proportion of the final good by weight.	A breakfast cereal is made in the UK with both local wheat and imported rice. To qualify as a local product, the rice content must remain below a defined threshold by weight of breakfast cereal.
Sufficient local content value	In this case, inputs from other markets may be used, provided they remain below a defined proportion of the final product by value.	A chocolate bar is manufactured in the UK with imported cocoa and sugar. For the finished product to originate locally, the costs of such inputs must be below a certain percentage threshold of the product’s final value, or the cost of local inputs above a defined share of that value.

## Brexit and rules of origin

Brexit presents an important challenge for the UK and the EU with respect to rules of origin. Within the EU, there are obviously no origin requirements for internal trade. Once inputs enter the UK, no subsequent transformation is required for preferential treatment within the EU single market. After the UK has left the EU, this will not be the case. The implications for food and drink manufacturers in both the EU and the UK are potentially very stark, as they may find that the product that they make with imported commodities for the current EU/UK market is not able to meet origin requirements for future preferential trade between the two. They may also find that products made from a mix of EU and UK ingredients no longer qualify for preferential import tariff treatment in markets with which the EU and the UK (eventually) share an FTA in common, such as Canada.

This confronts UK food and drink firms with three choices, none of which may be economically or practically feasible:

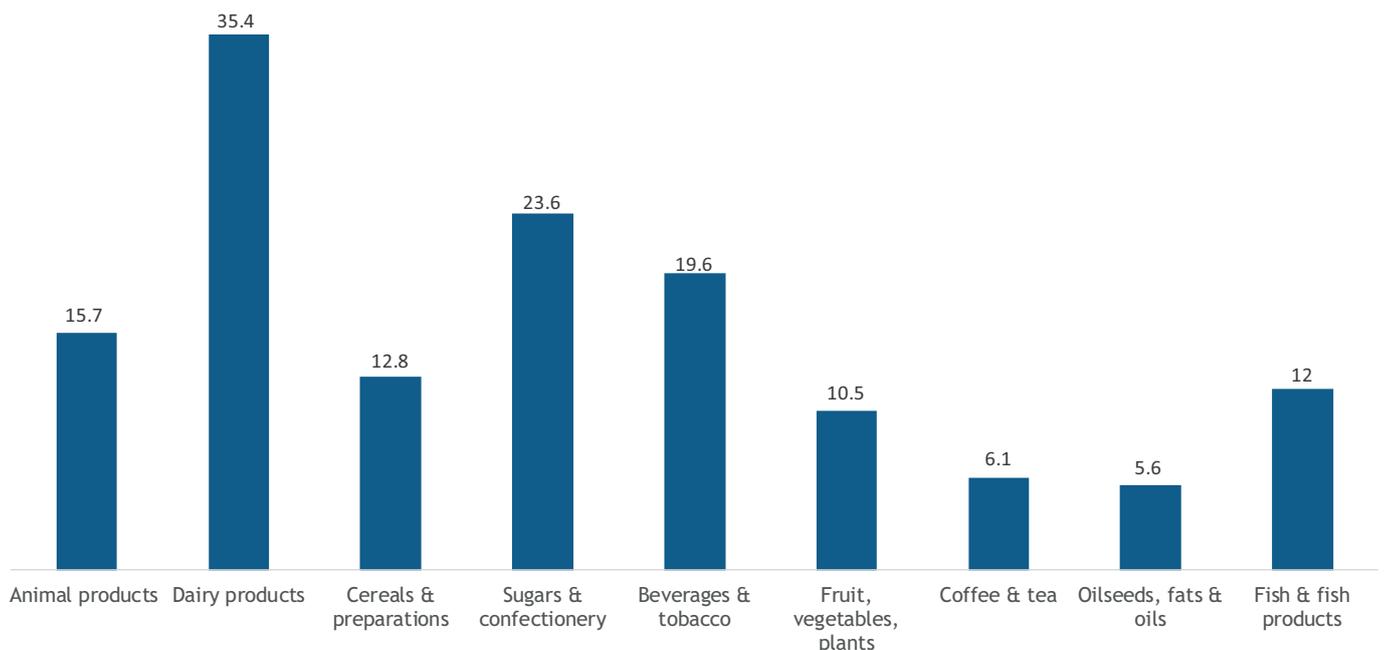
- Restructure their global supply chains to meet rules of origin;

- Attempt to absorb the higher costs of being excluded from preferential trading arrangements; or
- Restructure their EU and UK operations to avoid cross-border trade at all.

Most preferential trade agreements provide companies with the option of adapting to meet rules of origin to secure the counterbalancing benefit of tariff cuts. An EU-UK agreement will instead raise the much more disruptive prospect of having to absorb restructuring costs flowing from meeting origin requirements, simply to maintain the status quo of tariff-free trade.

Moreover, the failure to secure preferential treatment under an EU-UK FTA will be especially costly for the food and drink sector. This is because both the EU and UK will apply high MFN tariffs in these sectors and the margin between preferential and non-preferential treatment is therefore potentially very large. (Figure 1). Thus, the failure to secure preferential access could result in material new costs on existing supply chains or even the rendering of such supply chains uneconomic.

Figure 1: EU (UK) applied average MFN tariffs for selected food and drink products (%)



Source: WTO

## *Rules of origin in an EU-UK FTA*

Designing rules of origin in an EU-UK FTA will therefore present some important challenges for UK and EU policymakers. For the UK food and drink sector, the most important of these will be:

- Producing an origin regime that strikes the right balance between protecting tariff preferences from abuse, encouraging local production but also recognising the realities of global supply chains;
- Producing an origin regime that adequately reflects the ways in which European and UK food and drink manufacturers add value to the products they produce, not least in the price premium they secure through higher quality, established brands and technological input in their products;
- Producing an origin regime that uses cumulation rules to preserve, as much as possible, the supply chain networks between trading partners and the EU that risk being disrupted by the introduction of rules of origin for trade between the EU and the UK, especially developing countries; and
- Producing an origin regime in which the administrative burden of complying with rules of origin is as light as possible, especially for small manufacturers.

**This paper considers each of these challenges and provides recommendations on how they might be best addressed.**

## 2. The impact of origin requirements on EU-UK trade in foodstuffs

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The five detailed case studies in this section are designed to illustrate the impact of different origin requirements on trade in foodstuff between the EU and the UK after the UK has left the EU customs union and single market.

To illustrate the kinds of challenges raised by this shift, it looks at the implications for five products that are routinely manufactured in the UK and the EU from a mix of local and imported ingredients and traded between the UK and the EU. These products are variously high in grains, sugar, meat and dairy: all representative products that are often impacted by rules of origin protocols.

In each example, the case study uses a realistic\* product composition and current production model. To assess the possible implications of imposing origin requirements on such manufacturing and trade, the case studies use two existing origin protocols as proxies for the regime that might be adopted between the EU and the UK. These are:

- The pan-Euro-Mediterranean (PEM) Convention origin protocol. This is a regional origin protocol agreed between the states of the EU, the European Free Trade Area (EFTA), Turkey and a number of states around the Mediterranean basin. These markets are connected by a dense network of free trade agreements and have adopted a common approach to rules of origin that is now codified in a single convention. In principle, the UK could seek to join this framework (see Box 3, p.22).
- The origin protocol annexed to the EU-Canada Comprehensive Economic and Trade Agreement (CETA). This is the origin designation framework agreed between the EU and Canada in their recent FTA. While mirroring PEM in many respects, it reflects both Canadian policy aims and the EU's less accommodative approach to markets outside of the regional PEM system. If the UK did not seek to join the PEM Convention system, origin determination in an EU-UK preferential trade regime would be based on a similar protocol. Obviously, the CETA protocols are specific to the EU-Canada negotiation, but rules of origin do not tend to radically vary

between EU third country trade agreements, so they nevertheless provide a useful guide to possible impacts.

- As these case studies demonstrate, the impact of rules of origin on current manufacturing and distribution chains for foodstuffs between the EU and the UK depends on the product, the sourcing of its ingredients and the approach taken to determining origin, which varies widely between products and between different protocols.

However, two general conclusions can be drawn from these case studies.

First, for primary and processed foodstuff products for which the EU has traditionally taken a restrictive approach to imports and competition, the imposition of rules of origin is particularly disruptive to cross-border distribution chains, as the EU can be expected to seek to apply a conventional EU approach that is intended to limit or suppress trade, even if the tariff on the traded goods is eliminated. This is the case for grains, cereals, sugar, certain meats and dairy, and goods containing them in large proportions. The same implications apply for EU producers selling into the UK. These products will need careful focus in an EU-UK negotiation.

Second, under the EU single market model, it is routine for goods to be manufactured in the EU or the UK from products sourced in the other market. Wheat from France may be baked into a biscuit in Britain, or cream from Northern Ireland used in confectionery in the Republic of Ireland. In a rules of origin system, such cross-border production becomes a material risk factor for loss of trade preferences, unless the EU and the UK agree cumulation of origin provisions for the two markets in an EU-UK FTA.

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\* Product compositions have been simplified, generally to exclude ingredients used in very small quantities such as flavourings or seasonings



## Case study 1 - Wholemeal bread

**Product** Wholemeal bread  
**HS Tariff Heading** 1905903000

**Ingredients (simplified)** Wholemeal wheat flour (30%)  
 Wheat flour (20%)  
 Water (40%)  
 Yeast, salt, vegetable oil, etc. (10%)

**Manufacture and sale** This wholemeal loaf of bread is manufactured and packaged in a factory in the UK. It is sold under a household brand in the UK and exported to the EU and the Republic of Ireland, in particular. The wholemeal and white flour used in the manufacturing process is milled in the UK from a blend of grains procured on the basis of premium quality from a range of growers in Canada, the US and the UK, reflecting both global price and harvest quality.

**Status quo** At present, there are no origin requirements for selling this bread inside the EU single market. Once tariffs are paid on any imported inputs such as Canadian or Argentinian wheat, the origin of the product is irrelevant in the EU single market.

### Approaches to origin designation for this product



Under **PEM**, a loaf of bread is a local 'originating' product provided...



...it is manufactured from goods transformed from other tariff lines AND...

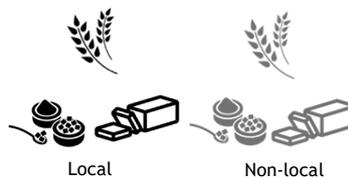


Local

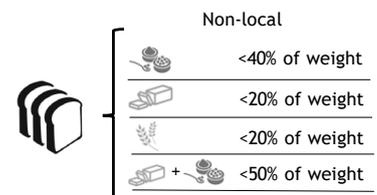
...the wheat or other cereals in the bread are wholly obtained in the local market.



Under **CETA**, a loaf of bread is a local 'originating' product provided...



...it is manufactured from goods transformed from other tariff lines AND...



...the non-local sugar, wheat flour and dairy content of the bread remain below defined thresholds of its final weight.

## Implications of origin requirements

Neither the PEM nor a CETA-type origin framework is tolerant of a sourcing strategy for UK-milled flour from wheat grown outside the UK.

Under the PEM origin framework, the use of UK-milled flour from a blend of grains including any quantity of wheat grown outside the UK would automatically disqualify the bread loaf from preferential import tariff treatment into the EU single market.

Under a CETA origin framework, a loaf of bread produced exclusively with UK-milled flour from a blend of wheat containing any quantity American or Canadian grains, would fail to meet origin requirements by breaching the 20% cap on non-originating flour in the final product's net weight, thus not qualifying for preferential import tariffs into the EU. This is because only flour milled exclusively from grains wholly-obtained in the exporting market is considered as originating under CETA. Unless a future UK-Canada FTA included diagonal cumulation provisions for the EU's own FTA with Canada, a UK-made bread loaf using flour blended from milled Canadian wheat would risk failing to be eligible for preferential tariff treatment into the EU.

Current EU MFN tariff 9% + EA\*

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## Case study 2 - Rice and corn cakes

<b>Product</b>	Sea salt and balsamic vinegar rice and corn cakes
<b>HS Tariff Heading</b>	1904103000
<b>Ingredients (simplified)</b>	Wholegrain brown rice (57%) Corn (31%) Sea salt and balsamic vinegar seasoning (12%)
<b>Manufacture and sale</b>	The rice and corn cakes are manufactured, packaged and sold in the UK. They are sold under a premium brand with a reputation for high-quality ingredients - the rice elements from EU (Italian or Spanish), Indian or Pakistani growers, and the corn from US growers. The rice and corn cakes are exported across the EU single market and North America.
<b>Status quo</b>	At present, there are no origin requirements for selling these rice and corn cakes inside the EU single market. Once tariffs are paid on any imported inputs such as non-EU originating rice and corn, the origin of the product is irrelevant in the EU single market.

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\* The EA - from the French 'Élément Agricole', or Agricultural Component - is a duty charged by EU customs authorities on top of an import tariff when an agri-food product being imported has a certain content of milk fat, milk protein, or starch/glucose. The exact amount of the EA duty is determined by how much of these has been incorporated into the imported product. It broadly ranges from 4 to 206 EUR per 100kg.

## Approaches to origin designation for this product



Under **PEM**, a rice/corn cake is a local 'originating' product provided...

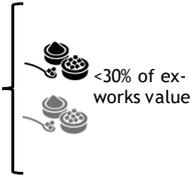


...it is transformed from other tariff lines except chocolate and cocoa AND...



Local

...any cereals in the product are local in origin AND...



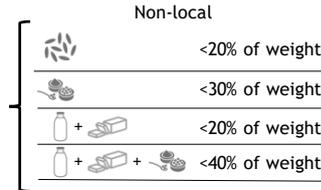
...the value of the sugar in the product is less than 30% of its total value.



Under **CETA**, a rice/corn cake is a local 'originating' product provided...



...it is manufactured from goods transformed from other tariff lines AND...



...the non-local rice and/or cereal, sugar, milk and/or other dairy content of the cake remain below defined thresholds of its final weight.

### Implications of origin requirements

Neither the PEM nor a CETA-type origin framework is tolerant of a sourcing strategy for rice and corn that takes in markets outside of the UK.

Under the PEM origin framework, requirements that all the cereals (including rice) are wholly obtained in the export market (the UK) would automatically disqualify rice and corn cakes produced with Pakistani or Indian rice from preferential import tariff treatment into the EU single market.

Under a CETA origin framework, rice and corn cakes containing over 20% non-originating cereals - rice from India or Pakistan and corn from the US - would fail to qualify for preferential import tariffs into the EU single market. Assuming the inclusion of bilateral cumulation provisions in the rules of origin protocol, qualifying for preferential import tariffs into the EU single market would require supply chain restructuring to ensure that the majority of rice elements of the cake are sourced from Spanish and Italian growers.

Additionally, because both the PEM and CETA origin frameworks are based on simple transformation requirements and/or weight ratios, neither effectively captures the value added in the UK by high-quality manufacturing or premium ingredient sourcing. Neither does it capture the value added by the premium brand developed over time by high-quality manufacturing.

The same issues of origin determination would be relevant when this product was exported to markets outside of Europe such as Canada under a future UK-Canada FTA replicating the CETA arrangements. Unless such arrangements included diagonal cumulation provisions for the EU, a UK-made rice and corn cake using EU rice content would risk failing to be eligible for preferential tariff treatment.

Current EU MFN tariff

5.1% + 46.00 EUR / 100 kg



### Case study 3 - Milk chocolate bar

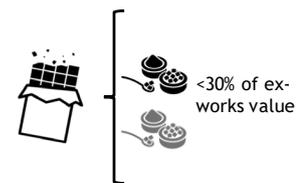
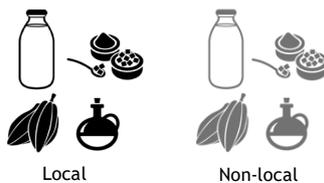
<b>Product</b>	Milk chocolate bar
<b>HS Tariff Heading</b>	1806329000
<b>Ingredients (simplified)</b>	Sugar (45%) Milk solids (24%) Cocoa solids (23%) Cocoa butter (4%) Vegetable fats (4%)

**Manufacture and sale** This household name branded milk chocolate bar is manufactured and packaged in the UK and exported to the EU single market, Canada and the US.

The dairy elements in the chocolate bar come from UK, French and Irish suppliers. The cocoa solids and butter used in the manufacturing process are sourced primarily from West African suppliers in Cote d'Ivoire and Ghana. The sugar is procured from a mix of UK-refined sugarcane (from Brazilian and Central American raw sugar) and UK and EU beet-sugar producers, with supplier choice in both cases reflecting global prices.

**Status quo** At present, there are no origin requirements for selling this milk chocolate bar inside the EU single market. Once tariffs are paid on any imported inputs such Ivorian and Ghanaian cocoa, the origin of the product is irrelevant in the EU single market.

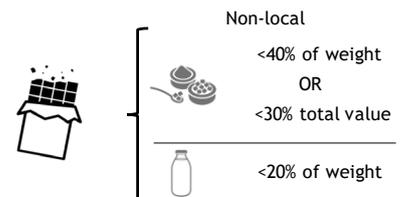
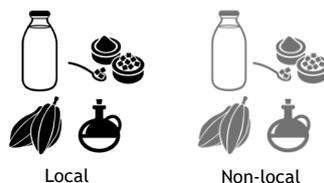
### Approaches to origin designation for this product



Under **PEM**, a milk chocolate bar is a local 'originating' product provided...

...it is manufactured from goods transformed from other tariff lines AND...

...the value of the sugar in the product is less than 30% of its total value.



Under **CETA**, a milk chocolate bar is a local 'originating' product provided...

...it is manufactured from goods transformed from other tariff lines AND...

...the non-local sugar and dairy content remain below defined thresholds of its weight and value.

## Implications of origin requirements

Neither the PEM nor a CETA-type origin framework's sufficient transformation requirements are fully accommodative to supply chains using UK-refined sugarcane from non-EU originating brown sugar.

Under both a CETA and the PEM origin frameworks, a milk chocolate bar produced exclusively from UK-refined sugar from Brazilian or Central American brown sugar could fail to meet origin requirements for preferential tariff treatment if a rise in global sugar prices pushed the value of non-originating sugar beyond the 30% threshold of the final product. In either framework, a product made from EU-sourced sugar would only qualify for preferential import tariff treatment into the EU if full bilateral cumulation provisions are included in a future EU-UK FTA.

Additionally, the inherent bias towards simple transformation requirements and/or weight ratios of a CETA-style origin framework for dairy content means UK-made milk chocolate bars could fail to meet origin requirements for preferential tariff treatment into the EU single market absent full bilateral cumulation provisions.

The same issues of origin determination would be relevant when this product was exported to markets outside of Europe such as Canada under a future UK-Canada FTA replicating the CETA arrangements. Unless such an arrangement included diagonal cumulation provisions for the EU, a UK-made chocolate bar using EU content would risk failing to be eligible for preferential tariff treatment.

Current EU MFN tariff

8.3% + EA MAX 18.7% + ADSZ\*



### Case Study 4 - Chicken curry ready meal

<b>Product</b>	Chicken curry ready meal
<b>HS Tariff Heading</b>	1602323090
<b>Ingredients (simplified)</b>	Chicken breast (26%) Rice (40%) Tomato sauce and spices (34%)
<b>Manufacture and sale</b>	This value brand chicken curry ready meal is manufactured and packaged in the UK. It is sold under a large retailer's 'own brand' in the UK and the EU single market, and Ireland in particular. The chicken meat elements of this ready meal are procured frozen from low-cost suppliers in Thailand, while the basmati rice ingredients are sourced from India and Pakistan, with supplier choice reflecting global prices.
<b>Status quo</b>	At present, there are no origin requirements for selling this chicken curry ready meal inside the EU single market. Once tariffs are paid on any imported inputs, such as frozen chicken from Thailand, the origin of the product is irrelevant in the EU single market.

\* The EA - from the French 'Élément Agricole', or Agricultural Component - is a duty charged by EU customs authorities on top of an import tariff when an agri-food product being imported has a certain content of milk fat, milk protein, or starch/glucose. The exact amount of the EA duty is determined by how much of these has been incorporated into the imported product. It broadly ranges from 4 to 206 EUR per 100kg. An additional sugar duty (ADSZ) is also charged by EU customs authorities on top of an import tariff when an agri-food product being imported has sugar content. The exact amount is determined by how much sucrose/invert sugar/isoglucose is present in the imported product. It broadly ranges from 10 to 39 EUR per 100kg.

## Approaches to origin designation for this product



Under **PEM**, a chicken curry ready meal is a local 'originating' product provided... ..it is manufactured from live animals in the market of export.



Under **CETA**, a chicken curry ready meal is a local 'originating' product provided... ..it is manufactured from any other tariff line than already slaughtered meat.

### Implications of origin requirements

Neither the PEM nor a CETA-type origin framework's sufficient transformation requirements are accommodative to cost minimisation sourcing strategies for chicken meat that take in from non-UK suppliers.

Notwithstanding the potential inclusion of bilateral and diagonal cumulation provisions in a future EU-UK FTA, under either a CETA or PEM origin framework, the sourcing of chicken from South East Asia suppliers would automatically disqualify the product from preferential import tariffs into the EU single market.

### Current EU MFN tariff\*

ITRQ: 10.9%  
OTRQ: 2765.00 EUR / 1000 kg



### Case study 5 - Frozen Pizza Margherita

<b>Product</b>	Frozen Pizza Margherita
<b>HS Tariff Heading</b>	1901200000
<b>Ingredients (simplified)</b>	Wheat flour (35%) Water (30%) Cheese (25%) Onion, tomato puree, vegetable oil, yeast, salt, sugar (10%)

\* The EU's import regime for chicken meat preparations consists of a tariff rate quota (TRQ), with an 'inside tariff quota' (ITRQ) of 10.9% for EU imports from third countries (with the exception of Thailand and Brazil, for which rates vary) below a predetermined quantity threshold and an 'outside tariff rate quota' (OTRQ) for imports above the annual EU imports quantity threshold.

## Manufacture and sale

This frozen 'Pizza Margherita' is manufactured and packaged in a factory in the Republic of Ireland. The product is sold under a household name in Ireland and exported to the UK.

The wheat flour elements of the frozen pizza are imported from the UK, where it is milled from a blend of grains procured on the basis of premium quality from a range of Canadian, US and UK growers, reflecting both global prices and harvest quality. The dairy ingredients are sourced from a mix of suppliers in both the Republic and Northern Ireland.

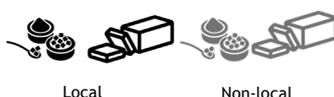
## Status quo

At present, there are no origin requirements for selling this frozen pizza inside the EU single market.

## Approaches to origin designation for this product



Under **PEM**, a frozen pizza is a local 'originating' product provided...



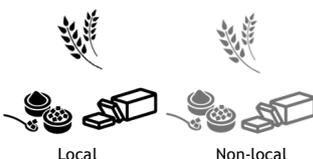
...it is manufactured from goods transformed from other tariff lines AND...



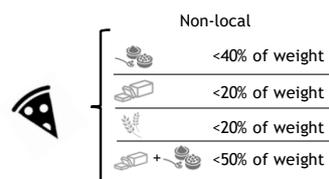
...the wheat or other cereals in the pizza are wholly obtained in the local market.



Under **CETA**, a frozen pizza is a local 'originating' product provided...



...it is manufactured from goods transformed from other tariff lines AND...



...the non-local sugar, wheat flour and dairy content of the pizza remain below defined thresholds of its final weight.

## Implications of origin requirements

Under both the PEM and CETA frameworks, UK-milled flour from wheat grown outside the EU would not qualify for preferential tariff treatment into Ireland, as the milling of that wheat is not considered as a sufficient transformation process for conferring UK origin.

Under the PEM framework, any use of UK-milled flour from Argentinian and Canadian grown wheat in the manufacturing process would automatically disqualify the product from preferential import tariff treatment into the UK.

Under a CETA origin framework, a frozen pizza produced exclusively from UK-milled flour from premium grade Argentinian or Canadian wheat would fail to meet origin requirements by breaching the 20% cap on non-originating wheat in the final product's net weight, thus not qualifying for preferential import tariffs into the UK. Absent the inclusion of full bilateral cumulation provisions, a sourcing strategy for cheese that takes exclusively from UK producers would also disqualify the frozen pizza from preferential import tariffs into the UK.

## Current EU MFN tariff

7.6 % + EA\*

\* The EA - from the French 'Élément Agricole', or Agricultural Component - is a duty charged by EU customs authorities on top of an import tariff when an agri-food product being imported has a certain content of milk fat, milk protein, or starch/glucose. The exact amount of the EA duty is determined by how much of these has been incorporated into the imported product. It broadly ranges from 4 to 206 EUR per 100kg.

### 3. The approach to rules of origin for food and drink in a UK-EU FTA

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Rules of origin are an inevitable part of any future UK preferential trade agreements. They will be required to protect the concessions granted between the UK and its preferential trading partners from abuse through transshipment. In the food and drink sector, this will often be an important way of ensuring that UK farmers and other primary producers are genuine beneficiaries of the UK's preferential trade regimes.

However, it will be important to strike a number of important balances in the design of an origin regime to reflect some of the realities of food and drink production and export in an advanced and globalised economy like the UK. The UK's developed trading partners like the EU will often be seeking to strike a similar balance.

#### *The realities of international supply*

Modern food and drink manufacturing in the UK is as dependent on global supply chains as any other advanced manufacturing sector. The UK is a temperate country suited to some agricultural and food production, but not others. It is, by necessity, an importer of tropical produce such as cocoa, rice, coffee and many forms of sugar. While it is a large producer of inputs such as cereals, a global market for these commodities allows UK manufacturers both to manage demand and source across a wide range of quality levels for different uses.

It is also the case that many of the markets that supply the global and UK economies with such commodities are among the world's poorest. While trade policy should actively encourage greater value-added manufacturing in these economies, it is nevertheless the case that international and UK markets for their commodity exports are important to these economies, and disincentives to source commodities from them can be undesirable for this reason.

Rules of origin can reflect these realities by allowing a level of imported inputs in a product for preferential export, or by defining transformation in such a way that does not exclude the use of imported commodities, but requires that they be materially and substantially altered by the local manufacturing process.

As such, a UK approach to rules of origin should:

- Take a product-by-product approach to determining acceptable levels of imported inputs in products for export that reflects the realities of international supply in that product. Especially where the UK is not a producer of basic inputs in a manufactured product, origin requirements should reflect this to the greatest extent that a trading partner will accept.
- The UK should follow the EU practice of allowing, and seeking to agree with trading partners, a tolerance margin of 10% by value for non-originating inputs in any exported good without threatening its originating status. This should be in addition to any product-specific allowances.
- The UK should always seek to use cumulation arrangements in UK FTAs, to ensure that goods originating in either party are treated as originating in both for the purposes of origin determination. This will be especially important in an EU-UK FTA, as it will help protect existing supply chains based on the trade in agricultural commodities between the EU and the UK for the purposes of manufacture for that market. The simplest solution for the UK - although not one that is customised for its supply and distribution chains - may be to request membership of the pan-Euro-Med (PEM) zone of cumulation by acceding to the PEM Convention as part of an FTA negotiation with the EU (see Box 3).
- Where the UK and a preferential trading partner have a third preferential trading partner in common, the UK should actively consider the value of seeking 'extended cumulation' agreements (see Box 2) with both partners that allow goods sourced from any of the three markets to be treated as originating in all or any of them. While such agreements need to be subject to clear protocols and defined scope, they are nevertheless a potentially valuable way of encouraging cross-border supply chains where these can be a mutually beneficial component of the food chains of all parties. This is especially important where the EU and the UK already have preferential trading partners in common through the EU's common commercial policy and where

these preferential arrangements have been embedded in existing supply chains.

- As part of an EU-UK preferential trade agreement, the UK and the EU should consider a transitional mechanism for mitigating potential short-term disruptions to supply chains relying on inputs from EU FTA partners from the imposition of new rules of origin on EU-UK trade. Similar to NAFTA's Tariff Preference Level (TPL) mechanism for apparel, this mechanism should provide an exemption to all inputs originating in EU FTA partners in origin calculations for a pre-determined quantum of specific foodstuff traded between the EU and the UK. A foodstuff TPL would be product-specific and time limited (say, for five years) to allow sufficient time for the EU and UK to negotiate the inclusion of diagonal cumulation with countries with which they share FTAs in common.
- As part of an EU-UK preferential trade agreement, the EU and the UK could agree product-specific protocols for a small number of sensitive food and drink products, which would exclude inputs where the EU and the UK share a common external tariff from origin calculations. This would be agreed on a case-by-

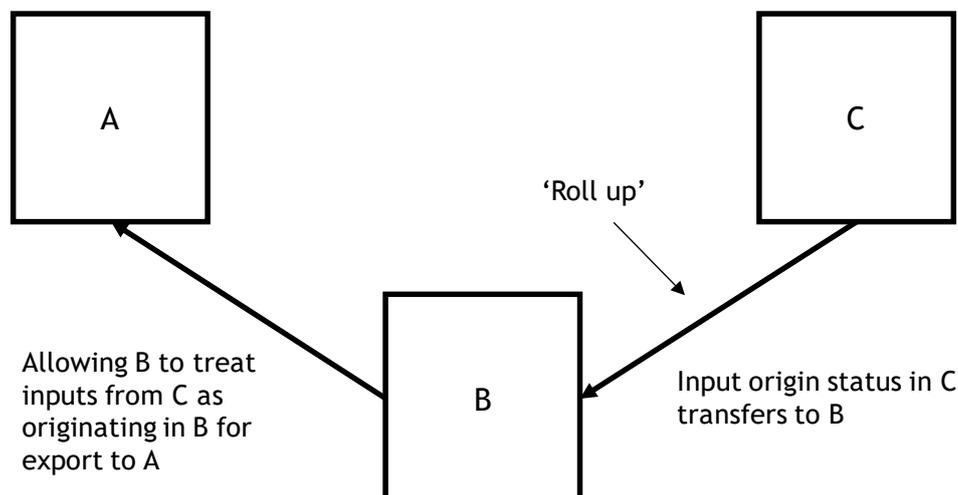
case basis for sensitive food and drink products with supply chains and production processes that would otherwise fail to meet standard origin requirements and automatically disqualify them from preferential tariff treatment in EU-UK trade. However, this remains an untested idea in preferential rules of origin policy and would require further technical work on how this could work in practice. It also diverges from the EU's baseline approach to rules of origin provisions and would likely only be considered by Brussels on an exceptional basis for a small number of sensitive products.

- The UK should seek to use non-manipulation clauses over direct transport requirements to ensure that imported goods merely temporarily landed in, or transited through, a country on route to the UK or a UK FTA partner do not lose their originating status.
- As part of a future UK-EU FTA, the UK and EU should consider excluding all originating content from Least Developed Countries from origin determined calculation for the purpose of EU-UK trade.

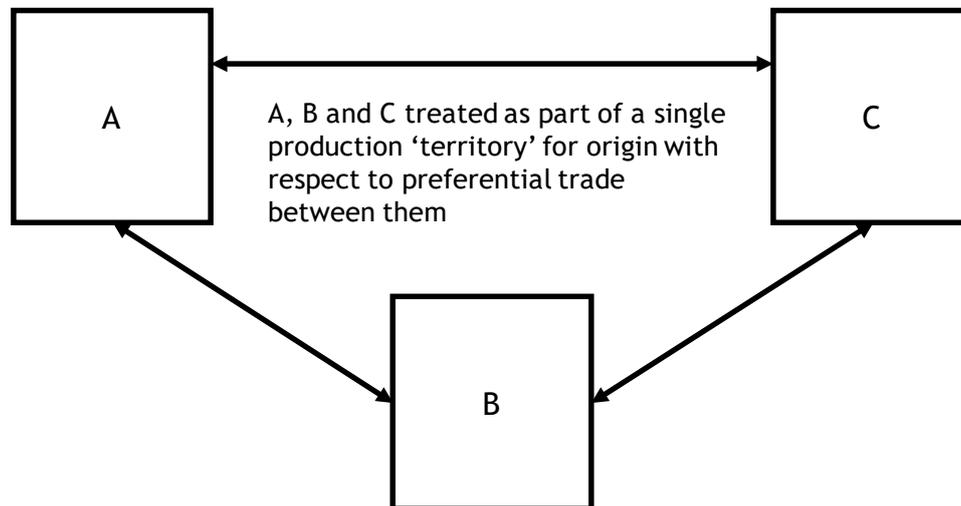
### Box 2: Diagonal or extended cumulation

Diagonal or extended cumulation arrangements are agreed between three or more preferential trading partners who have either signed a single preferential trade agreement between them, or each have a preferential trade agreement with all of the others. They allow inputs from one market to be treated as local in the others in certain defined ways.

Such diagonal cumulation arrangements can take two forms. Basic diagonal cumulation allows that a product originating in one market (A) can be moved to another (B) and incorporated in a manufactured good in that market as if it were a local product, before being exported to a third (C). For the purposes of origin designation, the originating input from market (A) can be 'rolled up' into the local content in the product produced in (B). The system is applied in most of the EU's PEM regime, the EU's Generalised System of Preferences and is introduced in principle in the EU-Canada CETA agreement.



Full diagonal cumulation is more liberal and allows that an input from market A does not have to have originating status in market (A) to be rolled up into an origination determination in market (B). Rather the origination determination is based on the accumulated inputs and / or processes combined in production in markets (A) and (B). This system is applied in the EEA, the TPP and aspects of the NAFTA rules of origin regime.



*Recognising premium production and brand equity in rules of origin for food and drink*

One of the inherent challenges with rules of origin for food and drink, is designing systems that recognise the important value that is added to products by premium or proprietary production methods or the added value represented by brands whose reputation for quality have been carefully built up over time. Rules of origin approaches based solely on transformation or weight ratios will inevitably fail to capture this crucial form of ‘local’ input.

Origin determination approaches based on the value

of imported inputs as a proportion of the ex-works sale value of a product perform better at capturing the value added in the transformation process by premium or highly skilled manufacturing processes and the value reflected in brand equity.

A UK approach to rules of origin should:

- Make clear allowance for the desirability of capturing premium processing or other brand-related aspects of value added in origin designation by allowing exporters to determine origin on the basis of ‘final value OR weight’ criteria, whether or not transformation requirements are additionally applied.

	Forms of value added	
	Skilled labour inputs or proprietary methods	Quality and brand premium
Transformation methods	Not captured	Not captured
Local content by weight methods	Not captured	Not captured
Local content by value methods	Captured in labour and manufacturing costs and permitted profit margin	Captured in labour and manufacturing costs and permitted profit margin

### *Making the origin determination process administratively simple*

The administrative process of proving origin is an often-underestimated aspect of maximising the benefits of preferential trade agreements. Origin declarations must be attached to the documentation of any consignment seeking preferential tariff treatment. If required by customs officials, these must be substantiated with detailed evidence of origin.

A UK approach to rules of origin should:

- Be served by a new web-based portal - drawing, for instance, from the EU's online database of registered exporters (REX) - designed and built to provide clear rules of origin information and guidance on origin requirements linked to tariff headings.
- Allow for the calculation of origin determination to be done at the level of a producing factory or consignment(s) and averaged across a year;
- Allow statements of origin attached to invoices or other documentation to be used in lieu of formal certificates of origin;
- To allow exporters and importers a period of time (ideally, two years) after exportation to gather documentation to substantiate a declaration of origin if required;
- Provide rules of origin exemptions for low value shipments;
- Make clear allowance for Authorised Economic Operators importers to benefit from expedited treatment such as self-assessment for origin designation;
- Seek to minimise the time required for advance rulings on origin designations from the UK's trading partners though ambitious advance ruling commitments in UK FTAs;
- Ensure that designations can cover multiple shipments over a period of at least two years and retain their validity for up to two years;

#### **Box 3: Should the UK join the PEM Convention?**

The system of pan-Euro-Mediterranean cumulation of origin is a diagonal cumulation zone (See Box 2) that allows for the application of diagonal cumulation between the EU, the EFTA States, Turkey, countries which signed the Barcelona Declaration, the Western Balkans and the Faroe Islands. All of its signatories have FTAs both with the EU and with each other and have embedded aligned origin protocols in these agreements.

This system of linked and aligned FTAs is now being replaced with a single convention on rules of origin, to which all partners make reference. This allows for the system to be evolved more easily over time - for example, it is currently being overhauled to make greater use of weight ratios in origin determinations for food and agricultural products.

Assuming that the EU was willing to contemplate (continued) UK participation in the PEM system, it would have a number of advantages for both sides. It would provide immediate access to diagonal cumulation opportunities with states such as Turkey, Switzerland and the MENA and Maghreb and would protect these as origin rules evolved in this large regional marketplace over time.

However, it would require the UK to accede to an origin framework that is already well-established, and which is not (and will not be) in any way customised to the UK. Nor, in many respects, is it reflective of the kinds of modern issues faced by food processors and traders between the EU and the UK. For example, many of the origin designation frameworks for foodstuffs in PEM rely on transformation and weight methodologies that do not reflect premium brands well.

# Conclusion: Eight rules of origin provisions the UK could seek in a EU-UK origin framework

<b>A 10% tolerance margin by value for non-originating inputs</b>	This is important for ensuring that products such as confectionery, which use small quantities of non-originating ingredients that must wholly originate in the export market for the purpose of meeting origin requirements - e.g. palm oil - qualify for preferential tariff treatment in EU-UK trade. For more, see p19.
<b>Full bilateral cumulation arrangements</b>	This would ensure that UK foodstuff exports (e.g. milk chocolate bars) produced from EU-originating inputs which, as a general rule, must wholly originate in the market of export - such as milk - would nevertheless qualify for preferential tariff treatment in EU-UK trade. For more, see p19.
<b>Full diagonal cumulation with EU FTAs</b>	This would ensure that UK and EU food and drink exports (e.g. bread or frozen pizza), produced from originating inputs from EU FTA partners which must wholly originate in the export market - such as wheat from Canada - would nevertheless qualify for preferential tariff treatment in EU-UK trade. For more, see p19.
<b>Product-specific exemptions of inputs from origin calculation</b>	This would allow UK exporters of food and drink goods, with supply chains and production processes that would otherwise automatically fail to meet standard origin requirements, to exclude certain inputs subject to the same EU and UK MFN tariffs from origin calculations. For more, see p20.
<b>Transitional foodstuff Tariff Preference Level</b>	This would be key for mitigating potential short-term disruptions to UK food and drink sector supply chains. A foodstuff TPL would, for a limited period of time, exempt all inputs originating in EU FTA partners in origin calculations for a pre-determined quantum of specific products traded between the EU and the UK while they seek to formalise 'diagonal cumulation' arrangements where they share FTA partners in common. For more, see p19.
<b>A joint EU-UK exemption of all originating imports from Least Developed Countries (LDCs)</b>	This would ensure that UK foodstuff exports produced from LDC originating inputs which generally must wholly originate in the market of export to meet origin requirements to nevertheless qualify for preferential tariff treatment in EU-UK trade. Importantly, this would ensure minimised disruption for exporters in these vulnerable markets currently supplying the UK/EU single market through manufacturers in either the EU or the UK. For more, see p20.
<b>Recognition of premium production and brand equity in value calculation</b>	Capturing premium processing or other brand-related aspects of value added in origin designation is key. This is best done by allowing exporters to determine origin on the basis of final value OR weight criteria to ensure that premium brand foodstuff produced in the UK and the EU are not unduly disqualified from preferential tariff treatment in EU-UK trade. For more, see p21.
<b>Simplified origin determination documentation and processes</b>	While large multinationals, in theory, have the human and financial resources for coping with additional costs and administrative burden linked with rules of origin compliance, this is not the case for small and medium foodstuff producers.  This makes it vital that future rules of origin frameworks included in future UK FTAs - such as with the EU - should include provisions to simplify, as much as possible, the process and documentation required for proving compliance with

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rules of origin and thus ensure they are not unduly hindered from taking advantage of preferential tariff rates.

For instance, future UK rules of origin frameworks should seek to:

- Allow statements of origin attached to invoices or other documentation to be used in lieu of formal certificates of origin;
  - Provide rules of origin exemptions for low value shipments;
  - Minimise the time required for advance rulings on origin designations;
  - Ensure that designations can cover multiple shipments.
  - Be served by a new web-based portal - such as REX - designed and built to provide clear rules of origin information and guidance on origin requirements linked to tariff headings. For more, see p22.
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# Annex 1: Declaring preferential origin for EU-bound UK exports after Brexit

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The compliance protocols for demonstrating the origin of imported goods are integrated into the customs processing of goods as they enter a market. Importers claiming preferential tariff rates must provide evidence of the origin status of the goods claiming those rates. This evidence will be provided to the importer by the exporter in the form of a certificate of origin.

UK firms exporting or importing under preferential trade terms to EU FTA partners will already be familiar with rules of origin compliance procedures. However, those trading exclusively with the EU single market will need to familiarise themselves with this process and have the administrative capacity to manage it. They will need to understand the methodologies for calculating origin for their particular import or export sufficiently to complete these processes with confidence and to test the claims of export partners, as there are sanctions for non-compliance.

## *Proving origin*

The basic protocol for origin compliance is as follows:

- Having contracted with an importer in another country, the exporting firm supplies the importer (the 'importer of record') - with a Certificate of Origin (CO). In the UK, these are obtained from HMRC or local Chambers of Commerce (for a fee). The latter also provide support in completing them and can certify them on behalf of HMRC;
- The CO is then presented to the importing customs authority as part of the documentation attached to the customs clearance process;
- The customs authority determines whether the imported good meets the origin determination criteria for qualifying for preferential tariff treatment;
- The customs authority has the right to investigate claims of origin that it deems suspect, both through requests for further documentation and site inspections of the exporter;
- Errors or misrepresentation of information can expose importers and exporters to fraud charges from customs authorities and private commercial liability claims from importers.

However, the procedures for proving origin of an exported good vary across different preferential trade agreements. This report has used the PEM Convention and the CETA framework as two proxies for possible approaches, and the variations in their compliance protocols are described below.

## *The pan-Euro-Med Convention origin declaration*

In a scenario where the UK joined the PEM Convention, UK exporters wishing to trade with the EU (or with other PEM states with which it had FTAs) on a preferential basis would be required to supply the PEM importer of record with an EU CO document - the EUR-MED form. EUR-MED declarations do not always have to be supported by documented evidence that the product meets the relevant origin determination requirements, although this can be required in the event of an audit. Exporters are expected to keep records of all proof of compliance documentation, which must be made readily available for inspection by authorities, in the event of a challenge from the importing customs authority to the origin declaration.

MOVEMENT CERTIFICATE			
<b>EUR-MED No A</b>			
See notes overleaf before completing this form.			
1. Exporter (Name, full address, country)	2. Certificate used in preferential trade between  and  (Insert appropriate countries or groups of countries or territories)		
3. Consignee (Name, full address, country) (Optional)	4. Country, group of countries or territory in which the products are considered as originating		
5. Country, group of countries or territory of destination	6. Transport details (Optional)		
7. Remarks <input type="checkbox"/> Cumulation applied with (name of the country/countries) <input type="checkbox"/> No cumulation applied  (Insert X in the appropriate box)	8. Item number, marks and numbers   Number and kind of packages (1); description of goods		
9. Gross weight (kg) or other measure (litres, cu. m., etc)	10. Invoices (Optional)		
11. Customs Endorsement Declaration certified Export document (2) Form No. _____ Customs office _____ Issuing country or territory: <b>UNITED KINGDOM</b> Date _____ (Signature) _____ Stamp _____	12. Declaration by the Exporter I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate. (Place and date) (Signature) _____		
<table border="1"> <tr> <td>13. Request for verification To: HM Customs and Excise Export Preferences Peter Bermet House Redwens Close Leeds LS16 6RQ ENGLAND  Verification of the authenticity and accuracy of this certificate is requested.  (Place and date)  (Signature) Stamp</td> <td>14. Result of verification Verification carried out shows that this certificate (1) <input type="checkbox"/> was issued by the Customs Office indicated and that the information contained therein is accurate <input type="checkbox"/> does not meet the requirements as to authenticity and accuracy (see remarks appended).  (Place and date)  (Signature) Stamp  (1) Insert X in the appropriate box</td> </tr> </table>		13. Request for verification To: HM Customs and Excise Export Preferences Peter Bermet House Redwens Close Leeds LS16 6RQ ENGLAND  Verification of the authenticity and accuracy of this certificate is requested.  (Place and date)  (Signature) Stamp	14. Result of verification Verification carried out shows that this certificate (1) <input type="checkbox"/> was issued by the Customs Office indicated and that the information contained therein is accurate <input type="checkbox"/> does not meet the requirements as to authenticity and accuracy (see remarks appended).  (Place and date)  (Signature) Stamp  (1) Insert X in the appropriate box
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<p><b>Notes</b></p> <ol style="list-style-type: none"> <li>Certificate must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the Customs authorities of the issuing country or territory.</li> <li>No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.</li> <li>Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.</li> </ol>			

## The EUR-MED Movement Certificate

Source: HMRC website

At present, the EU maintains a system of Approved Exporter (AE) status for PEM users that simplifies the origin declaration process. This can be applied on a product specific basis and, if granted, allows exporters from the EU to PEM countries to declare origin by issuing an invoice declaration for importing authorities - a legally approved form of words written and signed by the exporter on the export invoice, or other commercial document relating to the cargo. However, as with EUR-MED declarations, exporters are expected to maintain full documentary evidence of origin against possible audits. If not replicated in a future EU-UK FTA or other bilateral arrangement, the AE scheme will no longer be available for UK firms exporting to PEM markets.

### The CETA origin protocol annex

Under a CETA-like rules of origin framework, a role similar to the AE system could be played by the EU's online database of registered exporters (REX)\* and/or an equivalent system set up by HMRC. REX was launched by the EU in early 2017 as a simplified online origin declaration platform for preferential trade under the EU's Generalised System of Preferences (GSP). CETA is the first EU FTA to adopt the REX system for origin declaration by EU exporters, complemented by an equivalent business registration system set out by the Canada Border Services Agency (CBSA) for Canadian exporters. The EU plans to replicate this approach in all of its FTAs.

Under CETA, to take advantage of preferential tariff treatment, EU exporters must first apply for registration to REX. Once completed, this provides for a similar level of simplification to origin declaration procedures as the EU's AE scheme. Registration is done by completing an application form and returning it to competent authorities. Once registered, EU exporters can then provide Canadian importers with their REX number and a correctly formulated invoice declaration\*\* rather than a traditional certificate of origin - and vice versa.

\* [https://ec.europa.eu/taxation\\_customs/business/calculation-customs-](https://ec.europa.eu/taxation_customs/business/calculation-customs-)

\*\* "The exporter of the products covered by this document (customs authorization No ...) declares that, except where otherwise clearly indicated, these products are of ... preferential origin."

# Glossary of terms used

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<b>CETA</b>	EU-Canada Comprehensive Economic and Trade Agreement
<b>EBA</b>	Everything But Arms - a preferential and non-reciprocal EU arrangement for imports coming from Least Developed Countries
<b>FTA</b>	Free trade agreement
<b>GSP</b>	Generalised Scheme of Preferences - a preferential and non-reciprocal EU arrangement for imports coming from developing countries
<b>MFN</b>	Most Favoured Nation - the concept in WTO law that requires that WTO members treat all other WTO members trade equally, unless it is subject to a WTO-compliant free trade agreement
<b>PEM</b>	Pan-Euro Mediterranean Convention
<b>REX</b>	The EU's Registered Exporter web portal
<b>TPL</b>	Tariff Preference Level (also called Tariff Preferential Level)
<b>Third Country</b>	In this context, any state that is not a member of the EU or EEA
<b>WTO</b>	World Trade Organisation

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# About the authors

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## Stephen Adams, Senior Director

Stephen is Senior Director of Global Counsel. Stephen has more than fifteen years of experience in European and UK public policy and regulation, chiefly in the field of international trade policy. He has advised senior politicians and policymakers in roles in the European Parliament, European Commission and Whitehall.



## Daniel Capparelli, Practice Lead

Daniel is Global Counsel's trade policy Practice Lead. Daniel has worked on cross-border policy issues for over a decade in a wide range of sectors, including financial services, manufacturing and agriculture. He has advised the European Parliament's International Trade Committee on market access and financial regulation, including on the ratification of EU trade agreements, such as the EU-Korea FTA.

## About Global Counsel

Global Counsel advises international investors and businesses on political and regulatory risks in markets around the world. We help investors and companies in a wide range of sectors to anticipate how government policies and regulations will impact on their investment plan or business strategy and to develop and implement responses to these challenges. Global Counsel has offices in London, Brussels and Singapore.



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