

International Trade: Rules of origin

Leaving the EU is unquestionably changing the way that the UK trades with countries in the zone. Needless to mention, the EU is a very important market for the UK and in the past has allowed businesses from here to grow and expand with relative ease, *writes Laura Gray, Associate, Birketts LLP.*

By way of example of its importance to the UK, over 70 per cent of our food and non-alcoholic drink exports goes to the EU. Therefore you could argue that the UK has, to a degree, been 'spoilt' for many years by having such easy trading conditions with the EU.

It is therefore not surprising that the post-Brexit trading environment is taking some adjusting to.

When news of the deal with the EU (the Trade and Cooperation Agreement aka the TCA) first started to circulate, the headlines stated that the EU and UK would be able to continue to trade without extra tariffs.

But as more detail came to light it became apparent that there were, in fact, more hurdles than first anticipated. One of those is the new rules surrounding the 'rules of origin'.

What are the rules of origin? The rules of origin help to establish where products originate from and whether or not the goods are sufficiently 'local' to benefit from preferential (i.e. zero) tariff rates when imported or exported between the UK and EU.

However, there are increased concerns that international goods from countries without a trade deal with Europe will try to enter the EU via the UK to avoid tariffs or vice versa. So on making this deal, new rules have been developed.

The rules of origin help to establish where products originate from and whether or not the goods are sufficiently 'local'. This is of particular importance to the UK as many components are often imported and because the UK is considered by any non-EU countries as the ideal springboard for distribution into the EU.

Businesses will now need to prove that goods are sufficiently local (e.g. a certain percentage of the goods originate from the exporting country or have been sufficiently processed in the exporting country to make them 'local') and as these rules can be incredibly complex. This can add a huge administrative burden which cuts already tight profit margins.

What are the practical effects of the changes? An example that has become widely known is that of the M&S Percy Pig, which in some cases is produced in Germany, shipped to UK distribution centres and from there sometimes re-shipped to the EU.

Under the old rules, these goods would have remained tariff-free on their return to the EU. However, under the new rules, once the goods arrive in the UK they need to be sufficiently processed into something different in order to make them local enough to be tariff-free when they return to the EU.

The tariffs which may apply on certain products could make production unviable which may also have a significant impact on UK distribution industry as it is no longer the EU springboard it once was.

Furthermore, the new rules of origin add a significant level of bureaucracy to the process for businesses. If the goods meet the rules of origin, exporters have to complete and retain a statement of origin.

This statement can be added to an invoice, delivery note or any other commercial document and should describe the originating product in sufficient detail to enable its identification.

Where a product does not meet the origin rules, the relevant exporter must also hold evidence, such as supplier declarations (SD), to show the originating status of the different components used in the manufacture of the good. Until 31 December 2021, for EU-UK trade, businesses do not need to provide SDs; however they may be required to do so retrospectively after that date.

Although the post-Brexit trading landscape seeks to maintain favourable relationships between the UK and EU by prohibiting quotas and tariffs, traders have to overcome more hurdles to achieve the same benefits as before.

It is clear the complex rules relating to the origin of goods are already causing damage to businesses, especially SMEs who rely heavily on exports to the EU, so much so that some manufacturers have opted to pay the tariff costs to avoid the cost of the paperwork.

But let us consider the positives. The new rules of origin will be a catalyst for many businesses to re-asses their processes and seek out new opportunities.

It is anticipated that in time there will be a new 'norm' and let us be optimistic that the UK can adjust in a way that makes our industries stronger and more robust for the foreseeable future.

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