Global Counsel

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Proposal for an EU-UK rules of origin protocol

August 2018

FOREWORD

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.

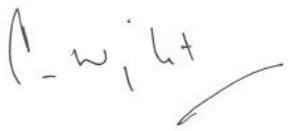
In March 2018, the Food and Drink Federation (FDF) and the National Association of British and Irish Flour Millers (nabim) with Global Counsel, published a report 'Rules of Origin in an EU-UK FTA: A 'hidden hard Brexit' for food and drink exporters?'. This helped to bring rules of origin and the challenges it poses to the attention of policy makers in the EU and the UK. Crucially, our report proposed eight constructive solutions that would help to minimise the impact of these stringent rules on food and drink – the UK's largest manufacturing sector.

Assuming the UK does not 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. In July 2018, UK Government set out in the Brexit White Paper its intention to introduce a 'Facilitated Customs Arrangement' that eliminates 'tariffs, quotas and routine requirements for rules of origin', with the UK and the EU operating as a combined customs territory. It is essential that agreement is reached between the EU and UK that delivers continued frictionless trade in food and drink.

The UK Government proposes that they and the EU should explore existing approaches such as the Regional Convention on pan-Euro-Mediterranean (PEM) preferential rules of origin. While important to consider all options, we know from our first report that the EU's existing models for rules of origin do not deliver for industries that are built on globalised supply chains such as food and drink.

This is why we asked Global Counsel to take forward the solutions from our report by producing formal legal proposals including examples of detailed product-specific rules of origin. In the event that rules of origin apply, this text provides solutions that will enable EU and UK policymakers to design a new agreement that avoids disruption to supply chains that are central to the economy and to food security. We are confident that this model delivers positive outcomes for food and drink and more widely for manufacturing industries in the EU and UK.

Through this work, we hope to demonstrate our commitment to delivering the best Brexit for both UK food and drink and for our shoppers. We now invite Government to signal that it will support these proposals if future trade negotiations with the EU demonstrate rules of origin are required. With this reassurance from Government, we can step up efforts to ensure the proposals are backed in Brussels and in national capitals across the EU.



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SUPPORTING ORGANISATIONS

Food and Drink Federation (FDF)

National Association of British and Irish Flour Millers (nabim)

The Rice Association

Pet Food Manufacturers Association (PFMA)

Seafish

Tate & Lyle Sugars

Agricultural Industries' Confederation (AIC)

Federation of Bakers (FoB)

British Packaging Federation

EXPLANATORY NOTE

Any future preferential trade relationship between the EU and the UK in which the UK and the EU operate autonomous trade policies independent external tariffs will require the agreement of an origin framework to underpin this arrangement. The way in which supply chain integration and distribution networks between the UK and the EU have developed inside the EU Single Market makes the challenge of imposing conventional origin determination models on this trade especially acute.

To some extent, these impacts might in principle be mitigated by the specific features of the origin regime adopted by the two sides. Some of these mitigating features might be designed to create permanent solutions to these problems; some create transitional arrangements that allow for supply chain adaptation, or the negotiation of longer term frameworks. These challenges apply in a similar way to importers and exporters on both sides.

This proposed Origin Protocol is designed to model some of these approaches. In particular, it encapsulates in treaty language the ideas set out in the report: *Rules of Origin in an EU-UK FTA: a hidden Hard Brexit for food and drink exporters*[1]. It considers how a rules of origin protocol might embed:

- A commitment to full bilateral cumulation between the EU and the UK and where the EU and the UK share a preferential trading partner

- A commitment to provide complementary preferential treatment for origin to all inputs from Least Developed Countries, especially ensuring that those countries continue to have the same access to the EU/UK market as they do at present

- The creation of Transitional Origin Relief Quotas (TORQs) in a number of selected areas to protect supply chains while the EU and the UK seek to agree full diagonal cumulation provisions with shared preferential partners, or to provide time for supply chain adaptation where they cannot.

- The creation of a small number of "most favoured nation (MFN) diagonal cumulation protocols", that suspend origin requirements for a small number of highly sensitive goods where the EU and the UK agree to maintain the same external tariff in order to facilitate trade in that product between them.

- A 10% tolerance margin for non-originating inputs to provide continued scope for UK and EU manufacturers to source small amounts of inputs for manufactured food and drink from tropical or non-EU/UK markets.

[1] The rules of origin protocol proposed in this document builds on a set of 10 policy ideas developed in the report *Rules of Origin in an EU-UK FTA: a hidden Hard Brexit for food and drink exporters* published in March 2018 by Global Counsel, the FDF and nabim. The basic concepts underpinning these ideas are overviewed in the Executive Summary. The reader is however encouraged to consult the previous report for a more detailed explanation of their specific functions in mitigating potential disruptions to Eu-UK trade in food and drink products under a future EU-UK FTA.

- The general use of both weight and value-based methodologies for origin calculation in order to ensure the recognition of premium production processes and brand value in the EU and the UK.

- A range of simplifications and enhancements to the origin declaration process, designed to assist SMEs and businesses on both sides in declaring origin.

Additional product specific rules consider in more detail the challenges for specific products including meat, fish, sugar, rice and other cereal grains. Above all, these products illustrate the challenge posed by goods imported into the EU and the UK for manufacture and onward export that are subject to requirements of wholly originating status.

The solutions proposed in this draft protocol operate both independent of each other and can reinforce each other in helping mitigate the impact of imposing ROO on EU-UK trade. While they would not remove the disruptive impact of this change and the restructuring that it would require, they provide some scope for ensuring that some of the important advantages of global sourcing are preserved for manufacturers on both sides, without the need for costly duplicated production in both the EU and the UK markets.

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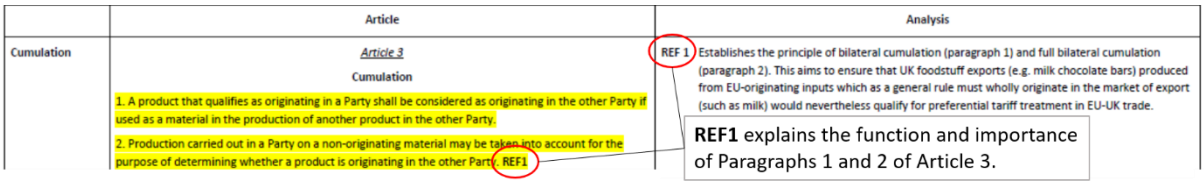
USER'S MANUAL AND TECHNICAL NOTES

This document is divided into two main parts. The first consists of a proposed legal text for a Rules of Origin Protocol (hereafter 'proposed Origin Protocol') for a future free trade agreement between the European Union (EU) and the United Kingdom (UK). Part II comprises five 'deep-dive' case studies on how the proposed Origin Protocol might be applied to the product specific rules of origin (PSRs) of emblematic food and drink products traded between the UK and the EU.

The content and analysis throughout the document are organised in three-column tables (see explanatory exerts below). The second column covers the substance of each specific issue set out in the first column – the legal text of the general rules of origin provisions in Part I, and the product specific rules for each case study in Part II. Highlighted passages are followed by numbered references (**REF X**) which are linked to the same references in column three, where an analysis and explanation of passage's objective and importance is provided. (see Fig.1).

The general rules of origin provisions included in Part I – and the highlighted sections in particular – should be read as a set of policy tools to mitigate as much as possible disruptions from an imposition of rules of origin on current bilateral trade in food and drink products under a future EU-UK FTA. The text draws from provisions and flexibilities included in a range of existing EU FTAs – especially from EU-Canada FTA (CETA), EU-Japan (JEFTA) and the Pan-Euro-Med convention (PEM) – and encapsulate in treaty language ideas set out in the report *Rules of origin in an EU-UK FTA: a hidden Hard Brexit for food and drink exporters* (see Executive Summary).

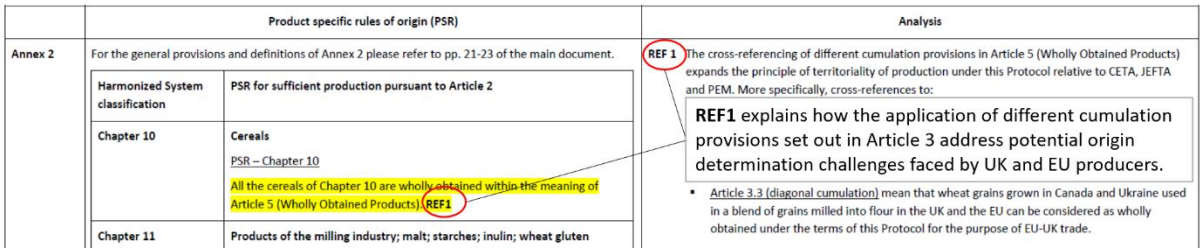
Fig 1. Part I example



The PSR deep-dives included in Part II should be read alongside the relevant provisions and clauses outlined in Part I. The products have been selected in consultation with UK industry stakeholders to illustrate a wide range of potential rules of origin-related challenges faced by 5 key food and drink product classes: rice and rice-containing products; wheat-derivate products; sugar confectionery; processed meat and processed-fish products.

Each PSR deep-dive includes a general overview of the potential disruption faced by their respective product classes from an imposition of 'off-the-shelf' origin protocols - such as CETA, JEFTA and PEM – and a summary of how the proposed Origin Protocol addresses these challenges. This is then followed by a description of product formulation and supply chain structures and an example of how the policy tool kit provided in Part I might be deployed to mitigate rules of origin-related disruptions to EU-UK trade in representative food and drink products under a future EU-UK FTA.

Fig 2. Part II example



It is important to bear in mind that the proposed product specific rules are not intended as a definitive solution for mitigating potential rules of origin disruptions. Rather, the proposed rules illustrate an approach that produces one such solution that is politically acceptable in both the UK and the EU. More specifically, each PSR has been designed against some basic political economy tests:

- It mitigates as much as possible potential rules of origin disruptions to current EU-UK trade in the relevant products;
- It does not disturb the existing level playing field that allows fair competition between EU and UK producers; and
- It provides sufficient flexibility to accommodate potential evolutions of product composition in the medium term.

EXECUTIVE SUMMARY

Proposed policy	Why this is important	Where it is addressed in the proposed Origin Protocol
Full bilateral cumulation arrangements	This would ensure that UK foodstuff exports produced from EU-originating material – and vice-versa – which as a general rule must wholly originate in the market of export would nevertheless qualify for preferential tariff treatment in EU-UK trade. Replicating similar cumulation provisions in other EU FTAs – such as the EU-Canada FTA (CETA), the EU-Japan FTA (JEFTA) and the pan-Euro-Mediterranean convention (PEM) – the proposed Protocol ensures that a wide range of materials wholly obtained or originating in the EU27 used in the production of UK food and drink products – such as German cereal grains in pet food products, Italian rice in a microwave rice product, or French beet sugar in chocolate confectionery – can be considered as originating for the purpose of accessing preferential tariffs in a future EU-UK FTA.	**Article 3 – Cumulation** ▪ Paragraph 1: establishes bilateral cumulation (p. 3). ▪ Paragraph 2: establishes full bilateral cumulation (p. 3). **Application in product specific rules deep dives:** ▪ Product specific rules for rice and rice products (pp. 26-30); ▪ Product specific rules for wheat derivate food products (pp. 31-33); ▪ Product specific rules for sugar and chocolate confectionery products (pp. 34-36); ▪ Product specific rules for meat and processed meat (pet food) products (pp. 34-39); and ▪ Product specific rules for processed fish products (pp. 40-42).
Full diagonal cumulation with EU FTAs	This would ensure that UK food and drink exports produced from material wholly obtained in a third country with which the EU and the UK share an FTA can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade. Ambitious diagonal cumulation provisions are critical for mitigating disruptions to current EU-UK trade in food and drink products from an imposition of rules of origin under a future EU-UK FTA. This importance stems from the prevalent use of 'wholly obtained' origin determination criteria for key materials used by EU and UK food and drink manufacturers in the origin protocols of most EU FTAs. As a result, the application of 'off the shelf' protocols such as CETA, JEFTA or PEM to EU-UK trade in wheat-based products (such as UK made bagels or Italian made pasta) produced from flour milled in the UK or EU from a blend of grains grown within and outside the EU Single Market (e.g. Canada) would preclude the final products from accessing preferential tariff treatment. No existing EU FTA includes sufficiently ambitious diagonal cumulation provisions that would effectively mitigating disruptions to EU-UK trade in food and drink products under a future EU-UK preferential trade arrangement. While PEM includes relatively ambitious diagonal cumulation provisions, these only apply to materials originating inside the Mediterranean production basin create by the Protocol. This implies that the application of the PEM origin protocol to EU-UK trade would mean that wheat grown in Canada, or raw cane sugar produced in Belize could not be considered as originating under PEM. The proposed Origin Protocol addresses these problems by including cross-references to ambitious diagonal cumulation provisions set out in Article 3 (Cumulation) in Article 5 (Wholly Obtained Products), which expand the principle of territoriality of a future EU-UK FTA to that of third countries where the UK and the EU share and FTA in common.	**Article 3 – Cumulation** ▪ Subparagraphs 3(a) and 3(b): establishes diagonal and full diagonal cumulation, respectively (p. 3). **Application in product specific rules deep dives:** ▪ Product specific rules for rice and rice products (pp. 26-30); ▪ Product specific rules for wheat derivate food products (pp. 31-33); ▪ Product specific rules for sugar and chocolate confectionery products (pp. 34-36); ▪ Product specific rules for meat and processed meat (pet food) products (pp. 34-39); and ▪ Product specific rules for processed fish products (pp. 40-42).
A joint EU-UK exemption of all originating imports from	This would ensure that UK foodstuff exports produced from material wholly obtained in LDCs, which generally must originate in the market of export to meet origin requirements, to nevertheless qualify for preferential tariff treatment in EU-UK trade.	**Article 4 – Cumulation with Least-Developed Countries** ▪ Paragraph 1: allows for materials wholly obtained from a least-developed country used in the production of another product in a Party be considered as originating for

Proposed policy	Why this is important	Where it is addressed in the proposed Origin Protocol
Least Developed Countries (LDCs)	For the EU and UK food and drink sectors, this is important because a wide range of key ingredients used by the sector (such as tropical fruits or raw cane sugar) are either only produced in parts of the worlds outside the EU's temperate zone – many of which in LDCs – or not produced in sufficient quantity in the UK/EU Single Market to meet demand all year round (such as rice). No existing EU FTA origin protocol adequately address these problems. This means that the application of 'off-the-shelf' origin protocols (including CETA, JEFTA or PEM) to EU-UK trade would bar a range of products from access to preferential tariff treatment under a future EU-UK FTA. This is the case of semi or fully milled rice in the UK or the EU from Cambodian brown rice, or sugar confectionery produced from Spanish-refined cane sugar from raw sugar originating in Malawi or Zambia. The proposed Protocol addresses these issues by including a cross-reference to LDC cumulation provisions set out in Article 4 (Cumulation with Least Developed Countries) in Article 5 (Wholly Obtained Products), which expand the principle of territoriality of production under a future EU-UK FTA to that of LDCs. Importantly, this would also 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.	the purpose of determining whether the product is originating under this Protocol (p. 3). **Application in product specific rules deep dives:** ▪ Product specific rules for rice and rice products (pp. 26-30); and ▪ Product specific rules for sugar and chocolate confectionery products (pp. 34-36).
Transitional origin relief quota (TORQ)	This would be key for mitigating potential short-term disruptions to UK food and drink sector supply chains. A Transitional Origin Relief Quota (TORQ) 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. This TORQ would remain in force for a maximum of 5 years, or until the EU, the UK and relevant EU FTA partners formalise diagonal cumulation arrangements set out in Article 3.3 and 3.5. Given the high improbability that the conditions set our above (and in Article 3) are met before the entry into force of an EU-UK preferential trade deal, failure to include TORQ provisions in a future EU-UK FTA would risk seeing ingredients originating in EU FTA partners not being considered as originating for the purpose of EU-UK preferential trade. No existing EU FTA origin protocols includes the proposed TORQ flexibilities or equivalent. The application of 'off-the-shelf' origin protocols (such as CETA, JEFTA or PEM) to EU-UK trade therefore means that key EU and UK products (e.g. UK made bagels and German made fish fingers) manufactured with material originating in EU FTA partners (Canadian grown wheat or fish products wholly obtained in EEA countries) would fail to qualify for preferential tariff treatment under a future EU-UK FTA.	**Annex 2-A – Transitional Origin Relief Quota for Agricultural, Fish, Seafood and Other Prepared Foodstuff and Beverage** ▪ Paragraph 2: Allows exporters to consider all production carried out and materials originating in EU FTA partners used in the production of a product as originating under the meaning of this Protocol for a pre-determined quantum of specific products traded between the EU and the UK. While such a right is to be ultimately negotiated via diagonal cumulation agreements, in the absence of such agreements, this right would fall away after five years of the entry into force of the Protocol (p. 22). **Application in product specific rules deep dives:** ▪ Product specific rules for rice and rice products (pp. 26-30); ▪ Product specific rules for wheat derivate food products (pp. 31-33); ▪ Product specific rules for sugar and chocolate confectionery products (pp. 34-36); ▪ Product specific rules for meat and processed meat (pet food) products (pp. 34-39); and ▪ Product specific rules for processed fish products (pp. 40-42).
Food and drink product-specific 'MFN diagonal cumulation protocols'	This would ensure that sensitive UK food and drink exports produced from inputs originating in third countries, subject to the same EU and UK WTO most favoured nation (MFN) import regimes, and which must be wholly obtained in a Party would nevertheless qualify for preferential tariff treatment in EU-UK trade. Such provisions would be particularly important for mitigating potential rules of origin-related disruptions to EU-UK trade in products manufactured with ingredients for which	**Annex 2-B – Alternatives to the Product-Specific Rules of Origin in Annex 2 and 2-A** ▪ Exempts certain materials – to be specified in the case studies on product specific rules of origin – which must normally wholly originate in a Party used in the production of a product to be considered as originating for the purpose of determining if that product originates under the terms of the Protocol (p. 24).

Proposed policy	Why this is important	Where it is addressed in the proposed Origin Protocol
	compliance with 'wholly obtained' origin determination criteria are exceptionally challenging. For instance: ▪ White Basmati rice milled in the UK or the EU, which– under WTO-based geographical definitions – can only be produced from specific rice grains grown in India and Pakistan; and ▪ EU and UK fish fingers processed from certain fish varieties procured from suppliers worldwide (e.g. Russia, China or the US) on the basis of geographically-determined marine stocks, including Alaska pollock, cod and haddock. No existing EU FTA origin protocols currently includes provisions addressing these challenges. Failure to include 'MFN diagonal cumulation provisions' as described in Annex 2-B of the proposed Origin Protocol means that a range of EU and UK rice-based and processed fish products would fail to access preferential tariff treatment under a future EU-UK FTA.	**Application in product specific rules deep dives:** ▪ Product specific rules for rice and rice products (pp. 26-31); and ▪ Product specific rules for processed fish products (pp. 40-42).
A 10 per cent tolerance margin by value for non-originating inputs	This would ensure that products which use small quantities of imported ingredients that, as a general rule, must be wholly obtained in a Party for the purpose of meeting origin requirements nevertheless access preferential tariff treatment under a future EU-UK FTA. The origin protocols of most EU FTAs – including CETA, JEFTA and PEM – already provides for a 10 per cent tolerance levels for non-originating material which must otherwise be wholly obtained in a party to these agreements for conferring origin in a final product. However, the application of these 'off the shelf' origin protocols to EU-UK trade without the added flexibilities provided by Article 26 (Authorised Economic Operators) – allowing producers to average tolerance levels across multiple shipments on an annualised basis – means that a range of food and drink products would not access preferential tariff treatment under a future EU-UK FTA. This is the case of meat-based pet food products manufactured on the basis of a procurement strategy that occasional sources lamb material from Australian and New Zealand producers, which would fail to qualify for preferential tariff treatment under CETA, JEFTA and PEM.	**Article 7 – Tolerance levels** ▪ Subparagraph 1(a): establishes an aggregated 10% tolerance level for all applicable materials (p. 6). ▪ Paragraph 2: establishes exemption from tolerance levels of materials originating in third countries for diagonal cumulation claims (p. 5). **Article 26 – Authorised Economic Operators** ▪ Subparagraph 1(c): provides additional flexibility to the calculation of tolerance levels for food and drink exporters designated as Authorised Economic Operators, which are allowed to meet tolerance requirements on the basis of an annualised average of non-originating material used in the production of a product exported between the Parties via multiple shipments during a calendar year (p. 14). **Annex 2-B – Alternatives to the Product-Specific Rules of Origin in Annex 2 and 2-A** ▪ Subparagraph 2(b)**:** allows for the exemption of certain materials from the application of Article 7 to certain food and drink products for the purpose of determining whether these products originate under the Protocol (p. 24). **Application in product specific rules deep dives:** ▪ Product specific rules for meat and processed meat (pet food) products (pp. 37-39).
Recognition of premium production and brand equity in value calculation	Capturing premium processing or other brand-related aspects of value added in origin designation is key. For both the EU and the UK food and drink sectors, it is important to ensure that the origin protocol of a future EU-UK FTA recognises 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. However, the product specific sufficient production origin determination criteria of most EU FTAs – including CETA, JEFTA and PEM – are overwhelmingly based on transformation or	**Application in product specific rules deep dives:** ▪ Product specific rules for rice and rice products (pp. 26-30); ▪ Product specific rules for wheat derivate food products (pp. 31-33); ▪ Product specific rules for sugar and chocolate confectionery products (pp. 34-36); and ▪ Product specific rules for meat and processed meat (pet food) products (pp. 34-39);

Proposed policy	Why this is important	Where it is addressed in the proposed Origin Protocol
	weight ratios, which very often fail to capture this crucial form of value-added '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. While PEM adopts this approach in greater instances than CETA or JEFTA, it does not do this consistently across all relevant products. The proposed Protocol addresses these issues by allowing exporters to determine origin on the basis of "final value OR weight" sufficient production 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.	
Simplified origin determination documentation and processes (see below break down)	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. The EU has increasingly sought to simplify this administrative process in recent FTAs, notably by allowing proof of origin to be made via simplified origin declarations or statements of origin attached to invoices or other documentation to be used in lieu of formal certificates of origin (e.g. in CETA and JEFTA). Of all of the key EU FTA origin protocols, PEM stands out as the most administratively burdensome in terms of proving the origin of products. This is because PEM conditions access to preferential tariffs on the filling extensive and detailed certificates of origin (the EUR-MED and EUR.1 forms), the validity of which (4 months) is also markedly shorter than the 12 months provided by CETA and JEFTA and the 24 months in the proposed Protocol. 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 rules of origin and thus ensure they are not unduly hindered from taking advantage of preferential tariff rates. More specifically, the Origin Protocol proposes the origin certification process: ▪ Be served by a new web-based portal drawing on REX, designed to provide clear rules of origin information and guidance on origin requirements linked to tariff headings	**Article 18 – Obligations regarding exportations** ▪ Paragraph 7: Creates a binding commitment by the Parties to establish a system providing for electronic submission of origin declarations (p. 10). **Article 27 – Cooperation** ▪ Paragraph 6: Commits the Parties to establish a web-based portal to help importers and exporters to understand the origin determination criteria that products must meet in order to qualify for preferential tariff treatment (p. 14).

Proposed policy	Why this is important	Where it is addressed in the proposed Origin Protocol
	▪ 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;	**Article 26 – Authorised Economic Operators** ▪ Subparagraph 1(c) and Paragraph 2: allows Authorised Economic Operators in the foods and drink sector to calculate origin determination at the level of producing factory or consignment and averaged across a year. This means AOEs in the food and drink sector would be allowed to meet tolerance requirements set in Article 7 on the basis of an annualised average of non-originating material used in the production of a product exported between the Parties via multiple shipments during a calendar year (p. 14).
	▪ Allow statements of origin attached to invoices or other documentation to be used in lieu of formal certificates of origin;	**Article 17- Claim of Preferential tariff treatment** ▪ Paragraph 1 – establishes the possibility of claims for preferential tariff treatment to be based on origin declarations submitted by either the exporter or importer (p. 10).
	▪ Allow exporters and importers a period of time (ideally, two years) after exportation to gather documentation to substantiate a declaration of origin if required;	**New Article 26 – Authorised Economic Operators** ▪ Subparagraph 1(b): allows exporters and importers a period of 24 months after exportation to gather documentation to substantiate a declaration of origin if required after the release of the product by the importing Custom Authority on a preferential tariff rate (p. 14).
	▪ Provide rules of origin exemptions for low value shipments;	**Article 25 – Exemptions from Origin declarations** ▪ Paragraph 3: provides rules of origin exemptions for low value shipments at double the threshold set in the EU-Japan FTA and PEM rules of origin protocol (p. 13).
	▪ Make clear allowance for Authorised Economic Operators importers to benefit from expedited treatment such as self-assessment for origin designation;	**Article 26 – Authorised Economic Operators** ▪ Subparagraph 2(b): allows exporters and importers designated as Authorised Economic Operators a period of 24 months after exportation to gather documentation to substantiate a declaration of origin if required after the release of the product by the custom authority of the importing Party on preferential tariff rates (p. 14).
	▪ Seek to minimise the time required for advance rulings on origin designations through ambitious advance ruling commitments;	**Article 32 – Advanced rulings related to origin** ▪ Subparagraph 3 (b): establishes a normative target of 30 days and a hard cap of 120 days for a customs authority to issue the advance ruling on origin determination of a product. This is shorter than the 120 days target set in CETA and the EU-Japan FTA (p. 18).
	▪ Ensure that designations can cover multiple shipments over period of at least two years and retain their validity for up to two years;	**Article 18 – Obligations regarding exportation** ▪ Subparagraph 5(b): establishes the possibility of a single origin declaration to apply to multiple shipments of identical products within a 24-month (2-year) period (p. 10).

PART 1 – RULES OF ORIGIN PROTOCOL PROPOSAL FOR A FUTURE EU-UK FTA

Issue	Article	Analysis
SECTION A – GENERAL PROVISIONS		
Definitions	*Article 1* **Definitions** For the purposes of this Protocol: **aquaculture** means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding, or protection from predators; **classified** means the classification of a product under a particular heading or subheading of the Harmonised System; **customs authority** means any governmental authority that is responsible under the law of a Party for the administration and application of customs laws or, for the EU, where provided for, the competent services of the European Commission; **customs value** means the value as determined in accordance with the Customs Valuation Agreement; **determination of origin** means a determination as to whether a product qualifies as an originating product in accordance with this Protocol; **exporter** means an exporter located in the territory of a Party; **identical originating products** means products that are the same in all respects, including physical characteristics, quality, and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those products under this Protocol; **importer** means an importer located in the territory of a Party; **material** means any ingredient, component, part, or product that is used in the production of another product; **net weight of non-originating material** means the weight of the material as it is used in the production of the product, not including the weight of the material's packaging; **net weight of the product** means the weight of a product not including the weight of packaging. In addition, if the production includes a heating or drying operation, the net weight of the product may be the net weight of all materials used in its production, excluding water of heading 22.01 added during production of the product; **producer** means a person who engages in any kind of working or processing including such operations as growing, mining, raising, harvesting, fishing, trapping, hunting, manufacturing, assembling, or disassembling a product; **product** means the result of production, even if it is intended for use as a material in the production of another product;	

Issue	Article	Analysis
	production means any kind of working or processing, including such operations as growing, mining, raising, harvesting, fishing, trapping, hunting, manufacturing, assembling, or disassembling a product; **transaction value or ex-works** price of the product means the price paid or payable to the producer of the product at the place where the last production was carried out, and must include the value of all materials. If there is no price paid or payable or if it does not include the value of all materials, the transaction value or ex-works price of the product: (a) must include the value of all materials and the cost of production employed in producing the product, calculated in accordance with generally accepted accounting principles; and (b) may include amounts for general expenses and profit to the producer that can be reasonably allocated to the product. Any internal taxes which are, or may be, repaid when the product obtained is exported are excluded. If the transaction value or ex-works price of the product includes costs incurred subsequent to the product leaving the place of production, such as transportation, loading, unloading, handling, or insurance, those costs are to be excluded; and **value of non-originating materials** means the customs value of the material at the time of its importation into a Party, as determined in accordance with the Customs Valuation Agreement. The value of the non-originating material must include any costs incurred in transporting the material to the place of importation, such as transportation, loading, unloading, handling, or insurance. If the customs value is not known or cannot be ascertained, the value of non-originating materials will be the first ascertainable price paid for the materials in the European Union or in the United Kingdom.	
SECTION B - RULES OF ORIGIN		
General requirements	*Article 2* **General requirements** 1.For the purposes of this Agreement, a product is originating in the Party where the last production took place if, in the territory of a Party or in the territory of both of the Parties in accordance with Article 3 **REF1**, the product (a) has been wholly obtained within the meaning of Article 5; (b) has been produced exclusively from originating materials; or (c) has undergone sufficient production within the meaning of Article 6. 3. If a product has acquired originating status, the non-originating materials used in the production of the product shall not be considered non-originating when that product is incorporated as material into another product. **REF2** 2. Except as provided for in Article 3.3 and Article 4, the conditions set out in this Protocol relating to the acquisition of originating status must be fulfilled without interruption in the territory of one or both of the Parties. **REF3**	**REF 1** Establishes the principle of cumulation (see Article 3) in the general requirements. **REF 2** Establishes the principle of 'roll-up / absorption' in rules of origin calculations. **REF 3** Creates exceptions for diagonal cumulation (Article 3.3) and cumulation with least-developed countries (Article 4) to the principle of territoriality of production under this Agreement.

Issue	Article	Analysis
Cumulation	*Article 3* **Cumulation** 1. A product that qualifies as originating in a Party shall be considered as originating in the other Party if used as a material in the production of another product in the other Party. 2. Production carried out in a Party on a non-originating material may be taken into account for the purpose of determining whether a product is originating in the other Party. **REF1** 3. Subject to paragraph 5, if, as permitted by the WTO Agreement, each Party has a free trade agreement with the same third country: (a) a product that originates in that third country is considered originating in a Party to this Agreement when used as a material in the production of a product; and (b) production carried out in that third country on a non-originating material used in the production of a product in a Party may be taken into account for the purpose of determining whether a product is originating under this Agreement. **REF2** 4. Paragraphs 1-3 do not apply if the production carried out on a product does not go beyond the operations referred to in Article 8 and the object of this production, as demonstrated on the basis of a preponderance of evidence, is to circumvent financial or fiscal legislation of the Parties. 5. Each Party shall apply paragraph 3 only if equivalent provisions are in force between each Party and the third country and upon agreement by the Parties on the applicable conditions. 6. If an exporter has completed an origin declaration for a product referred to in paragraphs 2 and 3, the exporter must possess a completed and signed supplier's statement from the supplier of the non-originating materials used in the production of the product. 7. A supplier's statement may be the statement set out in Annex [Y] or an equivalent document that contains the same information describing the non-originating materials concerned in sufficient detail for their identification. 8. If a supplier's statement referred to in paragraph 6 is in electronic format, it does not need to be signed, provided that the supplier is identified to the satisfaction of the customs authorities in the Party where the supplier's statement was completed. 9. A supplier's statement applies to a single invoice or multiple invoices for the same material that is supplied within a period that does not exceed 24 months from the date set out in the supplier's statement. **REF3**	**REF 1** Establishes the principle of bilateral cumulation (paragraph 1) and full bilateral cumulation (paragraph 2). This aims to 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. **REF 2** Establishes the principle of diagonal cumulation (subparagraph 3(a)) and full diagonal cumulation (subparagraph 3(b)). This aims to ensure that UK 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. **REF 3** Clarifies that origin declarations can cover multiple shipments over period of at least two years and retain their validity for up to two years (see also Article18);
Cumulation with LDCs	*Article 4* **Cumulation with Least-Developed Countries**	**REF 1** This would ensure that UK foodstuff exports produced from Least-Developed Countries (LDC) originating material 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 also aims at minimising disruption for

Issue	Article	Analysis
	1. Material wholly obtained from a least-developed country used in the production of another product in a Party shall be taken into account for the purpose of determining whether a product is originating under this Agreement. **REF1** 2. Least-developed countries are those defined as such buy the UN Committee for Development Policy[2].	exporters in these vulnerable markets currently supplying the UK/EU Single Market through manufacturers in either the EU or the UK.
Wholly obtained products	*Article 5* **Wholly obtained products** 1. For the purposes of Articles 2.2, Article 3.1, Article 3.3 and Article 4 **REF1**, a product is wholly obtained in a Party if it is: (a) a plant or plant product, grown, cultivated, harvested, picked or gathered there; (b) a live animal born and raised there; (c) a product obtained from a live animal raised there; (d) a product obtained from a slaughtered animal born and raised there; (e) an animal obtained by hunting, trapping, fishing, gathering or capturing there; (f) a product obtained from aquaculture there; (g) a mineral or other naturally occurring substance, not included in subparagraphs (a) to (f), extracted or taken there; (h) fish, shellfish or other marine life taken by a Party's vessel from the sea, seabed or subsoil beyond the territorial sea of each Party and, in accordance with international law, beyond the territorial sea of third countries; (i) a product produced exclusively from products referred to in subparagraph (h) on board a Party's factory ship beyond the territorial sea of each Party and, in accordance with international law, beyond the territorial sea of third countries; (j) a product other than fish, shellfish and other marine life taken by a Party or a person of a Party from the seabed or subsoil beyond the territorial sea of each Party, and beyond areas over which third countries exercise jurisdiction provided that that Party or a person of that Party has the right to exploit that seabed or subsoil in accordance with international law; (k) a product that is: (i) waste or scrap derived from production there; or (ii) waste or scrap derived from used products collected there, provided that those products are fit only for the recovery of raw materials; or (l) a product produced there, exclusively from products referred to in subparagraphs (a) to (k) or from their derivatives.	**REF 1** Re-establishes ‘the roll up / absorption’ principle of wholly obtained requirements in origin designation criteria in bilateral and diagonal cumulation (see Article 3) and cumulation with LDCs (see Article 4).

[2] For greater clarity, this list shall be reproduced in a side letter to this agreement. In the event of the UN ceasing to provide such a designation, this side letter shall be treated as the definitive designation of countries covered by this measure.

Issue	Article	Analysis
	2. "A Party's vessel" in subparagraph 1(h) or "a Party's factory ship" in subparagraph 1(i) means respectively a vessel or a factory ship which: (a) is registered in a Member State of the European Union or in the United Kingdom; (b) flies the flag of a Member State of the European Union or of the United Kingdom; and (c) satisfies one of the following requirements: (i) it is at least 50 per cent owned by one or more natural persons of a Party; or (ii) it is owned by one or more juridical persons: (A) which have their head office and their main place of business in a Party; and (B) in which at least 50 per cent of the ownership belongs to natural persons or juridical persons of a Party. **REF2**	
Sufficient production	*Article 6* **Sufficient production** 1. For the purpose of Article 2.1 (c), products that are not wholly obtained are considered to have undergone sufficient production when the conditions set out in Annex 2 and 2-B are fulfilled. 2. If a non-originating material undergoes sufficient production in a Party or, subject to conditions set in Article 3.3, in a third party, the resulting product shall be considered as originating and no account shall be taken of the non-originating material contained therein when that product is used in the subsequent production of another product in the same or other Party. **REF1**	**REF 1** Reasserts the principle of 'roll-up / absorption' of all production processes in full-diagonal cumulation claims.
Tolerance	*Article 7* **Tolerance** 1. Notwithstanding Article 6.1, and except as provided in paragraph 3, if the non-originating materials used in the production of a product do not fulfil the conditions set out in Annex 2, 2-A and 2-B, the product shall be considered an originating product provided that: (a) the total value of those non-originating materials does not exceed 10 per cent of the transaction value or ex-works price of the product; **REF1** (b) any of the percentages given in in Annex 2 for the maximum value or weight of non-originating materials are not exceeded through the application of this paragraph; and (c) the product satisfies all other applicable requirements of this Protocol. 2. Paragraph 1 does not apply to products wholly obtained in a Party within the meaning of Article 5 and a third country subject to Article 3.3 and Article 4 **REF2**. If the rule of origin specified in in Annex 2 requires that the materials used in the production of a product be wholly obtained, the tolerance provided for in paragraph 1 applies to the sum of these materials.	**REF 1** Establishes an aggregated 10% tolerance level for all applicable materials. This is important for ensuring that products such as confectionery, which use small quantities of imported 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. **REF 2** Establishes exemptions from tolerance levels of materials originating in third countries for diagonal cumulation claims under Article 3.3 and Article 4. See further flexibilities in the application of tolerance provisions to food and drink trade in Article 25 (Authorised Economic Operators) and Annex 2-B (Alternatives to the product-specific rules of origin in Annex 2 and 2-A).

Issue	Article	Analysis
	3. Tolerance for textile and apparel products of Chapter 50 through 63 of the Harmonised System shall be determined in accordance with Annex [X]. 4. Paragraphs 1 through 3 are subject to Article 9 (c).	
Insufficient production	*Article 8* **Insufficient production** 1. Without prejudice to paragraph 2 and to Annexes 2, 2-A and 2-B **REF1**, the following operations are insufficient to confer origin on a product, whether or not the requirements of Articles 6 or 7 are satisfied: (a) operations exclusively intended to preserve products in good condition during storage and transport[3]; (b) breaking-up or assembly of packages; (c) washing, cleaning, or operations to remove dust, oxide, oil, paint, or other coverings from a product; (d) ironing or pressing of textiles or textile articles of Chapter 50 through 63 of the Harmonised System; (e) simple painting or polishing operations; (f) husking, partial or total bleaching, polishing, or glazing of cereals or rice of Chapter 10 that does not result in a change of chapter; (g) operations to colour or flavour sugar of heading 17.01 or 17.02; operations to form sugar lumps of heading 17.01; partial or total grinding of crystal sugar of heading 17.01; (h) peeling, stoning, or shelling of vegetables of Chapter 7, fruits of Chapter 8, nuts of heading 08.01 or 08.02 or groundnuts of heading 12.02, if these vegetables, fruits, nuts, or groundnuts remain classified within the same chapter; (i) sharpening, simple grinding, or simple cutting; (j) simple sifting, screening, sorting, classifying, grading, or matching; (k) simple packaging operations, such as placing in bottles, cans, flasks, bags, cases, boxes, or fixing on cards or boards; (l) affixing or printing marks, labels, logos, and other like distinguishing signs on the products or their packaging; (m) mixing of sugar of heading 17.01 or 17.02 with any material; (n) simple mixing of materials, whether or not of different kinds; simple mixing does not include an operation that causes a chemical reaction as defined in the notes to Chapter 28 or 29 of Annex 2;	**REF 1** Establishes exceptions to origin determination criteria set in Annexes 2, 2-A and 2-B. This clarifies the application of the 'roll-up / absorbtion' principle of production processes in full bilateral and diagonal cumulation for key agriculture products such as rice, wheat, meat and sugar.

[3] Preserving operations such as chilling, freezing, or ventilating are considered insufficient within the meaning of subparagraph (a), whereas operations such as pickling, drying, or smoking that are intended to give a product special or different characteristics are not considered insufficient.

Issue	Article	Analysis
	(o) simple assembly of parts of articles to constitute a complete article of Chapter 61, 62, or 82 through 97 of the Harmonised System or disassembly of complete articles of Chapter 61, 62, or 82 through 97 into parts; (p) a combination of two or more operations specified in subparagraphs (a) to (o); and (q) slaughter of animals. 2. In accordance with Article 3, all production on a product carried out in the European Union, in the United Kingdom and, subject to Article 3.3(b) and Article 4, in a third country is considered when determining whether the production undertaken on that product is insufficient within the meaning of paragraph 1. **REF1** 3. For the purpose of paragraph 1, an operation shall be considered simple when neither special skills, nor machines, apparatus, or tools especially produced or installed for those operations are required for their performance or when those skills, machines, apparatus, or tools do not contribute to the product's essential characteristics or properties.	
Unit of classification	*Article 9* **Unit of classification** 1. The unit of qualification for the application of the provisions of this Protocol shall be the particular product which is considered as the basic unit when classifying the product under the Harmonized System. 2. When a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each individual product shall be taken into account when applying the provisions of this Chapter.	
Packaging and packing materials and containers	*Article 10* **Packaging, packing materials and containers** 1. If, under General Rule 5 of the Harmonised System, packaging is included with the product for classification purposes, it is considered in determining whether all the non-originating materials used in the production of the product satisfy the requirements set out in Annex 2. 2. Packing materials and containers in which a product is packed for shipment shall be disregarded in determining the origin of that product.	
Accounting segregation;	*Article 11* **Accounting segregation of fungible materials** 1. Originating and non-originating fungible materials shall be physically segregated during storage in order to maintain their originating status. 2. For the purpose of this Article, "fungible materials" means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another once they are incorporated into the finished product.	

Issue	Article	Analysis
	3. Notwithstanding paragraph 1, originating and non-originating fungible materials of Chapter 10, 15, 27, 28, 29, heading 32.01 through 32.07, or heading 39.01 through 39.14 of the Harmonised System may be used in the production of a product without being physically segregated during storage provided that an accounting segregation method is used. 4. The accounting segregation method referred to in paragraph 3 shall be applied in conformity with an inventory management method under accounting principles which are generally accepted in the Party. 5. A Party may require, under conditions set out in its laws and regulations, that the use of an accounting segregation method is subject to prior authorisation by the customs authority of that Party. The customs authority of the Party shall monitor the use of the authorisation and may withdraw the authorisation if the holder makes improper use of the accounting segregation method or fails to fulfil any of the other conditions laid down in this Protocol. 6. The accounting segregation method shall be any method that ensures that at any time no more materials receive originating status than would be the case if the materials had been physically segregated.	
Accessories, spare parts and tools	*Article 12* **Accessories, spare parts and tools** 1. Accessories, spare parts, and tools delivered with a product that form part of its standard accessories, spare parts, or tools, that are not invoiced separately from the product and which quantities and value are customary for the product, shall be: (a) taken into account in calculating the value of the relevant non-originating materials when the rule of origin of Annex 2 applicable to the product contains a percentage for the maximum value of non-originating materials; and (b) disregarded in determining whether all the non-originating materials used in the production of the product undergo the applicable change in tariff classification or other requirements set out in Annex 2.	
Sets	*Article 13* **Sets** 1. Except as provided in Annex 2, a set, as referred to in General Rule 3 of the Harmonised System, is originating provided that: (a) all of the set's component products are originating; or (b) when the set contains a non-originating component product, at least one of the component products or all of the packaging material and containers for the set is originating; and (i) the value of the non-originating component products of Chapter 1 through 24 of the Harmonized System does not exceed 15 per cent of the transaction value or ex-works price of the set;	

Issue	Article	Analysis
	(ii) the value of the non-originating component products of Chapter 25 through 97 of the Harmonised System does not exceed 25 per cent of the transaction value or ex-works price of the set; and (iii) the value of all of the set's non-originating component products does not exceed 25 per cent of the transaction value or ex-works price of the set. 2. The value of non-originating component products is calculated in the same manner as the value of non-originating materials. 3. The transaction value or ex-works price of the set shall be calculated in the same manner as the transaction value or ex-works price of the product.	
Neutral elements	*Article 14* **Neutral elements** 1. For the purpose of determining whether a product is originating, it is not necessary to determine the origin of the following which might be used in its production: (a) energy and fuel; (b) plant and equipment; (c) machines and tools; or (d) materials which do not enter and which are not intended to enter into the final composition of the product.	
Transport through a third country	*Article 15* **Transport through a third country** 1. A product that has undergone production that satisfies the requirements of Article 2 shall be considered originating only if, subsequent to that production, the product: (a) does not undergo further production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition or to transport the product to the territory of a Party; and (b) remains under customs control while outside the territories of the Parties. 2. The storage of products and shipments or the splitting of shipments may take place where carried out under the responsibility of the exporter or of a subsequent holder of the products and the products remain under customs control in the country or countries of transit.	
Returning originating products	*Article 16* **Returning originating products** If an originating product of a Party exported from that Party to a third country returns to that Party, it shall be considered as non-originating unless it can be demonstrated to the satisfaction of the customs authority of that Party that the returning product:	

Issue	Article	Analysis
	(a) is the same as that exported; and (b) has not undergone any operation other than that necessary to preserve it in good condition while in that third country or while being exported.	
SECTION C – ORIGIN PROCEDURES		
Claim for preferential tariff treatment	*Article 17* **Claim for preferential tariff treatment** 1. Products originating in the European Union, on importation into United Kingdom, and products originating in the United Kingdom, on importation into the European Union, benefit from preferential tariff treatment of this Agreement on the basis of a declaration ("origin declaration"). **REF1** 2. A claim for preferential tariff treatment shall be based on: (a) a statement on origin that the product is originating made out by the exporter; or (b) the importer's knowledge that the product is originating. **REF2** 3. The origin declaration for preferential tariff treatment and its basis as referred to in subparagraph 2(a) or (b) shall be provided on an invoice or any other commercial document that describes the originating product in sufficient detail to enable its identification. 4. The different linguistic versions of the text of the origin declaration are set out in Annex 1 The importing Party shall not require the importer to submit a translation of the statement on origin. 5. The importer making a claim for preferential tariff treatment based on a statement on origin referred to in subparagraph 2(a) shall keep the statement on origin and, when required by the customs authority of the importing Party, provide a copy thereof to that authority. 6. Paragraphs 2 to 4 do not apply in the cases specified in Article 25.	**REF 1** Establish the right for origin declarations to be attached to invoices or other documentation to be used in lieu of formal certificates of origin; **REF 2** Provides the option for claiming preferential tariffs based on origin declarations made by either the exporter or importer.
Obligations regarding exportation	*Article 18* **Obligations regarding exportation** 1. An origin declaration as referred to in Article 17.1 shall be completed: (a) in the European Union, by an exporter or importer in accordance with the relevant European Union legislation; and (b) in the United Kingdom, by an exporter or importer in accordance with the relevant United Kingdom legislation. 2. The exporter or importer completing an origin declaration shall at the request of the customs authority of the Party of export submit a copy of the origin declaration and all appropriate documents proving the originating status of the products concerned, including supporting documents or written statements from the producers or suppliers, and fulfil the other requirements of this Protocol.	**REF 1** Reasserts the possibility of claims for preferential tariff treatment to be based on origin declarations submitted by either the exporter or importer. **REF 2** Establishes that the customs authority of the importing Party will allow for claims to preferential tariffs to be made retrospectively for at least 3 years after the importation of a product. **REF 3** Reasserts the possibility of a single origin declaration to apply to multiple shipments of identical products within a 24-month (2-year) period **REF 4** Creates a binding commitment by the Parties to establish a system providing for electronic submission of origin declarations. For more on the establishment of a web-based rules of origin portal see Article 27.6 (Cooperation).

Issue	Article	Analysis
	3. An origin declaration shall be completed and signed by the exporter unless as otherwise provided under Articles 19 and 20. **REF1** 4. A Party shall allow an origin declaration to be completed by the exporter or importer when the products to which it relates are exported, or after exportation if the origin declaration is presented in the importing Party within three years after the importation of the products to which it relates or within a longer period of time if specified in the laws of the importing Party. **REF2** 5. A statement on origin may apply to: (a) a single shipment of one or more products imported into a Party; or (b) multiple shipments of identical products imported into a Party within any period specified in the origin declaration not exceeding 24 months. **REF3** 6. An exporter that has completed an origin declaration and becomes aware or has reason to believe that the origin declaration contains incorrect information shall immediately notify the importer in writing of any change affecting the originating status of each product to which the origin declaration applies. 7. The Parties shall establish a system that permits an origin declaration to be submitted electronically and directly from the exporter in the territory of a Party to an importer in the territory of the other Party, including the replacement of the exporter's signature on the origin declaration with an electronic signature or identification code. **REF4**	
Importer's knowledge and record keeping	*Article 19* **Importer's knowledge and record keeping** 1. The importer's knowledge that a product is originating in the exporting Party shall be based on information demonstrating that the product is originating and satisfies the requirements provided for in this Protocol. 2. An importer making a claim for preferential tariff treatment for a product imported into the importing Party shall, for a minimum of four years after the date of importation of the product, keep: (a) if the claim was based on a statement on origin, the statement on origin made out by the exporter; or (b) if the claim was based on the importer's knowledge, all records demonstrating that the product satisfies the requirements to obtain originating status. 3. An exporter who has made out a statement on origin shall, for a minimum of four years after the making out of that statement on origin, keep a copy of the statement on origin and all other records demonstrating that the product satisfies the requirements to obtain originating status. **REF1** 4. The records to be kept in accordance with this Article may be held in electronic format. 5. Paragraphs 1 to 3 do not apply in the cases specified in Article 25.	**REF 1** Establishes that documentation supporting origin declarations submitted by the exporter or based on the importer's knowledge must be kept by the exporter and importer for a period of four years from the date of importation.

Issue	Article	Analysis
	6. A Party may deny preferential tariff treatment to a product that is the subject of an origin verification when the importer, exporter, or producer of the product that is required to maintain records or documentation under this Article: (a) fails to maintain records or documentation relevant to determining the origin of the product in accordance with the requirements of this Protocol; or (b) denies access to those records or documentation.	
Obligations regarding importations	*Article 20* **Obligations regarding importation** 1. For the purpose of claiming preferential tariff treatment, the importer shall: (a) submit the origin declaration to the customs authority of the Party of import as required by and in accordance with the procedures applicable in that Party; (b) if required by the customs authority of the Party of import, provide for a statement accompanying or forming a part of the import declaration, to the effect that the products meet the conditions required for the application of this Agreement. 2. An importer that becomes aware or has reason to believe that an origin declaration for a product to which preferential tariff treatment has been granted contains incorrect information shall immediately notify the customs authority of the Party of import in writing of any change affecting the originating status of that product and pay any duties owing. 3. The customs authority of the importing Party shall not reject a claim for preferential tariff treatment due to minor errors or discrepancies in the statement on origin or for the sole reason that an invoice was issued in a third country. **REF1** 4. A Party shall, in conformity with its laws, provide that, if a product would have qualified as an originating product when it was imported into the territory of that Party but the importer did not have an origin declaration at the time of importation, the importer of the product may, within a period of time of no less than three years after the date of importation, apply for a refund of duties paid as a result of the product not having been accorded preferential tariff treatment. **REF2**	**REF 1** Makes explicit that a customs authority may not reject preferential claims due to minor errors and discrepancies or because it was issued in a third country. **REF 2** Reasserts the right for claims to preferential tariff treatment to be made retrospectively (see Article 18.4) withing a period of no less than three years.
Proof related to transport through a third country	*Article 21* **Proof related to transport through a third country** Each Party, through its customs authority, may require an importer to demonstrate that a product for which the importer claims preferential tariff treatment was shipped in accordance with Article 15 by providing: (a) carrier documents, including bills of lading or waybills, indicating the shipping route and all points of shipment and transhipment prior to the importation of the product; and	

Issue	Article	Analysis
	(b) when the product is shipped through or transhipped outside the territories of the Parties, a copy of the customs control documents indicating to that customs authority that the product remained under customs control while outside the territories of the Parties.	
Supporting documents	*Article 22* **Supporting documents** The documents referred to in Articles 18.2 and Article 19.1 may include documents relating to the following: (a) the production processes carried out on the originating product or on materials used in the production of that product; (b) the purchase of, the cost of, the value of, and the payment for the product; (c) the origin of, the purchase of, the cost of, the value of, and the payment for all materials, including neutral elements, used in the production of the product; and (d) the shipment of the product.	
Validity of origin declaration	*Article 23* **Validity of the origin declaration** 1. An origin declaration shall be valid for 24 months from the date it was completed **REF1**, or for such longer period of time as provided by the Party of import. The preferential tariff treatment may be claimed, within this validity period, to the customs authority of the Party of import. 2. The Party of import may accept an origin declaration submitted to its customs authority after the validity period referred to in paragraph 1 for the purpose of preferential tariff treatment in accordance with that Party's laws.	**REF 1** Provides for a 24 months validity for an origin declaration. This is double the validity set in CETA and the EU-Japan FTA.
Importation by instalments	*Article 24* **Importation by instalments** Each Party shall provide that if dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonised System falling within Sections XVI and XVII or heading 7308 and 9406 of the Harmonised System are imported by instalments at the request of the importer and on the conditions set out by the customs authority of the Party of import, a single origin declaration for these products shall be submitted, as required, to that customs authority upon importation of the first instalment.	
Exemptions from origin declarations	*Article 25* **Exemptions from origin declarations** 1. A Party may, in conformity with its laws, waive the requirement to present an origin declaration as referred to in Article 21, for low value shipments of originating products from another Party and for originating products forming part of the personal luggage of a traveller coming from another Party.	**REF 1** Provides rules of origin exemptions for low value shipments at double the threshold set in the EU-Japan FTA and PEM rules of origin protocol.

Issue	Article	Analysis
	2. A Party may exclude any importation from the provisions of paragraph 1 when the importation is part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the requirements of this Protocol related to origin declarations. 3. The Parties may set value limits for products referred to in paragraph 1 of no less than €1000 in the case of small packages and €2400 in the case of products forming part of travellers' personal luggage. **REF1**	
Authorised Economic Operators	*Article 26* **Authorised economic operators** 1. Where a Party has established a system of authorised economic operator for the purpose of trade facilitation, and where such systems have been mutually recognised by the parties, with respect to trade between the parties, such operators shall be entitled to: (a) submit origin declaration attached to invoices in lieu of formal certificates of origin. (b) Secure the release of goods at the defined preferential tariff rate where customs authorities have requested substantiation of an origin declaration, subject to the posting of a reasonable guarantee at the discretion of those authorities, and subject to a requirement that such documentation be presented within 24 months. Failure to present such substantiating evidence, or the loss of authorised economic operator status during this period, shall result in the non-preferential margin rate being paid by the importer. **REF1** (c) Comply with the tolerance levels for non-originating content set out in Article 7.1(a) on the basis of an annualised average of non- originating content declarations for that tariff line for trade between the Parties. 2. Article 6:1c shall apply only to trade between the Parties under Chapter 1 through 24 of the Harmonised System**. REF2**	**REF 1** Allows exporters and importers designated as Authorised Economic Operators a period of 24 months after exportation to gather documentation to substantiate a declaration of origin if required after the release of the product by the custom authority of the importing Party on preferential tariff rates. **REF 2** Allows for the calculation of origin determination to be done at the level of producing factory or consignment and averaged across a year. This provides additional flexibility to the calculation of tolerance levels set in Article 7 for food and drink exporters designated as Authorised Economic Operators, which are allowed to meet tolerance requirements on the basis of an annualised average of non-originating material used in the production of a product exported between the Parties via multiple shipments during a calendar year.
Cooperation	*Article 27* **Cooperation** 1. The Parties shall cooperate in the uniform administration and interpretation of this Protocol and, through their customs authorities, assist each other in verifying the originating status of the products on which an origin declaration is based. 2. For the purpose of facilitating the verifications or assistance referred to in paragraph 1, the customs authorities of the Parties shall provide each other, through the European Commission, with addresses of the responsible customs authorities. 3. It is understood that the customs authority of the Party of export assumes all expenses in carrying out paragraph 1. 4. It is further understood that the customs authorities of the Parties will discuss the overall operation and administration of the verification process, including forecasting of workload and discussing priorities. If there is an unusual increase in the number of requests, the	**REF 1** Commits the Parties to establish a web-based portal to help importers and exporters to understand the origin determination criteria products must meet in order to qualify for preferential tariff treatment.

Issue	Article	Analysis
	customs authorities of the Parties will consult to establish priorities and consider steps to manage the workload, taking into consideration operational requirements. 5. With respect to products considered originating in accordance with Article 3, the Parties may cooperate with a third country to develop customs procedures based on the principles of this Protocol. 6. The Parties shall establish a web-based portal designed and build to provide rules of origin information for importers and exporters and guidance on origin requirements linked to tariff headings of the Harmonised System set out in this Protocol. **REF1**	
Origin verification	*Article 28* **Origin verification** 1. For the purpose of ensuring the proper application of this Protocol, the Parties shall assist each other, through their customs authorities, in verifying whether products are originating and ensuring the accuracy of claims for preferential tariff treatment. 2. A Party's request for an origin verification concerning whether a product is originating or whether all other requirements of this Protocol are fulfilled shall be: (a) based on risk assessment methods applied by the customs authority of the Party of import, which may include random selection; or (b) made when the Party of import has reasonable doubts about whether the product is originating or whether all other requirements of this Protocol have been fulfilled. **REF1** 3. If the claim for preferential tariff treatment was based on a statement of origin based on importer's knowledge referred to in Article 17.2(b), the customs authority of the Party of import may request for information from the importer for the purpose of conducting the origin verification. The customs authority of the importing Party may request the importer for specific documentation and information, if appropriate, as outlined in paragraph 3 (c) through (k). **REF2** 4. If a statement on origin was the basis of the claim referred to in Article 17.2(a), the customs authority of the Party of import may verify whether a product is originating by requesting, in writing, that the customs authority of the Party of export conduct a verification concerning whether a product is originating. When requesting a verification, the customs authority of the Party of import shall provide the customs authority of the Party of export with information covering no more than the following elements **REF3**: (a) the identity of the customs authority issuing the request; (b) the name of the exporter or producer to be verified; (c) a copy of the supplier's statement of origin and, where applicable, any other relevant documentation; (d) the tariff classification number of the product under the Harmonized System and origin criteria used; (e) a brief description of the production process;	**REF 1** Establishes that the criteria for origin verification by customs authorities must be based on risk assessment methods, thus baring the introduction of origin verification systems based on systematic checks and audits. **REF 2** Establishes that origin declarations based on importer's knowledge must be subject to the same supporting documentation requirements as claims based on origin declarations by the exporter. **REF 3** Establishes an exhaustive list of information that the importing customs authorities may request from the exporting customs authority in the event of origin verification on claims to preferential tariff treatment based on origin declarations submitted by the exporter or to the importer in the case of claims based on importer's knowledge (see Article 17.2(b)). **REF 4** Establishes a normative 6-month target for the conclusion of the verification process. This is significant shorter than the 12 months period provided in CETA and the EU-Japan FTA. **REF 5** Establishes the possibility of extending the verification time to an additional 6 months – to an aggregate of 12 months – upon agreement by the parties. In contrast, CETA and the EU-Japan FTA provide for unlimited extensions of an initial 12 months' timeframe. **REF 6** Embeds the right of exporters and importers to secure advance binding rulings on origin determination prior to exportation.

Issue	Article	Analysis
	(f) if the origin criterion was based on a specific production process, a specific description of that process; (g) if applicable, a description of the originating and non-originating materials used in the production process; (h) if the origin criterion was based on a value method, the value of the product as well as the value of all the non-originating or, as appropriate to establish compliance with the value requirement, originating materials used in the production; (i) if the origin criterion was based on weight, the weight of the product as well as the weight of the relevant non-originating or, as appropriate to establish compliance with the weight requirement, originating materials used in the product; (k) if the origin criterion was based on a change in tariff classification, a list of all the non-originating materials including their tariff classification number under the Harmonized System (in two-, four- or six- digit format depending on the origin criteria); or (k) the information relating to the compliance with the provision on non-alteration referred to in Article 15. 5. A request made by the customs authority of the Party of import pursuant to paragraph 4 shall be provided to the customs authority of the Party of export by certified or registered mail or any other method that produces a confirmation of receipt by that customs authority. 6. The customs authority of the Party of export shall proceed to the origin verification. For this purpose, the customs authority may, in accordance with its laws, request documentation, call for any evidence, or visit the premises of an exporter or a producer to review the records referred to in Article 21 and observe the facilities used in the production of the product. 7. If an exporter has based an origin declaration on a written statement from the producer or supplier, the exporter may arrange for the producer or supplier to provide documentation or information directly to the customs authority of the Party of export upon that Party's request. 8. The customs authority of the Party of export shall endeavour to complete a verification of whether the product is originating and fulfils the other requirements of this Protocol within 6 months, after receiving the request referred to in paragraph 5, and shall **REF4**: (a) provide to the customs authority of the Party of import, by certified or registered mail or any other method that produces a confirmation of receipt by that customs authority, a written report in order for it to determine whether the product is originating or not, and that contains: (i) the results of the verification; (ii) the description of the product subject to verification and the tariff classification relevant to the application of the rule of origin; (iii) a description and explanation of the production sufficient to support the rationale concerning the originating status of the product;	

Issue	Article	Analysis
	(iv) information on the manner in which the verification was conducted; and (v) where appropriate, supporting documentation; and (b) subject to its laws, notify the exporter of its decision concerning whether the product is originating. 9. The period of time referred to in paragraph 8 may be extended by mutual consent of the customs authorities to a maximum of 12 months. **REF5** 10. Pending the results of an origin verification conducted pursuant to paragraph 8, or consultations under paragraph 13, the customs authority of the Party of import, subject to any precautionary measures it deems necessary, shall offer to release the product to the importer. 11. If the result of an origin verification has not been provided in accordance with paragraph 8, the customs authority of the importing Party may deny preferential tariff treatment to a product if it has reasonable doubt or when it is unable to determine whether the product is originating. 12. If there are differences in relation to the verification procedures of this Article or in the interpretation of the rules of origin in determining whether a product qualifies as originating, and these differences cannot be resolved through consultations between the customs authority requesting the verification and the customs authority responsible for performing the verification, and if the customs authority of the importing Party intends to make a determination of origin that is inconsistent with the written report provided under paragraph 8(a) by the customs authority of the exporting Party, the importing Party shall notify the exporting Party within 60 days of receiving the written report. 13. At the request of either Party, the Parties shall hold and conclude consultations within 90 days from the date of the notification referred to in paragraph 12 to resolve those differences. The period of time for concluding consultations may be extended on a case by case basis by mutual written consent between the Parties. The customs authority of the importing Party may make its determination of origin after the conclusion of these consultations. The Parties may also seek to resolve those differences within the Joint Customs Cooperation Committee referred to in Article 32. 14. In all cases, the settlement of differences between the importer and the customs authority of the Party of import shall be under the law of the Party of import. 15. This Protocol does not prevent a customs authority of a Party from issuing a determination of origin or an advance ruling relating to any matter under consideration by the Joint Customs Cooperation Committee or the Committee on Trade in Goods established under Article [Specialised Committees] of Chapter [XX] from taking any other action that it considers necessary, pending a resolution of the matter under this Agreement. **REF6**	
Review and appeal	*Article 29* **Review and appeal**	

Issue	Article	Analysis
	1. Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings issued by its customs authority as it provides to importers in its territory, to any person who: (a) has received a determination on origin in the application of this Protocol; or (b) has received an advance ruling pursuant to Article 33. 2. each Party shall provide that the rights of review and appeal referred to in paragraph 1 include access to at least two levels of appeal or review including at least one judicial or quasi-judicial level.	
Penalties	*Article 30* **Penalties** 1. Each Party shall maintain measures imposing criminal, civil or administrative penalties for violations of its laws relating to this Protocol.	
Confidentiality	*Article31* **Confidentiality** 1. This Protocol does not require a Party to furnish or allow access to business information or to information relating to an identified or identifiable natural person, the disclosure of which would impede law enforcement or would be contrary to that Party's law protecting business information and personal data and privacy. 2. Each Party shall maintain, in conformity with its law, the confidentiality of the information collected pursuant to this Protocol and shall protect that information from disclosure that could prejudice the competitive position of the person providing the information. If the Party receiving or obtaining the information is required by its laws to disclose the information, that Party shall notify the person or Party who provided that information. 3. Each Party shall ensure that the confidential information collected pursuant to this Protocol shall not be used for purposes other than the administration and enforcement of determination of origin and of customs matters, except with the permission of the person or Party who provided the confidential information. 4. Notwithstanding paragraph 3, a Party may allow information collected pursuant to this Protocol to be used in any administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with customs related laws implementing this Protocol. A Party shall notify the person or Party who provided the information in advance of such use. 5. The Parties shall exchange information on their respective law concerning data protection for the purpose of facilitating the operation and application of paragraph 2.	
Advanced rulings	*Article 32* **Advanced rulings related to origin** 1. Each Party shall, through its customs authority, provide for the expeditious issuance of written advance rulings in accordance with its law, prior to the importation of a product into	**REF 1** Establishes the right of an exporter or importer to seek an advance ruling on origin determination.

Issue	Article	Analysis
	its territory, concerning whether a product qualifies as an originating product under this Protocol.**REF1** 2. Each Party shall adopt or maintain procedures for the issuance of advance rulings, including a detailed description of the information reasonably required to process an application for a ruling. 3. Each Party shall provide that its customs authority: (a) may, at any time during the course of an evaluation of an application for an advance ruling, request supplemental information from the person requesting the ruling; (b) endeavours to issue the ruling within 30 days and no later than 120 days from the date on which it has obtained all necessary information from the person requesting the advance ruling; **REF2** (c) provide, to the person requesting the advance ruling, a full explanation of the reasons for the ruling. 4. When an application for an advance ruling involves an issue that is the subject of: (a) a verification of origin; (b a review by, or appeal to, a customs authority; or (c) a judicial or quasi-judicial review in the customs authority's territory; the customs authority, in accordance with its laws, may decline or postpone the issuance of the ruling. 5. Subject to paragraph 7, each Party shall apply an advance ruling to importations into its territory of the product for which the ruling was requested on the date of its issuance or at a later date if specified in the ruling. 6. Each Party shall provide, to any person requesting an advance ruling, the same treatment as it provided to any other person to whom it issued an advance ruling, provided that the facts and circumstances are identical in all material respects. 7. The Party issuing an advance ruling may modify or revoke an advance ruling: (a) if the ruling is based on an error of fact; (b) if there is a change in the material facts or circumstances on which the ruling is based; (c) to conform with an amendment of Chapter XX (National Treatment and Market Access for Goods), or this Protocol; or (d) to conform with a judicial decision or a change in its law. 8. Each Party shall provide that a modification or revocation of an advance ruling is effective on the date on which the modification or revocation is issued, or on a later date if specified in the ruling, and shall not be applied to importations of a product that have occurred prior to that date, unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions.	**REF 2** Establishes a normative target of 30 days and a hard cap of 120 days for a customs authority to issue the advance ruling on origin determination of a product. This is shorter than the 120 days target set in CETA and the EU-Japan FTA.

Issue	Article	Analysis
	9. Notwithstanding paragraph 8, the Party issuing the advance ruling may, in conformity with its law, postpone the effective date of a modification or revocation for no more than six months. 10. Subject to paragraph 7, each Party shall provide that an advance ruling remains in effect and is honoured.	
Committee	*Article 33* **Committee** 1. The Joint Customs Cooperation Committee ("JCCC"), granted authority to act under the auspices of the EU-UK FTA Joint Committee as a specialised committee pursuant to Article [Specialised Committees] of Chapter [XX] may review this Protocol and recommend amendments to its provisions to the EU-UK FTA Joint Committee. The JCCC shall endeavour to decide upon: (a) the uniform administration of the rules of origin, including tariff classification and valuation matters relating to this Protocol; (b) technical, interpretative, or administrative matters relating to this Protocol; or (c) the priorities in relation to origin verifications and other matters arising from origin verifications.	
ANNEXES		
Text of the origin declaration	*Annex 1* **Text of the origin declaration REF1** The origin declaration, the text of which is given below, must be completed in accordance with the footnotes. **REF2**. (Period: from_____ to _____) The exporter of the products covered by this document (customs authorisation No ...) declares that, except where otherwise clearly indicated, these products are of ... preferential origin. …….. (Place and date) …….. (Signature and printed name of the exporter)	**REF 1** Provides the text of the origin declaration **REF 2** The footnotes do not have to be reproduced and must be drafted referring to relevant UK and EU legislation.
Product-specific rules of origin	*Annex 2* **Product-specific rules of origin REF1**	**REF 1** This will outline the general product specific rules of origin for the agreed case studies. Exporters will be allowed to determine origin on the basis of "final value OR

Issue	Article	Analysis
	This Annex sets out the conditions required for a product to be considered originating within the meaning of Article 6 (Sufficient Production). 2. The following definitions apply for this Annex and Annexes 2-A and 2B: **chapter** means a chapter of the Harmonized System; **heading** means any four-digit number, or the first four digits of any number, used in the Harmonized System; **section** means a section of the Harmonized System; **subheading** means any six-digit number, or the first six digits of any number, used in the Harmonized System; and **tariff provision** means a chapter, heading, or subheading of the Harmonized System. 3. Unless otherwise specified, a requirement of a change in tariff classification or any other condition set out in a product-specific rule of origin applies only to non-originating material. 4. Section, chapter, heading, or subheading notes, where applicable, are found at the beginning of each new section, chapter, heading, or subheading. These notes must be read in conjunction with the product-specific rules of origin for the applicable section, chapter, heading, or subheading and may impose further conditions on, or provide an alternative to, the product-specific rules of origin. **REF2** 5. Unless otherwise specified, reference to weight in a product-specific rule of origin means the net weight, which is the weight of a material or a product not including the weight of packaging as set out in the definitions of "net weight of non-originating material" and "net weight of the product" in Article 1 (Definitions) of this Protocol. 6. If a product is subject to alternative product specific rules of origin, the product shall be originating if it satisfies one of the alternatives. If a product is subject to a product specific rule of origin that includes multiple requirements, the product shall be originating only if it satisfies all of the requirements. 7. If a product specific rule of origin provides that a specified non-originating material may not be used or that the value or weight of a specified non-originating material cannot exceed a specific threshold, those requirements do not apply to non-originating materials classified elsewhere in the Harmonized System. 8. In accordance with Article 6 (Sufficient Production), when a material obtains originating status in the territory of a Party and this material is further used in the production of a product for which origin is being determined, no account will be taken of any non-originating material used in the production of that material. This applies whether or not the material has acquired originating status inside the same factory where the product is produced. 9. For the purposes of product specific rules of origin, the following abbreviations apply: "**CC**" means production from non-originating materials of any Chapter, except that of the product, or a change to the Chapter, heading or subheading from any other Chapter; this means that all non-originating materials used in the production of the product must undergo	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. **REF 2** These notes, where applicable, are to be found in the Annex 2 section in each product specific rules fiche. **REF 3** Product specific rules for each product analysed in this report is to be found in the Annex 2 section in each product specific rules fiche.

<table>
<tr><th>Issue</th><th>Article</th><th>Analysis</th></tr>
<tr><td></td><td>a change in tariff classification at the 2-digit level (i.e. a change in Chapter) of the Harmonized System.

"CTH" means production from non-originating materials of any heading, except that of the product, or a change to the Chapter, heading or subheading from any other heading; this means that all non-originating materials used in the production of the product must undergo a change in tariff classification at the 4-digit level (i.e. a change in heading) of the Harmonized System.

"CTSH" means production from non-originating materials of any subheading, except that of the product, or a change to the Chapter, heading or subheading from any other subheading; this means that all non-originating materials used in the production of the product must undergo a change in tariff classification at the 6-digit level (i.e. a change in sub-heading) of the Harmonized System.

Product specific rules for sufficient production REF3
<table><tr><th>Harmonized System classification</th><th>PSR for sufficient production pursuant to Article 2</th></tr><tr><td>XXXX.XX</td><td>Product specific rule for heading XXXX.XX</td></tr></table></td><td></td></tr>
<tr><td>Transitional Origin Relief Quota (TORQ)</td><td><u>Annex 2-A</u>

Transitional Origin Relief Quota for Agricultural, Fish, Seafood and other Prepared Foodstuff and Beverage REF1

Common Provisions

1. Annex 2-A applies to products identified in the following Sections:

(a) Section A: Agricultural Products

(b) Section B: Fish and Seafood

(c) Section C: Prepared Foodstuff and Beverages

2. For the products listed in the tables within each Section, where the European Union has a free trade agreement with a third country in force at the date of the United Kingdom's withdrawal from the European Union[4], and within the limits of the applicable quota:

(a) a product that originates in that third country is considered originating in a Party when used as a material in the production of a product; and

(b) production carried out in that third country on a non-originating material used in the production of a product in a Party may be taken into consideration for the purpose of determining whether this product is originating under this Agreement. REF2</td><td>REF 1 A Transitional Origin Relief Quota (TORQ) would, for a limited time<u>, exempt all inputs originating in EU FTA partners from origin calculations for a pre-determined quantum of specific products traded between the EU and the UK.</u> This is to allow the EU and the UK time to seek and formalise 'diagonal cumulation' arrangements with those partners. In the absence of such cumulation agreements, these TORQs would fall away at a specified time.

REF 2 Allows exporters to consider all production carried out and materials originating in EU FTA partners used in the production of a product as originating under the meaning of this Protocol for a pre-determined quantum of specific products traded between the EU and the UK.

REF 3 Establishes that this Annex remains valid for a maximum of 5 years from the entry into force, or until the UK, the EU and these third parties reach an agreement to include 'diagonal cumulation' arrangements in their respective FTAs.

REF 4 Provides a methodology based on a five-year trade volume average for calculating the product specific TORQ quota volumes.

REF 5 Both tables are repeated in Section B (Fish and Seafood) and Section C (Prepared Foodstuff and Beverages), respectively.</td></tr>
</table>

[4] To be inserted here: list of countries meeting this criteria.

<table>
<tr><th>Issue</th><th>Article</th><th>Analysis</th></tr>
<tr><td></td><td>
3. Paragraph 2 does not apply if the production carried out on a product does not go beyond the operations referred to in Article 8 or if the object of this production, as demonstrated on the basis of a preponderance of evidence, is to circumvent financial or fiscal legislation of the Parties.

4. Annex 2-A will be applied until the conditions set in Article 3.3 of this Protocol are satisfied, and for a maximum period of five years from the date of entry into force of this Protocol. REF3

3. The importing Party shall manage the transitional origin relief quotas (TORQ) for the products listed in the tables within each Section on a first-come first-served basis and shall calculate the quantity of products entered under these origin quotas on the basis of that Party's imports.

4. All exports under TORQ must make reference to Annex 2-A. The Parties shall not count any products against the annual TORQ without such reference.

5. The United Kingdom shall notify the European Union if any United Kingdom-issued documentation requirements are established for:

(a) products exported from the United Kingdom under the applicable TORQ; or

(b) products imported into United Kingdom under the applicable TORQ.

6. If the European Union receives notification pursuant to subparagraph 5(a), the European Union shall allow for only those products accompanied by such documentation to claim the preferential tariff treatment based on the conditions specified in Annex 2-A.

7. The Parties shall calculate TORQ quota volumes by averaging the volumes of trade under each tariff heading listed in the tables within each section during the five calendar years prior to the date of entry into force of this Agreement. REF4

8. With respect to the European Union, any quantities referred to in this Annex shall be managed by the European Commission, which shall take all administrative actions it deems advisable for their efficient management in respect of the applicable legislation of the European Union.

9. The Parties shall consult as needed to ensure that Annex 2-A is administered effectively and shall cooperate in the administration of Annex 2-A. The Parties shall consult to discuss possible modifications to Annex 2-A.

Section A - Agriculture REF5

Table A.1 - Annual TORQ Allocation for Agricultural Products Exported from the United Kingdom to the European Union
<table>
<tr><th>HS code</th><th>Product description</th><th>Annual quota for Exports from the United Kingdom to the European Union (metric tonnes, net weight)</th></tr>
<tr><td>0000.00.00</td><td></td><td></td></tr>
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<tr><th>Issue</th><th>Article</th><th>Analysis</th></tr>
<tr><td></td><td>
<table>
<tr><td>0000.00.00</td><td></td><td></td></tr>
</table>
Table A.2 – Annual TORQ Allocation for Agricultural Products Exported from the European Union the United Kingdom
<table>
<tr><th>HS code</th><th>Product description</th><th>Annual quota for Exports from the European Union to the United Kingdom (metric tonnes, net weight)</th></tr>
<tr><td>0000.00.00</td><td></td><td></td></tr>
<tr><td>0000.00.00</td><td></td><td></td></tr>
</table>
</td><td></td></tr>
<tr><td>Food and drink product-specific ‘MFN diagonal cumulation protocols’</td><td>
<u>Annex 2-B</u>
Alternatives to the Product-Specific Rules of Origin in Annex 2 and 2-A REF1
Common Provisions
1. Annex 2-B applies to products identified in the following Sections:
(a) Section A: Agricultural Products
(b) Section B: Fish and Seafood
(c) Section C: Prepared Foodstuff and Beverages
2. For products listed in the tables within each Section:
(a) the corresponding rules of origin are alternatives to those set out in Annex 2 REF2; and
(b) notwithstanding Article 7, and subject to paragraph 3, materials originating in third parties, which, under the conditions set in Annex 2, must be wholly obtained in one of the Parties of this Agreement, may be taken into account as originating by the exporter for the purpose of determining whether a product is originating under this Agreement. REF3
3. Paragraph 2 only applies to materials which are subject to European Union and United Kingdom most favoured nation and preferential import regimes that are agreed by both parties to confer equivalent treatment. REF4
4. The Joint Customs Cooperation Committee (JCCC) shall monitor the relevant import regimes of the Parties and amend product list within each Section to ensure compliance with the conditions set in paragraph 3.
Section A – Agriculture
Table A – Alternatives to Agriculture product-specific rules of origin in Annex 2 and 2-A
</td><td>
REF 1 This would ensure that sensitive UK food and drink exports generally requiring wholly originating status for preferential access would nevertheless be permitted to contain wholly originating inputs from countries where and only where <u>the EU and the UK maintained identical or equivalent MFN and preferential tariff schedules</u>.
REF 2 Provides alternative sufficient production requirements to those set out in Annex 2.
REF 3 Exempts certain materials which must normally wholly originate in a Party to this Agreement used in the production of a product to be considered as originating for the purpose of determining if that product originates under this Annex.
REF 4 Conditions the application of this Annex to the products listed within the tables in sections A, B and C to the application by the Parties of external export regimes for the relevant materials that are deemed to be equivalent.
REF 5 Exporters will be allowed 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.
</td></tr>
</table>

Issue	Article	Analysis

HS code	Product description	Sufficient production REF5
0000.00.00		
0000.00.00		

Section B - Fish and Seafood

Table B - Alternatives to fish and seafood product-specific rules of origin in Annex 2 and 2-A

HS code	Product description	Sufficient production
0000.00.00		
0000.00.00		

Section C - Prepared Foodstuff and Beverages

Table B - Alternatives to prepared foodstuff and beverages product-specific rules of origin in Annex 2 and 2-A

HS code	Product description	Sufficient production
0000.00.00		
0000.00.00		

PART II - PRODUCT SPECIFIC RULES DEEP DIVES

PSR 1. PRODUCT SPECIFIC RULES FOR RICE AND RICE PRODUCTS

Key rules of origin issues for rice products

- **Rice is amongst the food and drink products most exposed to potential disruptions from an imposition of rules of origin on EU-UK trade.** This is because, the process of milling brown rice into white rice is considered as insufficient production for the purpose of conferring origin on white rice under the terms of the origin protocol of most EU FTAs, including CETA, the EU-Japan FTA (JEFTA) and Pan-Euro-Med partnership (PEM). Access to preferential tariff treatment for white rice is typically predicated on brown rice grains of heading 1006 of the HS used in the production process being wholly obtained in a Party to these agreements. This means that the application of these origin protocols to EU-UK rice trade would see, for instance, UK milled rice from brown basmati rice grown in India or Pakistan fail to qualify for preferential tariff treatment under a future UK-EU FTA.
- **While CETA and JEFTA provide greater flexibilities for the use of non-originating rice as material in the production of rice-based prepared foods, a large share of EU-UK trade in such products would nevertheless fail to qualify for preferential tariff treatment.** For instance, 'ready-to-heat' microwave rice (HS 1904.90) would breach the maximum weight thresholds for non-originating rice content as a share of weight of the final product – 20% for CETA and 10% in JEFTA – and thus fail to qualify for preferential tariff treatment under a future EU-UK FTA.
- **The proposed Protocol provides a number of policy solutions aimed a mitigating as much as possible potential rules of origin-related disruptions to EU-UK rice trade under a future EU-UK preferential trade settlement.** These include a broader definition of the principle of territoriality set out in Article 5 (Wholly Obtained Products) via an explicit cross-reference to ambitious diagonal cumulation clauses in Article 3.3, and cumulation with Least Developed Countries (LDCs) in Article 4, some of which are key exporters of brown rice. The inclusion of 'weight or value' product specific rules in Annex 2 also allows for the recognition of premium production and brand equity in origin calculations – unlike CETA, JEFTA and PEM. Annex 2-B provides critical alternative product specific rules for certain sensitive rice products that exempt rice material (such as brown basmati) grown in third parties used in the production of final rice products from origin calculations.

<table>
<tr><th></th><th>Product specific rules of origin (PSR)</th><th>Analysis</th></tr>
<tr><td>Product</td><td>Microwave rice – HS 1904.90 REF1

The product is a microwave rice packet manufactured and packaged in a factory in the UK and exported to the EU Single Market under a premium brand. The manufacturing process consists of milling brown rice imported into the UK (or EU), cooking it and packaging it in ready to heat packets. The ingredients in each rice packet include parboiled rice (99%) and sunflower oil and salt (1%).

The sourcing strategy for the rice (HS 1006) used in the manufacturing products reflects both global prices and harvest quality. The rice content of each packet is typically imported from one single exporting market for consistency and homogeneity of the final product. More specifically:
▪ Basmati rice from India or Pakistan;
▪ Aromatic/fragrant rice from Thailand, Vietnam or Cambodia;
▪ Standard Indica grains from Spain, Portugal, Thailand, Uruguay and the US; and
▪ Medium/round grains from Spain and Italy.</td><td>REF 1 The exposure of this microwave rice packet to an imposition of rules of origin on EU-UK trade is representative of the challenges faced by the wider EU and UK rice sector.

More specifically:
▪ All the material of Chapter 10 (Cereals) must be wholly obtained – with the milling of rice considered as insufficient production – to confer origin on white rice under CETA, JEFTA and PEM.
▪ Different varieties of microwave rice depend on sourcing strategies for rice grown in a wide range of countries, including EU27, EU FTA partners, LDCs and third countries.
▪ The fact that the rice content in each microwave packet is typically procured from a single exporting market means that value-added or weight sufficient production origin determination criteria are immaterial for determining the origin if the product, which remains ultimately linked to where the rice content is wholly obtained.</td></tr>
<tr><td>Annex 2</td><td>For the general provisions and definitions of Annex 2 please refer to pp. 20-22 of the main document.

<table><tr><th>Harmonized System classification</th><th>PSR for sufficient production pursuant to Article 2</th></tr><tr><td>Chapter 10</td><td>Cereals</td></tr></table></td><td>REF 1 The cross-referencing of different cumulation provisions in Article 5 (Wholly Obtained Products) expands the principle of territoriality of production under this Protocol relative to CETA, JEFTA and PEM. More specifically, cross-references to:
▪ Article 3.1 and Article 3.2 (bilateral and full bilateral cumulation, respectively) mean that rice grown in Spain, Italy and Portugal used in the manufacturing of</td></tr>
</table>

	Product specific rules of origin (PSR)		Analysis
	Heading 10.06	Rice PSR – Chapter 10 All the cereals of Chapter 10 are wholly obtained within the meaning of Article 5 (Wholly Obtained Products). **REF1**	microwave rice in the UK can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade. ▪ Article 3.3 (diagonal cumulation) mean that rice grown in Vietnam used in the manufacturing of microwave rice in the UK and the EU can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade, contingent on the entry into force of the EU-Vietnam FTA prior to the UK's EU exit (March 29th, 2019); and ▪ Article 4 (cumulation with LDCs) mean that rice wholly obtained in Cambodia and other LDCs used in the manufacturing of microwave rice in the UK and the EU can be considered as wholly obtained under the terms of this protocol for the purpose of EU-UK trade.
	Chapter 19 Heading 19.04 Subheading 1904.90	**Preparations of cereals, flour, starch or milk; pastrycooks' products** Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included Other; obtained from rice (1904.90.10) PSR – 1904.90 CTH **REF2**, provided that **REF3**: a) the net weight of non-originating material of heading 10.06 or 11.01 through 11.08 used in production does not exceed 50 per cent of the net weight of the product; b) the net weight of non-originating sugar used in production does not exceed 50 per cent of the net weight of the product; c) the net weight of non-originating material of Chapter 4 used in production does not exceed 20 per cent of the net weight of the product; and d) the net weight of non-originating sugar and non-originating material of Chapter 4, of heading 10.06 or 11.01 through 11.08 used in production does not exceed 70 per cent of the net weight of the product. Or **REF4**, a) the value of non-originating material of heading 10.06 or 11.01 through 11.08 used in production does not exceed 50 per cent of the ex-work price of the product; b) the value of non-originating sugar used in the production does not exceed 40 per cent of the ex-work price of the product; c) the value of non-originating material of Chapter 4 used in production does not exceed 20 per cent of ex work price of the product; and	**REF 2** Establishes that all non-originating materials used in the manufacturing of products classified under subheading 1904.90 must undergo a change in tariff heading (i.e. a change at the 4-digit level of the HS) to meet sufficient production criteria for origin determination. While the change from HS 1006 heading to HS 1904 heading in principle meets this sufficient production criteria, products manufactured exclusively from rice grown in India and Pakistan (Basmati), Thailand (fragrant and Standard Indica) and other third countries would not qualify for preferential tariff treatment given probable breaches to value or weight thresholds for non-originating rice content. **REF 3** The exact content thresholds (**in red**) must be determined by industry stakeholders for other products classified under the same subheading 1904.90 of the HS. **REF 4** Establishes sufficient production specific rules for rice-containing food products based on 'weight or value' criteria to ensure that premium brand food and drink products produced in the UK and the EU are not unduly disqualified from preferential tariff treatment.

<table>
<tr><th></th><th colspan="2">Product specific rules of origin (PSR)</th><th>Analysis</th></tr>
<tr><td></td><td></td><td>d) the value of non-originating sugar and non-originating material of Chapter 4, of heading 10.06 or 11.01 through 11.08 used in production does not exceed 70 per cent of ex works price of the product.</td><td></td></tr>
<tr><td>Annex 2-A</td><td colspan="2">For the general provisions and definitions of Annex 2-A, please refer to pp. 22-24 of the main document.

Section A – Agriculture

Table A.1 – Annual TORQ allocation for agricultural products exported from the United Kingdom to the European Union

<table>
<tr><th>HS code</th><th>Product description</th><th>Annual quota for exports from the United Kingdom to the European Union (metric tonnes, net weight)</th></tr>
<tr><td>1006.20 REF1</td><td>Husked (brown) rice</td><td>XXX</td></tr>
<tr><td>1006.30 REF1</td><td>Semi and fully milled rice</td><td>XXX</td></tr>
<tr><td>1904.90.10 REF2</td><td>Prepared foods obtained by the swelling or roasting of rice products, pre-cooked or otherwise prepared, not elsewhere specified or included</td><td>XXX</td></tr>
</table>

Section C – Prepared foodstuff and beverages

Table C.1 – Annual TORQ allocation for prepared foodstuff and beverages exported from the United Kingdom to the European Union

<table>
<tr><th>HS code</th><th>Product description</th><th>Annual quota for exports from the United Kingdom to the European Union (metric tonnes, net weight)</th></tr>
<tr><td>1904.90.10 REF2</td><td>Prepared foods obtained by the swelling or roasting of rice products, pre-cooked or otherwise prepared, not elsewhere specified or included</td><td>XXX</td></tr>
</table></td><td>REF 1 Assuming the EU-Vietnam FTA enters into force before the UK exits the EU, this would exempt rice grown in Vietnam in origin calculations for a determined quantum of brown and semi or fully milled rice traded between the UK and the EU.

This TORQ would remain in force for a maximum of 5 years, or until the EU, the UK and Vietnam formalise diagonal cumulation arrangements set out in Article 3.3 and 3.5.

REF 2 Establishes a similar time-limited mechanism for the exemption of all material originating in EU FTA partners from origin calculations for a determined quantum of rice-containing food products classified under HS 1904.90.10. Importantly, this would cover relevant rice content grown Vietnam, but also all other material originating in other EU FTA partners.</td></tr>
</table>

<table>
<tr><th></th><th>Product specific rules of origin (PSR)</th><th>Analysis</th></tr>
<tr><td>Annex 2-B</td><td>
For the general provisions and definitions of Annex 2-B, please refer to pp. 24-25 of the main document.

Section A – Agriculture

Table A – Alternatives to agriculture product-specific rules of origin in Annex 2 and 2-A REF1
<table>
<tr><th>HS code</th><th>Product description</th><th>Sufficient production</th></tr>
<tr><td>1006.20</td><td>Husked (brown) rice</td><td>CTSH, provided that the material of Chapter 10, except from subheadings 1006.10.71 and 1006.10.79, is wholly obtained REF2</td></tr>
<tr><td>1006.30</td><td>Semi-milled or wholly milled rice, whether or not polished or glazed</td><td>CTSH, provided that the material of Chapter 10, except from subheadings 1006.20.17 and 1006.20.98, is wholly obtained REF2</td></tr>
<tr><td>1006.40</td><td>Broken rice</td><td>CTSH, provided that all the material of Chapter 10, except from subheadings 1006.20.17 and 1006.20.98, is wholly obtained REF2</td></tr>
<tr><td>1904.90.10</td><td>Ready to heat rice</td><td>CTSH, provided that:

a) all the material of Chapter 10, except from subheadings 1006.20.17 and 1006.20.98, is wholly obtained; REF3

b) the net weight of non-originating sugar used in production does not exceed 50 per cent of the net weight of the product;

c) the net weight of non-originating material of Chapter 4 used in production does not exceed 20 per cent of the net weight of the product; and

d) the net weight of non-originating sugar and non-originating material of Chapter 4, of heading 10.06 or 11.01 through 11.08 used in</td></tr>
</table>
</td><td>
REF 1 Establishes a list of rice products for which the UK and the EU agree to exempt brown rice material sourced in third countries – such as Uruguay, the US and Thailand – from origin calculations under the conditions set in Annex 2-B.

REF 2 Provides a more flexible alternative product specific rules for rice products of subheading 1006.20 of the HS to the general rules set in Annex 2 (see above). More specifically, it establishes that all materials of HS 1006.10.71 and HS 1006.10.79 codes (long grain paddy or rough rice), whether or not they are wholly obtained in a Party, undergo a change in tariff subheading (i.e. a change at the 6-digit level of the HS) to meet sufficient production criteria for origin determination of the final product. All other material of Chapter 10 must be wholly obtained.

REF 3 As above, provides a more flexible alternative product specific rules for rice products of subheading 1006.30 and 1006.40 of the HS to the general rules set in Annex 2 (see above). More specifically, it establishes that all materials of HS 1006.20.17 (parboiled brown long grain aromatic rice, Standard Indica and basmati) and HS 1006.20.98 codes (brown long grain aromatic rice, Standard Indica and basmati), whether or not they are wholly obtained in a Party, must undergo a simple change in tariff subheading (i.e. a change at the 6-digit level of the HS) to meet sufficient production criteria for origin determination of the final product. All other material from Chapter 10 must wholly originate.

REF 4 As above, establishes that all non-originating brown aromatic rice, Standard Indica and basmati (HS 1006.20.98) and their parboiled equivalents (HS 1006.20.17) used in the manufacturing of microwave rice (HS 1904.90.10), whether or not they are wholly obtained in a Party, must undergo a change in tariff subheading (i.e. a change at the 6-digit level of the HS) to meet sufficient production criteria for origin determination of the product. All other material from Chapter 10 must wholly originate.

The exact content thresholds (in red) must be determined by industry stakeholders for other products classified under the same HS 1904.90.10 code.

REF 5 Establishes sufficient production specific rules for rice-containing food products based on ‘weight or value’ criteria to ensure that premium brand food and drink products produced in the UK and the EU are not unduly disqualified from preferential tariff treatment.
</td></tr>
</table>

	Product specific rules of origin (PSR)			Analysis
			production does not exceed 70 per cent of the net weight of the product. Or **REF4**, a) all the material of Chapter 10, except from subheadings 1006.20.17 and 1006.20.98, is wholly obtained **REF3**; b) the value of non-originating sugar used in the production does not exceed 40 per cent of the ex-work price of the product; c) the value of non-originating material of Chapter 4 used in production does not exceed 20 per cent of ex work price of the product; and d) the value of non-originating sugar and non-originating material of Chapter 4, of heading 10.06 or 11.01 through 11.08 used in production does not exceed 70 per cent of ex works price of the product.	

PSR 2. PRODUCT SPECIFIC RULES FOR WHEAT DERIVATE FOOD PRODUCTS

Key rules of origin issues of wheat and wheat derivate products

- **Current EU-UK trade in foodstuff manufactured with products from the milling industry faces important potential disruptions from an imposition of rules of origin under a future EU-UK preferential trade deal**. This is because the origin protocols of most EU FTAs – including CETA, the EU-Japan FTA (JEFTA) and PEM – include strict origin determination criteria for products of the milling industry, such as wheat flour. Under these origin protocols, wheat flour is only considered as originating if all cereals from Chapter 10 (e.g. wheat, maze, barley, etc) used in the production process of the flour are wholly obtained in a Party to these agreements. Such origin determination criteria entail that flour milled from any blend of wholly obtained grains and non-originating grains would not be considered as originating under the terms of these origin protocols. This creates material problems for a range of foodstuff products – such as bagels and other breads (see below) – which are produced with flour milled from a blend of local grains and high-quality wheat grains not grown in sufficient quantities in the UK or EU27.
- **Although product specific rules of origin in CETA and JEFTA for bagels and other breads make allowances for a limited quantity of non-originating flour (20 and 10 per cent, respectively), the blending of originating and non-originating flour must be made by the bread producer to ensure full compliance with these protocols.** This would however require UK and EU flour millers to establish costly duplicative separate production chains for flour milled from wholly obtained grains and for flour milled from non-originating grains to ensure that downstream food preparations of cereals access preferential tariff treatment under a future EU-UK FTA
- **The proposed protocol provides a range of policy solutions to address these potential disruptions to current EU-UK trade in wheat-based foodstuff.** These include a broader definition of the principle of territoriality set out in Article 5 (Wholly Obtained Products) via an explicit cross-reference to ambitious bilateral and diagonal cumulation clauses (Articles 3.1, 3.2 and 3.3) to ensure that cereals grown in the EU Single Market and high-quality grains grown in EU FTA partners such as Canada and Ukraine can be considered as wholly obtained and originating under the terms of this Protocol. Importantly, it also establishes more flexible product specific rules for flour (flour of Chapter 11) that allows for non-originating grains (under specified limits) to be added to the blend of grains upstream, prior to the milling process.

	Product specific rules of origin (PSR)	Analysis
Product	Bagel – HS 1905.40 or HS 1905.90 **REF1** The bagel is manufactured and packaged in a factory in the UK. It is sold in the UK and exported to the EU Single Market under a premium brand. The bagel's ingredients and their respective share of the net weight of the final product include: ▪ Bread wheat flour (60%) ▪ Water (36%) ▪ Granulated sugar (2%) ▪ Yeast (1%) ▪ Salt (1%) The bread flour used in the manufacturing process is milled in the UK from a blend of wheat grains procured on the basis of quality from a range of growers in Canada, Ukraine, Russia, the US, the UK and EU27, reflecting both global price and harvest quality.	**REF 1** The exposure of bagel products to an imposition of rules of origin on EU-UK trade is representative of the challenges faced by most products of the milling industry and their derivatives, such as bread, pastry and other wheat flour-based products. More specifically: ▪ The manufacturing process uses wheat flour milled in the UK from a blend of grains procured from inside and outside the UK and EU27. This is because, like other products such as pizza bases, the production process of bagels requires wheat flour content milled from high quality grains typically not grown in the EU27 or the UK. ▪ This is a problem because the application of the origin protocols of most EU FTAs – including CETA, JEFTA and PEM – to EU-UK trade would require that all grains used in the production of flour be wholly obtained to ensure access for the final product to preferential terms of trade. ▪ This means that, while these origin protocols' product specific rules for bread, bagels and other such products typically allow for 10-20 per cent of non-originating flour to be used as materials, the blending must be done downstream – i.e. at the bagel factory – from originating and non-originating flour. Ensuring the access of downstream production to EU-UK preferential terms of trade would therefore require EU and UK flour millers to establish costly separate production lines for originating and non-originating flour.
Annex 2	For the general provisions and definitions of Annex 2 please refer to pp. 20-22 of the main document.	**REF 1** The cross-referencing of different cumulation provisions in Article 5 (Wholly Obtained Products) expands the principle of territoriality of production under this Protocol relative to CETA, JEFTA and PEM. More specifically, cross-references to:

	Product specific rules of origin (PSR)		Analysis
	Harmonized System classification	**PSR for sufficient production pursuant to Article 2**	
	Chapter 10	**Cereals** PSR – Chapter 10 All the cereals of Chapter 10 are wholly obtained within the meaning of Article 5 (Wholly Obtained Products). **REF1**	▪ Article 3.1 and Article 3.2 (bilateral and full bilateral cumulation, respectively) mean that wheat grains grown in the EU27 used in a blend of grains milled into flour in the UK can be considered as wholly obtained under the terms of this Protocol for the purpose of EU-UK trade. ▪ Article 3.3 (diagonal cumulation) mean that wheat grains grown in Canada and Ukraine used in a blend of grains milled into flour in the UK and the EU can be considered as wholly obtained under the terms of this Protocol for the purpose of EU-UK trade.
	Chapter 11 Heading 1101	**Products of the milling industry; malt; starches; inulin; wheat gluten** Wheat or meslin flour PSR – 1101-11.09 CC, provided that: (a) the net weight of non-originating materials of Chapter 10 used do not exceed 50 per cent of the net weight of the product; or (b) the value of non-originating material of Chapter 10 does not exceed 50 per cent of the ex-works price of the product. **REF2**	**REF 2** This establishes an origin determination criterium based on sufficient production rules requiring all non-originating grains to undergo a simple chapter change (i.e. a change in tariff classification at the 2-digit level), provided the net weight or value of this non-originating grain remains below 50 per cent as a share of the net weight or ex-works price of the final product, respectively. The exact content thresholds (**in red**) must be determined by industry stakeholder users of materials of Chapter 11. As the EU operates a zero MFN tariff regime for wheat grains, this threshold is unlikely to be considered as politically sensitive by the EU, given that it wouldn't result in added competition for EU flour millers and would simply aim to preserve the current EU market for flour. This is however not the case for other grains in Chapter 10, such as barley and oats, which would be subject to defensive concerns from EU producers of such grains
	Chapter 19 Heading 1905 Subheading 1905.90	**Preparations of cereals, flour, starch or milk; pastrycooks' products** Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products Matzos and other (including bead and bagels) PSR – 1905 CC **REF3**, provided that: a) the net weight of non-originating material of heading 10.06 or 11.01 through 11.08 used in production does not exceed 20 per cent of the net weight of the product **REF4**; b) the net weight of non-originating sugar used in production does not exceed 40 per cent of the net weight of the product; c) the net weight of non-originating material of Chapter 4 used in production does not exceed 20 per cent of the net weight of the product; and d) the net weight of non-originating sugar and non-originating material of Chapter 4, of heading 10.06 or 11.01 through 11.08 used	**REF 3** Establishes an origin determination criterium based on sufficient production requirements that all non-originating material undergo a chapter change (i.e. a change in tariff classification at the 2-digit level of the HS), provided the net weight or value of this non-originating grain remains below 50 per cent as a share of the net weight or ex-works price of the final product, respectively. **REF 4** Allows bagel producers to use additional non-originating flour accounting for up to 20 per cent of the net weight or ex-works price of the final product. **REF 5** Establishes sufficient production specific rules for Bread, pastry, cakes, biscuits and other bakers' wares based on 'weight or value' criteria to ensure that premium brand products produced in the UK and the EU are not unduly disqualified from preferential tariff treatment

<table>
<tr><th></th><th colspan="2">Product specific rules of origin (PSR)</th><th>Analysis</th></tr>
<tr><td></td><td></td><td>in production does not exceed 60 per cent of the net weight of the product.

Or REF5,

a) the value of non-originating material of heading 10.06 or 11.01 through 11.08 used in production does not exceed 20 per cent of the ex-works price of the product;

b) the value of non-originating sugar used in the production does not exceed 40 per cent of the ex-works price of the product;

c) the value of non-originating material of Chapter 4 used in production does not exceed 20 per cent of ex work price of the product; and

d) the value of non-originating sugar and non-originating material of Chapter 4, of heading 10.06 or 11.01 through 11.08 used in production does not exceed 60 per cent of ex works price of the product.</td><td></td></tr>
<tr><td>Annex 2-A</td><td colspan="2">For the general provisions and definitions of Annex 2-A please refer to pp. 22-24 of the main document.

Section C – Prepared foodstuff and beverages

Table C.1 – Annual TORQ allocation for prepared foodstuff and beverages from the United Kingdom to the European Union
<table>
<tr><th>HS code</th><th>Product description</th><th>Annual quota for Exports from the United Kingdom to the European Union (metric tonnes, net weight)</th></tr>
<tr><td>1905.90 REF1</td><td>Bread and bagels</td><td>X</td></tr>
</table></td><td>REF 1 This would exempt materials originating in EU FTA partners – such Ukrainian and Canadian grown wheat used in a blend of grains milled into flour in the EU and the UK – from origin calculations for a determined quantum of bagels and other products classified under heading 1905.90 for the purpose of EU-UK trade.

This TORQ would remain in force for a maximum of 5 years, or until the EU, the UK and relevant EU FTA partners formalise diagonal cumulation arrangements as set out in Articles 3.3 and 3.5.</td></tr>
</table>

PSR 3. PRODUCT SPECIFIC RULES FOR SUGAR AND CHOCOLATE CONFECTIONERY PRODUCTS

Key rules of origin issues for sugar and chocolate confectionery

- **A wide range of EU and UK sugar-containing food and drink products face important potential challenges in accessing preferential tariff treatment under a future EU-UK FTA.** This is because the refining of raw cane sugar is considered as insufficient production for the purpose of conferring origin on the resulting white sugar under the origin protocols of most EU FTAs, including CETA, the EU-Japan FTA (JETFA) and PEM. The application of these origin protocols in their current version to EU-UK food and drink trade would mean that most of the white cane sugar refined in the UK and the EU used in the manufacturing of chocolate and other sugar confectionery products would be automatically considered as a non-originating material for the purpose of determining whether the final product qualified for preferential tariff treatment under a future EU-UK FTA. This essentially implies that these protocols create a structural disincentive for sugar user sectors to use cane sugar – as opposed to beet sugar – as material in the manufacturing of sugar and chocolate confectionery destined for export to the EU.
- **The application of the proposed protocol to chocolate confectionery (see below) illustrates a range of policy solutions for addressing potential disruptions to current EU-UK trade in sugar containing food and drink products.** These include a broader definition of the principle of territoriality set out in Article 5 (Wholly Obtained Products) via an explicit cross-reference to ambitious bilateral cumulation (Article 3.1) and diagonal cumulation clauses (Article 3.3) to ensure that dairy materials of Chapter 4 originating in the EU 27 and raw cane sugar originating in EU FTA partners – including key raw sugar exporting markets such as Guyana, Belize, Mauritius, Guatemala, and Costa Rica – can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade. The establishment of sufficient production product specific rules for chocolate confectionery based on 'weight or value' criteria also ensures that premium brand products produced in the UK and the EU are not unduly disqualified from preferential tariff treatment.

	Product specific rules of origin (PSR)	Analysis
Product	Milk chocolate bar – 1806.32.90 **REF1** This milk chocolate bar is manufactured and packaged in the UK and exported under a household name to the EU Single Market. The milk chocolate bar's ingredients and their respective net weight as a share of the final product are as follows: ▪ Sugar (45%) ▪ Milk solids (24%) ▪ Cocoa solids (23%) ▪ Cocoa butter (4%) ▪ Vegetable fats (4%) The dairy elements in the chocolate bar come from UK, French and Irish suppliers. The cocoa solids and cocoa butter used in the manufacturing process are sourced primarily from west African suppliers in Cote d'Ivoire and Ghana. The sugar content is procured from a mix of cane sugar refined in the UK and UK and EU beet-sugar, with supplier choice in both cases reflecting global prices. More specifically: ▪ White cane sugar refined in the UK from raw sugar originating in Guyana, Belize, Mauritius, Fiji, Brazil, Guatemala, Costa Rica and Laos ▪ White beet-sugar produced in the UK, France, the Netherlands, Germany and the Netherlands.	**REF 1** The exposure of this chocolate confectionery product to an imposition of rules of origin on EU-UK trade is representative of the challenges faced by the wider EU and UK sugar confectionery sector. More specifically: ▪ The product specific rules of origin for sugar and chocolate confectionery in most EU FTAs – including CETA, JEFTA and PEM – are designed as a complement to the EU's sugar policy and protect the EU sugar beet sector (which accounts for 50% of world production) from cane sugar competition. ▪ By establishing sugar refining as 'insufficient production', these protocols ensure that most white cane sugar refined in temperate zone-FTA partners – such as Canada and Japan – is automatically considered as non-originating material for the purpose of determining whether a final sugar containing product (eg a milk chocolate bar) qualifies for preferential tariff treatment when exported to the EU. ▪ This means that these protocols create a structural disincentive for the sugar-user producers to use cane sugar as material in the manufacturing of sugar or chocolate confectionery destined for export to the EU.

Annex 2

For the general provisions and definitions of Annex 2 please refer to pp. 20-22 of the main document.

PSR notes on sugar **REF1**

1. If a rule of origin requires that the net weight of non-originating sugar used in production not exceed a specified threshold, the product satisfies this condition if the total net weight of all mono-saccharides and di-saccharides contained in the product, or in the materials used in production, does not exceed this threshold.

2. The product also satisfies the condition in paragraph 1 if the threshold is not exceeded by the net weight of non-originating sugar classified in heading 17.01 or subheading 1702.30 through 1702.60 or 1702.90 other than maltodextrin, chemically pure maltose, or "colouring" caramel, as described in the explanatory notes to heading 17.02 of the HS, when used as such in the production of:

(a) the product; and

(b) the non-originating sugar-containing materials classified in subheading 1302.20, 1704.90, 1806.10, 1806.20, 1901.90, 2101.12, 2101.20, 2106.90, and 3302.10 that are used as such in the production of the product. Alternatively, the net weight of all mono-saccharides and di-saccharides contained in any of these sugar-containing materials may also be used. If the net weight of the non-originating sugar used in the production of these sugar containing materials or the net weight of mono-saccharides and di-saccharides contained in these sugar-containing materials is not known, the total net weight of these materials used as such in production must apply.

3. The net weight of any non-originating sugar as referred to in paragraph 2 may be calculated on a dry weight basis.

4. For the purpose of the rules of origin for heading 17.04 and 18.06, the value of non-originating sugar refers to the value of the non-originating material referred to in paragraph 2 that is used in production of the product.

Harmonized System classification	**PSR for sufficient production pursuant to Article 2**
Chapter 4	**Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included**
Heading 0402	Milk and cream, concentrated or containing added sugar or other sweetening matter
Subheading 0402.21	Milk and cream, concentrated or containing added sugar or other sweetening matter; In powder, granules or other solid forms, of a fat content, by weight, exceeding 1,5% PSR – Chapter 4

REF 1 Outlines the additional notes that must be read in conjunction with the product-specific rules of origin for sugar containing food products ion the below table, clarifying the different types of sugars that must and must not be taken into account when determining the level of non-originating sugar in the product. More specifically, these notes establish that:

- Producers must only take account of monosaccharides (eg glucose, fructose and galactose) and disaccharides (eg sucrose, lactose and maltose) – but not of maltodextrin, chemically pure maltose, or "colouring" caramel – used in the manufacturing of the final product;
- Producers must take account of the non-originating content of these sugars in other materials – such as mixes and doughs (HS 1901.90) and flavouring agents (HS 3302.10) – used in the manufacturing of the final product.

REF 2 The cross-referencing of different cumulation provisions in Article 5 (Wholly Obtained Products) expands the principle of territoriality of production under this Protocol relative to CETA, JEFTA and PEM. More specifically, cross-references to Articles 3.1 and 3.2 (bilateral and full bilateral cumulation, respectively) means that Chapter 4 materials (such as milk solids) wholly obtained in the EU Single Market can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade.

REF 3 The establishment that the refining of raw sugar does not constitute sufficient production (see subparagraph 1(g) of Article 8) for the purpose of origin determination means that UK refined white sugar from raw cane sugar imported from key global sugar producing markets – such as Guyana, Belize, Mauritius, Fiji, Brazil, Guatemala, Costa Rica and Laos – would in principle be automatically considered as non-originating material under the term of this protocol. However, the cross-referencing of different cumulation provisions in Article 5 (Wholly Obtained Products) expands the principle of territoriality of sugar production under this Protocol.

More specifically, cross-references to:

- Article 3.1 and Article 3.2 (bilateral and full bilateral cumulation, respectively) means that beet sugar originating in the EU can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade.
- Article 3.3 (diagonal cumulation) mean that white cane sugar refined in the UK from raw sugar originating in EU FTA partners – such as Guyana, Belize, Mauritius, Guatemala, and Costa Rica – used in the manufacturing of chocolate and sugar confectionery in the UK and the EU can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade; and
- Article 4 (cumulation with LDCs) means that white cane sugar refined from raw sugar originating in Cambodia and other LDCs used in the manufacturing of chocolate and sugar confectionery in the UK and the EU can be considered as originating in either Party under the terms of this protocol for the purpose of EU-UK trade.

However, the 'CTH' sufficient production origin determination criterium for sugar products of heading 1701 – requiring a change in tariff heading (i.e. at the 4-digit level)

<table>
<tr>
<td></td>
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<table>
<tr><td></td><td>Production in which all the material of Chapter 4 used is wholly obtained within the meaning of Article 5 (Wholly Obtained Products). REF2</td></tr>
<tr><td>Chapter 17

Heading 1701</td><td>Sugars and sugar confectionary

Cane or beet sugar and chemically pure sucrose, in solid form

PSR - 1701

CTH REF3</td></tr>
<tr><td>Chapter 18

Heading 1806

Subheading 1806.32</td><td>Cocoa and cocoa preparations

Chocolate and other food preparations containing cocoa

Chocolate in blocks, slabs and bars

PSR – 1806

CTH REF4

a) (i) the net weight of non-originating sugar used in production does not exceed 40 per cent of the net weight of the product; or REF 5

(ii) the value of non-originating sugar used in production does not exceed 30 per cent of the transaction value or ex-works price of the product, and

b) (i) the net weight of non-originating material of Chapter 4 used in production does not exceed 20 per cent of the net weight of the product; or REF 5

(ii) the value of non-originating material of Chapter 4 used in production does not exceed 20 per cent of the transaction value or ex-works price of the product.</td></tr>
</table>
</td>
<td>– means that white cane sugar refined in the UK from raw cane sugar originating in non-EU FTA partners (such as Brazil and Fiji) cannot be considered as originating under the terms of this Protocol for the purpose of EU-UK trade. While this problem would in theory be resolved via the establishment of a ‘CTSH’ sufficient production criterium – requiring a change in tariff subheading (i.e. at the 6-digit level) – the high political sensitivity around the EU’s internal sugar policy makes it highly unlikely that this would be accepted by the EU.

The most politically viable solution would be the inclusion of ambitious diagonal cumulation provisions in the EU’s future FTA with Mercosur and the concluded, but yet-to-be-implemented FTA with Fiji, which would have to be matched with similar clauses in the UK’s own future FTAs with these countries.

REF 4 Establishes that all non-originating materials used in the manufacturing of chocolate and other food preparations containing cocoa of heading 1806 of the HS must undergo a change in tariff heading (i.e. a change at the 4-digit level) to be considered as originating under the terms of this protocol, provided the net weight or value of non-originating dairy and sugar material remains below specified thresholds as a share of the net weight or price of the final product.

As discussed above, white cane sugar refined in the UK from raw sugar originating in Brazil and Fiji must be accounted as non-originating material to determine whether a chocolate and sugar confectionery product originates under the terms of this protocol for the purpose of EU-UK trade. However, a blending of this cane sugar with white sugar refined from raw cane sugar originating in EU FTA partners should ensure that the final product respect the value or weight threshold for non-originating sugar.

The exact content thresholds (in red) must be filled by industry stakeholders for other products of heading 1806 of the HS.

REF 5 Establishes sufficient production specific rules for chocolate confectionery based on ‘weight or value’ criteria to ensure that premium brand food and drink products produced in the UK and the EU are not unduly disqualified from preferential tariff treatment.</td>
</tr>
<tr>
<td>Annex 2-A</td>
<td>For the general provisions and definitions of Annex 2-A please refer to pp. 22-24 of the main document.

Section A – Agriculture

Table A.1 – Annual TORQ Allocation for Agricultural Products Exported from the United Kingdom to the European Union
<table>
<tr><th>HS code</th><th>Product description</th><th>Annual quota for Exports from the United Kingdom to the European Union (metric tonnes, net weight)</th></tr>
<tr><td>1806.32 REF1</td><td>Chocolate in blocks, slabs and bars</td><td>XXX</td></tr>
</table>
</td>
<td>REF 1 Exempts material originating in EU FTA partners such as raw sugar (HS 1701.13) originating in Guyana, Belize, Mauritius, Guatemala, and Costa Rica in origin calculations for a determined quantum of chocolate confectionery products of heading 1806.32.

This TORQ would remain in force for a maximum of 5 years, or until the EU, the UK and relevant EU FTA partners formalise diagonal cumulation arrangements set out in Article 3.3 and 3.5.</td>
</tr>
</table>

PSR 4. PRODUCT SPECIFIC RULES FOR MEAT AND PROCESSED MEAT (PET FOOD) PRODUCTS

Key rules of origin issues for meat and processed meat products

- **A wide range of EU and UK meat and processed meat food products face important potential challenges in accessing preferential tariff treatment under a future EU-UK FTA.** This is because relevant product specific rules of origin in most EU FTAs – including CETA, the EU-Japan FTA (JEFTA) and PEM – require that all meat content used in the production process be wholly obtained in a Party to these agreements for conferring origin to the final product. Such criteria create risks for EU and UK producers who, following 40 years of ever closer integration of supply chains and distribution networks within the EU Single Market, have built production chains for products destined for intra-EU based on global procurement strategies. This means that, without the inclusion of additional flexibilities in a future EU-UK origin protocol, a number of UK and EU met and processed meat food products – including pet food produced from lamb meat imported from Australia and New Zealand – would fail to access preferential tariffs in a future EU-UK FTA.
- **The proposed protocol provides a range of policy solutions to address potential disruptions to current EU-UK trade in meat and processed meat food products.** These include a broader definition of the principle of territoriality set out in Article 5 (Wholly Obtained Products) via an explicit cross-reference to ambitious bilateral cumulation (Articles 3.1 and 3.2) and diagonal cumulation clauses (Article 3.3) to ensure that meat originating in the EU27 and cereal grains grown in EU FTA partners such as Ukraine can be considered as originating for the purpose of accessing preferential tariff treatment under a future EU-UK FTA. The below example of a meat-based pet food in kibbles also shows how greater flexibilities in meeting tolerance levels for non-originating content set out in Article 7 (Tolerances) could help ensure that the occasional procurement of lamb meat from Australian and New Zealand would not preclude the final product from accessing preferential tariff treatment under a future EU-UK FTA.

	Product specific rules of origin (PSR)	Analysis
Product	Pet food kibbles – 2309.10 through 2309.90 **REF1** The product is a meat-based pet food in kibbles manufactured and packaged in a factory in the UK and exported to the EU Single Market under a premium brand. It consists of 14kg packets of dry kibbles in a range of meat flavours produced from a blend of animal protein and fat, milled cereal grains (e.g. wheat, maze etc) and vitamins, all of which procured on the basis of premium quality from UK, EU and global suppliers, reflecting global prices. Although manufacturers favour procurement from within the UK and EU27, sourcing of the meat material used in the production of the kibbles can vary several times within a single calendar year and occasionally switch to non-EU/UK suppliers. This is because producers typically run several parallel contracts (with maturities of 6-12 months) and can switch procurement to non-EU sources – generally within 2-3 weeks notices – on the basis of global price fluctuations, availability of tonnage and supplier approval processes. The meat content of the various 'kibble meals' accounts in average for 4 to 26% of the net weight of the product and typically originates from: ▪ Spain and Czech Republic – turkey meal ▪ Spain – salmon meal ▪ France – duck meal ▪ EU – fish (including tuna) meal ▪ UK, Poland and Italy – greaves meal ▪ UK, Ireland, New Zealand and Australia – lamb meal ▪ UK and Czech Republic – chicken / poultry meal ▪ UK and Ireland – mixed species meat and bone meal (bovine, ovine, porcine) The origin of other material, and their respective net weight as a share of total weight (varying according to the formulation of different 'meals'), are as follow:	**REF 1** The exposure of this meat-based pet food in kibbles product to an imposition of rules of origin on EU-UK trade is representative of the challenges faced by most food products manufactured from meat, fish and materials from the milling industry (Chapter 11). More specifically: ▪ All materials from Chapter 2 (meat and edible meat offal) and Chapter 3 (fish and crustaceans, molluscs and other aquatic invertebrates) must be wholly obtained in a Party to confer origin on the final product under origin protocols in CETA, JEFTA and PEM. ▪ This means that, like most other meat and processed meat food products with supply chains that take both from within and outside the EU Single Market, a range of pet food products - especially lamb meals – risk not accessing preferential tariff treatment under a future EU-UK FTA. ▪ Given that the origin protocols of most EU FTAs – including CETA, JEFTA and PEM – require that all grains used in the production of flour be wholly obtained, even products in which the meat content is wholly obtained risk not qualifying for preferential tariff treatment.

<table>
<tr><th></th><th>Product specific rules of origin (PSR)</th><th>Analysis</th></tr>
<tr><td></td><td>
▪ Poultry fat for coating (3-5%) – UK
▪ Animal digests (3-4%) – UK and Denmark
▪ Basic cereals such as wheat (30-70%), barley (7-18%), oats (3-16%) and rice (4-33%) – mostly from the UK and EU, but occasionally, depending on global prices fluctuations, also from Ukraine and Russia
▪ Potato-based materials (10-22%) – UK, France and China
▪ Sugar-beet pulp (1-4%) – EU
▪ Vitamins and minerals (1%) – EU, China, Peru, Mexico, Russia, Chile, India, Brazil, Switzerland, South Korea, Japan, USA, Canada, Turkey, Morocco.
</td><td></td></tr>
<tr><td>Annex 2</td><td>
For the general provisions and definitions of Annex 2 please refer to pp. 20-22 of the main document.
<table>
<tr><th>Harmonized System classification</th><th>PSR for sufficient production pursuant to Article 2</th></tr>
<tr><td>Chapter 2</td><td>Meat and edible meat offal
PSR – Chapter 2
Production in which all the material of Chapter 1 or 2 used is wholly obtained within the meaning of Article 5 (Wholly Obtained Products). REF1</td></tr>
<tr><td>Chapter 3</td><td>Fish and crustaceans, molluscs and other aquatic invertebrates
PSR – Chapter 3
Production in which all the material of Chapter 3 used is wholly obtained within the meaning of Article 5 (Wholly Obtained Products). REF1</td></tr>
<tr><td>Chapter 11

Heading - 1101-11.09</td><td>Products of the milling industry; malt; starches; inulin; wheat gluten
PSR – 1101-1109
CC, provided that:
(i) the net weight of non-originating materials of Chapter 10 used do not exceed 50 per cent of the net weight of the product; or
(ii) the value of non-originating material of Chapter 10 does not exceed 50 per cent of the ex-works price of the product. REF2</td></tr>
<tr><td>Chapter 23</td><td>Residues and waste from the food industries; prepared animal fodder</td></tr>
</table>
</td><td>
REF 1 The cross-referencing of different cumulation provisions in Article 5 (Wholly Obtained Products) expands the principle of territoriality of production under the proposed Protocol relative to CETA, JEFTA and PEM. More specifically, cross-references to:
▪ Article 3.1 and Article 3.2 (bilateral and full bilateral cumulation, respectively) mean that material from Chapter 2 and Chapter 3 wholly obtained in the EU Single Market (such as turkey meat from Spain and Czech Republic, salmon meat from Spain, duck meat from France, and other fish meat from the wider EU; and cereals from Chapter 10 grown in the EU) used in the manufacturing of the pet food in kibbles can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade.
▪ Article 3.3 (diagonal and full diagonal cumulation) means that cereal grains grown in Ukraine and used in the manufacturing of the pet food kibbles can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade. However, as the EU's FTA negotiations with Australia and New Zealand will not have concluded by the time of the UK's exit from the EU, these clauses will not apply to products – such as materials from Chapter 2 (lamb) – wholly obtained in those markets.
REF 2 As in the case of the product-specific rules for bagels, this establishes an origin determination criterium based on sufficient production rules requiring all non-originating grains to undergo a simple chapter change (i.e. a change in tariff classification at the 2-digit level), provided the net weight or value of this non-originating grain remains below 50 per cent as a share of the net weight or ex-works price of the final product, respectively.
The exact content thresholds (in red) must be determined by industry stakeholder users of materials of Chapter 11. As the EU operates a zero MFN tariff regime for wheat grains, this threshold is unlikely to be considered as politically sensitive by the EU, given that it wouldn't result in added competition for EU flour millers and would simply aim to preserve the current EU market for flour.
This is however not the case for other grains in Chapter 10, such as barley and oats, which would be subject to defensive concerns from EU producers of such grains
</td></tr>
</table>

<table>
<tr><th></th><th colspan="2">Product specific rules of origin (PSR)</th><th>Analysis</th></tr>
<tr><td></td><td>Heading 2309</td><td>Preparations of a kind used in animal feeding

PSR - 2390

CTH REF3, provided that:

(a) all materials of Chapter 2 and 3 are wholly obtained within the meaning of Article 5 (Wholly Obtained Products). REF4;

(b) the net weight of non-originating material of Chapter 10 or 11 used in production does not exceed 20 per cent of the net weight of the product;

(c) the net weight of non-originating sugar used in production does not exceed 20 per cent of the net weight of the product; and

(d) the net weight of non-originating material of Chapter 4 used in production does not exceed 20 per cent of the net weight of the product.

Or REF5,

a) all materials of Chapter 2 and 3 are wholly obtained within the meaning of Article 5 (Wholly Obtained Products). REF4;

b) the value of non-originating material of heading Chapter 10 or 11 used in production does not exceed 20 per cent of the ex-work price of the product;

c) the value of non-originating sugar used in the production does not exceed 40 per cent of the ex-work price of the product;

d) the value of non-originating material of Chapter 4 used in production does not exceed 20 per cent of ex work price of the product; and</td><td>REF 3 This establishes that all non-originating materials – except from Chapter 2 and 3 – used in the production of the pet food in kibbles undergo a heading change (e. a change in tariff classification at the 4-digit level of the HS), contingent on satisfying respective value or weight thresholds.

REF 4 With the exception of lamb occasionally procured from New Zealand and Australia, procurement strategies for materials of Chapter 2 and 3 are covered by the expansion of the principle of territoriality of production via the cross-referencing of bilateral and diagonal cumulation articles in Article 5 (wholly obtained products) and Annex 2-A (see below). Given the political sensitivity of meat products in the EU, any further relaxing of the wholly obtained criteria for materials of Chapter 2 and 3 is unlikely to be accepted by the EU.

However, the occasional sourcing of lamb from New Zealand and Australia is likely to be captured by the application of Article 26 (Authorised Economic Operators), which allows for the calculation of origin determination to be done at the level of producing factory or consignment and averaged across a year. This provides food and drink exporters designated as Authorised Economic Operators greater flexibility in calculating tolerance levels set out in Article 7 on the basis of an annualised average of non-originating material (in this case lamb meat) used in the production of a product exported between the Parties via multiple shipments during a calendar year.

In practice, this means that even if the use of New Zealand and Australian lamb material breaches the tolerance levels in one or more consignments of pet food exported to the EU, these would still qualify for preferential tariff treatment provided that the annualised average of non-originating lamb traded within a calendar year remains below or equal to the 10 per cent tolerance level set out in Article 7.

REF 5 Establishes sufficient production specific rules for pet food products based on ‘weight or value’ criteria to ensure that premium brand food and drink products produced in the UK and the EU are not unduly disqualified from preferential tariff treatment.</td></tr>
<tr><td>Annex 2-A</td><td colspan="2">For the general provisions and definitions of Annex 2-A please refer to pp. 22-24 of the main document.

Section C – Prepared food stuff and beverages

Table C.1 – Annual TORQ allocation for prepared foodstuff and beverages exported from the United Kingdom to the European Union

<table><tr><th>HS code</th><th>Product description</th><th>Annual quota for exports from the United Kingdom to the European Union (metric tonnes, net weight)</th></tr><tr><td>2309.10-2309.90 REF1</td><td>Dog or cat food, put up for retail sale</td><td>XXX</td></tr></table></td><td>REF 1 This would exempt materials originating in EU FTA partners, such as cereals (of Chapter 10) grown in Ukraine, from origin calculations for a determined quantum of pet food products of heading 2309.

This TORQ would remain in force for a maximum of 5 years, or until the EU, the UK and relevant EU FTA partners formalise diagonal cumulation arrangements as set out in Article 3.3 and 3.5.</td></tr>
</table>

PSR 5. PRODUCT SPECIFIC RULES FOR FISH AND PROCESSED FISH PRODUCTS

Key rules of origin issues for fish and processed fish products

- **Like meat-based products, EU-UK trade in fish and processed fish food products face important potential challenges in accessing preferential trade terms under a future EU-UK FTA.** This is because relevant product specific rules of origin in most EU FTAs – including CETA, the EU-Japan FTA (JEFTA) and PEM – require that all fish content used in the manufacturing process be wholly obtained in a Party to these agreements for conferring origin to the final product. Such origin determination criteria create important challenges for products processed from certain fish varieties procured from suppliers worldwide on the basis of global prices and geographically-determined marine stocks, including Alaska pollock, cod, haddock or pangasius. Importantly, both UK and EU27 producers would face similar challenges in accessing preferential terms of trade under a future EU-UK FTA – UK domestic sales of fish fingers in 2016 reached £118m in 2016, virtually all of which were imported from the EU27.
- **The proposed protocol provides a range of policy solutions to address potential disruptions to current EU-UK trade in fish and processed fish food products under a future EU-UK preferential trade deal.** These include a broader definition of the principle of territoriality set out in Article 5 (Wholly Obtained Products) via an explicit cross-reference to ambitious bilateral cumulation (Article 3.1) and diagonal cumulation (Article 3.3) clauses to ensure that fish wholly obtained in EU Single Market or in EU FTA partners such as Vietnam and EEA countries can be considered as originating for the purpose of accessing preferential tariff treatment under a future EU-UK FTA. Importantly, Annex 2-B provides critical alternative product specific rules for certain sensitive processed fish products that exempt cod, haddock and Alaska pollock imported frozen and in blocks from third countries (China, the US and Russia), without which a substantial share of current EU-UK trade in processed fish products – such as fish fingers – would fail to qualify for preferential tariff treatment under the future EU-UK preferential trading settlement.

	Product specific rules of origin (PSR)	Analysis
Product	Product – deep-frozen fish fingers (HS 1604.19.92) and deep-frozen battered fish fingers (HS 1604.19.91) **REF1** The products consist of two similar fish-processed products traded between the UK and the EU27: ▪ Frozen fish fingers (HS 1604.19.92) manufactured and packaged in a factory in Germany and exported to the UK; and ▪ Frozen battered fish-fingers (HS 1604.19.91) manufactured and packaged in a factory in the UK and exported to the EU Single Market. Both products are sold under household name brands. In both cases, the fish element of the products consists of whitefish – typically cod, pollock, haddock and pangasius – imported into the UK and Germany in deep-frozen blocks. The different varieties of whitefish used as material in the production of fish fingers are procured on the basis of global prices and marine stocks, and in particular: ▪ Cod from Iceland, China, Germany, Russia, Faroe Islands, Norway, Poland and Denmark; ▪ Pollock from China, USA, Germany; ▪ Haddock from Iceland and China; and ▪ Pangasius from Vietnam The batter used by the UK manufacturer to produce the battered fish finger is produced and packaged in the UK by a third party from wheat flour milled from a blend of grains grown in the UK and the EU Single market.	**REF 1** The exposure of fish finger products to an imposition of rules of origin on EU-UK trade is representative of the challenges that most foodstuff containing fish and other materials of Chapter 3 face in qualifying for preferential tariff treatment under a future EU-UK FTA. More specifically: ▪ All materials from Chapter 3 (fish and crustaceans, molluscs and other aquatic invertebrates) must be wholly obtained in a Party to confer origin on the final product under origin protocols in CETA, JEFTA and PEM. ▪ UK and EU27 supply chain structures are exposed in the same way to rules of origin, given their similar global procurement strategies. This is important given that virtually all of the £118m of fish fingers sold in the UK (£60m of cod, £49m of pollock and £9m of haddock) are imported from the EU.
Annex 2	For the general provisions and definitions of Annex 2 please refer to pp. 20-22 of the main document.	**REF 1** The cross-referencing of different cumulation provisions in Article 5 (Wholly Obtained Products) expands the principle of territoriality of production under this Protocol relative to CETA, JEFTA and PEM. More specifically, cross-references to:

<table>
<tr><th></th><th>Product specific rules of origin (PSR)</th><th>Analysis</th></tr>
<tr><td></td><td>
<table>
<tr><th>Harmonized System classification</th><th>PSR for sufficient production pursuant to Article 2</th></tr>
<tr><td>Chapter 3</td><td>Fish and crustaceans, molluscs and other aquatic invertebrates
Production in which all the material of Chapter 3 used is wholly obtained within the meaning of Article 5 (Wholly Obtained Products). REF1</td></tr>
<tr><td>Chapter 16

Heading 1604

Subheading 1604.19</td><td>Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates

Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs

Fillets, raw, whether or not coated with batter or breadcrumbs, whether or not pre-fried in oil, frozen
PSR – 1604
CTH, provided that all materials from Chapter 3 are wholly obtained within the meaning of Article 5 (Wholly Obtained Products). REF2</td></tr>
</table>
</td><td>
▪ Article 3.1 and Article 3.2 (bilateral and full bilateral cumulation, respectively) mean that material from Chapter 3 wholly obtained in the EU Single Market (such as frozen cod and pollock from Germany, cod from Poland and Denmark) used by UK manufacturers in the production of battered fish fingers can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade.
▪ Article 3.3 (diagonal and full diagonal cumulation) means that material from Chapter 3 wholly obtained in EU FTA partners (such as cod and haddock from EEA countries and pangasius from Vietnam) used by UK and German manufacturers in the production of fish fingers and other products of heading 1604 of the HS can be considered as originating under the terms of this Protocol for the purpose of EU-UK trade.

REF 2 With the exception of materials from Chapter 3, which must be wholly obtained, this establishes an origin determination criterium based on sufficient production rules requiring that all non-originating materials undergo a simple change in tariff heading (i.e. a change in tariff classification at the 4-digit level).

This means that UK manufacturers of battered fish fingers can disregard the origin of the wheat grains used in the production of the flour and batter for the purpose of origin determination of the final product.
</td></tr>
<tr><td>Annex 2-A</td><td>
For the general provisions and definitions of Annex 2-A please refer to pp. 22-24 of the main document.

Section C – Prepared foodstuff and beverages

Table C1 – Annual TORQ allocation prepared foodstuff and beverages exported from the United Kingdom to the European Union
<table>
<tr><th>HS code</th><th>Product description</th><th>Annual quota for exports from the United Kingdom to the European Union (metric tonnes, net weight)</th></tr>
<tr><td>1604.19 REF1</td><td>Fillets, raw, whether or not coated with batter or breadcrumbs, whether or not pre-fried in oil, frozen</td><td>X</td></tr>
</table>
Table C.2 – Annual TORQ allocation for prepared foodstuff and beverages exported from the European Union to the United Kingdom
<table>
<tr><th>HS code</th><th>Product description</th><th>Annual quota for exports from the European Union to the United Kingdom (metric tonnes, net weight)</th></tr>
</table>
</td><td>
REF 1 This exempts material originating in EU FTA partners (such as cod and haddock from EEA countries and pangasius from Vietnam) in origin calculations for a determined quantum of fish fingers and other processed fish products of subheadings 1604.19.

These TORQs would remain in force for a maximum of 5 years, or until the EU, the UK and relevant EU FTA partners formalise diagonal cumulation arrangements as set out in Articles 3.3 and 3.5.
</td></tr>
</table>

<table>
<tr><th></th><th colspan="3">Product specific rules of origin (PSR)</th><th>Analysis</th></tr>
<tr><td></td><td>1604.19 REF1</td><td>Fillets, raw, whether or not coated with batter or breadcrumbs, whether or not pre-fried in oil, frozen</td><td>X</td><td></td></tr>
<tr><td>Annex 2-B</td><td colspan="3">For the general provisions and definitions of Annex 2-B please refer to pp. 24-25 of the main document.

Section C – Prepared foodstuff and beverages

Table C – Alternatives to prepared foodstuff and beverages product-specific rules of origin in Annex 2 and 2-A REF1

HS code | Product description | Sufficient production
1604.19 REF2 | Fillets, raw, whether or not coated with batter or breadcrumbs, whether or not pre-fried in oil, frozen | CTH, provided that all materials from Chapter 3 are wholly obtained within the meaning of Article 5 (Wholly Obtained Products), except for headings 0303.63 through 0303.64 and 0303.67. REF3</td><td>REF 1 Establishes the list of processed fish products for which the UK and the EU agree to exempt specific materials of Chapter 3 sourced in third countries from origin calculations under the conditions set in Annex 2-B.

REF 2 The inclusion of products of subheading 1604.19 of the HS within the Annex 2-B prepared foodstuff table is the only way to ensure that fish fingers – whether battered or not – produced from Chapter 3 material wholly obtained in China, the US and Russia qualify for preferential tariff treatment under the terms of this Protocol. This is particularly important given that in 2016, cod (HS 0303.63) wholly obtained in China and Russia accounted for over 32 per cent of total UK cod imports, while US and Chinese Alaska pollock accounted for over 90 per cent of total UK pollock imports.

Under the conditions set in Annex 2-B, this would require the EU and the UK to agree to maintain MFN and preferential import regimes for cod, haddock and Alaska pollock (of headings 0303.63 through 0303.64 and 0303.67 of the HS) deemed by the Parties to be equivalent for the purpose of this Protocol.

REF 3 Provides a more flexible alternative product specific rules for processed fish products of heading 1604.19 than the general rules set in Annex 2 (see above). More specifically, it establishes that materials of heading 0303.63 through 0330.64 (cod and haddock) and of 0303.67 (pollock), whether or not wholly obtained under the meaning of Article 5, must undergo a simple change in tariff heading (i.e. a change at the 4-digit level) to meet sufficient production criteria for origin determination of the product.

All other materials of Chapter 3 must be wholly obtained under the meaning of Article 5.</td></tr>
</table>

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