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Circular

R-30

## Trade agreement between Switzerland and the United Kingdom: New rules of origin as of 1 September 2021

**Amendment of 15 December 2021 refers to section 3.11**

**Amendment of 1 October 2022 refers to section 1**

### 1 Background

In the joint declaration concerning a trilateral approach to rules of origin of 11 February 2019<sup>1</sup>, Switzerland and the United Kingdom (UK) agreed to take the necessary steps, as a matter of urgency, to update Protocol No 3 of the trade agreement to reflect the results of the revision of the Regional Convention on the Pan-Euro-Mediterranean preferential rules of origin (PEM Convention). At the Trade Joint Committee meeting on 8 June 2021, Switzerland and the UK agreed to incorporate the revised rules of the PEM Convention into the trade agreement with effect from 1 September 2021, subject to completion of the requisite internal approval processes. [Decision 2/2021](#) of the Switzerland-UK Trade Joint Committee entered definitively into force on 1 October 2022.

The rules of origin are set out in the Appendix to Annex 1 of the Trade Agreement ([Protocol No 3](#)). These correspond in principle to the transitional rules of the PEM Convention.

### 2 Preferential rates on imports

The bilateral agreements between Switzerland and the EU ceased to be applicable in dealings with the UK on 1 January 2021. On the same date, the trade agreement entered into force. The preferential rates under the trade agreement, which, with a few exceptions<sup>2</sup>, correspond to those in the Switzerland-EU free trade agreement and the Switzerland-EU agricultural agreement, were adjusted in the electronic customs tariff [Tares](#) with effect from the date of application.

### 3 What changes under the revised rules of origin?

The revised rules of origin provide administrative simplifications, namely by removing the EUR-MED proof of origin and harmonising the product-specific list rules. In addition, new opportunities have been created by the introduction of full cumulation, the removal of the no-drawback rule and the use of average values for calculation. The most important changes are explained below.

#### 3.1 Calculation of origin using average values (Article 4)

Where a list rule is in place which provides for a maximum content of third-country input materials, companies may now use average values to calculate the ex-works price and

<sup>1</sup> [CH-UK Joint Declaration on Rules of Origin](#)

<sup>2</sup> Bilateral tariff quotas in the agricultural sector; see section 4)

the value of third-country input materials, in order to take account of fluctuations in costs and exchange rates. The basis for calculation is the sum of the ex-works prices charged for all sales of the same product and the sum of the value of all third-country input materials for the preceding fiscal year. Where figures for a complete fiscal year are not available, a period of not less than three months must be used. Companies having opted for this calculation method must consistently apply it during the year following the year of reference. The use of this calculation method is not subject to an authorisation requirement in Switzerland.

### **3.2 Tolerance rule (Article 5)**

For non-originating materials, the following tolerances apply with regard to product-specific rules:

- a) Chapters 2 and 4 to 24 (other than processed fishery products of Chapter 16): the net weight may not exceed 15% of the net weight of the finished product;
- b) for products other than those covered by subparagraph (a): their total value may not exceed 15% of the ex-works price.

For products falling within Chapters 50 to 63, the tolerances mentioned in [Notes 6 and 7 of Annex I of Protocol No 3](#) shall apply.

### **3.3 Cumulation of origin (Articles 7 and 8)**

#### **3.3.1 General**

The possibilities for cumulation depend on the parties to the PEM Convention with which Switzerland and the UK have concluded free trade agreements, and on whether those parties have identical rules of origin to those in the Switzerland-UK trade agreement.

#### **3.3.2 Input materials originating in the UK**

In bilateral trade between Switzerland and the UK, bilateral cumulation with input materials originating in Switzerland or the UK is permitted. There are no restrictions regarding input materials of HS Chapters 1 to 24.

Conversely, since 1 January 2021, diagonal cumulation with input materials from the UK under other free trade agreements of Switzerland/EFTA with parties to the PEM Convention (incl. the EU) is no longer possible. This would require either that this free trade agreement be amended accordingly or that the UK conclude corresponding free trade agreements.

### **3.3.3 Input materials originating in the EU or Turkey which are processed in Switzerland**

Swiss exporters may cumulate with input materials from the EU or Turkey, provided they qualify as originating products within the meaning of the PEM Convention or the transitional rules (PEM Convention's revised rules of origin<sup>3</sup>) (permeability). However, the materials cannot be re-exported unchanged (transit trade). Input materials from the EU or Turkey must undergo more than minimum processing in Switzerland (Article 6 of Protocol No 3).

### **3.3.4 Input materials originating in other parties to the PEM Convention (other than the EU or Turkey) which are processed in Switzerland or the UK**

In bilateral trade between Switzerland and the UK, cumulation with input materials originating in other parties to the PEM Convention is permitted, provided there are free trade agreements between these parties with rules of origin that correspond to the rules in the PEM Convention or the transitional rules (revised rules of origin of the PEM Convention) (permeability). Depending on the free trade agreement concerned, there may be restrictions on cumulation with input materials of HS Chapters 1 to 24. Information on cumulation possibilities is available [here](#) (in German).

### **3.3.5 Input materials originating in other parties to the PEM Convention (including the EU and Turkey) which are re-exported unchanged from Switzerland to the UK (transit trade)**

In order that input materials originating in another party to the PEM Convention can be exported unchanged to the UK (transit trade), there must be a free trade agreement between the UK and the relevant party with identical rules of origin to those in the Switzerland-UK trade agreement. Information on cumulation possibilities is available [here](#) (in German).

### **3.3.6 Input materials originating in other parties to the PEM Convention (including the EU and Turkey) which are exported unchanged from the UK to Switzerland (transit trade)**

Since 1 January 2021, the UK is considered a third country for the purposes of the free trade agreements between Switzerland/EFTA and parties to the PEM Convention. In order that input materials originating in another party to the PEM Convention can be exported unchanged from the UK to Switzerland (transit trade), the relevant free trade agreement with Switzerland/EFTA must first be amended. Therefore, pure transit trade via the UK (originating product is re-exported unchanged from the UK) is not possible at present. Future amendments will be communicated via circular.

### **3.3.7 Full cumulation**

Full cumulation can now also be applied. In contrast to diagonal cumulation, in which cumulation may be performed only with input materials that have already attained originating status, full cumulation allows non-originating product steps to also be cumulated. Thus, sufficient processing need not take place within the customs territory of one single country, but rather may be carried out across the entire cumulation zone covered by the transitional rules.

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<sup>3</sup> See [Circular on transitional rules of 31 August 2021](#)

Switzerland and the UK have agreed to dispense with the restriction envisaged in the transitional rules with regard to Chapters 50 to 63. As a result, for products of these chapters that have attained originating status through full cumulation, Switzerland and the UK will also allow preferential importation if full cumulation was applied in the diagonal context.

Companies applying full cumulation must issue a corresponding supplier's declaration for both domestic and cross-border consignments (see section 3.8).

### **3.4 Accounting segregation (Article 12)**

As a general rule, the accounting segregation method, in which fungible input materials do not have to be kept on separate stocks, may be used only for input materials and not for finished products. It is now possible for companies to apply the accounting segregation method to the management of fungible products of tariff heading 1701 without keeping them on separate stocks, even if they do not process these products as input materials themselves, but rather only trade in them.

### **3.5 Principle of territoriality (Article 13)**

It is now possible for products of Chapters 50 to 63 to undergo individual production steps in a third country, provided the value added there does not exceed 10% of the ex-works price.

### **3.6 Non-alteration (Article 14)**

With regard to transportation between the parties, the focus is now on the products, rather than on the transport route as hitherto. Thus, products may be transported via third countries, provided the importer can prove that they are the same as the products exported from the exporting party. As hitherto, originating products must be subject to customs checks and their treatment there must only be such that they remain unchanged. It is, however, permitted to affix marks, labels, seals or other documentation, in order to ensure compliance with specific domestic requirements.

### **3.7 Prohibition of drawback of or exemption from customs duties (Article 16)**

The drawback prohibition now applies only for third-party input materials that are used to manufacture originating products of Chapters 50 to 63. Therefore, in all other cases it is possible to import input materials in active processing traffic. However, the prohibition does not apply to bilateral trade if the originating status was attained by applying full cumulation (see section 3.3.7).

### **3.8 Proof of origin (Articles 17 to 23)**

The abolition of the EUR-MED movement certificate and the EUR-MED declaration of origin is one of the most significant simplifications. Furthermore, Switzerland and the UK have agreed to completely dispense with cumulation data. Thus, the proof of origin no longer needs to specify whether cumulation was performed with other parties to the PEM Convention and which parties.

In contrast to the PEM transitional rules, the new rules of origin in the Switzerland-UK trade agreement will not be introduced in the context of a transitional period. As a result, the remark "Transitional Rules" in the proof of origin, which is required under the transitional rules for the PEM zone, is not required in bilateral trade between Switzerland and the UK.

Moreover, proofs of origin are now valid for 10 months. The exporter can send declarations of origin electronically to the importer, provided they are digitally signed by means of an electronic signature or identification code. In addition, it was agreed that

EUR.1 movement certificates issued using a digital validation system will also be accepted in future.

The existing wording from the PEM Convention in German, French, Italian or English must be used for the declaration of origin (status quo).

If the originating status was attained by means of **full cumulation** (see section 3.3.7), the supplier shall furnish a supplier's declaration proving the value added for which it is responsible and which does not prove origin as such. Now, such supplier's declarations are also issued in cross-border traffic, but only where the conditions for issuing a classical proof of origin (movement certificate or declaration of origin) are not met. They have equivalent status to a preferential proof of origin. It is also possible to issue a long-term supplier's declaration, which is valid for up to two years. The wording for the supplier's declaration which is used when full cumulation is applied in cross-border traffic is set out in [Annexes VI and VII of Protocol No 3](#).

### 3.9 Approved exporters from Switzerland

The existing authorisations shall also cover this trade agreement (Article 19).

### 3.10 List rules ([Annexes I and II of Protocol No 3](#))

The list rules for industrial products were simplified overall: When applying the value criterion, the permissible content of non-originating input materials was increased from 40% to 50% of the product's ex-works price. Processes involving cell cultures and industrial fermentation were added as origin-conferring processes. For textiles, origin status can now be attained through a wider range of processing steps. In the case of agricultural products, the permissible content of non-originating input materials is now measured according to weight, rather than value as hitherto. As regards sugar, in view of the ongoing collapse in prices, a product may now have a third-party sugar content of 40% as measured by weight for purposes of attaining origin status. Conversely, for processed sugar products such as sugar confectionery of heading 1704 and chocolate of heading 1806 of the Harmonised System, the permissible content of 30% relative to the ex-works price remains unchanged. Details can be found in Annex II of Appendix A.

### 3.11 Transitional arrangements

Originating products that are in transit, in temporary storage in a customs warehouse or in a free zone at the time of provisional application of the new rules of origin (1 September 2021) can nevertheless benefit from a preferential assessment within the framework of the trade agreement. In these cases and up to 31 August 2023 (for two years), it is possible to present a proof of origin made out after the date of the provisional application of the new rules of origin, as well as documents proving compliance with the transport provisions. The application for a provisional assessment must be submitted upon importation into Switzerland.

**Change of practice with regard to originating products from the UK which were exported from the UK before 1 January 2021 and placed in a customs warehouse in Switzerland:** preferential importation (complete or partial consignment) can take place on the basis of the proof of origin existing at the time the products were placed in storage. For such import consignments, it is not necessary to present a retrospective proof of origin issued in the UK.

#### 4 Preferential tariffs for goods depending on the intended use

If the granting of preferential tariffs depends on the product having a specific purpose<sup>4</sup> then the provisions of [Articles 50 to 54](#) of the Customs Ordinance apply. In particular, a corresponding end-use commitment must be submitted in writing to the FOCBS before the first customs declaration. Any further questions can be emailed to Economic Measures at [wirtschaft@bazg.admin.ch](mailto:wirtschaft@bazg.admin.ch).

#### 5 Preferential market access

With the trade agreement, the preferential market access granted to the EU is continued in the Switzerland-UK context. This includes duty-free market access in manufacturing and preferential tariffs for processed agricultural products (in accordance with Protocol No 2 of the trade agreement). The continuation of preferential tariffs is set out in Annex 1 of the trade agreement.

As regards other agricultural products, the provisions of Annex 4 of the trade agreement and its appendices shall apply. The tariff concessions for unprocessed agricultural products correspond to those in the Switzerland-EU agricultural agreement, with the exception of the bilateral tariff quotas.

In detail, the bilateral tariff quotas in the agricultural sector are as follows:

- Concessions granted by Switzerland (Appendix A to Annex 4)
- Concessions granted by the United Kingdom (Appendix B to Annex 4)

#### 6 Common transit procedure

The current transit procedure in NCTS will continue to be applied in full and without interruption in dealings with the UK (OJ: [L 317/47](#) and [L 317/56](#)). Details can be found in the relevant [Circular](#).

#### 7 Generalised System of Preferences (GSP)

The reciprocity agreement of 19 July 2002<sup>5</sup> between Switzerland, the EU and Norway regarding the Generalised System of Preferences will be incorporated into the trade agreement. This means that exporters from developing countries can cumulate with originating products from the UK from the date of exit, provided the product manufactured there is subsequently exported to Switzerland.

The revised exchange of notes with the EU and Norway of 1 February 2019 is not (yet) applicable to originating products from the UK. As a result of a deal between the administrations, the UK accepts Swiss replacement statements on origin under the Registered Exporter System (REX).

In return, Switzerland accepts replacement statements on origin issued in the UK with the UK EORI number – instead of the REX number. The text of this replacement statement on origin is as follows:

*The exporter of the products covered by this document (customs identification No.... (1)) declares that, except where otherwise clearly indicated, these products are of .... (2) preferential origin in accordance with the rules of origin of the Generalised Scheme of Preferences of the UK and that the origin criterion met is ... (3).*

(Place and date (4))

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<sup>4</sup> See "Reduced rates of duty", No 3, in the [Remarks on the customs tariff](#)

<sup>5</sup> See [reciprocal agreement](#)

(Name and signature of the exporter)

- (1) UK re-consignors re-exporting goods to Switzerland should enter their Economic Operators Registration and Identification (EORI) number.
- (2) Enter the origin of the goods.
- (3) Products wholly obtained: enter the letter 'P'; Products sufficiently processed: enter the letter 'W' followed by a heading of the Harmonised System (example 'W' 9618).
- (4) This may be omitted if included in the document itself.

## **8 AGREX**

The use of AGREX export licences is no longer envisaged under the trade agreement; proofs of origin in accordance with [3.8](#) apply.

## **9 Documentation**

The complete trade agreement between the UK and Switzerland is available from the [SECO website](#).

Regulation [R-30 Free trade agreements, preferential tariffs and origin of goods](#) and other documentation will be amended as soon as possible.

Further information on Brexit can be found [here](#).