Rules of Origin definitions pack (HS Chapters 28-39)

This pack summarises some of the key product-specific rules and associated definitions for the chemicals sector but is not a replacement for the legal text of the Trade and Cooperation Agreement, alongside relevant GOV.UK guidance. Traders should review the relevant clauses of the Agreement itself to ensure legal compliance when making decisions on originating status and associated declarations. Relevant page numbers are indicated below to help you find the text in what is a long document!

HS code – The classification of a product under the Harmonised System of tariff code classification published by the World Customs Organisation:

- **HS Chapter** – the 2-digit code of a good.
- **HS Heading** – the 4-digit code of a good.
- **HS Sub-heading** – the 6-digit code of a good.

PSR – Product Specific Rule. This is the rule of origin that a particular product will need to meet. There are three families of product specific rules found in the UK-EU TCA provisions for chemicals:

- **Change in Tariff Code Rules.** A type of product specific rule that means that any non-originating content must be classified in a different HS code to that of the final product. It too comes in different levels (from most to least accommodating)
  - **Manufacture from non-originating materials of any heading** – this rule means that any non-originating material can come from any HS heading, including the same heading as the final good.
  - '**CTSH'** means production from non-originating materials of any subheading, except that of the product; this means that any non-originating material used in the production of the product must be classified in a subheading (6-digit level of the Harmonised System) other than that of the product (i.e. a change in sub-heading).
  - '**CTH'** means production from non-originating materials of any heading, except that of the product; this means that any non-originating material used in the production of the product must be classified in a heading (4-digit level of the Harmonised System) other than that of the product (i.e. a change in heading);
  - '**CC'** means production from non-originating materials of any Chapter, except that of the product; this means that any non-originating material used in the production of the product must be classified in a Chapter (2-digit level of the Harmonised System) other than that of the product (i.e. a change in Chapter);

Value-Added rules. These rules allow for a maximum level of value in a final good to be considered non-originating.

- **MaxNOM –** Maximum non-originating material. This is a threshold of the percentage amount of the final *ex works* (factory floor) price of a good that can be made up by non-originating materials. A definition of this is included in this document as per the text of the TCA.

Specific processing rules. These are rules that allow for you to confer origin by demonstrating that a specific process has been undertaken during the production of a good. There are multiple different SPRs used by different chemical products and they are each defined in Annex ORIG.1, Note 5 (pg 417-419) of the UK-EU TCA:

- **‘Biotechnological processing’** means:
  i. biological or biotechnological culturing (including cell culture), hybridisation or genetic modification of micro- organisms (bacteria, viruses (including phages) etc.) or human, animal or plant cells; and
  ii. production, isolation or purification of cellular or intercellular structures (suh as isolated genes, gene fragments and plasmids), or fermentation.

- **‘Change in particle size’** means the deliberate and controlled modification in particle size of a product, other than by merely crushing or pressing, resulting in a product with a defined particle size, defined particle size distribution or defined surface area, which is relevant to the purposes of the resulting product and with physical or chemical characteristics different from those of the input materials.

- **‘Chemical reaction’** means a process (including a biochemical processing) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule, with the exception of the following, which are not considered to be chemical reactions for the purpose of this definition:
  i. dissolving in water or other solvents;
  ii. the elimination of solvents including solvent water; or
  iii. the addition or elimination of water of crystallisation.

- **‘Isomer separation’** means the isolation or separation of isomers from a mixture of isomers.

- **‘Mixing and blending’** means the deliberate and proportionally controlled mixing or blending (including dispersing) of materials, other than the addition of diluents, only to conform to predetermined specifications which results in the production of a product having physical or chemical characteristics that are relevant to the purposes or uses of the product and are different from the input materials.

- **‘Production of standard materials’** (including standard solutions) means a production of a preparation suitable for analytical, calibrating or referencing uses with precise degrees of purity or proportions certified by the producer.

- **‘Purification’** means a process which results in the elimination of at least 80 % of the content of existing impurities or the reduction or elimination of impurities resulting in a good suitable for one or more of the following applications:
  i. pharmaceutical, medical, cosmetic, veterinary or food grade substances;
  ii. chemical products and reagents for analytical, diagnostic or laboratory uses;
  iii. elements and components for use in micro-electronics;
  iv. specialised optical uses;
  v. biotechnical use, for example, in cell culturing, in genetic technology or as a catalyst;
  vi. carriers used in a separation process; or
  vii. nuclear grade uses.

Insufficient Processing (from Article ORIG.7, page 30-31)

1. Notwithstanding point (c) of Article ORIG.3(1) [General requirements], a product shall not be considered as originating in a Party if the production of the product in a Party consists only of one or more of the following operations conducted on non-originating materials:
    (a) preserving operations such as drying, freezing, keeping in brine and other similar operations where their sole purpose is to ensure that the products remain in good condition during transport and storage[1];
    (b) breaking-up or assembly of packages;
    (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
    (d) ironing or pressing of textiles and textile articles;
    (e) simple painting and polishing operations;
    (f) husking and partial or total milling of rice; polishing and glazing of cereals and rice; bleaching of rice;
    (g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of sugar in solid form;
    (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
    (i) sharpening, simple grinding or simple cutting;
    (j) sifting, screening, sorting, classifying, grading, matching including the making-up of sets of articles;
    (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
    (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
    (m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
    (n) simple addition of water or dilution with water or another substance that does not materially alter the characteristics of the product, or dehydration or denaturation of products;
    (o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
    (p) slaughter of animals.

2. For the purposes of paragraph 1, operations shall be considered simple if neither special skills nor machines, apparatus or equipment especially produced or installed are needed for carrying out those operations.

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

Calculation of a maximum value of non-originating materials (from Annex ORIG-1, Note 4, page 416-417)

For the purposes of the product-specific rules of origin, the following definitions apply:

(a) "**customs value**" means the value as determined in accordance with the Agreement on Implementation of Article VII of GATT 1994;

(b) "**EXW**" or "ex-works price" means:

(i) the price of the product paid or payable to the producer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs incurred in the production of the product, minus any internal taxes which are, or may be, repaid when the product obtained is exported; or

(ii) if there is no price paid or payable or if the actual price paid does not reflect all costs related to the production of the product which are actually incurred in the production of the product, the value of all the materials used and all other costs incurred in the production of the product in the exporting Party:

A. including selling, general and administrative expenses, as well as profit, that can reasonably be allocated to the product; and

B. excluding the cost of freight, insurance, all other costs incurred in transporting the product and any internal taxes of the exporting Party which are, or may be, repaid when the product obtained is exported.

(iii) For the purposes of point (i), where the last production has been contracted to a producer, the term ‘producer’ in point (i) refers to the person who has employed the subcontractor.

(c) "**MaxNOM**" means the maximum value of non-originating materials expressed as a percentage and shall be calculated according to the following formula:

$$\text{MaxNOM (\%)} = \frac{\text{VNM}}{\text{EXW}} \times 100$$

(d) "**VNM**" means the value of the non-originating materials used in the production of the product, which is its customs value at the time of importation, including freight, insurance if appropriate, packing and all other costs incurred in transporting the materials to the importation port in the Party where the producer of the product is located; where the value of the non-originating materials is not known and cannot be ascertained, the first ascertainable price paid for the non-originating materials in the Union or in the United Kingdom is used; the value of the non-originating materials used in the production of the product may be calculated on the basis of the weighted average value formula or other inventory valuation method under accounting principles which are generally accepted in the Party.

Chemicals, plastics and rubber product-specific rules (HS Chapters 28-40)

(all product-specific rules can be found in ANNEX ORIG-2 of the Trade and Cooperation Agreement, from pg. 423)

Chapter 28	**Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes**
28.01-28.53	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
Chapter 29	**Organic chemicals**
2901.10-2905.42	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
2905.43-2905.44	CTH except from non-originating materials of heading 17.02 and subheading 3824.60.
2905.45	CTSH, however, non-originating materials of the same sub-heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product; or MaxNOM 50 % (EXW).
2905.49-2942	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
Chapter 30	**Pharmaceutical products**
30.01-30.06	CTSH; A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
Chapter 31	**Fertilisers**
31.01-31.04	CTH, however, non-originating materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the EXW of the product; or MaxNOM 40 % (EXW).

31.05 -Sodium nitrate -Calcium cyanamide -Potassium sulphate -Magnesium potassium sulphate	CTH, however, non-originating materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the EXW of the product; or MaxNOM 40 % (EXW).
31.05 Others	CTH, however, non-originating materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the EXW of the product, and in which the value of all non-originating materials used does not exceed 50% of the EXW of the product; or MaxNOM 40 % (EXW).
Chapter 32	**Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks**
32.01-32.15	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
Chapter 33	**Essential oils and resinoids; perfumery, cosmetic or toilet preparations**
33.01	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
3302.10	CTH, however, non-originating materials of subheading 3302.10 may be used, provided that their total value does not exceed 20 % of the EXW of the product.
3302.90	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
33.03	Production from non-originating materials of any heading.
33.04 -33.07	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or

	MaxNOM 50 % (EXW).
Chapter 34	**Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster**
34.01-34.07	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
Chapter 35	**Albuminoidal substances; modified starches; glues; enzymes**
35.01-35.04	CTH except from non-originating materials of Chapter 4.
35.05	CTH except from non-originating materials of heading 11.08.
35.06-35.07	CTSH; Or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
Chapter 36	**Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations**
36.01-36.06	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
Chapter 37	**Photographic or cinematographic goods**
37.01-37.07	CTSH; Or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
Chapter 38	**Miscellaneous chemical products**
38.01-38.08	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone;

	or MaxNOM 50 % (EXW).
3809.10	CTH except from non-originating materials of headings 11.08 and 35.05.
3809.91-3822.00	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
38.23	Production from non-originating material of any heading.
3824.10-3824.50	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
3824.60	CTH except from non-originating materials of subheadings 2905.43 and 2905.44.
3824.71-3825.90	CTSH; or A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
38.26	Production in which biodiesel is obtained through transesterification, esterification or hydro-treatment.
Chapter 39	**Plastics and articles thereof**
39.01-39.15	CTSH; A chemical reaction, purification, mixing and blending, production of standard materials, a change in particle size, isomer separation, or biotechnological processing is undergone; or MaxNOM 50 % (EXW).
39.16-39.19	CTH; or MaxNOM 50 % (EXW).
39.20	CTSH; or MaxNOM 50 % (EXW).
39.21-39.22	CTH; or MaxNOM 50 % (EXW).
3923.10-3923.50	CTSH; or MaxNOM 50 % (EXW).

3923.90- 3925.90	CTH; or MaxNOM 50 % (EXW).
39.26	CTSH; or MaxNOM 50 % (EXW).
Chapter 40	**Rubber and articles thereof**
40.01 - 40.11	CTH; or MaxNOM 50 % (EXW).
4012.11- 4012.19	CTSH; or Retreading of used tyres.
4012.20- 4017.00	CTH; or MaxNOM 50 % (EXW).