

Guidance on the originating status of Russian fish

The purpose of this guidance note is to assist seafood businesses to assess how the new Russian tariffs will apply to seafood imports into the UK that consist of Russian caught seafood.

It details how Rules of Origin^{1,2} requirements will apply to different categories of imports: seafood that is directly imported from Russia (categorised as ‘wholly obtained fish’) and seafood that is Russian caught but processed in a third country before export to the UK.

In summary:

- All seafood caught by Russian vessels and shipped directly to the UK will be regarded as Russian-origin and will be subject to the additional duties.
- Processed fish products, caught by Russian fishing vessels and then subjected to specific processing operations in other countries are not expected to incur additional tariffs.

Direct Imports of Russian seafood

Fish that is ‘wholly obtained’ in Russia is of Russian origin. This includes:

- All seafood caught within Russia or in Russian territorial waters.
- Seafood caught by Russian-flagged, Russian-registered vessels from the sea outside any country’s territorial waters.
- Seafood obtained or produced onboard factory ships from the products referred to in the point above, provided these factory ships are registered in Russia and fly the Russian flag.

The rules of origin do not take account of whether the fish constitutes a fishing quota belonging to a particular country. For example, if a Russian-flagged vessel operating outside Norwegian and Russian waters catches quota that is owned by Norway, that fish would have Russian origin.

Fish products made outside Russia using Russian fish

If Russian fish is ‘**substantially processed**’ outside Russia, the product obtains the origin of the last country in which it was substantially processed. The processing must also be ‘**economically justified**’.

For a product to be considered substantially processed, the law requires that the processing:

- results in the manufacture of a new product or represents an important stage of manufacture, and
- it takes place in an undertaking equipped for the purpose.

Table 1 below details Government guidance on what is **not** considered as an important stage of manufacture.

¹ Rules of origin are **the criteria needed to determine the national source of a product**. Their importance is derived from the fact that duties and restrictions in several cases depend upon the source of imports.

https://www.wto.org/english/tratop_e/roi_e/roi_info_e.htm#:~:text=Rules%20of%20origin%20are%20the,to%20the%20rules%20of%20origin.

² Rules of origin can be either standard rules as per the WTO (known as non-preferential rules) or negotiated rules as part of a trade agreement e.g. the UK and the EU have agreed preferential rules of origin.

Table 1. Operations not constituting an important stage of manufacture

The following shall not be regarded as operations constituting an important stage of manufacture, with the effect that they are not substantial processing that is economically justified for the purposes of conferring non-preferential origin under section 17(3) of the Taxation (Cross-border) Trade Act 2018.

- (a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, removal of damaged parts and similar operations) or operations facilitating shipment or transport;
- (b) simple operations consisting of the removal of dust, sifting or screening, sorting, classifying, matching, washing, cutting up;
- (c) changes of packing and the breaking-up and assembly of consignments, the simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards, and all other simple packaging operations;
- (d) putting up of goods in sets or ensembles or putting up for sale;
- (e) affixing of marks, labels or other similar distinguishing signs on products or their packaging;
- (f) simple assembly of parts of products to constitute a complete product;
- (g) disassembly or change of use;
- (h) a combination of two or more operations specified in points (a) to (g).

Taken from the UK Government's *Rules of Origin: Special Rules for Determining Non-Preferential Origin*, Version 1.1

Although the law does not give examples of what processes would constitute '**substantial processing**', it does give examples of processes that cannot be considered substantial processing that is economically justified. These are listed in full in the official *Rules of Origin: Special Rules for Determining Non-Preferential Origin*, Version 1.1, which is reproduced in Table 1.

Any of the operations described in Table 1 as 'simple' are taken to be operations that do not require special skills or equipment.

Freezing (preservation) and portioning (simple cutting up) would not by themselves constitute substantial processing. Filleting and pinboning, whether manual or mechanical, go beyond the simple operation of cutting up, and they may be classified as substantial manufacturing processes. Similarly, vacuum packing is a process that goes beyond a simple packaging operation because of the need for specialized equipment.

The operation must be '**economically justified**'. The process would not be economically justified if it was carried out solely for the purpose of changing the origin and hence reducing the duty payable. You may be able to class a process as economically justified if:

- the process has been taking place for several years even though the process provided no reduction in duty; or
- the process is intended to provide a marketable product that is in demand.

You should make decisions on origin on a case-by-case basis. It is up to HMRC and, ultimately, the courts to decide on the interpretation of all customs legislation.

Russian fish processed in the EU

The rules of origin of seafood products made in the EU from Russian raw materials are not necessarily the same as the non-preferential rules described above. If you want to determine the origin to check whether a product qualifies for a duty preference under the UK/EU Trade and Cooperation Agreement (TCA), you must use the rules of origin that are in the TCA.

According to the TCA, the processing of Russian fish in the EU does not confer EU origin except in the special cases listed under the Product-Specific Rules of the TCA. The rules are described in the Seafish document entitled [Seafood trade under the EU-UK Trade and Cooperation Agreement](#). See also Table 2.

Table 2. Rules of origin and tariffs on products made in China and the EU from Russian fish

Origin of the raw material	Operation	Product origin	Tariff	Remark
Russia	Insufficient processing in China	Russian	MFN +35%	E.g. simple repacking
	Sufficient processing in China	Chinese	MFN	E.g. converting H&G to fillet
	Insufficient processing in the EU	Russian	MFN +35%	E.g. simple repacking
	Sufficient processing in the EU	EU	MFN	E.g. converting H&G to fillet. There is no preference for this type of product in the EU/UK TCA.
	Processing in the EU that results in a product listed under the Product-Specific Rules e.g. certain breaded products with commodity code 160419	EU	0%	Preference in the EU/UK TCA

MFN: The 'Most Favoured Nation' rate of duty, which is the standard rate of duty

H&G: headed and gutted

Relevant documents:

- [Taxation \(Cross-border Trade\) Act 2018](#)
- [The Customs \(Origin of Chargeable Goods\) \(EU Exit\) Regulations 2020](#)
- [Reference Document for The Customs \(Origin of Chargeable Goods\) \(EU Exit\) Regulations 2020](#)
- [EU Guidance on Non-Preferential Rules of Origin \(2018\)](#)
- [Seafood trade under the EU-UK Trade and Cooperation Agreement](#)

For further information please contact Seafish at regulation@seafish.co.uk