

## TOBACCO EUROPE<sup>1</sup>-proposed position for the EU-UK Free Trade Agreement

### 1. Background

In March 2020, the European Union (“EU”) and the United Kingdom (“UK”) entered into negotiations for a future free trade agreement (FTA). It is expected that the UK will leave the EU on 1 January 2021. This leaves less than three months for negotiation and ratification of an agreement. This document proposes our preferred market access<sup>2</sup> outcomes for these negotiations.

The tobacco industry is a significant contributor to both the EU and UK economies, employing over 1.5 million people. In the EU, there are more than 55,000 tobacco farms, 35 industrial leaf processing plants and over 300 factories for finished tobacco products.<sup>3</sup> In the UK, there are no primary or secondary tobacco manufacturing facilities. Due to the size of the UK market, lack of local input materials required to produce finished goods, and high labour costs, all tobacco products are imported primarily from the EU and Asia.

Excise duties represent one of the main tax revenues for EU Member States (MS). In 2018, the total excise revenues from EU tobacco companies was €82,5 billion. Post Brexit the tobacco industry will remain an important part of the UK economy, supporting over 60,000 jobs and generating over £12bn in tobacco tax revenues annually<sup>4</sup>.

The scope of the FTA between the UK and the EU should be as comprehensive and ambitious as possible – covering all products – in order to perpetuate the current trade relationship. In order to facilitate trade, the future FTA must eliminate all duties and allow flexible RoOs (Rules of Origin) for tobacco products and potentially reduced risk products (PRRPs).

### 2. Tariff liberalisation

Currently, all goods traded between the UK and EU MSs, including tobacco products and PRRPs, circulate freely without customs barriers or import trade tariffs.

The FTA should **not introduce any new customs tariffs** on tobacco products and PRRPs.

Therefore, the FTA should immediately eliminate customs duties for traditional tobacco products and PRRPs.

### 3. Rules of origin

The RoOs for traditional tobacco products and PRRPs should be flexible in order to allow EU manufacturers to export products which can be imported duty-free to the UK market.

Neither the EU nor the UK are major sources of tobacco leaf. EU manufacturers will be unable to comply with RoOs, and therefore will be unable to enjoy tariff preferences, if RoOs require a minimum originating content of unmanufactured tobacco (by weight) of more than 10%.

There are several FTAs concluded at the EU level which set a precedent for flexible RoOs for tobacco products, including the EU-Japan FTA.

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<sup>1</sup> [Tobacco Europe](#) represents the common views of major European-based cigarette manufacturers such as British American Tobacco (BAT), Imperial Brands (IMB), and Japan Tobacco International (JTI).

<sup>2</sup> Tariffs and Rules of Origin

<sup>3</sup> <https://www.esta.be/facts-farm-to-consumer/>

<sup>4</sup> <http://the-tma.org.uk/>



The table below provides a summary of the proposed RoOs position for traditional tobacco products and PRRPs. These positions are derived from existing RoOs negotiated in previous EU FTAs:

Product Description	HS code	RoO
Cigarettes	2402.20	<b>Change to Tariff Heading (CTH)<sup>5</sup></b> Products manufactured 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.
Roll your Own (RyO) Other smoking tobacco	2403.19	<b>CTH</b>
Other tobacco products Heated Tobacco Products (HTP) <sup>6</sup>	2403.99	<b>CTH</b>
Nicotine pouches without tobacco <sup>7</sup> Liquids containing nicotine for electronic cigarettes	3824.99	<b>CTH</b>
Cartomizers containing nicotine	8543.90	<b>CTH</b>

#### 4. Proof of origin

To minimise administrative burdens and facilitate trade, the UK-EU FTA should allow companies to **self-certify** the originating status of products instead of relying on certificates of origin issued by customs authorities.

Products originating in the EU or the UK should be accompanied by an origin declaration. The origin declaration can be provided by the exporter on an invoice or any other commercial document that describes the originating product in sufficient detail to enable its identification by customs authorities.

#### 5. Origin cumulation

**Bilateral cumulation** is a system that makes RoOs more flexible, by allowing an FTA country to consider non-originating materials from the other FTA country as originating. For example, bilateral cumulation would enable an EU manufacturer to count UK-origin inputs towards EU-UK FTA value content requirements.

**Diagonal cumulation** allows cumulation to occur with a defined third country outside of the FTA, by enabling an FTA country to consider non-originating materials from a defined third country as

<sup>5</sup> CTH means that all non-originating materials used in the manufacture 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

<sup>6</sup> HTP means tobacco products intended for inhalation without combustion. The expression “inhalation without combustion” means inhalation through heated delivery or other means, without combustion.

<sup>7</sup> Nicotine pouches without tobacco and liquids containing nicotine for electronic cigarettes will be classified under a new HS heading (2404) starting with 1 January 2022. The recommendation is to advocate that the rules of origin will be transferred accordingly for the new HS heading.



originating. It is most typical for diagonal cumulation to be allowed with third countries that have an FTA with both FTA countries. For example, diagonal cumulation could enable an EU manufacturer to count Brazil-origin tobacco leaf towards EU-UK FTA value content requirements in the event that the UK negotiates (and the EU ratifies) FTAs with Mercosur.

Because the EU and the UK are not major sources of tobacco leaf, the UK-EU FTA should allow diagonal cumulation of origin for materials sourced from certain third countries with which both the EU and UK have preferential arrangements. Other types of cumulation such as full cumulation (i.e., non-originating processing in addition to materials) should also be considered.

Diagonal cumulation provisions can provide flexibility for tobacco products supply chain, by enabling duty-free treatment for finished tobacco products that are manufactured from tobacco leaf originating in third countries such as Mercosur or the U.S.A.