

## Session 3 – group exercise

### Case Study materials

You will find below the relevant materials for the group exercise in session 3.

The product specific rules to determine whether a product originates can be found in Annex 3 of the TCA, which provides the applicable rules from the period of 1 January 2027. For your convenience we have provided below simplified excerpts from Annex 3 (see below under ‘1. Import tariffs from 1 January 2027’).

If additional context is required, you can find the relevant provisions of the original text of Annex 3 under file “TCA Annex 3”. For the full text of the UK – EU Trade and Cooperation Agreement (TCA), see

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/982648/TS\\_8.2021\\_UK\\_EU\\_EAEC\\_Trade\\_and\\_Cooperation\\_Agreement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/982648/TS_8.2021_UK_EU_EAEC_Trade_and_Cooperation_Agreement.pdf)

A specific review provision of these rules was originally provided in Annex 5 (section 3), but the provision was abolished in December 2023. You can find the original text under ‘2. Review provision (text)’.

As you can see from the newly revised Article 68 TCA, the earliest Annex 3 of the TCA, as far as it relates to 87.03 (electric vehicles) and 85.07 (batteries for electric vehicles), can be amended is 1 January 2032. The text of Article 68 can be found under ‘3. Article 68 TCA (text)’.

For the broader concerns that are raised by this case, see the article by the Financial Times from 16 May 2023 (“[Stellantis warns of factory closure if Brexit deal is not renegotiated](#)”), which you find under file “FT article”.

### 1. Import tariffs from 1 January 2027

The excerpts below provide the product specific rules from 1 January 2027 set out in Annex 3 of the TCA. Annex 3 is structured according to tariff codes. For our exercise the relevant tariff codes are:


- Electric vehicles fall under 87.03 (see Appendix 1)
- Batteries fall under 85.07 (see Appendix 2)

## Appendix 1: Electric Vehicles (HS Code 87.03)

### Rules of Origin: Case Study

▪ Annex 3 of the TCA: electric cars (87.03)

Column 1 Harmonised System classification (2017) including specific description	Column 2 Product-specific rule of origin
87.02-87.04  - vehicles with only electric motor for propulsion	<b>MaxNOM 45% (EXW)</b> and battery packs of heading 85.07 of a kind used as the primary source of electrical power for propulsion of the vehicle must be originating.


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## Appendix 2: Batteries (HS Code 85.07)

### Rules of Origin: Case Study

▪ Annex 3 of the TCA: batteries (85.07)

Column 1 Harmonised System classification (2017) including specific description	Column 2 Product-specific rule of origin
85.07  - Accumulators containing one or more battery cells or battery modules and the circuitry to interconnect them amongst themselves, often referred to as "battery packs", of a kind used as the primary source of electrical power for propulsion of vehicles of headings 87.02, 87.03 and 87.04	<b>CTH</b> except from non-originating active cathode materials; or <b>MaxNOM 30 % (EXW)</b> .

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## **Explanations:**

- MaxNOM means the maximum value that can be from non-originating material (that is material that is neither from the EU nor the UK)
- CTH: this means 'change of tariff heading'; for example: mixed lithium-nickel-cobalt-manganese oxide, used as active cathode material in batteries, has a tariff heading of HS 28.41. But when included in an electric car battery the tariff changes to 85.07 (the tariff heading for electric car batteries). The difficulty is that while this may work for the other materials used for battery packs, it is expressly excluded for active cathode materials (see Column 2 above).
- The materials and values in a battery pack:

<b>Materials &amp; processing</b>	<b>% VA in battery pack</b>
Cathode materials	30%
Anode materials	11%
Materials for both electrodes	3%
Electrolyte	8%
Foils	5%
Separator	5%
Other Materials	2%
Assembly and processing	36%

## 2. Review provision (text)

Section 3 of Annex 5 (TCA)

Please note that this provision does no longer exist.

Review of product-specific rules for heading 85.07

1. Not earlier than 4 years from the entry into force of this Agreement, the Trade Partnership Committee shall, on request of either Party and assisted by the Trade Specialised Committee on Customs Cooperation and Rules of Origin, review the product-specific rules for heading 85.07 applicable as from 1 January 2027, contained in Annex 3.
2. The review referred to in paragraph 1, shall be made on the basis of available information about the markets within the Parties, such as the availability of sufficient and suitable originating materials, the balance between supply and demand and other relevant information.
3. On the basis of the results of the review carried out pursuant to paragraph 1, the Partnership Council may adopt a decision to amend the product-specific rules for heading 85.07 applicable as from 1 January 2027, contained in Annex 3.

### **3. Article 68 TCA (text)**

#### Article 68 Amendment to this Chapter and its Annexes

1. The Partnership Council may amend this Chapter and its Annexes, subject to paragraph 2.
2. Paragraph 1 shall not apply to:
  - (a) Annex 5 to this Agreement;
  - (b) the product-specific rules of origin set out in Annex 3 for products listed in Annex 5, until 1 January 2032; and
  - (c) this Article, insofar as it relates to Annex 3 for products listed in Annex 5, and Annex 5, until 1 January 2032;

However, paragraph 1 shall apply where the product-specific rules of origin set out in Annex 3 for products listed in Annex 5, or on Annex 5 are amended due to updates of the Harmonised System.