

# TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP AGREEMENT (TPA): INFORMATION ABOUT THE RULES OF ORIGIN – IMPORTS

This fact sheet outlines the rules of origin for goods imported into New Zealand that are the subject of a claim for the tariff preference applied under Chapter 4 and Annex II to the Trans-Pacific Strategic Economic Partnership Agreement (TPA). The countries which are party to the TPA are Brunei Darussalam, Chile, New Zealand, and Singapore (hereinafter referred to collectively as the “parties”, or individually as a “party”).

This fact sheet should be used only as a general guide. It does not set out every requirement of the rules of origin. Accordingly, it is strongly recommended that this fact sheet be read in conjunction with the Customs and Excise Act 2018, the Customs and Excise Regulations 1996 and Schedules 4, 5, and 6 to those Regulations (see [www.customs.govt.nz/library/legislation](http://www.customs.govt.nz/library/legislation)).

## WHAT DOES THE TPA PROVIDE FOR?

The TPA entered into force on 1 May 2006, and amongst other things, provides for the parties to apply preferential rates of tariff duty to originating goods that meet the rules of origin provisions set out in the Agreement. The Tariff Act 1988 sets out the preferential rates of tariff duty applied under the TPA for goods imported into New Zealand (a copy of The Working Tariff Document of New Zealand is located on the New Zealand Customs Service website, [www.customs.govt.nz](http://www.customs.govt.nz)).

## Goods of Singapore origin

As well as being parties to the TPA, Singapore and New Zealand are parties to the Agreement between New Zealand and Singapore on a Closer Economic Partnership (ANZSCEP) and the rate of

duty ‘Free’ applies under the Tariff to all goods imported into New Zealand which are the origin of Singapore. In determining whether goods are the origin of Singapore for this purpose, either the rules of origin derived from the ANZSCEP or the rules of origin derived from the TPA may be used.

## WHAT ARE ORIGINATING GOODS?

Particular goods are deemed to originate in the territory of a party, if the goods:

- are wholly obtained in the territory of a party; or
- are produced solely in the territory of one or more of the parties exclusively from materials that originate from one or more of the parties; or
- are produced in the territory of one or more parties using non-originating

materials if, the non-originating materials satisfy the requirements of Schedule 5 or any other requirement of the regulations; and the goods meet all other applicable provisions of the regulations.

The following points provide more detailed information on the methods of determining whether a good imported from a party is originating.

## GOODS WHOLLY OBTAINED

The following goods are treated as wholly obtained:

- a) mineral goods extracted from the seabed or soil in the territory of a party;
- b) agricultural goods gathered, grown, harvested, or picked in the territory of a party;

- c) live animals born and raised in the territory of a party;
- d) goods obtained from live animals in the territory of a party;
- e) goods obtained directly in the territory of a party from aquaculture or by capturing, farming, fishing, gathering, hunting, or trapping;
- f) goods (being fish, plants, shellfish, and other marine life) taken from:
  - i. within the territorial sea or the relevant maritime zone of a party seaward of the territorial sea under that party's applicable laws in accordance with the United Nations Convention on the Law of the Sea 1982 by a vessel flying, or entitled to fly, the flag of that party; or
  - ii. the high seas by a vessel that is:
    - (A) registered or recorded with the party; and
    - (B) flying the flag of a party;
- g) goods obtained or produced, exclusively from goods referred to in paragraph (f), on factory ships that are:
  - i. registered or recorded with the party; and
  - ii. flying the flag of the party;
- h) goods taken by a party, or a person of the party, from the seabed or subsoil beneath the seabed of the territorial sea or the continental shelf of the party, in accordance with the United Nations Convention on the Law of the Sea 1982;
- i) waste and scrap derived from the production of goods in the territory of a party, or used goods collected in the territory of a party, if those goods are fit only for the recovery of raw materials;
- j) recovered goods derived in the territory of a party from used goods and utilised in the territory of the party in the production of remanufactured goods (see 'Recovered and remanufactured goods' below);

- k) goods produced entirely in the territory of a party exclusively from goods referred to in paragraphs (a) to (j) above, or from their derivatives at any stage of production.

Such goods are typically natural resource-based products obtained in the territory of a party, and final products made from them that do not include any non-originating materials. (Waste and scrap, used goods, and recovered goods covered by (i) and (j) above, are an exception to this, and are treated for the purposes of the TPA rules of origin regulations as containing no non-originating materials.)

**Examples:**

Fruit picked from a tree in the territory of a party, and a wreath of flowers made in the territory of a party solely from flowers picked in a territory of a party, are examples of goods qualifying as originating under these wholly obtained provisions.

**Note:**

'Obtained' does not mean 'purchased'. The term is used simply to acknowledge that origin can be conferred on goods that are naturally occurring as well as on goods that are produced by human endeavour.

**Recovered and remanufactured goods**

The goods listed in Schedule 4 to the Regulations may qualify as originating under the goods wholly obtained provision if the goods have been remanufactured from recovered goods.

Recovered goods means materials that are in individual parts as a result of:

- the complete disassembly of used goods into individual parts; and
- the cleaning, inspecting, testing, or other processing of those parts; and
- one or more of the following processes required for the improvement of the parts to sound working condition in order to assemble them with other parts (including other recovered parts in the production of remanufactured goods as listed in Schedule 4):

flame spraying, knurling, plating, sleeving, surface machining, rewinding, and welding.

Remanufactured goods means industrial goods that have been assembled in the territory of a party and are entirely or partially composed of recovered goods, and have the same life expectancy and meet the same performance standards as new goods, and enjoy the same factory warranty as new goods.

**GOODS ENTIRELY PRODUCED**

Goods are also treated as originating if they are produced solely in the territory of one or more of the parties exclusively from materials that would themselves qualify as originating goods, from one or more of the parties.

**GOODS THAT MEET THE REQUIREMENTS OF A PRODUCT-SPECIFIC RULE**

(The detailed product-specific rules are set out in Schedule 5 to the Regulations.) These are goods produced in a party, or a combination of parties, wholly, or in part, from non-originating materials.

**(a) Change in tariff classification (CTC)**

By and large, the product-specific rules of origin for TPA goods are CTC based. This requires the production process within the territory of a party to result in a good classified in a different tariff heading (Harmonized System four-digit level) or subheading (Harmonized System six-digit level), as appropriate, than that of any non-originating materials.

To determine what the product-specific rule is, and whether or not a good is originating, an importer must first determine the tariff classification of the traded good and any non-originating materials that went into the production of that good.

The tariff classification of the traded good can then be used to locate the product-specific rule related to that good in Schedule 5 to the Regulations.

The difference between the classification of the traded good and the classification of the material(s) that went into the production of that good will determine whether or not the conditions of the specific CTC rule have been met. The following example illustrates how a CTC rule operates in practice.

- Stainless steel belt buckles of Harmonized System (HS) subheading 8308.90 is produced in a party using non-originating stainless steel rods of HS heading 72.22.

The rule for stainless steel buckles of HS subheading 8308.90, set out in Schedule 5, reads as follows:

“A change to subheading 8308.90 from any other heading”

**The result of this rule is that the stainless steel belt buckles are treated as originating in a party. This is because the non-originating stainless steel rods are classified within a different tariff heading from that of the stainless steel belt buckles.**

Some CTC rules include the phrase, “except from [heading/subheading specified]”. The “except from” rules are intended to ensure that processing deemed to be of minimal significance does not, in itself, confer originating status.

#### **Treatment of packaging materials and containers under a CTC requirement**

Packaging materials and containers in which goods are packaged for retail sale, if classified with those goods, are not included in determining whether non-originating materials used in the production of those goods have undergone the applicable CTC as set out in Schedule 5.

#### **Treatment of accessories, spare parts, and tools under a CTC requirement**

If the goods are subject to a CTC requirement (as set out in Schedule 5) any accessories, spare parts, or tools delivered with originating goods that

form part of the standard accessories, spare parts, or tools for those goods must be treated as originating goods and must be disregarded in determining whether or not all of the non-originating materials used in the production of the originating goods undergo the applicable CTC, if:

- the accessories, spare parts, or tools are classified with, and not invoiced separately from, the originating goods; and
- the quantities and value of the accessories, spare parts, or tools are normal for the originating goods.

#### **(b) The regional value content rule**

For some goods, the product-specific rule in Schedule 5 requires or, in some cases, as an alternative to a CTC requirement, permits, the use of a regional value content (RVC). The RVC requires that the value of the goods includes a minimum percentage content of value added in a territory of a party.

Where Schedule 5 requires or, permits, the use of an RVC, the value is to be calculated as follows:

$$RVC = \frac{TV - VNM}{TV} \times 100$$

- RVC is the regional value content expressed as a percentage.
- TV is the transaction value of the goods adjusted on a free on board (FOB) basis. However, the value of non-originating materials must not be included if those non-originating materials were used in the territory of a party to produce materials, and those materials were then used to produce the goods to which the calculation relates.
- VNM (value of non-originating materials) is the transaction value of non-originating materials when they were first acquired or supplied to the producer of the goods, adjusted on a CIF basis, except when the producer of the goods does not export the goods

directly, the value must be adjusted up to the point at which the purchaser received the goods within the territory of the party where the producer is located.

For the purposes of the RVC calculation, in any case where the producer of the goods who is in the territory of a party acquires non-originating materials in that territory, the value of the materials must not include freight, insurance, packing costs, or any other costs incurred in transporting the materials from the supplier’s warehouse to the producer’s location.

#### **Example**

A producer sells a good for \$100 in an arm’s length sale. The CIF value of non-originating materials used in the production of the good is \$40.

Using the above formula, the producer calculates the RVC as follows:

$$RVC = \frac{100 - 40}{100} \times 100 = 60\%$$

In this example, deducting the CIF value of non-originating materials from the transaction value results in residual qualifying content of 60 percent, which means the good, subject to meeting a CTC requirement (if applicable), is originating and entitled to a preferential tariff duty rate.

#### **Treatment of packaging materials and containers under an RVC requirement**

If the goods are subject to an RVC requirement, then the value of the packaging materials and containers used for retail sale are taken into consideration as originating or non-originating, as the case may be, in calculating the RVC.

#### **Treatment of accessories, spare parts, and tools under an RVC requirement**

If the goods are subject to an RVC requirement, then the value of the standard accessories, spare parts, or tools for those goods is taken into

consideration as originating or non-originating materials, as the case may be, in calculating the RVC of the goods.

**Note:**

This provision does not apply where the accessories, spare parts, or tools have been added solely for the purpose of artificially raising the RVC of the goods.

**(c) A summary of the product-specific rules:**

A general outline of the criteria conferring originating status under this provision is as follows:

- Goods, other than those of Tariff chapters 50 to 64 inclusive, will fall under one of the following product-specific rules, applicable to the tariff classification of the finished traded good, as set out in Schedule 5:
  - a CTC – Particular goods with this product-specific rule must meet the specified change in tariff classification requirement.
  - a CTC or RVC – Particular goods with this product-specific rule, must meet either a change in tariff classification, or, a regional value content of not less than 45 percent.
  - a CTC plus an RVC – Particular goods with this product-specific rule must meet a change in tariff classification, plus a regional value content of not less than 45 percent.
- For most goods of Tariff chapters 50 to 64 inclusive, a CTC plus an RVC of not less than 50 percent must be achieved.

**Note:**

In addition to a CTC and an RVC, in most cases the product-specific rules specified in chapters 61, 62, and 63 require an additional process provision to be met.

- Notwithstanding any of the line-by-line product-specific rules set out in Schedule 5 (mentioned above), the following ‘specified process rules’ can be utilised to confer originating status on the final good, provided the

process occurred in the territory of a party. In such instances, compliance with the ‘specified process rule’, or alternatively the product-specific rule of origin, will confer originating status on the good.

- For goods classified in Tariff chapters 27 through to and including chapter 40, an alternative ‘chemical reaction’ rule can be applied.

A ‘chemical reaction’ means a process, including a biochemical process, which results in a molecule with a new structure by breaking intermolecular bonds, or by altering the spatial arrangement of atoms in a molecule. The following 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.
- For goods classified within Tariff chapters 28, 29 and 32, the ‘standard materials’ rule may also be applied. ‘Standard materials’, including standard solutions, are preparations suitable for analytical, calibrating or referencing uses, having precise degrees of purity or proportions, which are certified by the manufacturer.
- For goods classified within Tariff chapter 29, the ‘isomer separation’ rule may also be applied. ‘Isomer separation’ is the isolation or separation of isomers from a mixture of isomers.
- For particular goods classified within Tariff chapter 39, the ‘compounding’ rule may also be applied. ‘Compounding’ refers to the incorporation of additives into base polymer resins to give a

mixture. The process changes the properties (be it physical, thermal, electrical, aesthetic, or otherwise) of the base polymers.

**Note:**

Materials that originate from the territory of any of the parties and are used in the production of particular goods in the territory of any other party are deemed to originate in the territory of the other party. This is known as accumulation.

Packaging materials and containers in which goods are packed exclusively for transport are not included in determining the origin of the good. Except where goods are subject to an RVC requirement, goods produced by minimal operations or processes must not be treated as originating goods even where those minimal operations or processes meet the CTC requirement specified in the Schedule 5 to the Regulations.

**The *de minimis* provision**

While there is a product-specific rule for each category of good imported from a party as set out in Schedule 5, it is possible for a good incorporating non-originating materials to qualify as originating under the *de minimis* provision (see regulation 51O). Where goods do not satisfy a CTC, the goods will still be treated as originating **if** the value of all non-originating materials used in their production, that do not meet the CTC requirement, does not exceed 10 percent of the transaction value of the goods (determined pursuant to regulation 51P), **and** the goods meet all other applicable criteria under regulations 51N to 51Y.

**Treatment of indirect materials**

An indirect material is deemed an originating material without regard to where it is produced, and its value is determined by its cost recorded in the accounting records of the producer of the goods.

An indirect material means goods used in the inspection, production, or testing of other goods but which are not

physically incorporated into the goods; or goods used in the maintenance of buildings or in the operation of equipment associated with the production of other goods, including:

- catalysts, energy, fuel, and solvents;
- devices, equipment, and supplies used for inspecting or testing the goods;
- clothing, footwear, glasses, gloves, safety equipment and supplies;
- dies, moulds, and tools;
- spare parts and materials used in the maintenance of equipment and buildings;
- compounding materials, greases, lubricants, and other materials used in production or used to operate buildings and equipment;
- any other goods that are not incorporated into the goods but whose use in the production of the goods can reasonably be demonstrated to be a part of that production.

#### **OUTWARD PROCESSING**

Goods that are specified in Schedule 6 to the Regulations may also be considered as originating goods if they include materials that were exported from a party to a non-party for processing and were subsequently re-imported to the party. This provision is known as outward processing. However, the goods must meet certain requirements set out in the regulations. Please consult Schedule 6 and regulation 51U for a full list of the requirements that must be met for goods to be considered originating under this provision.

#### **CAN GOODS BE TRANSPORTED THROUGH A NON-PARTY?**

Goods, other than those to which regulation 51U applies to (outward processing), that would otherwise qualify under the rules of origin laid down in the regulations will be denied tariff preference if they are not transported directly between the parties and enter into the commerce of a non-party, unless the Comptroller of Customs otherwise

permits subject to conditions approved by the Comptroller either generally or in a particular case.

#### **WHAT ARE NON-ORIGINATING MATERIALS?**

Non-originating materials are those materials used in the production of goods in the parties that do not qualify as originating under the regulations. These include:

- materials that are not wholly obtained or produced in the parties;
- materials or components imported from a non-party;
- materials or components that are made in the parties using imported inputs which do not meet the applicable rules of origin.

Any materials of an unknown or unconfirmed origin are treated as non-originating materials for the purposes of the TPA Regulations.

#### **MINIMAL OPERATIONS OR PROCESSES**

Minimal operations or processes means operations or processes that by reason of their minimal contribution to the essential characteristics or properties of goods, do not by themselves, or in combination, confer origin on the goods, and include, without limitation, the following:

- operations to ensure the preservation of products in good condition during transport and storage (for example, chilling, drying, freezing, ventilation, and like operations);
- operations that consist of bending, classifying, coiling, cutting, sifting, slitting, uncoiling, or washing;
- changes to the packing, breaking up, or assembly of consignments;
- packing, repacking, or unpacking;
- affixing labels, marks, or other distinguishing signs on products or packaging;
- mere dilution with water or any other substance that does not materially alter the characteristic of goods.

#### **WHAT ARE THE ADMINISTRATION AND ENFORCEMENT REQUIREMENTS?**

The Customs and Excise Act 2018 places the onus upon the importer to make a correct and accurate declaration in respect to the origin of goods.

An importer in New Zealand may claim the applicable tariff preference on the basis of a declaration as to origin on the export invoice, or a certificate of origin, in respect of a good imported from any other party. (See Appendix A for an example of a declaration as to origin, and Appendix B for an example of the prescribed certificate of origin.)

The exporter or producer of a party must complete either the declaration as to origin or a certificate of origin, either of which may then be used by the New Zealand importer as evidence of origin in respect of which preferential tariff duty rates are claimed. The declaration as to origin or certificate of origin shall:

- specify that the goods enumerated thereon are the origin of the exporting party and meet the terms of Chapter 4 to the TPA;
- be made in respect of one or more goods; and which can include a variety of goods; and
- be completed in English.

If the exporter is not the producer of the good, the exporter may complete and sign the declaration on the basis of their knowledge of whether the good qualifies as an originating good, or on a producer's written declaration as to origin that the good qualifies as an originating good.

Although not stipulated within the TPA, it is recommended that if declarations are made on a separate document they make a suitable reference to the related invoice.

#### **Note:**

While such certification may be accepted as attesting to the origin of the goods, it should not be regarded as determinative of this status. The New Zealand Customs Service may request further evidence that the goods are the origin of a party.

## FREQUENTLY ASKED QUESTIONS

### **WHAT ARE CUSTOMS RULINGS?**

The Customs and Excise Act 2018, amongst other things, provides for rulings to be made in respect of the tariff classification, or origin of goods. These rulings are, subject to certain conditions, binding on the New Zealand Customs Service, and provide a degree of certainty as to the classification and origin of goods imported into New Zealand.

### **HOW DO I APPEAL AGAINST A CUSTOMS DECISION?**

The Customs Appeal Authority (CAA) is an independent authority that provides an avenue to appeal against decisions made by the New Zealand Customs Service, including determinations as to the origin of goods. To access the CAA, Form 14 must be completed and sent or delivered to the Registrar of the Customs Appeal Authority located at an office of the Tribunals Unit of the Ministry of Justice. A filing fee of \$400 (inclusive of GST) must accompany the filing.

More information on the CAA can be obtained from Customs on 0800 428 786 (0800 4 CUSTOMS).

### **DO I NEED TO KEEP RECORDS?**

Importers are required to retain origin documents for a period of seven years.

### **DO OTHER TAXES, LEVIES OR CHARGES APPLY?**

Some taxes and levies will remain irrespective of preferential tariff treatment. For example:

- goods and services tax (GST)
- excise equivalent duties
- anti-dumping or countervailing duties
- entry and cargo transaction fees or other cost recoveries.

### **HOW DO I OBTAIN FURTHER INFORMATION?**

For any rules of origin queries or questions, contact:

Valuation, Origin and Classification  
New Zealand Customs Service  
PO Box 29  
Shortland Street  
Auckland 1140  
Telephone: +64 9 927 8000  
Email: [voc@customs.govt.nz](mailto:voc@customs.govt.nz)

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### **FOR FURTHER INFORMATION**

Contact your nearest office of the New Zealand Customs Service, visit the Customs website [www.customs.govt.nz](http://www.customs.govt.nz), or call Customs on 0800 428 786 (0800 4 CUSTOMS).



# APPENDIX B

## TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP AGREEMENT

### CERTIFICATE OF ORIGIN

Issuing Number:

1. Exporter: <i>(Name and address)</i>					
Tax ID no:					
2. Producer: <i>(name and address)</i>			3. Importer: <i>(name and address)</i>		
Tax ID no:					
4. Description of good(s)	5. HS no.	6. Preference criterion	7. Producer	8. Regional value content	9. Country of origin
10. Certification of origin					
I certify that:					
<ul style="list-style-type: none"> <li>the information on this document is true and accurate and I assume the responsibility for providing such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document.</li> <li>I agree to maintain and present upon request, documentation necessary to support this certificate, and to inform, in writing, all persons to whom the certificate was given of any changes that could affect the accuracy or validity of this certificate.</li> <li>the goods originated in the territory of the Parties, and comply with the origin requirements specified for those goods in the Trans-Pacific Strategic Economic Partnership Agreement, and there has been no further production or any other operation outside the territories of the Parties in accordance with Article 4.11 of the Agreement.</li> </ul>					
Authorised signature:			Company name:		
Name: <i>(Print or type)</i>			Title:		
Date: <i>(DD/MM/YY)</i>			Telephone/facsimile/email:		

## CERTIFICATE OF ORIGIN INSTRUCTIONS

Pursuant to Article 4.13, for the purposes of obtaining preferential tariff treatment this document must be completed legibly and in full by the exporter or producer and be in the possession of the importer at the time the declaration is made. Please print or type:

**Issuing Number:** Fill in the serial number of the certificate of origin.

- Field 1:** State the full legal name, address (including country) and legal tax identification number of the exporter. The legal tax identification number in Chile is the unique tax number (“Rol Unico Tributario”). The tax identification number is not applicable for Brunei Darussalam, New Zealand and Singapore.
- Field 2:** If one producer, state the full legal name, address (including country, telephone number, fax number and email address) and legal tax identification number, as defined in Field 1, of said producer. (Tax ID is not applicable to Brunei Darussalam, New Zealand and Singapore.) If more than one producer is included on the certificate, state “Various” and attach a list of all producers, including their legal name, address (including country, telephone number, fax number and email address) and legal tax identification number, cross referenced to the good or goods described in Field 4. If you wish this information to be confidential, it is acceptable to state “AVAILABLE TO CUSTOMS UPON REQUEST”. If the producer and the exporter are the same, complete field with “SAME”. If the producer is unknown, it is acceptable to state “UNKNOWN”.
- Field 3:** State the full legal name, address (including country) as defined in Field 1, of the importer; if the importer is not known, state “UNKNOWN”; if multiple importers, state “VARIOUS”.
- Field 4:** Provide a full description of each good. The description should be sufficient to relate it to the invoice description and to the Harmonised System (HS) description of the good.
- Field 5:** For each good described in Field 4, identify the HS tariff classification to six digits.
- Field 6:** For each good described in Field 4, state which criterion (1 through 3) is applicable. The rules of origin are contained in Chapter 4 and Annex II of the Agreement. NOTE: In order to be entitled to preferential tariff treatment, each good must meet at least one of the criteria below:

### Preference Criteria

- A The good is “wholly obtained or produced entirely” in the territory of one or more of the Parties, as referred to in Article 4.1 and 4.2 of the Agreement. NOTE: The purchase of a good in the territory does not necessarily render it “wholly obtained or produced”.
- B The good is produced entirely in the territory of one or more of the Parties exclusively from originating materials. All materials used in the production of the good must qualify as “originating” by meeting the rules of Chapter 4 of the Agreement.
- C The good is produced entirely in the territory of one or more of the Parties and satisfies the specific rule of origin set out in Annex II of the Agreement (specific rules of origin) that applies to its tariff classification as referred to in Article 4.2, or the provisions under Article 4.12 of the Agreement. The rule may include a tariff classification change, regional value-content requirement and a combination thereof, or specific process requirement. The good must also satisfy all other applicable requirements of Chapter 4 (Rules of Origin) of the Agreement.
- Field 7:** For each good described in Field 4, state “YES” if you are the producer of the good. If you are not the producer of the good, state “NO” followed by (1) or (2), depending on whether this certificate was: (1) based upon your knowledge of whether the good qualifies as an originating good; (2) Issued by the producer’s written declaration as to origin, which is completed and signed by the producer and voluntarily provided to the exporter by the producer.
- Field 8:** For each good described in Field 4, where the good is subject to a regional value content (RVC) requirement stipulated in the Agreement, indicate the percentage.
- Field 9:** Identify the name of the country. (“BN” for all goods originating from Brunei Darussalam, “CL” for all goods originating from Chile, “NZ” for all goods originating from New Zealand, “SG” for all goods originating from Singapore)
- Field 10:** This field must be completed, signed and dated by the exporter or producer. The date must be the date the certificate was completed and signed.

