

NEW ZEALAND - EUROPEAN UNION FREE TRADE AGREEMENT

INFORMATION ABOUT THE RULES OF ORIGIN

This fact sheet outlines the Rules of Origin for originating goods under the New Zealand – European Free Trade Agreement (NZ-EU FTA).

This fact sheet should only be used as a general guide. It does not set out every requirement of the Chapter 3 'Rules of Origin'. Accordingly, it is recommended that this fact sheet be read in conjunction with Chapters 2 and 3 (and the associated Annexes to these Chapters) of the NZ-EU FTA, and the relevant domestic legislation including the Customs and Excise Regulations 1996.

What countries does the NZ-EU FTA Agreement apply to?

NZ-EU FTA was signed on 9 July 2023 and comes into force on 1 May 2024. It is an Agreement between New Zealand and the European Union.

The latter, for the purpose of the FTA includes the 27 Member States of the European Union (including the territory of Ceuta and Melilla) as follows:

Austria	Estonia	Italy	Portugal
Belgium	Finland	Latvia	Romania
Bulgaria	France	Lithuania	Slovakia
Croatia	Germany	Luxembourg	Slovenia
Cyprus	Greece	Malta	Spain
Czech Republic	Hungary	Netherlands	Sweden
Denmark	Ireland	Poland	

The Agreement also includes the Principality of Andorra, the Principality of Monaco, the Republic of San Marino, and the Sovereign Base Areas of Akrotiri and Dhekelia. For the purposes of this information paper this extended grouping is hereinafter collectively referred to as the EU.

Originating goods

Goods are originating if they are:

- wholly obtained in New Zealand or the EU; or
- produced exclusively from originating materials in the New Zealand or the EU; or
- produced in New Zealand or the EU using non-originating materials provided that the product satisfies the requirements set out in Annex 3-B (Product Specific Rules of Origin).

Wholly obtained goods

These goods are generally primary agricultural and horticultural products grown harvested or raised in the Party, fish and other seafood, minerals and other naturally occurring substances and products derived from the above. It also includes waste and scrap derived from manufacturing operations in the Party, and used products which are fit only for recovery of raw materials, collected in the Party.

Fish and vessel ownership

For fish caught outside of the territorial waters of New Zealand or a Member State of the EU there are certain vessel conditions that must be met for the fish to be considered wholly obtained:

- a) registration in New Zealand or a Member State;
- b) sailing under the flag of New Zealand or a Member State; and
- c) ownership requirements. The vessel must be either at least 50% owned by nationals of a Member State or of New Zealand; or be owned by one or more juridical persons each of which has its head office and main place of business in a Member State or in New Zealand and is at least 50% owned by public entities or persons of a Member State or of New Zealand.

Origin quota for certain fish species

There are special provisions, called “**origin quota**” in the product specific rules of origin for certain species of fish caught in New Zealand’s Exclusive Economic Zone (EEZ) by vessels that do not meet these ownership requirements. These quotas are limited to a certain tonnage per annum and have their own specific rule of origin. See details in [Appendix 3-B-1 to Annex 3-B \(\[annex-3-b-product-specific-rules-of-origin.pdf \\(customs.govt.nz\\)\]\(#\)\)](#) (page 59).

For exporters who need to use this quota the statement on origin should state:

"Origin quotas – Product originating in accordance with Appendix 3-B-1, caught by the foreign chartered vessel [name of vessel] in the exclusive economic zone of New Zealand under fishing permit number [permit number]".

The quota will be managed by the EU on a first-come-first-served basis. Fish caught by New Zealand owned vessels are not eligible for this quota - they can claim preference for their catch under the wholly obtained rules.

Goods produced from originating materials

These goods are also considered to be originating if they are produced in a Party exclusively from originating materials sourced from New Zealand or the EU. These originating materials may include non-originating materials that come from a country other than New Zealand or the EU, provided those materials have undergone sufficient processing to achieve originating status at an earlier stage of production in either New Zealand or the EU.

Goods produced using non-originating materials

These are goods that generally incorporate non-originating materials or components in the latter stages of production. The level of production required on a non-originating material in either New Zealand or the EU is provided in the schedule of Product Specific Rules (PSRs) contained in Annex 3-B Product Specific Rules of Origin. The rule or rules attached to each tariff line are listed in this Annex.

There are three types of rules in the PSR Schedule that a non-originating good could utilise to gain originating status:

- *Change in tariff classification rule* - specifies a change in tariff classification between the non-originating materials and the final good;
- *Value content rule* – sets a minimum level of value that a producer or producers in either New Zealand or the EU must contribute towards the ex-works price of the good; or
- *Process rule* – these are largely relevant to products classified in chapters 27-40 and to textiles and apparel (classified in chapters 50-63) and are described in detail in NOTE 5 and NOTE 6 respectively, of Annex 3-A Introductory Notes to Product Specific Rules.

NOTE 1: If a product is subject to alternative product-specific rules of origin, the alternatives are listed and followed by “; or”.

NOTE 2: If a product is subject to a product-specific rule of origin that includes multiple requirements, the multiple requirements are listed and followed by “; and”.

Origin quota for textiles and apparel

There are special provisions, called “**origin quota**” in the product specific rules of origin for textiles classified in heading 5903 and apparel classified in chapters 61 and 62. These quotas are limited to a certain value per annum and have their own specific rule of origin. See details in Appendix 3-B-1 to Annex 3-B (page 59). This quota should only be used if the exporter is unable to meet the rules of origin in the PSR schedule (Annex 3-B) and the statement on origin should state:

"Origin quotas – Product originating in accordance with Appendix 3-B-1".

The quota will be managed by the EU on a first-come-first served basis.

Use of the term “wholly obtained” in a product specific rule

Some of the product specific rules, especially those for products and materials classified in chapters 1-24 that are produced from primary agricultural and horticultural products contain the term “wholly obtained”.

Notes 5 and 6 of Annex 3-A Introductory Notes to Product Specific Rules explain how these terms are to be interpreted when used in the PSRs.

NOTE 5

For the purposes of product-specific rules for a product in Chapters 1 to 24, and in accordance with Article 3.3 (Cumulation of origin) wholly obtained materials from one or both Parties may be combined to meet a rule based on a "wholly obtained" requirement.

Example: A packet of dried fruit and nuts classified in heading 08.13 is made from a combination of fruit and nuts grown in the EU and New Zealand and thus fulfils the product-specific rule "production in which all the materials of Chapter 8 used are wholly obtained".

NOTE 6

For the purposes of product-specific rules for a product in Chapters 1 to 24, a product fulfilling the rule "production in which all materials of Chapter [X] are wholly obtained" shall be considered as wholly obtained when used as a material in further production.

Example: A milk powder is made using 9 % by value non-originating milk permeate (0404.90) and thus fulfils the product-specific rule "production from wholly obtained materials of Chapter 4" using the tolerance rule of Article 3.5 (Tolerances). When this milk powder is used as a material in the production of nutritional powder of subheading 1901.10 it is considered as wholly obtained for the purposes of the product-specific rule of heading 19.01.

Tolerance rule

For all goods other than textiles or apparel, if a good does not quite satisfy the required change in tariff classification listed in Annex 3-B, it will still be considered to be originating provided the value of all non-originating materials used in its production that did not satisfy the required change in tariff classification does not exceed 10 percent of the ex-works value of the good;

- specific tolerances for textiles goods and apparel are set out in Notes 7 and 8 of Annex 3-A (Introductory Notes to Product-Specific Rules of Origin);
- if the PSR has a weight or value-based requirement these tolerances cannot be applied;
- if the PSR requires that the good or a material be wholly obtained, the tolerance applies.

Cumulation

The EU-NZ FTA provides for two ways of cumulating origin

- cumulation of originating materials — materials originating in the EU can be counted as originating in New Zealand when used in the production of a product in New Zealand (and vice versa).
- full cumulation — the working or processing carried out on non-originating materials in the EU or New Zealand can be counted as originating to help comply with the product specific rule. That is, processing carried out in New Zealand can be counted as qualifying operations in the EU, regardless of whether the processing is sufficient to confer originating status to the materials themselves (and vice-versa), provided that the working or processing undertaken in a Party goes beyond one or more of the operations referred to in Article 3.6 (Insufficient working or processing).

Valuation methodology

The valuation methodology for calculating whether sufficient value has been added is based on a maximum value of non-originating materials (MaxNOM) allowed as a percentage of the ex-works price (EXW) of the product (e.g. MaxNOM 50% (EXW)). Details can be found in NOTE 4 of Annex 3-A Introductory Notes to Product Specific Rules of Origin.

Proof of origin

Under the FTA, to make a claim for preferential treatment an importer needs to have either a statement of origin completed by the exporter of the good; or sufficient knowledge that the good is originating. There is no prescribed format for a self-declaration and the statement can be made on an invoice or on any other document that describes the originating product in sufficient detail to enable its identification.

There is no need to state the specific grounds under which the goods are originating though this information would need to be made available if requested by the customs administration of the importing Member State or New Zealand.

The statement of origin is valid for one year from the date it is made out.

Origin declaration by a New Zealand exporter

The statement should be made as follows:

The exporter of the products covered by this document (Customs Client Code No ...) declares that, except where otherwise clearly indicated, the products are of New Zealand preferential origin.

Name of exporter

.....

Place and date

.....

Origin declaration by a European Union exporter

The statement should be made as follows:

The exporter of the products covered by this document (Exporter Reference No ...) declares that, except where otherwise clearly indicated, the products are of European Union preferential origin.

Name of exporter

.....

Place and date

.....

NOTE 1: If the statement covers multiple shipments a period must be provided and must not exceed 12 months.

NOTE 2: Where the exporter has not been assigned a number, the field may be left blank.

NOTE 3: Additional statement required as set out earlier in this paper if utilising origin quota for fish, textiles, or apparel.

Importer's knowledge that the good is originating

In addition to a self-declaration by the exporter of a good, the FTA also provides for an importer to submit a claim for preferential tariff treatment based on the importer's knowledge that the good is originating.

To make a claim based on importer's knowledge the importer must have either documentation demonstrating that the good is originating or have a reasonable reliance on documentation provided by the producer or exporter that the good being imported is originating and have ready access to that information.

Transition arrangements

There are transition arrangements for goods that are in transit or storage at the date of entry into force.

In New Zealand, liability for duty or eligibility for preference will depend on the date the goods arrive in New Zealand.

- Goods that are in transit (including those in storage under customs control outside of New Zealand) on 1 May 2024 will be eligible for preferential treatment when they arrive in New Zealand.
- Goods that arrive in NZ territorial waters prior to 1 May 2024 are liable for the duties payable - calculated based on the date the goods arrived in New Zealand. The date of entry must be made within 20 working days after the date the goods are imported, however this does not change the liability for duty.
- Goods that arrive in NZ territorial waters after 30 April 2024 are eligible for preferential tariff treatment. Customs recommends that the entry for these goods is made on or after 1 May 2024 for ease of applying the preferential rates of duty.

Transportation of goods, non-alteration

Originating products must be transported from New Zealand to the EU (and vice-versa) without being further processed in a third country.

Some operations can be conducted in a third country if the products remain under customs supervision, such as

- adding or affixing marks, labels, seals or any documentation to ensure compliance with specific domestic requirements of the importing country
- preserving products in good condition
- storage
- splitting consignments.

The customs authorities may request evidence of compliance with the rule, such as

- contractual transport documents such as bills of lading
- factual or concrete evidence based on marking or numbering of packages
- any evidence related to the goods themselves

Repacking that arises as a necessary process in the splitting of consignments is permitted (Article 3.15.4). Repackaging operations would need to meet the requirements of Article 3.15.1; so, either an operation undertaken to preserve the goods in good condition, or the adding or affixing of marks, labels or seals to ensure compliance with specific domestic requirements of New Zealand or the EU.