



## NUMBER 30 THAILAND PREFERENTIAL RULES OF ORIGIN

*This Fact Sheet informs persons involved in trade between New Zealand and Thailand of the legislative provisions governing preferential rates of duty provided by the New Zealand-Thailand Closer Economic Partnership Agreement (NZTCEPA). **Note:** The NZTCEPA is New Zealand's first trade agreement where the rules of origin (RoO) are specific to goods and based on a change of tariff classification (CTC) methodology, or a combination of CTC and regional value content (RVC).*

### What legislation applies to this agreement?

Specific legislative provisions governing entry of goods into New Zealand at preferential rates of duty are:

- Customs and Excise Act 1996—Part VI
- Customs and Excise Regulations 1996—Part VI
- Tariff Act 1988, Section 7

This fact sheet is not designed to serve as a substitute for the relevant statutory provisions. You should seek your own legal advice and review the above legislation. Any amendments to Customs legislation are published in the New Zealand Customs Release, and are also placed on the Customs Service website at [www.customs.govt.nz](http://www.customs.govt.nz).

### What does NZTCEPA provide for?

From 1 July 2005, preferential rates of duty are extended by Thailand and New Zealand to each other's originating goods in accordance with the Rules of Origin (RoO) provisions of the Agreement. The New Zealand Working Tariff, located on the New Zealand Customs Service website at [www.customs.govt.nz](http://www.customs.govt.nz), details the product specific tariff elimination/phasing for imports from Thailand. (Thailand's tariff elimination/phasing schedule for imports from New Zealand is in Annex 1.1 of the Agreement, available at [www.mfat.govt.nz/tradeagreements/thainzcepa/cepindex.html](http://www.mfat.govt.nz/tradeagreements/thainzcepa/cepindex.html).)

### What are originating goods?

A good is determined to be originating if it complies with one of the following rules:

Refer: Customs & Excise Regulations (Rules of Origin for Thai Goods) 2005.

Particular goods are deemed for the purposes of the Customs & Excise Act 1996 and the Tariff Act 1988 to be the origin of Thailand if the goods:

- (a) Are goods wholly obtained in New Zealand or Thailand; or
- (b) Are goods that satisfy the requirements of Schedule 3 as a result of processes performed entirely in New Zealand or Thailand, or both; and
- (c) Did not enter the commerce of another country after export from Thailand and before import into New Zealand.

Category (b) refers to goods that are partly produced in New Zealand.

### Goods wholly obtained or produced in New Zealand or Thailand

Typically such goods are natural resource based products found within New Zealand or Thailand and are the only goods that receive tariff preference as of right. They include:

- Minerals.
- Agricultural goods harvested, picked or gathered in New Zealand or Thailand.
- Live animals born and raised within New Zealand or Thailand.
- Goods obtained from the above animals.
- Goods obtained directly from hunting, trapping, fishing, farming, gathering, or capturing.
- Fish, shellfish, plant and other marine life taken within the territorial sea or the relevant maritime zone of New Zealand or Thailand and goods obtained or produced on board factory ships flying or entitled to fly the flag of New Zealand or Thailand.
- Goods taken by persons of New Zealand or Thailand from the seabed or subsoil beneath the seabed of the territorial sea or the continental shelf of New Zealand or Thailand.

- Waste and scrap derived from production in New Zealand or Thailand or used goods collected in New Zealand or Thailand, provided that such goods are fit only for the recovery of raw materials.
- Goods produced entirely in the territory of New Zealand or Thailand exclusively from the goods referred to above.

Materials originating in New Zealand or Thailand that are used in the production of goods in either country are deemed to be originating materials.

Any packaging materials and containers in which the goods are packaged for retail sale, if classified with those goods, are disregarded in determining whether or not the goods are wholly obtained.

### Goods partly produced in New Zealand and/or Thailand

These are goods manufactured in New Zealand or Thailand or both and produced wholly or, in part, from imported intermediate materials. The criteria conferring originating status is as follows:

- For goods other than those of Tariff chapters 50 to 64 inclusive, a change of tariff classification (CTC) as per the specific rule applicable to the tariff classification of the finished good. For details refer to the Third Schedule to the Customs and Excise Regulations 1996 published at [www.customs.govt.nz](http://www.customs.govt.nz) (see below for an explanation of CTC).
- For goods of Tariff chapters 50 to 64 inclusive, CTC plus a regional value content (RVC) of not less than 50 percent of the export FOB value of the good must be achieved.
- For goods classified in Chapter 27 through to and including Chapter 40, an alternative chemical reaction rule will confer originating status to the final good. In such instances compliance with the chemical reaction rule or change tariff classification (CTC) rule will confer originating status to a good.

*Note:*

A chemical reaction means a process, including a biochemical process, which results in a molecule with a new structure by breaking intramolecular bonds and forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule. The following are not considered to be a chemical reaction for the purposes of this definition:

- Dissolving in water or solvents.
- The elimination of solvents, including solvent water.
- The addition or elimination of water of crystallisation.
- The production process that generates the change in classification of the materials used to produce a good must be performed in New Zealand or Thailand.

- The goods must not enter the commerce of another country after export from Thailand and before import into New Zealand (simple trans-shipment is permitted).

*Note:*

Minimal processes, (operations or processes which contribute minimally to the essential characteristics or properties of goods) examples being, drying, freezing, grading, grouping in packets, packing, dilution, simple assembly, etc, are not origin conferring even though they may result in a change of tariff classification.

Packaging materials and containers in which goods are packaged for retail sale, if classified with those goods, are disregarded in determining whether or not the non-originating materials used in production of those goods have undergone the specific CTC rule. However, if goods are subject to a regional value requirement, the value of the materials used in the packaging is counted as originating or non-originating, as the case may be, in calculating the regional value content.

Packing materials and containers in which the goods are packaged for shipment are disregarded in determining origin.

Any material of unknown or unconfirmed origin is treated as a non-originating material. It is important to refer to the product specific rules of origin. These are set out in the Third Schedule to the Customs and Excise Regulations 1996 and reproduced on the Customs website at [www.customs.govt.nz](http://www.customs.govt.nz).

#### The de minimis rule

Where a good subject to a CTC rule does not meet that criteria, it can still qualify as originating if:

- (a) The CIF value of non-originating materials used in the production of that good does not exceed 10 percent of its FOB value; and
- (b) The good meets all other criteria.

### What are non-originating materials and goods?

Non-originating materials are those materials used in the production of goods in New Zealand or Thailand that would not qualify as originating under the NZTCEPA. These are:

- Materials that are not wholly obtained in New Zealand or Thailand.
- Materials or components imported from a third country.
- Materials or components that are made in New Zealand or Thailand using imported inputs which do not meet the applicable rule of origin.

## What is change of tariff classification?

Change of tariff classification (CTC) is the principal specific rule for determining whether materials (intermediate inputs) used in the production of a partly produced (manufactured) good have been substantially and sufficiently transformed so as to convey originating status to the final good. This requires the production process within New Zealand and/or Thailand to result in a good classified in a different tariff heading or subheading, as appropriate, than that of its intermediate inputs.

Both New Zealand's and Thailand's tariffs are based on the World Customs Organisation Harmonised System (HS) Nomenclature. The HS systematically groups all internationally traded goods into sections, chapters and sub-chapters that indicate, as concisely as possible, the categories and types of goods they cover. Within the HS there are 97 chapters, each of which is broken down into four digit headings identifying groups of goods. The headings are, in turn, broken down into subheadings, which are assigned six digits. To more accurately identify imports and exports, the New Zealand Tariff further divides sub-headings into eight- and ten-digit subsidiary classifications.

### Example

- Chapter 48—Paper and paperboard; articles of paper pulp, of paper or of paperboard.
- Heading 48.21—Paper or paperboard labels of all kinds, whether or not printed.
- Sub-heading 4821.10—Printed (paper or paperboard labels).

By and large, the specific rules of origin are CTC based. To determine what the specific rule is and whether or not a good is an originating good, a manufacturer, importer or exporter must first determine the tariff classification of the good and the tariff classification of any materials that go into the production of that good.

The tariff classification of the traded good is the reference by which the specific rule related to that good may be located in the Customs and Excise Regulations applicable to Thailand.

The difference between the classification of the traded good and the classification of the material(s) that went into manufacture of that good will determine whether or not the conditions of the specific rule have been met.

### Example:

Steel nails of tariff heading 73.17 produced from steel wire of tariff heading 72.17.

Except in those instances where the specific rule also requires a regional value content, accessories, spare parts or tools delivered with originating goods that form part of the standard accessories, spare parts, or tools for those goods, are treated as originating goods and are disregarded in determining whether or not all the non-

originating materials used in the production of the good undergo change of tariff classification, provided that:

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

## How is the 50 percent regional value content threshold calculated?

This rule (required in respect of goods classified in Chapters 50 to 64) departs from New Zealand's traditional 50 percent threshold "ex factory cost—added value" approach. Instead, the Agreement provides for a "build down" formula calculated from the export FOB value of the good. In short, this formula requires the CIF value of all non-originating materials used in the production of a good to be deducted from the export FOB value. To comply with the rule, the outcome must be not less than 50 percent of the export FOB value. The formula is as follows:

### Note:

Materials originating in New Zealand or Thailand that are used in the production of goods in either country are deemed to be originating materials.

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

- RVC is the regional value content expressed as a percentage.
- FOB is the FOB value of the goods.
- VNM is the CIF value of non-originating materials that, in the form in which they were first acquired or supplied to the producer of the goods, were imported into Thailand or New Zealand.

### Example

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

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

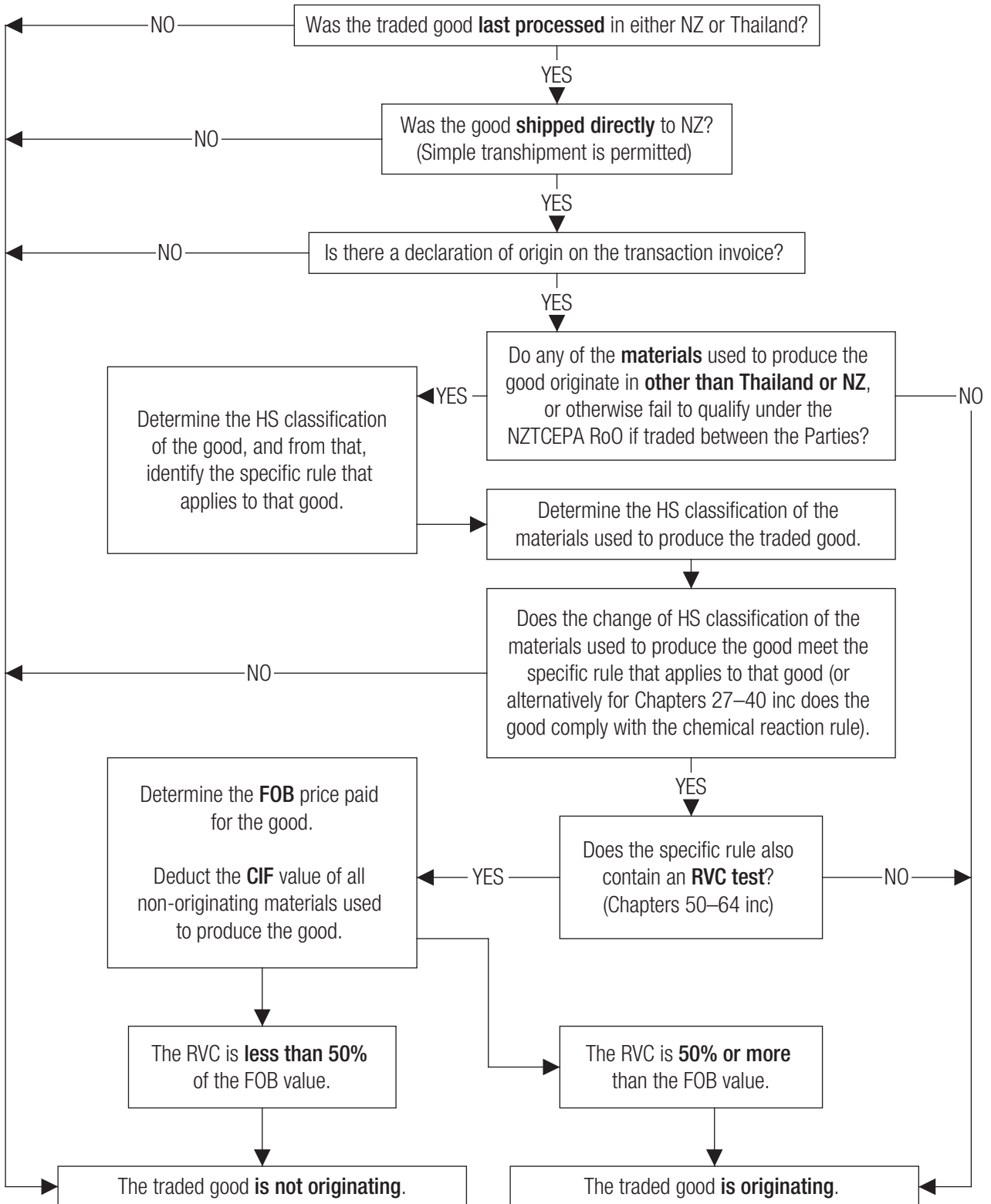
$$RVC = \frac{100 - 40}{100} \times 100 = 60\%$$

In this example, deducting the CIF value of non-originating inputs from the FOB value results in residual qualifying content of 60 percent, which means the good, subject to also meeting the CTC requirement, is originating and entitled to tariff preference.

### Note:

In those instances where a good is subject to a regional value content requirement, the value of accessories, spare parts and tools is taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

## DETERMINING ORIGIN OF PARTLY PRODUCED GOODS UNDER NZTCEPA



NOTE: Where a good subject to a CTC rule does not meet that criterion, it can still qualify as originating if:

- (a) the CIF value of non-originating materials used in the production of that good does not exceed 10 percent of its FOB value, and
- (b) the good meets all other applicable criteria detailed in this Fact Sheet (see de minimis rule).

## What conditions are precedent to entry at preferential rates?

The Customs and Excise Act 1996 places an absolute onus upon the importer to make a correct and accurate declaration in respect to the origin of goods.

An importer must, if declaring that goods are entitled to tariff preference, have sufficient information to substantiate that declaration. In this respect the Thai producer or exporter will certify on the face of the export invoice (in English) one of the following declarations.

### Goods wholly obtained

“I (state name and position) hereby declare that the goods enumerated on this invoice originate in (New Zealand) (Thailand) and comply with the provisions of Article 4.2.1(a) of the NZTCEPA”.

### Goods partly produced

“I (state name and position) hereby declare that the goods enumerated on this invoice originate in (New Zealand) (Thailand) and satisfy the requirements of Article 4.2.1(b) and Annex 2 of the NZTCEPA.”

*In circumstances where goods are invoiced from a third country but exported directly from New Zealand or Thailand, the following declarations will apply:*

### Goods wholly obtained

“I (state name and position) of (state name of entity invoicing the goods) being the authorised agent of (state name of producer of the goods) hereby declare that the goods enumerated on this invoice originate in (New Zealand) (Thailand) and comply with the provisions of Article 4.2.1(a) of the NZTCEPA”.

### Goods partly produced

“I (state name and position) of (state name of entity invoicing the goods) being the authorised agent of (state name of producer of the goods) hereby declare the goods enumerated on this invoice originate in (New Zealand) (Thailand) and satisfy the requirements of article 4.2.1(b) and Annex 2 of the NZTCEPA.”

*Note:*

- (1) Provided the meaning is clear, minor variations of the declaration are acceptable, and
- (2) While such certification may be accepted as attesting to the origin of the goods, it should not be regarded as determinative of this status. Customs may request further evidence that the goods are the origin of New Zealand or Thailand as the case may be. This evidence may require the importer to demonstrate the exporter is also a manufacturer and produced the goods for which preference is claimed. Where a regional value content rule also attaches to a good's preferential status, further details may be called for. The exporter can provide these, in strict confidence, to the New Zealand Customs Service or the Royal Thailand Customs Department.

## How do I appeal against Customs decisions?

The Customs Appeal Authority (CAA) is an independent authority that provides an avenue to appeal against decisions made by Customs, including determinations as to the origin of goods. To access the CAA, Form 14 must be completed and filed in an office of the Tribunals Division of the Department for Courts. A filing fee of \$400 (inclusive of GST) must accompany the filing. More information on the CAA can be obtained from the National Manager, Goods Management. (See below.)

## What are advance rulings?

While the NZTCEPA only provides for advance rulings in respect of tariff classification, the Customs and Excise Act 1996, inter alia, also provides for rulings to be issued on matters relating to the origin of goods. These rulings are, subject to certain conditions, binding on Customs, and provide a degree of certainty as to the origin of goods imported to New Zealand.

## What is Goods and Services Tax (GST)?

Goods and Services Tax (GST) is payable on most goods imported to New Zealand, although they may not attract a tariff.

## How do I obtain further information?

For any rules of origin queries or questions, contact:

The National Manager  
Goods Management  
Box 29  
Auckland  
Attention: Valuation and Origin  
Telephone: 09-359 6508  
Facsimile: 09-359 6586

For further information, contact your nearest office of the New Zealand Customs Service or visit the Customs website [www.customs.govt.nz](http://www.customs.govt.nz) or Call Customs on 0800 428786.





