

# AUSTRALIA-NEW ZEALAND CLOSER ECONOMIC RELATIONS TRADE AGREEMENT (ANZCERTA) – INFORMATION ABOUT RULES OF ORIGIN

This fact sheet outlines the rules of origin which goods imported into New Zealand from Australia must comply with if they are to qualify for the preferential tariff rates of duty applied under Article 3 of the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA).

This fact sheet should be used as general guidance only. It does not detail every requirement of the rules of origin. Accordingly, the fact sheet should be read in conjunction with the Customs and Excise Regulations 1996 and Annex G to the ANZCERTA (refer [www.customs.govt.nz](http://www.customs.govt.nz)).

## CHANGE IN TARIFF CLASSIFICATION (CTC) APPROACH

In many cases, the only requirement of the rules of origin for goods imported from Australia is that they must have undergone a change in tariff classification (CTC) as specified in Annex G to the ANZCERTA.

This approach requires that any non-originating materials, as defined in regulation 32, must have undergone the specified change.

The CTC approach provides that goods originate in, and can therefore be traded duty free between, Australia and New Zealand, if they are classified in a different classification within the internationally-accepted Harmonized Commodity Description and Coding System (HS) from any non-originating materials used in their production.

## Note:

An importer may continue to claim tariff preference under the 50 percent rule for goods imported before 1 January 2012.

## WHAT ARE ORIGINATING GOODS?

Goods imported into New Zealand from Australia are considered to be originating, under the rules of origin regulations, if the goods:

- » are wholly obtained in the territory of either Australia or New Zealand or both; or
- » were produced entirely in either Australia or New Zealand or both using only originating input materials; or
- » meet the requirements of a product-specific rule of origin, as specified in Annex G to the ANZCERTA; or

- » are wholly manufactured in either Australia or New Zealand or both from one or more of three types of materials (as outlined further below); or
- » meet the following conditions:
  - (i) the last process in the manufacture of the goods was performed in Australia; and
  - (ii) the regional value content of those goods is not less than 50 percent based on the ex-factory cost method; or
- » meet other requirements as specified in the regulations.

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

### Goods wholly obtained

Goods wholly obtained in relation to Australia and New Zealand means goods that are:

- a) mineral goods extracted in Australia or New Zealand (for example, crude oil, natural gas, and metallic ores); or
- b) plants grown in Australia or New Zealand, or products obtained from such plants; or
- c) a live animal born and raised in Australia or New Zealand; or
- d) a product obtained from a live animal in Australia or New Zealand (for example, milk and wool, but not products that are processed in any way); or
- e) goods obtained from hunting, trapping, fishing, capturing, or aquaculture conducted in Australia or New Zealand (this includes any fish taken within the territorial seas of Australia or New Zealand); or
- f) fish, shellfish, and any other marine life taken from the sea by vessels registered or recorded with Australia or New Zealand and flying, or entitled to fly, the flag of Australia or New Zealand; or
- g) goods produced or obtained exclusively from products referred to in paragraph (f) on board factory ships registered or recorded with Australia or New Zealand and flying the flag of Australia or New Zealand; or
- h) goods taken by Australia or New Zealand, or a person of Australia or New Zealand, from the seabed or subsoil of the territorial sea or the continental shelf of Australia or New Zealand, in accordance with Australia or New Zealand's rights under international law; or

- i) waste and scrap derived from the production of goods in Australia or New Zealand (for example, metal shavings from a machining process when the product being machined does not originate in Australia), or used goods collected in Australia or New Zealand, if those goods are fit only for the recovery of raw materials (ie, used machinery that can be repaired and reused would not satisfy this condition); or
- j) goods produced in Australia or New Zealand exclusively from goods referred to in paragraphs (a) to (i) above, or from their derivatives, at any stage of production.

Such goods are normally natural resource-based products obtained or produced in Australia or New Zealand and do not include any non-originating input materials. Minerals mined in Australia, wheat grown in Australia and silver jewellery made in Australia from silver mined in Australia 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.

### Goods entirely produced

This class covers goods that are entirely produced in either Australia or New Zealand or both exclusively from originating materials.

Originating materials are defined in regulation 32 as originating goods or indirect materials. Originating goods are goods that fall within any of the classes listed in regulation 33. Indirect materials includes materials such as fuel, tools, dies, and moulds and so on – even if such materials are made from non-originating components – for example, an item of agricultural machinery made in Australia from originating parts that were made with the aid of metals from a third country.

### Goods that meet a product-specific rule

Annex G to the ANZCERTA specifies a rule of origin for each class of good traded between Australia and New Zealand that incorporates non-originating materials.

#### (a) Change in tariff classification requirement

As mentioned above, many goods imported from Australia will qualify under the rules of origin regulations on the grounds that they can satisfy a change in tariff classification specified in Annex G.

To use this approach, the importer must first compare the applicable product-specific rule set out in Annex G with the HS classification of the final good. The expression “change to [heading/subheading]” in a product-specific rule will always be followed by the HS code applicable to the goods to which the rule applies.

HS classifications are harmonised internationally at the HS 2-digit (chapter), 4-digit (heading) and 6-digit (subheading) levels.

(Below the 6-digit level, each country assigns its own national splits (termed “tariff items” in New Zealand) for tariff-related purposes.)

**Note:**

The New Zealand Customs Service can be asked to provide a ruling on the classification of the goods to be imported.

The following **examples** illustrate how a CTC requirement operates in practice:

- (1) An Australian producer of **sausages** of HS heading 16.01 uses non-originating meat of HS chapter 02, spices of HS headings 09.07–09.10 and cereals of HS chapter 10. The sausages are then exported to New Zealand.

The rule for meat preparations classified in HS heading 16.01 is “change to heading 1601 from any other chapter”. Since each of the non-originating input materials used in the manufacture of the sausages is classified in a different chapter of the HS from the sausages exported to New Zealand, the sausages will satisfy the CTC requirement and qualify as being Australian origin.

- (2) An Australian producer of **beer** of HS heading 22.03 uses non-originating malt.

The rule for beer of HS heading 22.03, set down in Annex G, reads as follows:

“Change to heading 2203 from any other heading.”

The non-originating malt is classified in HS heading 11.07.

The result of this rule is that the beer is treated as originating in Australia for preference purposes. This is because the beer is classified within a different HS heading (even a different HS chapter) from the non-originating malt.

- (3) The most common requirement for **manufactured goods assembled in Australia from imported parts and components** is a change from any other subheading. This rule will generally recognise assembly from imported parts and components as an origin-conferring event. The effect is that the assembly in Australia of products as diverse as (for example) pumps, air conditioning units, rechargeable batteries, zip fasteners and ballpoint pens, from imported parts and components is typically recognised under the rules of origin as an origin-conferring event.

**Note:**

A regional value content requirement is sometimes used alongside the basic CTC requirement – see Annex G.

Some CTC rules include the phrase “except from [heading/subheading specified]”. This means that any input materials that fall within the “except from” category must originate in Australia or New Zealand.

The “except from” rules are intended to ensure that processing deemed to be of minimal significance does not, in itself, confer origin (for example, simply cutting a material to length or width).

**A comment on packaging materials and containers**

If goods are packaged for retail sale in packaging materials or containers, and the packaging materials or containers are classified with the goods (in accordance with Rule 5 of the General Rules for the Interpretation of the Harmonized System), then the packaging materials or containers are disregarded for the purpose of ascertaining whether the required CTC has occurred.

**(b) The de minimis provision – an exception to the rule**

While there is a product-specific rule for each and every class of good imported from Australia, as outlined in Annex G, it is possible for a good incorporating non-originating materials to qualify as originating under a de minimis provision (see regulation 35).

Goods wholly or partly produced from non-originating materials are taken to be originating goods, even though they do not satisfy a change in tariff classification required by Annex G, if the value of all non-originating materials used or consumed in the production of the goods that do not satisfy the change in tariff classification required by Annex G does not exceed 10 percent of the adjusted value of the good, and the goods meet all other applicable criteria of the regulations.

**(c) Regional value content (RVC) requirement**

Some goods have a regional value content (RVC) requirement, which provides that the value of the goods includes a minimum percentage content of value added in Australia or New Zealand. This RVC requirement may be in addition to a CTC requirement or an alternative to a CTC requirement. Once again, it is important to refer to Annex G.

For specified goods, the regulations use the build-down and build-up methods, linked to the adjusted value of the finished goods, and, for men’s and boys’ structured clothing, the ex-factory cost method is used.

The product-specific rules in Annex G may specify the use of only one RVC method (for example, the build-down method) while other product-specific rules allow the exporter or producer to choose between more than one RVC method (for example, the build-down method or the build-up method).

**The three different RVC methods**

I. In any case where Annex G requires or permits the RVC of specified goods to be calculated by the **build-down method**, the value of that content is to be calculated as follows:

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

Where:

- RVC is the regional value content, expressed as a percentage.
- AV is the adjusted value (the value for Customs purposes).
- VNM is the value of non-originating materials (not including materials that are self-produced) that are acquired and used or consumed by the producer in the production of the goods.

II. In any case where Annex G requires or permits the RVC of specified goods to be calculated by the **build-up method**, the value of that content is to be calculated as follows:

$$RVC = \frac{VOM}{AV} \times 100$$

Where:

- RVC is the regional value content, expressed as a percentage.
- AV is the adjusted value (the value for Customs purposes).
- VOM is the value of originating materials that are acquired or self-produced, and used or consumed by the producer in the production of goods.

III. In any case where Annex G requires or permits the RVC of specified goods to be calculated by the **factory cost method**, or, for the purpose of calculating the RVC of goods by that method under regulation 33(2)(c) or 33(2)(e)(ii), the value of that content is to be calculated as follows:

$$RVC = \frac{QE}{FC} \times 100$$

Where:

- RVC is the regional value content, expressed as a percentage.
- QE is the qualifying expenditure on the goods.
- FC is the factory cost of producing the goods.

The qualifying expenditure on goods under the factory cost method is the sum of:

- (a) the total expenditure on originating materials;
- (b) the allowable expenditure on labour and factory overheads incurred in the territory of either or both parties; and
- (c) the cost of inner containers that originate in the territory of either or both parties.

**Note:**

It is essential to consult regulation 32 for full details of “allowable expenditure” under the factory cost method.

**Value of materials**

In view of the complexity of this issue, and the importance of accuracy, readers should take care to consult regulation 38 and read the detailed explanations of the means of valuing both non-originating and originating materials (including important information about how the value of materials may be adjusted).

In addition, regulations 39 to 39B detail that certain materials that are not incorporated into goods that are subject to an RVC rule must be factored into an RVC equation. For example, spare parts and retail packaging accompanying goods subject to an RVC rule should be taken into account as originating materials, or non-originating materials, as the case may be, in calculating the RVC of the goods.

**(d) A specified process**

A so-called specified-process rule can be an alternative to a CTC test. Examples of specified-process requirements can be found in HS chapters 15 (animal and vegetable fats and oils), 17 (sugars) and, notably, in chapters 28-40 (covering, for example, chemicals, pharmaceuticals, fertilizers, plastics, and rubber).

**Goods wholly manufactured**

Goods are also considered to be Australian originating goods if they are **wholly manufactured** in Australia from one or more of the following:

- » Unmanufactured raw products (as defined in regulation 32).
- » Materials wholly manufactured in either Australia or New Zealand or both.
- » Materials that have been imported (from a place outside the territories of Australia or New Zealand) and that the Chief Executive has determined, for the purposes of Article 3(1)(c)(ii)(III) of ANZCERTA, to be manufactured raw materials (see the separate fact sheet on ANZCERTA Rules of Origin for Determined Manufactured Raw Materials).

**Goods that meet the 50 percent rule**

Importers can also use the 50 percent rule for goods imported from Australia before 1 January 2012.

This rule requires that the last process in the manufacture of the goods was performed in Australia and that the RVC of the goods is not less than 50 percent based on the factory cost method (which excludes the manufacturer's profit).

See above for how to calculate the RVC based on the factory cost method.

### **CAN GOODS BE TRANSPORTED THROUGH A THIRD COUNTRY?**

Goods that would otherwise qualify under the rules of origin laid down in the regulations will not qualify for the tariff preference if:

- » they are transported from Australia to New Zealand through a third country; and
- » while outside Australia or New Zealand they undergo any production or other operation other than unloading, reloading, storing, repacking, relabelling or any other operation necessary to preserve the goods in good condition or to transport the goods to New Zealand.

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

#### **(a) Documentary evidence of origin**

An importer may claim Australian preferential tariff rates of duty on the basis of a declaration (on the invoice or other commercial document) by the exporter in Australia. The declaration may be provided in electronic form. Certificates of Origin are not required.

However, if requested by New Zealand Customs, an importer who claims a preferential tariff rate for goods imported into New Zealand from Australia must be able to provide sufficient information to substantiate such a claim.

A claim for Australian preference should not be made for goods if the necessary documentation and information to substantiate such a claim is not held (see sections 105 and 106 of the Customs and Excise Act 2018).

#### **(b) Records**

Regulation 39E prescribes record-keeping obligations that apply in relation to goods that are claimed to be of Australian or New Zealand origin (ie, for goods traded under preference in either direction).

Records relating to the importation, exportation, or production of the goods to demonstrate that the goods comply with the rules of origin must be retained by the importer, exporter, and producer or principal manufacturer for at least five years from the date of importation or exportation, as the case may be.

#### **(c) Verification of origin**

The Chief Executive of New Zealand Customs may decide to verify any claim for Australian preference by taking any one or more of the following actions:

- » Requesting information from the importer in New Zealand.
- » Requesting information from the exporter, producer, or principal manufacturer in Australia.
- » Requesting the importer to arrange for the exporter, producer, or principal manufacturer to provide information direct to Customs.
- » Requiring the importer to submit a declaration, or to arrange for the exporter to submit a declaration, that gives the reason why the goods qualify as originating goods.

- » Requesting the Australian Customs Service to visit the premises of the exporter, producer, or principal manufacturer in Australia, in accordance with any procedures jointly adopted by the parties for the review of the records and the observation of the facilities of exporters, producers, or principal manufacturers.

### **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: 09 927 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).