

NEW ZEALAND–HONG KONG, CHINA CLOSER ECONOMIC PARTNERSHIP AGREEMENT (NZ–HKC CEP): INFORMATION ABOUT THE RULES OF ORIGIN

This fact sheet outlines the rules of origin for goods imported into New Zealand under the New Zealand-Hong Kong, China Closer Economic Partnership Agreement (NZ-HKC CEP) that are the subject of a claim for the tariff preferences applied under the provisions of Chapter 4 (Rules of Origin) and Annex 1 to Chapter 4 (Product Specific Rules of Origin).

As Hong Kong, China already offers duty-free access to all exports from New Zealand into its area, the process for exporting originating goods to Hong Kong, China remains unchanged.

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 Chapter 4 and Annex 1 to Chapter 4 of the NZ-HK CEP and the relevant legislation including the Customs and Excise Act 2018 and the Customs and Excise Regulations 1996.

WHAT DOES THE NZ–HKC CEP PROVIDE FOR?

The NZ–HKC CEP was signed in Hong Kong, China on 29 March 2010, and entered into force on 1 January 2011. The NZ–HKC CEP, amongst other things, provides for originating goods imported into New Zealand from Hong Kong, China to qualify for preferential rates of tariff duty. The NZ–HKC CEP also provides New Zealand with a commitment that originating goods exported from New Zealand to Hong Kong, China will retain zero tariffs on a permanent basis.

The NZ–HKC CEP complements New Zealand's Free Trade Agreement with the People's Republic of China

(New Zealand-China FTA — refer to Fact Sheet 37). The schedule of tariff reductions that are applicable to originating goods imported into New Zealand from Hong Kong, China under the NZ–HKC CEP is the same as provided under the NZ-China FTA.

Further information including a tariff locator and a copy of the NZ–HKC CEP text and its associated instruments can be found on the New Zealand Ministry of Foreign Affairs & Trade website (www.mfat.govt.nz).

An important note for New Zealand importers: For goods classified in the Harmonized Commodity Description and Coding System (HS) chapters 61 and 62 (Articles of apparel and clothing

accessories), to meet the origin requirements producers have an option to undertake part-processing in the People's Republic of China. A certificate of origin issued by an approved issuing authority in Hong Kong, China is required for these goods.

WHAT ARE ORIGINATING GOODS?

A good imported into New Zealand from Hong Kong, China is treated as an originating good if it:

- is wholly obtained or produced in Hong Kong, China; or
- is produced entirely in Hong Kong, China exclusively from originating materials from New Zealand or Hong Kong, China or from both countries; or



- is produced in Hong Kong, China using non-originating materials that conform to a change in tariff classification requirement, a regional value content requirement or other requirements as specified in Annex 1 to Chapter 4 (Product Specific Rules of Origin) of the NZ–HKC CEP;

and the good meets all the other applicable provisions of Chapter 4 of the NZ–HKC CEP.

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

WHOLLY OBTAINED OR PRODUCED GOODS

The following goods are treated as wholly obtained or produced:

- plant and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants, grown, harvested, picked or gathered in Hong Kong, China;
- live animals born and raised in Hong Kong, China;
- goods obtained from live animals in Hong Kong, China;
- goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering or capturing in Hong Kong, China;
- minerals and other naturally occurring substances extracted or taken from the soil, waters, seabed or subsoil, in Hong Kong, China;
- goods of sea-fishing and other marine goods taken from the high seas, in accordance with international law, by any vessel registered in Hong Kong, China and entitled to fly the flag of Hong Kong, China in accordance with the United Nations Convention on the Law of the Sea 1982 (UNCLOS);
- goods processed and/or produced on board any factory ship registered in

Hong Kong, China and entitled to fly the flag of Hong Kong, China in accordance with UNCLOS, from the goods referred to in subparagraph (f);

- goods extracted or taken by Hong Kong, China, or a person of Hong Kong, China, from the seabed or subsoil beyond the Exclusive Economic Zone and adjacent Continental Shelf of Hong Kong, China and beyond areas over which third parties exercise jurisdiction, under exploitation rights granted in accordance with international law;
- goods which are:
 - waste and scrap derived from production or consumption in Hong Kong, China provided that such goods are fit only for the recovery of raw materials; or
 - used goods collected in Hong Kong, China provided that such goods are fit only for the recovery of raw materials; and
- goods obtained or produced in Hong Kong, China solely from products referred to in subparagraphs (a) to (i) above or from their derivatives.

Notes:

Such goods are normally natural resource based goods obtained in Hong Kong, China and final products made from them that do not include any non-originating materials. (Waste and scrap and used goods, covered by subparagraph (i) above, are an exception to this, and are treated for the purposes of the rules of origin as containing no non-originating materials.)

“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

Goods are also treated as originating goods if they are produced entirely in

Hong Kong, China exclusively from materials that would themselves qualify as originating goods.

GOODS PRODUCED USING NON-ORIGINATING MATERIALS (PRODUCT SPECIFIC RULES)

Annex 1 to Chapter 4 of the NZ–HKC CEP sets out the product-specific rule(s) of origin for goods traded between Hong Kong, China and New Zealand which incorporate non-originating materials.

(a) Change in tariff classification (CTC) rule

Many goods imported into New Zealand from Hong Kong, China will qualify for preferential tariff treatment on the basis that they can satisfy a change in tariff classification (CTC) rule specified in Annex 1 to Chapter 4 of the NZ–HKC CEP.

To use a CTC rule under the NZ–HKC CEP, the importer must first determine the tariff classification of the final good imported into New Zealand and ascertain the appropriate product-specific rule of origin set out in Annex 1 to Chapter 4 in respect of that tariff classification.

The difference between the classification of the final good and the classification of the non-originating materials that went into the production of that good in Hong Kong, China 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:

- An article of jewellery of HS heading 71.13 is produced in Hong Kong, China using non-originating gold and pearls, and is exported to New Zealand. The rule for an article of jewellery of HS heading 71.13, set out in Annex 1 to Chapter 4, is “Change to heading 71.13 from any other heading”.

The non-originating gold is classified in HS heading 71.08, and the non-originating pearls are classified in HS heading 71.01.

The result of this rule is that the article of jewellery is treated as originating in Hong Kong, China. This is because an article of jewellery is classified within a different HS heading (71.13) from the non-originating materials used in its production (71.08, and 71.01).

Note:

For goods classified in HS chapter 61 (Articles of apparel and clothing accessories, knitted or crocheted); to satisfy the specified CTC requirement, the goods may include goods sewn or otherwise assembled in the People’s Republic of China, provided that those goods are knit to shape in Hong Kong, China.

For goods classified in HS chapter 62 (Articles of apparel and clothing accessories, not knitted or crocheted); to satisfy the specified CTC requirement, the goods may include goods cut to shape in the People’s Republic of China, provided that those goods are sewn or otherwise assembled in Hong Kong, China.

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 confer origin (e.g. simply cutting a material to length or width).

Treatment of packing materials and containers under a CTC requirement

Packing materials and containers in which a good is packaged for retail sale, when classified together with that good (in accordance with Rule 5 of the General Rules for Interpretation of the Harmonized System), must not be taken into account in determining whether all of the non-originating materials used in the production of the good have met the applicable CTC requirement for the good.

Treatment of accessories, spare parts, tools and instructional or information material under a CTC requirement

If the goods are subject to a CTC requirement (as set out in Annex 1 to Chapter 4 of the NZ–HKC CEP), any accessories, spare parts, tools and

instructional or other information materials presented with the good must be disregarded in determining whether all the non-originating materials used in the production of the originating good have undergone the applicable CTC, provided that:

- (a) the accessories, spare parts, tools and instructional or other information materials presented with the good are not invoiced separately from the good; and
- (b) the quantities and values of the accessories, spare parts, tools and instructional or other information materials presented with the good are customary for that good.

An exception to the CTC rule – the de minimis provision

A good which does not satisfy the CTC rule pursuant to Annex 1 to Chapter 4 is nonetheless an originating good if the value of all non-originating materials, including materials of undetermined origin, used or consumed in the production of the good that do not undergo the required CTC requirement does not exceed 10 percent of the FOB value of the good **and** the good meets all other applicable requirements set out in Chapter 4 of the NZ–HKC CEP.

(b) Regional value content (RVC)

For some goods, the product specific rule in Annex 1 to Chapter 4 of the NZ–HKC CEP requires or permits the use of a regional value content (RVC) rule linked to the FOB value of the finished goods.

HOW THE REGIONAL VALUE CONTENT RULE OPERATES

In any case where Annex 1 to Chapter 4 requires or permits the use of a RVC rule, the value of that content is to be calculated by using either of the following formulas:

(a) build-up formula

$$RVC = \frac{\text{material cost} + \text{labour cost} + \text{overhead cost} + \text{profit} + \text{other costs}}{FOB} \times 100\%$$

Or

(b) build-down formula

$$RVC = \frac{FOB - \text{value of non-originating material}}{FOB} \times 100\%$$

where:

RVC is the regional value content expressed as a percentage.

material cost is the value of originating materials, parts or produce that are acquired or self-produced by the producer in the production of the good.

labour cost includes wages, remuneration and other employee benefits.

overhead cost is the total overhead expense including product development and other production costs.

other costs are the costs included in placing the good in the ship or other means of transport for export, including domestic transport costs, storage and warehousing, port handling, brokerage fees and service charges.

FOB is the free-on-board value of the goods (inclusive of the cost of transport to the port or site of final shipment abroad).

value of non-originating material is the CIF value at the time of importation or the earliest ascertained price paid or payable in Hong Kong, China where the production takes place for all non-originating materials, parts or produce that are acquired by the producer in the production of the good. When the producer of a good acquires non-originating materials within Hong Kong, China, the value of such materials must not include freight, insurance, packing costs and any other costs incurred in transporting the material from the supplier’s warehouse to the producer’s location. Non-originating materials include materials of undetermined origin but do not include a material that is self-produced.

Treatment of packing materials and containers under a RVC requirement

The value of the packing materials and containers in which the good is packaged for retail sale **must** be taken into account as originating or non-originating materials, as the case may be, in calculating the RVC of the good.

Treatment of accessories, spare parts, tools and instructional or information material

If a good is subject to a RVC requirement, the value of the accessories, spare parts, tools and instructional or other information materials presented with the good **must** be taken into account as originating or non-originating materials, as the case may be, in calculating the RVC of the good.

However, this provision does not apply where the accessories, spare parts, tools and instructional or other information materials presented with the good have been added solely for the purpose of artificially raising the RVC of that good.

(c) Specified process rules

A specified-process rule, such as a chemical reaction rule or a textile finishing process rule, can be an alternative to a CTC or RVC rule. These rules generally apply to goods falling in the chemical and textile chapters and can be found in Annex 1 to Chapter 4 of the NZ–HKC CEP. In such instances where a specified process rule is applicable to a good, compliance with the requirements of the rule will confer originating status.

Other important elements of the rules of origin

(a) Accumulation

Originating materials from New Zealand incorporated into a good in Hong Kong, China are considered to originate in Hong Kong, China.

(b) Treatment of packing materials and containers for shipment

Packing materials and containers for transportation and shipment of a good are not taken into account in determining the origin of any good.

(c) Minimal operations and processes

Operations or processes undertaken by themselves or in combination with each other such as those listed below are considered to be minimal and do not confer origin:

- (i) ensuring preservation in good condition for the purpose of transport or storage;

- (ii) facilitating shipment or transportation;
- (iii) packaging or presenting goods for sale;
- (iv) affixing of marks, labels or other distinguishing signs on products or their packaging;
- (v) simple processes consisting of sifting, classifying, washing, cutting, slitting, bending, coiling and uncoiling and other similar operations; and
- (vi) mere dilution with water or another substance that does not materially alter the characteristics of the goods.

However, where a RVC requirement is applied, minimal processes and operations referred to above must be taken into account for the RVC calculation.

CAN GOODS BE TRANSPORTED THROUGH A NON-PARTY?

For a good that qualifies under the rules of origin provision to retain originating status, the good has to be transported from Hong Kong, China to New Zealand without passing through the territory of another country.

Alternatively, the good may transit through another country, with or without transshipment, or temporary storage of up to six months, provided that:

- (i) the good does not enter trade or commerce there; and
- (ii) the good does not undergo any operation there other than unloading and reloading, repacking, or any operation required to preserve it in good condition or to transport it to New Zealand.

WHAT ARE THE ADMINISTRATION AND ENFORCEMENT REQUIREMENTS?

(a) Documentary evidence of origin

Goods that are classified in HS chapters 61 or 62 (Articles of apparel and clothing accessories) must be supported by a certificate of origin issued by the Trade and Industry Department of Hong Kong, China or by a Government Approved Certification Organisation of

Hong Kong, China (GACO) in order to claim preferential tariff treatment.

Persons completing an import entry in relation to goods of HS chapters 61 and 62, when claiming the tariff preference applicable under the NZ–HKC CEP, must also insert the following information into the “Other Information” field of the Import Entry:

- the reference “COO” into the Code field; and
- the eleven-character alphanumeric reference for the associated certificate of origin (i.e. the Certificate Number) into the Data field.

For other imported goods from Hong Kong, China, a certificate of origin is not required. However, if requested by the New Zealand Customs Service, an importer claiming Hong Kong, China preferential tariff duty rates must be able to provide sufficient information to substantiate the claim.

A claim for Hong Kong, China preference should not be made 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

New Zealand importers are required to retain origin documents for a period of seven years.

(c) Verification of origin

The New Zealand Customs Service may decide to verify any claim for preferential tariff treatment under the NZ–HKC CEP by taking any one or more of the following steps:

- requesting information from the importer;
- requesting information from the exporter or producer in Hong Kong, China;
- requesting information from the Customs and Excise Department of Hong Kong, China;
- visiting the premises of an exporter or producer in Hong Kong, China (with the consent of the exporter or

