European Commission

EN

EU-New Zealand Free Trade Agreement: Guidance document on rules of origin

UCC
SIMPLICITY SERVICE SPEED
A MODERN FRAMEWORK FOR CUSTOMS AND TRADE

Taxation and Customs Union

EU-New Zealand Free Trade Agreement: Guidance document on rules of origin

Contents

DISCLAIMER

This guidance document is not legally binding. It should be read in conjunction with the text of the Agreement. The text of the Agreement, EU customs legislation, the legislation of EU Member States and New Zealand, all take precedence over this document. The authentic texts of EU legal acts are published in the Official Journal of the European Union. There may also be national instructions.

This guidance prevails where its content is more specific than that of the general Guidance on preferential origin.

This guidance document was drafted by a dedicated Customs Programme Project Group (CPG 024) and endorsed by the Customs Expert Group – Origin Section.

1. INTRODUCTION

The Free Trade Agreement between the European Union and New Zealand ("EU-NZ FTA" or "the Agreement") entered into force on 1 May 2024 (OJ L, 2024/866, 25.3.2024)[1].

It allows zero or reduced customs tariffs to goods that comply with the preferential origin rules.

The 'origin' is the 'economic nationality' of goods. Only EU origin goods imported into New Zealand, or New Zealand origin goods imported into the EU may benefit from zero or reduced tariffs.

The Agreement removes duties on all EU goods exported to New Zealand at its entry into force. For example, New Zealand removes high duties on industrial products, such as:

- Cars and motor vehicle parts (current tariffs up to 10%)
- Machinery (pre-Agreement tariffs up to 5%)
- Chemicals (pre-Agreement tariffs up to 5%)
- Clothing (pre-Agreement tariffs 10%)
- Pharmaceuticals (pre-Agreement tariffs up to 5%)
- Shoes (pre-Agreement tariffs up to 10%)
- Textiles (pre-Agreement tariffs up to 10%)

The Agreement also eliminates duties on EU food and drink exports, such as:

- Swine meat (pre-Agreement tariffs 5%)
- Wine and sparkling wine (pre-Agreement tariff at 5%)
- Chocolate, sugar confectionary and biscuits (pre-Agreement tariff at 5%)
- Pet food (pre-Agreement tariffs at 5%)

The Agreement also eliminates or substantially reduces EU duties on most New Zealand goods exported to the EU.

The benefits of the Agreement accrue only to products substantially made in the EU and New Zealand and not to those made in third countries. The acquisition of originating status must be fulfilled without interruption in the EU or New Zealand.

[1] Free Trade Agreement between the European Union and New Zealand (europa.eu)

In line with recent practice in EU FTAs and to enable easy use of the Agreement, the proof of origin can be either:

- a statement on origin completed by the exporter on an invoice, or any other document including a commercial document, or
- knowledge obtained and held by the importer that the goods are originating (importer's knowledge).

Verification of origin is based on contact with the importer by local customs and may be followed by administrative cooperation between the customs authorities of the Parties.

2. CLAIM FOR PREFERENTIAL TREATMENT

Legal references: Articles 3.16 and 3.17

General

Preferential tariff claims in the EU are made by the importer for goods that originate in New Zealand and meet the conditions of the Agreement. The importer is responsible for the correctness of the claim and for compliance with the respective requirements (Article 3.16(1)).

Claims for preference are made on customs declarations for release for free circulation at the time of importation (Article 3.16(3)). A claim may equally be made after importation within three years of the importation date (Article 3.17).

A claim has to be based on one of the following proofs of origin:

- a statement on origin, made out by the exporter, that the product is originating (Article 3.16(2)(a)); or
- importer's knowledge that the product is originating (Article 3.16(2)(b)).

Data elements (D.E.) / codes to be used in the customs declaration for release for free circulation:

- D.E. Region or country of preferential origin / status 16 09 000 000 (former Box 34 / D.E. 5/16):
  - ISO country code 'NZ' for New Zealand
- D.E. Preference 14 11 000 000 (former Box 36 / D.E. 4/17):
  - preference code 300
  - preference code 320 for preferential quota
- D.E. Reference number 12 03 002 000 (former Box 44 / D.E. 2/3):
  - U120: Statement on origin
  - U121: Statement on origin for multiple shipments of identical products
  - U122: Importer's knowledge
- With regard to origin quotas and preferential tariff quotas:
  - Y165: Special entries on the statement on origin made out by the exporter
  - C093: Certificate of eligibility for tariff quotas with order numbers 09.7901, 09.7898, 09.7899, 09.7902, 09.7896 and 09.7897
  - C094: Certificate of eligibility for tariff quotas with order number 09.4456
  - C095: Certificate of eligibility for tariff quotas with order numbers 09.4518, 09.4519 and 09.4520

Claim for preferential tariff treatment after importation

Legal reference: Article 3.17

Importers may apply retrospectively for preferential tariff treatment if they have not already claimed it when the goods were declared for release for free circulation. Provided the goods qualify for preference, importers can seek a refund of any excess duties already paid up to three years after the goods were declared for release for free circulation.

Where a claim is based on a statement on origin, it must be made within its validity period. A claim based on importer's knowledge requires documentation showing the goods qualify under the product specific origin rules up to three years after the release of the goods into free circulation (Article 3.17; a longer period is not specified in the UCC legal framework).

Record keeping

Legal reference: Article 3.21

For a minimum of three years after the date on which the claim for preferential tariff treatment was made or for a longer period that may be specified in national legislation, an importer shall keep:

(1) the statement on origin made out by the exporter, if the claim was based on a statement on origin, or

(2) all records demonstrating that the product satisfies the requirements to obtain originating status if the claim was based on importer's knowledge.

An exporter who has made out a statement on origin shall, for a minimum of four years after that statement was made out or for a longer period provided for in the law of the exporting Party, keep a copy of that statement and other records demonstrating that the product satisfies the requirements to obtain originating status, including, where applicable, supplier's declarations. The statement on origin or the records may be held in electronic format.

3. STATEMENT ON ORIGIN

Legal references: Articles 3.16(2)(a), 3.18 and 3.19, Annex 3-C

A statement on origin may apply to either:

– a single consignment, or

– multiple shipments of identical products within any period specified in the statement on origin but not more than 12 months from the date of the first import.

It consists of a prescribed text and blank fields to be completed by the exporter in accordance with the information in the footnotes and may be typed, printed, stamped or hand-written on an invoice or any other document (e.g., packing list, delivery note, pro-forma invoice) that describes the originating product in enough detail to allow it to be identified. Any non-originating products, which may be on the document, should be clearly distinguished from originating products. The statement on origin does not need to be signed or stamped by the exporter, nor by any authorities. The document bearing the statement on origin may be provided electronically. The exporter has to reproduce the prescribed text and should not alter it (Annex 3-C). Customs authorities will not reject the claims in case of minor errors or minor discrepancies in the statement on origin (Article 3.19).

The document on which the statement on origin is made out has to allow for clear identification of the exporter. In the vast majority of cases the statement will be made on a document of the exporter, but there might be rare cases where it is not possible for the exporter to make out the statement on origin on his own document. In such cases, the Commission services consider that the exporter may make out the statement on origin on a

commercial document of a third party (a trader), even when that third party is located in a third country. For example, this might be the case when a consignment of originating products is split in a third country under the conditions of Article 3.15 (Non-alteration).

The exporter shall be responsible for the correctness of the statement on origin and the information provided (Article 3.18(1)). He must hold information showing that the product is originating. This may include information on the originating status of materials used in production and declarations obtained from suppliers.

A statement may be made out in English or any of the other official languages used in the EU (Article 3.19(2)).

"[For multiple shipments]: Period from _____ to _____ (1)

The exporter of the products covered by this document (Exporter Reference No ... (2)) declares that, except where otherwise clearly indicated, the products are of ... (3) preferential origin

. . . . . *(4)*

(Place and date)

. . . . . .

(Name of the exporter)

_____

(1) When the statement on origin is completed for multiple shipments of identical products as referred to in point (b) of Article 3.18(4) (Statement on origin), indicate the period for which the statement on origin will apply. That period shall not exceed 12 months. All importations of the product must occur within the period indicated. Where such a period is not applicable, the field may be left blank.

(2) Indicate the reference number through which the exporter is identified. For the Union exporter, this will be the Registered Exporters (REX) number. For the New Zealand exporter, this will be the Customs Client Code. Where the exporter has not been assigned a number, the field may be left blank.

(3) Indicate the origin of the product: "New Zealand" or "the European Union".

(4) Place and date may be omitted if the information is contained on the document containing the text of the statement on origin.".

With regard to footnote 1, the exporter has to include the period of validity only in case of multiple shipments of identical products. For a single consignment, the field has to be left blank.

Reference number – EU exporters

For consignments of originating products of a value exceeding EUR 6 000, EU exporters have to always indicate their valid REX number in the statement on origin. It is recommended that registered exporters indicate their numbers also for consignments of originating products not exceeding EUR 6 000. Exporters not registered in the REX system may make out statements on origin solely for consignments of originating products not exceeding EUR 6 000.

Details on registration in the REX system can be found on DG TAXUD website:

REX – Registered Exporter system - European Commission (europa.eu)

To apply for REX registration exporters should submit their application through the REX system via the EU Trader Portal or to their competent customs office.

Reference number – New Zealand exporters

New Zealand commercial entities will usually use their customs client codes in the statements on origin.

The client code is an 8-digit number followed by one letter, e.g., 12345678A. The codes are assigned to commercial entities engaged in importing or exporting of consignments valued at NZ$ 1 000 or more, for the purposes of New Zealand import and export entry declarations.

For further information see: Client codes – New Zealand Customs Service

There may be exceptional situations where the field for the reference number in the statement on origin will be left blank (Annex 3C, footnote 2). An example of such a situation is where the producer of the goods makes out the statement on origin, but the export is arranged through a trader. In the vast majority of cases, however, New Zealand producers are also the exporters of their goods, and will include their client codes in their statements on origin.

A New Zealand individual exporting over NZ$ 1 000 of goods may use a client number instead of a client code on the statement of origin, in the (very) unlikely circumstance they wish to claim preference under the EU-NZ FTA for such goods. A client number looks exactly the same as the client code and serves the same purpose.

Origin of the product

EU exporters shall indicate the origin of their products with the words “the European Union” or “EU” or equivalent in the official language versions of the EU. EU exporters should not indicate a Member State.

For statements on origin made by New Zealand exporters, those would indicate “New Zealand”, “NZ” or may use “Aotearoa”, the Māori wording of New Zealand.

A double indication “European Union / New Zealand” is not allowed, since EU exporters may not certify New Zealand origin, and vice versa.

Origin quotas

In relation to origin quotas and the respective alternatives to the product specific rules of origin, as referred to in Appendix 3-B-1, the statements on origin used by the EU importers when applying for those origin quotas or alternatives should contain the following statements:

- for specified textile and apparel products: *"Origin quotas – Product originating in accordance with Appendix 3-B-1"*
- for specified fish and seafood products: *"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]".*

EU exporters do not need to include any such statements, as the origin quotas and alternatives are solely applicable to exports from New Zealand to the EU. See below Section 11. A.

Waiver of procedural requirements

Legal reference: Article 3.22

Origin procedures may be waived for a product of small value sent from a private person to a private person, or for a product forming part of a traveller's personal luggage. This waiver applies only to products that have been subject to a customs declaration declaring conformity with the relevant requirements, and where the customs authority has no doubts as to the veracity of the declaration. The importer is responsible for the correctness of this declaration.

The following products are excluded from the waiver:

(a) products imported by way of trade, except for imports that are occasional and consist solely of products for the personal use of the recipients or travellers or their families, if it is evident from the nature and quantity of the products that the imports have no commercial purpose;

(b) products where the importation forms part of a series of importations that may reasonably be considered to have been made separately for the purpose of avoiding the requirements of Article 3.16 (Claim for preferential tariff treatment);

(c) products for which the total value exceeds:

  (i) for the EU, EUR 500 in the case of products sent in small packages, or EUR 1 200 in the case of products forming part of a traveller's personal luggage;

  (ii) for New Zealand, NZD 1 000 both in the case of products sent in small packages and in the case of products forming part of a traveller's personal luggage.

Record keeping requirements do not apply to the importer when the waiver is applied.

4. STATEMENT ON ORIGIN FOR MULTIPLE SHIPMENTS OF IDENTICAL PRODUCTS

Legal references: Article 3.18 (4) (b) and Annex 3-C

Apart from the statement on origin for a single shipment, the Agreement also provides for the possibility to make out a statement on origin for multiple shipments of identical products.

Identical products refer to products that correspond in every respect to those described in the product description.

The main benefit of this type of statement on origin is that exporters have to make out only one statement, and importers may rely on that one statement, for all such shipments of identical products within the period specified in the statement, as long as that period does not exceed 12 months.

The statement for multiple shipments has to be placed on the invoice or any other document relating to the first shipment of the identical products for which preference will be claimed and which are covered by this statement. No further statements on origin need to be made out for the remaining shipments, provided that these products are imported within the period covered by that statement. The importer should always be able to present the statement on origin to the customs authorities. The product description of the originating products on the document used for making out the statement on origin and the documents accompanying subsequent shipments should be precise enough to allow for easy identification and comparison of the products involved.

The text to be used for the statement on origin for multiple shipments is the same as the one set out in Annex 3-C of the Agreement and has to indicate the period covered. The date format consists of the day, the month and the year, e.g. 1 May 2024 or 01/05/2024. The statement has to include:

– the start date = the date on which the period commences; and

– the end date = the date on which the period ends, which may not be later than 12 months from the start date;

The statement on origin for multiple shipments has to also include the date on which it is made out by the exporter, unless that information is contained in the document on which the text of the statement is placed.

For the EU exporter, the value threshold for the indication of the REX number applies also to the statement on origin for multiple consignments, and no such number needs to be indicated when the value of the originating products for each shipment individually does not exceed EUR 6 000, irrespective of the total value of all consignments covered by the statement on origin. However, as soon as the value of one consignment exceeds EUR 6 000, the existing

statement on origin for multiple shipments may not be used for that specific shipment. To avoid such problems, it is recommended to always include the REX number.

The EU importer shall use the code "U121" to claim preference (see above Section 2) in all customs declarations for the release for free circulation of the identical products covered by the statement on origin for multiple shipments, and always indicate the date of the making out of the statement and the reference to the document on which it was made out.

When the importer is informed by the exporter that the conditions for the use of a statement on origin for multiple shipments cease to apply or that the statement on origin was made out erroneously, he may no longer use it to claim the preferential tariff treatment for the respective shipments and has to inform customs accordingly.

A statement on origin for multiple shipments of identical products can be made out and submitted retrospectively, but this may not cover the situation where an importer already claimed preferential tariff treatment in the absence of a valid statement on origin for multiple shipments.

Scenario 1 – Statement on origin made out after the claim for preferential tariff treatment

A claim for preferential tariff treatment was already made for the importation of one or more shipments of identical products without any statement on origin existing at that time. In that situation the exporter may not make out a statement on origin for those multiple shipments retroactively since the date of the making out of the statement may not be on a later date than the date of a claim for preferential tariff treatment.

Example:

A New Zealand exporter begins exporting identical products of NZ preferential origin to his EU customer on 1 May 2024, but he has not yet prepared a statement on origin for multiple shipments. The EU importer immediately claims preferential tariff treatment when lodging the declarations for release for free circulation. Afterwards, the New Zealand exporter prepares a statement on origin only on 1 August 2024, with a start date of 1 May 2024 and an end date of 30 April 2025. This statement may not be used for the shipments for which preferential tariff treatment was claimed prior to 1 August 2024. However, it can be used for claiming preferential tariff treatment for shipments of identical products that are imported after the date of the making out of the statement up until 30 April 2025.

Scenario 2 – Statement on origin made out after importation, but before the claim for preferential tariff treatment

If one or more shipments of identical products were imported without the EU importer claiming the preferential tariff treatment, the exporter may still make out a statement on origin for these past shipments.

In this case, the date of the making out of the statement on origin should refer to a date prior to or at the time of the claim for preferential tariff treatment.

The start date should refer to the date on which the first shipment was imported (without claiming preference), or to an earlier date, for example, the time of export.

The end date may refer to a shipment that has already been imported without claiming preference or to another date in the future for shipments of the same identical products that will be imported after the date of the making out of the statement on origin, provided that the maximum period of 12 months is respected.

Example 1:

Several shipments of identical products of New Zealand preferential origin were imported into the EU during May, June and July 2024 without preferential tariff treatment. The first shipment was imported on 20 May 2024. On 1 September 2024, the New Zealand exporter makes out a retrospective statement on origin for multiple shipments with the start date on 1 May 2024. As there are still shipments of identical products scheduled after the date of the retrospective statement on origin, the exporter sets 30 April 2025 as the end date. Based on this statement the EU operator can retrospectively claim preference starting from 1 September 2024 for the afore mentioned consignments imported in May, June and July 2024 based on a repayment request. The EU importer can also use that statement in the customs declarations for the release for free circulation of future shipments of identical products until 30 April 2025.

The statement of origin for multiple shipments can also be issued retrospectively when a series of imports has already taken place, if there was no such claim at the time of importation and as long as the claim is made no later than three years after the date of the first importation (Article 3.17). That statement on origin will still have to be valid at the moment it is used to make the claim, i.e. it has to be used within the one-year validity period provided for in Article 3.18(3) of the Agreement.

Example 2:

An EU operator imported identical products of New Zealand preferential origin from 1 May 2024 until 30 April 2025 without claiming preferential tariff treatment. On 15 June 2025 the New Zealand exporter makes out a retrospective statement on origin for multiple shipments with the start date on 1 May 2024 and the end date on 30 April 2025. The EU operator can retrospectively claim preferential tariff treatment for all those shipments of identical products that were accepted for release into free circulation during that period through a repayment request since there were no claims prior to the date of issue of the statements of origin. However, should the EU operator wait until 16 June 2026 to make his claim, it will be too late as the validity period of the statement will have expired by then.

5. IMPORTER'S KNOWLEDGE

Legal references: Articles 3.16(b) and 3.20

Importer's knowledge allows importers to claim preference based on information and documents which they have in their possession and which demonstrate that the product is originating in the exporting Party and satisfies the requirements of Chapter 3 Rules of origin and origin procedures of the Agreement (Article 3.20). Typically, the exporter (i.e. meaning also producer) (in)directly provides or makes available this information and documents to the importer. No registration or authorisation is required for the use of importer's knowledge.

In essence, importers using importer's knowledge ought to know the applicable origin criterion for the goods they import. They have to establish whether the imported products qualify as originating products by assessing whether the relevant origin rule has been met. Where applicable, they should also ascertain whether the working or processing in the exporting Party did not merely constitute an 'insufficient working or processing' within the meaning of Article 3.6. The importer has to be in the position to substantiate his claim and submit all the evidence to support the declared preferential origin. The evidence used, such as supporting documents or records, is not subject to any specific conditions. Moreover, the supporting documents, be it original or in the form of a copy, may be kept in electronic (e.g. PDF, Excel, Word) or paper format.

An importer has to make sure that he has all the necessary information in his possession at the time of claiming the preference, either when lodging the customs declaration for release for free circulation, or when submitting a remission / repayment request.

If the evidence necessary to demonstrate the preferential origin of the goods is not in the importer's possession at the time of the claim for preferential tariff treatment, it is recommended that a statement on origin is used instead.

An EU importer who bases his claim for preferential treatment on importer's knowledge at the time of lodging the customs declaration for release for free circulation has to insert the code 'U122' (Article 3.16(3)).

In the case of claiming the preferential treatment under an origin quota derogation in accordance with Appendix 3-B-1 (*Origin quotas and alternatives to the Product-Specific Rules of Origin in Annex 3-B*), the importer may base his claim on importer's knowledge, considering the alternative product-specific rule provided for in Appendix 3-B-1.[2]

The record-keeping requirements apply equally to EU importers using importer's knowledge.

[2] The TARIC measures will be amended accordingly.

For more information on the concept of importer's knowledge applicable in the EU for the release for free circulation of originating goods, please consult sub-section B.8.2)b) Importer's knowledge of the general guidance document:

Preferential trade: guidance on the rules of origin

6. VERIFICATION AND DENIAL

Legal references: Articles 3.23, 3.24 and 3.25

The customs authorities of the importing Party may conduct a verification as to whether a product is originating and as to whether the other requirements of Chapter 3 Rules of origin and origin procedures are met (Article 3.23(1)). If the verification process allows the customs authorities of the importing Party to establish whether all conditions for the granting of preferential tariff treatment are met, they will grant it as soon as possible (Article 3.23(6)). If the customs authorities establish in the course of the verification process that not all conditions for the granting of preferential tariff treatment are met, they may deny the preferential tariff treatment in accordance with Article 3.25(1) and (2).

Verification is triggered by risk assessment methods, including random selection, following a claim for preferential tariff treatment by the importer, either made in the customs declaration for release for free circulation, or retrospectively in a remission/repayment request. Once the customs declaration for release for free circulation is accepted, the verification may be conducted before or after the release of the goods and may lead to a denial of preferential treatment and the incurrence of customs debt (Article 3.23(1)).

The provisions on verification determine which process has to be followed by the customs authorities of the importing Party to assure that the claim for preferential treatment is correct.

During verification, the customs authorities of the importing Party have to allow the release of the products concerned. The release may require the provision of a guarantee or the customs authorities may implement other appropriate precautionary measures (Article 3.23(6)).

The way the verification is conducted depends on the basis of the claim for preferential treatment: i.e. the statement on origin or importer's knowledge.

If the importer claims on the basis of **importer's knowledge**, the verification will be carried out solely by the customs authorities of the importing Party:

– The customs authorities of the importing Party will request information directly from the importer. The importer may add any other information considered relevant for the purposes of verification. The importer should provide a reply within three months after the date of the request for information.

  If the importer does not provide a reply within this period, or if the information submitted by the importer is inadequate to confirm that the product has originating status, the customs authorities of the importing Party may deny preferential tariff treatment.

– Where the information submitted by the importer was not adequate to confirm the originating status of the imported products, but the customs authorities of the importing Party consider that the importer may be able to provide additional information to confirm that status, they may request such further specific documentation and information.

  If the importer fails to reply within three months of the date of the request, or if the importer submits additional information, but all the information combined is still inadequate to confirm that the product has originating status, the customs authorities of the importing Party may deny the claim for preferential tariff treatment.

– As there will be no administrative cooperation with the exporting Party, it is fully up to the importer to comply with the obligation to provide the requested information. Non-compliance may result in a denial of preferential tariff treatment and, where applicable, in administrative measures or sanctions.

If the importer claims on the basis of a **statement on origin**, the verification will be carried out as follows:

– The customs authorities of the importing Party will request the statement on origin and will likely request the elements listed in Article 3.23(2)(b) from the importer. The importer may add any other information considered relevant for the purposes of the verification (Article 3.23(3)). The importer may inform the customs authorities of the importing Party that the requested information will be provided by the exporter directly, but he always has to provide the statement on origin[3]. The importer has to reply to the customs authorities of the importing Party within three months after the date of the request for information, or else the products may be denied the preferential tariff treatment (Article 3.25(1)(a)(i)).

– After having received the reply from the importer, the customs authorities of the importing Party may send out a request for information under administrative cooperation to the customs authorities of the exporting Party, which may include a request for specific documentation and information, within a period of two years after the date on which the claim for preferential treatment was made (Article 3.24(2)), i.e. either the date of the customs declaration for the release for free circulation of the product(s) concerned, or the date of the remission / repayment request.

– The customs authorities of the exporting Party have to reply to the request within ten months after the date of the delivery of the request for information. The customs authority of the importing Party may deny preferential tariff treatment if no reply was provided by the customs authority of the exporting Party within said period (Article 3.25(1)(c)(i)), or if the information provided by the customs authority of the exporting Party is inadequate to confirm that the product has originating status (Article 3.25(1)(c)(ii)).

[3] The text of Article 3.23(4) published on 25 March 2024 erroneously refers to the statement on origin and will be subject to correction.

For further information on the verification procedure, please consult Section B.18 Verification of the general guidance document:

Preferential trade: guidance on the rules of origin

7. CONFIDENTIALITY OF INFORMATION

Legal references: Articles 3.23, 3.24 and 3.26

Information provided by the exporter

The determination of the preferential origin of a product requires understanding detailed information, which may be confidential, since any disclosure of such information could potentially harm the commercial interests of the exporter in question. This means that the exporter may not wish to share certain information with the importer, but also that the customs authorities of both Parties treat the collected information with full confidentiality.

The exporter is free to determine which, if any, information pertaining to the originating status of the products he shares with the importer. The exporter may decide:

- not to share any confidential information. In that case, the importer will likely need to claim preferential tariff treatment based on a statement on origin, or
- to share sufficient information, including confidential information, with the importer so that the latter is able to base his claim on the importer's knowledge. This information must be available at the time when the claim is made.

Where the importing Party asks the exporting Party via administrative cooperation for a verification of the originating status of the product, it is for the exporter to decide, in accordance with Article 3.24(6), whether the information it provides to the exporting customs authority may be forwarded by that authority to the customs authority of the importing Party.

Direct requests for information from the importing customs authority to the exporter, or participation in visits at the premises of the exporter are not possible as part of the verification process.

Rights and obligations of the Parties

Article 3.26 obliges each Party to protect the confidentiality of information provided by the other Party or a person[4] of that Party under Chapter 3 *Rules of origin and origin procedures* from disclosure and to restrict their use to the purposes of this Chapter. Non-compliance with these provisions, for each Party within the boundaries of their own data protection laws, constitutes a breach of obligations under the Agreement.

[4] Article 1.2(v): "person" means a natural person or a juridical person.

Typically, sensitive information might include the description and explanation of the production process sufficient to establish the originating status of the product.

Confidential information obtained by the customs authorities of the importing Party may be used in administrative, judicial, or quasi-judicial proceedings for the failure to comply with the requirements of Chapter 3 *Rules of origin and origin procedures*. There is an obligation of an advance notification to the person or Party who provided the information.

The so-called 'purpose limitation clause' means that any information may be used by each Party for no purpose other than the administration and enforcement of decisions and determinations relating to origin and to customs matters, except with the permission of the person or Party who provided the confidential information.

The use of information for judicial proceedings other than those relating to origin and customs matters is only possible where this is a legal requirement in a Party, and that Party notifies in advance the other Party or a person of that Party who provided the confidential information of that use and the legal grounds therefor. In such situations, a permission for that use is not required.

8. TRANSITIONAL PROVISIONS

Legal reference: Article 3.29

The preferential tariff treatment may be applied to goods that comply with the provisions of Chapter 3 and, on the date of the entry into force of the Agreement, are either in transit from the exporting Party to the importing Party or under customs supervision in the importing Party without payment of import duties and taxes. This is in particular the case for goods that are in temporary storage or under the customs warehouse procedure at the time of the entry into force of the Agreement.

The importer can make a claim for preferential tariff treatment up to 12 months after the entry into force of the Agreement, either at the release of the goods for free circulation, or thereafter. The claim may be submitted on the basis of a statement on origin made out as of the entry into force of the Agreement, i.e. not earlier than on 1 May 2024, or on the basis of importer´s knowledge. Any request after that period of 12 months after the entry into force will be refused, even if in case of the statement on origin the statement would still be technically valid.

Example:

Wool from New Zealand fulfilling the preferential origin criteria was placed under the customs warehouse procedure in the EU before 1 May 2024. The importer obtains a statement on origin from the New Zealand exporter made out on 1 December 2024. He may submit a claim for preferential tariff treatment based on that statement on origin until 30 April 2025. If he submits his claim only on or after 1 May 2025, that claim will no longer be accepted as the

transitional provisions have ceased to apply, notwithstanding that the validity period of the statement on origin would not yet have lapsed (12 months).

This provision does not apply to goods released for free circulation before the entry into force of the Agreement.

9. GENERAL PROVISIONS

9.1 CUMULATION

Legal reference: Article 3.3 and Annex 3-D

The Agreement provides for two types of cumulation:

- Bilateral cumulation, involving only materials originating in one of the two Parties. A product originating in one of the Parties is considered as originating in the other Party if that product is used as a material in the production of another product in that other Party;
- Full cumulation, where not only non-originating materials are taken into account, but also the working or processing, or the value added in one of the Parties. Unlike other forms of cumulation, it is not necessary that the products already originate in one Party before being exported to the other party for further working or processing.

Bilateral and full cumulation may not be applied when the working or processing carried out does not exceed the operations listed as insufficient working or processing in Article 3.6.

Supplier´s declaration or equivalent document for full cumulation under the EU-NZ FTA provisions

The Agreement provides for the use of supplier´s declarations or equivalent documents for the purpose of full cumulation.

This means that the supplier of non-originating products can make out a supplier's declaration or an equivalent document for those products when they are exported to the other Party to be further worked or processed in order to acquire preferential origin in context of the Agreement. A supplier's declaration as such is not a document on origin.

The Agreement does not provide for a standard template for the supplier's declaration. The content of the supplier´s declaration or of the equivalent document shall be limited to the elements listed in Annex 3-D, including the description of the non-originating materials concerned in sufficient detail allowing for their identification.

Example:

A New Zealand garment manufacturer wants to make uniform shirts from HS heading 62.05 for the New Zealand market The product specific rule for this heading is "weaving combined with making-up including cutting of fabric."

Yarn from China is imported into New Zealand where it is manufactured into fabric of HS heading 52.12. However, the manufacturer has no other facilities to further process the fabric into shirts and wants to collaborate with an EU manufacturer who, for this purpose, will further make up and cut the fabric into shirts. The fabric itself is not yet originating as it does not meet the rule of double transformation which is required for textile products. The non-originating fabric is exported from New Zealand to the EU with documents equivalent to a supplier's declaration (for goods which have undergone working in New-Zealand without having obtained preferential originating status). The supplier's declaration or equivalent documents do not have a fixed format, but it should contain, in view of the HS heading and the relevant product-specific rules, the following elements:

- *Description and HS heading of the product supplied: Fabric of HS 52.12*
- *Description and HS heading of the non-originating materials used in the production of that product: yarn of HS 52.06 of CN origin*
- *Description of the process carried out in New-Zealand on the non-originating materials: weaving*
- *A statement that the elements of information are accurate and complete, the date on which the statement is provided, and name and address of the supplier in printed characters.*

The fabric is further manufactured into shirts in the EU which will be originating and which can then be exported to New Zealand and for which preferences can be claimed.

EU: Supplier's declarations issued under the UCC IA

Legal references: Articles 61, 62(1) and 63 UCC IA

Suppliers' declarations are usually used when the exporter making out a statement on origin is not the producer of the exported goods and needs to obtain information from the supplier to determine whether the goods to be exported satisfy the applicable origin criteria. Supplier´s declarations may also be used to make out subsequent supplier´s declarations when the goods are sold, delivered or transferred between suppliers within the EU.

The supplier's declaration can be made out for a single shipment, but also for a series of shipments (= long-term supplier's declaration). Long-term supplier's declarations may be made out with a start date up to one year before the date of issuance: e.g., making out a long-term supplier's declaration on 1 June 2024 with a start date of 2 June 2023 and an end date of 1 June 2024. They may be made out as of 1 May 2024, but may refer to goods delivered by the supplier to his customer before the entry into force of the Agreement.

For further information see: suppliers-declaration-may-2018_en.pdf (europa.eu)

New Zealand economic operators' documents:

In terms of documentation, New Zealand relies predominantly on commercial documents (invoices, transaction history, import/export entries) and evidence of production. In the case of a post clearance audit or formal verification process New Zealand Customs retains the right to

request any supporting evidence that attests to the status of the goods, and does not stipulate any particular format.

In the context of full cumulation, the New Zealand exporter will provide equivalent documents containing the elements set out in Annex 3-D.

9.2 TOLERANCES

Legal references: Article 3.5, Notes 7 and 8 of Annex 3-A

When a product does not satisfy the product-specific rules contained in Annex 3-B because of the use of non-originating materials, it may still be considered as originating in a Party, provided that:

- the value of the non-originating materials used in the manufacture of the products concerned does not exceed 10% of the ex-works price of those products, except for products classified in HS Chapters 50 to 63;
- the specific tolerances laid down in Notes 7 and 8 of Annex 3-A for products classified in HS Chapters 50 to 63 can be applied.

The tolerances may not be applied if:

- the value or weight of non-originating materials used in the manufacture of a product exceeds any of the percentages set out in Annex 3-B for the maximum value or weight of non-originating materials;
- the products are wholly obtained in a Party within the meaning of Article 3.4, unless a particular product-specific rule in Annex 3-B requires that the materials used in the manufacture of a product are wholly obtained in a Party.

An important difference to other agreements is that for agricultural products classified under HS Chapters 2 and 4 to 24, the tolerance referred to in this Article is calculated on the basis of value, with the exception of some agricultural products listed in the product-specific rules that still have weight-based tolerance in place.

9.3 ACCOUNTING SEGREGATION

Legal reference: Article 3.13

In principle, "fungible materials" or "fungible products" must be stored separately if they do not have the same origin. "Fungible materials" or "fungible products" are materials or products of the same kind and commercial quality, with the same technical and physical characteristics, which cannot be distinguished from each other for the purpose of determining origin.

Article 3.13(3) allows for the use of an accounting segregation method when originating and non-originating fungible materials are used in the production of a product. By using that method, the materials do not need to be physically separated during storage.

Furthermore, the Agreement provides that certain originating and non-originating fungible products may be stored together in one Party before being exported to the other Party without being physically separated, provided that an accounting segregation method is used. They include the following fungible products classified under:

- HS Chapters 10, 15, 27, 28, 29,
- HS Headings 3201 to 3207, or
- HS Headings 3901 to 3914.

9.4 THE POSSIBILITY OF DUTY DRAWBACK

The Agreement does not contain a duty drawback prohibition provision. Therefore, if non-originating materials are used in the manufacture of a product in the EU, those materials are eligible for duty drawback when those products acquire EU preferential origin. This mainly applies to products under the inward processing procedure in the EU. This means that the suspended duty does not need to be paid when the materials used to manufacture an originating product are exported to New Zealand.

9.5 NON-ALTERATION RULE

Legal reference: Article 3.15

An originating product in free circulation in the importing Party shall not have been modified or transformed in any way or undergone any other treatment in a country not Party to the Agreement. Only the following operations are permitted in that third country:

- operations necessary to maintain the product in good condition;
- operations consisting of adding or affixing marks, labels, seals or other documentation to ensure that the specific internal requirements of the importing Party are fulfilled before release for free circulation.

A product may be stored or displayed for exhibitions in a third country on condition that it remains under customs supervision there.

A shipment may be split in a third country when done by the exporters themselves or under their responsibility and on the condition that the shipment remains under customs supervision there.

- In case of doubt as to whether the above conditions have been met, customs may request the importer to provide a proof of compliance. That proof may be provided by any means, including:

– transport agreements such as bills of lading; or
– factual or concrete evidence such as markings or numbering of the packages; or
– a certificate of non-manipulation; or
– other evidence concerning the product itself.

10. PRODUCT-SPECIFIC RULES OF ORIGIN

Legal references: Article 3.2(c), Annexes 3-A and 3-B, Appendix 3-B-1

For the purposes of preferential tariff treatment, Article 3.2 states that a product shall be considered as originating in a Party if it:

(a) has been wholly obtained in that Party within the meaning of Article 3.4 (Wholly obtained products);

(b) has been manufactured in that Party exclusively from originating materials; or

(c) is manufactured in that Party and incorporates non-originating materials provided the product meets the requirements of Annex 3-B (Product-specific rules of origin).

The list of working or processing required to be carried out in order for non-originating materials to obtain originating status is set out in Annex 3-B. The general provisions to interpret and apply the product-specific rules in Annex 3-B are included in Annex 3-A.

These product-specific rules are, depending on the classification of the materials, a change in tariff classification, a production process, a maximum value or weight of non-originating materials, or any other requirement specified in Annexes 3-A and 3-B.

The Rules of Origin Self-Assessment tool in Access2Markets offers guidance in simple steps to determine the rules of origin for products in question: https://trade.ec.europa.eu/access-to-markets/en/home#my-trade-assistant

11. ORIGIN QUOTAS AND ALTERNATIVES TO THE PRODUCT-SPECIFIC RULES OF ORIGIN, AND PREFERENTIAL TARIFF QUOTAS

A. Origin quotas and alternatives to the product-specific rules of origin

Legal references: Annex 3-B, Appendix 3-B-1[5]

Appendix 3-B-1 contains provisions on origin-linked quotas and alternatives to the product-specific rules of origin.

This means that for the products listed in this Appendix, alternative product-specific rules can be applied within the limits of the annual quotas allocated each year. The quotas relate to specified textile and apparel products and specified fish and seafood products, respectively, exported from New Zealand to the Union. The origin quotas are managed on a first-come first-served basis and shall be calculated based on the value or quantity of products entered under these origin quotas on the basis of the imports in the EU.

Textile and apparel products:

According to the product-specific rules in Appendix 3-B, products under the HS Heading 5903 (fabrics impregnated, coated, covered or laminated with plastics, other than those of HS Heading 5902) can obtain originating status only if they undergo the following working or processing:

– *Weaving or knitting combined with impregnation, coating, covering, laminating or metallising;*

– *Weaving or knitting combined with printing; or*

– *Printing (as a separate operation).*

Appendix 3-B-1 contains an alternative rule according to which origin can be obtained on a change of tariff heading ("CTH"). This means that the product is manufactured from non-originating materials of a heading other than that of the product.

In addition, the Appendix also provides an alternative product-specific rule for products classified under chapters 61 and 62 within the limits of the applicable annual quota: a change in Chapter ("CC"). This means that all non-originating materials used in the production of the product must undergo a change in tariff classification at the 2-digit level of the Harmonized System. This is a very different product-specific rule from what is usually required for textile

[5] Commission Implementing Regulation (EU) 2024/1319 of 15 May 2024 on the derogations from the originating products rules laid down in the Free Trade Agreement between the European Union and New Zealand that apply within the limits of annual quotas for certain products from New Zealand, OJ L, 2024/1319, 16.5.2024.

products of HS Chapters 61 and 62, which is at least two operations; also known as the double transformation criterium.

Fish and seafood products:

The product-specific rules in Annex 3-B provide that fish and seafood products classified under HS Headings 0301 to 0309 shall obtain origin under the following condition:

"Production in which all the materials of Chapter 3 used are wholly obtained"

Products classified in HS Subheadings 030354, 030355, 030366, 030368, 030369, 030389, and 030743 can obtain originating status under alternative product-specific rules of origin within annual quotas as specified in Appendix 3-B-1, namely *"fishing and freezing"*. The production goes beyond the insufficient working or processing operations set out in Article 3.6.

To qualify for these quotas, a proof of origin in accordance with 3.16 of the Agreement must be presented. If that proof is a statement on origin, it needs to include an additional declaration as provided for in Appendix 3-B-1 of the Agreement (see above Section 3).

B. Preferential tariff quotas

Legal reference: **Annex 2-A**[6]

In addition to the origin quotas provided for in Appendix 3-B-1, preferential tariff quotas set out in Chapter 2 and Annex 2-A also apply to certain agricultural products originating in New Zealand. To qualify for these quotas, the relevant products must comply with the standard rules of origin under the Agreement. Contrary to the aforementioned origin quotas no alternative rules of origin are provided for these preferential tariff quotas.

[6] Commission Implementing Regulation (EU) 2024/1178 of 23 April 2024 amending Implementing Regulations (EU) 2020/761 and (EU) 2020/1988 as regards the creation, modification and management of certain tariff quotas following the free trade agreement between the European Union and New Zealand, OJ L, 2024/1178, 24.4.2024.