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Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) Rules of Origin

Guide To Claiming Preferential Tariff Treatment Under CPTPP for Goods Imported to Australia

This guide explains how to determine whether goods that are imported to Australia are eligible for preferential rates of customs duty under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (commonly known as TPP-11) as in force for Australia on 30 December 2018 in accordance with the Customs Act 1901 and the CPTPP rules of origin.

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1. Overview

- 1.1.1. On 8 March 2018 in Santiago Chile, Australia's Minister for Trade, Tourism and Investment, and Ministers representing Brunei, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore, and Vietnam signed CPTPP.
- 1.1.2. CPTPP is a stand-alone treaty that incorporates, by reference, the provisions of the original Trans-Pacific Partnership (the TPP) as signed by Ministers on 4 February 2016 in Auckland, New Zealand (Article 1 of CPTPP refers). This means for example, that Chapters 1 and 3 of the TPP are Chapters 1 and 3 of CPTPP.
- 1.1.3. On entry into force for Australia of CPTPP, importers may claim preferential tariff treatment on eligible goods in accordance with that agreement on the basis that importers can satisfy the requirements contained in new Division 1GB of Part VIII of the Customs Act. The eligible goods are referred to under new Division 1GB as 'Trans-Pacific Partnership originating goods'.
- 1.1.4. Further information is also available at the Australian Border Force website Free Trade Agreement (FTA) page (<https://www.abf.gov.au/importing-exporting-and-manufacturing/free-trade-agreements>) and on the Department of Foreign Affairs and Trade's FTA website www.fta.gov.au.
- 1.1.5. This document is a detailed guide for traders to claim preferential tariff treatment for goods under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Origin questions of a general nature should be directed in the first instance to: origin@homeaffairs.gov.au.

1.2. Import declaration codes

1.2.1. Before making a claim for preferential tariff treatment, importers must take reasonable care to ensure that their goods meet the relevant rules of origin (ROO) and, conversely, do not breach CPTPP's consignment and non-qualifying operations rules. The codes that must be input into the Integrated Cargo System (ICS) or noted on the appropriate hard-copy form (e.g. B650 N10, Import Declaration) to claim preferential tariff treatment for Trans-Pacific Partnership originating goods are:

ICS field	Code	Definition	Legislative reference
Preference Scheme Type	TPP	Goods are Trans-Pacific Partnership originating goods	<i>Customs Act 1901</i> (the Customs Act), Division 1GB
Preference Rule Type	WO	Goods wholly obtained or produced entirely in one or more parties to CPTPP.	Customs Act, Division 1GB, Subdivision B.
	WP	Goods produced entirely in one or more parties to CPTPP from originating materials only.	Customs Act, Division 1GB, Subdivision C.
	PSR	Goods produced in one or more of the parties to CPTPP from non-originating materials that meet a product-specific rule.	Customs Act, Division 1GB, Subdivision D; and Annexes 3-D and 4-A (Product-Specific Rules of Origin) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership.

1.2.2. The code to obtain a refund for overpaid duties under CPTPP is:

Code	Description	Conditions
23A8C	Goods are Trans-Pacific Partnership originating goods	Duty has been paid on the goods.
	Goods that would have been Trans-Pacific Partnership originating goods if, at the time the goods were imported, the importer held: (a) a certification of origin (within the meaning of section 153ZKU of the Customs Act) for the goods; or (b) a copy of a document mentioned in paragraph (a)	Both of the following apply: (a) duty has been paid on the goods; (b) the importer holds a certification of origin (within the meaning of section 153ZKU of the Customs Act) for the goods, or a copy of one, at the time of making the application for the refund.

1.3. Abbreviations and terminology used in this guide

Annex 'X-X'	Refers to Annex X-X of CPTPP. In CPTPP, the number of the Annex refers to the chapter in which the Annex is located. For example, 'Annex 3-D' is Annex D of Chapter 3 of CPTPP.
Blanket period	Under article 3.20(4), a Certification of Origin (CoO) may apply to: (a) a single shipment of a good into the territory of a Party; or (b) multiple shipments of identical goods within any period specified in the Certification of Origin, but not exceeding 12 months.
Build-down Method	Based on the Value of Non-Originating Materials
Build-up Method	Based on the Value of Originating Materials
Chapter #	Refers to Chapter # of CPTPP and available on the Department of Foreign Affairs and Trade website. www.fta.gov.au
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP, formerly abbreviated as TPP-11)	<p>The agreement done at Santiago on 8 March 2018, as amended from time to time. This document abbreviates the full name of the agreement to 'CPTPP'. Previously the agreement was abbreviated as 'TPP-11'.</p> <p>The Agreement titled the Trans-Pacific Partnership (which included the USA) is incorporated into CPTPP with the exception of 22 articles that were suspended by agreement amongst the remaining 11 parties to CPTPP.</p>
CoO	Certification of Origin
CTC	change in tariff classification
CTH	change in tariff heading
Customs Act	<i>Customs Act 1901</i>
Customs authority	The principle agency responsible for the enforcement of Australia's custom laws is, at the time of publication of this Guide, the Australian Border Force, which is part of the Department of Home Affairs. Other agencies, such as the Australian Federal Police, may also be involved in the enforcement of these laws. The term 'customs authority' is used in a broad sense to cover all agencies and their representatives who are involved in these operations.
Customs Regulation	<i>Customs Regulation 2015</i>
Department	Unless separately identified, 'the Department' includes the Department of Home Affairs (formerly Immigration and Border Protection) and the Australian Border Force.
DHAN (formerly DIBPN and ACN)	Department of Home Affairs Notice (previously known as Department of Immigration and Border Protection Notices and Australian Customs Notices)
FTA	Free Trade Agreement
FVNM	Focused Value Non-Originating Materials used in the Focused Value Method (FVM) to determine the Regional Value Content of certain goods.
HS	Harmonized Commodity Description and Coding System

ICS	Integrated Cargo System
International Obligations Regulation	<i>Customs (International Obligations) Regulation 2015</i>
NC	The net cost of the good determined in accordance with Article 3.9 (Net Cost)
Guide	Procedural Instructions
PSR	Product Specific Rule(s) of Origin
ROO	Rule(s) of origin
RVC	Regional value content
CPTPP ROO Regulations	<i>Customs (Trans-Pacific Partnership Rules of Origin) Regulations 2018</i>
Tariff Act	<i>Customs Tariff Act 1995</i>
Tariff Regulations	<i>Customs Tariff Regulations 2004</i>
Tariff Working Pages Online Tariff	Combined Australian Customs Tariff Nomenclature and Statistical Classification
Taxation Administration Act	<i>Taxation Administration Act 1953</i>
VNM	Value of non-originating materials
VOM	Value of originating materials
WO	Wholly obtained or produced
WP	Goods produced in a party or parties to CPTPP from originating materials only

2. Legislation

2.1.1. To give domestic effect to the ROO under CPTPP, a new Division 1GB is inserted into Part VIII of the Customs Act, which establishes the framework to determine if imported goods are Trans-Pacific Partnership originating goods. Complementary amendments have also been made to the *Customs Tariff Act 1995* (the Tariff Act) to enable relevant goods to be eligible for a preferential rate of customs duty. In addition, there are amendments to the *Customs (International Obligations) Regulation 2015* and *Customs Tariff Regulations 2004*, and a new instrument, the *Customs (Trans-Pacific Partnership Rules of Origin) Regulations 2018*, which prescribes a range of related matters. A more detailed description of the various legislative changes that have been made to implement CPTPP follows.

2.1.2. *Customs Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation) Act 2018*

Amends the Customs Act to provide for, amongst other matters, the framework (Division 1GB of Part VIII) for determining whether goods are Trans-Pacific Partnership originating goods, and related matters, including:

- the definition of Trans-Pacific Partnership originating goods in section 153ZKU;
- the Product Specific Rules of Origin in Annex 3-D to Chapter 3 and Annex 4-A to Chapter 4, which define the "substantial transformation requirements / sufficient working or processing criteria" for a good or a group of goods which have to be fulfilled in order for the good(s) to be considered as "originating" according to the free trade agreement. Annexes 3-D and 4-A of CPTPP are available on the Department of Foreign Affairs and Trade website (www.fta.gov.au); and
- verification powers in sections 126AKI to 126AKL.

2.1.3. *Customs Tariff Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation) Act 2018*

- Inserts new Schedule 8B into the Tariff Act to provide for preferential rates of customs duty for Trans-Pacific Partnership originating goods that satisfy the new ROO, and imposes the excise-equivalent rate of customs duty on goods that are tobacco, fuel or alcohol so that the rates are consistent as the excise rate imposed on similar domestically produced goods.

2.1.4. *Customs (Trans-Pacific Partnership Rules of Origin) Regulations 2018*

- Prescribes the methods used to determine the RVC (a calculation used to determine whether a good is a Trans-Pacific Partnership originating good) of goods for the purposes of some of the product-specific requirements set out in Annexes 3-D and 4-A to CPTPP;
- Prescribes the valuation rules for different kinds of goods in Annexes 3-D and 4-A; and
- Provides for ROO in respect of change in tariff classification, determination of value of material and record keeping obligations;

2.1.5. *Customs (International Obligations) Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation) Regulation 2018*

- Amends the International Obligations Regulation to provide for refund circumstances that apply if duties are paid on Trans-Pacific Partnership originating goods.

2.1.6. *Customs Tariff Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation) Regulation 2018*

- Amends the Tariff Regulations to specify goods for CPTPP such that the applicable phasing rates of customs duty are applied only to appropriate goods in accordance with CPTPP.

2.2. CPTPP treaty text

2.2.1. The most pertinent chapters of CPTPP for the purposes of importing or exporting Trans-Pacific Partnership originating goods to or from Australia are the following:

- Chapter 1 Initial provisions and general definitions
- Chapter 2 National treatment and Market Access for Goods
 - Annex 2-D General notes to tariff schedule for Australia
 - Annex 2-D Tariff elimination schedule for Australia
- Chapter 3 Rules of Origin and origin procedures
 - Annexes 3-A, 3-B, 3-C; and
 - Annex 3-D: Product Specific Rules (including Chemical Reaction Rules)
- Chapter 4 Textiles and apparel
 - Annex 4-A: Product Specific Rules for Clothing and Textiles
- Chapter 5 Customs administration and trade facilitation
- Chapter 6 Trade remedies
- Chapter 14 Electronic commerce
- Chapter 18 Intellectual property
- Chapter 30 Final provisions

These are available from www.dfat.gov.au/CPTPP

2.3. Definitions

2.3.1. Definitions for determining whether goods are Trans-Pacific Partnership originating goods.

- **Agreement** (subsection 153ZKU(1) — Customs Act) means the Comprehensive and Progressive Agreement for the Trans-Pacific Partnership Agreement, done at Santiago, Chile on 8 March 2018, as amended and in force for Australia from time to time.
- **Aquaculture** (subsection 153ZKU(1) – Customs Act by reference to Article 3.1 of CPTPP Chapter 3) means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants from seed stock such as eggs, fry, fingerlings or larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding or protection from predators.
- **Certification of Origin** (subsection 153ZKU(1) – Customs Act) means a certification that is in force and that complies with the requirements of Article 3.20 of Chapter 3 of the Agreement.

- **Convention** (subsection 153ZKU(1) — Customs Act) means the International Convention on the Harmonized Commodity Description and Coding System done at Brussels on 14 June 1983, as in force from time to time.
- **Customs value [of imported goods]** (subsection 153ZKU(1) — Customs Act) has the meaning given by section 159 of the Customs Act.
- **Generally Accepted Accounting Principles** (Article 1 of Chapter 3 — CPTPP) means those principles recognised by consensus or with substantial authoritative support in the territory of a Party with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These principles may encompass broad Guidelines for general application, as well as detailed standards, practices and procedures.
- **Harmonized Commodity Description and Coding System** (subsection 153ZKU(1) — Customs Act) means the Harmonized Commodity Description and Coding System that is established by or under the Convention.
- **HS** (subsection 153ZKU(1) — Customs Act) means:
 - a. the Harmonized Commodity Description and Coding System as in force immediately before 1 January 2017; or
 - b. if the table in Annex 3-D to Chapter 3, or in Annex 4-A to Chapter 4, of the Agreement is amended or replaced to refer to Chapters, Headings and Subheadings of a later version of the Harmonized Commodity Description and Coding System— the later version of the Harmonized Commodity Description and Coding System.
- **Indirect materials** (subsection 153ZKU(1) — Customs Act) means:
 - a. goods or energy used in the production, testing or inspection of goods, but not physically incorporated in the goods; or
 - b. goods or energy used in the maintenance of buildings or the operation of equipment associated with the production of goods;
 including:
 - c. fuel (within its ordinary meaning); and
 - d. tools, dies and moulds; and
 - e. spare parts and materials; and
 - f. lubricants, greases, compounding materials and other similar goods; and
 - g. gloves, glasses, footwear, clothing, safety equipment and supplies; and
 - h. catalysts and solvents.
- **Interpretation Rules** (subsection 153ZKU(1) — Customs Act) means the General Rules (as in force from time to time) for the Interpretation of the Harmonized System provided for by the Convention.
- **Non-originating material** (subsection 153ZKU(1) – Customs Act) means goods that are not originating materials (see **originating materials**).
- **Originating materials** ((subsection 153ZKU(1) – Customs Act) means:
 - a) goods that are originating goods, in accordance with Chapter 3 of the Agreement, and that are used in the production of other goods; or
 - b) recovered goods derived in the territory of one or more of the Parties and used in the production of, and incorporated into, remanufactured goods; or
 - c) indirect materials.

- **Party** (subsection 153ZKU(1) — Customs Act) has the meaning given by Article 1.3 of Chapter 1 of the Agreement, which is any State or separate customs territory for which this Agreement is in force.
- **Person of a Party** (subsection 153ZKU(1) — Customs Act) has the meaning given by Article 1.3 of Chapter 1 of the Agreement, namely:
 - a. a national of a Party to CPTPP; or
 - b. an enterprise of a Party to CPTPP.
- **Production** (subsection 153ZKU(1) — Customs Act) has the meaning given by Article 3.1 of Chapter 3 of the Agreement, which is operations including growing, cultivating, raising, mining, harvesting, fishing, trapping, hunting, capturing, collecting, breeding, extracting, aquaculture, gathering, manufacturing, processing or assembling a good.
- **Recovered goods** (subsection 153ZKU(1) — Customs Act) means goods in the form of one or more individual parts that:
 - a. have resulted from the disassembly of used goods; and
 - b. have been cleaned, inspected, tested or processed as necessary for improvement to sound working condition.
- **Remanufactured goods** (subsection 153ZKU(1) — Customs Act) means goods that:
 - a. are classified to any of Chapters 84 to 90 (other than heading 84.18, 85.09, 85.10, 85.16 or 87.03 or subheading 8414.51, 8450.11, 8450.12, 8508.11 or 8517.11), or to heading 94.02, of the Harmonized System; and
 - b. are entirely or partially composed of recovered goods; and
 - c. have a similar life expectancy to, and perform the same as or similar to, new goods:
 - i. that are so classified; and
 - ii. that are not composed of any recovered goods; and
 - d. have a factory warranty similar to that applicable to such new goods.
- **Territory** (see 'geographical area' section 2.4 below).
- **Textile or apparel good** (subsection 153ZKU(1) — Customs Act) has the meaning given by Article 1.3 of Chapter 1 of the Agreement, namely 'a good listed in Annex 4-A (Textiles and Apparel Product-Specific Rules of Origin);
- **Trans-Pacific Partnership originating goods** (subsection 153ZKU(1) — Customs Act) goods that, under Division 1GB of the Act are Trans-Pacific Partnership originating goods.
- **Wholly formed**, (subsection 153ZKU(1) — Customs Act) in relation to elastomeric yarn, has the same meaning as set out in footnote 2 to Chapter 4 of the Agreement. That is 'all production processes and finishing operations, beginning with the extrusion of filaments, strips, film or sheet, and including drawing to fully orient a filament or slitting a film or sheet into strip, or the spinning of all fibres into yarn, or both, and ending with a finished yarn or plied yarn'.

2.4. Geographical area covered by CPTPP

- 2.4.1. CPTPP covers the territories that have ratified the agreement at the time of importation, as defined in Article 1.3, and more specifically Annex 1-A of chapter 1 of CPTPP.
- 2.4.2. The definitions of 'territory' under CPTPP, at entry into force for Australia on 30 December 2018, is contained in subsection 153ZKU(1) of the Customs Act and means:-
- for **Australia**, the territory of Australia:
 - (i) excluding all external territories other than the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory; and
 - (ii) including Australia's air space, territorial sea, contiguous zone, exclusive economic zone and continental shelf over which Australia exercises sovereign rights or jurisdiction in accordance with international law;
 - for **Brunei Darussalam**, the land territory, internal waters and territorial sea of Brunei Darussalam, extending to the air space above its territorial sea, as well as to its sea-bed **and** subsoil over which it exercises sovereignty, and the maritime area beyond its territorial sea, which has been or may hereafter be designated under the laws of Brunei Darussalam in accordance with international law as an area over which Brunei Darussalam exercises sovereign rights and jurisdiction with respect to the seabed, the subsoil and superjacent waters to the seabed and subsoil as well as the natural resources;
 - for **Canada**:
 - (i) the land territory, air space, internal waters and territorial seas of Canada;
 - (ii) the exclusive economic zone of Canada, as determined by its domestic law, consistent with Part V of the United Nations Convention on the Law of the Sea done at Montego Bay on December 10, 1982 (UNCLOS); and
 - (iii) the continental shelf of Canada, as determined by its domestic law, consistent with Part VI of UNCLOS;
 - for **Chile**, the land, maritime, and air space under its sovereignty, and the exclusive economic zone and the **continental** shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law;
 - for **Japan**, the territory of Japan, and all the area beyond its territorial sea, including the sea-bed and subsoil thereof, over which Japan exercises sovereign rights or jurisdiction in accordance with international law including the UNCLOS and the laws and regulations of Japan;
 - for **Malaysia**, its land territory, internal waters and territorial sea, as well as any maritime area situated **beyond** the territorial sea as designated or that might in the future be designated under its national law, in accordance with international law, as an area within which Malaysia exercises sovereign rights and jurisdiction with regards to the seabed, subsoil and superjacent waters to the seabed and subsoil as well as the natural resources;

- for **Mexico**:
 - (i) the states of the Federation and the Federal District;
 - (ii) the islands, including the reefs and keys, in the adjacent seas;
 - (iii) the islands of Guadalupe and Revillagigedo, situated in the Pacific Ocean;
 - (iv) the continental shelf and the submarine shelf of such islands, keys and reefs;
 - (v) the waters of the territorial seas, in accordance with international law, and its interior maritime waters;
 - (vi) the space located above the national territory, in accordance with international law; and
 - (vii) any areas beyond the territorial seas of Mexico within which, in accordance with international law, including the United Nations Convention on the Law of the Sea done at Montego Bay on December 10, 1982, and its domestic law, Mexico may exercise sovereign rights or jurisdiction;
- for **Peru**, the mainland territory, the islands, the maritime areas and the air space above them, under sovereignty or sovereign rights and jurisdiction of Peru, in accordance with the provisions of the Political Constitution of Peru (*Constitución Política del Perú*) and other relevant domestic law and international law.
- for **New Zealand**, the territory of New Zealand and the exclusive economic zone, seabed and subsoil over which it exercises sovereign rights with respect to natural resources in accordance with international law, but does not include Tokelau;
- for **Singapore**, its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;
- for **Viet Nam** on 14 January 2019, the land territory, islands, internal waters, territorial sea, and air space above them, the maritime areas beyond territorial sea including seabed, subsoil and natural resources thereof over which Viet Nam exercises its sovereignty, sovereign rights or jurisdiction in accordance with its domestic laws and international law.

3. Principles of ROO under CPTPP

3.1. Goods covered by CPTPP

- 3.1.1. All goods imported into Australia from a party to CPTPP that are 'Trans-Pacific Partnership originating goods' are covered by this Agreement. Subsection 18(2)(nb) of the Customs Tariff Act, in effect, provides that the rates of customs duty for Trans-Pacific Partnership originating goods are free unless the goods are classified to a heading or subheading in Schedule 8B of the Tariff Act.
- 3.1.2. Under the Customs Act, 'Trans-Pacific Partnership originating goods' are goods that satisfy the requirements of:
- a. Division 1GB of Part VIII of the Customs Act, including by reference
 - i. the documentary (Certification of Origin) requirements in Chapter 3 of CPTPP; and
 - ii. if applicable, the Trans-Pacific Partnership Product Specific Rules in Annex 3-D to Chapter 3, and Annex 4-A to Chapter 4, of the CPTPP; and
 - b. the CPTPP ROO Regulation.
- 3.1.3. The CPTPP ROO Regulations, amongst other matters, set out circumstances in which goods that have undergone sufficient processing or substantial transformation through production, in the territory of CPTPP Parties could qualify for preferential treatment.
- 3.1.4. Division 1GB of Part VIII of the Customs Act contains the following categories of Trans-Pacific Partnership originating goods:
- a. goods that are wholly obtained or produced entirely in the territory of one or more of the Parties to CPTPP (subdivision B);
 - b. goods that are produced from originating materials only (subdivision C);
 - c. goods that are produced from non-originating materials (subdivision D).
- 3.1.5. Goods that fall within the third category (subdivision D) must satisfy the applicable PSR under either Annex 3-D to Chapter 3 or Annex 4-A to Chapter 4 of CPTPP. The PSRs set out the following criteria that apply either solely or in conjunction to a good:
- a. CTC;
 - b. RVC;
 - c. specific manufacturing or processing operation rules; and
 - d. chemical reaction rules.
- 3.1.6. A 'Free' rate of customs duty applies to Trans-Pacific Partnership originating goods (that meet the requirements of Division 1GB of Part VIII of the *Customs Act*) classified to tariff subheadings not listed in Schedule 8B and imported from Parties to CPTPP for which the treaty had entered into force at the date of importation.
- 3.1.7. Tariff subheadings listed in Schedule 8B include 'excise equivalent goods' (EEGs), which do not have reduced rates of duty under any FTA, including CPTPP. If imported, these goods (including fuel, alcohol and tobacco) are subject to rates of customs duty that are equivalent to the excise-duty that would be applied to equivalent domestically-produced goods.

- 3.1.8. For the purposes of determining the originating status of a good, only materials sourced from, or processes undertaken by one or more producers in parties for which CPTPP had entered into force (Australia, Canada, Japan, Mexico, New Zealand and Singapore from 30 December 2018, and Viet Nam from 14 January 2019 at the time of publication of this Guide), are considered as originating materials (or production processes). Materials sourced from, or production conducted in Parties for which the treaty had not entered into force at the time of importation are not considered as originating content.
- 3.1.9. Goods or materials which are not Trans-Pacific Partnership originating goods may include those that:
- a. are produced or exported from the territory of a Party to CPTPP but fail to meet the ROO due to a high level of offshore input (including from parties for which CPTPP had not entered into force) during production;
 - b. are exported from a party for which the treaty had not entered into force at the time of importation; or
 - c. originate from a territory other than a Party to CPTPP, including those that only transit through the territory of Parties to CPTPP. For more information about this, see the section on 'consignment'.

3.2. Accumulation under CPTPP

- 3.2.1. CPTPP allows for the accumulation of originating costs (labour and materials) and production for a good incurred in one Party to CPTPP to count as originating in the subsequent costs and production of a subsequent good in another Party to CPTPP, regardless of whether the processing of the original good is sufficient to confer originating status. This is put into effect by article 3.10, which states:
- “Each Party shall provide that production undertaken on a non-originating material in the territory of one or more of the Parties by one or more producers may contribute toward the originating content of a good for the purpose of determining its origin, regardless of whether that production was sufficient to confer originating status to the material itself”.
- 3.2.2. Article 3.6(2) allows the producer or exporter to include as part of an RVC calculation that uses 'VOM', any value added such as the value of materials, labour and overhead created or incurred within a Party to CPTPP by suppliers of non-originating materials used to produce the final goods. As a result, full accumulation provides a further incentive for firms to seek inputs from Parties to CPTPP as this will increase the good's RVC.
- 3.2.3. For goods that must meet a RVC, Article 3.6(2) allows the value of production processes and originating materials that are used by producer(s) in a Party to CPTPP on non-originating materials to be 'counted' as originating when calculating the RVC. In practice, if a final good consists largely of non-originating materials, it may not be able to meet a RVC requirement threshold. However, if, in the course of production, the non-originating material is further processed in Parties to CPTPP, even if the material does not itself become originating (under its own PSR), the costs of production in Parties to CPTPP can be 'accumulated' and may reach a point where the final goods meet the RVC threshold.
- 3.2.4. If, in the production process in a party to CPTPP, a non-originating material used in production undergoes further production such that it satisfies the ROO, Article 3.6 (1) provides that the entire value of the material is treated as originating when determining the

originating status of the subsequently produced good regardless of whether that material was produced by the producer of the good.

3.2.5. More detail on how this provision is implemented is in the section on RVC.

3.3. Harmonized Commodity Description and Coding System

- 3.3.1. PSRs under CPTPP are based on tariff classifications under the internationally accepted HS which is a multipurpose international product nomenclature developed by the World Customs Organization (**WCO**). The HS is updated every five years. The prevailing HS at the time of publication of this Guide is HS 2017, which came into force on 1 January 2017.
- 3.3.2. As the Trans-Pacific Partnership was negotiated and signed prior to the introduction of HS 2017, the PSRs specified in the text of CPTPP are in HS 2012 nomenclature. This is recognised in the definition of Harmonized System in subsection 153ZKU(1) of the Customs Act where it states “the HS in force immediately before 1 January 2017”.
- 3.3.3. The definition of HS in subsection 153ZKU(1), subclause (b) of the Customs Act also allows for the possibility that Parties to CPTPP will agree to other official transpositions of the PSRs under TPP in HS 2017 nomenclature (and beyond). That definition states that “*if the table in Annex 3-D to Chapter 3, or in Annex 4-A to Chapter 4, of the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.*” This means if the PSRs, provided in the table of Annex 3-B or 4-A to CPTPP, are amended or replaced to refer to a later version of the HS, the definition will refer to this later version from a mutually agreed start date after it is implemented according to each party’s respective domestic legislation and/or treaty making processes.
- 3.3.4. The HS (2012 version) is arranged into **97 Chapters** (including blank Chapter 77), covering all products. **Chapters** are further divided into Headings. **Headings** are further subdivided into Subheadings. The HS is internationally standardised at the **Subheading** level. **Subheadings** are further divided into tariff classifications by each country depending on its particular requirements. As shown in the example below, Chapters are identified by a two-digit number. A Heading is identified by a four-digit number, a Subheading by a six-digit number, and the tariff classifications have an eight digit number. Some countries may use more than eight digits for their tariff classification.
- 3.3.5. Subheadings provide more specific descriptions than headings.

Example: HS

Chapter 62... Articles of apparel and clothing accessories, not knitted or crocheted.

Heading 6209... Babies garments and clothing accessories.

Subheading 6209.20... Of cotton:

Working Tariff classification 6209.20.20 – Clothing accessories

- 3.3.6. Under the HS, the Chapters, Headings, and Subheading numbers for any good (the first six digits) are identical in all countries that are using the same version of the HS. However, the last digits of the tariff classification are set by individual countries, and therefore vary between countries using the HS. In Australia, these final two digit codes are referred to as 'domestic splits'.
- 3.3.7. Goods covered by Schedule 8B of the Tariff Act have been transposed to HS 2017 nomenclature which has been the prevailing nomenclature for Australia's working tariff since 1 January 2017.

3.4. Consignment rule (transit and transshipment)

- 3.4.1. Section 153ZKZA of the Customs Act sets out the consignment requirements that apply to Trans-Pacific Partnership originating goods imported into Australia. Goods that do not meet the consignment requirements are not Trans-Pacific Partnership originating goods. A Trans-Pacific Partnership originating good only remains a Trans-Pacific Partnership originating good if it:
- a. does not undergo any operation outside the territories of the Parties other than: unloading; reloading; separation from a bulk shipment; storing; labelling or marking for the purpose of satisfying the requirements of Australia; or any other operation necessary to preserve it in good condition or to transport the good to the territory of Australia; and
 - b. remains under the control of the customs administration in the territory of a non-Party.
- 3.4.2. It is important to note that subsection 153ZKZA applies despite any other provision of Division 1GB of Part VIII of the Customs Act, including if goods have an accompanying certification of origin within the meaning of subsection 153ZKA(1). This means that, as per the third example below, if Trans-Pacific Partnership originating goods are transported through a non-party outside of customs control, they will lose their originating status. If however, the non-party deems the movement in or through its territory to be "under customs control", then the goods may retain their originating status, provided the minimal operations rules are also observed.
- 3.4.3. Home Affairs is aware that some importers may face issues when their nominally Trans-Pacific Partnership originating goods transit through the USA. This is due to the USA not being a Party to the CPTPP. However, if goods transit or tranship through the USA (or other non-parties) without sufficient proof that this transit or transshipment occurred under customs control, the goods will lose their originating status.
- 3.4.4. As general advice, Australian importers should work with their customs broker, or exporter to ensure that they meet the requirements of the CPTPP if they intend to claim preferential tariff treatment. This *may* include obtaining and retaining official documentation from the non-party transit country regarding the customs control status of goods.

- 3.4.5. Importers may also need to inquire directly with the customs agency of the proposed transit country to ensure they can demonstrate, should it be required, that their goods have remained under customs control, and to retain evidence of this in accordance with CPTPP's record keeping requirements (see Record Keeping and Compliance section).
- 3.4.6. Importers may have to consider adjusting their supply chain to exclude certain countries where it is not possible to maintain customs control of the goods during transit or where official, reliable documentation is not available.

Example 1: Minimal operations

Surgical instruments, cotton gowns and bandages, made in a Party to CPTPP from Trans-Pacific Partnership originating materials, are sent to Indonesia where they are packaged together in a set and then sterilized for use in operating rooms. They are then sent to Australia with a Certification of Origin that they are a Trans-Pacific Partnership originating good.

Despite the Certification of Origin, upon their arrival in Australia, the medical sets are not eligible for preferential treatment because they underwent operations in a non-Party to CPTPP that are not covered by the exceptions in section 153ZKZA.

Example 2: Minimal Operations

Boats manufactured in a Party to CPTPP are sent by ship to Australia. Before departure, they are coated with a protective veneer to inhibit damage to the painted surfaces during the voyage.

Due to severe weather conditions encountered during the voyage, the ship is required to stop in Indonesia so that the protective veneer can be reapplied to ensure that the vessels are preserved in good condition for the remainder of the voyage to Australia. During their time in Indonesia the boats remain under customs control.

This process would not affect the origin status of the vessels as it fits within the exceptions to section 153ZKZA.

Example 3: Consignment and Minimal Operations

Maple syrup, a wholly originating product of Canada, is scheduled to be exported to Australia via a ship that travels via Mexico. The goods are shipped to Los Angeles by road, where labels are applied and the shipment is split up for further consignment. The goods destined for Australia continue to the Mexican port.

When the goods arrive in Australia, despite having a CPTPP certification of origin and despite the minimal operations that were carried out, the maple syrup has lost its originating status as the goods were not under customs control during the road transport via the USA (a non-party).

4. Wholly Obtained or Produced Goods (WO)

- 4.1.1. Subdivision B of Division 1GB in Part VIII of the Customs Act contains section 153ZKV, which sets out the rules for goods that are wholly obtained or produced entirely in the territory of one or more of the Parties to CPTPP. Subsection 153ZKV(1) provides that goods that are wholly obtained or produced entirely in the territory of one or more of the Parties to CPTPP are Trans-Pacific Partnership originating goods.
- 4.1.2. Subsection 153ZKV(2) defines that goods are wholly obtained or produced entirely in the territory of one or more of the Parties to CPTPP if, and only if, the goods are:
- a. plants, or goods obtained from plants, that are grown, cultivated, harvested, picked or gathered in the territory of one or more of the Parties; or
 - b. live animals born and raised in the territory of one or more of the Parties; or
 - c. goods obtained from live animals in the territory of one or more of the Parties; or
 - d. animals obtained by hunting, trapping, fishing, gathering or capturing in the territory of one or more of the Parties; or
 - e. goods obtained from aquaculture conducted in the territory of one or more of the Parties; or
 - f. minerals, or other naturally occurring substances, extracted or taken from the territory of one or more of the Parties; or
 - g. fish, shellfish or other marine life taken from the sea, seabed or subsoil beneath the seabed:
 - i. outside the territories of the Parties; and
 - ii. in accordance with international law, outside the territorial sea of non-Parties; by vessels that are registered, listed or recorded with a Party and are entitled to fly the flag of that Party; or
 - h. goods produced, from goods referred to in paragraph (g), on board a factory ship that is registered, listed or recorded with a Party and are entitled to fly the flag of that Party; or
 - i. goods, other than fish, shellfish or other marine life, taken by a Party, or a person of a Party, from the seabed, or subsoil beneath the seabed, outside the territories of the Parties, and beyond areas over which non-Parties exercise jurisdiction, but only if that Party or person has the right to exploit that seabed or subsoil in accordance with international law; or
 - j. waste or scrap that:
 - i. has been derived from production in the territory of one or more of the Parties; or
 - ii. has been derived from used goods that are collected in the territory of one or more of the Parties and that are fit only for the recovery of raw materials; or
 - k. goods produced in the territory of one or more of the Parties, exclusively from goods referred to in paragraphs (a) to (j) or from their derivatives.

5. Produced entirely from originating materials in one or more of the Parties (WP)

- 5.1.1. Subsection 153ZKW sets out the rules for goods produced entirely from originating material. Section 153ZKW provides that goods that are produced entirely in CPTPP Parties, from originating materials are Trans-Pacific Partnership originating goods.

6. Goods produced using non-originating materials (PSR)

6.1. PSRs

- 6.1.1. Section 153ZKX(1) of the Customs Act provides (in part) that goods are Trans-Pacific Partnership originating goods if:
- a. they are classified to a heading or subheading of the HS that is covered by the table in Annex 3-D to Chapter 3 or Annex 4-A to Chapter 4 of CPTPP; and
 - b. they are produced entirely in the territory of one or more of the Parties to CPTPP, from non-originating materials only, or from non-originating materials and originating materials; and
 - c. the goods satisfy the requirements applicable to the goods in the annexes.
- 6.1.2. Annexes 3-D and 4-A list the PSRs against the HS classification at either the Chapter, Heading or Subheading level.
- 6.1.3. Importers need to determine the HS classification of the imported good and use that classification to find the PSR in the table in Annexes 3-D and 4-A. To investigate possible options for the tariff classification of the good, consult the Australian government's online Working Tariff. If the tariff classification of the good cannot be determined with reference to the Working Tariff, licensed customs brokers or freight forwarder can provide advice. Experts in the Department of Home Affairs can make an official (and binding) ruling on a tariff classification of the good upon receipt of an application and for no charge.
- 6.1.4. Using the HS code for the good, the PSR for the good is located in the second column of the table in Annex 3-D or 4-A. If the good meets the PSR, and any relevant chapter, heading or section note that applies in the HS, then the producer, exporter or importer of the good can issue a Certification of Origin for the good as a Trans-Pacific Partnership originating good.
- 6.1.5. The three main PSRs in Annex 3-D or 4-A are the CTC, RVC and Chemical rules requirements.

6.2. CTC requirement for non-originating materials

- 6.2.1. The CTC requirement only applies to non-originating materials. Column 2 of Annexes 3-D or 4-A can include a requirement that all non-originating materials used in the production of the good must have undergone a particular CTC. For subsection 153ZKX(3) of the Customs Act, section 5 of CPTPP ROO regulations and prescribes the CTC criteria to be satisfied when a non-originating material is used in the production of the good .
- 6.2.2. Non-originating materials, regardless of where they are sourced from, must not have the same tariff classification under the HS as the final good, in order to meet a CTC rule. This means that the HS of the final good (after the production process) must be different to the HS of each non-originating material (before the production process). This ensures that non-originating materials incorporated into a good have undergone sufficient transformation within a Party to CPTPP to support the claim that the good is Trans-Pacific Partnership originating.
- 6.2.3. There are a number of different types of CTC requirements. Examples include:
- Simple CTC – change in Chapter, Heading or Subheading from any other Chapter, Heading or Subheading (as applicable).

Column 1	Column 2
Tariff classification	Product Specific Rule
11.01	A change to a good of heading 11.01 from any other chapter.
1102.20	A change to a good of subheading 1102.20 from any other chapter.

Simple CTC example:

Wristwatches of heading 9101 are made in a Party to CPTPP (Singapore) from watch moving parts of heading 9108 and leather watch straps from 9103 sourced from Parties to CPTPP, but also Chinese (non-originating) batteries of heading 8506.

The PSR for a good of heading 9101 is: “A change to a good of subheading 9101.11 through 9101.29 from any other chapter

In order to meet the CTC requirement, all non-originating materials used in the manufacture of the wrist watch must come from classifications other than heading 9101. As the non-originating material, the batteries, comes from chapter 85, a different HS Chapter than the final good, the wrist watch meets the CTC requirement. Therefore, the wrist watches are Trans-Pacific Partnership originating goods.

- CTC with exceptions

Column 1	Column 2
Tariff classification	Product Specific Rule
1102.90	A change to a good of subheading 1102.90 from any other chapter, except from heading 10.06.

- CTC in addition to a processing rule

Column 1	Column 2
Tariff classification	Product Specific Rule
4202.12	A change to a good of subheading 4202.12 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the Parties.

6.2.4. Section 5 of CPTPP ROO Regulations provides that a non-originating material used in the production of goods that does not satisfy a particular CTC is taken to satisfy the CTC if:

- It was produced entirely in the territory of one or more of the Parties to CPTPP from other non-originating materials; and
- each of those other non-originating materials satisfies the CTC, including by one or more applications of this section.

6.2.5. In practice, in producing a final good, a producer may use goods that are produced in a Party to CPTPP by another producer. The components of these goods may be produced by yet another producer in a Party to CPTPP or may have been imported into a Party to CPTPP by another importer. It is possible that the CTC requirement will not be satisfied at each step in the production process from the imported component to the final good, which may mean that the final good is non-originating.

6.2.6. In such circumstances, it will be necessary to examine each production process of each non-originating material that occurs in a Party to CPTPP in order to determine whether each step satisfies the CTC requirement for the final good. If each non-originating material as part of the production process satisfies the CTC requirement, the material will be an originating material and the final good will be an originating good (subject to satisfying all other requirements of Division 1GB of Part VIII of the Customs Act).

De minimis provisions

6.2.7. Subsections 153ZKX(4), (6) and (7) of the Customs Act allows for three exceptions to the CTC requirement:

- For goods that are not a textile or apparel good, where a requirement is that the CTC requirement must be satisfied and one or more non-originating materials do not satisfy the CTC requirement, the CTC requirement is taken to be satisfied if the total value of the non-originating materials (used in the production of the goods) that do not satisfy the change in tariff classification does not exceed 10 per cent of the customs value of the goods (see subsection 153ZKX(4)); or
- For goods that are textile or apparel goods and are not classified to Chapter 61, 62 or 63 of the HS, where a requirement is that the CTC requirement must be satisfied and one or more non-originating materials do not satisfy the CTC requirement, HS, the CTC requirement is taken to be satisfied if the total weight of the non-originating materials (used in the production of the goods) does not exceed 10 per cent of the total weight of the goods (see subsection 153ZKX(6)). For this exception, if the goods contain elastomeric yarn, the yarn is required to be wholly formed in the territory of one of more of the Parties to CPTPP; or
- For goods that are textile or apparel goods and are classified to Chapter 61, 62 or 63 of the HS, where a requirement is that the CTC requirement must be satisfied and the component of the goods, that determines the tariff classification of the goods, contains fibres or yarns that are non-originating materials and that do not satisfy the CTC requirement, the CTC requirement is taken to be satisfied if the total weight of

the fibres or yarn (used in the production of the goods) does not exceed 10 per cent of the total weight of that component (see subsection 153ZKX(7)). For this exception, if the component of the goods, that determines the tariff classification of the goods, contains elastomeric yarn, the yarn is required to be wholly formed in the territory of one or more of the Parties to CPTPP.

Example: *De minimis* provision by value

A good uses two non-originating materials, 'A' and 'B'. As a result of its transformation into the finished good, non-originating material 'A' meets the required HS classification change (or CTC rule), but non-originating material 'B' does not.

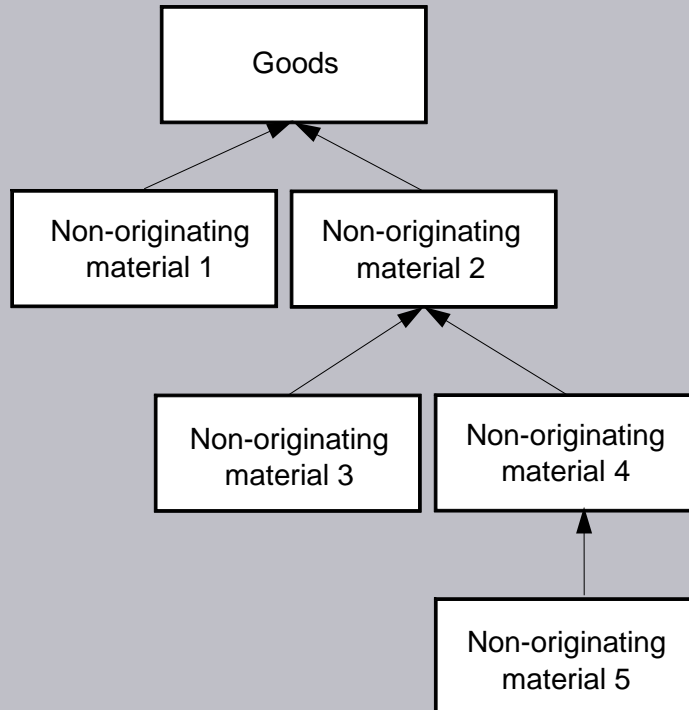
Because non-originating material 'B' does not make the required change of tariff classification, the finished good will not qualify unless the value of non-originating material 'B' is no more than 10% of the customs value of the good.

The good is valued at \$100 and the value of non-originating material 'B' is \$5. The value of non-originating material 'B' is 5% of the customs value of the good, therefore the good is considered Trans-Pacific Partnership originating.

Example: Application of Section 5 of CPTPP ROO Regulations (Repeated Applications of the Change in Tariff Classification requirement)

The following diagram explains how the CTC requirement is applied through repeated applications. All processes are undertaken in a CPTPP party.

Final goods are produced from non-originating materials 1 and 2



First application of paragraph 5(b)

Non-originating materials 1 and 2 must satisfy the CTC requirement. Under paragraph 5(a), the transformation of non-originating material 1 satisfies the relevant CTC requirement. However, under paragraph 5(b), the transformation of non-originating material 2 into the goods does not satisfy the CTC requirement, but is produced from non-originating materials 3 and 4.

Second application of paragraph 5(b)

Non-originating materials 3 and 4 must satisfy the CTC requirement. Under paragraph 5(a), the transformation of non-originating material 3 satisfies the relevant CTC requirement. However, under paragraph 5(b), the transformation of non-originating material 4 does not satisfy the CTC requirement, but is produced from non-originating material 5.

Third application of paragraph 5(b)

For non-originating material 4 to be originating, non-originating material 5 must satisfy the CTC requirement. Under paragraph 5(a), the transformation of non-originating material 5 into non-originating material 4 satisfies the CTC requirement.

Final result

The result of the three applications of paragraph 5(b) is that the goods produced from non-originating materials 1 and 2 are originating goods. This is because the three applications of paragraph 5(b) would result in all materials (being non-originating materials 1 to 5) satisfying the change in tariff classification requirement and therefore transformed into originating materials.

6.3. RVC

6.3.1. Part 3 of the CPTPP ROO Regulations prescribe different methods for working out the RVC of goods. CPTPP contains PSRs with a variety of requirements:

- a. a RVC requirement in addition to the CTC requirement. In these cases, the goods will need to satisfy both the CTC requirement and the specified RVC requirement to qualify as a Trans-Pacific Partnership originating good.

Column 1	Column 2
Tariff classification	Product Specific Rule
64.05	A change to a good of heading 64.05 from any other heading, except from heading 64.01 through 64.04, subheading 6406.10 or assemblies of uppers other than of wood of subheading 6406.90 provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 55 per cent under the build-down method.

- b. a RVC requirement as an alternative to a CTC requirement.

Column 1	Column 2
Tariff classification	Product Specific Rule
15.10	A change to a good of heading 15.10 from any other chapter; or No CTC required for a good of heading 15.10, provided there is a regional value content of not less than 40 per cent under the build-down method.

- c. a specific RVC formula be used.

Column 1	Column 2
Tariff classification	Product Specific Rule
8516.60	No CTC required for a good of subheading 8516.60, provided there is a RVC of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 85.16 and assemblies with outer housing and supports of subheading 8537.10.

6.3.2. Part 3 of CPTPP ROO Regulations sets out four methods for calculating RVC. If a PSR specifies a particular method of calculation be used, then the goods must meet or exceed the RVC percentage using that calculation method. Where multiple methods are provided in a PSR, there is no requirement to use one method in favour of another, that is, it is at the discretion of the person providing the Certification of Origin to decide which method to use.

Focused value method (section 6 of the CPTPP ROO Regulations):

$$RVC = \frac{\text{Customs value} - \text{Value of specified non-originating materials}}{\text{Customs value}} \times 100$$

where:

'customs value' means the customs value of the goods worked out under Division 2 of Part VIII of the Customs Act; and

'value of specified non-originating materials' means the value, worked out under Part 4 of the CPTPP ROO Regulations, of the non-originating materials that:

- a. are specified in the second column of the table in Annex 3-D to Chapter 3 of CPTPP that applies to the goods, to the extent that column refers to the focused value method; and
- b. are used in the production of the goods.

Example: Focused value method

A manufacturer in a Party to CPTPP makes wired glass sheets classified to 7005.30, from cast glass of 7003.10 and steel wire of 7217 that are imported from Brazil (a non-party). The wired glass sheets are sold to an Australian importer for the equivalent of AUD200 each (excluding international shipment costs). The imported cast glass costs the manufacturer the equivalent of AUD18/kg, with each sheet of wired glass using five kilos of cast glass. Cost of originating materials and production processes are AUD40 per sheet. Annex 3-D to Chapter 3 of CPTPP identifies that the 'focused value' PSR for cast glass of 7003.10 is:

50 per cent under the focused value method taking into account only the non-originating materials of heading 70.03 through 70.05

Using the focused value method:

$$RVC = \frac{\text{Customs value (AUD200)} - \text{Value of specified non-originating materials (5kg x AUD18)}}{\text{Customs value (AUD200)}} \times 100$$

$$\frac{200 - 90}{200} \times 100 = 55$$

RVC = Customs value (AUD200) – Value of specified non-originating material

Despite the wire also being non-originating, only the non-originating cast glass is taken into account under the focused value method.

Therefore, the RVC for the wired glass sheets is 55 per cent and they are therefore considered Trans-Pacific Partnership originating goods.

Build-Down Method (section 7 of the CPTPP ROO Regulations):

$$\frac{\text{Customs value} - \text{Value of non-originating materials}}{\text{Customs value}} \times 100$$

where:

customs value means the customs value of the goods worked out under Division 2 of Part VIII of the Customs Act.

VNM means the value, worked out under Part 6, of the non-originating materials used in the production of the goods.

Build-Up Method (section 8, of the CPTPP ROO Regulations):

$$\frac{\text{Value of originating materials}}{\text{Customs value}} \times 100$$

where:

customs value means the customs value of the goods worked out under Division 2 of Part VIII of the Customs Act.

VOM means the value, worked out under Part 6, of the originating materials used in the production of the goods.

Net cost method (section 9 of the CPTPP ROO Regulations):

$$\text{RVC} = \frac{\text{Net cost} - \text{Value of non-originating materials}}{\text{Net cost}} \times 100$$

where:

'net cost' means the net cost of the goods worked out in accordance with Article 3.9 of Chapter 3 of CPTPP. This article specifies net cost to mean:

“total cost minus sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost”; and

VNM means the value, worked out under Part 4, of the non-originating materials used in the production of the goods.

The net cost method is a complicated method for calculating RVC that applies to a relatively small number of tariff lines, principally motor vehicles and motor vehicle materials. Readers are referred to the treaty text for more information about what costs can be attributed to the net cost of the good.

6.4. Full Accumulation using RVC

Example of calculating RVC using Full Accumulation

Company “A” in Canada imports inner and outer bearing rings (HS 8482.99) from India and further processes them into finished ring bearings (HS 8482.30). As the finished bearings contain non-originating materials, they must satisfy the PSR for CPTPP to be considered originating.

The PSR for HS 8482.99 is CTSH except from “inner or outer rings or races of subheading 8482.99”; or a “regional value content of not less than:

- (a) 30 per cent under the build-up method; or
- (b) 40 per cent under the build-down method”.

As the unfinished bearing rings are classified to a subheading that is excluded by the PSR, the CTC rule cannot be used. Accordingly, the finished bearings cannot be considered originating, even though they contain some regional value content by virtue of the labour, other costs and profit associated with the finishing operations in Canada.

Company A’s per unit cost is:

Non-originating Materials (8482.99)	\$1.35
Originating materials	\$0.15
Labour	\$0.35
Other costs	\$0.05
Profit	\$0.15
VALUE	\$2.05

Using the **build-down method**, the value added in Canada is 34% and therefore does not meet the RVC(BD) for that good. Using the **build-up method**, the value added in Canada is 29% and also does not meet the RVC(BU) for the good.

Nevertheless, the finished bearings are exported to a Mexican manufacturer (Company B) for \$2.05 each, where they are included in a wheel assembly for a non-motorised (toy) scooter (8714.93) that is constructed with non-originating wheel rims and spokes of 8714.92. Company B exports the wheel assembly to Company Oz in Australia – a toy scooter manufacturer- which wants to claim the TPP-tariff concession agreed to under CPTPP.

As Company B used excluded content in creating the wheel assemblies, CTC cannot be used. However, the PSR allows for origin to be conferred if the wheel bearings are non-originating, if there is a RVC of not less than:

- (a) 35 per cent under the build-up method; or
- (b) 45 per cent under the build-down method; or
- (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 87.14.

Company C has details of the cost of the wheel assemblies as follows:

Non-originating Materials (from Company A)	\$1.35
Originating content (from Company A)	\$0.55
Profit Company A	\$0.15
Non-Originating materials Company B (8714.92)	\$1.70
Overheads and other costs Company B	\$0.75
Labour Company B	\$0.60
Profit Company B	\$0.50
VALUE	\$5.30

The RVC can be calculated in two ways as per the PSR.

Build Down:

$$\frac{\text{Customs Value } (\$5.30) - \text{NOM } (\$3.05)}{\text{Customs Value } (\$5.30)} \times 100 = 42\%$$

Build Up:

$$\frac{\text{VOM (Company A) } (\$0.55) + \text{VOM (Company B) } (\$1.25)}{\text{Customs Value } (\$5.30)} \times 100 = 36\%$$

Using the **build-down method**, the CPTPP RVC(BD) for the wheel assembly is 42% deducting the value-add undertaken in the CPTPP regions. Because the value of the non-originating materials is relatively high, the wheel assembly does not qualify under the build-down method.

However, under the **build-up** method using Full Accumulation, Company C can add the costs of any production (including overheads) undertaken on non-originating materials to the costs of any originating materials (provided they have documentary evidence of these costs). The large amount of value that has been added to the non-originating materials in Parties to CPTPP has 'accumulated' to the point where the final goods are eligible for preferential tariff treatment under the build-up formula. This would not have occurred without CPTPPs accumulation provisions as the value of production that occurred in Canada on the unfinished bearings would have been 'lost'.

So Company Oz can claim the bearings as originating by aggregating the RVC of both Company A and Company B.

6.5. Annex 3-D Chemical Process rules

Chapter 27 specific rules

- 6.5.1. Annex 3-D specifies that, aside from the product-specific rules, a good from Chapter 27 through to 39, can be considered an originating good if a chemical reaction has occurred in one or more CPTPP Parties.
- 6.5.2. For the purposes of this rule, a “chemical reaction” is a process in which a molecule forms a new structure by breaking intramolecular bonds and forms new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.
- However the following are not considered chemical reactions:
- dissolving in water or other solvents;
 - the elimination of solvents, including solvent water; or
 - the addition or elimination of water of crystallization.
- 6.5.3. Chapter 27 Heading Note 1 through 3 of Annex 3-D specifies that, notwithstanding the applicable product-specific rules of origin, there are two chemical process rules in Chapter 27 that can confer origin of a good and one rule that facilitates transportation of specific products between parties.
- 6.5.4. Heading Note 1 under Chapter 27 in Annex 3-D to Chapter 3 deals with the **Distillation Rule**. Notwithstanding the applicable PSR, a good of heading 27.10 of the HS that undergoes atmospheric distillation or vacuum distillation in the one or more of the Parties to CPTPP is an originating good.
- 6.5.5. For the purposes of this rule:
- Atmospheric distillation means a separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapour then condensed into different liquefied fractions. Goods produced from petroleum distillation may include liquefied petroleum gas, naphtha, gasoline, kerosene, diesel/heating oil, light gas oils and lubricating oil; and
 - Vacuum distillation means distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation. Vacuum distillation is used for distilling high-boiling and heat-sensitive materials such as heavy distillates in petroleum oils to produce light to heavy vacuum gas oils and residuum. In some refineries, gas oils may be further processed into lubricating oils.
- 6.5.6. Chapter 27 Heading Note 2: **Direct Blending rule**. Notwithstanding the applicable product-specific rules of origin, a good from heading 27.10 of the HS produced using direct blending, is an originating good if the direct blending process occurred in one or more CPTPP Parties.
- 6.5.7. For the purpose of this rule direct blending means a process where various petroleum streams from processing units or petroleum components from holding or storage tanks are combined to produce goods with pre-determined parameters, where the non-originating materials of heading 27.10 of the HS constitute no more than 25 per cent by volume of the goods and no component of that non-originating material is classified under heading 22.07.

6.5.8. Chapter 27 Heading Note 3: **Diluent Rule.** For the purposes of determining whether or not a good of heading 27.09 is an originating good, the origin of diluent of heading 27.09 or 27.10 that is used to facilitate the transportation between Parties of crude petroleum oils and crude oils obtained from bituminous minerals of heading 27.09 is disregarded, provided that the diluent constitutes no more than 40 per cent by volume of the good.

Chemical Process Rules for Chapters 28 to 38

6.5.9. Section Note 1 to Annex 3-D specifies that, notwithstanding the applicable product-specific rules of origin, there are five chemical process rules in Chapter 28 to 38 that can confer origin of a good.

Purification rule

6.5.10. Section Note 2 to Annex 3-D allows any good from Chapters 28 to 35, or Chapter 38, to be an originating good if that purification occurred in one or more CPTPP Parties where at least 80 per cent of the existing impurities have been eliminated. Purification may be achieved through a range of methods such as electrolysis, evaporation, and centrifugation.

Mixing and blending rule

6.5.11. Section Note 3 to Annex 3-D a good from Chapters 30 or 31, or heading 33.02 or 37.07, to be originating if there has been a process of deliberate and proportionally controlled mixing or blending (including dispersing) of materials to achieve predetermined specifications in one or more CPTPP Parties. Mixing and blending can apply pharmaceuticals, printing material and cosmetics.

Change in particle size rule

6.5.12. Section Note 4 to Annex 3-D allows a good from Chapter 30 or 31, or subheading 3204.17 or heading 33.04 to be originating if there has been a process of deliberate and controlled reduction or modification of a particle size of a good, other than by merely crushing (or pressing) to produce a defined particle size distribution or defined surface area, which give a good a different physical or chemical characteristics from the original input materials. Changing the particle size can include processes for plastic, pharmaceutical and fertiliser products.

Standard materials rule

6.5.13. Section Note 5 to Annex 3-D allows a good from Chapters 28 to 38 of the HS, other than headings 35.01 to 35.05 and subheading 3824.60, to be originating if there has been a processed to produce a certified reference materials. The 'control' or 'standard' would be a small amount used to check the quality of products, to validate analytical measurement methods, or to calibrate instruments.

Isomer separation rule

6.5.14. Section Note 6 to Annex 3-D allows a good from Chapters 28 to 38, to be originating if it was produced from the isolation or separation of chemical compounds with the same molecular formula but a differing structural formula, known as isomers.

6.6. Value of materials

- 6.6.1. Several provisions in CPTPP, including articles 3.7 and 3.8 and the calculation of RVC, rely on the value attributed to the goods or materials. For this reason, correct calculation of 'value' is critical to ensuring that the goods meet any PSR requirements.
- 6.6.2. In accordance with CPTPP, the value of the goods or materials is determined pursuant to Part 4 of the CPTPP ROO Regulations. Generally speaking, the value of materials is first determined as a 'gross' figure, which is then 'adjusted' up or down based on various allowances that are determined in the treaty. The 'gross' value is initially determined by the source of the goods or materials which (almost by definition) must either have been directly produced in that territory, imported into that territory, or acquired (bought from the importer or local producer) in that territory.

'Gross' value

- 6.6.3. If the material (regardless of whether it was originating or non-originating) was imported into Australia (or a Party to CPTPP) by the *producer of the goods*:
- a. Paragraph 10(2)(a) of the CPTPP ROO Regulations provides that the value of the materials is to be worked out in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.
 - b. Subsection 10(3) of the CPTPP ROO Regulations requires the costs incurred in the international shipment of the materials to be included in the calculation if it is not otherwise included e.g. if the value of the materials is calculated on a 'Free-On-Board' (FOB) basis.

OR

- 6.6.4. If the materials (regardless of whether it was originating or non-originating) were acquired (bought) in the territory of a Party where the goods are produced, paragraph 10(2)(b) of the CPTPP ROO Regulations provide that the value is:
- a. the price paid or payable for the materials by the producer of the goods; or
 - b. the value of those materials is worked out under paragraph 10(2)(a) of the CPTPP ROO Regulations on the assumption that those materials had been imported into the territory of the Party by the producer of the goods; or
 - c. the earliest ascertainable price paid or payable for the materials in the territory of the Party.

OR

- 6.7. If the materials were produced in a Party or Parties by the producer of the goods, paragraph 10(2)(c) of the CPTPP ROO Regulation provides that the value of the goods or materials is:
- a. all the costs incurred in the production of the materials, including general expenses. ;
and
 - b. an amount that is the equivalent of the amount of profit that the producer would make for the materials in the normal course of trade or of the amount of profit that is usually reflected in the sale of goods of the same class or kind as the materials,

Deductable or includable costs

- 6.7.1. For originating materials, the following costs can be included in the value of the materials (provided they were not otherwise included in the value worked out above).
- a. the costs of freight, insurance, packing and all other costs incurred to transport any originating materials to the producer of the goods;
 - b. duties, taxes and customs brokerage fees on the originating materials that:
 - i. have been paid in the territory of one or more of the Parties; and
 - ii. have not been waived or refunded; and
 - iii. are not refundable or otherwise recoverable;including any credit against duties or taxes that have been paid or that are payable;
 - c. the costs of waste and spoilage resulting from the use of the originating materials in the production of the goods, reduced by the value of reusable scrap or by-products.
- 6.7.2. For non-originating materials, the following costs can be deducted from the value of the non-originating materials (provided they were not otherwise included in the value worked out above).
- a. the costs of freight, insurance, packing and all other costs incurred to transport any originating materials to the producer of the goods;
 - b. duties, taxes and customs brokerage fees on the originating materials that:
 - i. have been paid in the territory of one or more of the Parties; and
 - ii. have not been waived or refunded; and
 - iii. are not refundable or otherwise recoverable;including any credit against duties or taxes that have been paid or that are payable;
 - c. the costs of waste and spoilage resulting from the use of the originating materials in the production of the goods, reduced by the value of reusable scrap or by-products.
- 6.7.3. Where value is being calculated for RVC purposes (only), the following are deductible from VNM:
- a. the costs of production undertaken on non-originating materials incurred in a CPTPP party (as per CPTPP Article 3.10(3)); and
 - b. the value of any originating material used in the production of non-originating material incurred in a CPTPP party (as per CPTPP article 3.6(2)(b)).
- 6.7.4. Costs can only be deducted or included (as applicable) once (i.e. double counting of costs is not allowed) and only where can be separately identified with documentary evidence.

6.8. Supplementary value and origin provisions

Value of accessories, spare parts or tools

- 6.8.1. Articles 3.13 of Chapter 3 of CPTPP sets out rules for goods that are accessories, spare parts, tools or instructional or other information materials. These are reflected in paragraphs 153ZKX(10)(a), (b), (c) and (d) of the Customs Act and section 11 of the CPTPP ROO Regulations.
- 6.8.2. Where goods are imported into Australia with accessories, spare parts, tools or instructional or other information materials, which have been classified with, delivered with and not invoiced separately from the goods; and where the types, quantities and value of the accessories, spare parts, tools or instructional or other information materials are customary for the goods, section 11 of the CPTPP ROO Regulations provides that:
- (a) If the goods must meet a PSR that is based on RVC, the value of the accessories, spare parts, tools or instructional or other information materials must be taken into account for the purposes of working out the RVC of the goods; and
 - (b) if the accessories, spare parts, tools or instructional or other information materials are non-originating materials, those accessories, spare parts, tools or instructional or other information materials are taken to be non-originating materials used in the production of the goods for the purposes of calculating their VNM for input into the RVC; and
 - (c) if the accessories, spare parts, tools or instructional or other information materials are originating materials, those accessories, spare parts, tools or instructional or other information materials are taken to be originating materials used in the production of the goods for the purposes of calculating their VOM for input into the RVC.

Indirect materials

6.8.3. Indirect materials are defined as:

- a. goods or energy used in the production, testing or inspection of goods, but not physically incorporated in the goods; or
- b. goods or energy used in the maintenance of buildings or the operation of equipment associated with the production of goods;

including:

- c. fuel (within its ordinary meaning); and
- d. tools, dies and moulds; and
- e. spare parts and materials; and
- f. lubricants, greases, compounding materials and other similar goods; and
- g. gloves, glasses, footwear, clothing, safety equipment and supplies; and
- h. catalysts and solvents.

6.8.4. In accordance with Article 3.16 of Chapter 3 of CPTPP, and the definition of “originating material” under subsection 153ZKU(1) of the Customs Act, all indirect materials used in the production of Trans-Pacific Partnership originating goods or materials are treated as originating materials regardless of their origin.

Example: indirect materials

Japanese workers use tools and safety equipment, produced in Korea, while operating the equipment assembling the engines. The use of the tools and safety equipment meets the terms of the definition of “Indirect materials” and are therefore considered to be originating materials.

Packaging materials and containers for retail sale

6.8.5. Section 153ZKY of the Customs Act outlines the treatment to be given to packaging materials and containers in which imported goods are packaged for retail sale for the purposes of determining the origin of the goods.

6.8.6. Subsection 153ZKY(1) states that if:

- a. goods are packaged for retail sale in packaging material or a container; and
- b. the packaging material or container is classified with the goods in accordance with Rule 5 of the Interpretation Rules;

then the packaging material or container is to be disregarded for the purposes of determining the origin of the goods subject to a CTC rule.

6.8.7. If, however, the PSRs require the goods to have a RVC of at least a specified percentage under a particular method, the value of the packaging material or container has to be taken into account as originating materials or non-originating materials, as the case may be, for the purposes of working out the regional value content of the goods (see example below).

Example: Packaging materials and containers

Dolls of heading 9503 are made in a Party to CPTPP. The dolls are wrapped in tissue paper and packed in cardboard boxes inscribed with the brand logo for retail sale. Both the tissue paper and the cardboard box are of Indonesian origin.

The PSR for 9503 is:

either:

- a. a change to heading 9503 from any other heading (CTH); or
- b. no change in tariff classification is required provided that there is a RVC of at least 40 per cent (RVC40).

The tissue paper and cardboard box are disregarded for the purpose of the CTC requirement; however, their value **must** be counted as non-originating in calculating the RVC, if used.

7. Procedures and evidence required to claim preferential tariff treatment

Section B of 'Chapter 3: Rules of Origin and Origin Procedures' of CPTPP outlines origin procedures.

7.1. Certification of Origin

- 7.1.1. A core requirement for goods to be considered Trans-Pacific Partnership originating goods is, apart from meeting the relevant rule of origin (wholly obtained, produced entirely or PSR) that importer of the goods (who is making a claim for preferential tariff treatment) has, at the time the goods are imported, a certification of origin, or a copy of one, for the goods; or that Australia has waived the requirement for certification of origin. These requirements are detailed in subsections 153ZKV, 153ZKW and 153ZKX of the Customs Act.
- 7.1.2. A certification of origin is completed by the exporter, producer or importer¹. Article 3.20 details the requirements of a certification of origin, including those set out in Annex 3-A (other arrangements). This Article, amongst other matters, specifies that while there is no prescribed format, the CoO must adhere to the following principles:
- be in writing, including electronic format;
 - specify that the good is both originating and meets the requirements of Chapter 3 of CPTPP; and
 - contains a set of minimum data requirements (specified below).
- 7.1.3. A certification of origin is valid for one year after the date it was issued and it can apply to a single shipment of a good; or multiple shipments of identical goods within any period specified in the certification of origin, but not exceeding 12 months. This is referred to as the 'blanket period' in item 8 of the list of minimum data requirements for a CoO below.
- 7.1.4. For the purposes of the 'blanket period CoO' 'identical goods' means goods that meet the same rule of origin and the same six digit HS code. For example, a plain cotton shirt and checked shirt could be considered identical despite the pattern and potential size difference if the RoO and HS code are the same. Goods that are claimed to be 'identical' but that meet different rules of origin – e.g. where one shipment meets a PSR based on RVC(BU) and the other meets on the basis of RVC(BD) or CTC, cannot be considered as identical. Likewise, if the claimed 'identical goods' do not match the description of the CoO, they must match the rule of origin and the six digit HS code under a blanket period CoO.

¹ A party that has 'activated' Annex 3-A can require a TPP-11 COO to be issued by a competent authority. As at the date of this guide, no parties had activated Annex 3-A.

7.1.5. Minimum data requirements are specified in Annex 3-B to Chapter 3 of CPTPP, and state that a certification of origin must contain the following elements:

1. Indicate whether the certifier is the Importer, Exporter or Producer
2. Name, address (including country), telephone number and e-mail address of the certifier;
3. If different from the certifier, name, address (in a CPTPP country), telephone number and e-mail address of the exporter
 - a. This is not required if the producer is completing the certification of origin and the identity of the exporter is unknown).
4. If different from the certifier or exporter, name, address (including CPTPP country) of the place of production, telephone number and e-mail address of the producer.
 - a. For multiple producers please state 'Various' or provide a list,
 - b. As an alternative, the following is also acceptable: 'Available on request by the importing authorities';
5. Name, Address (including country), telephone number and e-mail address of the importer (if known at the time of certification);
6. Description of goods, HS Tariff Classification of the good to the six-digit level and invoice number for certifications of origin for single shipments;
7. Specify the ROO under which the good qualifies (WO, WP or PSR);

WO	Goods wholly obtained or produced entirely in a party or parties to CPTPP in accordance with the Customs Act, Division 1GB, Subdivision B.
WP	Produced entirely in a party or parties to CPTPP, from originating materials only, in accordance with the Customs Act, Division 1GB, Subdivision C.
PSR	Goods produced in a party or parties to CPTPP from non-originating materials, in accord with Division 1GB Subdivision D; and meets the PSR requirement in Annex 3-D or Annex 4-A'.

8. Blanket Period, including the period (if the certification covers multiple shipments of identical goods for a specified period of up to 12 months);
9. The certification must be signed and dated by the certifier and accompanied by the following statement:

I certify that the goods described in this document qualify as originating and the information contained in this document is true and accurate. I assume responsibility for proving such representations and agree to maintain and present upon request or to make available during a verification visit, documentation necessary to support this certification.

7.2. Minor errors

- 7.2.1. Article 3.22 of Chapter 3 to CPTPP provides that Australia shall not reject a Certification of Origin CoO due to “minor errors or discrepancies in the certification of origin”. This article is implemented under policy by the Australian Border Force. The Australian Border Force expects traders to self-assess as to the extent of any errors or discrepancies on the CoO. As a guide, minor errors and discrepancies include:
- a. Spelling or grammatical errors in the Certification of Origin;
 - b. Small omissions of characters in the Certification of Origin
 - c. Different units of measurements stated in the Certification of Origin and the supporting documents such as invoices and packing lists, providing that this is consistent with the actual goods; and
 - d. Additional incorrect information that does not influence the reliability of the Certification of Origin.
 - e. Differences in the PSR requirements between the HS code on the CoO and the HS code in the import declaration provided both the PSR is not different and the rate of duty between the HS codes is the same.
- 7.2.2. It should be noted that, as the importer, exporter or producer could issue the CPTPP CoO on the basis of evidence that the goods are Trans-Pacific Partnership originating goods, a minor error discrepancy may easily be corrected by reissuing a new CoO or amending the original CoO as required.
- 7.2.3. Where persons fraudulently alter COOs or importation documentation for the purposes of gaining a preferential rate of duty, appropriate treatments will be applied by the ABF. Treatments can range from a demand for outstanding duties, warnings, the issuing of infringement notices and prosecutions for more serious and systemic breaches.

7.3. Waiver of requirements for CPTPP Certification of Origin

- 7.3.1. Under Article 3.23 of Chapter 3, importers of Trans-Pacific Partnership originating goods do not require a certification of origin for the goods in a limited set of circumstances:
- a. Where the goods have a customs value not exceeding the equivalent of \$1000USD in Australian Dollars (at the time of making the claim for preferential tariff treatment for the goods) do not require a Certification of Origin provided that they are not part of a series of importations carried out or planned for the purpose of evading compliance with Australian laws governing claims for preferential treatment under CPTPP; and
 - b. When Australia has chosen to waive the requirement for the importer to hold a Certification of Origin. At the time of publication of this Guide, there were no circumstances under which Australia was making ‘blanket’ waivers of Certification of Origin. Importers may request a waiver of the Certification of Origin requirements for individual goods in writing to origin@homeaffairs.gov.au.

7.4. Refunds of paid duty

- 7.4.1. Items 8C and 8D of the table under section 23 of the International Obligations Regulations set out the circumstances under which duty can be refunded if it has been paid for goods that are or would have been Trans-Pacific Partnership originating goods at the time of importation. These items give effect to Article 3.29 of Chapter 3 of CPTPP.
- 7.4.2. In short, importers may be entitled to a refund of paid duties if:
- a. they had a valid Certification of Origin at the time of importation of the goods but (for whatever reason) paid the duty on the goods; or
 - b. duty was paid on goods that are, or would have been, Trans-Pacific Partnership originating goods, because a valid certification of origin, or copy of one, was not available at the time the goods were imported.
- In this case, the importer may claim a refund for the customs duty paid on those goods if they hold a valid Certification of Origin at the time of making the application for refund or, in the absence of this, can provide alternative evidence that supports a claim that the goods are Trans-Pacific Partnership originating goods as per the requirements of Part VIII, Division 1G of the Customs Act.
- 7.4.3. Section 28 of the International Obligations regulations requires an application for a refund of duty to be made within four years after the day on which the duty was paid.
- 7.4.4. The Refund Reason Code to be used to apply for a refund of duties paid in excess under the TPP is **23A8C**.
- 7.4.5. More information about refunds of duty can be found at www.abf.gov.au.

8. Record keeping obligations and compliance

8.1. Record keeping obligations

- 8.1.1. Producers and exporters of Trans-Pacific Partnership originating goods from Australia, for which preferential rates of duty may be claimed as agreed under CPTPP, must comply with the record keeping obligations of the treaty and within the customs legislation.
- 8.1.2. The type of records that must be kept varies depending on whether the record-keeper is a producer or exporter. These are summarised in the table below. If a producer is also the exporter, they will have to keep records applicable to both positions in the supply chain.
- 8.1.3. Importers of Trans-Pacific Partnership originating goods must also keep records of the purchase of the goods from the exporter or producer.
- 8.1.4. A person who is required to keep a record under this Division in relation to goods may keep the required records at any place (whether or not in Australia) in any form, including in electronic form.

8.1.5. A record must:

- a. be kept for a period of at least five years starting the certification of origin (within the meaning of section 153ZKU of the Customs Act) for the goods is issued.
 - a. on the day the certification of origin (within the meaning of section 153ZKU of the Act) was issued by the exporter or producer; or
 - b. from the date of importation of the good by the importer
- b. be kept in a form that would enable a determination of whether the goods are Trans-Pacific Partnership originating goods in accordance with CPTPP; and
- c. if the record is not in English — is kept in a place and form that would enable an English translation to be readily made; and
- d. if the record is kept electronically — is readily convertible into a hard copy in English.

Records to be kept by producers and exporters of goods to a CPTPP party

Item	Records	Producer	Exporter
1.	Records of the purchase of the goods	✓	✓ <i>iii</i>
2.	Records of the purchase of the goods by the person to whom the goods are exported		✓
3.	Evidence of the classification of the goods under the Harmonized System	✓ <i>v</i>	✓
4.	Evidence that payment has been made for the goods	✓	✓
5.	Evidence of the value of the goods	✓	✓
6.	Records of the purchase of all materials that were purchased for use or consumption in the production of the goods and evidence of the classification of the materials under the Harmonized System	✓	
7.	Evidence of the value of those materials	✓	
8.	Records of the production of the goods	✓	
9.	If the goods include any accessories, spare parts, tools or instructional or other information materials that were purchased:	✓	✓
	a. records of the purchase of the accessories, spare parts, tools or instructional or other information materials; and	<i>i</i>	<i>iii</i>
	b. evidence of the value of the accessories, spare parts, tools or instructional or other information materials		
10.	If the goods include any accessories, spare parts, tools or instructional or other information materials that were produced:	✓	✓
	a. records of the purchase of all materials that were purchased for use or consumption in the production of the accessories, spare parts, tools or instructional or other information materials; and	<i>ii</i>	<i>iv</i>
	b. evidence of the value of the materials so purchased; and		
	c. records of the production of the accessories, spare parts, tools or instructional or other information materials		
11.	If the goods are packaged for retail sale in packaging material or a container that was purchased:	✓	✓
	a. records of the purchase of the packaging material or container; and	<i>i</i>	<i>iii</i>
	b. evidence of the value of the packaging material or container		

Records to be kept by producers and exporters of goods to a CPTPP party

Item	Records	Producer	Exporter
12.	If the goods are packaged for retail sale in packaging material or a container that was produced:	✓	✓
	a. records of the purchase of all materials that were purchased for use or consumption in the production of the packaging material or container; and	<i>ii</i>	<i>iv</i>
	b. evidence of the value of the materials; and		
	c. records of the production of the packaging material or container		
13.	A copy of the certification of origin (within the meaning of section 153ZKX of the Act) in relation to the goods	✓	✓
Notes	<i>i. If purchased by the producer</i>		
	<i>ii. If produced by the producer</i>		
	<i>iii. If purchased by the exporter</i>		
	<i>iv. If produced by the exporter</i>		
	<i>v. If the producer is also the exporter</i>		

8.2. Compliance

8.2.1. Under the Customs Act (sections 240AA, 240AB and 240AC) the Australian Border Force (ABF) may seek further evidence of preference entitlement irrespective of the existence of a certification of origin, through:

- a. written requests for information from the importer;
- b. written requests for information from the exporter or producer of the exporting Party;
- c. verification visits to the premises of the exporter or the producer in a Party to CPTPP to allow Australian Border Force officers to observe the facilities and the production processes of the good, and to review the records referring to origin — including accounting records.

8.2.2. The ABF may deny a claim for preferential tariff treatment if:

- a. it determines that the good does not meet the requirements of Division 1GB of Part VIII of the Customs Act to qualify for preferential treatment; or
- b. the importer, exporter, producer or authorised agent fails to comply with the relevant requirements of the Act such as subparagraph 153ZKZA of the Customs Act; or
- c. after seeking further information under sections 240AA, 240AB and 240AC of the Customs Act, the ABF does not:
 - i. receive sufficient information to determine that the good qualifies as originating; or
 - ii. receive written consent to conduct a verification visit from the exporter or producer, after receipt of written notification for a verification visit; or
 - iii. receive a response to the request at subparagraph 'i' above;

8.2.3. If the ABF finds that preferential rates of duty are not applicable or there is insufficient evidence to justify a claim for preferential rates of duty, the general rate of duty is payable and the importer will be liable for payment of any customs duty that has been short-paid.

- 8.2.4. In addition, an offence may have been committed against subsections 243T(1) or 243U(1) of the Customs Act. In this event, application of financial penalties under the Infringement Notice Scheme or prosecution will be considered by the ABF.
- 8.2.5. If, after making a claim for preferential tariff treatment, the importer becomes aware that the goods were ineligible for preferential rates of duty, the importer must, as soon as practicable, amend the import declaration and pay the Department any short-fall amount of customs duty. This action will protect an importer against any liability for an offence under subsections 243T(1) or 243U(1) of the Customs Act, if the amendment is considered a voluntary disclosure as explained in Australian Customs Notice (ACN) 2004/05.
- 8.2.6. Where a short payment results from incorrectly claimed preferential rates of duty, an importer may be protected from liability for an offence against subsection 243T(1) or 243U(1) of the Customs Act, if, at the time of entry of the goods, the importer holds:
- a. A certification of origin that states a particular preference criterion of Division 1GB of Part VIII of the Customs Act has been met; or
 - b. Evidence of the relevant factory processes and costs of the overseas manufacturer that indicate the goods in question were eligible for preferential rates of duty.
- 8.2.7. The protection will not apply where:
- a. Other information available to the importer indicated that the statement on the certification of origin was incorrect or unreliable;
 - b. The certification of origin could not be clearly related to the goods in question.
- 8.2.8. Under CPTPP, the customs authority of an importing Party may conduct a site visit to verify whether an Australian exporter exported textile or apparel goods that qualifies for preferential tariff treatment under CPTPP. More detailed information about the conditions under which such a visit could occur and obligations and rights of both Australian manufacturers or producers of such goods and the customs authority of the importing party conducting the verification visit are at Article 4.6 of CPTPP.
- a. Under CPTPP, Australian Border Force officers are obliged to assist counterparts from a CPTPP customs authority of the importing party with investigations they may be conducting, and may accompany these officers on any verification visits.
 - b. Under paragraph (8)(c) of Article 4.6 of Chapter 4 to CPTPP, the customs authority of the importing party is required to provide the Australian exporter or producer whose site was visited, with a written report of the results of the visit including any findings, no later than 90 days after the date of a written request for such a report.
- If the written report indicates the customs authority intends to deny preferential tariff treatment to a textile or apparel good, before a final decision is taken, it is required to provide the importer and any Australian exporter or producer with an additional 30 days to submit additional information to support the claim for preferential tariff treatment.

9. Related policies and references

9.1. Practice statements

- Free Trade Agreement Rules of Origin

9.2. Other policies and references

- B_INT02/3 Australia-New Zealand Closer Economic Relations Trade Agreement
- B_INT02/5 Australia-United States Free Trade Agreement
- B_INT02/6 Preferential Rules of Origin (General)
- B_INT02/2 Comprehensive and Progressive Agreement for Trans-Pacific Partnership
- B_INT02/8 Thailand-Australia Free Trade Agreement
- ASEAN-Australia-New Zealand Free Trade Agreement
- B_INT02/1 Malaysia-Australia Free Trade Agreement
- B_INT02/4 Korea- Australia Free Trade Agreement
- B_INT02/10 Japan-Australia Economic Partnership Agreement
- 2015/041097-01 China-Australia Free Trade Agreement

9.3. Related references

- Instructions and Guidelines — Preferential Rules of Origin (General)
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)
- *Customs Tariff Act 1995*
- *Customs Tariff Regulations 2004*
- *Customs Tariff Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Implementation) Act 2018*
- *Customs Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Implementation) Act 2018*
- *Customs Act 1901*
- *Customs (International Obligations) Regulation 2015*
- *Customs (Trans-Pacific Partnership Rules of Origin) Regulation 2018*
- *Customs Tariff Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation) Regulations 2018*
- *The Australian Border Force Act 2015*