

TRANS-PACIFIC SEP

Trans-Pacific Strategic Economic Partnership Agreement GUIDE TO RULES OF ORIGIN

The Trans-Pacific Strategic Economic Partnership Agreement (“Trans-Pacific SEP”), an FTA between Singapore, Brunei, Chile and New Zealand, was signed in August. On 01 May 2006, the Agreement will come into force between Singapore, Brunei and New Zealand. Chile is expected to implement the agreement soon.

Under the Trans-Pacific SEP, Singapore, Chile and New Zealand will offer tariff concessions on 100% of their HS lines. Brunei’s tariff concessions will exclude a short list of sensitive products such as alcohol and alcoholic chemicals, tobacco, firearms and opium, amongst others. The full list of the tariff concessions of these countries may be found in Annex I of the Trans-Pacific SEP.

Tariff preference for Singaporean imports into Brunei, New Zealand and Chile is only given to goods originating in Singapore. Goods imported into Singapore for re-export to the other three Parties are not entitled to the tariff benefits. Goods manufactured in Singapore are not automatically considered originating. Instead, such goods have to satisfy the Trans-Pacific SEP rules of origin (“ROO”) to be considered originating.

The Trans-Pacific SEP ROO takes into account where the goods are produced and what materials are used in their production. This ensures that only goods originating in Singapore and traded between Singapore and the 3 other Parties to the Trans-Pacific SEP are entitled to preferential tariff treatment. The origin requirement also applies to goods imported into Singapore from these 3 countries.

For Singaporean imports into Brunei, traders may opt for the ROO as established under the ASEAN Free Trade Agreement (“AFTA”). Similarly, for Singaporean imports into New Zealand, traders may opt for the ROO as established in the Agreement between New Zealand and Singapore on a Closer Economic Partnership (“ANZSCEP”). The corresponding tariff concessions under the respective agreements will then apply.

1. WHICH PRODUCTS WILL BE CONSIDERED SINGAPORE-ORIGINATING UNDER TRANS-PACIFIC SEP?

Singapore, Brunei, New Zealand and Chile are treated as a single production area. This means that any good or material that originates in Brunei, New Zealand and Chile is deemed to have originated in Singapore, and vice versa. Similarly, production that is performed in Brunei, New Zealand and Chile is considered to be done in Singapore. This is known as **accumulation**¹.

The Agreement specifies **three ways** in which goods can be considered originating.

(I) Goods Wholly Obtained in Singapore

The following is a list of products that are considered to be 'wholly obtained' in Singapore. These products are automatically accepted as originating in Singapore.

- (a) mineral goods extracted from the soil or seabed in the territory of Singapore;
- (b) agricultural and plant products grown and harvested, picked or gathered in the territory of Singapore;
- (c) live animals, born and raised in the territory of Singapore;
- (d) goods obtained from live animals in the territory of Singapore;
- (e) goods obtained from hunting, trapping, fishing, farming, gathering, capturing or aquaculture² in the territory of Singapore;
- (f) Goods (fish, shellfish, and other marine life) taken from outside Singapore's Economic Exclusive Zone as defined in the *United Nations Convention on the Law of the Sea* by vessels registered, licensed or recorded with Singapore, and entitled to fly the Singapore flag;
- (g) goods obtained or produced on board a factory ship registered or recorded with Singapore and flying the Singapore flag, exclusively from products referred to in Subparagraph (f);
- (h) waste and scrap derived from production in the territory of Singapore or used articles or goods collected in the territory of Singapore, provided that such goods are fit only for the recovery of raw materials;

¹ Goods are often produced in different stages, and not necessarily by the same manufacturer or at the same location on country. The Trans-Pacific SEP allows all the different stages of production performed in Singapore, Brunei, New Zealand and Chile (including those performed by different manufacturers) to be accumulated.

² Aquaculture means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding, or protection from predators;

- (i) Goods taken by Singapore, or a person of Singapore, from the seabed or beneath the seabed outside Singapore's Economic Exclusive Zone, provided that Singapore has rights as defined in the *United Nations Convention on the Law of the Sea* to exploit such seabed; and
- (j) recovered goods derived in the territory of Singapore from used goods and utilised in the territory of Singapore in the production of remanufactured³ goods.

(II) Goods Entirely Produced in Singapore

These are products which are produced in Singapore, exclusively from goods referred to in paragraphs (I)(a)-(j), or from their derivatives, at any stage of production.

(III) Goods Partly Manufactured in Singapore

Manufactured goods that contain non-originating materials will be considered originating if such materials undergo **substantial transformation** in Singapore.

The degree of transformation necessary to be undergone by the good is determined by

Product Specific Rules as listed in Annex II of Trans-Pacific SEP. The product specific rules are generally expressed as one, an alternative of two or more, or a combination of two, of the following forms:

- i. Change in Chapter Heading (CC)⁴;
- ii. Change in Tariff Heading (CTH)⁵;
- iii. Change in Tariff Subheading (CTSH)⁶;
- iv. A Process Rule⁷; or
- v. Value-added rule where

the value added to the good in Singapore (ie. the regional value content -RVC) is at least **45 or 50%** based on the following formula:

³ Refer to Annex 4.A of the Trans-Pacific SEP for a full list goods which may be considered to be remanufactured

⁴ This will be reflected as, "A change to chapter XX/heading XX.XX/subheading XXXX.XX from any other *chapter*," and effectively means that the *first two digits* of the HS codes for the non-originating material and the final good must be *different*.

⁵ This will be reflected as, "A change to chapter XX/heading XX.XX/subheading XXXX.XX from any other *heading*," and effectively means that the *first four digits* of the HS codes for the non-originating material and the final good must be *different*.

⁶ This will be reflected as, "A change to chapter XX/heading XX.XX/subheading XXXX.XX from any other *subheading*," and effectively means that the *first six digits* of the HS codes for the non-originating material and the final good must be *different*.

⁷ This includes the Chemical Reaction Rule, whereby the non-originating material must undergo a chemical reaction in Singapore and result in a new molecular structure, and the Refining Process Rule, whereby the non-originating material undergoes neutralization, de-acidification, decolourising, or deodorising.

$$\text{RVC} = \frac{\text{TV} - \text{VNM}}{\text{TV}} \times 100$$

where

RVC is the regional value content expressed as a percentage;
 TV is the transaction value of the good, adjusted on an FOB basis
 VNM is the transaction value of the non-originating materials, when they were first acquired or supplied to the producer of the goods, adjusted on a CIF basis.

Originating materials are exempted from having to meet such Product Specific Rules.

De Minimis – Goods, which have non-originating materials that are not able to meet their relevant CC/CTH/CTSH rules, may still be able to enjoy preferences under the Trans-Pacific SEP, if the value of such non-originating materials does not exceed 10% of the FOB value of the good.

Scenario :Exporting black pepper sauce to Chile

A local manufacturer produces black pepper sauce in Singapore and ships the product to Chile. Can the product benefit from tariff concession?

The HS sub-heading for black pepper sauce is 2103.90. The ROO for products under this HS heading states that all foreign materials must undergo a tariff change at the 4-digit HS heading level, or have a minimum RVC of 45 percent i.e. “A change to heading 21.01 through 21.05 from any other heading, including another heading within that group; or A change of heading is not required provided there is a regional value content of not less than 45 percent. “

A. Illustration of Change in Tariff Heading (CTH) Rule

The list below sets out the materials used in the production of a bottle of black pepper sauce.

Description of Raw Materials/ Others	HS Heading	Origin	FOB Value
a. Oyster Juice	16.03	Japan	0.25
b. Fermented Vinegar	22.09	Malaysia	0.20
c. Pepper	20.02	Malaysia	0.25
d. Sugar	17.01	Singapore	0.07
e. Salt	25.01	Singapore	0.04
f. Overheads and Labour	N.A.	N.A.	0.04
g. Profit	N.A.	N.A.	0.15
FOB (a + b + c + d + e + f + g)	N.A.	N.A.	1.00

The first 4-digits of the HS code of all the foreign materials differ from the first 4 digits of the HS code of the black pepper sauce (HS 21.03). Hence the black pepper sauce meets the applicable ROO and is considered to be of Singapore origin.

The black pepper sauce will therefore enjoy preferential treatment under the Trans-Pacific SEP.

B. Illustration of Value-Added Rule (RVC Rule)

Annex II of the Trans-Pacific SEP provides that black pepper sauce may alternatively be subjected to the RVC rule. Using the above illustration, since the FOB = 1.00 and the VNM = 0.70, the RVC is only 30%.

The black pepper sauce would therefore not meet the ROO if the RVC rule were used. However, since the product meets the CTH rule, the local manufacturer would still be able to enjoy preferential treatment under the Trans-Pacific SEP. The local manufacturer can opt to use either the CTH or RVC rule in this case, as the ROO is applicable in the alternative..

2. WHAT ARE MINIMAL OPERATIONS OR PROCESSES THAT DO NOT CONFER ORIGIN?

A good shall not be considered to be originating solely by reason of:

- (a) operations to ensure the preservation of products in good condition during transport and storage (such as drying, freezing, ventilation, chilling and like operations);
- (b) simple operations consisting of sifting, classifying, washing, cutting, slitting, bending, coiling, or uncoiling;
- (c) changes of packing and breaking up and assembly of consignments;
- (d) packing, unpacking or repacking operations;
- (e) affixing of marks, labels or other like distinguishing signs on products or their packaging; and
- (f) mere dilution with water or another substance that does not materially alter the characteristics of the goods.

A combination of these minimal operations or processes will also not confer origin.

3. CAN ACCESSORIES, SPARE PARTS, TOOLS, PACKAGING AND PACKING MATERIALS AND CONTAINERS BE CONSIDERED AS “REGIONAL CONTENT”?

(I) Accessories, Spare Parts and Tools

A good's standard accessories, spare parts or tools delivered along with it shall be taken into account as originating or non-originating, as the case may be, in calculating the regional value content of the good.

(II) Packaging Materials and Containers for Retail Sale The value of packaging materials and containers for retail sale will be taken into account as originating or non-originating, as the case may be, in calculating the regional value content of the goods.

(III) Packing Materials and Containers for Shipment

Materials and containers in which a good is packed for shipment are disregarded in the determination of whether all the non-originating materials used in the production of the good fulfil the regional value content.

4. WHAT IS OUTWARD PROCESSING?

Outward Processing (OP) confers origin onto a product even if it has undergone processes of production or operation outside Singapore and subsequently re-imported into Singapore.

The OP rule only applies to products that subject to a "Value Added" rule⁸ under the Trans-Pacific SEP. These rules allow manufacturers based in Singapore to accumulate and count in the value of all work done in Singapore as the "Singapore Content" of the product, as long as the final processing stage of the product is conducted in Singapore.

OP rules thus provide for the flexibility of outsourcing labour-intensive processes elsewhere within the region, while performing only high-value processes in Singapore and counting the latter as Singapore content.

Under the Trans-Pacific SEP, a given product can benefit from an outward processing rule only if the value of all non-Singaporean content, including such costs as transportation outside the national territory of Singapore, in the final product is no greater than 55 percent of the total value of that final product itself.

For a list of products that may benefit from Outward Processing rules, please refer to Annex 4B of the Trans-Pacific SEP ROO Chapter.

5. TRANSPORTATION CRITERIA

Originating goods transported directly between Singapore and the Parties to the Trans-Pacific SEP retain their originating status. However, if an originating good transits through a non-Party and is not traded or used in that non-member country, it may retain its originating status only if it does not undergo any subsequent production outside the territories of Singapore and the other three Parties. The good is only allowed to undergo operations meant for unloading, reloading, or to preserve it in good condition and must not enter into the commerce of the non-Party. The good may also remain in storage in the non-Party for a period of up to 6 months.

⁸ An example of such a ROO would be: "...a regional value content of not less than XY percent."

Compliance with the transportation criteria shall be proved by means of supplying to the customs authorities of the importing member country either customs documents of the non-member country or documents of the competent authorities, including commercial shipping or freight documents.

6. WHAT IS THE CERTIFICATION REQUIREMENT FOR ORIGINATING PRODUCTS?

An exporter or producer may elect to use either a declaration of origin on the export invoice (declaration) or a certificate of origin,⁹ either of which may then be used by the importer as evidence of origin in respect to goods for which preferential tariff treatment is claimed.

This declaration or certification of origin, which is applicable for a single importation of the good, will be valid for 2 years from the date on which the respective documents were issued. They shall:

- (a) specify that the goods are the origin of the exporting Party and meet the respective ROO;
- (b) be made in respect of one or more goods; and which can include a variety of goods; and
- (c) be completed in English.

In addition, the export invoice upon which the declaration as to origin is affixed and in respect of the goods subject to the declaration shall include:

- (a) a full description;
- (b) six digit Harmonized System Code;
- (c) the producer's name(s) if known; and
- (d) the importer's name(s) in respect of imported goods, if known.

However, a declaration or certificate of origin is not required in two situations:

- (i) where the aggregate customs value of a consignment of a good does not exceed USD \$1,000 or its equivalent amount; or
- (ii) where the importing country has waived the requirement for a declaration or Certificate of Origin.

7. ARE ADVANCE RULINGS ISSUED?

The importer in any of the other 3 Trans-Pacific SEP Parties or the Singaporean exporter may request from the relevant customs authority a written advance ruling on the tariff classification and the origin of the good. A detailed description and reasons

⁹ The declaration shall be in the form set out in Annex 4.C, and the certificate of origin shall be in the form set out in Annex 4.D. (of the agreement)

for the ruling must be included in this request. This ruling will be issued within 60 days after obtaining all necessary information. The advance ruling shall be valid at least 3 years from its date of issuance.

8. HOW IS AN ORIGIN CLAIM VERIFIED?

(l) For the purposes of determining whether goods imported into the Trans-Pacific SEP Party qualify as originating goods, the importing Party may, through its customs administration, verify any claims made for tariff preference by means of:

- (a) written requests for information addressed to the importer;
- (b) written questions and requests for information addressed to the exporter or producer in the territory of the exporting Party through the customs administrations of the exporting Party;
- (c) requests to the customs administration of the exporting Party to verify the origin of the good; or
- (d) such other procedures as the customs administrations of the Parties may agree.

If the above mechanism fails to determine the origin of a good, the importer may request, through the customs administration of the exporting country, to visit the premises of the exporter or producer in the territory of the exporting country to review records referring to origin and observe the facilities used in production of the goods. This request must, of course, be sufficiently material and be accompanied by sufficient information. The Parties will then facilitate requests for such assistance within 10 days of receipt of the request.

9. RELEVANT AUTHORITIES

In Brunei, the customs authority is the Royal Customs and Excise Department (<http://www.customs.gov.bn/>).

In New Zealand, the customs authority is the New Zealand Customs Service (<http://www.customs.govt.nz/default.htm>)

In Chile, the customs authority is the Chile Customs Service English website:

(http://www.aduana.cl/p4_principal_eng/site/edic/base/port/home_page.html)

In Singapore, the customs authority is Singapore Customs, Ministry of Finance (<http://www.customs.gov.sg>)

10. Useful Web Links and Contact Point

For applications of Certificates of Origin, please refer to the Singapore Customs' websites –

- <http://www.customs.gov.sg>
- <http://www.tradenet.gov.sg>

For general information on the Trans-Pacific SEP, please refer to –
<http://www.fta.gov.sg>

ROO Guides of other concluded FTAs can be found here.

All queries can be sent to the following email address:
mti_fta@mti.gov.sg
