

Origin rulings

Section 1: Provision of binding Origin Advice Rulings

1. Provisions

- (1) The Agreement does not require either Australia or Chile to provide Origin Advice Rulings.

2. Policy and practice – general

- (1) Notwithstanding the above, Australian Customs, on request, will provide written advice on origin matters through the provision of a Ruling. The Ruling exists to advise importers, producers and exporters on specific issues relating to the origin of their goods for the purposes of determining eligibility for preferential duty rates for goods imported into Australia.
- (2) Assessments of the origin of a good will be issued as soon as possible but no later than 30 days after a request for such advice provided that all necessary documentation has been submitted.
- (3) Requests for a Ruling will be accepted before trade in the good concerned begins.

3. Adequate applications

- (1) A Ruling will only be given where:
 - evidence is presented of a commitment or firm intent to import or export;
 - the application contains adequate and correct information; and
 - supporting evidence of the facts of the application is provided with the application.
- (2) Inadequate applications will be rejected.

4. How to lodge an application

- (1) Applications (with supporting documentation) should be forwarded to:

Valuation and Origin Section
Trade Services Branch
Australian Customs Service
5 Constitution Avenue
CANBERRA ACT 2600

- (2) At the time an application is made for a Ruling, Customs will register the application with a unique Origin Advice Number and the applicant will be advised of this number.

5. Applications with more than one origin issue
 - (1) Each application must be for a single origin issue. Where there is more than one issue, separate applications must be lodged for each.
6. Supporting information and documentation
 - (1) It is unrealistic to expect a correct and binding origin advice ruling if inadequate or incomplete information is provided to Customs. The essential principle to be followed is that all information that is relevant to the request for advice should be supplied with the application.
 - (2) Section 2 of this Division sets out a guide to the supporting documentation required to accompany an application for Chilean origin rulings. The list is not exhaustive; if there are any other relevant documents and information, it must also be supplied with the application.
7. Advice conditional on data provided
 - (1) The Customs decision will be made only on the basis of the statements and supporting documentation provided, and accordingly, the validity of the advice is conditional upon correct and complete information being provided.
 - (2) In the course of processing an application, Customs may request, at any time, additional information necessary to evaluate the application.
8. Penalty action – false or misleading statements
 - (1) From the time of registering an application until the decision of Customs, the applicant may still be subject to penalty provisions under subsection 243T(1) in respect of any duty short paid on any import declaration.
 - (2) If an applicant is uncertain about a claim of preference made on any import declaration, and considers that including that information may be false or misleading, then that person should lodge that declaration “amberline”.
 - (3) Subsection 243T(1) may not apply where, in lodging the declaration “amberline”, a person specifies the information included in the import declaration that might be false or misleading in a particular. Further, that person must also set out the reasons why there is uncertainty about the information.
 - (4) Whilst quoting an origin advice number on an import declaration is optional, if there is any doubt about a claim for preference a person should follow the above guidelines.
9. Withdrawal of application
 - (1) An owner may withdraw an application by advising Customs at any time between registration of the application and the decision by Customs on the application. Withdrawal of the application has the effect of cancelling the application.

10. Payment of duty following ruling

- (1) When Customs has finalised an application and notified the applicant of the Ruling and the reasons for that decision, any duty or GST short paid on entries becomes payable.

11. Validity of advice

- (1) Rulings are valid for all ports in Australia for five (5) years from the date of notification of the advice. After that time the Ruling will be cancelled. If a Ruling is still required a new application must be made.
- (2) Customs may cancel or amend a Ruling within its five-year life, where particular circumstances warrant. Such circumstances include, but are not limited to situations in which:
 - an amendment is made to the legislation which has relevance to the advice;
 - incorrect information was provided to Customs or relevant information was withheld;
 - Customs' decision is changed as a result of legal precedent;
 - the facts and conditions of the origin application have changed;
 - Customs has issued conflicting advices.

12. Cancelled or amended advice

- (1) Where Customs cancels or amends a Ruling, in-transit provisions may be applied at the discretion of Customs.

13. In-transit provisions

- (1) Where in-transit provisions apply, the cancelled or amended Ruling continues to apply in relation to goods that:
 - were imported into Australia on or before the date on which the cancellation or amendment came into effect and were entered for home consumption before, on, or within 30 days after that date; or
 - had left the place of export on or after that date and were entered for home consumption before, on, or within 30 days after the date on which they were imported into Australia.

14. Customs to honour advice

- (1) A Ruling is not legally binding on Customs. However, Customs will honour a Ruling unless it was provided on the basis of false or misleading information or where the applicant failed to provide all the relevant information and documentation that was available.

15. Conflicting rulings

- (1) Should an applicant hold or be aware of any conflicting Rulings from Customs for an origin issue, they are to be treated as being void and Customs is to be notified immediately.

16. Appeals against Customs rulings

- (1) Where a Customs decision in a Ruling is disputed, it should first be discussed with the decision maker. If the advice is still disputed, a further appeal to the Director Valuation and Origin, Trade Services Branch, Canberra may be requested.
- (2) This appeal mechanism does not preclude the right to external review – for example, to the Administrative Appeals Tribunal (AAT), after there has been a payment under protest. It should be noted that a Ruling in itself is not a decision which is reviewable by the AAT or the Federal Court.

Section 2: Origin Advice Rulings – information requirements

1. Application

- (1) An Origin Advice Ruling will be issued to importers, exporters or any other person who requires a Ruling on goods imported into Australia under the ACI-FTA ROO provisions. Section 1 of this Division sets out the procedures for lodging a Ruling.

2. Subject matter of rulings

- (1) Rulings may be sought on various ACI-FTA issues including, but not limited to:
 - whether a good qualifies as an originating good being wholly obtained or produced in Chile;
 - whether a good qualifies as an originating good produced entirely in Chile or in Chile and Australia;
 - whether non-originating materials used in the production of a good imported into Australia undergo the applicable CTC;
 - whether a good satisfies a RVC requirement under the build-down method;
 - the appropriate basis for determining the value of originating and non-originating materials; and
 - the application of *de minimis* provisions.

3. Content of application - general

- (1) The following relevant information should be included in the application:
 - the specific subject matter to which the request relates;
 - a complete statement of all relevant facts relating to the ACI-FTA transaction which must state that the information presented is accurate and complete;
 - the names, addresses and other identifying information of all interested parties; and
 - copies of any other origin advice, tariff classification advice or valuation advice that has been issued in relation to the imported good.

4. Content of application – specific

- (1) Where a good has been wholly obtained or produced entirely in Chile a complete description of the good shall be supplied, including:
 - a description of how the good was obtained;
 - details of all processing operations employed in the production of the good;
 - the location where each operation was undertaken;

- the sequence in which the operations occurred;
 - a list of all materials used in the production of the good; and
 - evidence of the origin of materials used in the production of the good.
- (2) Where the request for a Ruling involves the application of a ROO that requires an assessment of whether the materials used in the production of the imported good undergo an applicable CTC, the advice must list each material used in the production of the good and must:
- identify each material which is claimed to be an originating material, providing a complete description of each such material including the basis for claiming origin status;
 - identify each material which is a non-originating material, or for which the origin is unknown, providing a complete description of each such material, including its tariff classification; and
 - describe all processing operations employed in the production of the good, the location of each operation and the sequence in which the operations occur.
- (3) Where the origin advice involves the issue of whether a good satisfies a RVC requirement the advice must:
- provide information sufficient to determine the customs value of the goods in accordance with Division 2 of Part VIII of the Customs Act;
 - provide information which is sufficient to identify and calculate the value of each non-originating material, or material the origin of which is unknown, used in production of the good.
- (4) If a *de minimis* exception to a HS classification is claimed, the advice must:
- provide information sufficient to determine the customs value of the goods in accordance with Division 2 of Part VIII of the Customs Act;
 - identify each material which is claimed to be an originating material and provide a complete description of each such material;
 - identify each material which is a non-originating material, or for which the origin is unknown, and provide a complete description of each such material, including its tariff classification and value.
- (5) Where no tariff ruling has been made by Customs in relation to the goods, sufficient information must be supplied to enable tariff classification of the goods. Such information includes a full description of the good, including, where relevant, the composition of the good, a description of the process by which the good is manufactured, a description of the packaging in which the good is contained, the anticipated use of the good and its commercial, common or technical designation. Where product literature, drawings, photographs or other material are available they should accompany the application.