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Committee on Rules of Origin

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**NOTIFICATION OF PREFERENTIAL RULES OF ORIGIN FOR
LEAST DEVELOPED COUNTRIES**

NEW ZEALAND

The following communication, dated 1 September 2017, is being circulated at the request of the delegation of New Zealand.

Paragraph 4.3 of the 2015 Ministerial Decision on preferential rules of origin for least developed countries (WT/L/917/Add.1) requires preference-granting Members to notify preferential rules of origin as per the established procedures¹. In addition, as mandated by the Ministerial Decision, the Committee on Rules of Origin agreed, at its meeting of 2 March 2017, to a template for such notifications (G/RO/84).

Following such requirements, the following notification has been received from: New Zealand.

A. BASIC INFORMATION

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| 1) | Notifying member | New Zealand |
| 2) | Date of entering into force of Rules of origin and any substantive modification thereof | 1974 |
| 3) | Date of expiration of Rules of origin if applicable | N/A. |
| 4) | Title of the preferential scheme for which legislation on Rules of origin is applicable | Generalised System of Preferences Scheme. |
| 5) | Authority(ies) granting the preferential treatment | The Ministry of Business Innovation and Employment has responsibility for tariff policy under the Tariff Act 1988. However, all information pertaining to the GSP is maintained on the Customs website. See below. |
| 6) | National authorities in charge of Rules of origin administration | New Zealand Customs Service; Phone: calling from outside New Zealand +64 9 927 8036; Email: feedback@customs.govt.nz ; General factsheet: http://www.customs.govt.nz/news/resources/factsheets/Documents/Fact%20Sheet%2008.pdf |

¹ The relevant notification requirements are contained in Paragraph 2(d) of Annex 1 of the Transparency Mechanism for Preferential Trade Arrangements (WT/L/806) and in Paragraph 4 of Annex II of the Agreement on Rules of Origin.

B. INFORMATION ON RULES OF ORIGIN**I. BENEFICIARIES**

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| 1) | List of Beneficiaries | <p>The Least Developed Countries entitled to preferential tariff treatment under the Generalised System of Preferences are set out in Schedule 2 to the Tariff (Less Developed Countries and Least Developed Countries) Order 2005. A list of these countries is also located in The Working Tariff Document of New Zealand under "New Zealand Alphabetical Country List and Codes".</p> <p>The tariff duty rates for Least Developed Countries are identified under the abbreviations "LLDC" in The Working Tariff Document of New Zealand.</p> <p>http://www.legislation.govt.nz/regulation/public/2005/0018/latest/DLM312430.html?src=qs</p> <p>http://www.customs.govt.nz/news/resources/tariff/theworkingtariffdocument/Pages/default.aspx</p> <p>See also Annex to this document.</p> |
| 2) | Eligibility | |

II. CRITERIA FOR DETERMINING SUBSTANTIAL TRANSFORMATION

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| 1) | General criteria, if applicable for all products | <p>Goods must meet an added-value threshold of 50%. The last process in the manufacture of the goods must be performed in a Least Developed Country. "Manufacture" in this context must involve a significant change in the form or function of the thing said to be manufactured when compared with its unmanufactured or previously manufactured state.</p> |
| | (a) Definition of wholly obtained products | <p>The following goods are considered wholly obtained in any of the countries included in Group 3 (Least Developed Countries):</p> <ul style="list-style-type: none"> (i) mineral products extracted from its soil or from its seabed; (ii) vegetable products harvested there; (iii) live animals born and raised there; (iv) products obtained there from live animals; (v) products obtained by hunting or fishing conducted there; (vi) products of sea fishing and other products taken from the sea by its vessels; (vii) products made on board its factory ships exclusively from the products referred to in subparagraph (vi); (viii) used articles collected there that are fit only for the recovery of raw materials; (ix) waste and scrap resulting from manufacturing operations conducted there; (x) products obtained there exclusively from products specified in subparagraphs (i) to (ix). |
| | (b) Describe the criteria for not-wholly produced products | <p>Goods partly manufactured in the Least Developed Countries are subject to the following conditions:</p> <ul style="list-style-type: none"> (i) that the process last performed in the manufacture of the goods was performed in a Least Developed Country; and (ii) that, in respect of the goods, the expenditure for the following is not less than half of the factory or works cost of the goods in their finished state: <ul style="list-style-type: none"> (A) expenditure in material that is the origin of 1 or more Least Developed Countries or of New Zealand; or (B) expenditure in other items of factory or works cost incurred in 1 or more Least Developed Countries or in New Zealand; or (C) expenditure partly in any material referred to in sub-sub-paragraph (A) and partly in any other items referred to in sub-sub-paragraph (B). |

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| | (c) Insert the formula for calculating <i>ad valorem</i> percentage | <p>The factory or works cost of any article must be the sum of the following items:</p> <ul style="list-style-type: none"> (a) the cost of materials as received into the factory, excluding customs duty or excise duty or other duties paid or payable for those materials; (b) manufacturing wages; (c) the following factory overhead expenses: <ul style="list-style-type: none"> (i) all expenses directly or indirectly connected with manufacture, for example, rent, rates, and taxes for the factory; (ii) motive power, gas, fuel, water, lighting, and heating; (iii) expenses of supervision, for example, wages and salaries of managers, supervisors, timekeepers, and guards; (iv) repairs, renewals, and depreciation of plant, machinery, and tools; (v) interest on capital outlay on plant, machinery, tools, and factory buildings; (vi) royalties payable for patented machines or processes used in the manufacture of the goods; (d) the cost of containers other than the outside package. <p>In calculating the factory or works cost, and in calculating the expenditure in any item of factory or works cost, none of the following items must be included or considered:</p> <ul style="list-style-type: none"> (a) manufacturer's profit, or the profit or remuneration of any trader, agent, broker, or other person dealing in the article in its finished condition; (b) royalties payable for the finished goods; (c) the cost of outside packages or any cost of packing the goods into them; (d) administrative and general office expenses; (e) any cost of conveying, insuring, or shipping the goods after their manufacture; (f) any other charges incurred after the completion of the manufacture of the goods. |
| 2) | Product specific rules of origin, where applicable | Not applicable, the GSP provides only for a general 50% added-value rule applied to all products. |
| | (a) Insert the link where the complete list of product specific rules of origin can be found. | |
| | (b) Insert the formula for calculating <i>ad valorem</i> percentage, when applied for product specific rule | |
| 3) | Definition of non-originating material and originating material, if any | There is no specific definition of a non-originating or originating material. Goods are deemed the produce or manufacture of a Least Developed Country if they meet either the wholly obtained criteria, the partly manufactured criteria, and any other applicable rules (e.g. direct consignment). |
| 4) | List of insufficient working process, if any | <p>There is no specific list.</p> <p>However, the last process in the manufacture of the goods must be performed in the preference country. In the context of the Customs Act "manufacture" must involve a significant change in the form or function of the thing said to be manufactured when compared with its unmanufactured or previously manufactured state. In essence, manufacture involves the making of something different from the materials or component parts out of which it was made. Only in situations where such change has been brought about can manufacture be said to have taken place. Certain "minimal operations or processes" will generally not, by themselves, be considered to constitute manufacture. Examples of "minimal operations or processes" include affixing of marks and labels, dilution with water or another substance that does not materially alter the characteristics of the goods,</p> |

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| | | packaging or presenting goods for sale, and simple processes such as cleaning, washing, crushing, husking and other similar operations. |
| 5) | Rules for application of cumulation and related procedures if any | Work and expenditure carried out within the Least Developed Countries may be cumulated between members of that Group and with New Zealand. |
| 6) | Any other information that member deems necessary | N/A. |

III. DOCUMENTARY REQUIREMENTS

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| 1) Certificate of origin and other proofs of origin | | |
| | (a) Requirement for certificate of origin and/or any other proof of origin, if any | Certificates of origin are not required. An exporter declaration or other evidence supporting the claim for preference must be supplied if requested. |
| | (b) Authority to be designated for issuance of certificate of origin | N/A. |
| | (c) Prescribed form of Certificate of origin and/or any other proof of origin | There is no prescribed form. |
| | (d) Any other procedures applied for certificate of origin and/or any other proof of origin, if any | N/A. |
| 2) Direct shipment | | |
| | (a) Rules applicable for direct shipment, if any | The goods must be exported directly from a Least Developed Country without entering the commerce of another country (other than a another Least Developed Country after shipment from that country and before importation into New Zealand, unless the chief executive otherwise permits and subject to any conditions that he or she in any case approves. |
| | (b) Documentary requirement for proof of direct shipment including when the transport of consignment involves transit through one or more intermediate countries, if any | Not required at point of import. Any normal transaction/commercial documents on request. |

IV. VERIFICATION AND PENALTIES

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| 1) | Procedure for verification of proofs of origin | <p>There are no specific verification procedures under the GSP scheme. Normal provisions and operational procedures under the Customs & Excise Act 1996 apply.</p> <p>Section 66 and 67 of Customs and Excise Act 1996 set out</p> <ul style="list-style-type: none"> - that the chief executive of the New Zealand Customs Service may require the claim to be verified at the time of entry or at any subsequent time (including any time after the goods have ceased to be subject to the control of the Customs); and - that if, as a result of an investigation ,audit or examination origin cannot be verified due to lack of evidence, or the available evidence is inconclusive, preference maybe denied. - the importer must be advised by notice in writing. |
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| 2) | Penalties for fraud and false declarations | <p>General provisions under the Customs and Excise Act 1996 apply.</p> <p>Sections 128A sets out that the chief executive may issue a penalty notice to a person if the chief executive is satisfied that an import entry contains an error or omission which results in duty payable not being declared for payment or not being paid or the entry is otherwise materially incorrect.</p> <p>Section 128B sets out how the size of the penalty will be calculated.</p> |
| 3) | Authorities and procedures for appeal in the case of dispute on verification | <p>General provisions under the Customs and Excise Act 1996 apply.</p> <p>Section 128B sets out that an importer who is dissatisfied with a decision of the chief executive may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.</p> <p>A Customs Appeal Authority decision may be appealed to the High Court. Further recourse may be made to the Court of Appeal if the party considers that the decision is erroneous in point of law.</p> |
| 4) | Requirement for preserving the documents related to issuance of certificate of origin | <p>Not applicable. There is no prescribed certificate of origin. General tax law requires business records (records of commercial transactions) to be kept and these would form the basis of any verification activity.</p> |
| 5) | Any other relevant information | <p>Schedule 2 – Least-developed Countries</p> <p>Afghanistan; Angola; Bangladesh; Benin; Bhutan; Burkina Faso; Burundi; Cambodia; Cape Verde; Central African Republic; Chad; Comoros; Democratic Republic Congo; Djibouti; Equatorial Guinea; Eritrea; Ethiopia; Gambia; Guinea; Guinea-Bissau; Haiti; Kiribati; Lao, People's Democratic Republic of; Lesotho; Liberia; Madagascar; Malawi; Maldives; Mali; Mauritania; Mozambique; Myanmar; Nepal; Niger; Rwanda; Samoa; Sao Tome and Principe; Senegal; Sierra Leone; Solomon Islands; Somalia; Sudan; Tanzania; Timor-Leste; Togo; Tuvalu; Uganda; Vanuatu; Yemen; Zambia</p> |

V. REFERENCE TEXTS

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| (a) | The legislative texts in one of the official WTO languages containing the preferential rules of origin applicable under a PTA granted under the Decision on Measures in Favour of Least-Developed Countries (Annex F of the Hong Kong Ministerial Declaration) | <p>Customs and Excise Regulations 1996; Part 6 - Determination of country of produce or manufacture (Provisions relating to least developed countries):</p> <p>http://www.legislation.govt.nz/regulation/public/1996/0232/latest/DLM220752.html</p> |
| (b) | The full text of the administrative regulations concerning modalities for issuance, acceptance, retrospective issuance and replacement of certificates of origin or any equivalent declarations to be made, including any requirements related to stamps to be used along with notification of stamps | <p>No stamps, no certificates: General import entry requirements apply and an exporter declaration or other evidence supporting the claim for preference must be supplied if requested as per general requirements for all imports as per Customs and Excise Act 1996. General legislative reference is Customs and Excise Act 1996, Part 4, sections 39 and 40:</p> <p>http://www.legislation.govt.nz/act/public/1996/0027/latest/DLM378408.html?search=ts_act_Customs+and+Excise+Act_resel_25_af&p=1</p> |

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| (c) | <p>The full text and related administrative regulations of the modalities for the proof of movement of the consignment of the goods from the beneficiary countries to preference-giving countries including transit through third countries</p> | <p>Customs and Excise Regulations 1996; Part 6 Determination of country of produce or manufacture, Provisions relating to least developed countries: http://www.legislation.govt.nz/regulation/public/1996/0232/latest/DLM220752.html</p> <p>Actual text:</p> <p>(3) Subclause (2) applies only to goods exported directly from a country in Group 3 to New Zealand without entering the commerce of another country (other than a country also included in Group 3) after shipment from that country and before importation into New Zealand, unless the chief executive otherwise permits and subject to any conditions that he or she in any case approves.</p> |
| (d) | <p>The full texts of the modalities of the verification procedures and related penalties</p> | <p>There are no specific GSP verification procedures. General powers to question goods as for all imports apply under the general provisions of the Customs and Excise Act 1996.</p> <p>Customs and Excise Act 1996; Part 6 Duties, Origin and preferential Tariff provisions:</p> <p>66. Conditions precedent to entry of goods at preferential rates of duty</p> <p>(1) Where it is claimed in respect of any goods that they are entitled under this Act or any other Act or authority to be entered free of duty or at any rate of duty lower than that set forth in the Normal Tariff in respect of such goods, the chief executive may require the claim to be verified at the time of entry or at any subsequent time (including any time after the goods have ceased to be subject to the control of the Customs).</p> <p>(2) Where the chief executive requires such a claim to be verified at the time of entry of the goods and the claim is not verified to the satisfaction of the chief executive at that time, the goods in respect of which the claim has been made shall not be so entered.</p> <p>67. Unsubstantiated preference claims</p> <p>(1) If the chief executive is satisfied, whether as the result of an investigation carried out pursuant to section 155, or as the result of an audit or examination carried out pursuant to section 159, or for any other reason, that the country of which goods are the produce or manufacture cannot be ascertained because no evidence can be found, or the available evidence is inconclusive as to that country, the goods are deemed, for the purposes of this Act or any other Act or authority to be the produce or manufacture of a country subject to the rates of duty set out in the Normal Tariff.</p> <p>(2) An importer shall be advised by notice in writing of a decision of the chief executive under this section.</p> <p>(3) An importer who is dissatisfied with a decision of the chief executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.</p> <p>(4) This section applies whether or not the goods have been released from the control of the Customs.</p> <p>http://www.legislation.govt.nz/act/public/1996/0027/latest/DLM378605.html?search=ts_act_Customs+and+Excise+Act_resel_2_5_a&p=1</p> <p>Verification of entries</p> <p>Customs and Excise Act 1996; Part 12 Powers of Customs officers</p> <p>155. Verification of entries</p> <p>(1) The chief executive may require from a person making entry of goods proof by declaration or the production of documents (in addition to any declaration or documents otherwise required by this Act or by regulations made under this Act) of the correctness of the entry, and may refuse to deliver the goods or</p> |

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| | <p>to pass the entry before such proof is provided.</p> <p>(2) This section extends and applies to entries made pursuant to section 70.</p> <p>(3) Where the chief executive is not satisfied with the correctness of any entry in relation to any goods, or with any other aspect of the importation or exportation of those goods, as the case may be, he or she may detain the goods for a period that is reasonably necessary to enable the goods to be examined and, if necessary, to cause an investigation to be made, whether in New Zealand or elsewhere, into the importation or exportation, as the case may be, of those goods.</p> <p>159. Audit or examination of records</p> <p>(1) A Customs officer may at all reasonable times enter any premises or place where records are kept pursuant to section 95 and audit or examine those records either in relation to specific transactions or to the adequacy and integrity of the manual or electronic system or systems by which such records are created and stored.</p> <p>(2) For the purposes of subsection (1), a Customs officer shall, subject to section 173, have full and free access to all lands, buildings, and places and to all books, records, and documents, whether in the custody or under the control of the licensee, importer, or exporter, or any other person, for the purpose of inspecting any books, records, and documents and any property, process, or matter that the officer considers—</p> <p>(a) necessary or relevant for the purpose of collecting any duty under this Act or for the purpose of carrying out any other function lawfully conferred on the officer; or</p> <p>(b) likely to provide any information otherwise required for the purposes of this Act or any of those functions.</p> <p>(3) The Customs officer may, without fee or reward, make extracts from or copies of any such books or documents.</p> <p>(4) Notwithstanding subsection (2) and subsection (3), a Customs officer shall not enter any private dwelling except with the consent of an occupier or owner thereof or pursuant to a warrant issued under this Act.</p> <p>http://www.legislation.govt.nz/act/public/1996/0027/latest/DLM379226.html?search=ts_act_Customs+and+Excise+Act_resel_25_a&p=1</p> <p>Penalties</p> <p>There are no specific GSP penalty procedures. General administrative penalties apply as for all imports under the general provisions of the Customs and Excise Act 1996.</p> <p>Part 10 Administrative Penalties</p> <p>http://www.legislation.govt.nz/act/public/1996/0027/latest/DLM378922.html?search=ts_act_Customs+and+Excise+Act_resel_25_a&p=1</p> |
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ANNEXSchedule 2 - Least developed countries

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| Afghanistan | Malawi |
| Angola | Maldives |
| Bangladesh | Mali |
| Benin | Mauritania |
| Bhutan | Mozambique |
| Burkina Faso | Myanmar |
| Burundi | Nepal |
| Cabo Verde | Niger |
| Cambodia | Rwanda |
| Central African Republic | Samoa |
| Chad | Sao Tome and Principe |
| The Comoros | Senegal |
| Democratic Republic of the Congo | Sierra Leone |
| Djibouti | Solomon Islands |
| Equatorial Guinea | Somalia |
| Eritrea | Sudan |
| Ethiopia | Tanzania |
| The Gambia | Timor-Leste |
| Guinea | Togo |
| Guinea-Bissau | Tuvalu |
| Haiti | Uganda |
| Kiribati | Vanuatu |
| Lao People's Democratic Republic | Yemen |
| Lesotho | Zambia |
| Liberia | |
| Madagascar | |