



27 October 2020

(20-7509)

Page: 1/8

Committee on Rules of Origin

Original: Spanish

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

CHILE

Revision

The following communication, dated 6 October 2020, is being circulated at the request of the delegation of Chile.

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 procedures.¹ 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: Chile.

A. BASIC INFORMATION

(1) Notifying member	Chile
(2) Date of entering into force of Rules of origin and any substantive modification thereof	Law No. 20.690 establishing the elimination of tariffs for goods originating in least developed countries entered into force on 28 September 2013. Supreme Decree No. 508 amending Decree No. 1432, which established the procedures for applying the tariff benefits conferred under Law No. 20.690 to goods originating in least developed countries, entered into force on 29 June 2017. Decree No. 1432: https://www.leychile.cl/Navegar?idNorma=1059781 Decree No. 508: https://www.leychile.cl/Navegar?idNorma=1104622 Law No. 20.690: https://www.leychile.cl/Navegar?idNorma=1054479
(3) Date of expiration of Rules of origin if applicable	The tariff elimination scheme established by the aforementioned legislation for goods originating in least developed countries does not have a date of expiration. It is, however, subject to the respective country remaining a least developed country in accordance with the classification established by the United Nations Organization.

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.

(4)	Title of the preferential scheme for which legislation on Rules of origin is applicable	Law No. 20.690, which eliminates import tariffs on goods originating in least developed countries (originating goods).
(5)	Authority(ies) granting the preferential treatment	National Customs Service: http://www.aduana.cl/ley-20-690-eliminacion-aranceles-pma/aduana/2014-03-07/092144.html
(6)	National authorities in charge of Rules of origin administration	Bernardita Palacios bpalacios@aduana.cl Head of the Department of Classification and Origin National Customs Service Tel.: (56-32) 2134505 http://www.aduana.cl/ley-20-690-eliminacion-aranceles-pma/aduana/2014-03-07/092144.html

B. INFORMATION ON RULES OF ORIGIN

I. BENEFICIARIES

(1)	List of Beneficiaries	<p>The beneficiaries are specified in Decree No. 508 (https://www.leychile.cl/Navegar?idNorma=1104622), amending Article 1 of Decree No. 1432, which establishes the list of beneficiary countries:</p> <p>"Article 1: The countries that shall be considered to be least developed countries are those in the list of countries classified as such by the United Nations Organization and for the purposes of this decree are the following:</p> <p>(a) in Africa: Angola; Benin; Burkina Faso; Burundi; Central African Republic; Chad; Comoros; Democratic Republic of the Congo; Djibouti; Equatorial Guinea; Eritrea; Ethiopia; Gambia; Guinea; Guinea-Bissau; Lesotho; Liberia; Madagascar; Malawi; Mali; Mauritania; Mozambique; Niger; Rwanda; Sao Tomé and Príncipe; Senegal; Sierra Leone; Somalia; South Sudan; Sudan; Togo; Uganda; Tanzania and Zambia;</p> <p>(b) in Asia and the Pacific: Afghanistan; Bangladesh; Bhutan; Cambodia; Kiribati; Lao People's Democratic Republic; Myanmar; Nepal; Solomon Islands; Timor-Leste; Tuvalu; Vanuatu and Yemen;</p> <p>(c) in Latin American and the Caribbean: Haiti."</p>
(2)	Eligibility	<p>The countries benefitting from the duty-free quota-free (DFQF) scheme are determined on the basis of the United Nations' list of LDCs. The Chilean Ministry of Finance updated, by means of Decree No. 508, the list of beneficiary countries three years after the entry into force of Law No. 20.690, in accordance with Article 2 of Decree No. 1432.</p> <p>A good will only be eligible for preferential tariff treatment under the DFQF scheme if it can be considered to originate in a beneficiary country by satisfying the rules of origin requirements.</p> <p>In this regard, Article 4 establishes that goods from least developed countries must be originating goods, and that a good is considered as originating from a least developed country when it meets all the other applicable requirements under this Decree and also fulfils at least one of the following requirements:</p> <p>(a) the good is wholly obtained or produced entirely in the territory of a least developed country;</p> <p>(b) the good is produced entirely in the territory of a least developed country exclusively from originating materials;</p> <p>or</p>

		<p>(c) the good is produced in the territory of a least developed country using non-originating materials having a regional value content of not less than 50% or a change in tariff heading as defined in Articles 5 and 6 of Decree No. 1432, respectively.</p> <p>Article 10 of Decree No. 1432 and the sole Article of Decree No. 508 also establish that goods shall not lose their originating character provided they are not subject to any process or other operation outside the territory of the least developed country other than unloading, reloading, splitting or any other operation required to maintain the good in good condition or to transport it to Chile and provided the good remains under the control of the customs authority of a third territory.</p> <p>Fulfilment of the conditions set out in the previous paragraph may be demonstrated through presentation to the National Customs Service of:</p> <p>(a) a single transport document covering the passage of the good from the exporting country through the transit country; or</p> <p>(b) a certificate issued by the customs authorities of the transit country containing:</p> <p>(i) an exact description of the products,</p> <p>(ii) the dates of unloading and reloading of the products and, where applicable, the names of the ships or other means of transport used, and</p> <p>(iii) the certification of the conditions under which the goods remained in the country of transit; or</p> <p>(c) failing the above, any other documentary evidence that enables the National Customs Service to conclude that the goods did not lose their originating character during transit through a third country.</p>
--	--	---

II. CRITERIA FOR DETERMINING SUBSTANTIAL TRANSFORMATION

(1) General criteria, if applicable for all products		
	(a) Definition of wholly obtained products	<p>Article 4 of Decree No. 1432 states that, in order to qualify for the benefit established by Law No. 20.690, goods from least developed countries must be originating goods. A good is considered as originating from a least developed country when it meets all the other applicable requirements under this decree and also fulfils at least one of the following requirements:</p> <p>(a) the good is wholly obtained or produced entirely in the territory of a least developed country;</p> <p>(b) the good is produced entirely in the territory of a least developed country exclusively from originating materials; or</p> <p>(c) the good is produced in the territory of a least developed country using non-originating materials having a regional value content of not less than 50% or a change in tariff heading as defined in Articles 5 and 6, respectively.</p>
	(b) Describe the criteria for not-wholly produced products	<p>For a good to be classed as originating from a least developed country, in accordance with Article 4(c) of Decree No. 1432, it must be produced in the territory of a least developed country using non-originating materials having a regional value content of not less than 50% or a change in tariff heading as defined in Articles 5 and 6, respectively.</p>

		<p>Article 5 of the Decree establishes that the regional value content of a good shall be calculated as follows:</p> $RVC = \frac{V - VNM}{V} \times 100$ <p>where:</p> <ul style="list-style-type: none"> - RVC is the regional value content of a good expressed as a percentage; - V is the FOB value of the final good; and - VNM is the CIF value of non-originating materials. <p>Article 6 of Decree No. 1432 specifies that there is a change in tariff heading when the final good is classified under a Harmonized System (HS) heading which is different from the headings under which the non-originating materials used in the production process of the final good are classified, in accordance with Article 4(c) of the Decree.</p>
	(c) Insert the formula for calculating <i>ad valorem</i> percentage	<p>Article 5 of the Decree establishes that the regional value content of a good shall be calculated as follows:</p> $RVC = \frac{V - VNM}{V} \times 100$ <p>where:</p> <ul style="list-style-type: none"> - RVC is the regional value content of a good expressed as a percentage; - V is the FOB value of the final good; and - VNM is the CIF value of non-originating materials
(2) Product specific rules of origin, where applicable		
	(a) Insert the link where the complete list of product specific rules of origin can be found.	Not applicable
	(b) Insert the formula for calculating <i>ad valorem</i> percentage, when applied for product specific rule	Not applicable
(3)	Definition of non-originating material and originating material, if any	As indicated above, for a good to be classed as originating from a least developed country, in accordance with Article 4(c) of Decree No. 1432, it must be produced in the territory of a least developed country using non-originating materials having a regional value content of not less than 50% or a change in tariff heading as defined in Articles 5 and 6, respectively.
(4)	List of insufficient working process, if any	Article 7 of Decree No. 1432 states that, "Goods obtained from processes or operations through which they only acquire the final form in which they will be marketed shall not be considered originating from a least developed country when the above processes use materials from other countries and simply involve assembly, packaging, splitting into lots, pieces or volumes, selection and classification, marking, the putting together of assortments of goods or other similar operations".
(5)	Rules for application of cumulation and related procedures if any	The scheme does not provide for cumulation.
(6)	Any other information that Member deems necessary	https://www.aduana.cl/ley-20-690-eliminacion-aranceles-pma/aduana/2014-03-07/092144.html

III. DOCUMENTARY REQUIREMENTS

(1) Certificate of origin and other proofs of origin	
	<p>(a) Requirement for certificate of origin and/or any other proof of origin, if any</p> <p>Article 11 of Decree No. 1432 indicates that "For the originating goods to qualify for the preferential tariff treatment, importers shall submit a certificate of origin to the National Customs Service, containing at the very least the information specified in the Annex to this Decree".</p> <p>The Annex to the aforementioned Decree can be found at: https://www.leychile.cl/Navegar?idNorma=1059781.</p> <p>LDCs wishing to benefit from preferential treatment under the DFQF scheme must first submit to rmarin@subrei.gob.cl and kvasquez@subrei.gob.cl the name and official seal of the certifying authority, as well as the name(s) of officer(s) authorized to issue Certificates of Origin.</p> <p>http://www.aduana.cl/ley-20-690-eliminacion-aranceles-pma/aduana/2014-03-07/092144.html</p>
	<p>(b) Authority to be designated for issuance of certificate of origin</p> <p>Article 11 also establishes that: "This certificate of origin may be issued by:</p> <ul style="list-style-type: none"> (a) the competent authority of the exporting country designated in accordance with Article 14; or (b) the producer or exporter of the goods. If the exporter is not the producer of the goods, the exporter may certify the origin of the goods on the basis of: <ul style="list-style-type: none"> (i) its knowledge of whether the goods qualify as originating goods; or (ii) a written declaration from the producer stating that the goods are originating goods; or (iii) a certificate covering the goods, completed and signed by the producer and provided voluntarily to the exporter; or (c) the importer of the goods, who may only issue a certificate of origin on the basis of: <ul style="list-style-type: none"> (i) a written declaration from the producer or exporter stating that the goods are originating goods; or (ii) any other documentation or background information demonstrating that the goods originate from the exporting country, such as certificates issued by a public entity in the exporting country, or shipment certificates or reports issued in the exporting country by an independent certification company or surveyor, which must be consistent with other clearance documents and the circumstances of the operation."
	<p>(c) Prescribed form of Certificate of origin and/or any other proof of origin</p> <p>https://www.aduana.cl/aduana/site/artic/20130417/asocfile/20130417103419/co_elimina_n_aranceles_pma_2014.pdf</p>
	<p>(d) Any other procedures applied for certificate of origin and/or any other proof of origin, if any</p> <p>Not applicable</p>
(2) Direct shipment	
	<p>(a) Rules applicable for direct shipment, if any</p> <p>The first subparagraph of Article 10 of Decree No. 1432 establishes that "Goods shall not lose their originating character provided they are not subject to any process or other operation outside the territory of the least developed country other than unloading, reloading, splitting or any other operation required to maintain the good in good condition or to transport it to Chile and provided the good remains under the control of the customs authority of a third territory".</p>

	<p>(b) Documentary requirement for proof of direct shipment including when the transport of consignment involves transit through one or more intermediate countries, if any</p>	<p>"Fulfilment of the conditions set out in the previous paragraph may be demonstrated through presentation to the National Customs Service of:</p> <p>(a) a single transport document covering the passage of the good from the exporting country through the transit country; or</p> <p>(b) a certificate issued by the customs authorities of the transit country containing:</p> <p>(i) an exact description of the products,</p> <p>(ii) the dates of unloading and reloading of the products and, where applicable, the names of the ships or other means of transport used, and</p> <p>(iii) the certification of the conditions under which the goods remained in the country of transit; or</p> <p>(c) failing the above, any other documentary evidence that enables the National Customs Service to conclude that the goods did not lose their originating character during transit through a third country."</p>
--	--	--

IV. VERIFICATION AND PENALTIES

(1)	<p>Procedure for verification of proofs of origin</p>	<p>Article 13 of Decree No. 1432 states the following: "For the purpose of a verification of origin procedure carried out by the National Customs Service, the importer shall conserve a copy of the certificate of origin and the substantiating documents on which it was based for a period of five years from the date of issue of the certificate. The National Customs Service, in accordance with Decree having Force of Law No. 30/2004 on the Customs Ordinance and other provisions contained in domestic legislation, shall verify whether a good imported from a least developed country qualifies as originating." Decree having Force of Law No. 30/2004 on the Customs Ordinance available at: https://www.leychile.cl/Navegar?idNorma=238919</p>
(2)	<p>Penalties for fraud and false declarations</p>	<p>Fraud and false declarations involving certificates of origin (for imports) fall under the category of customs violations and offences (customs fraud) in general. No special penalty is handed down for such acts.</p>
(3)	<p>Authorities and procedures for appeal in the case of dispute on verification</p>	<p>Chilean legislation provides for two procedures for the settlement of disputes:</p> <p>(a) Administrative complaints, which fall within the remit of the Tax and Customs Courts (judicial procedure).</p> <p>(b) Appeals for administrative review, which are filed with the National Customs Service.</p>
(4)	<p>Requirement for preserving the documents related to issuance of certificate of origin</p>	<p>The first paragraph of Article 13 of Decree No. 1432 indicates the following: "For the purpose of a verification of origin procedure carried out by the National Customs Service, the importer shall conserve a copy of the certificate of origin and the substantiating documents on which it was based for a period of five years from the date of issue of the certificate."</p>
(5)	<p>Any other relevant information</p>	<p>Not applicable</p>

V. REFERENCE TEXTS

(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)	The Chilean legislative text containing the preferential rules of origin for LDCs is Law No. 20.690, which is available at: https://www.leychile.cl/Navegar?idNorma=1054479 , as indicated in the first part (A.2) of the notification document. It can also be found in the WTO Database on Preferential Trade Arrangements at: http://ptadb.wto.org .
(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	Decree No. 1432, "Establishing the list of least developed countries, the conditions for their inclusion and exclusion, and the operational requirements to be met by goods for the purposes indicated". Text available at: https://www.leychile.cl/Navegar?idNorma=1059781 . The text can also be found in the WTO Database on Preferential Trade Arrangements. This Decree was amended in June 2017, and the updated version can be accessed through the above "Leychile" link. The Decree, in particular Section B thereof (operational procedures) and the Annex thereto, contains information on the submission of certificates, their content, who can issue a certificate, and other requirements. Article 11(b)(ii) of the Decree refers to "any other documentation or background information demonstrating that the goods originate from the exporting country, such as certificates issued by a public entity in the exporting country, or shipment certificates or reports issued in the exporting country by an independent certification company or surveyor, which must be consistent with other clearance documents and the circumstances of the operation". There are no other rules or regulations that expand on this matter.
(c)	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	Regarding this point, Chilean legislation only refers to proof of shipment (specifically with reference to goods from LDCs) in Article 10 of Decree No. 1432: "Goods shall not lose their originating character provided they are not subject to any process or other operation outside the territory of the least developed country other than unloading, reloading, splitting or any other operation required to maintain the good in good condition or to transport it to Chile and provided the good remains under the control of the customs authority of a third territory. Fulfilment of the conditions set out in the previous paragraph may be demonstrated through presentation to the National Customs Service of: (a) a single transport document covering the passage of the good from the exporting country through the transit country; or (b) a certificate issued by the customs authorities of the transit country containing: (i) an exact description of the products, (ii) the dates of unloading and reloading of the products and, where applicable, the names of the ships or other means of transport used, and (iii) the certification of the conditions under which the goods remained in the country of transit; or (c) failing the above, any other documentary evidence that enables the National Customs Service to conclude that the goods did not lose their originating character during transit through a third country."

(d) The full texts of the modalities of the verification procedures and related penalties	<p>Regarding verification procedures, Article 13 of Decree No. 1432 states that: "For the purpose of a verification of origin procedure carried out by the National Customs Service, the importer shall conserve a copy of the certificate of origin and the substantiating documents on which it was based for a period of five years from the date of issue of the certificate.</p> <p>The National Customs Service, in accordance with Decree having Force of Law No. 30/2004 on the Customs Ordinance and other provisions contained in domestic legislation, shall verify whether a good imported from a least developed country qualifies as originating in order to qualify for the benefit provided in Law No. 20.690."</p> <p>The updated version of the Customs Ordinance is available at: https://www.leychile.cl/Navegar?idNorma=238919.</p>
--	---
