



## U.S.-Chile Free Trade Agreement Frequently Asked Questions (FAQ's)

### General Information

Q1: Where can I find information on importing from Chile under the U.S.-Chile Free Trade Agreement (CLFTA)?

A1: For questions about importing from Chile under the U.S.-Chile FTA, see the U.S. Customs and Border Protection (CBP) Chile FTA page by searching “Chile” at [www.cbp.gov](http://www.cbp.gov) and selecting the corresponding Smart Link.

Q2: What information is available on the [www.cbp.gov](http://www.cbp.gov) U.S.-Chile (CLFTA) FTA webpage?

A2: The following information is available from the <https://www.cbp.gov> Chile FTA webpage:

- [Chile Free Trade Agreement \(CLFTA\) effective date January 1, 2004](#)
- [Chile FTA Summary](#)
- [Chile Free Trade Agreement Implementation Instructions](#)
- [Certification of Origin Template](#)
- [Data Elements for the Chile FTA Certification of Origin](#)
- [Chile FTA General Note 26, Harmonized Tariff Schedule of the United States](#)
- [Chile FTA Quotas](#)
- [Chile Drawback and Duty Deferral Program](#)
- [Reconciliation](#)
- [Chile FTA Tariff Tool](#)
- [Chile FTA Text](#)
- [Chile FTA Common Guidelines](#)
- [Chile FTA Regulations](#)
- [International Trade Commission Publication 3652](#)
- [Chile Free Trade Agreement Implementation Act—Senate Report](#)  
Senate Report 108-116, United States-Chile Free Trade Agreement Implementation Act, 108<sup>th</sup> Congress, 1<sup>st</sup> Session
- [Presidential Proclamation 7746](#)

Q3: Where can I find information on exporting to Chile?

A3: Answers to questions on exporting to Chile can be found on [www.export.gov](http://www.export.gov).

### Making a Claim for Preferential Tariff Treatment

Q4: How does an importer make a preference claim under the U.S.-Chile FTA?

A4: A U.S.-Chile FTA claim is made by prefacing the tariff item on the entry summary with the

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Special Program Indicator “CL” (19 CFR 10.410) or by filing a 19 USC 1520(d) as a post-importation claim within one year of importation 19 CFR 10.440-442.

Q5: May a post-importation preference claim be made using a Post Entry Amendment (PEA) or a Post Summary Correction (PSC).

A5: No a Post Entry Amendment (PEA) or a Post Summary Correction (PSC) is not an option..

Q6: What responsibilities does an importer assume by making a U.S.-Chile FTA preference claim?

A6: By making a U.S.-Chile FTA preference claim, the importer attests that the good is eligible for U.S.-Chile FTA preference and accepts responsibility for the truthfulness and accuracy of the claim. The importer is also responsible for providing the certification of origin and supporting documentation to CBP upon request.

### **Certification of Origin and Required Data Elements**

Q7: If CBP requests a U.S.-Chile FTA certification of origin, which one should the importer provide to CBP – the exporter’s, the producer’s, or his own?

A7: If the U.S.-Chile FTA claim is based on the exporter’s or producer’s certification of origin, the importer should provide that certification to CBP. If the U.S.-Chile FTA claim is based on the importer’s certification or importer knowledge, the importer should provide its own certification of origin.

Q8: Is there an official form or format for the certification of origin under the U.S.-Chile FTA?

A8: Although there is no official certification of origin form or format required under the U.S.-Chile FTA, CBP encourages the use of the certification of origin template available at <https://www.cbp.gov/document/guides/certification-origin-template>. Alternatively, a free-form certification with all of the data elements in 19 CFR 10.411 may also be made.

Q9: When must the importer provide a U.S.-Chile FTA certification of origin to CBP?

A9: The importer must provide CBP with a U.S.-Chile FTA certification of origin upon request by CBP.

Q10: Can an importer make a U.S.-Chile FTA claim without an exporter or producer certification?

A10: If the importer has knowledge that the goods originate and can provide documentation to substantiate the claim, then the importer need not possess an exporter or producer certification of origin.

Q11: Will CBP accept an unsigned or undated certification of origin?

A11: No, the certification of origin must be signed and dated by an individual with knowledge of the facts and the authority to legally bind the company.

Q12: Will CBP accept a certification of origin if the HTSUS number is incorrect?

A12: CBP may accept a certification of origin with an incorrect HTSUS number or request that an

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amended certification be submitted with a copy of the original certification as an attachment. The correct HTSUS number on the certification is an important indicator that the origination analysis was performed using the correct product-specific rule in HTSUS General Note 26(n).

Q13: Can an importer submit a certification of origin to CBP dated after the preference claim?

A13: An exporter or producer certification of origin signed after the date of the preference claim could not have been in the importer's possession at the time of such claim. However, if the preference claim is based on importer's knowledge, no exporter/producer certification is required.

## **Requesting Documentation and Verification**

Q14: CBP has requested that the importer provide documentation substantiating that the good originates. What information must be provided?

A14: The information required to substantiate an origination claim depends on the rule of origin and the nature of the good. In the case of a manufactured good using a product-specific rule of origin in GN 26(n), at a minimum, the following documentation should be provided:

- copy of the product specific rule of origin
- descriptive literature, diagrams, etc. to support classification of the imported good
- bill of materials (with a description, HTSUS number, and the originating status of each material)
- affidavit or certification attesting to the originating status of all originating materials that would otherwise fail the product-specific rule
- cost data, if the product-specific rule has a regional value content (RVC) requirement
- the Build Up or Build Down computation, if the product-specific rule has a RVC requirement

Q15: CBP has requested manufacturing information to substantiate the originating status of a good, but as the importer, I do not have those records in my possession. Must I comply?

A15: Yes, the importer is responsible for ensuring that CBP receives documentation substantiating that the good meets a rule of origin and otherwise complies with the terms of the U.S.-Chile FTA. If the importer hasn't the information, he should contact the exporter and/or producer to ensure that the information is provided to CBP. To protect confidentiality, a manufacturer may provide documentation directly to CBP. Per 19 CFR 103.35, CBP is barred from releasing business confidential information to the importer or any other party without obtaining consent.

Q16: If CBP requests a Supporting Statement, can the importer provide it via fax or as an email attachment?

A16: Yes, CBP will accept a digitized certification of origin as long as it contains a handwritten signature or the image of a handwritten signature.

## **Origination**

Q17: How does a good "originate" under the U.S.-Chile FTA?

A17: In order to be an "originating" good, a good must meet a rule of origin and all other

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requirements (GN 26 and 19 CFR 10.451).

Q18: What are the rules of origin under the U.S.-Chile FTA?

A18: Generally speaking, a good will originate if:

(a) The good is wholly obtained or produced entirely in the territory of Chile or of the United States, or both; or

(b) The good is produced entirely in the territory of Chile or of the United States, or both, satisfies all other applicable requirements of this subpart, and

(1) Each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification specified in General Note 26(n), HTSUS, and

(2) The good otherwise satisfies any applicable regional value content or other requirements specified in General Note 26(n), HTSUS; or

(c) The good is produced entirely in the territory of Chile or the United States, or both, exclusively from originating materials. (19 CFR 10.451)

Q19: How does a producer know if a material used to produce his good originates?

A19: Generally speaking, the producer will know that a material originates because his supplier will provide a certification or affidavit upon request. If a material supplier will not provide a certification or affidavit, then the producer should consider the material to be non-originating.

Q20: If the imported good is substantially manufactured in Chile, can the U.S. importer assume that it meets the terms of the U.S.-Chile FTA and make a preference claim?

A20: No, the importer would not be exercising reasonable care and may be subject to penalties if the good were found not to originate. By making a preference claim, the importer is certifying that the good meets the terms of the agreement and that the importer/exporter/producer will provide CBP with substantiating documentation upon request.

Q21: Can a chemical reaction result in origination?

A21: Yes, there is a chemical reaction rule of origin for goods of HTSUS Chapters 27 – 40. A chemical reaction is defined in General Note 26(m) (vi).

Q22: Can purification result in origination?

A22: Yes, there is a purification rule of origin for goods of HTSUS Chapters 28 – 35, 38 and 39. Purification is defined in General Note 26(m) (vi).

Q23: If a good undergoes a chemical reaction or purification, does it also need to meet a product-specific rule of origin?

A23: No, the purpose of the chemical reaction and purification rules is to provide producers an alternate method of establishing origination.

Q24: What is remanufacturing and can it result in origination?

A18: Remanufactured goods, classified in HTSUS Chapters 84-85, 87, or 90, or under heading 94.02, are entirely or partially comprised of recovered goods, and have a life expectancy and factory warranty similar to such new goods. The U.S.-Chile FTA allows recovered goods derived in the territory of one or both of the Parties from used goods and utilized in the territory. The information provided in this document is non-binding on U.S. Customs and Border Protection and is provided for informational purposes only.

of one or both of the Parties in the production of remanufactured goods to be considered originating in accordance with General Note 26(c) (ii).

Q25: Is there a provision to allow for goods to originate even if they have been commingled with non-originating goods? What if originating materials have been commingled with non-originating materials?

A25: Yes, see General Note 26(i) and 19 CFR 10.457 provide for the use of an inventory management system to constructively segregate originating and non-originating fungible goods and materials.

Q26: What does it mean when a producer says that a good meets a product-specific rule of origin?

A26: It means that all non-originating materials, with the possible exception of a small de minimis value, used to produce the good undergo a tariff shift prescribed in General Note 26(n).

Q27: What is de minimis?

A27: The de minimis provision allows a good to originate, as long as all non-originating materials that do not meet the prescribed tariff shift are not more than 10 percent of the adjusted value of the good (for non-textiles). However, if the good must meet a regional value content requirement to originate, the value of such non-originating materials must be taken into account when calculating the regional value content (General Note 26(e) and 19 CFR 10.459).

Q28: What if the good in question does not have a product-specific rule of origin?

A28: Some tariff items do not have product-specific rules of origin because the Harmonized Tariff Schedule of the United States (HTSUS) has been modified and the U.S.-Chile FTA product specific rules of origin have not yet been updated to account for these changes. If the good in question corresponds to a tariff item without a product-specific rule, the origination analysis should be performed using the most recent HTSUS that has an alternate tariff item for that good and its corresponding product-specific rule. Previous copies of the HTSUS are available at [www.usitc.gov](http://www.usitc.gov).

## **Regional Value Content (RVC)**

Q29: When can the RVC formula be used under the U.S.-Chile FTA?

A29: The RVC formula may be used only when the product-specific rule of origin in General Note 26(n) provides for it.

Q30: When performing the RVC calculation, how is the value of the good and the materials used to produce it determined? What adjustments can be made?

A30: The value of a good and its constituent materials is determined in accordance with General Note 26(e)(iii) and General Note 26(g), and 19 CFR 10.454. For permissible adjustments to the value of materials, see 19 CFR 10.455.

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## **Indirect Materials**

Q31: How does the U.S.-Chile FTA treat indirect materials?

A31: An indirect material is an originating material without regard to where it is produced. The term “indirect material” means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

- (i) fuel and energy;
  - (ii) tools, dies and molds;
  - (iii) spare parts and materials used in the maintenance of equipment or buildings;
  - (iv) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
  - (v) gloves, glasses, footwear, clothing, safety equipment and supplies;
  - (vi) equipment, devices and supplies used for testing or inspecting the goods;
  - (vii) catalysts and solvents; and
  - (viii) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.
- GN 26(k), (19 CFR 10.460).

## **Third Country Transportation**

Q32: May a U.S.-Chile FTA claim be made on goods that entered the commerce of a non-Party or that were further processed while under customs control in a non-Party country?

A32: Yes, goods may enter the commerce of a non-Party, but they may not be further processed outside of the territories of the Parties per General Note 26(c) (iii) and 19 CFR 10.463.

## **Goods Subject to Tariff Rate Quotas**

Q33: Does the U.S.-Chile FTA provide for Tariff Rate Quotas?

A33: No, Chile quotas ended December 31, 2014.

## **U.S. Goods Returned**

Q34: May U.S. goods returned from Chile to the United States be claimed under the U.S.-Chile FTA?

A34: No, U.S. goods returned cannot be claimed under the U.S.-Chile FTA, but may be exempt from duty under HTSUS 9801.00.10.

## **Merchandise Processing Fee (MPF)**

Q35: Are originating goods exempt from MPF under the U.S.-Chile FTA?

A35: Yes, originating goods are exempt from MPF per [19 CFR 24.23\(c\) \(8\)](#).

Q36: Can unconditionally free goods obtain the MPF exemption even though the “CL” Special Program Indicator is not listed in the “Special” column of the HTSUS?

A36: Yes, the importer can still make a U.S.-Chile FTA claim on unconditionally free goods to obtain the MPF exemption. All of the same requirements apply.

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Q37: What is the value of the MPF exemption?

A37: MPF is 0.3464% of the adjusted value of the goods with a \$25 minimum and \$485 maximum.

Q38: Are Tariff Preference Level (TPL) goods exempt from MPF?

A38: No, TPL goods are not “originating” and thus are not exempt from MPF.

### **Duty Rates and Staging (Phase Out)**

Q39: Duty rates on originating goods under the U.S.-Chile FTA phase out on January 1, 2015. Where can I find the phase out schedule?

A39: [USITC Publication 3652](#), Annex 2, Section B, is available at a link from the CBP Chile page at <http://www.cbp.gov/trade/free-trade-agreements/Chile>.

Q40: Where can I get additional information with respect to importing into the U.S. under the U.S.-Chile FTA?

A40: Questions may be addressed to our mailbox at [fta@dhs.gov](mailto:fta@dhs.gov).

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