

IMPLEMENTING REGULATIONS

Rule 1 Application for Certificate of Origin

- (a) An application for a Certificate of Origin (hereinafter referred to as “CO”) is to be made by the exporter or its authorised agent to the competent governmental authority of the exporting Party or its designees referred to in paragraph 1 of Rule 2 of the Operational Certification Procedures (hereinafter referred to as “OCP”) set out in Annex 4 of the Agreement on Comprehensive Economic Partnership among Member States of the Association of Southeast Asian Nations and Japan (hereinafter referred to as “AJCEP Agreement”), together with supporting documents proving that the good to be exported qualifies for the issuance of a CO, in accordance with the exporting Party’s domestic laws and regulations.
- (b) Where a pre-exportation examination of the origin of a good to be exported is conducted, the result of the examination, subject to review periodically or whenever appropriate, will be accepted as the supporting evidence in determining the origin of the good to be exported thereafter. The pre-exportation examination may not apply to the good the origin of which, by its nature, can be easily determined.

Rule 2 Issuance of the Certificate of Origin

The competent governmental authority of the exporting Party or its designees is, to the best of its competence and ability, required to carry out proper examination, in accordance with the domestic laws and regulations of the exporting Party, upon each application for a CO to ensure that:

- (a) the CO is duly completed and signed by the authorised signatory;
- (b) the origin of the good is in conformity with Chapter 3 of the AJCEP Agreement;
- (c) the description, quantity (e.g. gross weight, net weight) of the good, marks and numbers of packages, and number and kinds of packages, as specified, conform to the good; and
- (d) other statements in the CO correspond to relevant supporting documents submitted.

Rule 3 Format of Certificate of Origin

- (a) A CO should be on A4 size paper.
- (b) A CO will comprise the original and two (2) copies in the case of a Party which is an ASEAN Member State, and only the original in the case of Japan.
- (c) A CO will bear a reference number separately given by each place or office of issuance.
- (d) For cases where there is a third country invoice, this is to be indicated in the CO, together with such information as the name and address of the person issuing the invoice.
- (e) A declaration for a CO is to be completed by the exporter, in box 11 of the ASEAN Member States' form and box 10 of Japan's form. The exporter's signature may be autographed or electronically printed.
- (f) Signatures on a CO of the authorised signatory of the competent governmental authority of the exporting Party or its designees may be autographed or electronically printed.
- (g) The original of a CO is to be forwarded by the exporter to the importer for submission to the customs authority of the importing Party. In the case of a Party which is an ASEAN Member State, a copy of the CO is to be retained by both the exporter and the competent governmental authority of the exporting Party or its designees, respectively.

Multiple Items or Invoices

- (h) A CO, which indicates two or more invoices issued for a single shipment, will be accepted by the customs authority of the importing Party.
- (i) Multiple items declared on the same CO should be allowed, provided that each item qualifies as an originating good separately in its own right.
- (j) For multiple items declared on the same CO, a problem encountered with one or more of the items declared will not affect or delay the preferential tariff treatment and customs clearance of the remaining items declared on that CO. Paragraph 5 of Rule 6 of the OCP may be applied to the problematic items.

Rule 4 Modifications

- (a) The customs authority of the importing Party will disregard minor errors, such as slight discrepancies or omissions, typographical errors, and information which falls outside the designated box, provided that these minor errors do not affect the authenticity of the CO or the accuracy of the information included in the CO.
- (b) Neither erasures nor superimpositions are allowed on a CO. Any alteration is to be made by:
 - (i) striking out the erroneous parts and making any additions which may be required. Such alterations are to be approved by an authorised signatory of the CO and certified by the competent governmental authority of the exporting Party or its designees. Unused spaces are to be crossed out to prevent any subsequent addition; or
 - (ii) issuing a new CO to replace the erroneous one.

Rule 5 Theft, Loss or Destruction

In the event of theft, loss or destruction of a CO before the expiration of its validity, the exporter or its authorised agent may request the competent governmental authority of the exporting Party or its designees to issue:

- (a) a new CO with a new reference number on the basis of the export documents in the possession of the competent governmental authority of the exporting Party or its designees, in which case the original CO will be invalidated. The date of issuance and the reference number of the original CO is to be indicated in the new CO, namely, in box 12 of the ASEAN Member States' form and box 9 of Japan's form. The new CO will be valid during the term of the validity of the original CO; or
- (b) where applicable, a certified true copy of the CO to be made out on the basis of the export documents in the possession of the exporter or its authorised agent, bearing the endorsement of the words "CERTIFIED TRUE COPY" in box 12 of the ASEAN Member States' certified true copy. This copy is to bear the date of issuance of the CO and it will be valid for the same period as that of the CO. The certified true copy of the CO is to be issued no later than one year from the date of issuance of the CO.

Rule 6 Waiver of CO

- (a) For the purpose of paragraph 2 of Rule 3 of the OCP, the CO will be waived when the aggregate customs value of goods does not exceed the following amount:
 - (i) in the case of Japan, two hundred thousand Japanese Yen (¥ 200 000) in aggregate customs value; and
 - (ii) in the case of a Party which is a Member State of ASEAN, 200 United States Dollars (USD 200) in exporting value.
- (b) For the purpose of paragraph 2 of Rule 3 of the OCP, should a Party modify the value referred to in subparagraph (a) (i) or (a) (ii), or any subsequently modified value, it will notify the other Parties of such modified value, through the ASEAN Secretariat.

Rule 7 Retroactive Issuance of Certificate of Origin

In principle, a CO is to be issued by the time of shipment or no later than three (3) days from the date of shipment. In exceptional cases where a CO has not been issued by the time of shipment or no later than three (3) days from the date of shipment, at the request of the exporter, the CO will be issued retroactively in accordance with the laws and regulations of the exporting Party within twelve (12) months from the date of shipment, in which case it is necessary to tick the box marked "Issued Retroactively". In such cases, the importer of the good who claims the preferential tariff treatment for the good may, subject to the laws and regulations of the importing Party, provide the customs authority of the importing Party with the CO issued retroactively. The CO issued retroactively will indicate the date of shipment in box 3.

Rule 8 Documents for Accumulation

For the purposes of Article 29 of the AJCEP Agreement, if documentary evidence is needed for the issuance of a CO or the verification process to prove that material accumulated in the production of a good is an originating material of a Party, the following may be used:

- (a) a declaration by the exporter or producer of the good;
- (b) an invoice of the good;
- (c) a copy of the CO for the material issued by the exporting Party of the material, including that issued retroactively; or

- (d) any other relevant document.

Rule 9 Back-to-back CO for Partial Export Shipments

For the purpose of subparagraph 4(a) of Rule 3 of the OCP, in the case of partial export shipments, the partial export value and partial quantity is to be shown on the back-to-back CO. The Party issuing the back-to-back CO is required to ensure that the total quantity exported under the partial shipment does not exceed the total quantity shown in the original CO.

Rule 10 Focal Points

- (a) Each Party is required to designate a focal point for all matters relating to Chapter 3 of the AJCEP Agreement, the OCP and this Implementing Regulations.
- (b) Each Party is required to provide the other Parties, through the ASEAN Secretariat, with the name, address, telephone number, facsimile number and e-mail address of the focal point upon adoption of this Implementing Regulations, and is likewise required to notify the other Parties of any modification regarding such information within thirty (30) days after such modification.
- (c) When the focal point of a Party raises any matter arising from the implementation of Chapter 3 of the AJCEP Agreement, the OCP and this Implementing Regulations to the focal point of another Party, that other Party may assign relevant experts to look into the matter and to respond with its findings and proposal for resolving the matter within a reasonable period of time. The focal points will facilitate the resolution of any matter raised with regard to the implementation of Chapter 3 of the AJCEP Agreement through consultations.

Rule 11 Designees

If the competent governmental authority of the exporting Party designates its designees, or makes modification or revocation with respect to the designees, it is required to immediately notify the other Parties, through the ASEAN Secretariat, of such designation, modification or revocation.

Rule 12 Tariff Classification

The tariff classification numbers of the Harmonized System (HS) is to be indicated on a CO at the six-digit level, and the description of the good on a CO should be substantially identical to the description on the invoice and, if possible, to the description under the HS for the good.

Rule 13 Procedure to exchange the sample of a certificate of origin, specimen signatures and official seals

Each Party is required to provide the other Parties, through the ASEAN Secretariat, with a sample of a CO, specimen signatures and specimen official seals or impressions of stamps of its competent governmental authority or its designees for the issuance of a CO, upon the date of adoption of this Implementing Regulations, as well as, in case of any subsequent modification thereof, thirty (30) days before the modification is made.

Rule 14 Communication

- (a) For the purposes of verification in accordance with Rules 6 and 7 of the OCP, any communication between the competent governmental authority of the exporting Party and the customs authority of the importing Party is to be made through the designated focal points. Such communication will be made by any method, with confirmation of receipt.
- (b) In the cases provided for in paragraph (a), the direct communications between the competent governmental authority of the exporting Party and the customs authority of the importing Party may be made by facsimile or e-mail in parallel with the communications set out in that paragraph.
- (c) The period for providing the response pursuant to Rules 6 and 7 of the OCP will commence from the date of the confirmation of receipt of the request pursuant to paragraph (a).
- (d) For the purposes of paragraph 3 of Rule 8 of the OCP, the period for providing the written determination by the customs authority of the importing Party will commence from the date of the confirmation of receipt of the information last provided pursuant to paragraph (a).
- (e) Notwithstanding paragraphs (a) through (d) above, for the purposes of verification in accordance with paragraph 1 of Rule 6 of the OCP, the customs authority of an ASEAN Member State may access the EPA CO Reference System provided by the Ministry of Economy, Trade and Industry of Japan. In case where such verification is undertaken using the EPA CO Reference System, the written determination referred to in paragraph 3 of Rule 8 of the OCP may be communicated using the EPA CO Reference System.

Rule 15 Goods in Transport or Storage

An originating good which is in the process of being transported from the exporting Party to the importing Party, or is in temporary storage in bonded area in the importing Party, is to be accorded preferential tariff treatment if it is imported into the importing Party on or after the date of entry into force of the AJCEP Agreement for the importing Party, subject to the submission of a CO issued retroactively to the customs authority of the importing Party and subject to domestic laws and regulations of the importing Party.

Rule 16 Attachment

The formats of the CO for ASEAN Member States and Japan are shown respectively as Attachment 1 and Attachment 2 of this Implementing Regulations.

Rule 17 Transitional Provisions Incident to the Amendment of Annex 2

- (a) In relation to the trade between Parties with regard to either or both of which the amendment to Annex 2 has not entered into force, a CO based on the pre-amended Annex 2 (HS 2002 version) should be accepted by the customs authority of the importing Party.

Note: For greater certainty, Article 29 of the AJCEP Agreement should apply to this subparagraph.

- (b) Subject to paragraph 1 of Rule 4 of the OCP, a CO issued prior to the entry into force of the amendment to Annex 2 based on the pre-amended Annex 2 (HS 2002 version) should be accepted by the customs authority of the importing Party with regard to which the amendment to Annex 2 has entered into force.
- (c) Regarding the good exported prior to the entry into force of the amendment to Annex 2 with regard to the exporting Party, a CO issued retroactively pursuant to Rule 7 of this Implementing Regulations after the entry into force of the amendment to Annex 2 with regard to the exporting Party should be based on the amended Annex 2 (HS 2007 version).
- (d) When issuing a back-to-back CO pursuant to paragraph 4(a) of Rule 3 of the OCP, the competent governmental authority or its designees of the importing Party issuing back-to-back CO may make an appropriate conversion of the HS code on the original CO depending on the status of the amendment to Annex 2 with regard to the exporting Party or another Party as referred to in subparagraph 4(a) of Rule 3 of the OCP.