

APPENDIX 1
OPERATIONAL CERTIFICATION PROCEDURES
FOR THE RULES OF ORIGIN

For the purposes of implementing Annex 3, the following operational procedures on the issuance of a Certificate of Origin, verification of origin and other related administrative matters shall be observed:

DEFINITIONS

Rule 1

For the purposes of this Appendix:

back-to-back Certificate of Origin means a Certificate of Origin issued by an intermediate exporting Party based on the Certificate of Origin issued by the first exporting Party;

customs authority means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations¹;

exporter means a natural or juridical person located in the territory of a Party from where a good is exported by such a person;

importer means a natural or juridical person located in the territory of a Party into where a good is imported by such a person; and

issuing authority means the competent authority designated by the government of the exporting Party to issue a Certificate of Origin and notified to all the other Parties in accordance with this Appendix.

producer means a natural or juridical person who carries out production as set out in Rule 1 of Annex 3 in the territory of a Party.

ISSUING AUTHORITIES

Rule 2

1. Each Party shall provide the names, addresses, specimen signatures and specimen of official seals of its issuing authorities to all the other Parties, through the ASEAN Secretariat. Any change in the said list shall be promptly provided in the same manner.

¹ Such laws and regulations administered and enforced by the customs authority of each Party concerning the importation, exportation and transit of goods as they relate to customs duties, charges and other taxes or prohibitions, restrictions and controls with respect to the movement of controlled items across the boundary of the customs authority of each Party.

2. Any Certificate of Origin issued by an official not included in the said list shall not be honoured by the customs authority.

Rule 3

For the purposes of determining originating status, the issuing authorities shall have the right to request for supporting documentary evidence or to carry out the check considered appropriate in accordance with a Party's respective domestic laws and regulations.

ISSUANCE OF A CERTIFICATE OF ORIGIN

Rule 4

1. The producer and/or exporter of the good, or its authorised representative, shall apply to the issuing authority, in accordance with the Party's domestic laws and regulations, requesting for pre-exportation examination of the origin of the good. The result of the examination, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in determining the origin of the said good to be exported thereafter. The pre-exportation examination may not apply to the good of which, by its nature, origin can be easily determined.
2. The producer and/or exporter or its authorised representative shall apply for a Certificate of Origin together with appropriate supporting documents proving that the good to be exported qualifies for the issuance of a Certificate of Origin, consistent with the domestic laws and regulations of the Party.
3. The issuing authority shall, to the best of its competence and ability, carry out proper examination, in accordance with the domestic laws and regulations of the Party, upon each application for a Certification of Origin to ensure that:
 - (a) the Certificate of Origin is duly completed and signed by the authorised signatory;
 - (b) the origin of the good is in conformity with Annex 3;
 - (c) other statements in the Certificate of Origin correspond to supporting documentary evidence submitted; and
 - (d) the description, quantity and weight of the good, marks and number of packages, number and kinds of packages, as specified, conform to the good to be exported.
4. Multiple items declared on the same Certificate of Origin, shall be allowed, provided that each item must qualify separately in its own right.

Rule 5

1. A Certificate of Origin shall be on A4 size paper and shall be in the form attached and referred to as Form AK. It shall be in the English language.
2. A Certificate of Origin shall comprise one original and two (2) copies. The colors of the original and the copies of a Certificate of Origin shall be mutually agreed upon by the Parties.
3. A Certificate of Origin shall bear a reference number separately given by each place or office of issuance.
4. The original copy shall be forwarded by the producer and/or exporter to the importer for submission to the customs authority of the importing Party. The duplicate shall be retained by the issuing authority of the exporting Party. The triplicate shall be retained by the producer and/or exporter.
5. The issuing authority shall endeavour to periodically provide records of issuance of Certificates of Origin, including issuing number and date, producer and/or exporter and description of goods, to the customs authority of the importing Party.
6. In cases where a Certificate of Origin is rejected by the customs authority of the importing Party, the subject Certificate of Origin shall be marked accordingly in box 4 and the original Certificate of Origin shall be returned to the issuing authority within a reasonable period but not exceeding two (2) months. The issuing authority shall be duly notified of the grounds for the denial of preferential tariff treatment.
7. In cases where a Certificate of Origin is not accepted, as stated in paragraph 6, the customs authority of the importing Party, as it deems fit, should accept the clarifications made by the issuing authority to accept the Certificate of Origin and reinstate the preferential tariff treatment. The clarifications should be detailed and exhaustive in addressing the grounds for denial of preferential tariff treatment raised by the importing Party.

Rule 6

Neither erasures nor superimpositions shall be allowed on a Certificate of Origin. Any alteration shall be made by striking out the erroneous materials and making any addition required. Such alterations shall be approved by an official authorised to sign a Certificate of Origin and certified by the issuing authority. Unused spaces shall be crossed out to prevent any subsequent addition.

Rule 7

1. A Certificate of Origin shall be issued at the time of exportation or soon thereafter whenever the good to be exported can be considered to be originating in the territory of the exporting Party within the meaning of Annex 3.

2. The issuing authority of the intermediate Party may issue a back-to-back Certificate of Origin, if an application is made by the exporter while the good is passing through its territory, provided that:

- (a) a valid original Certificate of Origin is presented;
- (b) the importer of the intermediate Party and the exporter who applies for the back-to-back Certificate of Origin in the intermediate Party are the same; and
- (c) verification procedures as set out in Rule 14 is applied.

3. Upon request of a Party, the Parties shall review the provisions of this Rule and the implementation thereof, and revise it as may be mutually agreed upon by the Parties.

4. In exceptional cases where a Certificate of Origin has not been issued at the time of exportation or soon thereafter due to involuntary errors, omissions or other valid causes, a Certificate of Origin may be issued retroactively but no later than one year from the date of shipment, bearing the words "ISSUED RETROACTIVELY".

Rule 8

In the event of theft, loss or destruction of a Certificate of Origin, the producer and/or exporter may apply to the issuing authority for a certified true copy of the original to be made out on the basis of the export documents in its possession bearing the endorsement of the words "CERTIFIED TRUE COPY" in box 12 of a Certificate of Origin. This copy shall bear the date of issuance of the original Certificate of Origin. The certified true copy of a Certificate of Origin shall be issued no later than one year from the date of issuance of the original Certificate of Origin.

PRESENTATION

Rule 9

For the purposes of claiming preferential tariff treatment, the importer shall submit to the customs authority of the importing Party at the time of import, a declaration, a Certificate of Origin including supporting documents (i.e. invoices and, when required, the through Bill of Lading issued in the territory of the exporting Party) and other documents as required in accordance with the domestic laws and regulations of the importing Party.

Rule 10

1. The Certificate of Origin shall, in accordance with domestic laws and regulations, be submitted to the customs authority of the importing Party within six (6) months from the date of issuance by the issuing authority of the exporting Party or the intermediate exporting Party in the case of back-to-back Certificate of Origin.
2. Where the Certificate of Origin is submitted to the customs authority of the importing Party after the expiration of the time-limit as stated in paragraph 1 for its submission, such Certificate of Origin shall be accepted when the failure to observe such time-limit results from force majeure or other valid causes beyond the control of the producer and/or exporter.
3. In all cases, the customs authority of the importing Party may accept such Certificate of Origin, provided that the good has been imported before the expiration of the time-limit of the said Certificate of Origin.

Rule 11

A Certificate of Origin shall not be required for:

- (a) a good originating in the territory of a Party which does not exceed US\$ 200.00 FOB; or
- (b) a good sent by post from the territory of a Party which does not exceed US\$ 200.00 FOB,

provided that the importation does not form part of one or more importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the submission of a Certificate of Origin.

Rule 12

1. Where the origin of a good is not in doubt, the discovery of minor discrepancies, between the statements made in a Certificate of Origin and those made in the documents submitted to the customs authority of the importing Party for the purpose of carrying out the formalities for importing the good shall not *ipso facto* invalidate the Certificate of Origin, if it does in fact correspond to the good submitted.
2. For multiple items declared under the same Certificate of Origin, a problem encountered with one of the items listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining items listed in that Certificate of Origin. Paragraph 1(c) of Rule 14 may be applied to the problematic items.

RECORD KEEPING REQUIREMENT

Rule 13

1. For the purposes of the verification process pursuant to Rules 14 and 15, the producer and/or exporter applying for the issuance of a Certificate of Origin shall, subject to the domestic laws and regulations of the exporting Party, keep its supporting records for application for not less than three (3) years from the date of issuance of the Certificate of Origin.
2. The importer shall keep records relevant to the importation in accordance with the domestic laws and regulations of the importing Party.
3. The application for Certificates of Origin and all documents related to such application shall be retained by the issuing authority for not less than three (3) years from the date of issuance.
4. Information relating to the validity of a Certificate of Origin shall be furnished upon request of the importing Party by an official authorised to sign a Certificate of Origin and certified by the appropriate government authorities.
5. Any information communicated between the Parties concerned shall be treated as confidential and shall be used for the validation of Certificates of Origin purpose only.

VERIFICATION

Rule 14

1. The importing Party may request the issuing authority of the exporting Party to conduct a retroactive check at random and/or when the importing Party has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the good in question or of certain parts thereof. Upon such request, the issuing authority² of the exporting Party shall conduct a retroactive check on a producer's and/or exporter's cost statement based on the current cost and prices within a six-month timeframe of the specified date of exportation³, subject to the following procedures:
 - (a) the request of the importing Party for a retroactive check shall be accompanied with the Certificate of Origin concerned and shall specify the reasons and any additional information suggesting that the particulars given on the said Certificate of Origin may be inaccurate, unless the retroactive check is requested on a random basis;

² In the case of Korea, the issuing authority referred to Rules 14 and 15, for the purpose of origin verification for the exported goods into the ASEAN Member countries, refers to the customs authority in accordance with its customs laws and regulations.

³ With reference to the six-month timeframe, the issuing authority of the exporting Party can choose any six-month period, before or after the date specified, or any time in between as long as it does not exceed the period of six months.

- (b) the issuing authority of the exporting Party receiving a request for retroactive check shall respond to the request promptly and reply within two (2) months after receipt of the request;
- (c) the customs authority of the importing Party may suspend provision of preferential tariff treatment while awaiting the result of verification. However, it may release the good to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud; and
- (d) the issuing authority shall promptly transmit the results of the verification process to the importing Party which shall then determine whether or not the subject good is originating. The entire process for retroactive check, including the process of notifying the issuing authority of the exporting Party the result of determination on whether or not the good is originating, shall be completed within six (6) months. While the process of the retroactive check is being undertaken, sub-paragraph (c) shall be applied.

2. The customs authority of the importing Party may request an importer for information or documents relating to the origin of imported good in accordance with its domestic laws and regulations before requesting the retroactive check pursuant to paragraph 1.

Rule 15

- 1. If the importing Party is not satisfied with the outcome of the retroactive check, it may, under exceptional circumstances, request verification visits to the exporting Party.
- 2. Prior to conducting a verification visit pursuant to paragraph 1:
 - (a) an importing Party shall deliver a written notification of its intention to conduct the verification visit simultaneously to:
 - (i) the producer and/or exporter whose premises are to be visited;
 - (ii) the issuing authority of the Party in the territory of which the verification visit is to occur;
 - (iii) the customs authority of the Party in the territory of which the verification visit is to occur; and
 - (iv) the importer of the good subject to the verification visit;
 - (b) the written notification mentioned in sub-paragraph (a) shall be as comprehensive as possible and shall include, among others:

- (i) the name of the customs authority issuing the notification;
 - (ii) the name of the producer and/or exporter whose premises are to be visited;
 - (iii) the proposed date of the verification visit;
 - (iv) the coverage of the proposed verification visit, including reference to the good subject to the verification; and
 - (v) the names and designation of the officials performing the verification visit;
- (c) an importing Party shall obtain the written consent of the producer and/or exporter whose premises are to be visited;
 - (d) when a written consent from the producer and/or exporter is not obtained within thirty (30) days from the date of receipt of the notification pursuant to sub-paragraph (a), the notifying Party may deny preferential tariff treatment to the good referred to in the said Certificate of Origin that would have been subject to the verification visit; and
 - (e) the issuing authority receiving the notification may postpone the proposed verification visit and notify the importing Party of such intention within fifteen (15) days from the date of receipt of the notification. Notwithstanding any postponement, any verification visit shall be carried out within sixty (60) days from the date of such receipt, or a longer period as the Parties may agree.

3. The Party conducting the verification visit shall provide the producer and/or exporter, whose good is subject to such verification, and the relevant issuing authority with a written determination of whether or not the good subject to such verification qualifies as an originating good.

4. Any suspended preferential tariff treatment shall be reinstated upon the written determination referred to in paragraph 3 that the good qualifies as an originating good.

5. The producer and/or exporter shall be allowed thirty (30) days from the date of receipt of the written determination to provide in writing comments or additional information regarding the eligibility of the good for preferential tariff treatment. If the good is still found to be non-originating, the final written determination shall be communicated to the issuing authority within thirty (30) days from the date of receipt of the comments/additional information from the producer and/or exporter.

6. The verification visit process, including the actual visit and the determination under paragraph 3 whether the good subject to such verification is originating or not, shall be carried out and its results communicated to the issuing authority within a maximum period of six (6) months from the first day the initial verification visit was conducted. While the process of verification is being undertaken, paragraph 1(c) of Rule 14 shall be applied.

Rule 16

1. The Parties shall maintain, in accordance with their respective domestic laws and regulations, the confidentiality of classified business information collected in the process of verification pursuant to Rules 14 and 15 and shall protect that information from disclosure that could prejudice the competitive position of the person who provided the information.

2. Subject to the domestic laws and regulations, and agreement of the Parties, classified information may only be disclosed by the authorities of one Party to another, for the administration and enforcement of origin determination.

DENIAL OF PREFERENTIAL TARIFF TREATMENT

Rule 17

Except as otherwise provided in this Appendix, the importing Party may deny claim for preferential tariff treatment or recover unpaid duties in accordance with its laws and regulations, where the good does not meet the requirements of Annex 3, or where the relevant requirements of this Appendix are not fulfilled.

SPECIAL CASES

Rule 18

When destination of all or parts of the good exported to the territory of a specified Party is changed, before or after its arrival in the territory of that Party, the following shall be observed:

- (a) even if the good is already imported into the territory of a specified importing Party, the customs authority of that importing Party shall endorse the Certificate of Origin to the effect for all or parts of the good in case where the importer makes a written application for the preferential tariff treatment along with the submission of the original Certificate of Origin; and
- (b) if the changing of destination occurs during transportation to the territory of the importing Party as specified in the Certificate of Origin, the producer and/or exporter shall apply in writing, accompanied with

the issued Certificate of Origin, for a new issuance for all or parts of the good.

Rule 19

For the purposes of implementing Rule 9 of Annex 3, where transportation is effected through the territory of one or more intermediate countries, other than that of the exporting Party and the importing Party, the following shall be produced to the relevant government authorities of the importing Party:

- (a) a through Bill of Lading issued in the territory of the exporting Party;
- (b) a Certificate of Origin;
- (c) a copy of the original commercial invoice in respect of the good; and
- (d) other relevant supporting documents, if any, as evidence that the requirements of Rule 9 of Annex 3 are being complied with.

Rule 20

1. Notwithstanding Rule 9 of Annex 3, a good sent from the territory of the exporting Party for exhibition in another country and sold during or after the exhibition for importation into the territory of a Party shall be granted preferential tariff treatment on the condition that the good meets the requirements as set out in Annex 3, provided that it is shown to the satisfaction of the customs authority of the importing Party that:

- (a) an exporter has dispatched the good from the territory of the exporting Party to the country where the exhibition has been held and has exhibited it there;
- (b) the exporter has sold the goods or transferred it to a consignee in the territory of the importing Party; and
- (c) the good has been consigned during the exhibition or immediately thereafter to the territory of the importing Party in the state in which it was sent for the exhibition.

2. For the purposes of implementing paragraph 1, a Certificate of Origin shall be provided to the relevant government authorities of the importing Party. The name and address of the exhibition shall be indicated. As an evidence for the identification of the good and the conditions under which it was exhibited, a certificate issued by the relevant government authorities of the country where the exhibition took place together with supporting documents prescribed in sub-paragraph (d) of Rule 19 may be required.

3. Paragraph 1 shall apply to any trade, agricultural or crafts exhibition, fair or similar show or display in shops or business premises with a view to the sale of foreign good and where the good remains under customs control during the exhibition.

Rule 21

1. Customs authority in the importing Party may accept Certificates of Origin in cases where the sales invoice is issued either by a company located in a third country or by an exporter for the account of the said company, provided that the good meets the requirements of Annex 3.

2. The exporter of the goods shall indicate “third country invoicing” and such information as name and country of the company issuing the invoice in the Certificate of Origin.

ACTION AGAINST FRAUDULENT ACTS

Rule 22

1. When it is suspected that fraudulent acts in connection with a Certificate of Origin have been committed, the government authorities concerned shall cooperate in the action to be taken by a Party against the persons involved.

2. Each Party shall provide legal sanctions for fraudulent acts related to a Certificate of Origin.

CUSTOMS CONTACT POINT

Rule 23

1. Each Party shall designate a contact point for all matters relating to this Appendix.

2. When the contact point of a Party raises any matter arising from Annex 3 to the contact point of any other Party, the customs authority of the latter Party shall assign its own experts to look into the matter and to respond with its findings and proposed solution for resolving the matter within a reasonable period of time.

3. The contact points shall endeavor to resolve any matter raised under Annex 3 through consultations.