

ANNEX 3A

OPERATIONAL CERTIFICATION PROCEDURES

For the purpose of implementing Chapter 3 (Rules of Origin), the following operational procedures on the issuance and verification of Proofs of Origin and other related administrative matters shall be observed by each Party.

PROOF OF ORIGIN

Rule 1

1. Any of the following shall be considered as a Proof of Origin:
 - (a) a Certificate of Origin issued by an Issuing Authority/Body in accordance with this Annex;
 - (b) a Declaration of Origin by an approved exporter in accordance with Paragraph 1(a) of Rule 14; or
 - (c) a Declaration of Origin by an exporter or producer in accordance with Paragraph 1(b) of Rule 14,

based on available information that the good is originating.

2. Australia, Brunei Darussalam, Indonesia, Malaysia, New Zealand, the Philippines, Singapore, Thailand and Viet Nam shall implement Paragraph 1(c) no later than 10 years after their respective dates of entry into force of the Second Protocol. Cambodia, Lao PDR and Myanmar shall implement Paragraph 1(c) no later than 20 years after their respective dates of entry into force of the Second Protocol.

3. Notwithstanding Paragraph 2, a Party may extend its transition period, by up to a maximum of 10 years, in which to implement Paragraph 1(c), by notifying the Committee on Trade in Goods of that decision.

4. The Parties shall commence a review of this Rule on the date of entry into force of the Second Protocol for all Parties. This review will consider the introduction of Declaration of Origin by an importer as a Proof of Origin.

5. A Proof of Origin shall:
 - (a) be in hardcopy, or any other medium, including electronic format as notified by an importing Party;
 - (b) specify that the good is originating and meets the requirements of this Annex; and
 - (c) contain at least the information set out in Appendix 3A.1 (List of Data Requirements) or Appendix 3A.2 (Minimum Data Requirements – Declaration of Origin), as applicable.
6. Each Party shall provide that a Proof of Origin remains valid for 12 months from the date on which it is issued or completed.

AUTHORITIES

Rule 2

The Certificate of Origin shall be issued by an Issuing Authority/Body of the exporting Party. Details of the Issuing Authorities/Bodies shall be notified by each Party, through the ASEAN Secretariat, prior to the entry into force of this Agreement. Any subsequent changes shall be promptly notified by each Party, through the ASEAN Secretariat.

Rule 3

1. The Issuing Authorities/Bodies shall provide the names, addresses, specimen signatures and specimens of the impressions of official seals of their respective Issuing Authorities/Bodies to the other Parties, through the ASEAN Secretariat. The Issuing Authorities/Bodies shall submit electronically to the ASEAN Secretariat the above information and specimens for dissemination to the other Parties. Any subsequent changes shall be promptly notified through the ASEAN Secretariat.

2. Any Certificate of Origin issued by a person not included in the list may not be honoured by the Customs Authority of the importing Party.

Rule 4

For the purpose of determining originating status, the Issuing Authorities/Bodies shall have the right to call for supporting documentary evidence or other relevant information to carry out any check considered appropriate in accordance with respective laws, regulations and administrative practices.

APPLICATIONS

Rule 5

1. The manufacturer, producer, or exporter of the good or its authorised representative shall apply in writing or by electronic means to an Issuing Authority/Body, in accordance with the exporting Party's laws, regulations and the Issuing Authority's/Body's procedures, requesting a pre-exportation examination of the origin of the good to be exported.
2. The result of the examination, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in issuing a Certificate of Origin for the good to be exported thereafter.
3. Pre-exportation examination need not apply to a good for which, by its nature, origin can be easily determined.

Rule 6

The manufacturer, producer, or exporter of the good or its authorised representative shall apply for the Certificate of Origin by providing appropriate supporting documents and other relevant information, proving that the good to be exported qualifies as originating.

PRE-EXPORTATION EXAMINATION

Rule 7

The Issuing Authority/Body shall, to the best of its competence and ability, carry out proper examination, in accordance with the laws and regulations of the exporting Party or the procedures of the Issuing Authority/Body, upon each application for the Certificate of Origin to ensure that:

- (a) the application and the Certificate of Origin are duly completed and signed by the authorised signatory;
- (b) the good is an originating good in accordance with Article 2 (Originating Goods) of Chapter 3 (Rules of Origin);
- (c) other statements in the Certificate of Origin correspond to appropriate supporting documents and other relevant information; and
- (d) the information in Appendix 3A.1 (List of Data Requirements) is provided for the goods being exported.

ISSUANCE OF CERTIFICATE OF ORIGIN

Rule 8

1. The format of the Certificate of Origin is to be determined by the Parties and it must contain the data requirements listed in Appendix 3A.1 (List of Data Requirements).
2. The Certificate of Origin shall comprise one original and two copies.
3. The Certificate of Origin shall:
 - (a) be in hardcopy, or any other medium, including electronic format as notified by an importing Party;
 - (b) bear a unique reference number separately given by each place or office of issuance;
 - (c) be in the English language; and
 - (d) bear an authorised signature and official seal of the Issuing Authority/Body. The signature and official seal may be applied electronically.
4. The original Certificate of Origin shall be forwarded by the exporter to the importer for submission to the Customs Authority of the importing Party. Copies shall be retained by the Issuing Authority/Body and the exporter.
5. Multiple goods declared on the same Certificate of Origin shall be allowed, provided that each good is originating in its own right.

Rule 9

To implement Article 2 (Originating Goods) of Chapter 3 (Rules of Origin), a Proof of Origin shall specify the relevant origin conferring criteria.

Rule 10

In circumstances where a Certificate of Origin contains incorrect information, the appropriate Issuing Authority/Body of the exporting Party may:

- (a) issue a new Certificate of Origin within 12 months from the date of the original Certificate of Origin and invalidate the original Certificate of Origin. The Certificate of Origin that is re-issued shall be valid for no longer than 12 months; or
- (b) make modifications to the Certificate of Origin by striking out the errors and making any additions or corrections. Any modifications shall be approved by a person authorised to sign the Certificate of Origin and certified by the appropriate Issuing Authority/Body. The modified Certificate of Origin shall retain its validity.

Rule 11

1. Where a Certificate of Origin has not been issued prior to or at the time of shipment due to involuntary errors or omissions or other valid causes, or has been issued as a replacement of a Certificate of Origin containing incorrect information, a Certificate of Origin may be issued retroactively, but no later than 12 months from the date of shipment, bearing the words “**ISSUED RETROACTIVELY**”.

2. Subject to Rule 1, an intermediate Party's Issuing Authority/Body, approved exporter or exporter shall issue a back-to-back Proof of Origin, provided that:

- (a) one or more valid original Proof(s) of Origin or a certified true copy of a Certificate of Origin is presented;
- (b) the period of validity of the back-to-back Proof of Origin does not exceed the period of validity of the original Proof(s) of Origin;
- (c) for partial export shipments, the partial export quantity shall be shown instead of the full quantity of the original Proof(s) of Origin;
- (d) for consolidated export shipments, notwithstanding Subparagraph (b), the back-to-back Proof of Origin shall be issued by the intermediate Party and presented to the final importing Party within the validity period of the earliest expiry date of the original Proof(s) of Origin;
- (e) the intermediate Party shall ensure that the total quantity of goods re-exported under the partial or consolidated export shipments does not exceed the total quantity of goods of the original Proof(s) of Origin from the first

exporting Party when approving the back-to-back Proof of Origin;

- (f) the consignment which is to be re-exported using the back-to-back Proof of Origin does not undergo any further processing in the intermediate Party, except for repacking or logistics activities such as unloading, reloading, storing, consolidation or splitting up of the consignment, or labelling only as required by the laws, regulations, procedures, administrative decisions, and policies of the importing Party or any other operations necessary to preserve them in good condition or to transport them to the importing Party;
- (g) the back-to-back Proof of Origin contains relevant information from the original Proof(s) of Origin in accordance with Appendix 3A.1 (List of Data Requirements) and Appendix 3A.2 (Minimum Data Requirements – Declaration of Origin); and
- (h) the verification procedures in Rules 19 and 20 shall also apply to the back-to-back Proof of Origin.

Rule 12

In the event of theft, loss or destruction of a Certificate of Origin, the manufacturer, producer, exporter or its authorised representative may apply to the Issuing Authority/Body of the exporting Party for a certified true copy of the original Certificate of Origin. The copy shall:

- (a) be made on the basis of the export documents in their possession;
- (b) bear the words “**CERTIFIED TRUE COPY**”;
- (c) contain the same Certificate of Origin reference number and date of issuance of the original Certificate of Origin; and
- (d) be issued no later than 12 months from the date of issuance of the original Certificate of Origin.

THIRD COUNTRY INVOICING

Rule 13

1. An importing Party shall not deny a claim for preferential tariff treatment for the sole reason that the sales invoice was issued by a company located in a third country other than the AANZFTA exporting or importing country, provided that the good meets the requirements in Chapter 3 (Rules of Origin).
2. The words “**SUBJECT OF THIRD COUNTRY INVOICE** (*name of the first company issuing the third country invoice*)” shall appear on the Certificate of Origin.

DECLARATION OF ORIGIN

Rule 14

1. A Declaration of Origin referred to in Rule 1 may be completed by:
 - (a) an approved exporter within the meaning of Rule 15; or
 - (b) an exporter or a producer of the good, subject to Paragraphs 2 and 3 of Rule 1.
2. A Declaration of Origin shall:
 - (a) be completed in accordance with Appendix 3A.2 (Minimum Data Requirements – Declaration of Origin);
 - (b) be in the English language;
 - (c) bear the name and signature of the certifying person; and
 - (d) bear the date on which the Declaration of Origin was completed.

APPROVED EXPORTER

Rule 15

1. Each Party shall provide for the authorisation of an exporter who exports goods under this Agreement as an approved exporter, in accordance with its laws and regulations. An exporter seeking such authorisation must apply in writing or electronically and must offer to the

satisfaction of the competent authority of the exporting Party all guarantees necessary to verify the originating status of the goods for which a Declaration of Origin is completed. The competent authority of an exporting Party may grant the status of approved exporter subject to any conditions which it considers appropriate, including the following:

- (a) that the exporter is duly registered in accordance with the laws and regulations of the exporting Party;
- (b) that the exporter knows and understands the rules of origin as set out in this Annex;
- (c) that the exporter has a satisfactory level of experience in export in accordance with the laws and regulations of the exporting Party;
- (d) that the exporter has a record of good compliance, measured by risk management of the competent authority of the exporting Party;
- (e) that the exporter, in the case of a trader, is able to obtain a declaration by the producer confirming the originating status of the good for which the Declaration of Origin is completed by an approved exporter and the readiness of the producer to co-operate in verification in accordance with Rules 19 and 20 and meet all requirements of this Annex; and
- (f) that the exporter has a well-maintained bookkeeping and record-keeping system, in accordance with the laws and regulations of the exporting Party.

2. The competent authority of an exporting Party shall:

- (a) make its approved exporter procedures and requirements public and easily available;
- (b) grant the approved exporter authorisation in writing or electronically;
- (c) provide the approved exporter an authorisation code which must be included in the Declaration of Origin; and
- (d) promptly include the information on the authorisation granted in the approved exporter database referred to in Paragraph 3.

3. The ASEAN Secretariat shall be the custodian of the approved exporter database, which can be accessed online by the Parties.

4. An approved exporter shall have the following obligations:

- (a) to allow the competent authority of an exporting Party access to the records referred to in Rule 25 and premises for the purposes of monitoring the use of an authorisation;
- (b) to complete Declarations of Origin only for goods for which the approved exporter has been allowed to do so by the competent authority of an exporting Party and for which it has all appropriate documents proving the originating status of the goods concerned at the time of completing the declaration;
- (c) to take full responsibility for all Declarations of Origin completed, including any misuse; and
- (d) to promptly inform the competent authority of an exporting Party of any changes related to the information referred to in Subparagraph (b).

5. Each Party shall promptly include the following information on its approved exporters in the approved exporter database:

- (a) the legal name and address of the exporter;
- (b) the approved exporter authorisation code;
- (c) the issuance date and, if applicable, the expiry date of its approved exporter authorisation; and
- (d) a list of goods subject to the authorisation, at least at the HS Chapter level.

Any change in the items referred to in Subparagraphs (a) to (d), or withdrawals or suspensions of authorisations, shall be promptly included in the approved exporter database.

6. Notwithstanding Paragraph 5, no Party shall be required to provide the information referred to in that Paragraph to the approved exporter database if it has established its own secure website, containing the above information, that is accessible to the Parties.

7. The competent authority of the exporting Party shall monitor the use of the authorisation, including verification of the Declarations of Origin completed by an approved exporter, and withdraw the authorisation where the conditions referred to in Paragraph 1 are not met.

8. An approved exporter shall be prepared to submit at any time, on request of the customs authorities of the importing Party, all appropriate documents proving the originating status of the goods concerned, including statements from the suppliers or producers in accordance with the laws and regulations of the importing Party as well as the fulfilment of the other requirements of this Annex.

CLAIM FOR PREFERENTIAL TARIFF TREATMENT

Rule 16

1. An importing Party shall grant preferential tariff treatment in accordance with this Agreement to an originating good on the basis of a Proof of Origin.

2. Unless otherwise provided in Chapter 3 (Rules of Origin), an importing Party shall provide that, for the purposes of claiming preferential tariff treatment, the importer shall:

- (a) make a declaration in its customs declaration that the good qualifies as an originating good;
- (b) have a valid Proof of Origin in its possession at the time the declaration referred to in Subparagraph (a) is made; and
- (c) provide an original or a certified true copy of the Proof of Origin to the importing Party, if required by the importing Party, at the time of import declaration.

3. Notwithstanding Paragraphs 1 and 2, the importing Party may not require a Proof of Origin for the purposes of claiming preferential tariff treatment if:

- (a) the customs value of the importation does not exceed US\$200 or the equivalent amount in the importing Party's currency or any higher amount as the importing Party may establish based on its laws, regulations or administrative practices; or

- (b) it is a good for which the importing Party has waived the requirement,

provided that the importation does not form part of a series of importations carried out or planned for the purpose of evading compliance with the importing Party's laws and regulations governing claims for preferential tariff treatment under this Agreement.

4. The Customs Authority of the importing Party may require, where appropriate, the importer to submit supporting evidence that a good qualifies as an originating good, in accordance with the requirements of Chapter 3 (Rules of Origin).

5. The importer shall demonstrate that the requirements referred to in Article 14 (Direct Consignment, Transit and Transshipment) of Chapter 3 (Rules of Origin) have been met and provide such evidence on request of the Customs Authority of the importing Party.

Rule 17

The following time limits for the presentation of the Proof of Origin shall be observed:

- (a) the Proof of Origin shall be valid for a period of 12 months from the date of issue and must be submitted to the Customs Authority of the importing Party within that period;
- (b) where the Proof of Origin is submitted to the Customs Authority of the importing Party after the expiration of the time limit for its submission, such Proof of Origin shall still be accepted, subject to the importing Party's laws, regulations or administrative practices, when failure to observe the time limit results from *force majeure* or other valid causes beyond the control of the importer and/or exporter; and
- (c) the Customs Authority of the importing Party may accept such Proof of Origin, provided that the goods have been imported before the expiration of the time limit of that Proof of Origin.

POST-IMPORTATION CLAIMS FOR PREFERENTIAL TARIFF TREATMENT

Rule 18

1. Each Party shall, subject to its laws and regulations, provide that where a good would have qualified as an originating good when it was imported into that Party, the importer of the good may, within a period specified by its laws and regulations, and after the date on which the good was imported, apply for a refund of any excess duties, deposit, or guarantee paid as the result of the good not having been granted preferential tariff treatment, on presentation of the following to the Customs Authority of that Party:

- (a) a Proof of Origin and other evidence that the good qualifies as an originating good; and
- (b) such other documentation in relation to the importation as the Customs Authority may require to satisfactorily evidence the preferential tariff treatment claimed.

2. Notwithstanding Paragraph 1, each Party may require, in accordance with its laws and regulations, that the importer notify the Customs Authority of that Party of its intention to claim preferential tariff treatment at the time of importation.

ORIGIN VERIFICATION

Rule 19

1. The Customs Authority of the importing Party may verify the eligibility of a good for preferential tariff treatment in accordance with its laws, regulations or administrative practices.

2. If the Customs Authority of the importing Party has reasonable doubts as to the authenticity or accuracy of the information included in the Proof of Origin or other documentary evidence, it may:

- (a) institute retroactive checking measures to establish the validity of the Proof of Origin or other documentary evidence of origin;
- (b) request information from the relevant importer of a good for which preferential tariff treatment was claimed; and

- (c) issue written requests to the Issuing Authority/Body of the exporting Party for information from the exporter or producer.¹

3. A request for information in accordance with Paragraph 2(a) shall not preclude the use of the verification visit provided for in Rule 20.

4. The recipient of a request for information under Paragraph 2 shall provide the information requested within 90 days from the date the written request is made.

5. The Customs Authority of the importing Party shall provide written advice as to whether the goods are eligible for preferential tariff treatment to all the relevant parties within 60 days from receipt of information necessary to make a decision.

VERIFICATION VISIT

Rule 20

1. If the Customs Authority of the importing Party wishes to undertake a verification visit, it shall issue a written request to the Issuing Authority/Body of the exporting Party at least 30 days in advance of the proposed verification visit.²

2. If the Issuing Authority/Body of the exporting Party is not a government agency, the Customs Authority of the importing Party shall notify the Customs Authority of the exporting Party of the written request to undertake the verification visit.

3. The written request referred to in Paragraphs 1 and 2 shall at a minimum include:

- (a) the identity of the Customs Authority issuing the request;
- (b) the name of the exporter or the producer of the exporting Party whose good is subject to the verification visit;
- (c) the date the written request is made;

¹ The Customs Authority of the importing Party may also issue written requests directly to the approved exporter, exporter or producer in Australia or New Zealand.

² The Customs Authority of the importing Party may also issue a written request to undertake a verification visit directly to the approved exporter, exporter or producer in Australia or New Zealand.

- (d) the proposed date and place of the visit;
- (e) the objective and scope of the proposed visit, including specific reference to the good subject to the verification; and
- (f) the names and titles of the officials of the Customs Authority or other relevant authorities of the importing Party who will participate in the visit.

4. The Issuing Authority/Body of the exporting Party shall notify the exporter or producer of the intended verification visit by the Customs Authority or other relevant authorities of the importing Party and request the exporter or producer to:

- (a) permit the Customs Authority or other relevant authorities of the importing Party to visit their premises or factory; and
- (b) provide information relating to the origin of the good.

5. The Issuing Authority/Body shall advise the exporter or producer that, should they fail to respond by a specified date, preferential tariff treatment may be denied.

6. The Issuing Authority/Body of the exporting Party shall advise the Customs Authority of the importing Party within 30 days of the date of the written request from the Customs Authority of the importing Party whether the exporter or producer has agreed to the request for a verification visit.

7. The Customs Authority of the importing Party shall not visit the premises or factory of any exporter or producer in the territory of the exporting Party without written prior consent from the exporter or producer.

8. The Customs Authority of the importing Party shall complete any action to verify eligibility for preferential tariff treatment and make a decision within 150 days of the date of the request to the Issuing Authority/Body under Paragraph 1. The Customs Authority of the importing Party shall provide written advice as to whether goods are eligible for preferential tariff treatment to the relevant parties within ten days of the decision being made.

9. Parties shall maintain the confidentiality of information classified as confidential collected in the process of verification and shall protect that information from disclosure that could prejudice the competitive

position of the person who provided the information. The information classified as confidential may only be disclosed to those authorities responsible for the administration and enforcement of origin determination.³

SUSPENSION OF PREFERENTIAL TARIFF TREATMENT

Rule 21

1. The Customs Authority of the importing Party may suspend preferential tariff treatment to a good that is the subject of an origin verification action under this Annex for the duration of that action or any part thereof.

2. The importing Party may release the goods 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.

3. In the event that a determination is made by the Customs Authority of the importing Party that the good qualifies as an originating good of the exporting Party, any suspended preferential tariff treatment shall be reinstated.

Rule 22

When the destination of any goods exported to a specified Party is changed after their export from the exporting Party, but before clearance by the importing Party, the exporter, manufacturer, producer or its authorised representative shall apply in writing to the Issuing Authority/Body for a new Certificate of Origin for the goods changing destination. The application shall include the original Certificate of Origin relating to the goods.

Rule 23

For the purpose of implementing Article 14 (b) (Direct Consignment, Transit and Transshipment) of Chapter 3 (Rules of Origin) where transportation is effected through the territory of any non-Party, relevant documents and evidence shall be provided upon request by the Customs Authority of the importing Party, which may include:

- (a) a Proof of Origin;

³ This Paragraph shall be read with reference to the confidentiality provisions of Article 5 (Confidentiality) of Chapter 21 (Final Provisions).

- (b) an invoice;
- (c) transport documents;
- (d) a packing list; and
- (e) in the case of storage, storage or customs documents.

MINOR DISCREPANCIES AND ERRORS

Rule 24

The Customs Authority of an importing Party shall disregard minor discrepancies or errors, such as slight discrepancies between documents, omissions of information, typing errors or protrusions from the designated field, provided that these minor discrepancies or errors do not create doubt as to the originating status of the good.

RECORD KEEPING

Rule 25

1. Each Party shall require that the Issuing Authority/Body, manufacturer, producer, exporter, importer and their authorised representatives maintain for a period of not less than three years after the date of exportation or importation, as the case may be, all records relating to that exportation or importation which are necessary to demonstrate that the good for which a claim for preferential tariff treatment was made qualifies for preferential tariff treatment. Such records may be in electronic form.

2. Information relating to the validity of the Proof of Origin shall be furnished upon request of the importing Party by an official or person authorised to sign the Proof of Origin and certified by the appropriate Issuing Authority/Body, exporter or producer.

3. Any information communicated between the Parties concerned shall be treated as confidential and shall be used for the validation of Proofs of Origin purposes only.⁴

⁴ This Paragraph shall be read with reference to the confidentiality provisions of Article 5 (Confidentiality) of Chapter 21 (Final Provisions).

ACTION AGAINST FRAUDULENT ACTS

Rule 26

When it is suspected that fraudulent acts in connection with a Proof of Origin have been committed, the government authorities concerned shall co-operate in the action to be taken in the Party concerned against the persons involved, in accordance with the Party's laws and regulations.

GOODS IN TRANSPORT OR STORAGE

Rule 27

Originating goods which are in the process of being transported from the exporting Party to the importing Party, or which are in temporary storage in a bonded area in the importing Party, should be accorded preferential tariff treatment if they are imported into the importing Party on or after the date of entry into force of this Agreement, subject to the submission of a Certificate of Origin issued retroactively to the Customs Authority of the importing Party and subject to laws, regulations or administrative practices of the importing Party.

SETTLEMENT OF DISPUTES

Rule 28⁵

1. In the case of a dispute concerning origin determination, classification of goods or other matters, the government authorities concerned in the importing and exporting Parties shall consult each other with a view to resolving the dispute, and the result shall be reported to the other Parties for information.
2. If no settlement can be reached bilaterally, the dispute may be referred to the ROO Sub-Committee established pursuant to Article 18 (Sub-Committee on Rules of Origin) of Chapter 3 (Rules of Origin).

⁵ This Rule is without prejudice to a Party's rights under Chapter 20 (Consultations and Dispute Settlement).