

Implementing Guidelines for the Rules of Origin of the Regional Comprehensive Economic Partnership Agreement

0. Explanatory Note

The Implementing Guidelines (hereinafter referred to as “the IGs”) have been developed with the intention of facilitating the understanding of Chapter 3 (Rules of Origin) of the Regional Comprehensive Economic Partnership Agreement (hereinafter referred to as “the Agreement”). The IGs do not form part of the Agreement and in case there is any conflict between the IGs and the Agreement, the provisions in the Agreement will prevail.

1. Parties and Signatories

Parties and signatory States which accept the Proof of Origin (hereinafter referred to as “PO”) for the purpose of claiming preferential tariff treatment under the Agreement:

| | | | |
|-----------|-------------------|-------------|-------------|
| Australia | Brunei Darussalam | Cambodia | China |
| Indonesia | Japan | Korea | Lao PDR |
| Malaysia | Myanmar | New Zealand | Philippines |
| Singapore | Thailand | Viet Nam | |

For greater certainty, a signatory State accepts the PO once it become a Party. The Parties, who have implemented the Agreement are listed in <https://rcepsec.org/rules-of-origin/>.

For the purposes of indicating the name of a country in a PO, it should be in the same manner as appeared above.

2. Certificate of Origin

- a. An application for a Certificate of Origin (hereinafter referred to as “CO”) is to be made in accordance with Article 3.17 of the Agreement by an exporter, producer, or their authorised representative to the issuing body of the exporting Party, together with supporting documents proving that the good to be exported qualifies for the issuance of a CO.
- b. The issuing bodies of the Parties are listed in <https://rcepsec.org/rules-of-origin/>.
- c. The format of the CO as determined by the Parties under Article 3.17 subparagraph 3(a) of the Agreement appears in <https://rcepsec.org/rules-of-origin/>. The CO will be issued in this format according to the description of the Overleaf Notes.

3. Declaration of Origin

Approved exporters can use any format for a Declaration of Origin (hereinafter referred to as “DO”) provided that it contains all relevant information as specified in the Minimum Information Requirements of Annex 3B of the Agreement, the manner of reflecting the DO information requirements should follow the description of the RCEP CO Overleaf Notes, where applicable.

4. Back-to-back PO

- a. An issuing body of an intermediate Party may issue a back-to-back CO, and an

approved exporter or any exporter of an intermediate Party may issue a back-to-back DO in accordance with Article 3.19 of the Agreement. For greater certainty, any exporter can complete a back-to-back DO only if the intermediate Party and the final importing Party have already implemented subparagraph 1(c) of Article 3.16 of the Agreement (DO by any exporter of producer) in accordance with paragraph 2 of that Article.

- b. In case of the back-to-back DO is issued by an approved exporter, it should be completed only for goods for which the approved exporter has been allowed to do so by the competent authority of the intermediate Party.

5. PO in Electronic Format

In accordance with subparagraph 5(a) of Article 3.16 of the Agreement, Parties may accept a PO, or issue a CO in electronic format e.g. a PDF file. The list of the Parties who accept a PO, or issue a CO in an electronic format and the relevant conditions of each Party can be found on <https://rcepsec.org/rules-of-origin/>.

6. Calculation of Regional Value Content and FOB value

- a. The regional value content of a good is to be calculated using the formulas provided in Article 3.5 of the Agreement.
- b. When the actual FOB value of a good is unknown or cannot be ascertained, the “FOB value” referred to in subparagraph (e) of Article 3.1 of the Agreement and “FOB” referred to in paragraph 1 of Article 3.5 of the Agreement can be substituted with the last ascertained value of the goods known to the exporter or producer who applies for the CO or completes the DO.
- c. In the case of back-to-back PO, the FOB value to be indicated in the back-to-back PO should be that of the intermediate Party.
- d. The customs authorities of the importing Party should not deny preferential tariff treatment for the sole reason that the FOB value indicated in the PO is different from the actual FOB value indicated in the invoice, but may undertake a verification if necessary.

7. HS Code of the Goods

- a. The HS should be at the 6-digit level of the exported product and based on the transposed PSR in HS 2022 published on <https://rcepsec.org/rules-of-origin/>.
- b. The customs authority of an importing Party may disregard as minor discrepancy any difference between the HS code of an importing good indicated in a PO and that of importing Party, provided that it does not create doubt as to the originating status of the good.

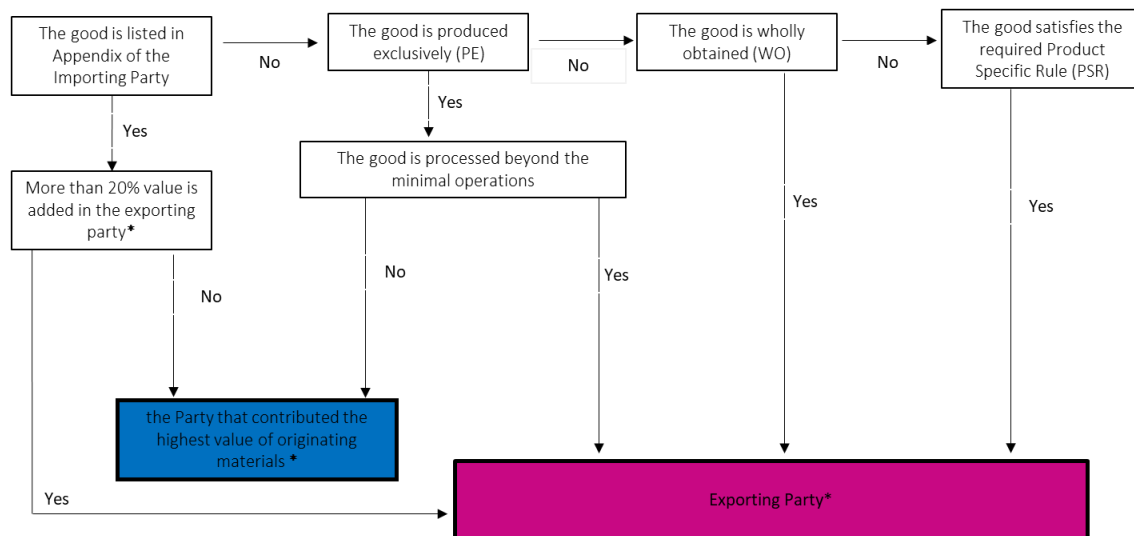
8. Tariff Differentials and RCEP country of origin

- a. In the Agreement, some parties apply different tariff rate for the same originating good of different parties. When an importing Party sets out more than one tariff rate for a good to be imported, the tariff rate to be applied for that good is the rate allocated the RCEP country of origin of that good. This is why identifying the RCEP country of origin of a good being exported is one of the minimum information

requirements provided in Annex 3B of the Agreements, and as such any PO needs to contain this information.

- b. The RCEP country of origin for an originating good is determined in accordance with Article 2.6 of the Agreement (a guide is provided in Figure 1) and the description of the Overleaf Notes.
- c. For the common concession goods, circumstance (b) in paragraph 8 of the RCEP CO Overleaf Notes is for the purpose of determining RCEP country of origin, and does not affect the application of preferential treatment in importing Party.
- d. In the case of back-to-back PO, an applicant of a back-to-back CO or person who completes a back-to-back DO needs to identify the RCEP country of origin of the good. In this case it should be noted that the RCEP country of origin of the good indicated in the back-to-back PO can be different from that of the original PO, as it depends on the tariff commitment of the importing Party. For example, even when a good is not listed in Appendix to Annex I of the Agreement of the intermediate Party and RCEP country of origin for the good is the exporting Party, the good may be listed in Appendix to Annex I of the Agreement of the final importing Party and RCEP country of origin may be the Party that contributed the highest value of originating materials used in the production of that good. Therefore, if the good is listed in Appendix to Annex I of the Agreement of the importing Party or the good is produced exclusively and subject to tariff differentials in Annex I of the Agreement of the importing Party, the applicant of back-to-back CO or person who completes back-to-back DO should have information to prove the RCEP country of origin of the good.

Figure 1
Flow chart of determining RCEP country of origin of a good



Note: Notwithstanding the above diagram, the importer may choose to use paragraph 6 of Article 2.6 of the Agreement. For example, if the exporter/producer does not know or cannot ascertain the RCEP country of origin. In the case exporter/producer and importer should discuss which Party is to be nominated as the RCEP country of origin.
