

Guideline for the statement on origin/importer's knowledge and verification under the Japan-EU EPA

1. Introduction

In the Agreement between the European Union and Japan for an Economic Partnership (hereinafter referred to as “the Agreement”), the self-declaration system is introduced. A claim for preferential tariff treatment is based either on a statement on origin or on importer's knowledge.

2. Statement on Origin¹

Where an importer makes a claim for preferential tariff treatment based on a statement on origin in accordance with Article 3.16.2(a) of the Agreement, that statement on origin shall be made out by an “exporter” (“exporter” includes “producer” (hereinafter the same shall apply)), using one of the linguistic versions of the text set out in Annex 3-D of Chapter 3 (Rules of origin and origin procedures) of the Agreement on an invoice or on any other commercial document (please refer to Annex 1 of this Guideline). Furthermore, the statement is not necessary to be translated.

The “exporter” can be any person (such as a producer or a trading company) making out the statement on origin involved in the production and/or exportation of the product, as long as this person fulfils the obligations under the EPA. It is not necessary that the “exporter” lodges the customs export declaration in respect of the products.

The EPA imposes that the statement on origin is made out by the exporter but does not include any explicit requirement as to the identity of the person issuing the commercial document used for making out the statement. The obligation to provide a sufficient description of the products lies on the exporter even if its statement on origin appears on another person’s document.

Therefore, nothing in the EPA prevents the following scenarios to apply where the

¹ This Guidance incorporates common text, published in Annex 1 to this Guidance agreed between DG TAXUD and Japan Customs.

producer and a trading (exporting) company are both located in the exporting Party, and where:

- the producer acting as the “exporter”, although not exporting the products, makes out a statement on origin on its own document;
- the trading company acting as the “exporter”, based on information from the producer, makes out a statement on origin on its own document;
- the producer acting as the “exporter”, although not exporting the products, makes out a statement on origin on a document of the trading company;
- the trading company acting as the “exporter”, based on information from the producer, makes out a statement on origin on a document of the producer.

The two last scenarios nevertheless imply that the exporter making out the statement on origin, and not being the person having issued the commercial document, is clearly identified on that document. In the case where an Exporter’s Reference Number has not been assigned, i.e., the exporter cannot be identified, the exporter may indicate its full address under the part "Place and date".

Where the “exporter” (producer or trader) is located in the exporting Party but the trader issuing the invoice is established in a third country, the “exporter” is not supposed to make out a statement on origin on a document of that trader. In that case, the Statement on Origin should be placed on a commercial document issued by the “exporter” (producer or trader other than the trader established in a third country, under one of the scenarios provided for the question which document may be used for the statement on origin) in the exporting Party, such as a delivery note.

It should be reminded that a claim for preferential tariff treatment based on a statement on origin made out on a document issued by the “exporter” (producer or trader, under one of the scenarios provided for the question which document may be used for the statement on origin), shall not be rejected for the sole reason that an invoice was issued in a third country.

There is no legal definition in the EPA of what constitutes a “commercial document” which nonetheless can be considered as a written record of a commercial transaction. It therefore covers, apart from the invoice itself, different types of documents such as a pro-forma invoice, a shipping document (packing list, delivery note), etc. The only legal requirement for the invoice or any commercial document to be considered as the basis for a statement on origin is that it shall contain a description of the originating

products in sufficient detail to enable their identification. Other products, which may be included in the same invoice or other commercial document, shall be clearly distinguished from the originating products.

A statement on origin can be printed on a separate paper (e.g. a blank paper or a paper with a company letterhead), other than on an invoice or other commercial document, where:

- that invoice or any other commercial document makes a reference to that separate paper, or
- that separate paper makes a reference to the invoice or any other commercial document.

The separate paper can then be seen as integral part of the invoice or other commercial document. The treatments above are also applied to the four scenarios provided for the question which document may be used for the statement on origin.

Furthermore, where identical products are imported more than one time within 12 months, the statement may be used comprehensively for these multiple shipments by the exporter indicating on the statement the period during which it is used. Please contact Customs if there are any questions.

3. Importer's knowledge

The importer may claim preferential tariff treatment based on its knowledge in accordance with Article 3.16.2(b) of the Agreement. In such a case, it is assumed that the importer has information which demonstrates that the product is originating in accordance with Article 3.18 of the Agreement and satisfies the requirements provided for in the Agreement.

4. Explanation of the originating status of a product, which Japan Customs requests at the time of import declaration

At the time of import declaration, in accordance with the second sentence of Article 3.16(3) of the Agreement, Japan Customs requests from an importer, who claims preferential tariff treatment for a product under the Agreement, to provide an

explanation, as part of the import declaration, that the product satisfies the requirements of the Agreement. The “explanation” refers to an additional explanation on the originating status of the product, which is provided in addition to a statement on origin or the importer's knowledge.

However, where an importer makes a claim for preferential tariff treatment based on the statement on origin in accordance with Article 3.16.2(a) of the Agreement, the importer is not obliged to provide any additional explanation on the originating status of the product besides the statement, if such information is not available to him/her. In this regard, the exporter is responsible for the correctness of the statement on origin and of the information provided in accordance with Article 3.17(1) of the Agreement.

To reply to a request for an explanation at the time of import declaration, an importer is not asked to obtain additional information from the exporter who has made out the statement on origin, and the exporter is not obliged to provide such information at the time of import declaration. Furthermore, an importer, who states that he/she cannot provide an additional explanation besides the statement on origin issued by the exporter, does not need to specify a reason why he/she cannot provide any such explanation.

In the above case, the absence of such explanation besides the statement on origin will not lead to a rejection of the claim or a denial of preferential tariff treatment under the Agreement.

Where the importer cannot provide an additional explanation on the originating status of the product, please refer to point (1) below. On the other hand, where the importer provides an additional explanation, particulars to be noted as part of the explanation will be simplified as per point (2).

(1) The importer cannot provide an additional explanation:

Where the importer who makes a claim based on a statement on origin and who, when requested, cannot provide an additional explanation on the originating status, he/she can use the NACCS platform to describe that he/she cannot provide an explanation. In this case, the importer does not need to submit any additional explanation which is done by means of a simplified procedure which is applicable from 17th November 2019

- by inserting "Q" or "F" according to the following category in the third digit of the four-digit code for the Origin certification into the electronic import declaration on NACCS.

Code	Category
Q	Statement on origin made by the producer (When the importer cannot provide an additional explanation on the originating status.)
F	Statement on origin made by the exporter (When the importer cannot provide an additional explanation on the originating status.)

* Codes Q and F correspond to Codes P (Statement on origin made by the producer) and E (Statement on origin made by the exporter), respectively.

(2) The importer provides an additional explanation:

Where the importer decides to provide an additional explanation to a customs office, it may be done as follows:

- ① When a claim for preferential tariff treatment by the importer is based on a statement on origin:

To explain that the product is originating, please provide the particulars below. In this case, the importer may use the attached form entitled: "Explanation that the product satisfies the origin criteria (Japan-EU EPA)".

- a) Invoice number and date of issue;
- b) Explanation that the product satisfies the origin criteria; and
- c) Name of the person who produced the explanation.

Please note that the exporter is responsible for the correctness of the statement on origin made out and of the information provided, in accordance with Article 3.17(1) of the Agreement.

- ② When a claim for preferential tariff treatment by the importer is based on the importer's knowledge:

To explain that the product is originating, please provide the particulars below. In this case, the importer may use the attached form entitled: "Explanation that the product satisfies the origin criteria (Japan-EU EPA)".

- a) Invoice number and date of issue;
- b) Explanation that the product satisfies the origin criteria; and
- c) Name of the person who produced the explanation.

Please note that, in order for the importer to claim for preferential tariff treatment on the basis of the importer's knowledge, it is assumed that the importer has information which demonstrates that the product is originating

and satisfies the requirements provided for in the Agreement, in accordance with Article 3.18 thereof.

5. Waivers

(1) In accordance with Article 3.20 of the EPA, the basis for a claim for preferential tariff treatment, where it is a statement on origin or the importer's knowledge, is not required where the total amount of the customs value is less than 200,000yen.

(2) Further, an additional explanation is not requested where:

- an advance ruling in writing has been obtained and the registered number of such advance ruling is noted on the import declaration/tax return form.
- the products are wholly obtained or produced in the EU under Article 3.3 of the EPA and that can be confirmed from clearance documents such as an invoice.

6. Record keeping

(1) Documents to be kept by an importer

An importer in Japan is required to keep the documents related to the originating product for five years from the date following the date of import permission as provided for in the relevant Japanese law. The document subject to keeping in the case of a claim for preferential tariff treatment based on a statement on origin is that statement on origin concerned. In the case of a claim for preferential tariff treatment based on the importer's knowledge, the importer must keep all the records demonstrating the product satisfies the requirements to obtain originating status (i.e. the declaration of the importer's knowledge and the documents containing information demonstrating that the product is originating). However, the documents that have already been submitted to Japan Customs at the time of import declaration are not subject to keeping.

(2) Documents to be kept by an exporter

An exporter or a producer in Japan who made out a statement on origin is required to keep the documents related to the originating product for four years from the date of making out the statement. The documents subject to keeping are

a copy of the statement on origin and all the other records demonstrating that the product satisfies the requirements to obtain originating status.

7. Handling of a verification on the originating status by Japan Customs (In case of import into Japan)

At the time of import declaration or after release of the products based either on the statement on origin or on the importer's knowledge, the customs authority may conduct a verification based on risk assessment methods in accordance with Articles 3.21 and 3.22 of the Agreement, where necessary. If the verification shows that the imported goods do not satisfy the requirements, preferential tariff treatment may be denied in accordance with Article 3.24 of the Agreement.

(The following is the common texts with the EU.)

- a) In case the claim is based on a **statement on origin** made out by the exporter in the exporting Party, verification potentially covers the following two steps:

Step 1: The importing customs authority requests from the importer no more information than provided in the list of data elements of Article 3.21(2). Except the statement on origin, which the importing customs authority would need to possibly move to Step 2a, the importer is not obliged to provide that information and can leave it to the exporter to do it directly (Article 3.21(4)) or through administrative cooperation (Article 3.22).

The importer who is requested to submit information may provide this information to the importing customs authority. However, apart from contractual obligations between the importer (buyer) and the exporter (seller), Chapter 3 does not contain any obligation for the exporter to provide information to the importer, even where the importer is requested by the importing customs authority to provide that information (but is not obliged to do it) under verification Step 1.

Nonetheless, if the exporter, confronted with a request from the importer prefers to provide information at this stage of the verification process, he/she can choose to do so, either by providing the requested information (in full or in relation to one or more data elements) to the importer or to the importing customs authority directly. Providing information following the request during

Step 1 of the verification process avoids that the information will be requested by his/her own (exporting) customs authority following a request for administrative cooperation by the importing customs authority as part of Step 2a.

At least, the importer should provide the importing customs authority with the statement on origin on which the claim for preferential tariff treatment is based, unless this statement is already provided by the importer as part of the claim process (Article 3.16(4)).

Step 2a: In case the importing customs authority needs, in addition to the statement on origin, the information requested under Step 1 to verify the originating status of the product, but the information provided by the importer or the exporter is not sufficient, the importing customs authority may request administrative cooperation from the exporting customs authority (Article 3.22(2)).

A request for administrative cooperation by the importing customs authority to the exporting customs authority is only possible following a request for information to the importer (Step 1) and if it considers that additional information is necessary to verify the originating status of the product.

b) In case the claim is based on **importer's knowledge**, verification potentially covers the following two steps:

Step 1: The importing customs authority requests from the importer no more information than provided in the list of data elements of Article 3.21(2).

Step 2b: In case the importing customs authority needs more information to determine the originating status of the product and following step 1, the importing Party may request the importer to provide additional details (Article 3.21(5)). The importing customs authority cannot request administrative cooperation from the exporting customs authority (Article 3.22(2)) as no exporter in the exporting Party is identified.

In case of 'importer's knowledge', the importer shall be able to demonstrate that the product is originating and satisfies the requirements of Chapter 3. This does not necessarily mean that all information at the time the claim is made shall be readily available in the records of the importer. Based on the request for information pursuant to Article 3.21(1), the

importer should be able to compile the necessary information within the time limit of three months for the denial (see Article 3.24(1)(a)).

As all information demonstrating that the product is originating and satisfies the requirements provided for in Chapter 3 should be available, the importer is under the obligation to provide the requested information to the importing customs authority. Non-compliance will result in a denial of preferential tariff treatment and as appropriate administrative measures or sanctions.

The importing customs authority shall not employ any verification activity in the exporting Party other than through a request to the exporting customs authority and only if the claim is based on a statement on origin. Direct requests for information from the importing customs authority to the exporter or participation in visits to the premises of the exporter are not possible as part of the verification process.

“(3) Actions by the EU and Japan” of the Conclusions of the Committee on Rules of Origin and Customs-Related Matters of the EU-Japan EPA on the Actions to be Implemented by the Customs Authorities of Both Parties Relating to Certain Origin Procedures of 26 June 2019 at Brussels states that:

- Based on the ongoing joint work between the EU and Japan to support the implementation of the Agreement, both Japan Customs and DG TAXUD will respectively issue guidance/ guidelines, or revise the existing guidance/guidelines, concerning the issues identified in point 3 of Appendix I and point 3 of Appendix II.

To implement this commitment, both Japan Customs and DG TAXUD agree on the following text, and will publish it as part of their respective relevant Guidance/ Guidelines:

Legal context

1. A statement on origin:
 - a) is a text by which the exporter states the originating status of a product. This text is in Annex 3-D of the EPA;
 - b) is made out by an exporter of an originating product;
 - c) shall be made out on an invoice or on any other commercial document that describes the originating product in sufficient detail to enable its identification.
2. The exporter:
 - a) is a person located either in the EU or in Japan, and fulfils the legal obligations established in that Party;
 - b) exports or produces the originating product and makes out a statement on origin;
 - c) is responsible for the correct identification of the originating products on the invoice or any other commercial document;
 - d) shall keep a copy of the statement on origin (and all other records pertaining to the origin of the originating product) for a minimum of four years.

Questions and Answers

Question: Who can act as an exporter?

Answer: The exporter can be any person (such as a producer or a trading company) making out the statement on origin involved in the exportation of the product, as long as this person fulfils the obligations under the EPA. It is not necessary that the exporter lodges the customs export declaration in

respect of the products.

Question: Which document may be used for the statement on origin?

Sub-Question 1: May the exporter use the document of another person to make out the Statement on Origin?

Answer: The EPA imposes that the statement on origin is made out by the exporter but does not include any explicit requirement as to the identity of the person issuing the commercial document used for making out the statement.

The obligation to provide a sufficient description of the products lies on the exporter even if its statement on origin appears on another person's document.

Therefore, nothing in the EPA prevents the following scenarios to apply where the producer and a trading (exporting) company are both located in the exporting Party, and where:

- the producer acting as the "exporter", although not exporting the products, makes out a statement on origin on its own document;
- the trading company acting as the "exporter", based on information from the producer, makes out a statement on origin on its own document;
- the producer acting as the "exporter", although not exporting the products, makes out a statement on origin on a document of the trading company;
- the trading company acting as the "exporter", based on information from the producer, makes out a statement on origin on a document of the producer.

The two last scenarios nevertheless imply that the exporter making out the statement on origin, and not being the person having issued the commercial document, is clearly identified on that document. In the case where an Exporter's Reference Number has not been assigned, i.e., the exporter cannot be identified, the exporter may indicate its full address under the part "Place and date".

Sub-Question 2: Can the statement on origin be placed on a document made out in a third country?

Answer: Where the "exporter" (producer or trader) is located in the exporting Party but the trader issuing the invoice is established in a third country, the "exporter" is not supposed to make out a statement on origin on a document of that trader. In that case,

the Statement on Origin should be placed on a commercial document issued by the “exporter” (producer or trader other than the trader established in a third country, under one of the scenarios of Sub-Question 1) in the exporting Party, such as a delivery note.

It should be reminded that a claim for preferential tariff treatment based on a statement on origin made out on a document issued by the “exporter” (producer or trader, under one of the scenarios of Sub-Question 1), shall not be rejected for the sole reason that an invoice was issued in a third country.

Sub-Question 3: What is the “any other commercial document” on which the text of the Statement on Origin is made out?

Answer: There is no legal definition of what constitutes a “commercial document” which nonetheless can be considered as a written record of a commercial transaction.

It therefore covers, apart from the invoice itself, different types of documents such as a pro-forma invoice, a shipping document (packing list, delivery note), etc.

The only legal requirement for the invoice or any commercial document to be considered as the basis for a statement on origin is that it shall contain a description of the originating products in sufficient detail to enable their identification. Other products, which may be included in the same invoice or other commercial document, shall be clearly distinguished from the originating products.

A statement on origin can be printed on a separate paper (e.g. a blank paper or a paper with a company letterhead), other than on an invoice or other commercial document, where:

- that invoice or any other commercial document makes a reference to that separate paper, or
- that separate paper makes a reference to the invoice or any other commercial document.

The separate paper can then be seen as integral part of the invoice or other commercial document. The treatments above are also applied to the four scenarios under the Answer to Sub-Question 1.

Explanation that the product satisfies the origin criteria
(Japan-EU EPA)

Date:

1. Invoice number and date of issue (please refer to the invoice which contains the originating products if multiple invoices are submitted)
2. Explanation that the product satisfies the origin criteria

3. Name of the person who produced the explanation

Name: _____(signature or stamp)

Address: _____