

ASEAN



Primer on Rules of Origin

ASEAN – AUSTRALIA – NEW ZEALAND
Free Trade Area



CD-ROM included



Primer on Rules of Origin

ASEAN – AUSTRALIA – NEW ZEALAND
Free Trade Area

The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967. The Member States of the Association are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. The ASEAN Secretariat is based in Jakarta, Indonesia.

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In aid of understanding, some examples have been provided but these are mere illustrations and do not provide judgment and do not constitute commercial advice. Views or conclusions may have also been expressed but these should not be taken as legal or commercial advice.

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FOREWORD

The Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) is a significant milestone for the economies of the ten Member States of ASEAN, Australia and New Zealand. This Agreement is the culmination of a series of consultations and negotiations that started in 2005. The Agreement was signed in February 2009 and will enter into force on 1 January 2010.

The Agreement, through the chapters relating to merchandise trade, is expected to open up business opportunities for traders and exporters that would benefit both the economic operators and consumers. In this connection, understanding the Rules of Origin will ensure that producers, traders and exporters get optimal benefits from the preferential tariff treatment under the Agreement.

This primer intends to reach out to economic operators in ASEAN and explain to them the Rules of Origin they would need to fulfil for their goods to be eligible for preferential tariff treatment under the AANZFTA. The primer also sets out the processes that would be undertaken by the authorities to determine compliance to the Rules of Origin.

We hope the primer will guide traders and exporters in understanding the elements of the AANZFTA Rules of Origin, and encourage them to utilise and benefit from the AANZFTA.

As ASEAN embarks on the implementation of the AANZFTA, we encourage traders and exporters to take full advantage of the opportunities being offered under the AANZFTA and bring forth economic prosperity to the region.



Dr. Surin Pitsuwan

Secretary-General of ASEAN

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The ASEAN Secretariat

CONTENTS

Foreword	iv
Acknowledgement	v
List of Abbreviations and Acronyms	viii
Part 1 – Introduction	3
Why Have ROOs in FTA?	3
Key Concept in FTA ROOs	4
Proving Your Exports Satisfy the ROOs	4
Part 2 – Introduction to AANZFTA Rules of Origin	5
Flexibility for Exporters	5
Regional Cumulation: Promoting Greater Integration	5
Wholly Obtained Originating Goods in AANZFTA	6
ROOs Incorporating a Substantial Transformation Test	6
Part 3 – Where are the ROO Provisions in the AANZFTA?	7
Part 4 – Where to Find the ROO for a Particular Good?	9
Part 5 – Calculation of Regional Value Content (RVC)	11
The Direct Formula	11
The Indirect/Build-Down Formula	12
Minimal Operations and Processes	13
Part 6 – Change in Tariff Classification (CTC)	15
AANZFTA CTC Flexibility: the <i>de minimis</i> Provision	17
Treatment of Accessories, Spare Parts and Tools	19
Part 7 – Product-specific ROOs Other than RVC and CTC	21
The Chemical Reaction Rule	21
Examples of Other Special Rules	22
Part 8 – Other Aspects to Meeting AANZFTA ROOs Requirements	23
Direct Consignment	23
Identical and Interchangeable Materials	24
Indirect Materials	24
Part 9 – Operational Certification Procedures for AANZFTA	25
Operational Certification Procedures (OCP): Step-by-step	25
AANZFTA Certificate of Origin Format	29
Back-to-back Certificate of Origin	29
Verification of Origin under the AANZFTA	30
Record Keeping Requirements	30
Acceptance of the Certificate of Origin by Importing Authorities	30
Cumulation and Certificates of Origin	31
Part 10 – Comparison of AANZFTA ROOs with Other ASEAN FTAs	33
Similarities in Approach	33
Differences in Approach	34

Appendix 1 – Verification Procedures under AANZFTA ROOs	35
Initiation of Verification Procedures	35
Responses to Verification Procedures	36
Results of Verification Procedure	37
Appendix 2 – Practical Exercises in ROOs	39
Change in Tariff Classification (CTC)	39
Regional Value Content (RVC)	40
Answers to Exercises	42
Appendix 3 – Comparison of Rules of Origin Approaches Across Selected ASEAN Trade Agreements	45
Appendix 4 – Model Format for the AANZFTA Certificate of Origin	49
AANZFTA Certificate of Origin	51
Certificate of Origin Overleaf Notes	52
Guidelines for Completing the Information on the Origin Conferring Criterion on the Certificate of Origin (CO) Form of the AANZFTA	53
Exporter Declaration Form	55

List of Boxes

Box 1: Wholly Obtained Goods	10
Box 2: Sample Direct Formula Calculation	12
Box 3: RVC Definitions	13
Box 4: CTC vs. RVC Allowances	14
Box 5: Direct Consignment	23
Box 6: Verification Visit Information Requirements	36

List of Tables

Table 1: How the CTC ROO Operates	16
Table 2: Illustration of Product-specific Rules Specifying Process	22
Table 3: Minimum Data Requirements – Application for a Certificate of Origin	28
Table 4: Minimum Data Requirements – Certificate of Origin	28
Table 5: Comparison of Rules of Origin Approaches across Selected ASEAN Agreements	46
Table 6: Comparison of Operational Certification Procedures across Selected ASEAN Agreements	47

List of Figures

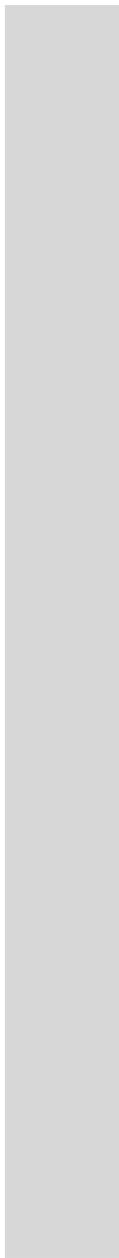
Figure 1: Application of CTC	16
Figure 2: The <i>de minimis</i> Provision in CTC	18
Figure 3: Steps in the AANZFTA OCP for ROOs	27
Figure 4: Timetable for Verification Procedures	37

LIST OF ABBREVIATIONS & ACRONYMS

AANZFTA	Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area
ACFTA	ASEAN-China Free Trade Agreement
AIFTA	ASEAN-India Free Trade Agreement
AJCEP	ASEAN-Japan Comprehensive Economic Partnership
AKFTA	ASEAN-Korea Free Trade Agreement
ATIGA	ASEAN Trade in Goods Agreement
CC	Change in Chapter
CO	Certificate of Origin
CTC	Change in Tariff Classification
CTH	Change in Tariff Heading
CTSH	Change in Tariff Sub-Heading
FOB	Free on Board
FTA	Free Trade Agreement
OCP	Operational Certification Procedures
PSR	Product Specific Rules
ROO	Rules of Origin
RVC	Regional Value Content
WO	Wholly Obtained Goods



PRIMES ON RULES OF ORIGIN IN THE AGREEMENT
ESTABLISHING THE ASEAN – AUSTRALIA –
NEW ZEALAND FREE TRADE AREA



PART 1

Introduction

The Agreement Establishing the ASEAN – Australia – New Zealand Free Trade Area (AANZFTA) is expected to enter into force on 1 January 2010. It is important that business people are able to take advantage of the opportunities created by the new agreement from the first day of its implementation. In order for exporters to benefit from these new opportunities, it is essential that they understand the rules of origin (ROOs) for the AANZFTA and the steps they need to take to ensure that their exports comply with the ROOs. The purpose of this guide is to explain:

- clearly what the ROOs are;
- how business and certifying authorities determine compliance with the ROOs; and,
- how authorities in importing countries assure themselves that the ROOs have been complied with when a shipment arrives at the border.

Why Have ROOs in a FTA?

A free trade agreement is designed to foster increased trade and greater economic integration between and among the economies that participate in the FTA by providing exporters of the Parties with more open access into the markets of the other Parties to the FTA, generally through providing tariff-free treatment for most products, although the reduction and elimination of tariffs may be phased-in over a transition period. Consequently, the tariffs that a country applies under an FTA to which it is a Party are generally lower than its applied most-favoured-nation tariffs. Rules of origin in a free trade agreement like the AANZFTA have two objectives. Through ROOs, authorities in importing countries are able to ensure: (1) that products originating in other Parties to the FTA are provided with the preferential access they are entitled to, in accordance with the FTA's tariff commitments; and (2) that goods originating outside the FTA are not given this same preferential access.

It is not unusual to hear critics of free trade agreements claim that complex ROOs make it difficult for business to actually enjoy preferential access to markets opened by the FTA. It is true that ROOs can often determine to a considerable extent how restrictive or liberal an FTA is in practice. The more conditions that producers / exporters have to meet in order to satisfy an FTA's ROOs, the less

likely it is that they will be able to qualify for preferential access. The ROOs need to balance the objective of extending preferential tariff treatment only to goods originating in the Parties while ensuring that the Agreement facilitates increased trade between the Parties. So the nature of the ROOs regime itself is important. But it is also important that a firm understands its own production process and whether the production process can be adapted – if need be – to satisfy the ROOs.

Key Concepts in FTA ROOs

Goods that satisfy rules of origin requirements are known as “originating goods”. The key concepts to appreciate are “wholly obtained (or wholly produced) goods” and goods that are considered as originating goods because they are the result of a process of “substantial transformation”. Goods are generally considered to be wholly obtained when they are made entirely in the exporting country from materials produced in that same country (e.g. goods grown, born and raised, gathered, or extracted there as provided for in the provisions on wholly obtained goods). Mineral exports, most agricultural products and products like seafood harvested within the country are normally wholly obtained originating goods. Where a product contains materials or components that originate in third countries it can still qualify as an originating good if it has undergone the degree of substantial transformation specified in the FTA’s ROOs. Products that have not undergone a sufficient degree of substantial transformation in the exporting country are non-originating goods and will not qualify for preferential treatment under an FTA.

Proving Your Exports Satisfy the ROOs

In addition to specifying which goods are considered as originating goods for purposes of the FTA, the agreement also needs to explain to exporters how they can prove that their goods are eligible for preferential treatment. It is also necessary to tell importing authorities what kind of documentation is required in support of a claim that the imports are originating goods from a Party to the agreement. As part of this requirement, FTAs may provide that imported goods have to be accompanied by a form, such as a Certificate of Origin (CO) issued by a designated authority to support the claim that they are eligible for preferential tariff treatment.

Introduction to AANZFTA Rules of Origin

The AANZFTA rules of origin differ in a number of respects from the ROO regimes in place for other ASEAN trade agreements. Appendix 3 compares ROOs in place for several different ASEAN trade agreements.

Flexibility for Exporters

The rules of origin that apply in the AANZFTA were crafted in a way that enhances exporters' ability to take advantage of opportunities under the FTA by providing a flexible approach to proving originating good status. This flexibility will make it easier for products to qualify as originating goods than it would be under a rigid one-rule-only system.

For some 83 percent of all tariff sub-headings, the AANZFTA ROO is based on a "co-equal" approach, where exporters will be given the choice of meeting either a "regional value content" (RVC) rule or the so-called "change in tariff classification" (CTC) approach. How these ROOs operate is discussed in detail below.

For another ten percent of tariff sub-headings, a CTC-only approach applies and for about one percent of sub-headings (mainly in the automotive sector) an RVC-only rule applies. Waste and scrap products accounting for about 1.4 percent of sub-headings are covered by special rules. Normal product-specific ROOs are not relevant for the remaining 4.5 percent of tariff sub-headings which will need to be wholly produced or obtained within the AANZFTA region. Finally, about two-thirds of chemicals sub-headings will be able to make use of a chemical reaction test to demonstrate that they are originating goods if the goods cannot satisfy the RVC or CTC ROO.

Flexibility in the application of the AANZFTA ROOs is further enhanced by "*de minimis*" provisions and by provision for regional cumulation.

Regional Cumulation: Promoting Greater Integration

The fact that AANZFTA ROOs provide for regional cumulation in calculations to determine eligibility for preferential treatment is expected to be of considerable value to the manufacturing sector as it will support greater integration into regional supply chains. In the AANZFTA ROOs regime, originating materials or

components from any AANZFTA country used in the production of goods in another member country are treated the same way as materials or components from that second country in determining the origin of the final goods. For example, a producer in Viet Nam is able to treat imported components from Singapore and Malaysia that are AANZFTA-originating in the same way as Vietnamese components in calculating the eligibility of his final product to meet ROOs requirements in Australia.

Wholly Obtained Originating Goods in AANZFTA

As noted earlier, in the case of a number of goods, eligibility for preferential treatment under the FTA's ROOs is normally based on the concept that they are wholly produced or obtained within the country of export. AANZFTA specifically lists goods considered as wholly obtained (see Box 1). Trade covered by roughly 4.5 percent of tariff sub-headings is covered by the wholly obtained approach to ROO in the agreement.

ROOs Incorporating a Substantial Transformation Test

For a good that is not wholly obtained, the AANZFTA requires that it meets an alternative test to ensure that non-originating materials used in its production have been “substantially transformed”. For most goods (covered by some 83 percent of tariff sub-headings) will be treated as originating goods if they can satisfy either the change in tariff classification (CTC) or regional value content (RVC) tests. For other goods, there is only an RVC test or only a CTC test, or the test requires that specific processing requirements be met. In the case of the CTC test, all materials used in the production of the good that are not AANZFTA-originating (e.g. as they are imported from a country outside the AANZFTA area), must undergo a change in tariff classification at a specified level. More detail on how these tests apply is provided below.

Where are the ROO Provisions in the AANZFTA?



The ROO provisions in the AANZFTA are set out in:

- Chapter 3 of the Agreement, which is entitled “Rules of Origin”;
- An Annex to Chapter 3, which is entitled “Operational Certification Procedures”. This Annex also includes two Appendices setting out minimum data requirements for:
 - o Applications for a CO
 - o Certificates of Origin; and,
- Annex 2 to the Agreement, which is entitled “Product Specific Rules”.

The Parties have mutually agreed on a format for the CO to be used by the issuing bodies.

For those products covered by the tariff sub-headings listed in Annex 2 on Product Specific Rules (PSR), the ROO applicable to them is set out in that Annex. For products covered by tariff sub-headings not listed in Annex 2, a “general rule” applies. This general rule is set out in Article 4.1 of the Rules of Origin Chapter and provides that a good will be considered as an AANZFTA originating good if it meets either of the following tests:

- The good has an RVC of not less than 40 percent of the FOB (free on board) value and the final process of production is performed within a Party.
- All non-originating materials used in the production of the good have undergone a CTC change at the 4 digit level (i.e., a change in tariff heading).



PART 4

Where to Find the ROO for a Particular Good?



To find the AANZFTA ROO for a particular good, these steps should be followed:

Step 1: Check whether the good meets AANZFTA requirements for a wholly obtained or produced good as set out in Article 3 of the Rules of Origin Chapter (see Box 1), or is produced in a Party exclusively from originating materials from one or more of the Parties in accordance with Article 2.1(c) of the Rules of Origin Chapter. If the good meets either of these requirements, then it is deemed to be an AANZFTA originating good. If the good does not meet these requirements, proceed to Step 2.

Step 2: Check whether the good is covered by the Agreement's Product Specific Rules (PSR) set out in Annex 2. If the good is covered by one of the tariff sub-headings listed in Annex 2, then it needs to meet the PSR set out in Column 4 of the Annex to be deemed to be an AANZFTA originating good. If the good is not covered by Annex 2, proceed to Step 3.

Step 3: For goods not covered by Step 1 or Step 2, the general rule set out in Article 4.1 of the Rules of Origin Chapter applies. This general rule provides that a good will be deemed to be AANZFTA originating if it meets either of the following alternative RVC or CTC tests: it has an RVC of not less than 40 percent, and the final process of production has been performed in an AANZFTA Party; or, all non-originating materials used in its production have undergone a change in tariff classification at the four-digit level (i.e., a change in tariff heading).

Parts 5 and 6 of this guide explain in detail the use of the regional value content (RVC) tests and the change in tariff classification (CTC) tests used in the AANZFTA.

Box 1: Wholly Obtained Goods

Article 3 of the Rules of Origin Chapter of AANZFTA lists as wholly obtained goods:

- Plants and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants, grown, harvested, picked or gathered in a Party;
- Live animals born and raised in a Party;
- Goods obtained from live animals in a Party;
- Goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering, or capturing in a Party;
- Minerals and other naturally occurring substances extracted or taken from the soil, waters, seabed or beneath the seabed in a Party;
- Goods of sea-fishing and other marine goods taken from the high seas, in accordance with international law, by any vessel registered or recorded with a Party and entitled to fly the flag of that Party;
- Goods produced on board any factory ship registered or recorded with a Party and entitled to fly the flag of that Party from the goods referred to in the previous paragraph;
- Goods taken by a Party, or a person of a Party from the seabed or beneath the seabed beyond the Exclusive Economic Zone and adjacent Continental Shelf of that Party and beyond areas over which third parties exercise jurisdiction under exploitation rights granted in accordance with international law;
- Goods which are:
 - o Waste and scrap derived from production and consumption in a Party provided that such goods are fit only for the recovery of raw materials; or
 - o Used goods collected in a Party provided that such goods are fit only for the recovery of raw materials; and
- Goods produced or obtained in a Party solely from products referred to in all of the previous paragraphs or from their derivatives.

PART 5

Calculation of Regional Value Content (RVC)



As noted earlier, originating goods status can be determined in the case of 83 percent of all AANZFTA tariff lines through either the CTC approach or through a RVC calculation. Another one percent of tariff sub-headings require an RVC only approach. In the AANZFTA, there are two approaches that can be used to calculate RVC: the “Direct Formula” calculation; and the “Indirect / Build-Down Formula” calculation. In nearly all cases, the RVC must equal at least 40 percent of the free-on-board (FOB) value of the good before it can be considered as an originating good under the AANZFTA ROOs.

How the two different calculations are performed is addressed in the next section, complete with example calculations. In Appendix 2 we provide a number of exercises that readers can do to familiarise themselves with the calculation methodologies.

The Direct Formula

The Direct Formula calculation is performed according to the following equation:

$$\text{RVC} = \frac{\text{AANZFTA Material Cost} + \text{Labour Cost} + \text{Overhead Cost} + \text{Profit} + \text{Other Costs}}{\text{FOB}} \times 100\%$$

Box 2: Sample Direct Formula Calculation

A Vietnamese manufacturer of outdoor chairs sells chairs in sets of four for $\text{Đông } 1,800,000$. The manufacturer imports raw wood and metal screws from China valued at $\text{Đông } 1,052,200$. Plastic parts imported from Singapore that are AANZFTA originating materials cost $\text{Đông } 285,000$, metal hardware from New Zealand that is AANZFTA originating material costs $\text{Đông } 169,000$ and the manufacturer himself produces cane seats from his own materials that cost $\text{Đông } 160,000$ per set of chairs. The labour cost involved in producing a set of chairs is $\text{Đông } 44,500$; overhead costs come to $\text{Đông } 27,000$; the cost of shipping to Hai Phong and loading onto a ship come to $\text{Đông } 9,000$ per set of chairs; and the manufacturer aims to make a profit of 3 percent ($\text{Đông } 53,300$) on his sales. Does the set of four chairs meet the AANZFTA RVC?

$$\text{RVC} = \frac{\begin{array}{r} 285,000 \\ 169,000 \\ 160,000 \end{array} + 44,500 + 27,000 + 53,300 + 9,000}{1,800,000} = \frac{747,800}{1,800,000} \times 100\%$$

$$\text{RVC} = 41.5 \text{ percent}$$

The set of chairs meets the AANZFTA 40 percent RVC rule and are "originating goods"

The Indirect/Build-Down Formula

In those cases where it is possible for the manufacturer to readily and accurately identify the value of non-originating materials used in the production of the goods, AANZFTA ROOs permit a calculation using an equation known as the "Indirect / Build-Down" formula. This operates as:

$$\text{RVC} = \frac{\text{FOB} - \text{Value of Non-Originating Materials}}{\text{FOB}} \times 100\%$$

If we perform this calculation using the example of the Vietnamese chair manufacturer from Box 3 and assume that the manufacturer can accurately account for spending $\text{Đông } 1,052,200$ for the imported Chinese wood and metal screws, we can calculate:

$$\text{RVC} = \frac{\text{Đông } 1,800,000 - \text{Đông } 1,052,200}{\text{Đông } 1,800,000} = \frac{747,800}{1,800,000} \times 100\% = 41.5\%$$

Take note that in the example we have used to illustrate these RVC calculations, the AANZFTA ROOs cumulation rule allows our hypothetical Vietnamese chair manufacturer to count inputs from Singapore and New Zealand in the same way as self-produced inputs in the manufacture of the outdoor chairs. However, this is only the case if the inputs from Singapore and New Zealand comply with the relevant AANZFTA ROO so that they are deemed to be AANZFTA-originating goods.

Box 3: RVC Definitions

AANZFTA Material Cost = the value of originating materials, parts or produce that are acquired or self-produced by the producer in the production of the good;

Labour Cost = wages, remuneration and other employee benefits;

Overhead Cost = the producer's total overhead expense;

Other Costs = costs incurred in placing the good in the ship or other means of transport for export, including, but not limited to, domestic transport costs, storage and warehousing, port handling, brokerage fees and service charges;

FOB = the free-on-board value of the goods, inclusive of the cost of transport to the port or site of final shipment abroad. This value is to be arrived at in accordance with the GATT rules on customs valuation;

Value of non-originating materials = the cost-insurance-freight (CIF) value at the time of importation or the earliest ascertained price paid for all non-originating materials parts or produce that are acquired by the producer in the production of the good. Non-originating materials include materials of undetermined origin but do not include a material that is self-produced;

CIF = the value of the good imported and includes the cost of freight and insurance up to the port or place of entry into the country of importation. This value is to be arrived at in accordance with the GATT rules on customs valuation.

Minimal Operations and Processes

Certain kinds of processes and operations cannot be counted toward satisfying RVC under the ROOs for AANZFTA. Whether they are undertaken by themselves or in combination with each other, the following cannot be taken into account in a calculation of RVC:

- Ensuring preservation of goods in good condition for the purpose of transport or storage;

- Facilitating shipment or transportation;
- Packaging (excluding encapsulation in the electronics sector) or presenting goods for transportation or sale;
- Simple processes, consisting of sifting, classifying, washing, cutting, slitting, bending, coiling and uncoiling and other similar operations;
- Affixing of marks, labels or other like distinguishing signs on products or their packaging; and,
- Mere dilution with water or another substance that does not materially alter the characteristics of the goods.

Box 4: CTC vs. RVC Allowances

At this point, it is important to reiterate that certain special allowances associated with the CTC approach are not permitted in RVC calculations.

Under the CTC *de minimis* rule, up to 10 percent of the value of a good can be accounted for by non-originating materials that do not undergo the required change in tariff classification. No such *de minimis* rule applies in the case of RVC calculations.

Under the CTC approach, **accessories, spare parts and tools** presented with the good and not invoiced separately are generally disregarded for purposes of the CTC determination; however, the value of these items must be factored into the calculation for RVC purposes.

Under the CTC approach, **packing materials and containers** in which a good is packaged for retail sale – when classified together with that good – are not taken into account in determining whether all of the non-originating materials used in the production of the good have met the change in tariff classification requirements. However, when calculating RVC, the value of the packing materials and containers are taken into account as originating or non-originating materials.

PART 6

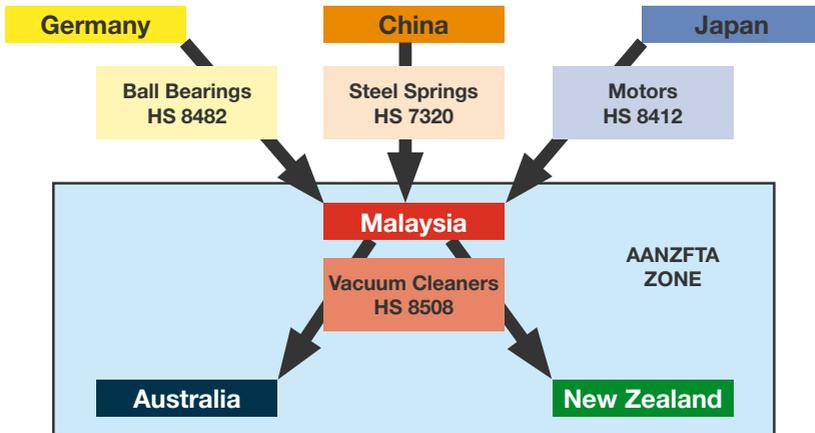
Change in Tariff Classification (CTC)

The concept of CTC is applied only to non-originating materials. To meet the CTC requirement, a non-originating material or component that is used to produce another good must not have the same classification under the Harmonized System (HS) as the final good into which it is incorporated. The CTC rules are written in such a way as to ensure that the required transformation of non-originating materials occurs within the FTA territory to justify the claim that the goods are the produce of the FTA territory.

We can make use of an example to see how the CTC approach would work in practice. Imagine that a Malaysia-based company is manufacturing vacuum cleaners that it wants to sell on the Australian and New Zealand markets. Vacuum cleaners produced by the company are classified under HS tariff heading 8508 and under subheading 8508.11. The AANZFTA ROO for vacuum cleaners is a flexible one that can be met through the CTC approach (a change in tariff heading), the RVC approach (an RVC of at least 40 percent) or a combination of the two (a change in tariff sub-heading provided the good has an RVC of at least 35 percent). The Malaysian vacuum cleaner manufacturer is able to source most of his materials and components at home or from other sources in the AANZFTA region, but the firm finds it necessary to import steel springs from China (HS 7320), electric motors from Japan (HS 8412) and ball bearings (HS 8482) from Germany.

Under the AANZFTA, the vacuum cleaner exported to Australia and New Zealand qualifies as an originating good from Malaysia under the CTC approach because the imported, non-originating, components are classified under different headings than heading 8508 which covers vacuum cleaners. The good may also qualify under one of the other two tests that exist for goods of sub-heading 8508.11, but this does not need to be tested – as the AANZFTA ROOs state that the good only needs to meet one of any alternative tests for the good in question.

Figure 1
Application of CTC



In many cases, the product-specific rules for products traded under AANZFTA specify that the change in tariff classification must involve a change in tariff classification at the HS chapter (2-digit) level. In many other cases, there must be a change in the tariff heading (4-digit) level. For some products, the change in tariff classification is specified at the 6-digit (change in tariff sub-heading) level of the schedule. Some examples, taken from Annex 2 of the AANZFTA help to illustrate this.

Table 1
How the CTC ROO Operates

Change in Tariff Classification at 2-digit Chapter Level ("CC")			
Tariff Heading	Tariff Sub-Heading	Product Description	Product-Specific Rule
5806	5806.31	Other woven fabrics: of cotton	CC

The 2-digit chapter heading "58" is "Narrow woven fabrics". Single cotton yarn, of combed fibres, quite possibly the input to making woven fabric, is classified in chapter 52 "Cotton yarn" (for example in 5206.25). Changing non-originating cotton yarn into woven cotton fabric makes the fabric an originating product under AANZFTA.

Change in Tariff Classification at 2-digit Chapter Level ("CC")			
Tariff Heading	Tariff Sub-Heading	Product Description	Product-Specific Rule
7321	7321.12	Cooking appliances and plate warmers: for liquid fuel	RVC (40) or CTH or RVC (35) + CTSH

The 4-digit section heading "7321" groups "Stoves, ranges, grates, cookers, barbecues and other similar appliances. The production of a cooking appliance classified in 7321 no doubt involves the use of iron or steel screws classified in category 7318 and pipes classified in 7304. These goods can be non-originating and incorporated into a cooking appliance classified in category 7321 with the cooking appliance treated as an originating good under AANZFTA.

Change in Tariff Classification at 2-digit Chapter Level ("CC")			
Tariff Heading	Tariff Sub-Heading	Product Description	Product-Specific Rule
8467	8467.11	Pneumatic: rotary type [tools] (including combined rotary percussion)	RVC (40) or CTSH

This 6-digit sub-heading for pneumatic hand-held tools may incorporate parts of pneumatic tools (classified in 8467.92) and other parts (classified in 8467.99). If a manufacturer were to purchase non-originating parts classified in 8467.92 or 8467.99 and then incorporate them in a hand tool classified in 8467.11, this latter product when exported to an AANZFTA market would be an originating product for purposes of AANZFTA.

AANZFTA CTC Flexibility: the *de minimis* Provision

For exporters that wish to avail themselves of the CTC approach, AANZFTA ROOs provide additional flexibility through a *de minimis* provision. The *de minimis* provision does not apply to the RVC approach.

Under the *de minimis* provision, goods that do not completely satisfy the CTC requirement, can nevertheless qualify as originating goods if:

- The value of all non-originating materials used in the production of the good – other than the textiles and apparel products covered in HS Code Chapters 50 to 63 - that did not undergo the required change in tariff classification does not exceed 10 percent of the FOB value of the good and the good meets all other applicable criteria in AANZFTA's ROO requirements;

- In the case of the textiles and apparel products covered in HS Code Chapters 50 to 63 either:
 - the weight of all non-originating materials used in the production of a good that did not undergo the required change in tariff classification does not exceed 10 percent of the total weight of the good or
 - the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 percent of the FOB value of the good.

And the good meets all other applicable criteria in AANZFTA's ROO requirements.

Figure 2
The *de minimis* Provision in CTC

Textiles and Apparel Products	Other CTC-Eligible Products
(A) FOB Value of Final Product = \$ 1,000	(A) FOB Value of Final Product = \$ 1,000
Value of inputs not Undergoing CTC = < \$ 100	Value of inputs not undergoing CTC = < \$ 100
Or	
(B) Weight of Final Product = 1,500 kilograms	
Weight of inputs not Undergoing CTC = < 150 kilograms	

Treatment of Accessories, Spare Parts and Tools

Under the CTC approach in the AANZFTA, accessories, spare parts, tools and instructional or information materials presented with the good are – under certain specified circumstances – considered to be part of the good and are disregarded when making a determination of whether all of the non-originating materials used in the production of the originating good have undergone the required change in tariff classification. The following conditions are attached to this treatment:

- The accessories, spare parts, tools and instructional or other information materials presented with the good are not invoiced separately from the originating good; and
- The quantities and value of the accessories, spare parts, tools and instructional or other information materials presented with the good are customary for that good.

An example of how this rule might operate in practice might involve trade in lawn mowers. Imagine a Singapore-based manufacturer of large lawn mowers for lawns, parks or sports grounds who wants to export his firm's product to New Zealand. The mower is classified in HS 8433.11 which must meet a product specific rule of RVC(40) or CTSH. Because mowers such as this typically must use different cutting blades for different operations (sports fields vs. golf courses) it is normal practice for manufacturers to include several different cutting blade assemblies (classified as parts under HS 8433.90.90) as well as adjustable hand operated wrenches (classified under HS 8204.12) for use in changing the blades. The blade assemblies and wrenches could be of Chinese origin and not be required to have undergone a change in tariff classification in order for the mower to be considered as an originating good.

Please note that the value of accessories, spare parts and tools is not disregarded in the calculation of RVC and are to be treated as originating or non-originating, as the case may be, in RVC calculations.

We have so far shown how the AANZFTA ROOs RVC and CTC approaches to satisfying proof of substantial transformation operate. Example exercises are provided in Appendix 2.



PART 7

Product-specific ROOs Other than CTC and RVC



As noted above in Part 2, a relatively small number of products are required to meet the test of originating goods for AANZFTA purposes through special product-specific rules. In many cases, these rules specify a process that must be undergone in order for the good to be considered as originating. Traders of goods falling into these categories will need to familiarise themselves with the specific rules outlined in Annex 2 to the AANZFTA.

The Chemical Reaction Rule

The inorganic chemicals classified in HS chapter 28, the organic chemicals classified in HS chapter 29, and tanning and dyeing extracts and other products classified in HS chapter 32, may fail to satisfy the RVC and CTC rules provided in Annex 2. In such cases, the chemicals are considered to be originating if the chemical is a product of a chemical reaction that occurred in a Party. A “chemical reaction” is a process (including a biochemical process) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of the molecule. The following are not considered to be chemical reactions for the purposes of determining whether a product is an originating good:

- (a) dissolving in water or other solvents;
- (b) the elimination of solvents, including solvent water; or
- (c) the addition or elimination of water of crystallization.

Examples of Other Special Rules

In the table below, we illustrate some examples of the specific rules found in Annex 2:

Table 2
Illustrations of Product-specific Rules Specifying Process

Tariff Heading	Tariff Sub-Heading	Product Description	Product-specific rule
1509	1509.10	Olive oil – virgin	RVC (40) or CC or no change in tariff classification is required provided that the good is produced by refining
2620	2620.11	Slag, ash and residues ... containing mainly zinc: hard zinc spelter	Origin shall be conferred to a good of this sub-heading that is derived from production or consumption in a Party
3808	3808.92	Insecticides, rodenticides ... Other: fungicides	RVC (40) or CTSH, provided that at least 50 percent by weight of the active ingredient or ingredients is originating
5407	5407.10	Woven fabrics of synthetic filament yarn – obtained from high tenacity yarn of nylon, etc.	CTH or a change from fabric that is constructed but not further prepared or finished provided that it is dyed or printed and undergoes at least two subsequent finishing processes in the territory of one or more of the parties to render it directly usable
6104	6104.13	Women's or girl's suits... of synthetic fibres	RVC (40) provided that the good is cut or knit to shape and assembled in the territory of one or more of the parties or CC
6302	6302.31	Bed linen: of cotton	CC provided that where the starting material is fabric, the fabric is raw or unbleached fabric and fully finished in the territory of one or more of the parties

Other Aspects to Meeting AANZFTA ROOs Requirements

Direct Consignment

An AANZFTA originating good retains its originating status if it is transported to the importing Party:

- without passing through any non-Party; or
- it has transited through a non-Party and certain conditions are met (see below).

Transportation to the importing Party through another AANZFTA Party does not affect the originating status of the good. Furthermore, if the good is imported into another AANZFTA Party and then re-exported, it may be eligible for a “back-to-back” certificate to enable it to retain originating status on the basis of the original CO (see the section on back-to-back certificates in Part 9).

Under AANZFTA, a good that transits through a non-Party will retain its originating status provided that:

- The good has not undergone subsequent production or any other operation outside the territories of the Parties other than unloading, reloading, storing or any other operations necessary to preserve them in good condition or to transport them to the importing Party;
- The good has not entered the commerce of the non-Party; and,
- The transit entry is justified for geographical, economic, or logistical reasons.

Box 5: Direct Consignment

Consider the case of microwave ovens produced in Viet Nam and shipped to Australia by container ship. The goods are routed through Hong Kong because it is the cheapest shipping route. In Hong Kong, the containers are unloaded from one ship, briefly stored and then reloaded onto another ship. The microwaves never enter the commerce of Hong Kong. Another ship then sails on to Melbourne. Such an operation does not change the origin status of the microwave ovens.

On the other hand, surgical instruments exported from the Philippines to New Zealand in bulk and not sterilised for end-user applications would lose their originating goods status if the shipment passed through Hong Kong where a sterilisation process took place and the instruments were re-packed for end-user sales.

Identical and Interchangeable Materials

The provisions in the FTA addressed to identical and interchangeable materials are designed to deal with inputs to production that frequently come from multiple country origins and – because they are inherently fungible – are difficult to keep track of. For the purposes of the AANZFTA ROOs, a determination of whether identical and interchangeable materials are originating materials must be made either by physical segregation of each of the materials or by generally accepted accounting principles of stock control or inventory management practice in the exporting country.

Identical and interchangeable materials are defined in the AANZFTA as “materials that are fungible as a result of being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which, once they are incorporated into the finished product cannot be distinguished from one another for origin purposes by virtue of any markings or mere visual examination.”

Indirect Materials

Under the AANZFTA, indirect materials are always treated as originating materials without regard to where they are produced. Their value is the cost registered in the accounting records of the producer of the good. The AANZFTA defines an indirect material as “a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:

- Fuel and energy;
- Tools, dies and moulds;
- Spare parts and materials used in the maintenance of equipment and buildings;
- Lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- Gloves, glasses, footwear, clothing, safety equipment and supplies;
- Equipment, devices and supplies used for testing or inspecting goods;
- Catalysts and solvents; and
- Any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.”

Operational Certification Procedures for AANZFTA

Under the AANZFTA, a process is established through which exporters apply for and obtain a CO that officially attests to the eligibility for preferential treatment of the product they intend to export to another AANZFTA market. There are a number of stages to the process which are discussed below and illustrated in Figure 3.

Before making an application to initiate the certification process, the exporter should be familiar with the concepts and approaches detailed in this booklet because in most instances, the exporter will want to choose between meeting the CTC or RVC tests and choose the test that is easiest for his or her product to satisfy. Depending upon the nature of the product and the extent to which it incorporates inputs from outside the country, record-keeping considerations may also be important in the selection of ROO test.

The exporter also needs to know who acts as the “Issuing Authority / Body” for ROO purposes in the exporting country. Details of national Issuing Authorities / Bodies are notified by each AANZFTA Party to the ASEAN Secretariat. If the Issuing Body / Authority should change, that change will also be notified to the ASEAN Secretariat.

Operational Certification Procedures (OCP): Step-by-step

Step 1 – Pre-Export Examination. Once the manufacturer/exporter decides on which ROO approach he wishes to follow, he needs to make an application to the Issuing Authority / Body requesting a pre-export examination of the origin of the good to be exported. The result of the examination becomes part of the supporting evidence that the exporter will later use in his application for a CO. Pre-export examinations may not apply for goods for which, by their nature, origin can be easily determined.

Step 2 – Application for a CO. The exporter next needs to make an application to the Issuing Authority / Body for a CO. The application needs to include supporting evidence proving that the good qualifies as originating, as well as minimum data requirements. The minimum data requirements include information on the exporter; shipment details; a full description of

the goods; and, an exporter's declaration. Minimum data requirements are detailed in Table 3.

Step 3 – Issuance of the CO. The AANZFTA specifies that a CO should be issued as near as possible to, but no later than three working days after, the date of exportation. If there are valid causes, Certificates of Origin may also be issued retroactively – but no longer than 12 months from the date of exportation. A CO must comply with minimum data requirements specified in the AANZFTA (detailed in Table 4). A CO is valid for a period of 12 months and must be submitted to Customs authorities in an importing country within that period.

Step 4 – Send the CO to the Importer. Both the exporter and the Issuing Authority / Body should keep copies of the CO but the original CO needs to be forwarded by the exporter to the importer for submission to the Customs authorities in the importing country. It is permissible to declare multiple goods on the same CO provided that each good is originating in its own right.

Step 5 – Importer submits CO with import declaration. At the time of import declaration, the importer submits the CO to the Customs authorities of the importing country and claims preferential tariff treatment for the good under AANZFTA.

Figure 3
Steps in the AANZFTA OCP for ROOs

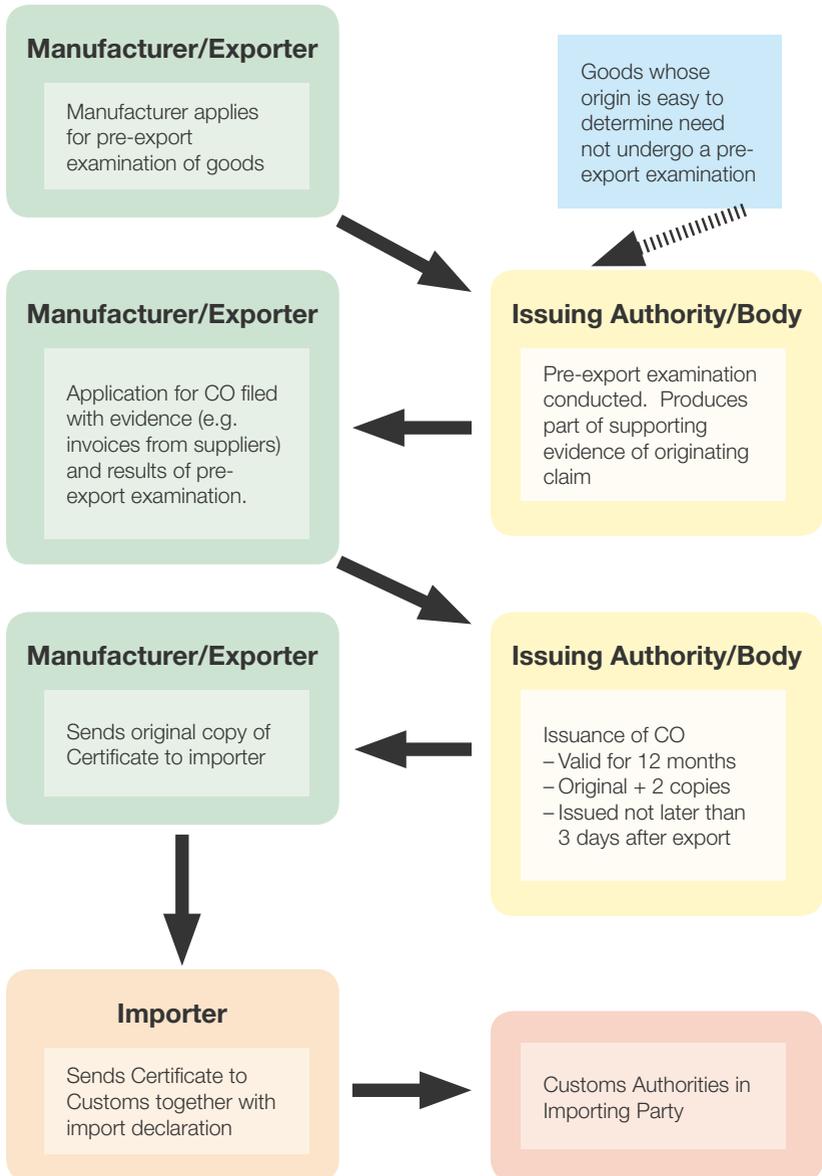


Table 3
Minimum Data Requirements – Application for a Certificate of Origin

The minimum data to be included in an application for a Certificate of Origin are:

Exporter details	The name, address and contact details of the exporter
Shipment details (a separate application must be made for each shipment)	(i) Consignee name and address (ii) Sufficient details to identify the consignment, such as importer's purchase order number, invoice number and date and Air Way Bill or Sea Way Bill or Bill of Lading (iii) Port of discharge, if known
Full description of goods	(i) Detailed description of the goods, including HS Code (6-digit level), and, if applicable, product number and brand name (ii) The relevant origin conferring criteria
Exporter's declaration	Declaration completed by the exporter or its authorised representative, signed and dated, and annotated with the signatory's name and designation. The declaration shall include a statement that the details provided in the application are true and correct.

Table 4
Minimum Data Requirements – Certificate of Origin

The minimum data to be included in an Certificate of Origin are:

Exporter details	The name, address and contact details of the exporter
Shipment Details (a Certificate can only apply to a single shipment of goods)	(i) Consignee name and address (ii) Sufficient details to identify the consignment, such as importer's purchase order number, invoice number and date and Air Way Bill or Sea Way Bill or Bill of Lading (iii) Port of discharge, if known
Full description of goods	(i) Detailed description of the goods, including HS Code (6-digit level), and, if applicable, product number and brand name (ii) The relevant origin conferring criteria (iii) FOB value ¹
Certification by Issuing Authority/ Body	Certification by the Issuing Authority / Body that, based on the evidence provided, the goods specified in the Certificate of Origin meet all the relevant Rules of Origin requirements
Certificate of Origin Number	A unique number assigned to the Certificate of Origin by the Issuing Authority / Body

¹ In the case of Australia and New Zealand, a Certificate of Origin or a back-to-back Certificate of Origin which does not state the FOB value shall be accompanied by a declaration made by the exporter stating the FOB value of each good described in the Certificate of Origin.

AANZFTA Certificate of Origin Format

The Parties to the AANZFTA have agreed to a model format for AANZFTA CO. In addition, a table has been prepared as guidelines for completing the information on the origin conferring criterion on the CO form. The model format and guidelines are reproduced in Appendix 4 of this guide. In the case of exporters from Australia and New Zealand, they have the option of either including the FOB value of the good in Box 9 of the CO form, or providing this information in a separate Exporter Declaration that would need to accompany the Certificate (see Appendix 4).

Back-to-back Certificate of Origin

In some cases, it might be necessary for a shipment to be routed through an “intermediate AANZFTA country” on its way to its final destination. If an AANZFTA originating good is passing through an “intermediate AANZFTA Party”, the exporter in the “intermediate AANZFTA Party” may make an application to the Issuing Authority / Body in that country to issue a “back-to-back” CO to ensure that the good will be eligible for preferential tariff treatment in the final destination. The AANZFTA provides that the Issuing Authority/Body must issue a back-to-back CO provided that the following conditions are met:

- A valid original CO or its certified true copy is presented;
- The period of validity of the back-to-back CO does not exceed the period of validity of the original CO;
- The consignment which is to be re-exported using the back-to-back CO does not undergo any further processing in the intermediate AANZFTA country, except for packing or logistics activities such as unloading, reloading, storing or other operations necessary to preserve them in good condition or to transport them to the importing AANZFTA country; and,
- The back-to-back CO contains relevant information from the original CO in accordance with the minimum data requirements (see Table 4). The FOB value shall be the FOB value of the goods exported from the intermediate AANZFTA country.

Note that the verification procedures specified in Rules 17 and 18 of the AANZFTA ROOs Annex on Operational Certification Procedures also apply to the back-to-back CO.

Verification of Origin under the AANZFTA

At times, it is possible that the Customs authorities in an importing AANZFTA country may have reason to doubt the authenticity of a CO or the documentary evidence supporting a claim of originating goods. In such cases, the agreement provides procedures for origin verification – including investigations in the country of origin. AANZFTA verification procedures are discussed in Appendix 1.

Record Keeping Requirements

The OCP require exporters, importers, manufacturers and the issuing authorities to maintain records relating to the exportation or importation necessary to demonstrate that the relevant goods qualified for preferential treatment for a period of not less than three years. These records can be kept in electronic form.

Acceptance of the CO by Importing Authorities

Under normal circumstances, where the importing authorities do not question the legitimacy of the CO, the goods covered by the certificate are entered with the benefit of preferential tariff treatment. However, if origin verification action is being undertaken, preferential treatment may be suspended for the period of the investigation (and reinstated later if the investigation does not invalidate the CO).

If an exporter changes the destination of goods exported after their export but before clearance by the importing country, the exporter must apply for a new CO for the goods that have changed destination. The original CO must be submitted with the application for the new CO.

If the goods covered by the CO are shipped through the territory of a country that is not an AANZFTA member, the Customs authority of the importing country must be provided with the following documents:

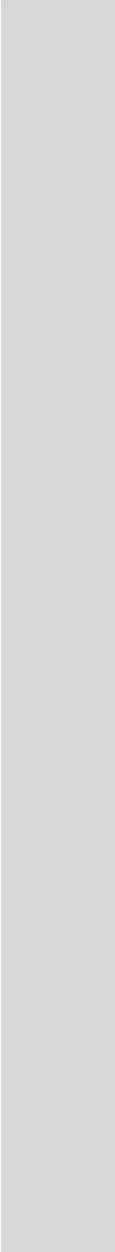
- A through Bill of Lading issued in the exporting country;
- A CO issued by the relevant Issuing Authority/Body of the exporting country;
- A copy of the original commercial invoice in respect of the good; and,

- Supporting documents that prove that “direct consignment” requirements have been complied with.

Cumulation and Certificates of Origin

The AANZFTA's rules on cumulation provide that a good that complies with the AANZFTA ROO, and which is used as a material in the production of another good in another Party (the “intermediate good”), shall be considered to originate in the Party where the working or processing of the finished good has taken place.

If the manufacturer/ exporter of the finished good wishes to take advantage of this provision, it will be essential that they have sufficient documentation to demonstrate that the “intermediate good” imported from another AANZFTA Party is an AANZFTA originating good. For example, if the “intermediate good” has been imported under AANZFTA's tariff commitments, then it would have been accompanied by a CO, and it will be important that the manufacturer/ exporter of the finished good retains this CO.



Comparison of AANZFTA ROOs with Other ASEAN FTAs



The AANZFTA ROOs discussed in this information booklet are designed to facilitate increased trade in the region by providing exporters with a considerable degree of flexibility in deciding which of the specified co-equal approaches to choose for proving the origin of their goods. Additional flexibility is provided through *de minimis* provisions attached to the CTC approach and a choice of calculation methodologies for purposes of RVC calculations. That said, the AANZFTA ROOs are really not very different from those which apply in other FTAs which ASEAN has negotiated.

In Appendix 3, we illustrate the similarities and differences of ROOs and OCPs for this agreement and five other ASEAN agreements: the ASEAN Trade in Goods Agreement (ATIGA), the ASEAN-Japan Comprehensive Economic Partnership, the ASEAN-Korea Trade in Goods Agreement, the ASEAN-India Trade in Goods Agreement, and the ASEAN-China Trade in Goods Agreement. The main points of comparison are discussed below.

Similarities in Approach

Four of the FTAs (see Appendix 3 Table 3.1.A) employ (for most products) a co-equal approach where exporters can choose between meeting a Regional Value Content (RVC) (40 percent) standard or a Change in Tariff Classification (CTC) at the four-digit HS level.

All six of the FTAs allow cumulation across the parties to the agreement, provided that the inputs in a final product each satisfy the applicable FTA ROOs.

In all of the FTAs except for ASEAN's FTA with Japan, RVC can be calculated according to either a build-up or build-down calculation.

For the most part, the OCP that apply are the same in important respects across the FTAs.

These important similarities among the agreements are important because they go a long way towards avoiding confusion that exporters would otherwise face in trying to understand how the different ROOs operate. The strong similarities in the rules also make it easier for exporters to deal with practical issues, like record keeping requirements.

Differences in Approach

The ATIGA ROOs go further than the other agreements in facilitating cumulation of RVC calculations by permitting partial cumulation (on a pro rata basis) of the value of inputs with a RVC of at least 20 percent. The rules for how an RVC calculation are performed using partial cumulation are specified in Annex 6 to the ATIGA.

For RVC calculations, the FTA between Japan and ASEAN specify the use of only the “build-down” method of calculating RVC.

There are also considerable differences in the various agreements’ *de minimis* rules, although most permit (for most products) non-CTC qualified inputs into final products of up to 10 percent of the final product’s FOB value. There are no *de minimis* rules in the Indian and Chinese agreements because they do not permit a CTC only approach to ROOs.

APPENDIX 1

Verification Procedures under AANZFTA ROOs



The AANZFTA's verification procedures in respect of ROOs are detailed in Rules 17 and 18 of the Annex on Operational Certification Procedures. The procedures are summarised below.

Initiation of Verification Procedures

In those cases where the Customs authorities of the importing country have reason to suspect that the claim for AANZFTA originating status is incorrectly claimed, the agreement allows these authorities to initiate an investigation into the matter. Where this is the case, it is likely that the authorities will suspend preferential tariff treatment to the affected goods during the period of the investigation. In addition, where an investigation into a good's origin is initiated, the AANZFTA permits the importing authorities to:

- Institute retroactive checking measures to check on the validity of the CO;
- Request information from the relevant importer of the affected goods; and,
- Make a written request to the Issuing Authority / Body in the exporting country issuing the CO asking for information from the exporter or producer of the goods.

It is possible that the authorities in the importing country might find the case to be so important that they deem it necessary to undertake a visit to the exporting country for the purpose of verifying the origin of the goods concerned. Where this is the case, the importing country authorities must make their request for a verification visit at least 30 days before their proposed visit. If the Issuing Authority / Body in the exporting country that issued the CO is not a government agency, then the importing country authorities must notify the Customs authorities in the exporting country of their interest in undertaking a verification visit.

Box 6: Verification Visit Information Requirements

Written requests for a verification visit by the authorities of an importing country must include the following information (at a minimum):

- The identity of the Customs Authority issuing the request;
- The name of the exporter or the producer of the exporting country whose good is subject to the verification visit;
- The date the written request is made;
- The proposed date and place of the visit;
- The objective and scope of the proposed visit, including specific reference to the good subject to the verification; and,
- The names and titles of the officials of the Customs Authority or other relevant authorities of the importing country who will participate in the visit.

Responses to Verification Procedures

Parties requested to provide information in response to a request from the importing country authorities must respond with the information requested within 90 days of the date on which the request for information is made. In those cases where the importing authorities plan a verification visit to the exporting country, the Issuing Authority / Body under investigation will contact the exporter or producer and request them to permit a visit by the importing authorities to their premises and provide all information requested by the investigating importing authorities.

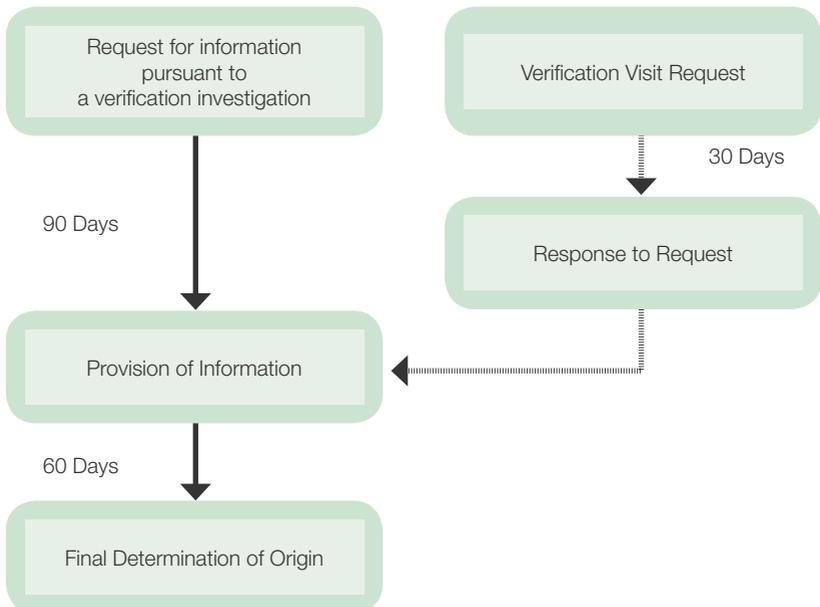
The investigating authorities of the importing country are not permitted to visit the premises or factory of an exporter or producer without written prior consent. Any consent given must be provided within 30 days of the request for a verification visit or the Issuing Authority / Body will have to advise the investigating authorities that their request for a visit is denied. Exporters and producers who find themselves subjected to a verification visit request should understand that a failure to respond positively to a request for a verification visit or failure to provide requested information is likely to lead to denial of preferential tariff treatment for the affected goods.

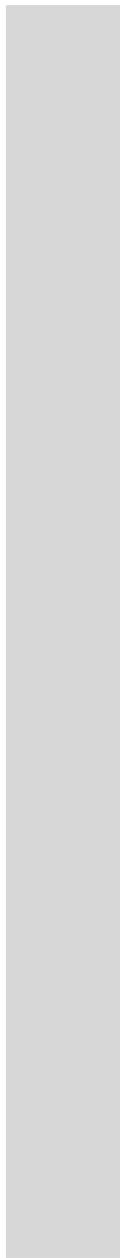
Exporters and producers should be aware that investigating authorities and CO issuing bodies are required to maintain the confidentiality of all information classified as confidential and collected in the course of a verification procedure under the AANZFTA.

Results of Verification Procedure

Verification procedures into ROOs under the AANZFTA must be completed by the authorities of the importing country within 150 days of the date of the request for information from the body issuing the CO for the goods under investigation. Final written advice from the investigating authorities as to the good's eligibility for preferential treatment must be provided to all relevant parties within 60 days of the receipt of the information necessary to make a decision. Where the Customs authority concludes that a good under investigation qualifies as an originating good, and where preferential treatment has been suspended for the period of the investigation, any suspended tariff treatment shall be reinstated.

Figure 4
Timetable for Verification Procedures





APPENDIX 2

Practical Exercises in ROOs



The following practical exercises are intended to assist ASEAN exporters in familiarising themselves with the AANZFTA ROOs.

Change in Tariff Classification (CTC)

Exercise 1:

A valve casting is imported into Viet Nam from China for further work and is then exported to New Zealand. The final product has a classification of 8481.10 and the initial valve casting has a classification of 8481.90.

The ROO for goods of 8481.10 is RVC(40) or CTH or RVC(35)+CTSH.

Is the final product an originating good pursuant to the CTC rule?

Exercise 2:

A producer of copper tubes (HS 7411.10) in Malaysia imports copper billets (HS 7403.13) from Australia. The copper was originally mined in Papua New Guinea and the unrefined copper (HS 7402) was imported into Australia for smelting.

The ROO for goods of 7403.13 is RVC(40) or CTH.

The ROO for goods of 7411.10 is RVC(40) or CTH.

Is the copper tube an originating good pursuant to the CTC rule?

Exercise 3:

A sorting machine (HS 8433.60) is produced in Australia for export to Indonesia. The machine contains a number of originating materials and non-originating electric motors (HS 8501) from Japan and switches (HS 8519) from Korea.

The ROO for goods of 8433.60 is RVC(40) or CTSH.

Is the sorting machine originating pursuant to the CTC rule?

Exercise 4:

Air bag inflators (HS 8708.99) for motor vehicles are produced in Thailand. Materials imported from Japan are used in their production. These materials

are initiators (HS 3603.00), filters (HS 7314.12) and clips (HS 8536.90). The inflators also incorporate small gas canisters manufactured in Indonesia that are AANZFTA-originating and classified in HS 8708.99.

The ROO for goods of 8708.99 is RVC(40) + CTSH

Are the air bag inflators originating under the CTC rule?

Exercise 5:

Movable bottling machinery (HS 8422.30) is manufactured in New Zealand. Materials imported from Germany are used in the production of the machinery, including hydraulic cylinders (HS 8412.21), counterweights (HS 8431.39) and tyres (HS 4012.90).

The ROO for goods of 8422.30 is RVC(40) or CTSH.

Is the movable bottling machinery originating under the CTC rule?

Regional Value Content (RVC)

Exercise 6:

Table knives (HS 8211.91) produced in Singapore are sold for \$10.00. Metal handles (HS 8211.95) valued at \$5.60 are imported from Japan. The blades (HS 8211.94) for the knives are valued at \$3.75 and were produced in Indonesia and are AANZFTA-originating.

The ROO for goods of 8211.91 is RVC(40) or CC.

Are the table knives originating goods under the RVC rule?

Exercise 7:

Wooden furniture (HS 9403.50) is produced in Malaysia and sold for \$100.00. Parts of furniture (HS 9403.90) were imported from Chinese Taipei. These parts had a value of \$63.00 and AANZFTA-originating materials produced in Malaysia had a value of \$34.00.

The ROO for goods of 9403.50 is RVC(40) or CTH or RVC(35) + CTSH.

Is the furniture originating under the AANZFTA ROOs?

Exercise 8:

Gearboxes (HS 8708.40) are produced in Australia and sold for \$1,000.00. The production of the gearboxes included \$300.00 worth of material from Korea (HS 7318) and \$280.00 worth of material from the United States (HS 8708.99), as well as \$125.00 worth of non-AANZAFTA-originating material from Indonesia, also in HS 7318.

The ROO for goods of 8708.40 is RVC(40).

Are the gearboxes originating?

Exercise 9:

Automotive mufflers (8708.92) are produced in Thailand and sold for \$150.00. \$33.00 worth of materials to make each muffler are produced in Thailand and another \$8.00 worth of AANZFTA-originating material is imported from Malaysia. Labour associated with each muffler's production comes to \$9.00, overhead allocations amount to \$3.00 and the cost of shipping to the port of export comes to \$3.00 per muffler. The manufacturer makes \$6.00 profit on each muffler sold.

The ROO for goods of 8708.92 is RVC(40).

Are the mufflers originating?

Exercise 10:

Microwave ovens (HS 8516.50) are produced in Viet Nam and are sold for \$200.00. Electric heating resistors (HS 8516.80) worth \$100.00 and other parts for electric heating products (HS 8516.90) worth \$28.00 are imported from Hong Kong and used in the production of the microwave ovens.

The ROO for goods of 8516.50 is RVC(40) or CTH or RVC(35) + CTSH.

Are the microwave ovens originating?

Answers to Exercises:

CTC ROO Exercises

Exercise 1: The ROO for products classified in HS 8481.10 requires that all non-originating inputs must be classified within any heading other than 8481. Since the imported valve casting is also classified within HS heading 8481, the final good does not meet the ROO and is therefore a non-originating good under the CTC rule. Note that the good could be originating if an RVC of 35 percent can be satisfied.

Exercise 2: The ROO for products classified in HS heading 7411 requires that all non-originating inputs must be classified within any other heading (i.e. any other heading except 7411). Since imported copper billets are classified within HS heading 7403, the copper tube meets the ROO and is therefore an originating good. Note also that copper billet is in fact an originating good and does not actually have to meet the ROO because it is an originating good of the FTA territory. It is originating because the ROO for products classified within HS 7403 requires that all non-originating inputs must be classified within any other heading (i.e. any other heading than 7403). Since the imported unrefined copper is classified in HS heading 7402, the copper billet meets the ROO and is therefore an originating good.

Exercise 3: The ROO for products classified under HS heading 8433.60 requires that all non-originating inputs must be classified to any other subheading (i.e., any other subheading other than 8433.60). Since the imported electric motors and switches are classified in 8501 and 8519 – both of which are not subheading 8433.60, the sorting machine meets the ROO and is therefore an originating good.

Exercise 4: From the standpoint of the CTC rule, the air bag inflators qualify as an originating good because none of the non-originating materials are classified in Subheading 8708.99 and the canisters from Indonesia are originating goods under the cumulation rules of the AANZFTA. However, because the product-specific rule in this case requires satisfaction of both a CTC rule and an RVC of 40 percent, we cannot determine whether the air bag inflators are originating without knowing the result of a separate RVC calculation.

Exercise 5: The ROO for products classified within HS heading 8422.30 requires that all non-originating inputs must be classified to any other subheading (i.e., any other subheading other than 8422.30). Since the imported hydraulic cylinders, counterweights and tyres are all classified in subheadings other than 8422.30, the bottling machinery meets the ROO and is therefore an originating good under the CTC rule.

RVC ROO Exercises

Exercise 6: Using the build-down formula, we start with the FOB price (\$10.00) and subtract the value of the non-originating materials from Japan (\$5.60) and divide the result by the FOB price for an outcome in percentage terms of 44 percent. So the knives are originating. Note that the value of the blades produced in Indonesia is cumulated with the value-added in Singapore.

$$\text{RVC} = \frac{\$10.00 - \$5.60}{\$10.00} = \frac{\$4.40}{\$10.00} = .44 \times 100\% = 44 \text{ percent}$$

Exercise 7: The furniture in question does not satisfy the RVC(40) rule because use of the build-down formula shows us that 63 percent of the value is non-originating material from Chinese Taipei. The furniture also cannot satisfy the CTH rule because both the furniture and furniture parts are classified in tariff heading 9403. However, the furniture is originating under the third ROO, RVC(35) + CTSH because the build-down formula shows a RVC of 37 percent and because the CTSH rule is satisfied by the parts imported under 9403.90 shifting to subheading 9403.50 in the final product.

Exercise 8: To calculate the RVC, we use the build-down method to subtract the \$300.00 of material imported from Korea, the \$280.00 of material imported from the United States, and the \$125.00 of material imported from Indonesia (as it is non-AANZFTA-originating) from the FOB price of \$1,000.00. The calculation shows us that the gearboxes are not originating because the RVC of 30 percent does not meet the RVC threshold of 40 percent.

$$\text{RVC} = \frac{\$1,000 - \$300 - \$280 - \$125}{\$1,000} = \frac{\$295}{\$1,000} = .30 \times 100\% = 30 \text{ percent}$$

Exercise 9: To see whether the mufflers are originating, we need to perform the RVC calculation using the direct formula. Both the Malaysian and Thai materials count as AANZFTA materials due to the cumulation rule.

$$\text{RVC} = \frac{\$41.00 + \$9.00 + \$3.00 + \$6.00 + \$3.00}{\$150.00} = \frac{\$62.00}{\$150.00} = .413$$

The calculation shows that with a RVC of 41.3 percent the mufflers satisfy the threshold level of RVC of 40 percent under the AANZFTA rule.

Exercise 10: Use of the build-down formula shows that only 36 percent of the microwave ovens is RVC, so the RVC(40) rule cannot be met. The CTH rule also cannot be met since the resistors and other parts are in the same tariff heading (HS 8516) as the ovens. However, because both the resistors (HS 8516.80) and the other parts (HS 8516.90) shift to a different sub-heading when they are part of the oven (HS 8516.50), the ovens are originating because they meet the RVC(35) + CTSH ROO.

APPENDIX 3

Comparison of Rules of Origin Approaches Across Selected ASEAN Trade Agreements



The tables that follow illustrate the similarities and differences among six ASEAN trade agreements:

- ASEAN – Australia/New Zealand Free Trade Agreement (AANZFTA) – signed on 27 February 2009
- ASEAN Trade in Goods Agreement (ATIGA) – signed on 26 February 2009
- ASEAN – Japan Comprehensive Economic Partnership – signed on 14 April 2008
- ASEAN – Korea Trade in Goods Agreement – signed on 24 August 2006
- ASEAN – India Trade in Goods Agreement – signed on 13 August 2009
- ASEAN – China Trade in Goods Agreement – signed on 29 November 2004

Table 5
Comparison of Rules of Origin Approaches across Selected ASEAN Agreements

Agreement	ASEAN – Australia/New Zealand (AANZFTA)	ASEAN Trade in Goods Agreement (ATIGA)	ASEAN – Japan Comprehensive Economic Partnership	ASEAN – Korea Trade in Goods Agreement	ASEAN – India Trade in Goods Agreement	ASEAN – China Trade in Goods Agreement
Basic Rules of Origin	RVC (40) CTC (4-digit) Co-equal	RVC (40) CTC (4-digit) Co-equal	RVC (40) CTC (4-digit) Co-equal	RVC (40) CTC (4-digit) Co-equal	RVC (35) Plus CTSH	RVC (40)
Cumulation Approach	Cumulation permitted across AANZFTA provided inputs each satisfy RVC or CTC rule Partial cumulation permitted in RVC calculation on pro rata basis where RVC is at least 20%	Cumulation permitted across ATIGA provided inputs each satisfy RVC or CTC rule	Cumulation permitted across participating countries provided inputs each satisfy RVC or CTC rule	Cumulation permitted across participating countries provided inputs each satisfy RVC or CTC rule	Cumulation permitted across all RTA Parties provided inputs each satisfy RVC(35)+CTSH rule	Cumulation permitted across all RTA Parties provided inputs each satisfy RVC (40) rule
RVC Calculation	Direct formula (build-up method) or Indirect formula (build-down method)	Direct formula (build-up method) or Indirect formula (build-down method)	Indirect formula (build-down method) only	Direct formula (build-up method) or Indirect formula (build-down method)	Direct formula (build-up method) or Modified Indirect formula designed to show non-originating content of ≤ 65 percent	Modified Indirect formula designed to show non-originating content of ≤ 60 percent. In practice, direct method of calculation is also allowed.
De Minimis Rule	2 Rules: (1) For goods other than textiles and apparel in HS 50-63, non-CTC qualified inputs up to 10 percent of FOB value of final product allowed (2) For textiles and apparel in HS 50-63, non-CTC qualified up to 10 percent of value weight allowed.	1 Rule Non-CTC qualified inputs allowed up to 10 percent of FOB value of final good	3 Rules: (1) For goods in HS 16, 19, 20, 22, 23, 28 through 49 and 64 through 97, non-CTC qualified inputs up to 10 percent of FOB value of final product allowed (2) For goods in HS 18 and 21, non-CTC qualified inputs allowed up to 10 % or 7% of FOB value as per annex 2 (3) For textiles and apparel in HS 50-63, non-CTC qualified up to 10 percent of total weight allowed.	2 Rules: (1) For goods other than textiles and apparel in HS 50-63, non-CTC qualified up to 10 percent of value allowed (2) For textiles and apparel in HS 50-63, non-CTC qualified up to 10 percent of total weight allowed.	Not applicable. No CTC ROO.	Not applicable.

Table 6
Comparison of Operational Certification Procedures across Selected ASEAN Agreements

Agreement	ASEAN – Australia/ New Zealand (AANZFTA)	ASEAN Trade in Goods Agreement (ATIGA)	ASEAN – Japan Comprehensive Economic Partnership	ASEAN – Korea Trade in Goods Agreement	ASEAN – India Trade in Goods Agreement	ASEAN – China Trade in Goods Agreement
Pre-export Examination	Yes – Exporter to request as basis for supporting evidence of origin	Yes – Exporter to request as basis for supporting evidence of origin	Yes as provided in the Implementing Regulations	Yes – Exporter to request as basis for supporting evidence of origin	Yes – Exporter to request as basis for supporting evidence of origin	Yes – Exporter to request as basis for supporting evidence of origin
Exporter Application	Written application to issuing authorities with prescribed minimum data	Written application to issuing authorities with prescribed minimum data	Written application to issuing authorities with prescribed minimum data and proof of origin of goods	Written application to issuing authorities with prescribed minimum data	Written application to issuing authorities with prescribed minimum data	Written application to issuing authorities with prescribed minimum data
Certificate of Origin	Unique Certificate number Original plus two copies Official seal / signature of issuing body Specified minimum data requirements Issued within 3 days of export	Unique Certificate number Original plus two copies Official seal / signature of issuing body Specified minimum data requirements Issued within 3 days of export	Unique Certificate number Original plus two copies Official seal / signature of issuing body Specified minimum data requirements	Unique Certificate number Original plus two copies Official seal / signature of issuing body Specified minimum data requirements	Unique Certificate number Original plus three copies Official seal/signature of issuing body Dedicated form / data requirements Issued within 3 days of export	Unique Certificate number Original plus three copies Official seal/signature of issuing body Dedicated form / data requirements Issued within 3 days of export
Period of Validity	12 months	12 months	12 months	6 months	12 months	Normally 4 months 6 months when transhipped through a non-Party
Retrospective Issuance	Yes – Up to 12 months	Yes – Up to 12 months	Yes – Up to 12 months	Yes – Up to 12 months	Yes – Up to 12 months	Yes – Up to 12 months
Action by Importer	Submit original copy of Certificate at time of import declaration	Submit original copy of Certificate at time of import declaration	Submit original copy of Certificate at time of import declaration	Submit original copy of Certificate at time of import declaration	Submit original copy of Certificate plus triplicate copy at time of import declaration. Triplicate copy sent back to issuing authority in exporting country	Submit original copy of Certificate plus triplicate copy at time of import declaration. Triplicate copy sent back to issuing authority in exporting country
No Certificate Required	No certificate required for goods valued at less than US\$ 200 FOB	No certificate required for goods valued at less than US\$ 200 FOB	No certificate required for goods valued at less than US\$ 200 FOB	No certificate required for goods valued at less than US\$ 200 FOB	No exemption specified in OCPs for the AFTA	No Certificate is required for goods valued at less than US\$ 200 FOB
Back-to-back Certificates	Yes – required in transhipment cases	Yes – required in transhipment cases	Yes – required in transhipment cases	Yes – required in transhipment cases	Yes – required in transhipment cases	No provision
Verification Procedure	Yes – after the fact verification where considered necessary	Yes – after the fact verification where considered necessary	Yes – after the fact verification where considered necessary	Yes – after the fact verification where considered necessary	Yes – after the fact verification where considered necessary	Yes – after the fact verification where considered necessary
Record Keeping	Issuing body, exporter and importer to keep relevant records for 3 years	Issuing body, exporter and importer to keep relevant records for 3 years	Issuing body, exporter and importer to keep relevant records for 3 years	Issuing body, exporter and importer to keep relevant records for 3 years	Issuing body to keep records for at least 2 years. Exporter to retain “Quadruplicate” copy for 12 months.	Issuing body to keep records for at least 2 years. Exporter to retain “Quadruplicate” copy for 12 months.



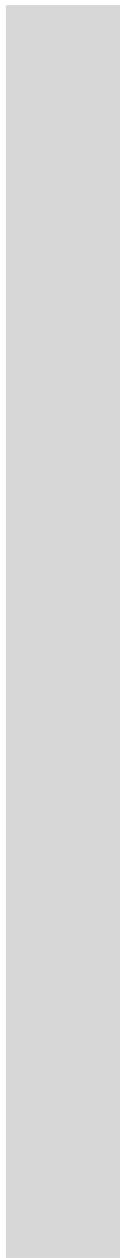
APPENDIX 4

Model Format for the AANZFTA Certificate of Origin



This appendix reproduces:

- (a) the model format agreed for the AANZFTA CO;
- (b) the guidelines for completing the information on the origin conferring criterion on the CO form of the AANZFTA; and
- (c) The Exporter Declaration on the Free-on-Board Value of Goods, which exporters from Australia and New Zealand must use if they do not provide the FOB value of the goods in Box 9 of the CO form.



ORIGINAL

1. Goods Consigned from (Exporter's name, address and country)			Certificate No. _____ Form AANZ		
2. Goods Consigned to (Importer's/ Consignee's name, address, country)			AGREEMENT ESTABLISHING THE ASEAN – AUSTRALIA – NEW ZEALAND FREE TRADE AREA (AANZFTA) CERTIFICATE OF ORIGIN (Combined Declaration and Certificate) Issued in (Country) (see Overleaf Notes)		
3. Means of transport and route (if known) Shipment Date: Vessel's name/Aircraft etc.: Port of Discharge:			4. For Official Use <input type="checkbox"/> Preferential Treatment Given Under AANZFTA <input type="checkbox"/> Preferential Treatment Not Given (Please state reason/s) _____ Signature of Authorised Signatory of the Importing Country		
5. Item number	6. Marks and numbers on packages	7. Number and kind of packages: description of goods including HS Code (6 digits) and brand name (if applicable)	8. Origin Conferring Criterion (see Overleaf Notes)	9. Quantity (Gross weight or other measurement), and value (FOB) (see Overleaf Notes)	10. Invoice number(s) and date of invoice(s)
11. Declaration by the exporter The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in (country) and that they comply with the rules of origin, as provided in Chapter 3 of the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area for the goods exported to (importing country) Place and date, name, signature and company of authorised signatory			12. Certification On the basis of control carried out, it is hereby certified that the information herein is correct and that the goods described comply with the origin requirements specified in the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area. Place and date, signature and stamp of Authorised Issuing Authority/ Body		
13. <input type="checkbox"/> Back-to-back Certificate of Origin			<input type="checkbox"/> Subject of third-party invoice	<input type="checkbox"/> Issued retroactively	
<input type="checkbox"/> <i>De Minimis</i>			<input type="checkbox"/> Accumulation		

OVERLEAF NOTES

- Countries which accept this form for the purpose of preferential treatment under the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (the Agreement):

Australia	Brunei Darussalam	Cambodia	Indonesia	Lao PDR	Malaysia
Myanmar	New Zealand	Philippines	Singapore	Thailand	Viet Nam

 (hereinafter individually referred to as a Party)
- CONDITIONS:** To be eligible for the preferential treatment under the AANZFTA, goods must:
 - Fall within a description of products eligible for concessions in the importing Party;
 - Comply with all relevant provisions of Chapter 3 (Rules of Origin) of the Agreement.
- EXPORTER AND CONSIGNEE:** Details of the exporter of the goods (including name, address and country) and consignee (name and address) must be provided in Box 1 and Box 2, respectively.
- DESCRIPTION OF GOODS:** The description of each good in Box 7 must include the Harmonized Commodity Description and Coding System (HS) subheading at the 6-digit level of the exported product, and if applicable, product name and brand name. This information should be sufficiently detailed to enable the products to be identified by the customs officer examining them.
- ORIGIN CRITERIA:** For the goods that meet the origin criteria, the exporter should indicate in Box 8 of this Form, the origin criteria met, in the manner shown in the following table:

Circumstances of production or manufacture in the country named in Box 11 of this form:	Insert in Box 8
Goods wholly produced or obtained satisfying Article 2.1(a) of the Agreement	WO
Goods produced entirely satisfying Article 2.1(c) of the Agreement	PE
Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.1(a) of the Agreement	RVC
Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.1(b) of the Agreement	CTH
Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.2, i.e., if the good is specified in Annex 2, all the product specific requirements listed have been met:	
Change in Tariff Classification	
Regional Value Content	
Other, including a Specific Manufacturing or Processing Operation or a CTC or RVC requirement combined with an additional requirement	PSR(CTC) PSR (RVC) PSR (Other)

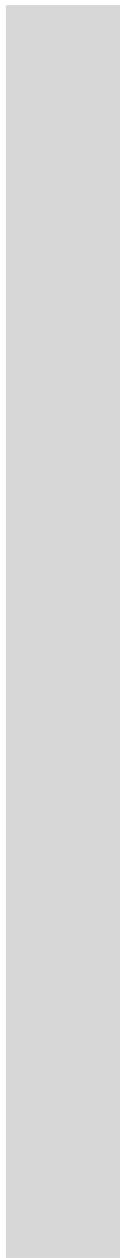
- EACH GOOD CLAIMING PREFERENTIAL TARIFF TREATMENT MUST QUALIFY IN ITS OWN RIGHT:** It should be noted that all the goods in a consignment must qualify separately in their own right. This is of particular relevance when similar articles of different sizes or spare parts are exported.
- FOB VALUE:**
 - An exporter from an ASEAN Member State must provide in Box 9 the FOB value of the goods
 - An exporter from Australia or New Zealand can complete either Box 9 or provide a separate "Exporter Declaration" stating the FOB value of the goods.
- INVOICES:** Indicate the invoice number and date for each item. The invoice should be the one issued for the importation of the good into the importing Party.
- SUBJECT OF THIRD PARTY INVOICE:** In case where invoices are issued by a third country, in accordance with Rule 22 of the Operational Certification Procedures, the "SUBJECT OF THIRD-PARTY INVOICE" box in Box 13 should be ticked (✓). The number of invoices issued by the manufacturers or the exporters and the number of invoice issued by the trader (if known) for the importation of goods into the importing Party should be indicated in Box 10.
- BACK-TO-BACK CERTIFICATE OF ORIGIN:** In the case of a back-to-back certificate of origin issued in accordance with paragraph 3 of Rule 10 of the Operational Certification Procedures, the back-to-back certificate of origin in Box 13 should be ticked (✓).
- CERTIFIED TRUE COPY:** In case of a certified true copy, the words "CERTIFIED TRUE COPY" should be written or stamped on Box 12 of the Certificate with the date of issuance of the copy in accordance with Rule 11 of the Operational Certification Procedures.
- FOR OFFICIAL USE:** The Customs Authority of the Importing Party must indicate (✓) in the relevant boxes in Box 4 whether or not preferential tariff treatment is accorded.
- BOX 13:** The items in Box 13 should be ticked (✓), as appropriate, in those cases where such items are relevant to the goods covered by the Certificate.

GUIDELINES FOR COMPLETING THE INFORMATION ON THE ORIGIN CONFERRING CRITERION ON THE CERTIFICATE OF ORIGIN (CO) FORM OF THE AANZFTA

The following table is a guide for implementers of the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) in completing Box 8 of the AANZFTA CO Form. This document will only serve as a guide for the implementers and will not be attached to the AANZFTA CO Form or be required for submission to importing authorities.

Circumstances of production or manufacture in the country named in Box 11 of this form:	Insert in Box 8
Goods wholly produced or obtained satisfying Article 2.1(a) of the Agreement	WO Understanding: "WO" should be placed in Box 8 if the good is wholly produced or obtained in a Party.
Goods produced entirely satisfying Article 2.1(c) of the Agreement	PE Understanding: "PE" should be placed in Box 8 if the good is produced in a Party entirely in a Party exclusively from originating materials from one or more of the Parties.
Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.1(a) of the Agreement	RVC Understanding: "RVC" should be placed in Box 8 if the good satisfies the requirement in Article 4.1(a) of a regional value content of not less than 40 per cent of the FOB value.
Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.1(b) of the Agreement	CTH Understanding: "CTH" should be placed in Box 8 if the good satisfies the requirement in Article 4.1(b) that all non-originating materials used in the production of the good have undergone a change in tariff classification at the four-digit level (i.e. a change in tariff heading) of the HS Code in a Party.

<p>Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.2, i.e., if the good is specified in Annex 2, all the product specific requirements listed have been met:</p>	
<p>- Change in Tariff Classification</p>	<p>PSR (CTC) Understanding: "PSR (CTC)" should be placed in Box 8 if the applicable origin criterion in Annex 2 is a Change in Tariff Classification, whether at the level of the chapter ("CC"), the level of a heading ("CTH") or the level of a subheading ("CTSH"). There is no need to place the actual tariff shift.</p>
<p>- Regional Value Content</p>	<p>PSR (RVC) Understanding: "PSR (RVC)" should be placed in Box 8 if the applicable origin criterion in Annex 2 is an RVC.</p>
<p>- Other, including a Specific Manufacturing or Processing Operation or a CTC or RVC requirement combined with an additional requirement</p>	<p>PSR (Other) Understanding: "PSR (Other)" should be placed in Box 8 if the applicable origin criterion in Annex 2 is either a manufacturing or process rule or a CTC combined with an additional requirement. Below are some of the examples:</p> <ul style="list-style-type: none"> (i) RVC 40% + CTSH; (ii) No change in tariff classification is required provided that the good is cooked in the territory of the parties; (iii) No change in tariff classification is required provided that the good is produced by refining; (iv) CTSH, except from 2523.29 through 2523.90; (v) Origin shall be conferred to a good of this subheading that is derived from production or consumption in a Party; (vi) If the good is a result of a "chemical reaction".



Notes on Accompanying CD

This CD-ROM contains the following:

Part A: Text and schedules of the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA). It also includes the text of the Understanding on Article 1 (Reduction and Elimination of Customs Duties) of Chapter 2 (Trade in Goods Chapter) of the AANZFTA and the Implementing Arrangement for ASEAN-Australia-New Zealand Free Trade Area Economic Co-operation Work Programme Pursuant to Chapter 12 (Economic Cooperation) of the AANZFTA.

Part B: Product Specific Rules (PSR), Certificate of Origin (CO) Form, Exporter's Declaration Form, and Guidelines for Completing the CO Form of the AANZFTA ROO. For tariff reduction schedules for Trade in Goods, please refer to Part A above. Note that tariff reduction schedules as annexed are in HS 2002. Readers/users are advised to refer to the www.asean.org at entry into force of AANZFTA for the HS 2007 version of the tariff reduction schedules.

Utmost care has been done in the preparation/compilation of the files in the CD, should there be any discrepancies, the original legal text, including the schedules of the AANZFTA signed by the Parties shall prevail.

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