

AKTA KASTAM 1967

PERINTAH DUTI KASTAM (BARANG-BARANG DI BAWAH PERJANJIAN PERKONGSIAN EKONOMI KOMPREHENSIF ANTARA NEGERI-NEGERI ANGGOTA ASEAN DENGAN JEPUN) 2008

PADA menjalankan kuasa yang diberikan oleh subseksyen 11(1) Akta Kastam 1967 [Akta 235], Menteri membuat perintah yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Perintah ini bolehlah dinamakan **Perintah Duti Kastam (Barang-Barang di Bawah Perjanjian Perkongsian Ekonomi Komprehensif Antara Negeri-Negeri Anggota ASEAN dengan Jepun) 2008**
- (2) Perintah ini mula berkuat kuasa pada 1 Februari 2009.

Tafsiran

2. Dalam Perintah ini, melainkan jika konteksnya menghendaki makna yang lain -
“AJCEP” ertinya Perkongsian Ekonomi Komprehensif ASEAN- Jepun;
“negeri ASEAN” ertinya Brunei, Kemboja, Indonesia, Laos, Malaysia, Myanmar, Filipina, Singapura, Thailand atau Vietnam, mengikut mana-mana yang berkenaan, dan “negeri-negeri ASEAN” hendaklah ditafsirkan dengan sewajarnya.

Duti Import

3. (1) Tertakluk kepada peruntukan Jadual Pertama, duti import hendaklah dilevi ke atas, dan dibayar oleh pengimport, berkenaan dengan barang-barang yang dinyatakan dalam Jadual Kedua, yang berasal dari negeri Jepun atau negeri-negeri ASEAN, mengikut kadar duti import yang dinyatakan dalam ruang (4) Jadual Kedua, yang diimport ke Malaysia.

(2) Jika suatu kadar duti import dinyatakan dalam ruang (4) Jadual Kedua berkenaan dengan sesuatu jenis barang-barang yang tertentu maka kadar itu hendaklah dilevi ke atas dan hendaklah dibayar oleh pengimport sebagai ganti duti import penuh yang sepadan yang dikenakan di bawah Perintah Duti Kastam 2007 [P.U.(A) 441/2007], hanya berkenaan dengan barang-barang dari jenis yang dibuktikan hingga memuaskan hati Ketua Pengarah sebagai berasal dari negeri Jepun atau negeri-negeri ASEAN.

(3) Dalam hal barang-barang yang boleh dikenakan duti import di bawah Perintah Duti Kastam 2007 yang diimport pada atau dengan mana-mana orang yang memasuki Malaysia atau dalam bagasi orang itu dan yang dimaksudkan untuk kegunaan bukan komersial (kecuali kenderaan bermotor, minuman beralkohol, spirit, tembakau dan rokok) hanya duti kastam pada kadar sama rata 30% *ad valorem* hendaklah dilevi ke atas dan dibayar oleh orang itu atas barang-barang itu.

(4) Berhubung dengan barang-barang yang tidak dinyatakan dalam Jadual Kedua, duti import hendaklah dilevi ke atas barang-barang itu mengikut kadar penuh yang dinyatakan dalam Perintah Duti Kastam 2007.

Tafsiran kadar yang dinyatakan dalam Jadual Kedua

4. Melainkan jika dinyatakan sebaliknya, kadar yang dilevi di bawah subperenggan 3(1) hendaklah mengikut kiraan peratusan nilai barang-barang.

Penjenisan barang-barang

5. Penjenisan barang-barang dalam Jadual Kedua hendaklah mematuhi Rukun tafsiran Jadual dalam Perintah Duti Kastam 2007.

CUSTOMS ACT 1967

CUSTOMS DUTIES (GOODS UNDER AGREEMENT ON COMPREHENSIVE ECONOMIC PARTNERSHIP AMONG MEMBER STATES OF THE ASEAN AND JAPAN) ORDER 2008

IN exercise of the powers conferred by subsection 11(1) of the Customs Act 1967 [Act 235], the Minister makes the following order:

Citation and commencement

1. (1) This order may be cited as the **Customs Duties (Goods Under Agreement on Comprehensive Economic Partnership Among Member States of The ASEAN and Japan) Order 2008**

(2) This Order comes into operation on 1 February 2009.

Interpretation

2. In this Order, unless the context otherwise requires –

“AJCEP” means ASEAN-Japan Comprehensive Economic Partnership;

“ASEAN country” means Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand or Vietnam, as the case may be and “ASEAN countries” shall be construed accordingly.

Import Duty

3. (1) Subject to the provisions of the First Schedule, import duty shall be levied on, and paid by the importer, in respect of goods specified in the Second Schedule, originating from Japan or ASEAN countries, at the rate of import duty specified in column (4) of the Second Schedule, imported into Malaysia.

(2) Where an import rate of duty is specified in column (4) of the Second Schedule in respect of a particular class of goods such rate shall be levied on and shall be paid by the importer *in lieu* of the corresponding full import duty imposed under the Customs Duties Order 2007 [P.U. (A) 441/2007] only in respect of goods of the class which are shown to the satisfaction of the Director General to have originated from Japan or ASEAN countries.

(3) In the case of those goods liable to import duty under the Customs Duties Order 2007 imported on or with any person entering Malaysia or in the baggage of such person and is intended for non-commercial use (except motor vehicles, alcoholic beverages, spirits, tobacco and cigarettes) only a customs duty at a flat rate of 30% *ad valorem* shall be levied on and paid by such person on such goods.

(4) In relation to goods not specified in the Second Schedule, import duties on such goods shall be levied at the full rates specified in the Customs Duties Order 2007.

Interpretation of rates shown in the Second Schedule

4. Unless otherwise specified, the rates levied under subparagraph 3(1) shall be expressed as the percentage of the value of goods.

Classification of goods

5. The classification of goods in the Second Schedule shall be governed by the Rules for the interpretation of the Schedules in the Customs Duties Order 2007.

JADUAL PERTAMA/*FIRST SCHEDULE*

[Subperenggan 3(1)/*Subparagraph 3(1)*]

PART 1

RULES OF ORIGIN UNDER THE AGREEMENT ON COMPREHENSIVE ECONOMIC PARTNERSHIP AMONG MEMBER STATES OF THE ASEAN AND JAPAN

In determining the origin of products eligible for the preferential tariff concession pursuant to the Agreement between the Government of ASEAN and Government of Japan for Comprehensive Economic Partnership (hereinafter referred to as “the Agreement”), the following Rules shall be applied:

Rule 1: Definitions

For the purposes of this Order:

- (a) “exporter” means a natural or juridical person located in an exporting Party who exports a good from the exporting Party;
- (b) “factory ships of the Party” or “vessels of the Party” respectively means factory ships or vessels:
 - (i) which are registered in the Party;
 - (ii) which sail under the flag of the Party;
 - (iii) which are owned to an extent of at least fifty (50) per cent by nationals of one or more of the Parties, or by a juridical person with its head office in a Party, of which the representatives, chairman of the board of directors, and the majority of the members of such board are nationals of one or more of the Parties, and of which at least fifty (50) per cent of the equity interest is owned by nationals or juridical persons of one or more of the Parties; and
 - (iv) of which at least seventy-five (75) per cent of the total of the master, officers and crew are nationals of one or more of the Parties;
- (c) “generally accepted accounting principles” means the recognised consensus or substantial authoritative support in a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures;
- (d) “good” means any merchandise, product, article or material;
- (e) “identical and interchangeable materials” means materials being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which once they are incorporated into the good cannot be distinguished from one another for origin purposes by virtue of any markings;

- (f) “importer” means a natural or juridical person who imports a good into the importing Party;
- (g) “materials” means any matter or substance used or consumed in the production of a good, physically incorporated into a good, or used in the production of another good;
- (h) “originating good” or “originating material” means a good or material that qualifies as originating in accordance with the provisions of this Order;
- (i) “packing materials and containers for transportation and shipment” means the goods used to protect a good during its transportation and shipment, different from those containers or materials used for its retail sale;
- (j) “preferential tariff treatment” means the rate of customs duties applicable to an originating good of the exporting Party in accordance with paragraph 1 of Article 16 of the Agreement; and
- (k) “production” means methods of obtaining a good including growing, mining, harvesting, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, processing or assembling.

Rule 2: Originating Goods

For the purposes of this Order, a good shall qualify as an originating good of a Party if it:

- (a) is wholly obtained or produced entirely in the Party as provided for in Rule 3;
- (b) satisfies the requirements of Rule 4 when using non-originating materials; or
- (c) is produced entirely in the Party exclusively from originating materials of one or more of the Parties,

and meets all other applicable requirements of this Order.

Rule 3: Goods Wholly Obtained or Produced

For the purposes of paragraph (a) of Rule 2, the following shall be considered as wholly obtained or produced entirely in a Party:

- (a) plant and plant products grown and harvested, picked or gathered in the Party;

Note: For the purposes of this paragraph, the term “plant” refers to all plant life, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants.

- (b) live animals born and raised in the Party;

Note: For the purposes of paragraphs (b) and (c), the term “animals” covers all animal life, including mammals, birds, fish, crustaceans, molluscs, reptiles, bacteria and viruses.

- (c) goods obtained from live animals in the Party;

- (d) goods obtained from hunting, trapping, fishing, gathering or capturing conducted in the Party;
- (e) minerals and other naturally occurring substances, not included in paragraphs (a) through (d), extracted or taken from soil, waters, seabed or beneath the seabed of the Party;
- (f) goods taken from the waters, seabed or beneath the seabed outside the territorial waters of the Party, provided that the Party has the rights to exploit such waters, seabed and beneath the seabed in accordance with its laws and regulations and international law;

Note: Nothing in this Order shall affect the rights and obligations of the Parties under international law, including those under the United Nations Convention on the Law of the Sea.

- (g) goods of sea-fishing and other marine products taken by vessels of the Party from outside the territorial sea of any Party;
- (h) goods processed and/or made on board factory ships of the Party exclusively from products referred to in paragraph (g);
- (i) articles collected in the Party which can no longer perform their original purpose or be restored or repaired, and are fit only for disposal, for the recovery of parts or raw materials, or for recycling purposes;
- (j) scrap and waste derived from manufacturing or processing operations, including mining, agriculture, construction, refining, incineration and sewage treatment operations, or from consumption, in the Party, and fit only for disposal or for the recovery of raw materials; and
- (k) goods obtained or produced in the Party exclusively from goods referred to in paragraphs (a) through (j).

Rule 4: Goods Not Wholly Obtained or Produced

1. For the purposes of paragraph (b) of Rule 2, a good shall qualify as an originating good of a Party if:
 - (a) the good has a regional value content (hereinafter referred to as “RVC”), calculated using the formula set out in Rule 5, of not less than forty (40) per cent, and the final process of production has been performed in the Party; or
 - (b) all non-originating materials used in the production of the good have undergone in the Party a change in tariff classification (hereinafter referred to as “CTC”) at the 4-digit level (i.e. a change in tariff heading) of Harmonized System.

Note: For the purposes of this subparagraph, “Harmonized System” is that on which the product specific rules set out in Appendix “B” are based.

2. Each Party shall permit the exporter of the good to decide whether to use subparagraph (a) or (b) when determining whether the good qualifies as an originating good of the Party.

3. Notwithstanding paragraph 1, a good subject to product specific rules shall qualify as an originating good if it satisfies the applicable product specific rules set out in Appendix “B”. Where a product specific rule provides a choice of rules from a RVC-based rule of origin, a CTC-based rule of origin, a specific manufacturing or processing operation, or a combination of any of these, each Party shall permit the exporter of the good to decide which rule to use in determining whether the good qualifies as an originating good of the Party.

4. For the purposes of subparagraph 1(a) and the relevant product specific rules set out in Appendix “B” which specify a certain RVC, it is required that the RVC of a good, calculated using the formula set out in Rule 5, is not less than the percentage specified by the rule for the good.

5. For the purposes of subparagraph 1(b) and the relevant product specific rules set out in Appendix “B”, the rules requiring that the materials used have undergone CTC, or a specific manufacturing or processing operation, shall apply only to non-originating materials.

6. For the purposes of this Order, Appendix “C” shall apply.

Rule 5: Calculation of Regional Value Content

1. For the purposes of calculating the RVC of a good, the following formula shall be used:

$$\text{RVC} = \frac{\text{FOB-VNM}}{\text{FOB}} \times 100\%$$

2. For the purposes of this Rule:

- (a) “FOB” is, except as provided for in paragraph 3, the free-on-board value of a good, inclusive of the cost of transport from the producer to the port or site of final shipment abroad;
- (b) “RVC” is the RVC of a good, expressed as a percentage; and
- (c) “VNM” is the value of non-originating materials used in the production of a good.

3. FOB referred to in subparagraph 2(a) shall be the value:

- (a) adjusted to the first ascertainable price paid for a good from the buyer to the producer of the good, if there is free-on-board value of the good, but it is unknown and cannot be ascertained; or
- (b) determined in accordance with Articles 1 through 8 of the Agreement on Customs Valuation, if there is no free-on-board value of a good.

4. For the purposes of paragraph 1, the value of non-originating materials used in the production of a good in a Party:

- (a) shall be determined in accordance with the Agreement on Customs Valuation and shall include freight, insurance, and where appropriate, packing and all other costs incurred in transporting the material to the importation port in the Party where the producer of the good is located; or

- (b) if such value is unknown and cannot be ascertained, shall be the first ascertainable price paid for the material in the Party, but may exclude all the costs incurred in the Party in transporting the material from the warehouse of the supplier of the material to the place where the producer is located such as freight, insurance and packing as well as any other known and ascertainable cost incurred in the Party.

5. For the purposes of paragraph 1, the VNM of a good shall not include the value of non-originating materials used in the production of originating materials of the Party which are used in the production of the good.

6. For the purposes of subparagraph 3(b) or 4(a), in applying the Agreement on Customs Valuation to determine the value of a good or non-originating material, the Agreement on Customs Valuation shall apply, *mutatis mutandis*, to domestic transactions or to the cases where there is no domestic transaction of the good or non-originating material.

Rule 6: *De Minimis*

1. A good that does not satisfy the requirements of subparagraph 1(b) of Rule 4 an applicable CTC-based rule of origin set out in Appendix “B” shall be considered as an originating good of a Party if:

- (a) in the case of a good classified under Chapters 16, 19, 20, 22, 23, 28 through 49, and 64 through 97 of the Harmonized System, the total value of non-originating materials used in the production of the good that have not undergone the required CTC does not exceed ten (10) per cent of the FOB;
- (b) in the case of a particular good classified under Chapters 18 and 21 of the Harmonized System, the total value of non-originating materials used in the production of the good that have not undergone the required CTC does not exceed ten (10) per cent or seven (7) per cent of the FOB, as specified in Appendix “B”; or
- (c) in the case of a good classified under Chapters 50 through 63 of the Harmonized System, the weight of all non-originating materials used in the production of the good that have not undergone the required CTC does not exceed ten (10) per cent of the total weight of the good,

provided that it meets all other applicable criteria set out in this Order for qualifying as an originating good.

Note: For the purposes of this paragraph, subparagraph 2(a) of Rule 5 shall apply.

2. The value of non-originating materials referred to in paragraph 1 shall, however, be included in the value of non-originating materials for any applicable RVC-based rule of origin for the good.

Rule 7: *Accumulation*

Originating materials of a Party used in the production of a good in another Party shall be considered as originating materials of that Party where the working or processing of the good has taken place.

Rule 8: Non-qualifying Operations

A good shall not be considered to satisfy the requirements of CTC or specific manufacturing or processing operation merely by reason of:

- (a) operations to ensure the preservation of products in good condition during transport and storage (such as drying, freezing, keeping in brine) and other similar operations;
- (b) changes of packaging and breaking up and assembly of packages;
- (c) disassembly;
- (d) placing in bottles, cases, boxes and other simple packaging operations;
- (e) collection of parts and components classified as a good pursuant to Rule 2(a) of the General Rules for the Interpretation of the Harmonized System;
- (f) mere making-up of sets of articles; or
- (g) any combination of operations referred to in subparagraphs (a) through (f).

Rule 9: Direct Consignment

1. Preferential tariff treatment shall be accorded to an originating good satisfying the requirements of this Order and which is consigned directly from the exporting Party to the importing Party.

2. The following shall be considered as consigned directly from the exporting Party to the importing Party:

- (a) a good transported directly from the exporting Party to the importing Party; or
- (b) a good transported through one or more Parties, other than the exporting Party and the importing Party, or through a non-Party, provided that the good does not undergo operations other than transit or temporary storage in warehouses, unloading, reloading, and any other operation to preserve it in good condition.

Rule 10: Packing Materials and Containers

1. Packing materials and containers for transportation and shipment of a good shall not be taken into account in determining the origin of any good.

2. Packing materials and containers in which a good is packaged for retail sale, when classified together with the good, shall not be taken into account in determining whether all of the non-originating materials used in the production of the good have met the applicable CTC-based rule of origin for the good.

3. If a good is subject to a RVC-based rule of origin, the value of the packing materials and containers in which the good is packaged for retail sale shall be taken into account as originating or non-originating materials, as the case may be, in calculating the RVC of the good.

Rule 11: Accessories, Spare Parts, Tools and Instructional or Other Information Materials

1. If a good is subject to the requirements of CTC or specific manufacturing or processing operation, the origin of accessories, spare parts, tools and instructional or other information materials presented with the good shall not be taken into account in determining whether the good qualifies as an originating good, provided that:

- (a) the accessories, spare parts, tools and instructional or other information materials are not invoiced separately from the good; and
- (b) the quantities and value of the accessories, spare parts, tools and instructional or other information materials are customary for the good.

2. If a good is subject to a RVC-based rule of origin, the value of the accessories, spare parts, tools and instructional or other information materials shall be taken into account as the value of the originating or non-originating materials, as the case may be, in calculating the RVC of the originating goods.

Rule 12: Indirect Materials

1. Indirect materials shall be treated as originating materials regardless of where they are produced.

2. For the purposes of this Rule, the term “indirect materials” means goods used in the production, testing, or inspection of a good but not physically incorporated into the good, or goods used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:

- (a) fuel and energy;
- (b) tools, dies and moulds;
- (c) spare parts and materials used in the maintenance of equipment and buildings;
- (d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (f) equipment, devices and supplies used for testing or inspecting the good;
- (g) catalysts and solvents; and
- (h) 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.

Rule 13: Identical and Interchangeable Materials

The determination of whether identical and interchangeable materials are originating materials shall be made by the use of generally accepted accounting principles of stock control applicable,

or those of inventory management practised, in the exporting Party.

Rule 14: Sub-Committee on Rules of Origin

1. For the purposes of the effective implementation and operation of this Order, a Sub-Committee on Rules of Origin (hereinafter referred to in this Rule as “the Sub-Committee”) shall be established pursuant to Article 11 of the Agreement.

2. The functions of the Sub-Committee shall be to:

- (a) review and make appropriate recommendations, as needed, to the Joint Committee on:
 - (i) the implementation and operation of this Order;
 - (ii) any amendments to Appendix “B” and “C”, and Attachment to Part II of Appendix “B”, proposed by any Party; and
 - (iii) the Implementing Regulations referred to in Rule 11 Part II of the First Schedule
- (b) consider any other matter as the Parties may agree related to this Order;
- (c) report the findings of the Sub-Committee to the Joint Committee; and
- (d) carry out other functions as may be delegated by the Joint Committee pursuant to Article 11 of the Agreement.

3. The Sub-Committee shall be composed of representatives of the Governments of the Parties, and may invite representatives of relevant entities other than the Governments of the Parties with necessary expertise relevant to the issues to be discussed, upon agreement of all the Parties.

4. The Sub-Committee shall meet at such venues and times as may be agreed by the Parties.

Rule 15: Operational Certification Procedures

1. The operational certification procedures, as set out in Part II of the First Schedule shall apply with respect to procedures regarding certificate of origin and related matters.

PART II

OPERATIONAL CERTIFICATION PROCEDURES FOR THE RULES OF ORIGIN UNDER THE AGREEMENT ON COMPREHENSIVE ECONOMIC PARTNERSHIP AMONG MEMBER STATES OF THE ASEAN AND JAPAN

For the purposes of implementing the rules of origin applicable to the Agreement between the Government of Malaysia and the Government of Japan (hereinafter referred to as “this Agreement”), the following operational procedures the issuance and verification of the Certificate of Origin as in Appendix “A” (Form AJ) and the other related administrative matters shall apply:

Rule 1: Definitions

For the purposes of this Part, the term:

- (a) “competent governmental authority” means the authority that, according to the laws and regulations of each Party, is responsible for the issuing of a certificate of origin (hereinafter referred to as “CO”) or for the designation of entities or bodies issuing a CO; and
- (b) “relevant authority” means the authority of the importing Party, other than the customs authority of that Party, that is responsible for verification and verification visit in the importing Party.

Rule 2 : Issuance Of Certificate Of Origin

1. The competent governmental authority of the exporting Party shall, upon request made in writing by the exporter or its authorised agent, issue a CO or, under the authorisation given in accordance with the applicable laws and regulations of the exporting Party, may designate other entities or bodies (hereinafter referred to as “designees”) to issue a CO.
2. Each Party shall provide the other Parties with a list of names and addresses, and a list of specimen signatures and specimen of official seals or impressions of stamps for the issuance of a CO, of its competent governmental authority and, if any, its designees.
3. Any CO bearing a signature not included in the list referred to in paragraph 2 shall not be valid.
4. Where the exporter of a good is not the producer of the good in the exporting Party, the exporter may request a CO on the basis of:
 - (a) a declaration provided by the exporter to the competent governmental authority or its designees based on the information provided by the producer of the good to that exporter; or

- (b) a declaration voluntarily provided by the producer of the good directly to the competent governmental authority or its designees by the request of the exporter.

5. A CO shall be issued only after the exporter who requests for its issuance, or the producer of the good in the exporting Party referred to in subparagraph 4(b), proves to the competent governmental authority or its designees that the good to be exported qualifies as an originating good of the exporting Party.

6. If, after the issuance of the CO, the exporter or producer referred to in paragraph 5 knows that such a good does not qualify as an originating good of the exporting Party, they shall notify the competent governmental authority or its designees in writing and without delay, subject to the applicable laws and regulations of the exporting Party.

7. The competent governmental authority of the exporting Party or its designees shall, if they receive notification in accordance with paragraph 6, or if they have knowledge after the issuance of the CO that the good does not qualify as an originating good of the exporting Party, cancel the CO and promptly notify the cancellation to the exporter to whom the CO has been issued, and to the customs authority of the importing Party, except in the case where the exporter has returned the CO to the competent governmental authority of the exporting Party.

- 8. (a) The CO must be in A4 size paper in conformance with the specimen as shown in Appendix "A". It shall be made in English.
- (b) Each CO shall bear a reference number separately given by each place of office of issuance.
- (c) The original copy shall be forwarded, together with the triplicate, by the exporter to the importer for submission to the Customs Authority at the port or place of importation. The duplicate shall be retained by the issuing authority in the exporting Party. After the importation of the products, the triplicate shall be marked accordingly in box 4 and returned to the issuing authority within a reasonable period of time.

Rule 3 : Presentation Of Certificate Of Origin

1 For the purposes of claiming preferential tariff treatment, the following shall be submitted to the customs authority of the importing Party by the importer:

- (a) a valid CO; and
- (b) other documents as required in accordance with the laws and regulations of the importing Party (e.g. invoices, including third country invoices, and a through bill of lading issued in the exporting Party).

2. A CO shall not be required for an importation of a consignment of originating goods of the exporting Party whose aggregate customs value does not exceed two hundred United States dollars (USD200) or its equivalent amount in the Party's currency, or such higher amount as the importing Party may establish.

3. Where an originating good of the exporting Party is imported through one or more of the Parties other than the exporting Party and the importing Party, or non-Parties, the importing Party may require importers who claim preferential tariff treatment for the good to submit:

(a) a copy of through bill of lading; or

(b) a certificate or any other information given by the customs authorities of such one or more Parties or non-Parties, or other relevant entities, which proves that the good has not undergone operations other than unloading, reloading and any other operation to preserve it in good condition in those Parties or non-Parties.

4. (a) Notwithstanding paragraph 5 of Rule 2, where an originating good, for which a CO (hereinafter referred to in this paragraph as "original CO") was issued by the competent governmental authority or its designees of the exporting Party, is to be exported from the importing Party to another Party, the competent governmental authority or its designees of the importing Party may issue a back-to-back CO as a new CO for the originating good, if a request is made by the exporter in the importing Party or its authorised agent with presentation of the valid original CO.

(b) Where a back-to-back CO is issued in accordance with subparagraph (a), "an originating good of the exporting Party" referred to in Part I and Part II of this Schedule shall be construed as an originating good of the Party whose competent governmental authority or its designees has issued the original CO.

Rule 4 : Validity Of Certificate Of Origin

1. A CO shall be submitted to the customs authority of the importing Party within one (1) year from the date of issuance by the competent governmental authority of the exporting Party or its designees.

2. Where the CO is submitted to the customs authority of the importing Party after the expiration of the period for its submission provided for in paragraph 1, that CO shall be accepted when the failure to observe such a requirement results from force majeure or other valid causes beyond the control of the exporter or importer.

3. An issued CO shall be applicable to a single importation of an originating good of the exporting Party into the importing Party.

Rule 5 : Record Keeping

1. Each Party shall, in accordance with its laws and regulations, ensure that the exporter to whom a CO has been issued or the producer of a good in the exporting Party referred to in subparagraph 4(b) of Rule 2 keeps records relating to the origin of the good. For the purposes of the Agreement, the exporter or producer shall keep these records for three (3) years after the date on which the CO was issued.

2. Each Party shall ensure that its competent governmental authority or its designees shall keep a record of the issued CO for a period of three (3) years after the date on which the CO was issued. Such record includes all supporting documents presented to prove the qualification as an originating good of the exporting Party.

Rule 6 : Verification

1. For the purposes of determining whether a good imported from another Party and claimed for preferential tariff treatment qualifies as an originating good of that Party under this Agreement, the customs authority or the relevant authority of the importing Party may request information relating to the origin of the good, provided that such a request is made to the competent governmental authority of the exporting Party on the basis of the CO.

2. For the purposes of paragraph 1, the competent governmental authority of the exporting Party shall, in accordance with its laws and regulations, provide the information requested in a period not exceeding three (3) months after the date of receipt of the request. If the customs authority or the relevant authority of the importing Party considers necessary, it may request additional information relating to the origin of the good. If additional information is requested by the customs authority or the relevant authority of the importing Party, the competent governmental authority of the exporting Party shall, in accordance with its laws and regulations, provide the information requested in a period not exceeding three (3) months after the date of receipt of the request for additional information.

3. For the purposes of paragraph 2, the competent governmental authority of the exporting Party may request the exporter to whom the CO has been issued, or the producer of the good in the exporting Party referred to in subparagraph 4(b) of Rule 2, to provide the former with the information requested.

4. The request for information in accordance with paragraph 1 shall not preclude the use of a verification visit provided for in Rule 7.

5. During the procedures provided for in this Rule and Rule 7, the customs authority of the importing Party may suspend the preferential tariff treatment while awaiting the result of verification, and shall not wait for the procedures to be completed before it releases the good to the importer unless subject to appropriate administrative measures.

6. Each Party shall provide the other Parties with the names of its relevant authority, if any.

Rule 7: Verification Visit

1. The customs authority or the relevant authority of the importing Party may request the exporting Party:
 - (a) to collect and provide information relating to the origin of the good and check, for that purpose, the facilities used in the production of the good, through a visit by the competent governmental authority of the exporting Party along with the customs authority or the relevant authority of the importing Party to the premises of the exporter to whom the CO has been issued, or the producer of the good in the exporting Party referred to in subparagraph 4(b) of Rule 2; and
 - (b) during the visit pursuant to subparagraph (a), to provide information relating to the origin of the good in the possession of the competent governmental authority of the exporting Party or its designees.
2. When requesting the exporting Party to conduct a visit pursuant to paragraph 1, the customs authority or the relevant authority of the importing Party shall deliver a written communication with such request to the exporting Party at least sixty (60) days in advance of the proposed date of the visit, the receipt of which is to be confirmed by the exporting Party. The competent governmental authority of the exporting Party shall request the written consent of the exporter, or the producer of the good in the exporting Party whose premises are to be visited.
3. The communication referred to in paragraph 2 shall include:
 - (a) the identity of the customs authority or the relevant authority issuing the communication;
 - (b) the name of the exporter, or the producer of the good in the exporting Party whose premises are requested to be visited;
 - (c) the proposed date and places of the visit;
 - (d) the object and scope of the proposed visit, including specific reference to the good subject of the verification referred to in the CO; and
 - (e) the names and titles of the officials of the customs authority or the relevant authority of the importing Party to be present during the visit.
4. The exporting Party shall respond in writing to the importing Party, within thirty (30) days from the receipt of the communication referred to in paragraph 2, whether it accepts or refuses to conduct the visit requested pursuant to paragraph 1.
5. The competent governmental authority of the exporting Party shall, in accordance with the laws and regulations of the Party, provide within forty-five (45) days or any other mutually

agreed period from the last day of the visit, to the customs authority or the relevant authority of the importing Party any additional information obtained pursuant to paragraph 1.

Rule 8 : Determination Of Origin And Preferential Tariff Treatment

1. The customs authority of the importing Party may deny preferential tariff treatment to a good for which an importer claims preferential tariff treatment where the good does not qualify as an originating good of the exporting Party or where the importer fails to comply with any of the relevant requirements of this Part.

2. In cases where the verification procedures outlined in Rule 6 or 7 are undertaken, the customs authority of the importing Party may determine that a good does not qualify as an originating good of the exporting Party and may deny preferential tariff treatment, under any of the following conditions:

- (a) the competent governmental authority of the exporting Party fails to respond to the request within the period referred to in paragraph 2 of Rule 6 or paragraph 5 of Rule 7;
- (b) the exporting Party refuses to the conduct of the verification visit as requested by the customs authority or the relevant authority of the importing Party, or that Party fails to respond to the communication referred to in paragraph 2 of Rule 7 within the period referred to in paragraph 4 of Rule 7; or
- (c) the information provided to the customs authority or the relevant authority of the importing Party pursuant to Rule 6 or 7 is not sufficient to prove that the good qualifies as an originating good of the exporting Party

3. In cases where the verification procedures outlined in Rule 6 or 7 are undertaken, the customs authority of the importing Party shall provide the competent governmental authority of the exporting Party with a written determination of whether or not the good qualifies as an originating good of the exporting Party, including findings of fact and the legal basis for the determination, in a period, unless otherwise agreed upon by the importing Party and the exporting Party, not exceeding thirty (30) days after the date of the receipt of the information last provided by the competent governmental authority of the exporting Party in accordance with Rule 6, or sixty (60) days after the last day of the visit referred to in Rule 7.

4. The competent governmental authority of the exporting Party shall notify the determination by the customs authority of the importing Party referred to in paragraph 3, to the exporter, or the producer of the good in the exporting Party whose premises were subject to the visit referred to in Rule 7. In the event that a determination is made that the good qualifies as an originating good of the exporting Party, any suspended preferential tariff treatment shall be reinstated.

Rule 9 : Confidentiality

1. Where a Party provides information to another Party pursuant to this Annex and designates the information as confidential, the Party receiving the information shall maintain the confidentiality of the information, protect that information from disclosure that could prejudice the competitive position of the persons providing the information, use the information only for the purposes specified by the Party providing it, and not disclose the information without the specific written permission of the Party providing it.

2. Information obtained by the customs authority or the relevant authority of the importing Party pursuant to this Part :

(a) shall only be used by such authority for the purposes of the verification of a CO under this Part; and

(b) shall not be used by the importing Party in any criminal proceedings carried out by a court or a judge, in the absence of a specific written permission of the exporting Party that provided the information.

Rule 10 : Appropriate Penalties Or Other Measures Against Fraudulent Acts

Each Party shall establish or maintain, in accordance with its laws and regulations, appropriate penalties or other measures against its exporters or producers who have committed fraudulent acts in connection with a CO, including submission of false declarations or documents to its competent governmental authority or its designees.

Rule 11 : Implementing Regulations

The Joint Committee shall, upon the date of entry into force of the Agreement_pursuant to paragraph 1 of Article 79 of the Agreement, adopt the Implementing Regulations that provide detailed regulations pursuant to which the customs authorities, competent governmental authorities and other authorities concerned of the Parties shall implement their functions under this Order.

PRODUCT SPECIFIC RULES

PART 1

Part 2
Products Specific Rules

Information Technology Products

A good which is covered by Attachment A or B of the Ministerial Declaration on Trade in Information Technology Products adopted in the Ministerial Conference of the World Trade Organization on 13 December 1996 and is used as a material in the production of another good in a Party may be considered as an originating material of the Party, regardless of the applicable product specific rule for the former good, provided that the former good is assembled in any Party, except where the former good is classified under subheadings 8541.10 through 8542.90.