Regional Comprehensive Economic Partnership (RCEP) Rules of Origin

Guide to claiming preferential rates of customs duty under RCEP for goods imported into Australia
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1 Overview

1.1 Purpose

1.1.1 This Guide explains how to determine whether goods that are imported into Australia are eligible for preferential rates of customs duty under the Regional Comprehensive Economic Partnership Agreement (the Agreement or RCEP) as in force from 1 January 2022, in accordance with the *Customs Act 1901* and RCEP rules of origin.

1.2 Coverage of the Guide

1.2.1 This Guide deals with origin issues as they relate to RCEP.

1.2.2 RCEP is a free trade agreement that was signed on 15 November 2020 by:

- Australia
- Brunei
- Cambodia
- China
- Indonesia
- Japan
- Korea
- Laos
- Myanmar
- Malaysia
- New Zealand
- Philippines
- Singapore
- Thailand
- Vietnam

1.2.3 RCEP entered into force on 1 January 2022 for:

- Australia
- Brunei
- Cambodia
- China
- Korea
- Japan
- Laos
- New Zealand
- Singapore
- Thailand
- Vietnam

1.2.4 RCEP entered into force for Korea on 1 February 2022, Malaysia on 18 March 2022, Indonesia on 2 January 2023 and the Philippines on 2 June 2023.

1.2.5 Importers may claim preferential rates of customs duty for eligible goods in accordance with the Agreement on the basis that importers can satisfy the requirements contained in Division 1N of Part VIII of the *Customs Act 1901*. The eligible goods are referred to under Division 1N as ‘RCEP originating goods’.

1.2.6 Further information is also available at the [Australian Border Force RCEP webpage](https://www.abfol.gov.au/rcep) and on the [Department of Foreign Affairs and Trade’s RCEP website](https://dfat.gov.au/trade/topics/region/cpec), this includes up to date information on whether RCEP has entered into force for remaining RCEP Signatories.
1.2.7 Questions relating to the treatment of RCEP originating goods seeking to claim preferential rates of customs duty in Australia should be directed to: origin@abf.gov.au.

1.2.8 Questions concerning refunds under RCEP, that are not covered by Section 9.10 of this Guide should be directed to: nationalrefunds@abf.gov.au.
1.3 Import declaration codes

1.3.1 Before making a claim for preferential rates of customs duty, importers must take reasonable care to ensure that their goods meet the relevant rules of origin (ROO) and do not breach the consignment rules of the Agreement. The codes that must be input into the Integrated Cargo System (ICS) or noted on the appropriate hard-copy form (e.g. B650 N10, Import Declaration) to claim preferential rates of customs duty for RCEP originating goods are:

<table>
<thead>
<tr>
<th>ICS field</th>
<th>Code</th>
<th>Description</th>
<th>Legislative reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preference Scheme Type</td>
<td>RCEP</td>
<td>Regional Comprehensive Economic Partnership Agreement</td>
<td>Customs Act, Division 1N</td>
</tr>
<tr>
<td>Preference Rule Type</td>
<td>WO</td>
<td>Goods wholly obtained or produced in a Party</td>
<td>Customs Act, Division 1N, Subdivision B</td>
</tr>
<tr>
<td></td>
<td>PE</td>
<td>Goods produced from originating materials</td>
<td>Customs Act, Division 1N, Subdivision C</td>
</tr>
<tr>
<td></td>
<td>PSR</td>
<td>Goods produced from non-originating materials</td>
<td>Customs Act, Division 1N, Subdivision D RCEP Regulations</td>
</tr>
</tbody>
</table>

1.3.2 For the purpose of claiming preferential rates of customs duty under RCEP, the Preference Origin Country entered into the ICS should be the Exporting Party on the Proof of Origin. See Section 8.10 for further details.
1.3.3 The code to obtain a refund for overpaid duties under RCEP is:

<table>
<thead>
<tr>
<th>Refund Reason Code</th>
<th>Item</th>
<th>Description</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>23A17</td>
<td>17</td>
<td>RCEP originating goods</td>
<td>Duty has been paid on the goods.</td>
</tr>
<tr>
<td></td>
<td>18</td>
<td>Goods that would have been RCEP originating goods if, at the time the goods were imported, the importer held a Proof of Origin (within the meaning of subsection 153ZQB(1) of the Act), or a copy of one, for the goods</td>
<td>Both of the following apply: (a) duty has been paid on the goods; (b) the importer holds a Proof of Origin (within the meaning of subsection 153ZQB(1) of the Act), or a copy of one, for the goods at the time of making the application for the refund.</td>
</tr>
</tbody>
</table>

1.3.4 Refund circumstances are set out in Items 17 and 18 of the table in section 23(a) of the Customs (International Obligations) Regulation 2015.

1.3.5 More information about refunds is including in Section 9.10.
## 1.4 Abbreviations

The following abbreviations and terminology are used throughout this Guide:

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>Agreement or RCEP</td>
<td><em>Regional Comprehensive Economic Partnership Agreement</em> done on 15 November 2020, as amended and in force for Australia from time to time.</td>
</tr>
<tr>
<td>ABF</td>
<td>Australian Border Force</td>
</tr>
<tr>
<td>ACN</td>
<td>Australian Customs Notice</td>
</tr>
<tr>
<td>CC</td>
<td>change in Chapter</td>
</tr>
<tr>
<td>COO</td>
<td>certificate of origin</td>
</tr>
<tr>
<td>CR</td>
<td>chemical reaction</td>
</tr>
<tr>
<td>CTC</td>
<td>change in tariff classification</td>
</tr>
<tr>
<td>CTH</td>
<td>change in tariff heading</td>
</tr>
<tr>
<td>CTHS</td>
<td>change in tariff subheading</td>
</tr>
<tr>
<td>Customs Act</td>
<td><em>Customs Act 1901</em></td>
</tr>
<tr>
<td>Customs (International Obligations) Regulation</td>
<td><em>Customs (International Obligations) Regulation 2015</em></td>
</tr>
<tr>
<td>Direct/Build-Up Method</td>
<td>Based on the value of originating material, direct labour cost, direct overheads cost, profit and other cost</td>
</tr>
<tr>
<td>DOO</td>
<td>declaration of origin</td>
</tr>
<tr>
<td>FTA</td>
<td>free trade agreement</td>
</tr>
<tr>
<td>HS</td>
<td>Harmonized Commodity Description and Coding System</td>
</tr>
<tr>
<td>ICS</td>
<td>Integrated Cargo System</td>
</tr>
<tr>
<td>Indirect/Build-Down Method</td>
<td>Based on the value of non-originating material</td>
</tr>
<tr>
<td>PE</td>
<td>Goods produced entirely from originating materials only</td>
</tr>
<tr>
<td>PSR</td>
<td>product specific rule(s) of origin</td>
</tr>
<tr>
<td>RCEP Regulations</td>
<td><em>Customs (Regional Comprehensive Economic Partnership Rules of Origin) Regulations 2021</em></td>
</tr>
<tr>
<td>ROO</td>
<td>rule(s) of origin</td>
</tr>
<tr>
<td>RVC</td>
<td>regional value content</td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>Tariff Regulations</td>
<td>Customs Tariff Regulations 2004</td>
</tr>
<tr>
<td>VNM</td>
<td>value of non-originating materials</td>
</tr>
<tr>
<td>VOM</td>
<td>value of originating materials</td>
</tr>
<tr>
<td>WO</td>
<td>wholly obtained or produced</td>
</tr>
<tr>
<td>Working Tariff</td>
<td>Combined Australian Customs Tariff Nomenclature and Statistical Classification</td>
</tr>
</tbody>
</table>
2 Legislation

2.1 General outline of legislation

2.1.1 The following documents contain the requirements for claiming preferential rates of customs duty under RCEP for goods imported into Australia:

– Combined Australian Customs Tariff Nomenclature and Statistical Classification, commonly known as the ‘Working Tariff’

– Customs Tariff Act 1995 (the Customs Tariff)
  – Schedule 14 – Regional Comprehensive Economic Partnership (RCEP) originating goods

– Customs Tariff Regulations 2004
  – Regulation 5B – Regional Comprehensive Economic Partnership (RCEP) originating goods—prescribed goods
  – Schedule 4 – Regional Comprehensive Economic Partnership (RCEP) originating goods

– Customs Act 1901 (Customs Act)
  – Division 1N of Part VIII – Regional Comprehensive Economic Partnership (RCEP) originating goods
  – Division 4L of Part VI – Verification powers – Exportation of goods to Parties to the Regional Comprehensive Economic Partnership Agreement.

– Customs (Regional Comprehensive Economic Partnership Rules of Origin) Regulations 2021 (RCEP Regulations)

– Customs (International Obligations) Regulation 2015
  (the Customs (International Obligations) Regulation)
  – Section 23 – Circumstances for refunds, rebates and remissions of duty
2.2 **RCEP treaty text**

2.2.1 The most pertinent chapters of RCEP for the purposes of importing or exporting RCEP originating goods to or from Australia are the following:

- Chapter 1 – Initial Provisions and General Definitions
- Chapter 2 – Trade in Goods
- Chapter 3 – Rules of Origin
  - Annex 3A. Product Specific Rules
  - Annex 3B. Minimum Information Requirements
- Annex I — Schedules of Tariff Commitments
  - General Notes (Schedules of Tariff Commitments)
  - Headnote to Schedule of Australia
  - Schedule of Australia

2.2.2 These texts are available under “RCEP text” from the [Department of Foreign Affairs and Trade RCEP webpage](https://dfat.gov.au) or as [2022] ATS 1 in the Australian Treaty Series on AustLII.

3 Definitions

3.1 The Customs Act

3.1.1 This Part sets out the important definitions in section 153ZQB of the Customs Act that are relevant in determining whether goods are RCEP originating goods.

3.1.2 **Agreement** means the Regional Comprehensive Economic Partnership Agreement, done on 15 November 2020, as amended and in force for Australia from time to time.¹

3.1.3 **aquaculture** has the meaning given by Article 3.1 of Chapter 3 of the Agreement.

3.1.4 **Convention** means the International Convention on the Harmonized Commodity Description and Coding System done at Brussels on 14 June 1983, as in force from time to time.²

3.1.5 **customs authority** has the meaning given by Article 4.1 of Chapter 4 of the Agreement.

3.1.6 **customs value of goods** has the meaning given by section 159 of the Customs Act.

3.1.7 **factory ship of a Party** has the same meaning as it has in Chapter 3 of the Agreement.

3.1.8 **Harmonized Commodity Description and Coding System** means the Harmonized Commodity Description and Coding System that is established by or under the Convention.

3.1.9 **Harmonized System³** means:

(a) the Harmonized Commodity Description and Coding System as in force immediately before 1 January 2017; or

(b) if the table in Annex 3A to Chapter 3 of the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.

3.1.10 **indirect materials** means:

(a) goods or energy used in the production, testing or inspection of goods, but not physically incorporated in the goods; or

(b) goods or energy used in the maintenance of buildings or the operation of equipment associated with the production of goods;

including:

(c) fuel (within its ordinary meaning); and

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¹ Note 1: The Agreement could in 2021 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).


³ On 30 June 2022, the RCEP Joint Committee reached consensus on Annex 3A to Chapter 3 of the Agreement in HS 2022 to be used by Parties from 1 January 2023. This Annex can be found on the ABF RCEP web page under Product-specific rules of origin tab.

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(d) tools, dies and moulds; and
(e) spare parts and materials; and
(f) lubricants, greases, compounding materials and other similar goods; and
(g) gloves, glasses, footwear, clothing, safety equipment and supplies; and
(h) catalysts and solvents.

3.1.11 **Interpretation Rules** means the General Rules (as in force from time to time) for the Interpretation of the Harmonized System provided for by the Convention.

3.1.12 **non-originating materials** means goods that are not originating materials.

3.1.13 **non-Party** has the same meaning as it has in Chapter 3 of the Agreement.

3.1.14 **originating materials** means:

(a) goods that are originating goods, in accordance with Chapter 3 of the Agreement, and that are used in the production of other goods; or
(b) indirect materials.

3.1.15 **Party** has the meaning given by Article 1.2 of Chapter 1 of the Agreement.

3.1.16 **person of a Party** has the same meaning as it has in Chapter 3 of the Agreement.

3.1.17 **production** has the meaning given by Article 3.1 of Chapter 3 of the Agreement.

3.1.18 **Proof of Origin** means a document that is in force and that complies with the requirements of Article 3.16 of Chapter 3 of the Agreement.

3.1.19 **RCEP originating goods** means goods that, under this Division, are RCEP originating goods.

3.1.20 **territorial sea** has the same meaning as in the *Seas and Submerged Lands Act 1973*.

3.1.21 **vessels of a Party** has the same meaning as it has in Chapter 3 of the Agreement.

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4 Note: See also subsection (6).

Subsection 153ZQB(6) of the Customs Act specifies that the Minister must announce, by notifiable instrument, the day on which the Agreement enters into force for a Party (other than Australia)

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4 Rules of origin principles under RCEP

4.1 Goods covered by RCEP

4.1.1 This Agreement covers all goods imported into Australia from a RCEP Party that are RCEP originating goods.

4.1.2 Paragraph 16(1)(t) of the Tariff Act provides that the preferential rate of customs duty for RCEP originating goods is Free unless the goods are classified to a heading or subheading in Schedule 3 that is specified in column 2 of an item in the table in Schedule 14.

4.2 Geographical area covered by the Agreement

4.2.1 The Agreement covers the customs territories of RCEP parties for which this Agreement has entered into force.

4.3 Rules of origin and RCEP originating goods

4.3.1 ROO determine whether imported goods are eligible for claiming the preferential rates of duty available under RCEP. ROO define the methods for ascertaining whether a good has undergone sufficient work or processing, or substantial transformation in its production, to obtain the benefits under RCEP. ROO preclude goods made in non-Parties from obtaining a benefit by merely transiting through a Party.

4.3.2 RCEP originating goods are those that satisfy the requirements of Division 1N of Part VIII of the Customs Act and RCEP Regulations.

4.3.3 In summary, the following requirements must be met:

- The goods must be RCEP originating goods.
- The importer must make a claim for preferential treatment.
- The importer who is claiming preferential treatment must satisfy the documentary requirements to support the claim.
- The goods must meet the consignment provision.

4.3.4 Division 1N of Part VIII of the Customs Act sets out the ROO for the following categories of goods originating under RCEP:

- goods wholly obtained or produced in a Party – Customs Act Section 153ZQC
- goods produced from originating materials – Customs Act Section 153ZQD
- goods produced from non-originating materials – Customs Act Section 153ZQE

4.3.5 Goods that fall within the third category under paragraph 4.3.4 must satisfy the applicable PSR as listed in Annex 3A of the Agreement.
4.3.6 A PSR is a rule that must be met for the good to qualify for preferential rates of customs duty. These are covered in detail in Section 7 of this Guide. The PSRs that apply in the RCEP PSR are:

– CTC
– RVC
– CR

4.3.7 Non-originating goods are those that:

– originate from outside the Parties to the Agreement
– are produced in a Party but fail to meet the ROO
– are of undetermined origin.

4.4 Harmonized Commodity Description and Coding System

4.4.1 RCEP PSR and tariff commitments are based on the HS. The HS is a structured nomenclature that organises goods according to the degree of production and assigns them numbers known as tariff classifications. RCEP PSR and tariff commitments were finalised in HS 2012 and RCEP Parties reached consensus on a version of the Annex in HS 2022 that will be used by Parties from 1 January 2023.

4.4.2 HS 2022 is arranged into 97 Chapters (including the blank Chapter 77), covering all products. Chapters are divided into headings. Headings are divided into subheadings. Subheadings are divided into tariff classifications by each country. As shown in the example below, Chapters are identified by a two-digit number. A heading is identified by a four-digit number, a subheading is identified by a six-digit number, and the tariff classifications for goods imported into Australia are eight digits in length. Most Parties to RCEP also use eight digits for their tariff classifications, while Japan and Malaysia use nine digits and Brunei, Indonesia, Korea and Myanmar use ten digits.

4.4.3 Subheadings provide more specific descriptions than headings. Headings provide more specific descriptions than Chapters. The HS is internationally standardised at the subheading level.

**Example: Harmonized System of Tariff Classification**

<table>
<thead>
<tr>
<th>Chapter 62</th>
<th>Articles of apparel and clothing accessories, not knitted or crocheted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heading 6209</td>
<td>Babies’ garments and clothing accessories</td>
</tr>
<tr>
<td>Subheading 6209.20</td>
<td>Of cotton</td>
</tr>
</tbody>
</table>

4.4.4 Under the HS, Chapters, headings, and subheadings are identical in all countries using the same version of the HS. Additional digits of the tariff classification beyond the sixth digit are set by each country, and therefore vary between countries. In Australia, these final two digits of the eight-digit number are referred to as ‘domestic splits’ or ‘domestic subheadings’.

4.4.5 Goods covered by Schedule 14 of the Tariff Act are in HS 2022 nomenclature, which is the nomenclature for Australia’s working tariff as of 1 January 2022.
4.4.6 Australian importers need to determine the HS classification of the imported good (up to the six-digit level) in HS 2022 and use that classification to find the specific PSR for that classification in Annex 3A of the Agreement. If the good meets the PSR and all other relevant requirements (such as the consignment provision), it is an originating good under RCEP. It is that HS Code that will appear on the Proof of Origin.

4.4.7 Importers need to use that HS classification to determine the preferential rate of customs duty in Schedule 14 to the Tariff Act. It is the HS 2022 classification that will need to appear on the import declaration.

4.4.8 Further information on HS 2022 and the application to PSRs can be found in ACN 2021/51.

Transitional arrangements from HS 2012 to HS 2022 on RCEP Proof of Origin for RCEP originating goods

4.4.9 The ABF will continue to accept Proof of Origin documentation issued or completed with the former nomenclature, HS 2012, for goods imported into Australia issued or completed prior to 1 January 2023.

4.4.10 In cases where the Proof of Origin documentation has been issued with HS 2012, including after 1 January 2023, the importer must ensure that the goods are classified correctly using HS 2022 on the import declaration.

4.4.11 Where the HS 2012 PSR is used on an RCEP COO issued after 1 January 2023 the importer should confirm whether that exporting Party is still using HS 2012 on COOs that it issues. If the exporting Party is still using HS 2012 on COOs it issues, that COO may be treated as acceptable if the origin of the goods are otherwise not in doubt. A list of exporting Parties that may be still using HS 2012 on COOs they issue will be maintained on the ABF RCEP web page under “Claiming preferential rates of customs duty under RCEP”.

4.4.12 In the situation where the exporting Party is using HS 2022 in its COO, but the COO was issued in HS 2012, the importer should consider seeking a replacement RCEP COO using the HS 2022 PSR. Where this does not occur, the importer should maintain records demonstrating as to why this does not occur and that the goods are RCEP originating goods, including documentation that the goods would otherwise meet the RCEP PSR in the HS 2022 nomenclature.

4.4.13 Where the HS 2012 PSR is used on an RCEP DOO completed after 1 January 2023, the approved exporter or exporter should consider recompleting the RCEP DOO using the HS 2022 nomenclature. For Approved exporters, where this is not possible, such as in cases where the Approved exporter’s list of products is in HS 2012 or where that Approved exporter is in an exporting Party that is still using the HS 2012 on their COOs, that DOO may be treated as acceptable if the origin of the goods are otherwise not in doubt.

4.4.14 Where an RCEP Proof of Origin is issued or completed prior to 1 January 2023, and a back-to-back Proof of Origin is issued or completed on or after 1 January 2023, the back-to-back Proof of Origin should include the HS Code in HS 2022, even though the initial Proof of Origin uses HS 2012 – subject to the above exceptions.

4.4.15 A copy of the PSR in HS 2012 is accessible on the ABF website under Product-Specific Rules of Origin in order to assist importers with this transition. However, no concordance table is provided.

4.4.16 Once all RCEP Parties have transitioned to using HS 2022 on the Proof of Origin, it is expected that there will be significantly limited situations where HS 2012 will be used on a COO or DOO.
4.5 Other concepts in ROO

4.5.1 Section 8 of this Guide explains a number of important ROO concepts that may be applicable when determining the origin of an imported good:

- Accessories, spare parts, tools or instructional or other information materials (see paragraph 8.1)
- Accumulation (see paragraph 8.2)
- Back-to-back Proof of Origin (see paragraph 8.3)
- Consignment provision (see paragraph 8.4)
- *De minimis* provision (see paragraph 8.5)
- Fungible goods or materials (see paragraph 8.6)
- Indirect materials (see paragraph 8.7)
- Non-qualifying operations or processes (see paragraph 8.8)
- Packaging materials and containers (see paragraph 8.9)
- Tariff Differentials (see paragraph 8.10)
5 Goods wholly obtained or produced

5.1 Outline

5.1.1 Section 153ZQC of the Customs Act contains provisions relating to goods that are wholly obtained or produced in a Party.

Section 153ZQC of the Customs Act: Goods wholly obtained or produced in a Party

(1) Goods are **RCEP originating goods** if:

   (a) they are wholly obtained or produced in a Party; and

   (b) either:

      (i) the importer of the goods has, at the time the goods are imported, a Proof of Origin, or a copy of one, for the goods; or

      (ii) Australia has waived the requirement for a Proof of Origin for the goods.

(2) Goods are **wholly obtained or produced in a Party** if, and only if, the goods are:

   (a) plants, or goods obtained from plants, that are grown and harvested, picked or gathered in that Party (including fruit, flowers, vegetables, trees, seaweed, fungi and live plants); or

   (b) live animals born and raised in that Party; or

   (c) goods obtained from live animals raised in that Party; or

   (d) goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering or capturing conducted in that Party; or

   (e) minerals, or other naturally occurring substances, extracted or taken from the soil, waters, seabed or subsoil beneath the seabed in that Party; or

   (f) goods of sea fishing or other marine life taken by vessels of that Party, or other goods taken by that Party or a person of that Party, from the waters, seabed or subsoil beneath the seabed outside the territorial sea of the Parties and non-Parties provided that:

      (i) for goods of sea fishing or other marine life taken by vessels of that Party (the relevant Party) from the exclusive economic zone of any Party or non-Party—the relevant Party has the rights to exploit that exclusive economic zone in accordance with international law; or

      (ii) for other goods taken by that Party or a person of that Party—that Party or person has the rights to exploit the waters, seabed or subsoil beneath the seabed in accordance with international law; or

   (g) goods of sea fishing or other marine life taken by vessels of that Party from the high seas in accordance with international law; or

   (h) goods processed or made on board a factory ship of that Party, exclusively from goods covered by paragraph (f) or (g); or

   (i) either of the following:

      (i) waste and scrap that has been derived from production or consumption in that Party and that is fit only for disposal, for the recovery of raw materials or for recycling purposes;

      (ii) used goods that are collected in that Party and that are fit only for disposal, for the recovery of raw materials or for recycling purposes; or

   (j) goods obtained or produced in that Party solely from goods referred to in paragraphs (a) to (i) or from their derivatives.
5.1.2 In order for a good to be considered an RCEP originating good, the importer must have a Proof of Origin or other supporting documentation at the time preferential treatment is sought.

5.1.3 Refer to Section 10 of this Guide for information on record keeping obligations.

5.1.4 Waste and scrap can qualify as an RCEP originating good under Paragraph 153ZQC(2)(i) of the Customs Act, if they are derived from either production or consumption in a Party and are fit only for disposal, the recovery of raw materials or for recycling purposes or if they are used goods that are collected in a Party that are fit only for the recovery of raw materials.

Example: waste and scrap
Rubber is imported into Japan from Brazil and used in the production of automotive rubber tubes and seals. The unused scrap rubber from the production of the tubes and seals is exported to Australia.

As the unused scrap rubber is derived from production processes in Japan and fit only for the recovery of raw materials, it fits the first definition of waste and scrap and is considered to be “wholly obtained or produced” under subparagraph 153ZQC(2)(i)(i) of the Customs Act. Therefore, the scrap rubber qualifies as an RCEP originating good and may claim preferential treatment, if all other requirements of the Agreement are met.

Example: waste and scrap
Used tyres of undetermined origin are collected within the Australia to be turned into rubber crumb in Malaysia for use in athletic and playground surfaces.

As the unused tyres are collected in the Australia and fit only for the recovery of raw materials, it fits the second definition of waste and scrap and is considered to be “wholly obtained or produced” under subparagraph 153ZQC(2)(i)(ii) of the Customs Act. Therefore, the used tyres qualifies as a RCEP originating good and may claim preferential rates of customs duty, if all other requirements of the Agreement are met.
6 Goods produced from originating materials

6.1 Outline

6.1.1 Section 153ZQD of the Customs Act sets out the ROO that apply to goods produced in a party from originating materials.

Section 153ZQD of the Customs Act: Goods produced from originating materials
Goods are **RCEP originating goods** if:

(a) are produced entirely in a Party from originating materials only; and

(b) either:

(i) the importer of the goods has, at the time the goods are imported, a Proof of Origin, or a copy of one, for the goods; or

(ii) Australia has waived the requirement for a Proof of Origin for the goods.

6.1.2 In order for goods to be considered RCEP originating goods, the importer must have a Proof of Origin or other supporting documentation at the time preferential treatment is sought.

6.1.3 Refer to Section 10 of this Guide for information on record keeping obligations.

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5 These are referred to as produced in a Party exclusively from originating materials from one or more of the Parties in Article 3.2 of Chapter 3 of RCEP.
6.2 Goods produced using originating materials

6.2.1 Section 153ZQD of the Customs Act sets out the rules for goods produced from originating materials. Originating materials may include indirect materials and RCEP originating goods.

Example: Goods produced in a Party using originating materials from one or more Parties
In this example, soap is made from a number of materials that are all RCEP originating goods. Therefore, the soap is an RCEP originating good in accordance with section 153ZQD.
7 Goods produced from non-originating materials

7.1 Outline

7.1.1 Section 153ZQE of the Customs Act contains provisions that apply to goods, produced in a Party to RCEP, that incorporate non-originating materials.

### Section 153ZQE of the Customs Act: Goods produced from non-originating materials

1. Goods are **RCEP originating goods** if:
   - (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex 3A to Chapter 3 of the Agreement; and
   - (b) they are produced entirely in a Party from non-originating materials only or from non-originating materials and originating materials; and
   - (c) the goods satisfy the requirements applicable to the goods in that Annex; and
   - (d) either:
     - (i) the importer of the goods has, at the time the goods are imported, a Proof of Origin, or a copy of one, for the goods; or
     - (ii) Australia has waived the requirement for a Proof of Origin for the goods.

2. Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex 3A to Chapter 3 of the Agreement by using an abbreviation that is given a meaning for the purposes of that Annex.

### Change in tariff classification

3. If a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification, the regulations may prescribe when a non-originating material used in the production of the goods is taken to satisfy the change in tariff classification.

4. If:
   - (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
   - (b) the goods are classified to any of Chapters 1 to 97 of the Harmonized System; and
   - (c) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;
   then the requirement is taken to be satisfied if the total value of the non-originating materials covered by paragraph (c) does not exceed 10% of the customs value of the goods.

5. If:
   - (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
   - (b) the goods are classified to any of Chapters 50 to 63 of the Harmonized System; and
   - (c) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;
   then the requirement is taken to be satisfied if the total weight of the non-originating materials covered by paragraph (c) does not exceed 10% of the total weight of the goods.

### Regional value content

6. If a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way:
7.1.2 Section 153ZQE of the Customs Act sets out the rules for determining whether a good is an RCEP originating good if the good incorporates non-originating materials in its production process in a Party.

7.1.3 In determining whether goods are produced in one or more of the Parties, the definitions in subsections 153ZQB(2), (3) and (4) should also be considered, as stated below:

**Value of goods**

(2) The value of goods for the purposes of this Division is to be worked out in accordance with the regulations. The regulations may prescribe different valuation rules for different kinds of goods.

**Tariff classifications**

(3) In specifying tariff classifications for the purposes of this Division, the regulations may refer to the Harmonized System.

(4) Subsection 4(3A) does not apply for the purposes of this Division.

7.1.4 The RCEP Regulations prescribe the determination of value and the tariff change and regional value content requirements for the purposes of section 153ZQE and subsections 153ZQB(2) and (3) of the Customs Act.

7.1.5 Subsection 4(3A) of the Customs Act defines tariff classification with respect to the Tariff Act. Subsection 153ZQB(4), however, provides that subsection 4(3A) does not apply for the purposes of Division 1N. Tariff classification for the purposes of Division 1N, is the PSR set out in Annex 3A of the Agreement.

7.1.6 Goods are RCEP originating goods if all the requirements of subsection 153ZQE(1) of the Customs Act have been met. The requirements of this subsection are that:

- The goods are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex 3A of the Agreement.
- The goods are produced entirely in a Party from non-originating materials only or from non-originating materials and originating materials.
- The goods satisfy the requirements applicable to the goods in that Annex.
- The importer of the goods has the proof of origin or other supporting documentation in relation to the goods at the time the goods are imported.

7.1.7 Annex 3A of the Agreement list the PSR that must be met (i.e. CTC, RVC or CR – see explanation below) in order for goods incorporating non-originating material to claim preferential rates of customs duty under RCEP. Column 1, 2 and 3 of the Table in Annex 3A of the Agreement list the tariff classifications of goods at the Chapter, heading and subheading level based on HS 2022. Column 4 sets out the description of the good. Column 5 sets out the CTC, RVC and process rule PSR for either the subheading, Heading or Chapter.
7.1.8 In the RCEP PSR, the following abbreviations apply:

- **RVC40** means that the good must have a regional value content (hereinafter referred to as “RVC” in this Annex) of no less than 40 per cent as calculated under Article 3.5 (Calculation of Regional Value Content);
- **CC** means that all non-originating materials used in the production of the good have undergone a CTC at the two-digit level of the Harmonized System;
- **CTH** means that all non-originating materials used in the production of the good have undergone a CTC at the four-digit level of the Harmonized System;
- **CTSH** means that all non-originating materials used in the production of the good have undergone a CTC at the six-digit level of the Harmonized System;
- **WO** means wholly obtained or produced in a Party as provided in Article 3.3 (Goods Wholly Obtained or Produced). For greater certainty, where the rule for a good is WO, the good can still meet the requirements to be treated as an originating good by being produced in a Party exclusively from originating materials from one or more of the Parties in accordance with subparagraph (b) of Article 3.2 (Originating Goods); and
- **CR** means the chemical reaction rule. Any good that is a product of a chemical reaction shall be considered to be an originating good if the chemical reaction 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 atoms in a molecule. The following are not considered to be chemical reactions for the purposes of this definition:
  - (i) dissolving in water or other solvents;
  - (ii) the elimination of solvents including solvent water; or
  - (iii) the addition or elimination of water of crystallisation.
7.2 Examples of PSR that appear in Annex 3A of RCEP

**PSR – CTC**

A CTC rule will require all non-originating materials to have undergone a change in chapter, heading or subheading to make the final good. See *de minimis* provisions in Section 8.5 for exceptions to the requirement for all non-originating material to meet the relevant CTC requirement.

For example, wheat flour of subheading 1101.00 has a PSR of CC which means that all non-originating materials used in the production of the good have undergone a CTC at the two digit level of the Harmonized System.

This means non-originating material used to make the wheat flour of 1101.00 must come from any Chapter, other than Chapter 11.

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<tr>
<th>Column 1</th>
<th>Column 2</th>
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</thead>
<tbody>
<tr>
<td>HS Code (HS 2022)</td>
<td>Product Description</td>
<td>Product Specific Rule</td>
<td></td>
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</tr>
<tr>
<td>Chapter</td>
<td>Heading</td>
<td>Subheading</td>
<td></td>
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<tr>
<td>11</td>
<td>CHAPTER 11: PRODUCTS OF THE MILLING INDUSTRY; MALT; STARCHES; INULIN; WHEAT GLUTEN</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.01</td>
<td>1101.00</td>
<td>Wheat or meslin flour</td>
<td>CC</td>
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</tr>
</tbody>
</table>

**PSR – CTC except from certain tariff classifications**

A CTC rule with exceptions will require non-originating materials to have undergone a change in Chapter, heading or subheading, except from certain tariff classifications, to make the final good.

For example, maize flour of subheading 1102.10, the PSR for goods under heading 11.02 is a CC except from Chapter 10 which means that all non-originating materials used in the production of the good have undergone a CTC at the two digit level of the Harmonized System, except from Chapter 10.

This means that the non-originating materials used to make *maize flour* of 1102.10 cannot come from Chapter 10 but can come from any other Chapter. Corn (1005.90) that is an RCEP originating good would count as an originating material for the purposes of meeting this PSR.

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<tr>
<td>11.02</td>
<td>Cereal flours other than of wheat or meslin</td>
<td>CC except from Chapter 10</td>
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PSR – RVC only

For some goods, the only PSR available is that the good meets an RVC40. RVC40 means that the good must have a RVC of no less than 40 per cent as calculated in accordance with the RCEP Regulations.

For example, the PSR for regular roasted coffee of Subheading 0901.21 is RVC40

This means that the RVC of the good must be greater than or equal to 40 per cent.

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<th>Column 5</th>
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</thead>
<tbody>
<tr>
<td>HS Code (HS 2022)</td>
<td>Chapter</td>
<td>Heading</td>
<td>Subheading</td>
<td>Product Description</td>
</tr>
<tr>
<td>09</td>
<td>09.01</td>
<td>Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion</td>
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<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Coffee, not roasted</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>0901.11</td>
<td>-- Not decaffeinated</td>
<td></td>
<td>CC</td>
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<tr>
<td></td>
<td>0901.12</td>
<td>-- Decaffeinated</td>
<td></td>
<td>RVC40</td>
</tr>
<tr>
<td></td>
<td>0901.21</td>
<td>-- Not decaffeinated</td>
<td></td>
<td>RVC40</td>
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<tr>
<td></td>
<td>0901.22</td>
<td>-- Decaffeinated</td>
<td></td>
<td>RVC40</td>
</tr>
</tbody>
</table>
PSR – CTC or RVC

Some PSR allow for the option of meeting either a CTC or a RVC rule. This combination is the most common form of rule in RCEP.

The rule may require a CTC from non-originating materials to the final good at the Chapter, heading or subheading level or it may require that the good meets the RVC40.

For example, for gingerbread and the like of subheading 1905.20, the PSR is for heading 19.05 is CTH or RVC40.

This means that the non-originating material used to make the gingerbread of 1905.20 must come from any heading other than heading 19.05, or the RVC of the good must be greater than or equal to 40 per cent.

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
| HS Code (HS 2022) | Product Description | Product Specific Rule |
| Chapter | Heading | Subheading | | |
| 19 | CHAPTER 19: PREPARATIONS OF CEREALS, FLOUR, STARCH OR MILK; PASTRYCOOKS’ PRODUCTS | CTH or RVC40 |
| 19.05 | Bread, pastry, cakes, biscuits and other bakers’ wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products | CTH or RVC40 |

PSR – CTC, RVC or CR

For a number of chemical products, the PSR may require meeting one of a CTC, RVC or a chemical reaction rule.

For example, for styrene of subheading 2902.50, the PSR is a change to a good of heading 29.02 from any other heading, a regional value content of 40 per cent or be the result of a chemical reaction as defined above in the Headnote to the PSR.

See paragraph 7.5 for an example of the Chemical Reaction Rule.

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
| HS Code (HS 2022) | Product Description | Product Specific Rule |
| Chapter | Heading | Subheading | | |
| 29 | CHAPTER 29: ORGANIC CHEMICALS | | |
| 29.01 | Acyclic hydrocarbons | CTH, RVC40, or CR |
| 29.02 | Cyclic hydrocarbons | CTH, RVC40, or CR |
7.3 Change in tariff classification

7.3.1 Subsection 153ZQE(3) of the Customs Act states that the regulations may prescribe that all non-originating material used in the production of a good must have undergone a particular CTC. This is set out in Part 2, Section 5 of RCEP Regulations.

7.3.2 The CTC concept applies only to non-originating materials. This means that non-originating materials must come from a different subheading, heading or Chapter than the final good, depending on the CTC rule.

7.3.3 In other words, the tariff classification of the final good (after the production process) must be different to the tariff classification of each non-originating material used in the production of the good. This approach ensures that non-originating materials incorporated into a good have undergone substantial transformation to support a claim that a good is a RCEP originating good.

7.3.4 It may be possible for goods to be RCEP originating goods in cases where not all of the non-originating materials have undergone the required CTC, provided the de minimis provision has been met. A detailed explanation of the de minimis provision is in paragraph 8.5 of this Guide.

Example: CTC rule

Tropical fruit juice (subheading 2009.90) is made in Vietnam from oranges (subheading 0805.10) and limes (subheading 0805.50) imported from the United States of America, combined with bananas (heading 0803) and mangoes (heading 0804) grown in Australia.

The PSR for a good of subheading 2009.90 is CTH or RVC40.

In the case that the trader chooses to use the CTC rule for determining whether the tropical fruit juice is an RCEP originating good, the CTC rule requires that all the non-originating materials that go into the making of the tropical fruit juice must be classified outside of Chapter 20.

As the oranges and limes are classified to Chapter 8, these non-originating materials meet the CTC requirement. Since Australia produces the bananas and mangoes, these are originating materials, which are not required to undergo the CTC test.

The tropical fruit juice is therefore a RCEP originating good.
7.4 Regional Value Content (RVC)

7.4.1 Subsection 153ZQE(6) of the Customs Act states that the RVC of goods is to be worked out in accordance with the regulations.

7.4.2 Part 3 of RCEP Regulations sets out two methods for calculating RVC. There is no requirement to use one method in favour of another; that is, it is at the discretion of the person applying for or making the Proof of Origin to decide which method to use.

7.4.3 In all cases, the RVC must be expressed as a percentage.

7.4.4 Materials of an undetermined origin are treated as non-originating materials.

7.4.5 In RCEP there are two different calculations available to importers to determine the RVC.

7.4.6 The direct/build-up method is based on the value of originating material, direct labour cost, direct overheads cost, profit and other cost.

7.4.7 The indirect/build-down method is based on the value of non-originating material.

7.4.8 Although these are alternative calculations, it is up to the businesses involved to decide which method to use and it is only necessary to establish that goods meet the RVC requirement of the calculation chosen.

7.4.9 As the formula effectively capture all the costs involved in producing goods, the results of both formula are expected to be the same or similar if all costs are enumerated.

7.4.10 The direct/build-up method may be simpler from a record keeping perspective as it is only necessary to demonstrate the value of some or all of the originating material, direct labour cost, direct overheads cost, profit and other cost is sufficient for the calculation to exceed the RVC.

7.4.11 In the case of the indirect/build-down method, materials that are of an undetermined origin are treated as non-originating materials, meaning that it will be necessary to determine the value of non-originating materials, originating materials, direct labour cost, direct overheads cost, profit and other cost that forms up the remaining expenses in the production of the good.

7.4.12 RCEP has limited provisions on Cumulation which are covered in Section 8.2 of this Guide.

7.4.13 Section 10 of RCEP Regulations sets out that the costs that may be deducted from the value of non-originating materials or included in the value of originating materials for the purpose of determining the RVC.

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**Section 8 of RCEP Regulations: Value of goods that are originating materials or non-originating materials**

(1) For the purposes of subsection 153ZQB(2) of the Act, this section explains how to work out the value of originating materials or non originating materials used in the production of goods.

(2) The value of the materials is as follows:
   
   (a) for originating materials acquired in a Party, or produced in a Party, by the producer of the goods—the value of the materials worked out in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 on the assumption that those materials had been imported into the Party by the producer of the goods;
   
   (b) for non originating materials imported into a Party—the value of the materials worked out in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994;
   
   (c) for non originating materials acquired in a Party by the producer of the goods—the earliest ascertainable price paid or payable for the materials;
7.4.14 Direct/Build-Up Method (section 6, of RCEP ROO Regulations):

\[
\frac{\text{Value of Originating material} + \text{Direct Labour Cost} + \text{Direct Overheads Cost} + \text{Profit} + \text{Other Cost}}{\text{Customs value}} \times 100
\]

where:
- **customs value** means the customs value of the goods worked out under Division 2 of Part VIII of the Act.
- **direct labour costs** includes wages, remuneration and other employee benefits.
- **direct overhead costs** means the total overhead expense.
- **other costs** has the same meaning as it has in Article 3.5 of Chapter 3 of the Agreement.
- **profit** has the same meaning as it has in Article 3.5 of Chapter 3 of the Agreement.
- **value of originating materials** means the value, worked out under Part 4, of the originating materials that are acquired by the producer, or produced by the producer, and are used by the producer in the production of the goods.

(d) for non originating materials produced in a Party by the producer of the goods—the sum of:

(i) all the costs incurred in the production of the materials, including general expenses; and
(ii) an amount that is the equivalent of the amount of profit that the producer would make for the materials in the normal course of trade.

(3) For the purposes of paragraph (2)(b), in working out the value of particular non originating materials, the following must be included:

(a) the cost of freight of the non originating materials to the port or place of entry in the Party;
(b) the cost of insurance related to that freight.

(4) For the purposes of paragraph (2)(b), (c) or (d), in working out the value of particular non originating materials, the following may be deducted:

(a) the costs of freight, insurance, packing and other transport related costs incurred in transporting the non originating materials to the producer of the goods;
(b) duties, taxes and customs brokerage fees on the non originating materials that:
   (i) have been paid in a Party; and
   (ii) have not been waived or refunded; and
   (iii) are not refundable or otherwise recoverable;
   including any credit against duties or taxes that have been paid or that are payable;
(c) the costs of waste and spoilage resulting from the use of the non originating materials in the production of the goods, reduced by the value of renewable scrap or by products.
### Example: Direct/Build-Up Method calculation

A Chinese producer sells a good to an Australian importer for $300. The value of originating materials used in the good is $85, labour costs are $20, overhead costs are $20 and profit is $10.

The producer calculates the RVC using the Build-Up Method as follows:

\[
\text{Value of Originating material + Direct Labour Cost + Direct Overheads Cost + Profit + Other Cost} \\
\times 100
\]

\[
= \frac{85 + 20 + 20 + 10}{300} \times 100
\]

\[
= 45 \text{ per cent}
\]

Therefore, the RVC of the good is 45 per cent.

### 7.4.15 Indirect/Build-Down Method (section 7 of RCEP ROO Regulations):

\[
\text{Customs value} - \text{Value of non-originating material} \\
\times 100
\]

where:

- **customs value** means the customs value of the goods worked out under Division 2 of Part VIII of the Customs Act.
- **Value of non-originating material** means the value, worked out under Part 4 of RCEP Regulations, of the non-originating materials used in the production of the goods.

### Example: Indirect/Build-Down Method calculation

A Malaysian producer sells a good to an Australian importer for $100. The value of non-originating materials used in the good is $50.

The producer calculates the RVC using the Build-Down Method as follows:

\[
\frac{\text{Customs value} - \text{Value of non-originating material}}{\text{Customs value}} \times 100
\]

\[
= \frac{100 - 50}{100} \times 100
\]

\[
= 50 \text{ per cent}
\]

Therefore, the RVC of the good is 50 per cent.
7.5 Chemical Reaction Rule

7.5.1 Annex 3A of the Agreement contains one processing rule in the PSR for certain goods that can be met in order for a good to qualify as an RCEP originating good. These are listed against the specific subheadings or headings.

7.5.2 These are, for goods of headings 29.01, 29.02, 29.07, 29.09, 29.14, 29.20, 38.11 and 38.24 and goods of subheading 2916.15:

Any good that is a product of a chemical reaction shall be considered to be an originating good if the chemical reaction 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 atoms in a molecule. The following are not considered to be chemical reactions for the purposes of this definition:

(i) dissolving in water or other solvents;
(ii) the elimination of solvents including solvent water; or
(iii) the addition or elimination of water of crystallisation.

Example: Chemical Reaction Rule

Benzene (C₆H₆ classified to HS 2902.20) is prepared from Toluene (C₆H₅CH₃) and hydrogen (H₂) in a hydrodealkylation reactor. Under appropriate temperatures, pressure and in the presence of suitable catalysts the toluene undergoes a process of dealkylation into benzene and methane:

\[ \text{C}_6\text{H}_5\text{CH}_3 + \text{H}_2 \rightarrow \text{C}_6\text{H}_6 + \text{CH}_4 \]

This process meets the Chemical Reaction Rule specified Annex 3A of the Agreement.
8 Other originating goods provisions

8.1 Accessories, spare parts, tools or instructional or other information materials

8.1.1 Section 153ZQG of the Customs Act sets out the treatment that applies to accessories, spare parts, tools or instructional or other information materials in respect of goods imported into Australia.

Section 153ZQG of the Customs Act: Goods that are accessories, spare parts, tools or instructional or other information materials

(1) If:
   (a) goods are imported into Australia with accessories, spare parts, tools or instructional or other information materials; and
   (b) the accessories, spare parts, tools or instructional or other information materials are presented with, and not invoiced separately from, the goods; and
   (c) the quantities and value of the accessories, spare parts, tools or instructional or other information materials are customary for the goods;

then the accessories, spare parts, tools or instructional or other information materials are to be disregarded for the purposes of this Subdivision.

Regional value content

(2) However, if a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way, the regulations must provide for the following:

   (a) the value of the accessories, spare parts, tools or instructional or other information materials to be taken into account for the purposes of working out the regional value content of the goods;
   (b) the accessories, spare parts, tools or instructional or other information materials to be taken into account as originating materials or non-originating materials, as the case may be.

Note: The value of the accessories, spare parts, tools or instructional or other information materials is to be worked out in accordance with the regulations: see subsection 153ZQB(2).

8.1.2 For goods that must meet an RVC rule, as prescribed in subsections 153ZQE(6) of the Customs Act and section 10 of RCEP Regulations, the value of non-originating accessories, spare parts, tools or instructional or other information materials must be taken into account as non-originating or originating materials, as the case may be, in working out the RVC for the good.

Subsections 153ZQE(6) of the Customs Act

(6) If a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way:

   (a) the regional value content of the goods is to be worked out in accordance with the Agreement; or
   (b) if the regulations prescribe how to work out the regional value content of the goods—the regional value content of the goods is to be worked out in accordance with the regulations.
Section 10 of RCEP Regulations – Value of accessories, spare parts, tools or instructional or other information materials

If paragraphs 153ZQG(1)(a), (b) and (c) of the Act are satisfied in relation to goods and the goods must have a regional value content of not less than a particular percentage worked out in a particular way:

(a) the value of the accessories, spare parts, tools or instructional or other information materials must be taken into account for the purposes of working out the regional value content of the goods under Part 3 of this instrument; and
(b) if the accessories, spare parts, tools or instructional or other information materials are originating materials—for the purposes of sections 6 and 8 of this instrument, those accessories, spare parts, tools or instructional or other information materials must be taken into account as originating materials used in the production of the goods; and
(c) if the accessories, spare parts, tools or instructional or other information materials are non-originating materials—for the purposes of sections 7 and 8 of this instrument, those accessories, spare parts, tools or instructional or other information materials must be taken into account as non-originating materials used in the production of the goods.
8.2 Accumulation

8.2.1 Accumulation permits the inclusion of originating materials from all Parties to the Agreement into the process of determining whether a final good is originating.

8.2.2 Under RCEP, goods originating in a Party, including Australia, used in the production of a good in another Party shall qualify as originating materials for the purposes of determining if the goods are RCEP originating goods.

8.2.3 Article 3.4 of RCEP sets out the principles that apply to goods manufactured in one or more Parties by one or more producers.

**Article 3.4 of Chapter 3 of the Agreement: Cumulation**

1. Unless otherwise provided in this Agreement, goods and materials which comply with the origin requirements provided in Article 3.2 (Originating Goods), and which are used in another Party as materials in the production of another good or material, shall be considered as originating in the Party where working or processing of the finished good or material has taken place.

2. The Parties shall commence a review of this Article on the date of entry into force of this Agreement for all signatory States. This review will consider the extension of the application of cumulation in paragraph 1 to all production undertaken and value added to a good within the Parties. The Parties shall conclude the review within five years of the date of its commencement, unless the Parties agree otherwise.

8.2.4 If a good is manufactured using non-originating materials and subsequently used as a material in the production of a good in that same Party, once the non-originating materials have satisfied the relevant PSR, the non-originating materials are no longer considered as non-originating materials in determining whether the final good is originating.

8.2.5 Article 3.4 of Chapter 3 of the Agreement sets out that materials sourced from another party that incorporate non-originating material may only be considered originating if the material is originating in its own right. That is, work done in another party on a material cannot be counted towards the originating status of a final good, unless it was sufficient to confer originating status to that material. Where those materials are RCEP originating goods, they no longer need to meet CTC rules and their entire value contributes to RVC calculations.

8.2.6 An RCEP originating good that makes use of the Accumulation provisions should have ACU indicated in the origin criteria field of the Proof of Origin.

For goods imported into Australia, the appropriate Preference Rule Code to use in the ICS is PSR.
Example: Goods produced in Vietnam using a combination of RCEP originating materials

A Vietnamese producer imports RCEP originating goods being tanned sheep leather from New Zealand and buttons and zippers from China.

The tanned sheep leather is used along with other originating materials to make a leather jacket.

The finished jackets are RCEP originating goods because they are produced entirely from originating materials.
CTC rule

8.2.7 Subsections 5(a) and 5(b) of RCEP Regulations provide that a final good satisfy its CTC rule if all of the non-originating materials used in its production have undergone the necessary CTC rule entirely in a Party. The only exception to this rule is de minimis provisions that permits some of the non-originating materials to remain so and for the good to be originating.

8.2.8 Subsections 5(a) and 5(b) of RCEP Regulations provide that a final good satisfies the CTC rule if each of the non-originating materials used in its production, which do not satisfy the CTC rule, are produced from non-originating materials that satisfy the CTC rule for the final good. Under RCEP, this can only occur in one party.

8.2.9 Materials that are RCEP originating goods do not need to meet the CTC requirements as this applies exclusively to non-originating materials.

Section 5 of RCEP Regulations: Change in tariff classification requirement for non-originating materials

For the purposes of subsection 153ZQE(3) of the Act, a non-originating material used in the production of goods that does not satisfy a particular change in tariff classification is taken to satisfy the change in tariff classification if:

(a) it was produced entirely in a Party from other non-originating materials; and

(b) each of those other non-originating materials satisfies the change in tariff classification, including by one or more applications of this section.
Example: CTC rule – each non-originating material meeting the CTC rule

This example considers a good manufactured entirely in Brunei. The diagram relates to the repeated application of Section 5 of RCEP Regulations to determine whether a good (the final good) imported into Australia satisfies the relevant CTC rule. The final good is made in the exporter’s factory from a range of originating and non-originating materials, including Non-originating Material 1 and Non-originating Material 2. Non-originating Material 1 satisfies the CTC rule for the final good but Non-originating Material 2 does not.

Originating materials used in the production of this good are not included in the diagram as originating materials do not need to meet the CTC requirement or any other PSR which only applies to non-originating materials.

All non-originating materials must meet the CTC rule (see the de minimis provisions in Section 8.5) for the final good to be a RCEP originating good. Therefore, in this example, without the ability to accumulate, the final good would be non-originating because it was made using a non-originating material (Non-originating Material 2) that failed to meet the CTC rule.

Subsection 5(b) of the RCEP Regulations provides that the materials that went into making Non-originating Material 2 can also be used to determine whether the final good meets the CTC rule. In this case, the exporter purchased Non-originating Material 2 from a Canadian supplier who provided the necessary information that the goods were made from several materials, including two non-originating materials: Non-originating Material 3 and Non-originating Material 4.

Subsection 5(b) of RCEP Regulations allows for the repeated application of Section 5. If Non-originating Material 3 and Non-originating Material 4 met the CTC rule, i.e. they meet the CTC rule for the final good, then the good would be originating. If, however, Non-originating Material 3 satisfies the CTC in relation to the final good but Non-originating Material 4 does not, then, as done with Non-originating Material 2, it is possible to repeat the process of examining the materials that went into making Non-originating Material 4. In this example, the only material used in the production of Non-originating Material 4 is Non-originating Material 5, which happens to satisfy the CTC rule for the final good.

As a result of the repeated application of Section 5 all the non-originating materials, including Non-originating materials 2 and 4 are now originating, i.e. they meet the CTC rule for the final good and therefore the final good is an RCEP originating good for the purposes of RCEP.

Origin determination using Section 5 of RCEP Regulations

Note: The exporter would need to obtain documentary evidence regarding the production process, the materials used, and other relevant information regarding the production of Non-originating Material 2 and Non-originating Material 4 from the suppliers of those products.
RVC rule – how it works in an accumulation context

8.2.10 Under RCEP, once a material used in the production of another good is an RCEP originating good, the entire value of that material can be treated as originating material for the purpose of determining the RVC of a final good.

8.2.11 However, where production is undertaken on or value added to a material that is subsequently used in another RCEP Party, and that production or value add was not sufficient for the material to be an RCEP originating good, the entire value of the material is treated as a non-originating material. This is referred to as partial cumulation.

8.2.12 Section 10 of RCEP Regulations (see page 7.4.13) sets out that certain costs may be included for originating materials and excluded from the value of non-originating materials that further assist in meeting the RVC requirements of RCEP.

Example 1: RVC rule – Calculating RVC using materials processed in other RCEP Parties.

A Malaysian company produces a vanilla and cinnamon spice mixture (HS Code 0910.91).

Dry cinnamon bark (0906.11) is sourced from Sri Lanka and processed in Vietnam into ground cinnamon (0906.20) before being exported to the Malaysian company.

Vanilla pods (0905.10) from Madagascar are processed to make a vanilla bean powder in Malaysia by the Malaysian company before they are incorporated into the final spice mix.

**Vietnam manufacturer’s per unit cost**

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>VOM</th>
<th>VNM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-originating materials (0906.11)</td>
<td>$5.00</td>
<td></td>
<td>$5.00</td>
</tr>
<tr>
<td>Originating materials</td>
<td>$0.00</td>
<td>$0.00</td>
<td></td>
</tr>
<tr>
<td>Labour</td>
<td>$0.50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other costs</td>
<td>$0.30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Profit</td>
<td>$0.20</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>VALUE</strong></td>
<td>$6.00</td>
<td>$0.00</td>
<td>$5.00</td>
</tr>
</tbody>
</table>

The PSR for ground cinnamon of HS 0906.20 is CC. As such, the good does not meet the PSR since the non-originating material used in the production of the ground cinnamon is in the same Chapter.

As the goods are not RCEP originating goods when imported into Malaysia, the $1.00 of value added in Vietnam is lost. This means that the entirety of the $6.00 is treated as a non-originating material.

**Malaysia manufacturer’s per unit cost for producing final good**

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>VOM</th>
<th>VNM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-originating material – Vanilla Pods (0905.10)</td>
<td>$5.00</td>
<td></td>
<td>$5.00</td>
</tr>
<tr>
<td>Non-originating materials – Ground Cinnamon (0906.20)</td>
<td>$6.00</td>
<td></td>
<td>$6.00</td>
</tr>
<tr>
<td>Originating materials</td>
<td>$0.00</td>
<td>$0.00</td>
<td></td>
</tr>
<tr>
<td>Labour</td>
<td>$3.50</td>
<td>$3.50</td>
<td></td>
</tr>
<tr>
<td>Other costs</td>
<td>$1.00</td>
<td>$1.00</td>
<td></td>
</tr>
<tr>
<td>Profit</td>
<td>$2.50</td>
<td>$2.50</td>
<td></td>
</tr>
<tr>
<td><strong>VALUE</strong></td>
<td>$18.00</td>
<td>$7.00</td>
<td>$11.00</td>
</tr>
</tbody>
</table>
The PSR for crushed or ground vanilla of HS 0905.20 is CC. As such, the good does not meet the PSR since the non-originating material used in the production of the vanilla bean powder is in the same Chapter. This means that the material will be treated as a non-originating material in calculating the RVC of the final good.

The PSR for vanilla and cinnamon spice mixture of HS Code 0910.91 is CC or RVC40. The goods do not meet the CTC requirement.

The RVC can be calculated in two ways as per the PSR.

Indirect/Build-down Method:

\[
\frac{CV \ ($18.00) - VNM \ ($11.00)}{CV \ ($18.00)} \times 100 = 38.9 \text{ per cent}
\]

Direct/Build-up method:

\[
\frac{VOM \ ($0.00) + Labour \ ($3.50) + Other Costs \ ($1.00) + profit \ ($2.50)}{CV \ ($18.00)} \times 100 = 38.9 \text{ per cent}
\]

Using either method results in an RVC of 38.9 per cent and therefore does not meet the PSR for the good.

While only $1.00 of originating value was added in Vietnam, without the ability to accumulate, this value is lost.

Example 2: RVC rule – Calculating RVC using materials processed in a single RCEP Party

If the same process was undertaken only in one RCEP Party, even with the same costs involved, the ability to use the costs of labour, other costs and profit in determining the RVC means the result would be different.

<table>
<thead>
<tr>
<th>Malaysia manufacturer’s per unit cost for producing final good</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>Non-originating material – Vanilla Pods (0905.10)</td>
</tr>
<tr>
<td>Non-originating Materials – Dry Vanilla Bark (0906.11)</td>
</tr>
<tr>
<td>Originating materials</td>
</tr>
<tr>
<td>Labour</td>
</tr>
<tr>
<td>Other costs</td>
</tr>
<tr>
<td>Profit</td>
</tr>
<tr>
<td>$5.00</td>
</tr>
</tbody>
</table>

The RVC can be calculated in two ways as per the PSR.

Indirect/Build-down Method:

\[
\frac{CV \ ($18.00) - VNM \ ($10.00)}{CV \ ($18.00)} \times 100 = 44.4 \text{ per cent}
\]

Direct/Build-up method:

\[
\frac{VOM \ ($0.00) + Labour \ ($4.00) + Other Costs \ ($1.30) + profit \ ($2.70)}{CV \ ($18.00)} \times 100 = 44.4 \text{ per cent}
\]

Using either method in an RVC of 44.4 per cent and therefore does meet the PSR for the good.
8.2.13 At the time the goods are imported, the importer must also have the supporting document in relation to the goods. Refer to Section 9 of this Guide for further information.
8.3 Back-to-back Proof of Origin

Under RCEP, goods that are transhipped through an RCEP Party must make use of the back-to-back Proof of Origin provisions of RCEP to document whether the goods meet the Agreement’s Rules of Origin in accordance with Article 3.19.

**Article 3.19: Back-to-Back Proof of Origin**

(1) Subject to Article 3.16 (Proof of Origin), an issuing body, approved exporter, or exporter of an intermediate Party may issue a back-to-back Proof of Origin provided that:

   (a) a valid original Proof of Origin or its certified true copy is presented;

   (b) the period of validity of the back-to-back Proof of Origin does not exceed the period of validity of the original Proof of Origin;

   (c) the back-to-back Proof of Origin contains relevant information from the original Proof of Origin in accordance with Annex 3B (Minimum Information Requirements);

   (d) the consignment which is to be re-exported using the back-to-back Proof of Origin does not undergo any further processing in the intermediate Party, except for repacking or logistics activities such as unloading, reloading, storing, splitting up of the consignment, or labelling only as required by the laws, regulations, procedures, administrative decisions, and policies of the importing Party, or any other operations necessary to preserve a good in good condition or to transport a good to the importing Party;

   (e) for partial export shipments, the partial export quantity shall be shown instead of the full quantity of the original Proof of Origin, and the total quantity re-exported under the partial shipment shall not exceed the total quantity of the original Proof of Origin; and

   (f) information on the back-to-back Proof of Origin includes the date of issuance and reference number of the original Proof of Origin.

(2) The verification procedures referred to in Article 3.24 (Verification) shall also apply to the back-to-back Proof of Origin.

8.3.1 An issuing body of an intermediate Party may issue a back-to-back Certificate of Origin.

8.3.2 In cases where the back-to-back Declaration of Origin is issued by an Approved Exporter, it should be completed only for goods for which the approved exporter has been allowed to do so by the competent authority of the intermediate Party.

8.3.3 Any exporter can complete a back-to-back Declaration of Origin only if the intermediate Party and the final importing Party have already implemented subparagraph 1(c) of Article 3.16 of the Agreement (Declaration of Origin by any exporter of producer) in accordance with paragraph 2 of that Article.

8.3.4 For a current list of RCEP Parties that implement subparagraph 1(c) of Article 3.16 can be found under the Claiming preferential rates of customs duty under RCEP tab on the ABF RCEP webpage.

8.3.5 Where a proof of origin is issued or completed prior to 1 January 2023, and a back-to-back proof of origin is issued or completed on or after 1 January 2023, the back-to-back proof of origin should be include the HS Code in HS 2022 where practical, even though the initial proof of origin should use HS 2012, the former nomenclature of the agreement. See Section 4.4.9 for more details.
8.4 Consignment provision

8.4.1 Section 153ZQI of the Customs Act sets out the consignment provisions that apply to RCEP originating goods imported into Australia.

### Section 153ZQI of the Customs Act: Consignment

1. Goods are not RCEP originating goods under this Division if the goods are transported through one or more Parties (other than the Party from which the goods are exported or Australia) or non-Parties and either or both of the following apply:
   
   a. the goods undergo further processing in those Parties or non-Parties (other than logistics activities such as unloading, reloading, storing or any other operation that is necessary to preserve the goods in good condition or to transport the goods to Australia);
   
   b. while the goods are in those Parties or non-Parties, the goods do not remain under the control of the customs authorities of those Parties or non-Parties at all times.

2. This section applies despite any other provision of this Division.

8.4.2 The consignment provision aims to ensure that only goods that are RCEP originating goods are entitled to the benefits granted under RCEP.

8.4.3 A good will lose its status as an RCEP originating good if it undergoes any process of production or other operation other than those listed in subparagraph 153ZQI(1)(a) in a non-Party while en route from a Party to Australia.

8.4.4 If goods transit or tranship through non-parties without sufficient proof that this transit or transhipment occurred under customs control and the importer is therefore unable to demonstrate this, the goods will lose their originating status.

8.4.5 As general advice, Australian importers should work with their customs broker or their exporter to ensure that they meet the requirements of RCEP if they intend to claim preferential rates of customs duty. This includes obtaining and retaining official documentation from the non-party transit country that demonstrates that the goods were under customs control at all times.

8.4.6 Importers may also need to inquire directly with the customs administration of the proposed transit country to ensure they can demonstrate, should it be required, that their goods have remained under customs control, and to retain evidence of this in accordance with RCEP’s record keeping requirements (see Record keeping obligations in Section 10).

### Example 1: Consignment provision

Surgical instruments, cotton gowns and bandages, made in a Party to RCEP from RCEP originating materials, are sent to Bangladesh where they are packaged together in a set and then sterilized for use in operating rooms. They are then sent to Australia with a Proof of Origin that they are a RCEP originating good.

Despite the Proof of Origin purporting to demonstrate they are RCEP originating goods, the medical sets are not eligible for preferential treatment as they underwent operations, not covered by the exceptions in section 153ZQI, in a non-Party to RCEP.
Example 2: Processes during consignment

Boats manufactured in a Party to RCEP are sent by ship to Australia. Before departure, they are coated with a protective veneer to inhibit damage to the painted surfaces during the voyage.

Due to severe weather conditions encountered during the voyage, the ship is required to stop in Papua New Guinea so that the protective veneer can be reapplied to ensure that the vessels are preserved in good condition for the remainder of the voyage to Australia. During their time in Papua New Guinea the boats remain under customs control.

This process would not affect the origin status of the vessels as it fits within the exceptions to section 153ZQI.

Example 3: Consignment and processes during consignment

On 1 January 2022, durians from Thailand, a wholly originating product, are scheduled to be exported to Australia via a ship that travels from Singapore. The goods are shipped to Penang, Malaysia by road, where labels are applied and the shipment is split up for further consignment. The goods destined for Australia continue to the Singapore port.

When the goods arrive in Australia, despite having a RCEP Proof of Origin and despite the processes during consignment that were carried out, the durians have lost their originating status as the goods were not under customs control during the road transport via the Malaysia (a non-party as at 1 January 2022).
8.5 *De minimis* provision

8.5.1 All non-originating materials in a good that has a CTC PSR must undergo the required CTC.

8.5.2 The *de minimis* provision, provides an exception to the above requirement. Subsection 153ZKQE(3) of the Customs Act stipulates that the CTC PSR is also satisfied if the good meets the requirement of subsections 153ZQE(4) or (5) of the Customs Act – the *de minimis* provisions. The text of these provisions can be found in Section 7.

8.5.3 Where a requirement is that the CTC requirement must be satisfied and one or more non-originating materials do not satisfy that CTC requirement but the relevant *de minimis* in subsections 153ZQE(4) or (5) of the Customs Act is met, the CTC requirement is taken to be satisfied.

8.5.4 The *de minimis* provision allows for a low percentage of non-originating materials, which do not meet the relevant CTC rule, to be used in a good and for that good to still meet the CTC rule. There are three separate *de minimis* provisions in RCEP.

8.5.5 The CTC requirement is taken to be satisfied if the total value of the non-originating materials (used in the production of the goods) that do not satisfy the change in tariff classification does not exceed 10 per cent of the customs value of the goods (see 153ZQE(4) on page 23).

8.5.6 For goods of HS Chapters 50 through 63, the CTC requirement may also be taken to be satisfied if the total weight of the non-originating materials (used in the production of the goods) does not exceed 10 per cent of the total weight of the goods (see 153ZQE(5) on page 23).

8.5.7 An RCEP originating good that makes use of the *de minimis* provisions should have DIM indicated in the origin criteria field of the Proof of Origin.

8.5.8 For goods imported into Australia, the appropriate Preference Rule Code to use in the ICS is PSR.

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**Example: CTC – *de minimis* by value for a non-textile and apparel good**

A non-textile or apparel good uses two non-originating materials, A and B. As a result of its transformation into the finished good, material A meets the required CTC rule, but material B does not.

Because material B does not make the required change, the finished good will not be considered an originating good. If the value of material B is less than 10 per cent of the value of the good, the good will still qualify as a RCEP originating good.

The good is valued at $100 and the value of material B is $5. The value of material B is 5 per cent of the good’s value, therefore the good is considered to be a RCEP originating good, using the *de minimis* rule.
Example: CTC – *de minimis by weight*

A textile good classified within Chapters 55 incorporates three non-originating materials X, Y and Z. As a result of their transformation into the finished good, materials X and Y meet the CTC rule, but material Z does not.

Because material Z does not meet the required change, the finished good will not qualify as originating. If, however, the weight of material Z is less than 10 per cent of the good’s total weight, the good will still qualify as an RCEP originating good.

The finished good weighs 50 grams and the weight of material Z is 2 grams, which is 4 per cent of the good’s total weight. Therefore, the finished good is considered to be an RCEP originating good using the *de minimis* rule.
8.6 Fungible goods or materials

8.6.1 Article 3.11 of Chapter 3 of the Agreement covers the treatment of fungible goods of materials.

8.6.2 Article 3.1 of Chapter 3 of the Agreement defines fungible goods or materials as goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

8.6.3 Many materials used in production are interchangeable for commercial purposes, in that they are of the same kind and commercial quality (e.g. ball bearings, nuts, bolts, screws, etc).

8.6.4 A producer may choose to separate physically, originating and non-originating materials. If this is not practical the producer may store materials obtained from different countries in one container.

8.6.5 When mixing originating and non-originating fungible materials, the producer may determine the origin of the materials based on one of the standard inventory management methods (e.g. last-in first-out, or first-in first-out) allowed under the generally accepted accounting principles of the exporting Party.

8.6.6 It is important to note that once a producer has decided on an inventory management method for a particular material, they must continue to use that method throughout the whole of the financial (fiscal) year.

Example 1: fungible materials

Amongst the materials used by a New Zealand producer of machinery parts are ball bearings. Depending on pricing and supply, the producer may source the ball bearings from Australia or from Europe. All of the ball bearings are of identical size and construction.

On 1 January, the producer buys 1 tonne of ball bearings from Australia that are RCEP originating goods, and on 3 January buys 1 tonne of ball bearings from Europe.

The ball bearings have been stored in the one container at the producer’s factory. The form of storage of the intermingled ball bearings makes those made in Australia indistinguishable from those sourced from Europe.

A Singaporean company places an order with the New Zealand producer for machinery parts, which require the use of 800 kg of ball bearings.

If the producer elects “first-in first-out” inventory procedures, the 800 kg of ball bearings used to fill the order are considered to be RCEP originating goods, regardless of their actual origin.
Example 2: fungible materials

Continuing with the above scenario, a Korean company places an order with the same New Zealand producer for machinery parts, which requires the use of 500 kg of the same ball bearings.

As the order was placed in the same financial year, the producer must continue to use the “first-in first-out” inventory procedure.

1200 kg of the original 2000 kg remain, the first 200 kg of ball bearings used for the Korean order are considered to be RCEP originating goods. The remaining quantity of ball bearings used to fulfil the order (300 kg) are considered to be non-originating materials and the ball bearings must meet the specified PSR for the final good.

8.6.7 If fungible goods or materials are RCEP originating goods and materials under Article 3.11 of Chapter 3 of the Agreement, these materials are not subject to the PSRs, as the PSRs apply only to non-originating materials.

8.6.8 The treatment of fungible goods or materials that are non-originating goods and materials used in a production process under Article 3.11 of Chapter 3 of the Agreement is different. Those fungible goods or materials are non-originating materials and must meet the PSR that is applicable to the good being produced (that is the machinery parts) if they are to be imported into one of the Parties and subsequently successfully claim preferential rates of customs duty.
8.7 Indirect materials

8.7.1 All indirect materials used in the production of RCEP originating goods are treated as originating materials, regardless of where they were produced.

8.7.2 Indirect materials are defined in paragraph 3.1.10 of this Guide and are considered originating materials in paragraph 3.1.14 of this Guide.

Example: Indirect materials

Workers in Singapore use tools and safety equipment produced in India during the production of soap. Such tools and safety equipment are considered to be originating materials and meet the definition of “indirect materials” in paragraph 3.1.10 of this Guide.
8.8 Non-qualifying operations or processes

8.8.1 Section 153ZQH of the Customs Act sets out the non-qualifying operations or processes\(^6\) that are insufficient for goods to be RCEP originating goods merely by reason of having undergone one or more of the specified operations or processes.

### Section 153ZQH of the Customs Act: Non-qualifying operations or processes

1. Goods are not RCEP originating goods under this Subdivision merely because of the following operations or processes:
   - (a) preserving operations to ensure that the goods remain in good condition for the purpose of transport or storage of the goods;
   - (b) packaging or presenting the goods for transportation or sale;
   - (c) simple processes, consisting of sifting, screening, sorting, classifying, sharpening, cutting, slitting, grinding, bending, coiling or uncoiling;
   - (d) affixing or printing of marks, labels, logos or other like distinguishing signs on the goods or on their packaging;
   - (e) mere dilution with water or another substance that does not materially alter the characteristics of the goods;
   - (f) disassembly of products into parts;
   - (g) slaughtering (within the meaning of Article 3.6 of Chapter 3 of the Agreement) of animals;
   - (h) simple painting or polishing operations;
   - (i) simple peeling, stoning or shelling;
   - (j) simple mixing of goods, whether or not of different kinds;
   - (k) any combination of things referred to in paragraphs (a) to (j).

2. For the purposes of this section, simple has the same meaning as it has in Article 3.6 of Chapter 3 of the Agreement.

### Example: Non-qualifying operations or processes

An Australian importer seeks to import electric scooters manufactured in Europe into Australia, by first dissembling them and reclassifying the parts in Korea to take advantage of the preferential rates under the RCEP.

The PSR for electric scooters is 8711.90 is RVC(40)

By removing the engine and battery from the frame and packaging each component separately, the importer believes this may be sufficient to meet the individual components respective PSRs.

However, paragraphs 153ZQH(1)(b) and 153ZQH(1)(f) provides that goods are not originating merely by changing of packaging and disassembling of goods without any physical change in the goods.

As such, these non-qualifying operations are insufficient for the goods to be RCEP originating goods.

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\(^6\) These are referred to as Minimal Operations and Processes in Article 3.6 of Chapter 3 of RCEP
8.9 Packaging materials and containers

8.9.1 Section 153ZQF of the Customs Act outlines the treatment to be given to packaging materials and containers in which imported goods are packaged for retail sale for the purposes of determining the origin of goods.

Section 153ZQF of the Customs Act: Packaging materials and containers

(1) If:
   (a) goods are packaged for retail sale in packaging material or a container; and
   (b) the packaging material or container is classified with the goods in accordance with Rule 5 of the Interpretation Rules;

then the packaging material or container is to be disregarded for the purposes of this Subdivision.

Regional value content

(2) However, if a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way, the regulations must provide for the following:

   (a) the value of the packaging material or container to be taken into account for the purposes of working out the regional value content of the goods;
   (b) the packaging material or container to be taken into account as an originating material or non-originating material, as the case may be.

Note: The value of the packaging material or container is to be worked out in accordance with the regulations: see subsection 153ZQB(2).

Regional value content of packaging materials and containers

8.9.2 Subsection 153ZQB(2) of the Customs Act adds that if the goods are required to meet a RVC rule, the Regulations must provide for the value of the packaging material or container to be taken into account as originating materials or non-originating materials, as the case may be, for the purposes of working out the RVC of the goods.

Example: Value of packaging material and container

Dolls (9503) are made in a Party to RCEP. The dolls are wrapped in tissue paper and packed in cardboard boxes with the brand logo for retail sale. Both the tissue paper and the cardboard box are produced in Pakistan.

The PSR for Chapter 95 is CTH or RVC40

The tissue paper and cardboard box are disregarded for the purpose of the CTC requirement. Their value, however, must be counted as non-originating in calculating the RVC, if RVC is used.

8.9.3 Section 9 of RCEP Regulations prescribes how to determine the value of the packaging materials or containers.
Section 9 of RCEP Regulations: Value of packaging material and container

If paragraphs 153ZQF(1)(a) and (b) of the Act are satisfied in relation to goods and the goods must have a regional value content of not less than a particular percentage worked out in a particular way:

(a) the value of the packaging material or container in which the goods are packaged must be taken into account for the purposes of working out the regional value content of the goods under Part 3 of this instrument; and

(b) if that packaging material or container is an originating material—for the purposes of sections 6 and 8 of this instrument, that packaging material or container must be taken into account as an originating material used in the production of the goods; and

(c) if that packaging material or container is a non-originating material—for the purposes of sections 7 and 8 of this instrument, that packaging material or container must be taken into account as a non-originating material used in the production of the goods.
8.10 Tariff Differentials and RCEP Country of Origin

8.10.1 Under RCEP, a limited number of Parties provide different preferential rates of customs duty based upon which Party is the RCEP Country of Origin as set out in Article 2.6 of Chapter 2 of RCEP. These are referred to under the agreement as “Tariff Differentials”.

8.10.2 For certain goods, the exporting party may not necessarily be the same as the RCEP Country of Origin under certain circumstances. These circumstances are:

- For goods that are listed in an importing Parties Appendix to the Annex of Tariff Differentials, if the Domestic Value Content (DVC) of the exporting Party is less than 20 per cent of the value of the good, the Party with the highest DVC.
- For goods that are produced entirely from originating materials under Article 3.2(b) that is not listed in an Appendix of Tariff Differentials and did not exceed the minimal operations listed paragraph 5 in Article 2.6 in the exporting Party, the Party with the highest DVC.
- In all other cases, the RCEP Country of Origin will be the exporting Party.

8.10.3 Countries that provide Appendices of Tariff Differentials are: China, Indonesia, Japan, Korea, Malaysia, Philippines and Vietnam.

8.10.4 The Domestic Value Add is based on the RVC calculation, however, it is necessary to determine the proportions of the value that can reasonably be allocated to specific RCEP Parties. As such, it is unlikely that using the Indirect/Build-Down Method would be appropriate for such a calculation.

8.10.5 The Department of Foreign Affairs and Trade provides guidance on how to determine the RCEP Country of Origin for goods when exported from Australia under RCEP.

*Note: Notwithstanding the above diagram, the importer may choose to use paragraph 6 of Article 2.6. For example, if the exporter/producer does not know or cannot ascertain the RCEP Country of Origin. In this case the exporter/producer and importer should discuss which RCEP Party is to be nominated as the RCEP Country of Origin.
For RCEP originating goods imported to Australia

8.10.6 Because Australia does not have any tariff differentials, for imports into Australia, the only circumstance it is expected that the RCEP Country of Origin will not be the same as the Exporting Party is in situations where only the minimal operations listed in paragraph 5 of Article 2.6 are performed on RCEP originating goods produced from originating materials from another RCEP Party.

8.10.7 In those specific circumstances while the Proof of Origin provided may contain an RCEP Country of Origin for the avoidance of doubt the ABF advises that when reporting the Preference Origin Country in the ICS, it will be sufficient to use the Exporting Party.
Article 2.6 Tariff Differentials

(1) All originating goods subject to tariff differentials shall be eligible for preferential tariff treatment applicable to the originating goods of an exporting Party pursuant to the importing Party’s tariff commitments set out in its Schedule in Annex I (Schedules of Tariff Commitments) at the time of importation, provided that the exporting Party is the RCEP country of origin.

(2) The RCEP country of origin for an originating good shall be the Party where the good acquired its originating status in accordance with Article 3.2 (Originating Goods). With regard to subparagraph (b) of Article 3.2 (Originating Goods), the RCEP country of origin for an originating good shall be the exporting Party, provided that the production process, other than the minimal operations set out in paragraph 5, for that originating good occurred in that exporting Party.

(3) Notwithstanding paragraph 2, for an originating good identified by an importing Party in its Appendix to its Schedule in Annex I (Schedules of Tariff Commitments), the RCEP country of origin shall be the exporting Party, provided that the good meets the additional requirement specified in that Appendix.

(4) In the event that the exporting Party of an originating good is not established to be the RCEP country of origin in accordance with paragraphs 2 and 3, the RCEP country of origin for that originating good shall be the Party that contributed the highest value of originating materials used in the production of that good in the exporting Party. In that case, that originating good shall be eligible for preferential tariff treatment applicable to that originating good of the RCEP country of origin.

(5) For the purposes of paragraph 2, a “minimal operation” is any operation set out below:
   (a) preserving operations to ensure that the good remains in good condition for the purposes of transport or storage;
   (b) packaging or presenting goods for transportation or sale;
   (c) simple processes, consisting of sifting, screening, sorting, classifying, sharpening, cutting, slitting, grinding, bending, coiling, or uncoiling;
   (d) affixing or printing of marks, labels, logos, or other like distinguishing signs on goods or their packaging;
   (e) mere dilution with water or another substance that does not materially alter the characteristics of the good;
   (f) disassembly of products into parts;
   (g) slaughtering of animals;
   (h) simple painting and polishing operations;
   (i) simple peeling, stoning, or shelling;
   (j) simple mixing of goods, whether or not of different kinds; or
   (k) any combination of two or more operations referred to in subparagraphs (a) through (j).

(6) Notwithstanding paragraphs 1 and 4, the importing Party shall allow an importer to make a claim for preferential tariff treatment at either:
   (a) the highest rate of customs duty that the importing Party applies to the same originating good from any of the Parties contributing originating materials used in the production of such good, provided that the importer is able to prove such a claim. For greater certainty, originating materials refer only to those originating materials taken into account in the claim for originating status of the final good; or
   (b) the highest rate of customs duty that the importing Party applies to the same originating good from any of the Parties.

(7) Notwithstanding Article 20.8 (General Review), the Parties shall commence a review of this Article within two years of the date of entry into force of this Agreement and, thereafter, every three years or as agreed among the Parties to reduce or eliminate the requirements of this Article and the number of tariff lines and conditions provided in a Party’s Appendix to its Schedule in Annex I (Schedules of Tariff Commitments).
Notwithstanding paragraph 7, with respect to its Appendix to its Schedule in Annex I (Schedules of Tariff Commitments), a Party reserves the right to make amendments to its Appendix, including the additional requirement in this Appendix, in case of accession by another State or separate customs territory to this Agreement. Such amendments shall be subject to the agreement of all Parties and shall enter into force in accordance with Article 20.4 (Amendments) and Article 20.9 (Accession).

3 The Parties understand that “tariff differentials” refers to different tariff treatment that an importing Party applies for the same originating good.

4 For the purposes of this paragraph, “simple” describes an activity which does not need special skills, or machines, apparatus, or equipment especially produced or installed for carrying out the activity.

5 For the purposes of this paragraph, “slaughtering” means the mere killing of animals.
9 Procedures and evidence required to claim preferential rates of customs duty

9.1 Claiming RCEP rates of customs duty

9.1.1 To claim preferential rates of customs duty under RCEP, the provisions in Division 1N of Part VIII of the Customs Act require the importer to have, at the time of import, a Proof of Origin or a copy of one, for the goods.

9.1.2 Article 3.16 of Chapter 3 of the Agreement provides that a Proof of Origin is required to support the claim for preferential rates of customs duty under RCEP.

9.1.3 Any of the following shall be considered as a Proof of Origin:

(a) a Certificate of Origin issued by an issuing body in accordance with Article 3.17 (Certificate of Origin);

(b) a Declaration of Origin by an approved exporter in accordance with subparagraph 1(a) of Article 3.18 (Declaration of Origin); or

(c) a Declaration of Origin by an exporter or producer in accordance with subparagraph 1(b) of Article 3.18 (Declaration of Origin), and subject to paragraphs 2 and 3 of Article 3.16,

9.1.4 A Proof of Origin shall:

(a) be in writing, or any other medium, including electronic format as notified by an importing Party;

(b) specify that the good is originating and meets the requirements of this Chapter; and

(c) contain information which meets the minimum information requirements as set out in Annex 3B (Minimum Information Requirements). As of based on information available that the good is originating.

9.1.5 Where RCEP originating goods are shipped through a third RCEP Party, a back-to-back Proof of Origin should be used. Further details about back-to-back Proofs of Origin can be found in Section 8.3 of this Guide.
9.2 Certificate of Origin

9.2.1 A COO must be in the agreed format and comply with Article 3.17 of Chapter 3 and Annex 3B, Minimum Information Requirements (see section 9.6 below).

9.2.2 A COO shall be issued by the issuing body of an exporting Party upon an application by an exporter, a producer, or their authorised representative.

Article 3.17 of Chapter 3 of the Agreement: Certificate of Origin

(1) A Certificate of Origin shall be issued by the issuing body of an exporting Party upon an application by an exporter, a producer, or their authorised representative.

(2) The exporter, producer, or their authorised representative shall apply in writing or by electronic means for a Certificate of Origin, to the issuing body of the exporting Party in accordance with the exporting Party’s laws, regulations, and procedures.

(3) A Certificate of Origin shall:

(a) be in a format to be determined by the Parties;
(b) bear a unique Certificate of Origin number;
(c) be in the English language; and
(d) bear an authorised signature and official seal of the issuing body of the exporting Party. The signature and seal shall be applied manually or electronically.

(4) A Certificate of Origin may:

(a) indicate two or more invoices issued for single shipment; or
(b) contain multiple goods, provided that each good qualifies as an originating good separately in its own right.

(5) In circumstances where a Certificate of Origin contains incorrect information, the issuing body of the exporting Party may:

(a) issue a new Certificate of Origin and invalidate the original Certificate of Origin; or
(b) make modifications to the original Certificate of Origin by striking out errors and making any additions or corrections. Any changes shall be certified by the authorised signature and official seal of the issuing body of the exporting Party.

(6) Each Party shall provide the names, addresses, specimen signatures, and impressions of official seals of its issuing body to the other Parties. Such information shall be submitted electronically through the RCEP Secretariat established pursuant to subparagraph 1(i) of Article 18.3 (Functions of the RCEP Joint Committee) (hereinafter referred to as “RCEP Secretariat” in this Chapter), for dissemination to the other Parties. Any subsequent changes shall be promptly submitted to the RCEP Secretariat in the same manner for dissemination to the other Parties. The Parties shall endeavour to establish a secured website to display such information from the last three years, and such website shall be accessible to the Parties.

(7) Notwithstanding paragraph 6, a Party shall not be required to provide the specimen signatures of its issuing body to the RCEP Secretariat for dissemination to the other Parties if it has established its own secured website, containing relevant information of the Certificates of Origin it issues, including their Certificate of Origin numbers, HS Codes, descriptions of goods, quantities, dates of issuance, and names of the exporters, that is accessible to the Parties. The Parties shall review the requirement to
provide specimen signatures of the issuing bodies three years after the date of entry into force of this Agreement for all signatory States.

(8) Where a Certificate of Origin has not been issued at the time of shipment due to involuntary errors, omissions, or other valid causes, or in the circumstances referred to in subparagraph 5(a), a Certificate of Origin may be issued retrospectively but no later than one year after the date of shipment. In that case, the Certificate of Origin shall bear the words “ISSUED RETROACTIVELY”.

(9) In the event of theft, loss, or destruction of an original Certificate of Origin, the exporter, producer, or their authorised representative may apply in writing to the issuing body of the exporting Party for a certified true copy of the original Certificate of Origin. The copy shall:

(a) be issued no later than one year after the date of issuance of the original Certificate of Origin;
(b) be based on the application for the original Certificate of Origin;
(c) contain the same Certificate of Origin number and date as the original Certificate of Origin; and
(d) be endorsed with the words “CERTIFIED TRUE COPY”.
9.3 Declaration of Origin

9.3.1 A DOO must comply with Article 3.18 of Chapter 3 and Annex 3B, Minimum Information Requirements (see section 9.6 below).

9.3.2 The DOO does not have a fixed format.

9.3.3 For Australian importers, the ABF will accept Declarations of Origin included on commercial documents such as the invoice or on a separate document such as company letter head.

9.3.4 Further information on DOO that meet the requirements of RCEP can be found in the Guide to obtaining preferential tariff treatment when exporting and importing goods using RCEP available on the Department of Foreign Affairs and Trade RCEP web page.

### Article 3.18 of Chapter 3 of the Agreement: Declaration of Origin

1. A Declaration of Origin referred to in Article 3.16 (Proof of Origin) may be completed by:
   
   (a) an approved exporter within the meaning of Article 3.21 (Approved Exporter); or
   
   (b) an exporter or a producer of the good, subject to paragraphs 2 and 3 of Article 3.16 (Proof of Origin).

2. A Declaration of Origin shall:
   
   (a) be completed in accordance with Annex 3B (Minimum Information Requirements);
   
   (b) be in the English language;
   
   (c) bear the name and signature of the certifying person; and
   
   (d) bear the date on which the Declaration of Origin was completed.

9.4 Approved Exporter

9.4.1 Each RCEP Party will establish the requirements for their exporters to become an approved exporter for the purposes of RCEP in order to make a DOO under the Agreement.

9.4.2 All RCEP Parties will accept valid DOOs issued by an approved exporter for RCEP originating goods.

9.5 DOO completed by any other exporter or producer

9.5.1 Under subparagraph 1(c) of Article 3.16, any exporter or producer of a Party is able to complete a DOO for goods they export that are imported to other parties that have also implemented subparagraph 1(c) of Article 3.16.

9.5.2 A current list of RCEP Parties that implement subparagraph 1(c) of Article 3.16 can be found under the Claiming preferential rates of customs duty under RCEP tab on the ABF RCEP webpage.

9.5.3 In accordance with paragraph 2 of Article 3.16, RCEP Parties are required implement paragraph 1(c) of Article 3.16 no later than 10 years from their respective entry into force dates.
of the Agreement, except for Cambodia, Laos and Myanmar for which the timeframe is no later than 20 years. Parties may seek an extension of up to 10 years to implement this requirement.
9.6 Annex 3-B: Minimum Data Requirements

9.6.1 A certification of origin that is the basis for a claim for preferential tariff treatment under this Agreement shall include the following elements:

1. Certificate of Origin
   a. exporter’s name and address;
   b. producer’s name and address, if known;
   c. importer’s or consignee’s name and address;
   d. description of the goods and the HS Code of the goods (six-digit level);
   e. Certificate of Origin number;
   f. origin conferring criterion;
   g. declaration by the exporter or producer;
   h. certification by the issuing body that the goods specified in the Certificate of Origin meet all the relevant requirements of Chapter 3 (Rules of Origin) based on the evidence provided with the authorised signature and official seal of the issuing body;
   i. RCEP country of origin referred to in Article 2.6 (Tariff Differentials);
   j. details to identify the consignment such as invoice number, departure date, vessel name or aircraft flight number, and port of discharge;
   k. FOB value, if the regional value content origin conferring criterion is used;
   l. quantity of the goods;
   m. in the case of a back-to-back Certificate of Origin, original Proof of Origin reference number, date of issuance, RCEP country of origin of the first exporting Party, and, if applicable, approved exporter authorisation code of the first exporting Party.

2. Declaration of Origin
   a. exporter’s name and address;
   b. producer’s name and address, if known;
   c. importer’s or consignee’s name and address;
   d. description of the goods and the HS Code of the goods (six-digit level);
   e. in the case of an approved exporter, authorisation code or identification code of the exporter or producer;
   f. unique reference number;
   g. origin conferring criterion;
   h. certification by an authorised signatory that the goods specified in the Declaration of Origin meet all the relevant requirements of Chapter 3 (Rules of Origin);
   i. RCEP country of origin referred to in Article 2.6 (Tariff Differentials);
   j. FOB value, if the regional value content origin conferring criterion is used;
   k. quantity of the goods;
I. in the case of a back-to-back Declaration of Origin, original Proof of Origin reference number, date of issuance, RCEP country of origin of the first exporting Party, and, if applicable, approved exporter authorisation code of the first exporting Party Importer, Exporter or Producer Certification of Origin
9.7 Minor Errors and Discrepancies on RCEP COO

9.7.1 The ABF provides Guidance on minor errors or discrepancies on Certificates of Origin obtained for Free Trade Agreements.

9.7.2 Generally, the COO will not be invalid if the following three aspects apply:

– the errors or discrepancies are minor;
– the origin of the good is not in doubt; and
– the COO otherwise relates to the goods.

9.7.3 Often this relates to minor transcription errors or discrepancies between documentation which may include:

– spelling, grammatical or typographical errors in the Certificate of Origin
– differences in the units of measurement stated in the COO and the units of measurement stated in supporting documents such as invoices/packing lists and related documentation. (In this case, the ABF would still expect the amounts to be corrected)
– differences in the paper size of the COO and the template provided
– protrusions across fields
– slight differences in description of the goods between the COO and the supporting documents
– differences in the size of marks and executions, including three asterisks (*) or finishing slash (/) in the ‘goods description’ field on the COO

9.7.4 The guidance also addresses discrepancies in

– HS Codes
– Origin Criteria
– Exporter name and details
– Importer name and details

9.7.5 To be satisfied that the origin of the goods is not in doubt, all the essential data information (that is, all non-optional information) must be included.

9.7.6 After making enquiries, if an importer or their Licensed Customs Broke (LCB) determines that an error or discrepancy on a COO is minor in nature, the importer or LCB must also assess that the error does not cause doubt as to the origin of the goods, and ensure there is no doubt that the COO relates to the goods.

9.7.7 Each discrepancy or issue must be risk assessed on a case-by-case basis. It is not possible to provide a rigid rule stating, for example, that a certain type of error or discrepancy will always be minor and will not invalidate a COO.

9.7.8 Where practical, a replacement COO should be sought in the first instance.

9.7.9 If there are any patterns of systemic discrepancies such as between Australian and other party for HS codes of certain goods, importers and LCB should advise the ABF by contacting tradeagreements@abf.gov.au with evidence and any reasons available for those discrepancies. The ABF will liaise with the Department of Foreign Affairs and Trade to explore whether such discrepancies can be resolved between the parties to the FTA.
9.8 Minor Errors and Discrepancies on RCEP DOO made by an Approved Exporter

9.8.1 Under RCEP, approved exporters are able to make a DOO for certain goods as authorised by their relevant authority.

9.8.2 However, in some instances, the HS code (or codes) that an authorised exporter is authorised to make an RCEP DOO for by the exporting party, and the HS code expected by the importing Party may not be the same.

9.8.3 As an approved exporter is able to otherwise remake a DOO for the goods, only the guidance on Errors or discrepancies in HS codes on page 5 of the Guidance on minor errors or discrepancies on Certificates of Origin obtained for Free Trade Agreements applies to DOO made by an authorised exporter. Approved exporters are expected to be able to correct errors related to the description of the goods, importer and exporter name and details and the origin criteria.
9.9 Waiver of Documentary Evidence of Origin

9.9.1 Division 1N of the Customs Act provides for the waiver of Proof of Origin under certain conditions.

9.9.2 The ABF has waived the requirement to obtain or present a Proof of Origin in accordance with ACN No 2022/13 for Australian Trusted Traders importing goods under RCEP.

9.9.3 Even where the requirement to obtain or present a Proof of Origin is waived for Australian Trusted Traders importing goods, importers will still be required to keep evidence (for a period of at least five years from the day of importation) that imported goods are originating and present this if requested. Importers must otherwise comply with all requirements of the Agreement.

9.9.4 A Proof of Origin is not required for imports when the total customs value of the originating goods does not exceed AUD1000, provided the importation does not form Part of one or more importations that may reasonably be considered to have been undertaken or arranged for the purposes of avoiding the requirements of the Agreement.

\[7\] For custom clearance purposes the importer will still be required to complete a self-assessed clearance declaration when the customs value does not exceed AUD1000. In these circumstances a Proof of Origin is not required.
9.10 **Refunds**

9.10.1 In order to claim a refund, the importer must have a valid Proof of Origin for the goods, or a copy of one, in order to claim a refund under section 23 of the Customs International Obligations Regulation.

9.10.2 A refund can only be sought for RCEP originating goods that have been entered for home consumption on or after the date of entry into force of RCEP for a particular RCEP Party. These are:

<table>
<thead>
<tr>
<th>RCEP Party</th>
<th>Date on or after which a refund may be sought</th>
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<tbody>
<tr>
<td>Brunei</td>
<td>1 January 2022</td>
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<td>Cambodia</td>
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<tr>
<td>Korea</td>
<td>1 February 2022</td>
</tr>
<tr>
<td>Malaysia</td>
<td>18 March 2022</td>
</tr>
<tr>
<td>Indonesia</td>
<td>2 January 2023</td>
</tr>
<tr>
<td>Philippines</td>
<td>2 June 2023</td>
</tr>
</tbody>
</table>

9.10.3 Goods entered prior to these dates are not eligible for preferential rates of customs duty under RCEP.

9.10.4 Section 23 of the Customs International Obligations Regulation sets out refund reasons for RCEP under item 17 and 18. The ICS refund reason code for both items is **23A17**.

<table>
<thead>
<tr>
<th>Item</th>
<th>Class of Goods</th>
<th>Circumstances</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>RCEP originating goods</td>
<td>Duty has been paid on the goods.</td>
</tr>
<tr>
<td>18</td>
<td>Goods that would have been RCEP originating goods if, at the time the goods were imported, the importer held a Proof of Origin (within the meaning of subsection 153ZQB(1) of the Act), or a copy of one, for the goods</td>
<td>Both of the following apply: (a) duty has been paid on the goods; (b) the importer holds a Proof of Origin (within the meaning of subsection 153ZQB(1) of the Customs Act), or a copy of one, for the goods at the time of making the application for the refund</td>
</tr>
</tbody>
</table>

**Item 17 of Section 23 of the Customs International Obligations Regulation**

9.10.5 Where an importer pay customs duty on RCEP originating goods while holding a valid Proof of Origin for the goods, or a copy of one, at the time the goods were entered for home consumption, the importer may claim a refund of the customs duty paid on those goods.

9.10.6 Item 17 applies to goods that are RCEP originating at the time of importation, however the importer did not claim preferential rates of customs duty at the time the goods were entered for home consumption. Item 17 requires the importer to hold a valid Proof of Origin for the goods, or a copy of it, at the time the goods were entered for home consumption and that all legislative requirements are met to allow RCEP preferential rates of customs duty to be claimed.

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9.10.7 Item 17 can be used for up to four years from the date on which the duty for the goods was paid. There is no requirement that the proof of origin be valid at the time a refund is sought.

9.10.8 Item 17 cannot be used where the importer was not in possession of a Proof of Origin for the goods, or a copy of one, at the time the goods were entered for home consumption.

**Item 18 of Section 23 of the Customs International Obligations Regulation**

9.10.9 Where an importer pays customs duty on RCEP originating goods as a valid Proof of Origin for the goods, or a copy of one, was not available at the time the goods were entered for home consumption, the importer may claim a refund of the customs duty paid on those goods.

9.10.10 Item 18 applies to goods that would have been RCEP originating goods, if at the time the goods were imported, the entered for home consumption held a valid Proof of Origin or a copy of one. This item is used when the duty has been paid on the goods and the importer obtains a valid Proof of Origin after the goods were entered for home consumption.

9.10.11 While Item 18 can be used for refunds up to four years from the date on which the duty for the goods was paid, this item can only be used while the Proof of Origin remains valid.

9.10.12 Under Chapter 3 of the Agreement, a Proof of Origin issued after the goods were exported, or retrospectively, shall remain valid for a period of up to one year after the date the Proof of Origin was issued or completed. Any refund is limited to this timeframe.

9.10.13 An RCEP DOO must bear the date on which it was completed, there is no limit on when it can be completed.

9.10.14 Where an RCEP COO has not been issued at the time of shipment due to involuntary errors, omissions, or other valid causes, or in the circumstances referred to in subparagraph 5(a) of Article 3.17 of RCEP, an RCEP COO may be issued retrospectively but no later than one year after the date of shipment. In that case, the RCEP COO shall bear the words “ISSUED RETROACTIVELY”.

9.10.15 Where an Australian Trusted Trader has paid duty on goods that were later understood to be RCEP originating goods, they may apply for a refund of customs duty paid without the need for a Proof of Origin. The Australian Trusted Trader may still be required to provide evidence on the origin of the goods to support an application for a refund, such as commercial documentation, statements of manufacture or a valid Proof of Origin if requested by the ABF.
9.11 Compliance procedures for claiming preference

9.11.1 Under the Customs Act (sections 71DA, 240AA, 240AB and 240AC) the ABF may seek further evidence additional to a Proof of Origin through:

(a) written requests for information from the importer
(b) written requests for information from the exporter or producer of the exporting Party
(c) written request for information to the issuing body or competent authority of the exporting Party
(d) verification visits to the premises of the exporter or the producer in a Party to allow ABF officers to review the records referring to origin - including accounting records.

9.11.2 The ABF may deny a claim for preferential rates of customs duty if:

(a) it determines that the good does not meet the requirements of Division 1N of Part VIII of the Customs Act to qualify for preferential rates of customs duty
(b) the importer, exporter, producer or authorised agent fails to comply with the relevant requirements of the Customs Act
(c) after seeking further information under sections 71DA, 240AA, 240AB and 240AC of the Customs Act, the ABF does not:
   (i) receive sufficient information to determine that the good qualifies as originating
   (ii) receive written consent to conduct a verification visit from the exporter or producer, after receipt of written notification for a verification visit
   (iii) receive a response to the requests outlined in paragraph 9.11.1 of this Guide.

9.11.3 If, after making a claim for preferential rates of customs duty, the importer becomes aware that the goods were ineligible for a preferential rate of customs duty, the importer must, as soon as practicable, amend the import declaration and pay any short-fall amount of customs duty. This action may protect an importer against liability for an offence under subsections 243T(1) or 243U(1) of the Customs Act, if the amendment is considered a voluntary disclosure as explained in ACN 2004/05 and DIBPN 2016-35.

9.11.4 Where a short payment results from an incorrectly claimed preferential rate of customs duty, an importer may be protected from liability for an offence against subsection 243T(1) or 243U(1) of the Customs Act if, at the time of entry of the goods, they hold a Proof of Origin that states that a particular preference criterion of Division 1N of Part VIII of the Customs Act has been met.

9.11.5 The protection will not apply where:

(a) other information available to the importer indicated that the statement on the Proof of Origin was incorrect or unreliable
(b) the Proof of Origin could not be clearly related to the goods in question.

9.11.6 Similarly, the protection will not apply once the ABF has given the owner of the goods or their agent an audit notice under section 214AD of the Customs Act; or the ABF exercises a power under a Customs-related law to verify the accuracy of the information included in the statement; or where the ABF has issued an infringement notice in relation to the statement; or where the ABF has commenced legal proceedings in relation to the statement.
9.11.7 Where an import declaration states that a preferential rate of customs duty is being applied for, this will be taken to indicate that the owner of the goods possesses evidence that the stated facts are correct. The criteria for eligibility for preferential rates of customs duty under RCEP are set out in Division 1N of Part VIII of the Customs Act.

9.11.8 The importer must have a valid Proof of Origin at the time of entering the goods. An importer may be required to produce the Proof of Origin or other evidence either at the time of entering the goods or at a later date to demonstrate any claims made.

9.11.9 If the ABF finds that preferential rate of customs duty is inapplicable or that there is insufficient evidence to justify the claim for a preferential rate of customs duty, the general rate of customs duty is payable on the goods and there will be a liability for the payment of any customs duty and GST that has been short-paid. In these circumstances, an offence may have been committed against subsections 243T(1) or 243U(1) of the Customs Act. An administrative penalty under the *Taxation Administration Act 1953* may also apply where there is a shortfall amount of GST. An infringement notice may be served in lieu of prosecution for an offence against subsections 243T(1) or 243U(1) of the Customs Act.

9.12 Validity

9.12.1 Under Chapter 3 of the Agreement, a Proof of Origin remains valid for one year from the date on which it is issued or completed.

9.12.2 Where a COO has not been issued at the time of shipment due to involuntary errors, omissions, or other valid causes, or in the circumstances referred to in subparagraph 5(a) of Article 3.17 of RCEP, a COO may be issued retrospectively but no later than one year after the date of shipment. In that case, the COO shall bear the words “ISSUED RETROACTIVELY”.

9.12.3 A DOO must bear the date on which it was completed, there is no limit on when it can be completed.
10 Record keeping obligations

10.1 Importers

10.1.1 Australian importers must maintain the documentation relating to the importation of the goods, including the Proof of Origin for the goods or a copy of the Proof of Origin, for five years after the date of the goods’ importation.

10.1.2 Importers must still comply with all record provisions in the Customs Act.

10.2 Exporters and producers

10.2.1 Part 5 of RCEP Regulations sets out that Australian exporters or producers of goods that are claimed to be RCEP originating goods must keep, for five years starting on the date the Proof of Origin for the goods is issued, all records necessary to demonstrate that the goods are RCEP originating goods.

10.2.2 The exporter or producer must also ensure all of the following:

   (i) that the record is kept in a form that would enable a determination of whether the goods are originating goods in accordance with the Agreement

   (ii) if the record is not in English, that the record is kept in a place and form that would enable an English translation to be readily made

   (iii) if the record is kept by mechanical or electronic means, that the record is readily convertible into a hard copy in English

10.2.3 The records may be kept at any place, whether or not in Australia.
## Records to be kept by producers and exporters of goods claiming to be Australian originating under to a RCEP party

<table>
<thead>
<tr>
<th>Item</th>
<th>Records</th>
<th>Producer</th>
<th>Exporter</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Records of the purchase of the goods</td>
<td>✓</td>
<td>✓ iii</td>
</tr>
<tr>
<td>2.</td>
<td>Records of the purchase of the goods by the person to whom the goods are exported</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Evidence of the classification of the goods under the Harmonized System</td>
<td>✓ v</td>
<td>✓</td>
</tr>
<tr>
<td>4.</td>
<td>Evidence that payment has been made for the goods</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>5.</td>
<td>Evidence of the value of the goods</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Records of the purchase of all materials that were purchased for use or consumption in the production of the goods and evidence of the classification of the materials under the Harmonized System</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Evidence of the value of those materials</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Records of the production of the goods</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td>If the goods include any accessories, spare parts, tools or instructional or other information materials that were purchased:</td>
<td>✓ i</td>
<td>✓ iii</td>
</tr>
<tr>
<td></td>
<td>a. records of the purchase of the accessories, spare parts, tools or instructional or other information materials; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. evidence of the value of the accessories, spare parts, tools or instructional or other information materials</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>If the goods include any accessories, spare parts, tools or instructional or other information materials that were produced:</td>
<td>✓ ii</td>
<td>✓ iv</td>
</tr>
<tr>
<td></td>
<td>a. records of the purchase of all materials that were purchased for use or consumption in the production of the accessories, spare parts, tools or instructional or other information materials; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. evidence of the value of the materials so purchased; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>c. records of the production of the accessories, spare parts, tools or instructional or other information materials</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td>If the goods are packaged for retail sale in packaging material or a container that was purchased:</td>
<td>✓ i</td>
<td>✓ iii</td>
</tr>
<tr>
<td></td>
<td>a. records of the purchase of the packaging material or container; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. evidence of the value of the packaging material or container</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.</td>
<td>If the goods are packaged for retail sale in packaging material or a container that was produced:</td>
<td>✓ ii</td>
<td>✓ iv</td>
</tr>
<tr>
<td></td>
<td>a. records of the purchase of all materials that were purchased for use or consumption in the production of the packaging material or container; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. evidence of the value of the materials so purchased; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>c. records of the production of the packaging material or container</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>A copy of the Proof of Origin (within the meaning of section 153ZQB of the Act) in relation to the goods</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

### Notes

1. If purchased by the producer
2. If produced by the producer
3. If purchased by the exporter
4. If produced by the exporter
5. If the producer is also the exporter
11 Origin advice rulings

11.1 Provision of origin advice rulings

11.1.1 RCEP allows for Australian importers, exporters and producers of goods in RCEP Parties to obtain advance rulings (see Article 5.3 of Chapter 5 of the Agreement) from the ABF regarding future importations of goods into Australia.

11.2 Policy and practice

11.2.1 The ABF provides a Guide to origin advice rulings at:
12 Related policies and references

12.1 Associated documents

- Origin Advice Rulings Guide
- Integrated Cargo System – Claiming Preferential Tariff Rates
- Guidance on minor errors or discrepancies on Certificates of Origin obtained for Free Trade Agreements
- certificate of origin using HS 2022 PSR
- certificate of origin using HS 2012
# 13 Document details

## 13.1 Document change control

<table>
<thead>
<tr>
<th>Version number</th>
<th>Date of issue</th>
<th>Author(s)</th>
<th>Brief description of change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>17 December 2021</td>
<td>Tariff and Trade Policy Section</td>
<td>Initial Version</td>
</tr>
<tr>
<td>1.1</td>
<td>23 February 2022</td>
<td>Tariff and Trade Policy Section</td>
<td>Malaysia added to RCEP – as of 18 March 2022</td>
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<tr>
<td>1.2</td>
<td>11 May 2022</td>
<td>Tariff and Trade Policy Section</td>
<td>Origin Waiver benefit added for goods imported from an RCEP Party by Australian Trusted Trader imports from 1 January 2022</td>
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<td>1.3</td>
<td>14 December 2022</td>
<td>Tariff and Trade Policy Section</td>
<td>Information on use of HS 2022 PSRs Indonesia added to RCEP – as of 2 January 2023</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Style edits to improve clarity</td>
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<tr>
<td>1.4</td>
<td>12 May 2022</td>
<td>Tariff and Trade Policy Section</td>
<td>The Philippines added to RCEP – as of 21 May 2023</td>
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<td></td>
<td></td>
<td></td>
<td>Inclusion of Guidance on minor errors or discrepancies on Certificates of Origin obtained for Free Trade Agreements</td>
</tr>
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</table>