



INSTRUCTION AND GUIDELINE

Japan-Australia Economic Partnership Agreement

Rules of Origin

B_INT02/10

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B_INT02 Free Trade Agreement Rules of Origin

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This Instruction and Guideline outlines the rules of origin under the Japan-Australia Economic Partnership Agreement.

1. Introduction

1.1. Coverage of the Instruction and Guideline

- 1.1.1. This Instruction and Guideline deals only with origin issues as they relate to the Japan-Australia Economic Partnership Agreement (the Agreement or JAEPA). JAEPA entered into force on 15 January 2015.

1.2. Abbreviations

- 1.2.1. The following abbreviations are used throughout this Instruction and Guideline:
- | | |
|-----------------------|--|
| ▪ ACBPS | Australian Customs and Border Protection Service |
| ▪ JAEPA | Japan-Australia Economic Partnership Agreement |
| ▪ JAEPA Regulation | Customs (Japanese Rules of Origin) Regulation 2014 |
| ▪ CTC | change in tariff classification |
| ▪ Customs Act | <i>Customs Act 1901</i> |
| ▪ Customs Regulations | Customs Regulations 1926 |
| ▪ HS | Harmonized Commodity Description and Coding System |
| ▪ ROO | rule(s) of origin |
| ▪ RVC | regional value content |

2. Legislation

2.1. General outline of legislation

- 2.1.1. The requirements for claiming preferential tariff treatment under JAEPA for goods imported into Australia are contained within the following documents:
- *Customs Tariff Act 1995* (the Customs Tariff)
 - Schedule 11
 - *Customs Act 1901*
 - Division 1K of Part VIII – Japanese originating goods
 - Division 4H of Part VI – Verification powers – Exportation of goods to Japan
 - Customs Regulations 1926 (the Customs Regulations)
 - Regulation 126DAA
 - Customs (Japanese Rules of Origin) Regulation 2014 (the JAEPA Regulations)
 - Combined Australian Customs Tariff Nomenclature and Statistical Classification “Introduction”, commonly known as the Working Tariff
 - Pages 1 through 9 (Application of Rates of Duty)

2.2. Operation of the legislation

- 2.2.1. The following legislation amended relevant legislation to implement Chapter 3 (Rules of Origin) of JAEPA:
- 2.2.2. *Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Act 2014*, in particular:
- Part 1 Japanese originating goods (incorporated into the Customs Act) - Sections 153ZNA-153ZNH
 - Part 2 Verification powers (incorporated into the Customs Act) - Sections 126ANA-126AND
 - Part 3 Application provisions
- 2.2.3. Customs Tariff Amendment (Japan- Australia Economic Partnership Agreement Implementation) Act 2014
- 2.2.4. Customs (Japanese Rules of Origin) Regulation 2014
- Including Schedule 1 – Product-specific rules of origin
- 2.2.5. Customs Amendment (Japanese Rules of Origin) Regulation 2014
- Regulation 126DAA – refund circumstance

3. Definitions

- 3.1.1. This part sets out the important definitions (sourced from Chapter 3 of JAEPA and section 153ZNB of the Customs Act) for determining whether goods are Japanese originating goods.

3.2. The Agreement

- 3.2.1. **Authorised body** means a competent governmental authority or other entity that is responsible for the issuing of a Certificate of Origin.
- 3.2.2. **generally accepted accounting principles** means the recognised consensus or substantial authoritative support within a Party at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures.
- 3.2.3. **importer** means a person who imports a good into the importing Party.
- 3.2.4. **material** means a good that is used in the production of another good.
- 3.2.5. **originating material** means material that qualifies as originating in accordance with the provisions of this Chapter.
- 3.2.6. **production** means a method of obtaining goods including manufacturing, assembling, processing, raising, growing, breeding, mining, extracting, harvesting, fishing, trapping, gathering, collecting, hunting and capturing.

3.3. The Customs Act 1901 (the Customs Act)

- 3.3.1. **Agreement** means the Japan-Australia Economic Partnership Agreement, done at Canberra on 8 July 2014, as amended from time to time.

Note: In 2015, the text of the Agreement was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

- 3.3.2. **area of Japan** means Area within the meaning, so far as it relates to Japan, of Article 1.2 of the Agreement.
- 3.3.3. **Australian originating goods** means goods that are Australian originating goods under a law of Japan that implements the Agreement.
- 3.3.4. **Certificate of Origin** means a certificate that is in force and that complies with the requirements of Article 3.15 of the Agreement.
- 3.3.5. **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.

Note: The text of the Convention is set out in Australian Treaty Series 1988 No. 30 [1988] ATS 30. In 2015, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

- 3.3.6. **customs value** of goods has the meaning given by section 159 of the Customs Act.
- 3.3.7. **enterprise has the** meaning given by Article 1.2 of the Agreement.
- 3.3.8. **factory ships of Japan** means factory ships of the Party within the meaning, so far as it relates to Japan, of Article 3.1 of the Agreement.
- 3.3.9. **Harmonized System (HS)** means the Harmonized Commodity Description and Coding System (as in force from time to time) that is established by or under the Convention.
- 3.3.10. **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 or operation of equipment or buildings associated with the production of goods;
- including:
- c) fuel (within its ordinary meaning);
 - 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.
- 3.3.11. **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.
- 3.3.12. **Japanese originating goods** means goods that, under Division 1K of Part VIII of the Customs Act are Japanese originating goods.
- 3.3.13. **non-originating material** means a good or material that does not qualify as originating under Chapter 3 of the Agreement.
- 3.3.14. **originating materials** means:
- a) Japanese originating goods that are used in the production of other goods;
or
 - b) Australian originating goods that are used in the production of other goods;
or
 - c) indirect materials.
- 3.3.15. **origin certification document** means a document that is in force and that complies with the requirements of Article 3.16 of the Agreement.
- 3.3.16. **person of Japan** means:
- a) a natural person of a Party within the meaning, so far as it relates to Japan, of Article 1.2 of the Agreement; or
 - b) an enterprise of Japan.

- 3.3.17. **produce** means manufacture, assemble, process, raise, grow, breed, mine, extract, harvest, fish, trap, gather, collect, hunt or capture.
- 3.3.18. **sea fishing** has the same meaning as it has in the Agreement.
- 3.3.19. **territorial sea** has the same meaning as in the *Seas and Submerged Lands Act 1973*.
- 3.3.20. **vessels of Japan** means vessels of the Party within the meaning, so far as it relates to Japan, of Article 3.1 of the Agreement.

4. Overview of JAEPA

4.1. Geographical area covered by JAEPA

- 4.1.1. The Agreement covers the Areas of Australia and Japan.

For Australia, the Commonwealth of Australia:

- excluding all external territories other than the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory, and
- including Australia's territorial sea, contiguous zone, exclusive economic zone and continental shelf over which Australia exercises sovereign rights or jurisdiction in accordance with international law.

For Japan, the territory of Japan, and all the area beyond its territorial sea, including the sea-bed and subsoil thereof, over which Japan exercises sovereign rights or jurisdiction in accordance with international law and the laws and regulations of Japan.

4.2. Goods covered by JAEPA

- 4.2.1. All goods imported into Australia from Japan are covered by JAEPA.
- 4.2.2. Section 16 of the Customs Tariff Act provides that the rates of customs duty for Japanese originating goods are 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 11.

5. Principles of the JAEPA rules of origin

5.1. Explanation of Japanese originating goods

- 5.1.1. Rules of origin (ROO) are essential for determining whether imported goods are eligible for claiming the preferential rates of duty available under JAEPA. ROO are the rules used in determining whether a good has undergone sufficient work or processing, or substantial transformation in its production, in the area of either or both Australia and Japan. ROO preclude goods made in other countries from obtaining the benefits of the Agreement by merely transiting through Australia or Japan.
- 5.1.2. Japanese originating goods are those that satisfy the requirements of:
- Division 1K of Part VIII of the Customs Act, and
 - the JAEPA Regulations.

- 5.1.3. In summary, the following requirements must be met:
- the goods are Japanese originating
 - the importer claiming preferential treatment satisfies the documentary requirements, where required, and
 - the goods meet the consignment provision.
- 5.1.4. Division 1K of Part VIII of the Customs Act sets out the ROO for the following categories of goods:
- goods that are wholly obtained
 - goods that are produced entirely from originating materials only, and
 - goods produced from non-originating materials only or from non-originating materials and originating materials.
- Goods that fall within the third category must satisfy the applicable product-specific rule (PSR) of origin as listed in Schedule 1 of the JAEPA Regulations, as a result of production performed entirely in the Area of Japan, or the Area of Japan and Australia by one or more producers.
- 5.1.5. A PSR sets out the following criteria that apply either solely or in conjunction to a good:
- change of tariff classification (CTC)
 - regional value content (RVC), or
 - specific manufacturing or processing operation rules.
- 5.1.6. Non-originating goods or materials are those that originate from outside Australia or Japan, or those that are produced in Australia or Japan but fail to meet the ROO due to a high level of offshore input into their production.

5.2. Harmonized System of tariff classification

- 5.2.1. The JAEPA PSRs are based on the tariff classifications under the internationally accepted HS. The HS organises goods according to degree of production and assigns them numbers known as tariff classifications. The HS (2012 version) is arranged into 97 chapters, covering all products in international trade. Chapters are further divided into headings. Headings can also be subdivided into subheadings.

Example: HS

Chapter 62.... Articles of apparel and clothing accessories; not knitted or crocheted.

Heading 6209... Babies garments and clothing accessories.

Subheading 6209.20... Of cotton.

- 5.2.2. As shown above, chapters are identified by a two-digit number. A heading is identified by a four-digit number and subheading by a six-digit number.
- 5.2.3. Subheadings provide more specific descriptions than headings.
- 5.2.4. Under the HS, the chapters, headings, and subheadings for goods are identical in all countries that have adopted the HS.
- 5.2.5. Importers need to determine the HS classification of the imported good and use that classification to find the specific PSR in Schedule 1 of the JAEPA Regulations. If the good meets the PSR and all other relevant requirements (such as the consignment provision), it is an originating good.

5.3. Other concepts in rules of origin

- 5.3.1. This Instruction and Guideline also explains the following ROO concepts which must be taken into consideration when importing a good, as applicable, in determining the origin of a good:
 - Accumulation
 - *De minimis*
 - Packaging materials and containers
 - Accessories, spare parts and tools
 - Non-qualifying operations
 - Consignment, and
 - Fungible goods and materials.

6. Wholly obtained or produced goods

6.1. Statutory provision

- 6.1.1. Section 153ZNC of the Customs Act contains the provisions on goods that are wholly obtained in Japan:

153ZNC Goods wholly obtained in Japan

- (1) Goods are ***Japanese originating goods*** if:
 - (a) they are wholly obtained in Japan; and
 - (b) either:
 - i. the importer of the goods has, at the time the goods are imported, a Certificate of Origin (COO) or an origin certification document, or a copy of one, for the goods;
 - or
 - ii. Australia has waived the requirement for a COO or a origin certification document for the goods.
- (2) Goods are ***wholly obtained in Japan*** if, and only if, the goods are:
 - (a) live animals born and raised in the Area of Japan, other than the sea outside the territorial sea of Japan; or
 - (b) animals obtained from hunting, trapping, fishing, gathering or capturing in the Area of Japan, other than the sea outside the territorial sea of Japan; or
 - (c) goods obtained from live animals in the Area of Japan; or
 - (d) plants, fungi or algae harvested, picked or gathered in the Area of Japan; or

- (e) minerals or other naturally occurring substances, extracted or taken from the Area of Japan, other than the seabed, or subsoil beneath the seabed, outside the territorial sea of Japan; or
- (f) goods of sea-fishing, or other goods, taken by vessels of Japan from the sea outside the territorial sea of Japan and the territorial sea of Australia; or
- (g) goods produced on board factory ships of Japan from goods referred to in paragraph (f); or
- (h) goods taken by Japan, or a person of Japan, from the seabed, or subsoil beneath the seabed, outside the territorial sea of Japan, but only if Japan has rights to exploit that part of the seabed or subsoil in accordance with international law; or
- (i) goods are collected in Japan, that can no longer perform their original purpose, that are not capable of being restored or repaired and that are fit only for disposal or for the recovery of raw materials; or
- (j) waste and scrap that has been derived from production or consumption in Japan and that is fit only for disposal or for the recovery of raw materials; or
- (k) raw materials recovered in Japan from goods that can no longer perform their original purpose and that are not capable of being restored or repaired; or
- (l) goods produced in the Area of Japan exclusively from goods referred to in paragraphs (a) to (k).

6.2. Policy and practice

- 6.2.1. Section 153ZNC provides that goods are Japanese originating goods if they fall into any category of goods outlined in 6.1.1 above. For example:
- coal extracted in Japan, and
 - fish caught in Japanese waters.
- 6.2.2. In order for a good to be considered a Japanese originating good, the importer must have the correct supporting documentation at the time of importation, where preferential treatment is sought, refer to Section 10 of this Instruction and Guideline. For information on record keeping obligations refer to Section 11 of this Instruction and Guideline.
- 6.2.3. Waste and scrap can qualify as “goods wholly obtained” under section 153ZNC of the Customs Act if derived from production or consumption in Japan and that is fit only for disposal or for the recovery of raw materials.

Example: waste and scrap

Steel pipes imported into Japan from China are used in the production of steel frames. In making the frames, the pipe is cut to the required length and the off-cuts of the pipe are fit only for disposal or for the recovery of raw materials.

Since the pipe off-cuts have resulted from a production process in Japan and are fit only for disposal or for the recovery of raw materials, they are considered to be “goods wholly obtained” under 153ZNC(2) (j). Thus, they are Japanese originating goods.

7. Goods produced from originating materials

7.1. Statutory provision

- 7.1.1. Section 153ZND of the Customs Act sets out the ROO that apply to goods produced in Japan from originating materials:

153ZND Goods produced in Japan from originating materials

Goods are ***Japanese originating goods*** if:

- (a) they are produced entirely in Japan from originating materials only; and
- (b) either:
 - i. the importer of the goods has, at the time the goods are imported, a COO, or an origin certification document, or a copy of one, for the goods;
or
 - ii. Australia has waived the requirement for a COO or an origin certification document for the goods.

7.2. Japanese originating materials

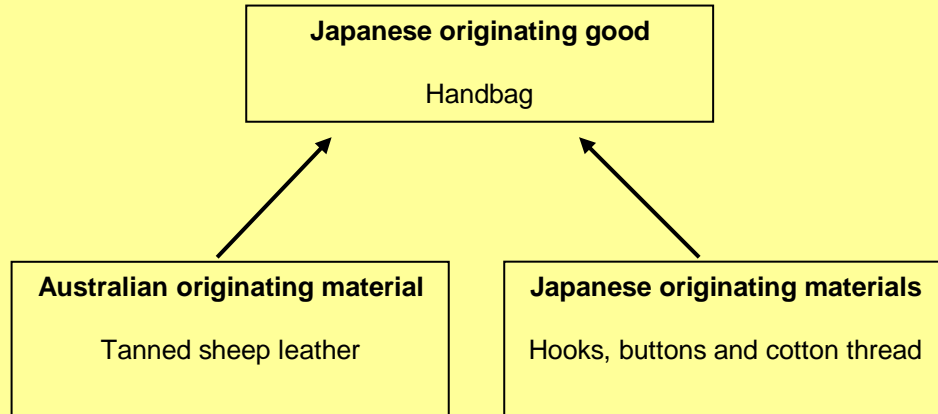
- 7.2.1. Section 153ZND stipulates that goods produced entirely in Japan from originating materials are Japanese originating goods.

7.3. Policy and practice

Accumulation

- 7.3.1. If Australian originating goods are imported into Japan and used as materials in production of a good that incorporates Japanese originating materials, the good produced in Japan is considered Japanese originating in accordance with the definition of “originating materials” above (see 3.3.12).

Example: Goods produced in Japan from Australian and Japanese originating materials



A Japanese producer imports tanned sheep leather from Australia. The leather is an Australian originating material.

The leather is made into handbags using a number of Japanese originating materials (hooks, buttons and cotton thread).

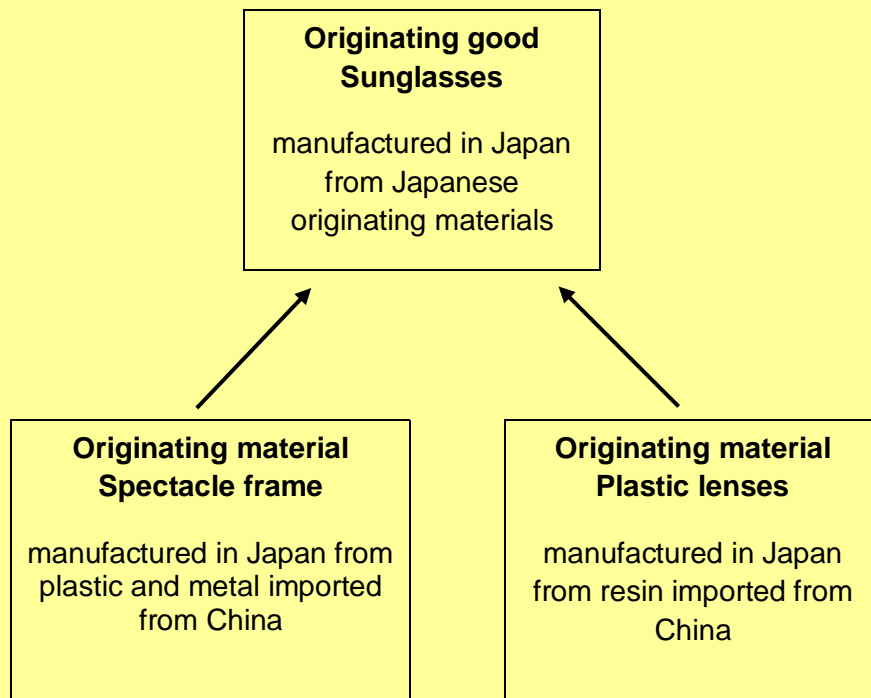
The finished handbag is a Japanese originating good as it is produced from Australian and Japanese originating materials and the good is entirely produced in Japan.

- 7.3.2. At the time the goods are imported, the importer must have the correct supporting documents to prove the origin of the goods. Refer to Section 10 of this Instruction and Guideline for further information.

7.4. Goods produced in Japan using a combination of originating materials

- 7.4.1. Section 153ZND also allows for the production of goods to occur from materials that are originating materials because they have met the requirements of the table in Schedule 1 to the JAEPA Regulations.

Example: Good produced in Japan using a combination of originating materials



In this example, the spectacle frames and the plastic lenses are originating materials as they meet the PSRs specified in the JAEPA Regulations for those goods.

As the materials used in the manufacture of the spectacles are originating materials, the spectacles are Japanese originating goods in accordance with section 153ZND.

7.5. Indirect materials

- 7.5.1. All indirect materials used in the production of Japanese originating goods or materials are treated as originating materials regardless of their origin.
- 7.5.2. Indirect materials are defined in 3.3.10 above.

Example: Indirect materials

Japanese workers use tools and safety equipment, produced in Korea, while operating the equipment that produces the sunglasses. The use of the tools and safety equipment meets the terms of paragraph (iii) of the definition of “indirect materials” and are thereby considered to be originating materials.

8. Goods produced from non-originating materials

8.1. Statutory provisions

- 8.1.1. Section 153ZNE of the Customs Act contains provisions that apply to goods produced in Japan, or in Japan and Australia that incorporate non-originating materials.

153ZNE Goods produced in Japan, or in Japan and Australia, from non-originating materials:

- (1) Goods are ***Japanese originating goods*** if:
- (a) they are classified to a heading or subheading of the Harmonized System specified in column 1 of the table in Schedule 1 to the *Customs (Japanese Rules of Origin) Regulation 2014*; and
 - (b) they are produced entirely in Japan, or entirely in Japan and Australia, from non-originating materials only or from non-originating materials and originating materials; and
 - (c) each requirement that is prescribed by the regulations to apply in relation to the goods is satisfied, and
 - (d) either:
 - i.* the importer of the goods has, at the time the goods are imported, a COO, or an origin certification document, or a copy of one, for the goods;

or

 - ii.* Australia has waived the requirement for a COO or an origin certification document for the goods.

Change in tariff classification

- (2) The regulations may prescribe that each non-originating material used in the production of the goods is required to satisfy a prescribed change in tariff classification.
- (3) The regulations may also 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) the requirement referred to in subsection (2) applies in relation to the goods; and
 - (b) 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 referred to in subsection (2) is taken to be satisfied if the total value of those non-originating materials does not exceed 10% of the customs value of the goods.

- (5) If:
 - (a) the requirement referred to in subsection (2) applies in relation to the goods; 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 referred to in subsection (2) is taken to be satisfied if the total weight of those non-originating materials does not exceed 10% of the total weight of the goods.

Regional value content

(6) The regulations may prescribe that the goods are required to have a regional value content of at least a prescribed percentage.

(7) If:

- (a) the goods are required to have a regional value content of at least a particular percentage; and
- (b) the goods are imported into Australia with accessories, spare parts or tools; and
- (c) the accessories, spare parts or tools are not invoiced separately from the goods; and
- (d) the quantities and value of the accessories, spare parts or tools are customary for the goods;

then the regulations must require the value of the accessories, spare parts or tools are to be taken into account as originating materials or non-originating materials, as the case may be, for the purposes of working out the regional value content of the goods.

Note: The value of the accessories, spare parts or tools is to be worked out in accordance with the regulations.

No limit on regulations

(8) Subsections (2) and (6) do not limit paragraph (1) (c).

8.1.2. In determining whether goods are produced in Japan, or in Japan and Australia, subsections 153ZNB (2), (3), and (4) should also be considered, as stated below:

Regional value content of goods

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

Value of goods

(3) 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

(4) In prescribing tariff classifications for the purposes of this Division, the regulations may refer to the HS.

8.1.3. The JAEPA Regulation prescribes matters for the purposes of section 153ZNE and subsections 153ZNB (2), (3) and (4).

8.2. Policy and practice

8.2.1. Section 153ZNE of the Customs Act sets out the rules for determining whether a good is Japanese originating if it incorporates non-originating materials in its production process in Japan or in both Japan and Australia.

8.2.2. Goods are Japanese originating goods if all the requirements of subsection 153ZNE (1) have been met. The requirements of this subsection are:

- the tariff classification of the goods entered on the customs import declaration corresponds with a heading or subheading in Column 1 of the table in Schedule 1 of the JAEPA Regulations

- production of the final good occurred entirely in Japan or in Japan and Australia, from non-originating materials only or from non-originating materials and originating materials
- each requirement that is prescribed in the JAEPA Regulations that apply in relation to the goods is satisfied, and
- the importer of the goods has the correct supporting documentation in relation to the goods at the time of importation (unless Australia has waived the requirement for a COO or a origin certification document, as stated in subparagraph 153ZNE (1d ii)).

8.2.3. The table in Schedule 1 of the JAEPA Regulations lists the PSRs that specify the origin criteria (i.e. CTC, RVC, or processing requirement) for determining whether the goods have undergone substantial transformation. Column 1 of the table lists the tariff classification of goods at the heading or subheading level based on the HS. Column 2 provides for the product description for the goods corresponding to the classifications in Column 1. Column 3 sets out the PSR relevant to the tariff classifications in Column 1.

Examples to illustrate different PSR's that appear in Schedule 1

Change in tariff classification only rule

A change of tariff classification or CTC rule requires that non-originating material used in the production of a good does not have the same HS classification as the final good (that is the same subheading, heading or chapter, dependant on the rule).

Column 1	Column 2	Column 3
Tariff classification	Description	Product Specific Rule
2103.10	Soya sauce	A change to subheading 2103.10 from any other chapter

Change in tariff classification except from certain classifications

Column 1	Column 2	Column 3
Tariff classification	Description	Product Specific Rule
2208.60	Vodka	A change to subheading 2208.60 from any other heading, except from heading 22.07

Change in tariff classification provided certain requirements have been met

Column 1	Column 2	Column 3
Tariff classification	Description	Product Specific Rule
3808.91	Insecticides	A change to subheading 3808.91 from any other subheading, provided that at least 50 per cent by weight of the active ingredient/s are originating

Change in tariff classification or a regional value content requirement.

Column 1	Column 2	Column 3
Tariff classification	Description	Product Specific Rule
7403	Refined copper	Either: (a) a change to heading 7403 from any other heading; or (b) no change in tariff classification is required provided that there is a regional value content of at least 40%

8.3. Change in tariff classification

- 8.3.1. Subsection 153ZNE(2) of the Customs Act states that the regulations may prescribe that each non-originating material used in the production of the good is required to satisfy a prescribed CTC. This requirement is set out in Part 2 of the JAEPA Regulation.
- 8.3.2. The CTC rule only applies to non-originating materials. This means that non-originating materials must not have the same classification under the HS as the final good into which they are produced. 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 (before the production process). This ensures that non-originating materials incorporated into a good have undergone sufficient transformation within the Parties to support the claim that the good is Japanese originating.
- 8.3.3. Subsections 153ZNE (2) and (3) directly address the CTC rule.

Example: CTC rule

Wrist watches of heading 9101 are made in Japan from Japanese watch moving parts of heading 9108 and imported leather watch straps of heading 9113.

The PSR for a good of heading 9101 is:

A change to heading 9101 from any other heading or no change in tariff classification is required provide there is a regional value content of at least 40%.

Where the importer seeks to meet the CTC rule all non-originating materials used in the manufacture of the wrist watch must come from classifications other than heading 9101. As the, non-originating material, the leather straps, comes from heading 9113, a different heading then the final good, the wrist watch meets the CTC rule. Therefore the wrist watches are Japanese originating goods.

De minimis

- 8.3.4. The CTC rule under subsection 153ZNE(2) is also taken to be satisfied if the good meets the requirements of subsections 153ZNE(4) or (5), the *de minimis* provisions.
- 8.3.5. The CTC rule requires that all non-originating materials undergo the prescribed change in tariff classification. Where a good has not met the CTC rule or undergone the specific manufacturing or processing operation, but a very low percentage of non-originating materials was used in its production, the *de minimis* provision may be applied to the good for it to be considered a Japanese originating good.
- 8.3.6. Under subsection 153ZNE(4), the *de minimis* provision allows a good to qualify as Japanese originating provided the total value of all non-originating materials used in the production of the good does not exceed 10% of the customs value of the good.
- 8.3.7. However, for a good classified in chapters 50 through 63 of the HS, subsection 153ZNE(5) provides that the good shall be considered to be originating if the total weight of all non-originating material used in the production of the good that does not undergo the applicable change in tariff classification does not exceed 10% of the total weight of the good.
- 8.3.8. Article 3.4 of the Agreement, states that for a good classified in chapters 1 through 24 of the HS, the *de minimis* provision will not apply for non-originating materials of the same subheading as the good for which origin is being determined.

Example: *De minimis* provision by value

A good uses two non-originating materials, A and B. As a result of its transformation into the finished good, A meets the required HS classification change (or CTC rule), but B does not.

Because B does not make the required change, the finished good will not qualify unless the value of B is no more than 10% of the customs value of the good.

The good is valued at \$100 and the value of material B is \$5. The value of B is 5% of the customs value of the good, therefore the good is considered Japanese originating.

Example: *De minimis* provision by weight

A good classified within chapters 50 to 63 incorporates three materials that are non-originating.

As a result of their transformation into the finished good, materials A and B meet the HS classification changes (or CTC rule), but C does not.

Because C does not meet the required change, the finished good will not qualify as originating unless the weight of material C is no more than 10% of the total weight of the good.

The finished good weighs 50 grams and the weight of material C is 2 grams. The weight of C is 4% of the total weight of the good, therefore the finished good is considered to be Japanese originating

8.4. Regional value content

- 8.4.1. Section 153ZNB(2) of the Customs Act states that the regional value content of goods for the purposes of this Division is to be worked out in accordance with the regulations. The regulations may prescribe a different regional value content value for different kinds of goods.
- 8.4.2. Part 3 of the JAEPA Regulations sets out the rules for calculation of RVC, as follows:

$$\text{RVC} = \frac{\text{Value} - \text{Value of non-originating material}}{\text{Value}} \times 100$$

where:

value means the customs value of the good worked out under Division 2 of Part VIII of the Act.

value of non-originating material means the value, worked out under Part 4, of non-originating materials, including materials of undetermined origin, that are acquired and used by the producer in the production of the goods.

Example: RVC calculation

A Japanese producer sells a good to an Australian importer at a customs value of \$200. The value of non-originating materials (VNM) used in the good is \$60. Using the RVC formula, the importer calculates the RVC as follows:

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

$$\text{RVC} = \frac{200 - 60}{200} \times 100$$

The RVC of the good is 70%

8.5. Alternative or additional rules

- 8.5.1. For some goods, the PSRs in Schedule 1 of the JAEPA Regulations may specify:
- a RVC requirement as additional to the CTC rule; or
 - a RVC requirement as an alternative to a CTC rule.

- 8.5.2. In cases where a RVC requirement is specified as additional to a CTC rule, a good must satisfy both the CTC and the specified RVC requirement to qualify as a Japanese originating good.
- 8.5.3. In cases where the PSR provides an option to determine origin, all the requirements of the option chosen (either the CTC or the RVC) must be met for the good to qualify as a Japanese originating good.

9. Other originating goods and provisions

9.1. Packaging materials and containers

- 9.1.1. Section 153ZNF 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 the goods.
- 9.1.2. Subsection 153ZNF(1) states:
- 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 determining the origin of the goods.

Regional value content

However, subsection 153ZNF(2) states that if the goods are required to have a regional value content of at least a particular percentage, the regulations must require 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 regional value content of the goods.

Example: Packaging materials and containers

Dolls of heading 9503 are made in Japan. The dolls are wrapped in tissue paper and packed in cardboard boxes inscribed with the brand logo for retail sale. Both the tissue paper and the cardboard box are of Indonesian origin.

The PSR for chapter 95 is:

Either:

- a) a change to chapter 95 from any other heading; or
- b) no change in tariff classification is required provided that there is a regional value content of at least 40%.

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

9.2. Accessories, spare parts and tools

- 9.2.1. Part 4 of the JAEPA Regulations sets out the treatment that applies to accessories, spare parts or tools for a good imported into Australia.
- 9.2.2. Where the good is imported into Australia together with accessories, spare parts or tools, those accessories, spare parts or tools shall be disregarded if the imported good is subject to a CTC requirement.
- 9.2.3. Where the good must satisfy a RVC requirement to be considered a Japanese originating good, the value of the accessories, spare parts or tools must be taken into account as originating materials or non-originating materials, as the case may be, for the purposes of working out the RVC.
- 9.2.4. Subsection 153ZNE(7) states:
- If:
- (a) the goods are required to have a regional value content of at least a particular percentage; and
 - (b) the goods are imported into Australia with accessories, spare parts or tools; and
 - (c) the accessories, spare parts or tools are not invoiced separately from the goods; and
 - (d) the quantities and value of the accessories, spare parts or tools are customary for the goods;
- then the regulations must require the value of the accessories, spare parts or tools to be taken into account as originating materials or non-originating materials, as the case may be, for the purposes of working out the regional value content of the goods.
- Note: The value of the accessories, spare parts, tools or instructional or other information resources is to be worked out in accordance with the regulations: see subsection 153ZNB(3).
- 9.2.5. Regulation 8 of the JAEPA Regulations states:
- For subsection 153ZNE(7) of the Act, if a good is imported into Australia with accessories, spare parts or tools in the circumstances mentioned in that subsection, are required to have a regional value content of at least the percentage mentioned in Schedule 1 to this instrument:
- (c) In working out the regional value content of the goods:
 - (i) the value of accessories, spare parts or tools that are imported with the goods and are Japanese originating goods must be taken into account in the value of originating materials used in the production of the goods; and
 - (ii) the value of accessories, spare parts or tools that are imported with the goods and are not Japanese originating goods must be taken into account in the value of non-originating materials used in the production of the goods; and
 - (d) The value of the accessories, spare parts, tools or instructions or other information materials must be worked out under section 9 of the JAEPA Regulations as if the accessories, spare parts or tools were materials used in the production of the goods.
- 9.2.6. If the above requirements have been met, then the spare parts, accessories, or tools do not have to meet the CTC rule that the originating goods must undergo. This is provided to the accessories, spare parts or tools are not invoiced separately from the good and are included in the price identified in

the invoice itself. Further, the quantities and value of the accessories, spare parts or tools are customary for the good.

- 9.2.7. However, please note that where a good is required to satisfy the RVC requirement, then the value of spare parts, accessories, tools or instructional or other information materials must be taken into account as originating or non-originating materials, as the case may be, in working out the RVC for the good.

9.3. Fungible goods and materials

- 9.3.1. Fungible goods or materials are goods or materials that are interchangeable as a result of being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes by virtue of any markings or mere visual examination
- 9.3.2. The treatment of fungible goods and materials is covered by Article 3.10 of Chapter 3 of the Agreement, which states:

Article 3.10 Fungible Goods and Materials

1. For the purposes of determining whether a good qualifies as an originating good of a Party, where fungible materials consisting of originating materials of the Party and non-originating materials that are commingled in an inventory are used in the production of the good, the origin of the materials may be determined pursuant to an inventory management method recognised in the Generally Accepted Accounting Principles in the Party.
 2. Where fungible goods consisting of originating goods of a Party and non-originating goods are commingled in an inventory and, prior to exportation do not undergo any production process or any operation in the Party where they were commingled other than unloading, reloading or any other operation to preserve them in good condition, the origin of the good may be determined pursuant to an inventory management method recognised in the Generally Accepted Accounting Principles in the Party.
- 9.3.3. Many materials involved in production processes are interchangeable for commercial purposes, in that they are of the same kind and commercial quality (e.g. ball bearings, nuts, bolts, screws). These materials are considered to be fungible materials.
- 9.3.4. A producer may choose to physically separate fungible materials that are obtained from different countries. However, in many cases this may not be practical and the producer stores all the fungible materials in one container.
- 9.3.5. When a producer mixes originating and non-originating fungible materials, which means physical identification of the actual materials used is not possible, 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.
- 9.3.6. It is important to note that once a party has decided on an inventory management method for a particular fungible good or material, that method must continue to be used throughout the whole of the financial year.

Example: Fungible goods and materials

Amongst the materials used by a Japanese producer of machinery parts are ball bearings. Depending on pricing and supply availability, the producer may source the ball bearings from Japan or from Vietnam. All of the ball bearings are of identical size and construction.

On 1 January, the producer buys 1 tonne of ball bearings of Japanese origin, and on 3 January buys 1 tonne of ball bearings of Vietnamese origin.

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 of Japanese origin indistinguishable from those sourced from Vietnam.

An Australian company places an order with the Japanese producer for machinery parts, which require the use of 800 kg of the ball bearings.

If the producer elects "first-in first-out" inventory procedures, the 800 kg of ball bearings used to fill the Australian order are considered to be Japanese originating, regardless of their actual origin.

Example: Fungible goods and materials

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

The producer again uses the "first-in first-out" inventory procedure.

The first 200 kg of ball bearings used are considered to be Japanese originating materials (this is the remained of the 1 tonne sourced from Japan). The remaining ball bearings used to fulfil the order (300kg) are considered to be non-originating materials and these ball bearings must undergo the CTC requirement specified in the PSR for the final good.

- 9.3.7. Alternatively, if the fungible materials used in a production process are non-originating for the purposes of JAEPA, those fungible materials must meet the PSR that is applicable to the final good being produced.

9.4. Non-qualifying operations

- 9.4.1. Section 153ZNG of the Customs Act sets out the non-qualifying operations that disallow goods to claim Japanese origin merely by reason of having undergone one or more of the following operations or processes:

153ZNG Non-qualifying operations

Goods are not Japanese originating goods under this Subdivision merely by one of the following operations or processes:

- (a) operations to preserve goods in good condition for the purpose of transport or storage of the goods (such as drying, freezing and keeping goods in brine);
- (b) changing of packaging or the breaking up or assembly of packages;
- (c) disassembly of goods;
- (d) placing in bottles, cases or boxes or other simple packaging operations;
- (e) collecting of parts or components for unassembled goods (where unassembled goods would be classified to a heading of the Harmonized System in accordance with Rule 2(a) of the Interpretation Rules);
- (f) making up of sets of goods;
- (g) the reclassification of goods without any physical change in the goods;
- (h) any combination of things referred to in paragraphs (a) to (g).

9.5. Consignment

9.5.1. Section 153ZNH of the Customs Act sets out the consignment provisions that apply to Japanese originating goods imported into Australia, and states:

153ZNH Consignment

- (1) Goods are not Japanese originating goods under this Division if the goods are transported through a country other than Japan or Australia and either or both of the following apply:
 - (a) the goods undergo subsequent production or any other operation in that country (other than repacking, relabelling, splitting up of the goods, unloading, reloading, storing or any operation that is necessary to preserve the goods in good condition or to transport the goods to Australia; or
 - (b) the goods do not remain under customs control at all times while the goods are in that country.
- (2) This section applies despite any other provision of this Division.

- 9.5.2. The consignment provision is a direct shipment provision with exceptions to better accommodate the realities of modern goods transport practices. The provision aims to ensure that only goods that originate within the Parties are entitled to the benefits granted under JAEPA.
- 9.5.3. A good will lose its status as a Japanese originating good if it undergoes any process of production or other operation en route Japan to Australia, other than the exceptions listed in paragraph 153ZNH(1)(a).

Example: Consignment

Surgical instruments, cotton gowns and bandages, made in Japan from Japanese originating materials, are sent to Singapore where they are packaged together in a set and then sterilized for use in operating rooms. They are then sent to Australia.

Upon their arrival in Australia, the medical sets are not eligible for preferential treatment because they underwent operations in Singapore that are not covered by the exceptions in section 153ZNH.

Example: Consignment

Boats manufactured in Japan are sent by ship to Australia. Before departure, they are coated with a protective veneer to inhibit damage to painted surfaces during transit on the vessel.

Due to severe weather conditions encountered during the voyage, the ship is required to stop in Singapore 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.

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

10. Certificate of Origin and origin certification document

10.1. Certificate of Origin (COO) or origin certification document

- 10.1.1. To claim Japanese originating goods under the Agreement, the provisions in Division 1K of Part VIII of the Customs Act also require that the importer must have a COO, or an origin certification document or a copy of one, in relation to the goods at the time the goods are imported.
- 10.1.2. Upon entry into force of JAEPA, a COO or origin certification document is required to support a claim for JAEPA preferential tariff treatment. A COO must be completed by an authorised body or other certification body. An origin certification document may be completed by an importer, exporter or producer.
- 10.1.3. Under Article 3.18 of JAEPA, Australia will not require the presentation of any documentary evidence of origin where the customs value of goods does not exceed AUD\$1,000.
- 10.1.4. The COO must comply with the requirements of Article 3.15 and Annex 3 Data elements for COO. The origin certification document must comply with

the requirements of Article 3.16 and Annex 3 Data elements for origin certification document.

- 10.1.5. Where duty has been paid on Japanese originating goods because a valid COO or origin certification document or copy of one was not available at the time the goods were imported, the importer may claim a refund of customs duty paid on those goods. In order to claim a refund the importer must have a valid COO or origin certification document or copy of one at the time the refund is sought under regulation 126DAA of Customs Regulations 1926.

10.2. Procedures

- 10.2.1. ACBPS may seek further evidence of preference entitlement for a specific reason or a simple intuitive selection, irrespective of the existence of a COO or origin certification document.
- 10.2.2. Where an import declaration states that a preference rate of duty applies, 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 Japanese preference rates of duty are set out in Division 1K of Part VIII of the Customs Act.
- 10.2.3. Each shipment must be accompanied by a COO or origin certification document, or a copy of one. An importer may be required to produce this either at the time of entering the goods or at some later date.
- 10.2.4. If ACBPS finds preference is inapplicable or there is insufficient evidence to justify a claim for preferential rates of duty, the general rate of duty is payable and the importer will be liable for payment of any customs duty 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 and an administrative penalty under the *Taxation Administration Act 1953* (Taxation Administration Act) may also apply where there is a shortfall amount of GST. It should be noted that an infringement notice may be served in lieu of prosecution for an offence against subsections 243T(1) or 243U(1) of the Customs Act.
- 10.2.5. If, after the import declaration was made, the importer becomes aware the goods were ineligible for preferential rates of duty, the importer must, as soon as practicable, amend the import declaration and pay ACBPS any short-fall amount of customs duty or GST. 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. Furthermore, this action may result in the reduction or remission of an administrative penalty that may apply under the Taxation Administration Act.

10.3. Certificate of Origin data elements

- 10.3.1. The data elements for a JAEPA Certificate of Origin are:
- Exporter or producer details
 - Certification number
 - Description of good(s)
 - HS code (six digits)
 - Preference criterion
 - Other (e.g. application of *de minimis* or accumulation provisions)
 - Declaration (by the exporter, or producer or their authorised representative stating that the good is an originating good for the purposes of JAEPA), and

- Certification (by the authorised body or other certification bodies of the exporting Party that, based on the evidence provided, the goods specified in the COO meet all the relevant requirements of Chapter 3 (ROO)).

10.4. Origin certification document data elements

10.4.1. The data elements for a JAEPA origin certification document are:

- Exporter or producer details
- Description of good(s)
- HS code (six digits)
- Preference criterion
- Other (e.g. application of *de minimis* or accumulation provisions), and
- Certification (by the importer, exporter or producer, that, based on the evidence and records maintained, the goods specified in the origin certification documents meet all the relevant requirements of Chapter 3 (ROO) and are originating goods for the purposes of JAEPA). Name and address of the importer, exporter or producer who completed the origin certification document.

10.5. Validity

10.5.1. Under Article 3.15 of the Agreement, a COO shall remain valid for one year from the date on which it was issued.

10.5.2. Under Article 3.16 of the Agreement, a origin certification document shall remain valid for one year from the date on which it was completed.

10.5.3. A COO or origin certification document is not required for imports when:

- the total customs value of the originating goods does not exceed AUD\$1,000,
provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the requirements of the Agreement.

Note: For custom clearance purposes the importer will still be required to complete either:

- a self-assessed clearance declaration when the customs value does not exceed \$1,000 and a COO or origin certification document is not required; or
- an import declaration if the customs value exceeds \$1,000.

11. Record keeping obligations

11.1. Importers

11.1.1. Australian importers must maintain, for five years after the date of importation of the goods, documentation, including the COO or origin certification document or copy therefore, relating to the importation of the goods.

11.2. Exporters and producers

11.2.1. Australian exporters or producers who apply for a COO or who complete and sign an origin certification document, shall maintain, for five years from the

date of issue, all records necessary to demonstrate that the goods for which the producer or exporter provided the COO or origin certification document, was an Australian originating good.

12. Origin advice rulings

12.1. Provision of origin advice rulings

12.1.1. JAEPA allows for Australian importers and Japanese exporters and producers to obtain advance rulings (see Article 4.5 of the Customs Procedures chapter) from ACBPS regarding future importations into Australia under the Agreement.

12.2. Policy and practice

12.2.1. Upon application, ACBPS will provide written advice on origin matters through the provision of an origin advice (OA). An OA advises on specific issues relating to the origin of a good for the purposes of determining eligibility for preferential duty rates when imported into Australia.

12.2.2. Assessments of the origin of a good, to the extent that it is administratively feasible, will be no later than 30 days after a request for such advice, provided that all necessary documentation has been submitted.

12.2.3. Requests for a ruling will be accepted before trade in the good concerned begins.

12.3. Adequate applications

12.3.1. A ruling will only be given where:

- evidence is present of a commitment or firm intent to import or export
- the application contains adequate and correct information, and
- supporting evidence of the facts of the application is provided with the application.

12.3.2. Inadequate applications will be rejected.

12.4. How to lodge an application

General

12.4.1. Applications (with supporting documentation) should be forwarded to:

National Trade Advice Centre
Trade Services and Implementation Branch
Australian Customs and Border Protection Service
GPO Box 2809 MELBOURNE VIC 3001

or

origin@customs.gov.au

12.4.2. ACBPS will register each application with a unique origin advice number and the applicant will be advised of this number.

Applications with more than one origin issue

12.4.3. Each application must contain a single origin issue. Where there is more than one issue, a separate application must be lodged for each.

Supporting information and documentation

- 12.4.4. It is unrealistic to expect a correct and binding origin advice ruling if inadequate or incomplete information is provided to the ACBPS. It is suggested all information relevant to the request should be supplied with the application.
- 12.4.5. Section 12.5 below sets out the supporting documentation to be submitted with an application for a Japanese origin ruling. The list is not exhaustive, if there are any other relevant documents and information, these should also be supplied with the application.

Advice conditional on data provided

- 12.4.6. An ACBPS decision will be made only on the basis of the statements and supporting documentation provided. As such, the validity of the advice is conditional upon correct and complete information being provided.
- 12.4.7. In the course of processing an application, ACBPS may request, at any time, additional information necessary to evaluate the application.

Penalty action – false or misleading statements

- 12.4.8. From the time of submitting an application until the ACBPS decision is provided, the applicant is not subject to penalty provisions under subsection 243T(1) in respect of any duty short paid on any import declaration.
- 12.4.9. If an applicant is uncertain about a claim of preference made on any import declaration, and considers that including that information may be false or misleading, then that person should lodge that declaration “amberline”.
- 12.4.10. Subsection 243T(1) may not apply where, in lodging the declaration “amberline”, a person specifies the information included in the import declaration that might be false or misleading in a particular. Further, that person must also set out the reasons why there is uncertainty about the information.
- 12.4.11. Whilst quoting an origin advice number on an import declaration is optional, if there is any doubt about a claim for preference a person should follow the above guidelines.

Withdrawal of application

- 12.4.12. An owner may withdraw an application by advising ACBPS at any time between registration of the application and the decision by ACBPS on the application. Withdrawal of the application has the effect of cancelling the application.

Payment of duty following ruling

- 12.4.13. When ACBPS has notified the applicant of the ruling and the reasons for that decision, any duty or GST short paid on import declarations becomes payable.

Validity of advice

- 12.4.14. Rulings are valid for all ports in Australia for five years from the date of notification of the advice. After that time the ruling will be cancelled. If a ruling is still required a new application must be made.
- 12.4.15. ACBPS may cancel or amend a ruling within its five year life, where particular circumstances warrant. Such circumstances include, but are not limited to situations in which:
- an amendment is made to the legislation which has relevance to the advice
 - incorrect information was provided to ACBPS or relevant information was withheld
 - ACBPS’s decision is changed as a result of legal precedent

- the facts and conditions of the origin application have changed, or
- ACBPS has issued conflicting advices.

Cancelled or amended advice

12.4.16. Where ACBPS cancels or amends a ruling, in-transit provisions will be applied at the discretion of ACBPS.

In-transit provisions

12.4.17. Where in-transit provisions apply, the cancelled or amended ruling continues to apply in relation to goods that:

- were imported into Australia on or before the date on which the cancellation or amendment came into effect and were entered for home consumption before, on, or within 30 days after that date, or
- had left the place of export on or after that date and were entered for home consumption before, on, or within 30 days after the date on which they were imported into Australia.

ACBPS to honour advice

12.4.18. A ruling is not legally binding on ACBPS. However, ACBPS will honour a ruling unless it was provided on the basis of false or misleading information or where the applicant failed to provide all the relevant information and documentation that was available.

Conflicting rulings

12.4.19. Should an applicant hold or be aware of any conflicting rulings from ACBPS on an origin issue, they are to be treated as being void and ACBPS is to be notified immediately.

Appeals against ACBPS rulings

12.4.20. Where an ACBPS decision is disputed, it should first be discussed with the decision maker. If the advice is still disputed, a further appeal to the Director National Services, Trade Branch, Melbourne may be requested.

12.4.21. This appeal mechanism does not preclude the right to external review – for example, to the Administrative Appeals Tribunal (AAT), after there has been a payment under protest. It should be noted that a ruling in itself is not a decision which is reviewable by the AAT or the Federal Court.

12.5. Origin advice rulings – information requirements

Application

12.5.1. An origin advice ruling will be issued to importers, exporters or any other person who requires a ruling on goods imported into Australia under JAEPA.

Subject matter of rulings

12.5.2. Rulings may be sought on various JAEPA origin issues including, but not limited to:

- whether a good qualifies as an originating good being wholly obtained or produced in Japan
- whether a good qualifies as an originating good produced entirely in Japan or in Japan and Australia
- whether non-originating materials used in the production of a good imported into Australia undergo the applicable CTC
- whether a good satisfies a RVC requirement
- the appropriate basis for determining the value of originating and non-originating materials, and

- the application of *de minimis* provisions.

Content of application

12.5.3. The following relevant information should be included in the application:

- the specific subject matter to which the request relates
- a complete statement of all relevant facts relating to the transaction which must state that the information presented is accurate and complete
- the names, addresses and other identifying information of all interested parties, and
- copies of any other origin advice, tariff classification advice or valuation advice that has been issued in relation to the imported good.

12.6. Special application provisions

12.6.1. Where a good has been wholly obtained or produced entirely in Japan a complete description of the good should be supplied, including:

- a description of how the good was obtained
- details of all processing operations employed in the production of the good
- the location where each operation was undertaken
- the sequence in which the operations occurred
- a list of all materials used in the production of the good, and
- evidence of the origin of materials used in the production of the good.

12.6.2. Where the origin advice relates to a CTC being met, the advice must list each material used in the production of the good and must:

- identify each material which is claimed to be an originating material, providing a complete description of each such material including the basis for claiming origin status
- identify each material which is a non-originating material, or for which the origin is unknown, providing a complete description of each such material, including its tariff classification, and
- describe all processing operations employed in the production of the good, the location of each operation and the sequence in which the operations occur.

12.6.3. Where the origin advice relates to an RVC requirement, the advice must:

- provide information sufficient to determine the customs value of the goods in accordance with Division 2 of Part VIII of the Customs Act
- provide information which is sufficient to identify and calculate the value of each non-originating material, or material the origin of which is unknown, used in production of the good.

12.6.4. If a *de minimis* exception is claimed, the advice must:

- provide information sufficient to determine the customs value of the goods in accordance with Division 2 of Part VIII of the Customs Act
- identify each material which is claimed to be an originating material and provide a complete description of each such material
- identify each material which is a non-originating material, or for which the origin is unknown, and provide a complete description of each such material, including its tariff classification and value.

12.6.5. Where no tariff ruling has been made by ACBPS in relation to the goods, sufficient information must be supplied to enable tariff classification of the goods. Such information includes a full description of the good, including, where relevant, the composition of the good, a description of the process by which the good is manufactured, a description of the packaging in which the good is contained, the anticipated use of the good and its commercial, common or technical designation. Where product literature, drawings, photographs or other material are available they should accompany the application.

13. Related policies and references

13.1. Practice Statements:

- B_INT02 Free Trade Agreement Rules of Origin

13.2. Other Instructions and Guidelines

- B_INT02/3 Australia-New Zealand Closer Economic Relations Trade Agreement
- B_INT02/5 Australia-United States Free Trade Agreement
- B_INT02/6 Preferential Rules of Origin (General)
- B_INT02/2 Singapore-Australia Free Trade Agreement
- B_INT02/8 Thailand-Australia Free Trade Agreement
- ASEAN-Australia-New Zealand Free Trade Agreement
- B_INT02/1 Malaysia-Australia Free Trade Agreement
- B_INT02/4 Korea- Australia Free Trade Agreement

13.3. Associated documents

This Instruction and Guideline has no 'related associated documents'.

13.4. Related references

- *Customs Tariff Act 1995*
- *Customs Act 1901*
- Customs Regulations 1926
- Customs (Japanese Rules of Origin) Regulation 2014

14. Consultation

14.1. Internal

14.1.1. The following internal stakeholders have been consulted in the development of this Instruction and Guideline.

- Integrity, Security and Assurance Division
- Legal Services Division

14.2. External

14.2.1. No external consultation was undertaken during development of this Instruction and Guideline.

15. Endorsement

Endorsed on	9 Jan 2015	
By	Anita Langford A/g Assistant Secretary Trade	

16. Approval

Approved on	9 Jan 2015		
By	Jeff Buckpitt First Assistant Secretary Trade, Customs and Industry Policy		
Period of effect	Jan 2015- 2017	Review date	Jan 2016