



3

Trade in Goods

Chapter

Chapter 3 Trade in Goods

Section 1 Reduction or Elimination of Customs

Duties

Market access with regards to trade in goods is one of the core elements of the RCEP. The Agreement stipulates the preference margins that each Party would receive, creates benefits and market opportunities in terms of the import and export of trade goods. The trade in goods chapter laid out in the RCEP agreement not only includes general provisions such as national treatment, tariff concessions, acceleration of tariff commitments, and tariff differentials but also detailed provisions such as tariff concession treatments for various types of goods, and so on. The RCEP Parties are committed to reducing tariffs, eliminating trade barriers, and ensuring equitable treatment through the application of national treatment to broaden, expand, and deepen trade between participating countries.

I. Core Regulations

(A) National Treatment

The RCEP incorporates the relevant provisions of the World Trade Organization's General Agreement on Tariffs and Trade (GATT 1994), which stipulates each Party shall accord national treatment to the goods of the other RCEP Parties. National treatment of goods signifies that goods imported from other RCEP Parties receive equal treatment as domestic goods. The details are as follows.

(1) All Parties shall enjoy the same domestic taxes or other charges. All Parties cannot in any way, directly or indirectly, impose

domestic taxes or other charges on imports from other RCEP Parties that are higher than those imposed on the same products in their own countries.

(2) Imported products shall be subject to the same treatment as similar domestic products with respect to regulations governing the sales, purchase, transportation, distribution or use, etc.

(B) Tax Concessions

According to the Schedule of Tariff Commitments, the Agreement aims to eventually eliminate tariffs on over 90 percent of goods traded among participating Parties. The RCEP section on Trade in Goods provides that if the most-favored-nation (MFN) rate of customs duty applied by a Party to goods originating from other RCEP Parties is lower than the rate provided for in that Party's Schedules of Tariff Commitments, the MFN rate of customs duty may be applied in importation and exportation activities. However, if an importer did not make a claim for the lower rate at the time of importation originating goods of other Parties, an application for a refund of any excess duty paid for a good may be submitted.

(C) Accelerated Tariff Commitments

Two or more Parties, may based on mutual consent, consult on the acceleration or improvement of tariff commitments set out in their respective Schedules of Tariff Commitments, and any such acceleration or improvement of tariff commitments shall be extended to all Parties. A Party may, after unilaterally accelerating or improving a tariff commitment, still increase the level of tariffs, but not beyond the preferential tariffs in the tariff commitment schedule for the corresponding year.

(D) Tariff Differentials

RCEP adopts a two-way negotiation approach to determine the final tariff concession arrangement, which involves multiple

schedules of concessions. Therefore, tariff differentials⁴ are common. 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 Schedules of Tariff Commitments, provided that the exporting Party is the RCEP country of origin. The establishment of the originating good's country of origin will affect the applicable preferential tariff rate of the good. RCEP allows for enterprises of RCEP Parties to choose to transfer the goods of a Party with higher tariffs to the territory of other RCEP Parties with lower tariffs for processing, in order to avoid high tariffs and maximize trade benefits.

Certain RCEP Parties have set out a list of sensitive goods excluded from their Schedule of Tariff Commitments. The RCEP country of origin shall be the exporting Party for the purpose of applying preferential tariffs in accordance to the importing Party's Schedule of Tariff Commitments if the listed goods meet the additional requirements specified in the Appendix on paragraph 3 of Article 2.6 (Tariff Differentials). China, Japan, Korea, Indonesia, the Philippines, Thailand, and Vietnam have set out sensitive goods and corresponding tariff lines in the Appendix, which stipulate that "an exporting Party of an originating good is the Party where no less than 20%⁵ of the total value of the originating good has been added in the production of that originating good" during the period when the originating good is subject to tariff differentials, The specific number of tariff lines is shown in Table 3.1.1.

⁴"Tariff differentials" refers to different tariff treatment that an importing Party applies for the same originating good.

⁵In calculating the total value of originating goods in accordance with the Appendix to its Schedule in Annex I (Schedules of Tariff Commitments) specified in paragraph 3, Article 2.6 (Tariff Differentials), notwithstanding the provisions of paragraph 1, Article 3.4 (Cumulation), goods or materials produced by other RCEP Parties shall be considered as non-originating goods or materials, regardless of whether they qualify as originating.

Table 3.1.1 List of Sensitive Products Under Tariff Differentials

	China	Japan	Rep. of Korea	Indonesia	Philippines	Thailand	Viet Nam
Number of items	83	100	99	99	41	98	100

II. RCEP Preferential Tariff Treatment in Goods and Trade

(A) Tariff Preference Margin

The MFN tariff rate is the tariff rate imposed by one member country of the World Trade Organization on imports originating from other member countries. The preferential tariff rates agreed in the RCEP are the tariffs levied by one Party to a free trade agreement on imports originating from the other Party. The agreed preferential tariff rates are usually lower than MFN tariff rates. For every product, the greater the difference between the two tariff rate levels described above, the greater the tariff concessions will be, and as a result, more exporters of goods stand to reap greater benefits from the Agreement.

(B) Overall Preference Margin as Stipulated in the Agreement

More types and quantities of goods set out in the Schedule of Tariff Commitments of RCEP Parties will signify a higher level of tariff preferences based on the Agreement. There are usually two ways to measure the coverage rate of tariff preferences in free trade agreements. The first method is based on the proportion of dutiable imports eligible for tariff concessions to the total number of tariff lines of a Party. The second method is to take the trade value of goods imported under the agreement with a tariff of zero as a percentage of the total bilateral trade value. The higher the numbers are, the higher the overall preferential level of a free trade agreement.

For example, after RCEP comes into force, the coverage rate of preferential tariffs in China's bilateral trade with other RCEP Parties is estimated to be at 90%. The proportion of China's trade

goods by trade amount that will eventually be subject to zero tariffs after the RCEP comes into force is shown in Table 3.1.2.

Table 3.1.2 Proportion of Trade Goods That Will Eventually Achieve Zero-Tariff After RCEP Comes Into Effect

	China's Export	China's Import
Australia	98.33%	94.93%
Rep. of Korea	99.16%	78.09%
Japan	90.08%	75.67%
New Zealand	81.61%	87.64%
Philippines	89.65%	95.85%
Cambodia	67.35%	85.56%
Lao People's Dem. Rep.	86.49%	83.63%
Malaysia	85.89%	91.31%
Myanmar	82.72%	92.85%
Thailand	90.18%	88.48%
Brunei Darussalam	91.23%	96.06%
Singapore	100.00%	88.82%
Indonesia	80.23%	84.68%
Viet Nam	83.83%	89.80%

Source: Calculations are based on the Schedule of Tariff Commitments as agreed with other RCEP Parties and bilateral trade volume data in 2019.

III. Overview of RCEP Tariff Concessions Table

(A) RCEP Tariff Concession Arrangements

After the RCEP comes into force, more than 90% of tariff lines from trade in goods perspective will eventually reduce to zero. China's Schedule of Tariff Commitments is divided into five sections, which apply to China's imports from ASEAN, Australia, New Zealand, South Korea, and Japan. Australia, New Zealand, Malaysia, Singapore, Brunei, Cambodia, Laos, and Myanmar have one Schedule of Tariff Commitments that applies to all other RCEP members. South Korea, Indonesia, and Vietnam have set out a separate Schedule of Tariff Commitments that apply to different RCEP members. Japan and Thailand have one Schedule of Tariff Commitments, but there are variations to the countries to which tariff concessions apply indicated in the "remarks" column.

Philippines has one Schedule of Tariff Commitments that applies to all other RCEP members, and supplements the Schedule of Tariff Commitments (Common Concession) with individual tariff commitment schedules for different RCEP members.

(B) Features of the RCEP Tariff Concession Arrangement

1. Diversification of Tax Reduction Model

The tariff reduction models of RCEP Parties mainly include "elimination of tariffs immediately after the agreement enters into force", "gradual reduction to zero tariffs over the transition period (within 10 years after the agreement enters into force)", "partial tariff reduction" and "excluded goods". Each RCEP member, in accordance with its national conditions, shall make differentiated tariff reduction arrangements for different sensitive products by means of transition periods, partial tariff reductions, and tariff quotas, in order to maximize trade openness, enhance and facilitate free trade and investment.

2. Substantial Tax Concessions

The 15-member RCEP agreement will eventually eliminate tariffs for 90% of goods and encompasses a wide range of goods. The formalization of the agreement will release enormous trade potential and is a significant step toward the creation of an integrated market.

3. Large Differences in Tax Reduction Arrangements Among RCEP Members

Since RCEP is negotiated through means of bidding from two countries, there are significant differences in the tariff reduction arrangements among the Parties in terms of the start and end dates of the effective year, tariff reduction cycle, tariff reduction range, coverage of zero-tariff goods, types and quantities of goods excluded from the tariff reduction agreement, and tariff differential arrangements.

IV. Understanding the Schedule of Tariff Commitments

(A) Tariff Concession Model

1. Standard Tariff Concession Model

The first type of tariff commitments schedule adopts a "standard tariff concession scheme". This means that there is only one Schedule of Tariff Commitments and the same tariff concession arrangement is applied to other RCEP members. For example, eight member countries, namely Australia, New Zealand, Malaysia, Singapore, Brunei, Cambodia, Laos, and Myanmar, have adopted this approach.

2. Differentiated Tariff Concession Model

The second type of tariff commitments schedule is in the form of "country-specific tariff concessions". This means that separate tariff concession arrangements will apply to different RCEP members. There are three types of schedules: the first type is to provide a separate Schedule of Tariff Commitments applicable to different RCEP members. China, Korea, Indonesia, and Vietnam have adopted this approach. The second is to provide one Schedule of Tariff Commitments but to state variations in tariff concessions applicable to different RCEP members in the "remarks" column. Japan's and Thailand's respective Schedule have adopted this approach. Third, individual commitment schedules are provided to RCEP members with different tariff reduction arrangements applicable to certain goods, and a Common Concession Schedule applies to all other RCEP members. One such example is the Philippines.

(B) Options in the Schedule of Tariff Commitments

1. Excerpts of Schedule of Tariff Commitments Based on Different Import and Export Scenarios

Other RCEP members should refer to the relevant Schedule of Tariff Commitments based on different import and export scenarios.

First, it is important to identify whether the countries of import and export are RCEP members as well. If so, there then is a need to determine whether the corresponding goods meet the requirements set out in the rules of origin and if such goods are eligible for preferential tariffs. The relevant Schedule of Tariff Commitments should then be referred to. Figure 3.1.1 illustrates four import and export scenarios with other RCEP members and the RCEP Schedule of Tariff Commitments relevant to each scenario, with Chinese enterprises as an example.



Figure 3.1.1 Corresponding Schedule of Tariff Commitments Based on Different Import and Export Scenarios

2. Excerpts of Schedule of Tariff Commitments Based on Different Preferential Tariff Rates

If a country enters into multiple Free Trade Agreements (FTAs) with the corresponding import and export markets, it will face the problem of choosing from a trade in goods perspective. For example, in the case of the Korea-China trade, China and Korea had signed the China-Korea FTA and the Asia-Pacific Trade Agreement (APTA) before signing the RCEP. After RCEP comes into force, companies will be able to choose between three FTAs when conducting import and export trade. In the case of a good with a corresponding tariff code 8502112000, the tariff concession for this good under the APTA (see Table 2.1.3) is 30%, and the

MFN tariff rate before the agreement came into force was 8%; therefore, the preferential tariff rate after the APTA came into effect is 5.6%⁶. Under China-Korea FTA (see Table 2.1.4), the benchmark tariff rate is 8% and the tariff classification is 15, i.e., the tariff is reduced in equal proportion for 15 years from the effective date of the agreement, and the tariff will be eliminated from January 1 of the 15th year of the agreement. The China-Korea FTA came into effect on December 20, 2015, and 2021 is the 7th year of the effective date of the China-Korea FTA. Therefore, the preferential tariff rate for this product is 4.3%. Under RCEP (see Table 2.1.5), the benchmark tariff rate for this product is 8%, which is reduced in equal proportion for 10 years from the effective date of the agreement, and the tariff will be eliminated from January 1 of the 10th year of the effective date. Assuming that RCEP comes into force in 2021, the preferential tariff rate for this product is 7.2%. Based on the above comparison, if companies export products corresponding to code number 8502112000 to Korea in 2021, the preferential tariff rate under the China-Korea FTA should be selected in order to maximize trade benefits. A comparison of the three agreements has been simplified and shown in Figure 3.1.2.

Table 3.1.3 Excerpt of South Korea's Schedules of Concessions Under the Asia-Pacific Trade Agreement

HSK 2017	Product Description	Margin of Preference(%)
8502112000	Of an output exceeding 750 VA but not exceeding 75 kVA	30%

Table 3.1.4 Excerpt of South Korea's Schedules of Tariff Commitments Under the China–Korea Free Trade Agreement (CKFTA)

HSK 2012	Product Description	Base Rate	Staging Category
8502112000	Of an output exceeding 750 VA but not exceeding 75 kVA	8%	15

Table 3.1.5 Excerpt of South Korea's Schedules of Tariff Commitments Under the RCEP

HSK 2014	Product Description	Base Rate	Year 1	...	Year 10	...
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⁶Preferential tariff rate = most favored nation (MFN) tariff rate * Margin of Preference (MOP)

8502.11.20.00	Of an output exceeding 750 VA but not exceeding 75 kVA	8.00%	7.20%	...	0.00%	...
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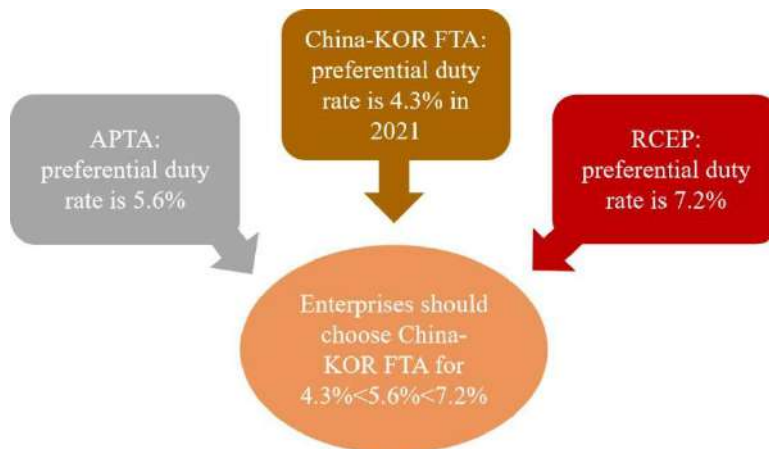


Figure 3.1.2 Options Under Different Agreements (by using a good with a corresponding tariff number of 8502112000 as an example)

(C) Description of the Columns Under the Schedule of Tariff Commitments

The Schedule of Commitments generally includes the Harmonized System code, product description, base rate, preferential rate based on the agreement and remarks (certain Schedules contain this column), and so on.

1. Harmonized System Code (HS/AHTN Code)

Harmonized System (HS) Code refers to the commodity code in the Harmonized Commodity Description and Coding System (HS), which is based on the former Customs Cooperation Council (CCC) and the Standard International Trade Classification (SITC) classification catalog. The HS codes are widely used in customs supervision, customs duty collection, and customs statistics. The first six digits of the Harmonized System codes are used universally, while the seventh and eighth digits are specified by each RCEP member. Based on the RCEP Schedule of Tariff Commitments, China, Australia, Japan, Korea, New Zealand, Brunei, Indonesia, Malaysia, Myanmar, Thailand, and Vietnam use HS (2012) codes. Laos, Cambodia and the Philippines use the ASEAN Harmonized

Tariff Nomenclature (AHTN 2012) codes.

There are several possible reasons if the tariff code of the corresponding good is not found in the Schedule of Tariff Commitments: First, the importing and exporting countries may not be using the same tariff code. If the tariff code used by the exporting country is not found, the tariff code used by the importing country may be used for customs clearance. Second, the HS editions may differ. The tariff codes in the RCEP Schedule of Tariff Commitments are based on the 2012 edition of the HS system; if other editions are used, the relevant correlation table may be referred to.

2. Commodity Description/Description of Goods

The name of the good is a specific description of the characteristics of the good in each Harmonized System by RCEP members. Table 2.1.6 shows the Australian Schedule of Tariff Commitments.

Table 3.1.6 Excerpt of Australia's Schedule of Tariff Commitments

HS Code	Product Description	Base Rate	Year 1	...	Year 10	...	Year 20 and Subsequent Years
01	LIVE ANIMALS						
0101	LIVE HORSES, ASSES, MULES AND HINNIES:						
0101.2	-Horses:						
0101.21.00	--Pure-bred breeding animals	0%	0%	...	0%	...	0%
0101.29.00	--Other	0%	0%	...	0%	...	0%

3. MFN/Base Rate

The base rate refers to MFN tariffs applicable to each member. The base rates of goods may have changed before the current RCEP comes into force, and there may even be cases where the RCEP rates are higher than the current MFN rates. For example, refer to Table 2.1.7 for China's Schedule of Tariff Commitments applicable to New Zealand as the base rate for the good with the

corresponding tariff code 20029011 is 20.0%, which decreases in equal proportion year by year after the RCEP comes into effect, and the tariff is reduced to zero in the 10th year from the effective date. At present, China's MFN tariff rate for the same good has been amended to 5%, and the preferential rate has been reduced to 4% in the 8th year of RCEP. Companies can choose the current MFN tariff rate of 5% before the 8th year of RCEP, and choose the preferential rate of 4% thereafter.

Table 3.1.7 Excerpt of China's Schedule of Tariff Commitments Applicable to New Zealand

HS code	Product Description	Base Rate	Year 1	...	Year 7	Year 8	...
2002.90.11	-----Tomato paste, in airtight containers, weighing not more than 5kg	20.0%	18.0%	...	6.0%	4.0%	...

4. Agreed Preferential Tax Rates

(1) How are the preferential rates under the agreement for different years determined?

Since RCEP members have different starting months for the effective year, there may be cases that different members implement different effective years in the same period. Therefore, the specific effective year should first be clarified when determining the tariff rate. The start and end dates of the effective years of other RCEP members are shown in Figure 3.1.3 ① and ②. Assuming that RCEP comes into force on January 1, 2022, the calculation of the start and end dates corresponding to different effective years is shown in Figure 3.1.3 ③.

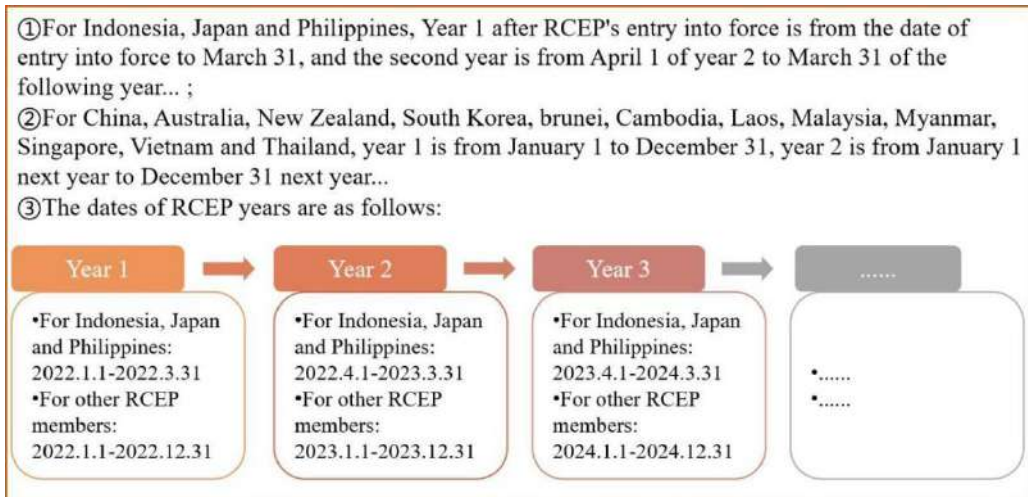


Figure 3.1.3 Provisions and examples of the start and end dates of the effective year of other RCEP members

With regards to the preferential rate, the rate for each concession year is set out in the Schedule of Tariff Commitments and the preferential rate of the corresponding year can be determined by referring to the product code. The preferential rate implemented in a particular year for each good is subject to the classifications and tariff rate published in the tariff rules of that year.

(2) How is the preferential rate under the agreement calculated?

After determining the preferential rates for a good in the corresponding concession year, the formula used for the calculation of the preferential rate is "RCEP preferential tariff = price of goods * RCEP preferential rate". There are two types of goods prices; Australia and New Zealand use the FOB price, while China, ASEAN, Japan, and Korea use the CIF price.

In addition to ad valorem customs duties, the RCEP Schedule of Tariff Commitments also involves ad valorem and compound duties and other taxation methods. For example, for goods listed in an excerpt from Japan's Schedule of Tariff Commitments (Table 2.1.8), a good with a tariff line of 071290.039 is subject to ad valorem customs duties, and a duty of 8.44 yen per kilogram is levied on the good in the first year of the RCEP Agreement. The

product with the tariff line 150420.000 is subject to compound duties, and the product is subject to an ad valorem duty of 6.6% or 3.94 yen per kilogram in the first year of the RCEP Agreement, whichever is the greater number.

Table 3.1.8 Japan's Schedule of Tariff Commitments (Excerpt)

Tariff Line	Description	Base Rate	Year 1	...	Year 10	...	Year 21 and Subsequent Years
071290.039	(2) Other	9 yen/kg	8.44 yen/kg	...	3.38 yen/kg	...	Free
150420.000	Fats and oils and their fractions, of fish, other than liver oils	7.0 % or 4.20yen/kg, whichever is the greater	6.6 % or 3.94 yen/kg, which- ever is the greater	...	2.6 % or 1.58 yen/kg, which- ever is the greater	...	Free

(3) Understanding the terms used in the schedule of tariff commitments

In addition, there are also terms in the Schedule of Tariff Commitments such as "U", "Free", "TRQ", "CKD ", "Nil", and so on. Japan's Schedule of Commitments is found in Table 2.1.9, Vietnam's Schedule of Commitments is found in Table 2.1.10, and Malaysia's Schedule of Commitments is found in Table 2.1.11. Tariff lines indicated with "U" are excluded from any RCEP commitment of tariff reduction or elimination, "Free" and "Nil" refers to zero tariffs, and "TRQ " refers to tariff quotas. In the case of Vietnam's Schedule of Commitments, as shown in Table 2.1.10, there are some tariff lines indicated with "CKD", which refers to a special tariff levied by Vietnam on imported loose components for vehicle assembly. Products marked with "U" are either managed by tariff quotas or will follow the MFN tariff rate.

Table 3.1.9 Japan's Schedule of Tariff Commitments to China (Excerpt)

Tariff Line	Description	Base Rate	Year 1	...	Year 10	...	Year 21 and Subsequent Years	Remarks
030213.011	-Red salmon (Oncorhynchus nerka)		U	...	U	...	U	Treatment for China and Rep. of Korea

030213.012	- Silver salmon (Oncorhynchus kisutch)	3.5%	3.3 %	...	1.3 %	...	Free	Treatment for ASEAN, Australia, China, and New Zealand
030213.019	- Other		U	...	U	...	U	Treatment for China and Rep. of Korea

Table 3.1.10 Vietnam's Schedule of Tariff Commitments (Excerpt)

HS Code	Product Description	Base rate (%)	Year 1 (%)	...	Year 10 (%)	...	Year 25 and Subsequent Years (%)
2501.00.10	- Table salt (in-quota)	TRQ	TRQ	...	TRQ	...	TRQ
2501.00.20	- Rock salt (in-quota)	TRQ	TRQ	...	TRQ	...	TRQ
2501.00.50	- Sea water (in-quota)	TRQ	TRQ	...	TRQ	...	TRQ
8702.10.10	- - - Motor cars(including stretch limousines but not including coaches,buses, minibuses or vans)	CKD	CKD	...	CKD	...	CKD

Table 3.1.11 Malaysia's Schedule of Tariff Commitments (Excerpt)

HS Code	Product Description	Base Rate	Year 1	...	Year 10	...	Year 23 and Subsequent Years
0101.21 000	-- Pure-bred breeding animals	Nil	0.0%	...	0.0%	...	0.0%
0101.29 000	-- Other	Nil	0.0%	...	0.0%	...	0.0%
0101.30 100	-- Pure-bred breeding animals	Nil	0.0%	...	0.0%	...	0.0%

5. Remarks

Remarks are mainly found in the Schedule of Tariff Commitments of RCEP members who adopt the second approach in terms of differentiated measures, i.e., one Schedule of Tariff Commitments is provided, but the corresponding tariff reductions applicable to the respective RCEP members are noted in the last column ("remarks"). This can be seen in Japan's Schedule of Tariff Commitments in Table 3.1.9 and Thailand's Schedule of Tariff Commitments in Table 3.1.12. For example, in Table 3.1.12, the tariff reduction arrangement in Thailand's Schedule of Tariff Commitments does not apply to Korea for goods with the corresponding tariff line of 0504.00.00.

Table 3.1.12 Thailand's Schedule of Tariff Commitments (Excerpt)

HS Code	Product Description	Base Rate	Year 1	...	Year 20 and Subsequent Years	Remarks
0504.00.00	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked.	30%	28.5%	...	0%	Unbound for Rep. of Korea
2301.20.10	-- Of fish, with a protein content of less than 60% by weight	10%	9.5%	...	0%	Unbound for Japan and Rep. of Korea
8511.40.21	--- For engines of vehicles of heading 87.02, 87.03, 87.04 or 87.05	10%	9%	...	0%	- Subject to OEM condition for ASEAN, Australia, China, Rep. of Korea and New Zealand - Unbound for Japan

Section 2 Rules of Origin

Rules of origin are the specific regulations formulated and implemented by a country to determine the country or region where the goods are produced or manufactured according to the principles set out by laws, regulations, or international agreements, which can be understood as the "economic origin" of the goods. Whether or not the rules of origin are met can make a significant difference to the tariffs levied on goods traded under free trade agreements, and can also have a significant impact on the cross-border supply chain arrangements and economic interests of companies. Therefore, rules of origin have become a focal point in FTA negotiations. As one of the higher level FTAs in the world, the rules of origin set out under the RCEP Agreement are diversified, unified, progressive, flexible, and innovative.

I. Definitions

The chapter on rules of origin under the RCEP Agreement sets out the legal definitions of various terms, the content of international law and conventions in relation to sovereignty, trade, customs valuation, Harmonization System codes, and other related legal aspects. It also covers related professional aspects, such as the production, sale, and transport of goods. The chapter is a holistic, comprehensive, and professional take on the rules of origin that covers the entire RCEP trading bloc. The specific contents of the chapter are as follows.

(1) aquaculture means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants from seed stock such as eggs, fry, fingerlings, and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

(2) CIF value means the value of the imported good, inclusive of the cost of insurance and freight up to the port or place of entry into the country of importation;

(3) competent authority means the government authority or authorities designated by a Party and notified to the other Parties;

(4) customs include customs authorities, customs laws and regulations, and customs procedures;

(5) FOB value means the value of the good free on board, inclusive of the cost of transport (regardless of the mode of transport) to the port or site of final shipment abroad;

(6) fungible goods or materials means goods or materials that are interchangeable for commercial purposes, whose properties are essentially identical;

(7) Generally Accepted Accounting Principles means those principles recognized by consensus or with substantial authoritative

support in a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities; the disclosure of information; and the preparation of financial statements. These principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

(8) good means any merchandise, product, article, or material;

(9) issuing body means an entity designated or authorized by a Party to issue a Certificate of Origin and notified to the other Parties in accordance with this Chapter;

(10) material means a good that is used in the production of another good;

(11) non-originating good or non-originating material means a good or material which does not qualify as originating in accordance with this Chapter;

(12) originating good or originating material means a good or material which qualifies as originating in accordance with this Chapter;

(13) producer means a person who engages in the production of goods;

(14) production means methods of obtaining goods including growing, mining, harvesting, farming, raising, breeding, extracting, gathering, collecting, capturing, fishing, aquaculture, trapping, hunting, manufacturing, producing, processing, or assembling, details of which can be found in Table 3.2.1.

Table 3.2.1 Production

Methods	Materials	Products
Planting, Harvesting, Collection and Gathering	N/A	Cereals and grain products; Vegetables and fruits; Coffee, tea, cocoa, spices and their products; Livestock feed; Tobacco and tobacco products
Mining and Extraction	N/A	The original mineral; Metal; Coal, coke and coal bricks; Petroleum, petroleum products and related raw materials; Natural gas

Capture, Fishing, Aquaculture	N/A	Fish (non-marine mammals), crustaceans, mollusks, and aquatic invertebrates
Raising, Breeding and Trapping; Hunting	N/A	Live animals
Manufacturing, Production, Processing, or Assembly	Components, parts, components, semi-assemblies and/or goods that actually form part of or are used in the production of another good.	Commodities in departments 2 to 9 of <i>the International Standard Classification of Trade</i>

II. Core Regulations

(A) Originating Goods

Originating goods include three categories: goods wholly obtained or produced in a Party, goods produced in a Party exclusively from originating materials from one or more of the Parties, and goods produced in a Party using non-originating materials.

The criteria for determining originating goods are as follows:

If the good contains non-originating materials, requirements set out under "Product-Specific Rules" apply. RCEP Agreement Annex 3A "Product Specific Rules", sets out the conditions required for a good to be treated as an originating good, sorted according to the HS code of the goods meant for export.

If a good does not contain non-originating materials, there is a need to determine whether the good is wholly obtained or produced in a Party. RCEP describes and details the scope of originating goods through means of a list. According to the list, goods that meet the descriptions set out in the list are considered to be wholly obtained or produced. If goods are not wholly obtained or produced, they are then classified as goods produced using only originating materials.

If the goods meet other criteria set out in the chapter covering Rules of Origin, the goods are considered originating goods by RCEP members.

(B) Wholly Obtained or Produced Goods

The RCEP chapter on Rules of Origin defines the scope of wholly obtained or produced goods. In terms of style, this article follows the standard blueprint set out in the Kyoto Convention and uses an enumeration approach to define the goods to which the principle applies. The goods of origin defined that meet the criteria of being wholly obtained are usually natural products or primary processed goods such as goods in the agriculture, forestry, animal husbandry, fishery, and mining industries. The production or processing of such goods is relatively simple, as shown in Table 3.2.2.

Table 3.2.2 Wholly Obtained Goods

Industry	Products
Minerals	Including but not limited to: Stone, sand and gravel (HS 25), sodium chloride, pure salt and salt (HS 25), coarse natural borate (HS 25), sulfur and for roasting yellow iron ore (HS 25), clay (HS 25), metals (HS 26), crude oil(HS 27) , natural gas (HS 27) ,coal (HS 27), natural mineral water (HS 22), natural ice, natural snow (HS 22).
Plants and plant goods	Including but not limited to: Vegetables and fruits (HS 07), grain (chapter 10), fruit and nuts (HS 08), coffee (HS 09), cocoa (HS 18) tea (HS 09), spices (HS 09), livestock feed (HS 12), tobacco (HS 24), oilseed and containing fruit (HS 12 and 06), fungus (HS 07), braided with plant materials (HS 14), Vegetable oils (HS 15), rubber (HS 40), cotton (HS 52).
Live animals	Includes living animals of all life forms, including but not limited to: mammals, birds, fish, crustaceans, mollusks, reptiles, bacteria and viruses, etc. (HS 01 and 03).
Goods obtained from live animals	Products obtained from live animals without further processing, including: milk (HS 04), eggs (HS 04), natural honey (HS 04), hair (HS 05), wool (HS 51), semen (HS 05), feces (HS 05), cocoon (HS 50).
Waste and scrap	Used goods and scrap products

Goods considered to be wholly obtained or produced include:

(1) plants and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi, and live plants, grown and harvested, picked, or gathered in a Party, as shown in Table 3.2.3.

Table 3.2.3 Plants and Plant Goods

Name	HS code
Vegetables and Fruits	0701-0714
Grain	1001-1008
Fruits and nuts	0801-0814
Coffee	0901
Cocoa	1801-1802

Tea	0902-0903
Spices	0904-091
Livestock feed	1213-1214
tobacco	2401
Oilseeds and containing fruit	1201-1208
Trees	0601
Fungus	0712

(2) live animals, including all life forms, born and raised in a Party. Specific examples include but are not limited to mammals, birds, fish, crustaceans, mollusks, reptiles, bacteria, and viruses. Table 3.2.4 lists the major live animals and their goods.

Table 3.2.4 Live Animals and Related Goods

Name	HS code
Live animals	0101-0106 0307
Fish (non-marine mammals), crustaceans, mollusks, and aquatic invertebrates	0301 0302 0306 0307

(3) goods obtained from live animals raised in a Party. Such goods are goods obtained from live animals without further processing and include milk, eggs, natural honey, hair, wool, semen, and manure. Table 3.2.5 lists the main goods obtained from live animals and their description.

Table 3.2.5 Scope of Goods

Name	HS code
Dairy	0401
Eggs	0407
Natural honey	0409
Hair	0502
Wool	5101 5102
Semen	0511
Feces	0510 0511

(4) goods obtained by hunting, trapping, fishing, farming, aquaculture, gathering, or capturing conducted in a Party. The goods under this category refer to animals obtained by the above methods in the territory of an RCEP Party. It does not require the

animal to be alive nor does it require the animal to be born in the territory of a Party. Table 3.2.6 lists the main goods obtained by the above methods and their description.

Table 3.2.6 Scope of Goods

Name	HS code
Live animals	0101-0106 0307
Fish (non-marine mammals), crustaceans, mollusks, and aquatic invertebrates	0301 0302 0306 0307

(5) minerals and other naturally occurring substances, not included in points (1) through (4), extracted or taken from its soil, waters, seabed, or subsoil beneath the seabed. Goods that fall under this category include, but are not limited to, various ores, natural distillate salts, natural mineral sulfur, natural sand, clay, metallic ores, crude oil, natural gas, coal. Inanimate naturally occurring substances also fall under this category, including but not limited to, natural earth, natural water, natural mineral water, natural ice, natural snow. Table 3.2.7 lists the main mineral products and their description.

Table 3.2.7 Scope of Goods

Name	HS code
Stone, sand and gravel	2514-2516
Sodium chloride, pure salt and salt	2501
Crude natural borate	2528
Sulfur and for roasting yellow iron ore	2502 2503
Clay	2504 2507 2508 2528 2519
Metals	2601
Crude oil	2709
Natural gas	2711
Coal	2701
Natural mineral water	2201 2202
Natural ice, natural snow	2201

(6) goods of sea-fishing and other marine life taken by vessels of that Party, and 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, in accordance with international law, provided that, in case of goods of sea-fishing and other marine life taken from the exclusive economic zone of any Party or non-Party, that Party or person of that Party has the rights to exploit such exclusive economic zone, and in case of other goods, that Party or person of that Party has rights to exploit such seabed and subsoil beneath the seabed, in accordance with international law.

The reference to "the waters, seabed, or subsoil beneath the seabed outside the territorial sea of the Parties and non-Parties" in this paragraph relates to the continental shelf. The continental shelf of a coastal State includes the seabed and subsoil of the submarine area extending beyond its territorial sea over the entire natural extension of its land territory to the outer edge of the continental margin, including the prolongation of the land mass of the coastal State that consists of the seabed and subsoil of the shelf, the slope, and the rise. International law in this article refers to the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS was adopted at the final meeting of the Third United Nations Conference on the Law of the Sea, held in Montego Bay, Jamaica, on December 10, 1982, entered into force in 1994, and has been ratified by more than 150 countries.

The reference to "vessels of that Party" in this subparagraph generally refers to factory ships. Factory ships refer to vessels engaged in the sector of fisheries and aquaculture production and processing, including fishing vessels, breeding vessels, live fish carriers, freezer trawlers, etc. This paragraph also provides for the nationality of the Party's vessels in its annotations. The RCEP Rules of Origin recognize "vessels of that Party" based on vessels which are registered in that Party; and which are entitled to fly the flag of that Party.

(7) goods of sea-fishing and other marine life taken by vessels of that Party from the high seas in accordance with international law. In this context, the high seas refer to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. Article 87 of the United Nations Convention on the Law of the Sea states that the high seas are open to all States, whether they are coastal or landlocked. The freedom of the high seas includes the freedom of fishing.

(8) goods processed or made on board any factory ships of that Party, exclusively from the goods referred to in subparagraph (6) or (7). Factory ships refer to fish processing vessels specially used for receiving catches from fishing vessels at sea, processing them into various fish products, storing or transferring them onboard and are floating fish processing plants. There are various specialized vessels based on the type of catch, the fishing method, and the type of finished products processed from the catch, including salmon and trout mother ships, longline crane mother ships, fishmeal processing vessels, whaling mother ships, crabbing vessels, shrimp processing vessels, etc. Various types of processing vessels can come with a wide range of displacement, ranging from several hundred tons to several thousand tons, and very large fish processing vessels have a loaded displacement tonnage of more than 20,000 tonnes. Such vessels are equipped with a variety of facilities for processing, refrigeration, power, etc., with ample refrigerated compartments and processing workshops, and have a wider operating deck and larger processing workshops to facilitate the handling and processing of fish.

(9) goods which are also considered wholly obtained or produced include (i) waste and scrap derived from production or consumption in a Party, provided that such goods are fit only for

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

In this subparagraph, "fit only for disposal, for the recovery of raw materials, or for recycling purposes" refers to scrap and used goods that can be no longer used for their original purposes, but only fit for disposal or used for the recovery of raw material for recycled products. For example, used batteries collected in a country and exported to an RCEP Party. If the used battery is used in the territory of the Party only for the purpose of recycling of raw materials such as lead, nickel, zinc, etc. in the battery, the used battery meets the rules of origin criteria. However, if the used battery is exported to the territory of a Party for the purpose of reconditioning, the wholly obtained or produced rules do not apply.

(10) goods obtained or produced there solely from goods referred to in subparagraphs (1) through (9), or from their derivatives. This subparagraph is a catch-all clause that provides for wholly obtained or produced rules for products produced in a country without the use of any raw materials or components imported from other countries and applies only to natural products or primary processed goods.

(C) Cumulation

Cumulation rules allow FTA Parties to use materials originating from other RCEP Parties in the production process and the finished good will be considered as an originating good from an RCEP Party. The cumulation rule gives producers more options in the production process to choose materials originating from other agreement countries without losing the origin of the finished product. In this sense, the cumulation rule expands the definition of originating goods, allows more flexibility in the development of economic

relations between FTA Parties, encourages Parties to use intra-regional materials and for production and processing in the region, and promotes regional economic integration.

The cumulation rules set out in Article 3.4 of the current RCEP Rules of Origin are based on the premise that the raw materials are originating materials, and this cumulation rule is called the partial cumulation rule. Subparagraph 2 under Article 3.4 of the Rules of Origin refers to an "extension of the application of cumulation to all production undertaken and value added to a good within the Parties" as another mode of cumulation, i.e. full cumulation. This mode of cumulation is more liberal than partial cumulation and does not have a prerequisite that "raw materials are originating materials", under which any production and value added to a good within the RCEP region can be cumulated.

(D) Calculation of Regional Value Content

The RCEP Rules of Origin set the regional value content at 40%, and provide two formulas for the calculation of regional value content.

The first is to use the indirect/build-down formula, which requires the calculation of only two items, the FOB value of the exported goods and the value of the non-originating materials (VNM); the difference between the two is then considered to be the regional value content. It is important that the value of non-originating materials is the CIF value of the material at the time of import. If the non-originating material is sourced domestically by the manufacturer, the value is the purchase price. If the producer cannot determine or does not know the country of origin of the raw material, the raw material should be considered as a non-originating material.

$$RVC = \left| \frac{FOB - VNM}{FOB} \right| \times 100$$

The second one is using the direct/build-up formula, which uses a build-up formula to calculate the regional value content directly and therefore has more variables included in the numerator. Value of Original Materials (VOM) refers to the value of originating materials, parts, or products acquired or self-produced, and used in the production of the good. Direct Labor Cost (DLC) includes wages, remuneration, and other employee benefits.

$$RVC = \left| \frac{VOM + \text{Direct Labor Cost} + \text{Direct Overhead Cost} + \text{Profit} + \text{Other Costs}}{FOB} \right| \times 100$$

Direct Overhead Cost includes, but is not limited to the cost of fixed assets related to the production process (insurance costs; plant rent; depreciation, repair and maintenance costs of buildings; taxes; mortgage interest); rent and interest on production equipment; plant security costs; insurance costs for plant, equipment and raw materials in production; utility costs (energy, electricity, water, and other costs directly related to the production of products); research and development, design, and construction costs; printing, dyeing, tooling, and tooling costs; depreciation and maintenance costs of production equipment; patent use and licensing costs (costs of patented equipment and processes related to production or costs of obtaining production rights); raw material and product inspection and testing costs; factory storage and handling costs; waste recycling and disposal costs; costs involved in calculating the value of raw materials: e.g. port and customs clearance fees and duties payable on parts.

Other Cost refers to the cost incurred for loading the goods for export, including but not limited to domestic transportation costs, warehousing, port handling, brokerage fees, service fees, etc.

There are usually two modes of application of the regional value content rules. First, it may be applied individually, i.e., one

particular HS code only uses a certain regional value content. The second mode is selective application, that is, the option of choosing between regional value content or other applicable rules. Specific examples include:

- (1) the selection and application of regional value content rules and change of chapter rules;
- (2) the selection and application of regional value content rules and change to tariff heading rules;
- (3) the selection and application of regional value content rules and change in subheading rules;
- (4) the selection and application of regional value content rules and change of chapter rules, except from certain chapters;
- (5) the selection and application of regional value content rules and change to tariff heading rules, except from certain tariff headings;
- (6) the selection and application of regional value content rules and change in subheading rules, except from certain subheadings;
- (7) the selection and application of regional value content rules and change in tariff heading rules, or chemical reaction rules.

(E) Minimal Operations and Processes

When using non-originating materials to produce goods, the processing or handling operations that are insufficient to confer the status of an originating good are as follows.

- (1) preserving operations to ensure that the good remains in good condition for the purposes of transport or storage;
- (2) packaging or presenting goods for transportation or sale;
- (3) simple processes, consisting of sifting, screening, sorting, classifying, sharpening, cutting, slitting, grinding, bending, coiling, or uncoiling;
- (4) affixing or printing of marks, labels, logos, or other like distinguishing signs on goods or their packaging;

(5) mere dilution with water or another substance that does not materially alter the characteristics of the good;

(6) disassembly of products into parts;

(7) slaughtering of animals;

(8) simple painting and polishing operations;

(9) simple peeling, stoning, or shelling;

(10) simple mixing of goods, whether or not of different kinds;

or

(11) any combination of two or more operations referred to in subparagraphs (1) through (10).

(F) De Minimis

A good that does not satisfy a change in tariff classification pursuant to Annex 3A (Product-Specific Rules) is nonetheless an originating good if the good meets all of the other applicable requirements as follows:

(1) for a good classified in Chapters 01 through 97 of the HS Code, the value of non-originating materials that have been used in the production of the good and did not undergo the applicable change in tariff classification does not exceed 10 percent of the FOB value of that good. The value of those non-originating materials shall be the CIF value of the material at the time of importation or the earliest ascertainable price paid or payable;

(2) for a good classified in Chapters 50 through 63 of the HS Code, the weight of all non-originating materials used in its production that did not undergo the required change in tariff classification does not exceed 10 percent of the total weight of the good.

The value of non-originating materials shall be included in the value of non-originating materials for any applicable regional value content requirement.

(G) Treatment of Packing and Packaging Materials and

Containers

Packaging mainly includes two kinds: one is the transport packaging (packaging materials and containers), also known as overpack or large packaging, and refers to the outer layer of packaging meant to protect the quantity and quality of goods, and facilitate transport and storage. This can be further categorized into two categories, single (transport) packaging and collective (transport) packaging. The shapes of such packaging include packs, boxes, barrels, bags, shriveled, tubes, rolls, bundles, cans, etc.; the rigidity of such packaging include soft, semi-rigid, rigid packaging; and packaging materials include paper, metal, wood, plastic, cotton and linen, ceramics, glass products, grass, willow and rattan woven products and so on. Second, commercial packaging (packaging materials and containers), which combines several single transport packaging into one large package, such as containers, container bags, pallets, etc. The purpose of this is to increase efficiency in loading and unloading, reduce loading and unloading labor intensity, facilitate transport, to ensure quantity and quality of goods, and promote packaging standardization, save transportation and other miscellaneous costs. Commercial packaging is also known as inner packaging. It is the packaging in direct contact with the good itself and is also used as display packaging at retail outlets.

According to the provisions of this article, under the RCEP rules of origin, the impact of packaging in determining the originating status of any good are as follows.

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

(2) If the good is wholly obtained or produced in a Party, or produced in a Party exclusively from originating materials from one

or more of the Parties, or is subject to a change in tariff classification, commercial packaging shall not be taken into account in determining the originating status of the good.

(3) If a good is subject to a regional value content requirement, the value of the packaging materials and containers in which the good is packaged for retail sale shall be taken into account as originating materials or non-originating materials of the good in calculating the regional value content of the good. If the packaging materials and containers are originating materials, it will be included in the value of originating materials. If the packaging materials and containers are non-originating materials, it will be included in the value of non-originating materials.

(H) Accessories, Spare Parts, and Tools

Accessories, spare parts, tools and illustrative materials (e.g. operating manuals, etc.) are usually sold together with goods such as machinery, equipment, vehicles, and are considered part of such goods. Accessories, spare parts, tools are usually used for the transportation, protection, maintenance and cleaning of the goods, while illustrative materials usually provide instructions on the installation, maintenance and use of the goods, and are generally classified as accessories.

In the case of goods with accessories, spare parts, tools and illustrative materials, according to the provisions of this article, the following will be applicable under the RCEP rules of origin:

(1) If the accessories, spare parts and tools presented with the good are not invoiced separately from the good, and if the quantities and value of the accessories, spare parts and tools presented with the good are customary for the good, it shall be considered as part of the good and the relevant rules of this article will be applicable.

(2) If the rules of tariff classification or chemical reaction rules

set out under the Annex (Product-Specific Rules) are applicable, that is, the specific manufacturing or processing operations referred to in the Annex, accessories, spare parts and tools will be disregarded.

(3) If the regional value content set out under the Annex on Product-Specific Rules are applied, it is important to first determine whether the accessories, spare parts and tools are of origin. If the accessories, spare parts and tools are originating materials, it will be included in the value of originating materials. If the accessories, spare parts and tools are non-originating materials, it will be included in the value of non-originating materials.

(I) Indirect Materials

Indirect materials, as opposed to direct materials used in production, are various materials that are used in the manufacturing process of a good but do not form part of the final product. This includes, but is not limited to, energy, fuel, tools, machinery and equipment used in production. These materials are used in production, but are not integrated into the final product.

According to the list of indirect materials mentioned in this article, the materials that fall under the category of indirect materials shall be treated as originating materials. RCEP rules of origin list the following as indirect materials:

(1) If the rules of tariff classification or chemical reaction rules set out under the Annex (Product-Specific Rules) are applicable, that is, the specific manufacturing or processing operations referred to in the Annex, it shall have no impact on indirect materials, and indirect materials shall be regarded as originating materials.

(2) If a good is subject to a regional value content requirement, in the case of the indirect/build-down formula approach, the value of indirect materials will be accounted for in the FOB value of goods since the value of indirect materials is included in the value of

originating materials. If the direct/build-up formula is adopted, the value of indirect materials will be accounted for in the FOB value of goods and direct operating expense costs.

When accounting for the value of indirect materials, it is important to note that they are "accounted for", i.e., properly allocated in the manufacturer's accounts. It should be noted that indirect materials are usually included in manufacturing costs and are not separately identifiable, so do not double-count the value of indirect materials.

(J) Fungible Goods or Materials

Fungible goods are goods that are identical in nature and can be used interchangeably. For example, 100 packets of wheat are deposited in a granary. When the wheat is taken out of the granary later, the holder is only concerned with whether the 100 packets of wheat taken out are of the same variety and quality as the original deposited wheat, and is not concerned with whether the 100 packets of wheat are the exact same 100 packets of wheat that were deposited in the first place. Fungible goods can be found everywhere, both in production and everyday life. For example, cash is a fungible good, and a single 100 yuan note can be interchanged with any other 100 yuan note (except for counterfeit notes). Crude oil is fungible; a barrel of West Texas Intermediate can be fungible with any barrel of the same type and grade of crude oil. However, diamonds are not considered fungible goods because each diamond may be of a different cut, color, grade, or size and will be difficult to interchange.

In the course of the manufacturing process, manufacturers may need to use fungible goods or materials as inputs for the production of goods. Generally, it is necessary to store the originating materials and non-originating materials separately so that the raw materials of different origins used in the production of

the goods can be differentiated in the origin traceability to determine whether the goods are eligible for preferential treatment. However, when fungible materials are used for production, the fungible goods or materials are usually mixed at the inventory stage and the production stage due to their characteristics. In determining whether interchangeable goods or materials are originating goods or materials, the mixture needs to be restored to its pre-mix state. In production practice there are two methods of separation: one of which is physical segregation, i.e., the use of physical methods to segregate interchangeable goods or materials that have been mixed. However, in practice, this method is often not practicable, and some inventory methods recognized in the Generally Accepted Accounting Principles are usually used to resolve this issue.

(K) Absorption Rule

Absorption rules allow materials that have met the relevant rules of origin and have been qualified as originating to be reprocessed in subsequent manufacturing operations as originating inputs. Even if the material contains non-originating components, the material as a whole is regarded as the originating good, and all non-originating components are disregarded. Absorption rules have long been an important part of preferential origin system arrangements in countries around the world, and are widely used as general rules of origin in global systems.

The absorption rules make origin rules less restrictive, specifically in the following three scenarios:

- (1) The value of the non-originating component of the originating material is disregarded when the regional value content rule is applied;
- (2) The non-originating parts are not considered for the assessment whether tariff classification rule is fulfilled;
- (3) The manufacturing processes of non-originating

materials are not taken into account when assessing the requirements of other technical operations.

(L) Unit of Qualification

The first paragraph of this article "considered as the basic unit when determining classification under the Harmonized System" refers to the unit of qualification of products or materials that should be determined in accordance with the provisions of the Harmonized System. It is also a basic unit for determination of origination.

When the same shipment includes a large number of identical goods classified under the same tariff line, each good shall be individually taken into account in determining whether it qualifies as an originating good. For example, when determining the origin of a set of goods, RCEP provides that the set of goods as a whole should be treated as a unit of qualification. The steps for determining this are as follows.

(1) Determine whether the goods are complete sets of goods according to the General Classification Rule III of the Harmonized System;

(2) Determine the rules of origin of the complete set of goods set out in the Product-Specific Rules under the RCEP Rules of Origin according to the tariff classification number;

(3) Determine whether the sets of goods are considered to be of RCEP origin based on the Rules of Origin.

(M) Treatment for Certain Goods

"Certain goods" in this article refers to goods for which the RCEP Parties consider necessary to amend the existing rules of origin in order to apply the Rules of Origin set out in this Chapter. This article provides a mechanism for revision, which will be proposed, discussed, and implemented following a consensus by the Parties and signatory States.

(N) Direct Consignment

The direct consignment rule is designed to ensure that the good arriving in the RCEP importing country is identical to the good that left the RCEP exporting country. It aims to reduce the risk of manipulation or adulteration of non-preferential goods in transit. In this sense, the direct consignment rule is not a rule for determining origin, but rather an administrative tool to prevent fraudulent acts carried out to a Party's goods of origin in transit.

The RCEP chapter on Rules of Origin has strict requirements for direct consignment, and stipulates that goods must be transported directly between the exporting and importing countries of the agreement. RCEP also accounts for the geographical distance between some Parties, such as China and Australia or New Zealand by allowing trans-shipment. However, the prerequisite is that the good must not have undergone any further processing during the transit process; the good must remain under the control of the customs authorities in the intermediate Parties or non-Parties; supporting documents such as the complete intermodal bill of lading or a non-manipulation certificate must be provided.

III. Case Studies

(A) Difference Between Partial and Full Cumulation

Non-originating material M (valued at \$100) is produced in country A, and the finished good adds \$30 to its value to become intermediate good M1. M1 continues to be produced in country B, and the finished good adds \$30 to its value to become intermediate good M2. Both intermediate goods undergo further processing in country C and add \$30 to their value to become finished product P. The assumption is that the regional value content rule is used to determine origination.

Scenario 1: If the current cumulation rules are applied, M1 and M2 need to meet the RVC 40% rule in order to be apply the

cumulation rule. $RVC = (130-100)/100 = 30\%$. Therefore, M1 is considered to be non-originating. Similarly, M2 is considered to be non-originating ($RVC = (160-130)/160 = 18.75\%$); and P is considered to be non-originating ($RVC = (190-160)/190 = 15.78\%$).

Scenario 2: If the future full cumulation rules are applied, the value added in countries A, B and C can all be taken into account for cumulation and P will be treated as an originating good ($RVC = (30+30+30)/190 = 47.37\%$).

(B) Is the Value of Indirect Materials Included in the Value of Originating Materials?

A manufacturer ("A") produces good A domestically and exports them to an RCEP Party. As part of the manufacturing process, A purchases raw material X from manufacturer B for the production of good A. A purchases production tools (of other country's origin) and provides them to B for use free of charge in order to enable B to produce raw material X smoothly. The cost of the tools registered in A's accounting records is 100 yuan. According to the RCEP Product-Specific Rules of Origin, both good A and raw material X are subject to the regional value content rules. B applies the direct/build formula to determine if raw material X is of RCEP origin, and uses 100 yuan as the indirect material value. A includes \$100 as a non-originating material value in the other cost line when performing calculations using the indirect/build-down formula.

Manufacturer B's calculation is incorrect because indirect materials have to be recorded in the accounts of the finished good as a prerequisite for the value of the indirect materials to be treated as originating. Since the tools are provided by A to B at no cost, it has no value. A's calculation is also incorrect. Indirect materials as treated as originating materials regardless of where they are produced (regardless of country of origin) and therefore should not

be included in the value of non-originating materials.

(C) Usage of Absorption Rules

Company A purchases raw materials to produce good A and exports them to RCEP Parties. Raw material A1 is wholly produced by A, and non-originating material A2 is imported by A from the United States. Raw material A3 is purchased by A from Manufacturer B. The information disclosed by Company A and Manufacturer B on the value of raw materials and goods is shown in Table 3.2.8 below. Examples are given in US dollars and RMB for ease of understanding.

Table 3.2.8 Price of Goods

Goods	Price
Good A	FOB \$40
Original material A1	RMB 14
Non-native material A2	CIF \$24
Raw material A3	RMB 42
Non-original raw materials A3-1	CIF \$3
Original raw materials A3-2	RMB 6
Original raw materials A3-3	RMB 6

1. The intermediate price of RMB against USD on that day: 6:1.

2. The regional value component rule applies to goods and raw materials containing non-origin materials.

Note: Examples are given in US dollars and RMB for ease of understanding.

Scenario 1: Without the Application of Absorption Rules

The value of non-originating materials used in the production of good A is $A2+A3-1 = US\$27$. Using the indirect/build-down formula, $RVC = (40-27)/40 = 32.5\%$. This does not satisfy the regional value content rule. Good A shall be treated as non-originating.

Scenario 2: With the Application of Absorption Rules

The value of the non-originating material in raw material A3 is $A3-1 = US\$3$. Using the indirect/build-down formula, the RVC of raw material A3 = $(7-3)/7 = 57.1\%$. This satisfies the regional value content rule and raw material A3 shall be treated as originating.

According to the absorption rule, if raw material A3 is further used in production by other manufacturers, the value of non-originating raw material A3-1 in this material is disregarded. Raw material A3 as a whole is considered to have acquired originating status. The value of the non-originating material in Good A is $A2 = \text{US\$}24$. Using the indirect/build-down formula, $\text{RVC} = (40-24)/40 = 40\%$. The regional value content rule is satisfied. Good A is considered to be originating.

In the case that the final product uses upstream raw materials and intermediate products, calculate whether the upstream product or intermediate product meets the origin criteria. If the origin criteria are met, it will be beneficial for the downstream product to comply with the rules of origin.

(D) How to Determine Complete Sets of Goods

A company produces and exports to RCEP Parties a travel kit that contains three component goods: a comb (HS9615), a nail file (HS8214) and a small round mirror (HS8306). According to the General Rules for Classification III of the Harmonized System, the set goods will be classified as a basic unit. Therefore, the travel makeup box is considered a set of goods, and should be classified under HS9605 (travel kits for personal toilet, sewing, shoe or clothes cleaning). Product-Specific Rules of Origin that are applicable to HS9605 should be used, rather than the rules of origin for the individual items for which the travel kit is comprised of.

Traders must take note of the following in the application of sets of goods classification rules:

- (1) Goods must be classifiable under two or more headings.
- (2) The above-mentioned refers to a set put up for retail sale and identifiable as being complementary to one another in function.
- (3) The goods must be sold directly to the consumer and cannot be repackaged before sale.

Section 3 Customs Procedures and Trade Facilitation

Trade facilitation is based on internationally recognized standards and management systems, and creates a coordinated, transparent and predictable environment for international trade transactions by simplifying various customs formalities and procedures, harmonizing laws and regulations, and improving infrastructure. The implementation of trade facilitation can, to a certain extent, address the limitations of market access barriers caused by trade inefficiencies, remove barriers to the cross-border flow of goods and international factor flows, reduce transaction costs, improve customs clearance efficiency, and enhance social welfare.

The rules in the field of customs procedures and trade facilitation under RCEP are mainly set out in the *Trade in Goods, Customs Procedures and Trade Facilitation* and *Electronic Commerce* chapters, which contain enhanced provisions higher than those of the World Trade Organization's Agreement on Trade Facilitation. These enhanced provisions mainly cover tariff classification, customs valuation, Authorized Economic Operator systems, etc. In addition, RCEP is also characterized by its flexibility and high standards, and gives full consideration to the different needs of the RCEP members, such as giving special and differentiated treatment to developing countries and allowing less developed regions to hold transition periods, etc. The Agreement aims to jointly maintain the regional trade order, promote the construction of regional value chains and allow the companies based in RCEP Parties to reap the benefits of the Agreement.

I. Objectives and Scope of Application of the Customs and Trade Facilitation Chapter

The RCEP Customs Procedures and Trade Facilitation chapter

applies to trade in goods between the Parties, and to means of transport that enter or leave the customs territory of a Party. Its objectives are:

- (1) ensure predictability, consistency, and transparency in the application of customs laws and regulations of each Party;
- (2) promote efficient administration of customs procedures of each Party, and the expeditious clearance of goods;
- (3) simplify customs procedures of each Party and harmonize them to the extent possible with relevant international standards;
- (4) promote cooperation among the customs authorities of the Parties;
- (5) facilitate trade among the Parties, including through a strengthened environment for global and regional supply chains.

II. Core Regulations

(A) Basic Rules

1. Customs Valuation

The main purpose of customs valuation is to determine the dutiable value of goods traded between the Parties. The dutiable value of goods is the price of goods used to levy ad valorem duties on the import. The principles of customs valuation are as follows:

- (1) The customs valuation of imported goods shall be the transaction value of the goods sold to the importing country. The transaction value from the paid or payable value for the imported goods plus expenses borne by the seller; the value of materials; patents and other costs; and any proceeds obtained by the seller after resale, processing, and so on. Expenses borne by the seller also include commissions and brokerage fees in addition to the imported goods, the cost of the container of goods, and the cost of labor and materials. The value of materials includes materials, components, and other parts of the imported goods, tools, dyes, molds used in production, as

well as technology, processes and design used.

(2) If the customs valuation is not able to be carried out in accordance with the first article, then it will be determined on the basis of the transaction value of identical goods arriving at the same time in the country of importation. Alternatively, it can be determined from the transaction of identical goods arriving at approximately the same time; similar goods arriving at the same time; similar goods arriving at approximately the same time, etc.

(3) If the customs valuation cannot be determined in accordance with the first and second methods, it will be determined on the basis of the unit price at which the imported goods or identical or similar goods are sold in the greatest aggregate quantity.

(4) When the customs value cannot be determined under the three methods described above, the customs value can be determined on the basis of the estimated value of the goods. For example, raw materials used in the production of imported goods and cost of processing, profit, and all the costs required to carry out the valuation.

(5) When the customs value cannot be determined under any of the previous three methods, it can be determined on the basis of the data available in the country of importation. However, the customs value must not be based on the selling price of goods in the country of importation, the price of goods on the domestic market of the country of exportation, the price of goods for export to a third country, the minimum customs value, or arbitrary or fictitious values.

2. Goods in Transit

Goods in transit are goods that are shipped by some means of transport from outside a country, change or do not change means of transport at the border of that Party, and continue to be shipped

to other countries outside the country through land transport in the territory of that Party. The Trade in Goods chapter requires Parties continue to facilitate customs clearance of goods in transit from or to another RCEP Party, to declare them at the relevant customs offices, and to exempt them from customs duties, transit duties and other transit-related charges, but goods in transit must not be restricted and must be given equal treatment.

3. Temporary Admission of Goods

The RCEP *Trade in Goods* chapter requires each Party to establish a mechanism for establishing temporary admission of goods, allowing and guaranteeing full or partial duty exemption for goods brought into its customs territory for a specific purpose, are intended for re-exportation within a specific period, and goods that have not undergone any change, except normal depreciation and wastage due to the use made of them. The RCEP Parties may extend the time limit for duty-free temporary admission if its customs authority considers it valid or at the request of the country from which the goods are exported.

Each Party may set the following conditions for temporary admission of goods:

- (1) goods are to be used solely by or under the personal supervision of a national or resident of another Party in the exercise of the business activity, trade or sport of that person;
- (2) goods are not be sold or leased while in its territory;
- (3) goods to be accompanied by a security or guarantee releasable on exportation of the good. The security or guarantee is an amount no greater than the customs duties, taxes, fees, and charges that would otherwise be owed on entry or final importation;
- (4) goods to be admitted in no greater quantity than is reasonable for its intended use.

4. Temporary Admission for Containers and Pallets

A "container" refers to an article of transport equipment, such as waterproof sealed containers, mobile storage tanks, etc. It has the following characteristics, fully or partially enclosed to constitute a compartment intended for containing goods, of a permanent character and accordingly strong enough to be suitable for repeated use; designed for the carriage of goods by one or more modes of transport without intermediate reloading; designed for ready handling when being transferred from one mode of transport to another; easy to fill and to empty; have an internal volume of one cubic meter or more. The container shall also include the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container. However, the container shall not include vehicles, accessories or spare parts of vehicles, or packaging or pallets associated with it.

A "pallet" refers to a device on the deck of which a quantity of goods can be assembled to form a unit load for the purpose of transporting it, or of handling or stacking it with the assistance of mechanical appliances. This device is made up of two decks separated by bearers, or of a single deck supported by feet. Its overall height can be reduced to the minimum compatible with handling by forklift trucks or pallet trucks.

For the temporary admission of containers and pallets, the RCEP chapter on Trade in Goods requires each Party to allow containers used in international traffic that enter its territory from the territory of another Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such container. No security or penalty or charge shall be imposed solely by reason of any difference between the port of entry and the port of departure of a container. In addition, no Party shall require that

the carrier bringing a container from the territory of another Party into its territory be the same carrier that takes the container to the territory of another Party, nor can any Party mandate a container's exit through any particular port of departure.

5. Duty-Free Entry of Samples of No Commercial Value

Article 2.12 of the RCEP chapter on Trade in Goods stipulates that each Party shall grant duty-free entry to samples of no commercial value, imported from the territory of another Party, subject to its laws and regulations, regardless of their origin.

6. Acceptance of Trade Management Documents Submitted Electronically

The RCEP chapter on E-Commerce on Paperless Trading sets out that each Party work towards implementing initiatives which provide for the use of paperless trading, endeavor to accept trade administration documents submitted electronically as the legal equivalent of the paper version of such trade administration documents, and make trade administration documents available to the public in electronic form in a timely manner. It also promotes international cooperation among RCEP Parties to enhance acceptance of electronic versions of trade administration documents.

(B) RCEP Customs Clearance

1. Pre-shipment Inspection

Preshipment inspection refers to all activities that ascertain information on the quality, quantity, price, tariff rates and financing terms of goods exported to the territory of a Party. The pre-shipment inspection entity refers to any entity authorized or signed by a Party to perform pre-shipment inspection activities. Parties should ensure that all pre-shipment inspection activities are carried out in the country of export of the goods in a non-discriminatory and transparent manner, that unreasonable

delays are avoided, that price verification is implemented, and that inspections relating to quantity and quality are carried out in accordance with the standards of the purchase contract.

The RCEP Agreement sets out that each Party shall not require the use of pre-shipment inspections in relation to tariff classification and customs valuation, but does not preclude pre-shipment inspections for sanitary and phytosanitary purposes. For example, China's "Regulations for Implementation of the Law of the People's Republic of China on Import and Export Commodity Inspection" stipulates that a statutory pre-shipment inspection system shall be implemented for important import commodities and complete sets of equipment large in size within the scope of statutory inspection, as well as the solid waste and used machinery and electronic products that can be used as raw materials.

2. Pre-arrival Processing

The purpose of pre-arrival processing is to expedite the release of goods. Each Party shall adopt or maintain procedures allowing for the submission of documents and other information required for the importation of goods with a view to begin processing prior to the arrival of goods. These documents and related information can be lodged in electronic format so that each Party can begin processing the goods prior to their arrival, allowing for shorter release times upon arrival of the goods.

For example, according to Article 18 of *China's Provisions of the General Administration of Customs of the People's Republic of China on Declaration of Import and Export Goods*, and *Announcement No. 74, 2014 of the General Administration of Customs of the People's Republic of China*, imported goods declared in advance should be declared after the departure of the inbound means of transport carrying the goods and prior to the arrival of goods at the places subject to customs supervision. The

exported goods declared in advance shall be declared to the Customs within three days prior to the arrival of the goods at the places subject to customs supervision. The validity period of the license certificate of import and export goods declared in advance shall be counted according to the date of Customs' acceptance of the declaration. It is important to note that after the goods are declared in advance, before the actual entry and exit, if the national trade control policies are adjusted, the trade control policy on the date of actual import and export of goods shall apply. In the case of imported goods declared in advance, the tax rate and exchange rate implemented on the date of declaration of entry of the means of transport carrying the goods shall apply. In the case of export goods declared in advance, the exchange rate and tax rate implemented on the date of acceptance of the declaration by Customs shall apply.

3. Release of Goods

In the case of general cargo, each Party shall adopt or maintain procedures that allow goods to be cleared from customs within a period no longer than that required to ensure compliance with its customs laws and regulations and, to the extent possible, within 48 hours of the arrival of goods and lodgement of all the necessary information for customs clearance. If any goods have to undergo further examination, such an examination shall be limited to what is reasonable and necessary, and undertaken and completed without undue delay. In addition, each Party shall adopt or maintain procedures allowing the release of goods, prior to the final determination of customs duties, taxes, fees, and charges if such determination is not done prior to, or upon arrival or as rapidly as possible after arrival and provided that all other regulatory requirements have been met, and that the owner of the goods is willing to provide a guarantee in accordance with the laws and

regulations of the Party.

With a view to preventing avoidable loss or deterioration of perishable goods especially in the absence of proper storage condition, each Party shall provide for the release of perishable goods from customs control provided that all regulatory requirements have been met within six hours after the arrival of the goods and submission of the information required for release under normal circumstances, or in exceptional circumstances where it would be appropriate to do so, outside the business hours of its customs authority.

With regards to express consignments which refer to all goods imported by or through an express consignment operator operating a freight service for the purpose of expediting the cross-border movement of goods, and the operator assumes liability to Customs. Each Party shall permit the entry of such goods through air cargo facilities while maintaining appropriate customs control and selection. Each Party shall perform pre-arrival processing of such goods, minimize documentation required for the release of such goods, exempt the goods from customs duties and internal taxes, and release the goods within six hours of arrival and submission of information required for release.

4. Risk Management

Each Party first shall conduct a risk assessment through appropriate selectivity criteria, such as HS code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport. Second, a risk management system for customs control shall be established in accordance with the results of the risk assessment, which must be non-discriminatory and transparent. Each Party may also randomly inspect inbound consignments where possible, to expedite the

release of low-risk goods and enhance risk management of high-risk goods.

5. Post-clearance Audit

Post-clearance audit refers to the implementation of customs audit of persons or goods based on the results of risk assessment after the release of goods. The purpose of this follow-up audit mechanism is to ensure compliance with each Party's customs and other related laws and regulations, to expedite the release of goods and fill the gaps found in the previous risk management. Each Party shall select a person, an entity, or a consignment for post-clearance audit in a risk-based manner, which shall be conducted in a transparent and non-discriminatory manner. Information to be audited includes the qualification of the origin of goods, the value of goods, the type of means of transport, and so on. Where the person is involved in the audit process and conclusive results have been achieved, each Party shall notify the person who was audited of the results, reasons for results, and the person's rights and obligations. In addition, the information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

(C) Authorized Economic Operator

Authorized Economic Operator (AEO) is a program introduced by the World Customs Organization as a core part of the Framework of Standards to Secure and Facilitate global trade (SAFE), build Customs-to-Business partnerships, support secure trade, and facilitate trade flows. Specifically, AEO refers to a Party involved in the international movement of goods in whatever function that has been approved by or on behalf of a national Customs administration as complying with WCO or equivalent supply chain security standards. This includes but is not limited to manufacturers, importers and exporters, customs brokers, carriers, forwarders, intermediaries, ports and airports, cargo terminal

operators, warehouse operators and distributors. AEO mutual recognition system means a system whereby the customs of one country or region recognize entities with higher levels of compliance, creditworthiness and security in another country or region. Therefore, these recognized entities shall enjoy the same customs clearance facilities and preferential measures as their own AEO in their home country's customs clearance process.

The RCEP chapter on Customs Procedures and Trade Facilitation requires each Party to provide additional trade facilitation measures related to import, export, or transit formalities and procedures to authorized operators, and sets out detailed criteria to qualify as an authorized operator and measures for enhanced cooperation.

First, the specified criteria set out to qualify as an authorized operator requires an operator to be compliant with the laws, regulations and procedures specified in a Party's laws, regulations, or procedures. Specified qualification criteria include but are not limited to documentation which reflect an appropriate record of compliance with customs and other related laws and regulations; a system of managing records to allow for necessary internal controls; financial solvency, including, where appropriate, provision of sufficient security or guarantee; and assurance of supply chain security.

Second, trade facilitation measures provided to authorized operators should include at least three of the following measures:

- (1) low documentary and data requirements;
- (2) low rate of physical inspections and examinations;
- (3) rapid release time;
- (4) deferred payment of duties, taxes, fees, and charges;
- (5) use of comprehensive guarantees or reduced guarantees;

(6) a single customs declaration for all imports or exports in a given period;

(7) clearance of goods at the premises of the authorized operator or another place authorized by a customs authority.

Finally, the Parties are encouraged to cooperate, where appropriate, in developing their respective authorized operator schemes based on international standards. This includes exchanging relevant information on authorized operators, sharing perspectives on business experiences and best practices, sharing information on approaches to mutual recognition of such schemes, designating customs officers as coordinators for authorized operators, and so on. A designated customs officer refers to a customs professional selected and trained by customs to provide a number of services to highly accredited companies, including providing advisory services on customs policies, laws and regulations, resolving issues encountered by companies in handling customs operations, guiding enterprises to standardize and improve business processes, and also soliciting opinions and suggestions from companies on customs management.

(D) Advance Rulings

The applicant for an advance ruling can be the consignee of imports or the consignor of exports, and the receiving authority is the customs office directly under the applicant's place of registration. The Agreement makes obligatory commitments on matters concerning advance rulings made by the Parties on customs valuation methods and standards, which greatly exceeds the level of World Trade Organization commitments.

First, the importer, exporter, or any person with a justifiable cause, or a representative thereof, may submit a written application for an advance ruling prior to the exportation of a good. After receiving the application, each Party shall issue a written advance

ruling on the issues of tariff classification, origin eligibility and customs value of the good, and establish a framework to ensure the smooth implementation of the advance ruling.

Second, each Party shall publish the requirements for an application for an advance ruling, including the information to be provided and the format, time period by which an advance ruling will be issued, and validity period of an advance ruling. If the Party's customs authority has reasonable grounds to issue the advance ruling later than the specified period, it shall notify the applicant of the grounds for such a delay prior to the end of the specified period. In general, the advance ruling shall be issued within 90 days upon receipt of all necessary information and shall remain valid for at least three years. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it.

Third, a Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of administrative or judicial review and must promptly inform the applicant in writing, setting forth the relevant facts, circumstances, and the basis for its decision to decline to issue the advance ruling. In addition, a Party may decline to issue an advance ruling if the applicant does not submit the requested additional information within a reasonable period.

Fourth, if a Party revokes, modifies, or invalidates an advance ruling, it shall promptly provide written notice to the applicant setting out the relevant facts and the basis for its decision, where there is a change in its laws or regulations; incorrect information was provided or relevant information was withheld; there is a change in a material fact or circumstances on which the advance ruling was based.

III. Other Regulations

(A) Customs Cooperation

RCEP encourages Parties to strengthen coordination and communication among their respective customs authorities, share information on simplification and harmonization of customs procedures; development and implementation of customs best practices and risk management techniques; advancing technical skills and the use of technology; and application of the Customs Valuation Agreement. In case of any significant administrative change, or modifications in measures that govern importations or exportations, each Party shall provide notice to the other Parties in the English language or the Party's language and will be provided to the designated contact point.

(B) Transparency

Each Party shall promptly publish, the following information related to trade in a non-discriminatory and easily accessible manner to its authorities, and to the authorities of other RCEP Parties:

(1) procedures for importation, exportation, and transit, and required forms and documents;

(2) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;

(3) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation, or transit;

(4) rules for the classification or valuation of products for customs purposes;

(5) laws, regulations, and administrative rulings of general application relating to rules of origin;

(6) import, export, or transit restrictions or prohibitions;

(7) penalty provisions for breaches of import, export, or transit formalities;

(8) procedures for appeal or review;

(9) agreements with any country or countries relating to

importation, exportation, or transit;

(10) procedures relating to the administration of tariff quotas.

Each Party shall promptly publish the information detailed above on the internet. When developing new, or amending existing, customs laws and regulations, each Party shall provide a reasonable opportunity for other RCEP Parties to comment on the proposed customs laws and regulations, and provide a reasonable period of time between the new and amended customs law and regulations and their entry into force to enable traders to make the relevant adjustments. At the same time, each Party should establish one or more contact points for importers and exporters to consult on customs matters, import/export and transit-related documents.