

AGREEMENT BETWEEN JAPAN AND THE REPUBLIC OF PERU FOR AN ECONOMIC PARTNERSHIP

Operational Procedures referred to in Chapter 3 (Rules of Origin)

Section 1 Proofs of Origin

The Operational Procedures should be applied to the pertinent provisions in Chapter 3 (Rules of Origin) of the Agreement between Japan and the Republic of Peru for an Economic Partnership (hereinafter referred to as “the Agreement”).

Rule 1: Modification

1. In case a Certificate of Origin contains incorrect information, after the notification referred to in paragraph 10 of Article 54 is sent as necessary, the exporter or his authorized representative may request the issuance of a new Certificate of Origin.
2. Notwithstanding paragraph 1 above, the competent authority of the exporting Party or its certification bodies may, in response to the request for the issuance of a new Certificate of Origin, make modifications on the original Certificate of Origin by striking out errors and making any addition required. Such modifications should be certified by the authorized signature and stamp of the competent authority of the exporting Party or its certification bodies.
3. Erasures, superimpositions and modifications, other than those referred to in paragraph 2 above, should not be allowed on the issued Certificate of Origin.

Rule 2: Origin declaration

1. In cases where a commercial document on which an origin declaration was made out covers also non-originating goods, the indication of the non-originating goods and therefore goods which are not covered by the origin declaration should not be made in the origin declaration itself. However, such indication should appear on the commercial document in an appropriate way so as to avoid any misunderstandings.

2. An origin declaration may be made out on the reverse side of the commercial document.
3. The origin declaration may be made out on an invoice issued in a non-Party.

Section 2 Administration and Enforcement

Rule 3: Focal points of administrative offices

1. The focal point of the competent authority of the exporting Party is:
 - (a) for Japan, the Origin Certification Policy Office of the Trade Administration Division of the Trade and Economic Cooperation Bureau of the Ministry of Economy, Trade and Industry, or its successor; and
 - (b) for Peru, the Vice Ministry of Foreign Trade of the Ministry of Foreign Trade and Tourism, or its successor.
2. The focal point of the relevant authority of the importing Party is:
 - (a) for Japan, the Customs and Tariff Bureau of the Ministry of Finance, or its successor; and
 - (b) for Peru, the Vice Ministry of Foreign Trade of the Ministry of Foreign Trade and Tourism, or its successor.
3. Each Party should provide the other Party with the address, phone number, fax number and e-mail address of its focal points referred to in paragraphs 1 and 2 above upon adoption of this Operational Procedures, and should notify the other Party of any modification regarding such information within 30 days after such modification.

Rule 4: Communications

1. For the purposes of Article 59 and Article 66 of the Agreement, any communication between the Parties should be made through the Embassy of Japan in Peru and the Ministry of Foreign Trade and Tourism of Peru. Such communications should be made by any method with a confirmation of receipt. The date of notification provided for in Article 59 of the Agreement should mean the date on which the confirmation of receipt was given.
2. The direct communications between the Parties may be made by facsimile or e-mail in parallel with the communications set out in paragraph 1 above.
3. The period for providing the reply pursuant to paragraph 4 of Article 66 of the Agreement should commence from the date of the confirmation of receipt of the request pursuant to paragraph 1 above.
4. The request for verification should include:
 - (a) the identity of the relevant authority of the importing Party sending the request for verification; and
 - (b) the scope of the requested verification, including specific reference to the good subject of the verification referred to in the Proof of Origin.
5. Notwithstanding paragraphs 1 through 4 above, the relevant authority of Peru may access the EPA CO Reference System provided by the Ministry of Economy, Trade and Industry of Japan for the purposes of verifying the authenticity of Certificates of Origin issued in Japan.

Section 3

Application of Rules of Origin

Rule 5: Qualifying value content (QVC)

For the purposes of subparagraphs 2(a) and 2(b) of Article 41 of the Agreement:

- (a) cases where there is free-on-board value of the good, but it is unknown and cannot be ascertained refer to such cases as provided for in subparagraph 6(b) of Article 54 of the Agreement and in subparagraph 3(b) of Article 57 of the Agreement; and
- (b) cases where there is no free-on-board value of a good refer to such cases where the producer acquires the good through a domestic transaction.

5-1. Example of the calculation of the QVC provided for in paragraph 1 of Article 41 of the Agreement

Company A produces refrigerators (HS8418.10) in Party A using non-originating materials and plans to export them to Party B under the Agreement.

Pursuant to subparagraph (c) of Article 39 of the Agreement, the requirement for a refrigerator (HS8418.10) to qualify as an originating good is stipulated in the product specific rules (PSR). The applicable PSR is:

A qualifying value content of not less than 50 percent.

Company A has to prove that the refrigerator satisfies the 50% QVC rule. Company A has to calculate the QVC in the way as illustrated below.

Company A's manufacturing costs of the refrigerator are:

	Sources	Originating Status	Manufacturing Costs (US\$)
Parts a	Party A	originating	500
Parts b	Party A	originating	100
Parts c	non-Party	non-originating	100
Parts d	non-Party	non-originating	100
Parts e	unknown	non-originating	200
Other Costs	N/A	N/A	200
FOB Price	—	—	1,200

The formula for calculating the QVC is:

$$\text{QVC} = \frac{\text{FOB} - \text{VNM}}{\text{FOB}} \times 100 (\%)$$

QVC: is the qualifying value content of a good, expressed as a percentage.

FOB: is, except as provided for in paragraph 2 of Article 41 of the Agreement, the free-on-board value of a good payable by the buyer of the good to the seller of the good, regardless of the mode of shipment, not including any internal excise taxes reduced, exempted, or repaid when the good is exported.

VNM: is the value of the non-originating materials used in the production of a good.

The calculation of the QVC of the refrigerator in this example is:

$$\text{QVC} = \frac{\$1,200 - \$400 \text{ (Parts c, d and e)}}{\$1,200} = 66.6\ldots\% \geq 50\%$$

The above result of the calculation shows that the refrigerator qualifies as an originating good of Party A under the Agreement.

5-2. Example of the use of the method provided for in paragraph 5 of Article 41 of the Agreement (“roll-up”)

Company A produces refrigerators (HS8418.10) in Party A using non-originating materials and plans to export them to Party B under the Agreement.

Pursuant to subparagraph (c) of Article 39 of the Agreement, the requirement for a refrigerator (HS8418.10) to qualify as an originating good is stipulated in the PSR. The applicable PSR is:

A qualifying value content of not less than 50 percent.

Company A has to prove that the refrigerator satisfies the 50% QVC rule. Company A purchased Parts b (electric motor (HS8501.10)) from Company X of Party A. To calculate the QVC of the refrigerator, Company A has to obtain from Company X the information concerning the originating status of Parts b.

Company X's manufacturing costs of Parts b (electric motor) are:

	Sources	Originating Status	Manufacturing Costs (US\$)
Sub-parts b1	Party A	originating	80
Sub-parts b2	non-Party	non-originating	40
Other Costs	N/A	N/A	20
FOB Price	—	—	140

Pursuant to subparagraph (c) of Article 39 of the Agreement, the requirements for an electric motor (HS8501.10) to qualify as an originating good are stipulated in the PSR. The applicable PSR are:

- (a) *A change to subheading 8501.10 through 8523.40 from any other heading; or*
- (b) *No change in tariff classification to subheading 8501.10 through 8523.40 is required, provided that there is a qualifying value content of not less than 50 percent.*

Company X calculates the QVC of Parts b as follows:

$$\text{QVC} = \frac{\$140 - \$40 \text{ (Sub-parts b2)}}{\$140} = 71.4\% \geq 50\%$$

The above result of the calculation shows that Parts b qualifies as an originating material of Party A under the Agreement.

Company A's manufacturing costs of the refrigerator are:

	Sources	Originating Status	Manufacturing Costs (US\$)
Parts a	Party A	originating	380
Parts b	Party A	originating	140
Sub-parts b1	Party A	originating	80
Sub-parts b2	non-Party	non-originating	40
Other Costs	N/A	N/A	20
Parts c	non-Party	non-originating	280
Parts d	non-Party	non-originating	200
Parts e	non-Party	non-originating	100
Other Costs	N/A	N/A	100
FOB Price	–	–	1,200

The calculation of the QVC of the refrigerator in this example is:

$$\text{QVC} = \frac{\$1,200 - \$580 \text{ (Parts c, d and e)}}{\$1,200} = 51.6\% \geq 50\%$$

The above result of the calculation shows that the refrigerator qualifies as an originating good of Party A under the Agreement.

5-3. Example of the calculation of the QVC when the exporter or the producer cannot determine the origin of some parts

Company A produces refrigerators (HS8418.10) in Party A using non-originating materials and plans to export them to Party B under the Agreement.

Pursuant to subparagraph (c) of Article 39 of the Agreement, the requirement for a refrigerator (HS8418.10) to qualify as an originating good is stipulated in the PSR. The applicable PSR is:

A qualifying value content of not less than 50 percent.

Company A has to prove that the refrigerator satisfies the 50% QVC rule. Company A has to calculate the QVC in the way as illustrated below.

Company A's manufacturing costs of the refrigerator are:

	Sources	Originating Status	Manufacturing Costs (US\$)
Parts a	Party A	originating	480
Parts b	Party A	originating	140
Parts c	unknown	unknown	unknown
Parts d	unknown	unknown	unknown
Parts e	unknown	unknown	unknown
Other Costs	N/A	N/A	80
FOB Price	—	—	1,200

The calculation of the QVC of the refrigerator in this example is:

$$\text{QVC} = \frac{\$1,200 - (\$1,200 - \$700 \text{ (Parts a, b and other costs)})}{\$1,200} = 58.3\% \geq 50\%$$

Without regard to the value of Parts c, Parts d and Parts e, the above result of the calculation shows that the refrigerator qualifies as an originating good of Party A under the Agreement.

Rule 6: Accumulation of origin

1. Article 43 of the Agreement enables companies in a Party to consider originating materials of the other Party as those of the former Party, provided that the working or processing on these materials in the former Party goes beyond the operations provided for in Article 42 of the Agreement. If a company in Party A imports an originating material of Party B and uses it in the production of a good which is to be exported to Party B, such originating material of Party B may be considered as an originating material of Party A, provided that the working or processing in Party A on such originating material of Party B goes beyond the operations provided for in Article 42 of the Agreement.

2. It should be noted that materials which have been subject to the accumulation provision should be verifiable according to Article 66 of the Agreement.

Rule 7: *De Minimis*

7-1. Example of the application of the *De Minimis* for industrial goods other than textile goods (subparagraph 1(b) of Article 44 of the Agreement)

Company A produces silver jewelry (HS7113.11) in Party A and plans to export them to Party B under the Agreement.

Pursuant to subparagraph (c) of Article 39 of the Agreement, the requirements for silver jewelry (HS7113.11) to qualify as originating goods are stipulated in the PSR. The applicable PSR are:

- (a) *A change to heading 71.13 from any other heading; or*
- (b) *No change in tariff classification to heading 71.13 is required, provided that there is a qualifying value content of not less than 40 percent.*

Company A has to prove that the silver jewelry satisfies either the change in tariff classification (CTC) rule at the level of heading or the 40% QVC rule. Company A chooses the CTC rule in this case.

In this case, the silver jewelry (HS7113.11) is made from silver (HS7106.91) of non-Party X and silver broaches (HS7113.11) of non-Party Y. While the silver undergoes a CTC at the level of heading, since the silver broaches do not undergo a CTC from any other heading, the silver jewelry does not satisfy the CTC rule. Nevertheless, if the value of the silver broaches does not exceed 10% of the FOB price of the silver jewelry, the silver jewelry is considered as an originating good of Party A in accordance with subparagraph 1(b) of Article 44 of the Agreement.

7-2. Example of the application of the *De Minimis* for textile goods (subparagraph 1(c) of Article 44 of the Agreement)

Company A produces silk yarn (HS5006.00) in Party A and plans to export it to Party B under the Agreement.

Pursuant to subparagraph (c) of Article 39 of the Agreement, the requirement for silk yarn (HS5006.00) to qualify as an originating good is stipulated in the PSR. The applicable PSR is:

A change to heading 50.04 through 50.06 from any other heading, except from heading 50.04 through 50.06.

The silk yarn (HS5006.00) is made from raw silk (HS5002.00) of non-Party X and silk thread (HS5006.00) of non-Party Y. While raw silk undergoes a CTC at the level of heading, since the silk thread does not undergo a CTC from any other heading, the silk yarn does not satisfy the CTC rule. Nevertheless, if the weight of the silk thread does not exceed 10% of that of the silk yarn, the silk yarn is considered as an originating good of Party A in accordance with subparagraph 1(c) of Article 44 of the Agreement.

Rule 8: Unassembled or disassembled goods

Company A produces a gas turbine (HS8411.82), which qualifies as an originating good of Party A, and plans to export it to Party B under the Agreement. Since the gas turbine is an extremely large machine, Company A exports it in a disassembled form (a group of lots) for the reason of transportation. In this case, the customs authority of Party B classifies the group of lots as a disassembled good - i.e., a disassembled gas turbine by virtue of Rule 2(a) of the General Rules for the Interpretation of the Harmonized System. The disassembled gas turbine does not lose the originating status and remains classified as a gas turbine (HS8411.82).