

RCEP's Rules of Origin

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NEW ZEALAND
CUSTOMS SERVICE
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The issues we faced

When negotiating the RoO chapter we had to bring together the wants, needs and desires of ~~16~~ 15 Parties with:

- *Differing FTA histories*
- *Differing levels of ambition*
- *Different compliance models*
- *Differing degrees of development*
- *Some Party specific requirements*



The result

- › RCEP brings together “modern” FTA elements, more traditional ASEAN FTA elements, and Party specific requirements into a coherent, consistent Rules of Origin Chapter.
- › This was largely achieved was thorough the use of options or alternatives for Chapter requirements and a built in work programme.
- › The most obvious example of alternatives is in the proof of origin elements where the FTA provides for three forms of proof of origin:
 - Certificate of Origin – Article 3.17: sets out the requirements for the CoO to implement 3.16.1 (a),
 - Declaration of Origin – Article 3.18: sets out the requirements for the DoO to implement 3.16.1 (c)
 - Approved Exporter – Article 3.21: established how the approved exporter process will work to implement 3.16.1 (b)



Proof of origin - implementation

- › Including alternatives enabled agreement, but having alternatives also means more to understand, explain and implement.
- › For the proof of origin elements, RCEP requires the 15 Parties to:

As a collective:

- Develop a CoO form
- Establish means to exchange CoO authorised issuing body information
- Develop a means to exchange information on Approved Exporters
- Establish means to determine country of origin
- Draft Implementing Guidelines (to explain RCEP Country of Origin to traders)

Individually:

- Establish its CoO issuing body accreditation and administration processes
- Establish its Approved Exporter accreditation and administration processes
- Implement self-declaration of origin for imports and exports



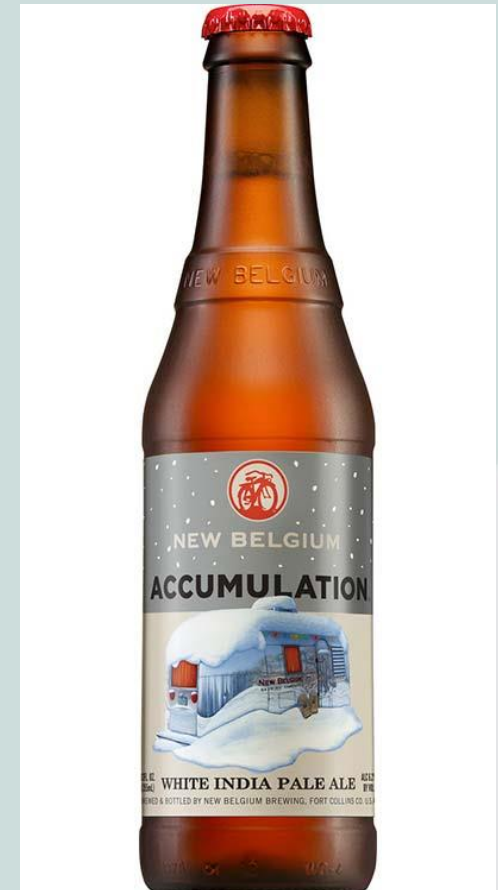
A new issue – differentiated tariffs

- › In developing the preferential tariff schedules, the Trade in Goods Chapter negotiators decided that Parties would not need to have a single common concession applicable to imports from all other Parties, but would allow a Party to have different tariff rates for the same good when exported from different Parties.
- › And what was a Trade in Goods issue was handed over to the RoO working group to resolve, the key question being how would you determine the '*country of origin*' for a good, as this was needed to determine the correct tariff rate to apply.
- › The text outcome is provided in Article 2.6 Tariff Differentials, but following signing of the Agreement, it took almost a year to determine how the Article will be implemented amongst the 15 RPC's.
- › In my view effective implementation of the country of origin provisions may be the biggest remaining challenge.



The irony

- › While the diversity of membership has provided many challenging issues to work through, the number of members and the diversity of the region also provides RCEP's biggest benefit, the ability to source and accumulate materials from a wide array of countries.
- › And while the FTA has entered into force using originating goods cumulation only, the built in review in the Cumulation Article aims to expand the scope even further by implementing full cumulation meaning that any and all value added to a product in the region can count towards determining the final good's originating status.



Lesson I have learnt

- › While negotiators may think providing alternatives or options is a positive, and in the case of RCEP, a problem solving approach, there is a downside....complexity.
- › Complexity in understanding, use and implementation. Work on implementing RCEP has been underway since March 2021, and is still not finished.
- › There is text that connects and cross-references from one Article to another (as an example, the proof of origin elements are spread over six Articles) so you need to constantly be checking to ensure there is alignment and logical consistency.
- › From an importing Customs agency perspective full implementation of RCEP will require us to adapt and adjust to:
 - Accept three types of proof of origin documents, and B2B origin documents
 - Be able to verify the origin of a product that includes value add only or non-originating materials from other RCEP Parties
 - Determine the country of origin (if the importing Party has differentiated tariffs)



Final thought

RCEP has taken a lot of work over a number of years to negotiate and implement, and there is still work to be done, but we have got the world's biggest FTA into force and operating.



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