

IMPLEMENTING AGREEMENT
BETWEEN THE GOVERNMENT OF AUSTRALIA AND
THE GOVERNMENT OF JAPAN
PURSUANT TO ARTICLE 1.12 OF THE AGREEMENT
BETWEEN AUSTRALIA AND JAPAN
FOR AN ECONOMIC PARTNERSHIP

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PREAMBLE

The Government of Australia and the Government of Japan (hereinafter referred to as “the Parties”),

In accordance with Article 1.12 (General Provisions –Implementing Agreement) of the Agreement between Australia and Japan for an Economic Partnership (hereinafter referred to as “the Basic Agreement”),

HAVE AGREED as follows:

CHAPTER 1 GENERAL PROVISIONS

Article 1.1 Scope and Relationship to the Basic Agreement

1. This Agreement sets out the details and procedures for the implementation of certain provisions of the Basic Agreement.
2. Unless otherwise provided for in this Agreement, the definitions set out in the Basic Agreement shall apply to this Agreement, *mutatis mutandis*.
3. Chapter 19 (Dispute Settlement) of the Basic Agreement shall apply *mutatis mutandis* with respect to the settlement of disputes between the Parties concerning the implementation, interpretation or application of this Agreement.

CHAPTER 2 RULES OF ORIGIN

Article 2.1 Issuance of Certificate of Origin

1. Signatures of the representatives of the authorised body of the exporting Party or its other certification bodies on a Certificate of Origin shall be autographed or electronically printed. Stamps or official seals of the authorised body or other certification bodies may be printed electronically as well.
2. In principle, a Certificate of Origin shall be issued by the time of shipment.
3. In exceptional cases where the Certificate of Origin has not been issued by the time of shipment, on request of the exporter or producer, the Certificate of Origin may be issued retrospectively in accordance with the domestic laws and regulations of the exporting Party within 12 months from the date of shipment, in which case it shall be necessary to indicate "ISSUED RETROSPECTIVELY" in the relevant field of the Certificate of Origin. The Certificate of Origin issued retrospectively shall indicate the date of shipment in the relevant field of the Certificate of Origin.
4. A Certificate of Origin issued retrospectively shall remain valid for one year from the date of shipment.
5. In the event of theft, loss or destruction of an issued Certificate of Origin before the expiration of its validity, the exporter, the producer or their authorised representative may request the authorised body of the exporting Party or its other certification bodies

to issue a new Certificate of Origin as a duplicate of the original Certificate of Origin on the basis of the documents in their possession. The Certificate of Origin issued in this way shall bear the word “DUPLICATE OF THE ORIGINAL CERTIFICATE OF ORIGIN NUMBER_DATED_” in the relevant field of the Certificate of Origin. The date of issuance of the original Certificate of Origin shall be indicated in the new Certificate of Origin. The new Certificate of Origin shall be valid during the term of the validity of the original Certificate of Origin.

Article 2.2 Modification

1. In case a Documentary Evidence of Origin contains incorrect information:
 - (a) the exporter, producer or their authorised representative may request the issuance of a new Certificate of Origin and the invalidation of the original Certificate of Origin; or
 - (b) the importer, exporter, or producer may complete a new origin certification document and withdraw the original origin certification document.
2. Notwithstanding paragraph 1(a), the authorised body of the exporting Party or its other certification bodies may, in response to the request for the issuance of a new Certificate of Origin or at their own initiative, make modifications to the Certificate of Origin by striking out errors and making any additions required. Such modifications shall be certified by the authorised signature and stamp or official seal of the authorised body of the exporting Party or its other certification bodies.
3. Erasures, superimpositions and modifications other than those referred to in paragraph 2 shall not be allowed on the issued Certificate of Origin.

Article 2.3 Language of Documentary Evidence of Origin

1. The Documentary Evidence of Origin shall be completed in the English language.
2. Notwithstanding paragraph 1, in the case of importation into Japan, an importer may complete an origin certification document in the Japanese language.

Article 2.4 Consignment

For the purposes of subparagraph (a) of Article 3.8 (Rules of Origin –

Consignment) of the Basic Agreement, in case a good undergoes repacking, relabeling or splitting up, an importer shall provide, on request of the customs administration of the importing Party, a Documentary Evidence of Origin which is consistent with the state of consignment after such operations.

Article 2.5 Minor Errors

The customs administration of the importing Party shall disregard minor errors, such as slight discrepancies or omissions, typing errors or protrusions from the designated field, provided that these minor errors are not such as to create doubts concerning the accuracy of the information included in the Documentary Evidence of Origin.

Article 2.6 Communications on Origin Verification

1. For the purposes of Articles 3.21 (Rules of Origin – Origin Verification) and 3.22 (Rules of Origin – Verification Visit) of the Basic Agreement, communication between the customs administration of the importing Party and the exporters, the producers, the authorised body or the customs administration of the exporting Party shall be made through diplomatic channels unless otherwise agreed by the Parties.
2. Notwithstanding paragraph 1, for the purposes of Articles 3.21 (Rules of Origin – Origin Verification) and 3.22 (Rules of Origin – Verification Visit) of the Basic Agreement, the customs administration of the importing Party may communicate with the authorised body or the customs administration of the exporting Party and the exporter or the producer of the good who applied for the Certificate of Origin or completed the origin certification document, by any method with a confirmation of receipt, in parallel with the communications set out in paragraph 1.
3. Notwithstanding paragraphs 1 and 2, the customs administration of Australia 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.
4. The language to be used for communications between the Parties in accordance with Articles 3.21 (Rules of Origin – Origin Verification) and 3.22 (Rules of Origin – Verification Visit) of the Basic Agreement shall be English.

CHAPTER 3 CUSTOMS PROCEDURES

Article 3.1 Mutual Assistance

1. To the extent permitted by the competence and available resources of their respective customs administrations, the Parties shall assist each other through their customs administrations to ensure proper application of customs laws, and to prevent, investigate and combat any violation or attempted violation of customs laws.
2. The Parties shall cooperate through their customs administrations, when necessary and appropriate, in the area of research, development, and testing of new customs procedures and new enforcement aids and techniques, training activities of customs officers, and exchange of personnel between them.

Article 3.2 Information and Communications Technology

1. The customs administrations of the Parties shall make cooperative efforts to promote the use of information and communications technology in their customs procedures, including possible electronic data interchange between the customs administrations, taking into account international standards or methods developed under the auspices of international organisations or fora such as the Customs Cooperation Council, the International Organization for Standardization, and the United Nations Centre for Trade Facilitation and Electronic Business.
2. The customs administrations of the Parties shall exchange information, including best practices, on the use of information and communications technology for the purpose of improving customs procedures.
3. The introduction and enhancement of individual information and communications technology by the customs administrations of the Parties shall, to the greatest extent possible, be carried out taking into account the views expressed by relevant parties.

Article 3.3 Risk Management

1. In order to facilitate customs clearance of goods traded between Australia and Japan, the customs administrations of the Parties shall continue to use risk management and promote the improvement of risk management techniques.
2. The customs administrations of the Parties shall exchange information, including

best practices, on risk management techniques and other enforcement techniques.

Article 3.4 Advance Rulings

1. For the purposes of paragraph 2 of Article 4.5 (Customs Procedures - Advance Rulings) of the Basic Agreement, procedures for issuing advance rulings shall ensure that:

- (a) the requirements for the application for an advance ruling, including the information to be provided and the format, are publicly available;
- (b) the customs administration of the importing Party is allowed to request, at any time during the course of the evaluation of the application for an advance ruling, the applicant to provide additional information deemed necessary for such evaluation;
- (c) an advance ruling is based on the facts and circumstances presented by the applicant and any other relevant information in the possession of the customs officers responsible for the issuance of the advance rulings;
- (d) the customs administration of the importing Party endeavours to issue an advance ruling within 30 days, or 90 days for customs valuation, from the date of receipt of the application with all the necessary information, and in cases where the customs administration of the importing Party fails to issue the advance ruling within the aforementioned 30 or 90 days, the applicant is informed accordingly;
- (e) an issued advance ruling is provided in writing and includes the reasons for the ruling; and
- (f) the conditions for the use of an issued advance ruling, such as the period of validity thereof, are specified.

2. For the purposes of paragraph 4 of Article 4.5 (Customs Procedures - Advance Rulings) of the Basic Agreement, the customs administration of the importing Party may modify or revoke the issued advance ruling in the following cases:

- (a) if the advance ruling has been issued based on erroneous facts or the applicant for the advance ruling omitted to provide all relevant information;
- (b) if there has been a change in the law, facts or circumstances on which the issued advance ruling was based;

- (c) if there has been an amendment of the Basic Agreement or this Agreement which affects the issued advance ruling, since the issuance of the ruling;
- (d) if there has been a change in the procedures relating to advance rulings which affects the issued advance ruling, since the issuance of the ruling, provided that such change is not inconsistent with the provisions of the Basic Agreement and this Agreement, including the requirements specified in paragraph 1; or
- (e) if the customs administration of the importing Party has other reasonable grounds to modify or revoke the issued advance ruling.

Article 3.5
Enforcement Against Illegal Trafficking

1. The Parties shall, to the extent permitted by the competence and available resources of their respective customs administrations, cooperate and exchange information in their enforcement against:
 - (a) the trafficking of illicit drugs and other prohibited goods; and
 - (b) the illegal trafficking of controlled goods.
2. The Parties shall endeavour to promote regional cooperation under the Customs Cooperation Council in combating trafficking of illicit drugs and other prohibited goods.

Article 3.6
Intellectual Property Rights

The customs administrations of the Parties shall, within their respective competence and available resources, cooperate and exchange information in the application of border measures under the provisions of Article 16.18 (Intellectual Property – Enforcement – Border Measures) of the Basic Agreement.

Article 3.7
Exchange of Information and Confidentiality

1. Neither Party shall use or disclose information provided pursuant to this Chapter except for the purpose of discharging the functions of its customs administration in accordance with its customs laws, or otherwise with the consent of the providing customs administration.

2. Each Party may limit the information it communicates to the other Party when the other Party is unable to give the assurance requested by the former Party with respect to the maintenance of confidentiality or the limitations of purposes for which the information will be used.

3. If a Party that requests information would be unable to comply with a similar request in case such a request were made by the other Party, the requesting Party shall draw attention to that fact in its request. Responding to such a request shall be at the discretion of the other Party.

4. Information provided by the customs administration of a Party to the customs administration of the other Party pursuant to this Chapter shall not be used by the other Party in criminal proceedings carried out by a court or a judge, unless the other Party has obtained prior written consent of the customs administration which provided the information.

5. Nothing in paragraph 4 shall prevent a Party from submitting a request for such information to the other Party through diplomatic channels or other channels established in accordance with the domestic laws and regulations of the other Party.

6. This Article shall not preclude the use or disclosure of information provided pursuant to this Chapter to the extent such use or disclosure is required by the domestic laws and regulations of the Party of the customs administration receiving the information. Such customs administration shall, wherever possible, give advance notice of any such disclosure to the customs administration providing the information.

7. The Parties may refuse to communicate information pursuant to this Chapter, where to do so would:

- (a) be likely to prejudice sovereignty, public policy, security or other essential interests;
- (b) violate or prejudice a legitimate industrial, commercial or professional interest;
- (c) be contrary to the domestic laws and regulations of the Party receiving the request for information; or
- (d) impede law enforcement.

CHAPTER 4
FINAL PROVISIONS

Article 4.1
Implementation

This Agreement shall be implemented by the Parties in accordance with the Basic Agreement and their respective domestic laws and regulations in force.

Article 4.2
Entry into Force

This Agreement shall enter into force at the same time as the Basic Agreement and shall remain in force as long as the Basic Agreement remains in force.

Article 4.3
Amendment

This Agreement may be amended by written agreement between the Parties. The Parties shall, on request of a Party, consult as to whether to amend this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE at Canberra on this eighth day of July in the year 2014, in duplicate in the English and Japanese languages, both texts being equally authentic.

For the Government
of Australia:

For the Government
of Japan: