Current State of Diversity and Complexity of Preferential Rules of Origin and Moves toward Convergence: —Role of Multilateral Frameworks in Simplification of Preferential Rules of Origin—

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Abstract

While the impact of the growing diversity and complexity of preferential rules of origin (RoO) due to the development of free trade agreements (FTAs) and economic partnership agreements (EPAs) is attracting attention, there are moves to achieve the convergence of complex preferential RoO in light of the experiences gained by individual countries through the enforcement of RoO under FTAs/EPAs, and the geographical expansion of FTAs/EPAs and the development of mega-FTAs/EPAs. This paper examines the current state of diversity and complexity of RoO and the moves toward convergence by conducting a comparative analysis of RoO under EPAs concluded by Japan and FTAs concluded by major countries with respect to a selection of typical products in major sectors and considers whether it is possible to simplify RoO in order to reduce the diversity and complexity. It also considers what role multilateral frameworks, such as the World Trade Organization (WTO), can play in the simplification of RoO.

Keywords: rules of origin, preferential rules of origin, FTAs, EPAs
JEL Classification: F13, K33

I. Introduction

While the development of free trade agreements (FTAs) and economic partnership agreements (EPAs) gives preferential rules of origins (RoO) an important role in determining the eligibility of preferential treatment provided by FTAs/EPAs, the growing number of FTAs/EPAs and the differed contents of their preferential RoO have brought about the growing diversity and complexity of preferential RoO, the impact of which has been attracting attention.

On the other hand, there are moves to achieve the convergence of complex preferential RoO in light of the experiences gained by individual countries through the enforcement of RoO under the FTAs/EPAs, the geographical expansion of FTAs/EPAs, and the development of mega-FTAs/EPAs. There are also moves toward simplification of the certification and verification procedures to ensure the proper implementation of RoO, such as moves from certification by third parties, which has been conventionally used, to self-certification

Japan has been promoting EPAs widely with major countries and regions, including the United States (US) and the European Union (EU), which have further advanced in promot-

ing FTAs, and in recent years has concluded mega-EPA such as TPP11[1] and Japan-EU EPA. This paper examines the diversity and complexity of the RoO of Japan's EPAs and the FTAs in major countries, through conducting comparative analysis of the RoO by selecting typical products of major sectors, and consider whether it is possible to simplify the RoO in order to reduce the diversity and complexity. In addition, it examines the role that multilateral frameworks such as the World Trade Organization (WTO) can play in efforts to simplify the RoO.

II. Rules of Origin

Rules of origin (RoO) is the rules to determine the nationality of a product internationally traded. RoO apply to every trade policy measure requiring different treatments based on the origin.[2]

There are two types of RoO: one is preferential RoO that determine the eligibility of preferential treatment provided by Generalized System of Preference (GSP) or FTAs/EPAs, and the other RoO (non-preferential RoO).[3]

Agreement on Rules of Origin (ARO) of the World Trade Organization (WTO), as a multilateral discipline on RoO, stipulates the harmonization work programme (HWP) for establishing internationally harmonized non-preferential RoO (HRO) and the disciplines applying during the transition period (until the HWP is completed), such as to be clearly defined, not to themselves create restrictive, distorting, or destructive effects on international trade, not to be used as instruments to pursue trade objectives directly or indirectly. WTO started the HWP in 1995 and halted in 2017, resulting in unsuccessful attempts of the completion of the HRO.[4]

On the other hand, the preference RoO is not subject to these disciplines of the ARO.[5] This difference in discipline is considered to be because the preference RoO define the requirements for giving preferential treatment rather than determining the nationality of the product, and originally have a characteristic that is being used as a means of pursuing the purpose of trade.[6]

RoO consist mainly of criteria for determining the origin of the goods ("origin criteria") and procedures to certify that the goods meet the origin criteria to the customs authorities of importing countries and to verify the certification at the later stage ("procedural provi-

[1] The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP11), which came into force in December 2018, maintains the RoO provisions of the Trans-Pacific Partnership Agreement (TPP), which was signed in February 2016 by 12 countries, including the US and the US left in January 2017.

[2] See Hasegawa, J. (2003)

[3] Non-preferential RoO apply to trade policy measures such as most-favoured-nation treatment, anti-dumping and countervailing duties, safeguard measures, origin marking requirement, any discriminatory quantative restrictions or tariff quotas, government procurement, or trade statistics.

[4] See Hasegawa, J (2018b)

[5] As for preferential RoO, the Annex II: Common Declaration with Regard to Preferential Rules of Origin of the ARO only stipulate that the criteria are to be clarified, etc.

[6] For example, a WTO discipline for FTAs/EPAs, requires to eliminate tariffs on substantially all trades in the region, and in order to meet that requirement, tariffs on products that are sensitive to the Parties also need to be subject to tariff elimination. However, it is considered that the product subject to the tariff elimination can be effectively limited by strict RoO.

sions").[7]

Origin criteria consist mainly of the criterion of "wholly obtained" that is applied where the goods are considered as being wholly obtained in one country and the criterion of "substantial transformation" that is applied where two or more countries are involved in the production of the goods.[8]

The criterion of "substantial transformation" consists of the criterion of change in tariff classification (hereinafter referred to as, "CTC criteria"), the ad valorem criterion (hereinafter referred to as, "value criteria") and the criterion of manufacturing or processing operation (hereinafter referred to as, "processing criteria").

The CTC criteria define that substantial transformation occurs when the tariff classification number, namely the number of the Nomenclature of the Harmonized System[9] (hereinafter referred to as, "HS"), of non-originating materials, and that of the goods obtained from the materials are different beyond a certain level. The value criteria define that substantial transformation occurs if the value added by production is greater than or equal to the reference value (hereinafter referred to as, "threshold"). Processing criteria define that substantial transformation occurs when specified manufacturing or processing operations are performed.[10]

The ARO requires that the CTC criteria is considered as a primary rule, and in case that the criteria do not allow for the expression of substantial transformation, value criteria and processing criteria are considered as supplementary criteria.

However, which criteria are used for non-preferential RoO during the transition period and for preferential RoO, that is outside of the disciplines of the ARO, is left to the direction of the Members of the WTO.[11]

III. Development of Preferential RoO by the Expansion of FTAs/EPAs

Japan has concluded seventeen (17) Economic Partnership Agreements (EPAs) as shown in Table 1 since the first EPA with Singapore in 2002.

However, looking at the US and the EU, which have advanced FTAs, the US concluded NAFTA with Canada and Mexico in 1994, and the EU concluded the European Economic Area (EEA) with the European Free Trade Association (EFTA) in 1994. Since then, they have been promoting FTAs ahead of Japan, including the conclusion of FTAs with many countries.

Among the EPA partners with Japan, Mexico, Chile, Peru and Canada have concluded

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[7] Other than that, the consignment criteria are used as the rule to determine whether or not origin status is disqualified on the way of transportation from the exporting country to the importing country.

[8] See Hasegawa, J. (2018b) Other than that, in the EPAs of Japan, a criterion, "the good is produced entirely in the Party exclusively from originating materials of the Party" is applied when all the materials used directly in the production of the goods are originating materials.

[9] Nomenclature of the Harmonized System is the nomenclature stipulated in the Annex of the International Convention of the Harmonized Commodity Description and Coding System.

[10] See Hasegawa, J (2018a)

[11] See Hasegawa, J (2018a)

FTAs with the US and the EU ahead of Japan, and ASEAN and its member countries have been promoting FTAs with China, India, South Korea and others as ASEAN.

The RoO of the EPAs are expected to be determined through negotiations with the partners based on each other's interests, and the RoO of the FTAs/EPAs that Japan's EPA partners had concluded ahead of the EPA with Japan are likely to have influenced the content of the RoO of the EPAs with Japan.

Table 1. Date of Entry into Force of Preferential RoO of Japan, etc.

RoO	*Date of Entry into Force, etc.*
Draft Harmonized Rules of Origin (Consolidated Text)	May, 1999 (Completion of technical work) (See Note)
Japan-Singapore EPA	November, 2002
Japan-Mexico EPA	April, 2005
Japan-Malesia EPA	July, 2006
Japan-Singapore EPA (revised)	September, 2007
Japan-Chile EPA	September, 2007
Japan-Thailand EPA	November, 2007
Japan-Indonesia EPA	July, 2008
Japan-Brunei EPA	July, 2008
Japan-ASEAN EPA	December, 2008
Japan-Philippines EPA	December, 2008
Japan-Switzerland EPA	September, 2009
Japan-Vietnam EPA	October, 2009
Japan-India EPA	August, 2011
Japan-Peru EPA	March, 2012
Japan-Australia EPA	January, 2015
Japan-Mongolia EPA	June, 2016
TPP11	December, 2018
Japan-EU EPA	February, 2019

(Note) The harmonization work programme (HWP) of non-preferential RoO, which has been implemented at the WTO since 1995, is said to have influenced the RoO of the FTAs/EPAs concluded by each country.[12] Therefore, the Consolidated Text[13], which was developed as draft harmonized rules of origin (HRO) by the HWP, is also included as a reference in this table. The date of introduction is mentioned as in 1999, when the technical work of draft HRO ended, not in 2007, when the Consolidate Text was prepared.

[12] See Bernard Hoekman and Stefano Inama (2018)
[13] See WTO (2010), Hasegawa, J. (2018b)

IV. Current State of Diversity and Complexity of RoO and the Moves toward Convergence

IV-1. Current State of Diversity and Complexity of RoO (Previous Studies and Purpose of this Paper)

This chapter examines and analyzes the current state of diversity and complexity of RoO and the moves toward convergence.

As an attempt to grasp the current state of diversity and complexity of RoO, in particular, the strictness of RoO that affects the diversity and complexity, there are previous studies[14] that try to reveal the diversity and complexity of RoO of each FTA/EPA by assuming and setting the parameters of the strength of strictness for each of the origin criteria[15] and summing up the parameters of the origin criteria adopted for the RoO of each FTA/EPA and quantifying the strictness of the RoO of the FTA/EPA or the RoO of each product sector of the FTA/EPA.

This is useful for an overall comparison of the strictness of each FTA/EPA. However, this methodology assumes that the strictness is the same if the criteria are the same, but since the content of the strictness of the criteria is different according to each product,[16] it is necessary to conduct a comparative analysis of the content of the RoO of each product in order to know how strict the RoO is and how to improve the strictness concretely.

The previous studies[17], attempting to analyze the RoO of each product, compared the Consolidated Text and preferential RoO of four FTAs/EPAs (TPP, EU-Korea FTA, EU-Canada FTA and EU-Korea FTA), and while illustrating the RoO of some products, showed the current state of diversity and the moves toward convergence.

This paper, in light of these previous studies, analyzes the current state of diversity and complexity and moves toward convergence by studying preferential RoO of the EPAs of Japan, which promotes mega-FTA widely with North America, the EU, and Asia, and consider measures for simplification, for example, the possibility of standardizing RoO of each product.

IV-2. Comparison and Analysis of RoO (Origin Criteria) of FTAs/EPAs of Japan and Major Countries

This section examines how the RoO (the origin criteria of which in this section) of Ja-

[14] Estevadeordal, Harris and Suominen (2009)

[15] For example, in the case of the CTC criteria, it assumes that the level of strictness is higher in the order of "change of chapters (CC)", "change of headings (CTH)", and "change of subheadings (CTSH)", and then sets such parameters indicating their restrictiveness, as respectively, +8, +6 and +4.

[16] For example, though, in general terms of strictness, "change of headings (CTH)" is more stringent than "change of subheadings (CTSH)", as described later, in the case of the rules of machinery, the difference in their restrictiveness is considered not to exist practically.

[17] See Bernard Hoekman and Stefano Inama (2018)

pan's EPAs have changed by taking up and considering concrete products. This section also compares them with the RoO of the FTAs that the US, ASEAN, the EU, etc., have concluded, and consider how the RoO of these major countries has affected the RoO of Japan's EPAs.

RoO can be said to be a rule that determines which process in the production processes confers origin status for each product. Therefore, in order to understand the current diversity and complexity of RoO, it is necessary to analyze the content of RoO for each product in concrete manners, based on the production processes. This section performs a detailed comparison and analysis of the "content of the rules"[18] and the "way of expressing rules"[19] of the main products in terms of the RoO that Japan has introduced so far.

IV-2-1. Goods Subject to Analysis

In comparing and analyzing the "content of the rules" and the "way of expressing rules" of main products, the following products are selected for the analysis as representative products from the main sectors.

(1) Agricultural products: Preparations of meat (Sausages and similar products (subheading 1601.00))
(2) Products of the chemical or allied industries: Organic chemicals (subheading 2904.10)
(3) Textiles and textile articles: Articles of apparel, not knitted or crocheted (subheading 6201.11)
(4) Footwear: Footwear with outer soles and uppers of rubber or plastics (subheading 6402.91)
(5) Iron and steel: Flat-rolled products of iron or non-alloyed steel (subheading 7210.11)
(6) Machinery
    ① Electric generating sets (subheading 8502.11)
    ② Motor vehicles (subheading 8703.23)

IV-2-2. Comparison and Analysis of the "Content of Rules" and the "Way of Expressing Rules" of RoO of the Goods Subject to Analysis

This sub-section compares and analyzes the production processes, the RoO and their typification based on the product processes, the "content of the rules" and the "way of expressing rules" of RoO of FTAs/EPAs of Japan and major countries by selecting the goods subject to analysis from major sectors, and proposes a draft standardized RoO based on the results.

[18] The "content of the rules" means the strictness of the rule, and when the "content of the rules" is the same, the origin status is conferred to the same production process (meaning the same strictness).
[19] The "way of expressing rule" means the terms defining the rule, and even though the "content of the rules" is the same, the terms expressing the rules differ according to FTAs/ EPAs.

(1) Agricultural products

A Production Processes and RoO of Agricultural Products (their Typification)

Agricultural products include live animals, such as cattle, fish and meat, animal products such as dairy products like milk, vegetables, fruits, vegetable products such as grains, furthermore, prepared foodstuffs using them as raw materials. HS adopts the classification system according to the degree of processing for these products, for example, live animals are classified in Chapter 1, fish in Chapter 3, meat in Chapter 2, preparations of meat, fish, etc., in Chapter 16.

The production processes of prepared foodstuffs, when looking at preparations of meat as an example, are largely divided into the process of obtaining meat from live animals by slaughtering and the process for preparation such as heating or for being suitable for storage. These production processes are summarized in Figure 1.

Figure 1. Production Processes of Prepared Foodstuffs

<table>
<tr><th colspan="2">Products</th><th>Production processes</th><th>HS number (Note)</th></tr>
<tr><td colspan="2">Preparations of meat</td><td></td><td>Subheading 1601.00</td></tr>
<tr><td colspan="2">⇑</td><td>Preparation</td><td></td></tr>
<tr><td>Meat</td><td>Seasoning, etc.</td><td></td><td>Chapter 2</td></tr>
<tr><td>⇑</td><td rowspan="2"></td><td>Slaughtering</td><td></td></tr>
<tr><td>Live animals</td><td></td><td>Chapter 1</td></tr>
</table>

(Note) HS numbers are the numbers in which the products taken up as an example of prepared foodstuffs are classified.

As for the RoO of agricultural products, the product specific rules stipulating the criteria of "substantial transformation" can adopt CTC criteria by using HS structure based on the degree of processing. On the other hand, agricultural products include products the origin of which are determined only by the criteria of "wholly obtained",[20] such as live animals, milk, fresh vegetables/fruits and grains. Therefore, in the product specific rules, how to define origin criteria for these products and how to define the criteria of "substantial transformation" of further processed products (e.g., chilled/frozen meat), namely by applying the criteria of "wholly obtained" correspondingly or not, is the point at issue for the "way of expressing rules".

Here, among agricultural products, as an example of prepared foodstuffs, one of the preparations of meat, namely "sausages and similar products, of meat, meat offal or blood, food preparations based on these products" of subheading 1601.00, is selected, and the "content of the rules" and the typification of the "way of expressing rules" of the product specific rules of the EPAs of Japan is shown in Table 2. The "way of expressing rules" is categorized as the type of "CTC criteria" or "processing criteria".

[20] For example, live animals are defined in TPP11 as "a live animal born and raised there" by one of the "wholly-obtained" criteria.

Table 2. Example of Agricultural Products (Subheading 1601.00)

EPAs, etc.	*Product specific rules*	*Content of the rules*	*Types of the way of expressing rules*
Consolidated Text[21]	[CC]	CC	CTC criteria
Switzerland	CC except from chapter 1, 2 or 5.	CC (except Chapters 1, 2 and 5)	
Singapore, Thailand, Brunei, Mexico, Chile, Peru, Indonesia	A change to [other than Indonesia and Brunei] heading 16.01 [other than Chile] through [other than Peru and Chile] 16.02 [Peru only] 16.03 [Brunei and Indonesia only] subheading 1601.00 through [Brunei only] 1602.20 [Indonesia only] 1602.49 from any other chapter, except from chapter 1 or 2.	CC (except Chapters 1 and 2)	
ASEAN, Vietnam, Australia, Mongolia	CC except from Chapter 1 or 2.	CC (except Chapters 1 and 2)	
Philippines	A change to heading 16.01 through 16.02 from any other chapter, except from chapter 1, heading 02.03 through 02.05, 02.07 through 02.10 or subheading 0206.30 through 0206.90.	CC (except Chapters 1 and 2 (other than bovine meat))	
Malesia, TPP11	A change to a good of heading 16.01 from any other chapter.	CC	
India	Manufacture in which all the materials used are wholly obtained.	WO	Processing criteria
EU	Production in which all the materials of Chapters 2, 3 and 16 and heading 10.06 used are wholly obtained.	CC (except Chapters 1, 2 and 3, heading 10.06)	

(Note 1) "CC" is an abbreviation adopted by the Japan-ASEAN EPA, and is defined in the EPA as "a change to the chapter, heading or subheading from the materials of any other chapter". In order to briefly express the "content of the rules", the EPA adopting change from any other chapter refers to it as "CC", and "WO" indicates that the product, including its materials, is to be wholly produced in the country (the same below in this Paper).

(Note 2) The EPA with Singapore, which came into force in 2002, was revised by the amendment in 2007. Its RoO was also revised by the amendment and the RoO in this list is the revised RoO (the same below in this Paper).

B Comparative Analysis of the "Content of the Rules" and the "Way of Expressing Rules"

a The "Content of the Rules" of Product Specific Rules

In order to compare the strictness of the "content of the rules" of product specific rules, Table 3 examines the RoO of the EPAs of Japan and the FTAs of major countries in terms of what "process is origin conferring", and the RoO are stricter according to the ascending order listed in the table.

While the RoO of the EPA with India is the strictest as it requires that the product, including all materials used in its production, is wholly obtained in the country, the EPA with the EU limits the used materials that are required to be wholly obtained by the HS numbers (in this case, Chapters 2, 3 and 16, and heading 10.06).

TPP11 adopts "CC", the most lenient rule that permits the production from non-originating meat. It is considered that it is not necessary to introduce the strict rule to limit the use of non-originating meat because mega-FTAs/EPAs such as TPP11 include many meat producing countries and meat as raw materials can be procured in the region, and it suggests that the geographical expansion of FTAs/ EPAs can lead to the possibility of the adoption of a more lenient rule.

[21] The HWP of the non-preference RoO that had been implemented at the WTO since 1995 is said to have influenced the RoO of the FTAs/EPAs that have been concluded afterwards. Therefore, the list includes the Consolidate Text that had been developed as a draft harmonized RoO by the HWP as a reference. (See Hasegawa, J. (2018a))

Table 3. Analysis of the Content of the Rules

EPA Partners, etc.	*Content of the rules*	*Process conferring origin status*
India	WO	To be wholly obtained
Switzerland	CC (except Chapters 1, 2 and 5)	Manufacture from originating live animals
EU	CC (except Chapters 1, 2 and 3, heading 10.06)	
Singapore, Mexico, Chile, Thailand, Indonesia, Brunei, ASEAN, Vietnam, Peru, Australia, Mongolia	CC (except Chapters 1 and 2)	
Philippines	CC (except Chapters 1 and 2 (other than bovine meat))	Manufacture from originating live animals. In case of bovine, manufacture from non-originating bovine meat
Consolidated Text, Malaysia, TPP11	CC	Manufacture from non-originating meat
FTA of major countries		
EEA	WO	To be wholly obtained
EU-Chile, EU-Peru/Columbia, EU-Korea, EU-Mexico	CC (except Chapters 2 and 3)	Manufacture from originating meat
EU-Canada	CC (except Chapter 2)	
India-Chile	CTH and value criteria (the ratio of non-originating materials not exceeding 60%)	Manufacture from non-originating meat on the condition of satisfying value criteria
India-ASEAN, India-Korea	CTSH and value criteria (RVC35%)	
ASEAN-Korea, ASEAN-China	Value criteria only (RVC40% [ASEAN-China only] or the ratio of non-originating materials not exceeding 60%)	
NAFTA, US-Australia, US-Chile, USMCA (Revised NAFTA), US-Peru, US-Korea, US-Singapore	CC	Manufacture from non-originating meat
ATIGA, AANZFTA	CC or value criteria (RVC40%)	

(Note) "CTH" and "CTSH" are abbreviations adopted by the Japan-ASEAN EPA, and are defined in the EPA as "a change to the chapter, heading or subheading from the materials of any other heading" and "a change to the chapter, heading or subheading from the materials of any other subheading", respectively. In order to briefly express the "content of the rules", the FTAs/EPAs adopting change from any other heading and change from any other subheading refer to them as "CTH" and "CTSH", respectively. (The same below in this Paper)

b The "Way of Expressing Rules" of Product Specific Rules

While the EPAs with India and the EU adopt processing criteria based on the criteria of "wholly obtained", other EPAs adopt CTC criteria. When the content of the rules of the EPA with India is expressed by CTC criteria, it is a severely restrictive rule like "change from any other chapter (CC) (except from any other chapter)". The content of the rules of the EPA with the EU, as shown in the "content of the rules" column in Table 3, can be expressed by CTC criteria as well as that of other EPAs, such as the EPA with Switzerland, which excludes changes from some HS numbers.

In addition, the EU adopted CTC criteria in a recent FTA with Canada, and India also adopted CTC criteria in conjunction with value criteria in the FTAs with ASEAN, etc.

Here, as for product specific rules of the products the origin of which is basically determined by the criteria of "wholly obtained", such as live animals, the ways of expressing

rules of the Japan-EU EPA and TPP11 are compared by using the following product as an example.

Example: heading 01.02 (Live bovine animals)

- TPP11: A change to a good from any other chapter.
- Japan-EU EPA: All animals of Chapter 1 are wholly obtained.

While the Japan-EU EPA adopts a rule based on the criteria of "wholly obtained", TPP11 adopts "change from any other chapter". Since live animals are not obtained from other chapters than chapter 1, nothing satisfies this product specific rule, resulting in that the origin is determined by the criteria of "wholly obtained".

In addition, as meat of chapter 2 has other chapters in which its material is classified (in this case, chapter 1 (live animal)), it is possible to use CTC criteria. Looking at the "way of expressing rules" for the following example, TPP11 uses "change from any other chapter" as CTC criteria, but the Japan-EU EPA adopts processing criteria based on the criteria of "wholly obtained". Although the content of RoO of the Japan-EU EPA is different from that of TPP11, its way of expressing rules can be defined as "change from any other chapter (except from chapter 1)" by adopting CTC criteria.

Example: heading 02.02 (Meat of bovine animals, frozen)

- TPP11: A change to a good from any other chapter.
- Japan-EU EPA: Production in which all the materials of Chapters 1 and 2 used are wholly obtained.

C Moves toward Convergence and the Proposal of Standardized RoO

As for prepared foodstuffs, there is possibility of converging to more lenient rules due to the geographical expansion of the FTAs/EPAs, but it is not practical to propose the adoption of one option of draft standardized RoO because there is still significant difference in the "content of the rules" in accordance with the positions of contracting Parties.

Looking at the "way of expressing rules", many EPAs have adopted CTC criteria, and even the EU had adopted CTC criteria in the FTA with Canada, although the EPA with Japan adopted processing criteria based on the criteria of "wholly obtained". Therefore, as draft standardized RoO, we propose "change from any other chapter (CC) (except from HS number xx)", excluding the HS numbers xx in which non-originating materials, not allowed to use in the production (live animals, meat, etc.), are classified in accordance with the "content of the rules".

(2) Products of the Chemical or Allied Industries

A Production Processes and RoO of Products of the Chemical or Allied Industries (their Typification)

Hasegawa (2019), as an example of products of the chemical or allied industries, selected the "organic chemicals (derivatives containing only sulpho groups, their salts and ethyl esters)" of subheading 2904.10, and analyzed the "content of the rules" and the " way of expressing rules" of the RoO of the EPAs of Japan and the FTAs of major countries, and found that the US prefers "changes from any other subheading (CTSH) or chemicals rules[22]" as the

US-Mexico-Canada Agreement (USMCA) (Revised NAFTA) signed in November in 2018 adopted the same rules including a full set of chemicals rules, and the EU, which had traditionally preferred value criteria as supplementary criteria for CTC criteria, adopted chemicals rules, although they were only "chemical reaction" and "purification" among chemical rules in the FTA with Canada, and then adopted a full set of chemicals rules in addition to value criteria in the EPA with Japan.

As for the "way of expressing rules", two methods, i.e., one is omitting individual description in each product specific rule by stipulating a detailed definition of chemicals rules and the HS numbers to which they apply in Section Notes or Chapter Notes, and the other is specifying chemicals rules applied to each product in each product specific rule individually and stipulating the detailed definition of chemicals rules separately in Introductory Notes of the product specific rules.

B Moves toward Convergence and the Proposal of Standardized Rule

As recent FTAs/EPAs have adopted "change from any other subheading (CTSH), or chemicals rules" or "change from any other subheading (CTSH), value criteria or chemicals rules", and as for chemicals rules, have almost adopted a "full set of chemicals rules", the moves toward convergence have progressed. Therefore, we propose two alternatives as draft standardized rules.

As for the "way of expressing rules", since many of the chemicals rules, such as "chemical reaction", "purification", "production of standard materials", "isomer separation", are applied cross-sectionally to the products of the chemical or allied industries, the first method is considered preferable to avoid the repetition of product specific rules from the viewpoint of simplifying the rules.

(3)Textiles and Textile Articles

A Production Processes and RoO of Textiles and Textile Articles (their Typification)

Hasegawa (2018a), as an example of articles of apparel in textiles and textile articles, selected the "men's or boys' overcoats, raincoats, car-coats, capes, cloaks and similar articles of wool or fine animal hair" of subheading 6201.11, and analyzed the "content of the rules" and the "way of expressing rules" of the RoO of the EPAs of Japan and the FTAs of major countries, and found that the "content of rules" differs significantly from "3 Process Rule" to "1 Process Rule"[23] and, even if the "content of the rules" is the same, the difference in the "way of expressing rules" exists (e.g., the "way of expressing rules" for "2 Process Rule" can be categorized into the "type compromised with ASEAN", the "US type", the "type compromised with India", and the "type compromised with EU".

In order to compare the strictness of the "content of the rules" of product specific rules, Table 4 examines the RoO of the EPAs of Japan and the FTAs of major countries in terms of what "process is origin conferring", and the RoO are stricter according to the ascending or-

[22] See the "Production Processes of the Chemical or Allied Industries" in the Appendix.
[23] See the "Production Processes of Textiles and Textile Articles" in the Appendix

Table 4. Analysis of the Content of the Rules

EPA Partners, etc.,	*Content of the Rules*	*Process of conferring origin*
Mexico, Peru, TPP11	3 Process Rule	Manufacture from fiber
Chile, Switzerland, India, Australia, Mongolia	2 Process Rule	Manufacture from yarn
Singapore, Malaysia, Thailand, Indonesia, ASEAN, Philippines, Vietnam	2 Process Rule, or 1 Process Rule + ASEAN Accumulation Rule	Manufacture from yarn, or manufacture from ASEAN originating fabric
Brunei	2 Process Rule, or 0 Process Rule + ASEAN Accumulation Rule	Manufacture from yarn, or manufacture from ASEAN originating parts of articles of apparel
EU	2 Process Rule, or 1 Process Rule + Printing, etc.	Manufacture from yarn, or manufacture from fabric preceded by printing, etc.
Consolidated Text	0 Process Rule	Assembly from parts of articles of apparel
FTA of major countries		
NAFTA, US-Australia, US-Peru, US-Singapore, US-Chile, US-Korea	3 Process Rule	Manufacture from fiber
EEA, EU-Chile, EU-Peru/ Columbia, India-Korea	2 Process Rule	Manufacture from yarn
EU-Mexico, EU-Korea (Note), EU-Canada	2 Process Rule, or 1 Process Rule + printing accompanied preparatory finishing operations (the value of the unprinted fabric not exceeding 47.5% of the product) (Note) There are also provisions concerning embroidering and coating.	Manufacture from yarn, or manufacture from fabric preceded by printing (with the condition of value criteria)
ATIGA, ASEAN-China, ASEAN-Korea, AANZFTA	1 Process Rule, or value criteria	Manufacture from fabric, or assembly from parts of articles of apparel (if value criteria is satisfied)
India-Chile	CTH and value criteria	Assembly from parts of articles of apparel (if value criteria is satisfied)
India-ASEAN	CTSH and value criteria	Assembly from parts of articles of apparel (if value criteria is satisfied)

der listed in the table.

B Moves toward Convergence and the Proposal of Standardized Rule

The “content of the rules” of products in important industrial areas, such as textiles and textile articles, differs significantly from “3 Process Rule” to “1 Process Rule”, based on the position of each contracting Party, and the adoption of one option of draft standardized rule is not realistic. On the other hand, in light of the current situation in which the “way of expressing rules” differs even if the content of the rules is the same, the following draft standardized rules are proposed according to the “content of the rules”.

① 1 Process Rule: “Change from any other chapter (CC)”

② 2 Process Rule: “Change from any other chapter (CC) (except from HS numbers of fabric)”, or, when printing is recognized as an origin conferring process, a simple rule[24], which was adopted by the Japan-EU EPA, is proposed.

③ 3 Process Rule: “Change from any other chapter (CC) (except from HS numbers of yarn and fabric)”

As for the “content of the rules”, it is considered that the convergence will proceed with geographical expansion due to the progress of mega-FTAs/EPAs in the future. For example, TPP11 adopted “3 Process Rule” (with a provision allowing the procurement from outside the region of materials (fibers, yarns, fabrics), the supply of which in the region is not sufficient, by reflecting the interests of the Parties), and it is considered that the convergence to

[24] “Making-up including cutting of fabric preceded by printing (as standalone operation)”. See Hasegawa, J (2018a) in details.

this rule will proceed further by the expansion of participating countries and the incorporation of countries outside the region.

(4)Footwear

A Production Processes and RoO of Footwear (their Typification)

The production processes of footwear consist mainly of the manufacture from materials/parts of general use to "parts of specific use"[25] and the assembly/processing of the "parts for specific use" to the finished product. Furthermore, they are subdivided into the manufacture within the "parts for specific use" (e.g., the assembly/processing of parts of uppers to uppers). These production processes are summarized in Figure 2.

In the HS, the finished products of footwear are classified in from headings 64.01 to 64.05 according to their type, and the "parts for specific use" of footwear are classified in heading 64.06.

Figure 2. Production Processes of Footwear

<table>
<tr><th colspan="2">Products</th><th>Production Process</th><th>HS Number (Note)</th></tr>
<tr><td colspan="2">Finished products</td><td></td><td>Subheading 6402.91</td></tr>
<tr><td colspan="2">⇑</td><td>Assembly/processing</td><td></td></tr>
<tr><td rowspan="3">Parts for specific use</td><td>Parts for specific use</td><td></td><td rowspan="3">Heading 64.06: Parts of footwear
Subheading 6406.10: Uppers and parts thereof
Subheading 6406.20: Outer soles and heels, of rubber or plastics
Subheading 6406.90: Other</td></tr>
<tr><td>↑</td><td>Assembly/processing</td></tr>
<tr><td>Parts for specific use</td><td></td></tr>
<tr><td colspan="2">⇑</td><td>Assembly/processing</td><td></td></tr>
<tr><td colspan="2">Parts for general use</td><td></td><td>Other than Chapter 64 (for example, leather of Chapter 41, etc.)</td></tr>
</table>

(Note) HS numbers are the numbers in which the products taken up as an example of footwear are classified.

As for the RoO of footwear, the product specific rules stipulating the criteria of "substantial transformation" in many cases adopt CTC criteria by using the HS numbers corresponding a finished product and its "parts for specific use". Value criteria or processing criteria are often used in order to grant origin status to the processes in which no change of heading occurs (e.g., the process of assembling/processing of uppers from parts thereof, or the manufacturing of "assemblies of uppers" by attaching inner soles to uppers, etc.).

Here, as an example of footwear, "other footwear with outer soles and uppers of rubber or plastics. - covering the ankle" of subheading 6402.91 is selected, and the "content of the rules" and the typification of the "way of expressing rules" of product specific rules of the EPAs of Japan is shown in Table 5. The "way of expressing rules" is categorized as the type of "CTC criteria only" or "CTC criteria and processing criteria".

[25] Here, parts of footwear classified in HS heading 64.06 (uppers, soles, heel and parts thereof, etc.) are referred to as "parts for specific use" in order to distinguish them from materials/parts for general purpose.

Table 5. Example of Footwear (subheading 6402.91)

EPA Partners, etc.	*Product Specific Rules*	*Content of the Rules*	*Types of the Way of Expressing Rules*
Consolidated Text	[CTH, except from slit heading ex64.06(a)] (Note) The consolidated text divides heading 64.06 into the following three split headings, and adopts change of heading criteria that only exclude change from ex6406(a). ex6406(a) -- Uppers to which an inner sole is permanently attached which completely closes to the bottom ex6406(b) -- Other ex6406(c) -- Parts of uppers	CTH (except ex 64.06(a))	CTC criteria only
Singapore, Indonesia, Brunei, India, Peru	A change to heading 64.01 through 64.06 from any other chapter.	CC	
ASEAN, Switzerland, Vietnam, Australia, Mongolia	CC		
Malaysia, Chile, Thailand, Philippines	A change to heading 64.01 through 64.05 from any other heading, except from heading 64.06.	CTH (except heading 64.06)	
Mexico	A change to heading 64.01 through 64.05 from any heading outside that group, except from subheading 6406.10, provided there is a regional value content of not less than 55 percent.	CTH (except subheading 6406.10) and RVC55%	CTC criteria and value criteria
TPP11	A change to a good of heading 64.02 from any other chapter; or A change to a good of heading 64.02 from any other heading, except from heading 64.01, 64.03 through 64.05, subheading 6406.10 or assemblies of uppers other than of wood of subheading 6406.90 provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 55 per cent under the build-down method	CC, or CTH (except headings 64.01, 64.03～64.05, subheading 6406.10, assemblies of uppers (other than wood) of subheading 6406.90) and RVC45% (the build-up method) or 55% (the build-down method)	
EU	CC; CTH except from headings 64.01 to 64.05 and from assemblies of uppers affixed to inner soles of subheading 6406.90 and MaxNOM 50% (EXW); or CTH except from headings 64.01 to 64.05 and from assemblies of uppers affixed to inner soles of subheading 6406.90 and RVC 55% (FOB).	CC, or CTH (except headings 64.01～64.05, assemblies of uppers affixed to inner soles of subheading 6406.90) and MaxNOM50% or RVC55%	

B Comparative Analysis of the “Content of the Rules” and the “Way of Expressing Rules”

a The “Content of the Rules” of Product Specific Rules

In order to compare the strictness of the “content of the rules” of product specific rules, Table 6 examines the RoO of the EPAs of Japan and the FTAs of major countries in terms of whether the assembly of “parts for specific use” to finished products is origin conferring, and the RoO are stricter according to the ascending order listed in the table.

The EPAs with Singapore, Indonesia, Brunei, ASEAN, Switzerland, Vietnam, India, Peru, Australia, Mongolia, Malaysia, Chile, Thailand and the Philippines, which are categorized as the “CTC criteria only” type, adopt the strict rule not granting origin if non-originating “parts for specific use” of footwear is used. TPP11, the EPA with Mexico and the EU, which are categorized as the “CTC criteria and value criteria” type allow the use of non-originating “parts for specific use” with certain conditions.

As the condition, satisfying value criteria of a certain threshold or higher is common to

each EPA, and the restriction of using non-originating "parts for specific use" is added as a further condition. While the EPA with the EU designates only "assemblies of uppers"[26] as non-originating "parts for specific use" to be restricted to use, but TPP11 and the EPA with Mexico[27] restrict the use of "uppers and parts thereof" in addition to "assemblies of uppers", and they are categorized as the EU type and the US type respectively.

b The "Way of Expressing Rules" of Product Specific Rules

It is divided into those that use only CTC criteria and those that use value criteria as a safety valve to ensure substantial transformation.

C Moves toward Convergence and the Proposal of Standardized Rule

In the EPAs that Japan has concluded so far, there were many cases where the assembly/processing of "parts for specific use" of footwear to the finished product is not origin conferring, but looking at the FTAs of major countries and Japan's most recent EPAs, such as TPP11 and the EPA with the EU, it is converging to the treatment of conferring origin to the assembly/processing from parts for specific use to the finished product under certain conditions.

As for the conditions, it is common to require satisfying value criteria of a certain threshold or higher, but they are divided into the EU type, which excludes only "assemblies of uppers" from non-originating "parts for specific use" that can be used, and the US type, which excludes uppers and parts thereof in addition to "assemblies of uppers". TPP11 is the US type, and the EPA with the EU is the EU type.

As for draft standardized rules,

- The treatment of excluding only "assemblies of uppers" was adopted as a draft proposal by the Consolidated Text, which is based on the technical examination of the HWP participated by WTO members, including the US and the EU.
- TPP11 and many FTAs/EPAs such as the Japan-EU EPA require satisfying value criteria of a certain threshold or higher as a safety valve to ensure substantial transformation, and it is preferable to limit the exclusion from the viewpoint of the flexibility of the rule.

Therefore, we would like to propose the EU type.

[26] "Assemblies of uppers" is defined in the EPA with EU as "assemblies of uppers affixed to inner soles of subheading 6406.90", which the EU has adopted in its FTAs since the EEA, and is considered to be the same as the "uppers to which an inner sole is permanently attached" that is defined in the consolidated text. Canada, considered as using the U.S. type, also has an FTA with the EU, which introduces the EU-type definition that is "assemblies of uppers affixed to inner soles or to other sole components of heading 64.06" and furthermore, the TPP, that the US had participated in the negotiations of, adopts "assemblies of uppers of subheading 6406.90".

[27] In the EPA with Mexico, it can be considered that the original purpose was to limit the use of non-originating "assemblies of uppers", with a higher degree of perfection than uppers, so the EPA with Mexico is categorized as the U.S. type. However, the EPA with Mexico, as non-originating parts for specific use, restricts the use of subheading 6406.10 (uppers and parts of thereof) only and "assemblies of uppers" is classified in subheading 6406.90 instead of subheading 6406.10, resulting in that the use of non-originating "assemblies of uppers" is not restricted.

Table 6. Analysis of the Content of Rules

EPA Partners, etc.	*Content of the Rules*	*Is assembly of parts for specific use of footwear to finished products origin conferring?*
Singapore, Indonesia, Brunei, ASEAN, Switzerland, Vietnam, India, Peru, Australia, Mongolia	CC	×
Malaysia, Chile, Thailand, Philippines	CTH (except heading 64.06)	×
TPP11	CTH (except headings 64.01、64.03～64.05, subheading, 6406.10, assemblies of uppers (other than wood) of subheading 6406.90) and value criteria	△ (of parts of footwear, "assemblies of uppers", uppers or parts thereof are to be originating and meet value criteria)
Mexico	CTH (except subheading 6406.10) and value criteria	△ (of parts of footwear, uppers or parts thereof are to be originating and meet value criteria)
EU	CTH (except headings 64.01 ～ 64.05, assemblies of uppers affixed to inner soles of subheading 6406.9) and value criteria	△ (of parts of footwear, "assemblies of uppers" are to be originating and meet value criteria)
Consolidated Text	CTH (except split heading 64.06(a))	△ (of parts of footwear, "assemblies of uppers" are to be originating))
FTA of Major Countries		
NAFTA (1994) USMCA (Revised NAFTA), US-Chile	CTH (except headings 64.01 ～ 64.05, subheading 6406.10) and value criteria (RVC55% (the net cost method) [US-Chile only] (the build-up method))	△ (of parts of footwear, uppers or parts thereof are to be originating and meet value criteria)
US-Singapore	CTH (except headings 64.01 ～ 64.05, formed uppers of subheading 6406.10) and value criteria (RVC55% (the build-up method))	△ (of parts of footwear, formed uppers are to be originating and meet value criteria)
US-Australia	Valued over $6.50/pair, etc. CTH (except headings 64.01 ～ 64.05, subheading 6406.10) and value criteria (RVC55% (the build-down method))	△ (of parts of footwear, uppers or parts thereof are to be originating and meet value criteria)
	Valued not over $6.50/pair, etc. CTH (except headings 64.01～64.05) and value criteria (RVC35% (the build-up method) or 45% (the build-down method))	△ (if value criteria are satisfied)
US-Peru	Specific products CTH (except headings 64.01 ～ 64.05, subheading 6406.10) and value criteria (RVC55% (the build-up method))	△ (of parts of footwear, uppers or parts thereof are to be originating and meet value criteria)
	Other CTSH and value criteria (RVC20% (the build-up method))	△ (if value criteria are satisfied)
US-Korea	Specific products CTH (except headings 64.01 ～ 64.05, subheading 6406.10) and value criteria (RVC55% (the build-up method))	△ (of parts of footwear, uppers or parts thereof are to be originating and meet value criteria)
	Other CTSH	○
EU-Mexico	CTH (except uppers or parts thereof, other than stiffeners, of heading 64.06) and value criteria (the ratio of non-originating materials not exceeding 60%)	△ (of parts of footwear, uppers or parts thereof, other than stiffeners, are to be originating and meet value criteria)
India-Chile, India-Korea	CTH and value criteria ([India-Chile] the ratio of non-originating materials not exceeding 60%, [India-Korea] RVC40%)	△ (if value criteria are satisfied)
India-ASEAN	CTSH and value criteria (RVC35%)	
ASEAN-China	CTH (except heading 64.06), or value criteria (RVC40% or the ratio of non-originating materials not exceeding 60%)	
EEA, EU-Chile, EU-Canada	CTH (except assemblies of uppers affixed to inner soles or to other sole components of heading 64.06)	△ (of parts of footwear, assemblies of uppers affixed to inner soles or to other sole components are to be originating)
EU-Peru/ Columbia	With a customs value above 11 euro CTH (except assemblies of uppers affixed to inner soles or to other sole components of heading 6406)	△ (of parts of footwear, assemblies of uppers affixed to inner soles or to other sole components are to be originating)
	With a customs value of 11 euro or less Manufacture in which the uppers of footwear used are originating	× (Origin of footwear is origin of uppers)
EU-Korea	CTH (except assemblies of uppers affixed to inner soles or to other sole components of heading 6406), or value criteria (the ratio of non-originating materials not exceeding 50%)	△ (of parts of footwear, assemblies of uppers affixed to inner soles or to other sole components are to be originating, or meet value criteria)
ATIGA, ASEAN-Korea, AANZFTA	CTH, or value criteria (RVC40%)	○

(5) Iron and Steel

A Production Processes and RoO of Iron and Steel (their Typification)

Hasegawa (2019), as an example of iron and steel, selected the "flat-rolled products of iron or non-alloy steel, of a width of 600mm or more, clad, plated or coated - plated or coated with tin - of a thickness of 0.5mm or more" of subheading 7210.11, and examined whether surface processing such as plating is origin conferring in order to compare the strictness of the "content of the rules" of the RoO of the EPAs of Japan and the FTAs of major countries. As a result of that, TPP11, Japan-EU EPA, and many FTAs/EPAs that the US and the EU have concluded so far have adopted strict rules that do not confer origin for surface processing such as plating, while the FTAs/EPAs of Asia, Australia, etc., have adopted the treatment of conferring origin for surface processing such as plating without any condition or on the condition that it satisfies value criteria of a certain threshold or higher, and it stated that there is a significant difference in the "content of the rules", reflecting the position of each contracting Party.

B Moves toward Convergence and the Proposal of Standardized Rule

As for iron and steel, since there is a significant difference in the "content of the rules" as described above, the proposal of one option of standardized rules is not realistic, and then, depending on the "content of the rules" of whether to grant origin status to surface processing such as plating, etc., we propose as follows.

- In case of not granting origin status to surface processing such as plating:
  "Change from any other heading (CTH) (except HS numbers of flat-rolled products, not clad, plated or coated)"
- In case of granting origin status to surface processing such as plating on the conditions:
  "Change from any other heading (CTH) and value criteria", requiring to satisfy the value criteria of a certain threshold or higher as a safety valve to ensure substantial transformation.
- In case of granting origin status to surface processing such as plating:
  "Change from any other heading (CTH)"
- In case of also granting origin status to changes within heading 72.10 (e.g., the further process of painting or vanishing of plated tin):
  As mentioned above, the Consolidated Text, based on technical examination in HWP in which WTO members participated, employed the draft proposal of granting origin to some changes within heading 72.10 by setting split headings in the heading, rather than "change from any other subheading (CTSH)" allowing to grant origin to all changes of subheadings in the heading. Furthermore, given that the majority of FTAs/EPAs allowing changes within the heading adopts value criteria, rather than "change from any other subheading (CTSH)", we propose value criteria as an alternative, and it can function as a safety valve to ensure that the change in the same heading is substantial transformation.

(6) Machinery

A Production Processes and RoO of Machinery (their Typification)

The production processes of machinery[28] consist mainly of the assembly/processing process from materials/parts of general use to "parts of suitable for use solely or principally" (hereinafter referred to as, "parts for specific use") with a finished product, and the assembly/processing process from the "parts for specific use" to the finished product. It is further subdivided into the assembly/processing process from its unfinished product to the finished product, and the assembly/ processing process within the "parts for specific use". These production processes are summarized in Figure 3.

In the HS, machinery has its HS number corresponding to a finished product and its "parts for specific use", depending on its type. An unfinished product that has the essential character of its finished product and an unassembled product, such as knockdown, is classified as the finished product[29], and "parts for specific use" are defined as "parts of suitable for use solely or principally with the finished product concerned".

Figure 3. Production Processes of Machinery

<table>
<tr><th colspan="2">Products</th><th>Production Processes</th><th colspan="2">HS number (Note)</th></tr>
<tr><td rowspan="3">Finished products</td><td>Finished products</td><td></td><td>Subheading 8502.11</td><td>Subheading 8702.23</td></tr>
<tr><td>↑</td><td>Final assembly/processing</td><td></td><td></td></tr>
<tr><td>Unfinished products</td><td></td><td>Subheading 8502.11</td><td>Subheading 8703.23</td></tr>
<tr><td colspan="2">⇑</td><td>Assembly/processing</td><td></td><td></td></tr>
<tr><td rowspan="3">Parts of specific use</td><td>Parts for specific use</td><td></td><td rowspan="3">Heading 85.03</td><td rowspan="3">Heading 87.06 (chassis fitted with engines), heading 87.07 (bodies), heading 87.08 (parts and accessories)</td></tr>
<tr><td>↑</td><td>Assembly/processing</td></tr>
<tr><td>Parts for specific use</td><td></td></tr>
<tr><td colspan="2">⇑</td><td>Assembly/processing</td><td></td><td></td></tr>
<tr><td colspan="2">Parts of general use</td><td></td><td>Other than Chapter 85 (for example, iron and steel of Chapter 72, etc.)</td><td>Other than Chapter 87 (for example, iron and steel of Chapter 72, etc.)</td></tr>
</table>

(Note) HS numbers are the numbers in which the two products taken up as examples of machinery are classified.

As for the RoO of machinery, the product specific rules stipulating the criteria of "substantial transformation" in many cases adopt CTC criteria by using the HS numbers corresponding to a finished product and its "parts for specific use". Value criteria are often used in order to grant origin status to the processes in which no change of heading occurs (e.g., the assembly/processing from unfinished products to finished products within the heading of the finished products, the assembly/processing process within heading of "parts for specific use", etc.).

Machinery is an important industrial field for each country, in which there are products such as automobiles that have large conflict of interest between contracting Parties and strict

[28] Machinery means from Chapter 84 to Chapter 92 in the HS.

[29] In the HS, General Rule of Interpretation 2(a) of the Harmonized System stipulates "a heading to an article includes the article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article and the article complete or finished, presented unassembled or disassembled".

rules have traditionally been applied[30], while other products have relatively little conflict of interest between the Parties and less strict rules are considered to be applied. This section takes up the examples of products that are considered to have relatively little conflict of interest between the Parties and products that are considered to have large conflict of interest and strict rules are applied to, respectively, and conducts a comparative analysis of the "content of the rules" and the "way of expressing rules".

a Products with Relatively Little Conflict

As an example of products of relatively little conflict of interest, we select "generating sets with compression-ignition internal combustion piston engines (diesel or semi-diesel engines) - of an output not exceeding 75 kVA" of subheading 8502.11, for which TPP11 adopted such less strict rule as "change from any other heading (CTH)", and the "content of the rules" and the typification of the "way of expressing rules" of product specific rules of the EPAs of Japan is shown in Table 7.

The "way of expressing rules" is categorized as the type of "CTC criteria and value criteria", "alternative of CTC criteria or value criteria", "CTC criteria only" or "value criteria only".

b Products with Large Conflict of Interest

As an example of products of large conflict of interest, we select "motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 87.02), including station wagons and racing cars - other vehicles, with only spark-ignition internal combustion reciprocating piston engine - of a cylinder capacity exceeding 1,500 CC but not exceeding 3,000 CC" of subheading 8703.23, and the "content of the rules" and the typification of the "way of expressing rules" of product specific rules of the EPAs of Japan, etc., is shown in Table 8.

The "way of expressing rules" is categorized as the type of "CTC criteria and value criteria", "alternative of CTC criteria or value criteria", or "CTC criteria only" or "value criteria only".

B Comparative Analysis of the "Content of the Rules" and the "Way of Expressing Rules"

a Products with Relatively Little Conflict

(i) The "Content of the Rules" of Product Specific Rules

In order to compare the strictness of the "content of the rules" of product specific rules, Table 9 examines the RoO of the EPAs of Japan and the FTAs of major countries in terms of whether the assembly of "parts for specific use" to finished products is origin conferring, and the RoO are stricter according to the ascending order listed in the table.

The EPA with India, which is categorized as the "CTC criteria and value criteria" type, and the EPA with Mexico, Chile and the EU among the EPAs, which are categorized as the "alternative of CTC criteria or value criteria" type, exclude change from heading 85.03, in which the "parts for specific use" are classified, in applying CTC criteria, and grant origin

[30] For example, in NAFTA, the threshold of value criteria for passenger vehicles (62.5% (under the net cost method)) was set higher than that for other machinery (50% (under the net cost method)), and the USMCA (revised NAFTA) increased the threshold for passenger vehicles to 75% (under the net cost method).

Table 7. Example of Machinery (Electric Generating Sets (subheading 8502.11))

EPA Partners, etc.	*Product Specific Rules*	*Content of Rules*	*Types of the Way of Expressing Rules*
Consolidated Text[31]	(1) CTH, except when the change results only from mounting together or from making provision for mounting together as a single unit or on a common base; (2) CTH, except from heading 85.03; or 35% value added rule	(1) CTH (except the process of simply setting up equipment) (2) CTH (except heading 85.03), or QVC35%	(1) CTC criteria only (2) Alternatives of CTC criteria or value criteria
Singapore, Brunei, Malaysia, Indonesia	A change to subheading 8501.10 through 8523.30 (Note 1) a change to subheading 8501.10 through 8548.90 (Note 2) from any other subheading; or no required change in tariff classification to subheading 8501.10 through 8523.30 (Note 1) to subheading 8501.10 through 8548.90 (Note 2), provided there is a qualifying value content of not less than 40 percent. (Note 1) Singapore, Brunei, (Note 2) Malaysia, Indonesia	CTSH, or QVC40%	Alternatives of CTC criteria or value criteria
Thailand, Philippines	A change to heading 85.01 through 85.03 from any other heading; or no required change in tariff classification to heading 85.01 through 85.03, provided that there is a qualifying value content of not less than 40 per cent.	CTH, or QVC40%	
Australia, Mongolia	CTH or QVC 40		
ASEAN, Vietnam	[ASEAN] RVC40% [Vietnam] LVC40% or CTH	CTH, or RVC (LVC) 40%	
Mexico, Chile	A change to heading 85.01 through 85.02 from any other heading, except from heading 85.03; or [Mexico] a change to heading 85.01 through 85.02 from heading 85.03, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent. [Chile] No required change in tariff classification to heading 85.01 through 85.02, provided there is a qualifying value content of not less than 45 percent when the build-down method is used, or of not less than 30 percent when the build-up method is used.	CTH (except heading 85.03), or [Mexico] CTH and RVC50% [Chile] QVC45% (the build-down method) or QVC30% (the build-up method)	Alternatives of CTC criteria or value criteria
Peru	A change to subheading 8501.10 through 8523.40 from any other heading; or 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.	CTH, or QVC50%	
Switzerland	General Rule (CTH or VNM60%)	CTH, or the ratio of non-originating materials not exceeding 60%	Alternatives of CTC criteria or value criteria
EU	CTH except from heading 85.03; MaxNOM 50% (EXW); or RVC 55% (FOB)	CTH (except heading 85.03), or the ratio of non-originating materials not exceeding 50% or RVC55%	
TPP11	A change to a good of heading 85.02 through 85.03 from any other heading.	CTH	CTC criteria only
India	General Rule (QVC35% and CTSH)	CTSH and QVC35%	CTC criteria and value criteria

status to the assembly from “parts for specific use” on the condition of satisfying value criteria of a certain threshold or higher. When looking at the threshold (under the transaction value method), 55% for the EPA with the EU, 50% for the EPA with Mexico, 45% for the EPA with Chile, and the EPA with the EU adopts the most stringent requirements. As for the FTAs of major countries, some FTAs require to satisfy value criteria of a high threshold as NAFTA uses 60% and EEA uses the ratio of non-originating materials not more than 30% (i.e., 70% (under transaction value method)).

[31] In the Consolidated Text, one option was proposed as draft RoO for other products than machinery, but two options, CTC criteria or value criteria, were proposed as draft RoO for machinery (See Hasegawa (2018b)).

Table 8. Example of Machinery (Motor Vehicles) (Subheading 8703.23)

EPA Partners, etc.	*Product Specific Rules*	*Content of the Rules*	*Types of the Way of Expressing Rules*
Consolidate Text[32]	(1) CTH (2) [35% or 45%] value added rule	(1) CTH (2) QVC [35% 又は 45%]	(1) CTC criteria only (2) value criteria only
Mexico	A change to subheading 8703.21 through 8703.90 from any other heading, provided there is a regional value content of not less than 65 percent.	CTH and RVC65%	CTC criteria and value criteria
India	General Rule (QVC35% and CTSH)	CTSH and QVC35%	
Switzerland	General Rule (CTH or VNM60%)	CTH, or VNM60%	Alternatives of CTC criteria or value criteria
Singapore, Indonesia, Brunei	A change to subheading 8701.10 through 8716.90 from any other subheading; or no required change in tariff classification to subheading 8701.10 through 8716.90, provided that there is a qualifying value content of not less than 40 percent.	CTSH, or QVC40%	
Australia, Mongolia	CTH or QVC 40	CTH, or QVC40%	
Malaysia	No required change in tariff classification to heading 87.03, provided there is a qualifying value content of not less than 60 percent.	QVC60%	Value criteria only
Peru	A qualifying value content of not less than 45 percent.	QVC45%	
Thailand, Philippines	No required change in tariff classification to heading 87.02 through [Thailand] 87.04 [Philippines] 87.06, provided that there is a qualifying value content of not less than 40 per cent.	QVC40%	
ASEAN	RVC 40%	RVC40%	
Vietnam	LVC 40%	LVC40%	
Chile	No required change in tariff classification to heading 87.02 through 87.04, provided there is a qualifying value content of not less than 45 percent when the build-down method is used, or of not less than 30 percent when the build-up method is used.	QVC45% (build-down method) or 30% (build-up method)	
TPP11	No change in tariff classification required for a good of heading 87.02 through 87.05, provided there is a regional value content of not less than: (a) 45 per cent under the net cost method; or (b) 55 per cent under the build-down method.	QVC45% (net cost method) or 55% (build-down method)	
EU	MaxNOM45% (EXW); or RVC60% (FOB).	MaxNOM45% or RVC60%	

The rest of the EPAs, which is categorized as the “alternative of CTC criteria or value criteria” type, and TPP11, which is categorized as the “CTC criteria only” type, treat the assembly from “parts for specific use” as origin conferring without any conditions. The EPAs other than the EPA with Mexico, being categorized as the “alternative of CTC criteria or value criteria” type, treat change within the heading in which “finished products” are classified as origin conferring with the condition of satisfying value criteria of a certain threshold or higher.

In the case of machinery, subheadings in the headings of finished products are intended to subdivide the finished products by type, and basically, it is not considered that change of subheadings occurs by normal production processes. The subheadings[33] in heading 85.02 selected as an example are for classifying a generator (a finished product in this case) by differences in its type or output. Therefore, there is no substantial difference between the EPAs employing “change from any other heading (CTH)” and the EPAs employing “change from any other subheading (CTSH)”.

[32] See footnote 31

Table 9. Analysis of the Content of the Rules

EPA Partners, etc.	*Content of the Rules*	*Is the assembly of parts for specific use to finished products origin conferring?*
India	CTSH and value criteria	△ (if value criteria are satisfied)
Mexico	CTH (except heading 85.03), or CTH and value criteria	△ (if value criteria are satisfied)
Chile, EU	CTH (except heading 85.03), or value criteria	△ (if value criteria are satisfied), furthermore, change within the HS number classifying the finished product is origin conferring if value criteria are satisfied.
TPP11	CTH	○
Thailand, ASEAN, Philippines, Switzerland, Vietnam, Peru, Australia, Mongolia	CTH, or value criteria	○, furthermore, change within the HS number classifying the finished product is origin conferring if value criteria are satisfied.
Singapore, Malaysia, Indonesia, Brunei	CTSH, or value criteria	○, furthermore, change within the HS number classifying the finished product is origin conferring if change of subheadings occurs or value criteria are satisfied.
FTAs of major countries		
India-Chile	CTH and value criteria (the ratio of non-originating materials not exceeding 60%)	△ (if value criteria are satisfied)
India-ASEAN, India-Korea	CTSH and value criteria (RVC35%)	△ (if value criteria are satisfied)
EEA, EU-Mexico, EU-Chile, EU-Peru/Columbia, ASEAN-China	Value criteria only ([other than ASEAN-China] the ratio of non-originating materials not exceeding 40% and the materials classified in headings 8501 or 8503 only used up to 10%, or the ratio of non-originating materials not exceeding 30% [ASEAN-China] RVC40% or the ratio of non-originating materials not exceeding 60%)	△ (if value criteria are satisfied)
NAFTA, USMCA (Revised NAFTA)	CTH (except headings 84.06, 84.11, 85.01, 85.03), or value criteria (RVC60% (the transaction value method) or RVC50% (the net cost method))	△ (if value criteria are satisfied)
EU-Canada	CTH (except heading 85.03), or value criteria (the ratio of non-originating materials of headings 85.02 and 85.03 not exceeding 50%)	△ (if value criteria are satisfied)
US-Singapore, US-Chile, US-Australia, US-Peru, US-Korea	CTH	○
EU-Korea, ATIGA, ASEAN-Korea, AANZFTA	CTH, or value criteria ([EU-Korea] the ratio of non-originating materials not exceeding 45% [other than EU-Korea] RVC40%)	○, furthermore, change within the HS number classifying the finished product is origin conferring if value criteria are satisfied.

(ii) The “Way of Expressing Rules” of Product Specific Rules

As for the “way of expressing rules”, as categorized by the types in Table 7, the EPAs other than TPP11 use both CTC criteria and value criteria together, and while the EPA with India requires to meet both of them, the rest of them treat them as alternatives by allowing to meet either of them.

As for machinery, the EU has adopted rules based on value criteria since the EEA, but

[33] Subheadings in Heading 85.02 are as follows:
- Generating sets with compression-ignition internal combustion piston engines (diesel or semi-diesel engines):
8502.11-- Of an output not exceeding 75 kVA
8502.12-- Of an output exceeding 75 kVA but not exceeding 375 kVA
8502.13-- Of an output exceeding 375 kVA
8502.20- Generating sets with spark-ignition internal combustion piston engines
- Other generating sets:
8502.31-- Wind-powered
8502.39-- Other
8502.40- Electric rotary converters

since it adopted CTC criteria as an alternative of value criteria in the FTA with Canada, and also in the EPA with Japan, it is considered that there is movement to convergence to the rules based on CTC criteria, including the EU.

b Products with Large Conflict of Interest

(i) The "Content of the Rules" of Product Specific Rules

In order to compare the strictness of the "content of the rules" of product specific rules, Table 10 examines the RoO of the EPAs of Japan and the FTAs of major countries in terms of whether the assembly of "parts for specific use" to finished products is origin conferring, and the RoO are stricter according to the ascending order listed in the table.

The EPA with India and Mexico, which is categorized as the "CTC criteria and value criteria" type, and the EPA with Malaysia, Chile, Thailand, ASEAN, Philippines, Vietnam, Peru and the EU, and TPP 11, which are categorized as the "value criteria only" type, grant origin status to the assembly of "parts for specific use" into finished products on the condition of satisfying value criteria of a certain threshold or higher. When looking at the threshold (under the transaction value method), while 40% for the EPAs with Thailand, Philippines, ASEAN and Vietnam is the same as that for the product mentioned as an example of products of relatively little conflict described above, it is as high as 55% in TPP11 and 60% in the EPAs with the EU and Malaysia, and the degree of strictness differs.

The EPAs categorized as the "alternative of CTC criteria or value criteria" type grant origin status to the assembly of "parts for specific use" into finished products without any condition.

The types of "value criteria only" and "alternative of CTC criteria or value criteria" treat change within the heading in which a finished product is classified as origin conferring if it satisfies value criteria of a certain threshold or higher.

As described above, in the case of machinery, subheadings in the headings of finished products are intended to subdivide the finished products by type (subheadings[34] in heading 87.03 selected as an example is for classifying a vehicle (a finished product in this case) by differences in type and displacement of its engine), and basically, it is not considered that change of subheadings occurs by normal production processes. Therefore, there is no substantial difference between the EPAs employing "change from any other heading (CTH)" and the EPAs employing "change from any other subheading (CTSH)".

(ii) The "Way of Expressing Rules" of Product Specific Rules

Although there are no EPAs that adopt the "value criteria only" type in the product taken

[34] Subheadings of heading 87.03 (Excerpt)

- Other vehicles, with only spark-ignition internal combustion reciprocating piston engine:

8703.21-- Of a cylinder capacity not exceeding 1,000 cc

8703.22-- Of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc

8703.23-- Of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc

8703.24-- Of a cylinder capacity exceeding 3,000 cc

(Omitted)

8703.40- Other vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power

(Below, omitted)

Table 10. Analysis of the “Content of the Rules”

EPA Partners, etc.	*Content of the Rules*	*Is the assembly of parts for specific use to finished products origin conferring?*
Mexico	CTH and value criteria	△ (if value criteria are satisfied)
India	CTSH and value criteria	△ (if value criteria are satisfied)
Malaysia, Chile, Thailand, ASEAN, Philippines, Vietnam, Peru, TPP11, EU	Value criteria	△ (if value criteria are satisfied)
Switzerland, Australia, Mongolia	CTH, or value criteria	○, furthermore, change within the HS number classifying the finished product is origin conferring if value criteria are satisfied.
Singapore, Indonesia, Brunei	CTSH, or value criteria	○, furthermore, change within the HS number classifying the finished product is origin conferring if change of subheadings occurs or value criteria are satisfied.
FTAs of Major Countries		
US-Australia	CTH (except headings 87.01～87.02, 87.04 ～ 87.05) and value criteria (RVC50% (the net cost method))	△ (if value criteria are satisfied)
NAFTA, USMCA (Revised NAFTA), US-Singapore, US-Chile, India-Chile	CTH and value criteria (Note 1)	
India-ASEAN, India-Korea	CTSH and value criteria (RVC35%)	
US-Peru, US-Korea, EEA, EU-Mexico, EU-Chile, EU-Peru/Columbia, EU-Korea, EU-Canada, ATIGA, ASEAN-China, ASEAN-Korea, AANZFTA	Value criteria only (Note 2)	

(Note 1) The threshold of value criteria: [NAFTA] RVC62.5% (under the net cost method) [USMCA (Revised NAFTA)] Passenger Vehicle: RVC75% (under the net cost method) Other: RVC62.5% (under the net cost method) [US-Singapore] RVC30% (under the build-up method) [US-Chile] RVC30% (under the build-up method) or 50% (under the build-down method) [India-Chile] the ratio of non-originating materials not exceeding 60%

(Note 2) The threshold of value criteria: [US-Peru] RVC35% (under the net cost method) [US-Korea] RVC30% (under the build-up method) RVC55% (under the build-down method) or RVC35% (under the net cost method) [EEA, EU-Mexico, EU-Chile] the ratio of non-originating materials not exceeding 40% [EU-Peru/Columbia, EU-Canada] the ratio of non-originating materials not exceeding 50% [EU-Korea] the ratio of non-originating materials not exceeding 45% [ATIGA, AANZFTA] RVC40% [ASEAN-China] RVC40% or the ratio of non-originating materials not exceeding 60% [ASEAN-Korea] RVC45%

up as an example of relatively little conflict of interest, for motor vehicles that are considered to be products with large conflict of interest, the “value criteria only” type is adopted in nine of the EPAs including TPP11 and the EPAs with EU, and ASEAN and some of the members.

C Moves toward Convergence and the Proposal of Standardized Rule

Machinery is an important industrial field as textiles and textile articles, and even the “content of the rules” of the product taken up as an example of relatively little conflict of interest differs in light of the position of each contracting Party. Among machinery, automobiles are particularly important industrial sectors, and it is more stringent as described above that as many as nine EPAs adopt value criteria only, compared to the product taken up as an example of relatively little conflict of interest. Therefore, the adoption of one option of standardized rules is not realistic, and the following is proposed in accordance with the “content of the rules” of whether to grant origin status to the change from “parts for specific use” to

finished products.

① In case of granting origin status to the change from "parts for specific use" to finished products with certain conditions:

"Change from any other heading (CTH) (except from the heading in which "parts for specific use" is classified (heading 85.02 in the case of the example as generators and heading 87.03 in the case of the example as automobiles), or value criteria". It requires to satisfy the value criteria of a certain threshold or higher to ensure substantial transformation. The degree of strictness is set by the level of threshold.

② In case of granting origin status to the change from "parts for specific use" to finished products without any condition:

"Change from any other heading (CTH)", and in case of granting origin status to changes within the heading of the finished product, value criteria as the other alternative, rather than "change from any other subheading (CTSH)" since change of subheadings within the heading is practically difficult to occur as described above and it can be as a safety valve to ensure that the change in the same heading is substantial transformation.

Furthermore, the value criteria as the other alternative treat change within the heading of the finished product, for example, the assembly of a set of unassembled parts of the finished product (knockdown assembly) into the finished product as origin conferring when satisfying the value criteria.

IV-2-3. Considering the Possibility of Simplification

From the comparison and analysis of main products so far, it has become clear that the "content of the rules" of the products in important industrial fields, such as textiles and textile articles and machinery, is still diversifying, based on the positions of each contracting Party. On the other hand, there is movement toward convergence in the "content of the rules" of the products such as products of the chemical or allied industries and footwear. In addition, when looking at the "way of expressing rules" of the RoO, even if the "content of the rules" is the same, it is found that the "way of expressing rules" still differs according to each FTA/EPA. On the other hand, the movement to several patterns is seen by the increase in the number of contracting Parties participating in the FTAs/EPAs due to the geographical expansion of FTAs/ EPAs, and the development of mega-FTAs/EPAs.

Specifically, the following points are considered to be revealed.

(1) As seen in the example of agricultural products, the increase in the number of contracting Parties participating in the FTAs/EPAs often make it possible to procure materials within the regions in the FTAs/EPAs, and reduce the need to adopt strict RoO to limit materials outside the regions, resulting in a possibility of easing the strictness of the RoO.

(2) As seen in the example of textiles and textile articles, the "content of rules" of products of important industrial areas still differs greatly, but in the future, the development of mega-FTAs/EPAs, such as the expansion of TPP11's participants, may also lead to the convergence of the "content of the rules".

(3) As seen in the examples of products of the chemical or allied industries and footwear, the results of the technical examination in the aforementioned HWP has become de facto standards for the products the convergence of which is in progress.

(4) As for the "way of expressing rules", the progress of FTAs/EPAs centering the US and the EU has led to the convergence into two types, one of which can be called the US type and the other the EU type. In addition, the overlapping of participants of both types of FTAs/EPAs affects each other.

A Examples showing that the EU type is considered to have been affected by the US type:

① Prepared foodstuffs (from processing criteria to CTC criteria)

② Machinery (from value criteria to CTC criteria)

③ Footwear (the adoption of CTC criteria based on "change from any other heading")

B Examples showing that the US type is considered to have been affected by the EU type:

① Footwear (the introduction of exclusions for "assemblies of uppers")

In this way, the EU had mainly used processing criteria or value criteria as the "way of expressing rules", but it is considered that it has been employing CTC criteria based on "change from any other heading", being affected by the US type through concluding the FTAs/EPAs with participants of the US type FTAs/EPAs.

In order to simplify the "way of expressing rules", Japan has used the abbreviations such as "CC", "CTH" and "CTSH" for expressing CTC criteria and those such as "RVC40%" for the calculation method and the threshold of value criteria in the EPAs with Switzerland, Vietnam, India, Australia, Mongolia and even the most recent EPAs with the EU since the EPA with ASEAN, which came into force in 2008. The abbreviations such as "CC", "CTH", "CTSH" are those employed in the aforementioned Consolidated Text. Since the effect of simplification of RoO[35] by the use of abbreviations is large, the adoption of them is considered desirable.

IV-3. Consideration of the Possibility of Simplification of RoO (Procedural Provisions)

IV-3-1. Changes in Japan's RoO (Procedural Provisions)

As mentioned earlier, the ARO stipulates the disciplines concerning the origin criteria of RoO until the completion of the HWP of non-preference RoO, but procedural provisions such as certification are not subject to the disciplines.

As an effort to simplify RoO in the WTO, the CRO implemented "transparency and edu-

[35] Of Japan's most recent EPAs, TPP11 does not use abbreviations. Although it is not possible to make a simple comparison due to the different content of the rules, the English text of the product specific rules of TPP11 has the volume of as many as 229 pages, whereas the English text of the product specific rules of the EPA with the EU, which uses abbreviations, has significantly less volume of 90 pages. (See Hasegawa (2018a))

cational activities" from 2015 to 2017, in which certification procedures of non-preference RoO had resulted in a great deal of cost to the industry, and, as a way to simplify the RoO, the necessity to accept such measures as self-certification and electronic certification had been pointed out.[36]

On the other hand, looking at the certification and verification procedures of the preferential RoO of the FTAs/EPAs, as shown in Table 11, since the introduction of approved exporters' self-certification in the EPA with Switzerland, approved exporters' self-certification had also been adopted in the EPAs with Mexico and Peru, and in 2015, the EPA with Australia introduced self-certification by exporters, producers and importers. Furthermore, self-certification by exporters, producers and importers was adopted in TPP11 and then in the EPA that came into force in February 2019 with the EU, which had traditionally adopted approved self-certification. It means that the convergence and simplification of certification procedures have been progressing.

IV-3-2. Certification and Verification Procedures (Introduction of Self-Certification) of the Recent Japan's EPAs

Certification and verification procedures are essential for ensuring the proper application of preferential treatment under the EPAs/FTAs, and therefore, the authority of exporting contracting Parties, exporters, producers, the authority of importing contracting Parties and importers need to share a certain level of cost as a whole in the flow of a series of certification and verification procedures. Therefore, if lowering the burden of cost at the time of certification by simplifying the certification procedure, the need to conduct post-verification increases, and the burden of cost at the time of verification increases. Although producers have the information necessary for the certification (and the verification associated with it), in the case of self-certification, it is considered that the difference in the system arises in terms that who is most responsible for the certification (and the verification associated with it) based on the information[37] in a series of supply chains connecting producer → exporter → importer. Here, the certification and verification procedures of the FTAs/EPAs that have introduced the self-certification in recent years are shown in Table 12.

As mentioned earlier, Japan and the EU, following the US, have introduced self-certification by exporters, producers and importers, in which the government of the exporting country is not involved in the certification procedure, but when looking at the verification method, there are two types: one is employed by the EPA with Australia and TPP11; the other is employed by the EPA with the EU, which is called the US type and the EU type, respectively.

The verification in the US type is conducted by the customs authority of the importing contracting Party to examine exporters and producers of the exporting contracting Party by

[36] See Hasegawa (2018b)

[37] According to Yamagami-Ushijima (2009), there is no significant difference in the certification procedure of the total cost when summing it up across the supply chain, although who bears the cost for the certification in the supply chain depends on the difference in the certification procedure.

Table 11. Changes in the Provisions of Certification and Verification Procedures of the Preferential RoO of Japan

EPA Partners, etc.	*Date of Entry into Force, etc.*	*Certification Procedure*	*Verification Procedure*
Singapore Protocol amending the Agreement	November, 2002 September, 2007	Certification by third parties	Verification by the exporting Party on request of the importing Party
Mexico	April, 2005	Certification by third parties	- Verification by the exporting Party on request of the importing Party - Questionnaires to the exporter/producer by the importing Party - Request the exporting Party to conduct verification visit to the premises of the exporter/producer along with the relevant authority of the importing Party as an observer
Protocol amending the Agreement	April, 2012	Certification by third parties Approved exporter self-certification	
Malaysia	July, 2006	Certification by third parties	- Verification by the exporting Party on request of the importing Party - Request the exporting Party to conduct a verification visit to the premises of the exporter/producer along with the relevant authority of the importing Party as an observer
Chile	September, 2007	Certification by third parties	
Thailand	November, 2007	Certification by third parties	
Indonesia	July, 2008	Certification by third parties	
Brunei	July, 2008	Certification by third parties	
ASEAN	December, 2008	Certification by third parties	
Philippines	December, 2008	Certification by third parties	
Switzerland	September, 2009	Certification by third parties Approved exporter self-certification	
Vietnam	October, 2009	Certification by third parties	
India	August, 2011	Certification by third parties	
Peru	March, 2012	Certification by third parties Approved exporter self-certification	- Request for information from the importer - Request for information from the exporting Party - Request for information from the exporter/producer through the exploring Party - Request the exporting Party to conduct a verification visit to the premises of the exporter/producer along with the relevant authority of the importing Party as an observer
Australia	January, 2015	Certification by third parties Self-certification	- Written request for information from the importer - Verification by the exporting Party on request of the importing Party - Written request for information from the exporter/producer - Verification visit to the premises of the exporter/producer
Mongolia	June, 2016	Certification by third parties	- Verification by the exporting Party on request of the importing Party - Request the exporting Party to conduct a verification visit to the premises of the exporter/producer along with the relevant authority of the importing Party as an observer
Revised GSP (Note)	April, 2018 revised	Certification by third parties	- Request for information from the importer - Questionnaires to or request for information from the competent authority of beneficial country or exporter/producer - Verification visit to the premises of the exporter/producer - Request the competent authority of the beneficial country to conduct a verification visit to the premises of the exporter/producer along with the customs official of Japan as an observer
TPP11	December, 2018	Self-certification	- Written request for information from the importer - Written request for information from the exporter/producer - Verification visit to the premises of the exporter/producer
EU	February, 2019	Self-certification	- Request for information from the importer - Verification by the exporting Party on request of the importing Party

(Note) Prior to the amendment, there were no specific provisions for verification carried out by the customs authority after import customs clearance under the law and regulations, but the provisions had been introduced by this amendment.

Table 12. Comparison of Certification and Verification Procedures of the EPAs/FTAs that Adopt Self-Certification

EPA Partners, etc.	*Certification Procedure*		*Verification Procedure*		
	Person who conducts self-certification	*Certification Method*	*Person who conducts verification*	*Verification Method*	*Involvement of the Exporting Party*
Australia	Certification by third parties Exporter, producer, importer	Certificate of Origin Origin Certificate Document	Customs authority of the importing Party	(a) a written request for information from the importer (b) Request of cooperation for verification to the competent authority or the customs authority of the exporting Party (c) a written request for information from the exporter/producer (d) a verification visit to the premises of the exporter/producer in accordance with the conditions set forth by the exploring Party	Cooperation for (b). As for (d), the exporting Party obtains the consent of exporter/producer
TPP11	Exporter, producer, importer	Certification of Origin	Importing Party	(a) a written request for information from the importer (b) a written request for information from the exporter/producer (c) a verification visit to the premises of the exporter/producer	As for (b), the importing Party, on request of the exporting Party, shall inform the exporting Party, and the exporting Party, on request of the importing Party may assist with the verification. As for (c), the importing Party shall, at the time of the request for the visit, inform the exporting Party, and provide the opportunity for the officials of the exporting Party to accompany them during the visit. As for a textile or apparel good, the exporting Party assists with a verification visit to the premises of the exporter/producer.
EU	Exporter (producer) Importer	Statement of Origin Importer's knowledge	Customs authority of the importing Party	(a) a request for information from the importer (in the case of "state of origin", information can also be provided directly from the exporter (producer) by the arrangement of the importer) (b) In the case of "state of origin" of exporter (producer), a request for information from the customs authority of the exporting Party	The customs authority of the exporting Party, on request of the customs authority of the importing Party, obtains the documentation for evidence from the exporter (producer) or visits the premises of the exporter (producer)
FTAs of Major Countries					
US・Australia	Importer	Importer's knowledge or information in importer's possession	Importing Party	(a) a request for information from the importer (b) a written request for information from the exporter/producer (c) a request for information from the exporter/producer by the arrangement of the importer (d) a verification visit to the premises of the exporter/producer	As for a textile or apparel good, verification by the exporting Party on request of the importing Party, assistance for verification by the importing Party (a verification visit to the premises of the exporter/producer)

US・South Korea	Importer, exporter, producer Importer	Certification The importer's knowledge	Importing Party	(a) a written request for information from the importer, exporter, producer (b) written questionnaires to the importer, exporter, producer (in case of (a) and (b), a request for information from the exporter/producer by the arrangement of the importer) (c) a verification visit to the premises of the exporter/producer	As for a textile or apparel good, verification by the exporting Party on request of the importing Party, assistance for verification by the importing Party (a verification visit to the premises of the exporter/producer)
EU・Canada	Exporter	Origin Declaration	Customs authority of the importing Party	Verification request to the customs authority of the exporting Party	The customs authority of the exporting Party, on request of the customs authority of the importing Party, obtains the documentation for evidence from the exporter or visits the premises of the exporter
EU・Korea	Approved exporter (in the case of total value of any consignment exceeding 6000 euro) Any exporter (in the case of total value of any consignment not exceeding 6000 euro)	Proof of Origin	Customs authority of the importing Party	Verification request to the customs authority of the exporting Party	The customs authority of the exporting Party, on request of the customs authority of the importing Party, obtains any evidence from the exporter or carry out any inspection of the exporter's accounts, etc.

itself (hereinafter referred to as referred to as "direct verification"). On the other hand, the verification of the EU type is conducted by the customs authority of the exporting contracting Party to its exporters and producers upon the request of the customs authority of the importing contracting Party (hereinafter referred to as referred to as "indirect verification").[38]

As a major difference between the two types of verification procedures, in the US type, the customs authority of the importing Party can perform verification ("direct verification") such as requesting information directly from exporters/producers or visiting the facilities of exporters/producers, but in the case of the EU type, the customs authority of the importing Party is not allowed to request information directly from exporters/producers or visit the facilities of exporters/producers, and therefore, need to perform verification ("indirect verification") such as requesting information from exporters/producers through importers, requesting the customs authority of the exporting Party to obtain information from exporters/producers or to visit the facilities of exporters/producers.

In addition, the EU type makes the following clear differences between the certification made by importers through "importer's knowledge" and that made by exporters/producers through "statement of origin" in terms of the requirement to deny preferential treatment in response to the verification methods and the results of the verification.

[38] It follows Kagawa (2013) which refers to each of them respectively as "direct verification" because the customs authority of the importing Party directly conducts verification, and "indirect verification" because the customs authority of the import Party does not perform verification directly.

(1) In the Japan-EU EPA, "indirect verification" by the customs authority of the exporting Party upon the request of the customs authority of the importing Party is conducted only for the certification made by exporters/producers through "statement of origin". In the case of the certification made by importers through "importer's knowledge", verification is possible only to importers by the customs authority of the importing Party. This is because, as a prerequisite for the certification by "importer's knowledge", importers have already obtained all the information necessary for the certification from exporters/producers.

(2) In the Japan-EU EPA, in the case of the certification made by exporters/producers through "statement of origin", the exporters are required to mention the Registered Exporter (REX) number[39] when they export from the EU, and in the case of the certification by importers through "importer's knowledge", the request for indirect verification to the EU side cannot be made because the EU side cannot identify exporters.[40] Therefore, the description of the REX number is considered to be intended for identifying exporters just in case the EU side performs indirect verification upon the request of the Japanese side.

(3) Looking at the requirement for denying preference treatment in response to the verification results, the Japan-EU EPA states that, in case of the certification through "importer's knowledge", the customs authority of the importing Party can deny it if importers cannot provide information, and it is considered natural because no verification method than verification to importers is permitted for the customs authority of the importing Party. The EPA with Australia and TPP11 also state that, in case of "importer's knowledge", the customs authority of the importing Party can deny it if importers cannot provide information,[41] but even in that case, it is possible for the customs authority of the importing Party to conduct the verification to exporters/producers, that is considered to be different from the EU type.

In TPP11, in the case of the certification by exporters/producers, even if sufficient information is not obtained in the verification method (a) (a written request for information from the importer) of Table 15, it is required to perform (b) (a written request for information from the exporter or producer) and (c) (a verification visit to the premises of the exporter or producer) of the table, prior to the denial.

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[39] According to EU authority officials, as the EU operation, with the exception of shipments of less than 6,000 euros, EU exporters are required to register with the Registered Exporter System. (See JETRO (2019))

[40] European Commission (2019) "EU-Japan EPA Guidance, Verification and Denial of Preference", p 8

[41] The FTAs ratified by the US do not clearly stipulate that, in the case of certification by "importer's knowledge", preference can be denied if the importer cannot provide information, as TPP11 stipulates. For example, the US-Australia FTA adopts certification only by "importer's knowledge", but there appears to be no provision permitting denial if the importer cannot provide information. However, as the obligation of keeping records is imposed only on the importer and not on exporters and producers, it is considered to result in being effectively rejected if the importer can prove it.
In addition, although the US-Korea FTA adopts certification by exporters, producers and importers, the methods of verification are not differentiated by the certification by "importer's knowledge" or by the exporter and producer. However, in the case of "importer's knowledge", preference is considered to be effectively denied if the importer cannot prove it, since the keeping records requirement is only imposed on the importer.

IV-3-3. Examination of the Possibility of Further Convergence

The advantages and disadvantages of the "direct verification", which is a characteristic of the US type, and the "indirect verification", which is that of the EU type, are described as follows in Kagawa (2013).

(1) The US type

Advantages: The customs authority of the importing Party may determine the origin regardless of the capability of the FTAs/EPAs partners by collecting information and making decisions on its own.

Disadvantages: Verification visit to the premises of exporters/producers is a heavy burden not only on the exporters/producers to be verified, but also on the customs authority of the importing Party.

(2) The EU type:

Advantages: The customs authority of the importing Party makes a request for verification to the customs authority of the exporting Party. Since verification is carried out by the customs authority of the exporting Party upon the request, the burden on the customs authority of the importing Party is small.

Disadvantages: The examination of the origin by verification is greatly influenced by the capability and cooperation of the customs authority of the exporting Party. Technical cooperation for the customs authorities may be required in particular if the exporting Party is a developing country.

Although it is difficult to predict to which type will be converged in the future, from the viewpoint that certification and verification procedures are intended to ensure the proper application of preferential treatment under the EPAs/FTAs, we would like to present the following points, taking into account the advantages and disadvantages of both types.

(1) Point 1: To what extent is it appropriate to have importers bear the cost of certification and verification?

In the EU type, in the case of certification by "importer's knowledge", importers may hesitate to use it because it incurs a great deal of cost and risk in responding to the verification and the results of verification, and therefore, the measures to mitigate the cost and risk should be considered to make it easier for importers to use. For example, instead of immediately denying when importers are unable to provide sufficient response, it may be possible to use the option to send responses directly from exporters/producers to the authorities by the arrangement of the importers, which have been adopted by the US-Australia FTA and the US-Korea FTA, and are also permitted for the case of "statement of origin" under the Japan-EU EPA.

(2) Point 2: To what extent should the government of the exporting Party be involved in the verification?

The FTAs that the United States has concluded with Australia and South Korea so far do not stipulate the provisions concerning the involvement of exporting Parties in the verification in principle. On the other hand, since the active involvement of exporting Parties is stipulated for the verification of important textiles and textile articles, it is con-

sidered to recognize the necessity of the involvement of the government of the exporting Party to conduct appropriate verification even in the US type. In addition, the EPA of Japan with Australia and TPP11, which are categorized as the U.S. type, have introduced the provisions that allow exporting parties to be involved in the verification of all products other than textiles and textile articles.

On the other hand, in the EU type, it is the customs authority of the exporting Party to carry out all of the verification, and its burden is large. In the EPAs between developed countries such as Japan and the EU, the customs authority of the exporting Party is considered to deal with the verification properly, but if necessary, such as when the exporting Party is a developing country and the capacity is insufficient, it is also considered to introduce the provisions that the customs authority of the importing Party cooperates with that of the exporting Party.

In this way, the US type and EU type differ greatly in terms of the persons who perform the verification, but it is considered that an intermediate approach based on the advantages of both types is necessary in the future since the cooperation between the exporting Party and the importing Party is required in order to conduct a proper verification.

In addition to the TPP11, which came into force in December 2018, the Japan-EU EPA came into force in February 2019, and Japan's EPAs has introduced certification and verification procedures of both the US and EU type. Therefore, interested parties, namely exporters, producers, importers, and the authorities of the exporting and importing Parties will simultaneously respond to these two types of procedures. In the future, problems will be revealed in the process, and it is thought that the consideration for improvement will be carried out, and we hope that both types will converge toward a better one.

V. Examination and Recommendation of the Role that Multilateral Initiatives such as WTO should play

As mentioned in the previous Chapter, while the "content of the rules" of the RoO is still diversified, moves toward convergence is seen in some products, such as products of the chemical or allied industries and footwear. Also, when looking at the "way of expressing rules" of the RoO, even though the "content of the rules" are the same, the "way of expressing rules" still differs according to each FTA/EPA, but on the other hand, there is movement toward the convergence into some patterns.

Therefore, it is considered that improving the transparency, predictability and understanding by users of the rules through advancing this movement, simplifying the variety of the RoO and reducing its complexity can contribute to the trade facilitation.

As a measure for simplifying, the previous chapter conducts a comparative study of the "content of the rules" and the "way of expressing rules" and examines the current state of diversity and convergence by selecting representative products of the major sectors, and further examines the possibility of simplification of those products by trying to draw up a stan-

dardized rule for each of those products.

As a result of the study, we believe that products such as the chemical or allied industries and footwear may be able to be standardized into one option of the rules in terms of both the "content of the rules" and the "way of expressing rules". On the other hand, the "content of the rules" of products, which are important industrial areas such as textiles and textile articles and machinery, are still diversified, and one option of standardized rules is considered difficult at this time, but it is possible to standardize the "way of expressing rules" for these products, and it is considered that the effect of simplification by unifying the "way of expressing rules", which is different in each FTA/EPA even if the "content of the rules" is the same, is significant.

To simplify the RoO, we believe that it is necessary to implement the work for standardization in the WTO, as a multilateral framework, and show the standardized rules as guidelines to Members in order to further advance the movement to convergence so far and encourage the Members participating in the FTAs/EPAs to standardize the rules.

The reason for this is that the current ARO does not make preferential RoO, such as those for the FTAs/EPAs, be subject to its disciplines and the HWP, but (1) the consolidate text, prepared as a result of the technical examination of the HWP of non-preference RoO, have contributed to the convergence as a de facto standard, and (2) the results of the technical examination, compiled as the consolidate text, can be used to create the above-mentioned guidelines for standardization in situations where the completion of the HWP is not foreseeable, and (3) in other than non-preferential field, the WTO has created guidelines[42] for improving preferential RoO of the GSP to LDC, and we believe that simplifying preferential RoO of the FTAs/EPAs and facilitating trade is in line with the WTO's mission.

The work for standardization needs to be conducted for approximately 5000 products of the entire HS, and the task requires specialized and technical knowledge to understand and analyze the complex RoO. Therefore, it is also considered that the work is carried out by the Technical Committee of Rules of Origin[43] of the World Customs Organization (WCO), which possess the specialized and technical knowledge and was responsible for technical examination in the HWP.

As for the certification and verification procedures, as described above, there is the movement of convergence of the certification procedure into self-certification by exporters, producers and importers, and the verification procedure into the two types: the US and the EU type. In the case of self-certification, the cost of the entire certification and verification procedure is shifted from that of certification to that of verification, and it is often the customs authority that is responsible for the verification irrespective of the US type or the EU type. The WCO[44] has developed guidelines and conducted training and seminars[45] to im-

[42] In view of facilitating market access of LDC products by a generalized system of preferences (GSP) applied by the Member to the LDC, the guidelines stipulate the standards and documentation requirements to be respected when each Member draws up and establishes the rules for the RoO applicable to such GSP. (See Hasegawa (2018b))

[43] The WTO ARO establishes the Technical Committee of Rules of Origin sponsored by the WCO to make out a draft HRO by the HWP from a technical point of view, and to carry out technical work required by the ARO.

prove the ability of the customs authorities of Members, and it is considered that the role of the WCO in improving the capacity of the customs authorities of developing Members will be even greater by increasing the importance of verification due to the convergence to self-certification.

VI. Concluding Remarks

In this paper, as for the "origin criteria" of preferential RoO of the FTAs/EPAs, from the comparative analysis of the "content of the rules" and the "way of expressing rules" of the RoO of Japan's EPAs and the FTAs of major countries, although they are still diverse and complex, there is a movements toward convergence due to the recent developments in mega-FTAs/EPAs, and it is considered possible to standardize the RoO of some products into one option of the rule, and even for products such standardization of which is difficult, it is also considered possible to simplify the RoO by the standardization of the "way of expressing rules" according to the "content of the rules". Furthermore, it is proposed to carry out the work for the standardization in the WTO as a multilateral framework, based on the results of the technical examination in the HWP of non-preferential RoO.

In the WTO, technical examination was conducted in the HWP of non-preferential RoO, although it has now been stopped, and its results are compiled as the consolidated text, and we hope that the WTO will contribute to trade facilitation by utilizing it and presenting guidelines of standardization for simplifying the preferential RoO of the FTAs/EPAs.

As for the certification and verification procedures, which are "procedural provisions" of the preferential RoO of the FTAs/EPAs, it is considered that there is the movement of further convergence, i.e., for the certification procedures into the self-certification by exporters, producers and importers, and for the verification procedures into the two different types: the US type and the EU type, when compared to that for the "origin criteria". Japan has introduced two different types of the verification procedures, namely TPP11, which came into force in December 2018, and the Japan-EU EPA, which came into force in February 2019, and we hope that there will be a movement of further converging through implementing the two types of verification procedures.

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[44] The WCO has been working to create guidelines for procedural aspects (certification, verification, advanced rulings, etc.) in order to facilitate trade while the HWP does not proceed. (see Hasegawa (2018b))

[45] WCO (2019)

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Appendix

Production Processes of Products of the Chemical or Allied Industries[46]

Products of the chemical or allied industries are produced from raw materials such as petroleum oils of HS Chapter 27 by the processes of chemical reaction to form a chemically new material through decomposition or synthesis, purification to remove impurities from raw materials, or mixing or blending of raw materials.

As for the RoO of products of the chemical or allied industries, the product specific rules stipulating the criteria of "substantial transformation" can adopt CTC criteria as changes in HS number occur between the products and raw materials. But HS number is limited for a huge number of products, and changes in HS number do not necessarily occur in every case. Therefore, in addition to CTC criteria, value criteria and processing criteria (hereinafter referred to as "chemicals rule") are often used. The main part of the chemicals rule are "chemical reaction", but other than that, "mixing and blending", "purification", "change in particle size", "production of standard materials", "isomer separation", and "biotechnological processes", all of which are referred to as a "full set of chemicals rules".

Production Processes of Textiles and Textile Articles[47]

The production processes of textiles and textile articles consist mainly of "spinning", which is a process of making yarn from fibers, "weaving/knitting", which is a process of making textiles and knitted fabrics from yarn, and "sewing/assembly", which is a process of making articles of apparel from textiles and knitted fabrics. Furthermore, they are subdivided into the processes such as "printing/dying, etc." of textiles and knitted fabrics or articles of apparel, "cutting to shape" to the parts of articles of apparel from textiles and knitted fabrics, "sewing/assembly" from parts of articles of apparel to the articles. These production processes are summarized in Figure 4.

Figure 4. Production Process of Textiles and Textile Articles

<table>
<tr><td colspan="2">Products</td><td>Production Process</td></tr>
<tr><td colspan="2">Articles of apparel</td><td></td></tr>
<tr><td rowspan="3">⇑</td><td>↑</td><td>(Sewing/assembly)</td></tr>
<tr><td>Parts of articles of apparel</td><td></td></tr>
<tr><td>↑</td><td>(Cutting)</td></tr>
<tr><td rowspan="3">Textiles and knitted fabrics</td><td>Textiles and knitted fabrics</td><td></td></tr>
<tr><td>↑</td><td>(Printing/dying, etc.)</td></tr>
<tr><td>Textiles and knitted fabrics</td><td></td></tr>
<tr><td colspan="2">⇑</td><td>(Weaving/knitting)</td></tr>
<tr><td colspan="2">Yarn</td><td></td></tr>
<tr><td colspan="2">⇑</td><td>(Spinning)</td></tr>
<tr><td colspan="2">Fibers</td><td></td></tr>
</table>

[46] See Hasegawa (2019)
[47] See Hasegawa (2018a)

Among the production processes shown in Figure 4, the processes indicated by the symbol (⇒) are counted as 1 Process (e.g., in the case of rules requiring production from yarn, 2 processes are counted (called as “2 process rule”) as “yarn” ⇒ (1 Process) ⇒ “textiles and knitting” ⇒ (1 Process) ⇒ “articles of apparel”) , and it can represent the “content of the rule”.

The processes indicated by the symbol (→) are not counted as 1 Process, for example, the production process of “articles of apparel” from the “parts of articles of apparel” is referred to as “0 process” for convenience.