

# Towards Diagonal Cumulation Between the CPTPP & EU FTAs

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## Introduction

The second presidency of Donald Trump, who took office in January 2025, has imposed unilateral tariffs, in addition to measures under Section 301 of the Trade Act of 1974 (of which consistency with WTO agreements has long been questioned), such as fentanyl and reciprocal tariffs under the International Emergency Economic Powers Act, additional tariffs on steel and aluminum, and new tariffs on automobiles under Section 232 of the Trade Expansion Act of 1962. These measures have been undermining foundations of the international economic order, such as the most-favored-nation treatment, and the tariff concessions and bindings. The Xi Jinping administration in China, too, has no qualms about using its economic power as a weapon to intimidate countries that do not align with its policies and intentions.

As Canadian Prime Minister Mark Carney urged at the Davos Forum in January 2026, now is the time for middle powers to unite and work together to maintain and develop the international economic order. As he said, “on plurilateral trade, we are championing efforts to build a bridge between the Trans-Pacific Partnership and the European Union”, and “we should not allow the rise of hard power to blind us to the fact that the power of legitimacy, integrity, and rules will remain strong.”

As a means for middle powers to unite and promote orderly trade liberalization, this article proposes the introduction of diagonal cumulation between the EU and CPTPP Members.

## What Is Diagonal Cumulation?

### 1. Background & Current Status of the Diagonal Cumulation

In January 1997, the European Community unified the rules of origin in 14 free trade agreements (FTAs) concluded with neighboring countries into the pan-European cumulation system. This system introduced diagonal cumulation, which recognizes a material as originating the finished goods-producing country when the actual origin of the material was a third country, when the third country concluded an FTA applying the cumulation system with the country importing the finished good as well as with the finished goods-producing country. As a result, the scope of products eligible for tariff reduction/elimination under FTAs (hereinafter referred to as “FTA preferential tariffs”) has expanded, allowing all countries participating in the pan-European cumulation system to enjoy

benefits equivalent to those under a unified plurilateral FTA.

The current system of diagonal cumulation among the EU and its neighboring countries is based on the Regional Convention on Pan-Euro-Mediterranean preferential rules of origin (the PEM Convention). Under this Convention, diagonal cumulation applies to the EU and countries which have concluded an FTA with the EU and also have concluded the other FTA with the other country that has also concluded an FTA with the EU, upon conditions that all of these FTAs base their rules of origin on the PEM Convention, and that these countries obtain approval from the PEM Joint Committee to apply diagonal cumulation among them.

These neighboring countries include the EFTA countries (Iceland, Switzerland, Liechtenstein, Norway), the Barcelona Process countries (Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, the West Bank and the Gaza Strip), the Faroe Islands, Turkey, and the EU Stabilization and Association Process countries (Albania, Bosnia and Herzegovina, North Macedonia, Montenegro, Serbia, and Kosovo).

### 2. Full Cumulation

The EU has introduced full cumulation – which allows not only the above-mentioned diagonal cumulation but also cumulation of manufacturing processes – among the EEA countries (the EU, Iceland, Liechtenstein, and Norway), as well as among Tunisia, Morocco, Algeria, and the EU. The full cumulation is particularly effective for products, which criteria of country of origin, *i.e.*, the criteria for determining whether an imported product is of the exporting country’s origin for the purpose of application of FTA preferential tariffs, is based on certain processing that the product experienced.

For example, the PEM Convention adopts two processes as the criteria of the country of origin of apparel – the weaving process to produce fabric from yarn and the sewing process to produce an article of apparel from that fabric, in addition to the 40% regional value content. The diagonal cumulation focuses on the origin of materials. Thus, where one FTA contracting party weaves fabric using yarn spun in a non-FTA country, and where another FTA contracting party imports that fabric and sews it into garments, neither the fabric nor the garments would qualify as the FTA origin because only one process was performed in each country. However, where the full cumulation is adopted, the garment is deemed to have undergone two processes in the country of sewing, because the weaving process in the country of fabric production is deemed to be

performed in the sewing country (provided, again, the regional value content criterion is also met). In this manner, the full cumulation recognizes the garment as originating in the sewing country.

### Diagonal Cumulation in FTAs Between the EU & CPTPP Member States

The EU also agreed the diagonal cumulation in the FTAs with CPTPP Members, albeit with restrictions on the covered products and countries which may supply materials.

Section 5 of Appendix 3-B-1 of the Japan-EU EPA set forth that both Japan and the EU may apply the diagonal cumulation to third-country materials classified in HS 8407 (engines), HS 8544 (wiring harnesses), and HS 8708 (automotive parts) for production of vehicles classified in HS 8703 (passenger vehicles), provided that:

- (1) each of Japan and the EU has an effective FTA with the material-producing country;
- (2) an arrangement is in force with the material-producing country to ensure the full implementation of the rules of origin under the Japan-EU EPA; and
- (3) Japan and the EU agree on any other applicable conditions.

These conditions are consistent with provisions allowing the diagonal cumulation in FTAs concluded between other CPTPP Member states and the EU. For example, Article 3 of the EU-Singapore FTA Protocol 1 allows diagonal cumulation of materials originating in ASEAN member states. Article 3 of the EU-Vietnam FTA Protocol 1 recognizes diagonal cumulation of squid and octopus originating in ASEAN member states. Article 3.3 of the EU-Chile Interim Trade Agreement allows diagonal cumulation for canned tuna using materials of HS Chapter 3 (fish, crustaceans, etc.) originating in Colombia, Ecuador, or Peru. All of them set forth conditions similar to those in the Japan-EU EPA. Furthermore, materials, which is produced in a third country, must be deemed to be originated in the third country in accordance with the rules of origin under the FTA between the third country and the EU. It should be noted that these FTAs do not provide for the diagonal cumulation of materials for articles finished in the EU.

The Protocol on Rules of Origin under the EU-Canada CETA establishes general rules of diagonal cumulation without limitation of countries of origin of materials or without limitation of articles for which materials may be cumulated. Furthermore, Note 1 to the Rules

of Origin stipulates that, should an FTA be concluded between the United States and the EU, diagonal cumulation applies to materials originating in the United States of HS Chapters 84, 85, 87, and 94 (machinery, electrical and electronic equipment, vehicles, and furniture and lighting, as well as parts thereof) for production of vehicles classified in HS8701 through 8705 except for HS 8703.10 (snow vehicles and golf cars). However, FTA negotiations between the US and the EU were at an impasse.

### Conditions of Diagonal Cumulation Acceptable for the CPTPP & EU

Upon review of the conditions for diagonal cumulation under the PEM Convention and the conditions for diagonal cumulation agreed between the EU and certain CPTPP Members respectively, it appears that the EU would require the following conditions to accept diagonal cumulation with CPTPP Members:

- (i) A material-producing country subject to diagonal cumulation concludes an FTA with the EU;
- (ii) The country of origin of materials for which the EU accepts diagonal cumulation would be determined in accordance with the FTA between the material-producing country and the EU; and
- (iii) The material-producing country agrees to comply with the rules of origin under the FTA between the EU and the CPTPP finished goods-producing member, which uses the material.

Of these, (i) is self-evident. The issue lies with condition (ii). CPTPP rules of origin apply to import customs clearance in a material-importing CPTPP Member. On the other hand, for the purposes of diagonal cumulation, condition (ii) dictates that the origin of the material in question is determined in accordance with the rules of origin under the FTA with the EU. If no measures are taken to address this situation, the same material transaction would be required to satisfy the rules of origin of both CPTPP and the EU FTA.

The same issue may arise in material imports into the EU, if condition (ii) is interpreted as a provision requiring the material satisfy the rules of origin between the finished-good importing country and the material-producing country. If so, when the EU produces a finished good using materials of a CPTPP Member and exports the finished good to another CPTPP Member, the EU would be required to ensure that the material satisfy the CPTPP rules of

origin. The EU, then, would be required to ensure that its imports of materials from a CPTPP Member satisfy both the CPTPP rules of origin and the EU FTA rules of origin.

Such a situation would be unacceptable to both the EU and CPTPP Members. In order to introduce diagonal cumulation between the CPTPP and the EU, it would be necessary to establish uniform rules of origin between the two. Specifically, uniform rules should establish at least the following matters:

*Criteria of Country of Origin:* These consist of “Product-Specific Rules of Origin”, which establish criteria for determining whether materials and products are considered to be originated in an FTA contracting party on a product-by-product basis, and “General Rules” which apply to all products and materials.

*Certificate of Origin:* The method and forms to certify to the customs authorities of the importing country that products are originating in an FTA contracting party.

*Ex-Post Verification:* Procedures whereby the customs authorities of the importing country verify, after importation, that the imported products and their materials satisfy the applicable rules of origin.

The following examines these matters.

### 1. Criteria of Country of Origin

The country of origin of a specific product is determined on the basis of one or combination of the following criteria: the wholly obtained/produced entirely, the processing, the change of tariff classification, or the regional value content. Among these, the wholly obtained criterion is often applied to agricultural, forestry, and fishery products. For example, the place of harvest determines the country of origin of the fruit.

Processing criteria are often used to determine the country of origin of textile and apparel products and chemical products. The location of specific process(es) performed determines the country of origin. For example, the country of origin of apparel under the PEM Convention and the Japan-EU EPA is the location where two processes, such as weaving and sewing, are performed and the 40% regional value content is satisfied. In contrast, the CPTPP reflects the criteria of country of origin adopted by the US in its FTAs that require “yarn-forward” three processes, *i.e.*, the spinning, weaving and sewing processes.

The country of origin of industrial products is usually based on the change of tariff classification and/or the regional value content. EU FTAs generally define the regional value content based on the ratio of the maximum value of non-originating materials over the ex-works

(EXW) price. In contrast, the CPTPP defines the regional value content based on the ratio of the value of originating materials plus conversion and sales costs over the EXW or FOB price or total costs. For example, PEM Convention, the Japan-EU EPA, and the EU-Canada CETA set forth the country of origin of passenger vehicles in accordance with the maximum ratio of the value of non-originating materials over the EXW price at 40%, 45%, and 45%, respectively. In contrast, the CPTPP stipulates that the total net cost (manufacturing cost plus certain sales, general and administrative expenses) less the value of non-originating materials must be 45% or more of the total net cost, or that the value of the EXW price less the value of non-originating materials must be 55% or more of the EXW price (*i.e.*, the maximum value of non-originating materials over EXW price must be 45%).

Although there are many instances in which the product-specific rules of origin are similar between the EU FTA and the CPTPP, they differ, for example, in terms of the ratio of the regional value content and the calculation methods. Therefore, when applying diagonal cumulation between the EU and the CPTPP, it is necessary to align the product-specific rules of origin.

Furthermore, EU and CPTPP Members must reach agreement on the general rules, such as treatments of indirect materials, accessories, and packaging materials in applying the change of the tariff classification criteria and the regional value content criteria; the threshold for the *de minimis* rule of exceptions when non-originating materials that do not result in a change in tariff classification are of a negligible value; insufficient working or processing; the treatment of fungible materials where the same material of originating and non-originating are used for the production of finished goods; and record-keeping requirements.

### 2. Full Cumulation

Another critical consideration would be to include the full cumulation, which allows cumulation of production processes performed among EU and CPTPP Members. As mentioned above, the EU allows the full cumulation in its FTAs with certain neighboring countries. The Japan-EU EPA also allows the full cumulation. We should consider whether to introduce full cumulation in relation to the CPTPP as well.

### 3. Certificate of Origin

To qualify for FTA preferential tariffs, traders must show at the time of import custom clearance that the product is originated in the

exporting country.

The PEM Convention adopts a third-party certification system, in which the origin is certified by a certificate of origin issued by a government authority in the exporting country. Recent EU EPAs adopt, however, a self-certification system, similar to the CPTPP. The Japan-EU EPA and the EU-Canada CETA adopt exporter self-certification, whereby exporters themselves declare the origin of the goods. The Japan-EU EPA also allows importers to self-certify using a prescribed declaration. On the other hand, the CPTPP permits self-certification by both exporters and importers.

In light of the development of the EU's certification method, it would be unlikely that the EU would object to the adoption of a self-certification system. However, the details must be agreed upon between the EU and the CPTPP Members.

#### 4. Ex-Post Verification

To maintain qualification for FTA preferential tariffs, traders may be required to demonstrate after importation that both the imported products and the materials subject to diagonal cumulation were in fact originated in the FTA countries in accordance with the applicable rules of origin.

In EU FTAs, including the PEM Convention, ex-post verification is conducted through indirect verification method, in which the customs authorities of the importing country request that the customs authorities of exporting country collect documentation showing FTA origin from the exporter. The customs authorities of the importing country then verify the origin based on that documentation. In contrast, the CPTPP adopts a direct verification system, under which the customs authorities of the importing country may visit the facilities of the exporting producer to conduct on-site verification.

Since the CPTPP's ex-post verification process includes procedures similar to the indirect verification prior to the on-site visits to the exporter/producer, it would be practical to rely solely on indirect verification, including collection of documentation of materials subject to diagonal cumulation. In any event, CPTPP Members and the EU should reach agreements on specific procedures of the ex-post verification.

### Conclusion: Methods of Diagonal Cumulation under the EU & CPTPP

Introducing diagonal cumulation between the EU and the CPTPP would have the same effect as if the two parties had concluded a

unified plurilateral FTA, making it an extremely effective to further promote trade liberalization.

To that end, first and foremost, a CPTPP Member to be included in the diagonal cumulation must have concluded an FTA with the EU. There are no major issues regarding this point. With the exception of Brunei, all CPTPP Members have already concluded FTAs with the EU (though the EU-Australia FTA has not yet entered into force). Therefore, at this point, Brunei will likely to be excluded from the scope of diagonal cumulation. However, this could be viewed as a means to encourage Brunei to conclude an FTA with the EU to promote further trade liberalization.

Second, while the product-specific rules of origin under the EU's FTAs and the CPTPP share some commonalities, they are not identical. It, therefore, would be necessary to narrow down the scope of products subject to diagonal cumulation, and agree on uniform product-specific rules of origin for products and materials within the scope of the cumulation. Attempting to introduce uniform rules for all products would be tantamount to renegotiating the trade in goods entirely, and would make the goal much more difficult to achieve. We should select products that would offer economic benefits to both the EU and the CPTPP and identify the specific products and materials subject to diagonal cumulation.

As a candidate, I would like to recommend automobiles, and their electronic and mechanical parts, and automotive components (Chapters 84, 85, and 87). The EU has already agreed to include automobiles in the scope of diagonal cumulation under the Japan-EU EPA and the EU-Canada CETA. Furthermore, the criteria of country of origin for Class 87 under the Japan-EU EPA, the EU-Canada CETA, and the CPTPP all share on the ratio of the maximum value content of non-originating materials over the EXW price (45% or less), which is similar to the 40% threshold in the PEM Convention. Additionally, automobiles are a major export product for the EU.

Third, it is necessary to harmonize general rules, rules on the certification of origin, and the ex-post verification system. It is unlikely that harmonization of these rules would be a major obstacle to agreement on the diagonal cumulation between the EU and CPTPP Members.

Upon consideration of the above, we should promote diagonal cumulation between the EU and CPTPP Members.

**JS**

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