

## **RULES OF ORIGIN FOR THE CEPT SCHEME FOR AFTA**

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In determining the origin of products eligible for the CEPT Scheme under the Agreement on the CEPT, the following Rules shall be applied:

### **RULE 1 Originating Products**

Products under the CEPT imported into the territory of a Member State from another Member State which are consigned directly within the meaning of Rules 5 hereof, shall be eligible for preferential concessions if they conform to the origin requirements under any one of the following conditions :

- (a) Products wholly produced or obtained in the exporting Member State as defined in Rule 2; or
- (b) Products not wholly produced or obtained in the exporting Member State, provided that the said products are eligible under Rule 3 or Rule 4.

### **RULE 2 Wholly Produced or Obtained**

Within the meaning of Rule 1 (a), the following shall be considered as wholly produced or obtained in the exporting Member State:

- (a) Mineral products extracted from its soil, its water or its seabed;
- (b) Agricultural products harvested there;
- (c) Animals born and raised there;
- (d) Products obtained from animals referred to in paragraph (c) above;
- (e) Products obtained by hunting or fishing conducted there;
- (f) Products of sea fishing and other marine products taken from the sea by its vessels;
- (g) Products processed and/or made on board its factory ships exclusively from products referred to in paragraph (f) above;
- (h) Used articles collected here, fit only for the recovery of raw materials;
- (i) Waste and scrap resulting from manufacturing operations conducted there; and

- (j) Goods produced there exclusively from the products referred to in paragraph (a) to (i) above.

**RULE 3 Not Wholly Produced or Obtained**

- (a)
  - (i) A product shall be deemed to be originating from ASEAN Member States, if at least 40% of its content originates from any Member States.
  - (ii) Locally-procured materials produced by established licensed manufacturers, in compliance with domestic regulations, will be deemed to have fulfilled the CEPT origin requirement; locally-procured materials from other sources will be subjected to the CEPT origin test for the purpose of origin determination.
  - (iii) Subject to sub-paragraph (i) above, for the purpose of implementing the provisions of Rule 1 (b), products worked on and processed as a result of which the total value of the materials, parts or produce originating from non-ASEAN countries or of undetermined origin used does not exceed 60% of the FOB value of the product produced or obtained and the final process of the manufacture is performed within the territory of the exporting Member State.
- (b) The value of the non-originating materials, parts or produce shall be:
  - (i) The CIF value at the time of importation of the products or importation can be proven; or
  - (ii) The earliest ascertained price paid for the products of undetermined origin in the territory of the Member State where the working or processing takes place.

The formula for 40% ASEAN Content is as follows:

Value of Imported Non-ASEAN Materials, Parts or Produce	+	Value of Undetermined Origin Materials, Parts or Produce	
<div style="display: flex; justify-content: space-between; align-items: center;"> <span>FOB Price</span> <span>X 100% ≤ 60%</span> </div>			

- (c) The method of calculating local/ASEAN content is as set out in Annex A of this Rules. The principles to determine cost for ASEAN origin and the guidelines for costing methodologies in Annex B shall also be closely adhered to.

#### **RULE 4 Cumulative Rule of Origin**

- (a) Products which comply with origin requirements provided for in Rule 1 and which are used in a Member State as inputs for a finished product eligible for preferential treatment in another Member States shall be considered as products originating in the Member State where working or processing of the finished product has taken place provided that the aggregate ASEAN content of the final product is not less than 40%.
- (b) If the material has less than 40 percent ASEAN content, the qualifying ASEAN national content shall be in direct proportion to the actual domestic content provided that it is equal to or more than the agreed threshold of 20%.<sup>1</sup>

#### **RULE 5 Direct Consignment**

The following shall be considered as consigned directly from the exporting Member State to the importing Member State:

- (a) If the products are transported passing through the territory of any other ASEAN country;
- (b) If the products are transported without passing through the territory of any other non-ASEAN country;
- (c) The products whose transport involves transit through one or more intermediate non-ASEAN countries with or without transshipment or temporary storage in such countries, provided that:
  - (i) The transit entry is justified for geographical reason or by consideration related exclusively to transport requirements;
  - (ii) The, products have not entered into trade or consumption there; and
  - (iii) The products have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

#### **RULE 6 Treatment of Packing**

- (a) Where for purposes of assessing customs duties a Member State treats products separately from their packing, it may also, in respect of its imports consigned from another Member State, determine separately the origin of such packing.

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<sup>1</sup> Note: The implementation of this provision would be based on the Implementing Guidelines, which was endorsed by the AEM Retreat, April 2005

- (b) Where paragraph (a) above is not applied, packing shall be considered as forming a whole with the products and no part of any packing required for their transport or storage shall be considered as having been imported from outside the ASEAN region when determining the origin of the products as a whole.

#### **RULE 7 Certificate of Origin**

A claim that products shall be accepted as eligible for preferential concession shall be supported by a Certificate of Origin issued by a government authority designated by the exporting Member State and notified to the other Member States in accordance with the Certification Procedures to be developed and approved by the Senior Economic Officials Meeting (SEOM).

#### **RULE 8 Review**

These rules may be reviewed as and when necessary upon request of a Member State and may be open to such modifications as may be agreed upon by the Council of Ministers.

## ANNEX A

### METHOD OF CALCULATION OF LOCAL/ASEAN CONTENT

1. Member Countries shall adhere to only one method of calculating local/ASEAN content, i.e. whether it is the direct or indirect method, although Member Countries shall not be prevented from changing their method, if deemed necessary. Any change in the calculation method shall be notified to the AFTA Council Meeting.
2. FOB price shall be calculated as follows:
  - a. **FOB Price = Ex-Factory Price + Other Costs**
  - b. **Other Costs** in the calculation of the FOB price shall refer to the costs incurred in placing the goods in the ship for export, including but not limited to, domestic transport costs, storage and warehousing, port handling, brokerage fees, service charges, etc.
3. Formula for ex-factory price:
  - a. **Ex-Factory Price = Production Cost + Profit**
  - b. Formula for production cost,
    - i. **Production Cost = Cost of Raw Materials + Labour Cost + Overhead Cost**
    - ii. **Raw Materials** shall consist of:
      - Cost of raw materials
      - Freight and insurance
    - iii. **Labour Cost** shall include:
      - Wages
      - Remuneration
      - Other employee benefits associated with the manufacturing process
    - iv. **Overhead Costs**, (non-exhaustive list) shall include, but not limited to:
      - real property items associated with the production process (insurance, factory rent and leasing, depreciation on buildings, repair and maintenance, taxes, interests on mortgage)
      - leasing of and interest payments for plant and equipment
      - factory security

- insurance (plant, equipment and materials used in the manufacture of the goods)
- utilities (energy, electricity, water and other utilities directly attributable to the production of the good)
- research, development, design and engineering
- dies, moulds, tooling and the depreciation, maintenance and repair of plant and equipment
- royalties or licenses (in connection with patented machines or processes used in the manufacture of the good or the right to manufacture the good)
- inspection and testing of materials and the goods
- storage and handling in the factory
- disposal of recyclable wastes
- cost elements in computing the value of raw materials, i.e. port and clearance charges and import duties paid for dutiable component

## ANNEX B

### PRINCIPLES AND GUIDELINES ON THE CEPT-AFTA RULES OF ORIGIN

#### A. Principles to Determine Cost for ASEAN Origin

- i. **Materiality** – all cost material to the evaluation, assessment and determination of origin;
- ii. **Consistency** – costing allocation method should be consistent unless justified by commercial reality;
- iii. **Reliability** – costing information must be reliability and supported by appropriate information;
- iv. **Relevance** – costs must be allocated based on objective and quantifiable data;
- v. **Accuracy** – costing methodology should provide an accurate representation of the cost element in question;
- vi. **Application of GAAP of the exporting country** – costing information must be prepared based in accordance with the general accepted accounting principles and this includes the avoidance of double-counting of cost items;
- vii. **Currency** – updated costing information from existing accounting and costing records of companies should be used to calculate origin.

#### B. Guidelines for Costing Methodologies

- i. **Actual Costs** – basis for actual costs should be defined by the company. Actual costs should include all direct and indirect costs incurred in producing the product.
- ii. **Projected and Budgeted Costs** – projected costs may be used if it is justified. Companies should provide variance analysis and proof during the period origin is claimed to indicate accuracy of projections.
- iii. **Standards Costs** – the basis for standards costs should be indicated. Companies should provide evidence that the costs are used for accounting purposes.
- iv. **Average/Moving Average Costs** – average costs may be used if justified; the basis for calculating average costs, including time period, etc. should be highlighted. Companies should provide variance analysis and proof during the period origin is claimed to indicate accuracy of average costs.

- v. **Fixed Costs** – fixed costs should be apportioned according to sound cost accounting principles. They should be a representative reflection of unit costs for the company in the particular period in question. The method for apportionment should be indicated.