



# ASEAN BRIEFING

## **RULES OF ORIGIN FOR THE AGREEMENT ON THE COMMON EFFECTIVE PREFERENTIAL TARIFF SCHEME FOR THE ASEAN FREE TRADE AREA (CEPT-AFTA ROO)**

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**RULES OF ORIGIN FOR THE AGREEMENT ON  
THE COMMON EFFECTIVE PREFERENTIAL TARIFF SCHEME  
FOR THE ASEAN FREE TRADE AREA  
(CEPT-AFTA ROO)**

In determining the origin of products eligible for preferential tariffs pursuant to the Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (hereinafter referred to as the “CEPT-AFTA Agreement”), the following shall be applied:

**Article 1: Definitions**

For the purpose of these Articles:

- (a) **“Member State”** means the individual parties to the CEPT-AFTA Agreement, i.e. Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People’s Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Viet Nam;
- (b) **“materials”** means raw materials, ingredients, parts, components, sub-assembly and/or goods that are physically incorporated into another good or are subject to a process in the production of another good;
- (c) **“goods”** shall include materials and/or products, which can be wholly obtained or produced, even if they are intended for later use as materials in another production process. For the purposes of this CEPT-AFTA ROO, the terms “goods” and “products” can be used interchangeably and the terms “good” and “product” shall be interpreted accordingly;
- (d) **“originating goods”** means products or materials that qualify as originating under the CEPT-AFTA Agreement;
- (e) **“production”** means methods of obtaining goods including growing, mining, harvesting, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, producing, processing or assembling a good;
- (f) **“product-specific rules”** means rules that specify that the materials have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy an *ad-valorem* criterion or a combination of any of these criteria;
- (g) **“identical and interchangeable materials”** means materials being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which after being incorporated into the finished product cannot be distinguished from one another for origin purposes by virtue of any markings, etc.;
- (h) **“packing materials and containers for transportation”** means the goods used to protect a good during its transportation, different from those containers or materials used for its retail sale.

## **Article 2: Origin Criteria**

For the purpose of the CEPT-AFTA Agreement, goods imported under the CEPT Scheme into the territory of a Member State from another Member State shall be eligible for preferential tariff treatment if they conform to the origin requirements under any one of the following conditions:

- (a) a good which is wholly obtained or produced in the exporting Member State as set out and defined in Article 3; or
- (b) a good not wholly obtained or produced in the exporting Member State, provided that the said products are eligible under Article 4 or Article 5.

## **Article 3: Wholly Obtained or Produced**

Within the meaning of Article 2 (a), the following shall be considered as wholly obtained or produced in the exporting Member State:

- (a) Plant and plant products grown and harvested, picked or gathered there;
- (b) Live animals born and raised there;
- (c) Goods obtained from animals referred to in sub-paragraph (b) above;
- (d) Goods obtained from hunting, trapping, fishing, aquaculture, gathering or capturing conducted there;
- (e) Minerals and other naturally occurring substances, not included in sub-paragraphs (a) to (d), extracted or taken from its soil, waters, seabed or beneath its seabed;
- (f) Products of sea-fishing taken by vessels registered with a Member State and entitled to fly its flag and other products<sup>1</sup> taken from the waters, seabed or beneath the seabed outside the territorial waters<sup>2</sup> of that Member State, provided that that Member State has the rights to exploit such waters, seabed and beneath the seabed in accordance with international law<sup>3</sup>;

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<sup>1</sup> "other products" refers to minerals and other naturally occurring substances extracted from the waters, seabed or beneath the seabed outside the territorial waters.

<sup>2</sup> For products of sea-fishing obtained from outside the territorial waters (e.g. Exclusive Economic Zone), originating status would be conferred to that Member State with whom the vessels used to obtain such products are registered with and whose flag is flown in the said vessel, and provided that that Member State has the rights to exploit it under international law.

<sup>3</sup> in accordance with international law, registration of vessels could only be made in one Member State.

- (g) Products of sea-fishing and other marine products taken from the high seas<sup>2</sup> by vessels registered with a Member State and entitled to fly the flag of that Member State;
- (h) Products processed and/or made on board factory ships registered with a Member State and entitled to fly the flag of that Member State, exclusively from products referred to in sub-paragraph (g) above;
- (i) Articles collected there which can no longer perform their original purpose nor are capable of being restored or repaired and are fit only for disposal or recovery of parts of raw materials, or for recycling purposes;
- (j) Waste and scrap derived from:
  - (i) production there; or
  - (ii) used goods collected there, provided that such goods are fit only for the recovery of raw materials; and
- (k) Goods obtained or produced in a Member State from products referred to in sub-paragraphs (a) to (j).

**Article 4: Not Wholly Obtained or Produced**

1. For the purpose of Article 2(b), a good shall be deemed to be originating in the Member State where working or processing of the good has taken place:
  - (a) if at least 40 percent of its content (hereinafter referred to as “ASEAN Value Content” or the “Regional Value Content (RVC)”) originates from that Member State or it has undergone a change in tariff classification at four-digit level (change in tariff heading) of the Harmonised System;
  - (b) if it is specified in Appendix C and satisfies the criteria set out therein.
2. The formula for calculating ASEAN Value Content or RVC is as follows:

(a) *Direct Method*

$$RVC = \frac{\text{ASEAN Material Cost} + \text{Direct Labour Cost} + \text{Direct Overhead Cost} + \text{Other Cost} + \text{Profit}}{\text{FOB Price}} \times 100 \%$$

(b) *Indirect Method*

$$RVC = \frac{\text{FOB Price} - \text{Non-Originating Materials, Parts or Produce}}{\text{FOB Price}} \times 100 \%$$

3. For the purpose of calculating the regional value content provided in paragraph 2:
  - (a) The value of imported non-ASEAN 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;
  - (b) Labour cost shall include wages, remuneration and other employee benefits associated with the manufacturing process;
  - (c) The calculation of overhead cost shall include, but is 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 licences (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 ; and cost elements in computing the value of raw materials, i.e. port and clearance charges and import duties paid for dutiable component; and
  - (d) FOB price means the free-on-board value of the good, inclusive of the cost of transport to the port or site of final shipment abroad. FOB price shall be determined by adding the value of materials, production cost, profit and other costs;
  - (e) Other costs 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.
4. Member States shall determine and adhere to only one method of calculating the regional value content. Member States shall be given the flexibility to change their calculation method provided that such change is notified to the AFTA Council at least six (6) months prior to the adoption of the new method. Any verification to the ASEAN Value Content calculation by the importing Member State shall be done on the basis of the method used by the exporting Member State.
5. In determining the cost for ASEAN origin, Member States shall closely adhere to the guidelines for costing methodologies set out in Appendix A.

6. Locally-procured materials produced by established licenced 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.

#### **Article 5: Accumulation**

1. Unless otherwise provided for in the CEPT-AFTA Agreement, a good originating in a Member State, which is used in another Member State as materials for a finished good eligible for preferential tariff treatment, shall be considered to be originating in the latter Member State where working or processing of the finished good has taken place.
2. If the Regional Value Content of the material is less than 40 percent, the qualifying ASEAN Value Content to be cumulated using the RVC criterion shall be in direct proportion to the actual domestic content provided that it is equal to or more than 20 percent. The Implementing Guidelines are set out in Appendix B.

#### **Article 6: Minimal Operations and Processes**

1. Operations or processes undertaken, by themselves or in combination with each other for the purposes listed below, are considered to be minimal and shall not be taken into account in determining whether a good has been originating in one Member State:
  - (a) ensuring preservation of goods in good condition for the purposes of transport or storage;
  - (b) facilitating shipment or transportation;
  - (c) packaging or presenting goods for sale.
2. A good originating in the territory of a Member State shall retain its initial originating status, when exported from another Member State, where operations undertaken have not gone beyond those referred to in paragraph 1.

#### **Article 7: Direct Consignment**

1. Preferential tariff treatment shall be applied to a good satisfying the requirements of this CEPT-AFTA ROO and which is consigned directly between the territories of the exporting Member State and the importing Member State.
2. The following shall also be considered as consigned directly from the exporting Member State to the importing Member State:
  - (a) If the goods are transported by passing through the territory of any other Member State;

- (b) If the goods are transported without passing through the territory of any non-ASEAN Member State;
- (c) The goods whose transport involve transit through one or more intermediate non-ASEAN Member State 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 goods have not entered into trade or consumption there; and
  - (iii) The goods have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

#### **Article 8: De Minimis**

1. A good that does not undergo a change in tariff classification shall be considered as originating if the value of all non-originating materials used in its production that do not undergo the required change in tariff classification does not exceed ten (10) percent of the FOB value of the good and the good meets all other applicable criteria set forth in this CEPT-AFTA Agreement for qualifying as an originating good.
2. The value of non-originating materials referred to in paragraph 1 shall, however, be included in the value of non-originating materials for any applicable Regional Value Content (RVC) requirement for the good.

#### **Article 9: Treatment of Packages and Packing Materials**

1. Packaging and packing materials for retail sale:
  - (a) If the good is subject to the value-added criterion, the value of the packaging and packing materials for retail sale shall be taken into account in its origin assessment, where the packaging and packing materials are considered to be forming a whole with the good.
  - (b) where sub-paragraph (a) above is not applicable, the packaging and packing materials for retail sale, when classified together with the packaged good shall not be taken into account in considering whether all non-originating materials used in the manufacture of a product fulfils the criterion corresponding to a change of tariff classification of the said good.
2. The containers and packing materials exclusively used for the transport of a good shall not be taken into account for determining the origin of the said good.

### **Article 10: Accessories, Spare Parts and Tools**

The origin of accessories, spare parts, tools and instructional or other information materials presented with a good shall not be taken into account in determining the origin of the good, provided that such accessories, spare parts, tools and information materials are classified with the goods and their customs duties are collected with the good by the importing Member State.

### **Article 11: Neutral Elements**

In order to determine whether a good originates, it shall not be necessary to determine the origin of the following which might be used in its production and not incorporated into the good:

- (a) fuel and energy;
- (b) tools, dies and moulds;
- (c) spare parts and materials used in the maintenance of equipment and buildings;
- (d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (f) equipment, devices and supplies used for testing or inspecting the good;
- (g) catalyst and solvent; and
- (h) any other goods that are not incorporated into the good but of which use in the production of the good can reasonably be demonstrated to be a part of that production.

### **Article 12: Identical and Interchangeable Materials**

1. For the purpose of establishing the origin of a good, when the good is manufactured utilising originating and non-originating materials, mixed or physically combined, the origin of such materials can be determined by generally accepted accounting principles of stock control applicable/inventory management practised in the exporting Member State.
2. Once a decision has been taken on the inventory management method, that method shall be used throughout the fiscal year.

### **Article 13: Certificate of Origin**

A claim that a good shall be accepted as eligible for preferential tariff treatment shall be supported by a Certificate of Origin (Form D) issued by a Government Authority designated by the exporting Member State and notified to the other Member States to



the CEPT-AFTA Agreement in accordance with the Operational Certification Procedures, as set out in Appendix D.

#### **Article 14: Review and Modification**

These Articles may be reviewed and modified as and when necessary upon request of a Member State and may be open to such reviews and modifications as may be agreed upon by the AFTA Council.