

**ANNEX 1****RULES OF ORIGIN****Explanatory Notes****General**

Words and terms used in Article 5 shall be interpreted in accordance with the following Notes.

The following classes of goods are deemed to originate in a Party:

**Section 1****Wholly Produced or Obtained**

Goods wholly produced or obtained in a Party shall be taken as originating in that Party. The following only shall be taken to be produced or obtained wholly in a Party:

- a) mineral products extracted from its soil, its waters, its seabed, or beneath the seabed;
- b) vegetable products harvested or gathered there;
- c) live animals born and raised there;
- d) products obtained from live animals born and raised there;
- e) products obtained by hunting, fishing or aquaculture conducted there;
- f) products of fishing and other marine products taken outside its waters by vessels registered or recorded with a Party;
- g) products processed and/or made on board factory ships registered or recorded with a Party exclusively from products referred to in paragraph (f);

- h) products taken by a Party, or a person of a Party, from the seabed or beneath the seabed outside territorial waters, provided that that Party has rights to exploit such seabed;
- i) waste and scrap resulting from production in a Party and fit only for the recovery of raw materials;
- j) waste and scrap fit only for the recovery of raw materials derived from used articles collected there;
- k) goods produced there exclusively from the products referred to in paragraphs (a) to (j).

(Note: Packing materials (including labels) and packing containers in which the goods are packed shall be disregarded for the purposes of establishing whether or not the goods are wholly obtained or produced.)

## **Section 2**

### **Goods Partly Manufactured**

#### **1 Definition of materials**

For the purposes of Article 5, “materials”, including inner containers, means all inputs into the manufacturing process (other than those materials treated as overheads) used or consumed in the production of the finished goods, in the form in which they are received at the factory or works from a domestic or foreign supplier.

#### **2 Originating materials (including inner containers) and qualifying expenditure**

For the purposes of Article 5(1)(b)(ii)(A), originating materials and the qualifying expenditure thereof shall be:

- a) materials being “wholly produced or obtained” as defined by Section 1 of these Notes; and where those materials do not leave the territory of either Party and are incorporated into a final product for export from one Party to the other Party, qualifying expenditure shall be treated as wholly of Singapore or New Zealand origin;

or

- b) materials of mixed origin, being materials which include both imported content and content of one or both Parties. For the purposes of Article 5(1)(b), in calculating the expenditure on a material incorporated in a final product for export from one Party to the other Party, the cost of that material shall be taken as:
- (i) wholly of qualifying area content: if a material has or is deemed to have 40 percent or more area content (meaning originating in the territory of one or both Parties), then 100 per cent of the expenditure on that material shall be taken as qualifying content of the final good;
  - (ii) partly of qualifying area content: if the material has less than 40 percent area content, qualifying area content shall be in direct proportion to the actual area content ( e.g. if a material has 15 per cent area content, then 15 per cent of the expenditure shall be included as qualifying content of the final good).

Paragraph 2(b)(i) does not apply where a last process of manufacture of a material takes place outside the territory of the Parties and that material is subsequently received or acquired by a factory or works in the territory of one of the Parties. In this circumstance, the qualifying expenditure on the intermediate processed material shall be the cost of the material to the factory or works, excluding the cost of any material, or processes, not originating in the Parties.

### 3 Quality control checking and testing

For the purposes of qualification as the manufacture of one of the Parties, quality control checking and testing procedures shall be regarded as the last process of manufacture subject to the following conditions:

- a) this shall not apply to any textile or textile articles, clothing, headwear or footwear, as defined in the following Harmonised System classifications:

<u>Chapter 39:</u>	3926.20, ex 3926.90 (NZ tariff item 3926.90.01);
<u>Chapter 40:</u>	4015.11, 4015.19, 4015.90;
<u>Chapter 42:</u>	42.03;
<u>Chapter 43:</u>	43.03, 43.04;
<u>Chapter 48:</u>	4818.50;
<u>Chapters 50-65</u>	inclusive;
<u>Chapter 70:</u>	70.19;
<u>Chapter 94:</u>	9404.21, 9404.29, 9404.30, 9404.90;
<u>Chapter 96:</u>	9606.21, 9606.22, 9606.29, 9606.30, 96.07;

- b) in respect of other products which contain some qualifying area content, the quality control checking and testing element as the last process of

manufacture of the good shall be equivalent to at least 8 per cent of the factory or works cost of the final product when exported from one Party to the other Party;

- c) in respect of products which do not contain any other qualifying area content, quality control checking and testing procedures shall comprise not less than 50 per cent of the factory or works cost of the final product when exported from one Party to the other Party.

#### 4 Valuation of Materials

- a) Valuation of materials shall be in accordance with the provisions of Article VII of the GATT 1994 and the WTO Agreement on Implementation of Article VII of the GATT 1994;
- b) subject to paragraphs (c), (d) and (e), expenditure on materials shall be taken as the manufacturer's actual costs in bringing the materials into the factory or works, inclusive of any freight component, but excluding any customs or excise or other duties paid or payable in respect of those materials;
- c) where any material has been supplied free of charge or at a reduced cost, the expenditure on the material shall be determined in accordance with Article 8(1)(b) of the WTO Agreement on Implementation of Article VII of the GATT 1994 and:
  - (i) the costs of freight, insurance, packing and all other costs incurred in transporting such materials into the factory or works shall be added, whether or not those costs have been incurred by the manufacturer;
  - (ii) any such supply shall be treated as if it were purchased by the manufacturer;
  - (iii) the above provisions may be applied to any earlier supply if necessary;
- d) the Parties may exclude expenditure on any materials (whether actual cost or normal market value) where they are satisfied that the material has been added or attached to the goods solely for the purpose of artificially raising the level of qualifying content;
- e) if the Parties determine that expenditure on any material is in excess of the normal market value, they may determine the expenditure on that material.

## 5 Labour

Expenditure under this heading comprises the following labour costs incurred in connection with manufacturing:

- a) salaries and wages;
- b) benefits (e.g. productivity bonuses, company vehicle, Central Provident Fund contributions by the employer, accident insurance/compensation, dental and medical benefits);
- c) other factory or works labour costs incurred in connection with manufacturing, such as:
  - (i) Skills Development Fund contributions;
  - (ii) Foreign Worker Levies;
  - (iii) contributions under the Workmen's Compensation Scheme;
  - (iv) management of the process of manufacture;
  - (v) receipt of materials;
  - (vi) handling and storage of materials and goods within the factory or works;
  - (vii) supervision;
  - (viii) training;
  - (ix) quality control;
  - (x) packing into containers (including inner containers and shipping and airfreight containers) within the factory or works.

## 6 Overheads

Subject to paragraphs (p) to (x) below, expenditure under this heading comprises the following costs incurred in connection with manufacturing:

- a) inspecting and testing materials and goods;
- b) insuring real property, plant, equipment and materials used in the production of the goods; insuring work in progress and finished goods; liability insurance; accident compensation; insurance against consequential loss from accident to plant and equipment;
- c) dies, moulds, tooling, and the depreciation, maintenance and repair of plant and equipment, whether or not these items originate within the territory of a Party;
- d) interest payments for plant and equipment;

- e) research, development, design and engineering;
- f) rent, leasing, mortgage interest, depreciation on buildings, maintenance, repair, rates and taxes for real property used in the production of the goods;
- g) leasing of plant and equipment, whether or not these items originated within a Party;
- h) materials and supplies not being directly incorporated into the manufactured goods (e.g. energy, fuel, water, lighting, lubricants, rags), whether or not these items originated within a Party;
- i) storage of materials and goods at the factory or works;
- j) royalties or licenses in respect of patented machines or processes used in the manufacture of the goods, or in respect of the right to manufacture the goods;
- k) subscriptions to standards institutions and industry and research associations;
- l) factory security, provision of medical care (e.g. first aid kits and medical supplies), cleaning services, cleaning materials and equipment, training materials, disposal of waste, safety and protective clothing and equipment, and the subsidisation of a factory cafeteria to the extent not recovered by returns;
- m) computer facilities allocated to the process of manufacture of the goods;
- n) contracting out parts of the manufacturing process within the territory of the Parties;
- o) employee transport, factory vehicle expenses, and any tax in the nature of a fringe benefits tax payable on a cost specified under paragraphs 5 and 6.

Expenditure under this heading does not include the following:

- p) costs relating to the general expense of doing business, such as the cost of providing executive, financial, sales, advertising, marketing, accounting and legal services, and insurance;
- q) costs for telephone, mail, and other means of communication;

- r) the cost of shipping and airfreight containers;
- s) the cost of conveying, insuring, or shipping the goods after their manufacture is completed;
- t) royalty payments relating to a licensing agreement to distribute or sell the goods;
- u) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, repair, taxes and rates for real property used by personnel charged with administrative functions;
- v) international travel expenses, including fares and accommodation;
- w) manufacturer's profits, or the profit or remuneration of any trader, agent, broker, or other person dealing in the goods after their manufacture;
- x) any other costs and expenses incurred after the completion of the manufacture of the goods.

### **Section 3**

#### **Definitions**

For the purpose of these Notes:

- a) "factory or works" means the place in either Party where the last process of manufacture of the goods occurs;
- b) "factory or works cost", in relation to any goods manufactured in a factory or works, means expenditure that is incurred directly by the manufacturer in the production of the goods, or expenditure which can reasonably be allocated to the production of the goods. Such expenditure is determined in accordance with paragraphs 3, 4, 5 and 6 of Section 2 of these Notes;
- c) "inner containers" includes any container or containers into which or on which any goods are packed for export, but excludes any shipping container, pallet or similar article carried by any ship or aircraft;
- d) "the manufacturer" means the person who undertakes the last process of manufacture of the goods;

- e) “materials”, including inner containers, means all inputs into the manufacturing process (other than materials treated as overheads) used or consumed in the production of the finished good, in the form in which they are received at the factory or works;
- f) “other duties” includes goods and services tax, sales tax, anti-dumping and countervailing duties; and
- g) “goods exported from the territory of one Party into the territory of the other Party” includes goods which are exported via a third country but which do not enter the commerce of that country, with the exception of goods entering Australia only for the purpose of unloading and reloading.

#### **Section 4**

##### **Additional Notes**

- 1 References to “last process of manufacture” can best be understood by the concept of an article which is different from the component parts or materials. Minimal operations or processes such as pressing, labelling, ticketing, packaging, and preparation for sale shall not, by themselves, be considered to be the last process of manufacture. However, where the last process has been performed, the costs of these operations or processing may, in some cases, fall within qualifying expenses.
- 2 Expenditure on labour and overhead items shall be included once only in the calculation of the factory or works costs.
- 3 Depreciation of plant, equipment and buildings shall be calculated in accordance with generally accepted accounting principles, as applied by the manufacturer.