

**RULES OF ORIGIN FOR PREFERENTIAL TARIFF TREATMENT FOR LDCs
UNDER THAILAND'S DUTYFREE QUOTA FREE (DFQF) SCHEME**

ARTICLE 1

Definitions

For the purposes of Rules of Origin For Preferential Tariff Treatment For LDCs under Thailand's Duty Free Quota Free (DFQF) Scheme:

- (a) **aquaculture** means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from feedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;
- (b) **Costs, Insurance and Freight (CIF)** means the value of the goods imported, and includes the costs of freight and insurance up to the port or place of entry into the country of importation. The valuation shall be made in accordance with Article VII of GATT 1994 and *the Agreement on the Implementation of Article VII of GATT 1994* as contained in Annex 1A to the WTO Agreement;
- (c) **FOB** means the free-on-board value of a goods, inclusive of the costs of transport to the port or site of final shipment abroad. The valuation shall be made in accordance with Article VII of GATT 1994 and *the Agreement on the Implementation of Article VII of GATT 1994* as contained in Annex 1A to the WTO Agreement;
- (d) **generally accepted accounting principles (GAAP)** means the recognised consensus or substantial authoritative support in the territory of a Member State, with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures
- (e) **goods** means any merchandise, product, article or material;
- (f) **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.;
- (g) **materials** means any matter or substance used or consumed in the production of goods or physically incorporated into another good or are subject to a process in the production of another good;
- (h) **originating goods** or **originating material** means goods or material that qualifies as originating in accordance with the provisions of this Rules of Origin under DFQF;
- (i) **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;
- (j) **production** means methods of obtaining goods, including growing, mining, harvesting, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, producing, processing or assembling goods

ARTICLE 2

Origin Criteria

For the purposes of this Agreement, a good imported into the territory of Thailand from a DFQF beneficiary country shall be treated as an originating good if it conforms to the origin requirements under any one of the following conditions:

- (a) a good which is wholly obtained or produced in the exporting DFQF beneficiary country as set out and defined in Article 3
- (b) a good not wholly obtained or produced in the exporting DFQF beneficiary country, provided that the said goods are eligible under Article 4

and meet all other applicable requirements of this Rules of Origin under DFQF

ARTICLE 3

Wholly Obtained or Produced Goods

Within the meaning of Article 2, the following shall be considered as wholly obtained or produced in the exporting DFQF beneficiary country:

- (a) Plant and plant products, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants, grown and harvested, picked or gathered in the exporting DFQF beneficiary country;
- (b) Live animals, including bacteria and viruses, born and raised in the DFQF beneficiary country;
- (c) Goods obtained from live animals in the exporting DFQF beneficiary country;
- (d) Goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering or capturing conducted in the exporting DFQF beneficiary country;
- (e) Minerals and other naturally occurring substances, not included in paragraph (a) to (d) of this Article, extracted or taken from its soil, waters, seabed or beneath its seabed in the exporting DFQF beneficiary country;
- (f) Goods of sea-fishing and other marine goods taken by vessels registered with a exporting DFQF beneficiary country and entitled to fly its flag and other goods¹ taken from the waters, seabed or beneath the seabed outside the territorial water² of that DFQF beneficiary country, provided that that DFQF beneficiary country has the rights to exploit such waters, seabed and beneath the seabed in accordance with the applicable legislation of the DFQF beneficiary country or the relevant provisions of international law under the United Nations Convention on the law of Sea³

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

2 For products of sea-fishing obtained from outside the territorial waters (e.g. Exclusive Economic Zone), originating status would be conferred to that 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 State has the rights to exploit it under international law.

3 In accordance with international law, registration of vessels could only be made in one State.

- (g) Goods of sea-fishing and other marine products taken from the high seas by vessels registered with a DFQF beneficiary country and entitled to fly the flag of that DFQF beneficiary country;
- (h) Goods processed and/or made on board factory ships registered with a DFQF beneficiary country and entitled to fly the flag of that State, exclusively from goods referred DFQF beneficiary country to in paragraph (g) of this Article;
- (i) Goods which are:
 - (i) Waste and scrap derived from production and consumption in a DFQF beneficiary country provided that such goods are fit only for the recovery of raw materials; or
 - (ii) Used goods collected in a DFQF beneficiary country provided that such goods are fit only for the recovery of raw materials; and
- (j) Goods obtained or produced in the exporting DFQF beneficiary country from the goods referred to in paragraphs (a) to (i) of this Article.

ARTICLE 4

Goods not Wholly Obtained or Produced

For the purposes of Article 2(b), a goods shall be treated as an originating goods if the goods has a Qualifying Value content of not less than 50 percent of FOB calculated using the formula as described in Article 5 (Calculation of Qualifying Value Content), and the final process of production is performed within a DFQF beneficiary country.

ARTICLE 5

Calculation of Qualifying Value Content

1. For the purpose of Article 4 (Goods not Wholly Obtained or Produced), the formula for calculating the qualifying value content will be

$$\text{QVC} = \frac{\text{FOB} - \text{VNM}}{\text{FOB}} \times 100$$

QVC is the qualifying value content of a goods expressed as a percentage;

VNM is the value of non-originating materials used in the production of a goods

2. For the purposes of calculating the QVC provided in paragraph 1 of this Article **Value of Non-Originating Materials** shall be:

- (i) The CIF value at the time of importation of the goods or importation can be proven; or
- (ii) The earliest ascertained price paid for the goods of undetermined origin in the territory of the DFQF beneficiary country where the working or processing takes place;

ARTICLE 6

Minimal Operations and Processes

Notwithstanding any provisions in this Rules of Origin under DFQF, a goods shall not be considered to be originating in the territory of a DFQF beneficiary country if the following operation are undertaken exclusively by itself or in combination in territory of that

- (a) preserving operations to ensure that the good remains in good condition during transport and storage;
- (b) changes of packaging, breaking-up and assembly of packages;.
- (c) simple⁴ washing, cleaning, removal of dust, oxide, oil, paint or other coverings;
- (d) simple⁴ painting and polishing operations;
- (e) husking, partial or total bleaching, polishing and glazing of cereals and rice;
- (f) operations to colour sugar or form sugar lumps;
- (g) simple⁴ peeling, stoning, or un-shelling;
- (h) sharpening, simple grinding or simple cutting;
- (i) sifting, screening, sorting, classifying, grading, matching;
- (j) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (k) affixing or printing marks, labels, logos and other like distinguishing signs on goods or their packaging;
- (l) simple mixing⁵of goods, whether or not of different kinds;
- (m) simple⁴ assembly of parts of articles to constitute a complete article or disassembly of goods into parts;
- (n) simple⁴ testing or calibrations; or
- (o) slaughtering of animals⁶

4 "simple" generally describes an activity which does not need special skills, machines, apparatus or equipment especially produced or installed for carrying out the activity.

5 "simple mixing" generally describes an activity which does not need special skills, machines, apparatus or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include chemical reaction. Chemical reaction means a process (including a biochemical process) which result in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.

6 Slaughtering means the mere killing of animals and subsequent processes such as cutting, chilling, freezing, salting, drying or smoking, for the purpose of preservation for storage and transport.

ARTICLE 7

Direct Consignment

1. Preferential tariff treatment shall be applied to goods satisfying the requirements of this Rules of origin under DFQF and which are consigned directly from the territories of the exporting DFQF beneficiary country to Thailand.

2. The following shall be considered as consigned directly from the exporting DFQF beneficiary country to Thailand:

- (a) goods transported from an exporting DFQF beneficiary country to Thailand;
- (b) goods transported through one or more DFQF beneficiary country, other than the exporting DFQF beneficiary country, or through a non- DFQF beneficiary country, 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 other operation to preserve them in good condition.

ARTICLE 8

Treatment of Packing Materials and Container

1. The packing materials and container exclusively used for transportation and shipment of a goods shall not be taken into account for determining the origin of the said goods.

2. Packing materials and container in which a goods is packaged for retail sales, when a goods is subject to a Qualifying Value Content requirement, the value of the packing material and container in which the goods is packaged for retail sales shall be taken into account as originating or non-originating, as the case may be, in calculating the Qualifying Value Content of the goods.

ARTICLE 9

Accessories, Spare Parts and Tools

If a goods is subject to the QVC-based rule of origin, the value of the accessories, spare parts, tools and instructional or other information materials shall be taken into account as the value of the originating or non-originating materials, as the case may be, in calculating the QVC of the originating good.

ARTICLE 10

Neutral Elements

In order to determine whether a goods 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 goods:

- (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 11

Identical and Interchangeable Materials

1. The determination of whether identical and interchangeable materials are originating materials shall be made either by physical segregation of each of the materials or by the use of generally accepted accounting principles of stock control applicable, or inventory management practice, in the exporting DFQF beneficiary country.

2. Once a decision has been taken on the inventory management method, that method shall be used throughout the fiscal year.

ARTICLE 12

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 DFQF, issued by an Issuing authority of the exporting DFQF beneficiary country and notified to Thailand in accordance with Annex on the Operational Certification Procedures