

Customs and Excise (Rules of Origin for Thai Goods) Amendment Regulations 2005

Pursuant to the Customs and Excise Act 1996, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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- 1 Title**
(1) These regulations are the Customs and Excise (Rules of Origin for Thai Goods) Amendment Regulations 2005.

- (2) In these regulations, the Customs and Excise Regulations 1996¹ are called “the principal regulations”.

2 Commencement

These regulations come into force on 1 July 2005.

3 New heading and regulations 51F to 51M inserted

The principal regulations are amended by inserting, after regulation 51E, the following heading and regulations:

“Provisions relating to Thailand

“51F Interpretation

In regulations 51 G to 51 M, unless the context otherwise requires,—

“**CIF** means the value (determined in accordance with Schedule 2 of the Act) of goods imported, and includes the cost of freight and insurance up to the port or place of entry into Thailand

“**FOB** means the free on board value (determined in accordance with Schedule 2 of the Act) of goods, including the cost of transport to the port or site of final shipment abroad

“**fungible goods or materials** means goods or materials that are interchangeable for commercial purposes, whose properties are essentially identical, and between which it is impractical to differentiate by visual examination

“**generally accepted accounting principles** means the recognised consensus or substantial authoritative support in Thailand with respect to the following (which may encompass broad guidelines of general application or detailed practices, procedures, and standards)

“(a) the recording of assets, costs, expenses, liabilities, and revenues:

“(b) the disclosure of information:

“(c) the preparation of financial statements

¹ SR 1996/232

“**indirect material** means goods used—

- “(a) in the inspection, production, or testing of other goods but which are not physically incorporated into the goods; or
- “(b) in the maintenance of buildings; or
- “(c) in the operation of equipment associated with the production of other goods, including—
 - “(i) catalysts, energy, fuel, and solvents:
 - “(ii) devices, equipment, and supplies used for inspecting or testing the goods:
 - “(iii) clothing, footwear, glasses, gloves, safety equipment, and supplies:
 - “(iv) dies, moulds, and tools:
 - “(v) materials and spare parts used in the maintenance of buildings and equipment:
 - “(vi) compounding materials, greases, lubricants, and other materials used in production or used to operate buildings and equipment:
 - “(vii) any other goods that are not incorporated into the goods but whose use in the production of the goods can reasonably be demonstrated to be a part of that production

“**material** means any matter or substance used or consumed in the production of goods, and physically incorporated into or classified with those goods

“**minimal operations or processes** means operations or processes that contribute minimally to the essential characteristics or properties of goods, including, without limitation,—

- “(a) preservation of goods for storage or transport:
- “(b) operations designed to facilitate shipment:
- “(c) operations or processes related to the packaging or presentation of goods for sale:
- “(d) the following operations or processes:
 - “(i) aeration, drying, chilling, freezing, refrigeration, or ventilation:
 - “(ii) classification or grading, cleaning, extraction, selection, sifting or shaking, sieving, or washing:
 - “(iii) cutting or slitting:

“(iv) attaching of markings, distinctive labels, or logos on the products and their packing, dividing bulk shipments, or grouping into packets:

“(v) packing, unpacking, or repacking:

“(vi) mixing goods of different origins, if the characteristics of the resulting product are not essentially different from those of the goods that have been mixed:

“(vii) diluting in water or in any other aqueous solution:

“(viii) the simple assembly or configuring of parts of products making up completed goods

“**non-originating goods or non-originating materials** means goods or materials that do not qualify as originating under these regulations

“**originating goods or materials** means goods or materials that qualify as originating under these regulations

“**packaging materials and containers for shipment** means items used to protect goods during their transport, other than a container or packaging used for retail sale of the goods

“**preferential tariff treatment** means the customs duty rate that is applicable to goods originating in Thailand in accordance with the Tariff Act 1988

“**producer** means a person who assembles, breeds, captures, collects, extracts, farms, fishes, gathers, grows, harvests, hunts, manufactures, mines, processes, raises, or traps goods

“**production** means methods of obtaining goods; including, but not limited to, assembling, breeding, capturing, collecting, extracting, farming, fishing, gathering, growing, harvesting, hunting, manufacturing, mining, processing, raising, or trapping goods

“**wholly obtained goods** means goods originating in New Zealand or Thailand that are—

“(a) mineral goods extracted in New Zealand or Thailand:

“(b) agricultural goods gathered, harvested, or picked in New Zealand or Thailand:

“(c) live animals born and raised in New Zealand or Thailand:

- “(d) goods obtained from live animals in New Zealand or Thailand:
- “(e) goods obtained directly by capturing, farming, fishing, gathering, hunting, or trapping in New Zealand or Thailand:
- “(f) goods (including fish, plants, shellfish, and other marine life)—
 - “(i) taken from—
 - “(A) within the territorial sea or the relevant maritime zone of Thailand seaward of the territorial sea under Thailand’s applicable laws in accordance with the United Nations Convention on the Law of the Sea 1982; or
 - “(B) within the territorial sea or the relevant maritime zone of New Zealand:
 - “(ii) taken from the high seas by a vessel flying, or entitled to fly, the flag of New Zealand or Thailand:
- “(g) goods obtained or produced, from goods referred to in paragraph (f), on factory ships flying, or entitled to fly, the flag of New Zealand or Thailand:
- “(h) goods taken by—
 - “(i) Thailand, or a person of Thailand, from the seabed or subsoil beneath the seabed of the territorial sea or the continental shelf of Thailand, in accordance with the United Nations Convention on the Law of the Sea 1982 ; or
 - “(ii) New Zealand, or a person of New Zealand, from the seabed or subsoil beneath the seabed of the territorial sea or the continental shelf of New Zealand:
- “(i) waste and scrap derived from the production of goods in New Zealand or Thailand, or used goods collected in New Zealand or Thailand, if those goods are fit only for the recovery of raw materials:
- “(j) produced entirely in New Zealand or Thailand exclusively from goods referred to in paragraphs (a) to (i).

“51G Originating goods

- “(1) Particular goods are deemed for the purposes of the Act and the Tariff Act 1988 to originate in Thailand if the goods—
- “(a) are goods wholly obtained in New Zealand or Thailand; or
 - “(b) are goods that—
 - “(i) satisfy the requirements of Schedule 3 as a result of processes performed entirely in New Zealand or Thailand, or both; and
 - “(ii) did not enter the commerce of another country after export from Thailand and before import into New Zealand.
- “(2) Originating materials of New Zealand, used in the production of particular goods in Thailand, are deemed to originate in Thailand.
- “(3) Particular goods that do not satisfy a change in tariff classification required in accordance with Schedule 3 are originating goods if—
- “(a) the value of non-originating materials used in their production does not exceed 10% of the FOB value of the goods; and
 - “(b) the goods meet all other applicable criteria of these regulations.
- “(4) Except where goods are subject to a regional value content as required by Schedule 3, goods produced by minimal operations or processes must not be treated as originating goods even where those minimal operations or processes meet the change of tariff classification requirements specified in that schedule.

“51H Standard accessories, spare parts, and tools as originating goods

- “(1) Accessories, spare parts, or tools delivered with originating goods that form part of the standard accessories, spare parts, or tools for those goods must be treated as originating goods and must be disregarded in determining whether or not all the non-originating materials used in the production of the originating goods undergo the applicable change in tariff classification, if—

- “(a) the accessories, spare parts, or tools are not invoiced separately from the originating goods; and
 - “(b) the quantities and value of the accessories, spare parts, or tools are customary for the originating goods; and
 - “(c) in any case where the goods are subject to a regional value content requirement, the value of the accessories, spare parts, or tools is taken into consideration as originating or non-originating materials, as the case may be, in calculating the regional value content of the goods.
- “(2) Subclause (1) does not apply where the accessories, spare parts, or tools have been added solely for the purpose of artificially raising the regional value content of the goods.

“51I Fungible goods or materials as originating goods

- “(1) The determination of whether fungible goods or materials are originating goods is made—
- “(a) by physical separation of each of the goods or materials; or
 - “(b) through the use of any inventory management method, such as averaging, last-in and first-out, or first-in and first-out, as recognised or otherwise generally accepted in the generally accepted accounting principles of Thailand.
- “(2) An inventory management method selected under subclause (1)(b) for particular fungible goods or materials must continue to be used for those fungible goods or materials throughout the fiscal year of the producer that selected the inventory management method.

“51J Packaging materials and containers

- “(1) Packaging materials and containers in which goods are packaged for retail sale, if classified with those goods, are not included in determining whether non-originating materials used in the production of those goods have undergone the applicable change in tariff classification as set out in Schedule 3.
- “(2) if goods described in subclause (1) are subject to a regional value content requirement, the value of the packaging materials and containers used for retail sale will be counted as ori-

ginating or non-originating, as the case may be, in calculating a regional value content.

- “(3) Packaging materials and containers for shipment in which goods are packaged for transport are not included in determining the origin of the good.

“51K Treatment of indirect materials

An indirect material is deemed an originating material without regard to where it is produced, and its value is determined by its cost recorded in the accounting records of the producer of the goods.

“51L Regional value content

- “(1) Subject to subclauses (2) and (3), where Schedule 3 specifies that goods are required to have a regional value content, the value of that content is calculated as follows:

$$RVC = \frac{FOB_{FO} + VNM}{R} \times 100$$

where—

RVC is the regional value content expressed as a percentage

FOB is the FOB value of the goods

VNM (value of non-originating materials) is the CIF value of non-originating materials

- “(2) If the FOB or CIF values do not exist or cannot be determined in accordance with clause 2 of Schedule 2 of the Act, the values are determined in accordance with the subsequent clauses to that schedule.
- “(3) For the purposes of calculating the regional value content, a calculation averaged over the producer’s fiscal year may be used.

“51M Treatment of goods for which preference is claimed

- “(1) The Customs may require a declaration of origin for goods for which preferential tariff treatment is claimed, from—
- “(a) the exporter of the goods; or
- “(b) the producer of the goods; or
- “(c) any other competent person, or public or private body, in relation to the goods.

- “(2) The declaration must describe the goods, and must specify that those goods—
- “(a) are the origin of Thailand; and
 - “(b) meet the terms of Article 4.2.1 of the New Zealand-Thailand Closer Economic Partnership Agreement.”

4 New Schedule 3 inserted

The principal regulations are amended by inserting Schedule 3 as set out in the Schedule.

Schedule
New Schedule 3 inserted in principal
regulations

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Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 July 2005, amend the Customs and Excise Regulations 1996. The regulations provide specific rules for determining whether or not goods are produced or manufactured in Thailand for the purposes of the Tariff Act 1988.

The Tariff Act 1988 has been amended by the Tariff (New Zealand-Thailand Closer Economic Partnership) Act 2005 (with effect from 1 July 2005) to provide that goods that are produced or manufactured in Thailand are entered under a preferential tariff.

The amendments made by the Tariff (New Zealand-Thailand Closer Economic Partnership) Act 2005 and by these regulations give effect to New Zealand's obligations under the New Zealand Thailand Closer Economic Partnership Agreement.