ANNEX I

REFERRED TO IN ARTICLE 2.2

RULES OF ORIGIN

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RULES OF ORIGIN

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SECTION I

GENERAL PROVISIONS

ARTICLE 1

Definitions

For the purposes of this Annex:

(a) "manufacture" means working or processing, including assembly;

(b) "material" means any ingredient, raw material, component or part used in the manufacture of a product;

(c) "product" means the result of manufacture, including products used as material in the manufacture of another product;

(d) "value" means the customs value determined in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (WTO Agreement on Customs Valuation) at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in a Party;

(e) "ex-works price" means the price paid for a product to the manufacturer in the Party where the last working or processing was carried out in accordance with the international commercial terms "incoterms", excluding internal taxes which may be reimbursed when a product is exported;

(f) "Harmonized System" or "HS" means the Harmonized Commodity Description and Coding System;

(g) "chapter", "heading," and "subheading" means a chapter (two-digit code), heading (four-digit code) or subheading (six-digit code) of the Harmonized System;

(h) "competent authority" means the authority that, according to the domestic laws and regulations of a Party, is responsible for authorisations, verifications and other origin issues.

SECTION II

CONCEPT OF "ORIGINATING PRODUCTS"

ARTICLE 2

General Requirements

1. For the purposes of the Agreement, a product shall be considered as originating in a Party if:

   (a) it has been wholly obtained in a Party, in accordance with Article 3 (Wholly Obtained Products);

   (b) the non-originating materials used in the working or processing have undergone sufficient working or processing in a Party, in accordance with Article 4 (Sufficient Working or Processing); or

   (c) it has been produced in a Party exclusively from materials originating in one or more Parties[1].

2. For the purposes of this Annex,

   (a) the territorial scope shall, unless otherwise specified, include the customs territories of Thailand, Iceland, Norway and Switzerland;

   (b) in accordance with the Customs Treaty of 1923 between Switzerland and Liechtenstein, Switzerland shall represent Liechtenstein in matters covered therein, and a product originating in Liechtenstein shall be considered originating in Switzerland.

ARTICLE 3

Wholly Obtained Products

1. The following products shall be considered as wholly obtained in a Party:

   (a) minerals and other naturally occurring substances extracted or taken from its soil, waters, seabed or beneath the seabed there;

   (b) plants, vegetables, fruits and other vegetable products grown and harvested there;

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[1] Products shall also be considered originating in accordance with Article 6 (Accumulation of Origin) or a product manufactured through a combination of two or more of subparagraphs (a) to (c) of Article 2 (General Requirements).

(c) live animals born and raised there;

(d) products from live animals raised there;

(e) products from slaughtered animals born and raised there;

(f) products obtained by hunting, trapping, fishing or aquaculture conducted there;

(g) products obtained there by using cell cultures[2];

(h) products falling within Chapters 29 to 39 obtained there by fermentation[3];

(i) products of sea fishing and other marine products taken from the sea outside the territorial waters[4] of any country, by a vessel registered in a Party and flying its flag, and products manufactured exclusively from such products, on board a factory ship registered in a Party and flying its flag in accordance with international law;

(j) products extracted from marine soil or sub-soil outside the territorial waters of a Party provided that this Party has the sole rights to exploit that soil or sub-soil;

(k) waste and scrap resulting from manufacturing operations conducted there;

(l) used products collected there fit only for the recovery of raw materials and not for their original purpose; or

(m) products manufactured in a Party exclusively from materials listed in subparagraphs (a) to (l).

ARTICLE 4

Sufficient Working or Processing

1. A product obtained from non-originating materials shall be considered to have undergone sufficient working or processing if the applicable product-specific rule of Appendix 1 (Product-Specific Rules) is fulfilled.

2. Notwithstanding paragraph 1, the operations defined in Article 5 (Insufficient Working or Processing) are considered as insufficient to obtain originating status.

3. The product-specific rules referred to in paragraph 1 indicate the working or processing that must be carried out on non-originating materials used in manufacturing

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[2] For the purposes of this Annex, "cell culture" means a biotechnological process in which human, animal or plant cells are cultivated under controlled conditions (such as defined temperatures, growth medium, gas mixture, pH) outside a living organism.

[3] For the purposes of this Annex, "fermentation" means a biotechnological process in which human, animal or plant cells, bacteria, yeasts, fungi or enzymes are used in the production process.

[4] For the purposes of this Annex, "territorial waters" include both the territorial sea and internal waters.

and concern only such materials. It follows that if a product, which has acquired originating status in a Party in accordance with paragraph 1, is further processed in that Party and used as material in the manufacture of another product, no account shall be taken of the non-originating components of that material.

4. Notwithstanding paragraph 1, non-originating materials that do not undergo the required change in tariff classification or specific process as set out in Appendix 1 (Product-Specific Rules) may be used, provided that their total value does not exceed 15% of the ex-works price of the product.

5. Paragraph 4 shall not apply to originating products which are wholly obtained in a Party in accordance with Article 3 (Wholly Obtained Products). However, if the relevant product-specific rule of Appendix 1 (Product-Specific Rules) foresees a rule where certain materials must be wholly obtained, the tolerance of paragraph 4 may be applied.

6. Where a rule set out in Appendix 1 (Product-Specific Rules) is based on compliance with a sufficient processing threshold or a maximum content of non-originating materials, the value of non-originating materials may be calculated on an average basis over a period of one year in order to take into account the fluctuations in costs or currency rates, subject to the domestic requirements of the exporting Party.

ARTICLE 5

Insufficient Working or Processing

1. Notwithstanding Article 4 (Sufficient Working or Processing), a product shall not be considered as originating, if it has only undergone one or more of the following operations or processes:

(a) preserving operations to ensure that a product retains its condition during transport and storage;

(b) freezing or thawing;

(c) packaging or re-packaging;

(d) washing, cleaning, removal of dust, oxide, oil, paint or other coverings;

(e) ironing or pressing of textiles or textile products;

(f) simple painting or simple polishing;

(g) husking, partial or total bleaching, polishing, and glazing of cereals and rice;

(h) colouring of sugar or forming sugar lumps;

(i) peeling and removal of stones, cores, pips and shells from fruits, nuts and vegetables;

(j) sharpening, simple grinding or simple cutting;

(k) sifting, screening, sorting, classifying, grading, matching;

(l) simple placing in bottles, cans, flasks, bags, cases, boxes, simple fixing on cards or boards and all other simple packaging operations;

(m) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

(n) simple mixing of products, whether or not of different kinds;

(o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts; or

(p) slaughter of animals.

2. For the purposes of paragraph 1, "simple" means operations or processes which need neither special skills nor machines, apparatus or equipment especially produced or installed to carry out the operation or process.

3. All operations or processes carried out on a product in a Party shall be taken into account when determining whether these operations or processes are considered as insufficient working or processing in accordance with paragraph 1.

ARTICLE 6

Accumulation of Origin

1. A product originating in a Party, which is used as material in the manufacture of a product in another Party, shall be considered as originating in the Party where the last operations beyond those referred to in Article 5 (Insufficient Working or Processing) have been carried out.

2. A product originating in a Party, which is exported from one Party to another and does not undergo working or processing beyond those referred to in paragraph 1 of Article 5 (Insufficient Working or Processing), shall retain its origin.

3. Where materials originating in two or more Parties are used in the manufacture of a product and these materials have not undergone any working or processing beyond the operations referred to in Article 5 (Insufficient Working or Processing), the origin of the product is determined by the material with the highest value, or if this cannot be ascertained, with the highest first ascertainable price paid for that material in that Party.

ARTICLE 7

Unit of Qualification

1. For the purposes of determining the originating status, the unit of qualification of a product or material shall be determined in accordance with the Harmonized System.

2. Pursuant to paragraph 1:

(a) if the products are subject to a change in tariff classification or a specific manufacturing or processing operation set out in Appendix 1 (Product-Specific Rules), packaging materials and containers for retail sale, which are classified with the products pursuant to General Rule 5 of the General Rules for the Interpretation of the Harmonized System (hereinafter referred to as "General Rules"), shall be disregarded. If the products are subject to a value criterion set out in Appendix 1 (Product-Specific Rules), the value of such packaging materials and containers for retail sale shall be taken into account as the value of originating materials of a Party where the products are produced or non-originating materials, as the case may be, in calculating the value criterion;

(b) packing materials and containers for shipment used to protect products during transportation, other than packaging materials and containers for retail sale, shall be disregarded in determining the origin of the products;

(c) where a set of articles, in accordance with General Rule 3 of the General Rules, is classified under a single heading, it shall constitute the unit of qualification; and

(d) where a consignment consists of a number of identical products classified under a single heading or sub-heading of the Harmonized System, each product shall be considered separately.

ARTICLE 8

Accessories, Spare Parts and Tools

1. In determining whether all the non-originating materials used in the manufacturing of products undergo the applicable change in tariff classification or a specific manufacturing or processing operation set out in Appendix 1 (Product-Specific Rules), accessories, spare parts, tools and instruction and information material dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in its ex-works price, and which are not separately invoiced, shall be disregarded.

2. If the products are subject to a value criterion, the value of the accessories, spare parts or tools shall be taken into account as the value of originating materials of a Party where the products are manufactured or non-originating materials, as the case may be, in calculating the value criterion.

ARTICLE 9

Neutral Elements

Neutral elements, which have not entered into the final composition of the product, such as energy and fuel, plant and equipment, or machines and tools, shall not be taken into account when the origin of that product is determined.

ARTICLE 10

Fungible materials

1. If originating and non-originating fungible materials are used in the working or processing of a product, the determination of whether the materials used are originating may be determined on the basis of an inventory management system. This system may be subject to prior authorisation by the competent authority of the exporting Party if required by the domestic laws and regulations of that Party.

2. For the purposes of paragraph 1, "fungible materials" means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, which cannot be distinguished from one another once they are incorporated into the finished product.

3. The inventory management system shall be based on generally accepted accounting principles applicable in the Party where the product is manufactured and ensure that no more final products receive originating status than would have been the case if the materials had been physically segregated.

4. A producer using an inventory management system must keep records of the operation of the system that are necessary for competent authority of the exporting Party to verify compliance with the provisions of this Annex.

5. The authorisation to use an inventory management system may be withdrawn by the competent authority of the exporting Party at any time if the producer makes improper use of it.

SECTION III

TERRITORIAL REQUIREMENTS

ARTICLE 11

Principle of Territoriality

1. The conditions for acquiring originating status set out in Section II (Concept of "Originating Products") must be fulfilled without any interruption in the territory of a Party.

2. Notwithstanding paragraph 1, if an originating product is returned to the exporting Party after having been exported to a non-Party without having undergone any operation[5] there, beyond those necessary to preserve its condition, that product shall retain its originating status.

3. The conditions referred to in paragraph 2 shall be considered fulfilled, unless the customs authority of the re-importing Party has reason to believe the contrary. In such case, the customs authority of the re-importing Party may request the importer or his or her representative to provide appropriate evidence of compliance, of any kind, such as sale contracts, invoices or other transport documents, or import/export declarations.

4. If Thailand agrees the possibility for outward processing or similar arrangement with non-Parties in preferential trade agreements concluded after the entry into force of the Agreement, Thailand shall promptly notify the other Parties and enter into negotiations with the other Parties on the possibility to accord no less favourable treatment under the Agreement.

ARTICLE 12

Non-Alteration

1. Originating products, for which preferential tariff treatment is requested in a Party, must not have been altered or transformed in any way prior to being declared for preferential tariff treatment in the importing Party.

2. Notwithstanding paragraph 1, transit, storage and splitting of consignments, operations to preserve the products condition, adding or affixing marks, labels, seals or any documentation to ensure compliance with domestic requirements of the importing Party, may take place in a non-Party, provided the consignments remain under customs control in that non-Party.

3. The conditions referred to in paragraphs 1 and 2 shall be considered fulfilled, unless the customs authority of the importing Party has reason to believe the contrary. In

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[5] The term "any operation" does not include normal use.

such case, the customs authority of the importing Party may request the importer or his or her representative to provide appropriate evidence of compliance, of any kind, such as bills of lading or other transport documents, or marking or numbering of packages.

SECTION IV

PROOF OF ORIGIN

ARTICLE 13

Origin Declaration

1. For the purposes of obtaining preferential tariff treatment in the importing Party, an exporter established in a Party must complete a proof of origin in the form of an origin declaration in accordance with Appendix 2 (Origin Declaration) for products originating in any Party and otherwise fulfilling the requirements of this Annex.

2. The origin declaration must be completed on an invoice or any other commercial document that identifies the exporter and the originating products, and, except as provided for in Article 14 (Approved Exporter), bear the original handwritten signature of the exporter.

3. Notwithstanding paragraph 1, for products being exported from Thailand, an origin declaration is completed by;

(a) an approved exporter as provided for in Article 14 (Approved Exporter) for any consignment regardless of its value; or

(b) any exporter for a consignment for which the total value of the originating products must not exceed 6,000 Euros or the equivalent in any other currency.

This paragraph shall cease to apply no later than 10 years after entry into force of the Agreement.

4. The origin declaration may be completed when the products to which it relates are exported, or after exportation. An origin declaration shall be valid one year from the date of completion.

5. Subject to the domestic requirements of the exporting Party, forwarding agents, customs brokers and other persons have to be empowered in writing by the exporter of the product to complete origin declarations. They must submit the said authorisation to the competent authorities, at their request.

6. An exporter who has completed an origin declaration must keep a copy of the origin declaration and all documents supporting the originating status of the product, in paper or electronic form, for at least three years from the date of completion.

ARTICLE 14

Approved Exporter

1. The competent authority of the exporting Party may, subject to domestic requirements, authorise an exporter of that Party to complete origin declarations without signature.

2. An exporter who requests such authorisation must offer, to the satisfaction of the competent authority of the exporting Party, all guarantees necessary to verify the originating status of the products as well as the fulfilment of any other requirement under this Annex.

3. In the instance of Thailand as the exporting Party, its competent authority may grant the status of approved exporter subject to any conditions which it considers appropriate. Such conditions include the following:

(a) that the exporter is duly registered in accordance with the laws and regulations of Thailand;

(b) that the exporter knows and understands the rules of origin as set out in this Annex;

(c) that the exporter has a record of good compliance, measured by risk management of the competent authority of Thailand;

(d) that the exporter, in the case of a trader, is able to obtain a declaration by the producer confirming the originating status of the good for which the origin declaration is completed by an approved exporter and the readiness of the producer to cooperate in verification in accordance with Article 20 (Verification of Origin Declarations) and meet all requirements of this Annex; and

(e) that the exporter has a well-maintained book-keeping and record-keeping system in accordance with the laws and regulations of Thailand.

4. The competent authority of the exporting Party shall:

(a) grant the approved exporter authorisation in writing or electronically; and

(b) provide the approved exporter an authorisation number which must be included in an origin declaration instead of the signature.

5. An approved exporter in Thailand must:

(a) complete an origin declaration only for products for which the approved exporter has been allowed to do so by the competent authority and for which it has all appropriate documents proving the originating status of the products concerned at the time of completing the origin declaration;

(b) take full responsibility for all origin declarations completed, including any misuse;

(c) promptly inform the competent authority of any changes related to the information referred to in subparagraph (a); and

(d) allow the competent authority access to records and premises for the purposes of monitoring the use of the authorisation and of the correctness of origin declarations completed.

6. The competent authority of the exporting Party may verify the proper use of an authorisation and withdraw it if the exporter no longer meets the conditions or otherwise makes improper use of it.

SECTION V

PREFERENTIAL TREATMENT

ARTICLE 15

Importation Requirements

1. Each Party shall grant preferential tariff treatment in accordance with the Agreement to originating products of a Party imported from another Party, on the basis of an origin declaration in accordance with Article 13 (Origin Declaration).

2. In order to obtain preferential tariff treatment, the importer must, in accordance with the procedures applicable in the importing Party, request preferential tariff treatment at the time of importation of an originating product, whether or not the importer is in possession of an origin declaration.

3. If the importer is not in possession of an origin declaration at the time of importation, the importer may, in accordance with the domestic laws and regulations of the importing Party, present the origin declaration at a later stage.

4. An origin declaration must be submitted to the customs authority of the importing Party within one year from its completion. After this period, an origin declaration may be accepted only in exceptional circumstances.

5. Notwithstanding paragraph 1, a Party may, in accordance with its domestic laws and regulations, waive the requirements to present an origin declaration.

6. An importer who has been granted preferential tariff treatment must keep the origin declaration and other relevant documents for three years after the date on which preferential tariff treatment was granted, or longer if required by the domestic laws and regulations of the importing Party.

ARTICLE 16

Importation by Instalments

Where, at the request of an importer and on conditions laid down by the customs authority of the importing Party, a dismantled or non-assembled product within the meaning of General Rule 2(a) of the General Rules is imported by instalments, an origin declaration may be submitted to the customs authority of the importing Party upon importation of the first instalment or for each imported instalment in accordance with the domestic law and regulations of the importing Party.

ARTICLE 17

Cooperation of Exporters and Importers with the Competent Authorities

1. Exporters and importers benefitting from the Agreement must, within the framework of this Annex and subject to domestic laws and regulations of the Party concerned, cooperate with the competent authority of the exporting Party and the customs authority of the importing Party where they are established and submit, upon their request, supporting documents regarding the fulfilment of the requirements of this Annex.

2. An exporter who has completed an origin declaration must:

(a) upon request of the competent authority of the exporting Party, submit the documents referred to in paragraph 5 of Article 13 (Origin Declaration) to this authority, which may, at any time, carry out inspections and verify the exporter's accounts or the producer's accounts and take other appropriate measures; and

(b) when becoming aware of or having reason to believe that an origin declaration contains incorrect information, immediately notify the importer and the competent authority of the exporting Party of any change affecting the originating status of each product covered by that origin declaration.

3. An importer who has requested or has been granted preferential tariff treatment must:

(a) upon request of the customs authority of the importing Party, submit the documents referred to in paragraph 3 of Article 11 (Principle of Territoriality) and paragraph 3 of Article 12 (Non-Alteration) to that authority; and

(b) when becoming aware of or having reason to believe that the origin declaration contains incorrect information, immediately notify the customs authority of the importing Party of any change affecting the originating status of each product covered by an origin declaration.

ARTICLE 18

Denial of Preferential Treatment

1. An importing Party may deny preferential tariff treatment or recover unpaid customs duties in accordance with its domestic laws and regulations where a product does not meet the requirements of this Annex or where the importer or exporter fails to demonstrate compliance with the relevant requirements.

2. Slight discrepancies between the statements made in the origin declaration and those made in other documents submitted to the customs authority of the importing Party for customs clearance or obvious formal errors, such as typing errors in an origin declaration, shall not as such render the origin declaration invalid.

ARTICLE 19

Non-Party Invoicing

The customs authority of the importing Party shall not deny a claim for preferential tariff treatment for the sole reason that an invoice was not issued by the exporter or producer of the products in a Party provided that the products meet the requirements of the Annex.

SECTION VI

ADMINISTRATIVE COOPERATION

ARTICLE 20

Verification of Origin Declarations

1. The competent authority of the exporting Party shall carry out verifications of origin declarations on request of the importing Party. The request and any subsequent communication including the result may be submitted through letter mail or via electronic means.

2. The verification request may question the authenticity of origin declarations, the originating status of the product concerned or the fulfilment of other requirements of this Annex. It shall identify the reasons for the inquiry and include a copy of the origin declaration and, if appropriate, any other document or information giving reason to believe that the origin declaration could be invalid.

3. The importing Party shall submit the verification request to the exporting Party within 34 months from the date of completion of the origin declaration. The exporting Party shall not be obliged to conduct verifications based on verification requests received after the end of that deadline.

4. The customs authority of the importing Party may, subject to its domestic laws and regulations, suspend preferential tariff treatment to a product covered by an origin declaration until the verification procedure has been finalised.

5. The competent authority of the exporting Party may request evidence, carry out inspections at the exporter's premises or producer's premises, check the exporter's accounts and the producer's accounts and take other appropriate measures to verify compliance with this Annex.

6. The requesting Party shall be informed of the results and findings of the verification within nine months from the date of receipt of the verification request. If the requesting Party receives no reply within that time limit, or if the reply does not clearly state whether a product is originating or whether the origin declaration is valid, the requesting Party may deny preferential tariff treatment to the consignment covered by the origin declaration in question.

7. Where the requested Party is unable to comply with the time limit referred to in paragraph 6, it shall, upon request within that time limit, be granted an extension of the time limit.

ARTICLE 21

Notifications and Cooperation

1. The Parties shall provide each other, through letter mail or electronic means, through the EFTA Secretariat, with:

(a) the physical and electronic addresses of the Parties' competent authorities responsible for verifications in accordance with Article 20 (Verification of Origin Declarations) and other issues related to the implementation or application of this Annex;

(b) information on the composition of authorisation numbers allocated to approved exporters, in accordance with Article 14 (Approved Exporter). The Parties shall make available to each other an updated list of authorised exporters either on the internet or via email; and

(c) information on the interpretation, application and administration of this Annex as needed.

2. The Parties shall endeavour to resolve technical matters related to the implementation or application of this Annex, to the extent possible, through direct consultations between the competent authorities referred to in subparagraph 1 (a) or in the Sub-Committee on Trade in Goods. Disputes that cannot be settled through such consultations shall be submitted to the Joint Committee.

ARTICLE 22

Confidentiality

All information provided in relation with this Annex shall be treated as confidential by the Parties in accordance with the domestic laws and regulations of each Party. Such information shall not be disclosed by the authorities of a Party without the express permission of the person or authority providing it.

SECTION VII

FINAL PROVISIONS

ARTICLE 23

Penalties

Each Party shall provide for the imposition of criminal, civil or administrative penalties for violations of its domestic laws and regulations related to this Annex.

ARTICLE 24

Products in Transit or Storage

This Annex may be applied to products which, on the date of entry into force of the Agreement, are either in transit or in temporary storage in a customs warehouse or free zone under customs control in accordance with the domestic laws and regulations of the importing Party. For such products, an origin declaration may be completed retrospectively up to six months from the entry into force of the Agreement, provided that the provisions of this Annex, in particular Article 12 (Non-Alteration), have been fulfilled.