

# **The Customs Tariff (Determination of Origin of Goods Under the Preferential Trade Agreement Between the Governments of the Republic of India and Malaysia) Rules, 2011**

UNION OF INDIA

India

## **The Customs Tariff (Determination of Origin of Goods Under the Preferential Trade Agreement Between the Governments of the Republic of India and Malaysia) Rules, 2011**

### **Rule**

### **THE-CUSTOMS-TARIFF-DETERMINATION-OF-ORIGIN-OF-GOODS-UN of 2011**

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The Customs Tariff (Determination of Origin of Goods Under the Preferential Trade Agreement Between the Governments of the Republic of India and Malaysia) Rules, 2011Published vide Notification No. G.S.R. 500(E), 1st July, 2011, No. 43/2011-Customs (N.T.)Ministry of Finance(Department of Revenue)(Central Board of Excise and Customs)G.S.R. 500(E). - In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975), the Central Government hereby makes the following rules, namely:-

### **1. Short title and commencement.**

(1)These rules may be called the Customs Tariff (Determination of Origin of Goods Under the Preferential Trade Agreement Between the Governments of the Republic of India and Malaysia) Rules, 2011.(2)They shall come into force on the 1st day of July, 2011.

### **2. Definitions.**

(1)In these rules, unless the context otherwise requires,-(a)"carrier" means any vehicle for transportation by air, sea and land;(b)"CIF value" means the price actually paid or payable to the

exporter for goods including the cost of the goods, insurance, and freight necessary to deliver the goods to the named port of destination and the valuation shall be made in accordance with the World Trade Organisation (WTO) Agreement on Implementation of rule VII of General Agreement on Tariffs and Trade (GATT), 1994;(c)"FOB value" means the price actually paid or payable to the exporter for goods when the goods are loaded onto the carrier at the named port of exportation, including the cost of the goods and all costs necessary to bring the goods onto the carrier and the valuation shall be made in accordance with the World Trade Organisation (WTO) Agreement on Implementation of rule VII of General Agreement on Tariffs and Trade (GATT), 1994;(d)"goods" means any merchandise, product, article or material;(e)"Harmonised system" means the nomenclature of the Harmonised Commodity Description and Coding System defined in the International Convention on the Harmonised Commodity Description and Coding System including all legal notes thereto, as adopted and implemented by the State parties in their respective tariff laws;(f)"identical and interchangeable materials" means materials being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which, once they are incorporated into the finished goods cannot be distinguished from one another for origin purposes by virtue of any markings, et cetera;(g)"materials" means ingredients, raw materials, parts, components, sub-assemblies or goods that are used in the production of other goods or are physically incorporated into other goods;(h)"originating goods" means goods that qualify as originating in accordance with the provisions of rule 3;(i)"Parties" means the Governments of the Republic of India and Malaysia collectively;(j)"Party" means the Governments of the Republic of India or Malaysia as the case may be;(k)"Product specific rules" means rules which specify that the materials have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy qualifying value content criterion, or a combination of any of these criteria, as provided in Annexure-I to these rules; and,(l)"production" means a method of obtaining goods including growing, planting, mining, harvesting, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, producing, processing, assembling or disassembling the goods.

### **3. Originating goods.**

- For the purposes of these rules, goods imported by a Party which are consigned directly as referred to in rule 9, shall be deemed to be originating and eligible for preferential tariff treatment if,-(a)the goods are wholly obtained or produced in the territory of the exporting Party as referred to in rule 4; or,(b)the goods are not wholly obtained or produced in the territory of the exporting Party but the said goods are eligible for preferential treatment under rule 5 or rule 6.

### **4. Wholly obtained or produced goods.**

(1)For the purposes of clause (a) of rule 3, the following goods shall be deemed to be wholly obtained or produced in the territory of a Party, namely:-(a)the plant and plant products grown, planted and harvested there;(b)the live animals born and raised there;(c)the products obtained from live animals referred to in clause (b);(d)the goods obtained from hunting, trapping, fishing, aquaculture, gathering or capturing conducted there;(e)the minerals and other naturally occurring substances, not included in clauses (a), (b), (c) or (d), extracted or taken from its soil, waters, seabed or beneath

their seabed;(f)the goods taken from the waters, seabed or beneath the seabed outside the territorial waters of that Party:Provided that the Party has the rights to exploit such waters, seabed and beneath the seabed in accordance with the United Nations Convention on the Law of the Sea, 1982;(g)the goods of sea-fishing and other marine goods taken from the high seas by vessels registered with a Party and entitled to fly the flag of that Party;(h)the goods processed or made on board factory ships registered with a Party and entitled to fly the flag of that Party, exclusively from goods referred to in clause (g);(i)the articles collected there which cannot perform their original purpose and are not capable of being restored or repaired and are fit only for disposal or recovery of parts of raw materials, or for recycling purposes; and,(j)the goods obtained or produced in the territory of a Party solely from goods referred to in clauses (a) to (i)(2)For the purposes of,-(i)clause (a), the word "plant" shall mean all plant life, including forestry goods, fruit, flowers, vegetables, trees, seaweed, fungi and live plants;(ii)clause (b) and clause (c), the word "animals" shall include all animal life, including mammals, birds, fish, crustaceans, molluscs, reptiles, and living organisms;(iii)clause (c), the word "products" shall include those obtained from live animals without further processing, including milk, eggs, natural honey, hair, wool, semen and dung obtained from live animals referred to in clause (b); and,(iv)clause (i), goods shall include all scrap and waste including scrap and waste resulting from manufacturing or processing operations or consumption in the same country, scrap machinery, discarded packaging and all products that can no longer perform the purpose for which they were produced and are fit only for disposal for the recovery of raw materials and such manufacturing or processing operations shall include all types of processing, which shall include industrial, chemical, mining, agriculture, construction, refining, incineration and sewage treatment operations.

## 5. Not wholly obtained or produced goods.

(1)For the purposes of clause (b) of rule 3, goods shall be deemed to be originating goods, when,-(a)such goods satisfy the criteria under the Product Specific Rules provided in Annexure-I of these rules; or,(b)(i)all non-originating materials used in the production of the goods have undergone a change in tariff classification in a sub-heading at the six digit level of the Harmonised system; and,(ii)qualifying value content of the goods is not less than thirty five per cent of the FOB value:Provided that the final process of manufacturing is performed within the territory of the exporting Party.(2)For the purposes of this rule, the following are the formulae for calculating the qualifying value content, namely:-(a)Direct Method:

Originating Material Cost + Direct Labour Cost + Direct overhead Cost + Other Cost + ProfitFOB Price| x 100 %  $\square$  35%

(b)Indirect Method:

Value of imported non-originating materials + Value of materials of undetermined originFOB Price| x 100 %  $\square$  65%

(3)The value of the non-originating materials shall be,-(a)the CIF value at the time of importation of the materials, parts or produce; or,(b)the earliest ascertained price paid for the materials, parts or produce of undetermined origin in the territory of the Party where the working or processing takes place.(4)The method of calculating the FOB value is as specified in Annexure-II of these rules.(5)For the purposes of this rule,-(a)the Parties may adopt either the direct or indirect method of calculating

the qualifying value content;(b)each Party shall adhere to one method;(c)any change in the method of calculation shall be notified to the other Party at least six months prior to the adoption of the new method; and,(d)any verification of the content by the importing Party shall be done on the basis of the method used by the exporting Party.

## **6. Cumulative rule of origin.**

- Unless the context otherwise requires, the goods which comply with the requirements of origin provided for in rule 3 and which are used in the territory of a Party as materials for the finished goods eligible for preferential tariff treatment under these rules shall be considered to be originating in the territory of the latter Party where working or processing of the finished goods has taken place.

## **7. De minimis.**

(1)Goods that do not undergo a change in tariff classification pursuant to rule 5 and Annexure-I in the final process of production shall be deemed to be originating if,-(a)for the goods except for those falling within Chapters 1 to 14 and Chapters 50 to 63 of the Harmonised system, the value of all non-originating materials used in its production, which do not undergo the required change in tariff classification, does not exceed ten percent of the FOB value of the goods;(b)for the goods falling within Chapters 50 to 63 of the Harmonised system, the total weight of non-originating basic textile materials used in its production, which do not undergo the required change in tariff classification, does not exceed eight percent of the total weight of all the basic textile materials used; and(c)the goods meet all other applicable criteria set forth in these rules for qualifying as originating goods.(2)The value of such non-originating materials shall be included in the value of non-originating materials for any applicable requirement of qualifying value content for, the goods.

## **8. Minimal operations and processes.**

(1)Notwithstanding anything contained in these rules, goods shall not be considered as originating in the territory of a Party if the following operations are undertaken exclusively by itself or in combination in the territory of that Party, namely:-(a)operations to ensure the preservation of goods in good condition during transport and storage including, but not limited to, drying, freezing, keeping in brine, ventilation, spreading out, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations;(b)simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching including the making-up of sets of articles, washing, painting, cutting;(c)changes of packing and breaking up and assembly of consignments;(d)simple cutting, slicing and repacking or placing in bottles, flasks, bags, boxes, fixing on cards or boards, and all other simple packing operations;(e)affixing of marks, labels or other like distinguishing signs on goods or their packaging;(f)simple mixing of goods whether or not of different kinds, where one or more components of the mixture do not meet the conditions laid down in this Chapter to enable them to be considered as originating goods;(g)simple assembly of parts of goods to constitute complete goods;(h)disassembly;(i)slaughter which means the mere killing of animals; and,(j)mere dilution with water or another substance that does not materially alter the characteristics of the goods.(2)For textiles and textile goods, an article or material shall not

be considered to be originating in the territory of a Party by virtue of merely having undergone any of the following, namely:-(a) simple combining operations, labelling, pressing, cleaning or dry cleaning or packaging operations, or any combination thereof; (b) cutting to length or width and hemming, stitching or over-locking fabrics which are readily identifiable as being intended for a particular commercial use; (c) trimming or joining together by sewing, looping, linking, attaching of accessory articles such as straps, bands, beads, cords, rings and eyelets; (d) one or more finishing operations on yarns, fabrics or other textile articles, such as bleaching, waterproofing, decanting, shrinking, mercerizing, or similar operations; or, (e) dyeing or printing of fabrics or Yarns. Explanation. - For the purposes of this rule, the word "simple" means activities which do not require special skills or machines, apparatus or equipment especially produced or installed for carrying out the activity.

## **9. Direct consignment.**

- Originating goods shall be deemed to be directly consigned from the territory of the exporting Party to the territory of the importing Party if, -(a) the goods are transported without passing through the territory of any non-Party; or, (b) the goods are transported through the territory of any non-Party where, -(i) the transit entry is justified for geographical reasons or transport requirements; (ii) the goods have not entered into trade or consumption in the territory of such non-Party; (iii) the goods have not undergone any operation in the territory of such non-Party other than unloading and reloading or any operation required to keep the goods in good condition; and, (iv) the goods have remained under the control of the customs authority of such non-Party.

## **10. Treatment of packing materials and containers.**

(1) If the goods are subject to the change in tariff classification criterion as provided in sub-clause (i) of clause (b) of sub-rule (1) of rule 5, packing materials and containers classified together with the packaged goods shall not be taken into account in determining the origin. (2) If the goods are subject to qualifying value content requirement as provided in sub-clause (ii) of clause (b) of sub-rule (1) of rule 5, the value of the packing materials and containers, shall be taken into account in determining the origin of those goods: Provided that the packing materials and containers are considered as forming a whole with the goods and the goods are packaged in such packaging materials and containers for the purposes of retail sale. Explanation. - The packing materials and the containers in which the goods are packed for the purposes of shipment and used exclusively for the transportation of the goods shall not be taken into account in determining the origin of such goods.

## **11. Accessories, spare parts, tools and instructional or other information material.**

(1) Any accessories, spare parts, tools, instructional or other information material delivered with the goods that form part of the standard accessories, spare parts, tools or instructional or other information material of the goods, shall be treated as originating goods if the goods are originating goods, and shall not be taken into account in determining whether all the non-originating materials

used in the production of the goods undergo the applicable change in tariff classification subject to the following conditions, namely:-(a)the accessories, spare parts, tools or the instructional and other information material are not invoiced separately from the goods; and,(b)the quantities and value of the accessories, spare parts, tools or the instructional and other information material are standard trade practice for the goods in the domestic market of the exporting Party.(2)If the goods are subject to a qualifying value content requirement, the value of the accessories, spare parts, tools or the instructional and other information material shall be taken into account as originating or non-originating materials, as the case may be, in calculating the qualifying value content of the goods.

## **12. Indirect materials.**

- In order to determine whether goods originate in the territory of a Party, any indirect material, including power, fuel, plant and equipment, machines, tools or consumables used to obtain such goods shall be treated as originating, irrespective of the origin of the material and its value shall be the cost registered in the accounting records of the producer of such goods.

## **13. Identical and interchangeable materials.**

- When goods are manufactured utilising both originating and non-originating materials, mixed or physically combined, the origin of such materials shall be determined on the basis of generally accepted accounting principles of stock control applicable or in accordance with the methods of inventory management practised in the exporting Party.Explanation. - For the purposes of this rule, "generally accepted accounting principles" means recognized consensus or substantial authoritative support given in the territory of a Party with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements and may encompass broad guidelines for general application, and detailed standards, practices, and procedures.

## **14. Certificate of origin.**

- A claim that the imported goods shall be accepted as eligible for preferential tariff treatment shall be supported by a certificate of origin issued by an authority or authorities designated by the Government of the exporting Party and notified to the other Party in accordance with the procedure stated in the Annexure-III and in the format specified in Annexure-IV to these rules.Annexure-I(see rule 5)

## **Part 1 – 1. For the purposes of this Annexure,-**

(a)"Chapter" means the first two digits of the tariff classification number under the Harmonised system;(b)"heading" means the first four digits of the tariff classification number under the Harmonised system; and(c)"Sub-heading" means the first six digits of the tariff classification number under the Harmonised system.

## **2. This Annexure consists of,-**

(a)Column 1 - Tariff heading (4-digit)(b)Column 2 - Tariff sub-heading (6-digit)(c)Column 3 - Product description(d)Column 4 - Applicable Product-Specific Rules of Origin.

**3. Where it tariff heading or sub-heading is subject to alternative Product Specific Rules, it shall be sufficient to comply with one of the rules.**

**4. Where the Product Specific Rule requires only regional value content, the final process of production must be performed within a Party.**

**5. A requirement of a change in tariff classification applies only to non-originating materials.**

**6. Where the change in tariff classification rule expressly excludes a change from other tariff classifications, the exclusion applies only to non-originating materials.**

## **7. For the purposes of column 4 of this Annexure,-**

(a)"CC" means that all non-originating materials used in the production of the goods have undergone a change in tariff classification at the 2-digit level;(b)"CTH" means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the 4-digit level;(c)"CTSH" means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the 6-digit level;(d)"RVC (XX)" means that the goods must have a regional value content of not less than XX per cent as calculated under sub-rule (2) of rule 5 of these rules; and,(e)"WO" means that the goods must be wholly produced or obtained in accordance with rule 4 of these rules.

**8. Chapter notes within this Annexure apply to all headings or sub-headings within the indicated chapter unless there exists a specific exclusion.**

## **Part 2 – Product Specific Rules**

Tariff heading	Tariffsub-heading	Product description	Product Specific Rule
(1)	(2)	(3)	(4)
15.07		Soya-beanoil and its fractions, whether or not refined, but not chemicallymodified.	
1507	1507.90	Other	RVC (40)or CTH

29.33		Heterocyclic compounds with nitrogen hetero-atom(s) only.	
2933	2933.69	Compounds containing an unfused triazine ring (whether or not hydrogenated) in the structure: Other	RVC (40) or CTH
38.12		Prepared rubber accelerators; compound plasticisers for rubber or plastics, not elsewhere specified or included; anti-oxidising preparations and other compound stabilisers for rubber or plastics.	
3812	3812.30	Anti-oxidising preparations and other compound stabilisers for rubber or plastics.	RVC (40) or CTH
39.24		Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics.	
3924	3924.90	Other	RVC (40) or CTH
44.01		Fuelwood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms.	
4401	4401.10	Fuelwood, in logs, in billets, in twigs, in faggots or in similar forms	CTH
4401	4401.21	Wood in chips or particles, coniferous	CTH
4401	4401.22	Wood in chips or particles, non-coniferous	CTH
4401	4401.30	Sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms	CTH
44.02		Wood charcoal (including shell or nut charcoal), whether or not agglomerated.	
4402	4402.10	Of bamboo	CTH
44.07		Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm.	
4407	4407.10	Coniferous: Damar Minyak, Podo, Sempilor and other	CTH
4407	4407.21	Mahogany (Swietenia spp):	CTH
4407	4407.25	Dark Red Meranti, Light Red Meranti and Meranti Bakau:	CTH
4407	4407.26	White Lauan, White Meranti, White Seraya, Yellow Meranti and Alan:	CTH
4407	4407.29	Other of Kapur, Ramin and Other	CTH



4407	4407.91	Of Oak( <i>Quercus</i> spp.):	CTH
4407	4407.92	Of beech ( <i>Fagus</i> spp.):	CTH
4407	4407.99	Other: Heavy hardwoods - Balau, Belian, Bitis etc	CTH
44.08		Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm.	
4408	4408.10	Coniferous: Face veneer sheets	CTH
4408	4408.31	Dark Red Meranti, Light Red Meranti and Meranti Bakau: Face veneer sheets	CTH
4408	4408.39	Other tropical wood: Face Veneer sheets	CTH
4408	4408.90	Other wood: Face veneer sheets	CTH
44.10		Particleboard, oriented strand board (OSB) and similar board (for example, wafer board) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances.	
4410	4410.11	Of wood: Particle board	CTH
4410	4410.12	Of wood: Oriented strand board (OSB)	CTH
4410	4410.90	Other	CTH
44.11		Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances.	
4411	4411.12	Medium density fibreboard (MDF): Of a thickness not exceeding 5 mm	CTH
4411	4411.13	Medium density fibreboard (MDF): Of a thickness exceeding 5 mm but not exceeding 9 mm	CTH
4411	4411.14	Medium density fibreboard (MDF): Of a thickness exceeding 9 mm	CTH
4411	4411.92	Other: Of a density exceeding 0.8 g/ cm <sup>3</sup>	CTH
4411	4411.94	Other: Of a density not exceeding 0.5 g/ cm <sup>3</sup>	CTH
44.12		Plywood, veneered panels and similar laminated wood.	
4412	4412.10	Of bamboo	RVC (35)
4412	4412.31	Other plywood consisting solely of sheets of wood (other than bamboo), each ply not exceeding 6 mm thickness: With at least one outer ply of tropical wood specified in sub-heading Note 1 to	RVC (40) or CTSH

		thisChapter	
4412	4412.32	Other,plywood consisting solely of sheets of wood (other than bamboo),each ply not exceeding 6 mm thickness: Other, with at least oneouter ply of non-coniferous wood:	RVC(40)or CTH
4412	4412.39	Otherplywood consisting solely of sheets of wood (other than bamboo),each ply not exceeding 6 mm thickness: Other	RVC(40)or CTH
4412	4412.99	Other:With at least one outer ply of non-coniferous wood:	RVC(35)
44.20		Wood marquetry and inlaid wood;caskets and cases for jewellery or cutlery, and similar articles,of wood; statuettes and other ornaments, of wood; wooden articlesof furniture not falling in Chapter 94.	
4420	4420.10	Statuettesand other ornaments, of wood; Prayer beads, of wood	CTH
4420	4420.90	OtherWood marquetry and inlaid wood:	CTH
70.13		Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similarpurposes (Other than that of heading 70.10 or 70.18).	
7013	7013.49	Glasswareof a kind used for table (other than drinking glasses or kitchenpurposes other than of glass-ceramics: Other)	RVC(40)or CTH
73.05		Other tubes and pipes (forexample, welded, riveted or similarly closed), having circularcross-Sections, the external diameter of which exceeds 406.4 mm,of iron or steel.	
7305	7305.11	Linepipe of a kind used for oil or gas pipelines: Longitudinallysubmerged are welded	RVC(40)or CC except from 7208 to 7211
7413	7413.00	Strandedwire, cables, plaited bands and the like, of copper, notelectrically insulated.	RVC(40)or CTH
74.18		Table, kitchen or otherhousehold articles and parts thereof, of copper; pot scourers andscouring or polishing pads, gloves and the like, of copper;sanitary ware and parts thereof, of copper.	
7418	7418.19	Tablekitchen or other household articles and parts thereof; potscourers and scouring or polishing pads, gloves and the like:Other:	RVC(40)or CTH
76.04		Aluminumbars, rods and profiles.	

7604	7604.10	Ofaluminum, not alloyed	RVC(40)orCTH
82.07		Interchangeabletools for hand tools, whether or not power-operated, or formachine-tools (for example, for pressing, stamping, punching,tapping, threading, drilling, boring, broaching, milling, turningor screw driving), including dies for drawing or extruding metaland rock drilling or earth boring tools.	
8207	8207.20	Diesfor drawing or extruding metal	RVC(40)or CTH

Annexure-II(See rule 5)Method of calculation of FOB value

## 1. FOB value shall be calculated in the following manner, namely:-

(a)FOB Value = ex-factory price + other costs(b)Other costs in the calculation of the FOB value 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, et cetera.

## 2. Formula for ex-factory price,-

(a)Ex-factory price = production cost + profit(b)Formula for production cost,-(i)Production cost = cost of raw materials + labour cost + overhead cost(ii)Cost of raw materials shall consist of,-(a)Cost of raw materials(b)Freight and insurance(iii)Labour cost shall include,-(a)Wages(b)Remuneration(c)Other employee benefits associated with the manufacturing process(iv)Overhead costs, (non-exhaustive list) shall include, but not limited to,-(a)real property items associated with the production process (insurance, factory rent and leasing, depreciation on buildings, repair and maintenance, taxes, interests on mortgage),(b)leasing of and interest payments for plant and equipment,(c)factory security,(d)insurance (plant, equipment and materials used in the manufacture of the goods),(e)utilities (energy, electricity, water and other utilities directly attributable to the production of the goods),(f)research, development, design and engineering,(g)dies, moulds, tooling and the depreciation, maintenance and repair of plant and equipment,(h)royalties or licenses (in connection with patented machines or processes used in the manufacture of the goods or the right to manufacture the goods),(i)inspection and testing of materials and the goods,(j)storage and handling in the factory,(k)disposal of recyclable wastes, and,(l)cost elements in computing the value of raw materials, that is, port and clearance charges and import duties paid for dutiable component. Annexure-III(see rule 14)Procedure regarding claim of preferential tariff treatment and certificate of origin of Goods

**1. Issuing authorities. - (1) The certificate of origin shall be issued in the format provided in Annexure-IV to these rules, by authorities designated by the exporting Party and shall be referred to individually as "Issuing Authority" or collectively as "Issuing Authorities".**

(2) Each Party shall provide, electronically or otherwise, original sets of specimen signatures and specimen of official seals used by their issuing authorities, including their names and addresses to the other Party and any subsequent change in names, addresses, specimen signatures or official seals shall be promptly informed to the other Party in the same manner. (3) For the purpose of determining originating status, an Issuing Authority shall have the right to call for any supporting documentary evidence or to carry out any check considered appropriate. Explanation. - For the purposes of sub-paragraph (1), the Ministry of Commerce and Industry, Government of India shall designate the Issuing Authority for the purposes of export of goods from India.

**2. Application for certificate of origin. - (1) The exporter or the producer of the goods satisfying the criteria of preferential tariff treatment under these rules shall apply in writing to the relevant issuing Authorities requesting for pre-exportation verification of the origin of the goods and the result of such verification, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in verifying the origin of the said goods to be exported thereafter:**

Provided that the pre-exportation verification may not apply to the goods of which, by their nature, origin can be easily verified. (2) At the time of carrying out the formalities for exporting the goods under preferential tariff treatment, the exporter or producer or their authorised representative shall submit a written application to the relevant Issuing Authority for the issue of the certificate of origin together with appropriate supporting documents proving that the goods to be exported qualify for the issuance of a certificate of origin.

**3. Pre-exportation examination. - (1) The Issuing Authority shall, to the best of their competence and ability, carry out proper examination upon each application for the certificate of origin to ensure the following, namely:-**

(a) the application and the certificate of origin are duly completed and signed by the exporter or producer or their authorised signatory; (b) the origin of the goods is in conformity with the rules; (c) the other statements of the certificate of origin correspond to supporting documentary evidence submitted; and, (d) the description, quantity and weight of goods, marks and number of packages, as specified, conform to the goods to be exported.

**4. Format of certificate of origin. - (1) The certificate of origin shall be in a printed format on an ISO size paper or on any other medium, including electronic format and shall be completed in English in conformity with the specimen and the instructions contained therein as set out in the Annexure-IV attached to these rules.**

(2) No erasures or superimpositions shall be made on the certificate of origin and any alteration shall be made by striking out the error and making any addition required: Provided that such alterations shall be approved and certified by the officer authorised to sign the certificate of origin on behalf of the relevant Issuing Authority: Provided further that any unused spaces shall be crossed out to prevent any subsequent addition. (3) The certificate of origin shall comprise one original and one duplicate copy and each certificate of origin shall bear a reference number given separately by each place or office of issuance of a Party.

**5. Issuance of certificate of origin. - (1) The Issuing Authority of the exporting Party shall issue the certificate of origin at the time of exportation, or within three working days from the date of shipment, if the goods to be exported can be considered originating in that Party in accordance with these rules:**

Provided that where a certificate of origin has not been issued at the time of exportation or within three working days from the date of shipment due to involuntary errors or omissions or other valid reasons, the certificate of origin may be issued retroactively but not later than nine months from the date of shipment. (2) The Issuing Authority of the exporting Party shall indicate in box 8 of the certificate of origin, the relevant criteria, mentioned in the rules, under which the goods qualify as originating. (3) The Issuing Authorities shall retain the duplicate copy and shall provide the original to the exporter who shall forward it to the importer for submission to the customs authority at the port or place of importation. (4) In the event of theft, loss or destruction of a certificate of origin, the exporter or producer or their authorised representative may apply in writing to the Issuing Authority which issued it, for the certified true copy of the original on the basis of the export documents in their possession and the copy so issued shall bear the endorsement "Certified True Copy" in box 12 and bear the date of the original certificate of origin: Provided that the certified true copy of a certificate of origin shall be issued within the validity period of the original certificate of origin.

**6. Presentation of certificate of origin. - (1) The original certificate of origin shall be submitted to the customs authority of the importing Party at the time of filing the import declaration for the goods covered under the said certificate.**

(2) In cases where the certificate of origin is not accepted by the customs authority of the importing Party, the customs authority may deny preferential tariff treatment on the imported goods and shall mark accordingly in box 4 of the certificate of origin and return the original certificate of origin to the issuing Authority along with the notification of the grounds for denial of the preferential tariff treatment within a reasonable period, but not exceeding two months from the date of filing of import declaration. (3) On receipt of the notification from the customs authority of the importing Party as per sub-paragraph (2), the concerned Issuing Authority shall send detailed clarification addressing such grounds for denial of preferential tariff treatment, within two months from the receipt of such notification and on receipt of the clarification, the customs authority of the importing Party, on being satisfied with such clarification, shall reinstate the preferential tariff

treatment.(4)The customs authority of the importing Party may suspend the provision of preferential tariff treatment on the imported goods in case of reasonable doubt as to the authenticity or accuracy of the certificate of origin and may request the Issuing Authority of the exporting Party to conduct a retroactive check prior to grant of preferential tariff treatment under this agreement.(5)The customs authority of the importing Party may request an importer for information or documents relating to the origin of imported goods in accordance with its domestic laws and regulations before requesting the retroactive check pursuant to sub-paragraph (4).(6)The customs authority of the importing Party shall in case of denial of preferential tariff treatment under sub-paragraph (2), or suspension under sub-paragraph (4), release the goods to the importer subject to any administrative measures deemed necessary:Provided that the goods shall not be released if they are held subject to import prohibition or restriction and if there is no suspicion of fraud.(7)Multiple items declared on single invoice and single certificate of origin shall be allowed, provided that each item qualifies as originating goods separately in its own right in accordance with these rules.

**7. Validity of the certificate of origin. - (1) The validity of the certificate of origin shall be twelve months from the date of its issuance and the certificate of origin shall be submitted to the customs authority of the importing Party within its period of validity.**

(2)When the certificate of origin is submitted to the customs authority of the importing Party after the expiration of its period of validity, such certificate of origin is still to be accepted when failure to observe the time limit results from force majeure or other valid reasons beyond the control of the exporter:Provided that in all cases, the customs authority of the importing Party may accept such certificate of origin provided that the goods have been imported before the expiry of the validity period of the said certificate of origin.

**8. Discrepancies in the certificate of origin. - (1) Where the origin of goods is not in doubt, the discovery of minor discrepancies between the statements made in the certificate of origin and those made in the documents submitted to the customs authority of the importing Party for the purpose of carrying out the formalities for importing the goods, shall not, ipso facto, invalidate the certificate of origin, if it does in fact correspond to the said goods.**

(2)For multiple goods declared under the same certificate of origin, a problem encountered with one of the goods listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining goods listed in that certificate of origin.

**9. Origin verification. - (1) The customs authority of the importing Party may request the Issuing Authority of the exporting Party to perform a retroactive check at random or when it has reasonable doubt as to the authenticity of the**

**certificate of origin or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof.**

(2)The request for a retroactive check shall be accompanied with the relevant certificate of origin and shall specify the reasons and any additional information suggesting that the particulars given on the said certificate of origin may be inaccurate, unless the retroactive check is requested on a random basis.(3)The Issuing Authority of the exporting Party shall, on receipt of such request, conduct a retroactive check on the cost statement of the exporter or the producer based on the current cost and prices and shall send a reply to the customs authority of the importing Party within three months of the date of receipt of request.(4)The retroactive check process, including the actual process and the determination of whether the subject goods are originating or not, should be completed and the result should be communicated to the importer within six months of the date of presentation of the certificate of origin to the customs authority of the importing Party.

**10. Verification visit. - (1) If the customs authority of the importing Party is not satisfied with the outcome of the retroactive check, it may, under exceptional circumstances, perform a verification visit, and for this purpose, it may deliver a written notification of its intention to conduct the said verification visit to the premises of the exporter or producer in the territory of the exporting Party.**

(2)The written notification mentioned in sub-paragraph (1), shall be delivered simultaneously to the importer, and, the producer or the exporter whose premises are to be visited, and to the following authorities, namely:-(a)the Issuing Authority of the exporting Party; and,(b)the customs authority or any other appropriate authority of the exporting Party.(3)The written notification mentioned in sub-paragraph (1), shall be comprehensive and shall include the following, namely:-(a)the name of the producer or the exporter whose premises are to be visited;(b)the proposed date of the verification visit;(c)the coverage, scope and purpose of the proposed verification visit; and,(d)the names and designation of the officials performing the verification visit.(4)The customs authority of the importing Party shall conduct the verification visit subject to receipt of the written consent of the producer or the exporter whose premises are to be visited:Provided that when the written consent of the producer or the exporter is not obtained within thirty days from the date of receipt of the written notification, the customs authority of the importing Party may deny preferential tariff treatment to the goods referred to in the said certificate of origin that would have been subject to the verification visit:Provided further that, the Issuing Authority of the exporting Party may postpone the proposed verification visit and notify the customs authority of the importing Party of such intention within fifteen days from the date of receipt of the notification:Provided further that, notwithstanding any postponement, the verification visit shall be carried out within sixty days from the date of receipt of the written notification, or such longer period as the Parties may agree.(5)Subsequent to the verification visit or when the consent for the verification visit is not obtained, the customs authority of the importing Party shall provide the concerned producer or exporter and the Issuing Authority of the exporting Party with a written determination of whether or not the subject goods qualify as originating goods and any suspended preferential tariff treatment may be reinstated upon

determination that the goods qualify as originating goods under the rules.(6)The concerned producer or the exporter shall be allowed thirty days from the date of receipt of the written determination to provide in writing, comments or additional information, regarding the eligibility of the goods for preferential tariff treatment and if on receipt of the comments of the producer or the exporter, the customs authority of the importing Party maintains the view that the goods are non-originating, it shall communicate the final written determination to the Issuing Authority within thirty days of the date of receipt of the comments or the additional information from the producer or the exporter and the importer.(7)The verification visit process, including the actual visit and the determination of whether the subject goods are originating or not, shall be carried out and its results communicated to the Issuing Authority within a maximum period of six months from the date when the verification visit was conducted.

**11. Record keeping requirements. - (1) The application for certificate of origin and all documents related to such application shall be retained by the Issuing Authorities for not less than five years from the date of issue.**

(2)Information relating to the validity of the certificate of origin shall be furnished by the Issuing Authorities upon request of the customs authority of the importing Party.(3)A copy of the certificate of origin and all relevant documents shall be retained by the importer, exporter or producer for not less than five years from the date of issue, in any medium that allows for prompt retrieval, including, but not limited to, digital, electronic, optical, magnetic or hard copy.(4)The importer, exporter or producer shall make the documents available for inspection by an officer of the relevant customs authority or the relevant Issuing Authority and shall provide facilities for inspection thereof.

**12. Change of destination of the goods. - (1) When destination of all or part of the goods exported to a specified port of the importing Party is changed, before their arrival in the importing Party, the exporter or producer shall apply in writing to the Issuing Authority of the exporting Party, accompanied with the issued certificate of origin, for issuance of new certificate of origin for all or such part of the goods.**

(2)When destination of all or part of the goods exported to a specified port of the importing Party is changed, after their arrival in the importing Party, the customs authority of the importing Party shall, on the basis of a written application of the importer, endorse the certificate of origin to this effect for all or such part of the goods and the original returned to the importer.

**13. Documentation in case of direct consignment. - For the purpose of availing preferential tariff treatment on the imported goods, when transportation of the said goods is effected through the territory of one or more non-Parties in terms of clause (b) of rule 9 these rules, the following documents shall be produced to the customs authority of the importing**



**Party, namely:-**

(a)a through bill of lading issued in the exporting Party;(b)a certificate of origin issued by the relevant Issuing Authority of the exporting Party;(c)a copy of the original commercial invoice in respect of the goods; and,(d)any other documents as evidence that the requirements of clause (b) of rule 9 of these rules have been complied with.

**14. Preferential treatment in case of exhibition etc. - (1) Goods sent from an exporting Party for exhibition in another Party and sold during or after the exhibition in the Party shall benefit from the preferential tariff treatment under this agreement on the condition that the goods meet the origin requirements of these rules:**

Provided that the customs authority of the importing Party is satisfied that,-(a)the exporter has dispatched the said goods from the territory of the exporting Party to the territory of the importing Party where the exhibition is held and has exhibited them there;(b)the exporter has sold or transferred the goods to a consignee in the importing Party; and,(c)the goods have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition.(2)For the purposes of implementing the sub-paragraph (1), the certificate of origin must be produced to the customs authority of the importing Party and the name and address of the exhibition must be indicated in the certificate of origin issued by the relevant Issuing Authority.(3)Sub-paragraph (1) shall apply to any exhibition, fair or similar show or display in the venue where the goods remain under customs control during these events.

**15. Third party invoicing. - The customs authority of the importing Party shall accept certificate of origin of the originating goods where the sales invoice is issued either by a business entity located in a non-Party or by an exporter for the account of the said business entity, provided that the goods meets the requirements of these rules.**

**16. Action against fraudulent acts. - When it is suspected that fraudulent acts in connection with the certificate of origin have been committed, the Parties shall cooperate in the action to be taken in the territory of the respective Party against the persons involved.**

Annexure-IV(see rule 14)Original/Duplicate

1. Goods consigned from	Reference No.INDIA-MALAYSIA
(Exporter's business name,	COMPREHENSIVEECONOMIC
address,country. In the case of	COOPERATION
third party invoicing, name and	AGREEMENTPREFERENTIAL

countryof the business entity issuing the invoice.	TARIFFTREATMENT CERTIFICATE OF ORIGIN(Combined Declaration andCertificate)FORM IMCECAIssued in_____ (Country)See Notes Overleaf	
2. Goods consigned to (Consignee's name, address country)	4. For Official UsePreferential Treatment Given Under India-MalaysiaComprehensive Economic Cooperation Agreement Preferential TariffPreferential Treatment Not Given (Please state reason/s).....Signatureof Authorised Signatory of the Importing Country	
3. Means of transport and route (as far as known)Departure dateVessel's name / Aircraft etc.Port of Discharge	7. Number and type of packages, description of goods(including quantity where appropriate and HS number of theimporting country)	
5. Item number	6. Marks and numbers on packages	8. origin criterion
11. Declaration by the exporterThe undersigned hereby declares that the above details and statement are correct; that all goods were produced in.....(Country)And that they complywith the origin requirements specified for these goods in theIndia-Malaysia Comprehensive Economic Cooperation Agreement forthe goods exported to.....(ImportingCountry).....Placeand date, signature of authorised		
12. CertificationIt is hereby certified, on thebasis of control carried out, that the declaration by theexporter is correct.....Placeand date, signature of certifying authority		

signatory

13. Where appropriate please tick:

Third party Invoicing

Exhibition

Issued  
Retroactively Cumulation

Overleaf Notes

**1. Parties which accept this form for the purpose of preferential tariff treatment under the India-Malaysia Comprehensive Economic Cooperation Agreement (IMCECA):**

India Malaysia

**2. Conditions: To enjoy preferential tariff treatment under the IMCECA, goods sent to any Parties listed above:**

(i) must fall within a description of goods eligible for preferential tariff treatment in the country of destination; (ii) must comply with the consignment conditions in accordance with rule 9 of these rules; and, (iii) must comply with the origin criteria in these rules.

**3. Origin Criteria: For goods that meet the origin criteria, the exporter and/or producer must indicate in Box 8 of this Form, the origin criteria met, in the manner shown in the following table:**

Circumstances of production or manufacture in the first country named in box 11 of this form	Insert in Box 8
(a) Goods satisfying rule 4 of these rules	"Wo"
(b) Goods satisfying origin criteria in clause (a) of sub-rule (1) of rule 5 of these rules	Appropriate qualifying criteria
(c) Goods satisfying origin criteria in clause (a) of sub-rule (1) of rule 5 of these rules	"QVC [ ]% and CTSH"
(d) Goods satisfying origin criteria in rule 7 of these rules	Appropriate qualifying criteria

**4. Each Article Must Qualify: It should be noted that all the goods in a consignment must qualify for preferential tariff treatment under this Agreement separately in their own right. This is of particular relevance when similar articles of different sizes or spare parts are declared on single invoice and single Co.**

**5. Description of Goods:** The description of goods must be sufficiently detailed to enable the goods to be identified by the customs authority of the importing Party. Name of producer and any trade mark shall also be specified.

**6. Harmonized System Number:** The Harmonized system number shall be that of the importing Party.

**7. Exporter:** The term "Exporter" in Box 11 may include the producer.

**8. For Official Use:** The customs authority of the importing Party must indicate (✓) in the relevant boxes in Box 4 whether or not preferential tariff treatment is accorded.

**9. Third Party Invoicing:** In cases where invoices are issued as per paragraph 15 of Annexure-III of these rules, "the Third Party Invoicing" box should be ticked (✓) and such information as name and country of the business entity issuing the invoice shall be indicated in Box 1.

**10. Exhibitions:** In cases where goods are sent from the territory of the exporting Party for exhibition in another country and sold during or after the exhibition for importation into the territory of a Party, in accordance with paragraph 14 of Annexure-III of these rules, the "Exhibitions" box should be ticked (✓) and the name and address of the exhibition indicated in Box 2.

**11. Issued Retroactively:** In cases of CO being issued retroactively, in accordance with paragraph 5 of Annexure-III of these rule, the "Issued Retroactively" box should be ticked (✓).