

The Customs Tariff (Determination of Origin of Products under the Duty Free Tariff Preference Scheme for Least Developed Countries) Rules, 2008

UNION OF INDIA

India

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Rule

THE-CUSTOMS-TARIFF-DETERMINATION-OF-ORIGIN-OF-PRODUCTS of 2008

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The Customs Tariff (Determination of Origin of Products under the Duty Free Tariff Preference Scheme for Least Developed Countries) Rules, 2008Published in the Gazette of India, Extra, Part 2, Section 3(i), dated 28.1.2005

1678.

G.S.R. 49(E), dated 28.1.2005. - In exercise of the powers conferred by clause (o) of sub-section (2) of section 176 of the Electricity Act, 2003 (No. 36 of 2003), 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 Products under the Duty Free Tariff Preference Scheme for Least Developed Countries) Rules, 2008.(2)These rules shall come into force from the date of their publication.

2. Determination of Origin.

- No product shall be deemed to be originating in the beneficiary country unless the conditions specified in these rules are complied with in relation to such products, to the satisfaction of the Government Authority authorised by the exporting beneficiary country to issue the Certificate of Origin under the Duty Free Tariff Preference Scheme for Least Developed Countries (hereinafter referred to as the said Scheme).

3. Claim at the time of importation.

- The importer of the product shall, at the time of importation, -(a) make a claim that the products are the produce or manufacture of the beneficiary country from where they are imported and such products are eligible for tariff preferences, and (b) produce the evidence specified in these rules.

4. Originating products.

- Products, covered by the said scheme, imported into India from a beneficiary country, which are consigned directly within the meaning of rule 7, shall be eligible for tariff preferences if they conform to the following origin requirements namely: -(a) products wholly produced or obtained in the exporting beneficiary country; or (b) products not wholly produced or obtained in the exporting beneficiary country, provided it fulfils the conditions specified under rule 5. Explanation: - For the purposes this rule, the products wholly produced or obtained in the exporting beneficiary country means, -(a) Raw or mineral products including mineral fuels, lubricants and related materials as well as mineral or metal ores extracted from its territory; (b) plant and plant products, including agriculture, vegetable and forestry products grown or harvested there; (c) live animals born and raised there; (d) products obtained from animals referred to in clause (c) above; (e) products obtained by hunting, trapping, fishing or aquaculture conducted there; (f) products of sea fishing and other marine products taken from outside its Territorial Waters and Exclusive Economic Zone by vessels registered and flying the flag of the beneficiary country; (g) products processed and/or made on board its factory ships exclusively from products referred to in clause (f) above; (h) scrap and waste derived from manufacturing or processing operations conducted there and fit only for disposal or for the recovery of raw materials; (i) used articles collected there which can no longer perform their original purpose nor are capable of being restored or repaired and which are fit only for disposal or for the recovery of parts or raw materials; (j) products taken from the seabed, subsoil or ocean floor thereof beyond its territory, provided the beneficiary country has the rights to exploit that sea bed, subsoil or ocean floor thereof in accordance with the provisions of the United Nations Convention on the Law of the Sea; (k) products produced there exclusively from the products referred to in clauses (a) to (j) above.

5. Products not wholly produced or obtained.

- For the purposes of rule 4 and subject to the provisions of rule 6, products not wholly produced or obtained shall be considered as originating in the exporting beneficiary country if they fulfil the

following conditions:-(i)The total value of the non-originating materials, parts, or produce used in the manufacture of the export product does not exceed 70 per cent. of the Free on Board (FOB) value of the product so produced or obtained (i.e. the local value added content in the beneficiary country is at least 30 per cent.);(ii)the product so produced or obtained is classified in a Heading, (at 4-digit level of the Harmonised System) which is different from those in which all the non-originating materials used in its manufacture are classified (Change in Tariff Heading Rule); and(iii)the final process of manufacture is performed within the territory of the exporting beneficiary country.Explanation: - (a) For the purposes of calculating the "local value added content", the following formula shall be applied:-Local Value Added Content (X %) = $\frac{\text{Free on Board (FOB) Price} - \text{Value of non-originating materials}}{\text{Free on Board (FOB) Price}} \times 100$ (In order for a product to qualify as originating $X > 30\%$)(b)The value of the non-originating materials, parts, or produce or materials of undetermined origin shall be:(i)the Cost Insurance and Freight (CIF) value, at the time of importation of the materials, parts, or produce where this can be proven; or(ii)the earliest ascertainable price paid for the materials, parts or produce of undetermined origin in the territory of the beneficiary where the working or processing takes place.(c)If in the manufacturing of the final export product, the originating material from India is used as input, the value of such input shall be included in the calculation of the local value added content as it would be deemed to be originating in the exporting beneficiary country.

6. Insufficient Operations.

- The following operations shall in any event be considered insufficient working or processing to confer the originating status-(a)operations to ensure the preservation of products in good condition during transport and storage (such as 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 products or their packaging;(f)simple mixing of products whether or not of different kinds, where one or more components of the mixture do not meet the conditions laid down in these rules to enable them to be considered as originating products;(g)simple assembly of parts of products to constitute a complete product and or disassembly of products into parts and/or packing thereof;(h)slaughter of animals;(i)mere dilution or mixing of products with water or another substance that does not materially alter the characteristics of the products so obtained; and(j)a combination of two or more operations referred to in paragraphs (a) to (i).

7. Direct consignment.

- A product, in respect of which tariff preference is claimed, shall be considered as directly consigned from the exporting beneficiary country,-(a)if it has been transported without passing through the territory of any other country;(b)The product, whose transport involves transit through one or more intermediate countries with or without trans-shipment or temporary storage in such

countries ;Provided that,-(i)their transit entry is justified for geographical reasons or by considerations related exclusively to transport requirements;(ii)the products have not entered into trade or consumption there;(iii)the products have not undergone any operation other than unloading and reloading or any operation required to keep them in good condition; and(iv)the products have remained under the customs control in the country of transit.

8. Treatment of packing.

- (i) The packages and packing materials or cases or containers for retail sale, when classified together with the packaged products, according to General rule 5 of the rules for interpretation of the Harmonised System, shall not be taken into account for considering whether packages and packing materials or cases or containers fulfil the criterion corresponding to a change of tariff classification of the said products.(ii)If the product is subject to an ad-valorem percentage criterion, the value of the packages and packing materials or cases or container for retail sale shall be taken into account in its origin assessment, in case they are treated as being one for customs purposes with the products in question.(iii)The containers and packing materials exclusively used for the transport of a product shall not be taken into account for determining the origin of any products.

9. Certificate of Origin.

- Products eligible for preferential concessions shall be supported by a Certificate of Origin as per the format in Annexure-A, issued by a Government authority designated by the exporting beneficiary country and presented to the Customs authorities in accordance with the Procedures as set out in Annexure-B. Annexure-A Certificate Of Origin

		Reference No. Duty Free Tariff Preference Scheme for Least Developed Countries (Combined declaration and certificate) Issued in..... (Country) (See notes overleaf)							
1. Goods consigned from (Exporters' Business Name, Address, Country)	2. Goods consigned to (Consignee's Name, Address, Country)	3. Means of transport and route (as far as known)	4. For Official use	5. Harmonized System (HS) Code	6. Marks and numbers of packages	7. Number and kind of packages: description	8. Origin criterion (see Notes	9. Gross weight or other quantity of	10. Number and date

of goods overleaf) invoice

11. Declaration by the

Exporter: - The undersigned

hereby declares that the

above details and statements

are correct; That all the goods

were produced in

.....(Country) of control carried

and those they comply with out, that the declaration by

the origin requirements the exporter is

specified for those goods in correct.....Place

Duty Free Tariff Preference and date, signature and

Scheme for Least Developed stamp of certifying

Countries.....authority.

(Importing Country)

.....

Place and date, signature of

the authorized signatory

|||||

NOTE1. To qualify for preference, products must:(a)fall within a description of products eligible for concessions in India under this Scheme.(b)comply with Rules of Origin for the Duty Free Tariff Preference Scheme for Least Developed Countries. Each product in a consignment must be originating separately in its own right; and(c)comply with the consignment conditions specified in the Rules of Origin for the Duty Free Tariff Preference Scheme for Least Developed Countries .II. Entries to be made in Box 8.-(a)Preference products must be wholly produced or obtained in the exporting beneficiary country in accordance with rule 4 of the Rules of Origin for the Duty Free Tariff Preference Scheme for Least Developed Countries, or where not wholly produced or obtained in the exporting beneficiary country they must be eligible under rule 5.(b)For products wholly produced or obtained - enter the letter `A' in box 8.(c)For products not wholly produced or obtained - enter the letter `B' in box 8 for products, which meet the origin criterion according to rule 5. Entry of letter `B' would be followed by the percentage of Local Value Added Content, as calculated under rule 5: (example B(-) per cent).Annexure-BProcedure For Issuance And Presentation Of Certificate Of Origin Under The Duty Free Tariff Preference Scheme For Least Developed CountriesFor the purpose of implementing the Rules of Origin for the Duty Free Tariff Preference Scheme for Least Developed Countries, the under-mentioned procedure on the issuance and presentation of the Certificate of Origin and other related administrative matters shall be followed:Authorities

1. The certificate of origin issued by the Government authorities designated by the Government of the exporting Beneficiary country (hereinafter referred as "Issuing Authority") would only be accepted.

Issuance Of Certificate Of Origin

2. The certificate of origin shall be on A4 size paper, completed in English and in conformity to the specimen as shown in Annexure - `A'.

3. The certificate of origin shall comprise of one original and three copies of the following colours:

Original -blue Duplicate -white Triplicate -white Quadruplicate -white

4. Each certificate of origin shall bear a reference number separately given by each place or office of issuance.

5. The Issuing Authority while retaining the duplicate copy shall provide the original copy and remaining two copies to the exporter. The original copy together with the triplicate shall be forwarded by the exporter to the importer for submission of the original copy to the Customs Authority at the port or place of importation. The triplicate shall be retained by the importer and the quadruplicate shall be retained by the exporter.

Implementation Of The Provisions

6. The certificate of origin issued by the Issuing Authority in the exporting country shall indicate the relevant rules and applicable criteria in Box 8.

7. Neither erasures nor superimpositions shall be allowed on the certificates of origin. Any alteration shall be made by striking out the erroneous materials and making any addition required. Such alterations, shall be approved by an official authorised to sign the certificate of origin and certified by the Issuing Authority. Unused spaces shall be crossed out to prevent any subsequent addition.

8. The certificate of origin shall be issued by the relevant Issuing Authority of the exporting country at the time of exportation, or within 3 working days from the date of shipment, whenever the products to be exported can be considered originating in that country within the meaning of the rules of origin for the Scheme.

9. In exceptional case where a certificate of origin has not been issued at the time of exportation or within 3 working days from the date of shipment due to involuntary errors or omissions or other valid causes, the certificate of origin may be issued retroactively but no longer than 45 days from the date of shipment, bearing the word "Issued Retroactively".

10. In the event of theft, loss or destruction of a certificate of origin, the exporter may apply in writing to the Issuing Authority which issued it for a certified true copy of the original and triplicate to be made on the basis of the export document in their possession bearing the endorsement of the word "CERTIFIED TRUE COPY" (in lieu of the original certificate) in Box 12 of the certificate of origin. The copy shall bear the date of the original certificate of origin. The certified true copy of a certificate of origin shall be issued within the validity period of the original certificate of origin and on the condition that the exporter provides to the relevant Issuing Authority the quadruplicate copy. The validity of certified true copy of the certificate of origin would be the same as that of the original certificate so issued.

Presentation At The Time Of Importation

11. The original certificate of origin shall be submitted to the Customs Authorities at the time of lodging the import entry for the products concerned.

12. The following time limit for the presentation of the certificate be observed:

(a)The validity of the certificate of origin shall be twelve months from the date of its issuance.(b)Certificate of origin must be submitted to the Customs Authority within the validity period.

13. Where the certificate of origin is submitted after the expiration of the validity of the certificate of origin, such certificate 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.

14. In all cases the relevant Customs Authority in India may accept such certificate of origin provided that the products have been imported before the expiry of the validity of the certificate of origin.

15. 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 India for the purpose of carrying out the formalities for clearance of import, the product shall not ipso facto invalidate the certificate of origin, if it does in fact correspond to the said products.

16. In cases where the Certificate of Origin is rejected by the Custom authorities in India, the original Certificate of Origin shall be returned to the issuing Authority within a reasonable period but not exceeding two (2) months. The grounds for denial of preferential tariff treatment shall be duly notified to the importer and the Issuing Authority.

Verification

17. The Customs Authority of India may request a retroactive check at random and/ or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the product in question or of certain parts thereof through designated nodal authority as per the procedure laid down under the said Duty Free Tariff Preference Scheme.

Special Cases

18. When destination of all or parts of all or parts of the products exported to specified port is changed, before or after their arrival in India, the following rules shall be observed:

(a) If the products have already been submitted to the Customs Authority in the specified importing port, the certificate of origin shall by a written application of the importer, be endorsed to this effect for all or parts of products by the said Authority and the original returned to the importer. (b) If the changing of destination occurs during transportation to India as specified in the certification of origin, the exporter shall apply in writing concerned Customs Authority, accompanied with the issued certificate of origin, of the new destination.

19. For the purpose of implementing the provisions of Rule 7 of the Rules of Origin, the following shall be produced to the customs authority of India at the time of importation.

(a)through Bill of Lading issued in the exporting country;(b)a certificate of origin issued by the Issuing Authority of the exporting beneficiary country;(c)a copy of the original commercial invoice in respect of the product ; and(d)supporting documents in evidence that other requirements of Rule 7 have been complied with.