

The Customs Tariff (Determination of Origin of Goods Under the Agreement on SAARC Preferential Trading Arrangement) Rules, 1995

UNION OF INDIA

India

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Rule

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The Customs Tariff (Determination of Origin of Goods Under the Agreement on SAARC Preferential Trading Arrangement) Rules, 1995 Published vide Notification No. 73/95-Cus (N.T.), dated 7th December, 1995. Notification No. 73/95-Cus (N.T.), dated 7th December, 1995. - 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 Agreement SAARC Preferential Trading Arrangement) Rules, 1995. (2) They shall come into force on the date of their publication in the Official Gazette.

2. Application.

- These rules shall apply to products consigned from any Contracting State.

3. Definitions.

- In these rules, unless the context otherwise requires -(a)"SAPTA" means the Agreement on SAARC Preferential Trading Arrangement, signed at Dhaka, Bangladesh on the 11th day of April, 1993;(b)"Contracting State" means any Member State of SAARC listed in Appendix I or Appendix II to the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. [15/97-Customs, dated 1st March, 1997] [Substituted by M.F. (D.R.) Notification No. 7/97-Cos. (N.T.), dated 1st March, 1997](c)"Preferential concession", in relation to any product means the exemption granted under the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. [15/97-Customs, dated 1st March, 1997] [Substituted by M.F. (D.R.) Notification No. 7/97-Cos. (N.T.), dated 1st March, 1997](d)Words and expressions used in these rules and not defined, but defined in the Customs Act, 1962 (52 of 1962), shall have the meanings, respectively, assigned to them in that Act.

4. Determination of Origin.

- No product shall be deemed to be the produce or manufacture of a Contracting State unless the Assistant Commissioner of Customs is satisfied that the conditions specified in the Schedule to these rules are complied with in relation to such products.

5. Claim at the time of importation.

- The importer of the products shall at the time of importation. -(a)make a claim that the products are the produce or manufacture of the Contracting State from which they are imported and such products are eligible for preferential concession; and(b)produce the evidence specified in the Schedule to these rules.The Schedule(See rules 4 and 5)

1. Originating products. - Products covered by preferential trading arrangements within the framework of the SAPTA imported into the territory of a Contracting State from another Contracting State which are consigned directly within the meaning of paragraph 5. hereof, shall be eligible for preferential concessions if they conform to the origin requirements under any one of the following conditions, namely :-

(a)products wholly produced or obtained in the exporting Contracting State as defined in paragraph 2; or(b)products not wholly produced or obtained in the exporting Contracting State, provided that the said products are eligible under paragraph 4.

2. Wholly produced or obtained. - Within the meaning of paragraph 1(a) the following shall be considered as wholly produced or obtained in the exporting contracting State, namely :-

(a) raw or mineral products extracted from its soil, its water or its [scabeds] [Include mineral fuels, lubricants and related materials as well as mineral of metal ores.]; (b) agricultural products harvested [there] [Include forestry products.] (c) animals born and raised there; (d) products obtained from animals referred to in Clause (c) above; (e) products obtained by hunting or fishing conducted there; (f) products of sea fishing and other marine products taken from the high seas by its [vessels] ['Vessels' - shall refer to fishing vessels engaged in commercial fishing, registered in a Contracting State's and operated by a citizen or citizens or governments of Contracting State or partnership corporation or association, duly registered in such Contracting State's country, at cost 60 per cent of equity of which is owned by a citizen or citizens and/or government of such Contracting State or 75 per cent by citizens and/or governments of the Contracting States. However, the products taken from vessels engaged in commercial fishing under bilateral agreements which provide for chartering/leasing of such vessels and/or sharing of catch between Contracting States will also be eligible for preferential concessions.]; [***] [In respect of vessels or factory ships operated by government agencies the requirement of flying the flag of a Contracting State does not apply.] (g) [products processed and/or made on board its factory ships] [In respect of vessels or factory ships operated by government agencies the requirement of flying the flag of a Contracting State does not apply.], [****] [The term 'factory ship' means any vessels, as defined, used for processing and/or making on board products exclusively from those products referred to in clause (f) above.] exclusively from products referred to in Clause (f) above; (h) used articles collected there, fit only for the recovery of raw materials; (i) waste and scrap resulting from manufacturing operations conducted there; (j) goods produced there exclusively from the products referred to in Clause (a) to (i) above.

3. Not wholly produced or obtained. - (a) Within the meaning of paragraph 1(b), products worked on or processed as a result of which the total value of the materials, parts or produce originating from non-Contracting States or of undetermined origin used does not exceed 50 per cent of the f.o.b. value of the products produced or obtained and the final process of manufacture is performed within the territory of the exporting Contracting State shall be eligible for preferential concessions subject to the provisions of Clause (c) of paragraph 3 and paragraph 4;

(b) [Sectoral agreements] [In respect of products traded within the framework of sectoral agreements negotiated under SAPTA, provision may need to be made for special criteria to apply. Consideration may be given to these criteria as and when the sectoral agreements are negotiated.]; (c) The value of the non-originating materials, parts or produce shall be - (i) the c.i.f. value at the time of importation of 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 Contracting State where the working or processing takes place.

4. Cumulative rules of origin. - Products which comply with origin requirements provided for in paragraph 1 and which are used by a Contracting State as input for a finished product eligible for preferential treatment by another Contracting State shall be considered as a product originating in the territory of the Contracting State where working or processing of the finished product has taken place provided the aggregate content originating in the territory of the Contracting State is not less than 60 per cent of its f.o.b. [value] ['Partial' cumulation as implied by paragraph 4 above means that only products which have acquired originating status in the territory of one Contracting States may be taken into account when used as inputs for a finished product eligible for preferential treatment in the territory of another Contracting State.]

5. Direct consignment. - The following shall be considered as directly consigned from the exporting Contracting State to the importing Contracting State, namely :-

(a)if the products are transported without passing through the territory of any non-Contracting State;(b)the products whose transport involves transit through one or more intermediate non-Contracting States with or without transshipment or temporary storage in such countries :Provided that -(i)the transit entry is justified for geographical reason or by considerations related exclusively to transport requirements;(ii)the products have not entered into trade or consumption there; and(iii)the products have not undergone any operation there other than unloading and reloading or nay operation required to keep them in good condition.

6. Treatment of packing. - When determining the origin of products, packing shall be considered as forming a whole with the product it contains, unless packing has to be treated separately under the national legislation.

7. Certificate of Origin. - Products eligible for preferential concessions shall be supported by a Certificate of [Origin] [The standard Certificate of Origin to be used by all Contracting States approved by the Contracting State.], in the form annexed issued by an authority designated by the government of the exporting, Contracting State and notified to the other Contracting States in accordance with the Certification Procedures mentioned below the form annexed.

8. (a) In conformity with Art. 15 of the SAPTA and National legislators, any Contracting State may prohibit importation of products containing any inputs, originating from States with which it does not have economic and commercial relations.

(b) Contracting States will do their best to cooperate in order to specify origin of inputs in the certificate of origin.

9. Review. - These Rules may be reviewed as and when necessary upon request of one-third of the Contracting States and may be open to such modifications as may be agreed upon.

10. Special criteria percentage. - Products originating in least Developed Contracting States can be allowed a favourable 10 percentage points applied to the percentage established in paragraphs 3 and 4. Thus, for paragraph 3, the percentage would not exceed 60 per-cent, and for paragraph 4, the percentage would not be less than 50 percent.

Annexure Certificate of Origin

1. Goods consigned from (exporter's business name, address, country)	Reference No. Saarc Preferential Trading Arrangement (Sapta) combined declaration and certificate).		
2. Goods consigned to (Consignee's name, address, country)	Issued in (Country) See notes below.		
3. Means of transport and route (as far as known)	4. For Official use		
5. Tariff item number	6. Marks and numbers of Packages	7. Number and kind of packages : Description of goods	8. Origin criterion (see notes below)
11. Declaration by the exporter: The undersigned hereby declares that the above details and statement are correct' that all the goods were produced in that they comply with the origin requirements specified for those goods in SAPTA for goods exported	12. Certificate It is hereby certified on the basis of control carried out, that the declaration by the exporter is correct Place and date, signature and stamp of Certifying Authority and		

to.....(ImportingCountry).....Placeand
date, signature of authorised
signatory

I. General Conditions. - To qualify for preference, products must : (a) fall within a description of products eligible for preference in the schedule of concessions of SAPTA country of destination; (b) comply with Customs Tariff [Determination of Origin of Goods under the Agreement on SAARC Preferential Trading Arrangement] Rules, 1995. Each article in a consignment must qualify separately in its own right; and (c) comply with the consignment conditions specified by the Customs Tariff [Determination of Origin of Goods under the Agreement on SAARC Preferential Trading Arrangement] Rules, 1995. In general, products must be consigned directly within the meaning of paragraph 5 hereof from the country of exportation to the country of destination. II. Entries to be made in Box 8. - Preference products must be wholly produced or obtained in the exporting Contracting State in accordance with paragraph 2 of the Customs Tariff [Determination of Origin of Goods under the Agreement on SAARC Preferential Trading Arrangement] Rules, 1995, or where not wholly produced or obtained in the exporting Contracting States must be eligible under paragraph 3 or paragraph 4. (a) Products wholly produced or obtained : enter the letter "A" in Box 8. (b) Products not wholly produced or obtained : the entry in Box 8 should be as follows :

- 1. Entry letter "B" in Box 8, for products which meet the origin criteria according to paragraph 3. "Entry of letter would be followed by the sum of the value of materials, parts or produce originating from non-Contracting States, or undetermined origin used, expressed as a percentage of the f.o.b. value of the products; (example "E" 50 per cent);**
- 2. Enter letter "C" in Box 8 for products which meet the origin criteria according to paragraph 4. Entry of letter "C" would be followed by the sum of the aggregate content originating in the territory of the exporting Contracting State expressed as a percentage of the f.o.b. value of the exported product; (example "C" 60 percent);**
- 3. Enter letter "D" in Box 8 for products which meet the special origin criteria according to paragraph 10.**