

GENERAL EXEMPTION NO. 75

Customs Tariff (Determination of Origin of Goods under the Agreement on Global System of Trade Preferences among Developing Countries) Rules, 1989**[Notfn. No. 281/89-Cus. dt. 18.12.89]**

In exercise of the powers conferred by sub-section (1) of section or 5 of the Customs Tariff Act, 1975 (51 of 1975), the Central Government hereby makes the following rules, namely:-

1. Short title commencement:-

- (1) These rules may be called the Customs Tariff (Determination of Origin of Goods under the Agreement on Global System of Trade Preferences among Developing Countries) Rules, 1989.
- (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 participant.**3. Definitions:** In these rules, unless the context otherwise requires:-

- (a) GSTP means the agreement on Global System of Trade Preferences among Developing Countries signed by developing countries at Belgrade, Yugoslavia on the 13th April, 1988;
- (b) "notification" means the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 236/89-Customs, dated the 1st September, 1989;
- (c) "Participant" means a country listed in Appendix I or Appendix II to the notification;
- (d) "preferential concession", in relation to any product means the exemption granted under the notification;
- (e) word and expressions used in these rules and not defined herein but defined in the Customs Act, 1962 (52 of 1962), shall have the meaning, respectively, assigned to them in that Act.

4. Determination of origin:- No product shall be deemed to be the produce or manufacture of a participant unless the Assistant Collector of Customs is satisfied that the condition 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 product shall, at the time of importation:-

- (a) make a claim that the products are the produce or manufacture of the participant 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 GSTP imported into the territory of a participant from another participant which are consigned directly within the meaning of para 5 hereof, shall be eligible for preferential concessions if they conform to the origin requirement under any one of the following conditions:

- (a) Products wholly produced or obtained in the exporting participants as defined in para 2; or
- (b) Products not wholly produced or obtained in the exporting participant, provided that the said products are eligible under para 3 or para 4.

2. Wholly produced or obtained: Within the meaning of para 1(a), the following shall be considered as wholly produced or obtained in the exporting participant;

- (a) raw or mineral products extracted from its soil, its water or its seabeds; ¹
- (b) agricultural products harvested there; ²
- (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;^{3,4}
- (g) products processed and/or made on board its factory ships exclusively from products referred to in clause (f) above;^{4,5}
- (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 clauses (a) to (j) above

3. Not wholly produced or obtained:

- (a) Within the meaning of para 1(b), products worked on or processed as a result of which the total value of the materials, parts or produce originating from non-participants 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 participant shall be eligible for preferential concessions, subject to the provisions of clause (c) of para 3 and para 4;
- (b) Sectoral agreements;⁶
- (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 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 participant where the working or processing takes places.

4. Cumulative rules of origin:-Products which comply with origin requirements provided for in para 1 and which are used by a participant as input for a finished product eligible for preferential treatment by another participant shall be considered as a product originating in the territory of the participant where working or processing of the finished product has taken place provided that the aggregate content originating in the territory of the participant is not less than 60 per cent of its f.o.b. value.⁷

5. Direct consignment:-The following shall be considered as directly consigned from the exporting participant to the importing participant;

- (a) if the products are transported without passing through the territory of any non-participant;
- (b) the products whose transport involves transit through one or more intermediate non-participants with or without transshipment or temporary storage in such countries, provided that

³Vessels shall refer to fishing vessels engaged in commercial fishing, registered in a participant country and operated by a citizen or citizens or Governments of participant's or partnership, corporation or association, duly registered in such participants country, at least sixty per cent of equity of which is owned by a citizen or citizens and/or Government of such participants, or seventy five per cent by citizens and/or Governments of the participants. 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 participants will also be eligible for preferential concessions.

⁴In respect of vessels or factory ships operated by Government Agencies, the requirements of plying the flag of a participant does not apply.

⁵For the purpose of this agreement, the term "factory ship" means any vessel, as defined, used for processing and/or making on board products exclusively from those products referred to in clause (f) above.

⁶In respect of products traded within the framework of sectoral agreements negotiated under the GSTP, 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.

⁷"Partial" cumulation as implied by Para 4 above means that only products which have acquired originating status in the territory of one Participant may be taken into account when used as inputs for a finished product eligible for preferential treatment in the territory of

- (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 re-loading or any operation required to keep them in good condition.

6. Treatment of packing:-When determining the origin of products, packing should be considered as forming a whole with the product it contains. However, packing may be treated separately if the national legislation so requires.

7. Certificate of origin:- Products eligible for preferential concessions shall be supported by a Certificate of Origin in the form annexed issued by an Authority designated by the Government of the exporting participant and notified to the other participants in accordance with the Certification Procedures to be devised and approved by the participants.

- 8. (a) in conformity with paragraphs (a) and (b) of Article 3 and Article 15 of the Agreement on the GSTP and national legislations, any participant may prohibit importation of products containing any inputs originating from States with which it does not have economic and commercial relations;
- (b) Participants will do their best to co-operate 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 participants and may be open to such modifications as may be agreed upon.

10. Special criteria percentage:-products originating in participating less developed countries can be allowed a favourable 10 percentage points applied to the percentages established in paras 3 and 4. Thus, for para 3, the percentage would not exceed 60 per cent, and for para 4, the percentage would not be less than 50 per cent.

Annexure Certificate of Origin

(See para 7)

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| 1. | Goods consigned from (Exporter's business name, address, country) | Reference No.
GLOBAL SYSTEM FOR TRADE PREFERENCES (Combined declaration and certificate) |
| 2. | Goods consigned to (Consignee's name, address, country) | Issued in _____ (country)
See notes overleaf |
| 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 Note overleaf) |
| | 9. Gross weight or other quantity | 10. Number and date of invoices |
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