

Customs tariff (determination of origin of goods under the Preferential Trade Agreement between the Transitional Islamic State of Afghanistan and Republic of India) Rules, 2003

[Notification No. 33/2003-Cus. (N.T.), dated 13-5-2003]

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 Transitional Islamic State of Afghanistan and Republic of India) Rules, 2003.

(2) They shall come into force on the date of their publication in the Official Gazette.

2.Application. -

These rules shall apply to goods consigned from the territory of either of the Contracting Parties.

3.Determination of Origin. -

No product shall be deemed to be the produce or manufacture of either country unless the conditions specified in these rules are complied with in relation to such products, to the satisfaction of the appropriate Authority.

4.Declaration 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 country from which they are imported and such products are eligible for preferential treatment under the Agreement, and
- (b) produce the evidence specified in these rules.

Explanation :- For the purposes of this notification, "Preferential treatment" 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. 76/2003-Customs, dated the 13th May, 2003 and includes preferential concessions.

5.Originating products. -

Products covered by the Agreement imported into the territory of a Contracting Party from another Contracting Party which are consigned directly within the meaning of rule 9 hereof, shall be eligible for preferential treatment if they conform to the origin requirement under any one of the following conditions :

- (a) Products wholly produced or obtained in the territory of the exporting Contracting Party as defined in rule 6; or
- (b) Products not wholly produced or obtained in the territory of the exporting Contracting Party, provided that the said products are eligible under rule 7 or rule 8 read with rule 7.

6. Wholly produced or obtained. -

Within the meaning of rule 5(a), the following shall be considered as wholly produced or obtained in the territory of the exporting Contracting Party, namely : -

- (a) raw or mineral products, including mineral fuels, lubricants and related materials as well as mineral or metal ores, extracted from its soil, its water or its seabed;
- (b) vegetable products, including agricultural and forestry products, harvested there;
- (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 from the high seas by its vessels;
- (g) products processed and/or made on board its factory ships 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) products extracted from the seabed or below seabed which is situated outside its territorial waters, provided that it has exclusive exploitation rights;
- (k) goods produced there exclusively from the products referred to in clauses (a) to (j) above.

Explanation I :- "Vessels" shall refer to fishing vessels engaged in commercial fishing, registered in the country of the Contracting Party and operated by a citizen or citizens of the Contracting Party or partnership, corporation or association, duly registered in such country, at least 60 per cent of equity of which is owned by a citizen or citizens and/or Government of such Contracting Party or 75 per cent by citizens and/or Governments of the Contracting Parties. 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 Party will also be eligible or preferential treatment.

Explanation II :- In respect of vessels or factory ships operated by Government agencies, the requirements of flying the flag of the Contracting Party does not apply.

Explanation III :- For 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) of Rule 6.

7. Not wholly produced or obtained. -

(a) Within the meaning of rule 5(b), products worked on, or processed as a result of which the total value of the materials, parts or produce originating from countries other than the Contracting Parties or of undetermined origin used does not exceed 50% 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 Party shall be eligible for preferential treatment, subject to the provisions of clauses (b), (c), (d) and (e) of rule 7 and rule 8.

(b) Non-originating materials shall be considered to be sufficiently worked or processed when the product obtained is classified in a heading, at the four digit level, of the Harmonised Commodity Description and Coding System different from those in which all the non-originating materials used in its manufacture are classified.

(c) In order to determine whether a product originates in the territory of a Contracting Party, it shall not be necessary to establish whether the power and fuel, plant and equipment and machines and tools used to obtain such products originate in third countries or not.

(d) The following shall in any event be considered as insufficient working or processing to confer the status of originating products, whether or not there is a change of heading, namely :-

(1) Operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations).

(2) Simple operation's consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up.

(3) (i) changes of packing and breaking up and assembly of consignments;

(ii) simple slicing, cutting and repacking or placing in bottles, flasks, bags, boxes, fixing on cards or boards, etc., and all other simple packing operations.

(4) The affixing of marks, labels or other like distinguishing signs on products or their packaging.

(5) 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.

(6) simple assembly of parts of products to constitute a complete product.

(7) a combination of two or more operations specified in (a) to (f).

(8) slaughter of animals.

(e)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 Contracting Parties where the working or processing takes place.

8.Cumulative rules of origin. -

In respect of a product, which complies with the origin requirements provided in rule 5(b) and is exported by any Contracting Party and which has used material, parts or products originating in the territory of the other Contracting Party, the value addition in the territory of the exporting Contracting Party shall be not less than 30 per cent of the f.o.b. value of the product under export subject to the condition that, the aggregate value addition in the territories of the Contracting Parties is not less than 40 per cent of the f.o.b. value of the product under export.

Explanation :- Cumulation as implied by Rule 8 means that only products which have acquired originating status in the territory of one Contracting party may be taken into account when used as inputs for finished product eligible for preferential treatment in the territory of the other Contracting Party.

9.Direct consignment. -

The following shall be considered to be directly consigned from the exporting country to the importing country, namely :-

(a) if the products are transported without passing through the territory of any country other than the countries of the Contracting Parties.

(b) the products whose transport involves transit through one or more intermediate countries 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 any operation required to keep them in good condition.

10. 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.

11. Certificate of origin. -

Products eligible for a Certificate of origin in the form annexed shall support preferential treatment issued by an authority designated by the Government of the exporting country and notified to the other country in accordance with the certification procedures to be devised and approved by both the Contracting Parties.

12. Prohibitions. -

Either country may prohibit importation of products containing any inputs originating from States with which it does not have economic and commercial relations.

13. Co-operation between contracting parties. -

(a) The Contracting Parties will do their best to co-operate in order to specify origin of inputs in the Certificate of origin.

(b) The Contracting Parties will take measures necessary to address, to investigate and, where appropriate, to take legal and/or administrative action to prevent circumvention of this Agreement through false declaration concerning country of origin or falsification of original documents.

(c) Both the Contracting Parties will co-operate fully, consistent with their domestic laws and procedures, in instances of circumvention or alleged circumvention of the Agreement to address problems arising from circumvention including facilitation of joint plant visits and contacts by representatives of both Contracting Parties upon request and on a case-by-case basis.

(d) If either Party believes that the rules of origin are being circumvented, it may request consultation to address the matter or matters concerned with a view to seeking a mutually satisfactory solution. Each party will hold such consultations promptly.

14. Review. -

These rules may be reviewed as and when necessary upon request of either Contracting Party and may be open to such modifications as may be agreed upon.

CERTIFICATE OF ORIGIN

Reference No.

INDIA-AFGHANISTAN PREFERRED TRADING ARRANGEMENT (IAPTA)

1. Goods consigned from (Exporters Business Name, Address, Country)

(Combined declaration and certificate)

Issued in

(Country)

(See notes overleaf)

2. Goods consigned to

(Consignee's Name, Address, Country)

4. For Official use

3. Means of transport and route (as far as known)

5. Tariff item number

6. Marks and numbers of packages

7. Number and kind of packages description of goods

8. Origin criterion (see Notes overleaf)

9. Gross weight or other quantity

10. Number and date of 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) and that they comply with the origin requirements specified for those goods in IAPTA for goods exported to(Importing Country)

Certificate : 12.

It is hereby certified, on the basis of control carried out that the declaration by the exporter is correct.

.....

Place and date, signature of the authorised signatory

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To qualify for preference, products must :

Ø fall within a description of products eligible for concessions in the country of destination under this agreement.

Ø comply with IAPTA Rules of Origin. Each Article in a consignment must qualify separately in its own right; and

Ø comply with the consignment conditions specified by the IAPTA Rules of Origin. In general products must be consigned directly within the meaning of Rule 9 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 Party in accordance with Rule 6 of the IAPTA Rule of Origin, or where not wholly produced or obtained in the exporting Contracting Party must be eligible under Rule 7 or Rule 8.

Products wholly produced or obtained enter the letter 'A' in box 8.

Products not wholly produced or obtained, the entry in box 8 should be as follows:

Enter letter 'CB' in box 8 for products, which meet the origin criterion according to Rule 7. Entry of letter 'CB' would be followed by the sum of the value of materials, parts of produce originating from non-contracting parties or undetermined origin used, expressed as a percentage of the f.o.b. value of the products: (example 'B' () per cent).

Enter letter 'C' in box 8 for products, which meet the origin criteria according to Rule 8. Entry of letter 'C' would be followed by the sum of the aggregate content originating in the territory of the exporting Contracting Party expressed as a percentage of the f.o.b. value of the exported product (example 'C' () per cent).