
Rules of Determination of Origin of Goods under the Asia-Pacific Trade Agreement, (formerly known as the Bangkok Agreement) Rules, 2006

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Rules of Determination of Origin of Goods under the Asia-Pacific Trade Agreement, (formerly known as the Bangkok Agreement) Rules, 2006

In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975), and in supercession of Notification No. 430/1976-Customs dated 1st November 1976 (as amended) the Central Government hereby makes the following rules, namely: -

1. Short title and commencement :-

(i) These rules may be called the Rules of Determination of Origin of Goods under the Asia-Pacific Trade Agreement, (formerly known as the Bangkok Agreement) Rules, 2006.

(ii) These Rules shall come into force on 1st September 2006.

2. Originating products :-

Products covered by preferential trade within the framework of the Agreement imported into the territory of a Participating State from another Participating State which are consigned directly within the meaning of Rule 6 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 Participating State as defined in Rule 3; or

(b) Products not wholly produced or obtained in the exporting Participating State, provided that the said products are eligible under Rule 4 or Rule 5.

3. Wholly produced or obtained :-

Within the meaning of Rule 2 (a) the following shall be considered as wholly produced or obtained in the exporting Participating State:

(a) raw or mineral products extracted from its soil, its water or its seabeds;

(b) agricultural products harvested there;

(c) animals born and raised there;

(d) products obtained from animals referred to in paragraph (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 ^{4/5} exclusively from products referred to in paragraph (f) above;

(h) parts or raw materials recovered there from used articles which can no longer perform their original purpose nor are capable;

(i) used articles collected there which can no longer perform their original purpose there 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) waste and scrap resulting from manufacturing operations conducted there;

(k) goods produced there exclusively from the products referred to in paragraph (a) to (j) above.

4. Not wholly produced or obtained :-

(a) Within the meaning of Rule 2(b), products worked on or processed as a result of which the total value of the materials, parts or produce originating from non- Participating States or of undetermined origin used does not exceed 55 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 Participating State shall be eligible for preferential concessions, subject to the provisions of Rule 4(c), (d) and (e).

(b) Sectoral agreements.

(c) The formula for calculating the content of non-originating materials, and its requirement for obtaining the originating status referred to in Rule 3(a) is as follows: Value of imported non-originating Value of undetermined origin materials, parts or produce + materials, parts or produce x 100 less than 55% f.o.b. price

(d) 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 Participating State where the working or processing takes place.

(e) Whether or not the requirements of Rule 2(b) are satisfied, the following operations or processes are considered to be insufficient to confer the status of originating products:

(i) Operations to ensure the preservation of products in good condition either for transportation or storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

(ii) Simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;

(iii) Changes of packaging and breaking up and assembly of consignments;

(iv) Simple slicing, cutting or repacking or placing in bottles, flasks, bags, boxes, fixing on cards or boards, etc.

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

(vi) Simple mixing;

(vii) Simple assembly of parts of products to constitute a complete

product;

(viii) Slaughter of animals;

(ix) Peeling, unflaking, grain removing and removal of bones; and

(x) A combination of two or more operations specified above.

5. Cumulative rules of origin :-

Products which comply with origin requirements provided for in Rule 2 and which are used by a Participating State as input for a finished product eligible for preferential treatment by another Participating State shall be considered as a product originating in the territory of the Participating State where working or processing of the finished product has taken place provided that the aggregate content originating in the territory of the Participating States is not less than 60 percent of its f.o.b. value 7

6. Direct consignment :-

The following shall be considered as directly consigned from the exporting Participating State to the importing Participating State:

(a) if the products are transported without passing through the territory of any non- Participating State :

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

7. 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.

8. Certificate of origin :-

Products eligible for preferential concessions shall be supported by a Certificate of Origin⁸ issued by an authority designated by the government of the exporting Participating State and notified to the other Participating States in accordance with the attached sample Certificate of Origin and notes for the completion thereof.

9. Prohibition and co-operation :-

(a) Any Participating State may prohibit importation of products containing any inputs originating from States with which it does not have economic and commercial relations.

(b) Participating States will do their best to co-operate in order to specify origin of inputs in the Certificate of Origin.

10. Review :-

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

11. Special criteria percentage :-

Products originating in least developed Participating States can be allowed a favorable 10 percentage points applied to the percentages established in Rules 4 and 5. Thus, for Rule 4, the percentage would not exceed 65 percent, and for Rule 5, the percentage would not be less than 50 percent.

(1) Includes mineral fuels, lubricants and related materials as well as minerals or metal ores.

(2) Includes forestry products.

(3) "Vessels"- shall refer to fishing vessels engaged in commercial fishing, registered in a Participating State and operated by a citizen or citizens or governments of Participating States or partnership, corporation or association, duly registered in such Participating State, at least 60 per cent of equity of which is owned by a citizen or citizens and/or government of such Participating State or 75 per cent by citizens and/or governments of the Participating 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 Participating States will also be eligible for preferential concessions.

(4) In respect of vessels or factory ships operated by government agencies the requirement of flying the flag of a Participating State shall not apply.

(5) 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 paragraph (f) above.

(6) In respect of products traded within the framework of sectoral agreements negotiated under this Agreement, 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 Rule 5 above means that only products which have acquired originating status in the territory of one Participating State may be taken into account when used as inputs for a finished product eligible for preferential treatment in the territory of another Participating State subject to Rule 4 (e).

(8) A standard Certificate of Origin to be used by all Participating States is annexed (Annexure-A) and approved by the Participating States.