CUSTOMS TARIFF (DETERMINATION OF ORIGIN OF GOODS UNDER THE AGREEMENT ON SAARC PREFERENTIAL TRADING ARRANGEMENT) RULES, 1995

Notification No. 73/95-Cus. (N.T.), dated 7-12-1995 as amended by Notification No. 7/97-Cus. (N.T.), dated 1-3-1997, Notification No. 29/99-Cus (N.T.), dated 11-05-1999, Notification No. 68/2000-Cus (N.T.), dated 10-11-2000

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 on 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 llth 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;
- (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;
- (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 or Deputy 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 denied 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 :-

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- (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 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;

  (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) goods produced there exclusively from the products referred to in clauses (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 60 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;
- (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 50 per cent of its f.o.b. value.

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 transhipment 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.

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, 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 Article 15 of the SAPTA and national legislations, any Contracting State may prohibit importation of products containing any inputs originating from States with which it does not have economic and commercial relations.

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(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 70 per cent, and for paragraph 4, the percentage would not be less than 40 per cent.

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