

27 June 2017

(17-3388)

Page: 1/6

Committee on Rules of Origin

Original: English

**NOTIFICATION OF PREFERENTIAL RULES OF ORIGIN FOR
LEAST DEVELOPED COUNTRIES**

INDIA

The following communication, dated 22 June 2017, is being circulated at the request of the delegation of India.

Paragraph 4.3 of the 2015 Ministerial Decision on preferential rules of origin for least developed countries (WT/L/917/Add.1) requires preference-granting Members to notify preferential rules of origin as per the established procedures¹. In addition, as mandated by the Ministerial Decision, the Committee on Rules of Origin agreed, at its meeting of 2 March 2017, to a template for such notifications (G/RO/84).

Following such requirements, the following notification has been received from: India.

A. BASIC INFORMATION

1)	Notifying member	India
2)	Date of entering into force of Rules of origin and any substantive modification thereof	13 August 2008 [Notified vide Notification No. 100/2008-Customs (N.T.) dated 13 August 2008]. Modified the Rules of Origin on 10 March 2015 vide Notification No. 29/2015-Customs (N.T.) dated 10 March 2015 which superseded Notification No. 100/2008-Customs (N.T.) dated 13 August 2008. Link: http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2015/cs-nt2015/csnt29-2015.pdf
3)	Date of expiration of Rules of origin if applicable	Not Applicable
4)	Title of the preferential scheme for which legislation on Rules of origin is applicable	Duty Free Tariff Preference Scheme for Least Developed Countries
5)	Authority(ies) granting the preferential treatment	Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, Government of India – Web link with respect to procedural matters: http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2015/cs-nt2015/csnt29-2015.pdf – Web link with respect to the product coverage of the DFTP Scheme: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2014/cs-tarr2014/cs08-2014
6)	National authorities in charge of	The Director (International Customs),

¹ The relevant notification requirements are contained in Paragraph 2(d) of Annex 1 of the Transparency Mechanism for Preferential Trade Arrangements (WT/L/806) and in Paragraph 4 of Annex II of the Agreement on Rules of Origin.

	Rules of origin administration	<p>Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, Government of India, Room No. 49, North Block, New Delhi 110001, INDIA.</p> <p>Telephone: +91 11 2309 3380 Fax +91 11 2309 3760 e-mail: diricd-cbec@nic.in</p>
--	---------------------------------------	--

B. INFORMATION ON RULES OF ORIGIN**I. BENEFICIARIES**

1)	List of Beneficiaries	<ul style="list-style-type: none"> - Complete list of beneficiary can be found in following web links: http://commerce.gov.in/writereaddata/trade/international_tpp_DFTP.P.pdf - http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs39-2016.pdf - http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs46-2016.pdf
2)	Eligibility	<p>To become a beneficiary under the DFTP Scheme, the prospective beneficiary country (Least Developed Country) is required to provide a letter of intent as well as specimen seals and signatures of the officials authorised to issue the certificate of origin under the DFTP Scheme. The prescribed format of the letter of intent and specimen seals and signatures of the authorised officials, as required under the Scheme are at Annex I and Annex II respectively of the document available at following web link:</p> <p>http://commerce.gov.in/writereaddata/trade/international_tpp_DFTP.pdf</p>

II. CRITERIA FOR DETERMINING SUBSTANTIAL TRANSFORMATION

1) General criteria, if applicable for all products		
	(a) Definition of wholly obtained products	<p>The following products shall be considered as being wholly obtained or produced in the territory of an exporting beneficiary country, namely:</p> <ul style="list-style-type: none"> (a) raw or mineral products including mineral fuels, lubricants and related materials as well as mineral or metal ores extracted from its territory; (b) plant and plant products, including agricultural, vegetable and forestry products grown or harvested there; (c) live animals born and raised there; (d) products obtained from animals referred to in clause (c); (e) products obtained by hunting, trapping, fishing or aquaculture conducted there; (f) products of sea fishing and other marine products taken from outside its territorial waters and exclusive economic zone by vessels registered and flying the flag of the exporting beneficiary country; (g) products processed or made on board its factory ships exclusively from products referred to in clause (f); (h) scrap and waste derived from manufacturing or processing operations conducted there and fit only for disposal or for the recovery of raw materials; (i) used articles collected there which can no longer perform their original function, 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) products taken from the seabed, subsoil or ocean floor thereof beyond its territory, provided the exporting beneficiary country has the rights to exploit that sea bed, subsoil or ocean floor in

		<p>accordance with the provisions of the United Nations Convention on the Law of the Sea;</p> <p>(k) products produced there exclusively from the products referred to in clauses (a) to (j).</p>
	(b) Describe the criteria for not-wholly produced products	<p>Products not wholly obtained or produced shall be considered as originating in the exporting beneficiary country if they fulfil the following conditions:</p> <p>(a) the total value of the non-originating materials used in the manufacture of the export product does not exceed 70% of the FOB value or ex-works value of the product so produced or obtained (that is, the local value added content in the exporting beneficiary country is at least 30%);</p> <p>(b) the product has undergone a change in tariff classification in sub-heading at the 6 digit level of the Harmonized System nomenclature from the tariff classification in which the non-originating material used in its manufacture are classified; and</p> <p>(c) the final process of manufacture is performed within the territory of the exporting beneficiary country.</p>
	(c) Insert the formula for calculating <i>ad valorem</i> percentage	<p>For the purpose of calculating the "local value added content" referred to in sub-rule (1), one or other of the following formulae shall be applied:</p> <p>(a)</p> $\text{Local value added content (X \%)} = \frac{(\text{FOB value}) - (\text{value of non-originating materials})}{(\text{FOB value})} \times 100\% \geq 30\%$ <p>(b)</p> $\text{Local value added content (X \%)} = \frac{(\text{ex-works value}) - (\text{value of non-originating materials})}{(\text{ex-works value})} \times 100\% \geq 30\%$
2) Product specific rules of origin, where applicable		
	(a) Insert the link where the complete list of product specific rules of origin can be found.	There is no product specific rule under the Duty Free Tariff Preference Scheme
	(b) Insert the formula for calculating <i>ad valorem</i> percentage, when applied for product specific rule	Not applicable
3)	Definition of non-originating material and originating material, if any	<p>The value of the non-originating materials used in the production of a product shall be</p> <p>(a) for materials, the country of origin of which is other than the exporting beneficiary country or India, the CIF value; or</p> <p>(b) for materials, the origin of which cannot be determined, the earliest price ascertained to have been paid in the territory of the exporting beneficiary country where the working or processing takes place, in accordance with the Agreement on Customs Valuation.</p> <p><i>Explanation 1.</i>- For the purpose of calculation of value of the non-originating materials, duties and taxes on the material paid in the territory of the exporting beneficiary country or both of India and the exporting beneficiary country shall not be included, and if already included in such value, such expenses shall be deducted.</p> <p><i>Explanation 2.</i>- All costs referred to in these rules shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the exporting beneficiary country in which the product is produced.</p>
4)	List of insufficient working process, if any	<p>Product shall not be considered to have satisfied the requirements for an originating product merely by reason of going through the following operations or processes:</p> <p>(a) operations to ensure the preservation of products in good</p>

		<p>condition during transport and storage such as drying, freezing, keeping in brine, ventilation, spreading out, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations;</p> <p>(b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching including the making-up of sets of articles, washing, painting and cutting;</p> <p>(c) changes of packing and breaking up and assembly of consignments;</p> <p>(d) simple cutting, slicing and repacking or placing in bottles, flasks, bags, boxes, fixing on cards or boards, and all other simple packing operations;</p> <p>(e) affixing of marks, labels or other like distinguishing signs on products or on their packaging;</p> <p>(f) 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;</p> <p>(g) simple assembly of parts of products to constitute a complete product or disassembly of products into parts or packing thereof;</p> <p>(h) slaughter of animals;</p> <p>(i) mere dilution or mixing of products with water or another substance that does not materially alter the characteristics of the products so obtained;</p> <p>(j) a combination of two or more operations referred to in clauses (a) to (i).</p>
5)	Rules for application of cumulation and related procedures if any	"Accumulation": Where the originating material from India is incorporated in the production of a product in the territory of the exporting beneficiary country, such material shall be considered to originate in the territory of the exporting beneficiary country.
6)	Any other information that member deems necessary	<p>Web link with respect to Rules for Determination of Origin of Products under the Duty Free Tariff Preference Scheme:</p> <p>http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2015/cs-nt2015/csnt29-2015.pdf</p>

III. DOCUMENTARY REQUIREMENTS

1) Certificate of origin and other proofs of origin		
	(a) Requirement for certificate of origin and/or any other proof of origin, if any	Issuance of certificate of origin is required
	(b) Authority to be designated for issuance of certificate of origin	Beneficiary country is to notify the Government authority/Agency for issuance of certificate of origin.
	(c) Prescribed form of Certificate of origin and/or any other proof of origin	Prescribed form of certificate of origin is at Annexure –C of the following web link: http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2015/cs-nt2015/csnt29-2015.pdf
	(d) Any other procedures applied for certificate of origin and/or any other proof of origin, if any	Procedures applied for certificate of origin is available at the web link mentioned at (c) above

2) Direct shipment		
	(a) Rules applicable for direct shipment, if any	<p>Products, in respect of which tariff preference is claimed, shall be considered as directly consigned from the exporting beneficiary country if,</p> <ul style="list-style-type: none"> (a) these products are transported without passing through the territory of any other country; or (b) the transport of these products involves transit through one or more intermediate countries with or without trans-shipment or temporary storage in such countries, where,- <ul style="list-style-type: none"> (i) their transit entry is justified for geographical reasons or by considerations related exclusively to transport requirements; (ii) the products have not entered into trade or consumption there; (iii) the products have not undergone any operation other than unloading and reloading or any operation required to keep them in good condition; and (iv) the products have remained under the customs control in the country of transit.
	(b) Documentary requirement for proof of direct shipment including when the transport of consignment involves transit through one or more intermediate countries, if any	<p>For the purpose of claiming tariff preference for the imported product considering such product as directly consigned from the exporting beneficiary country the following shall be produced before the customs authority of India at the time of importation:</p> <ul style="list-style-type: none"> (a) a through bill of lading issued in the exporting country; (b) a certificate of origin issued by the issuing authority of the exporting beneficiary country; (c) a copy of the original commercial invoice in respect of the product; and (d) supporting documents in evidence that other requirements of this rule have been complied with.

IV. VERIFICATION AND PENALTIES

1)	Procedure for verification of proofs of origin	<p>Rule 20 of the Customs Tariff (Determination of Origin of Products under the Duty Free Tariff Preference Scheme for Least Developed Countries) Rules, 2015 notified vide Notification No. 29/2015-Customs (N.T.) dated 10 March 2015.</p> <p>Web link: http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2015/cs-nt2015/csnt29-2015.pdf</p>
2)	Penalties for fraud and false declarations	<p>Rule 23 of the Customs Tariff (Determination of Origin of Products under the Duty Free Tariff Preference Scheme for Least Developed Countries) Rules, 2015 notified vide Notification No. 29/2015-Customs (N.T.) dated 10 March 2015.</p>
3)	Authorities and procedures for appeal in the case of dispute on verification	As per Domestic Law
4)	Requirement for preserving the documents related to issuance of certificate of origin	The application for certificate of origin and all documents related to such application shall be retained by the issuing authority for not less than five years from the date of issuance of the said certificate.
5)	Any other relevant information	

V. REFERENCE TEXTS

(a)	The legislative texts in one of the official WTO languages containing the preferential rules of origin applicable under a PTA granted under the Decision on Measures in Favour of Least-Developed Countries (Annex F of the Hong Kong Ministerial Declaration)	The Customs Tariff (Determination of Origin of Products under the Duty Free Tariff Preference Scheme for Least Developed Countries) Rules, 2015 are available on the official website: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2015/cs-nt2015/csnt29-2015.pdf
(b)	The full text of the administrative regulations concerning modalities for issuance, acceptance, retrospective issuance and replacement of certificates of origin or any equivalent declarations to be made, including any requirements related to stamps to be used along with notification of stamps	
(c)	The full text and related administrative regulations of the modalities for the proof of movement of the consignment of the goods from the beneficiary countries to preference-giving countries including transit through third countries	
(d)	The full texts of the modalities of the verification procedures and related penalties	