

Annex - 'C' Rules of Origin

RULES OF ORIGIN

1. Short title/commencement:-

These rules may be called the rules of determination of Origin of Goods under the Free Trade Agreement between the Democratic Socialist Republic of Sri Lanka and the Republic of India .

2. Application:-

These rules shall apply to products 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. 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 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.

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.

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

(a) raw or mineral products¹ extracted from its soil, its water or its sea bed;

(b) vegetable products² harvested there;

(c) animal 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^{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) 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.

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 65% 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 :

(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 operations 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 re-packing 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 25 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 35 per cent of the f.o.b. value of the product under export.

9. Direct consignment :-

The following shall be considered to be directly consigned from the exporting country to the importing country

- (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.

Notes:

1. include mineral fuels, lubricants and related materials as well mineral or metals

2. includes agricultural and forestry products

3. "Vessels" shall refer to fishing vessels engaged in commercial fishing, registered in the country of the Contracting Party and operated by 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 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 for preferential treatment.

4. In respect of vessels or factory ships operated by Government agencies, the requirements of flying the flag of the Contracting Party does 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 clause (f) of Rule 6.

6. 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 a finished product eligible for preferential treatment in the territory of the other Contracting Party.