

## Rules of Origin

### Title

These Rules shall be called the Rules for determination of the origin of products for availing tariff preferences under the DFTPI- LDC Scheme.

#### **Rule 1: Determination of Origin**

No product shall be deemed to be originating in the Beneficiary Country unless the conditions specified in these Rules are complied with in relation to such products, to the satisfaction of the Government Authority Certificate of Origin of the beneficiary country authorised to issue the DFTPI – LDC.

#### **Rule 2: 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 beneficiary country from where they are imported and such products are eligible for tariff preferences, and
- b) produce the evidence specified in these rules.

#### **Rule 3: Originating products**

Products, covered by the DFTPI-LDC Scheme, imported into India from a beneficiary country, which are consigned directly within the meaning of Rule 7 hereof, shall be eligible for tariff preferences if they conform to the origin requirement under any one of the following conditions:-

- a) products wholly produced or obtained in the exporting beneficiary country as defined in Rule 4; or
- b) products not wholly produced or obtained in the exporting beneficiary country, provided it fulfils the conditions prescribed under Rule 5.

#### **Rule 4: Products wholly produced or obtained**

Within the meaning of Rule 3(a), the following shall be considered as wholly produced or obtained in the exporting beneficiary country, namely:

- a) Raw or mineral products<sup>1</sup> extracted from its territory;
- b) Plant and plant products, including agriculture, 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) above;
- e) Products obtained by hunting, trapping, fishing or aquaculture conducted there;

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<sup>1</sup> Includes mineral fuels, lubricants and related materials as well as mineral or metal ores.

- f) Products of sea fishing and other marine products taken from outside its Territorial Waters and Exclusive Economic Zone (EEZ) by vessels registered and flying the flag of the beneficiary country ;
- g) Products processed and/or made on board its factory ships exclusively from products referred to in clause (f) above;
- 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 purpose 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 beneficiary country has the rights to exploit that sea bed, subsoil or ocean floor thereof in accordance with the provisions of the UNCLOS;
- k) Products produced there exclusively from the products referred to in clauses (a) to (j) above.

**Rule 5: Products not wholly produced or obtained**

(a) Within the meaning of Rule 3(b) and subject to the provisions of Rule 6, products not wholly produced or obtained shall be considered as originating in the exporting beneficiary country if they fulfil the following conditions:-

- (i) The total value of the non-originating materials, parts, or produce used in the manufacture of the export product does not exceed 70% of the f.o.b. value of the product so produced or obtained (i.e. the local value added content in the Beneficiary Country is at least 30%);
- (i) the product so produced or obtained is classified in a Heading, (at 4-digit level of the Harmonised System) which is different from those in which all the non-originating materials used in its manufacture are classified (CTH or Change in Tariff Heading Rule); and
- (ii) the final process of manufacture is performed within the territory of the exporting beneficiary country.

(b) For the purposes of calculating the local value added content, the following formula shall be applied:-

Local Value Added Content ( X%) =

$$\frac{\text{FOB Price} - \text{Value of non-originating materials}}{\text{FOB Price}} \times 100$$

(In order for a product to qualify as originating X ≥ 30%)

- (c) The value of the non-originating materials, parts, or produce or of undetermined origin shall be:
- (i) the CIF 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 beneficiary where the working or processing takes place.
- (d) If in the manufacturing of the final export product, the originating material from India is used as input, the value of such input shall be included in the calculation of the local value added content as it would be deemed to be originating in the exporting beneficiary country.

#### **Rule 6: Insufficient Operations**

The following operations shall in any event be considered insufficient working or processing to confer the originating status:-

- (a) operations to ensure the preservation of products in good 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);
- (b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting;
- (c) changes of packing and breaking up and assembly of consignments;
- (d) simple cutting, slicing and repacking or placing in bottles, flasks, bags, boxes, fixing on cards or boards, and all other simple packing operations;
- (e) affixing of marks, labels or other like distinguishing signs on products or their packaging;
- (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;
- (g) simple assembly of parts of products to constitute a complete product and or disassembly of products into parts and/or packing thereof;
- (h) slaughter of animals;

- (i) mere dilution or mixing of products with water or another substance that does not materially alter the characteristics of the products so obtained; and
- (j) a combination of two or more operations referred to in paragraphs (a) to (i).

#### **Rule 7: Direct consignment**

Products, in respect of which tariff preferences are claimed, shall be considered as directly consigned from the exporting beneficiary country:

- (a) if these are transported without passing through the territory of any other country;
- (b) if these products, where their transport involves transit through one or more intermediate countries with or without trans-shipment or temporary storage in such countries provided that:
  - 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.

#### **Rule 8: Treatment of packing**

##### **(a) Packages and Packing Materials, cases or containers presented with the products for retail sale:**

- (i) The packages and packing materials/cases/ containers for retail sale, when classified together with the packaged products, according to General Rule 5 of the Harmonised System, shall not be taken into account for considering whether packages and packing materials/cases/ containers fulfil the criterion corresponding to a change of tariff classification of the said products.
- (ii) If the product is subject to an ad-valorem percentage criterion, the value of the packages and packing materials/cases/container for retail sale shall be taken into account in its origin assessment, in case they are treated as being one for customs purposes with the products in question.

##### **(b) Containers and packing materials for transport**

The containers and packing materials exclusively used for the transport of a product shall not be taken into account for determining the origin of any products.

#### **Rule 9: Certificate of Origin**

Products eligible for preferential concessions shall be supported by a DFTPI-LDC Certificate of Origin as per the format in **Attachment-A** issued by a Government authority designated by the exporting beneficiary country and notified to the

Government of India in accordance with the Operational Certification Procedures as set out in **Attachment – B**.

#### **Rule 10: Mutual Co-operation**

The beneficiary countries shall co-operate with Government of India in order to specify the origin of inputs in the Certificate of Origin after carrying necessary verification of the declaration made by the exporter and also assist the Government of India in post-importation verification, should a request for the same is made.

#### **Rule 11: Review and Modification**

These Rules and the Operational Certification Procedures may be reviewed and modified by the Government of India as and when considered necessary.

**CERTIFICATE OF ORIGIN**

1. Goods consigned from (Exporters' Business Name, Address, Country)			Reference No.  DFTPI-LDC Scheme  (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. HS Code	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
<p>11. Declaration by the Exporter</p> <p>The undersigned hereby declares that the above details and statements are correct; That all the goods were produced in</p> <p>..... (Country)</p> <p>and that they comply with the origin requirements specified for those goods in DFTPI-LDC Scheme.</p> <p>..... (Importing Country)</p> <p>..... Place and date, signature of the authorised signatory</p>			<p>12. Certificate:</p> <p>It is hereby certified, on the basis of control carried out that the declaration by the exporter is correct.</p> <p>.....</p> <p>Place and date, signature and stamp of certifying authority.</p>		

## NOTE

### **I. To qualify for preference, products must:**

- (a) fall within a description of products eligible for concessions in India under this Scheme.
- (b) comply with Rules of Origin of the DFTPI-LDC Scheme. Each product in a consignment must be originating separately in its own right; and
- (c) comply with the consignment conditions specified by the DFTPI-LDC Scheme Rules of Origin.

### **II. Entries to be made in Box 8**

- (a) Preference products must be wholly produced or obtained in the exporting Beneficiary country in accordance with Rule 4 of the DFTPI-LDC Scheme Rules of Origin, or where not wholly produced or obtained in the exporting Beneficiary country must be eligible under Rule 5.
- (b) Products wholly produced or obtained – enter the letter '**A**' in box 8.
- (c) Products not wholly produced or obtained - the entry in box 8 should be as follows:
  - (i) Enter letter '**B**' in box 8 for products, which meet the origin criterion according to Rule 5. Entry of letter '**B**' would be followed by the percentage of Local Value Added Content, as calculated under Rule 5(b): **(example B( -- ) percent)**.
  - (ii) Enter letter '**C**' in box 8 for products, which meet the origin criteria according to Rule 5(d). Entry of letter '**C**' would be followed by the percentage of Local Value Added Content, as calculated under Rule 5(b) & 5(d): **(example 'C' (Local: --%; Indian--%; Total-- per cent))**.

## Attachment-B to the Rules of Origin

### **OPERATIONAL CERTIFICATION PROCEDURES FOR RULES OF ORIGIN IN RESPECT OF PRODUCTS ELIGIBLE FOR PREFERENTIAL TARIFF UNDER THE DFTPI –LDC SCHEME**

For the purpose of implementing the Rules of Origin for the DFTPI- LDC Scheme, the under-mentioned operational procedures on the issuance and verification of the Certificate of Origin and other related administrative matters, shall be followed:

#### Authorities

1. The certificate of origin shall be issued by the Government authorities designated by the Government of the exporting Beneficiary country (hereinafter referred as "Issuing Authority").
2. Each beneficiary country shall submit the names and addresses of their respective issuing authorities as well as provide specimen signatures and specimen of official seals used by the said authorities.
3. Any change in names, addresses, or official seals shall be promptly intimated in the same manner.
4. For the purpose of verifying the conditions for preferential treatment, the issuing authority shall have the right to call for any supporting documentary evidence or to carry out any verification considered appropriate.

#### Applications

5. The manufacturer and /or exporter of the products qualified for preferential treatment shall apply in writing to the relevant Issuing Authority requesting for the pre-exportation verification of the origin of the products. The Issuing Authority may seek a declaration in **Form-A** to verify the eligibility to origin claimed by the manufacturer or exporter. The result of the verification, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in verifying the origin of the said products to be exported thereafter. The pre-exportation verification may not apply to the products of which, by their nature, origin can be easily verified.
6. At the time of carrying out formalities for exporting the products under preferential treatment, the exporter or his authorized representative shall submit a written application for the certificate of origin together with appropriate supporting documents proving that the products to be exported qualify for the issuance of certificate of origin.

#### Pre- Exportation Examination

7. The Issuing Authority shall, to the best of their competence and ability, carry out proper examination upon each application for the certificate of origin to ensure that:



- a) The application and the certificate of origin are duly completed and signed by the exporter/authorized signatory;
- b) The origin of the product is in conformity with the rules of origin for the Scheme;
- c) The other statements of the certificate of origin correspond to supporting documentary evidence submitted; and
- d) HS code, description, quantity and weight of Products, marks and number of packages, number and kinds of packages, as specified, conform to the consignment to be exported.

### **Issuance of Certificate of Origin**

8. The certificate of origin must be on A4 size paper and in English in conformity to the specimen as shown in **Attachment – 'A'**.

9. The certificate of origin shall comprise of one original and three (3) copies of the following colours :

Original –blue  
Duplicate –white  
Triplicate –white  
Quadruplicate –white

10. Each certificate of origin shall bear a reference number separately given by each place or office of issuance.

11. The Issuing Authority while retaining the duplicate copy shall provide the original copy & remaining two copies to the exporter. The original copy together with the triplicate shall be forwarded by the exporter to the importer for submission of the original copy to the Customs Authority at the port or place of importation. The triplicate shall be retained by the importer and the quadruplicate shall be retained by the exporter.

### **Implementation of the provisions**

12. To implement the provisions of rules of origin of the Scheme the certificate of origin issued by the Issuing authority in the exporting country shall indicate the relevant rules and applicable criteria in Box 8.

13. Neither erasures nor superimpositions shall be allowed on the certificates of origin. Any alteration shall be made by striking out the erroneous materials and making any addition required. Such alterations shall be approved by an official authorized to sign the certificate of origin and certified by the Issuing authority. Unused spaces shall be crossed out to prevent any subsequent addition.

14. The certificate of origin shall be issued by the relevant Issuing Authority of the exporting country at the time exportation, or within 3 working days from the date of shipment, whenever the products to be exported can be considered originating in that country within the meaning of the rules of origin for the Scheme.

15. In exceptional cases where a certificate of origin has not been issued at the time of exportation or within 3 working days from the date of shipment due to involuntary errors or omissions or other valid causes, the certificate of origin may be issued

retroactively but no longer than 45 days from the date of shipment, bearing the word "Issued Retroactively"

16. In the event of theft, loss or destruction of a certificate of origin, the exporter may apply in writing to the Issuing Authority which issued it for a certified true copy of the original and triplicate to be made on the basis of the export documents in their possession bearing the endorsement of the word "CERTIFIED TRUE COPY" (in lieu of the original certificate) in Box 12 of the certificate of origin. This copy shall bear the date of the original Certificate of origin. The certified true copy of a certificate of origin shall be issued within the validity period of the original Certificate of origin and on the condition that the exporter provides to the relevant Issuing Authority the quadruplicate copy. The validity of certified true copy of the certificate of origin would be the same as that of the original certificate so issued.

### **Presentation at the time of Importation**

17. The original certificate of origin shall be submitted to the Customs Authorities at the time of lodging the import entry for the products concerned.

18. The following time limit for the presentation of the certificate be observed:

- a) The validity of the certificate of origin shall be 12 months from the date of its issuance.
- b) Certificate of origin must be submitted to the Customs Authority within the validity period.

19. Where the certificate of origin is submitted to the relevant Authority of the importing country after the expiration of the validity of the certificate of origin, such certificate is still to be accepted when failure to observe the time limit results from *force majeure* or other valid reasons beyond the control of the exporter.

20. In all cases, the relevant Customs Authority in India may accept such certificate of origin provided that the products have been imported before the expiry of the validity of the certificate of origin.

21. The discovery of minor discrepancies between the statements made in the certificate of origin and those made in the documents submitted to the Customs Authority of India for the purpose of carrying out the formalities for clearance of import, the products shall not *ipso facto* invalidate the certificate of origin, if it does in fact correspond to the said products.

22. In cases where the Certificate of Origin is rejected by the Custom Authorities in India, the original Certificate of Origin shall be returned to the issuing authority within a reasonable period but not exceeding two (2) months. The grounds for denial of preferential tariff treatment shall be duly notified to the importer and the Issuing Authority.

### **Verification**

23. The Customs Authorities of India may request a retroactive check at random and/or when it has reasonable doubt as to the authenticity of the document or as to

the accuracy of the information regarding the true origin of the product in question or of certain parts thereof. The issuing authority shall conduct a retroactive check on a producer/exporter's cost statement based on the current cost and prices within a six-month timeframe, specified at the date of exportation subject to the following procedures:

- (a) the request for a retroactive check by India shall be accompanied with the Certificate of Origin concerned and shall specify the reasons and any additional information suggesting that the particulars given on the said Certificate of Origin may be inaccurate, unless the retroactive check is requested on a random basis;
- (b) the issuing authority receiving a request for retroactive check shall respond to the request promptly and reply within three (3) months after receipt of the request;
- (c) the retroactive check process, including the actual process and the determination of whether the subject product is originating or not, should be completed and the result should be communicated to the issuing authority within six (6) months; and
- (d) In case of reasonable doubt as to the authenticity or accuracy of the document, the customs authority of India may suspend provision of preferential tariff treatment while awaiting the result of verification. However, it may release the product to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

24. The customs authority of India may request an importer for information or documents relating to the origin of imported product in accordance with its domestic laws and regulations before requesting the retroactive check pursuant to paragraph 23 above.

25. If the customs authority in India is not satisfied with the outcome of the retroactive check, it may, under exceptional circumstances, request verification visits to the exporting Party. Prior to conducting a verification visit:-

- (a) The customs authority shall deliver a written notification of its intention to conduct the verification visit simultaneously to:
  - (i) the producer/exporter whose premises are to be visited;
  - (ii) the issuing authority of the beneficiary country in the territory of which the verification visit is to occur;
  - (iii) the importer of the product subject to the verification visit.
- (b) the written notification mentioned in sub-paragraph (a) shall be as comprehensive as possible and shall include, among others:
  - (i) the name of the Indian customs authority issuing the notification;
  - (ii) the name of the producer/exporter whose premises are to be visited;
  - (iii) the proposed date of the verification visit;

- (iv) the scope/purpose of the proposed verification visit, including reference to the product subject to the verification; and
  - (v) the names and designation of the officials performing the verification visit;
- (c) If the visit is not finalized by the issuing authority within thirty (30) days from the date of receipt of the notification pursuant to sub-paragraph (a), India may deny preferential tariff treatment to the product referred to in the said Certificate of Origin that would have been subject to the verification visit; and
- (d) the issuing authority receiving the notification may also request for postponing the proposed verification visit and notify the concerned authority in India of such intention within fifteen (15) days from the date of receipt of the notification. Notwithstanding any postponement, any verification visit shall be carried out within sixty (60) days from the date of such receipt, or for longer period as India may agree.

26. The concerned authorities of India conducting the verification visit shall provide the producer/exporter whose product is subject to the verification and the relevant issuing authority with a written determination of whether or not the subject product qualifies as an originating product.

27. The determination of whether the product qualifies as an originating product shall be notified to the producer/exporter, and the relevant issuing authority. Any suspended preferential tariff treatment shall be reinstated upon such determination.

28. The producer/exporter shall be allowed thirty (30) days from the date of receipt of the written determination to provide in writing comments or additional information regarding the eligibility of the product for preferential tariff treatment. If the product is still found to be non-originating, the final written determination issued by India shall be communicated to the issuing authority within thirty (30) days from the date of receipt of the comments/additional information from the producer/exporter.

29. The verification visit process, including the actual visit and the determination of whether the subject product is originating or not, shall be carried out and its results communicated to the issuing authority within a maximum period of six (6) months from the date when the verification visit was conducted. While the process of verification is being undertaken, provisions of paragraph 23(d) may be applied.

#### **Retention of Documents**

30. The application for certificates of origin and all documents related to such application shall be retained by the Issuing Authority for not less than three (3) years from the date of issuance.

31. Information relating to the validity of the certificate of origin shall be furnished upon request of concerned Government Authority of India. Any information

communicated among the Government authorities shall be treated as confidential and shall be used for the validation of the certificates of origin purposes only.

### **Special Cases**

32. When destination of all or parts of all or parts of the products exported to specified port is changed, before or after their arrival in India, the following rules shall be observed:

- a) If the products have already been submitted to the Customs Authority in the specified importing port , the certificate of origin shall by a written application of the importer ,be endorsed to this effect for all or parts of products by the said Authority and the original returned to the importer.
- b) If the changing of destination occurs during transportation to India as specified in the certificate of origin, the exporter shall apply in writing concerned Customs Authority, accompanied with the issued certificate of origin, for the new destination.

33. For the purpose of implementing the provisions of Rule 7 of the Rules of Origin, the following shall be produced to the customs authority of India at the time of importation:

- 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 Rule 7 have been complied with.

### **Action against Fraudulent Acts**

34. When it is suspected that fraudulent acts in connection with the certificate of origin have been committed, the concerned Issuing Authorities and the respective governments shall cooperate for appropriate action to be taken in the respective countries against the persons involved.

35. Every beneficiary country in the Scheme shall provide legal sanctions for fraudulent acts related to the certificate of origin.

**FORM-A**

1. Name & Address of the Exporter /Manufacturer:
2. Registration Number:
3. Country of origin:

*All cost and price figures are to be shown in US dollars (\$)*

4. Export Product –wise general information:

S.No	Description of the product	Model/Brand	HS code	FOB Value

5. Product –wise material cost information: (To be furnished for each product listed in Point (4) above.

Element of cost	Country of Origin	Supplier's name	Cost details per unit quantity				
			Unit qty	Originating materials		Non-originating materials and materials of undetermined origin	Total
				Local	Indian		
a) Cost of imported materials, inputs parts or produce							
Input (i)							
Input (ii)							
Input (iii), etc							
Total							
b) Cost of originating materials, inputs, parts or produce							
c) FOB price							

**Calculation:** Value of materials etc., not originating within the beneficiary country excluding India as% of FOB price :

- A. Value content of originating materials etc., as % of FOB price:

## DECLARATION

I declare that the information provided by me as above is true and correct.  
I will permit, as and when required, inspection of our factory/Products by the officers of  
----- and undertake to maintain up to date costing records.

Signature, Name & Designation of the signatory

## FOR OFFICIAL USE

The particulars given above have been checked, verified by the records maintained by the applicant and found to be correct .On the strength of this evidence, the applicant is eligible to claim that the Products have originated from --  
----- as shown in Point (3) above in terms of the provisions of India's DFTPI- LDC Scheme.

Place & Date:

Signature & Name of the Competent Authority with Official Seal