

Notification No. 79/2009 - Customs (N. T.) dated 09.07.2009
Amendments in the 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), the Central Government hereby makes the following amendment in the Rules of Determination of Origin of Goods under the Asia-Pacific Trade Agreement (formerly known as the Bangkok Agreement) Rules, 2006, namely: -

In the said rules, -

(a) for rule 8, the following rule shall be substituted namely:-

“RULE 8. Certificate of origin. - Products eligible for preferential concession shall be supported by a Certificate of Origin in the form specified in Annexure A and issued by an authority designated by the Government of the exporting Participating State and notified to the other Participating States, in accordance with the provisions specified in Annexure B.”

(b) after Annexure A, the following Annexure shall be inserted, namely:-

“ ANNEXURE-B

Procedure Regarding Claim of Preferential Concessions and Certificate of Origin of Goods under the Asia-Pacific Trade Agreement

The following provisions shall be complied with for preferential concessions under the Asia-Pacific Trade Agreement (hereinafter referred to as “APTA”):

1. Issuing Authorities. - A n authority or authorities designated by the Government of the exporting APTA Participating State (hereinafter referred to as “Issuing Authority”) shall issue the Certificates of Origin.

2. Certificate of Origin. - (1) The Certificates of Origin -

(a) shall be on an ISO A4 size paper in conformity with the specimen text set out in Annexure A, which shall be printed in English.

(b) shall bear a unique reference number separately given by each place of office of issuance.

(c) shall be issued manually or electronically by the Issuing Authority of the exporting APTA Participating State at the time of exportation or within three working days from the date of shipment.

(d) shall be valid for one year from the date of issuance.

(e) shall be without erasures and superimposition and unused spaces shall be crossed out to prevent any subsequent addition.

(f) shall have the relevant rules and applicable percentage of regional content in Box 8.

(2) In the event of theft, loss or destruction of a Certificate of Origin, a certified true copy of the original, issued by the Issuing Authority, bearing the words “Certified True Copy” in Box 3, and the date of issuance of the original Certificate of Origin, shall be accepted and t he certified true copy of a Certificate of Origin shall be issued within the validity period of the original Certificate of Origin.

3. Presentation of the Certificate of Origin. – (i) An original Certificate of Origin shall be submitted for preferential treatment to the Customs authority at the time of lodging the import entry for the products concerned.

(ii) The Certificate of Origin shall be submitted to the Customs authority at the port or place of importation within its validity period.

(iii) Where a Certificate of Origin is submitted to the relevant Customs authority at the port or place of importation after the expiration of its validity, such Certificate is still to be accepted when failure to observe the time limit results from force majeure or other valid causes beyond the control of the exporter.

(iv) In all cases, the relevant Customs authority may accept such Certificate of Origin provided that the products were imported before the expiration of the validity of the Certificate of Origin.

(v) Where the origin of a product is not in doubt, 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 at the port or place of importation for the purpose of carrying out the formalities for importing the products shall not ipso-facto invalidate the Certificate of Origin, if it does in fact correspond to the said products.

4. Supporting documents of direct transportation. - Under sub-rule (b) of rule 6 of the said rules, where the goods are transported through the territory outside the APTA Participating States, the following documents shall be presented to the Customs authorities at the port of import, namely:-

(a) the through Bill of Lading issued in the exporting APTA Participating State;

(b) the Certificate of Origin issued by the Issuing Authority of the exporting APTA Participating State;

(c) the original commercial invoice in respect of the goods; and

(d) supporting documents which prove the compliance with sub-rule (b) of rule 6 of the said rules.

5. Origin verification. – (i) The Customs authority may request the Issuing Authority of the exporting APTA Participating State for a retroactive random check and/or when it has reasonable doubt as to the authenticity of the documents or as to the accuracy of the origin status of the goods in question.

(ii) The request shall be accompanied by 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.

(iii) The Customs authority may suspend the preferential treatment while awaiting the result of the verification:

Provided that it may release the goods to the importer subject to any administrative measures deemed necessary:

Provided further that the goods are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

(iv) (a) The Issuing Authority receiving a request for verification shall respond to the request promptly and reply within three months after receipt of the request.

(b) The verification process, including the actual process and the determination of whether the subject goods are originating or not, should be completed and the result should be communicated to the Issuing Authority within six months.

(c) While the process of the verification is being undertaken, the provisions of sub-paragraph (iii) shall be applied.

(v) In the cases where the Customs authority in India does not receive any reply within four months after the making of the request, the Customs authority may deny the claim for preferential treatment and in case the reply does not supply enough information to confirm the authenticity of the documents or the origin of the

goods, the concerned authorities shall resolve the issue through bilateral consultation within three months, failing which the preferential treatment may be denied.

6. Change in destination. - The following procedures shall be complied with when the destination of all or parts of the products exported to a specified port is changed, before or after their arrival in India, namely:-

(a) If the products have already been submitted to the Customs authority in India, the Certificate of Origin shall, following a written application by the importer, be endorsed to this effect for all or parts of products by the said authorities and the original returned to the importer.

(b) If the change of destination occurs during transportation to India as specified in the Certificate of Origin, the exporter shall apply in writing, accompanied by the issued Certificate of Origin, for the issuance of new Certificate of Origin for all or parts of products.

7. Imports for exhibition. – (i) Products imported for exhibition and sold during or after the exhibition shall benefit from the preferential tariff treatment provided in the APTA, on the condition that the products meet the requirements of the said rules and provided it is shown to the satisfaction of the relevant customs authorities in India that:-

(a) the exporter has dispatched those products from the territory of the exporting Participating State to India where the exhibition is held and has exhibited them there;

(b) the exporter has sold the goods or transferred them to a consignee in India; and

(c) the products have been sold during the exhibition or immediately thereafter in the state in which they were sent for the exhibition.

(ii) For the purposes of implementing the above provisions, the Certificate of Origin must be produced to the relevant customs authorities in India.

(iii) The sub-paragraph (i) shall apply to exhibitions, fairs or similar shows or displays where the products remain under Customs control during the events.

8. Operational procedures for the certification and verification of origin and other related administrative matters. - The operational procedures for the certification and verification of origin and other related administrative matters agreed under APTA shall be applicable for implementing the said rules under APTA including the following matters, namely:-

(a) Communication of names, addresses and specimen official seals and signatures of the Issuing Authority.

(b) Manner of application for issuance of Certificate of Origin and procedure to be followed by the Issuing Authority.

(c) Requirement of keeping the records by the Issuing Authority.

(d) Cooperation of the APTA Participating States in case of fraudulent acts and disputes concerning origin determination, classification, goods or other matters.”

[F. No. 467/63/2006-Cus.V]

(SATISH KUMAR REDDY)
Director to the Government of India

Note. - The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S. O. 1390 (E) dated the 31 st August, 2006.

