

**GLOBAL SYSTEM OF TRADE
PREFERENCES AMONG DEVELOPING
COUNTRIES (GSTP)**

SPR/RM/W/8
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**Negotiating Group on Rule-Making
Sao Paulo Round**

RULES OF ORIGIN

COMMUNICATION FROM INDIA FOR UPDATING GSTP RULES OF ORIGIN

The following communication, received on 15 March 2005, is circulated at the request of the delegation of India.

Introduction:

1. In the Committee of Participants meeting held on 27th May, 2004 (17th Session), it was decided that the Third Round of GSTP negotiations would be held on the basis of the recommendations made by the Ad-hoc Technical Working Group (TWG). It may be recalled that the TWG recommended reviewing the provisions pertaining to Certificate of Origin as well as the existing Rules of Origin in light of the changes in world trade since the Agreement entered into force in 1989.
2. Rules of Origin is the mechanism in identifying the origin of products under the regional/bilateral preferential trading arrangements namely PTA (Preferential Trading Agreement) and FTA (Free Trade Agreement) commonly known as Regional Trading Arrangements (RTAs). In order to harness the potentials of the Agreement and to achieve substantial trade liberalization commitments under the Sao Paulo Round, as envisaged in the Sao Paulo Declaration, we are required to look at the existing Rules of Origin in the context of the evolution of Rules of Origin in the regional and bilateral trade agreements entered into/being negotiated by the member countries of GSTP.

Preferential Rules of Origin: Indian context

3. In recent times there has been an intensification of India's economic engagements with other countries. These are manifested in negotiations on preferential trading agreements (PTAs), free trade agreements (FTAs) and Comprehensive Economic Cooperation Agreements (CECA) with various countries and regions. These include ASEAN, Thailand, Singapore, MERCOSUR, SAFTA, BIMSTEC, etc. India is already engaged with Bhutan, Nepal and Sri Lanka under bilateral trading arrangements. There are some economic partnership arrangements between India and other countries that are also in the offing. India has adopted a comprehensive approach thus far, in terms of laying down originating criteria for its preferential imports.

4. Whilst it is difficult to derive specific recommendations with regard to the best practice approach to the design of rules of origin, in India's view the GSTP Rules of Origin should have the following elements:

- a) The rules of origin should be simple but precise, transparent and, to the extent possible, predictable and stable.
- b) They should be designed to have the least trade distorting impact and should not become a disguised non-tariff barrier to trade.
- c) As far as possible the rules should be consistent across products. The greater the derogations from general criteria, the greater the complexity of the system of rules of origin both for companies and for officials administering the Agreement.
- d) There should be some mechanism to institutionalize cooperation between the exporting country's agencies issuing preferential certificate of origin and importing country's Customs authorities, so that the clearance of preferential goods can be facilitated.

5. India's preliminary views on specific issues of Rules of Origin on some of the issues are as follows:-

(i) Value Addition Norms

6. Stipulation of local value addition content is an important requirement to ensure trade creation and avoid trade diversion amongst the participants of any PTA/FTA, since each member of RTA has its own external tariff, the divergence between the external tariffs of the members is a potential source of trade deflection. The value addition in the member country also helps in the growth of the economy of the member country by way of generating manufacturing activities, employment, investment flows, transfer of technology etc. The present local value addition requirement under the existing GSTP Rules of Origin is 50%. Since the coverage of items under GSTP and the degree of preferential duty concessions are not significant, the intra – GSTP preferential trade has been modest and therefore, it cannot be clearly stated that the lack of trade flow is on account of higher value addition norm. At the same time, India recognises that given the nature of the scales of economies of the Participating states, it appears that the present value addition provision is difficult for many members to achieve. In our view, a balance has to be struck and the value addition should not be too high which acts as an impediment to trade and it should not be too low which can give rise to trade deflection. India is thus open to discuss the proposals on changing the local value addition content requirement under GSTP. We also recognise that the acceptable value addition percentage would be reached through consensus on a percentage figure which is comfortable for all of Participating States.

(ii) Exclusion of Minimal Operations for conferring origin status

7. The existing GSTP Rules of Origin do not list out the minimal operations, which are excluded for conferring origin status for preferential treatment of a product under the Agreement. The objective of the Sao Paulo Round is to substantially increase the preferential trade amongst the GSTP member states through deeper and broader concessions. Since this Round is expected to cover significant amount of trade amongst the Participating States as well as expansion in the membership of GSTP, to avoid the possibility of circumvention or trade diversion from third countries (ie. non-participating

states), it is essential that the Rules are strengthened to this effect. The objective is that the participating countries shall mutually benefit from the expansion of preferential trade, which shall lead to industrial and economic growth in these countries. It is important in this regard to list out clearly the non-qualifying operations, which will ensure value addition in the exporting country through manufacturing activity and not merely by means of trading, packaging, transshipment etc.. It is thus very important that non-qualifying operations are spelt out clearly to avoid trade deflection. An illustrative list is given below:

- a) Operations to ensure the preservation of articles in good condition during transport and storage;
- b) Operations consisting of removal of dust, sorting, washing, painting, mixing, cutting, dilution etc;
- c) Changes of packing and breaking up and assembly/disassembly of consignments;
- d) Slicing, cutting, slitting, re-packing, and all other packing operations;
- e) The affixing of marks, labels or other like distinguishing signs on articles or their packaging;
- f) Assembly of parts of an article to constitute a complete article; etc.

(iii) Operational Certification Procedures

8. India fully supports the agreed views of TWG that Rules of Origin should promote clarity and transparency of claims of origin and prevent the misuse or abuse of the Agreement. In this regard, appropriate mechanisms would need to be evolved. One of the problems during the actual implementation of a PTA/FTA relates to monitoring and verification of the Certificates of Origin through administrative cooperation. This necessitates harmonisation of the administrative procedures for issue of Certificates of Origin, cooperation and exchange of information and subsequent verification. Lack of such provisions, encourages circumvention of Rules of Origin. Since the Rules of Origin of the GSTP are now being reviewed, inclusion of Operational Certification Procedures (OCP) would be necessary so that there are clearly laid down procedures for cooperation between the customs authorities for the importing countries and the authorities issuing the Certificates of Origin of the exporting countries.

9. In view of the above submissions, India proposes the following:-

- a) The Negotiating Group may decide a cut off date for submitting the drafting proposals on the text of the Rules of Origin.
- b) The GSTP Secretariat can then consolidate all such proposals and circulate the text of GSTP RoO to all the members.
- c) Subsequent discussions on the RoO should be based on the submissions so as to finalize the revised text of the RoO.
