

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

SPR/RM/W/12
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**Negotiating Group on Rule-Making
Sao Paulo Round**

**RULES OF ORIGIN
Proposal from India on amending the GSTP ROO**

The following communication, received on 20 April 2005, is circulated at the request of the delegation of India.

In continuation of India's proposal, which was circulated vide document No.SPR/RM/W/8 dated the 15th March, 2005 and the discussions held in the meeting of the Negotiating Group on Rule Making held on 17-18 March, 2005, India is submitting the following proposal for amending the existing text of GSTP Rules of Origin and incorporating Operation Certification Procedure as annexure to GSTP Rules of Origin:-

GSTP RULES OF ORIGIN

For determining the origin of products eligible for preferential concession under the GSTP in the light of paragraph 1 (a) of the Ministerial Declaration of 1982 the following Rules shall be applied:

Rule 1: Originating product: Products covered by preferential trading arrangements within the framework of the GSTP imported into the territory of a participant from another participant which are consigned directly within the meaning of Rule 5 hereof, shall be eligible for preferential concessions if they conform to the origin requirement under any one of the following conditions:

- (a) Products wholly produced or obtained in the exporting participant as defined in Rule 2;
or
- (b) Products not wholly produced or obtained in the exporting participant, provided that the said products are eligible under Rule 3 or Rule 4.

Rule 2: Wholly produced or obtained: Within the meaning of Rule 1 (a) the following shall be considered as wholly produced or obtained in the exporting participant:

- (a) Raw [*or*] mineral products extracted from its soil, its water or its seabeds;¹
- (b) agricultural products harvested there;²
- (c) **Live** animals born and raised there;
- (d) products obtained from animals referred to in paragraph above (c);

- (e) products obtained by hunting or fishing conducted there;
- (f) products of sea fishing and other marine products taken from the **[high] sea[s]** by its vessels;^{3/4}
- (g) products processed and/or made on board its factory ships^{4/5} exclusively from products referred to in paragraph (f) above;

[(h) Raw materials recovered from used articles collected there;

~~(h) used articles collected there, fit only for the recovery of raw materials;~~

~~(i) waste and scrap resulting from manufacturing operations conducted there;~~

(j) goods produced there exclusively from the products referred to in paragraph (a) to ***(h)*** above.

Rule 3: Not wholly produced or obtained

(a) Within the meaning of Rule 1(b), products worked on and processed as a result of which the total value of the materials, parts or produce originating from non-participants or of undetermined origin used does not exceed (*-----per cent) 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 participant shall be eligible for preferential concessions, subject to the provisions of Rules (a), 3 (c) (d) and (e) and Rule 4.

(b) Sectoral agreements;⁶

(c) The formula for calculating the content of non-originating materials, and its requirements for obtaining the originating status referred to in Rule 3(a) is as follows:-

$$\frac{\text{Value of imported non origination Materials, parts or produce} + \text{Value of undetermined origin materials, parts or produce}}{\text{f.o.b. price}} \times 100 \leq 50\% *$$

~~(d)~~(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 participant where the working or processing takes place.

(e) Whether or not the requirements of Rule 1(b) are satisfied, the following operations or processes are considered to be insufficient to confer the status of originating products:-

- (i) Operations to ensure the preservation of products in good condition either for transportation or storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);***

- (ii) *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;*
- (iii) *changes of packaging and breaking up and assembly of consignments,*
- (iv) *simple slicing, cutting or repacking or placing in bottles, flasks, bags, boxes, fixing on cards or boards, etc., and all other simple packing operations.*
- (v) *the affixing of marks, labels or other like distinguishing signs on products or their packaging;*
- (vi) *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; and mere dilution with water or another substance that does not materially alter the characteristics of the product;*
- (vii) *simple assembly of parts of products to constitute a complete product;*
- (viii) *slaughter of animals.*
- (ix) *Peeling, unflaking, grain removing and removal of bones and*
- (x) *a combination of two or more operations specified in (i) to (ix);*

Rule 4: Cumulative rules of origin- Products which comply with origin requirements provided for in Rule 1 and which are used by a participant as input for a finished product eligible for preferential treatment by another participant shall be considered as a product originating in the territory of the participant where working or processing of the finished product has taken place provided that the aggregate content originating in the territory of the participant is not less than [-----*] per cent of its fob value".⁷

Rule 5: Direct consignment: The following shall be considered as directly consigned from the exporting participant to the importing participant:

- (a) if the products are transported without passing through the territory of any non-participant:
- (b) the products whose transport involves transit through one or more intermediate non-participants 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.

Rule 6: Treatment of packing :

- (a) Packages and Packing Materials for retail sale:
 - i. The packages and packing materials for retail sale, when classified together with the packaged product, according to General Rule 5(b) of the Harmonised System, shall not be taken into account for considering whether all non-originating materials used in the manufacture of a product fulfil the criterion corresponding to a change of tariff classification of the said product.
 - ii. If the product is subject to an ad-valorem percentage criterion, the value of the packages and packing materials 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 product, in accordance with General Rule 5(b) of the Harmonized System.

RULE 7: Accessories, spare parts and tools

The origin of accessories, spare parts, tools and instructional or other information materials presented with the goods therewith shall not be taken into account in determining the origin of the goods, provided that such accessories, spare parts, tools and information materials are as per standard trade practice in the domestic market of the exporting Participant and are classified with the goods by the importing Participant. However, if the products are subject to a qualifying local value added content requirement, the value of such accessories, spare parts and/or tools shall be taken into account as originating or non originating materials, as the case may be, in calculating the qualifying local value added content.

RULE 8: Indirect materials

In order to determine whether a product originates in a Participant, any indirect material such as power and fuel, plant and equipment, or machines and tools used to obtain such products shall be treated as originating whether such material originates in third countries or not, and its value shall be the cost registered in the accounting records of the producer of the export goods.

Rule 9: Identical and interchangeable materials

For the purposes of establishing if a product is originating when in its manufacture utilises originating and non-originating materials, mixed or physically combined, the origin of such materials can be determined by generally accepted accounting principles of stock control applicable/inventory management practiced in the exporting Participant.

~~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 requires.~~

Rule 710: Certificate of origin *A claim that products shall be accepted as eligible for preferential concessions shall be supported by a Certificate of Origin issued by a government authority designated by the exporting Participant and notified to the other Participants to the Agreement in accordance with the Operational Certification Procedures, as set out in Attachment-A.*

~~Products eligible preferential concessions shall be supported by a Certificate of Origin⁸ issued by an authority designated by the government of the exporting participant and notified to the oil participant in accordance with the Certification Procedure to be developed and approved by the participants.~~

Rule 811: Prohibition and co-operation

(a) In conformity with paragraphs (a) and (b) of Article 3 and Article 15 of the Agreement on the GSTP and national legislations, any participant may prohibit importation products containing any inputs originating from State with which it does not have economic and commerce relations.

(b) Participants will do their best to co-operate in or, to specify origin of inputs in the Certificate of Origin.

Rule 912: Review: These Rules may be reviewed as and when necessary upon request of one third of the participants and may be open to such modifications as may be agreed upon.

Rule 1013: Special criteria percentage: [*Products originating in least developed participating states can be allowed a favourable 10 percentage points applied to the percentages established in Rule 3 and 4. Thus for Rule 3, the percentage would not exceed *_____percent and for Rule 4 the percentage would not be less than *_____percent*] Special percentage criteria could be requested under which up to *_____ per cent of import content on an f.o.b. basis could be allowed for product originating from the least developed participating countries. In addition, full cumulation may allowed in respect of the products exports from the countries.

1. Include mineral fuels, lubricants and related materials as well as mineral or metal ores.
2. Include forestry products
3. "Vessels" – shall refer to finishing vessels engaged in commercial fishing, registered in a participant's country and operated by a citizen or citizens or governments of participants of partnership, corporation or association duly registered in such participant's country, at least 60 per cent of equity of which is owned by a citizen and/or government of such participants or 75 per cent by citizens and/or governments of the participants. 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 participants will also be eligible for preferential concessions.
4. In respect of vessels or factory ships operated by government agencies, the requirement of flying the flag of a participant 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 paragraph (f) above.
6. In respect of products traded within the framework of sectoral agreements negotiated under the GSTP, provision may need to be made for special criteria to apply. Consideration may be given to these criteria as and when the sectoral agreements are negotiated.
7. "Partial" cumulation as implied by Rule 4 above means that only products which have acquired originating status in the territory of one participant may be taken into account when used as inputs for a finished product eligible for preferential treatment in the territory of another participant.
8. A standard Certificate of Origin to be used by all participants is annexed.
* the percentage of local content requirement need to be reviewed.

ATTACHMENT - A

**OPERATIONAL CERTIFICATION PROCEDURES
FOR THE RULES OF ORIGIN FOR
THE GSTP**

For the purpose of implementing the Rules of Origin for the GSTP, the following operational procedures on the issuance and verification of the Certificate of Origin and the other related administrative matters shall be followed:

AUTHORITIES

RULE 1

The Certificate of Origin shall be issued by the Government authorities (hereinafter referred to as "Issuing Authority") of the exporting Participant.

RULE 2

(a) The Participant shall inform all the other Participants **through the GSTP Secretariat** of the names and addresses of their respective Issuing Authorities issuing the Certificate of Origin and shall provide specimen signatures and specimen of official seals used by their said Issuing Authorities.

(b) Each Participant shall submit the original sets of the above information and specimen signatures to other Participants **through the GSTP Secretariat**. Any change in names, addresses, specimen signatures or official seals shall be promptly informed in the same manner.

RULE 3

For the purpose of verifying the conditions for preferential treatment, the Government authorities designated to issue the Certificate of Origin shall have the right to call for any supporting documentary evidence or to carry out any check considered appropriate.

APPLICATIONS

RULE 4

The exporter and/or the manufacturer of the products qualified for preferential treatment shall apply in writing to the relevant Issuing Authorities requesting for the pre-exportation verification of the origin of the products. 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.

RULE 5

At the time of carrying out the formalities for exporting the products under preferential treatment, the exporter or his authorised 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 a Certificate of Origin.

PRE-EXPORTATION EXAMINATION

RULE 6

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 authorised signatory;
- (b) the origin of the product is in conformity with the GSTP Rules of Origin;
- (c) the other statements of the Certificate of Origin correspond to supporting documentary evidence submitted; and
- (d) description, quantity and weight of goods, marks and number of packages, number and kinds of packages, as specified, conform to the products to be exported.

ISSUANCE OF CERTIFICATE OF ORIGIN

RULE 7

- (a) The Certificate of Origin must be in ISO A4 size paper in conformity to the specimen as shown in Attachment 1. It shall be made in English.
- (b) The Certificate of Origin shall comprise one original and three (3) carbon copies of the following colours:
 - Original - (To be decided)
 - Duplicate - (To be decided)
 - Triplicate - (To be decided)
 - Quadruplicate - (To be decided)
- (c) Each Certificate of Origin shall bear a reference number given separately by each place or office of issuance.
- (d) The original copy shall be forwarded, together with the triplicate, by the exporter to the importer for submission to the Customs Authority at the port or place of importation. The duplicate shall be retained by the Issuing Authority in the exporting Participant. The triplicate shall be retained by the importer. The quadruplicate shall be retained by the exporter.

RULE 8

To implement the provisions of Rules [10] of the GSTP Rules of Origin, the Certificate of Origin issued by the exporting Participant shall indicate the relevant rules and applicable percentage of GSTP content in Box 8.

RULE 9

Neither erasures nor superimposition shall be allowed on the Certificate of Origin. Any alteration shall be made by striking out the erroneous materials and making any addition required. Such alterations shall be approved and certified by an official authorised to sign the Certificate of Origin by the relevant Issuing Authority. Unused spaces shall be crossed out to prevent any subsequent addition.

RULE 10

- (a) The Certificate of Origin shall be issued by the relevant Issuing Authority of the exporting Participant at the time of exportation, or within 3 working days from the date of shipment whenever the products to be exported can be considered originating in that Participant within the meaning of the GSTP Rules of Origin.
- (b) 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 one year from the date of shipment, bearing the words "ISSUED RETROACTIVELY".

RULE 11

In the event of theft, loss or destruction of a Certificate of Origin, the exporter may apply in writing to the Issuing Authorities which issued it for the certified true copy of the original and the triplicate to be made on the basis of the export documents in their possession bearing the endorsement of the words "CERTIFIED TRUE COPY" (in lieu of the original certificate) in Box 12. 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 condition that the exporter provides to the relevant Issuing Authority the quadruplicate copy.

PRESENTATION

RULE 12

The original Certificate of Origin shall be submitted to the Customs Authorities at the time of lodging the import entry for the products concerned.

RULE 13

The following time limit for the presentation of the Certificate of Origin shall be observed:

- (a) The validity of the Certificate of Origin shall be 12 months from the date of its issuance;
- (b) Certificate of Origin shall be submitted to the Customs Authorities of the importing Participant within its validity period;
- (c) Where the Certificate of Origin is submitted to the relevant Customs Authority of the importing Participant after the expiration of its validity period, 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; and
- (d) In all cases, the relevant Customs Authority in the importing Participant may accept such Certificate of Origin provided that the products have been imported before the expiry of its validity period of the said Certificate of Origin.

RULE 14

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 the importing Participant 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.

RULE 15

- (a) The importing Participant 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 products in question or of certain parts thereof.
- (b) The request 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.
- (c) The Customs Authority of the importing Participant may suspend the provisions on preferential treatment while awaiting the result of verification. However, it may release the products 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.
- (d) The Issuing Authority receiving a request for retroactive check shall respond to the request promptly and reply not later than 3 months after the receipt of the request.

RULE 16

- (a) The application for Certificates of Origin and all documents related to such application shall be retained by the Issuing Authorities for not less than two (2) years from the date of issuance.
- (b) Information relating to the validity of the Certificate of Origin shall be furnished upon request of the importing Participant.
- (c) Any information communicated between the Authorities concerned shall be treated as confidential and shall be used for the validation of Certificates of Origin purposes only.

SPECIAL CASES

RULE 17

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

- (a) If the products have already been submitted to the Customs Authority in the specified importing Participant, 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 authorities and the original returned to the importer.
- (b) If the changing of destination occurs during transportation to the importing Participant as specified in the Certificate of Origin, the exporter shall apply in writing, accompanied with the issued Certificate of Origin, for issuance of new Certificate/s of Origin for all or parts of products.

RULE 18

For the purpose of implementing Rule 10(b) of the GSTP Rules of Origin, where transportation is effected through the territory of one or more non-GSTP Participant the following shall be produced to the Customs Authority of the importing Participant:

- (a) a through Bill of Lading issued in the exporting Participant;
- (b) a Certificate of Origin issued by the relevant Issuing Authorities of the exporting Participant;
- (c) a copy of the original commercial invoice in respect of the product; and
- (d) supporting documents in evidence that the requirements of Rule [XX] of the GSTP Rules of Origin are being complied with.

RULE 19

(a) Products sent from an exporting Participant for exhibition in another Participant and sold during or after the exhibition into a Participant shall benefit from the GSTP preferential tariff treatment on the condition that the products meet the requirements of the GSTP Rules of Origin provided it is shown to the satisfaction of the relevant Customs Authorities of the importing Participant that:

- (i) an exporter has dispatched those products from the territory of the exporting Participant to the country where the exhibition is held and has exhibited them there;
- (ii) the exporter has sold the goods or transferred them to a consignee in the importing Participant; and
- (iii) the products have been consigned during the exhibition or immediately thereafter to the importing Participant in the state in which they were sent for exhibition.

(b) For purposes of implementing the above provisions, the Certificate of Origin must be produced to the relevant Customs Authority of the importing Participant. The name and address

of the exhibition must be indicated, a certificate issued by the relevant Issuing Authorities of the Participant where the exhibition took place together with supporting documents prescribed in rule [XX] may be required.

(c) Paragraph (a) shall apply to any exhibition, fair or similar show or display in the venue where the products remain under Customs control during these events.

ACTION AGAINST FRAUDULENT ACTS

RULE 20

(a) When it is suspected that fraudulent acts in connection with the Certificate of Origin have been committed, the Issuing Authorities concerned shall cooperate in the action to be taken in the territory of the respective Participant against the persons involved.

(b) Each Participant shall be responsible for providing legal sanctions for fraudulent acts related to the Certificate of Origin.

RULE 21

In the case of a dispute concerning origin determination, classification or products or other matters, the Issuing Authorities concerned in the importing and exporting Participants shall consult each other with a view to resolving the dispute, and the result shall be reported to the other Participants for information. “

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CERTIFICATE OF ORIGIN

1. Goods consigned from (Exporters' Business Name, Address, Country)			Reference No. <p align="center">GSTP Form</p> 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. Tariff item number	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	
11. Declaration by the Exporter The undersigned hereby declares that the above details and statements are correct; That all the goods were produced in (Country) and that they comply with the origin requirements specified for those goods in GSTP for goods exported to (Importing Country) Place and date, signature of the authorized signatory			12. Certificate: It is hereby certified, on the basis of control carried out that the declaration by the exporter is correct. Place and date, signature and stamp of certifying authority.			

NOTES FOR CERTIFICATE OF ORIGIN

1. **CONDITIONS.** The main conditions for admission to the preferential treatment under the GSTP are that the goods sent to the Participants:

- (i) must fall within a description of products eligible for concessions in the country of destination;
- (ii) must comply with the consignment conditions that the goods must be consigned directly from exporting Participant to the importing Participant but transport that involves passing through one or more intermediate countries, is also accepted provided that any intermediate transit, transshipment or temporary storage arises only for geographic reasons or transportation requirements; and
- (iii) must comply with the origin criteria given in the next paragraph.

2. **ORIGIN CRITERIA:** For exports to be eligible for preferential treatment, the requirement is that either:

- (i) The products wholly produced or obtained in the exporting Participant as defined in Rule [XX] of the Rules of Origin; or
- (ii) The products not wholly produced or obtained in the exporting Participant as defined in Rule [XX] of the Rules of Origin

If the goods qualify under the above criteria, the exporter must indicate in box 8 of this form the origin criteria on the basis of which he claims that his goods qualify for preferential treatment, in the manner shown in the following table:

Circumstances of Production or Manufacture in the exporting Participant named in Box 11 of this form	Inset in Box 8
(a) Products wholly produced in the country of exportation (see paragraph 2(i) above)	“X”
(b) Products worked upon but not wholly produced in the exporting Participant which were produced in conformity with the provisions of paragraph 2(ii) above	Percentage of local value added content Example 50%

3. **EACH ARTICLE MUST QUALIFY:** It should be noted that all the products in a consignment must qualify separately in their own right. This is of particular relevance when similar articles of different sizes or spare parts are sent.

4. **DESCRIPTION OF PRODUCTS:** the description of products must be sufficiently detailed to enable the products to be identified by the Customs Officer examining them. Name of manufacture, any trade mark shall also be specified.

5. The Harmonised System number shall be that of the importing Participant.

6. The term “Exporter” in Box 11 may include the manufacture or the producer.

7. **FOR OFFICIAL USE:** The Customs Authority of the importing Participant must bear the word in preferential or preferential treatment in Box 4. For multiple items declared in the same Form and preferential treatment is guaranteed to any of the items, this is also to be indicated accordingly in box 4 and the item number circled or marked appropriately in box 5.

8. **FOR CUMULATIVE RULE OF ORIGIN :** The issuing authority of the Participant will stamp “Cumulative Rule” on box 4 and indicate both: the local and total regional value added content for such products.

¹ Include mineral fuels, lubricants and related materials as well as mineral or metal ores.

² Include forestry products

³ “Vessels” – shall refer to finishing vessels engaged in commercial fishing, registered in a participant’s country and operated by a citizen or citizens or governments of participants of partnership, corporation or association duly registered in such participant’s country, at least 60 per cent of equity of which is owned by a citizen and/or government of such participants or 75 per cent by citizens and/or governments of the participants. 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 participants will also be eligible for preferential concessions.

⁴ In respect of vessels or factory ships operated by government agencies, the requirement of flying the flag of a participant 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 paragraph (f) above.

⁶ In respect of products traded within the framework of sectoral agreements negotiated under the GSTP, provision may need to be made for special criteria to apply. Consideration may be given to these criteria as and when the sectoral agreements are negotiated.

⁷ “Partial” cumulation as implied by Rule 4 above means that only products which have acquired originating status in the territory of one participant may be taken into account when used as inputs for a finished product eligible for preferential treatment in the territory of another participant.

⁸ A standard Certificate of Origin to be used by all participants is annexed.

* the percentage of local content requirement need to be reviewed.