

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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MARKS OF ORIGIN

Submission of Laws and Regulations

The following statements have been received from the Governments of the Federation of Rhodesia and Nyasaland and India:

FEDERATION OF RHODESIA AND NYASALAND

"The Federal Government does not feel that any useful purpose would be served by submitting by the 30th June, 1956, extracts from existing legislation on this subject. Such legislation is at present that of the three territories which comprise the Federation, and although uniform Federal legislation is now being considered, there is no prospect that it will be enacted by 30th June this year. Since the submission of the various territorial laws would be of passing interest only, it is thought that contracting parties would rather await details of Federal legislation. Such details will be furnished as soon as the legislation has been enacted."

INDIA

"... forward herewith the following extracts of Indian laws, etc., on marks of origin:

- I Sections 7A, 9, 12A and 13 of the Indian Merchandise Mark Act, 1889 (Act No IV of 1889)
- II Clauses (d) and (h) of Section 18 of the Sea Customs Act, 1878.
- III Ministry of Commerce and Industry Notification No S.R.O.440, dated 31.3.51."

I

Indian Merchandise Mark Act, 1889

(Act No.IV of 1889)

Section 7A

Penalty for tampering with, altering or effecting a mark applied in pursuance of section 12A. If a person tampers with, alters or effaces a mark which has been applied to any goods to which it is required to be applied by notification made under section 12A, he shall, unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, and, in the case of a second or subsequent conviction, with imprisonment which may extend to two years, or with fine, or with both.

Section 9

Forfeiture of goods

(1) When a person is convicted under section 482 of the Indian Penal Code (XLV of 1860), of using false trade mark, or under section 486 of that Code of selling or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or thing to which a false trade description is applied, or which, being required by notification under section 12A, to have applied to them an indication of the country or place in which they were made or produced, are without the indication required by such notification, or is acquitted on proof of the matters specified in section 486 of the Indian Penal Code (XLV of 1860), or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Government of all goods and things by means of, or in relation to which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction, and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

Section 12A

Power to require goods to show indication of origin

(1) The Central Government may, by notification in the official Gazette, require that goods of any class specified in the notification which are made or produced beyond the limits of India and imported into India, or which are made or produced within the limits of India, shall, from such date as may be appointed by the notification not being less than three months from its issue, have applied to them an indication of the country or place in which were made or produced.

(2) The notification may specify the manner in which such indication shall be applied, that is to say whether to the goods themselves or in any other manner, and the times or occasions on which the presence of the indication shall be necessary, that is to say whether on importation only, or also at the time of sale, whether by wholesale or retail or both.

(3) No notification under this section shall be issued, unless application is made for its issue by persons or associations substantially representing the interests of dealers in or manufacturers, producers, or users of the goods concerned or unless the Central Government is otherwise convinced that it is necessary in the public interest to issue the notification, nor without such inquiry as the Central Government may consider necessary.

(4) The provisions of section 23 of the General Clauses Act, 1897 (X of 1897), shall apply to the issue of a notification under this section as they apply to the making of a rule or bye-law the making of which is subject to the condition of previous publication.

(5) A notification under this section shall not apply to goods made or produced beyond the limits of India and imported into India if in respect of those goods the Chief Customs Officer is satisfied at the time of importation that they are intended for exportation whether after transshipment in or transit through India or otherwise.

Section 13

Evidence of origin of goods imported by sea. In the case of goods brought into India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act 1878 (VIII of 1878) as amended by this Act, be prima facie evidence of the place or country in which the goods were made or produced.

Sea Customs Act, 1878

Section 18

No goods specified in the following clauses shall be brought, whether by land or sea, into India: -

- (d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889;
- (h) goods which are required by a notification under section 12A of the Indian Merchandise Marks Act, 1889, to have applied to them an indication of the country or place in which they were made or produced, unless such goods show such indication applied in the manner specified in the notification.

Notification by Ministry of Commerce and Industry

Merchandise Marks

New Delhi,
31 March 1951.

S.R. O.440. In exercise of the powers conferred by sub-section (1) of section 12A of the Indian Merchandise Marks Act, 1889 (IV of 1889), and in supersession of the notification of the Central Government in the late Ministry of Commerce, No. S.R. O.486, dated 2 September 1950, the Central Government, being convinced on enquiry that it is necessary in the public interest so to do, directs as follows: -

1. (a) Subject to the provisions of sub-section (5) of the said section, the classes of goods specified in column 2 of the schedule hereto annexed shall on and after 1 January 1952, on importation (where the goods are imported) and at the time of sale, whether by wholesale or retail, have applied to them in the English language an indication of the country in which they were made or produced in the manner specified in the corresponding entry in column 3 of the said schedule.
- (b) Where such goods are made or produced in one country and packed in containers made or produced in another, the indication shall specify such countries.
- (c) Where such goods are partly or wholly made or produced in one country and partly made or produced or finished or processed or embellished or completed in another country or other countries the indication if expressed as "made abroad" or "foreign made" or manufacture of different countries outside India shall be deemed to be sufficient for the purposes of this notification.

(d) Where such goods are produced in a foreign country but processed or embellished in India, the country of origin and the words "processed in India" should be indicated.

2. Where due to the smallness of the size of the goods or otherwise it is impracticable to mark the country of origin on the goods themselves, or where it is not possible to do so without adversely affecting the quality of the goods, or without undue expenditure, the indication may be applied on the wrapper, container or label attached.

3. In this notification: -

- (a) The expression "containers or coverings" includes a wrapper, cover, band, packet, box, carton, capsule, stopper, cork, top, frame, case, tin, can, phial, bottle, jar, vessel or any other covering or container in or with which the goods of any class specified in the schedule are imported, sold or exposed for sale.
- (b) "Label" includes any ticket, band, card or tag;
- (c) "Applied" includes attached, enclosed, annexed, inserted, secured, fastened, stitched or sewn.

SCHEDULE

Part I: Goods made or produced outside India and the State of Jammu and Kashmir and imported into India

Item No. (1)	Class of goods (2)	Manner in which the indication shall be applied (3)
1	(a) Apparatuses and appliances, electric and all kinds, assembled (b) Parts, spare parts and accessories of apparatuses and appliances, electric and all kinds (c) Electrical wiring accessories	(a) On the goods themselves (b) On the containers or coverings or otherwise (c) On the containers or coverings or otherwise
2	Glass bulbs and globes including electric incandescent bulbs	On the goods themselves

(1)	(2)	(3)
3	Electric cells and batteries of all kinds including primary batteries for dry cells, flash lamps, torch type, motor car batteries, and also plates for motor vehicle batteries	On the goods themselves
4	Fountain pen barrels	On the goods themselves
5	Chemicals, drugs, medicines and pharmaceutical products of all kinds	On the containers or coverings
6	Cigarettes. . . .	Ditto
7	Fents	On the bundles, containers or coverings
8	Lanterns and lamps of all kinds including electric torches and flashlights and automobile lamps	On the goods themselves
9	(a) Machinery of all kinds, assembled	On the goods themselves
	(b) Parts, spare parts and accessories of machinery of all kinds	On the containers or coverings or otherwise
10	Piecegoods of cotton, silk, artificial silk, staple, fibre yarn and wool including mixture piecegoods, i.e., piecegoods made out of different kinds of yarns, or piecegoods made out of yarns spun out of mixture of different kinds of textile fibre	On the goods themselves
11	Stationery goods, all kinds	On the containers or coverings, or otherwise
12	Tiles of all kinds	On the goods themselves
13	Manufactures of wood	On the goods themselves
14	Toilet preparations of all kinds including soaps	On the containers or coverings
15	(a) Wood and timber, in logs	(a) On the goods themselves

(1)	(2)	(3)
15	(b) Wood and timber in pieces, planks or scantlings	(b) On the bundles, or otherwise
16	Yarns of cotton, silk, artificial silk, staple fibres and wool, including yarn spun out of mixture with one or more kinds of textile fibres, as well as yarns consisting of strands of different kinds of yarn combined by the process of doubling or twisting	On the bundles
17	Iron ingots.	On the goods themselves

Part II: Goods made or produced within India

(1)	(2)	(3)
1	Cigarettes.	On the containers or coverings
2	Cotton piecegoods excepting handloom cloth	On the goods themselves
3	Primary and secondary batteries of all kinds such as dry cells for flash lights, radios, etc., and storage batteries of the motor vehicle, train lighting and stationary types, and also plates for motor vehicle batteries	On the goods themselves
4	Yarns of cotton, silk, artificial silk, staple fibre and wool, including yarn spun out of mixture with one or more kinds of textile fibres, as well as yarn consisting of strands of different kinds of yarn combined by the process of doubling or twisting	On bundles
5	Chemicals, drugs, medicines and pharmaceutical products of all kinds	On the containers or coverings
6	Toilet preparations of all kinds including soaps	On the containers or coverings

(1)	(2)	(3)
7	Fountainpen ink and ink of all kinds	On the bottles and paper cartons
8	Electric brass lamp holders	On the lamp holders and cartons
9	Zip fasteners	On the goods themselves
10	Oil pressure lamps	On the goods themselves
11	Oil pressure lamp mantles	On the containers or coverings

