Free Trade Agreement (FTA) utilisation – need for a robust “origin management system”

**Origin management – need for exporters**

Origin management is a holistic approach towards creating a single, auditable, global platform that enables companies to successfully claim preferential origin & sustain, review, and audit preferential claims. Origin management is important for setting up processes and systems for origin claims, improved market access for exporters and better price discovery.

This can be achieved by a FTA “origin management system” set up with the objective of gaining knowledge and expertise about FTA, familiarity with ROO and method of obtaining a certificate of origin (COO). A high-level origin management process involves the following:

- Determining the bill of materials used for production of export products
- Computing value addition or local value content requirements
- Evaluating the significant transformation requirements under ROO
- Enhancing the price negotiation ability with FTA partner-country by the exporter of goods
- Sourcing the pricing information for inputs and raw material used
- Integrating the company ERP for supporting the application for COO
- Organising regular training sessions around trade agreements for operations, finance, commercial and logistics teams

Developed countries and large multinational organisations have mastered the art of setting up origin management systems; consequently, they have been able to reap the benefits of FTA without any financial risks and disruption in supply chain.

**Origin management – need for importers**

India, being the donor country in cases of import of goods under preferential treatment, examines the accuracy and correctness of the origin claim. Customs is one such agency in India that may investigate any fraudulent or wrongful claim of preferential duty. The Union Budget 2020–21 has introduced a new chapter in the Customs Act, 1962 to administer, monitor and investigate the claim of preferential duty benefits. The newly introduced provisions empower customs authorities to seek information from Indian importers and impose restrictions/deny benefits, if the response is not satisfactory.

In light of this, importers need to achieve a fine balance between claiming preferential duty benefits and maintaining sufficient checks/processes to avoid any conflicts or protracted litigation with customs authorities. Importers need to ensure that in case of an enquiry, audit, or investigation by customs, they have appropriate systems and processes in place to be able to demonstrate the following:

- Goods have been directly brought into India from the country of export as per the ROO
- Duty benefit has been claimed rightfully and there is a verifiable audit trail supporting the claim of country of origin
- Goods satisfy the “value addition” conditions and that appropriate documentation/evidence is available
- Reasonable care was exercised while determining and claiming the preferential duty benefits
- All the details required in the COO are correctly populated and the COO is complete in every way
- The customs classification of the products, correct and consistent disclosure of product and valuation details in the import invoice and the COO

India has signed more than 18 trade agreements including those with ASEAN countries, Japan, Korea, Singapore, SAARC countries, and the South Asian Free Trade Area (SAFTA) countries. Additionally, on export of products from India, a concessional rate of import duty is offered by developed countries under the Generalised System of Preferences (GSP).

India, being a donor country in case of import of goods under FTA, wants to ensure that sufficient information is available with Indian importers while claiming benefits under FTA. It is crucial for companies dealing in international trade to be aware of trade agreements, rules of origin (ROO), certifying agencies etc., to bring down the cost of international trade. Also, due to new requirements under the customs law, companies need to have a robust “origin management system.”
### Companies can consider working on the following areas:

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<th>Preparedness assessment and establishing origin management system</th>
<th>Representation before the government</th>
<th>Preparing for audits and enquiries by customs authorities</th>
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<td>• Reviewing “as-is” controls for origin management in India</td>
<td>• Representation before the government with respect to the following:</td>
<td>• Developing strategies to deal with audit/enquiries initiated by customs</td>
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<td>• Setting up “FTA solicitation process” for receiving data from overseas suppliers to determine the eligibility of preferential duty under the relevant FTA, and to ensure sufficient information is available in India</td>
<td>• Clarification required in rules to be notified by government on use of words such as “reasonable care” or “sufficient information” in provisions</td>
<td>• Keeping specified records ready for production in case of an audit/enquiry</td>
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<td>• Preparing an origin management procedure manual for strengthening controls</td>
<td>• Limitation of exporter to share cost-related information due to business requirements</td>
<td>• Training employees about recent changes to achieve higher levels of compliance with FTA claims</td>
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<td>• Conducting an on-site examination at supplier location, in cases where the FTA benefits claimed are substantial</td>
<td>• Time lag in receiving information required for each consignment when the goods are already at port, leading to delay in clearance</td>
<td>• Conducting timely discussions with customs authorities so that the FTA claim has no bearing on the supply chain</td>
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