

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

Benefits under FTAs – an opportunity with responsibility

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.”



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:



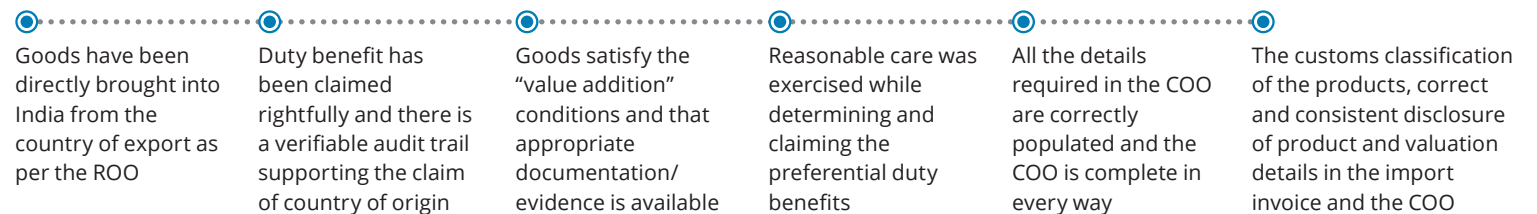
Developed countries and large multinational organisations have mastered the art of setting up origin management systems; consequentially, they have been able to reap the benefits of FTA without any financial risks and disruption in supply chain.



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:





Companies can consider working on the following areas:

Preparedness assessment and establishing origin management system



- Reviewing “as-is” controls for origin management in India
- 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
- Preparing an origin management procedure manual for strengthening controls
- Conducting an on-site examination at supplier location, in cases where the FTA benefits claimed are substantial

Representation before the government



Representation before the government with respect to the following:

- Clarification required in rules to be notified by government on use of words such as “reasonable care” or “sufficient information” in provisions
- Limitation of exporter to share cost-related information due to business requirements
- Time lag in receiving information required for each consignment when the goods are already at port, leading to delay in clearance
- Restricting arbitrary use and different practices across field formations

Preparing for audits and enquiries by customs authorities



- Developing strategies to deal with audit/enquiries initiated by customs
- Keeping specified records ready for production in case of an audit/enquiry
- Training employees about recent changes to achieve higher levels of compliance with FTA claims
- Conducting timely discussions with customs authorities so that the FTA claim has no bearing on the supply chain

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