



Indian Customs increases scrutiny on FTA origin compliance

The following report may be of interest to:

Exporters of goods to India

Summary:

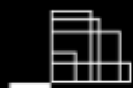
On 21 September 2020, the Government of India announced Customs Administration of Rules of Origin under Trade Agreement Rules 2020 (CAROTAR 2020) to revamp the process of verifying origin compliance for imports coming into India under Free Trade Agreements (FTAs). This regulation requires importers to be able to present details for claiming of origin under FTA preferential duties at the time of importation. CAROTAR 2020 aims to address concerns about the potential misuse of FTA privilege claims in India.

However, the burden now shifts to importers and exporters of goods to ensure that they are compliant with CAROTAR 2020. Exporters of goods to India using preferential duty rates under ASEAN–India FTA (AIFTA) and Thai–India FTA should be aware of the potential legal burden they face as the regulation comes into full force.

The importer must be able to present information to Indian Customs at the time of importation. Indian Customs expects the importer of the goods to have the following minimum basic information on hand:

- Description of the production process undertaken in the country of origin
- Manner in which the origin criteria is determined
- Treatment of packing materials origin
- Nature of export
 - Manufactured by the exporter or procured locally from a third party
 - If procured from a third party, the exporter needs to seek confirmation and documentary proof of the origin of the goods.
- Details regarding the qualification under the rules of origin such as Change in Tariff Classification, Regional/Domestic Value Content, Special Process, de minimis, etc. (if any)

If the importer is unable to provide the requested information during importation, their preferential duty claims may be rejected by Indian Customs and the rejection could potentially apply to historic shipments. Indian Customs may also request additional information from the importer if they see fit, and the importer must provide the information within 10 working days. Once satisfied, the benefits from the preferential duties will be restored.



PwC Tax Insight # 42/2020

Tax Update

Issued Date: 27 November 2020



Indian Customs will now also deny FTA benefits outright, without any verification, in the following circumstances:

- Incorrect tariff item has been declared for the purpose of claiming FTA benefits for goods that are not otherwise covered by the FTA.
- Incomplete description of goods on the certificate of origin.
- Any unauthorised alteration to the certificate of origin not made by the issuing authority in the exporting country.
- Expired certificate of origin.

Some Thai exporters have already been challenged, so it's best for exporters of goods to India to prepare sufficient documentation beforehand on regional value content and change in tariff classification to help support the buyer of the goods and ensure that the certificate of origin is valid. This is so that the buyer's process of claiming preferential duties under an FTA is as uninterrupted as possible. Exporters should be aware of the adverse consequences on the supply chain that importers of goods into India may face if the required information is insufficiently prepared.



For further information, please contact:

- Mr. Paul Sumner at paul.sumner@pwc.com or +66 (0) 2844 1305.
- Mrs. Wiphawee Rungwanitcha at wiphawee.rungwanitcha@pwc.com or +66 (0) 2844 1248
- Mr. Tanarat Permpoonsap at tanarat.permpoonsap@pwc.com or +66 (0) 2844 1196.

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