



सीमा शुल्क आयुक्त कार्यालय (NS-III)  
**OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-III)**  
 तुरंत सुविधा केंद्र, पहली मंजिल/TURANT SUVIDHA KENDRA, FIRST FLOOR  
 जवाहरलाल नेहरू कस्टम हाउस, न्हावा शेवा, उरण, जिला: रायगढ़, महाराष्ट्र - 400 707  
**JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA, URAN DIST:**  
**RAIGAD, MAHARASHTRA - 400 707.**

23-01-2025

लोक सूचना संख्या /PUBLIC NOTICE NO. 10/2025

विषय: मुक्त व्यापार समझौतों (एफटीए) के तहत उत्पत्ति प्रक्रियाओं के कुछ पहलुओं पर स्पष्टीकरण  
 - संबंध में

**Subject: Clarification on certain aspects of origin procedures under Free Trade Agreements (FTAs) – reg.**

उपरोक्त उल्लिखित विषय के संदर्भ में फाइल संख्या -20000/6/2015-OSD(ICD) द्वारा जारी सी बी आई सी निर्देश सं. 23/2024-Customs दिनांक 21.10.2024, की ओर सभी संबंधित हितधारकों का ध्यान आकर्षित किया जाता है (प्रतिलिपि संलग्न)।

Attention of the trade is drawn towards CBIC Instruction No. 23/2024-Customs dated 21.10.2024, issued vide F.No. 20000/6/2015-OSD(ICD) on the above-mentioned subject, and the same is brought to the notice of all concerned (copy enclosed).

2 . बोर्ड निर्देश संख्या 23/2024-Customs दिनांक 21.10.2024 के अनुसार, इस सीमा शुल्क भवन द्वारा जारी लोक सूचना संख्या 55/2024 दिनांक 24.06.2024 उपरोक्त निर्देश की सीमा तक संशोधित किया जाता है।

Pursuant to the Board Instruction No. 23/2024-Customs dated 21.10.2024, Public Notice No. 55/2024 dated 24.06.2024 issued by this Custom House stands modified to the extent as written in the said Instruction.

3 . यह लोक सूचना इस सीमा शुल्क के सभी संबंधित अधिकारियों और कर्मचारियों के लिए एक स्थायी आदेश के रूप में मानी जाएगी।

This Public Notice shall be considered as a Standing Order for the concerned officers and staff of this Custom House.

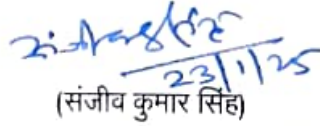
4 . इस लोक सूचना के कार्यान्वयन में उत्पन्न किसी भी कठिनाई को टी. एस. के. के सहायक सीमा शुल्क आयुक्त (प्रभारी) के ईमेल: [tsk-jnch@gov.in](mailto:tsk-jnch@gov.in) पर सूचित किया जा सकता है।

Any difficulty faced in the implementation of this Public Notice may be brought to the notice of the Assistant Commissioner of Customs (In-charge) of TSK at Email: tsk-jnch@gov.in

5. यह सूचना मुख्य सीमा शुल्क आयुक्त, मुंबई ज़ोन-II की स्वीकृति से जारी की गई है।

This issues is with the approval of the Chief Commissioner of Customs, Mumbai Zone-II.

Encl: as above

  
(संजीव कुमार सिंह)

(SANJEEV KUMAR SINGH)

सीमा शुल्क आयुक्त, एन. एस.-III, जेएनसीएच,  
Commissioner of Customs, NS-III, JNCH

**F. No. 20000/6/2015-OSD(ICD)**

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes & Customs International  
Customs Division

Room No. 227 A, North Block, New Delhi  
Dated the 21<sup>st</sup> October, 2024

To,

All Principal Chief Commissioners / Chief Commissioners of Customs / Customs (Preventive)/  
Customs and Central Tax  
All Principal Commissioners / Commissioner of Customs / Customs (Preventive)  
All Principal Directors General / Directors General under CBIC  
Madam / Sir,

**Subject: Clarification on certain aspects of origin procedures under free trade agreements (FTAs) - regarding.**

The Board is in receipt of various representations, citing difficulties encountered in import clearance where third-party invoicing, allowed under the provisions of a trade agreement, has been used.

1.1 It has been represented that certain field formations are questioning the origin status of products imported under FTAs with third-party invoicing, particularly under the ASEAN-India FTA (AIFTA), upon comparing the value recorded on the certificate of origin (COO) and that declared on the third-party invoice. Instances have also been brought to notice where preferential claims have been denied in such cases without conducting verification of COO with the issuing authority to check its authenticity and / or accuracy of information contained therein.

2. In this regard, it is to note that third-party invoicing is a common business practice and a few trade agreements explicitly provide for it. For example, Article 22 of Operational Certification Procedures for the Rules of Origin for the AIFTA states that:

“The Customs Authority in the importing Party shall accept an AIFTA Certificate of Origin where the sales invoice is issued either by a company located in a third country or an AIFTA exporter for the account of the said company, provided that the product meets the requirements of the AIFTA Rules of Origin.”

3. It is pertinent to underline here that the purpose of a COO is to serve as a proof that the goods qualify as originating within the terms of an FTA, irrespective of whether third-party

invoicing is involved or not. On the other hand, the seller's invoice, including a third-party invoice where applicable, is the document relevant for customs valuation.

4. Where the proper officer has reason to believe that the subject product does not meet the prescribed originating criteria, he/she may seek information and supporting documents in relation to the originating status of the product, as may be deemed necessary, from the importer, *consistent with the trade agreement*. When the requisite information is not provided by the importer or the information furnished is insufficient to assess origin criteria, the laid down process of verification gets triggered in terms of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 (CAROTAR in brief) read with Section 28 DA of the Customs Act, for which a reference is to be made by the proper officer to the issuing authority through the FTA Cell (under the Directorate of International Customs).

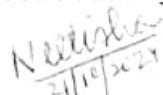
5. Further, it may be noted that both - the information being sought and the process of verification must be *consistent with the trade agreement*. It may also be noted that CAROTAR does not obligate the importer to provide commercially confidential information, pertaining to the exporter/third-party. Also, CAROTAR does not require an issuing authority or a seller to use a specific or same currency for declaring value in COO and invoice respectively.

6. Rule 5(5) of CAROTAR provides that the proper officer may deny a preferential duty claim without causing further verification on the basis of the information and documents furnished by the importer and available on record. However, it is emphasised that if the concerned trade agreement *does not allow* for outright denial without causing a verification in accordance with provisions laid down in the subject agreement, the provision of the trade agreement shall prevail. CBIC vide its Instruction No. 19/2022-Customs dated 17.08.2022 has reiterated that in the event of conflict between the provisions of the trade agreement and CAROTAR read with Section 28 DA, the provisions of the trade agreement shall prevail to the extent of the conflict.

7. In cases where non-compliance of origin criteria is established after following the due process, an speaking order must be passed following the principles of natural justice as well as the specific obligations in this regard covered in the respective FTA. Merely pointing out that the value addition is artificially inflated by wrongfully adding certain ineligible elements (e.g. freight) may not be sufficient to reject a claim, unless it is demonstrated that the value addition calculated as per formula prescribed in the trade agreement does not meet the threshold percentage point when such elements are removed.

8. It is requested that customs formations under your jurisdiction may be suitably sensitized on the issues elaborated above.

Yours sincerely,

  
21/10/2024  
(Nectisha Verma)  
OSD (ICD)