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FTA

# Importer's challenge

▶ Importers find the process of obtaining duty concessions under FTAs too complex and onerous.

India has granted significant duty concessions for imports from several ASEAN and South Asian countries, Korea and Japan among them, under the Free Trade Agreements. However, importers looking to reduce costs find the process of obtaining duty concessions under the FTAs too complex and onerous. The central problem arises in complying with the rules of origin requirement.

Rules of origin help determine the country of origin of the goods. To be eligible for the lower preferential tariff, the exporter must obtain a Certificate of Origin from the government agency and present it to the customs authority at the time of importation.

In general, India's FTAs employ the twin criteria of "value-added content" and "change in tariff classification" to determine the origin of goods that are not wholly produced or obtained in the territory of the FTA parties. The value-added content rule requires that a certain specified minimum percentage of local content be added to a product in the country where the origin is being claimed. The required value-added content percentage varies across FTAs. The change of tariff classification rule, on the other hand, is based on a tariff shift — meaning that the product must be classified under a different tariff heading and not the tariff heading of the components used in its production. While some FTAs require a change of tariff classification at the four-digit level, others do so at the six-digit level.

## MULTIPLE FTAS

The rules of origin pertaining to each FTA are therefore different. In addition, India may have agreed to grant different levels of duty concession to a particular imported good from the same country under multiple FTAs.

For instance, India offers duty concessions for imports from Malaysia under the India-Malaysia FTA as well as the India-ASEAN FTA. As a result, importers may have a choice between multiple FTAs for obtaining preferential benefits when trading with one country. The rules of origin under these FTAs however differ and, therefore, though a product may originate from the partner country

under one FTA, it may not satisfy the rules of origin under another.

The number of overlapping FTAs and the distinct set of rules specific to them pose a problem for importers. Structuring production processes specifically for each FTA raises compliance costs. Furthermore, calculating whether a product satisfies the value-added content requirement of an FTA can be cumbersome and requires sophisticated accounting systems.

Adherence to customs formalities adds to the complexity of complying with the rules of origin. The intricacies of calculating the value-added content may result in a difference between the importer's determination of origin and the customs authorities' findings on the origin.

## HARMONISING RULES

Capacity building programmes that enhance the institutional infrastructure as well as train customs officials in the application of rules of origin could help mitigate such problems.

In addition, harmonising the varying rules of origin requirements under different FTAs for the same products should enable business houses to plan better their production and sourcing chains so as to obtain adequate duty concessions. Compliance with FTA origin rules may sometimes entail a change in supply chain or manufacturing location. The costs can deter companies from seeking FTA duty concessions. In such cases, businesses should assess the costs saved through FTA duty concessions against the costs incurred in complying with FTA origin rules. Where the cost savings through duty concessions exceed the costs incurred in compliance, business will find it worthwhile to reconfigure their supply chains or undertake other compliance-related costs.

With numerous prospective FTAs in the pipeline, tackling the above challenges becomes increasingly important, so that importers can take full advantage of the benefits accorded by India's FTA partners.

## RULES OF ORIGIN



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