



भारत सरकार
Government of India

वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Department of Revenue

कार्यालय आयुक्त सीमा शुल्क (निवारक), उत्तर प्रदेश एवं उत्तराखण्ड
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TRADE NOTICE NO. 09/2020

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Subject:- Guidelines regarding implementation of section 28DA of the Customs Act, 1962 and CAROTAR, 2020 in respect of Rules of Origin under Trade Agreements (FTA/PTA/CECA/CEPA) and verification of Certificates of Origin- reg.

Attention of all importers, exporters, Customs Brokers and other stakeholders is invited to the Board's Notification No. 81/2020-Customs (N.T.) dated 21st August, 2020 and Circular No. 38/2020-Customs dated 21.08.2020 on above subject which have aimed to supplement the operational certification procedures related to implementation of the Rules of Origin, as prescribed under the respective trade agreements (FTA/PTA/CECA/CEPA) and notified under the customs notifications issued in terms of section 5 of the Customs Tariff Act, 1975 for each agreement.

2 The Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 (hereafter referred to as the CAROTAR, 2020) shall come into force on 21st September, 2020, to provide sufficient time for transition and to ensure that the prescribed conditions in terms of rule 4 are complied with. Necessary modifications in bill of entry format are being made to allow declaration in terms of rule 3(a) and 3(d) of CAROTAR, 2020.

3 The CAROTAR, 2020 and Rules of Origin notified for a trade agreement in terms of sub-section (1) of section 5 of the Customs Tariff Act, 1975, broadly provide the following grounds for verification:

a) In case of a doubt regarding the genuineness of the Certificate of Origin (CoO) such as any deficiency in the format of the certificate or mismatch of signatures or seal when compared with specimens on record.

b) In case of a doubt on the accuracy of information regarding origin, i.e. where a doubt arises on whether the product qualifies as an originating good under the relevant Rules of Origin. In other words, these are cases where there is a reasonable belief that a product is not grown or not produced/manufactured in a particular country or required value addition/change in CTH/PSR etc., as the case may be, has not been achieved for the goods to qualify as originating.

c) Verification could also be undertaken on random basis as a measure of due diligence. For this purpose, factors such as the quantum of duty being foregone, the nature of goods vis-à-vis the country of origin, commodities that are prone to mis-declaration of country of origin, compliance record of the importer etc., may be given regard while selecting Certificates of Origin for random verification.

4. The Rules of Origin, by virtue of which a good attains origin of a country, have evolved with subsequent reviews of trade agreements. Most trade agreements have moved from single general rule to specific rule for most of the tariff lines, with inclusion of vast array of processes which can confer origin. Section 28DA makes it incumbent upon an importer to possess sufficient information as regards the manner in which country of origin criteria, including the regional value content and product specific criteria, specified in the Rules of Origin in the trade agreement, are satisfied. For this purpose, CAROTAR, 2020 has provided a form, containing list of basic minimum information which an importer is required to obtain while importing goods under claim of preferential rate of duty. Therefore, in case there is a doubt with regard to origin of goods, information should be first called upon from the importer of the goods, in terms of rule 5 read with rule 4 of CAROTAR, 2020, before initiating verification with the partner country in terms of rule 6.

5 Section 28DA of the Act further states that mere submission of a certificate of origin shall not absolve the importer of the responsibility to exercise reasonable care to the accuracy and truthfulness of the information supplied. In case an importer fails to provide information in terms of section 28DA(1) (iii) of the Act and as prescribed under CAROTAR, 2020, or does not exercise reasonable care to ensure the accuracy and truthfulness of the information furnished, this fact should be informed to Risk Management Centre of Customs (RMCC) through written communication for the purposes of enabling compulsory verification of assessment of all subsequent import consignments in terms of rule 8(1) of CAROTAR, 2020. However, the compulsory verification of assessment should be discontinued once the importer demonstrates that he has established adequate system of controls to exercise reasonable care as required under the Act.

6 Verification request should be forwarded to this office for approval for onward submission to Board Office, based upon following standard operating procedures:

(i) In case several certificates pertaining to identical item are under review or scrutiny, only representative certificates should be forwarded to the Board to cause verification along with list of all CoOs to which the field formation aims to apply the result of such verification. Representative CoOs may be selected in such a manner to ensure that they cover each of the exporters, importers and the prescribed originating criteria. For instance, if there are several CoOs issued to a single exporter, but originating criteria are different, then CoOs covering each of the originating criteria may be considered to be forwarded for verification, with specific queries.

(ii) The verification proposal should be complete, keeping in mind all components of the prescribed format of CoO and all relevant aspects of the Rules of Origin, in order to avoid multiple queries to the Verification Authority/exporting country. For instance, in case a CoO has been issued retrospectively, it needs to be seen whether there are provisions in the Rules of Origin to issue retroactive CoO and whether reasons for retroactive issuance need to be provided by the Verification Authority. Similarly, should the proper officer feel the need to verify documents to establish compliance of 'direct consignment' or third-party invoicing, if provided for in the Rules of Origin, then the same should be included in the verification proposal.

(iii) Requests for verification must be sent to the Board only after the approval of the undersigned. The reference for verification must contain legible copies of the Certificate of Origin, invoice and the Bill of Lading/Airway Bill. **The request should also contain the information listed in the Annex.**

(iv) Where verification is being considered for goods not cleared or cleared provisionally on grounds of verification of origin, such requests should be communicated immediately to the Board in case requests are in terms of rule 6(1)(a) or 6(1)(c) of CROTAR 2020; and within 10 days from the date of receipt of requisite information and documents from the importer in case the request is being considered in terms of rule 6(1)(b).

(v) Mechanism should be devised to monitor the requests which have been forwarded for verification, with special focus on cases where the timeline for response from the Verification Authorities is about to expire.

7. For ascertaining correctness of a claim of preferential rate of duty under a trade agreement, information may be sought from the importer during the course of customs clearance or thereafter (e.g. during subsequent investigations or post-clearance audit). Likewise, a verification request may be

