

# Submit 'proof of origin' instead of 'certificate of origin' for preferential import tariff, says FinMin

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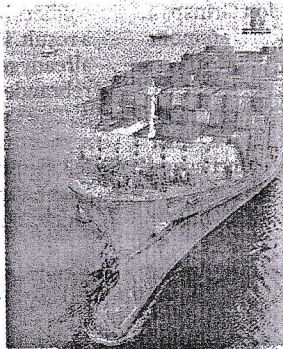
An importer will now be required to submit 'proof of origin' as against 'certificate of origin' for preferential rate of duty in terms of a trade agreement. Experts feel such a move is aimed at checking imports from China that are routed through third countries.

The Finance Ministry has notified changes in the Customs (Administration of Rules of Origin under Trade Agreements) Amendment Rules 2020. It has been made effective from March 18.

## CHINA IMPORTS

According to Sivakumar Ramjee, Executive Director-Indirect Tax, Nangia Andersen LLP, the amendment is aimed at tightening scrutiny on imports, particularly those from China that are routed through third countries under Free Trade Agreements (FTAs).

India has been facing challenges with Chinese goods being rebranded and rerouted through ASEAN nations, Sri Lanka, and UAE to evade higher tariffs and trade



restrictions. By shifting to a broader "proof of origin" requirement, Indian customs authorities now have greater flexibility to demand additional evidence beyond just a certificate, ensuring that importers cannot misuse FTAs to bypass trade barriers meant to protect domestic industries.

Investigations revealed that Chinese products, such as mobile phones, white goods, set-top boxes, and other electronic gadgets, were being exported to India through countries like Vietnam, Singapore, and Indonesia.

These goods were claimed under FTAs, allowing them to benefit from concessional

duty rates, despite not meeting the required "rules of origin" criteria.

A company in Ho Chi Minh City, Vietnam, was found importing finished silk from China, relabeling it as 'Made in Vietnam,' and then exporting it to India. This misrepresentation exploited Vietnam's trade agreements with India to enjoy lower tariffs, undermining the authenticity of the certificate of origin.

"These practices have prompted Indian authorities to tighten scrutiny on imports, ensuring that goods genuinely originate from the countries specified in their certificates of origin, thereby protecting domestic industries from unfair competition," Ramjee said.

## DUE DILIGENCE

Mayank Jain, Partner at Khaitan & Co, said that amendments stem from the Finance (No. 2) Act, 2024, viz., changes to Section 28DA of the Customs Act 1962.

This section outlines the procedure for claiming preferential duty rates under trade agreements, emphasising importer responsibility

and requiring due diligence to ensure goods qualify as originating.

Historically, a "certificate of origin" was required for free/preferential Trade agreements (FTA/PTA) imports.

However, recent trade negotiations with the EU, UK, and EFTA mandated an exporter self-certification system as well. This necessitated shifting from "certificate" to "proof" of origin.

Simply stated, "the 2024 amendment to Section 28DA and the 2025 notification aligns India's statutory framework with these new economic partnership requirements, which should result in increased market access, trade by easier access to FTA/PTA benefits," Jain said.

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