

Instruction No. 10 /2023- Customs

F. No. CBIC-15021/17/2023-ICD-CBEC
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 10th March, 2023

To

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

Madam / Sir,

Subject: Implementation of origin procedures under India-Australia ECTA - reg.

Attention is drawn to Instruction No. 19/2022-Customs dated 17th August 2022 that had sensitized field formations towards applying the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 (CAROTAR) maintaining consistency with rules of origin (ROO) and operational certification procedures (OCP) of the relevant Free trade Agreement (FTA) for the purpose of implementation; and that in the event of a conflict between a provision of CAROTAR and a provision of the ROO/OCP under the FTA, the latter shall prevail to the extent of the conflict, as provided for in Rule 8(3) of CAROTAR.

2. This judicious manner of implementation as notified in case of each FTA separately & avoidance of unnecessary references for verification of COOs by field formations to the FTA Cell, are both also relevant for purposes of maintaining the ease of doing business. Hence, the supervisory officers should ensure these aspects.

3. While the foregoing are generally applicable principles, certain aspects have also been brought to notice of the Board with respect to implementation of ROO and OCP under India-Australia ECTA. These are clarified as follows -

i) The India-Australia ECTA recognizes electronic Certificates of Origin. Hence, an e-COO, issued electronically by the Issuing bodies of Australia, is a valid document for the purpose of claiming preferential benefit under India-Australia ECTA, provided that the e-COO has been issued in the prescribed format, bears seal and signatures of the authorized Issuing body or authority and fulfills all other requirements stated in Notification No. 112/2022-Customs (N.T.) dated 22nd December 2022. In this regard,

a) the specimen seals and signatures, circulated in advance, shall continue to be used to verify the genuineness / authenticity of e-COO. Where verification is required to be initiated with the issuing authority of exporting country in case of doubt, the matter shall

be referred to the FTA Cell (in Directorate of International Customs) for initiating verification process through agreed communication channels only.

b) the e-COO shall be mandatorily uploaded on e-Sanchit by the importer/Customs Broker for availing preferential benefit, and the e-COO particulars such as unique reference number and date, originating criteria etc. shall be carefully entered while filing the bill of entry.

c) for defacement purposes, a printed copy of e-COO shall be presented to the Customs officer, who shall cross-check the unique reference number and other particulars entered in the bill of entry with the printed copy of e-COO. This will be in lieu of defacing the original hard copy of a certificate of origin. In this regard, it may be recalled that a check has already been introduced in the System to disallow use of same COO reference number in more than one bill of entry.

ii) Notification No. 112/2022-Customs (N.T.) dated 22nd December 2022 lists the requirements of a valid COO/e-COO under India-Australia ECTA and affixing of QR Code on the COO/e-COO is not a requirement under the same.

iii) There are no overleaf notes to the COO format in the India-Australia ECTA. However, while notifying the Rules of Origin, after due consultation with Australia side, these were added to Notification No. 112/2022-Customs (N.T.) dated 22nd December 2022 from Indian side as a guidance for respective issuing authorities/bodies as well as traders. The purpose of the Overleaf Notes is to provide guidance on how to fill certain entries in the COO format, and the Overleaf Notes *per se* are not a part of the COO format. Therefore, absence of Overleaf Notes on the COOs received from Australia may not be a ground for initiating verification or denial of preferential benefit.

iv) Given the geographical distance between India and Australia, weather disturbances, logistical convenience, etc. the exporters may not always know the port of destination and therefore, to avoid re-issuance of COO, Australian issuers fill the Port of Destination field with 'any ports in India'. The similar practice is followed by India's issuing authorities as well, where required. Therefore, so long as the details on the COO and the transport documents match, putting 'any ports in India' in the Port of Destination field of the COO by Issuing bodies of Australia may not be a ground for initiating verification or denial of preferential benefit.

Yours sincerely,

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