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**CERTIFICATE COURSE ON INTERNATIONAL TRADE**

## Today's Content – Imports

### I. Foreign Trade Policy (FTP) – Overview

The **Foreign Trade Policy (FTP)** is a set of guidelines and incentives issued by the **Government of India** to regulate and promote international trade (exports and imports). It is formulated by the **Directorate General of Foreign Trade (DGFT)** under the **Ministry of Commerce and Industry**.

### Objectives of Foreign Trade Policy

1. **Boost Exports –** Encourage Indian businesses to export goods and services to global markets.
2. **Enhance Ease of Doing Business –** Simplify trade regulations, reduce paperwork, and digitize processes.
3. **Support MSMEs & E-commerce –** Provide special incentives for small businesses and online exports.
4. **Promote Make in India & Atmanirbhar Bharat –** Strengthen domestic manufacturing for self-reliance.
5. **Reduce Trade Deficit –** Balance imports with exports to improve India's foreign exchange reserves.

**Key Components of FTP**

1. **Export Incentives & Schemes**
    - **RoDTEP (Remission of Duties and Taxes on Exported Products) –** Refunds unrefunded duties/taxes.
    - **EPCG (Export Promotion Capital Goods Scheme) –** Allows duty-free import of machinery for export production.
    - **Advance Authorization Scheme –** Duty-free import of raw materials for export-oriented production.
2. **Special Economic Zones (SEZ) & Export-Oriented Units (EOU)**
    - SEZs enjoy **tax benefits** and **customs duty exemptions** to encourage exports.
    - EOUs operate with **100% export focus** and enjoy duty-free import benefits.
3. **Ease of Trade & Digitalization**
    - **Online issuance of licenses and certificates** (paperless EXIM transactions).
    - **E-commerce export facilitation** to support small online sellers in global markets.
4. **Market Expansion & FTAs (Free Trade Agreements)**
    - FTP aligns with India's **bilateral and multilateral trade agreements**.
    - Encourages exporters to explore **new markets like Africa, Latin America, and ASEAN countries**.

## II. Foreign Trade Policy 2023 – A New Approach

The **Foreign Trade Policy 2023** is **open-ended** (no fixed end date) and will be **updated dynamically** based on global economic conditions. Its goal is to **achieve $2 trillion in exports by 2030** through a **flexible and responsive trade framework**.

The **Foreign Trade Policy (FTP) 2023** was announced by the **Directorate General of Foreign Trade (DGFT)** under the **Ministry of Commerce & Industry**. It aims to boost India's exports, ease trade regulations, and promote international competitiveness.

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## Key Highlights of FTP 2023

### 1. Shift to a Dynamic and Flexible Policy

- No fixed end date; **continuous updates** as per evolving global trade scenarios.
- Real-time policy interventions instead of waiting for a new five-year cycle.

### 2. Export Promotion & Incentives

- **Status Holder Certification**: Exporters with ₹2 crore annual exports can get One Star Export House status (reduced from ₹5 crore).
- **Towns of Export Excellence (TEE)**: New towns added (e.g., Faridabad, Mirzapur, Moradabad). These towns receive priority infrastructure support.
- **Districts as Export Hubs**: Each district to have an export action plan to promote local industries.

### 3. Simplified & Digitized Trade Processes

- **Paperless Export-Import (EXIM) Transactions** using online portals.
- **E-certificate of Origin** to speed up trade agreements.
- **Automatic Approval for Export Authorizations** in select cases.

### 4. Export Duty Exemptions & Remissions

- **Advance Authorization Scheme**: Duty-free imports of raw materials for export production.
- **Export Promotion Capital Goods (EPCG) Scheme**: Import of capital goods at zero duty with export obligations.
- **Remission of Duties and Taxes on Exported Products (RoDTEP)**: Refunds unrefunded state & central taxes.

### 5. Support for E-Commerce Exports

- New initiatives to facilitate **cross-border e-commerce exports**.
- **Warehouses at key locations** for faster global shipments.
- Simplified **export procedures for small e-commerce businesses**.

### 6. Special Economic Zones (SEZ) & Export-Oriented Units (EOU)

- Relaxed compliance rules for **EOUs & SEZs** to attract investments.
- Improved integration with the domestic market to boost manufacturing.

### 7. International Trade Agreements & Market Expansion

- Focus on **Free Trade Agreements (FTAs)** with multiple countries.
- **Expansion of India's export footprint** to Africa, Latin America & emerging markets.

- **Collaboration with global trading partners** for smoother trade flows.

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**Expected Impact of FTP 2023**

- ✔ **Target of $2 Trillion Exports by 2030** (Goods + Services).
- ✔ Enhanced global competitiveness for Indian exporters.
- ✔ Greater ease of doing business with reduced compliance burden.
- ✔ Strengthening MSMEs, e-commerce, and new-age trade sectors.

## III. Some of the Important Definitions under FTP 2023

### 1. Export & Import

- **Export**: The act of taking goods, software, or services out of India by any means, including postal or electronic transmission.
- **Import**: The act of bringing goods, software, or services into India from outside.

### 2. Exporter Categories

- **Merchant Exporter**: A person engaged in trading export goods but not involved in manufacturing.
- **Manufacturer Exporter**: A producer of goods who exports directly or through third parties.
- **Status Holder**: An exporter recognized based on export performance and granted benefits (e.g., One Star to Five Star Export Houses).

### 3. Authorized Economic Operator (AEO)

A business entity certified by Customs for following secure and compliant trade practices, allowing them faster clearances and benefits.

### 4. Free Trade Agreement (FTA)

A trade agreement between two or more countries to reduce or eliminate tariffs and trade barriers.

**5. Duty Exemption & Remission Schemes**

- **Advance Authorization**: Allows duty-free import of inputs for export production.
- **Duty-Free Import Authorization (DFIA)**: A transferable authorization for duty-free import of inputs.
- **Remission of Duties and Taxes on Exported Products (RoDTEP)**: A scheme to reimburse unrefunded taxes and duties.

**6. Special Economic Zone (SEZ)**

A designated area within India that provides tax benefits and exemptions to businesses engaged in export-oriented activities.

**7. Export Promotion Capital Goods (EPCG) Scheme**

A scheme allowing import of capital goods at zero or concessional duty, provided export obligations are fulfilled.

**8. Deemed Exports**

Supplies within India that are treated as exports for benefits under FTP, such as supplies to EOU, SEZ, or mega infrastructure projects.

**9. Export-Oriented Units (EOU)**

Units engaged in 100% exports, enjoying duty-free imports and other incentives.

**10. Foreign Trade Policy (FTP) Validity**

FTP 2023 is valid indefinitely and subject to periodic review.

## IV. SCOMET (Special Chemicals, Organisms, Materials, Equipment, and Technologies)

SCOMET refers to a **list of controlled items** that require special authorization for export due to their **sensitive nature** and potential use in **weapons, military applications, or dual-use technologies**. It is governed by **DGFT (Directorate General of Foreign Trade)** under the **Foreign Trade Policy (FTP) 2023**.

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### 1. Legal Framework & Governing Authority

- **Foreign Trade (Development & Regulation) Act, 1992 (FTDR Act)**
- **Foreign Trade Policy (FTP) 2023**
- **DGFT (Directorate General of Foreign Trade) Notification & Handbook of Procedures**
- **International Agreements**: India follows international export control agreements such as:
  - **Wassenaar Arrangement (WA)**
  - **Missile Technology Control Regime (MTCR)**
  - **Australia Group (AG)**
  - **Nuclear Suppliers Group (NSG)**

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### 2. SCOMET Category-Wise Classification

SCOMET items are categorized into **9 broad groups** as per **Appendix 3 of Schedule 2 of ITC(HS) Classification of Export and Import Items**.

| SCOMET Category | Description | Applicable Controls |
|---|---|---|
| **0** | Nuclear materials, nuclear reactors, associated technology | Regulated under Atomic Energy Act |
| **1** | Toxic chemicals, biological agents, related technology | Linked to Chemical Weapons Convention (CWC) |
| **2** | Materials, material processing equipment | Includes composite materials, high-performance alloys |
| **3** | Electronics, semiconductors, microprocessors | Covers high-end electronics used in military systems |

| SCOMET Category | Description | Applicable Controls |
|---|---|---|
| **4** | Computers, information security (encryption tech) | Encryption software, cybersecurity tools |
| **5** | Telecommunications, radar, navigation equipment | Includes satellite and drone technology |
| **6** | Aerospace, propulsion systems, unmanned aerial vehicles (UAVs) | Missile technology, UAVs, jet engines |
| **7** | Submersibles, marine technology | Sonar systems, underwater navigation tech |
| **8** | Special miscellaneous items | Emerging technologies like quantum computing, AI |
| **9** | Non-SCOMET items requiring special permission | Controlled on case-by-case basis |

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### 3. Export Control Regulations & Licensing Process

Exporting SCOMET-listed goods requires prior approval from **DGFT** and compliance with various international norms.

#### A. Export Authorization Process

1. **Application Submission**:
   - Exporters must apply through **DGFT's online portal** (DGFT e-SANCHIT).
   - Application requires details like **item description, end-user details, and country of destination**.
2. **End-Use Certificate (EUC)**:
   - Issued by the **end-user or foreign government**.
   - Ensures the exported item is used only for its intended purpose.
3. **Inter-Ministerial Approval (IMWG Review)**:
   - Applications are reviewed by **Inter-Ministerial Working Group (IMWG)** under DGFT.
   - Agencies involved include **DRDO, ISRO, DAE, MEA, MoD, MHA, NSCS, and Customs**.
4. **Grant of License**:
   - If approved, DGFT issues an **export authorization** valid for a specified period.
5. **Post-Shipment Obligations**:
   - Exporters must submit proof of shipment and compliance reports.

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### 4. Specific Exemptions & Special Provisions

### A. General Authorization for Export of SCOMET Items (GAE)

- A **relaxed license system** for certain **low-risk dual-use items** to specific **friendly countries**.
- Used for exports of **semiconductors, IT hardware, and electronics**.
- Exporters must **report transactions to DGFT quarterly**.

### B. Transfer of Technology (ToT) & Intangible Exports

- SCOMET controls **not just physical goods but also technology transfers** via:
  - **Emails**
  - **Cloud storage**
  - **Telecommunication (video conferencing, documents)**
- Technology Transfer requires **specific approval** from DGFT.

### C. Re-Exports & Transshipment

- If a foreign entity wishes to **re-export a SCOMET item**, it must **seek Indian government approval**.
- Transshipment through India is **monitored under Customs & DGFT regulations**.

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## 5. Violations & Penalties for Non-Compliance

Violating SCOMET regulations can lead to **severe penalties under multiple laws**:

| Regulation | Penalty |
|---|---|
| **Foreign Trade (Development & Regulation) Act, 1992** | **5 years imprisonment + Heavy fines** |
| **Customs Act, 1962** | Seizure of goods, blacklisting of exporter |
| **FEMA (Foreign Exchange Management Act), 1999** | Penalties up to 300% of transaction value |
| **Official Secrets Act, 1923** | Severe penalties for leaking sensitive tech |
| **Weapons of Mass Destruction (WMD) Act, 2005** | Punishment for aiding in proliferation |

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## 6. Recent Updates in SCOMET under FTP 2023

- **Increased Coverage**: More items added under **quantum computing, AI, and cybersecurity**.

- **Simplified Licensing for Trusted Partners**: Faster approvals for exports to **US, Japan, Australia, and EU countries.**
- **New Reporting Mechanism**: **Quarterly filing of exports & tech transfers** for better tracking.
- **Easing of Export Controls for Indian Companies**: Allowing trusted Indian exporters to sell high-tech components to **friendly countries**.

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### 7. Key Takeaways

☑ **SCOMET ensures national security & compliance with global non-proliferation treaties.**
☑ **Strict licensing required for high-tech & dual-use items.**
☑ **Violation leads to severe penalties under multiple Indian laws.**
☑ **FTP 2023 introduced relaxations for select items & faster approvals.**
☑ **Technology transfers (emails, cloud) are also regulated under SCOMET.**

## V. FEMA Provisions in Export

The **Foreign Exchange Management Act (FEMA), 1999**, governs all **foreign exchange transactions**, including **export and import of goods and services.** It ensures that foreign exchange earnings from exports are **repatriated to India within a specified time** and in compliance with RBI regulations.

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### 1. Legal Framework for Exports under FEMA

FEMA is administered by the **Reserve Bank of India (RBI)** through various regulations, circulars, and guidelines. The key regulations related to **exports** are:

1. **Foreign Exchange Management (Export of Goods and Services) Regulations, 2015**
2. **Master Direction on Export of Goods and Services (Issued by RBI)**
3. **Foreign Trade Policy (FTP) 2023**

## 2. Key FEMA Provisions for Exports

### A. Realization & Repatriation of Export Proceeds

☑ **Exporters must repatriate foreign exchange earnings to India within 9 months** from the date of shipment.
☑ For **export to warehouses outside India**, the realization period is **15 months**.
☑ If proceeds are not realized within the stipulated time, exporters must obtain **RBI approval**.

### B. Mode of Payment for Exports

☑ Exports can be paid for through **bank transfer, letters of credit (LC), bank drafts, or international credit cards**.
☑ Export payments must be received **only in permitted foreign currencies** (e.g., USD, EUR, GBP, etc.).
☑ **Third-party payments** (payment received from a country different from the buyer's country) are allowed under certain conditions.

### C. Export Declaration Form (EDF) Compliance

All exporters must submit the **Export Declaration Form (EDF)** to the **Authorized Dealer (AD) Bank** before shipment.
Types of forms include:

1. **Form EDF –** For physical exports.
2. **Form SOFTEX –** For software and IT exports.
3. **Form SDF (Statutory Declaration Form) –** Earlier required, now merged with shipping bill.

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## 3. Advance Payment & Export Credit

### A. Advance Payment for Exports

☑ Exporters can receive advance payments from foreign buyers, but:

- Shipment must be made within **one year** from receipt of advance.
- Advance payments **above ₹50 crore require RBI approval**.
- Refund of advance payment due to order cancellation **requires RBI permission** if not adjusted against another order.

### B. Export Credit & Trade Finance

Exporters can avail pre-shipment and post-shipment finance through:
☑ **Export Credit in Foreign Currency (ECFC)** – Short-term loans for working capital.
☑ **Packing Credit in Foreign Currency (PCFC)** – Finance for purchasing raw materials before shipment.
☑ **Export Credit Insurance** – Provided by ECGC (Export Credit Guarantee Corporation).

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### 4. FEMA Compliance for E-Commerce Exports

With the rise of **cross-border e-commerce**, FEMA now allows:
☑ **Export payments through PayPal, Razorpay, and other online gateways.**
☑ **Relaxed documentary requirements** for small-value shipments below **$5,000**.
☑ Exporters must submit a **monthly report to their bank** for transactions under FEMA.

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### 5. Special Provisions for SEZ & EOU Exports

### A. Exports from Special Economic Zones (SEZs)

☑ SEZ units must repatriate export earnings **within 9 months**.
☑ Exports from SEZs to **Domestic Tariff Area (DTA)** are treated as **imports** for FEMA purposes.

### B. Exports from Export-Oriented Units (EOUs)

☑ EOUs are **exempt from customs duties but must repatriate foreign exchange earnings**.
☑ They must submit periodic reports to **RBI and DGFT** regarding forex transactions.

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### 6. Violation of FEMA Export Regulations

Non-compliance with FEMA in export transactions can result in:

| **Offense** | **Penalty** |
|---|---|
| Non-repatriation of export proceeds | Up to 3 times the amount involved |
| Unauthorized forex transactions | Fine + confiscation of goods/money |
| False export declarations | Blacklisting + prosecution under FEMA |
| Delay in reporting export earnings | ₹10,000 per day penalty |

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### 7. Recent FEMA Updates for Exporters (2023-24)

🚀 **Relaxation of export realization period** for MSMEs in select industries.
🚀 **Introduction of new online filing system** for export-related FEMA approvals.
🚀 **Simplification of procedures for export of services** (IT, consulting, and freelancing).
🚀 **Permission for rupee invoicing of exports** to friendly nations (INR trade settlements).

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### 8. Key Takeaways for Exporters

☑ **Ensure foreign exchange realization within 9 months** to avoid penalties.
☑ **Comply with FEMA-approved payment methods** for international trade.
☑ **File necessary export declaration forms (EDF, SOFTEX) with banks**.
☑ **Monitor FEMA updates for any changes in forex regulations**.
☑ **Utilize export finance schemes** to boost international business.

## VI. Meaning & Scope of Imports

### Meaning of Imports

**Imports** refer to the purchase and bringing of goods and services into a country from foreign markets for domestic consumption, resale, or manufacturing purposes. Imports play a crucial role in meeting domestic demand, acquiring raw materials, advanced technology, and fostering economic growth.

In India, imports are regulated by the **Foreign Trade Policy (FTP)** under the **Foreign Trade (Development and Regulation) Act, 1992**, and the **Customs Act, 1962**. The **Directorate General of Foreign Trade (DGFT)** and **Central Board of Indirect Taxes and Customs (CBIC)** oversee import regulations and compliance.

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### Scope of Imports

The scope of imports covers **various aspects**, including **types of imports, governing regulations, procedures, payment mechanisms, and trade policies**.

### 1. Types of Imports

☑ **Commercial Imports** – Goods imported for resale, manufacturing, or industrial use.
☑ **Personal Imports –** Goods imported for personal use, including duty-free allowances.
☑ **Capital Goods Imports –** Machinery and equipment imported for industrial production.
☑ **Raw Material Imports –** Essential components required for manufacturing (e.g., crude oil, metals).
☑ **Service Imports –** Import of software, IT services, consultancy, and professional services.

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### 2. Governing Regulations for Imports in India

The import process is governed by multiple laws and policies:

| **Regulation** | **Governing Body** | **Purpose** |
|---|---|---|
| **Foreign Trade Policy (FTP) 2023** | DGFT | Regulates import/export through licensing, incentives |
| **Customs Act, 1962** | CBIC | Imposes customs duties, regulates clearance |
| **FEMA (Foreign Exchange Management Act), 1999** | RBI | Controls forex transactions related to imports |

| Regulation | Governing Body | Purpose |
|---|---|---|
| **BIS (Bureau of Indian Standards) & FSSAI** | BIS, FSSAI | Ensures quality and safety standards for imported goods |
| **Import-Export Code (IEC)** | DGFT | Mandatory registration for importers |
| **Special Import Restrictions** | MoD, DAE, DGFT | Regulates imports of defense, nuclear, and hazardous materials |

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### 3. Import Procedures in India

The process of importing goods in India includes the following steps:

1 **Obtaining Importer Exporter Code (IEC)** – A unique 10-digit number issued by DGFT, mandatory for all importers.
2 **Classifying Goods Under ITC-HS Code** – Imports are classified under the **Indian Trade Classification (Harmonized System)** for regulatory and duty purposes.
3 **Checking Import Licensing Requirements** – Goods are categorized into:

- **Freely Importable** – No restrictions (e.g., electronics, raw materials).
- **Restricted** – Requires prior approval (e.g., chemicals, pharmaceuticals).
- **Prohibited** – Banned for import (e.g., narcotics, hazardous waste
  **Placing an Order & Arranging Payment** – Payment is made via **Letter of Credit (LC), Bank Transfers, or Advance Payments**, as per FEMA regulations.
  5 **Customs Clearance & Duty Payment** – Importers file a **Bill of Entry**, pay applicable **customs duty (BCD, IGST, Cess, etc.)**, and clear goods through CBIC.
  6 **Final Delivery & Compliance** – After clearance, goods are transported to the importer's location, and post-import documentation is maintained for audits.

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### 4. Modes of Payment for Imports

Import payments are regulated under **FEMA & RBI** guidelines and must be done through authorized banking channels.
Common payment methods include:
☑ **Letter of Credit (LC)** – Ensures payment security between buyer and seller.
☑ **Advance Payment** – Importer pays in advance before shipment.
☑ **Open Account** – Payment is made after receiving goods.
☑ **Documentary Collection (D/P & D/A)** – Payment is made against shipping documents.

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### 5. Key Import Restrictions & Prohibited Items

Certain goods are **restricted or prohibited** from import to protect **national security, environment, and public health**. Examples:

🚫 **Prohibited Items**
❌ Narcotics & psychotropic substances
❌ Wild animal products (banned under CITES)
❌ Hazardous waste & toxic chemicals
❌ Counterfeit currency & goods

⚠️ **Restricted Items (Require Import License)**
🔸 Defense & aerospace equipment
🔸 High-tech electronics (SCOMET-controlled)
🔸 GM crops & certain agricultural products
🔸 Medicines & medical equipment

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### 6. Import Tariffs & Duties

Import duties are levied under the **Customs Act, 1962**, which includes:
✅ **Basic Customs Duty (BCD)** – Charged on imported goods based on tariff classification.
✅ **IGST (Integrated Goods & Services Tax)** – Applied on imports under GST.
✅ **Anti-Dumping Duty** – Imposed to prevent unfair pricing by foreign suppliers.
✅ **Safeguard Duty** – Applied to protect domestic industries from sudden import surges.
✅ **Cess & Surcharges** – Additional charges on specific imports like crude oil & luxury goods.

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### 7. Recent Updates in Import Policy (FTP 2023)

🚀 **Easier Import Procedures** – Online clearance system for faster approvals.
🚀 **Liberalization of Import of Capital Goods** – Duty-free imports for manufacturing sectors.
🚀 **Increased Quality Standards** – Stricter BIS/FSSAI norms for consumer goods.
🚀 **Promotion of Rupee Trade** – Import settlements in INR with friendly countries (Russia, UAE).
🚀 **Restrictions on Non-Essential Imports** – Increased duties on luxury items to control forex outflows.

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**Key Takeaways for Importers**

- ☑ Obtain an IEC from DGFT before importing.
- ☑ Ensure compliance with customs duties & licensing requirements.
- ☑ Use proper payment mechanisms (LC, bank transfer) under FEMA.
- ☑ Follow BIS & FSSAI quality norms for imports of goods.
- ☑ Stay updated on changes in import policy & tariff structures.

## VII. SALE ON HIGH SEA TRANSACTION

**HIGH SEA SALES-MEANING:** High Sea Sales (HSS) is a sale carried out by the carrier document consignee to another buyer while the goods are yet on high seas or after their dispatch from the port/airport of origin and before their arrival at the port/ airport of destination.

As per provision of section 7 (2) of the IGST Act, supply of goods in the course of import into the territory of India, till they cross the Customs frontiers of India will be deemed to be a supply in the course of Interstate trade or commerce. Hence, GST would be applicable on the transaction. However, the time of levy of GST would be different for high sea sales as under. After the high sea sale of the goods, the Customs declarations i.e. Bill of Entry etc is filed by the person who buys the goods from the original importer during the said sale. In the past, CBEC has issued various instructions regarding high sea sales appropriating the contract price paid by the last high sea sales buyer into the Customs valuation.

- When levy of GST will happen in high sea sales?
- Who will be responsible for the payment of GST in a high sea sales?
- As per above definition, for a transaction to be consider as high seas sale, it have to satisfy below three conditions.

    **a.** the sale or purchase either occasions such import, or

    **b.** It is affected by a transfer of documents of title to the goods before the goods have crossed the customs frontier of India.

**WHY HIGH SEA SALES**

High Sea Sale Transaction means Sale Transaction done when goods are actually at High Sea i.e. during sea transit between Port of Loading and Port of Discharge. The date of transaction (agreement) should be between Bill of lading date and Vessel arrival date at Port of discharge. High Sea Sale is done mostly by Traders, sole Indenting Agent (of the Foreign Supplier) who buys in large quantity and then look-out for buyers at Destination Country.

**Benefits of HSST are like**

a. Goods are available at short time to final buyers,

b. Also instead of buying entire shipment small quantities also can be bought for final buyers and

c. First buyer can buy large quantity of goods at cheap / reasonable price and sale at best price to final buyers.

d. Benefits of claiming the input credit of all taxes paid where such facility is available.

e. Avoidance of foreign trade regime like provisions of FTP/ ITC Nomenclature/other authorizations

f. Sole Indenting Agents

g. Authorizations related to compliance of imports like BIS/ FSSAI/ ARAI/ Plant Quarantine, Drug Controller of India

Drawbacks of HSST are like

**a. Cumbersome documentation / procedures and**
**b. Loading of pricing for Customs assessment.**

High Sea sales contract/agreement should be signed after dispatch of goods from origin & prior to their arrival at destination. The agreement should be on stamp paper. On concluding the High Sea Sales agreement the bill of lading (B/L) should be endorsed in favor of the new buyer. In respect of air shipment, High Sea seller should write to the airline/consol agent informing that an High Sea Sales agreement has been established with the High Sea Sales buyer and that the carrier document should be considered as endorsed in favour of High Sea sales buyer and further the import General Mani face (IGM) should be filed by the carrier in name of High Sea buyer. High Sea sales in considered as sale contract carried out outside the territorial jurisdiction of India. **Accordingly, no sale tax is levied in respect of High Sea sales.** The Custom documents (B/E) is either filed in the name of High Sea buyer or such Bill of entry as endorsement indicating High Sea buyer's name. The title of goods transfer to High Sea buyer prior to entry of goods in territorial jurisdiction of India. The delivery from customs is therefore on account of High Sea buyer. **The CENVAT credit in respect of CVD paid on import is entitled to High Sea buyer.** High Sea Sales goods are entitled to classification, rates of duty and all notifications benefits as would be applicable to similar import of goods on normal sale.

**STEP BY STEP PROCESS OF HIGH SEA TRANSACTION:** Step by step process of execution of High Sea Transaction is listed as under: **a.** High Sea sales (HSS) is a sale carried out by the carrier document consignee to another buyer while the goods are yet on high seas or after their dispatch from the port/ airport of origin and before their arrival at the port / airport of destination.

**b.** HSS is accepted under the import trade control regulation. Refer para - of export import policy.

**c.** HSS contract/ agreement should be signed after dispatch of goods from origin & prior to their arrival at destination. The agreement should be on stamp paper.

**d.** On concluding the HSS agreement, the B/L should be endorsed in favour of the new buyer. In respect of air shipment, HSS seller should write to the airline / consol agent informing that a HSS agreement has been established with the HSS buyer and that the carrier document should therefore be considered as endorsed in favour of the HSS buyer and further the IGM should be filed by the carrier in the name of the HSS buyer.

**e.** If the EDI system allows name of HSS buyer to be entered in the system, then there may not be any need to amend the IGM. In this case the B/E is filed in the name of the original importer as the IGM is in this importer name. However, the B/E shows the name of HSS buyer under a separate head in the B/E format. If the system has no provision for showing the name of HSS buyer on the B/E ,then the IGM should be got amended and B/E filed in the name of the HSS buyer.

F. In the case of HSS, the CIF value for calculation of duty is taken to be the HSS value.

**g.** There is practice followed in customs that in case the HSS transfer takes place at import invoice value only, the custom would add 2% of CIF value as HSS loading factor. There have been cases where HSS sellers have sold at two percent more than import CIF but custom have added 2% of CIF as HSS value addition. Such practice of customs can be challenged at the customs duty is chargeable on genuine transaction value.

**h.** In HSS contracts the HSS seller may not like to disclose the import value to the HSS buyer. However, the customs can call for the original import invoice, in which case the HSS seller may have to part with this information. To overcome this, HSS seller should take on the responsibility of custom clearance and site delivery. After custom clearance, the HSS seller

could withdraw import invoices and only hand over clearance documents with HSS agreement to the HSS buyer. The custom bill of entry does not indicate original import value and is prepared on HSS value.
**i.** There is no bar on same goods being sold more than once on high seas. In such cases, the last HSS value is taken by customs for purposes of duty levying. The last HSS agreement should give indication of previous title transfers. The last HSS buyer should also obtain copies of previous HSS agreement as such documents may be called upon by the customs.

j. HSS is considered as a sale carried out outside the territorial jurisdiction of India. Accordingly, no sales tax is levied in respect of HSS. The customs documents (B/E) is either filed in the name of HSS buyer or such B/E has an endorsement indicating HSS buyer's name.
k. The title of goods transfers to HSS buyer prior to entry of goods in territorial jurisdiction of India. The delivery from customs is therefore on account of HSS buyer. The CENVAT credit in respect of CVD paid on import is entitled to HSS buyer.
l. HSS goods are entitled to classification, rates of duty and all notification benefits as would be applicable to similar import goods on normal sale.

m. HSS is also applicable to goods imported by air. Sea appearing in HSS should not be constructed by its grammatical meaning. As long as the sale is formalized after dispatch from airport / port of origin and before arrival at the first port of discharge / airport at destination, such sale is considered as HSS.

N. Sometime HSS buyers buy goods after their arrival. Such sales are not HSS. The stamp paper on which the HSS agreement is executed must not bear the stamp paper purchase date as being post cargo arrival date. Such a case can easily be detected by customs as being a post arrival sale.

If the HSS does not mind disclosing original import values to HSS buyer, in such case it is better from custom clearance point of view for the seller to endorse the B/L, invoice, packing list in favour of the HSS buyer. The endorsement should read "Transferred on High Sea Sales basis to M/S -------- for a sales consideration of Rupees --------". Such endorsement should be stamped and signed by the HSS seller**.**

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**LEGAL FRAMEWORK OF SALE ON HIGH SEA**

**INTRODUCTION:** The concept of High Sea Sales finds its authority from Article 286 (1) (b) of the Constitution of India which states that no law of a State shall impose or authorise the imposition of, a tax on sales or purchase of goods where such sale or purchase takes place in the course of import of the goods into, or export of the goods out of, the territory of India. Article 286 (2) further provides that the Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned above. Article 286 of our Constitution prohibits imposition of tax on the sale or purchase of goods in course of import of the goods into or export of the goods out the territory of India. Article 246 of our Constitution speaks about subject matter of laws made by Parliament and by the legislatures of States. In consonance with the article, Seventh Schedule is annexed to the Constitution with three different lists.

i **i.** List I is in respect of the subject matter of laws to be framed by the Parliament,

ii **ii. List II speaks about the subject matter of laws to be framed by the State Legislatures and**

iii **iii.** List III speaks about the subject matter of laws to be framed concurrently by the Parliament and the State Legislatures to frame law in respect of taxes on the sale or purchase of goods other than newspaper subject to provisions of 92A of List I.

Entry 92A of List I authorises the Parliament to frame laws in respect of taxes on the sale or purchase takes place in the course of inter-state trade or commerce. In pursuance of the power vested in our Legislature by entry 54 list II , our act is passed by our legislature. Similarly, Central Act was passed by the Parliament vide clause (92 A) of List I. Therefore, sale or purchases can be taxed under the Act which actually takes place within the boundaries of our State.

**2.2 LEGAL FRAMEWORK UNDER GOODS AND SERVICES TAX ACT:** As per Section- 2(79) of CGST Act, 2017– Non- taxable territory means the territory which is outside the taxable territory. A taxable territory means the territory to which the provision of GST Law applies. Accordingly, in CGST law, the taxable territory would cover all locations covered under the extent of law. i.e. whole of India. Accordingly, locations outside India would be considered as non- taxable territory, being the territory outside taxable territory. In this regard, it would be relevant to understand the geographical extent covered within the meaning of the term “India”. Supply taking place in a “non- taxable territory” would be outside the jurisdiction for imposing any GST. High Sea Sales (first supply) are not liable to GST.

**Nature of supply in case of “High Sea sale” transactions:** As per Section- 7(2) of IGST Act, 2017 supply of goods imported into territory of India, till they cross custom frontiers of India, shall be treated a supply of goods in the course of inter-state trade or commerce. Custom frontiers of India includes:-

a) Custom Port

b) Custom Airport

c) International Courier Terminal

d) Foreign Post Office

e) Land Custom Stations

f) Area in which imported goods meant for export are ordinarily kept before clearance by Custom Authorities.

g) Bonded Warehouse

Where a transfer of documents of title takes place during import, the question of payment of tax by the importer would not arise since the documents of title would be transferred before the goods cross the custom frontiers of India. It has been clarified vide Circular No- 33/2017-Customs dated 1st August 2017, that IGST on High Sea Sales transaction on imported goods, whether one or multiple, shall be levied and collected only at the time of importation i.e. when the import declarations are filed before the Custom authorities for the custom clearance purposes for the first time.

Class- III

## VIII. Bonded Warehouse

A Bonded Warehouse, also called a Custom Bonded Warehouse, is a secure place where imported goods are stored. The customs duties on these goods are postponed until the goods are taken out for use or sale. In other words, this means that goods can be stocked while businesses do not have to pay taxes instantly and get stressed about cash flow.

The bonded warehouses are under the supervision of customs for the proper storage as well as the disposal of dutiable goods. Bonded warehouses can also be viewed as a financial instrument being used by companies that are engaged in the business of international trading.

This is because customs and taxes must be considered during the storage term.

**Indian Customs Act Amendment:** In 2017, India introduced significant reforms in its Customs Act, which impacted bonded **warehousing operation** regulations and made them more streamlined and business-friendly.

### Types of Services Offered by Customs Bonded Warehouse

The following are the services offered by customs-bonded warehouses (CBWs):

- **Storage:** A safe area for the tangible, moveable goods to be stored right up to the time and place when customs charges are to be given.
- **Deferred Duty Payment:** Bonded warehouses allow businesses to delay paying taxes on goods until they are sold or moved to their final destination. This helps businesses manage their cash flow better.
- **Customs Documentation and Clearance:** They help prepare and submit customs paperwork, making sure everything follows local rules. This makes customs clearance easier and faster.
- **Handling:** Shifting, loading and unloading goods seamlessly.
- **Inventory Management:** Precise tracking of stored goods and their reporting is offered.
- **Packaging and Repackaging:** The stage at which goods are made available for secondary mobility means further shipment.
- **Inspection Facilities:** Spaces for customs and regulatory inspections.

### When Businesses Require Customs Bonded Warehouse

Following are the instances when a business needs a custom bonded warehouse:

- **Deferred Duty Payments:** Any duty can be paid after the product is sold, which leads to the option of deferment of duty payments.
- **Bulk Imports:** Large amounts are lowered in varying temperatures and conditions until they are ready to be freshly marketed.
- **Re-Exporting Goods:** The storage depot stocked products to be exported again without assessing duties.
- **Seasonal Goods Storage:** These items are stored in other separate inventories in readiness for the time to be used, most especially with the progression of the particular season.

### How Customs Bonded Warehouse Works?

The operation of a bonded warehouse involves a structured process: The use of a bonded warehouse follows a particular business model, and the organization of the warehouse follows the below steps:

- **Import Arrival:** The goods reach the port and then are transferred to a customs-bonded warehouse **distribution center**.

- **Documentation:** According to the provision of law, some papers are considered vital to present. So, the importers present to the customs authority.
- **Inspection:** Custom officers inspect the goods to make sure of compliance with the set standards.
- **Storage:** Products are stored securely until customs are paid.
- **Release:** After the payment of the duties, goods are released and made ready for **ecommerce fulfillment**.

**Benefits of Choosing Bonded Warehouse**

Bonded warehouses come with several sorts of benefits. The top advantages of bonded warehouses include the following:

- **Duty Deferment:** Payable at the time of sale of goods means that cash flow will increase more than payable when importing the goods.
- **Secure Storage:** Since the products are kept in a safe warehouse, it aids in the minimization of theft and damage to the products.
- **Quality Control:** Before the duty is paid, goods are inspected to examine their condition and quality.
- **Inventory Management:** Gets the fact that **warehouse storage** is adequate for the stored goods involved in the undertaking.
- **Cost Savings:** Cut down on store and handling expenses.

**In a Nutshell**

To sum up, bonded warehouses offer goods storage facilities and, at the same time, allow deferment of duties and taxes. It remains vital for companies to hire proficient agents when dealing with imported goods. When organizations comprehend the significance of custom bonded warehouses as well as the procedures of the bonded warehouses, their operations and profitability are greatly enhanced.
Any firm that participates in international business and trade should consider the prospects of a bonded warehouse, as it will simultaneously produce financial and organizational benefits.

## IX. Valuation of Imported Goods & Calculation of Customs Duty – Customs Valuation Rules


Customs duty is the buzzword whenever we discuss imports. Levy of customs duty has been the key for the government to protect the domestic industry while also reducing India's dependency on imports. Understanding the **calculation of customs duty on imported goods** becomes equally important for the importers for informed decision-making. It directly impacts the cost of purchasing and can have a significant impact on your profitability. But **how is customs duty calculated?** Let's find out!

### Calculation of Customs Duty in India

Customs duty is calculated on the assessable value of the goods imported. However, **duties on the import of goods** are not restricted to just customs duty. It also includes the levy of countervailing duties, social welfare surcharge, other protective duties, etc. Here's a detailed analysis of the customs duty:

| Sr. No. | Particulars | Amount | Total Duty Payable |
|---|---|---|---|

| | | | |
|---|---|---|---|
| I | Assessable Value of the Goods | XXX | |
| II | Add: Basic Customs Duty on Assessable Value (on I) | XXX | XXX |
| III | Add: Countervailing Duty on (I+II) | XXX | XXX |
| **IV** | **Sub Total** | **XXX** | |
| V | Add: Social Welfare Surcharge on (IV) | XXX | XXX |
| VI | Add: Safeguard Duty on (I) | XXX | XXX |
| VII | Add: Protective Duty on (I) | XXX | XXX |
| VIII | Add: Anti Dumping Duty on (I) | XXX | XXX |
| **IX** | **Sub Total** | **XXX** | |
| X | Add: IGST on (IX) | XXX | XXX |
| XI | Add: Compensation Cess on (IX) | XXX | XXX |
| **XII** | **Total Customs Duty Payable on (XII)** | **XXX** | **XXX** |

One of the significant aspects of calculating the customs duty as above is determining the assessable value for your imported goods. Reference needs to be drawn from **Section 14 of the Customs Act, 1962**, and **Customs Valuation (Determination of Value of Imported Goods) Rules, 2007** in order to determine the right assessable value.

**Valuation of Imported Goods Under Customs – Customs Valuation Rules**

As per Section 14 of the Customs Act, 1962, the value of imported or exported goods shall be the transaction value. In the case of imported goods, the transaction value shall be:

- The price actually paid or payable when goods are sold for export to India
- For delivery at the place and time of importation
- Where the buyer and seller of the goods are not related and
- Price is the sole consideration for the sale.

**Further, the transaction value shall also include any amount paid or payable for availing any of the following services:**

1. Engineering

2. Brokerage and commissions
3. Royalty
4. License fees
5. Insurance
6. Loading
7. Cost of transportation to the place of importation
8. Handling charges
9. Unloading etc.

However, if the transaction value cannot be accepted as the assessable value because of non-fulfillment of the above conditions, then it shall be determined as per Rules 4 to 9 sequentially of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Let's decode these rules to understand the valuation of goods under customs.

**Rule 4 – Transaction Value of the Identical Goods**

Identical goods have been defined under Rule 2 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. In simple terms, it refers to imported goods that are the same in all respects except for minor differences in appearance that do not affect the value of these goods. These are produced in the same country in which the goods being imported are produced. Further, these can be produced by the same person or different persons.

Here, the value of imported goods should be the transaction value of identical goods that are exported to India at or about the same time at which the relevant goods are imported. It should be ensured that the identical goods are substantially of the same quantity as the relevant imported goods. In case of any differences, adjustments should be made to increase or decrease the value.

**Rule 5 – Transaction Value of Similar Goods**

Like identical goods, similar goods are also defined under Rule 2. It means imported goods that are not alike in all respects but have like component materials and characteristics that allow them to perform the same functions. They are commercially interchangeable with the goods being valued and are produced in the same country in which the goods being valued are produced. Also, they can be produced by the same person or different persons.

In case identical goods are not available, then the value of imported goods should be the transaction value of similar goods that are exported to India at or about the same time at which the relevant goods are imported.

**Rule 6 - Determination of value where value can not be determined under rules 3, 4 and 5.-**

If the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8. Provided that at the request of the importer, and with the approval of the proper officer, the order of application of rules 7 and 8 shall be reversed.

**Rule 7 – Deductive Value**

Another **method of valuation under customs** is deductive value. If the imported goods, identical goods, or similar goods are sold in India at the same time at which the declaration for the determination of the value is presented, then the value of the imported goods being valued should be based on the unit price of the identical or similar goods being sold in the greatest aggregate quantity to unrelated sellers in India after deducting the following:

1. Commissions paid or agreed to be paid or any additions made for profits or general expenses incurred in relation to the sales in India
2. Costs of transportation and insurance that are incurred within India
3. Customs duty and other taxes payable in India due to the importation or sale of such goods

In case neither the imported goods, identical goods, or similar goods are sold at the same time as the relevant imported goods, then the transaction value shall be based on the unit price at which the imported, identical or similar goods are sold in India at the earliest date after importation. But such a date should be before the expiry of 90 days after the importation.

If these goods are not sold in the same condition, then the transaction value shall be based on the unit price of the goods after being processed and sold in the greatest aggregate quantity to unrelated buyers. In such cases, the deductions relating to further processing should be adjusted.

**Rule 8 – Computed Value**

**Here, the value of the imported goods should be the computed value that shall consist of the following:**

- The cost of fabrication, material, and other processing costs incurred for producing the imported goods
- The amount for profit and general expenses that usually form part of the sale of goods of the same class or kind as the goods being valued that is made by the producers in the country of exportation for exports to India
- The cost of all the other expenses as per Rule 10(2) of these rules.

Rule 8 can be applied before Rule 7 in case of the importer's request and after the approval of the proper officer.

**Rule 9 – Residual Method**

In case the **valuation of goods under customs** cannot be determined as per any of the above methods, then the value shall be determined using reasonable means that are consistent with the principles and general provisions of these rules and based on the data available in India.

**In a Nutshell**

Above were the detailed rules that play an important role in determining the assessable value and consequential customs duty. Determination of the accurate assessable value is important because it directly impacts the calculation of customs duty on the import of goods payable by the importer as well as his profitability.

## X. Special Valuation Branch (SVB) and related party transactions

Special Valuation Branch is a special unit of the Customs department which is specializing in investigating the transactions which are entered into by importer based out in India and a supplier based in foreign country who have relationship like joint ventures, partnerships, holding-subsidiary etc. which could possibly influence the price of the transaction entered. The main task of the special valuation branch is to verify that the relationship has not influenced the terms and conditions of the transaction and in turn the transaction value between the parties. Apart from investigation of special relationship case, SVB also handles more complicated cases of additions or deletions with respect to transaction value that has been declared by the importers under rule 10(1)(c) or rule 10(1)(d) or rule 10(1)(e) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

**Requirement of Special Valuation Branch as special unit:**

Import and Export transactions are the starting point for this special institution to be formed wherein the valuation mechanism adopted by the importer might be in terms of agreement not in line with the market scenario and some beneficial position as to importer and the other party might be adopted by the importer and due to this reason Customs department has issued Circular No. 1/98 dated 1-1-1998 making the Special Valuation Branch as a functional institution for the cases involving transactions between the related parties.

Both the circulars were issued upon the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 which has been now superseded by the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Previously there were some stringent provisions in relation to regular renewals, provisional assessments, procedural part which were complex in terms of great time-consuming process & burdensome as to work which have been now streamlined and as per Circular No 05/2016 dated 9th February 2016.

The transactions undertaken by related parties differ from situation to situation where the transaction value might be impacted due to the relationship involved between the two parties. The definition of related parties' changes from each law or statutory provision like in income tax, company law, accounting standards, SEBI, Goods and Service tax, and even in Customs. Hence whenever the relationship gets attracted by that particular provision of law, we need to go back to the provisions and check the relevant other facts of the provision with respect to either valuation, assessment, & other parameters and relevant adjustment with respect to such pricing would be required. We now analyze the meaning of the related party as referred to in Customs law.

**Meaning of Related Parties:**

The relationship needs to be examined with respect to definition of related party under Rule 2(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 which is supplied here -

"(2) For the purpose of these rules, persons shall be deemed to be "related" only if -

i. they are officers or directors of one another's businesses.

ii. they are legally recognized partners in business.

iii. they are employer and employee.

iv. any person directly or indirectly owns, controls, or holds five per cent or more of the outstanding voting stock or shares of both of them.

v. one of them directly or indirectly controls the other.

vi. both of them are directly or indirectly controlled by a third person.

vii. together they directly or indirectly control a third person; or

viii. they are members of the same family.

Explanation I. - The term "person" also includes legal persons.

Explanation II. - Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other shall be deemed to be related for the purpose of these rules, if they fall within the criteria of this sub-rule."

**Investigations that can be undertaken by Special Valuation Branch :**

Every importer while importing goods need to make a declaration as to whether the supplier and buyer in India are related party or not. If the answer to the above is affirmative, then it would be very important to see whether this relationship has influenced the price or not. Particularly in these cases, SVB investigation would be required, and the transaction needs to be sent for review and enquiry.

Further, the trigger point for the investigation to be initiated by SVB is the first consignment coming from the foreign country during the import of the goods by the importer from the related party which he needs to submit the declaration along with the bill of entry and questionnaire in Annexure A. The investigation under SVB can also be initiated under unrelated party transactions where in following is nature of transaction -

- Royalties and license fees: Royalties and license fees related to the imported goods that the buyer is required to pay, directly or indirectly, as a condition of the sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable. [Rule 10(1)(c) of CVR, 2007]

- Subsequent resale or disposal: The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues, directly or indirectly, to the seller. [Rule 10(1)(d) of CVR, 2007]

- Other connected payments: All other payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller to the extent that such payments are not included in the price actually paid or payable. [Rule 10(1)(e) of CVR, 2007]

**Exceptions where investigations under SVB not required:**

Due to long durational process involved in the investigation of the related party transaction, SVB investigations in the following cases should not be initiated looking at the revenue implications -

a. Imports involving samples and prototypes from related suppliers,

b. Imports from foreign suppliers where duty chargeable (including additional duty of Customs etc.) is unconditionally fully exempted or nil,

c. Any import transaction wherein the value of the imported goods is less than Rs. 1 Lakh but cumulatively these transactions do not exceed Rs. 25 Lakhs in a financial year.

d. Any additions that are sought under rule 10(1)(a) or rule 10(1)(b) of CVR, 2007 as that should be taken care by normal appraising groups.

Wherever the investigation by SVBs are not required, Customs house shall issue a reference number to the importer and the risk management division to indicate that the transaction has been analyzed from the viewpoint of SVB enquiries and it has been decided not to refer the same for the investigation.

**Locations and Jurisdiction of SVB Units:**

The Special Valuation Branches are currently functional at following Customs location houses i.e., Bengaluru, Chennai, Kolkata, Delhi, Mumbai. Further, the jurisdiction of SVB would entirely be dependent on the corporate or registered office of the importer, whichever is nearby and convenient to the importer.

The importer is given free hand to choose which SVB he wants to approach for the cases which require investigation by the SVB. Once a particular import transaction has triggered investigation at one SVB, then the same needs to be communicated by the customs houses to other SVBs as well for the better compliance of the process involved.

**Finalization of Assessment :**

Upon receipt of Investigation report from the Special Valuation branch, there could be two scenarios which could affect the assessment -

a. Declared Value is found confirming to Rule 3: Where the declared value as per Bill of Entry has been found confirming to the relevant rule of the CVR,2007 - the provisional assessment done by the customs houses shall be considered the final assessment and accordingly it must be finalized.

b. Declared Value is found not confirming to Rule 3: Where the declared value as per Bill of Entry is found to be influenced by the relationship or such case as may be applicable, the proper office of the customs house shall issue a show cause notice to the importer within 15 days of the receipt of the Investigation Report (IR) from the Special Valuation Branch (SVB).

Wherever the imports have been cleared through multiple locations, jurisdictional commissioner shall after consulting with other locations, make a proposal for appointment of common adjudicating authority for the matter and after providing enough opportunity to the importer, pass a combined order quantifying the extent of influence on the declared transaction value.

**Concept of Extra Duty Deposit/Revenue Deposit :**

As per Circular No. 01/98 dated 1-1-1988, there was a duty called extra duty deposit which was applicable in cases where the documents sought for are not provided to the relevant authorities failing for which the higher extra duty deposit shall be leviable. However, in the circular issued in 2016, board has reviewed the levy and has clarified that no security in form of extra duty deposit shall be obtained from the importers, but if the importer fails to provide the information within 60 days of such requisition, security deposit at a higher rate of 5% shall be imposed by the commissioner which shall be valid for the period of 3 months.

Also, where the documents are not provided by the importer for an additional 60 days, then commissioner in charge of such investigation may adopt to use such provisions of the customs act for obtaining such documents/information. But in no case, the imposition of such deposit shall exceed 3 months as discussed above. Importers are free to choose if such a deposit is to be made through cash deposit or through bank guarantee.

## XI. Imports in GST Regime

Under the GST regime, Article 269A constitutionally mandates that supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce. So import of goods or services will be treated as deemed inter-State supplies and would be subject to Integrated tax. While IGST on import of services would be leviable under the IGST Act, the levy of the IGST on import of goods would be levied under the Customs Act, 1962 read with the Custom Tariff Act, 1975. The importer of services will have to pay tax on reverse charge basis. However, in respect of import of online information and database access or retrieval services (OIDAR) by unregistered, non-taxable recipients, the supplier located outside India shall be responsible for payment of taxes (IGST). Either the supplier will have to take registration or will have to appoint a person in India for payment of taxes. Supply of goods or services or both to a Special Economic Zone developer or a unit shall be treated as inter-State supply and shall be subject to levy of integrated tax.

### Import of Goods

The import of goods has been defined in the IGST Act, 2017 as bringing goods into India from a place outside India. All imports shall be deemed as inter-State supplies and accordingly Integrated tax shall be levied in addition to the applicable Custom duties. The IGST Act, 2017 provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under the Customs Act, 1962. The integrated tax on goods shall be in addition to the applicable Basic Customs Duty (BCD) which is levied as per the Customs Tariff Act. In addition, GST compensation cess, may also be leviable on certain luxury and demerit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017.

The Customs Tariff Act, 1975 has accordingly been amended to provide for levy of integrated tax and the compensation cess on imported goods. Accordingly, any goods which are imported into India shall, in addition to the Basic Customs duty, be liable to integrated tax at such rate as is leviable under the IGST Act, 2017 on a like article on its supply in India. Further, the value of the goods for the purpose of levying Integrated tax shall be assessable value plus Customs Duty levied under the Act, and any other duty chargeable on the said goods under any law for the time being in force as an addition to, and in the same manner as, a duty of customs.

The value of the imported article for the purpose of levying cess shall be assessable value plus Basic Customs Duty levied under the Act, and any sum chargeable on that goods under any law for the time being in force as an addition to, and in the same manner as, a duty of customs. The integrated tax paid shall not be added to the value for the purpose of calculating cess.

Let's take an example: Suppose the assessable value of an article imported into India is Rs. 100/-. Basic Customs Duty is 10% ad-valorem. Education Cess is 3%; Integrated tax rate is 18% and Compensation Cess is 15%

**The taxes will be calculated as under:**

| | Particulars | Duty |
|---|---|---|
| (A) | Assessable Value | Rs. 100/- |
| (B) | Basic Customs Duty@10% | Rs.10/- |
| (C) | Education Cess @3% | Rs.0.30 |
| (D) | Value for Integrated Tax | Rs.110.30 |
| (E) | Integrated Tax @18% | Rs.19.85 |
| (F) | Value for Compensation Cess | Rs.110.30 |
| (G) | Compensation Cess @ 15% | Rs. 16.55 |
| (H) | Total Duty ( B+C +E+G) | Rs.46.70 |

Wherever the goods are also leviable to cess under the Goods and Services Tax (Compensation to States) Cess Act, 2017, the same will be collected on the value taken for levying integrated tax. Thus, in the above example, in case, cess is leviable, the same would be levied on Rs. 110.30/-.

In cases where imported goods are liable to Anti-Dumping Duty or Safeguard Duty, value for calculation of IGST as well as Compensation Cess shall also include Anti-Dumping Duty amount and Safeguard duty amount.

**Input tax credit of integrated tax:**

The definition of "input tax" in relation to a registered person also includes the integrated tax and compensation cess charged on import of goods. Thus, input tax credit of the integrated tax and the compensation cess, if any, paid at the time of import shall be available to the importer and the same can be utilized by him as Input Tax credit for payment of taxes on his outward supplies. The integrated tax and compensation cess paid at the time of import shall in essence be a pass through to that extent. The input tax credit of compensation cess, however, can only be used for payment of compensation cess. Furthermore, the Basic Customs Duty (BCD) and education cess, shall, not be available as input tax credit.

HSN (Harmonised System of Nomenclature) code would be used for the purpose of classification of goods under the GST regime.

As per section 11 of the IGST Act, 2017 the place of supply of goods, imported into India shall be the location of the importer. Thus, if an importer say is located in Rajasthan, the state tax component of the integrated tax shall accrue to the State of Rajasthan.

**Import of services**

Import of services has specifically been defined under IGST Act, 2017 and refers to supply of any service where the supplier is located outside India, the recipient is located in India and the place of supply of service is in India.

As per the provisions contained in Section 7(1) (b) of the CGST Act, 2017, import of services for a consideration whether or not in the course or furtherance of business shall be considered as a supply. Thus, in general, import of services without consideration shall not be considered as supply. However, business test is not required to be fulfilled for import of service to be considered as supply.

Furthermore, in view of the provisions contained in Schedule I of the CGST Act, 2017, the import of services by a taxable person from a related person or from a distinct person as defined in Section 25 of the CGST Act, 2017, in the course or furtherance of business shall be treated as supply even if it is made without any consideration.

In view of the provisions contained in Section 14 of the IGST Act, 2017, import of free services from Google and Facebook by individuals without any consideration are not considered as supply. Import (Downloading) of a song for consideration for personal use would be a service, even though the same are not in the course or furtherance of business. Import of some services by an Indian branch from their parent company, in the course or furtherance of business, even if without consideration will be a supply.

**Thus, import of services can be considered as supply based on whether there is consideration or not and whether the service is supplied in the course or furtherance of business.**

As per the provisions contained in Section 21 of the IGST Act, 2017, all import of services made on or after the appointed day i.e 1st July, 2017 will be liable to integrated tax regardless of whether the transactions for such import of services had been initiated before the appointed day. However, if the tax on such import of services had been paid in full under the existing law, no tax shall be payable on such import under the IGST Act. In case the tax on such import of services had been paid in part under the existing law, the balance amount of tax shall be payable on such import under the IGST Act, 2017. For instance, suppose a supply of service for Rs. One crore was initiated prior to the introduction of GST, a payment of Rs. 20 lacs has already been made to the supplier and service tax has also been paid on the same, the integrated tax shall have to be paid on the balance Rs. 80 lacs.

## XII. The concept of “Rule of Origin”

### Introduction:

The concept of “Rule of Origin” is crucial in international trade and economic agreements, defining the country of origin for a product based on certain criteria. This determination influences tariffs, trade policies, and compliance with international agreements.

### Problem Statement:

With the increasing complexity of global supply chains and the proliferation of free trade agreements (FTAs), determining the origin of goods is more complicated, impacting compliance, trade policies, and global market dynamics. This complexity affects how products are traded, regulated, and tariffed, posing challenges for businesses and governments.

### Objectives:

1. To explore the concept of Rule of Origin and its significance in global trade.
2. To assess the impact of Rule of Origin on international trade agreements and compliance.
3. To investigate how Rule of Origin influences supply chain management and cross-border trade.
4. To identify challenges and propose solutions for enhancing the efficiency and clarity of the Rule of Origin.

### Rules Of Origin And Their Relevance

The history of *‘rules of origin’*, i.e. the criteria for determining the national source of origin of products, must be as old as the practice of discriminatory commercial policy by nation states. The necessity to determine the place of origin of commodities emerged as contemporary nation states merged and started to use discriminatory commercial policy measures. Rules of origin are now a crucial component of any trade policy regime since they are frequently used as a means of discrimination between nations. Clearly defined rules of origin are necessary for the administration of government procurement, countervailing duties, preferential tariffs, quotas, anti-dumping measures, and so forth. The application of labelling and marketing regulations, as well as the gathering of trade statistics, depend on the laws of origin. However, up until recently, the process of establishing provenance may have been straightforward and devoid of disputes, as the manufacture of a single commodity rarely included more than one nation. Commodity origins have become a contentious issue due to the increasing internationalisation of production and the resulting involvement of multiple countries in the manufacture of most commodities.

The term “country of origin” refers to the nationality of the country where goods are produced. The regulations used to establish the country of origin for a complete entity are referred to as “rules of origin.” Rules of origin, customs valuation, and nomenclature are the fundamental customs laws that govern the substance of imported products. Furthermore, a series of customs clearing processes must be adhered to in order to gather customs duties, in addition to these three customs rules. Customs procedures related to “trade facilitation” are currently being discussed in the continuing discussions of the World Trade Organization’s (WTO) Doha Development Agenda (DDA) or Doha Round (Ujiie 2006).[1] Although there exist international agreements pertaining to these three areas of customs, it is only the rules of origin that lack comprehensive regulations. An Agreement on Rules of Origin was reached during the Uruguay Round (1986–1994).[2] However, it primarily outlines a set of principles and a future work program aimed at establishing standardized product-specific rules of origin. now, the World Trade Organization (WTO) has not yet given its approval to the proposed harmonized rules of origin created by the World Customs Organization (WCO). As a result, rules of origin are now managed by individual countries’ legislation, which further complicates matters. Rules of origin are extensively employed in global commerce to determine the country of origin for various purposes, such as applying different tariffs, implementing trade remedy measures including antidumping duties, imposing quantitative limits and tariff quotas, and compiling trade data. Due to the increasing globalization of economic operations and the common practice of outsourcing materials in the private sector, rules of origin have emerged as a significant trade concern for both public and private sectors. Furthermore, rules of origin are crucial in governing preferential trade, a consequence of the widespread adoption of free trade agreements (FTAs), leading to the complex phenomenon known as the “spaghetti-bowl” effect.[3] When a thing is classified as a totally obtained product, there are no disputes regarding its origin. However, the utilization of both imported and indigenous ingredients in the production of a product creates an issue of provenance. In theory, the nation of origin is granted when an imported input undergoes significant transformation. Although the substantial transformation notion may be deemed acceptable, the main concern lies in determining how to interpret and implement the concept in real-world scenarios, particularly when dealing with a vast array of diverse trade items. There are essentially three explanations for considerable transformation: The manufacturing process criterion consists of three components: (i) a change in the harmonized system (HS) heading, (ii) a percentage or value-added criterion, and (iii) a combination of the first two criteria.[4] Due to the individual advantages and disadvantages of each criterion, these origin criteria are not standardized but rather coexist.

**An Overview:**

There are no globally accepted rules of origin, although rules of origin are employed to identify the “nationality” of items exchanged in international trade. Currently, each nation or jurisdiction in charge of overseeing a regional trade agreement—such as the EU and

NAFTA—has set its own origin regulations. There are two types of rules of origin: those that deal with

1. preferential treatment
2. non-preferential treatment

The former is separated into regulations pertaining to regional trade agreements and general preferential treatment for developing nations. With the exception of the imposition of preferential tariffs, the following rules of origin will apply to non-preferential treatment: (i) to choose products for trade-related measures that designate exporting nations (i.e., quantitative restrictions); (ii) to gather trade data; and (iii) to identify the country of origin when designating the origin of specific goods (some nations have specific sets of regulations with differing provisions, so there may be multiple types of origin rules in a single nation).

Conversely, preferential rules of origin are employed to grant import goods priority status. When developed countries import certain products, these principles are used to decide whether or not certain products are exported from nations that are granted preferential status under the generalized system of preferences. Furthermore, preferred rules of origin are employed in regional trade agreements like the EEA[5] and NAFTA[6] to grant preferential treatment to regionally produced commodities.

The role of rules of origin in trade policy ought to be impartial. But occasionally, they are employed for protectionist purposes: excessively onerous origin regulations or those that are applied arbitrarily might unjustly broaden the scope of trade prohibitions.

Internationally speaking, origin rules have generally not received enough attention. Article IX of the GATT,[7] which addresses marking requirements, or "marks of origin," was the only particular provision pertaining to rules of origin for a long time. Only the general provisions of the GATT, such as Article 1[8] (MFN treatment) and Article XXIV,[9] which states that free trade areas and customs unions cannot impose greater trade restrictions on Members who are not parties to the customs union or free trade area, apply to rules of origin. In addition to the GATT, the Kyoto Convention,[10] also known as the International Convention on Simplification and Harmonization of Customs Procedures, was completed under the auspices of the Customs Cooperation Council, also known as the "WCO," or "World Customs Organization." It includes an Annex on rules of origin. The Annex placed no real limits, but the range of allowed choices is so great that it is obligatory on parties who accept it. As such, the Annex's capacity to function as a set of international regulations was severely constrained from the beginning. Since there are no universal international standards, the imposition of rules of origin should ideally be a technical and impartial matter. However, in an effort to advance protectionist policy goals, it has become more common in recent years for the rules to be developed and implemented arbitrarily. Countries are now developing harmonized non-preferential rules of origin in accordance with the guidelines provided in the Agreement on Rules of Origin, an Annex to the WTO Agreement, in order to address the trade issues this has produced.

**Preferential Rules Of Origin In International Trade An Overview:**

Preferential rules of origin, found in either unilateral or reciprocal trade agreements, serve as methods to determine the economic nationality of a commodity. Their primary purpose is to prevent trade defection, which refers to the situation where non-originating goods are sent to a party that has a free trade agreement with the lowest external tariffs, and then re-exported to a party with higher tariffs to avoid paying these higher tariffs. Another scenario is when products from non-beneficiaries of unilateral preferential schemes are routed through beneficiary countries. While trade deflection remains a valid concern, it is evident that the role and purpose of rules of origin have evolved beyond their initial objective of solely preventing trade deflection. Similarly, the inherent discriminating capability of rules of origin enables parties to a free trade agreement or countries offering preferences to limit the duty-free access of exported items from the targeted parties and other preferential advantages.

The ability to discriminate is crucial in this context, as wealthy countries have demonstrated a readiness to provide better market opportunities to least developed countries (LDCs), but not to all countries universally. The rules of origin are crucial for the effectiveness of preference programs as they determine the technical difference between items that genuinely originate in beneficiary nations and those that originate in non-beneficiary countries. Without making such distinctions, it would be improbable for the preference programmes to exist.

However, due to the ability to differentiate, there is also a valid fear that laws of origin can be employed for protectionist motives. Rules of origin establish restrictions on the extent to which materials from third nations (i.e., countries other than the exporter) can be utilized to qualify for preferential treatment. If producers in the exporting country encounter technological impossibilities or excessively high costs in complying with the rules, the tariff benefits that are supposedly granted are essentially revoked due to the enforcement of the rules of origin. Moreover, due to their highly technical nature, the true extent of their complexity only becomes evident when applying the rules. Consequently, the tariff preferences that may seem favorable in theory may really have little practical value.

The policy problem is to create rules of origin that do not impose costs on producers in the beneficiary nations that are more than the value of the preferences. However, it is important to maintain the fundamental purpose of the rules, which is to differentiate between eligible and non-eligible commodities.

Aside from the rules of origin, there are other factors to consider in origin design and policy, such as origin negotiations (in the case of RTAS) and, most importantly, origin administration. [11]Origin administration encompasses various activities, including certification, origin rulings, and origin verification. The main challenge lies in effectively managing these distinct yet interconnected origin functions.

**Methods Of Determining Rule of Origin:**

Diverse procedures and methodologies are utilized to ascertain the country of origin in international trade. The central idea is the notion of significant transformation, whereby the nation of origin is determined by the extent to which imported inputs undergo transformation during the production process. There exists in presents three primary understandings of substantial transformation:[12]

1. **Process Criterion:** This method defines imported inputs as having undergone significant transformation if the final products are classified under a different tariff category than any of the inputs used in the manufacturing process. Imported or origin-unknown materials often necessitate a modification in the Harmonized System (HS) header.
2. **Criterion based on Percentage or Value-Added:** This approach emphasizes the proportion of value that is contributed to the product during the production process. It streamlines the process by computing the degree of conversion using a specified percentage, such as 40% or 50%.
3. **Integration of Process and Percentage Criteria:** Certain interpretations amalgamate process and percentage criteria to ascertain the place of origin for a product. This method tries to give a thorough assessment by taking into account both the nature of change and the value added.

Furthermore, apart from these primary factors, there exist particular lists and standards that can assist in ascertaining the origin.[13]

- The "**List of Wholly Produced Goods"** is a compilation of products that are entirely sourced or manufactured within a single country. This list serves to streamline the process of determining the provenance of goods.
- The list of **Minimal operations** refers to certain operations that do not impart origin, such as basic cutting, bottling, or mixing. This distinction is made to differentiate between significant and minimal alterations.
- The **Tariff Classification System use the Harmonized System (HS)** to classify products and ascertain whether there has been a modification in tariff classification, indicating a significant transformation.

These methods and recommendations assist customs officials and enterprises in ascertaining the place of origin for traded commodities, dealing with the complexity that arise from globalization, outsourcing processes, and the utilization of inputs from diverse sources. Policymakers have a vital responsibility in establishing and executing these regulations to guarantee precision and uniformity in determining the origin of goods in various trading situations.

**Why Are Rules Of Origin Important?**

Rules of origin refer to the criteria used to determine the country of origin of a product. They are important because they play a crucial role in international trade by determining the eligibility of products for preferential treatment, such as lower tariffs or other trade benefits, under various trade agreements.

The questions may be answered by referring to the concept of rules of origin outlined in Article 1 of the WTO Agreement on Rules of Origin.[14] The term “rules of origin” refers to the laws, regulations, and administrative decisions that are universally applicable and used by any member of the World Trade Organization (WTO) to determine the country from which goods originate. These rules of origin should not be associated with trade agreements or independent trade policies that result in the granting of tariff preferences beyond what is outlined in Article I of the General Agreement on Tariffs and Trade (GATT) 1994.

This Article introduces two noteworthy terms: “general application” and “contractual or autonomous trade regimes.” There are two distinct sets of rules of origin. One set applies to contractual and autonomous trade regimes or preferential trade, while the other set applies to general non-preferential trade, such as trade on a most favored-nation (MFN) basis. The rules of origin established by the WTO are a set of public laws and regulations that are universally applicable. These rules are used to ascertain the specific country from which traded commodities originate.

Typically, a nation engaged in trade offers three distinct rates of customs duty for the same imported items, which vary based on the place of origin. Initially, a fixed rate, which is the most elevated among all rates (e.g., 30%), is imposed on commerce involving non-members of the World Trade Organization, non-participants or beneficiaries of preferential trade agreements, or nations without any trade agreement that guarantees most favored nation treatment. Additionally, a concessional rate or most favored nation (MFN) rate, which is below the statutory rate (e.g., 10%), is applied to trade with World Trade Organization (WTO) members and countries that have a trade agreement guaranteeing MFN treatment. Lastly, a preferential rate, often the lowest possible rate, frequently zero, of duty, is applicable to trade conducted under a preferential trade regime. The primary purpose of rules of origin is to determine the correct rate of customs duty to be applied.

Non preferential rules of origin, determining the country of origin of goods, are used for the following purposes (Article 1 of the Agreement on Rules of Origin): [15]

- MFN tariffs and national treatment (NT)
- trade remedy measures (antidumping and countervailing duties and general safeguards measures)
- quantitative restrictions (QRs) and tariff quotas (TQs)
- origin marking requirement
- government procurement
- trade statistics

Non preferential rules of origin should be enforced in an unbiased, transparent, predictable, consistent, and neutral manner to avoid creating needless trade barriers. Preferential rules of origin grant special tariff benefits to a select few parties under a certain preferential trade system. The primary objective is to ensure that only items originating from the parties receive the benefits of preferential tariff treatment. Products that come from foreign countries and merely go through or undergo a little or superficial procedure in the parties shall not receive preferential tariff treatment. Preferential rules of origin are both a condition and a prerequisite for obtaining particular benefits, such as lower or waived customs duties.

As previously stated, there exist two distinct forms of preferential regimes. One option is a bilateral agreement, which is a commercial or international agreement that is reciprocal. Free Trade Agreements (FTAs) like the North American Free Trade Agreement (NAFTA) and ASEAN Free Trade Agreement (AFTA) serve as excellent illustrations. The other type is autonomous or nonreciprocal. The GSP is an example of a unilateral preferential tariff measure provided by developed countries to qualifying products from preference-receiving countries.

**Case Laws On RoO:**

- **United States imposes anti-dumping measures on specific shrimp imports from Vietnam:[16]**

This case pertained to the elucidation of regulations regarding the source of origin in relation to measures taken against unfair trade practices. This article explores the significance of rules of origin in trade disputes and their interpretation within the framework of WTO agreements.
WTO Dispute

- **European Communities – Customs Classification of Frozen Boneless Chicken Cuts:[17]**

This case pertains to a disagreement regarding the categorization of goods and the regulations determining their country of origin for customs-related matters. This illustrates how Rules of Origin (RoO) can result in varying interpretations and subsequent conflicts in the context of global commerce.

- **RKW US, Inc. v. United States Court: US Court of International Trade :[18]**

This lawsuit pertained to the elucidation of regulations regarding the origins of goods under the North American Free Trade Agreement (NAFTA). This statement emphasizes the intricacies involved in identifying the source of a product and the consequences that such findings have on the application of tariffs.

- **Eckstrom Industries Inc. v. United States,**[19]

This is a legal matter that was decided by the Federal Circuit Court of Appeals in the year 2001. This case examines the influence of laws of origin on the categorization of commodities for the purpose of imposing tariffs. This illustrates how Rules of Origin (RoO) determinations can impact customs procedures and global commerce.

**The Importance Of Rules Of Origin International Trade:**

The regulations governing the origin of goods have emerged as a significant concern in international trade, affecting both governments engaged in trade and global trading communities. Although the reasons behind this may be interconnected, the following factors are highlighted.

(i) GENERAL TREND TO REDUCE COST OF DOING BUSINESS IN INTERNATIONAL TRADE:

The prevailing tendency is to decrease the expenses associated with conducting business in global trade. The implementation of “trade liberalization” policies, which involve reducing or eliminating customs taxes, has been made possible by a series of multilateral trade negotiations known as the General Agreement on Tariffs and Trade (GATT). The World Trade Organization (WTO) reports that the average tariff rate currently stands at 4%. In general, tariffs are not considered significant obstacles to trade, however certain sensitive products nevertheless face high tariffs and tariff escalation.[20] Instead, business and trading communities, especially small and medium enterprises (SMEs), prioritize “trade facilitation” initiatives, such as the establishment or harmonization of customs processes. A study conducted by the Asia Pacific Economic Cooperation (APEC) reveals that trade facilitation initiatives will yield greater benefits compared to trade liberalization.[21] These Customs processes encompass both the process of clearing exports and imports, as well as the verification of rules of origin requirements. The imposition of onerous and excessive government paperwork mandates would erode the advantages derived from trade liberalization initiatives.

(ii) LACK OF INTERNATION UNIFORMITY AND HARMONAIZATION AND PROLIFERATION OF FTA:

The absence of global consistency and coordination and the increasing number of Free Trade Agreements (FTAs). The requirements for origin differ from one country to another. From the perspective of an exporter, they are onerous and needlessly constraining. Occasionally, a solitary importing nation employs distinct sets of norms of origin. This statement is especially true in the context of the widespread adoption of Free Trade Agreements (FTAs), because rules of origin are crucial in determining the extent to which items included by an FTA receive reduced or eliminated rates of duty. Manufacturers alter the ratio of domestic and imported components they utilize to comply with distinct laws of origin in various markets, resulting in higher manufacturing expenses.

(iii) RULES OF ORIGIN AS TRADE POLICY INSTRUMENT:

Rules of origin as trade policy instrument. Rules of origin are intended to be objective and impartial regulations used to ascertain the nation from which commodities originate. Rules of origin are commonly employed as a trade policy tool in certain importing nations through preferential trade agreements and arrangements, such as GSP and FTAs. Four Rules of origin vary between different Free Trade Agreements (FTAs) in order to safeguard national interests. These variations are based on the specific trade patterns and structures of each bilateral agreement.

(iv) OUTSOURCING, A COMMON BUSINESS PRACTICE:

The recent surge in globalization has resulted in a greater involvement of both large firms and small and medium-sized enterprises (SMEs) in economic activities. This has made it increasingly challenging to identify the country of origin of goods, as these businesses now procure materials, parts, and components from multiple foreign countries to enhance the competitiveness of their products in international markets. The trend of globalization and outsourcing is likely to continue growing due to trade liberalization policies implemented through the continuing DDA and FTAs.

(v) INCREASE IN FOREIGN DIRECT INVESTMENTS (FDI) AND ESTABLISHMENT OF EXPORT PROCESSING ZONES (EPZS):

Exports are considered a catalyst for economic expansion. A number of developing nations provide tax advantages to Export Processing Zones (EPZs) in order to attract Foreign Direct Investment (FDI). The rapid expansion of foreign direct investment (FDI) in developing nations establishes a manufacturing foundation for exports to benefit from advantageous tariff arrangements under the Generalized System of Preferences (GSP) and Free Trade Agreements (FTAs). To derive advantages from such treatment, it is necessary for the items manufactured at Export Processing Zones (EPZs) to comply with the rules of origin criteria.

(vi) EVASION OF TRADE REMEDY MEASURES:

Certain companies may evade trade remedy measures, such as anti-dumping and countervailing duties, by relocating their factories to third countries that are not subject to these measures, or to the importing country that has imposed such measures and is providing crucial parts and components. Trade remedy measures are implemented against certain exporting nations, and the determination of the country of origin of the commodities in question is heavily influenced by rules of origin. The determination of the importing authorities is crucial for these enterprises to avoid paying additional customs fees. Countries that enforce measures may want to establish specific rules of origin to prevent such activities of circumvention, which could result in the implementation of another trade policy tool.

(vii) A MINOR REGULATION AMENDMENT NECESSITATES A SIGNIFICANT OPERATIONAL CHANGE:

Authorities frequently offer technical modifications to rules of origin. Even if these amendments are insignificant, they may necessitate significant alterations to current production operations. There are situations where the utilization of both domestic and imported resources needs to be modified in order to comply with the updated regulations regarding provenance.

**Conclusion:**

Although the World Customs Organization (WCO) and the World Trade Organization (WTO) have made significant efforts to standardize non preferential rules of origin, specific origin rules for individual products have not yet been implemented. Currently, the scenario of a certain process meeting rules of origin in one importing country but not meeting rules of origin in other importing countries will persist. The average tariffs have significantly decreased as a result of the global trade discussions aimed at trade liberalization conducted under the GATT/WTO. Nevertheless, the absence of consistency in rules of origin would result in avoidable delays and expenses, affecting not only customs authorities but also businesses and trading communities. This situation must be altered. The implementation of a unified set of rules of origin yields several advantages for both public and private sectors. It will undoubtedly decrease the time and expenses involved, so making trade easier. It will enhance the international trading system by bolstering the certainty, predictability, and consistency of origin determination. Implementing a uniform set of origin standards will also decrease the number of trade dispute cases.

## XIII. Import Financing

Import financing refers to various financial instruments and methods used by businesses to fund the purchase of goods from foreign suppliers. Here are some common methods:

**1. Letter of Credit (LC)**

- A bank guarantees payment to the exporter on behalf of the importer.
- Ensures that the supplier gets paid upon fulfilling the terms of the contract.
- Reduces risk for both parties.

**2. Bank Guarantees**

- A bank promises to cover the importer’s payment obligations if they fail to do so.
- Often used for large contracts.

**3. Trade Credit**

- The exporter allows the importer to buy goods on credit and pay later.
- Short-term financing option with agreed payment terms.

### 4. Bill of Exchange (BOE) / Documentary Collection

- The exporter draws a bill of exchange requiring payment at a future date.
- Banks act as intermediaries to collect payment.
- Can be sight (immediate payment) or usance (deferred payment).

### 5. Supplier's Credit

- The foreign supplier provides credit terms, allowing the importer to pay after a specific period.
- Helps manage cash flow without immediate payment.

### 6. Buyer's Credit

- A financial institution or bank provides a loan to the importer to pay for the imports.
- Usually used for high-value imports like machinery or large shipments.

### 7. External Commercial Borrowing (ECB)

- Companies raise funds from international markets through loans, bonds, or other instruments.
- Suitable for large-scale imports.

### 8. Forfaiting

- The importer's bank or a forfaiter buys export receivables at a discount.
- Eliminates credit risk for the exporter.

### 9. Factoring

- A financial institution buys the importer's accounts payable and manages collection.
- Helps with working capital management.

### 10. Advance Payment

- The importer pays the exporter before goods are shipped.
- Often required for high-risk transactions or when dealing with new suppliers.


Discussion on any questions


THANK
YOU