1. Many producers do not compute the value of the raw material from the first leg/stage.

Example in the manufacture of HDPE, the first raw material is crude oil. This crude oil gets converted to Ethylene. Ethylene is then converted to HDPE. However even large companies like Chevron and Government authorities of the state of Singapore were found to be calculating value addition from intermediate leg/stage. This resulted in case of Singapore issuing COO for HDPE as having origin criterion of 94% or 98.37%, even though they have no crude oil exploration in their own country and COO was not issued under the accumulation/cumulation criteria.

1. Wrong issue of percentage in origin criterion can jeopardise claim of notification benefit as there is no provision to amend/alter the origin criterion once issued under the free trade agreement.

In a verification, value addition was found to be 45%, where the requirement was only 40%, however since the original COO was issued wrongly at 94%, benefit was denied in totality

3) Producers compute only the value of raw material which are originating in their country.

The requirement is value addition comprising of

1. Raw material
2. Profit
3. Labour
4. Overhead Cost
5. Any other

And not of raw material only

4) A lot of importers import branded/trade mark items manufactured in the preferential area, but invoiced by a third party in a non-preferential area. Since the manufacturer is aware of only the contract price between him and the third party (Trade mark owner), he submits only this information to obtain local value addition in origin criterion.

Where the proper officer of customs is not satisfied by the information provided in Form I, section III he may assess the bill of entry against provisional bond and bank guarantee equal to the duty benefit claimed under the notification and subject the declaration to verification by sending request to the verification authority, who may revert with its finding within 45 days thereof.

If verification is found in order, the PD bond and Bank Guarantee may be cancelled and returned to the importer.

The importer has to keep records for a period of 5 years and the COO certificate may be subject to verification anytime. If certificate is found to be inadmissible after the verification, the customs may reject claim for all identical goods imported up to 5 years from the said exporter/producer. Thus the importer’s claim is at risk even if verification of another importer for identical goods from the same producer is found inadmissible, that too for the import of past 5 years.

The enormity of this risk needs to be understood for the contingent liability that it creates for many items where the duty difference can run into tens or hundreds crores of rupees over a 5 year period

**Conclusion**: The actual originating criteria is the originating value divided by the total FOB value (the contract price between the third party and the importer) and not the FOB value of the manufacturer.

Only in the case of Export from Least Developed Countries (LDC) the contract price/FOB of the manufacturer is permitted to be computed as final FOB for originating criterion as per CBIC circular 53/2020 dated 08/12/2020.