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Dr. Guruprasad Mohapatra
Secretary
DPIIT

Subject: Deliberations on the introduction of import licensing on Electronic Products to curb imports through FTA

Respected Sir,

Greetings from **MAIT**, the apex body of the Electronic Hardware Manufacturing in India!

This bears reference to the ongoing deliberations on how to overcome the disadvantage that the Indian Electronic Manufacturing industry is facing due to misuse of the FTA route by unscrupulous exporters in these countries.

In this context, MAIT has the following inputs and suggestions for your kind consideration: -

1. Global electronic manufacturing is an interlinked value creation chain that spans across multiple countries. Thus, for India to aim to build an export-led electronic manufacturing capacity, independent of other nations will not be possible.
2. Unlike many other Industrial sectors, Electronics is not vertically integrated within one nation, it is a sector where the products are very dynamic and fast changing and it has dependencies on global supply chains in the manufacturing process. Any form of counter-agility restrictions will severely impact the electronics manufacturing in the country.
3. The root cause of the problem India faces is on account of misuse by an exporter of the “Country of Origin clause”. India should plug this root cause and not penalize the Indian Industry by imposing a Licensing regime.
4. Licensing is not the appropriate solution to this problem.
5. MAIT recommends that India should use its position of strength of being a large domestic market to renegotiate the FTAs soft clauses (process/administration related) and hard clauses (notified products and tariffs related).
6. The following Soft Clauses to be imposed unilaterally by India. *(please note: The Indian Electronic Industry is willing to abide by the same)*
 - 6.1. India should introduce the step that the “Country of Origin” certificate must be signed by a Govt. Authority is equivalent to a Commissioner of Customs or equivalent.
 - 6.2. India should introduce the step that the “Value addition” certificate is audited and signed by a Chartered Accounting Firm in the country of Origin. This certificate must be accompanied by the last four quarter P&L and Balance sheet. (This is a legitimate ask, as the concession is given on a commercial understanding)

- 6.3. India should state that in the 35% value addition the margin can only be 5%. The rationale for this is given below:
- a) In Electronic hardware manufacturing, the margin to the manufacturer is not more than 5-8%. The rest of the margin is for sales and marketing, which is in any case done in India.
 - b) **Price is a concept, cost is a reality** as any economist will endorse. All of us have the story of the cost of a bottle of water and the price of a bottle of water to a customer living by a fresh water stream and another stuck in the Saharan desert.
 - c) The rationale for “Country of Origin” 35% value addition is on the fundamental principle that recognizes and holds up the “value addition” done in the country of origin – IT IS NOT MEANT TO RECOGNIZE the Demand-Supply driven Price of the product in the importing country. Including an uncapped price in the 35% is a fundamentally flawed clause, just like the ITA1, that India signed.
- 6.4. Further, if price is the case, Why is India’s very own PMA framework not recognizing Price as the criteria for “India value addition”. By not doing so India discriminates against India manufactured goods, viz those imported through FTA in the process.
- 6.5. To summarize, India has every right to limit the margin to 5% in the case of Electronic products imported through FTA, for “Country of Origin” clause. In fact, it should be pegged at 0%. As 35% will not be a hurdle for a true “Country of Origin” Product.
7. To validate the Country of Origin, India can take the following simple step. India should set up a panel of Indian Electronics Industry Supply chain experts and Fellows from the Chartered and Cost accountant fraternity to audit a claim of the country of Origin. And if the exporter refuses to cooperate in the audit, the company is debarred from exporting into India.
8. MAIT wishes to assure the GOI that India has enough Indian experts who can be empanelled to do an excellent task on this. The cost of the Audit can be a fixed fee payable by the exporter in the country of origin.
9. MAIT has been recommending for several years that the Ministry of Finance should set up an expert “Convergence Cell” to guide GOI in the matter of interpreting the fast-changing technology and products particularly in the field of electronics to take policy, classification and tariff decisions. Please implement this request.
10. Lastly the imposition of “Import Licencing” for Electronics, will be a retrograde step and will be counter-productive to the objective of “Exports-Led Manufacturing”. It sends a wrong message to global investors looking at shifting their manufacturing into India.
- a) They fear the slowness and corruption the regime will bring.
 - b) They fear the hampering of their agility to respond quickly in an Industry where the value of the goods devalue from the day it is moved to the finished goods store in their plant.
 - c) They fear the ability of the regulator to keep pace with the rapidly changing technology and products in the electronics domain. More so, in an industry where the technical terminology of Electronic components and Electronic sub-assemblies of different Products that fall under different tariff HS Codes are the same. This adds to the ambiguity and confusion in interpretation and administration of a License regime. As we seen in the large number of litigations around customs tariff heads of imports done.
 - d) They fear that their goods made in India will face the same licensing restrictions from other countries who impose it on exports from India.
11. Perception is more damaging than intent. The term Licensing is a retrograde term for the Global Electronics Industry. It will undermine the image of India as a Global Manufacturing Destination and the dream of becoming the global hub of electronics manufacturing.

The above-mentioned points highlight the perils of the introduction of “Import Licensing” and it will not be a favourable decision for the electronic goods manufacturing industry. Thus, **MAIT strongly opposes the introduction of “Import Licensing” for Electronics.**

To counter the misuse of FTA agreements by exporters, MAIT recommends that India puts in place a strong audit system for preventing the misuse of the “Country of Origin” clause by unscrupulous Chinese companies using FTA as a front end to access the India market.

Looking forward to your favourable consideration of our request.

With regards,



George Paul
Chief Executive Officer

CC: Shri Amitabh Kant, CEO, NITI Aayog

CC: Shri Ajay Prakash Sawhney, Secretary, Ministry of Electronics & IT

CC: Dr Anup Wadhawan, Secretary, Ministry of Commerce & Industry

CC: Shri Amit Yadav, Director General, Directorate General of Foreign Trade

CC: Shri Saurabh Gaur, Jt. Secretary, Ministry of Electronics & IT

CC: Shri Deepak Bagla, Managing Director & CEO, Invest India

CC: Shri S K Marwaha, Sr. Director, Ministry of Electronics & IT