Rules of Origin and Effects on Supply Chain

Submitted by: Bryan Cave LLP
Rules of Origin & Effects on Supply Chain
APEC MAG–CTI ROO TPD FOR CTI 2

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Section 1: What have businesses been doing?

Section 2: Case study
Business Initiatives

- Utilization of FTAs
  - Trade
    - Importers/buyers
      - Build-in FTA/CO provision in purchase contracts
      - Verification/compliance
    - Exporters/sellers
      - Selling to markets newly opened up by FTA
  - Supply chain rationalization
    - Manufacture vs importation
    - Manufacturing site?
    - Supplier/source?

- Trade policy management
  - Timely intelligence
  - Streamlining of supply chain
  - Corporate policy and strategy
    - Create level playing field in domestic market
    - Create/maintain advantageous domestic environment

- FTA compliance
  - Commercial contract
  - In–house
  - External verification
### Business Concerns

- **Overlapping FTAs**
  - Bilateral vs regional/plurilateral

- **Complex/unclear tariff modalities**

- **“Spaghetti bowl” of ROO**
  - Different origin criteria
  - Different minimal operations
  - Different certification/declaration requirements
  - Different record-keeping requirements

- **Commercially sensitive information required on origin certification/declaration**

- **Trading/commercial flows not taken into account**
  - Consolidation of goods, sometimes in 3rd countries
  - Consolidation of transactions, sometimes in 3rd countries
Section 1: What have businesses been doing?

Section 2: Case study
### ROO Questions

- **Is your product the result of any, few or all of the minimal operations?**
  - Are the minimal operations the only activities that were done?

- **What is the ROO applicable?**
  - Is it wholly obtained?
  - Is it a general ROO?
  - Are there product-specific rules?
  - Is there cumulation?

### ROO Questions

- **If ROO is based on value-added...**
  - Flow charts of manufacturing processes
  - Suppliers’ invoices for materials (domestic & imported)
  - Bills of materials (domestic)
  - Certificates/declaration of origin for imported originating materials
  - Financials/accounts
    - General ledger
    - PNL
    - Royalty agreements/technical assistance fees/any payments
    - Others
ROO Questions

- If ROO is based on CTC...
  - Flow charts of manufacturing processes
  - Suppliers’ invoices for materials (domestic & imported)
  - List of materials and HS codes (imported)
  - Certificates/declaration of origin for imported originating materials

ROO Questions

- Are your products exported directly from the country of manufacture to the importing country?
  - What is the consignment requirement of the FTA?
  - Your products are routed through a third country
    - What processes are done on your products there?
    - Is there provision for third-party invoicing?
    - Is there provision for back-to-back CO?
  - You purchase products from a third country
    - Is there provision for back-to-back CO?
    - Is there provision for third-party invoicing?
Step-by-Step

- Interviews with personnel
- Documentary review
- Alternative ROO: Would it be more “user-friendly”?
- Internal workshop/user manual
  - General knowledge of ROO
  - Correct way of making declaration
  - How to maintain eligibility
  - Sources of information