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## **Harmonization of Preferential Rules of Origin - Viewpoint from an EPA/FTA Negotiator**

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## Harmonization of preferential rules of origin = Viewpoint from an EPA/FTA Negotiator=

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### Preferential ROOs and tariff concession (1)

➤ Negotiators negotiate RTAs /FTAs recognizing link between preferential ROOs and tariff concession.

-In case negotiation on tariff concession and ROO go unconcerned with each other, confusion might happen.

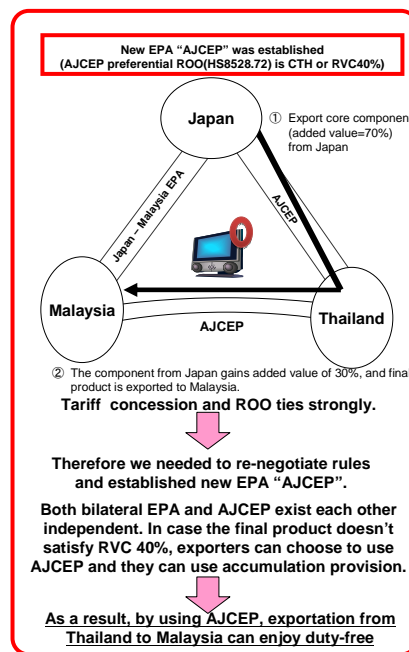
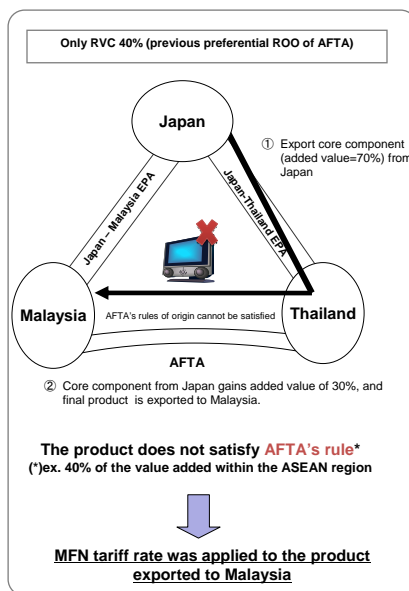
-Under certain EPAs, Japan and negotiating partners agreed “in principle” (no further tariff concession) without reaching conclusion on ROO, especially on sensitive/interested products of either side (apparels, steels, autos/auto-parts, processed foods etc).

➔ Caused situation like real negotiation even after “agreement in principle” (only remaining variant to control market access)

## Preferential ROO and tariff concession (2)

- Change in Preferential ROO finally lead to establishment of new EPA (AJCEP) because of link between ROOs and concession.
- Originally, ASEAN Free Trade Area (AFTA) employed value-added criteria (RVC/VA 40%) for most of the products including color TVs (HS: 8528.72.XXX), because core parts (e.g., cathode-ray tube) could be procured inside ASEAN.
- ➔ After the innovation of plasma-panel TVs, ASEAN members import core parts from Japan or South Korea and export final products to other countries. This did not satisfy AFTA's rule
- Instead of changing only ROOs of AFTA, Japan negotiated new EPA (AJCEP) which include cumulation of ROOs.

## Preferential ROO and tariff concession (3)



## Tendency of *de facto* similarization of preferential ROO

### I. General rule (GR) : CTH or RVC/VA 40% in East Asia

In East Asia region, General Rule (ROO applied to all products unless specially defined under product specific rules (PSR)) take the form of “Change in Tariff Headings (CTH) or Regional Value Content (RVC) 40%” as the result of proliferation of ASEAN+1 type FTAs.

	JAPAN-ASEAN	S.KOREA-ASEAN	CHINA-ASEAN	AFTA(CEPT)	AUSTRALIA/NZ-ASEAN (not in effect)
GR	CTH or VA 40%	CTH or VA 40%	VA 40%	CTH or VA 40%	CTH or VA 40%

### II. Product Specific Rules (PSRs)

ROOs have been becoming similar on *de facto* basis not only for GR, but also for PSRs.

*Example: Coated/plated flat-rolled steel products (HS7210)*

*Among 32 RTAs in the Asia/Pacific region, 26 basically employ Change in Tariff Heading (CTH: 4 digit basis) or Change in Tariff Sub-heading (CTSH: 6 digit basis) because of the difficulty in making use of other rules, especially RVC/VA criteria.*

## Difficulties in achieving harmonization

### I. Differences of “standards” between regions

- CTH or RVC/VA 40% approach is popular in East Asia, but not so much in Americas where CTC only rule is preferred.
- ➔ How to “harmonize” in Asia-Pacific region as a whole??

### II. Differences in PSRs reflecting interests/sensitivities and situation of industries and national policies

- In the course of FTA negotiation, PSRs reflect the negotiating strategies responding to the interests/sensitivities of industries and national policies.
- ← - industries’ competitiveness, procurement policies
- national policies for industrial location
- sensitivities

## Specific example of preferential ROO :

~ Case of apparel products (HS 61-62) ~

	South Korea-ASEAN	Japan-ASEAN	US-Australia
Tariff concession	South Korea: Tariff elimination by 2010 (Normal Track) or Tariff reduction to less than 5% by 2016 (Sensitive List)	Japan: Prompt tariff elimination	United States: Tariff elimination by 2014 (at the latest)
Product Specific Rules of Origin	One process  <Heading 61.01> Change to Heading 61.01 from any other Chapter, provided that the good is both cut and sewn in the territory of any Party; or A regional value content of not less than 40 percent of the FOB value of the good	Two process (fabric forward)  <Chapter 61> CC, provided that, where non-originating materials of heading 50.07, 51.11 through 51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08.55.12 through 55.16 or chapter 60 are used, each of the non-originating materials is knitted or crocheted entirely in one or more of the Parties.	Three process (Yarn forward)  <Subheading 6101.10-6101.30> A change to subheadings 6101.10 through 6101.30 from any other chapter, except from headings 51.06 through 51.13, 52.04 through 52.12, 53.07 through 53.08 or 53.10 through 53.11, Chapter 54, or headings 55.08 through 55.16 or 60.01 through 60.06, provided that: (a) the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or both of the Parties, and (b) any visible lining material contained in the apparel article must satisfy the requirements of Chapter Rule 1 for Chapter 61.
Required process	Fabric→Apparel Product	Yarn → Fabric→Apparel Product	Fiber→Yarn → Fabric→Apparel Product

## Issues to be further discussed

Does “noodle bowl” phenomenon truly matter?

← “...at the present level..., multiple ROOs impose only limited burden on firms in East Asia” (Kawai-Wignaraja, 2009)

How to cope with the structural reform and domestic industries’ concerns?

Importance of procedural issues, including issuance of certificate of origin (CO), custom procedures and other transparency-related matters

→ “APEC Transparency Initiative on Tariff and ROOs” (Japan/U.S. proposal) / “APEC Best Practices for Simplifying Documents and Procedures relating to Rules of Origin” (Singapore proposal)

Any place of amendment of preferential ROO as the result of implementation? Is there any way to improve ROOs?