

2012 APEC Workshop on FTA Rules of Origin

July 10-12, 2012, Seoul, Republic of Korea

Executive Summary

In 2012, APEC Leaders directed Ministers to “continue to facilitate APEC’s role as an incubator of an FTAAP and to explore ways forward towards its realization by providing leadership and intellectual input into the process of its developments.” In order to identify capacity-building needs for regional economic integration (REI) in an effort to work towards an FTAAP, a survey was conducted and analyzed in 2010. Based on the survey analysis, the multiyear work plan for the REI Capacity-Building Needs Initiative (CBNI) was proposed in 2011. Consequently, the Action Plan Framework for the REI CBNI was endorsed in 2012 and this workshop was organized as a kickoff meeting of its programs that were developed under the framework.

The 2012 APEC Workshop on FTA Rules of Origin (ROOs) was successfully held in Seoul, Korea on July 10-12, 2012. The objective of the workshop was to enhance understanding of FTA ROOs and customs procedures, to share relevant experiences and best practices, to discuss policy measures for ROOs in the APEC community, and to assess the feasibility of creating APEC-wide ROOs.

In this workshop, 37 government officials in charge of ROOs from 19 APEC member economies and speakers with expertise on the related topics, including university professors and an official from World Customs Organization (WCO) attended to share their ideas and experiences. Topics of the first day of the workshop included 1) Rules of Origin and their Harmonization, 2) FTA ROOs and Regional Economic Integration in APEC, 3) Effects of ROO on Trade, and 4) Challenges presented by Rules of Origin and WCO Origin Database. On the second day, the participants discussed Origin Verification Process and Practices, Origin Management System and Cases of Origin Management System in the Private Sector. The workshop ended on the third day with a visit to the Seoul Main Customs office, where the participants were able to discuss the Korea Customs Service Electronic System, UNI-PASS and ROO-related cases and examples in Korea’s FTAs, followed by a brief tour of the customs museum.

This workshop shed light on various issues and perspectives on FTA ROOs from both academics and practitioners. The workshop benefited from active participation in discussions and expertise offered by the speakers and delegates. They shared their

comprehensive knowledge of FTA ROOs and harmonization in the context of regional economic integration in APEC, effects of ROOs on trade, challenges ahead, and the use of WCO database. The participants were also able to enrich their knowledge on the origin verification process and practices, origin management system, and the cases of origin management system in the private sector.

In Session 1(Rules of Origin and their Harmonization) presented by Professor Alan Deardorff, it was recognized that ROOs have become one of the major issues in international trade with the proliferation of FTAs. From economic standpoint, ‘No ROOs’ would be optimal due to the deadweight loss, administration and documentation cost, and input diversion. The most counterintuitive cost is related to input diversion since the cost of ROOs becomes larger as the number of FTAs increases, FTAs have more of their own ROOs, and industries are more fragmented. Hence, we need to harmonize ROOs and simplify them to have least restrictions. In reality, however, harmonizing ROOs across all FTAs is an almost impossible task. Cumulation should be as broad as possible in order to enhance the world’s economic welfare. The Trans-Pacific Partnership (TPP) was first planned to allow broader cumulation among the participating economies, but it seems to be a long shot to achieve this goal. The European Union has been a leader in cumulation provisions, but these provisions are not used very often in practice. In MERCOSUR, there are no rules on cumulation at all. In this regard, full cumulation seems to be a premature concept in the APEC region. Further, one of the practical challenges of cumulation using the Regional Value Content (RVC) method in the region is the possibility of manipulation in currency exchange. Nonetheless, the workshop participants agreed that it is critical to simplify ROOs and enhance transparency of ROOs.

In Session 2(FTA ROOs and Regional Economic Integration in APEC), Professor Innwon Park suggested a regime-wide ROO for the APEC region. He mentioned that APEC has put enormous efforts to mitigate negative effects caused by the complicated web of FTAs. It has also worked to harmonize and simplify ROOs in the APEC region since the mid-1990s. The regime-wide ROOs, which aim to mitigate the problems of restrictive ROOs, include de minimis, the roll-up or absorption principle, and cumulation. In terms of the flexibility of rules, de minimis is the most appropriate for final goods while roll-up is for intermediate goods. Meanwhile, the self-certification process makes it easy for customs officers to work with ROOs, and it enhances the utilization rate as well. A horizontal ROO is needed to simplify ROOs since it reduces barriers across

sectors with different rules.

In Session 3(Effect of ROOs on Trade), Professor Hansung Kim pointed out that one of the major trade impacts of the ROOs is trade diversion. The key for mitigating the damage of ROOs is how to address the trade diversion effect. ROOs determine the nationality of a product and prevent the free rider problem. Since complex ROOs deter utilization of FTAs, introducing diagonal cumulation to FTAs in the Asia-Pacific region would be a short-term solution. Diagonal cumulation can work as an intermediate step for the FTAAP and start integrating the regional production network. There are technical difficulties in achieving diagonal cumulation as this requires all participating economies to have identical ROOs and not to have duty drawback provisions in their texts. The RVC method normally works well in developed economies but not in less developed economies where the accounting system is not acceptably developed. The product specific rule (PSR) increases vertical consistency across the production line. Vertical consistency refers to the consistency within an agreement, whereas horizontal consistency refers to the consistency across FTAs. The consistency problem will only exacerbate as an economy enters into more and more FTAs. The utilization rate of Korea's FTAs varies across different agreements depending on the restrictiveness level of different ROOs. In contrast, China's FTAs have a high consistency rate of about 40% and Japan has strategically pursued a very consistent ROOs system in product-specific rules.

In Session 4(Challenges Presented by ROOs and WCO Origin Database), Ms. Mette Werdeline Azzam presented challenges linked to ROOs. It is reported that ROOs are sometimes employed for the purpose of compensating for the loss of tariffs and other conventional barriers. In some cases, the rules are different even under the same name, and it is hard to find common ground within or beyond a regional agreement or a customs union. Multi-stages of FTA increase the complexity in applying ROOs. Using only one single ROO is not feasible in practice due to fragmentation. In some sectors, RVC cannot be met and technical rules or change in tariff classification (CTC) is used instead. Most of all, simplification and harmonization of rules are needed. Because of stringent ROOs, developing economies face challenges in taking advantages of tariff preferences. In particular, SMEs in developing countries may face bigger challenges in relation to ROOs. There is a need for transparent reference to classification of change of tariff heading (CTH), which is a widely used standard. Ms. Werdeline suggested that flexibility of ROOs should be pursued in order to accommodate technological changes.

She also advocated that it is imperative to use comparative studies on different rules, to utilize tools for FTAs developed by WCO, and to make use of database on preferential trade agreements that are available on the website of WCO.

In Session 5(Origin Verification Process and Practices), speakers from Korea, the U.S. and Chinese Taipei introduced their own process and practices. The Korea Customs Service (KCS) recently established a new FTA Implementation Policy Bureau in order to effectively manage increasing demands from newly signed FTAs. In Korea, the import verification process consists of risk assessment, selection, verification, and determination. The export verification process goes through receipt of request, verification, notification of the result, and follow-up action. To minimize the administrative costs and burden caused by the complexity of verification systems, Korea needs to provide a harmonized and simplified form of verification. The origin risk intelligence system of Korea takes trade volume, complexity in ROO, and social impact into account. Verification checking procedures are composed of formality check and other substantial factors. The main challenges of ROOs include non-compliance/negligence in cooperation between partners, reluctance to provide sufficient information, lack of expertise in classification, and different interpretation/classification/guidelines between importing and exporting parties. Therefore, it is strongly recommended to establish focal points for effective communication and mutual cooperation. It is also recommended to provide a harmonized guideline or a manual for verification procedures. Meanwhile, the US CBP provides online services such as classification guidance, eligibility for preferential treatment through its online system, and the Customs Ruling Online Search System (CROSS). Verification of origin under the Korea-U.S. FTA is typically a two-step process. The first step is to request a certificate of origin from the importer and the second step is to request the supporting documentation from the importer. The verification process does not begin until the documents that go beyond the certification are requested. Importers can use any format for certification as long as it contains required data elements for certification. In Chinese Taipei, the Customs Service requests information about the origin of goods from the certifying authority of an exporting party, and then sends written questionnaires for further information. The Customs Service often conducts on-site verification to review the records and documents together with inspection on the materials and facilities used in the production of the goods in question. As the customs administration plays a critical role in implementing FTAs, capacity-building and customs cooperation on the ROOs are needed to enhance the

implementation of FTAs. As it is not easy to narrow the different views of partner economies on what is the proper verification procedure, it is a good idea to have a harmonized guideline or manual.

In Session 6(Origin Management System), Korea Institute of Origin Information introduced FTA-PASS, which is the self-origin-management system developed by KCS in order to support SMEs and exporters who lack the capacity to develop their own ROOs management system. The architecture of the FTA-PASS consists of master information, transaction information, document issues, user information, and origin calculation. The procedure of the FTA-PASS starts with data management, followed by calculation management and document management. It contains all HS codes for Korea's eight FTAs in force. It automatically completes more than 50% of the documentation and allows users to issue certificates. Korea's FTA-PASS can be considered as one of the potential solutions for the complexity problem of the self-certification process.

In Session 7(Cases of Origin Management System in the Private Sector), the presenters discussed on how global companies such as Hyundai Motor Company (HMC) and SMEs cope with FTA ROOs. For the successful implementation of FTAs, four factors were highlighted: a dedicated team with competent members, a well-equipped system, supplier training, and HS code management. HMC's origin management system has been a successful win-win strategy for both HMC and its suppliers. The origin determination system and the FTA hub system are the core sources of HMC's FTA audit package. The FTA hub works as a suppliers' portal that browses HS codes, origin determination and the internal data submitted by suppliers through their certificate of origin. Perfect compliance can be achieved through collaboration between the private sector and public sector with strong government support. In this regard, HMC's hub system can serve as an intermediary that links all the parties and help achieve the best FTA compliance environment. SMEs find it too complex to prepare FTA supporting materials since preparation requires professional knowledge. SMEs have little incentive to comply with the complex rules. They are often concerned that their confidential information may be released and at the same time they are also concerned that they may be cut from the supply chain if they do not meet the global exporters' requests. It is indispensable that government should provide a free web solution to help SMEs with quick preparation and minimize risks of incorrect origin calculation.

Harmonization of ROOs is a clear answer to the challenges posed by diverse and complex ROOs. However, it is not easy to harmonize ROOs because of the conflict among different interest groups. The first step toward harmonization of ROOs is to enhance transparency, simplicity and flexibility of rules. The use of WebTR as a network hub can be a good tool for reducing administrative costs. The next step is to build a single cumulation zone with the aid from APEC-wide capacity building efforts. We need to maximize the utilization rate through better implementation. Although public certification is still prevalent in the APEC region, self-certification is recommended for its low administrative costs and easy access to the preferential tariffs under FTAs. The integrated and harmonized procedure for the certificate of origin is an essential prerequisite for traders to fully enjoy the benefits of FTAs. The self-origin management system developed by KCS can be considered as a possible solution for overcoming the complexity problem of the self-certification process, in particular for SMEs. It is also crucial for governments to provide SMEs support for training programs, infrastructure, and advisory network. KCS plans to establish a global single window so that all the customs service agencies can share relevant data. The worldwide Unique Consignment Reference (UCR) is being discussed in WCO. In this system, an exporting economy can submit UCR to an importing economy, and the latter can save time and cost in the process by obtaining cargo information prior to the customs declaration.

According to the pre- and post-workshop surveys, the participants who attended the workshop are interested in sharing diverse technicalities and interpretations of ROOs. Most of their concerns, however, are as follows: what to feature in the new trend of FTA ROOs; how to facilitate the origin verification process and hence increase utilization of FTAs; how to design FTA ROOs; what policies to adopt for efficient ROOs implementation; and how to cooperate with various stakeholders.

In conclusion, APEC-wide efforts to enhance the transparency, simplicity and flexibility of ROOs are needed. To this end, public and private collaboration is crucial. This capacity building workshop on FTA ROOs may have served as a good starting point for this purpose. Future capacity-building programs should follow up on this workshop by focusing on the areas that were identified in the discussions and surveys, by strengthening the practical expertise and networks to reach consensus on best practices, by producing a harmonized guideline or manual, and by integrating the ROO-related procedures.

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Analysis of Results of the Feedback Survey

In accordance to APEC guidelines, an evaluation sheet was included within the meeting documents in order for participants to provide important feedback regarding the workshop as well as recommendations for further projects.

In terms of the response ratio, 28 evaluations were received, representing 78% of the total participants that attended the workshop. Considering some participants from the same member economy submitted a consolidated response, this response rate is closer to 100%.

With respect to the overall workshop program, 16 (57%) respondents answered “satisfactory” and 12 (43%) responded “good” with comments that the program provided broader views of understanding ROOs, state-of-the-art and useful topics/contents/knowledge, experienced speakers, fairly well-organized arrangements, and an active exchange of views on good practices.

In regards to the sessions on the first day, 17 (61%) respondents answered “satisfactory,” followed by 11 (39%) as “good” with the explanation that it was such an eye opener to impacts and implementation of ROOs in FTAs, and the presentation made by Professor Deardorff was very interesting and other presentations contained very practical information/knowledge.

In regards to the sessions on the second day, 16 (57%) respondents replied “satisfactory,” whereas 12 (43%) answered “good” on the grounds of the very detailed and illustrative information/presentations, and different views both from governments and the private sector.

In terms of the on-site visit to Seoul Main Customs on the third day, only 9 participants completed the survey. Among them, 6 (21%) respondents answered “satisfactory” along with 2 (7%) responses for “good” and 1 (4%) for “fair” because it was informative and

helpful to understand and complement the workshop topics.

As to the question on whether the workshop met its objectives, 15 (54%) answered “satisfactory” along with 11 (39%) responses for “good” because it was very informative in providing knowledge on ROOs in FTAs. On the other hand, 1 (4%) answered “fair” due to very little new knowledge.

With respect to the question on whether the workshop was appropriate for participants, 14 (50%) responses were classified as “satisfactory” and 13 (46%) as “good” because some participants were so experienced to provide good information and their own experiences to share. A participant (4%) responded “fair” to suggest that the moderator be more active to break the ice.

As to ways in improving the workshop, the respondents suggested providing the presentation materials in advance to allow participants to study prior to attending, encouraging more active engagement of the participants involved in the discussion and reaching consensus on the best practices to implement.

In terms of the workshop benefits or changes in their work, organization and/or economy, the respondents pointed out that the broader visions, better understanding on ROO and case studies will contribute to designing and improving their public policies/provisions and their ROO negotiations. They suggested more specific capacity-building programs to follow up on the workshop.

As to the question on what changes they plan to implement when returning to their home economy, the responses included improving the quality of the capacity-building program in the internal areas of the ROO administrations, creating cooperation with the WCO or Korean government, and establishing an FTA outreach program for business people, in particular for SMEs.

In regards to what needs to be done next by APEC and how to support and build on the workshop results, their suggestions were to conduct more technical assistance on ROOs for APEC/ASEAN members, maintain the network among speakers and participants, discuss other factors such as the issue of Market Access, and simplify and improve provisions of ROO as an important element for the future FTA and FTAAP negotiations. It was also highlighted to ponder the need for more experts on ROOs especially in moving towards an FTAAP, more practical experience and trends to be provided by

APEC in different ways, and more workshops for ROO capacity-building.

Some respondents suggested that an ice-breaking session is needed before starting the workshop such as an “Introduction Session” among participants, so that participants can more actively participate in the main program with less formality.

In conclusion, given that the feedback provided by participants was overall positive and constructive, we believe that the workshop was a success and, as always, there is still room for improvement. The specific comments from participants will be taken into account in future activities.