Rules of Origin Research and Analysis

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**Capacity Building Workshop on Preparing
for FTA Negotiations
Qingdao, China
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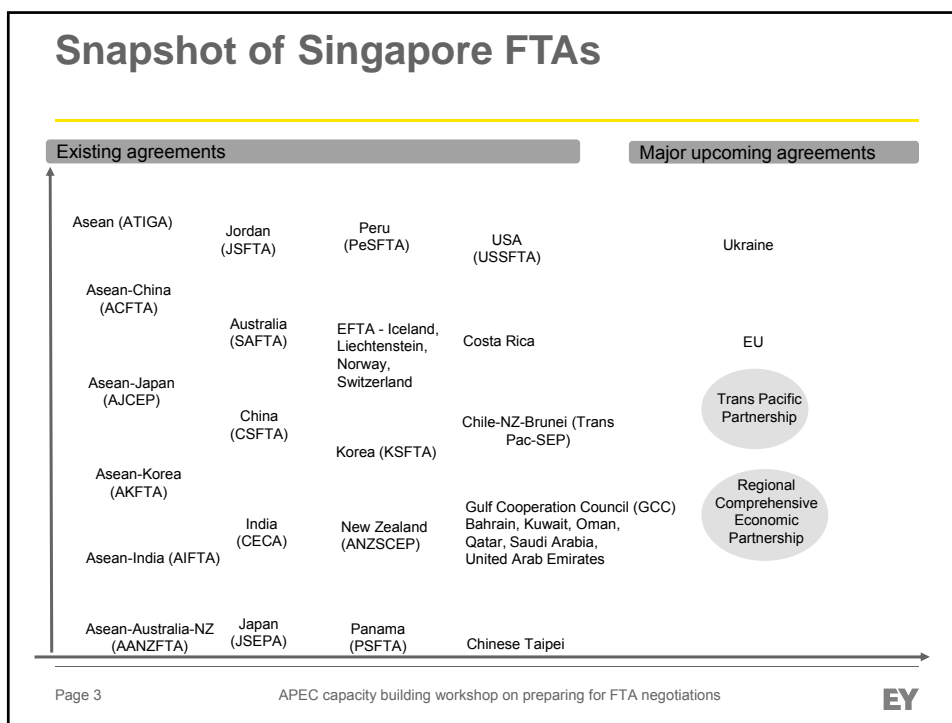# APEC capacity building workshop on preparing for FTA negotiations

Session 2: Rules of origin research and analysis

Tan Juan Fook
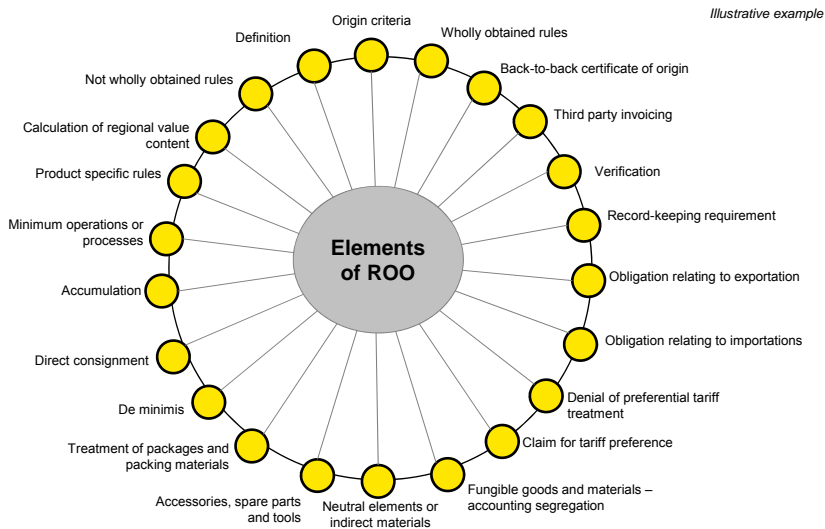6 May 2014

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Snapshot of Singapore FTAs

Existing agreements				Major upcoming agreements
Asean (ATIGA)	Jordan (JSFTA)	Peru (PeSFTA)	USA (USSFTA)	Ukraine
Asean-China (ACFTA)	Australia (SAFTA)	EFTA - Iceland, Liechtenstein, Norway, Switzerland	Costa Rica	EU
Asean-Japan (AJCEP)	China (CSFTA)		Chile-NZ-Brunei (Trans Pac-SEP)	Trans Pacific Partnership
Asean-Korea (AKFTA)		Korea (KSFTA)		Regional Comprehensive Economic Partnership
Asean-India (AIFTA)	India (CECA)	New Zealand (ANZSCEP)	Gulf Cooperation Council (GCC) Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates	
Asean-Australia-NZ (AANZFTA)	Japan (JSEPA)	Panama (PSFTA)	Chinese Taipei	

Initial research and obtaining industry feedback

► Manufacturers and traders

► Local trade promotion agencies and issuing authority for Certificates of Origin
  ► Obtain buy-in from these agencies on what ROO elements are to included in the proposed FTA text
  ► Existing database containing details of the manufacturing cost statements submitted by manufacturers. This will provide an indication on what origin criteria are suitable for the manufacturers

► Chambers of Commerce and major industry associations

► Scoping exercise conducted with FTA partner

Typical elements in ROO chapter

Illustrative example

Elements of ROO:
- Origin criteria
- Definition
- Wholly obtained rules
- Not wholly obtained rules
- Back-to-back certificate of origin
- Calculation of regional value content
- Third party invoicing
- Product specific rules
- Verification
- Minimum operations or processes
- Record-keeping requirement
- Accumulation
- Obligation relating to exportation
- Direct consignment
- Obligation relating to importations
- De minimis
- Denial of preferential tariff treatment
- Treatment of packages and packing materials
- Claim for tariff preference
- Accessories, spare parts and tools
- Fungible goods and materials – accounting segregation
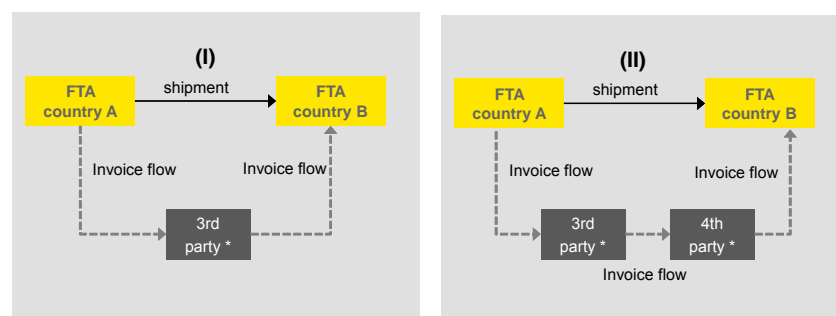- Neutral elements or indirect materials

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Template on ROO elements

► For ASEAN FTAs – ROO elements are generally rigid with little scope for deviation

► For bilateral FTAs – ROO elements are generally more fluid and there is room for negotiation

► In Singapore context, the template is not fixed as it should also take into account the domestic sensitivity of the FTA counterpart

Origin criteria - general rule vs product specific rule

- ► Characteristics of general rule of origin
  - ► May not be reflective of the sensitivities of the industry
  - ► Not affected by any periodic harmonised system of nomenclature (HS) amendments by the World Customs Organisation (WCO)

- ► Characteristics of product specific rule of origin
  - ► Entails HS tariff line-by-line negotiation which is tedious
  - ► Post FTA implementation, there is a need for FTA partners to agree to the origin criteria for any tariff lines affected by the periodic WCO HS amendments
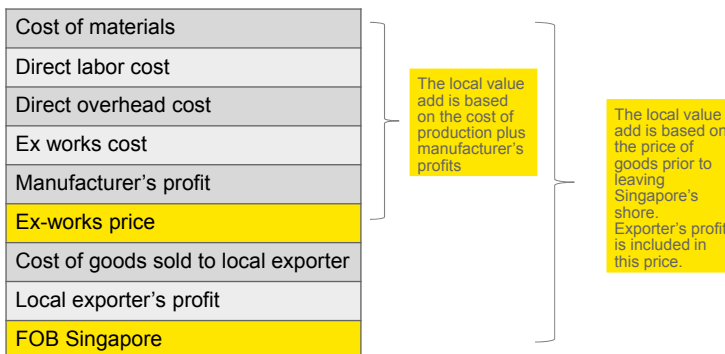
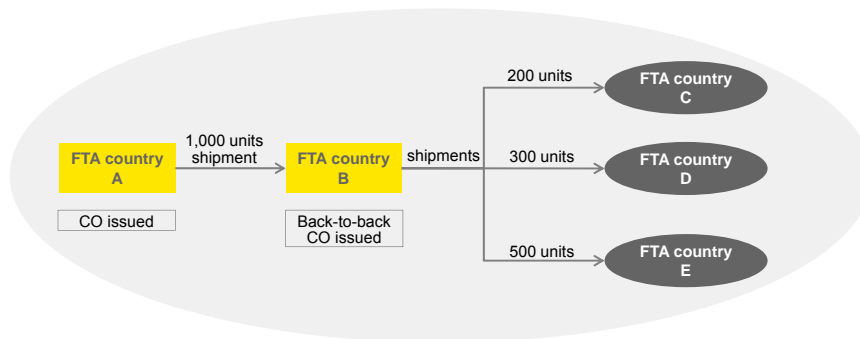# Third party invoicing – Is it restricted to three parties?

(I)

FTA country A → shipment → FTA country B

Invoice flow ... Invoice flow

3rd party *

(II)

FTA country A → shipment → FTA country B

Invoice flow ... Invoice flow

3rd party * → 4th party *

Invoice flow

* 3rd party or 4th party may or may not be located in a FTA partner country

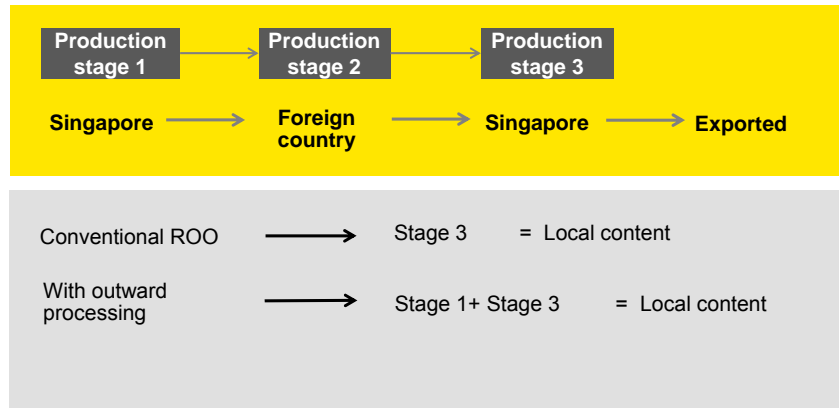# Regional value content – ex-works price vs FOB price

Illustrative example

Cost of materials
Direct labor cost
Direct overhead cost
Ex works cost
Manufacturer's profit
Ex-works price
Cost of goods sold to local exporter
Local exporter's profit
FOB Singapore

The local value add is based on the cost of production plus manufacturer's profits

The local value add is based on the price of goods prior to leaving Singapore's shore. Exporter's profit is included in this price.

Back-to-back certificate of origin (CO)

FTA country A — 1,000 units shipment → FTA country B — shipments →

- 200 units → FTA country C
- 300 units → FTA country D
- 500 units → FTA country E

CO issued

Back-to-back CO issued

► All five countries are common FTA partners. Company in FTA country B imports from manufacturer in FTA country A and applies for the back-to-back CO from the issuing authority when the goods are subsequently exported to customers in FTA countries C, D and E. The goods that enter into countries C, D and E will continue to enjoy tariff concession

Outward processing

Illustrative example

Production stage 1	→	Production stage 2	→	Production stage 3

Singapore → **Foreign country** → **Singapore** → **Exported**

Conventional ROO → Stage 3 = Local content

With outward processing → Stage 1+ Stage 3 = Local content

Aquaculture

► Aquaculture is the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding, or protection from predators

Cumulation of materials

- ► Bilateral cumulation
  - ► Materials originating from FTA partner country(s) can be treated as originating materials in determining the originating status of the finished goods

- ► Cross cumulation
  - ► If countries A, B and C have separate FTAs with each other and each operates identical origin criterion, country A can apply cross cumulation in its trade with the other two partners, if their agreement provides for such cumulation

- ► ASEAN cumulation
  - ► Under the EU-Singapore FTA, there is provision for the use of ASEAN cumulation to help Singapore products meet the rules of origin

Review mechanism

- ► FTAs normally incorporate a review mechanism where after the FTA has entered into force, the FTA partner can submit a request for a change in origin criterion of products, subject to acceptance by the other FTA partner

Question and answer

End of session 2: ROO research and analysis

APEC capacity building workshop on preparing for FTA negotiations **EY**