Rules of Origin Research and Analysis

Submitted by: Ernst & Young
APEC capacity building workshop on preparing for FTA negotiations

Session 2: Rules of origin research and analysis

Tan Juan Fook
6 May 2014

Contents

► Snapshot of Singapore’s free trade agreements (FTAs)
► Initial research and obtaining industry feedback
► Typical elements in rules of origin (ROO) chapter
► Template on ROO elements
► Review mechanism
► Question and answer
## Snapshot of Singapore FTAs

### Existing agreements

<table>
<thead>
<tr>
<th>Asean (ATIGA)</th>
<th>Jordan (JSFTA)</th>
<th>Peru (PeSFTA)</th>
<th>USA (USFTA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asean-China (ACFTA)</td>
<td>Australia (SAFTA)</td>
<td>EFTA - Iceland, Liechtenstein, Norway, Switzerland</td>
<td>Costa Rica</td>
</tr>
<tr>
<td>Asean-Japan (AJCEP)</td>
<td>China (CSFTA)</td>
<td>Korea (KSFTA)</td>
<td>Chile-NZ-Brunei (Trans Pac-SEP)</td>
</tr>
<tr>
<td>Asean-Korea (AKFTA)</td>
<td>India (CECA)</td>
<td>New Zealand (ANZSCEP)</td>
<td>Gulf Cooperation Council (GCC) Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates</td>
</tr>
<tr>
<td>Asean-India (AIFTA)</td>
<td>Japan (JSEPA)</td>
<td>Panama (PSFTA)</td>
<td>Chinese Taipei</td>
</tr>
<tr>
<td>Asean-Australia-NZ (AANZFTA)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Major upcoming agreements

- Ukraine
- EU
- Trans Pacific Partnership
- Regional Comprehensive Economic Partnership

---

## 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

- Definition
- Origin criteria
- Not wholly obtained rules
- Calculation of regional value content
- Product specific rules
- Wholly obtained rules
- Minimum operations or processes
- Accumulation
- Direct consignment
- De minimis
- Treatment of packages and packing materials
- Accessories, spare parts and tools
- Neutral elements or indirect materials
- Fungible goods and materials – accounting segregation

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?**

* 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

| 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.

Illustrative example

Back-to-back certificate of origin (CO)

- 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**: Singapore
- **Production stage 2**: Foreign country
- **Production stage 3**: Singapore
- Exported

<table>
<thead>
<tr>
<th>Conventional ROO</th>
<th>Stage 3</th>
<th>= Local content</th>
</tr>
</thead>
<tbody>
<tr>
<td>With outward processing</td>
<td>Stage 1+ Stage 3</td>
<td>= Local content</td>
</tr>
</tbody>
</table>

**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