



**Asia-Pacific
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Preparing Negotiating Briefs – Rules of Origin

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APEC capacity building workshop on preparing for FTA negotiations

Session 5: Preparing negotiating briefs – Rules of origin

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Recap on session 2

- ▶ Initial research and obtaining industry feedback
- ▶ Typical elements of rules of origin (ROO) chapter
- ▶ Template on ROO elements

Preparing negotiation text

- ▶ Research on counterpart's FTA with other countries to obtain a gauge on what ROO elements are likely to be stumbling blocks
- ▶ Prepare arguments on why you want to include certain ROO elements, e.g., third party invoicing, regional value content – ex works price or FOB price, outward processing, cross cumulation, general rule of origin criteria or product specific rules of origin criteria
- ▶ Equip yourself and be prepared to explain texts of your implemented FTAs especially if the texts are different because your FTA counterpart will always ask you to explain the deviation taken in those instances
- ▶ Lastly, determine what ROO elements need to be included in proposed text

Preparing product specific rules of origin

- ▶ Preparation will be done on each tariff line. Some points for consideration:
 - ▶ Import sensitivity or export interest – this will determine if you are offensive or defensive on the origin criteria
 - ▶ Value of imports and domestic exports - How much revenue will be lost for imports and how much tariff savings achieved for exports
 - ▶ Obtain data on the domestic exports for the last three to five years. Infer from past FTAs of counterpart country to determine whether products are offered tariff concessions. Rank them in importance based on estimated tariff concession savings

Preparing product specific rules of origin

- ▶ Potential exports equate to future tariff savings. This should be taken into account when determining estimated tariff savings
- ▶ For each tariff line, state the minimum acceptable level for each of the positions (maximum and minimum positions) of RVC threshold; CTC; process rules. This will facilitate the negotiation
- ▶ Prepare talking points to explain why a certain position is taken with regard to the proposed origin criteria
- ▶ The negotiation template can be prepared in excel sheet so that you can track the status of agreed rules. It should be a “living” document i.e. information and discussion points are updated during the various rounds of negotiation

Preparing product specific rules of origin – Negotiation template

Illustrative example

HS code	Prior to negotiation	HS code
Description		Description
Domestic exports for the past three to five years		Domestic exports for the past three to five years
Potential exports		Potential exports
Import duty of FTA partner		Import duty of FTA partner
Estimated preferential rate		Estimated preferential rate
Estimated potential duty savings		Estimated potential duty savings
Likely origin criteria position of FTA partner		Likely origin criteria position of FTA partner
Opening position for origin criteria		Proposed origin criteria by FTA partner
Bottom line position for origin criteria		Opening position for origin criteria
	During each round of negotiation	Bottom line position for origin criteria
		Agreed origin criteria for round xx
		Key notes of discussion for round xx
		Feedback, action points and next steps arising from round xx

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General preparation

- ▶ Good understanding and insights of the domestic industry are extremely important. It is always good to engage industry experts and involve them in negotiation
- ▶ Conduct regular outreach to obtain feedback from domestic industry
- ▶ Basket of unresolved issues – These will be brought to the attention of the chief negotiators for resolution. As negotiators, this basket of issues should be kept to the minimum

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Question and answer

End of session 5: Preparing negotiation briefs