**Approach Paper for Rules of Origin (ROO) for negotiation of FTAs**

Rules of origin (ROO) are the criteria needed to determine the country of origin of a product for the application of preferential tariff under an FTA of international trade without which the members to the FTA are not provided with the benefit of the preferential tariffs, agreed between the FTA partners. The importance of the rules of origin stems from the fact that they are used:

* to determine whether imported products shall receive duty free or concessional tariff treatment under a free trade agreement (FTA);
* to implement measures and instruments of commercial policy such as anti-dumping duties and safeguard measures;
* for the purpose of trade statistics; application of labelling and marking requirements; and for government procurement.

2. Some of the common criteria used to determine origin of a product are:

• change in tariff classification (this could be at the tariff chapter, tariff heading or tariff sub heading level)

• regional value addition

• substantial manufacturing or processing by excluding some minimal operations.

3. Rules of Origin criteria are meant to be trade facilitative. However, there have been many instances where divergent/conflicting Rules have been prescribed under different FTAs, due to which the intended benefits have not accrued to domestic industry. It has also been pointed out by trade bodies/associations and line ministries that divergence in our ROOs are sometimes leading to trade distortion and adverse trade flow.

4. The following table illustrates the point, depicting the general rules of origin in India’s preferential trading agreements and free trade agreements - :

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| **S.No** | **FTA** | **Rules of Origin criteria** |
| 1 | India-Korea | RVC 35+CTSH |
| 2 | India-Japan | RVC 35+CTSH |
| 3 | India- Singapore | RVC 40+CTH  Proposed to change – RVC35+CTSH |
| 4 | ISFTA | RVC 35 + CTH |
| 5 | SAFTA | RVC 40 + CTH |
| 6 | ASEAN | RVC 35+ CTSH |
| 7 | India –Malaysia | RVC 35+ CTSH |
| 8 | India – Chile | RVC 40 +CTH |
| 9 | India – Mercosur | RVC 60 |
| 10 | APTA | RVC 45 |
| 11 | SAPTA | RVC 40 |
| 12 | GSTP | RVC 50 |
| 13 | India – Thailand | RVC 40+CTH |
| 14 | India – Afghanistan | RVC 50+CTH |
| 15 | RCEP (Under Negotiation) | PSRs with the dominant rule being CTH or RVC 40 |
| 16 | India-Australia CECA  (Under Negotiation) | PSRs with the dominant rule being CTH or RVC 40 |
| 17 | India-EFTA  (under negotiation) | PSRs with the dominant rule being CTH or RVC 35 |

**FTAs under review/negotiations**

5. Currently India is negotiating Australia, RCEP and EFTA wherein proposed thumb rule of Rules of Origin are ‘RVC or CTC’ which is different from the ones which we have negotiated and implemented so far. Reviews of existing FTAs with Korea, Japan, ASEAN, Thailand and Singapore are also underway wherein there has been demands from partner countries as well as from some of our domestic stakeholders for liberal rules. Negotiations for a comprehensive Agreement with CIS, Mauritius etc. is also likely to start shortly. Negotiations on India – Sri Lanka ETCA are also underway. Since the Reviews are undertaken by individual territorial desks it is felt that we need to have a well-coordinated strategy in our ROO negotiations to ensure consistency.

6. Following are the suggested approach to various negotiations/ reviews which are currently underway: -

1. Since Australia, Korea, Japan, ASEAN, Singapore and Thailand are part of the RCEP, a review or bilateral negotiation with these countries should ideally be aligned with that of RCEP so that we have harmonized ROOs for all FTAs.
2. We may adopt **liberal PSRs** on the following: -

* where we have offensive export interests. (For ex: in 131 lines our exports are 5 times our imports)
* Where we have huge import dependency in inputs in order to be competitive in the intermediate and finished products segment. (In 154 lines our imports are 100 times our exports. In another 247 lines we are again fairly import dependent)
* Where on the multilateral front we have acceded to zero duty regime which are already bound in WTO. (e.g.: ITA–I Agreement.)
* In agriculture sector where agencies have given clear mandate for liberal rules we may go for the same. For the rest of the lines we may go for strict rules (WO with de-minimis/CC or CC with exclusions).

1. Where we have strong domestic production capacity and there is a threat of dumping by other countries we may adopt **stringent ROO** depending on the suggestions of concerned industry sector.
2. We may adopt flexible approach and agree with the partner countries where we have negligible or nil trade. In case of FTAs with countries where there is possibility of increasing trade, we may go for liberal rules so as to get fresh market access.
3. Wherever different stakeholders are providing conflicting inputs we may go for the most **trade facilitative rules** after taking into consideration the trade potential and if negligible trade is happening then by other factors like scope for employment generation etc.
4. In case of reviews with small countries within SA region, considering India’s dominant position we may try to synchronize with **DFTP scheme** which has been implemented by India.
5. In all cases we may generally negotiate for electronic, and simplified documentation requirements for issuance of CoOs. This may also be aligned with the proposed digital web based common platform project for issuance of COOs which is being processed separately in RMTR.
6. In all stakeholder’s consultations, he SME sector and secondary/ancillary industry associations views may also be taken, to arrive at a balanced outcome.