

What is Rules of origin (RoO)?

Even before we get into understanding Chemical Process rules, it is important to understand Rules of origin first. Nowadays, goods are produced across globe through global value chains, in fragmented manner. Determining where a product comes from is no longer easy when raw materials and parts criss-cross the globe to be used as inputs in scattered manufacturing plants.

Rules of origin are criteria used to determine the country of origin of a product for purposes of international trade. Rules of origin are therefore needed to define where a product was made, and are important for implementing other trade policy measures, including trade preferences, quotas, anti-dumping measures and countervailing duties. Their importance is derived from the fact that **duties and restrictions** in several cases depend upon the source of imports.

In simple words, these rules determine in a global production chain **if the value addition done by a specific country is sufficient enough to give originating status to the product or not for that country.**

There is wide variation in the practice of governments with regard to the rules of origin. While the requirement of **substantial transformation** is universally recognized, some governments apply the criterion of change of tariff classification, others the ad valorem percentage criterion for value addition and yet others the criterion of manufacturing or processing operation.

While the rules of origin are negotiated at the HS 6 digit nomenclature, the change in tariff classification could be classified as under:

- Change in chapter (CC) or change at the HS 2 digit level
- Change in tariff heading (CTH) or change at the HS 4 digit level
- Change in tariff sub heading (CTSH) or change at the HS 6 digit level

The value addition criteria could be computed either directly or indirectly using what are known as build up or build down methods. These are tabulated as under:

Build up method:

$(\text{Originating material} + \text{labour} + \text{overhead} + \text{profits} + \text{other costs}) / (\text{Value of exports})$

Build down method:

$(\text{Value of exports} - \text{value of non originating material}) / (\text{Value of exports})$

Rules for [RCEP EFTA Chapter 27] [Peru 27.07 - 27.10]

- a) Chemical Reaction Origin Rule
- b) Petroleum oils (HS 2710)

1. Chemical Reaction Origin Rule [RCEP, EFTA, Peru]

Definition of chemical reaction:

A "chemical reaction" is a process (including a biochemical process) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds; or by altering the spatial arrangement of atoms in a molecule.

[EFTA: A chemical reaction may also be expressed by a change of the "CAS number".]

Chapter coverage:¹

27 to 40

Applied as:

Co-equal rule i.e. OR rule

What are not Chemical reactions:

The following are **not considered to be chemical reactions** for the purposes of determining whether a product is an originating good:

- (a) dissolving in water or other solvents;
- (b) the elimination of solvents including solvent water; or
- (c) the addition or elimination of water of crystallization.

FOOD FOR THOUGHT:

- These rules are **simple and more transparent** to implement, as they are not prone to accounting manipulation.
- It also allows producers confidentiality financial details about sourcing of raw material, labor cost etc. does not have to be disclosed.
- These rules are also beneficial if **raw material are sourced from outside** and value addition criteria are difficult to meet.
- Below is a list of questions which came up in stakeholders' consultation and internal discussion on Chemical reaction rule.
 - a) Are all reactions substantial transformation (significant enough to grant origin status)? What about simple oxidation reaction or reaction with water?
 - b) What about reversible chemical reaction?
 - c) Is there a need to expand the exception list ("What are not Chemical reactions")?
 - d) If a reaction takes place in many steps, then even the last step would be origin conferring. Can it be misused?

What else comes to your mind?

¹ In RCEP, Korea wants coverage of Chemical Reaction Origin Rule for Chapters 27 to 40 except 38.23

2. Petroleum oils (HS 2710) [RCEP, Peru]

Definition of Separation prohibition:

The following processes confer origin:

- a) atmospheric distillation - a separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapor then condensed into different liquefied fractions. Liquefied petroleum gas, naphtha, gasoline, kerosene, diesel/heating oil, light gas oils, and lubricating oil are produced from petroleum distillation; and
- b) vacuum distillation - distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation. Vacuum distillation is useful for distilling high-boiling and heat-sensitive materials such as heavy distillates in petroleum oils to produce light to heavy vacuum gas oils and residuum.

In some refineries, gas oils may be further processed into lubricating oils.

Chapter coverage:

2710

Applied as:

Co-equal rule i.e. OR rule

Rules for [RCEP EFTA Chapter 28-38]

- Chemical Reaction Origin Rule
- all rules below

3. Purification Origin Rule [RCEP, EFTA]

Definition of Purification:

Purification is considered to be origin conferring provided that one of the following criteria is satisfied:

- a) purification of a good resulting in the elimination of 80 per cent based of the content of existing impurities; or
- b) the reduction or elimination of impurities resulting in a good suitable for one or more of the following applications:
 1. pharmaceutical, medicinal, cosmetic, veterinary, or food grade substances;
 2. chemical products and reagents for analytical, diagnostic or laboratory uses;
 3. elements and components for use in micro-elements;
 4. specialized optical uses;
 5. nontoxic uses for health and safety;
 6. biotechnical use;
 7. carriers used in a separation process; or
 8. nuclear grade uses.

Chapter coverage:²
28 to 35; 38

Applied as:
Co-equal rule i.e. OR rule

FOOD FOR THOUGHT:

- Below is a list of questions which came up in stakeholders' consultation and internal discussion on Purification Origin Rule.
 - a) Is there a scientific/ empirical basis on which specific value of 80% was decided?
 - b) Purification process gets complex and more specific as we reach higher levels of purity. So, rather than defining it in terms of solely how much impurity is removed, would it not be advisable to also specify base level of purity from which further purification will be considered origin granting?
 - c) Are there any agreed international standards for part b)?
 - d) If these standards are enforced nationally then different exporters will have to meet differential standards and hence will be discriminatory.
 - e) It may act as non-tariff barrier to trade.

What else comes to your mind?

² In RCEP, Korea wants Chapter coverage for Purification Origin Rule to be for Chapters 28 to 38

4. Mixtures and Blends Origin Rule [RCEP, EFTA]

Definition of Mixing and blending:

The deliberate and proportionally controlled mixing or blending (including dispersing) of materials to conform to predetermined specifications which results in the production of a good having physical or chemical characteristics which are relevant to the purposes or uses of the good and are different from the input materials is considered to be origin conferring.

Chapter coverage:³

30, 31, [EFTA: 32], 3302, 3502.20, 3506, 3507, 3707, [EFTA: 3808]

Applied as:

Co-equal rule i.e. OR rule

FOOD FOR THOUGHT:

- Below is a list of questions which came up in stakeholders' consultation and internal discussion on Mixing and blending Rule.
 - a) Is mixing and blending substantial transformation? Is it minimal operation and hence prone to misuse?

What else comes to your mind?

5. Change in Particle Size Origin Rule [RCEP, EFTA]

Definition of Change in Particle Size:

- a) the deliberate and controlled reduction in particle size of a good, other than by merely crushing (or pressing) resulting in a good having a defined particle size, defined particle size distribution or defined surface area, which are relevant to the purposes of the resulting good and have different physical or chemical characteristics from the input materials is considered to be origin conferring; or
- b) the deliberate and controlled modification in particle size of a good, other than by merely pressing, resulting in a good having a defined particle size, defined particle size distribution or defined surface area, which are relevant to the purposes of the resulting good and have different physical or chemical characteristics from the input materials is considered to be origin conferring.

Chapter coverage:⁴

30, 31, [EFTA: 32]

Applied as:

Co-equal rule i.e. OR rule

What questions comes to your mind?

³ In RCEP, Korea wants Chapter coverage for Mixtures and Blends Origin Rule to be for Chapters 30, 31, 33 to 38 except for 38.08

⁴ In RCEP, Korea wants Chapter coverage for Change in particle size Origin Rule to be for Chapters 30, 31, 33

6. Standards Materials Origin Rule [RCEP, EFTA]

Definition of Standards Materials:

The production of standards materials is considered to be origin conferring. For the purposes of this rule "standards materials" (including standard solutions) are preparations suitable for analytical, calibrating or referencing uses having precise degrees of purity or proportions which are certified by the manufacturer.

Chapter coverage:⁵
28 to 32, 35, 38

Applied as:
Co-equal rule i.e. OR rule

FOOD FOR THOUGHT:

- Below is a list of questions which came up in stakeholders' consultation and internal discussion on Mixing and blending Rule.
 - a) As certification is done by the manufacturer, and there is not any limit on possible "limited preparations suitable for analytical, calibrating or referencing", any preparation of any percentage becomes eligible for export under it.
 - b) There may be misuse and diversion if there is no limit on the quantity of the imports of such standard products.
 - c) How can one address the issue of certification of such standard material?

What else comes to your mind?

⁵ In RCEP, Korea wants Chapter coverage for Standards Material Origin Rule to be for Chapters 28 to 38

7. Isomer Separation Origin Rule [RCEP, EFTA]

Definition of Isomer Separation:

The isolation or separation of isomers from mixtures of isomers is to be considered origin conferring.

Chapter coverage:⁶

28 to 32, 35

Applied as:

Co-equal rule i.e. OR rule

8. Separation prohibition [RCEP]

Definition of Separation prohibition:

A non-originating material/component will not be deemed to have satisfied all applicable requirements of these rules by reason of change from one classification to another merely as the result of the separation of one or more individual materials or components from a man-made mixture unless the isolated material/component, itself, also underwent a chemical reaction.

Chapter coverage:

28 to 38

Applied as:

Co-equal rule i.e. OR rule

What else comes to your mind?

⁶ In RCEP, Korea wants Chapter coverage for Isomer Separation Origin Rule to be for Chapters 28 to 35

Rules for [RCEP EFTA Chapter 39-40] ⁷

a) Chemical Reaction Origin Rule

Think

Can we adopt it for certain lines were it is beneficial for us?

Think from both perspectives

- how it will be useful to India, and
- how it can be misused by other countries?



⁷ In RCEP, Korea wants **All Rules and not only the Chemical Reaction Origin rule** to apply for these Chapters