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Master's Thesis of International Studies

Analysis on the Development of Rules of Origin in common Korean and Swiss FTAs

한국과 스위스 FTA 의 공통된 원산지 규정 개발에
대한 분석

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ABSTRACT

Analysis on the Development of Rules of Origin in common Korean and Swiss FTAs

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Along with the global increase in trade over the last decade, the number of free trade agreements (FTA) steadily grew. However, such frameworks are not always used by firms due to certain issues (e.g. spaghetti bowl effect) in connection with rules of origin (ROO). To support the FTA utilization of firms, negotiating parties need to work on simplifying and standardizing ROO. The purpose of this study is thus to analyse whether the ROO conditions in common Korean and Swiss FTAs have improved from a firm perspective. Based on the previous studies and the analysis of the ROO in the Korea – EFTA FTA specific criteria were identified. The Korea – EFTA FTA and main common export products were used as a base for the comparison to see whether common FTAs with Peru and China were simplified.

The comparison showed that Swiss FTAs contained less restrictive elements than Korean frameworks, however, ROO did not improve in general. Both countries lacked a uniform approach regarding most ROO. Especially product specific rules for same HS codes differed in FTAs, making it harder for firms to organize their sourcing of materials and / or processing. Furthermore, documentation related issues such as the issuance of proofs of origin became more burdensome compared to the Korea – EFTA FTA, creating more costs for the issuance. Implications for governments should therefore be to pursue liberal and uniform product specific "tariff shift / value added"-rules and seek for a harmonization of trading blocs to solve the sourcing issue. To reduce documentation related costs, self-issuance of proof of origin and a shorter retention period for documents should be desired.

Keywords: Free Trade Agreement (FTA), Rules of Origin (ROO), Preferential Origin, Origin Management, FTA Utilization, ROO Spaghetti Bowl

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GLOSSARY

Korea	Also referred to as “the Republic of Korea” or “South Korea.
Non-preferential origin	The origin of a good that does not qualify the rules for preferential tariff treatment in an FTA.
Preferential origin	The origin of a good that fulfils the rules of origin (ROO) in an FTA and thus qualifies for preferential tariff treatment, respectively may benefit from reduced import duties. Also referred to as “originating” in the thesis.
Party	Refers to a member state in an FTA framework
Third party	Refers to a non-party of an FTA.

ABBREVIATIONS

EU	European Union
EFTA	European Free Trade Association
FTA	Free Trade Agreement
HS	Harmonized Commodity Description and Coding System (short: Harmonized System)
ROO	Rules of Origin
RVC	Regional Value Content
TC	Tariff Chapter (two HS digits code)
TH	Tariff Heading (four HS digits code)
TSH	Tariff Subheading (six HS digit code)
VNM	Value of Non-Originating Material
WCO	World Customs Organization
WTO	World Trade Organization

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I INTRODUCTION

1.1 Development of global Trade in Goods in recent Years

Since 2000, worldwide exports increased threefold and reached an all-time high of 19.6 trillion USD in 2018 (World Bank, 2019a). According to the World Trade Organization (WTO), over half of the trade value was concentrated on the top ten exporting (and mostly developed) economies with the five leading ones representing about 37 % of all global transactions in 2018. However, the importance of global value chains increased the weight of developing countries (especially in Asia) in international trade. The share of world merchandise trade for Asia thus increased by 6 % since 2008 to 34 % whereas Europe (3 % to 38 %) and Africa (4 % to 2 %) lost the biggest share. In regard to import tariffs, least developed countries and developing countries still had higher average tariffs compared to developing nations, nonetheless, the applied average tariffs overall were reduced by 1 % to 9 % compared to 2008 (WTO, 2019). Along with the increase in trade in the recent decades, regional trade agreements (RTA) surged on an even higher level compared to exports. Where in 2000 83 cumulative (goods and services) agreements existed, the figure rose to 302 in 2019 with highest numbers of RTAs being in Europe, East Asia and South America. (WTO, 2020a, 2020b) Recent trade tensions and decelerating economic growth, however, lead to a decrease in volume and value by 0.1% and 3% (18.89 trillion USD) in 2019 respectively. Besides a slight downward trend in 2019, the WTO expects that due to the ongoing COVID-19 pandemic the trade volumes in 2020 to decline on a two digit level in nearly all the regions as bigger parts of national economies are affected compared to the financial crisis. (WTO, 2020c)

1.2 Korea and Switzerland in regard with international Trade

Along with the previous trend of increasing global exports, South Korea and Switzerland showed steady growth in exports and imports for both agricultural and non-agricultural products since 2010. In 2018, South Korea ranked among the top ten and Switzerland among the top twenty leading exporting and importing countries. (WTO, 2020d) Also in regard to the whole economy, Korea (44 %) and Switzerland (66.1 %) show a high ratio of exported goods and services to the GDP compared to the world average of 30.1 %. (World Bank, 2019b) As leading trade economies, both countries have increased their FTA network in the recent years.

Since 2010, South Korea complemented its network by 11 FTAs (in force) including partners such as the EU, USA, China or Canada. Additionally, it concluded new agreements with the UK, Indonesia and Israel in 2019. As of January 2020, South Korea had a total of 16 FTAs with 55 countries (in force). The Korean government is currently engaging in negotiations with countries such as Russia, the Philippines and Malaysia. (MOTIE, 2020a) In regard to the ongoing RCEP negotiations, there were also some signs of progress. Even though India left the agreement in November 2019, the 15 remaining member countries (incl. South Korea) indicated in a statement to sign the comprehensive trade deal in 2020. (The Economist Intelligence Unit, 2019) In connection with free trade, the Korean Ministry of Trade, Industry and Energy (MOTIE) states that it is essential for an open and trade dependent country to encourage FTAs to support the sustainable economic development. The reduction of trade barriers through FTAs for instance increases global competitiveness of domestic companies but also expands consumer

welfare through lower import prices. To increase the effects of FTAs, MOTIE pursues comprehensive FTAs that cover various fields (e.g. investment, services, intellectual property) and reflect recent changes in trade. (MOTIE, 2020b)

Similar in number to Korea, Switzerland added 13 FTAs (incl. China, GCC¹, Hong Kong) to its FTA network within the last decade. The FTAs with the Ecuador and Indonesia were signed in 2018 but have not yet entered into force. The whole network comprised 32 FTAs with 71 countries (in force) globally at the time of writing. (SECO, 2019) Along with other EFTA² members, Switzerland is currently engaging in trade negotiations with India, Malaysia, Vietnam and MERCOSUR states³. Having similar reasons as Korea to engage in FTAs, the Swiss State Secretariat for Economic Affairs (SECO) also states that the multilateral approach within the WTO framework would be the best way to enjoy better access to foreign markets. However, the number of countries engaging in FTAs to complement said framework increases. Thus, Switzerland enters into FTAs to ensure that domestic firms can benefit from at least equivalent market access conditions that competitors (e.g. EU, USA) enjoy. In parallel with South Korea, Switzerland also concluded more comprehensive “second generation” FTAs in recent years. (SECO, 2020)

¹ Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates

² Switzerland is part of the European Free Trade Association (EFTA) together with Liechtenstein, Iceland and Norway. Generally, Switzerland concludes FTAs with other EFTA states, however, it can also enter into bilateral FTAs as it did with China or Japan.

³ Argentina, Brazil Paraguay and Uruguay

1.3 Practical Issues of FTAs

Besides having FTAs in place, not every company makes use of such frameworks to benefit from duty reductions in trade with goods. The utilization of an FTA can be challenging for companies as information and administration related costs arise to fulfil the outlined rules of origin (ROO) for goods in agreements. Company surveys also revealed that ROO and connected tasks (e.g. time for documentation, direct shipment) are some of the main reasons not to utilize an FTA. Thus, ROOs should be simplified and standardized to improve FTA frameworks for companies. (Schaub, 2009) A comprehensive study on various FTA partner countries of Switzerland also showed that the utilization rate varied based on the products and the agreement. The customs data-based analysis further showed that the utilization of FTAs allowed companies to save over one billion CHF⁴ of customs duties for exports to the EU alone, thus emphasizing the importance of using such frameworks. (Ziltener and Blind, 2014) Cases of non-utilization were also observed in case of other countries. The UNCTAD evaluated trade data in collaboration with the National Board of Trade Sweden to measure the use of EU FTAs. It was found that around two thirds of EU exporters of goods make use of FTAs concluded with partner countries. The high utilization allowed EU firms to benefit from duty savings of EUR 7.9 billion. Even though the average use of FTAs was over 70 % in average, there is still potential to increase utilization. (UNCTAD, 2017)

⁴ 1 CHF = approximately 1.02 USD (as of April 2020)

1.4 Purpose of Study and Scope

As mentioned in the previous chapters, global trade as well as FTAs around the world increased. In line with this trend, export leading and trade depending countries such as Korea and Switzerland have expanded their FTA network continuously in the past 10 years to improve the market access for their firms. However, outlined ROO in FTAs are difficult to be applied in practise. In order to support the FTA utilization of firms, negotiating parties need to work on simplifying and standardizing said rules accordingly.

The purpose of this study is thus to analyse whether the ROO conditions in Korean and Swiss FTAs have improved from a firm perspective. The literature part of the paper will provide a short introduction on the history of free trade, ROO issues and common FTA structures from a literature perspective. In the following methodology part common new FTAs with Peru (in force 2011) and China (in force: CH 2014 / KR 2015) will be analysed. As there is no overall ROO structure in FTAs, the Korea – EFTA FTA (in force 2006) will be used as a common base and will be compared to newer FTAs to see whether those conditions improved. Main common export products of both countries will be used to show the complexity in the application of ROO from a firm's perspective. To achieve this objective, the author developed the following research question:

Have ROO in common Swiss (EFTA) / Korea FTAs become simpler from a firm perspective?

II LITERATURE REVIEW

The literature review part will first provide a brief history on the modern era of free trade as well as reasons for the proliferation of FTAs. The second part will focus on ROO in FTAs in connection with utilization, issues and recent trends. Lastly, general ROO in FTAs will be summarized to show the mechanism in a simpler manner and provide an insight into the application from a firm perspective.

2.1 Short History on modern Free Trade and FTAs

The modern trade system was created after the Second World War with the conclusion of the General Agreement on Tariffs and Trade (GATT) in 1947. The result of GATT created a package of trade rules and 45'000 tariff concessions which affected around 20 % (USD 10 billion) of the world's total trade. (WTO, 2020e) To increase trade further negotiation rounds under the GATT followed. Over time the multilateral negotiations became more complex as more countries became contracting parties, tariff commitments deepened and the coverage of issues (e.g. investment, intellectual property rights) increased. The 8th round ("Uruguay Round") ended in 1994 and gave birth to the World Trade Organization (WTO)⁵ which subsumed GATT after almost 50 years. The 9th and latest round of negotiations ("Doha Round") was launched in 2001. (vanGrasstek, 2013)

⁵ Initially there was also a plan to create an International Trade Organization or ITO which was never established, however, as the US congress did not approve the concerned Havana Charter in 1948

The “Doha Round” has failed, however, as most important members (e.g. EU, US, China, India) lack political will to move forward in the negotiations. Even though the multilateral approach would be the best way to reduce tariffs, increase market access and address other issues, the stalled progress makes other options more appealing. Since then, the numbers of regional and plurilateral trade agreements have greatly risen in numbers as they offer greater coverage on various issues that could not be addressed or resolved on the multilateral stage. Especially WTO members who want to expand their trade have no other options than to engage in such agreements. Overall trade liberalization is better than none or increased protection. In the future, trade liberalization is highly likely to stem from regional trade agreements, plurilateral accords among sub-groups of the WTO as well as how WTO member increase their competitiveness and trade through unilateral changes.

(Gantz, 2013)

2.2 The ROO “Spaghetti Bowl”

As identified earlier, ROO in trade with goods have an impact on FTA utilization and compliance costs of firms. Thus, the following section will provide a better overview of current discussions and issues to gain a better understanding of the implications of ROO.

A comprehensive research on the low use of the ASEAN FTA by analysing ASEAN based Japanese affiliates showed that the utilization rate is generally lower for trade in goods from developing to developed countries. Furthermore, it found that the bigger the affiliate the higher the likelihood to use an FTA. Some reasons

for this were higher costs to comply with certificate of origins (linked to ROO) procedures but also that low tariff rates in the major trade of components and parts result in a low utilization. The conclusion therefore was to reduce service linked costs by lowering customs formalities (e.g. certificate of origin) to encourage firms to use the FTA. (Hayakawa et al., 2009) These arguments were also supported by another study which showed that higher quantities of transactions lowered fixed costs for firms. Furthermore, a survey that involved firms based in Switzerland and Japan showed for instance that a reason for the non-use of the FTEPA⁶ are ROO that result in additional costs and the need for an audit trail for verification purposes as well as to provide sufficient proofs to authorities. It also revealed that certain firms lacked know-how and / or were unaware of the FTEPA. (Chiavacci, Blind, Schaub and Ziltener, 2012) Some scholars therefore argued that OECD countries should reform the ROOs. Based on their research compliance cost normally ranged between 3 to 5 % of the final price of a product which is a rather high number considering the rather low margins for preferential origin. The findings also showed that less strict ROO encourages export diversification and has helped low income countries in Asia for instance to rapidly integrate and benefit from verticalization of world trade. A harmonization between trading blocs (e.g. PANEURO) should be desired especially in regard to the many different preferential trade agreements (also known as spaghetti bowl). (Cadot and de Melo, 2008) In that regard, Hakayama and Laksanapanyakul analysed the effect of common ROO in different FTAs on the utilization of FTAs. Their regression result showed that some ROO (“change in tariff

⁶ Free Trade and Economic Partnership Agreement between Switzerland and Japan.

classification (CTC)⁷ / regional value content (RVC)” and “RVC”) had a positive effect on the utilization whereas others (“CTC” or “CTC and RVC”) did not. (Hakayama and Laksanapanyakul, 2017) Yi’s comprehensive overview in regard to the recent ROO debate showed that in general ROO result in restriction, create higher costs for firms that utilize FTAs and burden them with compliance whose costs may be transferred to customers eventually. Some of the identified and summarized issues of earlier studies concluded that some issues with ROO were unclear legal interpretations, verification procedures and administrational costs in terms of labour. (Yi, 2014)

Geraets, Carroll and Willems thus called for an overall reform of ROO. The current rules were developed more than half a decade ago when origin was mostly determined on the location and assembly contributed much more to the value of the final product. This point is also supported by the WTO which describes that goods are “Made in the World” but not any longer in a single country. ROOs appear to be a suitable instrument to sustain the rules in the agreements and lower business costs for instance. In depth analysis, however, shows the disconnect between political negotiation of FTAs and the use of the rules by businesses in reality. As reform approaches on ROO on a multilateral stage have been ineffective, the scholars suggest renegotiating the ROOs on a bilateral level first. The focus should lie on the most value added and not the location to determine to origin of a product. Since the manufacturing of the product is no longer the process with the highest value added,

⁷ It should be noted that CTC includes change in chapter (two digits), change in heading (four digits) and change in subheading (six digits) rules.

other aspects (e.g. R&D, marketing etc.) should be included to determine the final value. (Geraets, Carroll and Willems, 2015) The World Customs Organization (WCO) also acknowledges that GVC can create the need of a new analysis for trade and measuring trade by the value added could provide more refined calculations of trade balances. However, the WCO states that the WTO “Made in the World” initiative is an academic and statistical exercise that serves a different purpose and that ROO will be still needed for customs clearance. (WCO, 2020a) In short, the ROO are in need of reform. As a new system approach in consideration with the GVC has not yet been taken, current ROO should be harmonised and simplified on a bilateral level first to increase the utilization of FTAs by more firms.

2.3 Mechanism of ROO in FTAs

The conclusion of the Uruguay Round in April 1994 in Marrakech also included an agreement on ROO.⁸ Besides covering mostly non-preferential ROO (e.g. used for anti-dumping and countervailing duties, safeguard measures), said agreement also includes a common declaration regarding preferential ROO⁹ used in trade agreements. The declared principles however are rather broad and did not lead to an international standard. As countries are free to shape and negotiate their ROO in FTAs, rules vary. Nevertheless, there are similarities regarding structure, topics and rules that can be observed in FTAs. (WCO, 2020a)

⁸ WTO Agreement on Rules of Origin, part of Annex 1 A to the Agreement Establishing the World Trade Organization

⁹ Annex II (referred to in WTO Agreement on Rules of Origin)

2.4 Origin Determination

As trading partners share similar preferential ROO criteria, the following subchapter will provide an overview. Said criteria must be fulfilled to grant preferential or originating status to a product, meaning that products with such status can enjoy preferential tariff treatment within an FTA framework. Rather technical details or specific rules such as treatment of sets, spare parts, packaging or recovered materials will not be covered to provide a more simplified picture on ROO in general.

Wholly Obtained

Defines originating products that were entirely grown or manufactured by a party and / or parties of an FTA. Concerned products are typically minerals, agricultural and fishery products. (WCO, 2017a)

Substantial Transformation

In case a product was not wholly obtained, a product can obtain preferential origin if it goes beyond a non-qualifying operation which is defined in an agreement. Once this condition is fulfilled, there are product specific rules that need to be fulfilled.

- Value added

The value added criterion can be fulfilled either IF the value of the finished product holds a certain minimum value originating from FTA parties (e.g. labour, costs, materials) OR the maximum value of non-originating materials (materials from non-FTA partners) is not exceeded. Methods in connection with calculation (e.g. roll-up, roll down) and what counts as

added value may differ by each FTA. The corresponding ad-valorem rules enable simple and flexible adjustments and are easy to understand. Nevertheless, currency and commodity fluctuations as well as supplementary administrative burden (e.g. additional accounting system, cost allocation) can make the application more complex. Thus, the higher the threshold for non-originating respectively the lower for originating products, the more liberal the rule is in its application.

- Tarif shift / Change in Tarif number

To fulfil this rule, the final product cannot be classified into the same harmonized system (HS)¹⁰ code, respectively tariff number as the non-preferential subcomponents used. The application of the tariff shift rule is simple and can be controlled through correct classification of materials and the final product. However, the structure of the HS requires extensive know-how in certain chapters. Additionally, the five-yearly amendments require a restructuring of ROO. Nevertheless, the tariff shift rule is widely used and crucial in determining origin of products. Based on a WCO study, the average proportion of said rules in the 20 largest FTAs was over 73 %¹¹.

(WCO, 2017b)

¹⁰ The Harmonized System (HS) is a multipurpose international product nomenclature that contains around 5'000 commodity groups with which more than 98 % of goods in international trade are classified. (WCO, 2020b)

¹¹ The figure also includes CTC in combination with other rules (e.g. value added, product specific ones), thus it does not comprise “pure” CTC rules only.

- Specific processing operation

Even if a substantial transformation takes place when manufacturing a good, there can be product specific operations that have to be fulfilled to confer preferential origin status to the final product.

- De Minimis (tolerance rule)

Preferential origin is conferred, in case the regional FTA value content meets a certain (often high) percentage. This rule can be used in case another ROO cannot be satisfied. Certain products can be also excluded from this general rule.

(WCO, 2017b)

Cumulation (Accumulation) / Territoriality

This rule allows parties of a preferential trade agreement to consider each other's products as originating and use them in production to confer preferential origin status to the final product. In some cases, non-originating materials and processing that takes place third parties can also be cumulated, however, the depth of cumulation varies depending on the agreement. For instance, in the PAN-EURO-MED legislation, materials originating from territories of Turkey, the EU, EFTA, some Balkans countries as well Mediterranean states (e.g. Israel, Morocco, Tunisia) can be cumulated. The NAFTA framework allows the accumulation of manufacturing steps within territories of the FTA. (WCO, 2017b)

Accounting Segregation

When identical products of originating and non-originating origins are used in production, they have to be kept physically separate. However, with accounting

segregation, the products can be stored together as the amount can be differentiated via accounting tools. Certain conditions have to be fulfilled to use this method. (van de Heetkamp and Tusveld, 2011)

Principle of Territoriality

Generally, manufacturing has to take place with no interruption within the territories of a free trade area to meet the ROO requirements. In case goods are exported and re-imported, they lose the originating status accordingly. In some FTAs, there is however a derogation to this principle, which allows that goods can receive (limited) working operations outside the territory under certain conditions (e.g. specific value threshold, evidence that same goods return). (WCO, 2017a)

Direct Transportation Rule

The direct transportation rule requires that goods are directly shipped to an FTA party in order not to lose the originating status. The aim of a direct shipment is reducing the risk that operations on originating goods are being performed in a third party state during transportation. The rule generally allows exceptions of transportation through a non-party territory in case the goods remain under customs surveillance (e.g. not enter into circulation in third party) and only limited operations (e.g. unloading, splitting of consignment) are being conducted. In some FTAs, the use of an indirect transportation has to be justified (e.g. geographical reasons, transport requirements) and / or specific certificates (e.g. non-manipulation certificate) may be requested. (WCO, 2017b)

No-Drawback Rule

Drawback is when duties that were paid upon importation will be refunded when the goods are re-exported either unchanged, processed or incorporated into other products. The purpose is to prevent trade distortion und fair competition as exported goods can be sold on the same terms abroad. Some FTAs, however, apply a no-drawback rule to guarantee equal treatment of goods manufactured domestically and the ones imported and re-exported. However, this can also create unfair conditions between FTA partners if one has considerably higher tariffs. (WCO, 2017b)

2.5 Documentation Requirements

Once ROO have been fulfilled, documentation is needed to prove that goods in question meet the concerned requirements.

Certification of Origin

To prove that goods satisfy ROO of an FTA and can benefit from reduced tariffs upon importation, a proof of origin in form of a certificate or a declaration on a commercial document is required. Generally, such proofs can be issued either by authorities or through self-certification¹². The positive aspect of the issuance by authorities is that proof can be regarded as more reliable since verification happened through a trusted entity. However, the concerned party (e.g. exporter) has to apply for verification with the authorities which may require fees and time, increasing costs

¹² Proofs issued directly by exporter, manufacturer and / or importer without involvement of government authority.

of the applicant. As FTAs are on the rise, the WCO also recommends using self-certification systems in agreements to facilitate origin related procedures. (WCO, 2017a, 2018)

Origin Verification

To ensure the correct application of ROO, FTAs have certain measures in place that allow customs authorities to perform the needed verifications (e.g. request documentation, on-site inspections). The kind of verification can be classified into the following types:

- Direct verification: Competent authority of the importing country executes controls of an exporter or producer in the exporting country (incl. on-site inspections).
- Indirect verification: Competent authority of the exporting country executes controls of an exporter producer in the exporting country upon request from the customs authority of the importing party.
- Combination of direct and indirect verification (e.g. ASEAN-Korea FTA)

(WCO, 2017b)

2.6 Application from a Firm's Perspective

ROO have various complex requirements that must be met to claim preferential origin and benefit from duty reductions as explained in the previous chapters. The correct application of FTA ROO therefore influences various areas and procedures of a firm.

To use an FTA framework, HS codes and the origin status of products (final and pre-materials) have to be known to a firm as product specific ROO are determined by such. Once the HS code is identified it has to be checked what kind of rules apply in the FTA and how they can be fulfilled. To be able to see what materials were used in production certain necessary information such as HS code, country of origin (preferential, non-preferential), value, weight, description of goods and others should be kept in master data accordingly (ideally automated) and updated regularly. To provide sufficient proofs for made origin claims, all documents in connection with the utilization of the FTA such as supplier invoices, origin certificates, customs declarations have to be retained. This is needed to provide necessary proof to the authorities. Due to the scale and involvement of different areas in a firm coordination of all relevant parties is required. Typically, involved departments include procurement, production, IT, logistics, finance and the management. It is important to ensure correct processes and define clear roles for new procedures such as instructing production what materials to include and to book it to which account, finance needs to cost factors to use etc. Ideally a new position or department should be created to handle and coordinate the various procedures. (Hulliger and Eberle, 2015). These observations are also shared by van de Heetkamp

and Tusveld who encourage a holistic approach to create an origin management that figures as an internal knowledge centre. It is argued that there might be issues to connect the origin management with other programs or modules, however, it can also be managed with general office software (e.g. excel) as long as it is reliable. In addition, a proper risk management is also necessary since wrong preferential claims can result in penalties in the exporting country as well as in the importing country. (van de Heetkamp and Tusveld, R., 2011). In Switzerland for instance, the Federal Customs Administration (FCA) can issue penalties up to CHF 40'000 if proofs of origin (declaration of origin or certificate of origin) for export are wrongly issued.¹³

What consequences can result from the application of ROO can be shown by the import case of Swiss gold bars to Korea. After the entry into force of the Korea – EFTA FTA, Korean companies imported gold bars from Switzerland with Swiss preferential origin, eliminating 3 % of customs tariffs. However, Korean Customs soon requested an origin investigation on said gold bars. Swiss Customs¹⁴ first concluded that the goods were not Swiss preferential origin which lead Korean Customs to request the 3 % customs duties to be paid by the Korean importers. As the duties were levied based on the value, the amount was rather substantial leading many importers into financial difficulties. The Swiss sellers therefore filed an appeal with the Swiss Federal Administrative Court¹⁵ and later the Federal Court¹⁶ (highest

¹³ Art. 19 of the Swiss ordinance for the issuance of proofs of origin

¹⁴ Under the Korea – EFTA FTA, the authorities of the exporting party are competent to conduct origin investigations and issue the corresponding results.

¹⁵ Federal Administrative Court, Case A-7689/2008

¹⁶ Federal Court, Case 2C_675/2009 and 2C_676/2009

authority) as they regarded their claims of Swiss preferential origin to have been rightfully made. Eventually, Swiss Customs informed Korean Customs that most gold bars actually fulfilled the ROO under the Korea-EFTA FTA. As the final verdict was reached after a legal dispute in the Federal Courts, Swiss authorities could not inform their Korean counterparts within the requested period of 10 months about the final result of the investigation. Korean Customs thus insisted on levying the duties as the official verification period passed which caused the insolvency of several companies and the suicide of one person due to the financial burden. (MBC, 2015)

III METHODOLOGY

To study possible simplifications of ROO in FTAs concluded by Switzerland (incl. EFTA) and South Korea, the afterwards mentioned methodology will be used to draw conclusions accordingly.

3.1 Comparison of ROO in FTAs

Applicable ROO are connected to the product / HS code and may vary by each FTA. To see whether ROO in an FTA became simpler, the qualification process (see also chapter II, title 3.1 – 3.3.) has to be compared based on certain products. As thousands of different HS codes / products are traded, three common main export goods on a two-digit (chapter) HS level of Switzerland and Korea will be used. In case more than one rule exists the corresponding share to the general list rules of that chapter will be identified. For the sake of simplicity, the ROO for each good and concerned rules will be summarized in a table accordingly.

3.2 Comparison of FTAs

To analyse ROO in FTAs, there is a need for a base that it can be compared to as there is no universal structure in agreements. In order to do so the Korea – EFTA FTA will be used as the common base. Said agreement will be examined in more depth to provide a detailed ROO overview. Based on the literature review and identified common ROO, a summary table will be created to compare the different results.

For the comparison, FTA partners Peru and China were chosen as they both were concluded after the Korea – EFTA FTA and the importance as trading partners were similar for Switzerland as well as Korea¹⁷. The results of both countries will be compared with one another in the end to point out differences, developments and other observations.

Table 1: Structure for Comparison

Korea – EFTA FTA, 2006 ¹⁸ (EFTA, 2006) (base for comparison)	
EFTA – Peru, 2011 (SECO, 2019)	Korea – Peru, 2011 (MOTIE, 2020b)
Switzerland – China, 2014 (SECO, 2019)	Korea – China, 2015 (MOTIE, 2020b)

Source: own display

¹⁷ Based on UNCOMTRADE statistics for the year 2018, China ranked first and Peru 59th for Korea, respectively third and 74th for Switzerland in terms of export value.

¹⁸ The year refers to the date of the entry into force of the FTA

IV EMPIRICAL SECTION

In this chapter, main common export goods will be identified to analyse products specific ROO regarding any simplification. Afterwards, the Korea – EFTA FTA and its structure regarding ROO will be laid out as an example. Based on the legal FTA overview and the findings in the literature review, a summary table with all main points will be created. Said table will be used to compare the different ROO for products in FTAs and draw the final conclusions.

4.1 Main common Export Commodities

For the comparison of ROO, the export figures of 2018 of the UNCOMTRADE database based on HS codes¹⁹ were used to identify the most exported goods of both Switzerland and Korea.

Table 2: Main Swiss and Korean Export Products

Swiss Exports 2018 ²⁰		
HS Chapter	% share of total	Rank
71	26.15%	1
30	24.22%	2
84	8.02%	3
91	6.97%	4
29	6.69%	5
90	5.59%	6
85	4.13%	7
39	1.79%	8
33	1.20%	9
73	1.01%	10

Korean Exports 2018		
HS Chapter	% share of total	Rank
85	30.52%	1
84	12.84%	2
87	10.11%	3
27	7.93%	4
39	5.77%	5
90	4.60%	6
29	4.19%	7
72	4.09%	8
89	3.36%	9
73	1.73%	10

(Source: UNCOMTRADE, own display)

¹⁹ HS Nomenclature 2017 (most recent)

²⁰ Based on the international Customs Treaty between the Swiss Confederation and the Principality of Liechtenstein of 29 March 1923, Liechtenstein is part of the Swiss Customs Territory. Thus, the UNCOMTRADE Switzerland data include Liechtenstein as well. However, the share of Liechtenstein is rather insignificant (Office of Statistics, 2019).

Six out of the ten exported HS chapter level goods were shared by both countries (marked in grey). Due to the ROO complexity, however, three out of the six main exported HS codes were chosen based on their importance (more than 20 % of all exports in value) and difference in the type of the commodity to provide a broader analysis.

- HS 29: “Organic chemicals.“ (WCO, 2017c)
- HS 84: “Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.“ (WCO, 2017c)
- HS 90: “Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof.“ (WCO, 2017c)

4.2 ROO Structure Korea – EFTA FTA

The FTA was concluded in 2005 by the Republic of Korea, the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation.²¹ ROO and (corresponding) customs procedures are set out in Annex I²² and consist of various different articles. For a better overview, the articles in Annex I will be summarized in more simplified manner to provide a better understanding. As the focus also lies in the perspective of a firm and not the authorities, only Art. 1 to 22 of Annex I will be described in a more detailed manner. Identified key points to obtain preferential origin in the Korea – EFTA FTA will be used for further comparison with other FTAs.

²¹ Iceland, Norway and Switzerland also concluded separate agreements on agriculture with South Korea.

²² see also Korea – EFTA FTA, Art. 2.2

Table 3: Annex I²³: Rules of Origin and Customs Procedures

SECTION I: RULES OF ORIGIN	
TITLE I: GENERAL PROVISIONS	
Art. 1 Definitions	<ul style="list-style-type: none"> Clarification on various definitions such as ex works price, manufacture, territories, parties (contracting countries).
TITLE II: REQUIREMENTS FOR “ORIGINATING PRODUCTS”	
Art. 2 Origin Criteria	<ul style="list-style-type: none"> Products are considered to originate if those where wholly obtained²⁴ sufficiently processed²⁵ or obtained in a Party exclusively from materials that qualify as originating.
Art. 3 Cumulation of Origin	<ul style="list-style-type: none"> Originating products from one party are considered as originating in the other. When originating goods are traded within Parties, they keep their status if they remain unchanged or receive only minimal processing²⁶ When two or more originating materials from Parties only receive minimal processing²⁷ at an exporting Party, the originating material with the highest value will be determined as the origin.
Art. 4 Wholly Obtained Products	<ul style="list-style-type: none"> Minerals, vegetable products, live animals and its products etc.

²³ Referred to in Art. 2.2 of the Korea – EFTA FTA. Further information on the interpretation, application and administration are provided in the Explanatory Notes to Annex 1.

²⁴ see Art. 4, Annex I of Korea – EFTA FTA

²⁵ see Art. 5, Annex I of Korea – EFTA FTA

²⁶ see Art. 6, Annex I of Korea – EFTA FTA

²⁷ see Art. 6, Annex I of Korea – EFTA FTA

Art. 5 Sufficiently Worked or Processed Products	<ul style="list-style-type: none"> Products that were not wholly obtained will be regarded as originating if they were sufficiently processed / worked in one or more Parties according to Appendix 2²⁸. In case certain products are not allowed for the processing of a good as mentioned in Appendix 2, they can be nevertheless used based under certain conditions (e.g. 10 % value-threshold, HS code)
Art. 6 Insufficient Working / Processing Operations	<ul style="list-style-type: none"> Even if criteria in Art. 5 are fulfilled, all combined operations in a Party have to go beyond certain operations such as changes of packaging, simple mixing, washing, bleaching, labelling etc.
Art. 7 Unit of Qualification	<ul style="list-style-type: none"> The unit of qualification will be based on the HS code.
Art. 8 Accessories, Spare Parts and Tools	<ul style="list-style-type: none"> Accessories / spare parts / tools are considered as one piece with the product that they are dispatched with if they are part of the normal equipment and are included in the price.
Art. 9 Sets	<ul style="list-style-type: none"> Sets²⁹ containing several components are regarded as originating if the non-originating components do not exceed 15 % of the ex-works price of the set.
Art. 10 Neutral Elements	<ul style="list-style-type: none"> Determining the origin of neutral elements that do not enter into the final product (e.g. energy, machines, equipment) is not necessary

²⁸ The list of working / processing criteria concerns non-originating materials only. Appendix 1 to Annex I also provide further clarifications about the interpretation of rules.

²⁹ Sets as defined in the General Rule 3 of the HS

Art. 11 Segregation of Materials	<ul style="list-style-type: none"> • If identical originating and non-originating materials are used for production of a good, they have to be physically separated. • In case the physical separation creates considerable costs, a so-called accounting segregation may be used (separation by books) under certain conditions.
TITLE III: TERRITORIAL REQUIREMENTS	
Art. 12 Principle of Territoriality	<ul style="list-style-type: none"> • Except for the cumulation³⁰ criteria and some exceptions³¹, conditions to obtain originating status (Title II) must be met without interruption in a Party. • In case a good is sent from a Party to a non-Party, the good will be considered as non-originating unless there is proof that the good is the same AND no operation beyond preserving the good in good condition while the export has been undertaken.
Art. 13 Exemption from the Principle of Territoriality	<ul style="list-style-type: none"> • Obtaining originating status will not be affected by processing materials in a non-Party territory that were exported and re-imported by the same Party if (restrictive) conditions³² are met.
Art. 14 Direct Transport	<ul style="list-style-type: none"> • Originating products have to be transported directly between an EFTA country and Korea. • Transportation through a non-Party territory is allowed if goods are under permanent customs control and do not exceed limited operations such as loading or splitting up the consignment. • Customs authorities can request appropriate proof.

³⁰ see Art. 3, Annex I of Korea – EFTA FTA

³¹ see Art. 13, Annex I of Korea – EFTA FTA

³² see Appendix 4, Annex I of Korea – EFTA FTA

SECTION II: CUSTOMS PROCEDURES	
TITLE IV: PROOF OF ORIGIN	
Art. 15 Proof of Origin	<ul style="list-style-type: none"> • To request preferential tariff treatment (reduced duties) in a Party, a proof of origin in the form of a declaration in a specified format³³ in English which has to be signed³⁴ and to be issued on a commercial document (e.g. invoice) identifying the exporter, his address and phone number as well as the goods. • The exporter has to inform concerned parties in case of any irregularities. Furthermore, the exporter has to provide necessary proofs (e.g. origin declaration, supporting documents proving status³⁵) upon request by the customs authority of the exporting Party. • Customs authorities of the exporting Party can execute appropriate controls to verify made claims.
Art. 16 Approved Exporter	<ul style="list-style-type: none"> • An exporter of a party that frequently exports originating goods may be authorized by the customs authorities to complete origin declarations without signature. • Customs authorities of the exporting party may verify the correct application and may withdraw the authorization if conditions are no longer met.

³³ see Appendix 3, Annex I of Korea – EFTA FTA

³⁴ Exception see Art. 16, Annex I of Korea – EFTA FTA

³⁵ see also Art. 20, Annex I of Korea – EFTA FTA

Art. 17 Importation Requirements	<ul style="list-style-type: none"> Each Party grants preferential tariff treatment to originating goods imported from another Party.³⁶ Preferential treatment has to be requested by the importer at the time of importation. Under some conditions, proof of origin and relevant documents may be provided at a later time to customs authorities. An origin declaration is valid for 12 months and has to be submitted to customs authorities of the importing party. Late submissions may be accepted under some conditions.
Art. 18 Importation by Instalments	<ul style="list-style-type: none"> Upon request of the importer and under conditions of the customs authority (importing party) as well as HS related rules, a single origin declaration can be submitted upon the first import for certain dismantled HS codes³⁷ sent as instalments.
Art. 19 Waiver of Origin Declaration	<ul style="list-style-type: none"> Depending on a certain value, non-commercial shipments (e.g. private to private, travellers' personal luggage) do not require a declaration of origin in case all the conditions of Annex I are fulfilled.
Art. 20 Supporting Documents	<ul style="list-style-type: none"> Supporting documents³⁸ proving that products covered by an origin declaration are originating products can be for instance firm accounts, internal bookkeeping, proof of processing of non-originating parties or origin declarations of used materials of a party³⁹.
Art. 21 Recordkeeping Requirements ⁴⁰	<ul style="list-style-type: none"> The exporter / producer who issued an origin declaration has to keep a copy as well as the supporting documents for at least five⁴¹ years.

³⁶ Exception see Art. 19, Annex I of Korea – EFTA FTA

³⁷ E.g. HS 84, 85 (Section XVI) or 7308

³⁸ Referred to in Art. 15, para. 7 of Annex I of Korea – EFTA FTA

³⁹ See Art. 3 (Cumulation), Annex I of Korea – EFTA FTA

⁴⁰ Include electronic forms; see Art. 21, para. 3, Annex I to Korea – EFTA FTA

⁴¹ The EFTA States and Korea agreed to change the recordkeeping period from “at least three years” to “at least five years”. The change entered into effect on 1 January 2017. (FCA, 2016)

	<ul style="list-style-type: none"> The importer has to keep imported related records based on domestic law.
Art. 22 Discrepancies and Formal Errors	<ul style="list-style-type: none"> Slight discrepancies between the origin declaration and the documents provided to customs will not make the proof invalid if it can be proven that the document corresponds to the products submitted. Obvious formal errors (e.g. by typing) in an origin declaration that do not create doubts regarding the correctness are not to be rejected.
TITLE V: ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION	
Art. 23 - Art. 29	<ul style="list-style-type: none"> The articles under this title contain rules about verification procedures of origin declarations by customs authorities (indirect verification ⁴²), dispute settlements or confidentiality (e.g. non-disclosure of confidential information without consent).
TITLE VI: CUSTOMS COOPERATION	
Art. 30 - Art. 31	<ul style="list-style-type: none"> This part comprises statements about cooperation in various fields and the obligation of exchange of contact points and the endeavour to resolve matters of Annex I through consultation.
TITLE VII: FINAL PROVISIONS	
Art. 32 - Art. 34	<ul style="list-style-type: none"> The articles concern the establishment, tasks and obligations of the Sub-Committee of the Joint Committee on Customs and Origin Matters as well as goods that were in transit or storage at the entry into force of the FTA.

Source: own display, Swiss Korea – EFTA FTA

⁴² See also Chapter II, Title 3.2, Origin Verification

4.3 ROO Evaluation Criteria

Based on the literature review, common export products and the analysis of the Korea – EFTA FTA, general criteria with focus on users (companies) of ROO were identified and will be used for the comparison. More product specific rules such “sets” or “spare parts” were not included as they concern specific cases. The “wholly obtained” criteria will also not be covered as they mostly concern products of the primary industry. Value related topics such as threshold calculations, materials that need to be included etc. were also not considered as FTAs use different calculations methods / rules. In order to compare such rules, specific calculations with various components would have to be analysed which is not the scope of the thesis.

Table 4: Identified ROO Criteria for Comparison

ROO Criteria	Indicators
Origin Determination	
Cumulation: Originating goods can be used and exchanged within parties without losing the originating status	Are exchanges with all parties possible or are there any restrictions? The freer the exchange, the better.
Minimal processing: When manufacturing (non-wholly obtained) goods, there are requirements that operations have to go beyond certain steps.	Are there minimal processing rules? Yes (restrictive) or No (not restrictive)

Sufficient Processing: The product specific rules have to be satisfied to fulfil the origin criteria concerning non-originating and originating materials (e.g. minimum share of originating products).	“CTC / RVC” or “RVC” had a relative positive effect on common utilisation of different FTAs whereas “CTC and RVC” ⁴³ did not ⁴⁴ . Thus, the higher the percentage of “CTC / RVC” or “RVC”, the better.
No-drawback rule: The drawback rule can be regarded as a limitation against the sourcing of materials. No rule in this regard can thus be regarded as more liberal.	Is there are no-drawback rule? Yes (restrictive) or No (not restrictive)
Derogation of territory: Under this rule certain operations outside of party territories are allowed. Not allowing such practise can be regarded as more restrictive.	Is derogation allowed? Yes (restrictive) or No (not restrictive)
De minimis: Said rule allows to obtain originating status for a product even though the product specific rules were not fulfilled. The rule grants more options to a producer and can be seen as more liberal.	Is there a “de minimis”-rule in place and are there any restrictions?
Accounting segregation: Identical originating and non-originating goods have to be separated. Besides physical segregation, accounting provides	Can accounting segregation be chosen as an option to segregate materials? Yes (less restrictive) or No (more restrictive).

⁴³ The result in regard to the negative effect “CTC only”-rules has to be treated with caution as the paper included all tariff shift rules in that definition. Tariff subheading rules (CTSH) can be normally more easily fulfilled than tariff heading (CTH) or tariff chapter rules (CTC). For example: Product X is classified in HS 8401.10. In case of a CTS offense, all TSH other than that of the final (e.g. 8401.20, 8401.30) can be chosen whereas with a CTH or CTC rule, only products classified outside of TH 8401 or TC 84 can be chosen, thus limiting the choice. For that reason, the rules will be identified one by one, without making a generalisation.

⁴⁴ see Chapter II, title 2

Direct Transportation	
Goods have to be directly transported from the territory of a party to another. Certain conditions such as minimal operations and customs control allow goods to be transited through a third country. For evidence specific documents such non-manipulation certificates may be requested.	Are there minimal operations and customs control criteria to fulfil the condition of direct transportation? Do non-manipulation certificates have to be provided to competent authorities?
Documentation	
Proof of origin: ⁴⁵ For verification purposes proofs have to be presented in a certain form and issued by a specified party. Depending on the form and the issuing party, the procedure can be more costly (e.g. certificate, authority issuance). Special provisions may allow simplified issuance of proofs (e.g. Approved Exporter).	What kind of proof is required and who issues such proof? Are there any simplified procedures in place?
Retention period: All documents relevant that can prove that goods originate in a party or can claim preferential origin treatment have to be kept and retained.	The shorter the time, the less bothersome for a party.

Source: own display

⁴⁵ Articles regarding waiver of proof of origin were not included in the analysis as those thresholds are rather low and thus not that much relevant for trading firms.

4.4 Findings

Based on the earlier defined criteria, the common FTA ROO were summarized in a table format and outlined in a simplified manner. The developments will be first analysed by each country before comparing Korea and Switzerland. Due to many different rules, abbreviations (see table 6) were created to provide a clearer and neater overview.

Table 5: Abbreviations for Summary Table

Written out (abbreviation)	Meaning
Value of non-originating material (VNM) %	Value of all VNM used does not exceed X % of the price ⁴⁶ of the final product
RVC = Regional value content (originating materials) %	Value of all RVC must be at least X % of the price of the final product
Change in Tarif (CT)	Tarif shift
Change in Tarif Chapter (CTC)	VNM materials of any other chapter (two digit) than the final product
Change in Tarif Heading (CTH)	VNM materials of any other heading (four digit) than the final product
Change in Tarif Subheading (CTSH)	VNM materials of any other subheading (six digit) than the final product
Technical Rules (TECH)	Change to specific product

Source: own display

4.4.1 ROO Development in FTAs with Switzerland

Regarding the “origin determination” criteria (see table 7), there were a few notable changes in connection product specific, derogation of territory and accounting segregation rules. Compared to the Korea – EFTA FTA, sufficient processing rules in the FTA with Peru and China were largely uniformed into single

⁴⁶ As each FTA has different rules in regard to the calculation of values (e.g. ex-works price, FOB), the general term price will be used for simplification purposes.

beneficial “RVC (VNM)⁴⁷ / CTC” or “RVC (VNM)” conditions. Even though, HS 29 had CTC related rules, the majority (over 95 %) was on a six-digit subheading level which is easier to achieve compared to CTH as HS codes in the same heading can be used. Overall, each selected chapter shared one product specific rule (e.g. HS 29 CTH, HS 84 and 90 VNM 40 %) meaning that theoretically an exporter could stick to the same manufacturing method to fulfil the ROO of the three FTAs.⁴⁸ However, a ”tariff shift or value based” rule would be still best overall as the producer could choose the more convenient method. Regarding the segregation rule, the Peru and China FTA do not have any restrictive pre-condition (e.g. “cost condition”⁴⁹) to use accounting methods to separate identical originating and non-originating materials. A negative aspect in newer FTAs is that no processing outside of the territory of the parties is allowed which pushes sourcing and possible processing options of firms more towards parties to fulfil the ROO (especially RVC / VNM criteria). Except for the de minimis rule that did not exclude anymore products, the remaining analysed criteria remained the same.

⁴⁷ In study of Hakayama and Laksanapanyakul (see Chapter II, title 2), the analysed FTAs used the RVC method. The effect for VNM should be similar though as it does not calculate the value of originating but non-originating content.

⁴⁸ At least this would be possible for CTH criteria since value and origin is not that important as long as no non-originating products of the same heading are used and the minimal processing requirements are also fulfilled. For the VNM / RVC criteria a deeper analysis would be needed as VNM rules differ, sourcing of materials (originating from one FTA party can be regarded as a non-originating in the other) have to look into for instance.

⁴⁹ see Art. 11, Annex I of Korea – EFTA FTA

Table 6: Comparison of Origin Determination Criteria in FTAs concluded by Switzerland

Origin criteria	Korea - EFTA FTA 2006	Peru - EFTA FTA 2011	Switzerland - China FTA 2014
Origin determination			
- Cumulation	Yes, within parties	Yes, within parties	Yes, within parties
- Minimal processing	Yes	Yes	Yes
HS 29			
Sufficient processing / Product specific rules (% in brackets = share of rules based on amount of CTH / CTSH in chapter)	CTH / VNM 50 % (100 %)	CTSH (VNM of same CTS max. 20 %) / VNM 50 % (97.6 %)	CTSH (95.2 %)
		CTC (chapter exclusions; VNM of same TC max. 20 %) (2.4 %)	CTH (4.8 %)
		If CTC not possible, specific processing steps	
HS 84			
CTH / VNM 50 % (66.7 %)			VNM 50 % (100 %)
CTH (specific heading exclusion) / VNM 50 % (23.0 %)			
VNM 40 % (5.7 %)			
VNM 50 % (4.6 %)			
HS 90			
CTH / VNM 50 % (84.8 %)			VNM 55 % (100 %)
CTH and VNM 40 % / VNM 25 % (6.1 %)			
CTH and VNM 40 % / VNM 30 % (6.1 %)			
VNM 50 % (3 %)			
No	No	No	No
- No-drawback rule	No	No	No
- Derogation of territory	Yes; HS specific, VNM 10 % - 40 %	No	No
- De minimis	Yes, HS exceptions, VNM / weight 10 %	Yes, VNM / weight 10 %	Yes, only non-VNM rules, VNM 10 %
- Accounting segregation	Yes, in case of considerable costs	Yes	Yes

Source: own display based on FTAs mentioned above

In respect to direct transportation (see table 8), the rules did not change much except that documents that may have to be delivered upon request by authorities were explicitly mentioned in the newer FTAs. Regarding documentation (see table 8) respectively proof of origin, the Korea – EFTA framework provides a simplified self-certification in place which covers the standard procedure and approved exporters. However, those simplifications were not put forward in the newer Peru and China FTA. For exports to China, the approved exporter additionally has to submit origin declarations online which is an additional step and more restrictive. The reduction of retention period from five to three years can be seen as a positive development.

Table 7: Comparison of Direct Transportation and Documentation Criteria in FTAs concluded by Switzerland

Origin criteria	Korea - EFTA FTA 2006	Peru - EFTA FTA 2011	Switzerland - China FTA 2014
Direct transportation			
- Minimal operations, customs control	Yes	Yes	Yes
- Non-manipulation document required?	Alternative documents upon request	Alternative documents upon request	Alternative documents upon request
Documentation			
- Proof of origin	Signed declaration	Signed declaration (not over USD 8'500) / Certificate	Certificate
Standard procedure	Self-issuance	Self-issuance / Competent authority	Competent authority
- Proof of origin	Declaration	Declaration	Declaration and electronic submission
Approved exporter	Self-issuance	Self-issuance	Self-issuance
- Retention period for documents	5 years (changed from 3 to 5 in 1.1.2017)	3 years	3 years

Source: own display based on FTAs mentioned above and FCA (2016, 2020)

4.4.2 ROO Development in FTAs with South Korea

When comparing the origin determination (see table 9) criteria the rules for sufficient processing and accounting segregation experienced the most noteworthy changes. The HS related rules did not experience a reform towards uniform or single rules. In most cases the number of different rules did only slightly decrease (e.g. HS 90 FTA with Peru and China) or even increase (e.g. HS 84). Also, the coverage share of the rules is different for each HS chapter and corresponding FTA. In addition, RVC and VNM value added principles are used which may complicate the value calculation of materials, processing as well as other components. The share of “RVC / CTC” and “RVC” decreased for all HS chapter and FTAs (except HS 90 in FTA with Peru). The derogation of territory rules also became slightly more restrictive as processing outside a party is only possible in “designated zones” on the Korean Peninsula or Kaesong. Besides that, the de-minims rule can only be applied to for tariff change related criteria but does not namely exclude any products. A positive development can be observed in the accounting segregation rule as the “considerable cost” condition was removed and concerned stakeholders can choose between a physical segregation or via bookkeeping.

Table 8: Comparison Origin Determination in FTAs concluded by Korea

Origin criteria	Korea - EFTA FTA 2006	Korea - Peru FTA 2011	Korea - China FTA 2015
Origin determination			
- Cumulation	Yes, within parties	Yes, within parties	Yes, within parties
- Minimal processing	Yes	Yes	Yes
HS 29			
CTH / VNM 50 % (100 %)	CTSH / RVC 50 % (97.6 %)	CTH (100 %)	CTH (100 %)
	CTH (1.2 %)	CTC (0.9 %)	
	CTC (0.9 %)	TECH / CTSH (0.3 %)	
HS 84			
CTH / VNM 50 % (66.7 %)	CTSH / RVC 50 % (57.6 %)	CTSH (48.4 %)	CTH (29.9 %)
CTH (specific heading exclusion) / VNM 50 % (23.0 %)	CTSH (20.8%)	RVC 40 % (9.8 %)	RVC 45 % (4.7 %)
VNM 40 % (5.7 %)	CTH / RVC 35 % or 45 % (20.2 %)*	TECH (6.3 %)	
VNM 50 % (3 %)	CTH (1.4 %)	CTH and RVC 45 % (0.8 %)	
HS 90			
CTH / VNM 50 % (84.8 %)	CTH / RVC 35 % or 45 % (85.8 %)*	CTH (97.9 %)	
CTH and VNM 40 % / VNM 25 % (6.1 %)			
CTH and VNM 40 % / VNM 30 % (6.1 %)	CTH / RVC 45 % (18.2 %)	RVC 45 % (1.4 %)	
VNM 50 % (3 %)	CTH / RVC 50 % (2.0 %)	CTH and RVC 50 % (0.7 %)	
No	No	No	No
- No-drawback rule			
- Derogation of territory?	Yes; HS specific, VNM 10 % - 40 %	Yes, HS specific, VNM 40 %, produced in Kaesong complex	Yes, processing zones on the Korean Peninsula, max. VNM 40 %
- De minimis	Yes, HS exceptions, VNM / weight 10 %	Yes, related to tariff shift only, VNM / weight 10 %	Yes, related to tariff shift only, VNM / weight 10 %
- Accounting segregation	Yes, in case of considerable costs	Yes	Yes

*Different RVC calculation method (*build-up / build-down method*)

Source: FTAs mentioned above, own display

When comparing the direct transportation (see table 10) one can observe that they have become more restrictive as documents have to be submitted to competent authorities in any case. Furthermore, additional conditions in the Korea – China FTA make the application more difficult when transiting goods through a non-party territory due to additional requirements. In connection with documentation (see table 10) there were slight changes for the Peru FTA as over a certain value origin certificates will be certified by the competent authorities and approved exporters have to sign the origin declaration. For the China FTA, the procedure became more restrictive as only the competent authority issues certificates and there is no simplified self-issuance method. However, the retention period is lower than the other two FTAs.

Table 9: Comparison of Direct Transportation and Documentation Criteria in FTAs concluded by Korea

Origin criteria	Korea - EFTA FTA 2006	Korea - Peru FTA 2011	Korea - China FTA 2015
Territoriality / Direct transportation			
- Minimal operations, customs control	Yes	Yes	Yes but also geographical / transport conditions, limited period of stay in transit territory
- Non-manipulation document	Alternative documents upon request	Alternative documents have to be presented	Alternative documents have to be submitted
Documentation			
- Proof of origin	Signed declaration	Signed declaration (not over USD 2000) / Certificate	Certificate
Standard procedure	Self-issuance	Self-issuance / Competent authority	Competent Authority
- Proof of origin	Declaration	Signed declaration	N/A
Approved exporter	Self-issuance	Self-issuance	N/A
- Retention period for documents	5 years (changed from 3 to 5 in 1.1.2017)	5 years	3 years

Source: FTAs mentioned above, own display

4.4.3 Similarities in ROO Criteria

Besides certain differences, both countries share similarities in the common FTAs. In connection with product specific rules, the HS chapter 29 rules had a stronger single tariff shift rule focus. Especially in regard to China, there were no value related rules in place in said HS 29. When looking into the derogation of territory criteria, it was either completely prohibited in newer Swiss/EFTA FTAs or more restrictive focusing on geographical areas (e.g. Kaesong Complex) which limits the processing possibilities outside of a party. Regarding procedural affairs, Korean and Swiss exporters faced more restrictive measures regarding the issuance of proof of origin, with the ones in China FTAs being the most restrictive. Furthermore, the retention period of five years was reduced in Swiss and Korean (FTA with China).

V CONCLUSION

The purpose of this study was to analyse whether ROO in common Swiss (EFTA) and Korean FTAs have become simpler from a firm perspective. Based on the given scope and the corresponding findings, it can be concluded that compared to the Korea – EFTA FTA, ROO overall did not become simpler. In general FTAs concluded by Switzerland contained less restrictive elements compared to Korea. However no uniform approach in connection with documentation and product specific rules could be observed for both countries. No general approach makes it hard for an exporter to meet the requirements of ROO if each FTA has different rules for the same purpose. For example, an exporter who has one product that he wants to ship to Korea, Peru and China may have to fulfil three different product specific rules of origin. In addition, sourcing is another problem as materials cannot be cumulated with each other thus all components used to manufacture a product have to be tracked in connection with their origin, HS code, weight and value. Furthermore, different proofs of origin create more labour-intensive costs as each shipment requires a distinct way of issuance. In case said exporter has several products, the complexity of the “spaghetti bowl” effect becomes even more visible. Due to those various approaches, concerned stakeholder need to be well prepared to manage all ROO related tasks in an orderly and, most importantly, correct manner which can be costly and may prevent a firm to use the FTA framework.

Implications for governments should thus be promote liberal and uniform ”CTC / RVC (VNM)” rules. The or-condition in the rule will make it easier to find a suitable rule for most stakeholders as they can choose the most convenient method

for their case. Furthermore, governments should also work on a harmonisation of trading blocs to allow cumulation with various countries such as the PAN-EURO-MED legislation which would ease the sourcing issue and encourage trade within more parties. Additionally, self-issuance of proof of origin and a shorter retention period should be promoted more as it generates lower costs for the parties involved. In connection with direct transportation, documents should not be required all the time but upon request as obtaining the documents can be more cost intensive.

VI REFERENCES

- Cadot, O. and de Melo, J. 2008. Why OECD Countries Should Reform Rules of Origin. *The World Bank Research Observer*. 23 (1): 77-105.
- Chiavacci, D., Blind, G., Schaub, M. and Ziltener, P. 2012. *Ist das Freihandels- und wirtschaftliche Partnerschaftsabkommen (FHWPA) zwischen der Schweiz und Japan (bereits) eine Erfolgsgeschichte?* (Is the free trade and economic partnership agreement (FTEPA) between Switzerland and Japan (already) a success story? Bern: Peter Lang International Academic Publishers
- EFTA. 2009. “EFTA – Korea Free Trade Agreement enters into force.” Accessed on 7 May 2020.
<https://www.efta.int/Free-Trade/news/EFTA-Korea-Free-Trade-Agreement-enters-force-2401>
- FCA. 2016. “Free trade agreement between EFTA and Republic of Korea – Amendments in the area of rules of origin.” Accessed on 19 December 2016.
https://www.ezv.admin.ch/dam/ezv/en/dokumente/verfahren-betrieb/grundlagen-und-wirtschaftsmassnahmen/Ursprung%20und%20FHA/zirkular_freihandelsabkommen_efta-republik_korea.pdf.download.pdf/Zirkular%20%C3%84nderungen%20im%20Bereich%20Ursprungsregeln%20en.pdf
- FCA. 2020. “Approved Exporter” Accessed on 21 May 2020.
<https://www.ezv.admin.ch/ezv/en/home/information-companies/exemptions--reliefs--preferential-tariffs-and-export-contributio/exportation-from-switzerland/free-trade--preferential-origin/approved-exporter.html>
- Free Trade Agreement between the Republic of Korea and the EFTA States. Entry into force on 1 September 2006 (Iceland: 1 October 2006).
- Free Trade Agreement between the Republic of Korea and the People’s Republic of China. Entry into force on 20 December 2015.
- Free Trade Agreement between the Republic of Korea and the Republic of Peru. Entry into force on 1 August 2011
- Free Trade Agreement between the Republic of Peru and the EFTA States. Entry into force on 1 July 2011 (Iceland: 1 October; Norway: 1 July 2012).
- Free Trade Agreement between the Swiss Confederation and the People’s Republic of China. Entry into force on 1 July 2014.
- Gantz, D. A. 2013. *The Doha Round Failure and the Likely Demise of the “Single Undertaking”*. Cambridge: Cambridge University Press
- Geraets, D., Carroll, C. and Willems, A. 2015. Reconciling Rules of Origin and Global Value Chains: The Case for Reform. *Journal of International Economic Law*. 18: 287 – 305.

- Hayakawa, K. and Laksanapanyakul, N. 2017. “*Impacts of common rules of origin on FTA utilization.*” International Economics and Economic Policy Journal. 14(1):75-90
- Hayakawa, K., Hiratsuka, D., Shiino, K. and Sukegawa, S. 2009. *Who uses FTAs?* 270: 1-24. Institute of Developing Economics, Japan External Trade Organization.
- Hulliger, O. and Eberle, L. 2015. Nutzung von Freihandelsabkommen in der betrieblichen Praxis: Ansätze zur Steigerung der Wettbewerbsfähigkeit durch effizientere Nutzung von Freihandelsabkommen (Utilization of free trade agreements in business practise: Approaches to increase the competitiveness through efficient use of free trade agreements). *Expert Focus*, 2015 (8): 607-612
- MBC. 2009. “스위스 금괴와 세금폭탄” (Swiss bars and tax bomb)
Accessed on 25 June 2020
https://imnews.imbc.com/replay/2580/3766295_29945.html
- Ministry of Trade, Industry and Energy MOTIE. 2020a. “FTA 정책요약” (FTA Policy Summary)
Accessed on 23 April 2020.
<https://www.fta.go.kr/main/situation/kfta/psum/>
- Ministry of Trade, Industry and Energy MOTIE. 2020b. “FTA 현황” (FTA Status)
Accessed on 22 April 2020.
<https://www.fta.go.kr/main/situation/kfta/ov/>
- Office of Statistics Principality. 2019. “Liechtenstein in Figures 2019.”
Accessed on 9 May 2020
https://www.llv.li/files/as/liechtenstein_in_figures_2019.pdf
- Schaub, Matthias. 2009. “Präferenzielle Handelsabkommen in der Praxis: Herausforderungen bei der Umsetzung.” (Preferential free trade Agreements in practise: Challenges in the implementation)
Die Volkswirtschaft, 1 October 2009.
Accessed on 22 April 2020.
<https://dievolkswirtschaft.ch/de/2009/10/schaub/>
- State Secretariat for Economic Affairs SECO. 2019. “List of Free Trade Agreements of Switzerland”.
Accessed on 22 April 2020.
https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Freihandelsabkommen/Liste_der_Freihandelsabkommen_der_Schweiz.html
- State Secretariat for Economic Affairs SECO. 2020. “Free Trade Agreements.”
Accessed on 22 April 2020.
https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Freihandelsabkommen.html
- The Economist Intelligence Unit. 2019. “All set for RCEP”.
Accessed on 22 April 2020.
<https://www.eiu.com/industry/article/608652844/all-set-for-rcep/2019-11-06>

- UNCOMTRADE. 2020. "UNCOMTRADE Database." Accessed on 22 May 2020.
<https://comtrade.un.org/data/>
- UNCTAD. 2018. *The Use of the EU's Free Trade Agreements – Exporter and Importer Utilization of Preferential Tariffs*. Stockholm: National Board of Trade Sweden.
- van de Heetkamp, A. and Tusveld, R. 2011. *Origin Management: Rules of Origin in Free Trade Agreements*. Heidelberg: Springer-Verlag Berlin-Heidelberg.
- vanGrasstek, C. 2013. *The History and Future of the World Trade Organization*. Geneva: World Trade Organization
- Verordnung über das Ausstellen von Ursprungsnachweisen (VAU) (Swiss ordinance for the issuance of proofs of origin), Swiss classified compilation SR 946.32. 23 May 2012.
- World Bank. 2019a. "Merchandise exports (current US\$)." Accessed on 22 April 2020.
<https://data.worldbank.org/indicator/TX.VAL.MRCH.CD.WT>.
- World Bank. 2019b. "Exports of goods and services (% of GDP)". Accessed on 22 April 2020.
<https://data.worldbank.org/indicator/NE.EXP.GNFS.ZS>
- WCO. 2017a. "WCO Origin Compendium"
Accessed on 22 April 2020.
http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/origin/instruments-and-tools/guidelines/origin_compendium.pdf?la=en
- WCO. 2017b. "Comparative Study on Preferential Rules of Origin"
Accessed on 5 May 2020.
http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/origin/instruments-and-tools/reference-material/170130-b_comparative-study-on-pref_roo_master-file_final-20_06_2017.pdf?db=web
- WCO. 2017c."HS Nomenclature 2017 edition."
Accessed on 9 May 2020.
<http://www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/hs-nomenclature-2017-edition/hs-nomenclature-2017-edition.aspx>
- WCO. 2018. "Guidelines on Certification of Origin."
Accessed on 5 May 2020.
<http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/key-issues/revenue-package/guidelines-on-certification.pdf?db=web>
- WCO. 2020a. "Rules of Origin – Handbook."
Accessed on 5 May 2020.
<http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/origin/overview/origin-handbook/rules-of-origin-handbook.pdf>

- WCO. 2020b. "What is the Harmonized System (HS)?"
Accessed on 5 May 2020
<http://www.wcoomd.org/en/topics/nomenclature/overview/what-is-the-harmonized-system.aspx>
- WTO. 2019. "World Trade Statistical Review 2019."
Accessed 22 April 2020.
https://www.wto.org/english/res_e/statis_e/wts2019_e/wts19_toc_e.htm
- WTO. 2020a. "Regional Trade Agreements."
Accessed on 22 April 2020.
<http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>
- WTO. 2020b. "Facts&Figures Regional Trade Agreements July – December 2019". Accessed on 17 April 2020.
https://www.wto.org/english/tratop_e/region_e/rtajul_dec19_e.pdf
- WTO. 2020c. "Trade set to plunge as COVID-19 pandemic upends global economy." Accessed on 22 April 2020.
https://www.wto.org/english/news_e/pres20_e/pr855_e.htm
- WTO 2020d. "Trade Profiles 2019."
Accessed 22 April 2020.
https://www.wto.org/english/res_e/statis_e/trade_profiles_list_e.htm
- WTO 2020e. "The GATT years: from Havana to Marrakesh."
Accessed 22 April 2020.
https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm
- Yi, J. 2014. Rules of origin and the use of free trade agreements: a literature review. *World Customs Journal*, 9(1): 43 – 58.
- Ziltener, P., & Blind, G. D. 2014. Effektivität der Schweizer Freihandelsabkommen (FHA) weltweit (Efficiency of Swiss trade agreements (FTA) globally). Zurich, Switzerland: Switzerland Global Enterprise.

국문 초록

한국과 스위스 FTA 의 공통된 원산지 규정 개발에 대한 분석

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지난 10년간 세계 무역 증가와 함께 자유 무역 협정(FTA) 체결이 꾸준히 증가하였다. 그러나 원산지 규정(ROO)과 관련한 특정 문제(예: 스파게티 보울 효과)들로 인해 기업이 FTA를 항상 활용하는 것은 아니다. 기업의 FTA 활용을 촉진하기 위해 협상 당사국은 ROO를 단순화하고 표준화하는 작업을 수행해야 한다. 따라서 본 연구의 목적은 기업의 관점에서 한국 및 스위스의 FTA ROO 조건이 어떻게 개선되었는지 분석하는 데 있다. 한-EFTA FTA의 ROO 분석과 이전 연구들을 바탕으로 특정 기준들을 확인하였다. 한-EFTA FTA와 주요 수출품목을 기준으로 한-페루, 한-중국 및 스위스-페루, 스위스-중국의 FTA 규정들이 단순화되었는지를 비교하였다.

비교 결과 스위스가 체결한 FTA들은 한국이 체결한 FTA보다 제한적인 요소가 적지만, 그럼에도 불구하고 ROO는 개선되지 않았다. 두 국가 모두 대부분의 ROO에 대해 통일된 접근이 부족했다. 특히 동일한 HS 코드에 대한 제품별 규정은 각 FTA마다 상이하기 때문에 기업이 자재를 가공하고 처리하는 것이 더 어려워졌다. 또한 원산지 증명서 발행 관련 문제가 한-EFTA FTA에 비해 한-페루, 한-중국과의 FTA에서 오히려 더 큰 부담이 되어 발행 비용이 증가했다. 따라서 정부는 자유롭고 통일된 제품별 세번변경규칙과 부가가치규칙을 추구하고, 소싱 문제를 해결하기 위해 무역 블록 간의 조화를 강구해야 한다. 또한 문서 관련 비용을 줄이기 위해 원산지 증명서 자가 발급 및 단축된 문서 보관 기간이 필요하다.

주요어: 자유 무역 협정(FTA), 원산지 규정(ROO), 특혜 원산지, 원산지 관리,

FTA 활용, ROO Spaghetti Bowl, 관세

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