Harmonizing preferential rules of origin regimes around the world

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International Economics
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- ROO definition and function (what and why)
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    - product-specific and regime-wide ROO
  - Why are ROO used?
    - to curb trade deflection
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- ROO around the world: a descriptive mapping
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  - regime-wide ROO: de minimis, cumulation and certification
- Multilateralization and convergence: where, when and how?
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Introduction

- ROO in two-fold
  - Restrictive ROO
  - Divergences in ROO

- Purpose: to analyze the restrictiveness and divergence in ROO around the world, and to propose ways for reducing them
Introduction

- 3 main conclusion:
  - ROO in largest trade blocs and partners (NAFTA etc.) are most restrictive
  - There are marked divergences across ROO regimes around the world
  - Most ideal solution to ROO is a strategy of regional convergence governed by a multilateral agreement
ROO definition and function (what and why)

- What are ROO?
  - 2 types of ROO: non-preferential ROO and preferential ROO
  - both ROO regimes have 2 dimension:
    - Sectoral, product-specific ROO
    - General, regime-wide ROO
ROO definition and function (what and why)

- **product-specific ROO**
  - 2 criteria:
    - wholly obtained or produced – most countries apply this definition
    - substantial transformation
  - substantial transformation (3 components)
    - Change in tariff classification (CTC)
    - Value content (VC)
    - Technical requirement (TECH)

- **regime-wide ROO (3 types)**
  - De minimis rule
  - Cumulation
  - Certification
ROO definition and function (what and why)

- Why are ROO used?
  - to curb trade deflection
ROO around the world: a descriptive mapping
(product-specific and regime-wide ROO)

- product-specific ROO
  - Europe: the Paneuro system
    - ROO regimes in EU’s RTA are highly uniform
    - Paneuro-Med cumulation system: between EU and regional countries that signed bilateral agreement
    - Paneuro ROO is also incorporated in the EU RTAs outside the cumulation zone
ROO around the world: a descriptive mapping
(product-specific and regime-wide ROO)

- product-specific ROO
  - The Americas: ROO poles
    - More variation across ROO regimes in the Americas,
    - but distinct ROO families can be identified
      - LAIA (ROO in traditional trade agreement)
      - NAFTA (ROO in new-generation RTA)
      - CACM (between the above 2)
      - with extra-regional RTA: use VC alone (unlike EU Paneuro system)
ROO around the world: a descriptive mapping
(product-specific and regime-wide ROO)

- product-specific ROO
  - Trans-Pacific agreements
    - ROO regimes between Americas and Asia
    - They are complex
    - Asian front will bring Paneuro model to accompany US model in the region
  - Asia: multiple influences
    - Some of main integration schemes carry an across-the-board VC rule with relatively few exceptions
    - Proliferation of RTA (esp. countries with extra-regional partners): deliver complexity to the region’s ROO theatre
ROO around the world: a descriptive mapping
(product-specific and regime-wide ROO)

- product-specific ROO
  - Africa and the Middle East
    - There exists generality of ROOs in many African and Middle Eastern RTAs (less complex)
    - Many RTAs are based on an across-the-board VC rule
    - But SADC approximate the Paneuro model both in sectoral ROOs and in sectoral selectivity
  - Non-preferential ROO
ROO around the world: a descriptive mapping
(product-specific and regime-wide ROO)

- regime-wide ROO
  - ROO regimes are more complex than product-specific ROO
  - 3 key regime-wide ROO
    - De minimis
    - Cumulation
    - Certification
ROO around the world: a descriptive mapping
(product-specific and regime-wide ROO)

- regime-wide ROO
  - De minimis
    - EU ROO regimes have higher de minimis than NAFTA and some other RTAs in the Americas
    - But EU ROO regimes have the same level as Paneuro
    - No de minimis rule in MERCOSUR’s RTA and in most RTAs in Asia and Africa
    - It has exceptions in most regimes, (eg. Textiles and apparel in EU)
ROO around the world: a descriptive mapping
(product-specific and regime-wide ROO)

- regime-wide ROO
  - Cumulation
    - EU Paneuro system of cumulation:
      - full cumulation in EEA
      - distinct from both EU ROO regimes and most ROO regimes in the world
    - EU extra-regional agreement do not form part of the Paneuro system, but allow for extended cumulation
    - various examples of extended cumulation, (eg. US agreement with Israel and Jordan)
ROO around the world: a descriptive mapping
(product-specific and regime-wide ROO)

- regime-wide ROO
  - Certification
    - EU ROO regimes: public certification; limited self-certification
    - NAFTA, other RTAs in the Americas, and Chile-Republic of Korea: self-certification
    - Agreement on LAIA, Andean Community ASEAN etc.: Public (or delegated to a private entity)
Multilateralization and convergence: where, when and how?

- ROO are a necessary element of any preferential trading scheme.
  - It can fuel and further the multilateral trading system
  - In “building block” hypothesis, eliminating preferential ROO will be a stumbling bloc.
  - But ROO has its drawback, esp. the restrictive ROO.

How to tame the ROO tangle? (4 options)
- Bringing MFN tariffs to 0 globally (but unlikely)
- Multilateralization
- Convergence
- Combination of multilateralization and convergence
Multilateralization and convergence: where, when and how?

- Multilateralizing preferential rules of origin
  - Multilateralizing: (definition)
    - the establishment of multilateral disciplines on preferential rules within the WTO framework that set some limits on the restrictiveness and complexity of ROO in preferential agreements.
Multilateralization and convergence: where, when and how?

- Multilateralizing preferential rules of origin

  - Harmonization has its drawback,
    - full harmonization is politically unfeasible
    - Harmonization can be harmful, in that it accentuates restrictiveness
  - So a better option than harmonizing is: multilateralizing

Various ways to conceive of technical process of multilateralizing ROOs (Technical “what” of multilateralization)

- Political “hows“ of process towards multilateralization? – 3 step
- Who should join the multilateralization process?
  -- all WTO members
- What would multilateralizing mean to Article XXIV?
  -- not a revision of the Article, but some independent agreement among WTO members
Multilateralization and convergence: where, when and how?

- **Convergence**
  - Convergence: (definition)
    - unification of multiple overlapping existing RTAs into a single cumulation zone, with a new single list of ROO. (eg. Paneuro system in Europe)
Multilateralization and convergence: where, when and how?

Convergence

Bridging ROO regimens require at least 5 considerations:

- What should be the country and sectoral coverage of a negotiation aimed at a common regime?
- What exact format should the common ROO regime take so as to be agreeable to all countries?
- How would a new common origin regime relate to the existing bi- and plurilateral regimes?
- How would a common regime interface with extra-regional RTAs?
- Who would do the talking?
- What is the role of the multilateral trading system (and WTO) in such a process?
Multilateralization and convergence: where, when and how?

- **Multilateralism-cum-convergence: a “cap-con” strategy**
  - Definition: “capping” ROO at the multilateral level while establishing single ROO regimes at the regional level to permit the formation of larger cumulation zones.
  - Importance of multilateral “cap”: aid in efforts to restrain protectionist tendencies in the negotiation of the new origin regime.
  - Establishing global caps must be set in such a way to avoid reducing the incentive for convergence.
  - Optimal global capping: happen before the convergence processes begin.
Multilateralization and convergence: where, when and how?

- Where are we headed?
  - What is likely in reality?
  - Multilateralization is probably the most likely.
<table>
<thead>
<tr>
<th>Potential scenarios for the ROO world</th>
<th>option</th>
<th>main player</th>
<th>Pros and cons</th>
<th>current likelihood</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nothing changes</td>
<td>Everybody</td>
<td>Pros (or cons?): no negotiation costs beyond those of RTAs; potential de facto broad global dipolar convergence under US and EU ROO models</td>
<td>Medium</td>
<td></td>
</tr>
<tr>
<td>Multilateralization</td>
<td>Global ROO hubs (US, EU, Mexico, Australia, Japan, Chile), plus spokes</td>
<td>Con: potential exacerbation of the spaghetti bowl problem</td>
<td>Low</td>
<td></td>
</tr>
<tr>
<td>Convergence</td>
<td>Each family hub and its spokes</td>
<td>Pros: spaghetti problem is attenuated by global limits on ROOs</td>
<td>Highest</td>
<td></td>
</tr>
<tr>
<td>Cap-and-Con</td>
<td>Main regional ROO hubs</td>
<td>Pros: creation of lasagna from spaghetti; regional cumulatin bowls</td>
<td>Low</td>
<td></td>
</tr>
<tr>
<td>Complete MFN liberalization</td>
<td>All WTO member countries</td>
<td>Pros: flexibility-cum-openness at the regional level; simpler lasagne plates</td>
<td>Lowest</td>
<td></td>
</tr>
<tr>
<td>Cap-and-Con</td>
<td>Main regional ROO hubs</td>
<td>Con: potential straitjacket cap ROOs that discourage convergence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complete MFN liberalization</td>
<td>All WTO member countries</td>
<td>Pros: maximum efficiency</td>
<td></td>
<td></td>
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<tr>
<td>Con: politically improbable in the foreseeable future</td>
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</tbody>
</table>

Pros and cons: Table showing different scenarios for regional trade agreements (ROOs) and their associated advantages and disadvantages. Each scenario is evaluated based on its current likelihood of occurrence.
Conclusion

- Analyze the feasibility, utility and mechanics of paths to global free trade, focusing on RTA rules of origin (several fronts)
  - The standard front of multilateral tariff reductions
  - The gradual opening of preferential blocs via a reduction in the restrictiveness of preferential rules of origin
  - Expansion of cumulation zones of the preferential blocs
  - Some combination of 3 mechanisms

- Discuss policy options for reducing restrictiveness and divergence around the world, and found that such a reduction might be most likely at the regional level

Suggestions:
- Multilateral level: capping ROOs
- Regional level: establish inclusive origin regimes that permit cumulation in larger zones to promote trade among spokes
- Individual RTAs: re-evaluate the appropriateness of ROOs, with an eye to reducing the barriers to the use of 3rd country inputs in the production of originating goods