

To,
All the Members of Plexconcil

Dear Sir / Madam,

Subject : Regarding Questionnaires on Rules of Origin wrt India-EU, India-UK and India-Canada FTA/ETA/ETP negotiations

With reference to above mentioned subject, kindly find enclosed herewith three Questionnaires on Rules of Origin w.r.t India-EU, India-UK and India-Canada FTA/ETA/ETP negotiations.

The Department of Commerce needs to finalize India's stance urgently. Your detailed comments , describing the reasons for your proposal are required in order to defend our stand in the negotiations. Your inputs will be taken up for further discussion.

Therefore, you are requested to go through the same and provide your detailed comments. In order to have an extensive consultation. The "filled Questionnaire" (along with the detailed comments therein) may be sent to bharti@plexconcil.org by 02.08.2021.

With regards,

Bharti Parave
Asst. Director

Plexconcil



Stakeholders' Consultations for India-UK ETP- Rules of Origin Questionnaire¹

Name of the Institution/Organisation/Industry/ Company	Descriptions of Products being exported/imported with their ITC(HS)

1. Wholly Obtained:

- a. Do you have any suggestions on inclusion of any other products to the list of Wholly obtained or produced, which at present is not there in any of the previous agreements of India?

- b. Do you have any suggestions on the wholly obtained products included in UK's agreements?

2. Minimal operations:

- a. Do you have any suggestions on inclusion/exclusion of a particular minimal operations/ procedure, which at present is not there in any of the previous agreements of India?

¹ Note: for any action to be undertaken by the GoI based on your input, adequate justification in support of your recommendation is required. Recommendations made without any adequate justification, shall not be considered. Please use additional sheets where necessary.

- b. Do you have any suggestions on exclusion of a particular minimal operations/procedure, which at present is not there in any of the previous agreements of UK?

3. Product Specific Rules of Origin (PSRs)

- a. Please specify the product specific rules of origin that should be applicable on your product (viz. CC, CTH, CTSH, RVC or CC/CTH/CTSH+RVC , CC/CTH/CTSH or RVC, specific process) along the level of HS code at which it should be applicable (HS 2/4/6- digit). Kindly provide adequate justification for your suggestion.

- *In case of RVC(value addition criteria) please specify the appropriate percentage too(3(h)in the questionnaire may be seen for formula).*

- b. Do you wish to have a sectoral approach in sectors like Chemicals, Textiles and Clothing etc. in terms of Specific Process Test? If yes, why? What in your view should be the formulation of the Specific Process Test(s)? Please specify/elaborate.

- c. Would the inclusion of a chemical reaction rule applicable on products under Chapter 27-40 be acceptable to you? If yes, please provide the specifications of the rules/processes applicable. Kindly provide adequate justification for your suggestion.

- d. If a chemical reaction rule/process is not acceptable, what alternative PSR could be suggested for your product. Also, provide an adequate justification, why chemical reaction rule is not acceptable?

- e. If a chemical reaction rule is not acceptable by you for your product and UK insists on having a chemical reaction rule or any other process, then what would be your preferred alternative rule/process?

- f. What criteria is used by your organisation/industry/company to calculate the value-added content in your products? Please specify the formula and the terms used in the formula, if any.

- g. What is the range of value addition that you will be able to meet? Please provide an adequate justification.

- h. For estimation of Value-added content, India and UK have different formulations in their FTAs. Which formulation would you prefer and why? In case you do not prefer either, do you have any other suggestion. Please provide adequate justification for the same.

- (i) India's formulation² in its existing FTAs based on Free-on-Board (FOB) price

Value addition

$$= \frac{FOB \text{ value of export} - (CIF \text{ value of non originating material} + \text{Value of undetermined origin})}{FOB \text{ value of export}}$$

or

Value addition

$$= \frac{\text{Cost of originating material} + \text{Direct Labour Cost} + \text{Direct Overhead Cost} + \text{Profits}}{FOB \text{ value of export}}$$

- (ii) UK's formulation³ in its existing FTAs based on both Ex-Works (EXW) price and Free-on-Board (FOB) price

² India's formulation is sourced from India-Mauritius CECPA.

³ UK's formulation is sourced from UK-Japan CEPA.

MaxNom: maximum value of non-originating materials expressed as a percentage

RVC: minimum regional value content of a product, expressed as a percentage

VNM: value of non-originating materials used in the production of the product which is its customs value at the time of importation including freight, insurance where appropriate, packing and all other costs incurred in transporting the materials to the importation port in the Party where the producer of the product is located

FOB: the free-on-board price of the product paid or payable to the seller regardless of the mode of shipment, provided that the price includes the value of all the materials used and all other costs incurred in the production of a product and its transportation to the exportation port in the Party, minus any internal taxes which are, or may be, repaid when the product obtained is exported; or

$$MaxNom (\%) = \frac{VNM}{EXW} \times 100$$

or

$$RVC (\%) = \frac{FOB - VNM}{FOB} \times 100$$

4. De Minimis/ Tolerance

- a. Please provide a range of tolerance limit for your product and provide an adequate justification for the same. (You may also suggest any qualifications for de minimis)

5. Cumulation:

- a. In its recent agreements, though UK has bilateral cumulation, however they allow for considering products originating in the European Union, as originating in the Party. Is this acceptable to your sector. If not, please provide an adequate justification for the injury it can pose the particular sector.

6. Certificate of Origin:

- a. Are there any additional criteria you would require in the current formulation?

(ii) if there is no price paid or payable or if the actual price paid does not reflect all costs related to the production of the product which are actually incurred in the production of a product, the value of all the materials used and all other costs incurred in the production of the product in the exporting Party, and its transportation to the exportation port in the Party which:

(A) include selling, general and administrative expenses, as well as profit, that can be reasonably allocated to the product, the costs of freight and insurance; and

(B) exclude any internal taxes of the exporting Party which are, or may be, repaid when the product obtained is exported

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- b. Any existing criteria/field which is not required and should be removed from existing format?

- c. Are there any changes that you would want to suggest in the existing Operational Certification Procedures (OCP) in India's FTAs? Please provide adequate justification for your suggestion.

7. Other

- a. Do you face any problem with respect to infringement of Rules of Origin in the UK market? Please provide details.

- b. Do you face any problem in meeting the Rules of Origin in exporting your products and acquiring the relevant Rules of Origin certification with the given state of digital technology such as e-Platform of DGFT ? Please provide details.

- c. Do you import an input for processing of final product for which you would like to have a PSR for the input as well? Please provide your suggestion along with justification.

Signature: _____

Name: _____

Designation _____

Address: _____

Contact no.: _____

Email Id: _____

Date: _____

Please send the **soft copies** of your **duly signed and filled-in questionnaire within 15 days** to:

1. Centre for Regional Trade, 7th Floor, NAFED House, Siddhartha Enclave, Ring Road, Ashram Chowk, New Delhi-110014 Email: headcrtooffice@crt.org.in
2. With a copy marked to Mr. Abhishek Dev, Director (TPD &RMTR), Department of Commerce, Ministry. Email: abhishek.dev@ias.nic.in



Stakeholders' Consultations for India-EU FTA- Rules of Origin Questionnaire⁴

Name of the Institution/Organisation/Industry/ Company	Descriptions of Products being exported/imported with their ITC(HS)

8. Wholly Obtained:

- c. Do you have any suggestions on inclusion of any other products to the list of Wholly obtained or produced, which at present is not there in any of the previous agreements of India?

- d. Do you have any suggestions on the wholly obtained products included in EU's agreements?

9. Minimal operations:

- c. Do you have any suggestions on inclusion/exclusion of a particular minimal operations/ procedure, which at present is not there in any of the previous agreements of India?

⁴ Note: for any action to be undertaken by the GoI based on your input, adequate justification in support of your recommendation is required. Recommendations made without any adequate justification, shall not be considered. Please use additional sheets where necessary.

- d. Do you have any suggestions on exclusion of a particular minimal operations/ procedure, which at present is not there in any of the previous agreements of EU?

10. Product Specific Rules of Origin (PSRs)

- i. Please specify the product specific rules of origin that should be applicable on your product (viz. CC, CTH, CTSH, RVC or CC/CTH/CTSH +RVC , CC/CTH/CTSH or RVC, specific process) along the level of HS code at which it should be applicable (HS 2/4/6- digit). Kindly provide adequate justification for your suggestion.
- *In case of RVC(value addition criteria) please specify the appropriate percentage too(3(h)in the questionnaire may be seen for formula).*

- j. Do you wish to have a sectoral approach in sectors like Chemicals, Textiles and Clothing etc. in terms of Specific Process Test? If yes, why? What in your view should be the formulation of the Specific Process Test(s)? Please specify/elaborate.

- k. Would the inclusion of a chemical reaction rule applicable on products under Chapter 27-40 be acceptable to you? If yes, please provide the specifications of the rules/processes applicable. Kindly provide adequate justification for your suggestion.

- l. If a chemical reaction rule/process is not acceptable, what alternative PSR could be suggested for your product. Also, provide an adequate justification, why chemical reaction rule is not acceptable?

- m. If a chemical reaction rule is not acceptable by you for your product and EU insists on having a chemical reaction rule or any other process, then what would be your preferred alternative rule/process?

- n. What criteria is used by your organisation/industry/company to calculate the value-added content in your products? Please specify the formula and the terms used in the formula, if any.

- o. What is the range of value addition that you will be able to meet? Please provide an adequate justification.

- p. For estimation of Value-added content, India and EU have different formulations in their FTAs. Which formulation would you prefer and why? In case you do not prefer either, do you have any other suggestion. Please provide adequate justification for the same.

(iii) India's formulation⁵ in its existing FTAs based on Free-on-Board (FOB) price

Value addition

$$= \frac{FOB \text{ value of export} - (CIF \text{ value of non originating material} + \text{Value of undetermined origin})}{FOB \text{ value of export}}$$

or

Value addition

$$= \frac{Cost \text{ of originating material} + Direct Labour Cost + Direct Overhead Cost + Profits}{FOB \text{ value of export}}$$

- (iv) EU's formulation⁶ in its existing FTAs based on both Ex-Works (EXW) price and Free-on-Board (FOB) price

⁵ India's formulation is sourced from India-Mauritius CECPA.

⁶ EU's formulation is sourced from EU-Japan FTA.

MaxNom: maximum value of non-originating materials expressed as a percentage

RVC: minimum regional value content of a product, expressed as a percentage

VNM: value of non-originating materials used in the production of the product which is its customs value at the time of importation including freight, insurance where appropriate, packing and all other costs incurred in transporting the materials to the importation port in the Party where the producer of the product is located

FOB: the free-on-board price of the product paid or payable to the seller regardless of the mode of shipment, provided that the price includes the value of all the materials used and all other costs incurred in the production of a product and its transportation to the exportation port in the Party, minus any internal taxes which are, or may be, repaid when the product obtained is exported; or

(ii) if there is no price paid or payable or if the actual price paid does not reflect all costs related to the production of the product which are actually incurred in the production of a product, the value of all the materials used and all other costs incurred in the production of the product in the exporting Party, and its transportation to the exportation port in the Party which:

(A) include selling, general and administrative expenses, as well as profit, that can be reasonably allocated to the product, the costs of freight and insurance; and

$$MaxNom (\%) = \frac{VNM}{EXW} \times 100$$

or

$$RVC (\%) = \frac{FOB - VNM}{FOB} \times 100$$

11. De Minimis/ Tolerance

- b. Please provide a range of tolerance limit for your product and provide an adequate justification for the same. (You may also suggest any qualifications for de minimis)

12. Cumulation:

- b. In its recent agreements, EU has provisions for both bilateral cumulation and Diagonal Cumulation (Cumulation with Common FTA Partner of both Countries). What kind of Cumulation provision is acceptable to your sector. Please provide an adequate justification for your choice in this regard.

13. Certificate of Origin:

- d. Are there any additional criteria you would require in the current formulation?

- e. Any existing criteria/field which is not required and should be removed from existing format?

(B) exclude any internal taxes of the exporting Party which are, or may be, repaid when the product obtained is exported

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- f. Are there any changes that you would want to suggest in the existing Operational Certification Procedures (OCP) in India's FTAs? Please provide adequate justification for your suggestion.

14. Other

- d. Do you face any problem with respect to infringement of Rules of Origin in the EU? Please provide details (if any).

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- e. Do you face any problem in meeting the Rules of Origin in exporting your products and acquiring the relevant Rules of Origin certification with the given state of digital technology such as e-Platform of DGFT? Please provide details.

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- f. Do you import an input for processing of final product for which you would like to have a PSR for the input as well? Please provide your suggestion along with justification.

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- g. Does your product qualify under benefit in the EU-GSP? If yes are you able to meet the ROO criteria of the EU-GSP? Any problem/issue faced in meeting EU-GSP Origin requirements?

Signature: _____

Name: _____

Designation _____

Address: _____

Contact no.: _____

Email Id: _____

Date: _____

Please send the **soft copies** of your **duly signed and filled-in questionnaire within 15 days** to:

3. Centre for Regional Trade, 7th Floor, NAFED House, Siddhartha Enclave, Ring Road, Ashram Chowk, New Delhi-110014 Email: headcrtoffice@crt.org.in
4. With a copy marked to Mr. Abhishek Dev, Director (TPD &RMTR), Department of Commerce, Ministry. Email: abhishek.dev@ias.nic.in



Stakeholders' Consultations for India-Canada CEPA- Rules of Origin Questionnaire⁷

Name of the Institution/Organisation/Industry/ Company	Descriptions of Products being exported/imported with their ITC(HS)

15. Wholly Obtained:

- e. Do you have any suggestions on inclusion of any other products to the list of Wholly obtained or produced, which at present is not there in any of the previous agreements of India?

- f. Do you have any suggestions on the wholly obtained products included in Canada's agreements?

16. Minimal operations:

- e. Do you have any suggestions on inclusion/exclusion of a particular minimal operations/ procedure, which at present is not there in any of the previous agreements of India?

⁷ Note: for any action to be undertaken by the GoI based on your input, adequate justification in support of your recommendation is required. Recommendations made without any adequate justification, shall not be considered. Please use additional sheets where necessary.

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- f. Do you have any suggestions on exclusion of a particular minimal operations/ procedure, which at present is not there in any of the previous agreements of Canada?

17. Product Specific Rules of Origin (PSRs)

- q. Please specify the product specific rules of origin that should be applicable on your product (viz. CC, CTH, CTSH, RVC or CC/CTH/CTSH +RVC , CC/CTH/CTSH or RVC, specific process) along the level of HS code at which it should be applicable (HS 2/4/6- digit). Kindly provide adequate justification for your suggestion.

- *In case of RVC(value addition criteria) please specify the appropriate percentage too(3(h)in the questionnaire may be seen for formula).*

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- r. Do you wish to have a sectoral approach in sectors like Chemicals, Textiles and Clothing etc. in terms of Specific Process Test? If yes, why? What in your view should be the formulation of the Specific Process Test(s)? Please specify/elaborate.

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- s. Would the inclusion of a chemical reaction rule applicable on products under Chapter 27-40 be acceptable to you? If yes, please provide the specifications of the rules/processes applicable. Kindly provide adequate justification for your suggestion.

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- t. If a chemical reaction rule/process is not acceptable, what alternative PSR could be suggested for your product. Also, provide an adequate justification, why chemical reaction rule is not acceptable?

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- u. If a chemical reaction rule is not acceptable by you for your product and if in the situation Canada insists on having a chemical reaction rule or any other process, then what would be your preferred alternative rule/process?

- v. What criteria is used by your organisation/industry/company to calculate the value-added content in your products? Please specify the formula and the terms used in the formula, if any.

- w. What is the range of value addition that you will be able to meet? Please provide an adequate justification.

- x. For estimation of Value-added content, India and Canada have different formulations in their FTAs. Which formulation would you prefer and why? In case you do not prefer either, do you have any other suggestion. Please provide adequate justification for the same.

(v) India's formulation⁸ in its existing FTAs based on Free-on-Board (FOB) price

Value addition

$$= \frac{\text{FOB value of export} - (\text{CIF value of non originating material} + \text{Value of undetermined origin})}{\text{FOB value of export}}$$

or

Value addition

$$= \frac{\text{Cost of originating material} + \text{Direct Labour Cost} + \text{Direct Overhead Cost} + \text{Profits}}{\text{FOB value of export}}$$

(vi) Canada's formulation⁹ in its existing FTAs based on Transaction Value/Ex-Works price of the Product

⁸ India's formulation is sourced from India-Mauritius CECPA.

⁹ Canada's formulation is sourced from Canada-Korea/Ukraine FTA.

MaxNom: maximum value of non-originating materials expressed as a percentage

RVC: minimum regional value content of a product, expressed as a percentage

VNM: value of non-originating materials used in the production of the product which is its customs value at the time of importation including freight, insurance where appropriate, packing and all other costs incurred in transporting the materials to the importation port in the Party where the producer of the product is located

FOB: the free-on-board price of the product paid or payable to the seller regardless of the mode of shipment, provided that the price includes the value of all the materials used and all other costs incurred in the production of a product and its transportation to the exportation port in the Party, minus any internal taxes which are, or may be, repaid when the product obtained is exported; or

(ii) if there is no price paid or payable or if the actual price paid does not reflect all costs related to the production of the product which are actually incurred in the production of a product, the value of all the materials used and all other costs incurred in the production of the product in the exporting Party, and its transportation to the exportation port in the Party which:

“Except as provided in paragraphs 2 and 3, where Annex 3-A specifies a value test to determine whether a good is originating, the good is originating provided that the value of non-originating materials used in the production of the good does not exceed a given percentage of the transaction value or ex-works price of the good as specified in Annex 3-A.

“**transaction value** means the price actually paid or payable for a good or material with respect to a transaction of the producer of the good, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the WTO Customs Valuation Agreement to include, inter alia, such costs as commissions, production assists, royalties or license fees”

18. De Minimis/ Tolerance

- c. Please provide a range of tolerance limit for your product and provide an adequate justification for the same. (You may also suggest any qualifications for de minimis)

19. Cumulation:

- c. In its recent agreements, Canada has provisions for both bilateral cumulation and Diagonal Cumulation (Cumulation with Common FTA Partner of both Countries). What kind of Cumulation provision is acceptable to your sector. Please provide an adequate justification for your choice in this regard.

20. Certificate of Origin:

- g. Are there any additional criteria you would require in the current formulation?

(A) include selling, general and administrative expenses, as well as profit, that can be reasonably allocated to the product, the costs of freight and insurance; and
(B) exclude any internal taxes of the exporting Party which are, or may be, repaid when the product obtained is exported

- h. Any existing criteria/field which is not required and should be removed from existing format?

- i. Are there any changes that you would want to suggest in the existing Operational Certification Procedures (OCP) in India's FTAs? Please provide adequate justification for your suggestion.

21. Other

- h. Do you face any problem with respect to infringement of Rules of Origin in the Canada? Please provide details (if any).

- i. Do you face any problem in meeting the Rules of Origin in exporting your products and acquiring the relevant Rules of Origin certification with the given state of digital technology such as e-Platform of DGFT? Please provide details.

- j. Do you import an input for processing of final product for which you would like to have a PSR for the input as well? Please provide your suggestion along with justification.

Signature: _____

Name: _____

Designation _____

Address: _____

Contact no.: _____

Email Id: _____

Date: _____

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5. Centre for Regional Trade, 7th Floor, NAFED House, Siddhartha Enclave, Ring Road, Ashram Chowk, New Delhi-110014 Email: headcrtoffice@crt.org.in
6. With a copy marked to Mr. Abhishek Dev, Director (TPD &RMTR), Department of Commerce, Ministry. Email: abhishek.dev@ias.nic.in

