

**Frequently Asked
Questions (FAQs) on
Rules of Origin
(ROO)**



Question 1: What are rules of origin (ROO)?

Response: Rules of Origin are criteria used to determine the country of origin of a product. Normally, this would mean the country where substantial processing for manufacture of the product has occurred. Countries formulate these rules depending upon their policies. However, in the case of free trade agreements (FTAs), these are negotiated between the trading partners.



Question 2: Where are ROOs used for?

Response: ROOs are used to:

- i. Provide tariff (customs duty) concessions in FTAs
- ii. Provide tariff concessions in unilateral preference schemes like the Generalised System of Preferences (GSP) or the Duty Free Quota Free (DFQF).
- iii. Compute trade statistics with bilateral trade flows based on these ROOs
- iv. Implementation of trade remedial measures like anti-dumping, safeguards, countervailing duties by basing the bilateral trade flows on these ROOs
- v. Labelling of product
- vi. Imports for government procurement since there could be specific criteria like non-discrimination for imports from certain countries

Question 3: What are the types of ROOs and the key differences among them?

Response:

ROOs can be both preferential and non-preferential. The former are rules when applied to FTAs or other arrangements where there are tariff concessions. All the remaining ROOs are non preferential.

The key differences in these two types of ROOs are the following:

- i. Non-preferential rules of origin are used for the application of trade policy measures such as computing trade statistics; imposing trade remedial measures like anti-dumping, countervailing and safeguards; labelling of products and government procurement.
- ii. Preferential rules of origin are used to obtain tariff (customs duty) preferences during imports. In a particular FTA, it is applicable only to those products which are eligible for tariff preferences.

Question 4: What are the challenges in ROOs in FTAs?

Response: The key challenges in ROOs are the following:

- i. The preferential ROO applies to both imports and exports. Hence a conservative or strict rules of origin for imports could hamper the ability to export under the FTA.
- ii. There is a threat of diversion of 3rd country products through an FTA partner thereby trying to get tariff concessions.
- iii. Strict enforcement mechanisms including verification could create compliance and cost burdens on exporters. In such cases, the ROO may obviate the very purpose of using these tariff concessions.
- iv. The cost of certification may also be high or could lead to time delays. This would also be a disincentive for exports under the FTA.

Question 5: How are ROOs determined for a good or product?

Response: A good is considered to be an originating good, if it meets one of the following requirements, as specified in the text of the agreement:

- i. the good is wholly obtained (WO) or produced in the territory of one of the parties to the FTA or
- ii. it meets the product specific rule (PSR) for that good

However, in many FTAs and other agreements, there could be other concepts for origin of goods such as:

- iii. Produced entirely (PE): the good is made up entirely of components and materials that qualify in their own right as goods that originate in the FTA region;
- iv. Process Rules



Question 6: What is the WO criteria or rule?

Response: Wholly obtained (WO) goods are those that are entirely sourced and produced within that country. This is the first and the strictest ROO criteria which is looked at. Normally, it applies to agricultural or animal husbandry goods. While these are negotiated between trading partners, a typical set of WO rules that figure in most trade agreements include the following:

- i. plant and plant products grown and harvested within the territory,
- ii. live animals born and raised there,
- iii. products derived from live animals there.
- iv. products obtained through hunting, trapping, fishing, aquaculture, and gathering within the country.
- v. Minerals or naturally occurring substances extracted/taken from soil, water or seabed
- vi. Goods acquired outside territorial waters by factory ships registered and flying its flag
- vii. Waste and scrap from manufacturing process in that country
- viii. Goods produced from any of the goods mentioned in (i) to (vii) above.



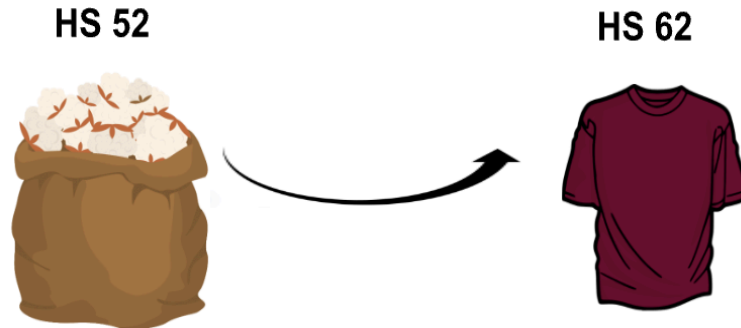
Question 7: What are Product Specific Rules or PSR?

Response: In case a product does not meet the WO criteria, the next set of rules that are looked at to determine its origin are the PSRs. These are rules which include some specific criteria like change in the Harmonised System (HS) classification or CTC from input to final product, value addition or process rules. The rules are negotiated in an FTA for each and every product. The PSRs take into account the level of processing required for a good which is considered sufficient to confer an origin.

Question 8: What is the criteria of change in HS tariff classification (CTC)?

Response: CTC primarily ensures that all the non-originating inputs/ raw materials used are a different HS classification from the final product. This change of HS criteria automatically ensures that there is substantial processing happening in the country despite non-originating inputs being used. CTC can manifest itself in the following forms:

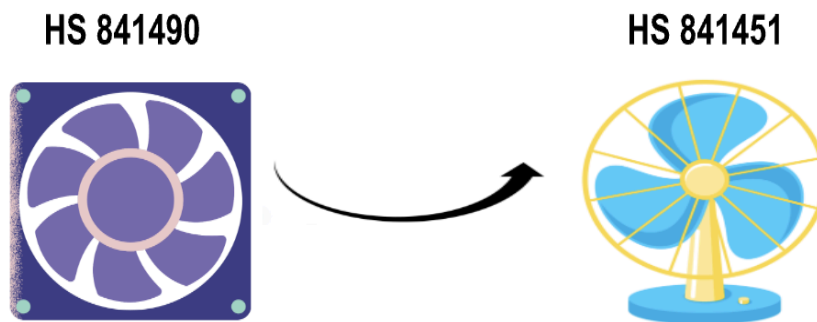
- i. Change in chapter or CC: for example, if shirt (HS 62) is manufactured from non-originating cotton fabric (HS 52), then a CC occurs



- ii. Change in tariff heading (CTH): for example, a motor car (HS 8703) is made from non-originating gearbox (HS 8708)



- iii. Change in tariff sub-heading (CTSH): for example, a fan (HS 841451) is made from non-originating parts (HS 841490)



Question 9: How is value addition determined in a PSR?

Response: the value addition criteria is a threshold, which the exporter has to meet or exceed for the product to be conferred origin. For example if the value addition criteria is 30%, the exporter would need to achieve atleast 30% in the country of origin. In most of the FTAs, there are primarily two ways to determine the value addition namely the build-up method and the build-down method. A brief on these two methods is as under:

- i. **Build-up method:** Under this method, all the originating content that goes into a good like value of originating material, overhead costs, labour costs and other originating heads are added (or built up) and then divided by the value of export. The formula is:

$$\text{(value of originating material + labour + overheads + other originating content) / export value}$$

- ii. **Build-down method:** Under this method, the value of non-originating material is subtracted from the value of exports to determine the originating content and then it is divided by the export value. The formula is

$$\text{(value of export - value of non-originating material) / value of export.}$$

Normally, in FTAs, flexibility is given to exporters to choose either of these methods.

Question 10: What are process rules?

Response: Process rules confer origin on a product based on the occurrence of any specific process in the country of export. These processes could include chemical processes like chemical reaction, distillation, purification, isomer separation, mixing and blending etc. For some products like steel, the process rule could be melt and pour i.e. first being produced in the furnace in a liquid state and then poured into its first solid stage. There could be other process rules like electrolytic and thermal treatment. When the PSR is a process rule, one could only need to ensure that the process has occurred in the parties.

Question 11: What are minimal or insufficient operations?

Response: In most of the FTAs, apart from the PSRs, it is important to ensure that there are atleast some operations beyond the minimal which an exporter would have to meet so that the ROO criteria is met. This is to ensure that there is some processing happening in the country of export. However, the clause does not list what are these operations beyond the minimal. Even if one meets the PSR, it is important to have operations beyond the minimal to be conferred the origin. A typical examples of minimal operations in an FTA are the following:

- i. Preservation of products (drying, freezing, chilling salting, SO2 etc)
- ii. Removal of dust, sifting, screening, sorting, classifying, matching, washing, painting, cutting
- iii. Simple packing
- iv. Affixing of marks, labels, signs
- v. Simple mixing, assembly, disassembly
- vi. Slaughter
- vii. Mere dilution with water/ substance



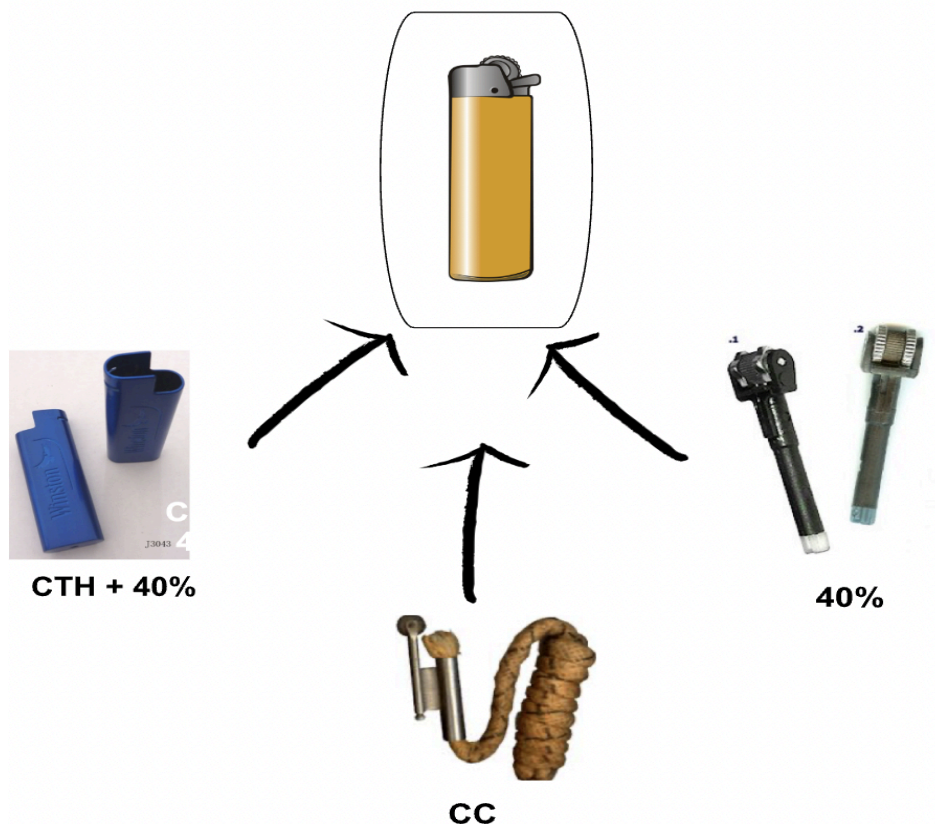
Question 12: What is the concept of produced entirely (PE)?

Response: The concept of PE has been used in many trade agreements of developed countries. It is defined as a good being originating if all the inputs used for producing in the territory of a country are by themselves originating. Thus it obviates the need for checking whether the other criteria of PSRs are met or not.

Some of the cases where PE is used are the following:

- i. All inputs/raw materials are WO
- ii. All inputs/raw materials meet the PSR
- iii. All inputs/raw materials either meet the WO or PSR
- iv. All inputs/raw materials are PE
- v. All inputs/raw materials are either WO or PSR or PE

Example:

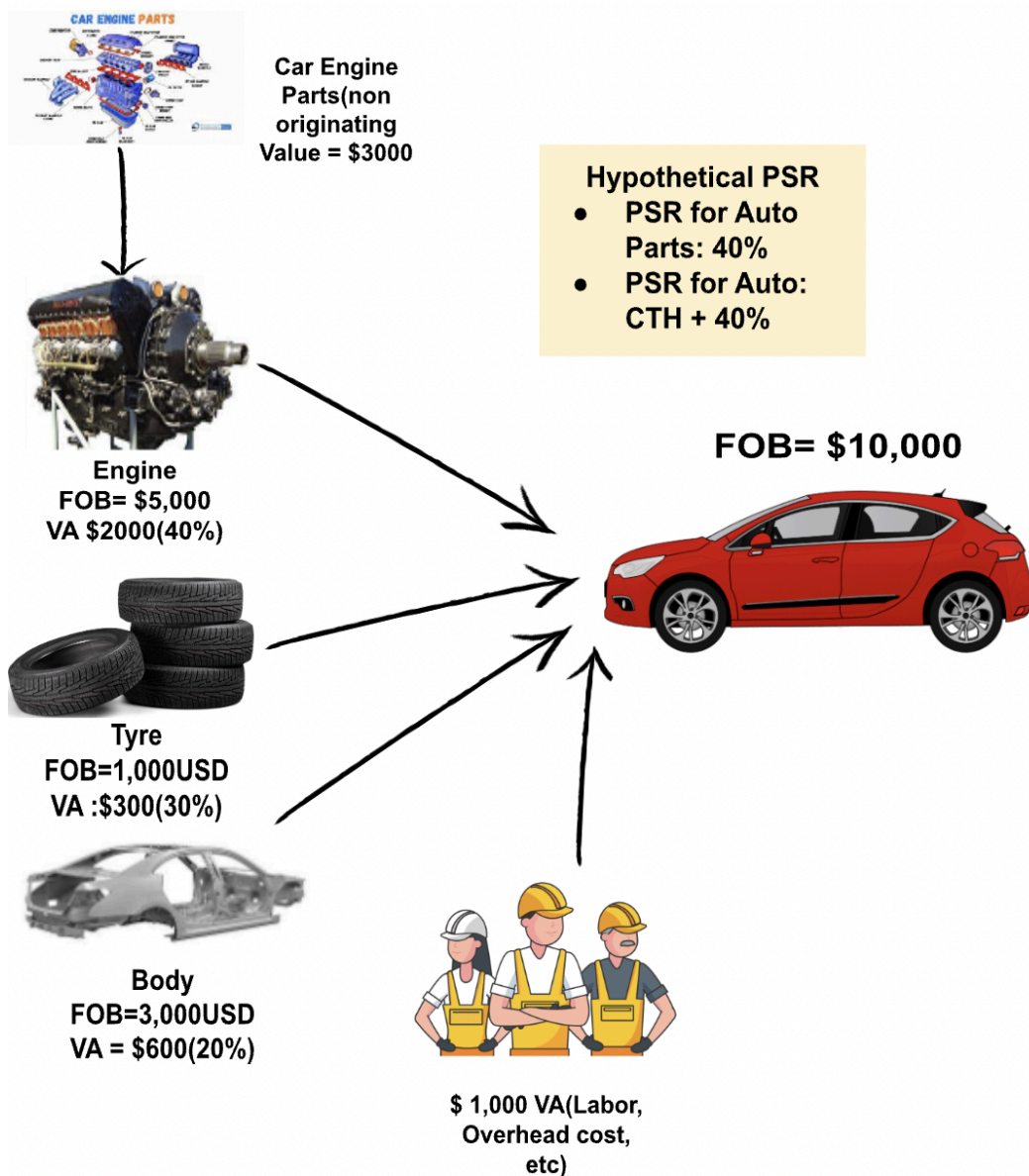


The example illustrates the production of a cigarette lighter entirely according to the criteria in rules of origin using PSR (Product-Specific Rules) inputs. The final product, a colorful cigarette lighter (PE), is manufactured from several key components: plastic casings (PSR of CTH+ 40%), the flint and wick assembly (PSR of CC), and a spark wheel (PSR of 40%). Since each of these inputs meets the individual PSRs and is originating, the final product i.e. cigarette lighter is automatically considered originating under the PE criteria .

Question 13: What is the Roll-up or Absorption criteria?

Response: The Roll-up or Absorption principle allows materials that have acquired origin by meeting the origin criteria (normally the PSR) to be considered originating when used as input in a subsequent transformation. The term comes from the fact that the non-originating materials are getting “rolled up or absorbed” as originating in the subsequent process. Hence it facilitates in achieving the PSR of the final product. An example is of an auto engine which is made from non-originating parts and achieves the PSR. In such as case, the engine as a whole is taken as originating in the next stage of processing for making a car..

Example:



Question 14: What is Cumulation?

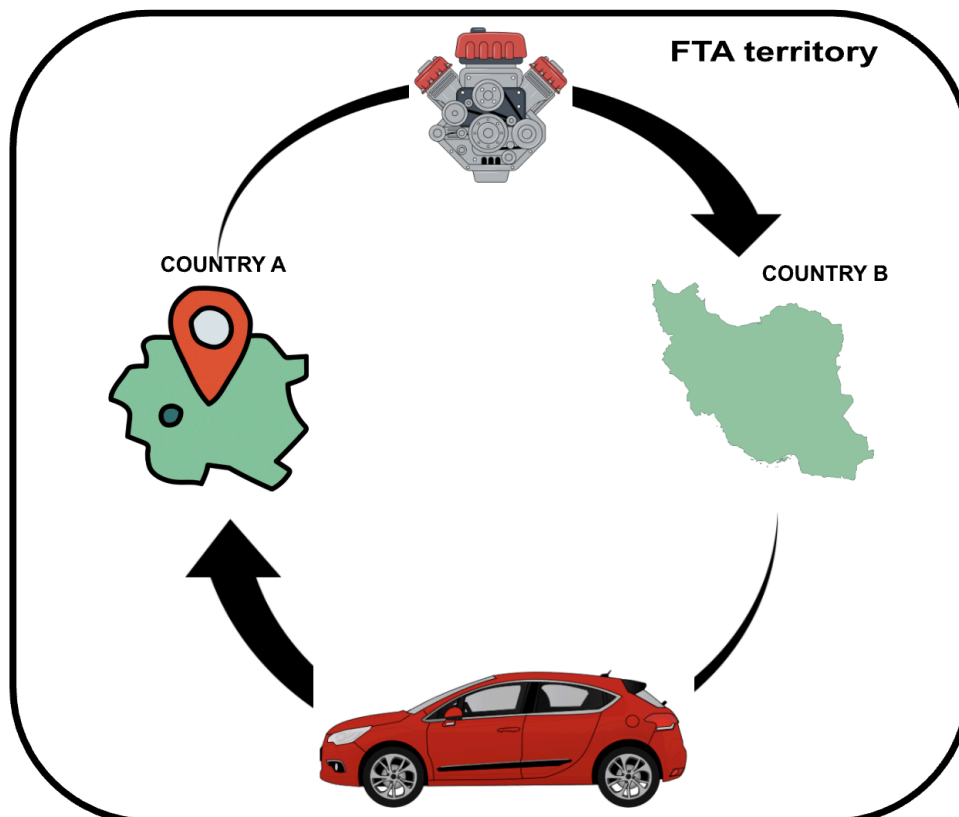
Response: Cumulation is a provision which allows considering goods obtained in or processing taking place in one FTA member country as originating in another. Cumulation enables production sharing within the FTA territory. It is one of the ways to provide producers with greater flexibility in terms of sourcing inputs and parts from other countries.

Question 15: What are the types of cumulations?

Response: There are three main types of cumulation: bilateral, diagonal and full. The key difference between the three types is the amount of parties involved and what types of inputs (originating or non-originating) can be used as the basis for cumulation.

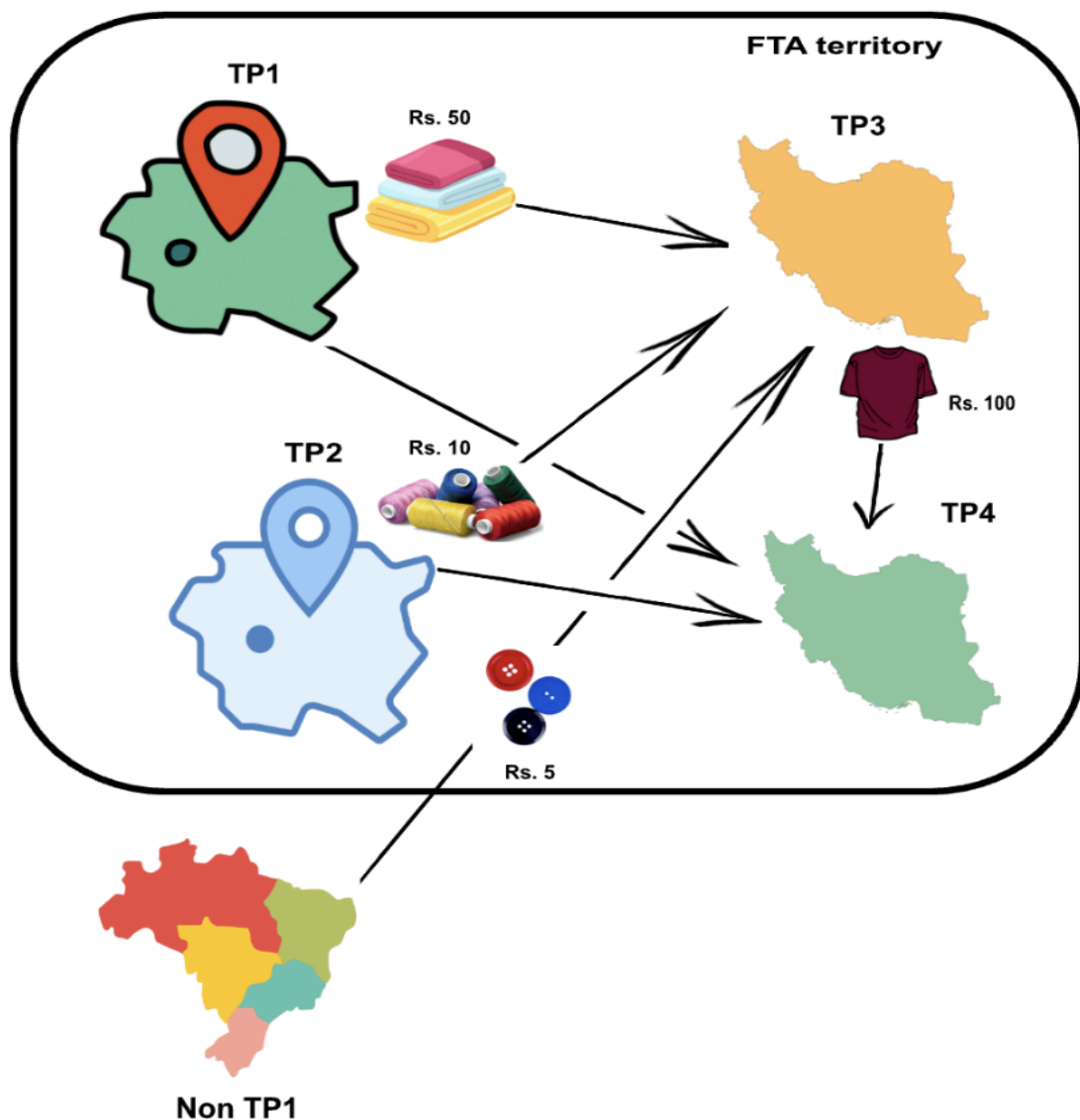
- 1. Bilateral cumulation:** It is used in bilateral trade agreements and allows each member of the agreement to use products originating in the other without the final good losing its originating status. Goods produced from originating materials in one FTA country and further processed in the other can then be exported back to the first country under preferential treatment.

Example: Imagine Country A and Country B have a trade deal. If Country A makes car engines and sends them to Country B, Country B can use those engines to build cars. Then, these cars can be sold back to Country A with special trade benefits because the car includes parts from both countries in the agreement.



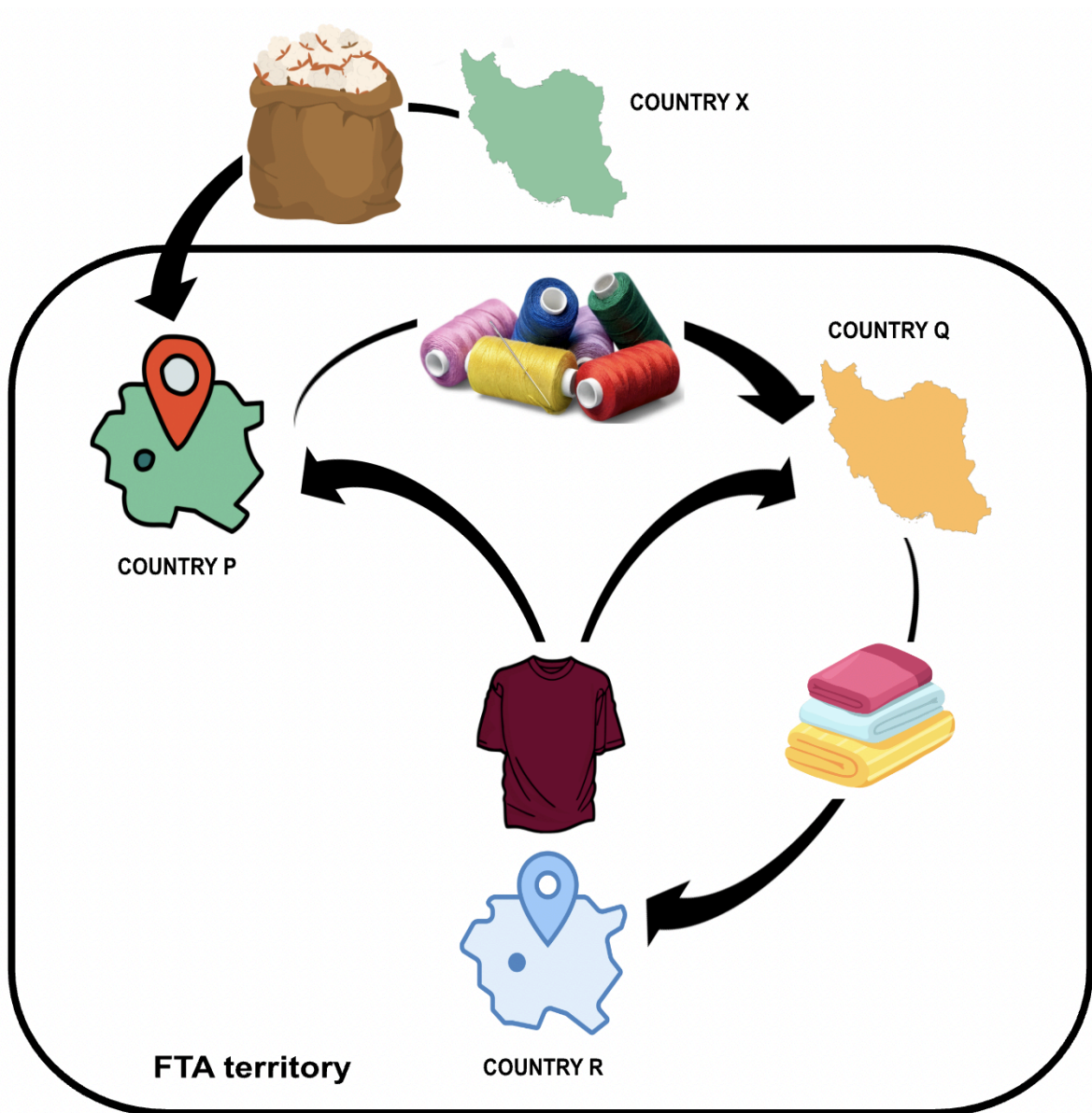
2. **Diagonal Cumulation:** Diagonal cumulation makes it possible to use input materials originating in different free trade parties, provided the two partners of the trade agreements have an agreement with the countries from which these inputs are being sourced.

Example: Diagonal cumulation occurs in shirt manufacturing among four countries with mutual Free Trade Agreements (FTAs). The inputs include Rs. 50 worth of fabric from Trading Partner 1 (TP1), Rs. 10 worth of thread from Trading Partner 2 (TP2), and Rs. 5 worth of buttons from a non-originating source (Non TP1). The finished shirt, produced in Trading Partner 3 (TP3), has a value of Rs. 100. Without diagonal cumulation, the non-originating materials total Rs. 65, resulting in a value addition of only 35% $(100-65)/100$ $(100 - 65) / 100$. However, with diagonal cumulation, only the Rs. 5 buttons are non-originating, leading to a value addition of 95% $(100-5)/100$ $(100 - 5) / 100$. Diagonal cumulation allows materials from countries within the trade agreement to count as originating, thus significantly increasing the value addition percentage and meeting the origin criteria for preferential treatment.



3. **Full Cumulation:** This allows cumulation to be applied between any number of countries to goods not originating in the FTA member country and processed in the FTA territory. Full cumulation allows cumulating origin-counting processing added across the FTA territory even when the initial input is not originating. Full cumulation is the most flexible type of cumulation.

Example: Imagine there are several countries—Countries P, Q, and R—that have a trade agreement. If raw cotton is imported from a non-FTA country and turned into thread in Country P, then woven into fabric in Country Q, and finally sewn into shirts in Country R, these shirts can be sold in all the countries with trade benefits. This is because each step of the production adds value within the trade agreement countries.



Question 16: What are sets in ROO?

Response: Sets refer to collections of goods that are packaged and sold together as a single unit, but may consist of items classified under different tariff headings. Determining the origin of these sets can be more complex than individual items because the components might originate from different countries. Typically, all components of a set must originate from the qualifying region. Typically, all components of a set must originate from the qualifying region. However, as an exception, if some components are non-originating and do not exceed a specific % of the export value, it is considered as originating. For example in a hand tool set or a cosmetics, one of components in the set may be < the threshold % of value, thereby being covered under this concept.



Question 17: What is De Minimis in Rules of Origin?

Response: De-minimis is a flexibility provided for meeting the ROO when a good does not qualify as an originating good only because some non-originating material of little value fails to meet the CTC or in some cases even the WO criteria. However, this is applicable only if the non-originating material in question is no more than a threshold X% of the value of the good.

Example: In the context of preservatives in fish products, it refers to the threshold below which the presence of certain preservatives is considered insignificant and therefore not subject to stringent regulatory requirements or labelling. Hence, non originating preservatives can be used in a marine product provided it is below the de-minimis threshold.

