

# The Impact of industrial Rules of Origin on Increasing Tensions and Disputes in the Mechanics of International Trade Between Economic Partners\_Cases Studies

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**Abstract:-** The RofO's play a pivotal role in managing commercial and customs operations as they are considered the main pillar on which a country depends to determine the Origin of products, especially when we find the participation of several countries in the manufacture of a single product, this complexity in the RofO's, contributed to the rise of tensions between countries, and this is what we observe through our Study of a set of disputes that have been legally filed within the WTO, as we see that these tensions and conflicts are related to most industrial sectors.

**Keywords:-** Rules of Origin; Tension; International Trade; WTO, Economic partners, Disputes

## I. INTRODUCTION

In recent times, international trade has significantly developed, especially with the increasing number of FTA's between the states, which gave the RofO's a very important part they are being. The main element determining product origin is applying the customs tariff to them. The RofO's associated with international trade is the complex set of technical and legal standards in their overall structure, and this is what made their application very difficult on the ground, thereby raising high tensions between countries due to RofO's. In contrast, most of the files submitted to the WTO were due to countries' different points of view regarding applying these rules.

The lowest central problem is: *Where is the role of the industrial rules of Origin in raising global trade tensions?*

To answer this problem, we will try at the outset to talk about the theoretical side of the RofO's, before we study most of the legal and commercial cases that have been brought to the WTO because of the RofO's.

## II. THEORETICAL FRAMEWORK

### A. Origin – concept

Origin is an essential factor for customs taxation. This is the element that, when combined with the tariff species, will determine the rate of customs duties at perception. Indeed, the customs tariff enacts different tariff rates for the same commodity depending on the country from which it originates (Melin, 2019). Therefore, there are various reasons for knowing a product's origins, including the following: First, we can cite the preferential tariffs. Trade policy countries and particular regional trade arrangements are sometimes discriminatory. Knowing the Origin of a product makes distinctions between imports, grants preferential treatment, and compliance with special trade arrangements, such as those in the regional trade area. In the second place, it is necessary to mention commercial promotion. RofO's promote exports of goods from countries that have established a long tradition of excellence in particular sectors. In these cases, countries become very protective, and trade names and brands firmly resist their dilution, opportunistic use, or counterfeiting by other countries to promote their sales. (Olivier Cadot et al., 2006; Antoni Estevadeordal & Suominen, 2005; Melin, 2019)

### B. RofO's in global trade

Several definitions may apply to RofO's in international exchanges. The RofO's can be explained in several terms. From the legal side (Krishna, 2005) RofO's are the approved criteria for determining the Origin of products. Its importance lies in that commercial fees and restrictions mainly depend on the source of imported products. Furthermore, the RofO's are often classified as the reason for not taking advantage of FTA's, because these RofO's liberalize trade exchanges in FTA's by specifying the product's Origin (Y, 2007).

RofO's are used by states and regional organizations to determine the economic nationality of the product's Origin entering or leaving their customs territory. They are extremely important in international exchange because they condition the customs tariff and any trade policy measures that apply to traded goods. (Inama, 2009)

With the great industrial field development, many countries may participate in the final product manufacturing process, but only one country of Origin must exist. This is consistent with the International Division of Productive Processes (IDPP) theory.

Steps	Industrial processes	Economic Partners
A	Cotton grown	Mexico
B	Fabric weaved	Vietnam
C	Dyeing	Germany
D	Printing	Paraguay
E	Yarn	Belarus
F	Buttons	Thailand
G	Cut to parts	Morocco
H	Assembly	India
I	License	USA

Table 1:- Manufacturing of products (T & C)

Following outsourcing manufacturing processes, it is possible to note that the notion of Origin has gained importance and complexity. Today, much of the world's production of goods is carried out in stages, using materials and components produced in different countries. Mobility of goods and technological development in the era of openness economic developments have twists and turns on the principles of their territorial attachment, RofO's are now a catalyst for global value chains (A. Estevadeordal & Suominen, 2005).

RoO are the specific provisions used primarily to determine whether imported goods benefit from reduced tariff rates under FTA preferential arrangements; why are RoO important? The main reason is to prevent trade diversion, whereby exports from non-beneficiary countries are redirected to an eligible country to avoid duties. (Brenton & Manchin, 2002; Hakobyan, 2015; Mizuo, 2019)

*C. Impact of RofO's on global exchanges*

Regularly, by referring to the literature on world trade, we find that a group of scientific studies have dealt with the effects of the RofO's on global trade ;The Study of the RofO's has been a very important topic for a group of researchers and specialists for several years, as the interest of scientific research has increased in this problem that is a fundamental pillar within the international trade system, among the studies we find the following : (Andersson, 2016; Augier et al., 2005; C. Y. Baldwin & Clark, 2005; R. Baldwin & Lopez-Gonzalez, 2015; Bamber et al., 2013; Bjuggren, C., & Lundström, 2012; Brenton, 2011; Oliver Cadot et al., 2002; Olivier Cadot & de Melo, 2008; Olivier Cadot & Ing, 2014, 2015; CNUCED, 2019; Crook, 2017; David Palmeter, 1987; de Melo & Portugal-Perez, 2014; Deardorff, 2018; Doan & Xing, 2018;

Esho, 2015; Antoni Estevadeordal & Suominen, 2005; Felbermayr et al., 2019; Gretton & Gali, 2005; Harrison & Weigel, 1993; Hayakawa & Laksanapanyakul, 2017; Hoekman & Inama, 2018; Inama, 2009; Jinji & Mizoguchi, 2016; Khiati & Dinar, 2022; Kim et al., 2013; Krishna & Kruger, 1995; Recherche et al., 2007; Varavithya & Esichaikul, 2007; WCO, 2014, 2017, 2020; Y, 2007)

In the international trade literature, empirical data support these hypotheses. Estevadeordal & Suominen use a gravity model of 155 countries that spans 21 years, and they came to several conclusions. Firstly, the restrictive RofO's concerning finished products in the five sectors studied! Chemicals, Vehicles, T&C, machinery, TV & Radio encourage product exchange intermediaries between the parties to the agreements; this implies that the RofO's may cause diversions towards the area covered by a FTA's trade, flows of trade in inputs from the rest of the world. Secondly, RofO's regime allows flexibility in applying RofO's by-products like accumulation, rebates and self-certification! Facilitate international trade flows (A. Estevadeordal & Suominen, 2005; Antoni Estevadeordal & Suominen, 2004). Other studies of a single diet have highlighted similar results (Oliver Cadot et al., 2002). On NAFTA, the RofO's has harmed the whole of Mexican exports to the USA. The RofO's also affected the behavior of companies and their investment decisions. Indeed, they can affect the choice of inputs used for producing the final goods and, therefore, production costs and profits. They can then be considered by traders as a factor of production in itself, to be taken into account in the same way as availability and cost of inputs, costs of labor, infrastructure, etc., in another study on NAFTA but concerning the computerized multisectoral general equilibrium model relating to three countries finds that rules of Origin distort trade flows.

The process of harmonizing RofO's between countries across FTA's plays some function in reducing the costs yielded through the bowl of spaghetti (SBP). In particular, the harmonization to change in the rule of CTC or real VAC will play a relatively positive role in not seriously discouraging firms' use of multiple FTA's schemes. But on the other hand, the harmonization of CTC or CTC & VAC hinders firms from using those schemes. (Hayakawa & Laksanapanyakul, 2017),The table below highlight the characteristics of industrial rules of Origin (Khiati & Dinar, 2022)

Industrial RofO's	Characteristics of RofO's
Rigorous RofO's	<ul style="list-style-type: none"> <li>• RofO's protectionist effects</li> <li>• Can negate the benefits of FTA's</li> <li>• influence investment decisions</li> </ul>
Flexible RofO's	<ul style="list-style-type: none"> <li>• Facilitate the process of international trade</li> <li>• Benefiting and developing FTA's</li> <li>• Create dynamic trade exchanges</li> </ul>

Table 2:- interaction between RofO's & GVC's;

*D. WTO & RofO's*

The RofO's agreement requires the members of the WTO to ensure that these rules are implemented transparently and clearly and that these rules are avoided to set technical obstacles to international exchanges. In general, the RofO's agreement aims to create harmonious rules among all the member states of the WTO, excluding some preferential and special associations in international trade. For example, these countries establish free trade agreements. They have complete freedom to set very specific RofO's. (WTO, 2020), usually, The RofO's Agreement aims, through its legal character, to create harmonious RofO's among member states, which will positively affect global trade between countries.

**III. METHODOLOGY**

This scientific Study's central objective is to understand how the RofO's contributes to creating tensions in global trade. This Study will focus on the methodology of qualitative research. Through a set of interviews and field observations, this Study will focus on the methodology of descriptive and analytical research for a set of documents and files related to the law. International trade is organized in disputes related mainly to the RofO's (WTO, 2021).

<b>Industrial RofO's &amp; Tensions</b>		
<b>Dispute Settlement</b>	<b>Conflict Sates</b>	<b>The cause of tensions and conflicts</b>
<p><b>DS111:</b>  <i>USA — Tariff Rate Quota for Imports of Groundnuts</i></p>	<p><i>Complainant: Argentina</i> <i>Respondent: USA</i> <i>Date: December 1997</i></p>	<p>In this DS, Argentina requested consultations with the USA regarding the alleged commercial detriment to Argentina caused by the US's restrictive interpretation of the tariff rate quota negotiated by the two countries during the Uruguay Round.</p>
<p><b>DS85 :</b>  <i>USA—Measures Affecting Textiles &amp; Apparel Products'</i></p>	<p><i>Complainant: European Communities</i>  <i>Respondent: USA</i>  <i>Date : May 1997,</i></p>	<p>This request is for modifications to US RofO's for textiles and apparel (T&amp;A) products. The EC claims that the US has changed its RofOs for T&amp;A products, affecting EC fabrics, scarves, and other flat textile products exported to the US. As a result, the EC claims that EC products are no longer recognized in the US as being of EC origin, and they no longer have free access to the US market.</p>
<p><b>DS342:</b>  <i>China — Auto Parts</i></p>	<p><i>Complainant: Country Canada</i>  <i>Respondent: Country China</i>  <i>Date : April 2006</i>  <i>Third Parties:</i> Argentina; Japan; Mexico; Taipei; Australia; Brazil; China; Thailand;</p>	<p>Canada, in this case, requested consultations with China regarding China's imposition of measures adversely affecting Canadian exports of auto parts to China.</p>
<p><b>DS243: US—Textiles ROFO</b></p>	<p><i>Complainant: India</i> <i>Respondent : USA</i> <i>Date : January 2002</i> <i>Third Parties:</i> Bangladesh; China; European Communities; Pakistan; Philippine</p>	<p>India requested consultations with the USA regarding its ROFO applicable to imports of T&amp;C products as set out in Section 334 of the Uruguay Round Agreements Act, Section 405 of the Trade and Development Act of 2000, and the customs regulations implementing these provisions. The Republic of India argued that, before the abovementioned Section 334, ROFO applicable to T&amp;C products was the "substantial transformation" rule. India considered that Section 334 changed the system by identifying specific processing operations that would confer Origin to the various T&amp;C products. According to India, these changes appear to have been made to protect the US T&amp;C industry from import competition.</p>

<p><b>DS386:</b></p> <p><i>US — COOL</i></p>	<p><i>Complainant : Mexico Respondent : USA</i></p> <p><i>Date : December 2008 Third Parties :</i></p> <p><i>India; Argentina; Australia; Brazil; Canada; China; Colombia; EU; Guatemala; Japan; Korea, Republic of; New Zealand; Peru; Chinese Taipei</i></p>	<p>In this case, the country of Mexico requested consultations with the country of the USA concerning the mandatory country of origin labeling (COOL) provisions in the Agricultural Marketing Act of 1946,</p> <p>According to Mexico, in the case of certain products, the determination of their nationality deviates considerably from the international country of origin labeling standards, a situation which has not been justified as necessary to fulfill a legitimate objective</p>
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Table 3:- Disputes over RofO's in international trade

#### IV. RESULTS & DISCUSSIONS

Through our Study of these cases, we note that the RofO's have contributed significantly to the rise of tensions between different countries of the world. Habitually, tensions related to the RofO's affect all industrial sectors, especially the textile, clothing, and automobile sectors. In this regard, when disputes arise, countries turn to the WTO To find a realistic solution to all commercial disputes through the Special Dispute Authority, which gathers experts in international trade law. However, in general, the problem of the RofO's remains very complex within the global trade framework.

It should also be noted that Article 2 of the WTO Agreement on RofO's, which is legally related to «Disciplines during the Transition Period," we note that it is the cause of all commercial tensions and disputes. All the cases that we have studied, whether those related to the automobile industry or those associated with the T&C industry, are It is related to the second article of the international convention on the RofO's

- Whatever the technical degree of restrictiveness agreed upon, the RofO's should be designed and applied in such a way as to minimize obstacles and uncertainties faced by companies, which will have the effect of reducing the cost of their respect. This imperative implies drawing up simple, transparent, predictable rules suitable to facilitate trade for businesses and traders (CNUCED, 2019)
- The search for greater convergence of RofO's could simplify the task of companies, which otherwise would have to comply with different technical and legal requirements. Moreover, given the diversity of FTA's in the world, in this wake, the harmonization of RofO's could significantly reduce overall transaction costs.
- The introduction of criteria such as a CTC and percentage of value-added could give heterogeneous companies the flexibility to choose the compliance strategy that best suits them commercially
- Thus, the Memorandum of Understanding would need to be revised to make the WTO judge competent to deal with complaints of violation of FTA's, even if those complaints are directed at or originate from non-members of the WTO. In addition, openness to modern technology, such as Blockchain & Artificial Intelligence, to know most of the stages of product production will contribute significantly to determining the exact Origin of the product and will

make the facility rules of great importance. (Desiderio, 2019; Macedo, 2018)

- Openness to modern technology, such as Blockchain & Artificial Intelligence, to know most of the stages of product production will contribute significantly to determining the exact Origin of the product and will make the facility rules of great importance. (Desiderio, 2019; Macedo, 2018)
- With the development of the GVC, it has become noticed that the RofO's are considered to be of great importance in global commercial exchanges, as well as the need to control well in the management of product industries, determine the manufacturing country accurately, and overcome differences between countries in this regard (Azme, 2015).
- Since ancient times, customs have been responsible for the various processes associated with border control and simplification of state trade operations. Therefore there must be cooperation between the World Trade Organization and the World Customs Organization to develop common laws at the international level. Also, these laws must affect customs RofO's as an important mechanism in the international economy (Grainger, 2008; Widdowson, 2007).
- Using modern technology to simplify international trade procedures, especially regarding customs, increases the efficiency of complex administrative work (Gareth Lewis, 2009).

#### V. CONCLUSION

The RofO's plays a vital role within WTO, as they contribute to distinguishing between various products regarding free trade agreements. Still, the difficulty and complexity of these rules contributed to the emergence of multiple conflicts between countries. In every dispute, legal files are raised to the WTO broadcast in it and find a solution either amicably or by following the legal rule. Due to tensions within the international trade system between countries, the automobile and textile sector is the most important.

In this research paper, we have tried to highlight the importance of the RofO's in global trade and talk in detail about the reason for the occurrence of differences and disputes between most countries. The research remains on problem rules, as it is considered among the most important problems in global trade related to the manufacture of products.

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