

# Negotiating FTAs: the importance of active business involvement

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# Benefits of Free Trade Agreements

- Open markets abroad
- Contribute to diversify export markets
- Make foreign inputs “cheaper”
- Establish business contacts
- Formal and informal venues to settle “problems”




# Benefits of Free Trade Agreements

- In order to **maximize** benefits from trade agreements, business voice needs to be heard:
  - During negotiations
  - When discussing possible future negotiations or renegotiation of existing agreements





# Benefits of Free Trade Agreements

- Obtain preferences
  - e.g. tariff reduction / elimination (for trade in goods)
- Who can use preferences?
  - Only those goods which qualify under the applicable **rules of origin**
- Tariff reduction / elimination not enough: If rule not fulfilled  not possible to export using preference = pay duty





# Rules of Origin

- Like a “passport”: which goods have the “origin” of the countries parties to the Agreement?
- Principle: *goods must be produced **entirely** in the country of exportation, or **have undergone sufficient working or processing there***
- For each product rules of origin tell you what this means in practice
- Can be tricky : shame to loose preference (= pay duty) because rules not respected !



# Rules of Origin

- The ability to source inputs to production at the **cheapest rates** can be influenced by both **rules of origin** and **the level of cumulation applied**
- “Concrete value“ of FTA also depend on this!
- *Bilateral* and *diagonal* cumulation

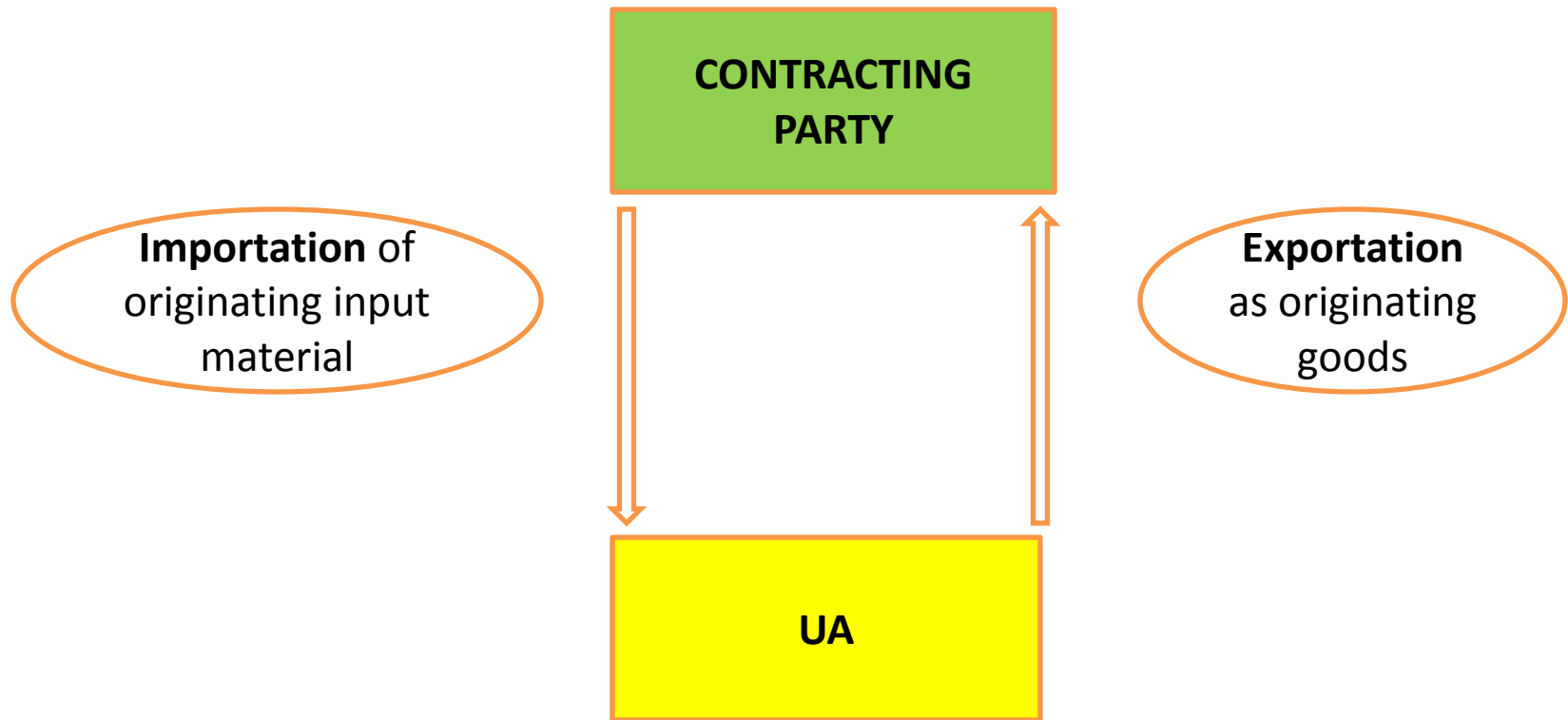




# Bilateral Cumulation

- **Bilateral cumulation** (e.g. UA-EU, UA-EFTA)
  - Allow for imported input materials to be treated as equivalent to input materials of UA origin, if they originate in the contracting party to which the finished goods are exported
  - **Double incentive** to use inputs from FTA partner country:
    - Respect rules of origin and benefit from preference = lower / zero duty **when exporting**
    - Lower/zero duty **when purchasing inputs**

# Bilateral Cumulation



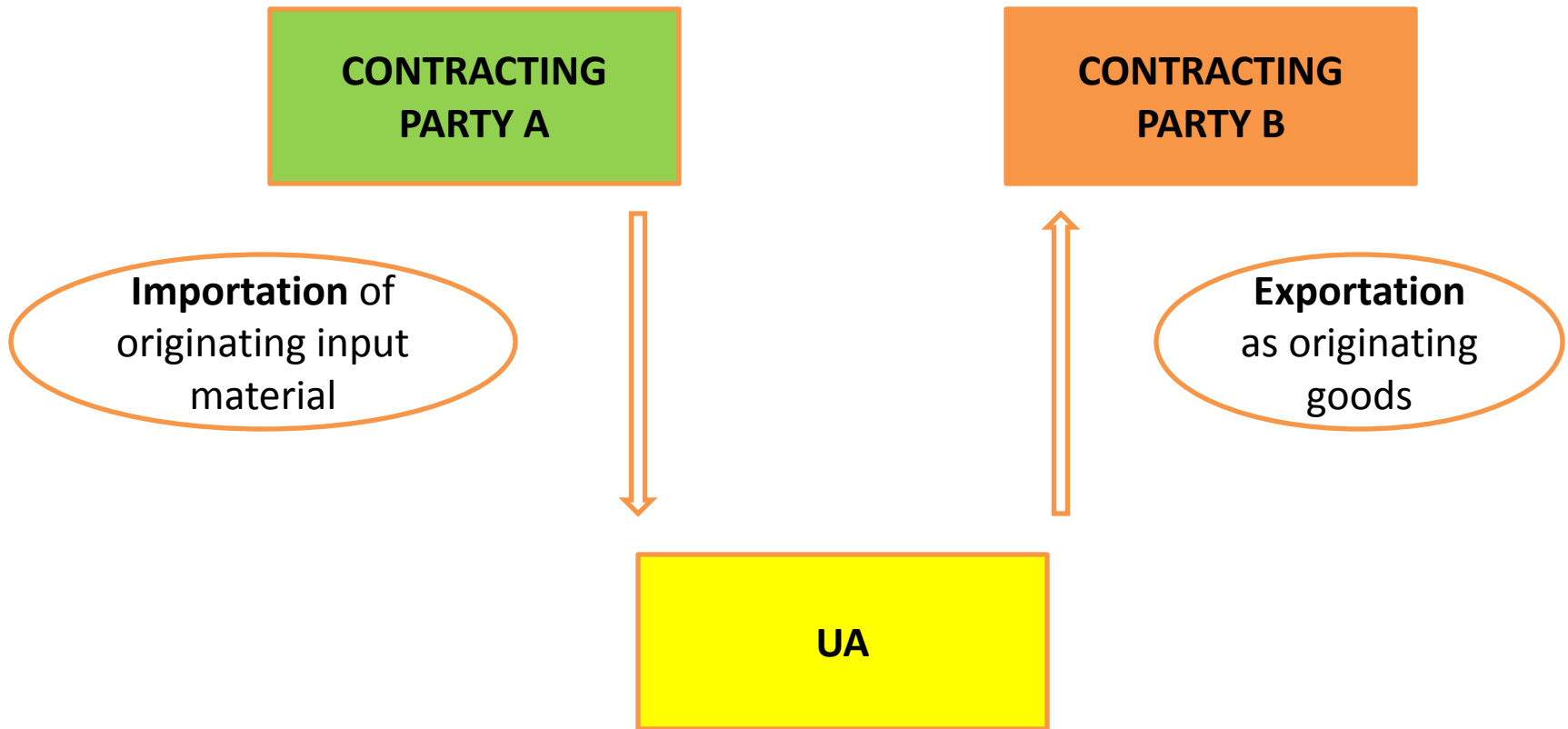


# Diagonal Cumulation

- Potentially more interesting: **diagonal** cumulation
- Use input materials originating in ***different free trade parties***, provided that all parties taking part in the process have free trade agreements with one another using the same rules of origin



# Diagonal Cumulation





# Pan-Euro-Med Convention

- Regional Convention conceived for cumulation
  - **Based on network of bilateral free trade agreements** between the EU, EFTA States, Faroe Islands, Turkey and Mediterranean countries participating in the Barcelona process
  - **Identical rules of origin (PEM protocol on rules of origin)** annexed to each bilateral free trade agreement (*variable geometry*)
- **DCFTA** offers to Ukraine possibility to **join** Pan-Euro-Med Convention
- **Greater access to EU and (in due course) other partner countries markets + increased flexibility in sourcing inputs (cheaper suppliers outside of UA and EU)**



# Beyond Trade in Goods

- Agreements increasingly about other “things”
- Some examples:
  - Trade in services and investment
  - Government procurement
- Preferences / benefits in these areas?





# Trade in Services and Investment

- Legally enforceable market access rights and non-discrimination
  - E.g. opening branches, subsidiaries, acquisition of existing companies
  - Ensure that operations can be carried out in the foreign markets without discrimination (level playing field)
- Less discretion left to regulators, for instance in license application process
- Legal rights in case of expropriation, movement of capitals, residence of personnel in the partner country (similar to bilateral investment treaties)





# Government Procurement

- Size of procurement markets
- WTO rules optional (mainly OECD countries)
- Through FTAs, UA companies have legal rights to participate in procurements over a certain threshold by entities at central and sub-central level, as well as utilities sector purchases, **on equal footing with domestic firms**
- Access to domestic review (appeal)





# Business Community Inputs

- Does the country's free trade agenda support the needs of the business community ?
- Help establishing and steering agenda: ***provide inputs***
  - **Informed** : know what is going on and what is in the pipeline
  - **Comprehensive** : offensive and defensive interests
  - **Precise** : e.g. specific level of concessions and exact content of product specific rules of origin
  - **Constant** : views should be made known before, during and after negotiations

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