



Getting Rid of the *Sophie's Choice* Between American Farmers and American Factory Workers

In response to the U.S. effort to shore up the manufacturing base, our trading partners are targeting agricultural exports for retaliation. While there is, appropriately, much consternation about the potentially harmful effects of current trade policy on American agricultural interests, there has been comparatively little sympathy for manufacturing workers who have seen their jobs offshored not solely due to natural comparative advantage, but due to [interventionist policies](#) by foreign governments.

The glib view is that this division is simply a function of each sector's comparative competitiveness. But it isn't so. We have a [Farm Bill](#), but no Manufacturing Bill, for example. In fact, in the run up to what many expected to be a Congressional vote on the Trans-Pacific Partnership (which includes such low-wage manufacturing countries as Vietnam and Malaysia), funding to retrain manufacturing workers was, perversely, [slashed](#).

Beyond that, there's a secret buried in our trade agreements: they reinforce these divisions by providing meaningful protection to agricultural sectors, while giving too much away on manufacturing.

Let's look at the TPP, for example. Some of the principal proponents of TPP were, and are, [agricultural producers](#). They are, understandably, eager to increase exports to traditionally restricted markets such as Japan. Manufacturers, on the other hand, [expressed serious concerns](#) over the potentially detrimental effects of TPP on the U.S. manufacturing base.

The reasons for this have nothing to do with competitiveness. They have to do with the rules of the agreement itself.

Rules of origin are complex, and arcane, and talking about them is a solid cure for insomnia. But they are where the rubber meets the road, and trade pundits' aversion to wrestling with them is one of the reasons so few people understand how our trade agreements function in the real world, as opposed to the sterile safety of the Econ 101 Lab.

The purpose of rules of origin is ensure that the benefits of the agreement flow to the parties to the agreement. If the United States and Korea have decided to remove their tariffs on trade between them, then the benefits should flow to those parties, not to free-riding third countries. This is even more important now that labor and environmental rules are, on a bipartisan basis, considered a mandatory part of any new trade agreement. If two parties agree not to suppress wages to create an artificial comparative advantage, should a third party with no such commitment be allowed to benefit from the agreement? That makes little sense in the real world.

Some purists will tell us that efficiency will be maximized if we allow as much content from third parties as possible. Is efficiency more important than disincentivizing the [Rana Plazas](#) of the world?

The agriculture rules in TPP do a very good job of making sure the benefits of the agreement flow to the parties, and not third countries. The most striking example, and the easiest to understand, is what's known as the [de minimis exception](#).¹ The rules of origin set out how much content must come from

¹ Article 3.11.

within the region, vs. outside the region. The *de minimis* exception says fine, but whatever those rules provide, you can have as much 10% content coming from outside the region. Except that there's an exception to the exception.² In general, this 10% rule does not apply to:

- Milk
- Cream
- Yogurt
- Whey
- Butter
- Cheese
- Fruits or vegetables for certain juices
- Fats and oils used to make certain vegetable oil, such as soybean oil

Let's take a look at that in the context of what the [actual content rules](#) are. Cheese is a good one. The rule is inscrutable Tradespeak, but don't worry, we'll translate:

A change to a good of heading 04.06 from any other chapter, except from dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids.

Heading 04.06 is cheese. [Cheese is classified in chapter 4](#) (the "04" of 04.06.) This rule is saying that your cheese originates even if you use ingredients from outside the TPP region, as long as those ingredients aren't classified in the same chapter as the cheese itself. Guess what's classified in the same chapter as cheese? Milk, cream, butter, whey.... Ok, fine. Maybe you want to use some kind of processed dairy product from outside the region to make your cheese. Nope. That's what the "except from dairy preparations of subheading 1901.90" clause frustrates.

Normally you'd be able to use the 10% exception to sneak some non-TPP milk, cream, or processed milk or cream product into your cheese. No again: as discussed above, the *de minimis* exception specifically doesn't apply to non-processed cheese. (In fairness, there's a footnote with an exception to the exception (welcome to trade agreements) that says if you really want to use 10% non-originating milk powder to make TPP milk powder, then you can use that milk powder to make cheese.)³

Even agricultural products that aren't on the you-can't-use-*de-minimis* list benefit from strong rules. Soybeans, for example. This is the Tradespeak rule:

A change to a good of heading 12.01 through 12.07 from any other chapter.

Soybeans are classified in heading 12.01. Guess what else is classified in heading 12.01? Soybean seeds. So essentially this rule provides that *both* the seeds *and* the soybeans have to originate in the TPP region in order to get preferential treatment. Soybean seeds from China? Nope, your soybeans don't originate in the region, and they don't get duty preferences.

² Annex 3-C.

³ Footnote 7 to Chapter 3.

That said, unlike dairy, neither soybean seeds nor soybeans are excluded from the 10% *de minimis* rule. So you effectively have a 90% content requirement.

Now let's look at autos, where the rules of origin captured the attention of the President's team when he was on the campaign trail. [NAFTA currently requires 62.5% North American content. TPP dropped that number to 45%.](#) It's even lower for motorcycles: 35%. Guess where the other 55% is coming from? China, among other places. Countries that can hardly be considered up to TPP's labor and environmental standards.

To summarize, you've got pretty close to a 100% content requirement for cheese, a 90% requirement for soybeans, a 45% content requirement for autos, and a 35% requirement for motorcycles.

Why have we done such a good job of making sure the benefits of trade flow to the agricultural sector, and such a poor job of making sure they flow to factory workers? And note that the benefits flow to the agricultural sector – [which doesn't necessarily mean the benefits are flowing to the iconographic farmers](#) used to market these agreements.

The answer is not to be glib about the pain farmers may feel if the tariffs do end up hurting them, any more than it was ok to be glib about the pain manufacturing workers have felt over the past few decades.

The answer is to reconceive our trade policy – indeed our national economic policy -- so that we aren't setting up a zero-sum game between the two sectors. In other words, to establish an economic policy with the goal of providing equitable rules for *all* our workers.