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## **Legal and Institutional Mechanisms to Support a Self-Certification Regime**

Submitted by: Australia



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# Legal and Institutional Mechanisms to Support a Self-Certification Regime

October 2010

1



## Free Trade Agreements

- Australia-Chile Free Trade Agreement
- Singapore-Australia Free Trade Agreement
- Australia – New Zealand Closer Economic Relations Trade Agreement

2



## Self-certification in Australia

- Certification of origin and self-assessed declarations of origin are treated the same.
- Preference claims must align with the relevant Agreement.

3



## Regulatory philosophy

- When clients comply with customs-related laws, the need for intervention is minimised.
- Customs and Border Protection has a direct interest in improving the compliance levels of the importing and exporting community.

4



## Assurance of Compliance

- Assurance is derived by undertaking a sustainable program of appropriate differentiated risk treatments.
- Level of non compliance is assessed through targeted activities.

5



## Targeted activities

- Administering a high quality and robust licensing regime
- Targeted interventions in specific transactions real time and post transaction activities
- Testing a representative sample of import/export declarations/lines/FOB
- Using analytical research to monitor the pattern of entity transactions
- Leverage exercises to target multiple entities or sectors
- Saturation exercises to provide a snapshot of level of risk

6



## Powers

- The Australian Customs Act contains a number of different powers that allow Customs and Border Protection officers to carry out compliance activities to:
  - Verify if a person is complying with a customs-related law; or
  - Assess the correctness of information communicated to Customs and Border Protection.

7



## Powers

- Some of these include:
  - Powers to monitor and audit
  - Power to ask questions
  - Power to keep records
  - Power to require records

8



## Sanctions

- The Customs Act also provides officers with a number of options in terms of responding to non-compliance.
- Officers can pursue criminal sanctions through the courts, issue infringement notices, warning letters and education.
- The response by Customs and Border Protection to non-compliant activity is determined by the extent and nature of the non-compliance.

9



## Infringement Notice Scheme

- A customs officer is empowered to give notice alleging the offence to a suspect providing that the suspect may pay a specified pecuniary penalty to avoid prosecution.
- Justified by the efficiency and cost savings they provide to enforcement agencies and as a low key means for a potential offender to atone for wrong doing.

10



## Further information

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