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Technical Features and Models

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Technical Features & Models

**APEC Workshop:
Self Certification of Origin
Manila 10-11 February 2011**



NEW ZEALAND
CUSTOMS SERVICE
TE MANA ARAI O AOTEAROA

PROTECTING NEW ZEALAND'S BORDER

[New Zealand Government](#)

Good morning colleagues, I have been tasked with providing an overview of the 'Technical Features of Self-Certification and presentation of different self-certification models (ASEAN, and models from APEC economies)'.

I built this presentation around details from the internet of the FTAs within the APEC region – of which I have found 37.

I can speak with some familiarity on the nine FTAs New Zealand is party to; and have scanned the rest to identify what I understand you seek by way the 'technical features' of self-certification.

» Technical Features

- Similarities & differences
- Operating features

A number of the 'technical features' of origin certification within these 37 FTAs are common to both third-party certification and self-declaration.

However, shifting to a self-declaration approach does require a re-focussing of customs' approaches.

Similarities

Technical features for applying a self-certification approach to imports are essentially the same as 3rd-party certification – the onus remains on the importer to evidence preference qualification.

From these 37 FTAs, it can be seen that the ‘technical features’ of origin certification are essentially the same – regardless of which certification approach is applied.

From Customs’ perspective (as the collector of tariff-revenue at the border), the principal role of ensuring that preference is only given to qualifying imports remains unchanged.

Customs legislation, invariably, places the burden on the importer to satisfy Customs that their goods qualify for preferential entry.

The form that evidence takes is what may change between third-party and self-certification.

Audit and verification routines are also fairly similar under both approaches.

Differences:

- » the form of evidence available to support the importer's claim has shifted from a 3rd-party certified document to one prepared by the exporter / producer
- » the opportunity to validate preference through an intermediate body (the 3rd-party certifier) no longer exists.

The principle difference between third-party and self-certification is the form of evidence the importer holds or presents to evidence preference qualification.

Different models to exporter-declared preference exist.

Both being issued by the entity most familiar with the product and its preference qualification, one model (self-certification) presents a certificate format similar to that employed under the third-party approach.

Another model, self-declaration, is a further simplification and is more appropriate to modern business practice.

Both of the options reduce the financial and resource costs to exporters in obtaining third-party issued certificates.

Shifting to self-certification also removes the opportunity to verify preference with the issuing body – ahead of approaching the exporter / supplier / manufacturer. Removing that element in the verification trail should not cause insurmountable problems.

Operating features – need to be negotiated into relevant FTAs

Various models exist:

- » Self-declaration – on the invoice / commercial documents, by the exporter / producer. The declaration is all that is required by Customs.
- » Self-declaration or self-certification – an options approach selected by the exporter / producer; Customs accepts either format.
- » Self-certification – under this approach, the certificate is the required form of evidence (held by the importer from the exporter / producer).

Eighteen of the 37 FTAs surveyed provide for self-declaration or self-certification by the exporter / producer / manufacturer as the principle means of evidencing preference. These provisions have been specifically negotiated into those agreements.

In some of the FTAs providing for self-declaration, a declaration format is suggested or the minimum elements to appear in the declaration are identified, e.g. – the rule by which the goods are said to qualify (wholly obtained, CTC, RVC – state percentage).

None of the FTAs using self-declaration require the importer to present the declaration at time of importation. However, the importer may use the declaration or other form of evidence if / when preference is queried by Customs.

Several agreements provide for the exporter to use either self-declaration or self-certification to evidence preference qualification and support the importer's claim. The formats of the declaration / certification may be agreed between the parties, and the format of the certificate is a close match with the third-party model. Under this exporter's option approach, the importing Customs cannot demand one form of evidence over the other.

A few FTAs require the exporter to complete a certificate of origin (in an agreed format) to support the importer's claim. As with the above options, this CoO does not need to be presented at importation – but may be offered as evidence when queried by Customs.

Note – even under a third-party certification approach, there is often agreement to declaration of origin by the exporter, e.g. – for low value consignments or goods covered by origin rulings.

Other features to consider:

- » Audit / verification routines are similar – approach the importer then direct to the exporter / producer (rather than via a 3rd-party certifier).
- » Importers should only be required to present evidence where Customs challenges preference.
- » Self-declaration / self-certification should be available to all exporters – until they have been shown to have miss-declared preference.

A self-declaration / self-certification approach introduces some other elements that need to be considered.

Removing the issuing body as an intermediary between the exporter and the importer takes away the opportunity for Customs to test preference qualification with that intermediary – by the importing Customs or by the exporting Customs on the other Party's behalf. Removing this option does not diminish the importing Party's right to be satisfied that preference is justified. Customs can still go direct to the exporter / producer (possibly with the assistance of the exporting Party).

None of the FTAs using self-declaration / self-certification require the importer to present that evidence at each and every importation. In shifting away from third-party certification to self-declared qualification, you may wish to review your **[requirements] processes** around claiming preference at importation.

None of these FTAs constrain which exporters can self-certify origin. However, all 37 FTAs encourage the use of risk management as a means to identify those exporters having previously miss-declared origin – and requiring closer examination on future imports.



Different certification models

- Third-party certification
- Self-certification
- Self-declaration

As mentioned previously, I found 37 FTAs currently in place between APEC economies.

Of these, I have categorised their approaches to certifying origin into three categories:

- third-party certification
- self-certification
- self-declaration

There are at least 37 FTAs in the APEC region; with several certification models:

- » Third-party certification – **19** (ASEAN, ASEAN/Au/NZ, ASEAN-Cn, ASEAN/Jp, ASEAN/Kr, Au/Th, Chile/Cn, Chile/Jp, Cn/NZ, HK/Cn, Jp/My, Jp/Mx, Jp/Ph, Jp/Sg, Jp/Th, Kr/Sg, NZ/HK, Peru/Th and Sg/Cn).
- » Self-certification – **10** (Au/Chile, Au/Sg, Ca/Chile, Ca/Peru, Chile/USA, Chile/Kr, NAFTA, NZ/Sg, Peru/Sg and TPSEPA).
- » Self-declaration – **8** (Au/NZ, Au/USA, Ca/NZ, Sg/USA, My/NZ, NZ/Th, Peru/USA and Kr/USA*).

In the FTA group using 'third-party certification' there are **19** FTAs. The most recent of these **[FTA]** is the agreement between Hong Kong and New Zealand, which entered into force on 1 January this year. While I have listed this in the third-party certification group, that requirement only relates to apparel and only for south-bound trade.

Ten agreements utilise self-certification – alone or with the option of self-declaration.

There are **eight** agreements between APEC economies allowing for self-declaration as the suggested form of evidencing origin by the exporter / producer to support the importers claim.

Observations drawn from the certification approaches in these FTAs:

- » Third-party certification is generally employed in FTAs where one or some of the Parties have paper-based entry processing systems and /or systems that require paper-based preference certification.
- » Self-certification / declaration tends to be employed in FTAs where all Parties actively use electronic entry processing (which does not support hardcopy certification), have efficient targeting / auditing regimes and high levels of trader compliance.

None of the 37 FTAs in this summary use an 'approved exporter' certification scheme.

Reading through these 37 FTAs leads me to characterising their approaches to evidencing origin as

- Third-party certification is a traditional approach generally used where some of the Parties still have a reliance on paper-based entry processing systems.
- The self-certification / self-declaration approach is more often used in economies with robust risk management programmes, are big users of electronic entry processing and tend to have high levels of trader compliance.

None of the 37 FTAs I surveyed appear to use an 'approved exporter' approach to third-party certification. Developments of this possible option are awaited with interest.