



Australian Peak Shippers
Association Inc. (APSA)

27 December 2017

Department of Foreign Affairs and Trade
R.G Casey Building
John McEwen Crescent
BARTON ACT 0221
AUSTRALIA

By email: asean.fta@dfat.gov.au

Dear Sir/Madam

**General Review of the ASEAN-Australia-New Zealand FTA
Submission by Freight and Trade Alliance and the Australian Peak Shippers Association**

1. Summary

Freight and Trade Alliance (**FTA**) and the Australian Peak Shippers Association (**APSA**) welcome the opportunity to provide this submission in relation to the General Review of the ASEAN-Australia-New Zealand Free Trade Agreement (**AEAN FTA**). FTA's recommendations are summarised as follows:

1. allow self-certification of the origin of ASEAN FTA originating goods;
2. remove the requirement that certification documentation include the product number or brand details of the goods;
3. an increase in the threshold under which a certificate of origin does not have to be provided;
4. removal of the restrictions on the issuing of retrospective certificates of origin;
5. clarification of the circumstances under which back-to-back certificates of origin can be issued;
6. removal of the requirement that indirect shipment be justified for geographical, economic or logistical reasons.

These recommendations are further detailed in sections 3 and 4 below.

2. About FTA & APSA

Freight & Trade Alliance (FTA) is Australia's leading representative body for the international supply chain sector bringing together importers, customs brokers, freight forwarders and logistics service providers.

The Australian Peak Shippers Association (APSA) is the peak body as designated by the Federal Minister of Infrastructure and Transport performing a vital role in protecting Australia's export supply chain.

Together FTA and APSA form an influential advocacy alliance ensuring that members are at the forefront of all emerging supply chain issues through our responsive operational support, professional development training, industry updates, commercial services and corporate events.

Further detail, including the FTA and APSA membership directory, is available at www.FTAlliance.com.au

3. Certificates of origin

FTA considers that the use of the ASEAN FTA could be greatly increased if the rules around certification of the origin of goods was improved. In particular, FTA believes that the requirement to obtain paper certificates of origin from a certified body is inefficient.

Below FTA makes recommendations as to how the certification process could be improved.

3.1. Self-Certification

FTA is of the view that the ASEAN FTA should be amended to permit self-certification of the origin of goods by manufacturers and exporters. The benefits of self-certification include:

- potentially decreased costs;
- removal of the need to deal with a third party issuer;
- more speedy issuing of origin documents;
- greater ability to correct minor errors and reissue documents;
- more accessible to companies.

FTA appreciates that there are a variety of methods of self-certification that could be adopted. FTA believes that a method that is easiest for customs brokers and customs authorities to review will be most effective. To this end, FTA considers that a standard form declaration of origin will be effective.

Another method of self-certification is to include origin information on the commercial invoice. FTA is not adverse to this approach. However, it is important to ensure that the invoice include the minimum data requirements necessary for a customs broker in the importing country to determine whether the goods meet the rules of origin.

If this approach is adopted, FTA recommends that an education campaign be implemented to ensure that the origin documentation used is sufficiently clear. We note that self-certification is becoming the norm for modern FTAs. Where an exporter has a choice of FTAs, the ASEAN FTA is at risk of being overlooked by reason of not permitting self-certification.

3.2. Content of origin document

The ASEAN FTA prescribes the minimum data requirements for certificates of origin. A goods description is required. This is necessary and important. However, the goods description requirement extends not just to a description of the goods, but also requires a product number and brand name "if applicable". There is no guidance as to when a product number and/or brand name is applicable.

It is view of FTA / APSA that a brand name or product number should only be applicable where it is reasonable necessary to identify the goods the subject of the certificate of origin. On most occasions, the reference to the commercial documents will be sufficient to link the goods the subject of the consignment to the certificate of origin.

We are not aware of instances where a failure to include the product number/brand name of the goods has resulted in the certificate of origin being rejected. However, this remains a risk while the ASEAN FTA designates these details as mandatory data requires.

FTA / APSA recommend that the requirement of a goods description remain, but the requirement to include the product number/brand name be removed.

3.3. Certificate of origin threshold

The ASEAN FTA sets out that if the consignment has a value of US\$200 or less, the importer is not required to produce a Certificate of Origin (**No COO Threshold**). It is still a requirement that the goods meet the relevant rule of origin.

To increase the use of the ASEAN FTA in respect of low value consignments, it is recommended that the No COO Threshold be increased. We note that other FTA's of which Australia is a party sets a No COO Threshold of AU\$1,000.

3.4. Retrospective certificates of origin

A retrospective certificate of origin can only be issued where a certificate of origin was not issued within 3 days of export due to involuntary error or omissions or other valid causes. There does not seem to be any reason to impose these restrictions. FTA / APSA submits that issuing authorities should have the power to issue retrospective certificates of origin any time it can be shown that the goods meet the rules of origin.

Further, it currently stands that a retrospective certificate of origin can only be issued within 12 months of shipment. FTA / APSA recommend that this time period be extended to allow for circumstances where an exporter or importer has inadvertently not used the ASEAN FTA for an extended period of time.

Additionally, if self-certification is permitted, it should be expressly set out that self-certified documents can also be retrospectively issued.

3.5. Back to back certificates of origin

FTA / APSA members have reported difficulty with using the ASEAN FTA in circumstances where the goods originate in one party to the ASEAN FTA and then after export, undergo a minor procedure in a second ASEAN FTA member country.

The ASEAN FTA does allow for back-to-back certificates of origin. However, the issuing authority of the second country can only issue a back to back certificate of origin where the goods do not undergo any further processing in the second country, except for repacking or logistics activities such as unloading, storing or other operation necessary to preserve the goods.

This does not seem to give an ASEAN FTA member country any better standing than a country that is not party to the ASEAN FTA.

FTA / APSA members have expressed concern with whether a good will qualify for the ASEAN FTA in circumstances where it satisfies the rules of origin for one country, say Malaysia, and is then sent to a distribution centre in Singapore where Australian specific labels are attached. Such an activity may go beyond "repacking" for the purpose of obtaining a back-to-back certificate of origin. However, by reasons of article 7 of Chapter 3 of the ASEAN FTA, affixing of labels is not an activity which on its own will qualify a good as meeting the rules of origin.

Under this scenario, the good neither qualifies for a back-to-back certificate of origin or as a Singaporean originating good.

FTA / APSA recommends that the ASEAN FTA be clarified to make clear that where a good already has ASEAN originating status, minimal operations and processes in another member (such as set out in article 7 of Chapter 3 of the ASEAN FTA) will not result in the good losing its originating status.

4. Indirect shipment

The ASEAN FTA sets out circumstances in which a consignment passing through a non-Party will retain its originating status. One of the requirements is that the transit entry is justified for geographical, economic or logistical reasons.

This restriction does not seem to have any policy basis. Further, it does not seem to be enforced in any manner. Despite not being enforced, the restriction does create uncertainty where the transit shipment does not have an obvious geographical, economic or logistical reason.

FTA / APSA recommend that the restriction be removed.



FTA / APSA would welcome the opportunity to discuss any of the above recommendations with you.

FTA / APSA have received support from Hunt & Hunt Lawyers in engaging with members and in preparation of this submission.

Our initial point of contact is Russell Wiese, Principal Hunt & Hunt Lawyers – contact 03 8602 9231 RWiese@huntvic.com.au

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