

# TRADE POLICY ANALYSIS

## No. 13

TOPIC: TRADE AGREEMENTS



# Hybrid model of proof of origin in the new MERCOSUR Origin Regime: industry priorities

The MERCOSUR Origin Regime (ROM) was adopted at the 62nd Summit of Heads of State of MERCOSUR and Associated States on July 4, 2023 in Puerto Iguazú, Argentina.

The new ROM was updated based on international best practices to modernize and simplify the rules of origin within the trading bloc, making it an essential tool to promote greater productive integration.

An important update of the new ROM was the introduction of the hybrid model of proof of origin, which offers exporting companies from MERCOSUR member countries the flexibility to choose the model that best suits their reality. In practice, the hybrid model provides for the coexistence

## Hybrid model of proof of origin



Self-certification by exporting or importing companies



Issuance of a certificate of origin by the government or entities authorized by the government of the exporting country

of two models of proof of origin to be recognized by the member countries of a trade agreement: self-certification by exporting or importing companies; and the issuance of a certificate of origin by the government or entities authorized by the government of the exporting country.

## Overview of self-certification of origin

The declaration of origin by self-certification can be made in two ways: by a self-issued certificate of origin or a written declaration attached to an export or import document, such as a commercial invoice, delivery note,

commercial contract or any other document containing information about the goods and the production process.

The origin regime may establish a self-certification model or require only essential information. In the case of a written declaration, it may use a sentence predefined by the origin

regime and/or require the inclusion of minimum information about the goods and the production process in the export or import document. This also applies to the self-issued certificate of origin, which may have a form established for completing the information or simply an indication of the minimum information that must be provided.

The origin regime of the trade agreement must also specify whether the written declaration that the goods meet the origin requirements or the self-issued certificate of origin must be issued by the exporter or importer. In the case of self-certification, there are a number of ways in which the exporter or importer can issue the proof of origin (see Table 1). It should be highlighted that the issuer, be it the exporter or the importer, is responsible for supporting the self-certification with the necessary documentation in case the relevant authorities carry out an origin check.

Figure 1: Self-certification model in accordance with the agreement between the European Union and Canada<sup>1</sup>

### Annex 2 – Text of the origin Declaration

The origin declaration, the text of which is given below, must be completed in accordance with the footnotes. However, the footnotes do not have to be reproduced.

(Period: from \_\_\_\_\_ to \_\_\_\_\_ (1))

The exporter of the products covered by this document (customs authorisation No ...(2)) declares that, except where otherwise clearly indicated, these products are of ...(3) preferential origin.

.....(4)  
(Place and date)

.....(5)  
(Signature and printed name of the exporter)

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**(1)** When the origin declaration is completed for multiple shipments of identical originating products within the meaning of Article 19.5, indicate the period of time for which the origin declaration will apply. The period of time must not exceed 12 months. All importations of the product must occur within the period indicated. Where a period of time is not applicable, the field can be left blank.

**(2)** For EU exporters: When the origin declaration is completed by an approved or registered exporter the exporter's customs authorisation or registration number must be included. A customs authorisation number is required only if the exporter is an approved exporter. When the origin declaration is not completed by an approved or registered exporter, the words in brackets must be omitted or the space left blank.  
For Canadian exporters: The exporter's Business Number assigned by the Government of Canada must be included. Where the exporter has not been assigned a business number, the field may be left blank.

**(3)** "Canada/EU" means products qualifying as originating under the rules of origin of the Canada-European Union Comprehensive Economic and Trade Agreement. When the origin declaration relates, in whole or in part, to products originating in Ceuta and Melilla, the exporter must clearly indicate the symbol "CM".

**(4)** These indications may be omitted if the information is contained on the document itself.

**(5)** Article 19.3 provides an exception to the requirement of the exporter's signature. Where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

**Spanish version**

(Período comprendido entre el \_\_\_\_\_ y el \_\_\_\_\_ (1))

El exportador de los productos incluidos en el presente documento (autorización aduanera nº ...(2)) declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial. ...(3).

Source: European Union-Canada Trade Agreement.

1 International Trade Centre (ITC). ITC Model Certificate of Origin for Goods Exported under Preferential Trade Agreements. Available at: <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/P1.aspx?lang=eng#2>. Retrieved on: May 6, 2024.

**Table 1: Options for issuing a proof of origin by the exporter or importer**

<b>Forms</b>	<b>Description</b>
Exporter authorized by the relevant authority of the exporting country	In order to obtain an authorization, the exporter must demonstrate that it has the actual conditions to determine whether a good can be considered original. Once this is proven, the relevant authority will authorize the exporter to self-certify.
Exporter registered by the relevant authority of the exporting country	To register, the exporter needs only to provide certain information to obtain permission for self-certification, without the need for more stringent procedures to demonstrate the actual conditions for determining the origin of a good.
No authorization or registration required	Some agreements allow the exporter to self-certify without the need of uthorization or supervision by the relevant authorities.
Self-certification by the importer	In this case, the importer can carry out self-certification based on its own knowledge of the imported goods.

Source: Based on the publication '*A certificação da origem nos acordos preferenciais assinados pelos países-membros da ALADI*'.<sup>2</sup>

## Overview of certificates of origin issued by the government or authorized entities

The certificate of origin issued by a non-interested third party, which may be the government or entities authorized by the government of the exporting country, is an additional document as part of the export procedure that must be presented to the customs authorities of the importing country in order to prove that the goods meet the criteria set out in the origin regime and can therefore be recognized as originating in the exporting country. This document must comply with the format and content previously established in the trade agreement, including detailed information about the goods and the production process.

The issuing entity must be authorized by the relevant authority and this may require meeting certain requirements, such as the presence of minimum assets, a minimum period of time since incorporation, proof of expertise in foreign trade, in-depth knowledge of the rules of origin, among others.

The exporter must request the issuance of the certificate of origin to the

government or the authorized entity. To do this, it must provide documents proving that the goods to be exported were manufactured in accordance with the criteria set out in the trade agreement.

Based on the documents submitted by the exporter, the government or authorized entity analyzes whether the documents are correct and classifies the goods according to a rule of origin. It then issues the certificate of origin, which is presented to the customs authority in the importing country.

The government or authorized entity shares responsibility with the exporter for the accuracy of the information contained in the certificate of origin. This responsibility is not taken into account if it is clear that the certificate of origin was issued on the basis of false information provided by the exporter that goes beyond the scope of the government's or authorized entity's usual control practices.

In Brazil, only entities authorized by the Secretariat of Foreign Trade (SECEX) at the Ministry of Development, Industry, Commerce and Services (MDIC) are allowed to issue certificates of origin at the moment, as established in SECEX Regulation No. 249 of July 4, 2023. Annex VI of this regulation lists 48 entities authorized to issue certificates of origin. This includes: 26 state federations of industries, two trade associations, one confederation of trade and business associations, nine federations of trade associations, and 10 trade federations.

<sup>2</sup> ALADI (Latin American Integration Association). 2021. *A certificação da origem nos acordos preferenciais assinados pelos países-membros da ALADI*. [Online]. Available at: [http://www2.aladi.org/biblioteca/Publicaciones/ALADI/Secretaria\\_General/SEC\\_Estudios/239\\_pt.pdf](http://www2.aladi.org/biblioteca/Publicaciones/ALADI/Secretaria_General/SEC_Estudios/239_pt.pdf). Retrieved on: March 11, 2024.

Figure 2: Model certificate of origin in accordance with the Economic Complementation Agreement No. 18 (ACE 18)<sup>3</sup>

APÊNDICE II CERTIFICADO DE ORIGEM DO MERCOSUL				
1. Produtor Final ou Exportador (nome, endereço, país)		Identificação do Certificado (número)		
2. Importador (nome, endereço, país)		Nome da Entidade Emissora do Certificado		
3. Consignatário (nome, país)		Endereço:		
4. Porto ou Lugar de Embarque Previsto		Cidade: País:		
5. País de Destino dos Produtos		6. Meio de Transporte Previsto		
7. Fatura Comercial		Número: Data:		
8. Nº de Ordem	9. Códigos NCM	10. Denominação dos Produtos	11. Peso Líquido ou Quantidade	12. Valor
Nº de Ordem		13. Normas de Origem		
14. Observações:				
CERTIFICAÇÃO DE ORIGEM				
15. Declaração do Produtor Final ou do Exportador:		16. Certificação da Entidade Habilitada:		
Declaramos que os produtos mencionados no presente formulário foram elaborados no ..... e estão de acordo com as condições de origem estabelecidas no Acordo.....		Certificamos a veracidade da declaração que antecede de acordo com a legislação vigente.		
Data:		Data:		
Carimbo e Assinatura		Carimbo e Assinatura		

Source: Economic Complementation Agreement No. 18.

## Advantages and challenges of proof of origin models

Brazil is currently negotiating comprehensive free trade agreements with the European Union and the European Free Trade Association (EFTA) and has also signed the MERCOSUR-Singapore Agreement. These three trade agreements and the new MERCOSUR Origin Regime will change the proof of origin model used in Brazil.

With the exception of the European Union-MERCOSUR Association Agreement<sup>4</sup>, the other three trade agreements mentioned use the hybrid

model of proof of origin. This means that once these agreements enter into force, Brazilian foreign trade participants will have the option of self-certifying or applying for a certificate of origin to be issued by an authorized entity.

To find out how Brazil can adapt to the best international practices to ensure that Brazilian companies can take full advantage of free trade agreements and facilitate their access to the international market, the main advantages and challenges of the two models of proof of origin were analyzed: self-certification by exporting or importing companies and issuance of a certificate of origin by the government or entities authorized by the government of the exporting country.

<sup>3</sup> Ministry of Economy. Integrated Foreign Trade System (Siscomex). MERCOSUR - ACE 18. Available at: <https://www.gov.br/siscomex/pt-br/acordos-comerciais/mercosul-ace-18>. Retrieved on: September 24, 2023.

<sup>4</sup> The agreement between MERCOSUR and the countries of the European Union only provides for the proof of origin model based on self-certification.

## Self-certification of origin

The main **advantages** of the proof of origin model based on self-certification by exporting or importing companies are:

- **Savings:** since the exporting or importing company carries out self-certification, there is no need to pay costs for issuing the document to an authorized entity.
- **Speed:** the company can self-certify at any time, eliminating the need to wait for an authorized entity to issue the document.
- **Reduction of red tape:** since self-certification is a simple written declaration that is attached to an export or import document, one document in the export process, namely the certificate of origin, is eliminated.
- **Autonomy:** given the complexity of understanding the rules of origin, exporting or importing companies that are experienced in foreign trade and usually have their own departments specialized in this area have a clear advantage when applying this proof of origin model, since they already have the necessary knowledge for successful self-certification.

The main **challenges** of the proof of origin model based on self-certification by exporting or importing companies are:

- **Fraud:** in this model, the likelihood of fraud and false declarations increases due to the complexity of the rules of origin, since the origin of the goods is not subject to verification by an entity authorized by the government and specialized in the subject.
- **Increases the importer's risk:** the importer must be careful when

establishing the contractual relationship with the exporter and it is necessary to clarify in advance the responsibilities and penalties resulting from an incorrect self-declaration by the exporter, as the penalty for payment of import taxes lies with the importer.

- **Improper use of preferential tariff treatment:** as fraudes e erros podem resultar no potencial perda de receita em função da utilização indevida do tratamento tarifário preferencial pelos importadores.
- **Capacity to verify origin:** in self-certification, it is crucial to strengthen the capacity of customs authorities to verify origin. International practice confirms that this proof of origin model is only secure if it is accompanied by effective control by the customs authority. In this sense, the implementation of risk analysis-based management by customs authorities and the investment of resources for more efficient controls become fundamental elements.
- **Difficulties for Micro, Small and Medium-sized Enterprises (MSMEs):** because they are still in the early stages of the internationalization process, MSMEs often do not have the necessary knowledge to certify the origin of goods according to the criteria set out in trade agreements. This can lead to flawed procedures that not only incur additional costs, but can also delay the internationalization process of these companies and jeopardize their future exports.
- **Legal framework:** it is important that the country incorporates self-certification into its customs regulations or national rules of origin legislation. In addition, it is important to create legal incentives that encourage compliance, establish an effective origin verification process, and define appropriate penalties for cases of fraud.

## Certificates of origin issued by the government or authorized entities

The main **advantages** of the proof of origin model based on the issuance of the certificate of origin by the government or entities authorized by the government of the exporting country, are:

- **Credibility:** by engaging an entity authorized to issue the certificate of origin, it is ensured that the origin of the goods has been duly certified by a team specialized in the subject.
- **Reduced risk:** under this proof of origin model, origin verification procedures tend to be less frequent and require a more formal check by customs, which includes verifying that the certificate of origin has been filled out correctly and completely, as well as authenticating the signatures and



seals of the employees authorized to sign the document on behalf of the authorized entity.

- **Quality:** the authorized entity places importance on the correct issuance of the certificate of origin, including the possibility of conducting visits to the facilities of the manufacturer of the goods to confirm the accuracy of the information obtained for the issuance of the document. In addition, these organizations usually offer advice to exporters regarding filing and, when necessary, during the origin verification process. This helps reduce the amount of fraud.
- **Support for MSMEs:** given the complexity of the issue, MSMEs often

choose to issue certificates of origin through authorized entities. This allows these companies to advance their internationalization process and minimize the associated risks.

The main **challenges** of the proof of origin model based on the issuance of the certificate of origin by the government or entities authorized by the government of the exporting country, are:

- **Costs:** there is usually a fee to be paid for a certificate of origin to be issued by an authorized entity.
- **Time:** after applying for a certificate of origin, the exporter must wait until the documents are checked by the authorized entity to confirm the origin of the goods.
- **Errors:** the information contained in certificates of origin is extracted directly from commercial invoices, which may lead to errors due to the duplication of information by the exporter.

## Industry evaluation of proof of origin models

Self-certification by exporting or importing companies using an existing export or import document makes the process less bureaucratic and faster. The challenge with this model is to maintain the credibility and quality that the issuance of the certificate of origin by an authorized entity offers, especially for MSMEs in the internationalization process.

Based on the benefits and challenges outlined and in agreement with the International Chamber of Commerce (ICC)<sup>5</sup>, the industry recommends that Brazil defends the hybrid model of proof of origin in negotiations and renegotiations of trade agreements, i.e., the coexistence of self-certification and issuance of a certificate of origin by entities authorized by the government of the exporting country.

Trade agreements must allow exporting companies to choose the proof of origin system that best suits their capabilities, in order to meet the envisaged criteria for attribution of origin while allowing meaningful use to the largest possible number of exporters able to market their products.

### Conditions for the implementation of self-certification under the hybrid model of proof of origin

Brazil has already consolidated the issuance of certificates of origin by authorized entities with a high level of credibility and legal certainty. However, in order to implement the hybrid model of proof of origin, it is essential that self-certification is offered under the same conditions of reliability and integrity. To achieve this, it is important to pay attention to the following:

- Clear and transparent legislation setting out procedures, obligations, record-keeping requirements, sanctions and penalties and providing for a procedure for verifying origin.
- Establish a procedure for allowing exporters to self-certify based on a prior verification of their ability to self-certify.

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5 International Chamber of Commerce (ICC). Multi-systems for Proof of Origin in Preferential Free Trade Agreements. Available at: <https://iccwbo.org/publication/multi-systems-for-proof-of-origin-in-preferential-free-trade-agreements/>. Retrieved on: June 07, 2022.

- Solid cooperation between the customs authorities of the exporting and importing countries.
- Trust between customs authorities and foreign trade participants.
- Sensitization and training of exporters and importers on how to determine the origin of goods in accordance with agreements.
- Determine penalties applicable in the exporting country for non-compliance with trade agreement criteria.
- Establish proactive verification of proof of origin by the exporting country before the importing country makes a formal request for verification of origin to ensure greater certainty and give the exporting country a positive reputation.
- Maintain the hybrid system as a viable alternative for foreign trade participants who are not prepared or trained to implement self-certification.
- The extensive knowledge currently available from authorized entities specializing in rules of origin could be used by government and customs authorities to improve risk management and enable foreign trade participants to self-certify.

## Final considerations

The two models should not be viewed as competitors, but as viable options that foreign trade participants can choose from depending on their needs and risk profile to take full advantage of the trade agreement's preferential tariff treatment.

In addition to the hybrid model, it is necessary to standardize the minimum information that must be included in the self-certification or the certificate of origin from an authorized entity. We propose simplifying the structure of the proof of origin and requiring

only the information necessary to check the conformity of origin. It is also important to provide the specified format with instructions for completing the form that leaves no doubt as to which information must be entered in the individual fields.

Any additional information required on the proof of origin could increase the risk of errors in issuance, which could lead to time-consuming correction procedures or even denial of preferential tariff treatment.

It is essential that the issuance of proofs of origin provided for in trade agreements becomes more modern and standardized based on the principle of trade facilitation to ensure that foreign trade participants are the real beneficiaries of the negotiated tariff treatment.



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