



**Asia-Pacific
Economic Cooperation**

Advancing Free Trade
for Asia-Pacific **Prosperity**

Diagnosis of Applicability of the APEC Customs Transit Guidelines

APEC Sub-committee on Customs Procedure

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I. Background

The Customs Transit Guidelines were welcomed by APEC Ministers and the SCCP in 2014. To this regard, the 26° Joint Ministerial Statement, issued in Beijing, China (November, 2014) stated: *“We welcome the progress in formulating the Guidelines for APEC Customs Transit to enhance harmonization among APEC Customs administrations, and expect effective implementation and evaluation in the following stages”*.

The initiative aimed to boost efficiency and lower trade costs by simplifying and harmonizing the application on which was known by that time as the *“direct transit”* provisions, for the purpose of granting preferential tariff treatment under the Regional Economic Integration Agreements.

By 2017, and with the objective of addressing the second part of the 26° Joint Ministerial Statement, a Project was presented by Chile in order to evaluate the implementation of the Guidelines for APEC Customs Transit.

The project was approved, and by September 2018 a Workshop titled *“Workshop on the Implementation of APEC Customs Transit Guidelines”* was held in San Pedro de Atacama, Chile, with the presence of representatives from both the private sector and public sectors. In particular, participants included APEC economies’ officials, World Customs Organization (WCO) representatives, and representatives from the United States Council for International Business (USCIB), among others.

In preparation for the workshop, two surveys were circulated among APEC economies, in order to assess the degree of implementation of the guidelines and gathered best practices in this regard. One survey was built for the public sector, and the other one for the private sector.

II. Survey Results

The survey for the public sector, titled *“Experience of the Public Sector in Matters of Preferential Customs Transit”*, was sent to the Customs Administrations of the 21 APEC Member Economies.

In the case of the private sector, the survey titled *“Private Sector Experience in Preferential Customs Transit”*, was circulated and answered by actors who conduct foreign trade operations in any of the 21 APEC Member Economies.

The surveys were conducted between June and July 2018. The results are presented below, distinguishing between the public and private sector.

A. Public Sector

The Economies that responded the survey, through their Customs Administration, were the following

- Hong Kong, China – Customs and Excise Department
- Chinese Taipei – Customs Administration, Ministry of Finance
- Philippines – Bureau of Customs
- Malaysia – Royal Malaysian Customs Department
- Mexico – Administration General of Customs of Mexico
- Japan – Customs and Tariff Bureau, Ministry of Finance
- Republic of Korea – Korea Customs Service
- Thailand – Thai Customs Department
- New Zealand – New Zealand Customs Service
- People’s Republic of China – General Administration of Customs
- Viet Nam – General Department of Viet Nam Customs
- Papua New Guinea - Papua New Guinea Customs Service
- Peru – National Superintendence of Customs and Tax Administration
- Chile – National Customs Service of Chile

The results of the survey reflect that all Economies responded to have Trade Agreements in force with at least one APEC Economy.

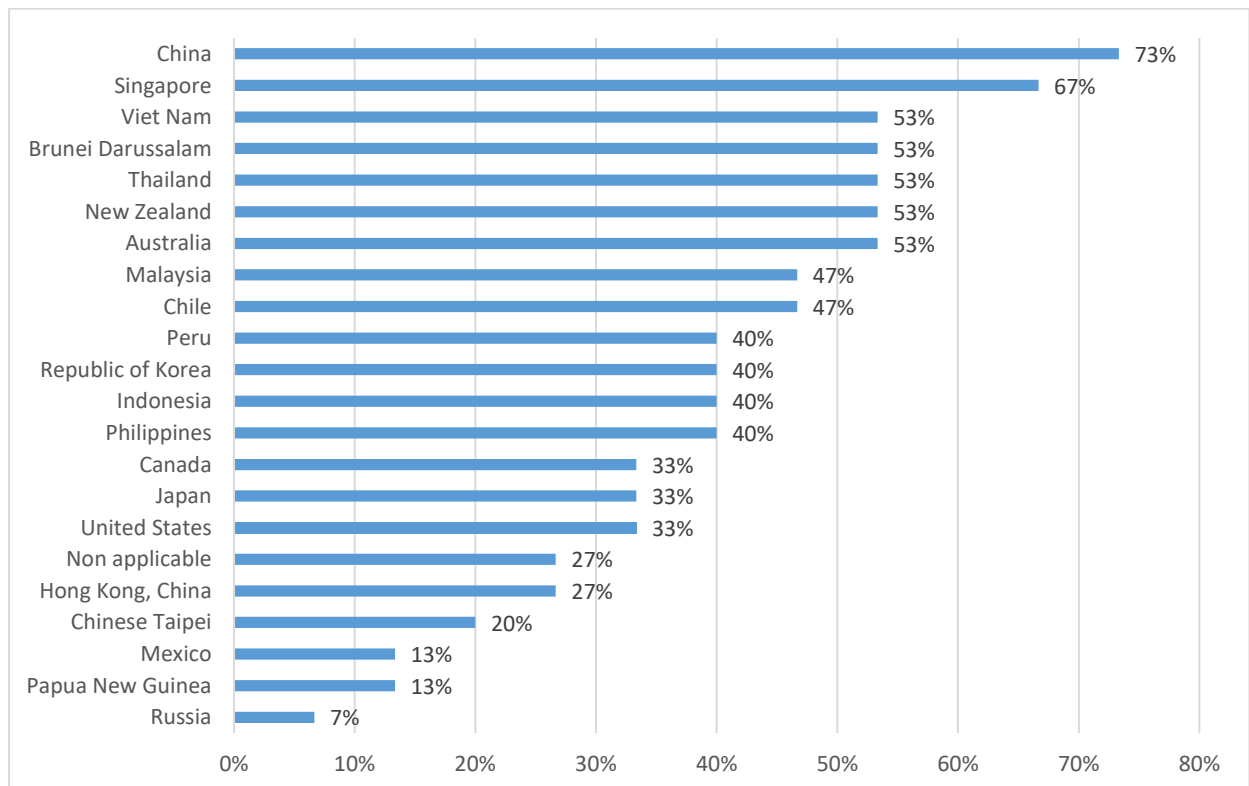
On the procedural aspects and in relation with the need to demonstrate compliance with the direct transport provisions in order to apply for preferential tariff treatment under a Free Trade Agreement, the survey results shows that Malaysia and Chile are the Economies that most frequently require to another Economies documentary compliance. Also, four Economies –Thailand; Viet Nam; Hong Kong, China; and New Zealand- doesn’t require to other economies demonstrate compliance.

The complete results by Economies are:

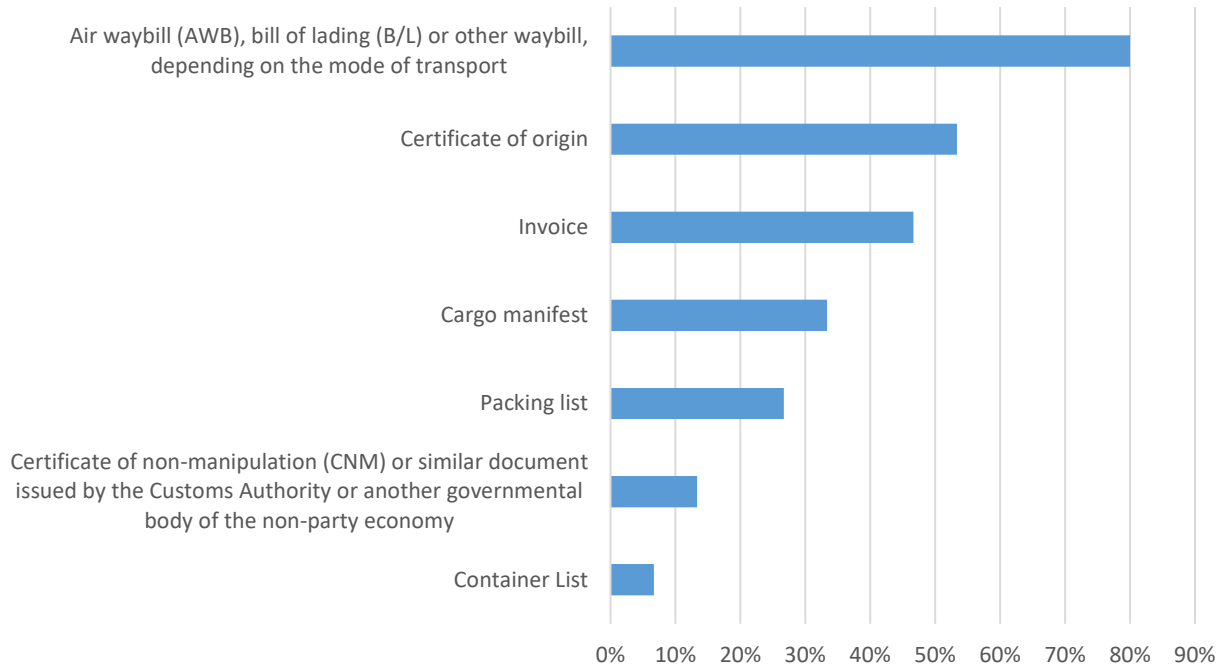
Economy	Economies to which it is requested documentary compliance	Total Number of Economies	% APEC Economies
Chile	Australia; Brunei Darussalam; Canada; Hong Kong, China; Japan; Malaysia; Mexico; New Zealand; Peru; Republic of Korea; Singapore; Thailand; United States of America; Viet Nam	15	71,40%
China	Australia; Brunei Darussalam; Chile; Chinese Taipei; Hong Kong, China; Indonesia; Malaysia; New Zealand; Peru; Republic of Korea; Singapore; Thailand; Philippines; Viet Nam	14	66,60%
Chinese Taipei	New Zealand; China; Singapore	3	14,20%
Hong Kong, China	Non applicable	0	0%

Japan	Australia; Brunei Darussalam; Chile; Indonesia; Malaysia; Peru; Singapore; Thailand; Philippines; Mexico; Viet Nam	11	52,30%
Malaysia	All APEC Economies	21	100%
Mexico	Canada; Japan; Peru; United States of America	4	19%
New Zealand	Non applicable	0	0%
Peru	Australia; Brunei Darussalam; Canada; Chile; Japan; Malaysia; New Zealand; Papua New Guinea; China; Republic of Korea; Singapore; Thailand; United States of America; Viet Nam	14	66,60%
Republic of Korea	Australia; Brunei Darussalam; Canada; Chile; Indonesia; Malaysia; New Zealand; China; Peru; Singapore; Thailand; Philippines; United States of America; Viet Nam	14	66,60%
Thailand	Non applicable	0	0%
Philippines	Non applicable	0	0%
Viet Nam	Non applicable	0	0%

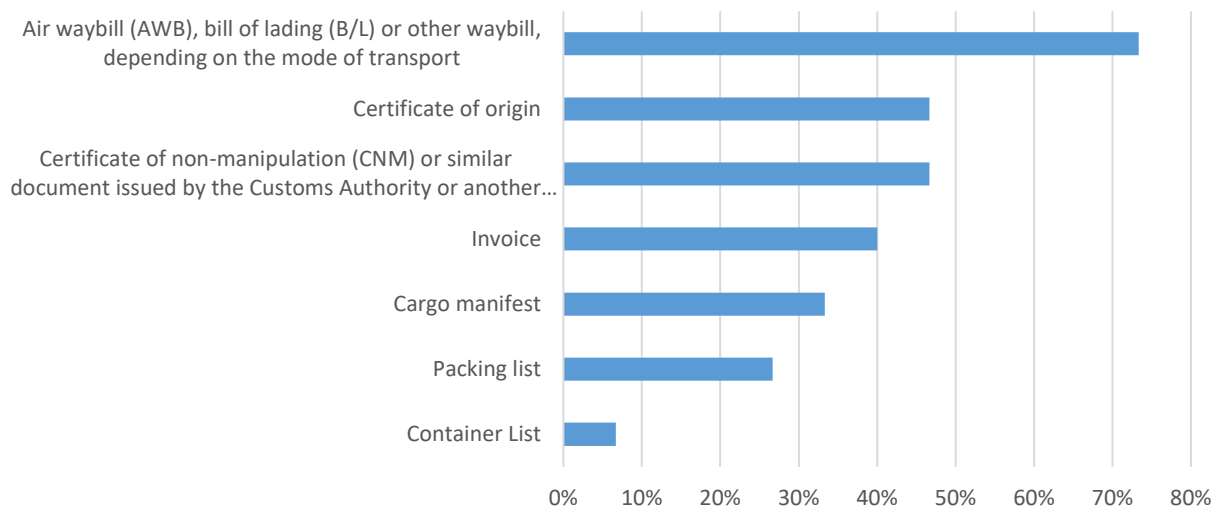
By the other hand, as conclusion of the question, the Economies those are most required to present documentary evidence for direct transport provisions under FTAs are China and Singapore. In the other side we found to Russia and Papua New Guinea, those are less require to present evidence. The complete results are the follows:



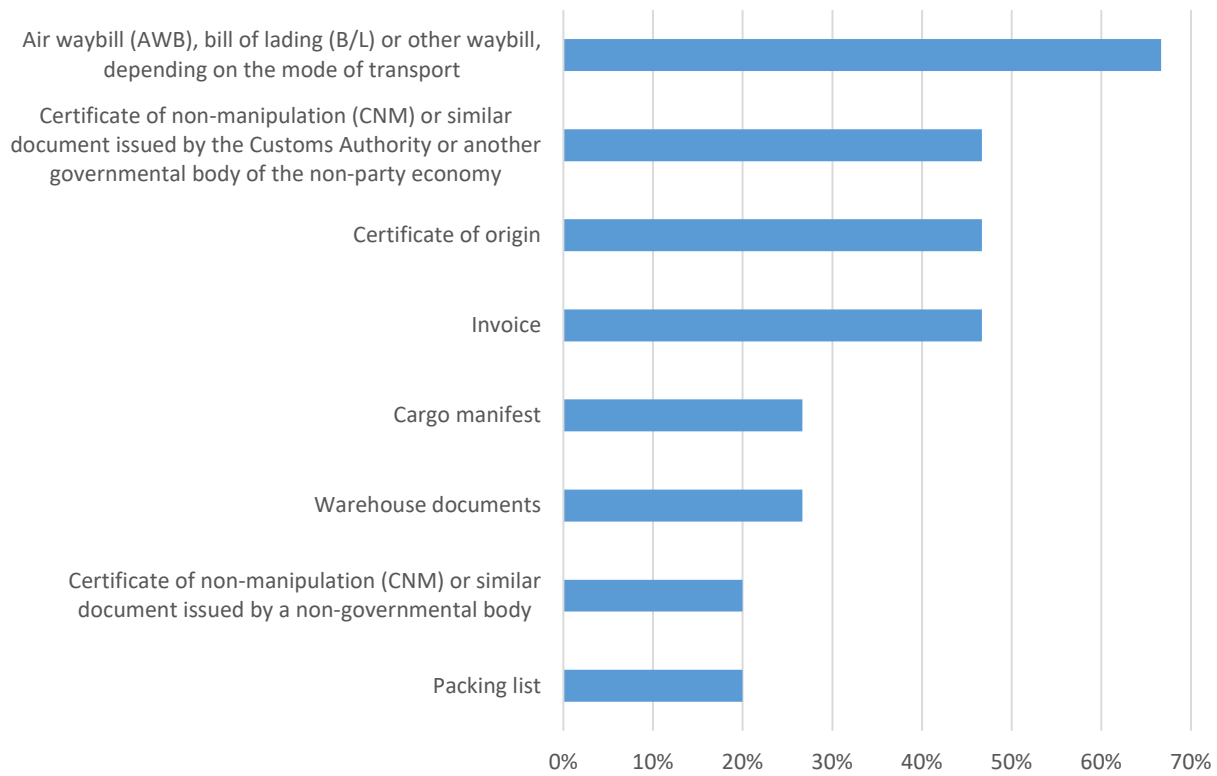
A.1. Guideline 1 refers to the transparency and certainty of the customs requirements related with transit and transshipment of goods, and specifically with the documents required for that purpose, addressed in questions 5 to 10. In particular, regarding **question 5 of the survey**, Economies indicated that the Air Waybill (AWB) and Bill of Lading (B/L) are the most frequently used documents for importers to demonstrate compliance with the direct transit provisions when the goods only transited through a non-party and no transshipment or deposit occurred. The results are reflected in the following graph:



For question 6 of the survey, in regards with the documents required for importers to demonstrate compliance with the direct transit provisions when the goods have been transshipped in a non-party, the results are reflected in the following graph:



For question 7, Economies' response regarding the documents to demonstrate compliance with the direct transit provisions when the goods have been deposited in a non-party, is reflected in the following graph:



For the question 8 of the survey, in relation with the difficulties to demonstrate the detail of the route for the transportation of goods, Economies showed different trends in relation with the problems to apply for preferential tariff treatment when this granting is conditioned or related with the need to demonstrate the detail of the route that the goods have faced during their transportation. The objective of this demonstration is the need to prove that the goods that have suffered transit or transshipment during its transportation route, have not undergone operations -other than the necessary ones- to preserve them in good condition or to transport them to the territory of the importing Economy. Some Economies expressed no major difficulties to grant preferential tariff treatment, while other Economies indicated problems related to the difficulties that importers face when it comes to submitting or obtaining documents, or even related to the difficulties when verifying their veracity or authenticity.

For question 9, 60% of the Economies stated that its customs authority does not issue a Certificate of Non Manipulation (CNM) or similar document when requested by the customs authority of the importing economy or by a foreign trade operator, in order to prove that the goods were under its control and retained its originating status under such agreement. A 40% issues this document to demonstrate compliance with the goods not undergoing any prohibited operations during their transit or transshipment.

On other documentation aspects, and related to the acceptance of documents issued by a freight forwarder (**question 10**), 40% of the answering Economies indicate that they do accept documents issued by a freight forwarder in the importing economy (destination economy) as a valid mean to demonstrate compliance with direct transit provisions to apply for preferential tariff treatment, while a 40% does not accept this document. A 20% answered that this document and the question was not applicable.

A.2. Regarding Guideline 2 and related **question 11 of the survey**, regarding the above mentioned procedural aspects from a public perspective, but related specifically with warehousing during transit by a non-party economy, 87% of the Economies answered that no requests were made on the inclusion of the name of the warehouse located in the territory of a non-party economy, this, when the goods were stored during a transit or transshipment operation. On the other hand, 6% of the answering Economies indicated that they require this information for the application of preferential tariff treatment, and a 7% responded that this related aspect was not applicable.

A.3. For **question 12 of the survey**, related to Guideline 3, 93% of the Economies indicated that they do not reject the applications for preferential tariff treatment if the goods have transited or been transhipped through a non-party economy. A 7% found the question to be not applicable.

A.4. For **question 13**, Economies made different recommendations or suggestions that are mainly aimed to the publication of guidelines, the use of technologies, and the use or issuance of documents, among others. In particular, the Economies recommended:

- Issuance of internal procedures aligned with the APEC Customs Transit Guidelines, the WCO and the Revised Kyoto Convention, and conduct awareness campaigns with the concerned stakeholders.
- An online system for APEC Members.
- An APEC Customs Declaration Document to improve the current clearance processes, making them simpler and more predictable, consistent and transparent.
- It would be desirable to further disseminate the APEC Customs Transit Guidelines, possibly by translating them in the different languages of the APEC economies.
- To have consultations with relevant bodies (private sector) on establishing a system to request supporting documents in advance to prove that a cargo was directly transferred.
- The use of new technologies or an International Single Window for APEC Member Economies.
- Encourage companies to submit the information related to preferential transit electronically.
- The application of the APEC Customs Transit Guidelines is considered more useful in those agreements that establish flexibility in the documentation to accredit transit by a non-party. It was recommended to establish its scope, considering that agreements that establish specific documents to accredit such transit would not allow accepting other documents.
- That Economies issue or at least validate the Non-Manipulation Certificate or similar documentation (in their role as the third part through which transit occurs), in order to provide evidence for the importing party, thus facilitating trade in a secure manner.
- That the Guidelines should define “transit” and “transshipment”. Technically, there are differences between the two terms, although in New Zealand they are used interchangeably. The guidelines could be clearer if these terms are defined.

On **question 14**, Economies made recommendations oriented at the opportunities for public-private consultation, as well as information-sharing and other measures. The economies proposed the following:

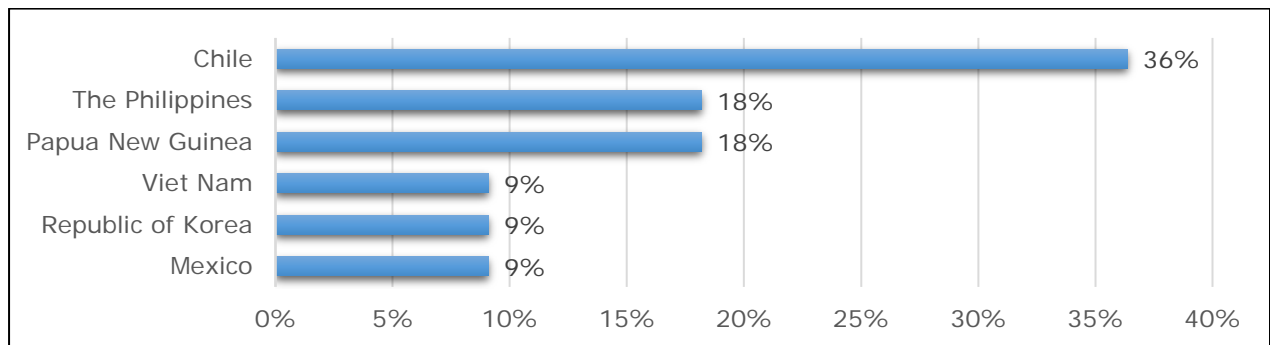
- Conducting consultative workshops to come up with internal policies, rules and regulations.
- Organizing regular meetings as well as an Annual Dialogue Session with the private sector.
- Follow-up and follow through actions on matters discussed and decided upon at the Consultative Panel meetings on transit and transshipment.
- To have a consultation with relevant bodies (private sector) establishing a system to request supporting documents in advance to prove that a cargo was directly transferred.
- The use of new technology or systems for making the center for contacting or cooperating between the private sector and customs administrations. Customs will give privileges to private sector operators that are good importers, exporters or transporters.
- To encourage the private sector to submit information of preferential transit electronically to customs administrations, and, on this basis, that customs administrations exchange information electronically.
- Member Economies should develop their electronic systems so that customs transit procedures can be done properly. This can assist to facilitate transit operations of businesses.
- Subscribing multilateral or bilateral transit agreements should be considered in order to facilitate for the business community in trade activities.
- It would be useful for the private sector to know what documents are issued by the customs administration in each economy to accredit the transit, transshipment and storage of goods entering its territory in transit to a third party, whether it is an APEC Member Economy or not.
- Establishing procedures to guarantee that the authority validating the non-manipulation (or to whom such function has been delegated) has the necessary information to accurately validate that the goods are still originating.
- It is beneficial for private sector to be aware of the guidelines, but they have limited influence on how transited or transshipped goods are treated for preferential purposes. The treatment is largely determined by customs authorities and the provisions of the FTAs under which importers claim preferential tariff treatment. It is important to influence customs authorities with the Guidelines, and this will have more direct impact.

B. Private Sector

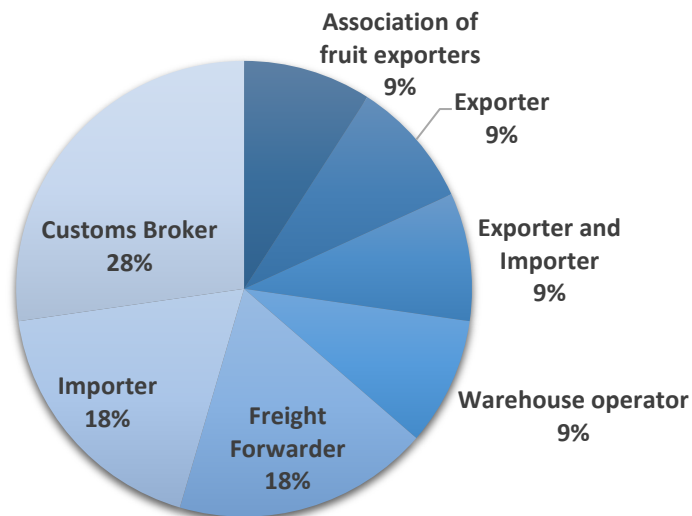
The Private Sector participants that responded the survey were:

- SVS
- Transpac Container Line Inc.
- Audi México, S.A.
- Celulosa Arauco S.A
- Asociación de Exportadores de Frutas de Chile, A.G.
- Superservice Limited T/A Superservice Hardware
- Hanlim Customs Agency
- Philippine Skylanders Int'l (PSI), Inc.
- Trade Storing & Freight Company Ltd.
- Cámara Aduanera de Chile A.G.
- Agencia de Aduana Francisco Pardo y Cia. Ltda.

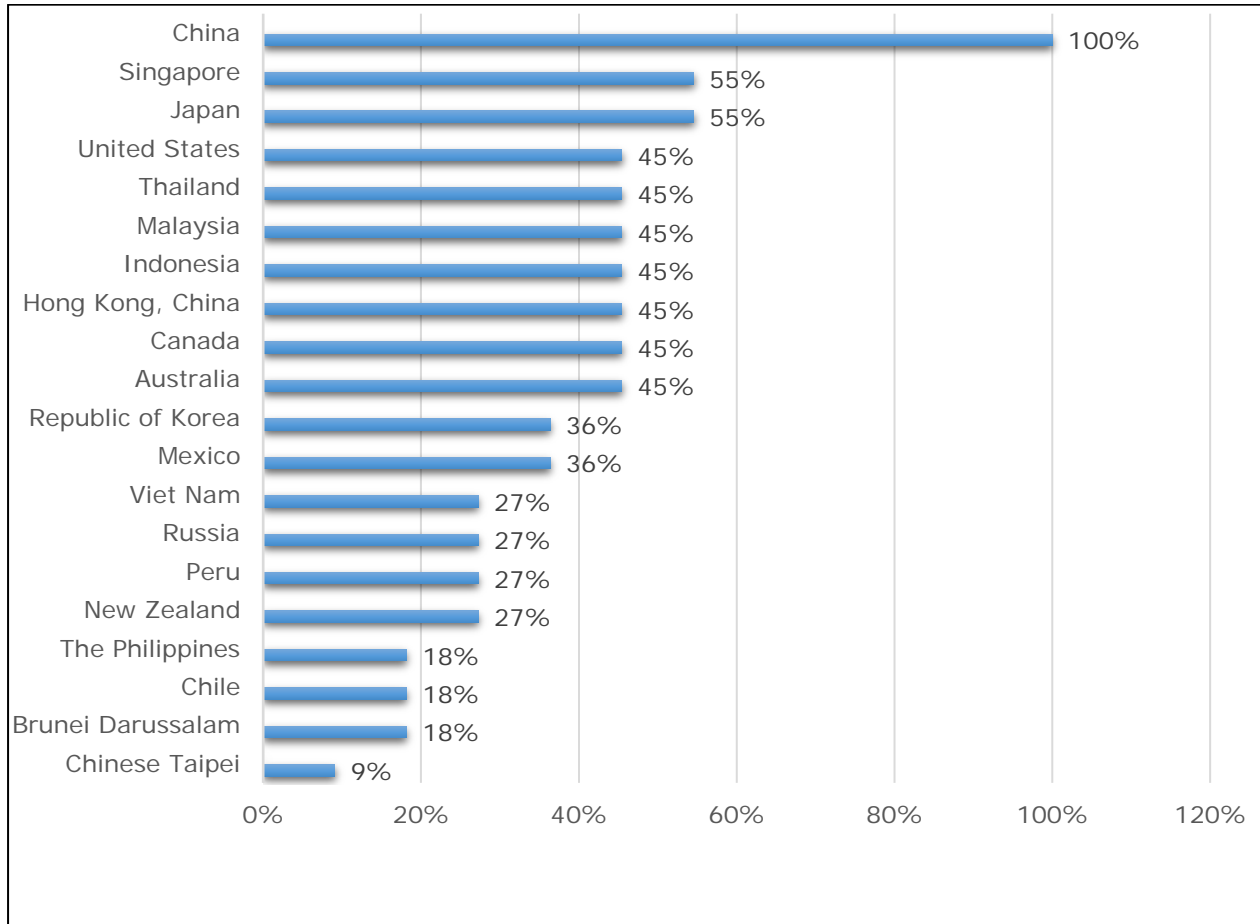
These participants belong to the following Economies:



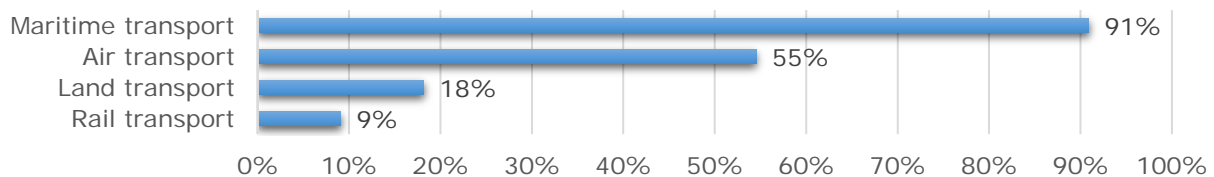
At the same time, these participants belong to Importers; Exporters; Freight Forwarders; Warehouse Operators; Customs Brokers; and the Association of Fruit Exporters, in the following proportion:



B.1. In relation to **question 4 of the private sector survey**, related to with which APEC Economies has the participant conducted foreign trade operations where the goods have transited through a third economy non-party of a trade agreement before the arrival of the goods to their final destination, participants selected China as the first most traded with Economy, followed by Singapore and Japan. The results were the follows:

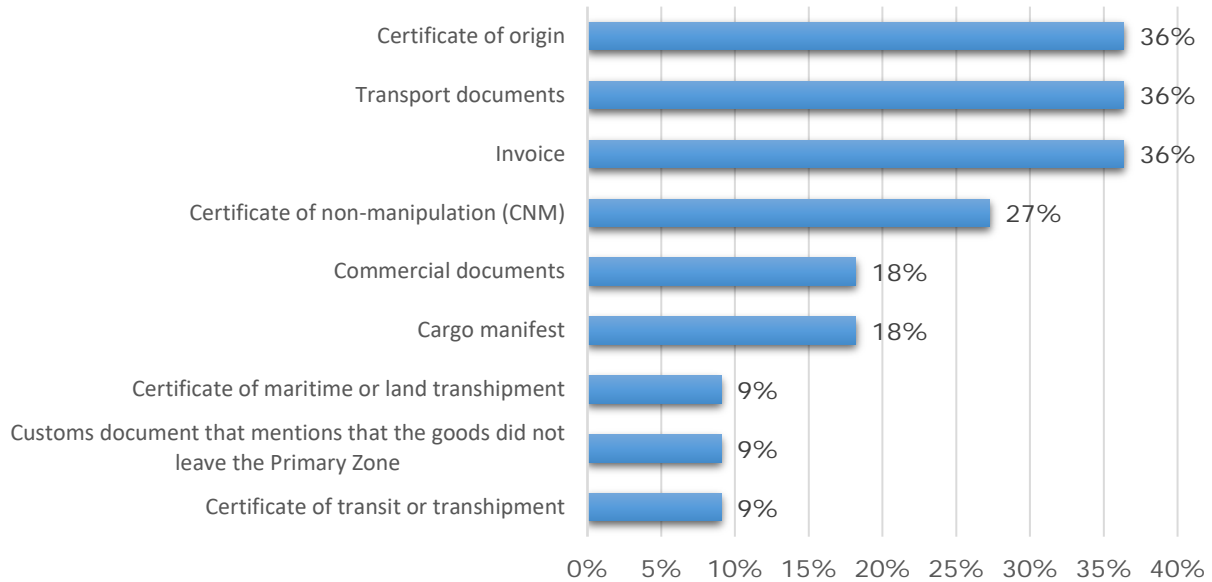


As a result of **question 5 of the survey**, the abovementioned foreign trade operations were conducted by the following means of transport:

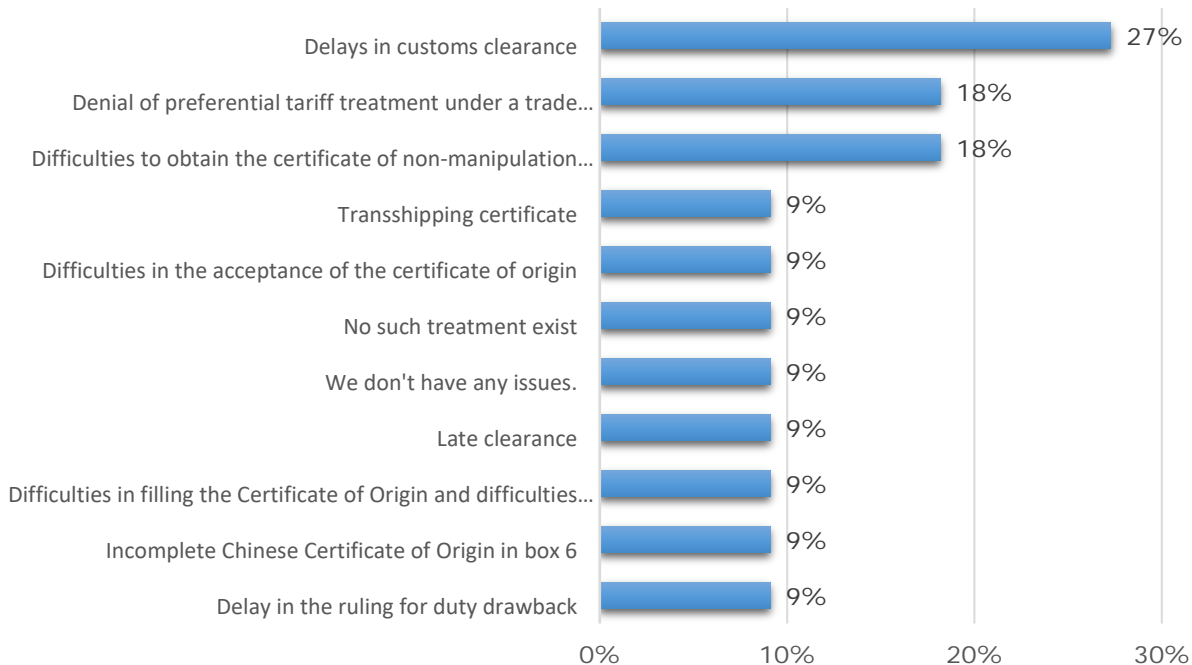


B.2. In relation to **question 6**, were participants should answer if they have applied for preferential tariff treatment under a trade agreement in force, for foreign trade operations conducted with an APEC Economy that included transit through a third economy, non-party of this trade agreement?, 55% of the members responded affirmatively.

According to **question 7** (linked to question 6 when affirmative), the Certificate of Origin, Transport Documents, and Invoice, were the documents most selected as the necessary documents to demonstrate that the goods in transit can apply for preferential tariff treatment, as the following chart shows:

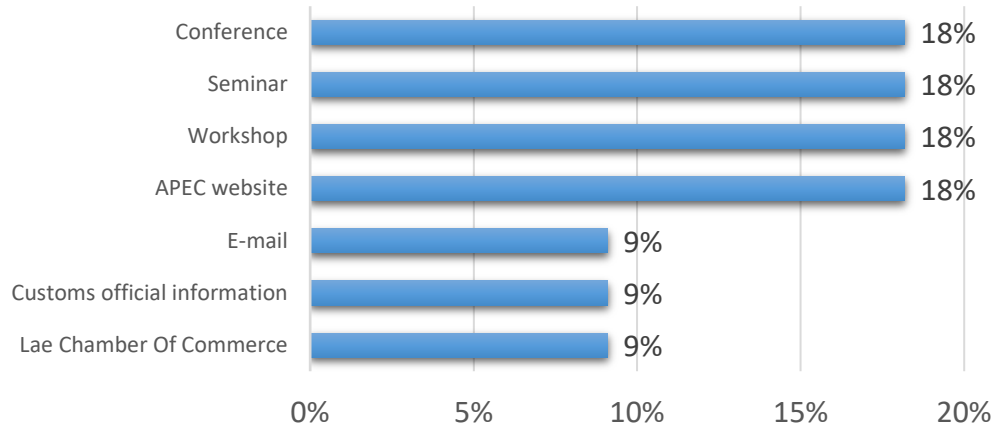


B.3. On **question 8 of the survey**, the main problems to apply for preferential tariff treatment when goods have transited through a third economy were:

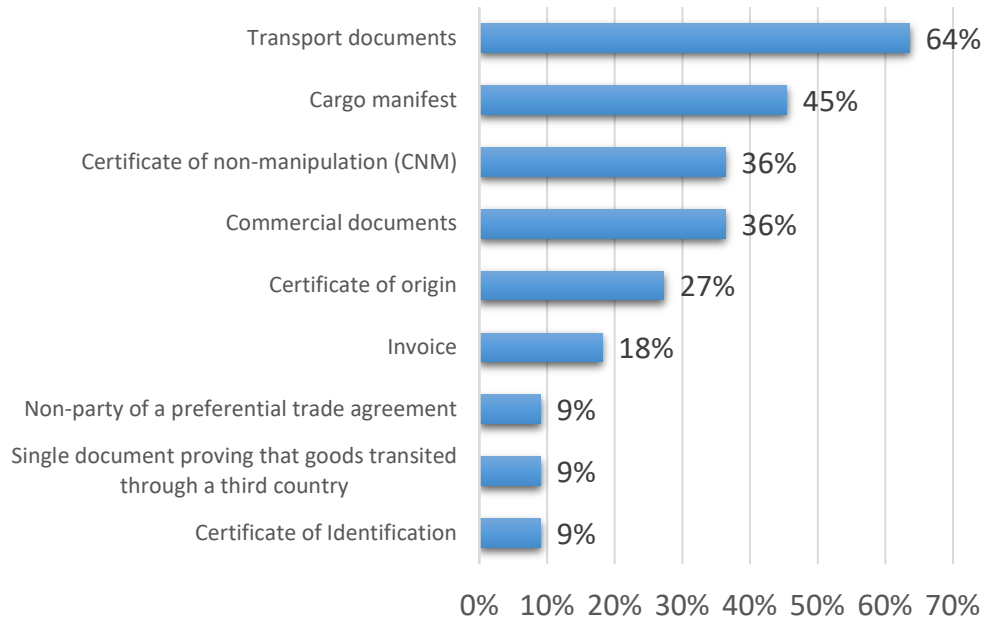


B.4. In relation to **question 9**, regarding how aware the participant are regarding the APEC Customs Transit Guidelines, 55% of the participants knew the guidelines, while the other 45% did not.

Regarding **question 10**, and how participants were aware of the abovementioned guidelines, the participants answered:



B.5. Regarding Guideline 1, and which documents the participants deem necessary to prove that the goods transiting through a third economy did not undergo operations other than the necessary to preserve their originating status, linked to **question 11**, the participants responded the follows:



B.6. For **question 12**, participants made the next recommendations or suggestions on how to improve the application of the APEC Customs Transit Guidelines:

- Clear and uniform policy to implement proper set up of origin certifications for transit goods.
- Through a presentation in an APEC Workshop.
- Recommendations made by others as a starting point.
- To date we have paid attention to the application of preferential tariff treatment, so are well aware of the relevant provisions of the FTA implementation. Now we have learned about the APEC Customs Transit Guidelines and we will take stock of it more, hoping that these guidelines contribute to a safer and more efficient cargo traffic in the APEC region.
- These guidelines should be provided and guided to the private sector to make sure they are understood and followed. In addition, these guidelines should be more specific in order to be more applicable.
- The issuance of a Certificate of Non-Manipulation by the shipping company shall be mandatory.
- In order to provide for a better implementation of these guidelines, it is necessary to harmonize and seek mutual commitment from the APEC economies, to opportunely ensure the way to prove the origin of goods that enter the territory of the importer. In this case, it is necessary to develop Guideline 5 to seek a facilitating agreement among APEC Member Economies that allows defining criteria when accepting invoices, bills of lading, commercial documents or any valid proof of origin to prove that the goods have not lost their originating status after transiting through a non-party. Economies must work on how to facilitate this process, seeking for a guideline that benefits every participant, based on proposals to recognize documents, and in this way, ensure the origin of goods.

Finally, for **question 13**, the recommendations or suggestions made by the participants on how to improve the cooperation between the private sector and customs administrations, to facilitate the application of the preferential tariff treatment when the goods have been in transit through a third economy, were the follows:

- A website that provides access to the certificate of origin from the economies. A more simplified process which will not require the final recipient of bringing the same to wherever or whoever in order to secure for the approval.
- To organize a Workshop on Trade Facilitation between government institutions and the private sector considering that companies are unaware of all the facilities and benefits for importers and exporters.
- When transporting sealed containers from origin to final destination, we consider that the Certificate of Non-Manipulation should never be necessary.
- Make sure to unify the documents that prove they are not in violation of FTA regulations when passing through a non-party economy.
- The private sector should be updated on transit procedures, policies and regulations, especially under trade or transit agreements signed between Viet Nam and other economies, so that businesses can ensure compliance with the requested procedures and access preferential tariff treatment.
- In case of the China-Chile FTA, the filling of box six of the Certificate of Origin should not be required, as this information is already contained in boxes 1 and 2, which are valid with or without triangulation.
- It is recommended that the information regarding the third part is clearly identified in the transport document and the Certificate of Origin, in order to not require additional documentation.
- To accept a declaration by the exporter or the importer stating that the goods did no undergo any manipulation in third economies.

III. Main conclusions and findings of the Project

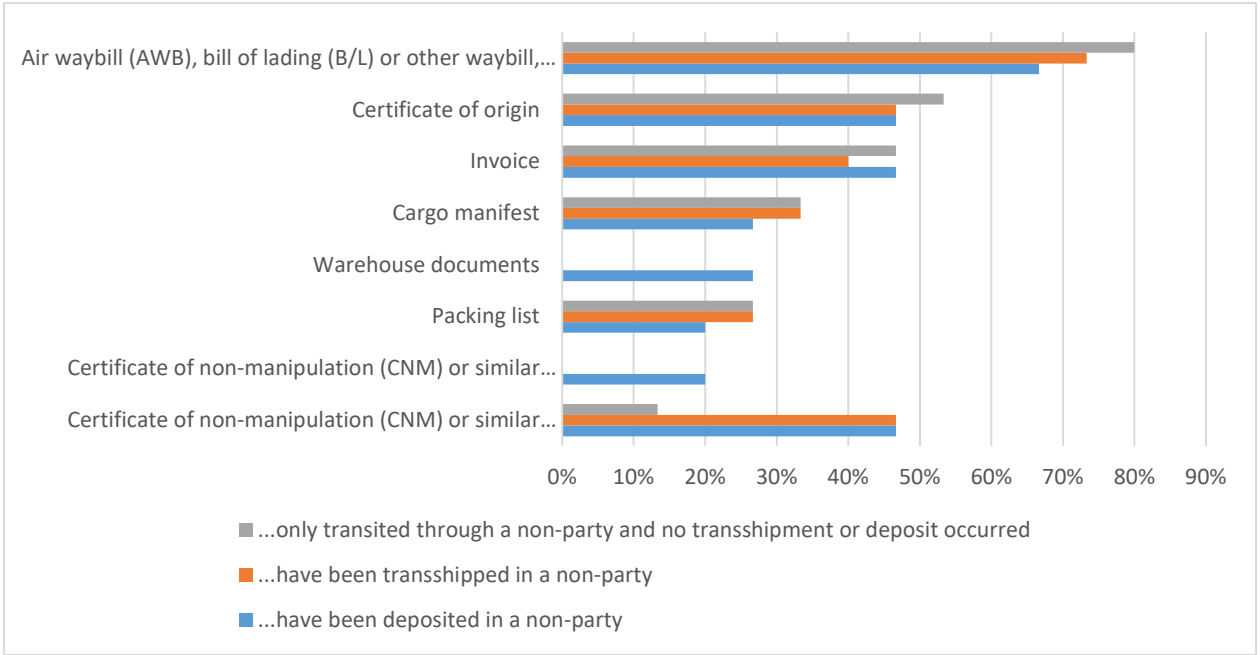
The results of the Survey compiled on the first part of this Diagnosis, show that all Economies, while having Free Trade Agreements or other type of Economic Integration Agreements with at least one APEC Economy, they do require several documents demonstrating compliance with direct transit provisions in order to grant preferential tariff treatment. This is the first part of the challenge that leads the APEC Subcommittee on Customs Procedures (SCCP), to work towards the establishment of a non-binding tool that can orientate both the customs officials of APEC Economies and the private sector.

As highlighted by the fora during the presentation of the APEC Customs Transit Guidelines 2014, the requested documents by customs agencies can become a non-tariff barrier to preferential trade within the APEC Region, considering that most of the documents required to demonstrate compliance with the conditions described in most of the transit and transshipment provisions included in Free Trade Agreements, are difficult to obtain by the importers, and customs officials are more likely to not relate with those documents.

Even for those Economies which indicated that such demonstration of compliance was not requested to the importers who seek for preferential tariff treatment, the guidelines and its objectives are still relevant, as they are also required to prove compliance when it comes to those Economies' exporters.

As showed, the objective of the Project related with the need to evaluate the effective implementation of APEC Customs Transit Guidelines was achieved, but the results were not satisfactory for keeping the APEC Customs Transit Guidelines as they were. The lack of implementation among most of the APEC Member Economies and, in some cases, a total lack of knowledge of the Guidelines, shows to be the second part of the identified challenge related to the Guidelines for APEC Customs Transit.

The following chart summarizes responses to **questions 5, 6 and 7 of the public sector survey**. The documentary requirements, and the main documents required to demonstrate compliance considering the different types of transit (e.g. simple transit; transit with transshipment and transit with deposit), were the Air Waybill (AWB), and the Bill of Lading (B/L) or other Waybill, followed by the Certificate of Origin and the Invoice.



While 13% of respondents declared requiring a Certificate of Non-Manipulation or similar document issued by the customs authority or another governmental body of the non-party economy in the case of simple transit, the percentage rises to 47% where there is transshipment or deposit. Therefore, less than half of the economies require a CNM to grant preferential tariff treatment upon transit through a non-party to an agreement, while only 40% of the Economies declared issuing such document when the goods are subject to transit, transshipment or deposit in their economy as a non-party.

At this stage, it is a fact that different documental requirements across Economies apply, while most of the Economies described facing difficulties accessing the documentation required to demonstrate that the goods were not manipulated during transit, whichever type of transit might be.

Other findings include that an 87% of the Economies do not request the name of the third-party warehouse when there was deposit during transit, which is remarkable considering it is recognized a good practice in Guideline 2. This revealed that before advancing towards the implementation of the guidelines, it was relevant to assess if they were obsolete and needed to be updated as discussed during the workshop.

Notably, none of the APEC Economies declared denying preferential tariff treatment solely because the goods transited through a third economy. This discloses an ample consensus around transit Guideline 3, which is the only guideline included in the current document that has a good consensus within the fora.

On another aspects raised along both surveys and the workshop, recommendations by some Economies further reinforced the idea that, before moving towards fully implementing the current guidelines, these should be updated. In particular, Economies highlighted the need to introduce:

- Greater alignment with other standards, such as those arising from the WCO.
- Use of technology.
- Differentiation of types of transit.
- Flexibility in acceptable documentation.

Other proposals that could be assessed within the fora, but that exceed the scope of the guidelines, were:

- Online system for APEC members.
- APEC customs declaration document.
- System to submit supporting documents in advance.
- System to exchange information between custom administrations.

This last recommendation, received by some Economies, is related with the implementation of the WTO's Trade Facilitation Agreement within the APEC Region, and with the specific obligation contained on Article 12 of that multilateral agreement.

The comments and experiences gathered during the workshop, together with the review of progress and difficulties in the implementation of the APEC Customs Transit Guidelines, were the result of the surveys distributed among APEC Economies and the Private Sector representatives, and of the workshop.

No best practices were shared during the workshop that would allow for a best practices manual on the implementation of the APEC Customs Transit Guidelines to be achieved as a result our output of the project.

IV. The main weaknesses of the current guidelines and how to address them

From the conclusion revealed taking into consideration the results of the survey and the discussion held during the workshop, the fora needed to have a discussion on the assessment of the guidelines and how its main principles and construction needed to be updated, if needed.

One of the comments received during the workshop held in September 2018 raised that these Guidelines were a good first step forward in order to move with an effective tool for the fora to address the challenges of Trade Facilitation trends and principles when applying the provisions of Free Trade Agreements or other type of Economic Integration Agreements in the Asia Pacific Region.

In that sense, the simplification of customs procedures; the reasonable confidence in copies of documents; the effectiveness that customs cooperation and mutual assistance provisions can provide towards addressing the doubts that customs transit can raise on customs officials; all these principles and provisions included in the WTO’s Trade Facilitation Agreement were not taken into account on the Transit Guidelines and need to be included to become more efficient and applicable.

The need to reformulate and simplify the guidelines in order to encourage and ensure their application from both the Private and Public Sector was a conclusion which might be considered highly important for APEC Member Economies.

The following table provides analysis regarding each guideline of the current version of the 2014 APEC Customs Transit Guidelines, in order to assess which elements needed to be reviewed and where the weaknesses are:

2014 Transit Guidelines	Comments
<p>Guideline 1: For the purpose of transparency and certainty, APEC Economies should clearly establish a set of possible documents that should be, as much as possible, electronic. They could be required, by the importing economy, for goods which have previously transited or transshipped through third parties. This set of documents may include, among others, transport documents, invoice, cargo manifest, proof of origin, and commercial documents.</p> <p>The above mentioned documents may include, one or more, documents that detail the complete route and they should be able, in a sufficient manner, to demonstrate that the goods in transit have not undergone operations other than the necessary ones to preserve their condition or to transport them to the territory of an importing economy.</p> <p>These guidelines should consider the possibility to allow Economies to accept a document issued by any</p>	<p>In order to clarify a set of possible documents, while ensuring the transparency, predictability and security of foreign trade, APEC economies could strive to establish a defined list of possible documents, allowing for some flexibility when equivalent documents are presented. This is also related with TFA Transparency and publication provisions to be applied in a more concrete manner.</p>

operator, who intervenes during commercial operations.	
Guideline 2: These documents should include, if applicable, the name of warehouse involved during the transit operation, in the transiting/transshipping economy.	Regarding transit guideline 2, only one economy indicated in the survey that it requested the name of the warehouse, showing it is not crucial information. The Fora needs to consider that obtaining this type of specific information could delay customs clearance, while it does not appear necessary, as knowing the name of the warehouse does not necessarily mitigate the involved risk effectively.
Guideline 3: Goods transiting through a non-party economy and transshipment by a non-party, per se, should not constitute sufficient reasons to reject the eligibility to apply for preferential tariff treatment.	The principle behind current Guideline 3 is the basis of the common understanding that APEC Customs Transit Guidelines should be built upon.
Guideline 4: Each Economy should maintain the requirements as minimum as possible to pursue the policy objectives and review periodically such requirements.	Guideline 4 remains relevant, as economies should strive to minimize and periodically review requirements but still a lack of proposed minimum documentary documentation agreed within APEC Customs Agencies could be a major weakness of the Tool.
Guideline 5: The SCCP should work towards the harmonization of information requirements through ensuring transparency and monitoring by peer-review. The information to be required should be limited to identify that the direct consignment criteria are satisfied.	Guideline 5 poses a major challenge that was not addressed between 2014 and 2018 and harmonization was not achieved during the phase of implementation of the APEC Customs Transit Guidelines.

The summary review of the current guidelines can lead us to conclude that while the original guidelines were an interesting first step for the intended achievements, they still need further development, since the content of each guideline remains too general, and the lack of concrete proposals is still a difficulty when implementing them. During the workshop held in September 2018 both APEC Economies and the Private Sector agreed on this idea, and on the need to include more specific approaches and recommendations in the guidelines.

The future work to address this weaknesses can be found in light of the provisions coming from the WTO's Trade Facilitation Agreement, and at the same time, by the current trends in new generation Free Trade Agreements.

V. Current trends in the relation with Transit and Transshipment in the Region

Nowadays, the provisions and treatment of transit customs regime for goods that will apply at the importing party for preferential tariff treatment have evolved and faced changes.

Within the Asia-Pacific Region, it is possible to see a different approach to provisions within the Chapter of Rules of Origin on Free Trade Agreements, which are moving from the original intention of having a direct transport of goods between the exporting party to the importing party, towards a new focus mainly related with the intention of compliance with the Non Alteration rule, according to which the goods that suffer transit or transshipment during its transportation to the importing party shall not be exposed to any operations or manipulation that can cause the alteration of the goods. The objective is to keep the goods in an appropriate condition and preserve them, but only those operations will be allowed according the rules of origin in current Free Trade Agreements under negotiation.

During the development of the project, the Workshop discussion revealed that the instrument of the 2014 guidelines could and should be enhanced in light of:

- Recommendations, international standards and best practices stemming from the WCO, the New Generation Free Trade Agreements, the WTO's Trade Facilitation Agreement, and the Revised Kyoto Convention (RKC). The Trade Facilitation Agreement encourages the acceptance of copies, the introduction of a risk management system, and customs cooperation, among other provisions. Whereas Chapter 1 of Special Annex K of the RKC, includes a recommended practice regarding direct transport rules for preferential purposes, encouraging the derogation of provisions on certain cases, such as for landlocked economies or when the goods remained under customs control during transit.
- Provisions of some of the newer generation FTAs focus on the principle of non-alteration of the goods, as opposed to how direct their transport is. Since the objective of direct transit provisions in FTAs is to ensure that goods applying for preferential tariff treatment have not undergone undue manipulation that affect their originating status, developing provisions centered on non-alteration prevents denying access to preferential tariff treatment to goods that otherwise would meet the origin criteria. The Japan - EU Economic Partnership Agreement and the "agreement in principle" on a modernized Mexico - EU Global Agreement are an example of this trend.
- Experiences gathered from the workshop, particularly regarding new developments in the logistic schemes involved in international trade that can boost efficiency, such as consolidating shipments in global distribution clusters, under which traders might face difficulties accessing preferential tariff treatment due to direct transit provisions, despite meeting the relevant origin criteria.
- The increasing use of emerging technologies which might help ensuring that manipulation has not occurred during transit, such as electronic seals and information technologies.

Also, the simplification of the application of direct consignment provisions in bilateral and plurilateral free trade agreements holds the potential to boost efficiency and lower trade costs. Shifting from a focus on direct transit towards one on non-alteration can help accommodate new logistic models.

The importance of disseminating these new Guidelines, as a basis for their implementation and application among the Economies, is also an important lesson. Greater knowledge of the guidelines is necessary for them to be an effective mechanism for customs facilitation and simplification. On this matter, the need to deepen the work of APEC’s Subcommittee on Customs Procedures (SCCP) along with the Private Sector is essential, and it is considered as the key element to conclude with a tool which can be considered useful for the implementation of Trade Facilitation within the APEC Region.

VI. Towards a new structure for APEC Customs Transit Guideline: Updating the Transit Guidelines

Taking to account the results of the Workshop, the main conclusion in order to update the guidelines is one of extreme importance. The fora is working on a new version of the APEC Customs Transit Guidelines based on the comments and the discussion held in the Workshop by Economies and the private sector. The potential new guidelines, which may be proposed to the SCCP, have the following structure:

Proposed Transit Guidelines (additions marked in italics)	Comments
<p>Guideline 1: Goods transiting through a non-party economy and transshipment by a non-party, per se, should not constitute sufficient reasons to reject the eligibility to apply for preferential tariff treatment.</p>	<p>Former Guideline 3 should be one of the main principles behind the guidelines. Thus it is proposed to upgrade it to guideline 1.</p>
<p>Guideline 2: <i>Measures aiming to regulate and enforce proper access to preferential tariff treatment should focus on the non-alteration of the goods rather than on the way in which their transport is directed towards the importing economy.</i></p>	<p>Proposed Guideline 2 aims to introduce the principle of non-alteration as the key focus of regulation and enforcement, aiming to accommodate emerging logistic models.</p>
<p>Guideline 3: For the purpose of transparency and certainty, APEC Economies should clearly identify a set of possible documents that should be, as much as possible, electronic. <i>Where possible, copies of such documents should be accepted.</i> They could be required, by the importing economy, for goods which have previously transited or transshipped through third parties. <i>The stringency of the documentary requirements for the different types of transit (e.g. simple transit, transit with transshipment and transit with deposit) may be differentiated through a risk-based assessment.</i> This set of documents may include, among others, transport documents, invoice, cargo manifest, proof of origin, and commercial documents. <i>However, when appropriate, economies should endeavor to allow for flexibility when equivalent documentation is presented.</i> The above mentioned documents may include, one or more, documents that detail the complete route and</p>	<p>Former Guideline 1 is proposed to be kept, but amended as reflected in italics to allow for risk-based approach and the acceptance of copies.</p>

they should be able, in a sufficient manner, to demonstrate that the goods in transit have not undergone operations **that alter their originating status**.

These guidelines should consider the possibility to allow Economies to accept a document issued by any operator, who intervenes during commercial operations.

Guideline 4: Each Economy should maintain the requirements as minimum as possible to pursue the policy objectives and review periodically such requirements. **Only the essential documentation to credit non-alteration should be required.**

Guideline 4 remains relevant, but it is proposed to complement it by stressing that one of the guiding principles of the periodic review should be non-alteration.

Guideline 5: In order to facilitate access to preferential tariff treatment of goods that transited through a third party without undermining effective enforcement, APEC economies are encouraged to take greater advantage of their bilateral, plurilateral and regional agreements covering customs cooperation.

This can help ensure that the goods exported are consistent with those imported, thus mitigating the alteration risk. It can also contribute to exchanging transit information between customs.

Guideline 6: To ensure the non-alteration of the goods during transit, transshipment or deposit, APEC economies should endeavor to integrate the use technology, such as seals (electronic or not) and adhesive labels, according to the nature of the packaging.

Technology can serve as a complement or even a substitute of certain documentation required to credit non-manipulation.

Guideline 7: The SCCP should work towards the harmonization of information requirements through ensuring transparency and monitoring by peer-review. The information to be required should be limited to identify that the direct consignment criteria are satisfied.

Former Guideline 5, if accomplished, can create greater efficiency, which is why it is proposed to keep it unchanged.

VII. The APEC Customs Transit Guidelines in light of the Trade Facilitation Agreement of WTO and new generation FTAs

The Trade Facilitation Agreement of the World Trade Organization (WTO's TFA), in force since February 2017, established provisions to expedite the movement, release and customs clearance of goods, including goods in transit. The Guidelines should aim to facilitate and simplify trade between economies, reducing formalities and requirements in the transit of goods.

One of the key conclusions of this Project, mainly raised during the Workshop discussions, was the idea of a lack of inclusion in the guidelines of the principles, provisions and objectives that the Trade Facilitation Agreement has included and put into force within the multilateral system.

It is a fact that in 2014, when the APEC Customs Transit Guidelines were endorsed during China's host year, the Trade Facilitation Agreement was not yet in force, nor even concluded the negotiation of its main provisions. Considering this, and the fact that the transit of goods can hugely affect the implementation of the trade facilitation objectives when it comes to the free trade agreements implementation, APEC Economies' efforts to build a tool that could provide recommendations to customs agencies in this particular customs procedures needs to be kept in alignment with the TFA related provisions and principles.

In 2019, the high level of category "A" notifications of APEC Member Economies to the WTO provisions of the TFA, provides a momentum for its inclusion, and thus, the APEC Customs Transit Guidelines should be updated.

Provisions and mandates included in the TFA, such as the inclusion of automated systems; the effective conclusion and implementation of customs cooperation agreements between customs administrations; the appliance of risk management systems and its capability to provide for a more accurate and efficient enforcement of customs laws and the acceptance of copies of documents related with customs procedures; all remains as a pivotal step towards a new consensus within APEC on the challenge of customs transit of goods, the enhancement of enforcement procedures, and how they can relate with a more trade facilitative procedure and treatment to avoid the transit of goods within APEC becoming a non-tariff barrier for free trade in the APEC Region.

Therefore, the updated guidelines should focus and point in this direction. For example, Guideline 3, which states that *for the purpose of transparency and certainty, APEC Economies should clearly establish a set of possible documents that should be, as much as possible, electronic*, is likely to be complemented by adding that *where possible, copies of such documents should be accepted*, in accordance with TFA's Article 10 N° 2. This encourages Economies to accept copies of the documentation required for import, export or transit formalities, which is highly related with the topic these guidelines should address.

The updated guidelines should continue to reflect at their core the objectives of efficiency of customs clearance and reduction of costs, where the use of technology plays an important role. The potential of disruptive technologies to tackle the difficulties that transit of goods poses on economic integration is one of the pending works for the fora to address and develop in future initiatives.

Updating the APEC Customs Transit Guidelines provides the fora the opportunity to contribute to the economic and social development of our region, as well as strengthening the integration of APEC Member Economies.

VIII. Relationship with New APEC Customs Transit Guidelines and figures of Trade Facilitation like the AEO Programs

As conclusions of the project show, and still in line with the link between the implementation of the WTO's Trade Facilitation Agreement within the APEC Region and the objectives of the APEC Customs Transit Guidelines, one key provision of the TFA that showed a special linkage between the customs transit of goods and trade facilitation customs procedures is the Trusted Trader Programs or Authorized Economic Operator (AEO) Programs within APEC's Customs Administrations.

As we are dealing with one of the provisions of the TFA, which fluctuates the most on the degrees of its implementation, and this reflects on the categories under which it has been notified to the WTO, this linkage poses a great challenge for APEC customs agencies. This remains as a pending task, but needs to be taken into account by APEC Member Economies from a customs perspective.

During the Workshop, an idea raising from attending Member Economies revolved around exploring the possibility to link the benefits structure of the AEO Programs within the APEC customs agencies and the customs procedures related to preferential rules of origin.

Some Economies (Chile and Viet Nam, among others) shared their reflections on the unavoidable relation that could exist between the benefits granted to an AEO company and the required completion of customs procedures and related documentation when that same trader applies for preferential tariff treatment under a Free Trade Agreement.

This potential relation finds its basis on Mutual Recognition Agreements, which are coming to be seen as the last piece of the economic integration chain of the agreements between two or more parties. Therefore, one possible way to address the transit of goods and, at the same time, deepen the implementation of Trade Facilitation provisions, could be the inclusion of documental exemptions or special treatment of transit requirements for those traders which are certified as an AEO in its Economy, but even more whose Economy has both agreements in force: the Free Trade Agreement on one side, and a Mutual Recognition Agreement on the other side.

The abovementioned idea was raised and discussed during the Workshop, and it is one of the key elements for the fora to consider in future discussions within the APEC Subcommittee on Customs Procedures.