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REGULATION OF *RULES OF ORIGIN* IN INDONESIA IN THE INTERNATIONAL TRADING SYSTEM

SETYO KOES HERIYATNO
Doctoral Program in Law, Faculty of Law, Diponegoro University, Jl. Prof. Soedarto, SH., Tembalang, Semarang. Email: setyokoesheriyatno@students.undip.ac.id.

BUDI SANTOSO
Lecturer, Doctoral Law Program, Faculty of Law, Diponegoro University, Jl. Prof. Soedarto, SH., Tembalang, Semarang.

NABITATUS SA'ADAH
Lecturer, Doctoral Law Program, Faculty of Law, Diponegoro University, Jl. Prof. Soedarto, SH., Tembalang, Semarang.

Abstract

The purpose of this study is to analyze: 1) what are Rules of Origin in relation to international trade? 2) How are the Rules of Origin regulated in Indonesia? The research method used is empirical juridical with a statutory approach, concept approach, and case studies. The results showed that: 1) Rules of Origin are criteria used to determine the country of origin of an item. This is important because in international trade, obligations and restrictions in some cases depend on the source of import of a good. This Rules of Origin is stated in the form of a Certificate of Origin or Certificate of Origin (SKA) as a document that shows that an item has met the Conditions of Origin of Goods and at the same time is entitled to tariff preferences. 2) Based on two laws, namely Law Number 7 of 2014 concerning Trade and Law Number 10 of 1995 concerning Customs which was amended into Law Number 17 of 2006, it can be said that Indonesia has not set clear rules of origin.

Keywords: *Regulation, Rules of Origin, Indonesia, System, Trade, International.*

INTRODUCTION

Background

The more liberal trade between countries, trade practices that occur often create opportunities for unhealthy trade practices. One of these deviant practices is the existence of *illegal transhipment* which can cause losses or *injury* to the domestic industry. [1]The act of *illegal transhipment* became a hot issue after the financial crisis in the United States where there was an increase in exports in several countries.[2] The increase in exports is not only intended as a form of export diversion but also in anticipation of increasing the financial liquidity of each country. Efforts to boost exports are usually carried out by carrying out dumping strategies to potential markets, including Indonesia. As a result, these goods will be subject to *anti-dumping* and *safeguards* as a form of protection for producers in export destination countries.[3]

A country that is subject to *anti-dumping* policies or *safeguards* from other countries has the potential to do ways that are contrary to GATT/WTO principles in order to maximize exports and profits. The reason is that goods subject to *anti-dumping* or *safeguards* are no longer competitive in export destination markets due to the imposition of high import duties. So they carry out shipbuilding or illegal transhipment with the mode of falsifying *Certificate of Origin documents*.

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This act of Certificate of Origin *forgery,* known as circumvention, aims to avoid large import duties and is driven by domestic conditions where tire manufacturers are overstocked due to weakening domestic demand. So they are encouraged to do *illegal transhipment* to Indonesia because the need for tires in the Indonesian retail market is quite large, which is around 5 (five million) per year.

To overcome the above cases, developed countries such as the US and the European Union use the Rules of Origin instrument to protect consumers against fraudulent acts or misleading indications. This is because consumers everywhere have the right to know where the goods are made which is the right for consumers to determine the decision to buy an item (*ultimate purchaser*).[4] In addition, the existence of production processes carried out by more than one country and involving components from various other countries causes no goods to be actually produced by the country *of origin* so that the *Rules of Origin* are seen as the most effective means of protection.[5]

This is also in line with the increase in cooperation based on preferential trade agreements, so does the role of *rules of origin*. *Rules of origin* (or often abbreviated as ROO) are rules for determining the origin of a product through certain criteria.[6] While *preferential* trade agreement (PTA) is a trade agreement in a trade area that gives privileges to certain products from member countries by providing tariff reductions, but not to countries that are not members.[7] In this context, the *rules of origin* serve to prevent trade deflection, i.e. prevent the entry of goods originating from non-member countries and enjoying trade benefits (such as the elimination of tariffs or obtaining preferential tariffs from the *Generalized System of Preference* / GSP scheme) through countries that apply the lowest external tariffs.[8]

Different rules of origin in each country can disrupt the flow of international trade. Problems arise when several of the same products originating from different countries are subject to different rules in each country in one region. In addition, differences in rules of origin in a country can force global producers to add certain manufacturing processes to their production chain in that country, resulting in high costs.[9]

Problem Statement

1. What are *Rules of Origin* in relation to international trade?
2. How are *the Rules of Origin* set up in Indonesia?

Theoretical Framework

International Trade Theory

According to David Ricardo, the main reason that drives international trade is the difference in relative comparative advantage between countries in producing a commodity. A country will export the resulting commodity cheaper and import the resulting commodity more expensive in resource use. Such international trade will encourage increased consumption and profits. Conversely, the government's trade restriction policy actually provides greater losses to the domestic community than the benefits obtained.[10]

The international trade sector is one of the country's sources of foreign exchange to finance the development of a country. This sector has a vital position for countries that rely on foreign exchange from exports and imports of goods, because it will affect their economic growth, so International Trade is a way to increase the prosperity of a nation.[11]

As Anne O. Krunger argues, free trade not only creates growth in industrialized countries, but also in developing countries that adopt free trade and integrate with the system as a whole. One that is often referred to is East Asian countries. Proponents of free trade claim that the WTO is an authoritative

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institution that protects the interests of developing countries and provides different treatment and preferences as set forth in the 1947 GATT and 19941 GATT agreements with developing countries.[12]

One of the things that can be used as a driving force for growth is international trade. Salvatore stated that trade can be an engine for growth. If international trade activity is export and import, then either one of these components or both can be the driving force for growth. Tambunan (2005) stated that in the early 1980s Indonesia established a policy in the form of export promotion. Thus, the policy makes exports a driving force for growth.[13]

RESEARCH METHODOLOGY

This research will be prepared using a type of normative juridical research, which is research focused on examining the application of rules or norms in positive law.[14] This type of research is normative legal research, in accordance with Soerjono Soekanto's opinion, that normative[15] legal research is research that includes research on legal principles, research on legal systematics, research on legal synchronization, legal history research, and comparative legal research, in order to answer legal problems or issues to be studied. Normative legal research examines legal rules or regulations as a system building related to a legal event. This research was conducted with the intention of providing legal argumentation as a basis for determining whether an event has been true or false according to law.[16]

RESEARCH RESULTS

Rules of Origin in Relation to International Trade

Efforts to draft the rules *of origin (RoO) can be traced back to 1923 where* The International Convention relating to the Simplification of Customs Formalities—*although not yet providing clear boundaries on rules of origin*—has outlined various measures to simplify procedures and formalities related to verification of the *origin of* goods.[17] This Convention in addition to regulating issues concerning the issuance and receipt of certificates of origin of goods, also provides an opportunity to the private sector to issue certificates of origin of goods. In addition, the Convention also provides for the receipt of certificates of authenticity of goods issued by third parties if the goods are not imported from their country of origin. The provisions of this Convention indicate that determining the origin of goods can be done freely, meaning that it can be done by any method. This is due to the fact that countries face almost no legal obstacles or intervention during determining the origin of goods. In the guidebook published *by the World Custom Organization* (WCO), rules *of origin* regulation in practice is motivated by the desire to circumvent trade restrictions such as quotas, taxes, embargoes, or *anti-dumping* and countervailing mechanisms imposed on destination countries (importers).[18]

Rules of Origin are criteria used to determine the country of origin of an item. This is important because in international trade, obligations and restrictions in some cases depend on the source of import of a good. These Rules of Origin [19] *are stated in the form* of a Certificate of Origin or Certificate of Origin (SKA) as a document that shows that an item has met the Conditions of Origin of Goods and at the same time is entitled to tariff preferences.

According to the WTO, the objectives of implementing the *Rules of Origin* are:

1. As a measure to implement trade policy measures and instruments such as anti-dumping and *safeguarding*;
2. To decide whether an imported product will be subject to *Most Favoured Nation* (MFN) or preferential measures;

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3. For trade statistics purposes;
4. For the purposes of labeling applications and marking requirements; and
5. For the purposes of *government procurement*.

GATT defines *Rules of Origin as laws, rules and administrative provisions established by each Member State to determine the Country of origin of goods, insofar as the provisions of origin of such goods do not relate* to "contractual or autonomous trade leading to the granting of tariff preferences" *implemented outside article I: 1 GATT.13 In addition, provisions regarding the principles* of Rules of Origin is regulated in article IX of the GATT which is still general in nature and serves as a guideline until a harmonized system *of Rules of Origin* is formed.[20]

Other more detailed arrangements are contained in Chapter I of Annex K of the Kyoto Convention, as follows:

1. *Country of Origin* means the State in which the goods are produced or made, in accordance with the criteria established for the purposes of applying Customs tariffs, quantity restrictions or other measures relating to trade.
2. *Rules of Origin* are specific provisions, developed from principles established by national legislation or international agreements (concerning "criteria of origin") established by a State to determine the origin of goods.
3. *Substantial Transformation is* a criterion used to determine the origin of goods by assuming that the State of origin of goods is the State in which the last substantial work or processing has been carried out, which is considered sufficient to provide the main properties of the goods.[21]

This definition is still vague because the rules determining the origin of goods depend on national legislation or state or international conventions. This will cause difficulties if the methods adopted by one country are different from other countries.[22]

In addition, the Kyoto Convention also regulates the principles of implementing the Rules of Origin. First, the principle that the provisions of origin of goods for the implementation of measures whose authority to apply in the field of import and export shall be imposed on the Customs Agency, shall be made in accordance with the provisions of this chapter and applied in accordance with the provisions contained in the General Annex. Second, the principle that dictates that goods entirely produced in a particular State must be ascribed to that State.[23]

In the period of the Uruguay Round, countries agreed to negotiate a framework to harmonize the Non-Preferential Rules of Origin (*NPROO) and* Preferential Rules of Origin *(PROO) due to non-uniformity* in determining the origin of goods. The Agreement on Rules of Origin (AROO) is a convention that results from these negotiations and forms an integrated part of the Agreement Establishing of the World Trade Organization (Annex 1A).[24]

The function of the RoO for non-preferential purposes is as stated in paragraph 1 of the *Agreement on Rules of Origin of* the WTO which reads:

"Rules of origin referred to in paragraph 1 shall include all rules of origin used in non-preferential commercial policy instruments, such as in the application of: mostfavoured-nation treatment under Articles I, II, III, XI and XIII of GATT 1994; antidumping and countervailing duties under Article VI of GATT 1994; safeguard measures under Article XIX of GATT 1994; origin marking requirements undeer Article IX of GATT 1994; and any discriminatory quantitative retrictions or tariff quotas. They shall also include rules of origin used for government procurement and trade statistics."

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The definition of paragraph 1 in the *Agreement on* Rules of Origin as read above is that the Rules of origin referred to in paragraph 1 include all *rules of origin* used in non-preferential commercial policy instruments, as in the application of: the most favored-nation treatment under Articles I, II, III, XI and XIII of GATT 1994, anti-dumping and countervailing duties under Article VI of GATT 1994, security measures under Article XIX of the GATT 1994; The origin marks the undeer requirements of Article IX of the 1994 GATT, and any discriminatory quantitative retrictions or tariff quotas. They should also include provisions of origin for goods used for government procurement and trade statistics. In paragraph 1 it is explained that what is meant by non-preferential purposes is in accordance with functions related to the implementation of international trade.[25]

The function of RoO for preference purposes is actually implied in the definition of RoO as stated in paragraph 2 of Annex II *Agreement on RoO* which reads:

"For the purposes of this Common Declaration, preferential rules of origin shall be defined as those laws, regulations and administrative determinations of general application applied by any Member to determine whether goods qualify for preferential treatment under contractual or autonomous trade regimes leading to the granting of tariff preferences going beyond the application of paragraph 1 of Article 1 of GATT 1994".

Based on the substance of the above article, it is clear that the function of RoO for preference purposes is as a tool in determining whether the commodity traded goods are eligible for preferential tariffs or not. Whether or not the feasible measure to obtain preferential rates is regulated in each agreement forming the FTA (*Free Tread Area) scheme*.[26]

RoO in the purpose of preference tariffs is the heart of the FTA secma, considering that this provision is the main requirement/criterion for obtaining preferential tariffs. This means that preferential rates cannot be granted as long as the requirements under the RoO are not met. The requirements or criteria that are maximized include 3 (three) things, namely:

1. *Origin Criteria;*
2. *Direct Consignment Criteria; and*
3. *Procedural provisions.*

According to the WTO and WCO, *the basic elements* of preferential trade agreements are:

1. *Origin Criteria;*
2. *Direct Consignment Rules;*
3. *Documentary Evidence; and*
4. *Prohibition of Duty Drawback*

The criteria *of origin* included in preferential trade agreements are: a) *wholly obtained goods definitions and b) Substantial/Transformation* (based on *Change in Tariff Classification*, *Value Added (ad valorem percentages*) or plant or processing operations.

There are seven principles *of rules of origin* contained in Article 9 of the Agreement on Rules of Origin, namely:

1. The principle of *non-discrimination/equal* that ROO other than for preferential purposes must also be applied equally for non-preferential purposes.
2. The principle of objective, understandable and predictability, that ROO must be objective, understandable and predictable.

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3. The principle of *transparency*, that ROO should not be used as an instrument, either directly or indirectly, to achieve trade policy objectives.
4. The principle of *consistent, uniform, impartial and reasonable manner; that administratively, ROO must be consistent, uniform, impartial and reasonable (reasonable).*
5. The principle of *neutrality*, that ROO must not contain restrictive, deviant and disruptive influences on international trade.
6. The *coherent principle that* the ROO rules should be clear and easy to understand.
7. The principle of *positive standards*, that ROO must contain standards that are positive. Negative standards are used to clarify positive standards.

Based on the *Convention on Rules of Origin,* there are two ways to determine the criteria for the origin of goods, namely:

(a) *Wholly obtained criterion*;

(b) *Not wholly obtained criterion/substantial transformation criterion*.

The criteria for the classification of goods entered *"wholly obtained or produced*" are strictly interpreted. Even the minimal contents of imported inputs, parts or components, or materials of undeterminable origin can make a finished item lose its classification as *"wholly obtained or produced".* Therefore, each PTA has a list of items that fall into this classification. Although there is slight variation in defining what constitutes "*wholly obtained or produced*", the principle remains the same. Products grown, explored or obtained from somewhere, or in the case of manufactured products, if produced from inputs derived from local ingredients, these products are classified as "*wholly obtained or produced*". In general, preferential granting countries agree on the following list of products that fall into the "wholly obtained or produced" category: [27]

a. Mineral products extracted from its soil or from its seabed;

b. Vegetable products harvested there;

c. Live animals born and raised there;

d. Products obtained there from live animals;

e. Products obtained from hunting or fishing conducted there;

f. Products obtained from sea fishing and other products taken from the sea by its vessels;

g. Products made on board its factory ships exclusively from products referred to in (f);

h. Used articles collected there fit only for the recovery of raw materials;

i. Waste and scrap resulting from manufacturing operations conducted there; and

j. Products obtained there exclusively from products specified in (a) – (i).

Rules *of Origin Settings* in Indonesia

ASEAN adopts certification policies through designated government agencies. There have been attempts to further liberalize and simplify the rules of origin, especially on the screening and procedural aspects of obtaining a certificate of origin rules. In addition, policy reforms were made on post-audit checks by creating "green lanes" to speed up RoO administration.[28] After ASEAN adopted the Agreement on Rules of Origin in AFTA then now it is ATIGA. Indonesia as an ASEAN member country also sets RoO on its trade policy.

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Indonesia does not yet have a complete and comprehensive rule *of origin*. *The* new rules of origin are interpreted as technical rules on the procedure for granting origin and have not made the rules of origin a strategic means for international trade. In fact, if studied further, *rules of origin* have a very important role in international trade traffic. One of the roles of rules of origin is to prevent trade *deflection*. Trade deflection is the entry of products originating from countries that are not members of the PTA through countries that have the lowest external tariffs, with the aim of avoiding high tariffs.[29]

In general, Indonesian laws and regulations governing the *rules of origin* either directly or indirectly are:

a. Law Number 7 of 1994 concerning the *Ratification of the Agreement Establishing the World Trade Organization*.
b. Law Number 7 of 2014 concerning Trade;
c. Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs;
d. Regulation of the Minister of Trade of the Republic of Indonesia Number 33/M-DAG/PER/8/2010 concerning Certificate of Origin/SKA (Certificate of Origin). For Indonesian Export Goods, as an amendment from the Regulation of the Minister of Trade of the Republic of Indonesia Number 43/M-DAG/PER/10/2007 concerning the Issuance of Certificate of Origin. For Indonesian Export Goods. This latest Ministerial Regulation repeals the Regulation of the Minister of Trade Number 17/M-DAG/PER/9/2005 concerning the Issuance of Certificate of Origin for Indonesian Export Goods;
e. Regulation of the Minister of Trade of the Republic of Indonesia Number 59/M-DAG/PER/12/2010 concerning Provisions for Issuance *of Certificate of Origin* for Indonesian Export Goods.
f. Regulation of the Minister of Trade of the Republic of Indonesia Number 60/M-DAG/PER/12/2010 dated December 30, 2010 concerning Certificate of Origin Issuing Agencies for Indonesian Export Goods.
g. Circular Letter of the Director General of Customs and Excise Number 5 / BC / 2010 concerning Guidelines for the Implementation of Research Documents Notification of Import of Goods in the Framework of the Free Trade Agreement Scheme,

Operational Certificate Procedures (OCP) which is the issuance of SKA based on the Free Trade Agreement (FTA) where Indonesia as one of the parties to the OCP includes ASEAN-India FTA, AJCEP, and AJCEP, and AANZ FTA.[30]

Law Number 7 of 2014 concerning Trade does not regulate the issue of rules of origin directly. The rules that indirectly govern the rules of origin are contained in Chapter XII Article 87 (1) which states: *"Governments can give unilateral trade preferences to least developed countries while prioritizing national interests*."

Although the explanation section says that this chapter is "quite clear", it actually contains several important things. First, in this case, Indonesia can act as a preferential "giving country". The fundamental question related to this condition is as a granting country, what criteria for goods or services will be given preferential facilities. In this regard, the rules of origin are the most appropriate mechanism to answer these fundamental questions. Secondly, the term "*unilateral*" here can mean

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that preferential giving is unilateral or non-reciprocity. That is, preferential gifts by a country do not have to be paid for with a reciprocal concession.[31]

Law Number 10 of 1995 jo Law Number 17 of 2006 concerning Customs or hereinafter referred to as the Customs Law, adopted more multilateral agreements in the GATT and WTO.

Article 1 paragraph 7 discusses the definition of a Customs Notification which is as follows: "*a statement made by a person in the course of carrying out a Customs obligation in the form and conditions stipulated in the Customs Law*."

Furthermore, article 10 states that: "*exported goods shall be notified using a Customs Notification*."

The Customs Law does not explicitly address the definition and regulation of the *Rules of Origin*. Articles 3 and 4 regarding customs inspection of export and import goods can be interpreted as an examination of the validity of the COO including the correctness of the origin of goods (*Rules of Origin*).

The use of the term *Rules of Origin*, which in international trade practice is stated in the COO, is mentioned as a customs notification in the Customs Law. The use of the term customs notification is actually not appropriate because the definition is all documents related to export-import purposes. While COO is a certain type of document that is required for the implementation of the *Free Trade Agreement*.

The provisions of Indonesia's Rules of Origin are more general and flexible. An item can be said to originate from Indonesia if:

1. Has undergone sufficient workmanship or processing and changed the form, nature, or usefulness of the basic raw materials used in the production process;
2. Meet the requirements of process criteria (*change in tariff headings*) or percentage criteria (*value added*).[32]

Law Number 10 of 1995 concerning Customs which was amended into Law Number 17 of 2006 also does not regulate *the rules of origin* specifically. However, Articles 25 and 26 provide for Import Duty Exemption and Relief. Both articles mention a list of imported goods that can be subject to exemption and/or import duty relief. From this it can be seen that Indonesia has not specifically regulated the *rules of origin* as the basis for goods and services to enjoy preferential facilities. Even if we look more carefully, the list of imported goods that can get exemption or relief from import duties contained in Article 26, there are some goods that fall into the criteria of "wholly obtained" *and "*not wholly obtained*" in accordance with the criteria of goods based on the provisions* of the rules of origin.

Article 26 (1) letter f states that goods that can be granted exemption or relief from them are marine products that have been caught by means of catching that have obtained a permit. Based on the *WTO Agreement on Rules of Origin* (AROO) and *ASEAN Trade in Good Agreement* (ATIGA), all seafood are products that fall into the category of "*wholly obtained*" in the provisions of the rules of origin. Similarly, Article 26 (1) letter k states that goods that can be granted exemption or tariff relief are goods and materials to be processed, assembled, or installed on other goods for the purpose of export. Based on the provisions of the rules of origin, both contained in the WTO AROO and ATIGA, goods imported with the aim of being given added value (processed, assembled, or installed on other goods) and then re-exported are included in the criteria of "*not wholly obtained*".

Based on the two laws above, namely Law Number 7 of 2014 concerning Trade and Law Number 10 of 1995 concerning Customs which was amended into Law Number 17 of 2006, it can be said that Indonesia has not regulated the provisions of *the rules of origin* clearly.

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The technical rules under the law that directly regulate the rules of origin are the Regulation of the Minister of Trade Number 33/M-DAG/PER/8/2010 concerning Certificate of Origin (SKA) for Indonesian Export Goods; Minister of Trade Regulation Number 59/M-DAG/PER/12/2010 concerning Provisions for Issuance of *Certificate of Origin* for Indonesian Export Goods; and Circular Letter of the Director General of Customs and Excise Number 1 / BC / 2010 concerning Guidelines for the Implementation of Research Certificate of Origin for Imported Goods in the *Free Trade Agreement Scheme*.

Regulation of the Minister of Trade of the Republic of Indonesia Number 33/M-DAG/PER/8/2010 concerning *Certificate of Origin*. For Indonesian Export Goods is an amendment from the Regulation of the Minister of Trade of the Republic of Indonesia Number 43/M-DAG/PER/10/2007 concerning the Issuance of *Certificate of Origin* for Indonesian Export Goods. This latter Regulation of the Minister of Trade revokes the Regulation of the Minister of Trade Number 17/MDAG/PER/9/2005 concerning the Issuance of *Certificate of Origin* for Indonesian Export Goods. This regulation regulates the certificate of origin for goods exported by Indonesia. This means that Indonesia acts as a "recipient country" of preferential facilities. That is, Indonesia is a country that applies for preferential facilities to developed countries. Therefore, the qualification of goods that receive preferential facilities is entirely determined by the preferential "granting country". Indonesia as the applicant must meet the requirements of the rules of origin stipulated by the preferential granting country if it wants to obtain the facility. This is the implication of the unilateral principle on which preferential facilities are based.

Based on Article 1 point 1 of the Regulation of the Minister of Trade Number 33/M-DAG/PER/8/2010, what is meant by rules of origin *is "*laws and regulations and administrative provisions of general application applied by a WTO member country to determine the country of origin of goods." The definition of *rules of origin* in this rule is unclear. How to determine the origin of the goods is not described further. What the purpose of *the rules of origin* is for Indonesia is also not explained. The sentence "...*applied by a WTO member country" can be interpreted that the way and method to determine that an item comes from Indonesia is determined by a WTO member country which will provide preferential facilities to Indonesia.*

The provisions *of the rules* of origin in Ministerial Regulation Number 33/MDAG/PER/8/2010 are only interpreted as "administrative provisions" regarding the origin of goods. This Ministerial Regulation regulates more about the procedures for issuing Certificate of Origin (SKA). The definition of Certificate of Origin according to Article 1 point 1 of the Regulation of the Minister of Trade is a document included when Indonesian export goods that have met the rules of origin enter the territory of a certain country that proves that the goods come from Indonesia. Certificate of origin consists of two types, namely preferential SKA and non-preferential SKA. Preferential SKA is issued to obtain facilities for reducing or exempting import duty tariffs granted by a country or group of countries on Indonesian export goods that meet the requirements in accordance with the provisions of international agreements or unilateral determinations. Meanwhile, non-preferential SKAs are issued to meet the provisions set by a country or group of countries on Indonesian export goods based on international agreements or unilateral determinations. Certificate of origin issued by the agency/agency/institution designated as the SKA issuing agency by the director general for and on behalf of the minister.

Furthermore, based on the Regulation of the Minister of Trade Number 60 / MDAG / PER / 12/2012 concerning Certificate of Origin Issuing Agencies for Indonesian Export Goods, there are 85 institutions issuing certificates of origin spread across 34 provinces in Indonesia.

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Furthermore, there are agencies issuing certificates of origin for certain export goods originating from Indonesia, namely:

a. For textiles and textile products for export purposes to the United States and the European Union there are 30 agencies;
b. For footwear products there are 28 agencies;
c. For shrimp there are 18 agencies; and
d. For coffee there are 13 agencies.

Based on Article 7 (2) of the Regulation of the Minister of Trade Number 33/MDAG/PER/8/2010, a certificate of origin can be obtained by an exporter by submitting an application to the issuing agency for a certificate of origin accompanied by supporting documents in the form of:

a. Photocopy of Export Notification of Goods (PEB) that has been loaded by officers of the Customs and Excise Service Office at the loading port or PEB print out sheets made by Electronic Data Exchange (PDE) accompanied by Export Approval Note (NPE);
b. Original *copy of Bill of Lading* (B/L) or photocopy of *Air Way Bill* (AWB), or photocopy of Cargo Receipt if the export is through a land port;
c. Photocopy of Taxpayer Identification Number (NPWP);
d. Invoice;
e. Packing list; and
f. Other documents correspond to the type of SKA based on their designation.

For each SKA issuance application, the SKA issuing agency must research and check:

a. Fulfillment of the *rules of origin in* accordance with the provisions of international agreements or unilateral determinations;
b. The correctness of the information submitted by the exporter; and
c. Completeness of supporting documents.

As explained earlier, Article 87 (1) of Law Number 7 of 2014 concerning Trade is the legal basis for Indonesia to formulate rules *regarding rules of origin*. This article states that the Government of Indonesia can give unilateral trade preferences to least developed countries while prioritizing national interests. That is, in addition to export products from Indonesia that require special rules *regarding rules of origin*, imported products entering Indonesia must also meet certain qualifications set by Indonesia, as a preferential granting country, to be able to get preferential facilities, including tariff reductions. However, Indonesia also does not have rules *regarding rules of origin* for imported products.[33]

Rules of origin not only have potential as an instrument of trade policy, but also in fact have an impact on international trade flows.[34] A free trade area under preferential agreements that has cumulative rules of origin provisions is usually more liberal than a region that does not have cumulative rules of origin provisions. This is because based on the provisions of the cumulative rules of origin, production materials and goods originating from one member country of the regional region are considered to come from the country where the last processing was carried out and are not considered imported goods. In other words, production materials originating from within a member state of the regional region are exempt from value-adding norms because they are not considered imports to the country where the production process takes place. This has the potential to increase intra-regional trade flows

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from various categories of goods (finished goods, intermediate goods and intermediate goods) and can also increase investment flows and technology transfer and have a favorable trade balance effect for countries that apply cumulative *rules of origin*.[35]

CONCLUSION

The results showed that;

a. *Rules of Origin* are criteria used to determine the country of origin of an item. This is important because in international trade, obligations and restrictions in some cases depend on the source of import of a good. These Rules of Origin *are stated in the form* of a Certificate of Origin or Certificate of Origin (SKA) as a document that shows that an item has met the Conditions of Origin of Goods and at the same time is entitled to tariff preferences.

b. Based on two laws, namely Law Number 7 of 2014 concerning Trade and Law Number 10 of 1995 concerning Customs which was amended into Law Number 17 of 2006, it can be said that Indonesia has not regulated the provisions of *the rules of origin* clearly.

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