

CIRCULAR

**PILOT PROJECT FOR SELF-CERTIFICATION OF GOODS UNDER ASEAN TRADE IN
GOODS AGREEMENT**

Pursuant to the Government's Decree No. 95/2012/ND-CP dated November 12, 2012, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade;

Pursuant to Decree No. 19/2006/ND-CP dated February 20th 2006 by the Government detailing the provisions of Law on Commerce on goods origin;

In the implementation of the ASEAN Trade in Goods Agreement signed on February 26th 2009 during the 14th Summit in Cha-Am, Thailand among member states of Association of Southeast Asian Nations (hereinafter referred to as ASEAN) and the Memorandum signed on August 29th 2012 among Laos, Philippines and Indonesia in Siem Reap, Cambodia on the pilot running of the second program of goods origin self-certification;

On the implementation of Resolution No. 68/NQ-CP dated September 10th 2014 by the Government on the signature on the Memorandum on the pilot running of second program of goods origin self-certification applicable to ASEAN;

At the request of Director of Export and Import Administration,

The Minister of Industry and Trade promulgates the Circular providing for the pilot running of project on goods origin self-certification specified the ASEAN Trade In Goods Agreement.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

1. This Circular provides for the pilot project for origin self-certification according to provisions of the Memorandum signed on August 29th 2012 among Lao People's Democratic Republic, the Republic of the Philippines and the Republic of Indonesia in Siem Reap, Cambodia on the second pilot project for the implementation of origin self-certification system (hereinafter referred to as the Memorandum).

2. Apart from regulations relating to the self-certification of goods origin specified in this Circular, traders and relevant agencies, organizations and individuals shall comply with regulations in Circular No. 21/2010/TT-BCT dated May 17th 2010 by the Minister of Industry and Trade and Circular No. 42/2014/TT-BCT date November 18th 2014 by the Minister of Industry and Trade.

Article 2. Regulated entities

1. This Circular applies to traders exporting/importing goods to/from member states of the Memorandum according to ASEAN Trade in Goods Agreement and relevant agencies, organizations and individuals.

2. Every trader that is certified by the Ministry of Industry and Trade to join in the pilot project for self-certification of goods origin (hereinafter referred to as self-certification pilot project) according to regulations in this Circular may apply for the Certificate of Origin of goods form D (hereinafter referred to as C/O Form D) according to regulations in Circular No. 21/2010/TT-BCT and Circular No. 42/2014/TT-BCT.

Article 3. Interpretation of terms

1. Self-certification of goods origin means traders' declaring origins of exported goods on invoice declaration themselves instead of C/O Form D).
2. Exporters are traders certified for participation in the self-certification pilot project of member states of the Memorandum.
3. An invoice declaration means an invoice on which the origin of goods is declared according to regulations in Article 7 of this Circular issued by the certified trader.
4. A competent authority of the exporting member state is a Governmental authority of the exporting member state that is authorized to:
 - a) Issue the C/O Form D;
 - b) Issue the written authorisation for self-certification of goods origin (hereinafter referred to as the Authorisation).
5. Member states of the Memorandum include the Lao People's Democratic Republic, the Republic of the Philippines, the Republic of Indonesia, the Kingdom of Thailand and the Socialist Republic of Vietnam. The Ministry of Industry and Trade shall publish the list of new member states of the Memorandum on website of the Ministry of Industry and Trade (www.moit.gov.vn) and send a written notification to customs authorities.

Chapter II

AUTHORISATIONS

Article 4. Criteria for selection for implementation of self-certification pilot project

In order to be certified for pilot running of the project on goods origin, the trader must satisfy all of the following requirements:

1. The trader is the producer and also the exporter of goods they produce.
2. The trader does not commit violations against regulations on goods origin over the last 02 (two) years prior to the date of application.
3. Turnover of export to ASEAN under C/O form D of the preceding year is at least USD 10 (ten) million.
4. One or some employees of the trader are provided with training and granted certificates of training in goods origin by a training institution appointed by the Ministry of Industry and Trade.

Article 5. Issuance of the Authorisation

1. The Export and Import Administration – the Ministry of Industry and Trade shall issue the Authorisation for traders participating in the pilot project for the implementation of self-certification system in ASEAN.

2. Any trader satisfying all requirements specified in Article 4 of this Circular and wishes to participate in the pilot running of the program on goods origin self-certification shall send 01 (one) application by post to the Export and Import Administration - the Ministry of Industry and Trade, (address: 54 Hai Ba Trung, Hoan Kiem District, Hanoi) or submit the online application on www.ecosys.gov.vn.

3. Application and procedures for the Authorisation:

a) An application form for participating in self-certification pilot project in ASEAN (the form in Appendix I enclosed with this Circular) which specify the names of products for which the trader is authorized to self-certify their origins (hereinafter referred to as covered products) - 01 (one) original copy;

b) Name and specimen signature of the legal representative of the trader or the authorized person who has obtained the certificates of training in goods origin (enclosed with 01 (one) photocopy bearing the authentication and the seal of the trader), on the invoice declaration (no more than 03 (three) people) (according to the form in Appendix V of this Circular) – 01 (one) original copy;

c) A report on manufacturing capacity according to the form in Appendix II of this Circular - 01 (one) original copy;

d) The Certificate of Business registration or the Certificate of Enterprise registration or the Investment certificate - 01 (one) photocopy (bearing the authentication and seal of the trader);

dd) A report on turnover of export to ASEAN countries obtaining C/O form D of the directly previous year – 01 (one) original copy (verified by the C/O issuer)

4. Deadline of processing

a) Within 07 working days from the day on which the satisfactory application is received, Export and Import Administration - the Ministry of Industry and Trade or the Form D C/O issuer (the Services of Industry and Trade or the management boards of industrial zones/export-processing zones/economic zones authorized by the Ministry of Industry and Trade) of the place where the production facility of the trader is located shall conduct a physical inspection of production capacity of the trader;

b) If the application is unsatisfactory, within 05 working days from the day on which the application is received, Export and Import Administration - the Ministry of Industry and Trade shall send the trader a written request for completion of the application;

c) Within 05 working days from the day on which the result of the inspection on site is received, Export and Import Administration - the Ministry of Industry and Trade shall consider issuing the Authorisation to the trader. If the application is rejected, Export and Import Administration - the Ministry of Industry and Trade shall make a written response containing the explanation.

5. Regarding traders producing/exporting new products or changing products that were registered for self-certification of goods origin:

a) The application shall include:

- An application for permission to add/change covered products - 01 (one) original copy;

- The issued Authorisation – 01 (one) photocopy bearing the authentication and seal of the trader;

- A report according to the form in Appendix II of this Circular: 01 (one) original copy;
- b) Deadline for processing and issuance of the Authorisation for the modification shall comply with regulations in clause 4 of this Article.

6. Regarding modification of information other than those specified in clause 5 of this Article like the person authorized to sign on the invoice declaration, address of the head office, contact number, the Certificate of Business registration or the Certificate of Enterprise registration or the Investment certificate, the trader shall immediately send a written notification to Export and Import Administration - the Ministry of Industry and Trade.

7. If the Authorisation is expired, the trader shall make an application according to provisions in clause 3 of this Article.

If the products, production process and production facilities of the applicant trader are not different from the information provided in the initial application, Export and Import Administration - the Ministry of Industry and Trade may consider exempting the trader from bearing physical inspections when reissuing the Authorisation.

Article 6. The Authorisation

1. The Authorisation is effective for 01 year from the day on which it is issued, unless it is revoked according to regulations in Article 10 of this Circular.
2. Each Authorisation shall have a code (hereinafter referred to as the self-certification code). The trader shall include such code on the invoice containing the origin declaration that is issued within the effective duration of the Authorisation.

Chapter III

COMMERCIAL INVOICES CONTAINING ORIGIN DECLARATION

Article 7. Invoice declaration

1. Any certified trader that exports goods with identified origin shall declare themselves on the invoice as follows:

“The exporter of the product(s) covered by this document (Certified Exporter Authorization Code.....) declares that, except where otherwise clearly indicated, the product(s) (HS Code/s:.....) satisfy the Rules of Origin to be considered as ASEAN Originating Products under ATIGA (ASEAN country of origin:) with origin criteria: ”

.....
 (Signature over Printed Name of the Authorized Signatory)

Where:

- “Certified Exporter Authorization Code” is the self-certification code.
- “HS Code/s” is a 6-digit HS Code of the exported goods.
- “ASEAN country of origin” is name of the country of origin.
- “origin criteria” are the criteria of origin.
- “Signature over Printed Name of the Authorized Signatory” is the Capitalized name and signature of the person authorized by the trader and registered with the competent authority.

2. On the invoice, information about goods shall be fully detailed to identify the origin of goods.
3. The invoice declaration shall bear the hand-signature, the contents prescribed in clause 1 of this Article shall be written in English and capitalized name of the authorized person is required.
4. The date written on the invoice is considered the date of issue of the invoice declaration.
5. If the invoice declaration is not large enough for declaring all the products, then papers containing HS Code, origin criteria and signature and capitalized name of the authorized person may be enclosed therewith.

Chapter IV

REGULATIONS FOR IMPORTED GOODS ELIGIBLE FOR SELF-CERTIFICATION OF ORIGIN

Article 8. Tax incentives for imported goods

1. Customs authorities shall consider providing tax incentives according to the ASEAN Trade in Goods Agreement for goods imported from the member states of the Memorandum if :
 - a) The importer shall submit the invoice declaration issued by the certified traders of member states of the Memorandum;
 - b) The certified traders of member states of the Memorandum shall be on the list that the Ministry of Industry and Trade send to customs authorities;
 - c) Products eligible for tax incentives shall be on the list of products that the member states of the Memorandum send to the Ministry of Industry and Trade.
2. Customs authorities shall consider accepting the invoice declaration that are issued by the exporters and products on the list sent by the Ministry of Industry and Trade as prescribed in clause 1 of this Article.
3. Procedures for importing goods shall comply with instructions of the Ministry of Finance.

Chapter V

INSPECTION AND VERIFICATION OF GOODS ORIGIN AND ACTIONS AGAINST VIOLATIONS

Article 9. Inspection and verification of goods origin

The inspection and verification of goods origin shall comply with regulations in Appendix III of this Circular.

Article 10. Revocation of the Authorisation for participating in self-certification pilot project

1. An Authorisation for participating in self-certification pilot project shall be revoked in the following cases:
 - a) Fraudulent documents or information is used in the application for the Authorisation;
 - b) Fraudulent documents are used to obtain permission for self-certification;
 - c) The trader fails to fulfill his/her duties specified in Article 11 of this Circular.

2. Export and Import Administration - the Ministry of Industry and Trade shall not issue any Authorisation for 01 year since such trader has the Authorisation revoked.
3. Information about traders who have their Authorisation revoked shall be posted on website of the Ministry of Industry and Trade (www.moit.gov.vn).
4. Apart from incurring the revocation of the Authorisation for participating in the self-certification pilot project, any traders performing actions specified in points a, b and c clause 1 of this Article shall be liable to actions against administrative violations according to current regulations.

Chapter VI

RESPONSIBILITIES OF TRADERS AND RELEVANT AGENCIES AND ORGANIZATIONS

Article 11. Responsibilities of traders granted the Authorisation

1. Maintain the fulfillment of conditions according to regulations in this Circular during the self-certification of goods origin; immediately report to Export and Import Administration - the Ministry of Industry and Trade the change in conditions prescribed in this Circular.
2. Provide adequate reports and relevant documents and enable Export and Import Administration - the Ministry of Industry and Trade or agencies authorized by the Ministry of Industry and Trade at the request of the Ministry of Industry and Trade to carry on-site inspections.
3. Retain reports and documents proving that covered goods satisfy origin criteria according to current regulations and relevant invoices for at least 03 years from the beginning day of self-certification.
4. Only carry out self-declaration of goods origin when goods are produced by themselves and necessary invoices proving that goods satisfy the origin criteria at the date of issue of invoice declaration are sufficient.
5. Ensure that their legal representatives or people authorized to sign the commercial invoices containing origin declaration have been provided with training and obtained certificates according to regulations in clause 4 Article 4 of this Circular.
6. Take legal responsibility for the accuracy of the declaration relating to the application for the Authorisation and the self-certification contents on commercial invoices containing origin declaration.
7. Send Export and Import Administration - the Ministry of Industry and Trade the reports on the issued invoice declaration for exported goods according to regulations in this Circular (according to form in Appendix IV of this Circular) in the first week of every month.
8. Promptly report to Export and Import Administration - the Ministry of Industry and Trade the invoice declaration that are rejected by the importing countries (if any).

Article 12. Responsibilities relevant agencies and organizations

1. Responsibilities of Export and Import Administration - the Ministry of Industry and Trade:
 - a) Carry out the issuance, reissuance, modification of the Authorisations;

- b) Verify the origin of exported goods at the request of competent authorities of the importing countries
 - c) Inspect and direct the implementation of the certified traders after issuing the Authorisations, including the verification of the accuracy of the invoice declaration;
 - d) After issuing the Authorisations, Export and Import Administration - the Ministry of Industry and Trade shall notify ASEAN Secretariat the information about the certified traders, including:
 - Name;
 - Head office;
 - List of authorized signatories to the invoice declaration and their respective specimen signatures;
 - Self-certification code, including date of issue and date of expiration of the Authorisation;
 - List of goods subject to self-certification of origin.
 - dd) Publish the list of certified traders of the member state of the Memorandum on website of the Ministry of Industry and Trade (www.moit.gov.vn).
2. Responsibilities of training providers assigned by the Ministry of Industry and Trade:
- a) Provide training and issue certificates for learners;
 - b) Comply with general regulations on providing training;
 - c) Immediately report to Export and Import Administration information about the certificates after issuing.

Chapter VII

IMPLEMENTARY CLAUSE

Article 13. Effect

This Circular comes into effect from October 05th 2015.

**PP. THE MINISTER
THE DEPUTY MINISTER**

Tran Tuan Anh