

**MINISTRY OF INDUSTRY
AND TRADE**

No.: 19/2020/TT-BCT

**SOCIALIST REPUBLIC OF VIET NAM
Independence-Freedom-Happiness**

Hanoi, August 14, 2020

CIRCULAR

**PRESCRIBING AMENDMENTS TO CIRCULARS ON RULES OF ORIGIN IN THE ASEAN
TRADE IN GOODS AGREEMENT**

Pursuant to the Government's Decree No. 98/2017/ND-CP dated August 18, 2017 defining the Functions, Tasks, Powers and Organizational Structure of the Ministry of Industry and Trade;

Pursuant to the Government's Decree No. 31/2018/ND-CP dated March 08, 2018 on guidelines for the Law on Foreign Trade Management regarding origin of goods;

In implementation of the ASEAN Trade in Goods Agreement signed on February 26, 2009 at the 14th Summit held in Thailand between the Member States of the Association of Southeast Asian Nations;

In implementation of the First Protocol to Amend the ASEAN Trade in Goods Agreement signed on January 22, 2019 in Vietnam;

In implementation of the 32nd Meeting of the Coordinating Committee on the Implementation of the ASEAN Trade in Goods Agreement held on February 28, 2020 in Indonesia, the 51st Meeting of the ASEAN Economic Ministers and the 33rd Meeting of ASEAN Free Trade Area Council held on September 06, 2019 in Thailand;

In implementation of the Government's Resolution No. 110/NQ-CP dated July 23, 2020 giving approval for the First Protocol to Amend the ASEAN Trade in Goods Agreement (ATIGA);

At the request of the Director of the Agency of Foreign Trade,

The Minister of Industry and Trade promulgates a Circular providing amendments to Circulars on Rules of Origin in the ASEAN Trade in Goods Agreement.

Article 1. Amendments to Circular No. 22/2016/TT-BCT dated October 03, 2016 of the Minister of Industry and Trade prescribing Rules of Origin in the ASEAN Trade In Goods Agreement (hereinafter referred to as "Circular No. 22/2016/TT-BCT")

1. Appendix VII enclosed with the Circular No. 22/2016/TT-BCT is replaced by Appendix I enclosed herewith.

2. Appendix VIII enclosed with the Circular No. 22/2016/TT-BCT is replaced by Appendix II enclosed herewith.

3. Appendix IX enclosed with the Circular No. 22/2016/TT-BCT is replaced by Appendix III enclosed herewith.

4. Appendix X enclosed with the Circular No. 22/2016/TT-BCT is replaced by Appendix V enclosed herewith.

Article 2. Amendments to Appendix II enclosed with Circular No. 10/2019/TT-BCT dated July 22, 2019 of Minister of Industry and Trade providing amendments to Circular No. 22/2016/TT-BCT

Section 4 (“4. Không xét đến những công đoạn ... hoặc từ một trong những loại sau”) is amended as follows:

“5. Notwithstanding the processes specified in Clauses 2, 3, 4, non-originating textile material covered in the list stated below shall be deemed to be originating in a Member State if it satisfies the working or processing set out therein.

a) Fibres and yarns

Working or processing carried out on non-originating materials that confer originating status:

Manufacture through process of fibre-making (polymerisation, polycondensation and extrusion) spinning, twisting, texturizing or braiding from a blend or any of following:”

Article 3. Amendments to Circular No. 28/2015/TT-BCT dated August 20, 2015 of the Minister of Industry and Trade prescribing pilot implementation of self-certification of origin of goods in the ASEAN Trade In Goods Agreement (hereinafter referred to as “Circular No. 28/2015/TT-BCT”)

1. Article 1 is amended as follows:

“Article 1. Scope

This Circular stipulates:

1. The pilot implementation of self-certification of origin in accordance with the provisions of the Memorandum of Understanding signed on August 29, 2012 among Lao People's Democratic Republic, the Republic of the Philippines, , the Republic of Indonesia in Siem Reap, the Kingdom of Cambodia, on the second pilot project for the implementation of a regional self-certification system (hereinafter referred to as “pilot scheme”), and

2. The implementation of the ASEAN-wide self-certification scheme in the First Protocol to Amend the ASEAN Trade in Goods Agreement (ATIGA) (hereinafter referred to as “AWSC scheme”).”

2. Article 2 is amended as follows:

“Article 2. Regulated entities

1. This Circular applies to:

a) Exporters and importers of goods under ATIGA with traders of other Member States participating in the implementation of the pilot scheme.

b) Exporters and importers of goods under ATIGA with traders of other Member States participating in the implementation of the AWSC scheme.

c) Relevant authorities, organizations and individuals.

2. A certified exporter may, at his own discretion, apply for a Certificate of Origin - Form D (hereinafter referred to as “C/O Form D”) in place of making out an origin declaration.”

3. Clause 6 is added to Article 3 as follows:

“6. The terms specified in Clause 1 through 5 of this Article shall not apply to the AWSC scheme.”

4. Article 4 is amended as follows:

“Article 4. Certified exporters

1. An exporter that meets the following conditions may apply for an authorisation to make out origin declaration:

a) The exporter is also the manufacturer of goods.

b) The exporter has no record of any Rules of Origin fraud in the past 02 years by the time of submission of the application.

c) The exporter has employees who have successfully completed training courses in origin of goods provided by the training institutions appointed by either the Ministry of Industry and Trade or the Agency of Foreign Trade (affiliated to the Ministry of Industry and Trade).

2. Apart from the provisions in Clause 1 of this Article, a trader that applies for an authorisation under AWSC scheme is required to meet the following conditions:

a) The trader has been issued with a preferential C/O covering the goods of the same HS code (4 digits) in the past 02 years by the time of submission of the application for the authorisation.

b) In the event that the exporter is not the manufacturer, the exporter must have a manufacturer's declaration indicating the origin of the goods exported and readiness of the manufacturer to cooperate in examination of the application or proof of origin and retroactive check and verification visit at the manufacturer's premises."

5. Article 5 is amended as follows:

"Article 5. Issuance of the authorisation

1. The Agency of Foreign Trade (affiliated to the Ministry of Industry and Trade) is competent to grant authorisations to traders to make out origin declarations.

2. Traders meeting the conditions laid down in Article 4 hereof shall apply for authorisations and provide relevant supporting documents via the Electronic Certificates of Origin System of the Ministry of Industry and Trade by accessing <http://www.ecosys.gov.vn> (hereinafter referred to as "eCoSys").

3. An application for authorisation includes:

a) The written application for authorisation.

b) The list of officials authorised to sign the origin declaration and their respective specimen signatures: 01 photocopy.

c) The report on the manufacturing capacity or the manufacturing facility per product applied for authorisation to make out origin declaration: 01 photocopy.

4. Processing time limit:

a) Within 03 working days from the date of receipt of application, the competent authority shall make a notification on the eCoSys as follows:

- If the application is inadequate and invalid, the competent authority shall request the trader to modify and complete his application.

- If the application is adequate and valid, the competent authority shall request the C/O issuing authority where the trader's profile is registered to carry out a verification visit of the trader's manufacturing capacity in accordance with the provisions in the Circular No. 39/2018/TT-BCT dated October 30, 2018 of the Minister of Industry and Trade prescribing check and verification of origin of exported goods.

b) Within 07 working days from the date of receipt of the notification from the competent authority as prescribed in this Article, the C/O issuing authority where the trader's profile is

registered shall carry out the verification visit of manufacturing capacity of the trader or of the relevant producer.

c) Within 01 working day from the completion of the verification visit of the trader's manufacturing capacity, the C/O issuing authority shall published the verification results on the eCoSys.

d) Within 03 working days from the date on which the C/O issuing authority publishes the verification results as prescribed, the competent authority shall consider granting the authorisation and authorisation code to the trader. If an application is refused, it shall issue a letter of disapproval stating the reasons for the refusal.

dd) The competent authority shall consider granting exemption from the verification visit of the trader's manufacturing capacity as prescribed in Point b of this Clause to certified exporters that have participated in the pilot scheme.

5. Modification of the authorisation

a) In case of change or addition of the products applied for authorisation to make out origin declaration or officials authorised to sign the origin declaration, the trader shall declare such change or addition and provide supporting documents via the eCoSys.

b) In the event of change or addition of the products applied for authorisation to make out origin declaration, the application for modification of the authorisation shall include:

- The written application for modification of the authorisation to make out origin declaration.

- The report on the manufacturing capacity or the manufacturing facility per product applied for authorisation to make out origin declaration: 01 photocopy.

- With regard to traders participating in AWSC scheme, if the trader is not the manufacturer, the trader applying for the authorisation shall submit the copy of the manufacturer's declaration as prescribed in Article 4 hereof.

c) In the event of change or addition of officials authorised to sign the origin declaration, the application for modification of the authorisation shall include:

- The written application for modification of the authorisation to make out origin declaration.

- The list of officials authorised to sign the origin declaration and their respective specimen signatures: 01 photocopy.

d) Procedures, processing time limit and registration in cases of modification of the authorisation prescribed in this Clause shall comply with the provisions in Clause 4 of this Article.

dd) If the products changed or added are conformable with the trader's manufacturing capacity, the competent authority shall consider granting exemption from verification visit of manufacturing capacity of the trader that applies for modification of authorisation.

6. Upon expiry of the authorisation, the trader shall apply for re-issuance of the authorisation and provide supporting documents via the eCoSys in accordance with the provisions in Clause 3 of this Article.

If there is no difference between the products applied for authorisation in this application and those in previous applications, the competent authority may consider granting exemption from verification visit of the trader's manufacturing capacity when granting a new authorisation."

6. Article 6 is amended as follows:

"Article 6. Authorisation

1. Each certified exporter shall be granted an authorisation code. An authorisation code specified on origin declaration of goods of Vietnam shall comprise 12 characters as follows:

a) 07 first characters are "VN-AWSC".

b) 05 following characters are the ordinal number of the certified exporter granted the authorisation.

2. The authorisation shall be valid for 02 years from the date of issuance, unless it is revoked as prescribed in Article 10 hereof. The trader may only issue origin declarations within the period of validity of his authorisation."

7. Article 7 is amended as follows:

"Article 7. Invoice declaration

1. The certified exporter shall, in the case of export of goods satisfying the origin criteria under the pilot scheme, put the following declaration on the commercial invoice:

"The exporter of the product(s) covered by this document (Certified Exporter Authorisation 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 Authorised Signatory)

2. The commercial invoice should describe the goods in sufficient details to enable them to be identified for origin determination purposes.

3. The declaration on the commercial invoice must be signed by hand, with the contents in Clause 1 of this Article made in English language and the addition of the name of the authorized signatory that has been registered with the Ministry of Industry and Trade.

4. The date indicated in the commercial invoice shall be considered as the issuance date of the invoice declaration.

5. If in case the space provided for in the invoice declaration is not sufficient to list out all the products, additional page(s) could be attached, bearing the HS codes, origin criterion and signature over printed name of the authorized signatory.

6. The certified exporter is not allowed to make out origin declaration of any shipment which has been classified by a customs authority into the yellow or red channel when making export declaration.

7. The provisions in Clause 1 through 6 of this Article shall not apply to the AWSC scheme.”

8. Clause 4 is added to Article 8 as follows:

“4. The provisions in Clause 1 through 3 of this Article shall not apply to the AWSC scheme.”

9. Article 10 is amended as follows:

“Article 10. Withdrawal of the authorisation

1. The competent authorities may withdraw the authorisation where the certified exporter commits one of the following violations:

a) Forging of documents or provision of fraudulent statements in the application for authorisation to make out origin declaration.

b) Forging of documents or records in order to make out origin declaration.

c) The certified exporter no longer fulfill the conditions referred to in Article 4 hereof.

d) The certified exporter fails to fulfill the obligations of a certified exporter referred to in Article 11 hereof.

2. The trader whose authorisation is withdrawn shall apply red channel regulations laid down in the Circular No. 15/2018/TT-BCT dated June 29, 2018 of the Minister of Industry and Trade prescribing classification of declaration form channels in procedures for issuance of preferential certificate of origin. Information about the trader whose authorisation is withdrawn shall be published on the eCoSys.”

10. Article 11 is amended as follows:

“Article 11. Obligations of a certified exporter

1. Continue to comply with the conditions for the authorisation set out in Article 4 hereof during the implementation of self-certification of origin; promptly inform the competent authority of any changes related to these conditions.
2. Provide adequate reports and relevant documents and cooperate in verification visits of the manufacturing facility conducted by C/O issuing authorities and relevant competent authorities.
3. Retain the application for the authorisation for not less than 05 years from the date of the granting of the authorisation.
4. Retain origin declarations, records, reports and documentary evidences of the originating status of goods for which an origin declaration was made out and relevant documents for at least 03 years from the date of making out the declaration.
5. Undertake to make out origin declarations only for goods such exporter produces and for which he has all appropriate documents proving the origin status of the goods concerned at the time of making out the declaration.
6. Accept the full responsibility for the accuracy and authenticity of the information relating to the application for the authorisation and all origin declarations made out.
7. Within 07 working days from the date of making out an origin declaration, the trader shall declare and publish the declaration and all documents relating to the export shipment in accordance with the provisions in Point c through h Clause 1 Article 15 of the Government’s Decree No. 31/2018/ND-CP dated March 08, 2018 providing guidelines for implementation of the Law on Foreign Trade Management regarding origin of goods on the eCoSys.
8. Promptly inform the competent authority of any origin declaration rejected by the customs authority of the importing Member State.”

11. Article 12 is amended as follows:

“Article 12. Responsibility of relevant authorities and organizations

1. The Agency of Foreign Trade (affiliated to the Ministry of Industry and Trade) shall:
 - a) Issue and process applications for modification of authorizations.
 - b) Carry out verification of origin of exported goods at the request of competent authorities of the importing Member States.
 - c) Carry out inspection of the production of origin declarations made by the certified exporter after the grant of the authorisation, including the verification of the accuracy of origin declarations made out by the exporter.

d) Provide the ASEAN Secretariat with information on the certified exporter immediately after the grant of the authorisation.

dd) Appoint training institutions capable of providing training in origin of goods.

2. Training institutions appointed by the Ministry of Industry and Trade or the Agency of Foreign Trade (affiliated to the Ministry of Industry and Trade) shall:

a) Provide training programs in origin of goods.

b) Comply with general regulations on training activities.

c) Submit reports on provided training courses to the Agency of Foreign Trade (affiliated to the Ministry of Industry and Trade).”

Article 4. Replacement and abrogation of certain regulations in Circular No. 28/2015/TT-BCT

1. Article 9 is abrogated.

2. Appendix I enclosed with the Circular No. 28/2015/TT-BCT is replaced by Form 01 Appendix IV enclosed herewith.

3. Appendix II enclosed with the Circular No. 28/2015/TT-BCT is replaced by Form 03 Appendix IV enclosed herewith.

4. Appendix V enclosed with the Circular No. 28/2015/TT-BCT is replaced by Form 02 Appendix IV enclosed herewith.

Article 5. Transition

Customs authorities shall accept C/O Form D issued before December 21, 2020 according to the form in Appendix VIII enclosed with Circular No. 22/2016/TT-BCT.

Article 6. Implementation

1. This Circular comes into force from September 27, 2020.

2. If legislative documents referred to in this Circular are superseded, supplemented or amended, the new ones shall apply.

3. C/O issuing authorities shall consider issuing C/O Form D in accordance with the provisions herein for Vietnam’s exported goods from September 20, 2020.

4. Customs authorities shall accept the proof of origin prescribed in Appendix I and Appendix II enclosed herewith for considering the granting of the preferential tariff treatment under ATIGA for shipments whose import declarations are registered from September 20, 2020.

5. Guidelines and interpretations relating to the implementation of the Rules of Origin, which have been unanimously agreed by the Member States alternately or by means of reports of meetings of the Coordinating Committee on the Implementation of ATIGA and the Sub-Committee on ASEAN Rules of Origin shall be considered as the basis for implementation by C/O issuing authorities and customs authorities.

6. The Circular No. 27/2017/TT-BCT dated December 06, 2017 of the Minister of Industry and Trade is abrogated./.

**PP. MINISTER
DEPUTY MINISTER**

Tran Quoc Khanh

APPENDIX I

OPERATIONAL PROCEDURES FOR CERTIFICATION, CHECK AND VERIFICATION OF ORIGIN OF GOODS

*(Enclosed with the Circular No. 19/2020/TT-BCT dated August 14, 2020 of the Minister of
Industry and Trade)*

Article 1. Definitions

1. “PLF” means the Protocol on the Legal Framework to Implement the ASEAN Single Window done at Ha Noi, Vietnam on September 04, 2015.
2. “ASW” means ASEAN Single Windows as defined in Clause a Article 5 of the PLF.
3. “NSW” means National Single Window as defined in Clause c Article 5 of the PLF.
4. “Competent authority” means the Government authority of the exporting Member State designated to grant authorisations to make out origin declarations to exporters (hereinafter referred to as “authorisation”).

5. “C/O issuing authority” means the Government authority of the exporting Member State designated or authorised to issue a C/O and notified to all the other Member States in accordance with this Appendix.

6. “Electronic C/O” means a C/O that is structured in accordance with the “ATIGA e-Form D Process Specification and Message Implementation Guideline”, and is transmitted electronically between Member States via the ASW in accordance with the security provisions specified in Article 9 of the PLF.

7. “Exporter” means a natural or juridical person located in the territory of a Member State where a good is exported from by such a person.

8. “Certified exporter” means an exporter duly granted an authorisation by the competent authority of the exporting Member State.

9. “Importer” means a natural or juridical person located in the territory of a Member State where a good is imported into by such a person.

10. “Producer” means a natural or juridical person who carries out production, as set out in Article 1 Appendix I enclosed with the Circular No. 22/2016/TT-BCT, in the territory of a Member State.

11. “Origin declaration” means a declaration on the origin of the goods exported made by a certified exporter on the commercial invoice instead of C/O Form D.

12. “Proof of origin” means a document which certifies that the goods exported meets the rules of origin provisions set out in Circular No. 22/2016/TT-BCT. Proof of origin may be in the form of:

a) C/O Form D;

b) Electronic C/O Form D; or

c) Origin declaration.

13. “Back-to-back proof of origin” means a proof of origin issued by an intermediate exporting Member State based on the proof of origin issued by the first exporting Member State.

Article 2. Specimen signatures and official seals of C/O issuing authorities and information on certified exporters

1. Each Member State shall provide a list of the names, addresses, specimen signatures and specimen of official seals of its C/O issuing authorities, in hard copy and soft copy format, through the ASEAN Secretariat for dissemination to other Member States in soft copy format. Any change in the said list shall be promptly provided in the same manner.

2. The specimen signatures and official seals of the C/O issuing authorities shall be updated annually. Any C/O issued by an official not included in the list referred to in Clause 1 of this Article shall not be honoured by the receiving Member State.

3. Immediately after the grant of the authorisation, each Member State shall promptly include the following information on the certified exporter in the ASEAN-wide Self-Certification database:

a) Legal name and address of the certified exporter.

b) Authorisation code.

c) Issuance date and expiry date, if applicable, of the authorisation.

d) List of products subject of the authorisation, including product description and HS in 6 digit code.

dd) List of authorised signatories and their respective specimen signatures, not exceeding 10 persons per certified exporter.

Withdrawal or suspension of the authorisation or any change in the information specified in this Clause shall also be included in the ASEAN-wide Self-Certification database in the same manner.

4. An origin declaration shall not be honoured by the receiving Member State in the following cases:

a) The exporter is not included in the ASEAN-wide Self-Certification database.

b) The signatory is not included in the ASEAN-wide Self-Certification database.

c) The origin declaration is made out for a product which is not included in the ASEAN-wide Self-Certification database.

Article 3. Supporting documents

1. For the purposes of determining originating status, the C/O issuing authority or competent authority shall have the right to request for supporting documentary evidence or to carry out check(s) considered appropriate.

2. Member States are encouraged to allow the submission of electronic supporting documents, if available, to carry out check(s) related to proof of origin, in accordance with the respective laws and regulations of a Member State.

Article 4. Pre-exportation examination

1. With regard to goods exported, the producer and/or exporter, or its authorised representative, shall apply to the C/O issuing authority or competent authority requesting pre-exportation examination of the origin of the good in accordance with the Member State's laws and regulations. The result of the examination, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in determining the origin of the said good to be exported thereafter. The pre-exportation examination may not apply to the good of which, by its nature, origin can be easily determined.

2. For locally-procured materials, self-declaration by the final manufacturer exporting shall be used as a basis in determining the originating status of the good.

Article 5. Application for C/O

At the time of carrying out the formalities for exporting the products, the exporter or his authorised representative shall submit a written application for the C/O together with appropriate supporting documents proving that the products to be exported qualify for the issuance of a C/O.

Article 6. Examination of application for C/O

The C/O issuing authority shall carry out proper examination upon each application for a C/O to ensure that:

1. The application for C/O and C/O Form D are duly completed and signed by the authorised signatory.
2. The origin of the product is in conformity with the provisions of Appendix I enclosed with the Circular No. 22/2016/TT-BCT.
3. The other statements of the C/O correspond to supporting documentary evidence submitted.
4. The description, quantity and weight of goods, marks and number of packages, number and kinds of packages, as specified, conform to the products to be exported.
5. Multiple items declared on the same C/O shall be allowed provided that each item qualifies separately in its own right.

Article 7. C/O Form D

1. C/O Form D must be in the English language and on ISO A4 size white paper in conformity with the specimen shown in Appendix II enclosed herewith.
2. A C/O shall comprise one original and two carbon copies.
3. Each C/O shall bear a reference number separately given by each C/O issuing authority.

4. Each C/O shall bear the manually executed signature and official seal of the C/O issuing authority. Such signature and seal may be applied electronically.

5. The original copy of the C/O shall be forwarded by the exporter to the importer for submission to the customs authority of the importing Member State at the port or place of importation. The duplicate shall be retained by the C/O issuing authority in the exporting Member State. The triplicate shall be retained by the exporter.

Article 8. Declaration of origin criterion

The C/O Form D issued by the exporting Member State shall clearly indicate the relevant applicable origin criterion in Box 8.

Article 9. Treatment of erroneous declaration in the C/O Form D

Neither erasures nor superimpositions shall be allowed on the C/O. Any alteration shall be made by:

1. Striking out the erroneous materials and making any addition required. Such alterations shall be approved by an official authorised to sign the C/O and certified by the C/O issuing authority. Unused spaces shall be crossed out to prevent any subsequent addition.

2. Issuing a new C/O to replace the erroneous one.

Article 10. Issuance of C/O

1. Subject to the submission of all documentary requirements, the C/O shall be issued prior to or at the time of shipment or soon thereafter but not more than 3 days from the declared shipment date. The good to be exported and covered by the C/O must be originating in accordance with the provisions in Appendix I enclosed with Circular No. 22/2016/TT-BCT.

2. In exceptional cases where a C/O has not been issued within the time limit prescribed in Clause 1 of this Article, due to involuntary errors or omissions or other valid causes, the C/O may be issued retroactively but no longer than 1 year from the date of shipment and shall be duly and prominently marked “Issued Retroactively”.

Article 11. Loss or destruction of C/O

In the event of theft, loss or destruction of a C/O, the exporter may apply in writing to the C/O issuing authority for a certified true copy of the original C/O Form D and the triplicate. The certified true copy shall be issued by the C/O issuing authority on the basis of the export documents in their possession bearing the endorsement of the words “CERTIFIED TRUE COPY” in Box 12. This copy shall bear the date of issuance of the original C/O. This certified true copy shall be issued no longer than 1 year from the date of issuance of the original C/O.

Article 12. Origin declaration

1. The certified exporter shall, in the case of export of goods satisfying the origin criteria, put the origin declaration on the commercial invoice it issued.

2. If the origin declaration cannot be made out on the commercial invoice at the time of exportation, the certified exporter may make out it on any of the following documents:

a) Billing statement.

b) Delivery order.

c) Packing list.

The document containing the origin declaration will be accepted at the time of importation if submitted together with the commercial invoice.

3. The origin declaration shall contain all of required information as follows:

a) Details on the certified exporter, including the authorisation code.

b) Description of the goods, including:

(i) Name of the product.

(ii) HS in 6 digit or AHTN code.

(iii) Origin conferring criterion.

(iv) Country of origin.

(v) FOB price when the regional value content origin criterion is used.

(vi) Quantity of goods.

(vii) Trademark, if applicable.

(viii) For the case of back-to-back origin declaration, original proof of origin reference number, date of issuance, country of origin of the first exporting country, and, if applicable, the authorisation code of the first exporting country.

c) Certification by an authorised signatory of the certified exporter, including:

(i) Certification that the goods specified in the origin declaration meet all the relevant requirements of Chapter 3 of ATIGA;

(ii) Authorised signature over the name of the signatory.

4. The origin declaration shall be made in the English language and bear manually executed signature and printed or stamped name of the authorized signatory.
5. The reference number and the date of the document containing the origin declaration shall be considered as the reference number and the issuance date of the origin declaration.
6. If in case the space provided for in the origin declaration is not sufficient to list out all the products, additional page(s) could be attached. An additional page shall contain sufficient information as set out in Clause 3 of this Article.
7. The provisions in Clause 2 through 6 of this Article shall not apply to the pilot implementation of self-certification of origin as set out in the Memorandum of Understanding signed on August 29, 2012 among Lao People's Democratic Republic, the Republic of the Philippines, , the Republic of Indonesia in Siem Reap, the Kingdom of Cambodia, on the second pilot project for the implementation of a regional self-certification system (hereinafter referred to as “pilot scheme”).

Article 13. Back-to-back proof of origin

1. The C/O issuing authority of the intermediate Member State may issue a back-to-back C/O if an application is made by the exporter, provided that:

- a) The applicant for a back-to-back C/O presents a valid original proof of origin. In the case where no original proof of origin is presented, its certified true copy shall be presented.
- b) The back-to-back C/O should contain some of the same information as the original proof of origin. Every column in the back-to-back C/O should be completed. FOB price of the intermediate Member State in Box 9 should also be reflected in the back-to-back C/O.
- c) For partial export shipments, the partial export value shall be shown instead of the full value of the original proof of origin. The intermediate Member State will ensure that the total quantity re-exported under the partial shipment does not exceed the total quantity of the proof of origin from the first Member State when approving the back-to-back C/O to the exporter.
- d) In the event that the information is not complete or circumvention is suspected, the final importing Member State could request that the original proof of origin be submitted to their respective customs authority.
- dd) Verification procedures as set out in Article 19 and Article 20 of this Appendix are also applied to a Member State issuing the back-to-back C/O.
- e) The reference number and date of issuance of the original proof of origin shall be indicated in Box 7 of the back-to-back C/O.

2. A certified exporter of the intermediate Member State may make out a back-to-back origin declaration, provided that:

- a) The said certified exporter has been granted the authorisation by the competent authority of the intermediate Member State and has carried out the registration for making out origin declarations for the same goods as specified on the back-to-back origin declaration.
 - b) The certified exporter has a valid original proof of origin from the first exporting Member State. In the case where no original proof of origin is available, its certified true copy shall be used.
 - c) The back-to-back origin declaration should contain some of the same information as the original proof of origin. The FOB price of the intermediate Member State should also be reflected in the back-to-back origin declaration.
 - d) For partial export shipments, the partial export value shall be shown instead of the full value of the original proof of origin. The certified exporter making out a back-to-back origin declaration will ensure that the total quantity re-exported under the partial shipment does not exceed the total quantity of the original proof of origin.
 - dd) Verification procedures as set out in Article 19 and Article 20 of this Appendix are also applied to a Member State issuing the back-to-back origin declaration.
 - e) The reference number and date of issuance of, or making out, the original proof of origin must be indicated in the back-to-back origin declaration.
3. The provisions in Clause 2 of this Article shall not apply to the pilot scheme for self-certification of origin of goods.

Article 14. Presentation of the proof of origin

1. For the purposes of claiming preferential tariff treatment, the importer shall submit a C/O Form D or an origin declaration, including supporting documents, to the customs authority of the importing Member State at the time of import.
2. In cases where a C/O Form D is rejected by the customs authority or relevant Government authorities of the importing Member State, the subject C/O shall be marked accordingly in Box 4 and the original C/O shall be returned to the C/O issuing authority within a reasonable period not exceeding 60 days. The importing Member State should duly notify the C/O issuing authority of the grounds for the denial of tariff preference.
3. In cases when an origin declaration is rejected by the customs authority of the importing Member State, the subject origin declaration shall be returned to the competent authority of the exporting Member State within a reasonable period not exceeding 60 days. The importing Member State should duly notify the competent authority of the exporting Member State of the grounds for the denial of tariff preference.
4. In the case where the proof of origin is not accepted, as stated in the preceding Clauses 2 and 3 of this Article, the importing Member State should accept and consider the clarifications made

by the C/O issuing authority or competent authority of the exporting Member State and assess again whether or not the proof of origin can be accepted for the granting of the preferential treatment. The clarifications made by the C/O issuing authority or competent authority of the exporting Member State should be detailed and exhaustive in addressing the grounds of denial of preference raised by the importing Member State .

Article 15. Validity period of the proof of origin

1. The proof of origin shall be valid for a period of 12 months from the date of issuance, or making out, and must be submitted to the customs authority of the importing Member State within that period.
2. Where the proof of origin is submitted to the customs authority of the importing Member State after the expiration of the time limit for its submission prescribed in Clause 1 of this Article, such proof of origin is still to be accepted when failure to observe the time limit results from force majeure or other valid causes beyond the control of the exporter.
3. In other cases of belated presentation, the customs authority of the importing Member State may accept such proof of origin provided that the goods have been imported before the expiration of its validity period.

Article 16. Waiver of proof of origin

In the case of consignments of goods originating in the exporting Member State and not exceeding US\$ 200 (two hundred) FOB, the production of a proof of origin shall be waived and the use of simplified declaration by the exporter that the goods in question have originated in the exporting Member State will be accepted. Goods sent through the post not exceeding US\$ 200 (two hundred) FOB shall also be similarly treated.

Article 17. Treatment of minor discrepancies

1. Where the origin of the goods is not in doubt, the discovery of minor discrepancies, such as typographical errors, between the statements made in the proof of origin and those made in the documents submitted to the customs authority of the importing Member State for the purpose of carrying out the formalities for importing the goods shall not ipso facto invalidate the proof of origin if it is duly established that the document does in fact correspond to the goods submitted.
2. In cases where the exporting Member State and importing Member State have different HS codes for a good subject to preferential tariffs, the goods shall be released at the MFN rates or at the higher preferential rate, subject to the compliance of the applicable rules of origin, and no penalty or other charges shall be imposed in accordance with relevant laws and regulations of the importing Member State. Once the HS code classification differences have been resolved, the correct rate shall be applied and any overpaid duty shall be refunded, if applicable, in accordance with relevant laws and regulations of the importing Member State, as soon as the issues have been resolved.

3. For multiple items declared under the same proof of origin, a problem encountered with one of the items listed shall not affect or delay the granting of preferential treatment and customs clearance of the remaining items listed in the proof of origin. Clause 3 Article 19 of this Appendix may be applied to the problematic items.

Article 18. Record keeping requirement

1. For the purposes of the verification process pursuant to Article 19 and Article 20 of this Appendix, the producer and exporter applying for the issuance of a C/O and the certified exporter making out an origin declaration shall, subject to the laws and regulations of the exporting Member State, keep its supporting records in relation to the proof of origin for not less than 3 years from the date of issuance of the C/O or making out the origin declaration.
2. The application for C/O and all documents related to such application shall be retained by the C/O issuing authority for not less than 3 years from the date of issuance of the C/O.
3. The application as a certified exporter and all documents related to such application shall be retained by the competent authority for not less than 3 years from the date of expiry or revocation of the authorisation.
4. Information relating to the validity of the C/O shall be furnished upon request of the importing Member State by an official authorised to sign the C/O and certified by the appropriate Government authorities.
5. Information relating to the correctness of an origin declaration shall be furnished upon request of the importing Member State by the competent authority of the exporting Member State.
6. Any information communicated between the Member States concerned shall be treated as confidential and shall be used for the validation of the proof of origin purposes only.

Article 19. Retroactive check

The importing Member State may request the C/O issuing authority or competent authority of the exporting Member State to conduct a retroactive check at random or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof. Upon such request, the C/O issuing authority or competent authority of the exporting Member State shall conduct a retroactive check on a producer or exporter's cost statement based on the current cost and prices, within a 6 month timeframe, specified at the date of exportation subject to the following conditions:

1. The request for retroactive check shall be accompanied with the proof of origin concerned and shall specify the reasons and any additional information suggesting that the particulars given on the said proof of origin may be inaccurate, unless the retroactive check is requested on a random basis.

2. The C/O issuing authority or competent authority receiving a request for retroactive check shall respond to the request promptly and reply within 90 days after the receipt of the request.

3. The customs authority of the importing Member State may suspend the provisions on preferential treatment while awaiting the result of verification. However, it may release the goods to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

4. The C/O issuing authority or competent authority shall promptly transmit the results of the verification process to the importing Member State which shall then determine whether or not the subject good is originating. The entire process of retroactive check including the process of notifying the C/O issuing authority or competent authority of the exporting Member State the result of determination whether or not the good is originating shall be completed within 180 days. While awaiting the results of the retroactive check, Clause 3 of this Article shall be applied.

Article 20. Verification visit

1. If the importing Member State is not satisfied with the outcome of the retroactive check prescribed in Article 19, it may request for verification visits to the exporting Member State.

2. Prior to the conduct of a verification visit, an importing Member State, shall deliver a written notification of its intention to conduct the verification visit to:

- a) The exporter or producer whose premises are to be visited.
- b) The C/O issuing authority or competent authority of the exporting Member State in whose territory the verification visit is to occur.
- c) The customs authority of the Member State in whose territory the verification visit is to occur.
- d) The importer of the goods subject of the verification visit.

3. The written notification mentioned in Clause 2 of this Article shall be as comprehensive as possible including, among others:

- a) The name of the customs authority or relevant Government authorities issuing the notification.
- b) The name of the exporter or producer whose premises are to be visited.
- c) The proposed date for the verification visit.
- d) The coverage of the proposed verification visit, including reference to the goods subject of the verification.

dd) The names and designation of the officials performing the verification visit.

4. The exporter or producer whose premises are to be visited shall send its written consent for the verification visit to the importing Member State.

5. When a written consent from the exporter or producer is not obtained within 30 days upon receipt of the notification pursuant to Clause 2 of this Article, the importing Member State may deny preferential treatment to the goods that would have been subject of the verification visit.

6. The C/O issuing authority or competent authority receiving the notification may postpone the proposed verification visit and notify the importing Member State of such intention. In such case, any verification visit shall be carried out within 60 days from the date of such receipt. The postponement may be extended for a longer period as the concerned Member States may agree.

7. The Member State conducting the verification visit shall provide the exporter or producer and the relevant C/O issuing authority or competent authority with a written determination of whether or not the subject goods qualify as originating goods.

8. Any suspended preferential treatment shall be reinstated upon the written determination referred to in Clause 7 of this Article that the goods qualify as originating goods.

9. The exporter or producer will be allowed 30 days, from receipt of the written determination, to provide in writing comments or additional information regarding the eligibility of the goods. If the goods are still found to be non-originating, the final written determination will be communicated to the C/O issuing authority or competent authority within 30 days from receipt of the comments or additional information from the exporter or producer.

10. The verification visit process, including the actual visit and determination of whether the subject goods are originating or not, shall be carried out and its results communicated to the C/O issuing authority or competent authority within a maximum of 180 days. While awaiting the results of the verification visit, Clause 3 Article 19 of this Appendix shall be applied.

Article 21. Confidentiality

Member States shall maintain, in accordance with their laws and regulations, the confidentiality of classified business information collected in the process of verification pursuant to Articles 19 and 20 of this Appendix and shall protect that information from disclosure that could prejudice the competitive position of the person who provided the information. The classified business information may only be disclosed to those authorities responsible for the administration and enforcement of origin determination.

Article 22. Documentation for direct consignment

Where transportation is effected through the territory of one or more non-Member State, the following shall be produced to the Government authorities of the importing Member State:

1. A through Bill of Lading issued in the exporting Member State.
2. A proof of origin issued by the C/O issuing authority of the exporting Member State or made out by a certified exporter established in the exporting Member State.
3. A copy of the original commercial invoice.
4. Supporting documents in evidence that the goods comply with the provisions on direct consignment set out in Point b Clause 2 Article 8 Appendix I enclosed with the Circular No. 22/2016/TT-BCT.

Article 23. Exhibition goods

1. Goods sent from an exporting Member State for exhibition in another Member State and sold during or after the exhibition for importation into a Member State shall be granted preferential treatment accorded under the ATIGA on the condition that the goods meet the requirements set out in Appendix I enclosed with the Circular No. 22/2016/TT-BCT, provided that it is shown to the satisfaction of the relevant Government authorities of the importing Member State that:

- a) An exporter has dispatched those goods from the territory of the exporting Member State to the Member State where the exhibition is held and has exhibited them there.
- b) The exporter has sold the goods or transferred them to a consignee in the importing Member State.
- c) The goods have been consigned during the exhibition or immediately thereafter to the importing Member State in the state in which they were sent for the exhibition.

2. The C/O Form D or origin declaration indicating the name and address of the exhibition shall be provided to the relevant Government authorities of the importing Member State. The relevant Government authorities of the Member State where the exhibition took place may provide evidence together with supporting documents prescribed in Clause 4 Article 22 of this Appendix for the identification of the products and the conditions under which they were exhibited.

3. Clause 1 of this Article shall apply to any trade, agricultural or crafts exhibition, fair or similar show or display in shops or business premises with the view to the sale of foreign goods and where the goods remain under customs control during the exhibition.

Article 24. Third country invoicing

1. Relevant Government authorities of the importing Member State shall accept proof of origin in cases where the sales invoice is issued either by a company located in a third country or by an ASEAN exporter for the account of the said company, provided that the goods meet the requirements set out in Appendix I enclosed with the Circular No. 22/2016/TT-BCT.

2. The exporter shall indicate “Third country invoicing” and such information as name and country of the company issuing the invoice in the C/O.

3. In cases where the sales invoice is issued either by a company located in a third country or by an ASEAN exporter for the account of the said company, the certified exporter may make out the origin declaration on the billing statement, delivery order or packing list.

Article 25. FOB price

The proof of origin and the back-to-back proof of origin shall only reflect the FOB Price in cases where the RVC calculated using the formula set out in Article 5 Appendix I enclosed with the Circular No. 22/2016/TT-BCT is applied in determining origin.

Article 26. Equivalence of paper C/O and electronic C/O

1. An electronic C/O may be applied for, issued, and accepted in lieu of the paper C/O, with equivalent legal effect.

2. Articles 27 through 31 of this Appendix shall apply to electronic C/O. Unless otherwise specified in Articles 27 through 31, Articles 1 through 8, 10, 13 through 16, and 18 through 25 shall also apply to the processing of electronic C/O.

Article 27. Electronic C/O

1. In order to ensure interoperability, Member States shall exchange electronic C/O in accordance with the “ATIGA e-Form D Process Specification and Message Implementation Guideline”. This document may be updated from time to time.

2. In the event a Member State does not wish to implement all the electronic processes and related information elements specified in the “ATIGA e-Form D Process Specification and Message Implementation Guideline”, that Member State shall inform the other Member States, through the ASEAN Secretariat, which processes and related information elements it wishes to implement.

Article 28. Examination of application for electronic C/O

In place of Clause 1 Article 6 of this Appendix, an application for an electronic C/O shall electronically be accepted, verified to be duly completed and authenticated.

Article 29. Issuance of electronic C/O

1. In exceptional cases, an exporter may apply to the C/O issuing authority to re-issue an electronic C/O within 1 year from the date of issuance of the original electronic C/O.

2. In addition to the electronic process specified in the “ATIGA e-Form D Process Specification and Message Implementation Guideline”, an electronic C/O may be forwarded directly to the

exporter by the NSW of the issuing Member State and the electronic C/O may be forwarded directly to the importer by the exporter or by the NSW of the importing Member State.

3. In exceptional cases, such as technical failures that trigger a loss of data, the receiving Member State may request a re-transmission of an electronic C/O from the sending Member State.

4. An alteration to an electronic C/O shall be made by issuing a new electronic C/O, and the previous electronic C/O shall be cancelled, in accordance with the process specified in the “ATIGA e-Form D Process Specification and Message Implementation Guideline”.

Article 30. Presentation of electronic C/O

1. For the purposes of claiming preferential tariff treatment, the importer shall submit to the customs authority of the importing Member State at the time of import, an import declaration containing information on the electronic C/O reference number, supporting documents (i.e. invoices and the through bill of lading issued in the territory of the exporting Member State in case the goods are transported through the territory of one or some non-Member States as prescribed in Article 21 of this Appendix) and other documents as required in accordance with the laws and regulations of the importing Member State.

2. The customs authority in the importing Member State may generate an electronic customs response indicating the utilisation status of the electronic C/O in accordance with the message implementation guideline for customs response specified in the “ATIGA e-Form D Process Specification and Message Implementation Guideline”. The utilisation status, if generated, shall be transmitted electronically via the ASW to the C/O issuing authority of the exporting Member State either soon after the import or as and when it has been generated, within the validity period of the electronic C/O.

3. In cases when an electronic C/O is rejected by the customs authority of the importing Member State, the customs authority of the importing Member State shall:

a) Generate an electronic customs response indicating the rejection status with reasons for the rejection, including, as appropriate, the reason for denial of tariff preference, in accordance with the “ATIGA e-Form D Process Specification and Message Implementation Guideline”. The electronic customs response, if generated, shall be transmitted electronically via the ASW to the C/O issuing authority in the exporting Member State within a reasonable period not exceeding 60 days from the date of receipt of the electronic C/O; or

b) In cases where the procedure in Point a of this Clause is not available, the customs authority of the importing Member State may notify the C/O issuing authority of the exporting Member State in writing of the grounds for the denial of tariff preference together with the reference number of the electronic C/O, within a reasonable period not exceeding 60 days.

4. In the case where an electronic C/O is not accepted, as stated in Clause 3 of this Article, the importing Member State should accept and consider the clarifications made by the C/O issuing

authority and assess again whether or not the electronic C/O application can be accepted for the granting of the preferential treatment. The clarifications should be detailed and exhaustive in addressing the grounds of denial of preference raised by the importing Member State.

Article 31. Electronic C/O archiving and data retention

1. For the purposes of the verification process pursuant to Articles 19 and 20 of this Appendix, the producer or exporter applying for the issuance of an electronic C/O shall, subject to the laws and regulations of the exporting Member State, provide for the storage of supporting records for application for an electronic C/O for not less than 3 years from the date of issuance of the electronic C/O.
2. The application for an electronic C/O and all documents related to such application shall be retained by the C/O issuing authority for not less than 3 years from the date of issuance of the electronic C/O.
3. Information relating to the validity of the electronic C/O shall be furnished upon request of the importing Member State by an authorised official of the C/O issuing authority.
4. Any information communicated between the Member States concerned shall be treated as confidential and shall be used for the purpose of electronic C/O validation only.

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