

[EXECUTIVE ORDER NO. 142, October 14, 2013]

**IMPLEMENTING THE MEMORANDUM OF UNDERSTANDING (MOU)
AMONG THE GOVERNMENTS OF THE PARTICIPATING MEMBER
STATES OF THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS
(ASEAN) ON THE SECOND PILOT PROJECT FOR THE
IMPLEMENTATION OF A REGIONAL SELF-CERTIFICATION
SYSTEM ("SECOND PILOT PROJECT")**

WHEREAS , ASEAN Leaders decided to establish an ASEAN Economic Community (AEC) by 2015 and adopted the AEC Blueprint at the 13th ASEAN Summit on 20 November 2007 to establish ASEAN as a single market and production base, making it more dynamic and competitive as an economic region where there is a free flow of goods, services, investment, skilled labor and capital;

WHEREAS , the Rules of Origin (ROO) play a crucial role in the achievement of a free flow of goods within the ASEAN single market;

WHEREAS , the ASEAN Trade in Goods Agreement (ATIGA), which was signed on 26 February 2009 in Cha-am, Thailand, and entered into force on 17 May 2010, provides for a framework to realize the free flow of goods in the region;

WHEREAS , Article 38 and Annexes 7 and 8 of ATIGA provide for the relevant modalities and procedures for the application of the preferential treatment to goods falling within the ASEAN Free Trade Area (AFTA);

WHEREAS , Executive Order (EO) No. 850 (s. 2009), which was issued to implement tariff reduction/elimination commitments in accordance with the obligations under Articles 19 and 21 of ATIGA, requires compliance with the applicable ATIGA ROO and its Operational Certification Procedure (OCP), including the submission of a valid Certificate of Origin (Form D), in order to avail of preferential tariff rates under ATIGA;

WHEREAS , the initiative to adopt a self-certification scheme in ASEAN emanated from the decision of the 22 ndAFTA Council Meeting in August 2008 to develop mechanisms that will enhance the AFTA ROO and streamline certification procedures in line with the AEC Blueprint;

WHEREAS , pursuant to the "Work Plan for the Development and Operationalization of an ASEAN Self-Certification Regime," endorsed by the 23rd AFTA Council Meeting, the MOU on the First Pilot Project was signed on 30 August 2010 by Brunei Darussalam, Malaysia and Singapore;

WHEREAS , following the decision of the 25th AFTA Council Meeting in August 2011 to allow other ASEAN Member States to have their own self-certification pilot project under a set of rules and conditions different from the First Pilot Project, the MOU on the Second Pilot Project was signed on 29 August 2012 by the Philippines, Indonesia and Lao People's Democratic Republic;

WHEREAS , the President of the Philippines ratified the MOU on the Second Pilot Project on 14 March 2013; and,

WHEREAS , during its meeting on 26 June 2013, the NEDA Board approved the Philippine implementation of the MOU on the Second Pilot Project.

NOW, THEREFORE, I, BENIGNO S. AQUINO III , President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Objective. The MOU on the Second Pilot Project, which is attached as an integral part of this Order, aims to implement a regional self-certification system within the AFTA, in preparation for the development and operationalization of an ASEAN-wide Self-Certification System by 2015.

SECTION 2. Self-Certification Scheme. Under the self-certification scheme, there shall be no need to present a Certificate of Origin (Form D) in claiming tariff preferences as it allows Certified Exporters to self-declare that their products have satisfied the ATIGA ROO by making such declaration on the commercial invoice.

SECTION 3. Procedural Arrangements. The MOU on the Second Pilot Project shall be implemented according to the modalities set out in its Annex.

SECTION 4. Obligations. Throughout the implementation of the MOU on the Second Pilot Project, the Philippines shall accord to goods originating from other participating Member States the preferential tariff treatment set out in Article 19 of ATIGA, upon the submission of either a Certificate of Origin (Form D), or an Invoice Declaration made by a Certified Exporter in accordance with the Annex of the MOU on the Second Pilot Project and the regulations of the Bureau of Customs (BOC).

SECTION 5. Implementing Agency. The BOC shall be the implementing agency for the MOU on the Second Pilot Project, and shall perform the following functions:

- a. Grant, suspend or revoke the status of Certified Exporters, subject to the qualifications/criteria/conditions it may impose;
- b. Monitor the proper use of the Certified Exporters status, including the verification of the authenticity and validity of the Invoice Declarations made;
- c. Monitor compliance of Certified Exporters with the laws, rules and regulations pertinent to exportation and importation; and
- d. Perform other appropriate functions consistent with the implementation of the MOU on the Second Pilot Project.

A Customs Administrative Order shall be issued by BOC for this purpose after consultations with relevant stakeholders.

SECTION 6. Repealing Clause. All issuances, orders, rules and regulations, or parts thereof, which are inconsistent with this Order are hereby repealed, amended or modified accordingly.

SECTION 7. Separability Clause. If any provision of this Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SECTION 8. Effectivity Clause. This Order shall take effect immediately upon publication in a newspaper of general circulation and shall remain in force until the termination of the MOU on the Second Pilot Project.

DONE , in the City of Manila, this 14th of October, in the year of our Lord, Two Thousand and Thirteen.

(Sgd.) BENIGNO S. AQUINO III

By the President:

(Sgd.) PAQUITO N. OCHOA, JR.

Executive Secretary

MEMORANDUM OF UNDERSTANDING
AMONG THE GOVERNMENTS OF
THE PARTICIPATING MEMBER STATES OF
THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS
(ASEAN) ON THE SECOND PILOT PROJECT FOR THE
IMPLEMENTATION OF A REGIONAL SELF-CERTIFICATION SYSTEM

The Governments of the Republic of Indonesia, the Lao People's Democratic Republic (Lao PDR), and the Republic of the Philippines:

RECALLING the Leaders' decision to establish an ASEAN Economic Community (AEC) by 2015 and the adoption of the AEC Blueprint at the 13th ASEAN Summit on 20 November 2007, and that the ASEAN Community will establish ASEAN as a single market and production base, making ASEAN more dynamic and competitive, as an economic region in which there is a free flow of goods, services, investment and a freer flow of capital, equitable economic development and reduced poverty and socio-economic disparities;

RECOGNISING the crucial role that rules of origin (ROO) play in the achievement of a free flow of goods within the ASEAN single market;

CONSCIOUS of the agreed objective of putting in place ROO which are responsive to the dynamic changes in global production processes so as to facilitate trade and investment among ASEAN Member States, promote a regional production network, encourage development of Small and Medium Enterprises and the narrowing of development gaps and promote the increased usage of the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT-AFTA), as established under the AEC Blueprint;

RECALLING that, to meet this objective, the Leaders agreed to simplify the Operational Certification Procedures (OCP) for the ASEAN ROO and to ensure its continuous enhancement, including the introduction of facilitative processes such as the electronic processing of certificates of origin and the harmonisation or alignment of national procedures to the extent possible;

AGREEING that the ASEAN Trade in Goods Agreement (hereinafter referred to as the "Agreement" or "ATIGA") which was signed on 26 February 2009 in Cha-am,

Thailand, and entered into force on 17 May 2010, provides for the most comprehensive framework to realise the free flow of goods in the region;

RECALLING that Article 38 and Annexes 7 and 8 of the Agreement provide for the relevant modalities and procedures for the application of the preferential tariff treatment to goods falling within the AFTA; and

RECOGNISING the need to streamline the ROO procedures to facilitate the trade of ASEAN originating goods, including the introduction of a regional self-certification scheme, in line with the objectives of the AEC Blueprint as discussed at the 22nd and 25th AFTA Council Meetings, and by the High Level Task Force on Economic Integration, the Senior Economic Officials Meeting (SEOM), the Coordinating Committee on the Implementation of the ATIGA (CCA) and the Sub-Committee on ATIGA Rules of Origin (SC-AROO);

HAVE DECIDED to enter into a Memorandum of Understanding (MOU) for the purpose of introducing a second pilot project for the implementation of a regional self-certification system ahead of the adoption of such system by all Member States.

Article 1 Definitions

For the purpose of this MOU:

1. "*ASEAN*" means the Association of Southeast Asian Nations, which comprises Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, Lao PDR, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam;
2. "*Participating Member States*" are the Member States that have agreed to participate in the second pilot project for the implementation of a regional self-certification scheme;
3. "*Exporter*" means a natural or juridical person located in the territory of a Participating Member State where a good is exported from by such a person;
4. "*Importer*" means a natural or juridical person located in the territory of a Participating Member State where a good is imported into by such a person;
5. "*Certified Exporter*" means a producer duly authorized to make out invoice declarations on the origin of a good exported;
6. "*Invoice Declaration*" means a declaration as to the origin of the goods exported made by a certified exporter on an invoice, in accordance with Rule 12B of the Annex of this MOU; and
7. "*Certificate of Origin*" means the Certificate of Origin (Form D) under Article 38 and Annex 7 of the Agreement.

Article 2 General Provisions

1. The Participating Member States agree, to introduce a second pilot project for the implementation of a regional self-certification system within the AFTA.

2. Other ASEAN Member States may apply to become a Participating Member State at any time, subject to Article 9 of this MOU.

Article 3

Obligations of the Participating Member States

Throughout the second pilot project, Participating Member States shall accord to goods originating in the other Participating Member States the preferential tariff treatment set out in Article 19 of the Agreement, upon submission of either:

(a) a Certificate of Origin (Form D); or

(b) an Invoice Declaration made out by a Certified Exporter, according to the procedures set out in the Annex of this MOU.

Article 4

Procedural Arrangements

Participating Member States agree that the second pilot project will be carried out according to the modalities and the procedures set forth in the Annex of this MOU.

Article 5

Suspension

Each Participating Member State reserves the right for reasons of national security, national interest, public order or public health to suspend temporarily, either in whole or in part, the implementation of this MOU. Such suspension shall take effect immediately after a written notification has been given to the other Participating Member States through diplomatic channels or the ASEAN Secretariat.

Article 6

Confidentiality

1. Each Participating Member State shall undertake to observe the confidentiality and secrecy of documents, information and other data received from, or supplied to other Participating Member States during the period of the implementation of this MOU.

2. Each Participating Member State shall not:

(a) directly or indirectly disclose any confidential information provided by other Participating Member States; nor

(b) use confidential information provided by another Participating Member State for any purpose other than for those specified in this MOU without the prior authorisation of such Participating Member State.

3. Participating Member States agree that paragraphs 1 and 2 of this Article shall continue to be binding among them, notwithstanding the suspension or termination of this MOU.

Article 7

Consultation

Any difference or dispute among the Participating Member States concerning the interpretation and/or implementation and/or application of the provisions of this