



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS



DEC 12 2013

CUSTOMS ADMINISTRATIVE ORDER
No. 06-2013

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

OBJECTIVES:

1. To implement Executive Order No. 142 ("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");
2. To provide procedure on granting authority to the Participating Member States of the Second Pilot Project for the Implementation of a Regional Self-Certification System (hereinafter referred to as the "Second Pilot Project") to self-certify the origin of the goods to be exported;
3. To provide procedures on how the Philippine importers of goods from the Participating Member States of the Second Pilot Project can avail of the preferential tariffs under the ASEAN Trade in Goods Agreement (ATIGA) using the Invoice Declaration of their exporters/suppliers; and
4. To provide guidelines for customs officers of the Preferential Rate Unit (PRU) in the Formal Entry Division (FED) or equivalent unit in the port granting ATIGA preferential tariff rates for goods coming from the Participating Member States of the Second Pilot Project using Invoice Declaration.

COVERAGE:

1. The Second Pilot Project will cover originating goods of qualified manufacturers/producers exporting to and importing from the Participating Member States.
2. For exportations to the Participating Member States, the Second Pilot Project will be limited initially to Port of Manila (POM), Manila International Container Port (MICP), and Ninoy Aquino International Airport (NAIA), without prejudice to the extension of this Pilot Project to all other ports within six (6) months of its effective implementation, taking into account, but in no way limited to, the rate of utilization, the identification of the project and resolution of operational issues that may arise during the period, and the issues and concerns raised by exporters.

3. For importations from Participating Member States, the Second Pilot Project will be implemented in all ports.

DEFINITION OF TERMS:

1. **ATIGA** refers to the ASEAN Trade in Goods Agreement signed on 26 February 2009 in Cha-am, Thailand among ASEAN Member States to achieve free flow of goods in ASEAN as one of the principal means to establish a single market and production base for the deeper economic integration of the region towards the realization of the ASEAN Economic Community (AEC) by 2015;
2. **Authorization** is a privilege granted by the Bureau of Customs (BOC) to Certified Exporters;
3. **Certificate of Origin (Form D)** refers to the document issued by a competent authority certifying that a particular product conforms to the origin requirements under the ATIGA;
4. **Certified Exporter** means a producer/manufacturer duly authorized by the BOC to make out an Invoice Declaration on the origin of a good exported;
5. **Export Coordination Division** or ECD is the office under the BOC's Port Operations Service which is mandated to, among others, coordinate and monitor export activities in all Collection Districts, provide technical advice on export matters, and coordinate with agencies that have dealings on matters pertaining to exports;
6. **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;
7. **Goods** shall include materials and/or products which can be wholly obtained or produced even if they are intended for later use as materials in another production process. The term "goods" and "products" can be used interchangeably (Paragraph (e), Article 25 of the ATIGA);
8. **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;
9. **Invoice Declaration** means a declaration as to the origin of goods exported made by a Certified Exporter on a commercial invoice, in accordance with Rule 12B of the Operational Certification Procedure (OCP) of the MOU on Second Pilot Project;
10. **Materials** means any matter or substance used or consumed in the production of goods or physically incorporated into another good or are subject to a process in the production of another good (Paragraph (g), Article 25 of the ATIGA);
11. **Originating goods or materials** means products that qualify as originating in accordance with the provisions of the ATIGA ROO (Paragraph (h), Article 25 of the ATIGA);
12. **Participating Member State** refers to the ASEAN Member State that has agreed to participate in the Second Pilot Project, which shall pertain to the Philippines, Indonesia,

Lao PDR and/or other ASEAN Member States who may accede to the MOU on the Second Pilot Project;

13. **Producer** means a natural or juridical person who carries out activities as set out in Paragraph (j), Article 25 of the ATIGA in the territory of a Participating Member State;
14. **Production** means methods of obtaining goods, including growing, mining, harvesting, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, producing, processing or assembling goods (Paragraph (j), Article 25 of the ATIGA);
15. **Preferential Rate Unit** or PRU refers to the unit under the FED or its equivalent units in all ports that shall evaluate the authenticity and validity of the Certificate of Origin (Form D)/Invoice Declaration submitted by importers;
16. **Rules of Origin** refer to the rules/criteria for determining the national source of a product, especially for the purpose of determining eligibility for preferential tariff treatment pursuant to the ATIGA; and
17. **Self-Certification** is a system which enables a Certified Exporter to make out an Invoice Declaration for the export of goods and declare, by itself, that its products have satisfied the Rules of Origin (ROO) under the ATIGA by making such declaration on the commercial invoice.

GENERAL PROVISIONS:

1. The implementation of the Second Pilot Project shall be under the direct supervision and control of the BOC's Assessment & Operations Coordinating Group (AOCG). As such, the AOCG shall determine/approve the exporters who will participate in the Second Pilot Project, and grant/confirm the "Certified Exporter" status. Likewise, the AOCG, through the ECD, shall monitor the proper use of the "Certified Exporter" status, including the verification of the authenticity and validity of the Invoice Declarations made and compliance with the law, rules and regulations pertinent to exportation and ATIGA ROO.
2. For purposes of the Second Pilot Project, only manufacturers/producers who meet the criteria as stated herein shall qualify for self-certification and be granted the "Certified Exporter" status.
3. Certified Exporters shall be authorized by the BOC to make Invoice Declarations with regard to the origin of the goods to be exported, subject to the requirements and/or conditions to be imposed under this Order.
4. The Authorization granted to the Certified Exporter shall be valid during the implementation of the Second Pilot Project, unless otherwise suspended or revoked.
5. The Authorization granted, suspended and/or revoked by the BOC shall be communicated to the Bureau of International Trade Relations under the Department of Trade and Industry, for onward transmittal to the ASEAN Secretariat.
6. For purposes of the Second Pilot Project, the BOC shall conduct orientation seminar/s for exporters/importers in the implementation thereof.

OPERATIONAL PROVISIONS:

1. Exporters who wish to apply for a "Certified Exporter" status must pass the following criteria:
 - a. Exporter is a legitimate manufacturer/producer;
 - b. Exporter must have been exporting products to any ASEAN Member State for at least one (1) year; and
 - c. Exporter must have responsible officer/s or person/s authorized to sign the Invoice Declaration and such officer/s or person/s must have sufficient knowledge and competence in ROO application, and have undergone training on the implementation of the Second Pilot Project conducted by BOC.
2. The BOC may grant the "Certified Exporter" status, subject to the following conditions:
 - a. The exporter must grant the BOC access to records and premises for purposes of monitoring the use of the authorization and verifying the correctness of declarations made. The records and accounts must allow for the identification and verification of the origin of goods for which an Invoice Declaration was made, during at least three (3) years from the date of making the declaration, in accordance with domestic laws and regulations.
 - b. The Certified Exporter must make an Invoice Declaration only for goods being produced and manufactured that have been approved for inclusion in the Second Pilot Project and for which it has all appropriate documents proving the origin of the goods concerned at the time of making the declaration.
 - c. The Certified Exporter must ensure that the person or persons responsible for making the Invoice Declarations know/s and understand/s the ATIGA ROO and issue an undertaking on such. The Certified Exporter must issue an undertaking to this effect.
 - d. The Certified Exporter accepts the full responsibility for all Invoice Declarations made on behalf of the company, including any misuse.
 - e. The Certified Exporter shall submit a quarterly summary report of all Invoice Declarations made during the same period using the prescribed form and shall submit said report to the Port Operations Service, Attention: Export Coordination Division, within seven (7) days after the end of each quarter.
3. An exporter seeking authorization may apply either in writing or electronically and must offer to the satisfaction of the BOC, all guarantees necessary to verify the origin of the goods for which an Invoice Declaration will be made.
4. Certified Exporters shall be given written authorization by the BOC with corresponding authorization number, including the date of issuance and expiry date of the authorization, which must be included in the Invoice Declarations.
5. The Certified Exporter shall, in case of export of goods satisfying the origin criteria of the ATIGA, put the following declaration on the commercial invoice:

"The exporter of the product(s) covered by this document (Certified Exporter Authorization Code) declares that, except where otherwise clearly indicated,

the products (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"*

6. The Invoice Declaration should describe the goods in sufficient details to enable such goods to be properly identified for origin determination purposes.
7. The Invoice Declaration must be signed by hand.
8. The date indicated in the commercial invoice shall be considered as the issuance date of the Invoice Declaration.
9. 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.
10. The BOC shall monitor the proper use of the authorization, including verification of the correctness of the Invoice Declarations made. Decisions on the frequency and depth of such action should be risk-based. Furthermore, the BOC will act on retrospective verification requests by the customs authorities of the importing Member State.
11. The PRU shall grant preferential tariffs only to imported goods and whose exporters are included in the lists provided by the Participating Member States of the Second Pilot Project to the ASEAN Secretariat.

GROUND FORS SUSPENSION OR REVOCATION OF ACCREDITATION AS "CERTIFIED EXPORTER"

1. The Certified Exporter no longer offers the guarantees referred to in Rule 12A(1) of the OCP of the MOU on the Second Pilot Project;
2. The Certified Exporter no longer fulfills the conditions referred to in Rule 12A(2) of the OCP of the MOU on the Second Pilot Project; and
3. Violation of this Order.

PENALTIES

Commission of any of the acts mentioned in the above grounds shall constitute an offense and shall be penalized, as follows:

1. Commission of any of the above acts for the first time shall be penalized with a suspension for three (3) months of the Accreditation as Certified Exporter;
2. Commission of any of the above acts for the second time shall be penalized with a suspension for six (6) months of the Accreditation as Certified Exporter; and
3. Commission of any of the above acts for the third time shall be penalized with a revocation of the Accreditation as Certified Exporter.

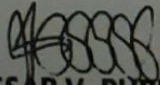
The above penalties shall be without prejudice to the imposition of other penalties under the Tariff and Customs Code of the Philippines, as amended, and other applicable laws, rules and regulations.

EXTENSION OF THE PROJECT TO OTHER ASEAN MEMBER STATES

This Order shall be made applicable to other ASEAN Member States who may accede to the MOU on the Second Pilot Project.

EFFECTIVITY

This Order shall take effect immediately and shall remain in force until the termination of the MOU on the Second Pilot Project.



CESAR V. PURISIMA

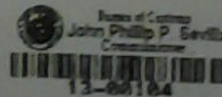
Secretary

Department of Finance

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JOHN P. SEVILLA
Commissioner



13-00104
12 DEC 2013

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 142

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 22nd AFTA 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 25th 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.

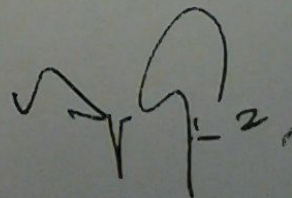
A Customs Administrative Order shall be issued by BOC for this purpose after consultations with relevant stakeholders.

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.

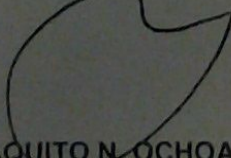
SECTION 7. Separability Clause. If any provision of this Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

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.



By the President:



PAQUITO N. OCHOA, JR.
Executive Secretary

