



REPORT

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Supporting MOIT Self-Certification Initiatives and Obligations:

EU MUTRAP Final Report

Report

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Introduction & Executive Summary

The explosive growth of preferential trade agreements in today's international trade sphere is a well-established and observed phenomena with well over 300 preferential agreements currently spread across the globe. In the absence of any multilateral disciplines on preferential rules of origin that accompany preferential agreements, origin diversity and complexity do present real challenges to traders and government authorities alike.

Perhaps less well appreciated are some of the implementation and operational challenges that accompany preferential trade agreements. Broadly speaking, this report will focus on one such administrative challenge: the certification of origin and related certification policies and difficulties.

After a general and historical analysis of certification matters, the report will then examine preferential certification specifically from the perspective of Viet Nam and undertakings to implement a second self-certification pilot project that evolved from the "Work Plan toward Operationalization of Self-Certification" (Joint AEM – 23rd AFTA Council; August 2009).

Overview & Background

Basically a preferential certificate of origin or origin declaration on an invoice is a prescribed form of documentation whereby the issuer informs government authorities in the country of import that the goods identified do in fact satisfy the applicable rule of origin. For this reason preferential certificates of origin are often referred to as "passports for goods". All matters relating to certificates of origin including form, specified data elements, issuing parties and certificate verification are usually detailed within the preferential agreement itself.

It is important to note that in an important sense, origin certification does not in fact "prove" the originating status of an exported product: it is essentially an origin declaration that has been certified to be accurate by a government authority (or an entity, such as chambers of commerce, authorized by governments to make origin certifications), exporters, importers or producers. A licence plate does not reveal all the information about a car or driver but is a coded declaration that allows authorized parties to look up detailed and often confidential information about the car or driver. Similarly, origin certifications basically broadcast the statement that the exported goods originate and that the full documentary proof that they do originate are available for inspection and verification.

Broadly speaking, there are two basic, co-existing forms of origin certification that come in different configurations. To be clear: there is no perfect system of origin certification; each system has known advantages and disadvantages.

The first basic form is certification by a third party whose only function is usually only certification and who is not involved in the commercial transaction that caused the import or export goods. The second form of certification does involve the parties to the commercial transaction and is usually called self-certification.

Historically, third party certification was the responsibility and was performed by government authorities but in many instances, especially with the exponential growth in preferential trade, government authorities have delegated this role to other certifying entities including chambers of commerce and other similar organizations. Third party certification has certain traditional traits and characteristic:

- Third party certification involves the review the veracity and supporting documentation of origin declarations made by producers or exporters (that have access to production information and documentation)
- Third by certification is usually performed before the subject goods are exported
- Verification of third party certification is usually performed in the country of export, often by the authorized certifying third party itself, at the request of authorities in the country of import
- As will be outlined in more detail later, some third party certification regime allow an element of self-certification to be performed by duly authorized exporters under specialized and controlled conditions

Self-certification also comes in a variety of forms as well: producer certification, exporter certification and, most recently, importer certification:

- In most cases exporter certification is conditional upon the exporter having voluntary access to production information and documentation
- Although importer certification does have certain interesting structural features, such as making the origin certifier and the origin beneficiary one and the same party, there are definitive disadvantages as well. One such disadvantage involves disparities in size and power: a large US importer may have the ability to extract required origin information from a small supplier in the country of export but small importers in a partner country might have difficulty securing sensitive origin information from a large US exporter. In any case, this report will not be examining importer certification in any detail.
- Verification of self-certification is normally performed by the customs authorities of the country of import at the premises of the producer or exporter in the country of export (with the permission of the appropriate authorities and the producer and/or exporter in the country of exporter).

Third party certification is generally associated with sets of distinct advantages and disadvantages. The primary advantage is that origin information can be critically reviewed prior to export by an impartial and disinterested party. Additionally third parties can advise producers and exporters about origin complexity and help them avoid origin difficulties with the authorities and/or their clients in the country of import.

Off-setting these advantages are a series of negative implications and considerations including:

- In many cases, third party certification is rarely or poorly supervised. Plus if there is some form of oversight, there are rarely sanctions for any related errors.

- This lack of accountability can lead to scenarios wherein the certification process becomes somewhat automatic or “bureaucratized”. When this occurs then the primary advantage of third party certification, review by an impartial party, effectively evaporates and certification becomes just an extra and unnecessary step with no real “value-adding” being performed by the third party.

In many instances, the process of third party certification requires nominal fees from the exporter producer. More importantly, overly complex and contradictory third party certification regulations can cause shipment delays which are becoming intolerable in today’s environment of fast moving supply chains.

For these reasons, self-certification is becoming increasingly prevalent and “popular” on the international trade stage including, obviously, the ASEAN trade community. Consider the following outline of the existing certification process in Viet Nam that can be somewhat confusing and complex for trader at times and relatively costly for the government to administer.

The Present System of Certification of Origin in Viet Nam

The conventional scheme entails certificates of origin to be issued – on application by the exporter - by designated issuing authorities on the basis of pre-export examination of the goods in question and submission of relevant documents by the exporter. Tested against the above guiding principles, it would probably score relatively high on reliability, but much less highly (and in some cases quite poorly) on simplicity and cost-effectiveness, for both issuing authorities and exporters. This could be a major contributing factor to the severe under-utilisation of the FTAs.

The issuing authority is responsible for:

- Providing guidance to the applicant if requested;
- issuing C / O when the goods meet the applicable rules of origin;
- Receiving and Settling claims related to the C/O;
- Verifying the origin of the exported goods at the request of the competent authorities of the importing country;
- Exchange of information related to the C/O issuance with the other issuing authorities.

In Viet Nam, the certification system of issuing authorities includes Ministry of Industry and Trade, Viet Nam Chamber of Commerce and Industry and the Management Boards of Industrial Zones, Export Processing Zones and Economic Zones.

The Certification of Origin by Ministry of Industry and Trade (MOIT)

The Ministry of Industry and Trade (MOIT) has 18 issuing offices, namely as Import-Export Regional Office. These offices are listed as follows:

Table 1: List of Import-Export Regional Offices under MOIT's management

No	Issuing Office
1	Import-Export Office of Ha Noi
2	Import-Export Office of Ho Chi Minh City
3	Import-Export Office of Da Nang
4	Import-Export Office of Dong Nai
5	Import-Export Office of Hai Phong
6	Import-Export Office of Binh Duong
7	Import-Export Office of Vung Tau
8	Import-Export Office of Lang Son
9	Import-Export Office of Quang Ninh
10	Import-Export Office of Lao Cai
11	Import-Export Office of Thai Binh
12	Import-Export Office of Thanh Hoa
13	Import-Export Office of Nghe An
14	Import-Export Office of Tien Giang
15	Import-Export Office of Can Tho
16	Import-Export Office of Hai Duong

17	Import-Export Office of Binh Tri Thien
18	Import-Export Office of Khanh Hoa

Source: The Ministry of Industry and Trade

These 18 issuing authorities issue all preferential C/O Forms, including C/O Form D (ATIGA), AK (AKFTA), AJ (AJCEP), VJ (VJEPA), AANZ (AANZFTA), E (ACFTA), S (Vietnam- Lao Bilateral Preferential Arrangement and Vietnam – Cambodia Bilateral Preferential Arrangement) , AI (AIFTA), and VC (VCFTA). Each year, 18 issuing authorities issue hundred thousands of C/O Forms and get involved around 100 staff handling directly and indirectly. In Vietnam, though issuing authorities do not collect the issuance fee (in order to promote the exports and enhance the utilization of C/O), they still sell C/O Forms to the exporters at a reasonable price (around USD 50 cent) with a justification of covering the administrative cost for printing the C/O Forms.

To subsidy and cover the operation of the issuing authorities, the government funds the budget for them, including office rentals, staff salary, utility expense and other administrative expenses. All the costs cause burdensome to the state budget.

As analyzed by trade experts and complained by exporters, some other disadvantages of the current issuing system recorded during its long time implementation are highlighted as follows:

- *Delay of trade and affecting trade opportunities:* sometimes, the exporters have to wait several days, or even for months for the issuing authorities to resolve the problem related to determination of origin criteria and some trade conditions related to the issuing procedures. In case the issuing offices are unable to resolve the problems, they have to report to the Ministry of Industry and Trade (Import-Export Department) to ask for further guidance on technical issues. Even for the Ministry, it also takes time to resolve the problems and the whole process cause trade delay seriously. As a result, the exporters may lose their chance of doing business with partners and the customers may terminate the sales contracts as they could not wait for a long time to obtain C/O and even in some cases, they are not very sure whether they can get the C/O, which create some unpredictability. Of course, the customers will definitely make contact with other suppliers;

- *The issuing authorities may not fully understand technical issues:* the staff of issuing authorities may not fully understand the new trade patterns and practices such as the third country invoicing, back-to-back C/O, triangle trade model, or drawback system. Furthermore, not understanding the

manufacturing process may cause difficulties in verifying the calculation of the regional value content (RVC) submitted by the exporters. Understanding and applying the Change in Tariff Classification (e.g. Chapter Change, Heading Change and Sub-heading Change), or Specific Process origin criteria may also be a big challenge to the new issuing staff since they are not fully trained on rules of origin and not really involved in the real manufacturing process.

- *Small margin cost difference*: margin cost difference between the preference earned by submission of C/O to the customs of the importing countries and direct application of the MFN duties without submission of C/O are sometimes not really substantial and this may cause reluctance of application of preferential C/O due to time, money and effort consumption when applying the C/O;

- *Rejection of C/O*: the risk of rejecting C/O by the customs authorities of the importing countries due to minor difference between the specimen signatures and the real ones affixed on the C/O;

- *Frequent verification of signatures of the authorized persons and stamps of the issuing authorities*: frequent verification of signatures requested by the customs authority of the importing countries causes reluctance of applying C/O and submission of it to get tariff preferences;

- *Missing marking on specific boxes of the C/O*: shipments are sometimes held back by the customs authorities of the importing countries for verification of other details on C/Os, such as missing marks on particular boxes, such as third country invoicing, back-to-back, issued retroactively, etc;

- *Time and cost wasting* (with required huge submission of manufacturing statements, packing list, B/L, sales contracts, application forms, commercial invoices, and other necessary documents which may be required for some specific cases);

- *Costing for the government budget*: the government limited resources have to cover the administrative cost, administrative infrastructure and other operational costs of issuing authorities.

The Certification of Origin by the Management Boards of Industrial Zones, Export Processing Zones and Economic Zones

In accordance to Decree No 29/2008/NĐ-CP dated 14th March 2008 of the Government, the Management Boards of Industrial Zones, Export Processing Zones, Economic Zones are authorized to issue

C/O. Before adoption of this decree, the other decisions of Prime Minister on establishment of the Industrial Zones, Export Processing Zones, Economic Zone provided that these zones are authorized to issue C/Os. Based on these provisions and as proposed by Management Boards of Industrial Zones, Export Processing Zones, Economic Zones, Ministry of Industry and Trade has authorized 36 the Management Boards of these zones to issue Certificate of Origin (C/O) Form D.

Table 2: List of the Management Boards of Industrial Zones, Export Processing Zones, Economic Zones authorized to issue C/O Form D

No	Issuing Office
1	Hanoi Management Board of Industrial Zones, Export Processing Zones
2	Ho Chi Minh City Management Board of Industrial Zones, Export Processing Zones
3	Hai Phong Management Board of Economic Zones
4	Da Nang Management Board of Industrial Zones, Export Processing Zones
5	Thai Nguyen Management Board of Industrial Zones
6	Phu Tho Management Board of Industrial Zones
7	Bac Ninh Management Board of Industrial Zones
8	Quang Ninh Management Board of Economic Zones
9	Hai Duong Management Board of Industrial Zones
10	Nghien Son Management Board of Economic Zones
11	Southeast Nghe An Management Board of Economic Zones
12	Vung Ang Management Board of Economic Zones
13	Thua Thien Hue Management Board of Industrial Zones
14	Quang Nam Management Board of Industrial Zones

15	Quang Ngai Management Board of Industrial Zones
16	Phu Yen Management Board of Industrial Zones
17	Van Phong (Khanh Hoa) Management Board of Economic Zones
18	Binh Thuan Management Board of Industrial Zones
19	Dong Nai Management Board of Industrial Zones
20	Ba Ria – Vung Tau Management Board of Industrial Zones
21	Long An Management Board of Industrial Zones
22	Tay Ninh Management Board of Industrial Zones
23	Binh Duong Management Board of Industrial Zones
24	Tien Giang Management Board of Industrial Zones
25	Can Tho Management Board of Industrial Zones
26	Dong Thap Management Board of Industrial Zones
27	Vinh Long Management Board of Industrial Zones
28	Dung Quat Management Board of Economic Zones
29	Vietnam – Singapore Management Board of Industrial Zones (VSIP)
30	Lao Bao Management Board of Special Economic – Trade Zones
31	Bac Giang Management Board of Industrial Zones
32	Binh Phuoc Management Board of Industrial Zones
33	Kon Tum Management Board of Economic Zones

34	Ho Chi Minh City Management Board of High Tech Zones
35	Hung Yen Management Board of Industrial Zones
36	Binh Dinh Management Board of Economic Zones

Source: The Ministry of Industry and Trade

As pointed out by Ministry of Industry and Trade, due to some reasons such as poor facilities and equipment, low skill staff, the other preferential C/O Forms such as Form E, Form AK, Form AJ, Form VJ, Form S, Form AANZ and Form VC have not been widely authorized to those Boards.

Most of these Management Boards of IZs, EZs, and EPZs are located in a number of provinces and cities which are the hubs for many export manufacturing enterprises. These provinces and cities are included Ho Chi Minh city, Dong Nai, Binh Duong, Vung Tau, Hai Phong, Hanoi, Can Tho, Da Nang, Phu Tho, Hai Duong, Hung Yen, Quang Ninh and some other cities and provinces. Some boards in small cities and provinces with limited supply of exports such as Quang Nam, Dong Thap, Phu Yen, and Long An are often subject to issuing no C/O Form D in several months as no shipment exported to ASEAN countries. This situation causes some huge cost of maintaining the operation of these offices and as a result, it wastes the state budget.

Furthermore, the Management Boards of Industrial Zones, Export Processing Zones and Economic Zones are authorized to issue only C/O Form D for exporters and manufacturers located in the Industrial Zones, Export Processing Zones where they produce the goods and products. This means that if the exporters and manufacturers in such zones wish to obtain C/O other Forms, i.e, Form B, Form E, Form AK, Form AJ, Form VJ, Form AANZ and Form VC, they have to go to the other issuing authorities of Ministry of Industry and Trade and those under the management of Vietnam Chamber of Commerce and Industry (VCCI) to apply for such C/O Forms for the same goods, and may be for the same origin criteria to be applied. This problem also causes a waste of time and increases export cost for exporters and manufacturers, and of course, it affects heavily the process of export and decreases the export competition of Viet Nam.

Another issue should be drawn attention is these issuing authorities are not in the system of Ministry of Industry and Trade and they are not under the direct management of the Ministry. This also causes some difficulties in harmonizing the procedures between these issuing authorities and those under the management of the Ministry. As a result, an exporter or manufacturer applies the C/O for the same

goods (with same origin criteria) may suffer from different timing for obtaining the C/O. This may cause some uncertainty and unpredictability for trade and hinder development.

Furthermore, in most of the management boards, staff has not been fully trained for rules of origin. They are not assigned for full- time job as C/O issuers and they do not understand much about the production process of certain products. This causes them some difficulties in solving problem when they handle the application of C/O Form D.

The Certification of Origin by Vietnam Chamber of Commerce and Industry (VCCI)

Vietnam Chamber of Commerce and Industry (VCCI) has 12 issuing authorities nationwide. These issuing authorities are responsible for issuance of non-preferential C/O Form (Form B and other non-preferential C/O Forms) and the preferential C/O Form A granted under the General Scheme of Preferences (GSP Scheme).

Table 3: List of VCCI issuing authorities

No	Issuing Office
1	Centre for Commercial Document Certification, Hanoi Branch
2	Centre for Commercial Document Certification, Ho Chi Minh Branch
3	Centre for Commercial Document Certification, Hai Phong Branch
4	Centre for Commercial Document Certification, Da Nang Branch
5	Centre for Commercial Document Certification, Can Tho Branch
6	Centre for Commercial Document Certification, Vung Tau Branch
7	Centre for Commercial Document Certification, Dong Nai Branch
8	Centre for Commercial Document Certification, Thanh Hoa Branch
9	Centre for Commercial Document Certification, Nghe An Branch

10	Centre for Commercial Document Certification, Quy Nhon Branch
11	Centre for Commercial Document Certification, Nha Trang Branch
12	Centre for Commercial Document Certification, Binh Duong Branch

Source: Vietnam Chamber of Commerce and Industry

The C/O Form B is not applied for the purpose of being granted preference so it is not within the scope of this study. The C/O Form A is included in the system of GSP tariff preferences which is granted by the donor countries (normally developed countries) unilaterally to the LDC and developing countries. Among the developed countries granted GSP, the EU is going to apply the self-certification system, namely approved exporters, by 2017. This means that Vietnam has to prepare itself to turn from the current conventional system to the self-certification system if it still wishes to export to the EU under the GSP Scheme.

Box 1: EU's GSP and the self-certification required from 1 January 2017

The GSP provides for preferential duty treatment (a reduced rate of import duty or, even, duty-free) of imported goods originating in beneficiary countries. The principle was agreed at the United Nations Conference on Trade and Development (UNCTAD), and is a facility granted to developing countries ("beneficiary countries") by certain developed countries ("donor countries"). Following the so-called "Everything But Arms" initiative introduced in 2001, the EU GSP grants the least developed countries (see Appendix I) duty-and quota-free access for almost all their exports. The system is granted to the beneficiary countries and not negotiated with them; the preferential treatment is non-reciprocal.

GSP rules of origin are contained in Articles 66 to 97w and Annexes 13a to d, 16 to 18 and 21 Regulation (EEC) 2454/93 (CCIP) (as amended by Regulation (EU) No1063/2010.). The normal proof of origin for goods exported from a beneficiary country to the Community is certificate of origin Form A. Except for derogations, an invoice declaration may be used for goods whose total value does not exceed Euro 6 000. *As from 1 January 2017, so-called "statements on origin" should be made out by the exporters themselves.*

source:

http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_839_en.htm

Procedures of the Conventional Certification of Origin System

The current procedure of issuance of Certificate of Origin (C/O) in Vietnam¹ is quite complicated. It is required the exporters, manufacturers to apply for C/O Forms for every single shipment at any time they intend to export.

As provided for by Circular No. 06/2011/TT-BCT of March 21, 2011 stipulating procedures for issuing preferential certificates of origin of Ministry of Industry and Trade, the procedure comprises the following steps:

Registration of Trader Dossiers

Exporters shall register their trader dossiers with C/O issuing authorities upon their first-time C/O application and may be considered for C/O issuance only after they have registered trader dossiers. The dossiers may be submitted directly or sent by post to the issuing authorities.

A trader dossier shall comprise:

- Registration of the specimen signature of the person empowered to sign the C/O application and the C/O and the specimen seal of the trader;
- A certified true copy of the business registration certificate of the trader;
- A certified true copy of the tax identification number registration certificate (if any);
- A list of manufacturing sites, factories (if any) producing goods for which C/O is required.

Before the C/O application process, any change in the trader dossier shall be notified to the issuing authorities with which this dossier has been registered. A trader dossier shall be updated once every two (2) years even in case there is no change therein.

In case of a *force majeure* circumstance or for a plausible reason, if wishing to get a C/O issued by a C/O issuing authority different from that with which it has previously registered the trader dossier, a C/O applicant shall register the trader dossier with and submit the following documents to a new C/O issuing authority:

¹ The current procedure of issuance of Certificate of Origin (C/O) in Vietnam is being applied by Ministry of Industry and Trade, the Management Boards of Industrial Zones, Export Processing Zones, Economic Zones and Vietnam Chamber of Commerce and Industry (VCCI)

- A written request for issuance of C/O by the new C/O issuing authority;
- A written certification or a printed copy of the notification on the eCOSys by the previous C/O issuing authority that the trader has submitted documents allowed to be submitted late for previous issuances of C/O.

Plausible reasons for a trader's application for issuance of C/O by a C/O issuing authority different from that with which it has previously registered the trader dossier include:

- Convenience for the trader to carry out procedures for exporting goods;
- Other plausible reasons given by the trader.

Preparation of C/O application

The C/O application dossiers shall include:

- A C/O application Form (*Annex...to be provided*), which has been fully and duly filled in;
- The C/O Form, which has been fully filled in;
- A copy of the customs declaration for which customs procedures have been completed (bearing a true-copy stamp of the business). This declaration is not required for exported goods which are not subject to customs declaration under law;
- A copy of the commercial invoice (bearing a true-copy stamp of the trader);
- A copy of the bill of lading or an equivalent transport document (bearing a true-copy stamp of the trader) in case the trader has no bill of lading. When a back-to-back C/O is issued for the whole goods lot or part of the goods lot brought from a non-tariff zone into the domestic market, this document may be exempted if the trader does not actually hold it;
- A detailed calculation of the regional value content (for the regional value content criterion); or a detailed written declaration of HS headings of input materials and products (for change in tariff classification (CTC) criterion or good manufacturing or processing operation criterion).

Pending the availability of a copy of the customs declaration for which customs procedures have been completed and the bill of lading (or any equivalent document), the C/O applicant may submit these documents later within fifteen (15) working days after the receipt of C/O.

For a trader applying for a C/O for the first time or a new export product, in addition to the above documents, in case of necessity, the issuing authority may conduct physical inspection at the trader's

factory and request the exporter to additionally submit copies of the following documents bearing a true-copy stamp of the exporter:

- Process of goods production;
- Customs declaration of imported materials and auxiliary materials for production of export goods (in case of use of imported materials and auxiliary materials in production);
- Purchase and sale contract or value-added invoices on the purchase and sale of domestic materials and auxiliary materials (in case of use of domestically purchased materials and auxiliary materials in production);
- Certification by the seller or by the local administration of the locality in which materials and goods are manufactured (in case of use of domestically purchased materials and goods in production).
- Export permit (if any);
- Other necessary documents.

The trader dossiers are valid for 2 years after being submitted by the exporter to the issuing authority. Past this time limit, the exporter shall re-submit the dossier for updating new information on the production process and materials used in production and other information.

The issuing authority may request the trader to provide the originals of the copies submitted by the exporters for comparison in case there is a clear ground to doubt the authenticity of these documents and shall clearly state such ground in writing, with the signature of the person competent to sign C/O on the written request. The issuing authority may request the trader to provide the originals of those copies for random comparison.

Procedures for Application for C/O and Issuance of C/O

a) Submission of C/O application dossiers

Traders that apply for C/O for the first time may submit trader dossiers simultaneously with C/O application dossiers. Traders may submit C/O application dossiers directly or by post to the offices of C/O issuers with which they have registered trader dossiers. Traders may also choose to apply for C/O via the Internet.

b) Receipt of C/O application dossiers

Upon receiving a C/O application dossier sent by an exporter, the staff of issuing authorities shall examine this dossier, then notify the exporter of any of the following:

- Acceptance for issuance of C/O and expected time of receipt of C/O by the exporter;
- Request for supplementation of documents (specifically stating documents to be supplemented);
- Request for re-checking of documents (specifically stating information to be re-checked if there is a specific and true ground for the request);
- Refusal to issue C/O when detecting that:
 - + The C/O applicant fails to register the trader dossier;
 - + The C/O applicant has not yet submitted documents which are allowed for late submission for previous issuances of C/O;
 - + The C/O applicant committed a fraudulent act in proving the origin in a previous issuance of C/O and the case has not yet been completely settled;
 - + The C/O applicant fails to provide fully documents under regulations to prove the origin of goods when the C/O issuer conducts final inspection of origin of goods;
 - + The dossier contains contradictory details;
 - + The C/O declaration form is filled in red ink, by handwriting, or contain erasures or contents which are unreadable, or printed in multicolor inks;
 - + There are lawful and clear grounds to evidence that goods are non-originating under law.

c) Time limit for C/O issuance

A C/O shall be issued within the following time limit:

- Within 4 working hours after the C/O applicant files a complete and valid dossier, for export by air;
- Within 8 working hours after the C/O applicant files a complete and valid dossier, for export by other means;
- For exporters submitting their dossiers by post, the time limit for C/O issuance is 1 working day after the date of receipt indicated on the envelope.

In case an exporter violates regulations on origin of goods, within 6 months after the date of handling the violation, such exporter shall be put in the watch list and the issuing time for such exporter is 3 days after the exporter submits a complete and valid dossier. Past 6 months after the handling of its violation, if the exporter commits no violation related to origin of goods, the issuing authority shall consider removing such exporter from the watch list.

The issuing authority may conduct inspection at the production premise if it has a clear ground to believe that the dossier examination is not enough for C/O issuance or when it detects signs of violation in connection to previously issued C/O. When setting up a team for inspection at the exporter or manufacturer's production premise, the issuing authority shall send to the exporter a written inspection request and send a copy of such request to the Ministry of Industry and Trade (the Import and Export Department). The inspector of the issuing authority shall make a minutes of inspection results and request the exporter or manufacturer in question to jointly sign it. In case the exporter or manufacturer refuses to sign the minutes, the inspector shall write the reason for the refusal in the minutes and sign it for certification.

The time limit for issuing or refusing to issue a C/O in this case is 5 working days after the exporter files a complete dossier.

d) Withdrawal of C/O

Issuing authorities may withdraw C/O they have issued in the following cases:

- Exporters or manufacturers have forged documents.
- Issued C/O are not conformable with the origin requirements.

Exporters may wish to declare their C/O application dossiers via the internet.

Origin Certification Observations

It should be noted that in today's international trade environment that features the near constant negotiation of preferential trade agreements, that inevitably systems of third party certification and self-certification are beginning to influence each other.

For example, in certain self-certification regimes the customs authorities in the country of import have begun working much closer with the authorities in the country of export in investigating the accuracy origin declarations made by the producer or exporter in the country of export. By the same token, the "Approved Exporter" exception found in many third party certification regimes is beginning to increasingly resemble pure self-certification.

Notwithstanding this process of cross-fertilization, as outlined in the next section, given the known disadvantages of third party certification, traders and trade agreement negotiators are increasingly opting for some form of self-certification (WCO Research Paper No. 20; World Trends in Preferential Origin Certification and Verification; November 2011 – Atsushi Tanaka).

International and Regional Best Practice in Self-Certification

Under the ASEAN Economic Community (AEC), ASEAN recognized the crucial role that rules of origin play in making the free flow of goods in the region a reality. Towards this end ASEAN agreed to put in place rules of origin which are responsive to the dynamic changes in global production processes, so as to: facilitate intra-regional trade and investment; promote a regional production network and to encourage the development of SMEs.

Recognising the need to streamline the rules of origin procedures to facilitate trade of ASEAN originating goods, the 23rd AFTA Council (Bangkok, August 2009) endorsed the “Work Plan toward Operationalization of Self Certification”. According to this Work Plan, all Member States would implement an ASEAN Self Certification Scheme by 2012. On 1 November 2010, three participating Member States, Brunei Darussalam, Malaysia and Singapore commenced on a pilot project to kick-start the ASEAN Self Certification System for a period of one year. Thailand joined the project in October 2011. Philippines, Indonesia and Lao signed the MOU to implement the 2nd SC pilot scheme in August 2012 with some amendments to the initial SC pilot scheme (i.e. restricted to “producers” that can designate a maximum of three authorized signatories for “invoice” declarations only and whose names will be shared with the ASEAN Secretariat). Viet Nam is in the process of reviewing the applicability of the 2nd SC pilot scheme. ASEAN aimed to have a wide-implemented self-certification in 2015.

Self-certification reduces the documentation burden of traders when claiming for preferential tariff treatment and would help to improve utilisation of tariff concessions offered under ATIGA. This would further enhance intra ASEAN trade. Under this scheme, the primary responsibility of origin certification is carried out by traders such as manufacturers and exporters, including small and medium enterprises, participating in regional trade. Under this scheme, certified exporters are allowed to declare that their products have satisfied the ASEAN origin criteria. The declaration will be made out by a certified exporter on a commercial invoice or, in the event the invoice is not available to the importer at the time of exportation, on any other commercial document such as billing statements, delivery order, or packing list.

The following outlines how self-certification has been implemented in the ASEAN region and around the world.

A. Thailand

1. The self-certification system of Thailand

Thailand's self-certification system is implemented in compliance with the Operational Certification Procedures (OCP) of the pilot project for the implementation of a regional self-certification

system of the ASEAN. It means that, in principle, there is no restriction on the number of producers / exporters to participate the system and there are no limitation on the types of goods which are allowed to be self-certified, as long as the participating companies have to meet the following criteria:

- **Criterion 1: Enterprises must master the rules of origin (ROO) and the OCP.** To help businesses meet regulations, Ministry of Commerce and The Customs Bureau of Thailand organized the ROO and OCP training courses (with certificates to be issued for participants) for the participants every year. According to statistics from the Ministry of Commerce of Thailand, from December 2011 to August 2013, Thailand has organized 40 training courses for nearly 5,000 staff of companies and enterprises.

- **Criterion 2:** Enterprises who apply many C / O Forms D or have been pre-inspected before export.

- **Criterion 3:** Enterprises have credible profiles which have been audited and still valid.

- **Criterion 4:** Enterprises are not blacklisted by the relevant authorities.

If an enterprise meet all of those criteria, it will be granted the status of Certified Exporter for a period of 2 years. In order to be granted the status of Certified Exporter, enterprises need to submit the Ministry of Commerce (the Department of Import and Export) the following documents:

- Traders' profile which is included business registrations, audit reports and a copy of Certification of Incorporation.

- A copy of ID of the legal representative or the authorized person.

- A copy of the tax identification number registration (Tax ID Card for a legal entity who is an individual or VAT Registration for a partnership).

- In addition to the above documents, the manufacturing enterprise have to produce the following documents:

+ A copy of the license to operating the plant

+ Detailed description of the production process

+ Site Plan of the production or warehouse.

2. The management of the self-certification system

Thailand has a system of electronic self-certification management. This system allows businesses to register themselves to grant the status of Certified Exporter through the Internet and the required

above mentioned documents can be attached to the online application. The approval time is made within one day.

This system is connected to the customs authorities and the risk management database to ensure the authenticity of each shipment which is declared by the exporters through the Internet. During the pilot project phase, Ministry of Commerce of Thailand does not need to carry out on-the-site pre-exportation examination of the origin of the good because it only allows reputable enterprises to participate the system. Technically, this system of Thailand using the login mechanism and secured with a username, password, and authentication code combined with digital signatures which are quite similar to Vietnamese e-CO system (eCoSys).

3. Monitoring and controlling the self-certification of origin activities

Certified exporters must report each shipment through the electronic self-certification management system mentioned above, regardless of the shipment using C/O Form D or invoice declaration. Apart from the required data of shipment, a scanned original Invoice, transportation document, i.e. Bill of Lading, Airway Bill, etc. must be attached as required by the customs authority of the importing country.

The exporter must grant the competent authorities full access to records for the purpose of monitoring the use of the authorisation and of the verification of the correctness of declarations made out. The records and accounts must allow for the identification and verification of the originating status of goods for which an invoice declaration was made out, during at least three years from the date of making out the declaration in accordance with domestic laws and regulations.

The exporter must undertake to make out Invoice Declarations only for goods for which he has all appropriate documents proving the origin status of the goods concerned at the time of making out the declaration. The exporter must undertake to ensure that the person or persons responsible for making out the Invoice Declarations in the undertaking know and understand the Rules of Origin as laid down in the OCP of the Pilot Project MOU. The exporter shall accept the full responsibility for all Invoice Declarations made out on behalf of the company, including any misuse.

Thailand provides heavy penalties for commercial fraud or origin fraud. Besides the revocation of the status of Certified Exporter, the exporters shall be fined heavily, or even prosecuted under its criminal law.

4. Verification of imported shipment using invoice declaration

The Thai Customs will rely on the risk management database system which is built and developed to manage the export and import activities. Accordingly, they will assess the risk level of each shipment to consider whether requesting examination. For example:

- Assessing the risk based on the new imports;
- Assessing the risk based on the value and volume of imports;
- Assessing the risk based on the exporting countries;
- Assessing the risk based on the origin criteria.

To combat fraud efficiently, the competent authorities of Thailand share information through a common database system called as National Single Window (NSW).

The customs clearance process and verification of origin for shipments using the invoice declaration are implemented as follows:

- When the exporter makes an import declaration, the customs will check the attached documents. If no error is found, the shipment will be cleared. If any error is found, the customs will immediately deny the preferential treatment. If no error is found, but the customs has doubts on the authenticity of invoice declaration, the Thai Customs shall promptly transmit a verification request to the C/O issuing authority of the exporting country.

- Within 7 days, the information of the shipment will be transferred to the Post Review Unit for review. In 15 days, this Unit takes a responsibility for random check, re-assesses the information of the shipment and compares with the risk management database. In case of any suspects, it requests for verification. Otherwise, it will transfer the information to the Post Audit Unit. (the Post Audit Unit and Post Review Unit has the same function as inspection parts of the Vietnam Customs).

- The Post Audit Unit has the right to re-inspect the import shipment within 5 years based on the principle of risk determination and may request verification for shipments in question or even just verification at random.

Pending verification, importers have to deposit an amount tantamount to the MFN rate and this deposit amount will be returned upon verification results are found satisfactory. If it turns out any violation or fraud, the importer will have to pay the MFN duty and be fined.

5. Some difficulties in the implementation of the invoice declaration

- The customs authorities of the some importing countries (especially Thai Customs) and the importers often lack of trust in the shipments which use the invoice declaration to claim preferential tariff treatment. As no clearly defined in the OCP of the ASEAN pilot project, the customs of some ASEAN countries (i.e. Malaysia) does not allow the importers to produce the C/O Form D instead in case the invoice declaration is rejected.

- Most of the customs brokers do not aware of the existence of or understand the invoice declaration system so they often register usage of C/O Form D for claiming preferential tariff treatment, instead of indicating invoice declaration used by exporters earlier, and as a result, this mistake lead to a big trouble upon clearance.

- Exporters usually use the printed signatures, while the invoice declaration requires the real signature and the full name of the authorized persons to be affixed.

- The accumulation is not allowed to use between the C/O Form D and invoice declaration.

- No provisions of invoice declaration to resolve the case of Back-to-Back C/O.

B. Malaysia

1. Overview of Malaysia self –certification system

As pointed out by Self-certification is a system which enables the certified exporter to make out an Invoice Declaration for the export of goods by their own. The information in the invoice declaration is less than what appears in ATIGA Form D. It will gradually replace the conventional ATIGA Form D which is currently being issued by the Issuing authority i.e. Ministry of International Trade and Industry (MITI). A separate OCP has been formulated for the purposes of the Pilot Project.

As highlighted by the MITI, the Self-Certification Scheme has the following benefits:

- reduce the costs associated with CO Form D applications;
- facilitate trade;
- enhance competitiveness; and
- maximize the use of AFTA Preferences.

Some other benefits of the self-certification system are also praised by the business community and some government agencies:

- No requirement of specimen signatures need to be exchanged. As a result, the system will eliminate the risk of rejecting C/O due to minor differences between the specimen signatures and the real signature affixed on the C/O;
- No frequent verification of signatures is requested and this will cause no more delay in clearance of goods;
- Facilitating intra – ASEAN trade (Shipments are not held back by approval of C/Os);
- Reduce business cost;
- Time and cost savings (no submission of manufacturing statements);
- Maximize the efficiency of the government limited resources;
- Government Authorities may cut down the administrative infrastructure.

So far, the number of certified exporters in Malaysia is 30, the largest number compared to Singapore (22) and Brunei (10).

2. The procedure of self-certification

Step 1: Registration for self-certification of origin

Manufacturers or exporters have to register to participate in the self-certification system. The registers (manufacturers or traders) must prove that they have the ability to determine accurately the origin of export goods and to store the records of documents related to this determination.

Step 2: Examination and Authorization to the certified exporters

The concerned competent authorities shall verify these exporters based on the criteria required for the certified exporters and grant the status of certified exporters to such exporters.

Step 3: Self-Certification

The certified exporters shall, in the case of export of goods satisfying the origin criteria of the Agreement, put the following declaration on the invoice:

“The exporter of the product(s) covered by this document (Certified Exporter No.....) declares that, except where otherwise clearly indicated, the products satisfy the Rules of Origin to be considered as ASEAN Originating Products under ATIGA (ASEAN country of origin:) with origin criteria:”

Such invoice declaration will be sent to the importers.

Step 4: Submission of Invoice Declaration

The importer shall submit to the customs authority of the importing country at the time of import the invoice declaration made out by the Certified Exporter to enjoy the preferential tariff treatment.

3. Criteria for certified exporters

To become a certified exporter, the exporter has to meet the following criteria:

- The exporter is also the manufacturers;
- Good past track record;
- Not blacklisted by any agency (e.g., customs authorities or Ministry of International Trade and Industry);
- Be able to comply with the rules of origin.

After being granted the status of certified exporters, such exporters are given the certified exporter number and the approval letter. The certified exporter must provide a certified list of exported goods and notify of invoice declarations to the competent authorities monthly or quarterly.

For the purposes of claiming preferential tariff treatment by invoice declaration, the importer shall submit to the customs authority of the importing Member State at the time of import:

- Invoice declaration made out by the certified exporter;
- Bill of Lading;
- Customs declaration;
- Other documents as required.

4. Requirements for Invoice Declaration

4.1. General requirements

- The certified exporter will have to put the following declaration on the invoice to confirm that its goods comply with the ATIGA Rules of Origin:

“The exporter of the product(s) covered by this document (Certified Exporter No.....) declares that, except where otherwise clearly indicated, the products satisfy the Rules of Origin to be considered as ASEAN Originating Products under ATIGA (ASEAN Country of Origin:,) with origin criteria.....”

- The Invoice Declaration must be signed by hand, with the addition of the name of the signing person;

- In the events that the invoice made out by the certified exporter may not be available to the importer at the time of exportation, the invoice declaration can be made out by a certified exporter on any of the commercial documents as follows:

- + Billing statements; or
- + Delivery order; or
- + Packing list

The declaration must also be signed by hand, with the addition of the name of the person.

4.2. Validity Period of the Invoice Declaration

The Invoice Declaration shall be valid for a period of 12 months for origin certification purposes, from the date of making out the Invoice Declaration, and must be submitted to the customs authorities of the importing Member State within that period.

4.3. Presentation of the Invoice Declaration

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 Invoice Declaration made out by a Certified Exporter; or an Invoice Declaration made out by any exporter provided that the total value of the consignment does not exceed USD 200.00 FOB.

4.4. Withdrawal of the authorisation

The issuing authorities may withdraw the authorisation at any time. They shall do so where the Certified Exporter no longer offers the guarantees referred to in Rule 12A(1) of the OCP, no longer fulfils the conditions referred to in Rule 12A(2) of the OCP or otherwise abuses the authorisation. A withdrawal shall be immediately communicated to the ASEAN Secretariat, in conformity with Rule 2. The wrong declaration also subjects to the penalty by the Customs Act 1967.

C. Singapore

1. Invoice declaration in the ASEAN Self-Certification Scheme

To facilitate the trade of ASEAN origin goods, Singapore are piloting an ASEAN Self-Certification Scheme as part of a wider plan to roll out the scheme in all ASEAN member states by 2015. The scheme enables certified exporters to self-certify the origin of their exports to enjoy preferential tariffs under the ASEAN Free Trade Area.

Self-certification reduces the upfront administrative burden and cost to traders seeking preferential tariff treatment for their exports. It is envisaged that this will help improve the utilization of tariff concessions available under the ASEAN Free Trade Area and further enhance intra-ASEAN trade.

The latest adoption of self-certification to facilitate ASEAN exports is an important development for Singapore traders, given that Singapore-ASEAN exports totaled a significant S\$145 billion in 2010.

The pilot self-certification project launched on 1 November 2010 involves 22 certified traders exporting from Singapore.

Under the conventional system, exporters would need to apply for the preferential certificate of origin - commonly known as Form D - from Singapore Customs in order to enjoy preferential tariffs for their goods exported to other ASEAN member states.

With the new self-certification scheme, certified exporters need not apply for Form D from Singapore Customs. Instead, they can simply self-declare the country of origin for their goods on the commercial invoice or, if the invoice is not available at the time of export, any other commercial document such as a billing statement or delivery order.

Specifically, certified exporters will benefit from:

- Greater convenience as there is no need to apply for Form D;
- Cost savings as the amount charged by declaring agents for a typical Form D application is about \$15; and
- Improved timeliness as self-certification can be performed 24/7 by the company itself.

Many Singaporean certified exporters participating in the pilot project praised the initiative as "a new breakthrough for custom documentation". Self-certification will help their companies achieve not just cost savings, but most importantly efficiency.

With about 6,000 applications for Form D monthly, Singapore Customs estimates that full-fledged self-certification in 2012 will result in potential annual savings of about S\$1.08 million for some 850 exporters. The agency hopes that this reduction in business cost will enable traders to become more competitive.

2. Singaporean self -certification regime in its other FTAs

Next to ASEAN Self-Certification Scheme as mentioned above, Singapore also operates a wide self-certification regime in its other FTAs where self-certification is the prescribed mode. In her such other FTAs, the certification regime used is either the conventional or the full self-certification regime. Singapore's self-certification can be made by any exporter which has knowledge that the products in question qualify for originating status. This system also does not require additional registration as trusted/approved exporter so as to gain access to documents for verification purposes as Singapore's legislation sufficiently provides her with the powers to do so. - in a number of its FTAs.

To ensure a level of authenticity, the exporters in question are subject to proactive and reactive monitoring and verification actions by Singapore Customs. *Proactive* by post-export audits of exporters, on the basis of targeting, and *reactive* on the basis of verification requests by Customs authorities in the importing partner country.

D. European Community

The EC operates a dual certification regime in many of the FTAs it has concluded: a conventional certification system *and* a self-certification scheme. Self-certification consists of making out a declaration of a given model on the invoice ('invoice declaration').

Self-certification is available for:

- any exporter, as long as the value of the originating products in an export consignment is not higher than € 6,000, and for
- 'Approved exporters' for all exports of originating goods.

The € 6,000 limit is a threshold value agreed between the Contracting Parties to the FTAs, below which the risk at stake is considered to be low. Exporters can utilise that facility without prior approval or any other interference by Customs.

'Approved Exporter' is a concept under which the Customs authorities of an EC Member State can "*authorise any exporter who makes frequent shipments of products under an FTA to make out invoice declarations irrespective of the value of the products concerned*". The main condition is that such an exporter "*must offer to the satisfaction of the Customs authorities all guarantees necessary to verify the originating status of the products as well as.....*" etc.

This concept is based on pre-export 'examination' of the exporter rather than of the goods. Customs must be satisfied that, post-exportation, records, files etc. of the exporter will enable them to fully establish the correctness of invoice declarations made out previously. Customs will monitor the

correct use of the authorisation by proactive (depth and frequency risk-based) and reactive (verification requests from Customs in importing partner country) checks.

Future developments in EC

The European Commission is currently putting forward a plan in the EC-GSP scheme - the current system of certification of origin by competent authorities would be replaced by statements on origin - with a specified content - to be given directly by exporters in January 2017. Under the system, any exporter would be able to issue such a statement when the value of originating products in the consignment does not exceed €6,000, but only *registered exporters* would be allowed to make out such a statement irrespective of the value.

Each beneficiary country would be required to establish an electronic record of registered exporters (exporters have to apply for such a registration). These records would have to be shared with the EC, for the benefit of Customs authorities and economic operators in the Community. There will not be any specific criteria applicable to exporters for registration; this will be just an administrative issue, an information gathering exercise. More effective post-export controls would then have to be put in place to ensure the proper use of the system.

E. NAFTA

Self-certification is the only option under NAFTA: any exporter in Canada, the United States or Mexico can complete and sign a NAFTA Certificate of Origin and send it to the importer in question. NAFTA also allows the use of “blanket” certificates of origin that can cover up to one year of identical imports.

A NAFTA Certificate of Origin is *not* required for the commercial importation of a good valued at less than US\$1,000. However, in that case the invoice accompanying the importation must include a statement by the exporter certifying that they qualify as originating goods under the NAFTA rules of origin.

Exporters can be subject to verification, initiated *and* carried out by the Customs authorities of the NAFTA country of importation. Verification can entail the written exchange of information, but also a verification visit including an audit of the exporter’s relevant records by the Customs authorities of the *importing* country.

The Advantages & Challenges of Self-Certification

One of the primary advantages of self-certification is that it puts certification responsibility into the hands of those that know the most about how goods are made and what was imported to make them – the

producers that actually make products and exporters that have access this production information and related supporting documentation.

In this sense, such producers and exporters, included Approved Exporters and/or Certified Exporters, are best situated to determine the origin of their own goods. Allowing these informed parties to self-certify also greatly expedite the certification process which in turn not only improves corporate efficiency, especially in this era of preferential proliferation, but also overall trade effectiveness and trade integration between trading partners.

In addition, although it is state authorities that ultimately determine applicable duties at time of entry, whether such duties paid by the importer should be reimbursed by producer/exporter who provided the origin declaration is basically a private sector contract issue. In this context, self-certification recognizes the proper roles of importers and exporters.

Self-certification requires a certain degree of “origin literacy” which many large producers and their suppliers already possess. At the same time self-certification spreads origin literacy in any given country and this improved origin literacy will have several “multiplier” benefits for Vietnamese producers and exporters if and when the ASEAN self-certification regimes are implemented:

- Self-certification will likely become an obligation under current and future preferential free trade agreements that Viet Nam is investigating (i.e. TPP, proposed changes to the EU GSP origin certification regime). In other words, implementing the ASEAN approach to self-certification will introduce and expand skills that can be applied to other preferential trade agreements as well. This is critical as it is anticipated that Viet Nam can continue to enjoy export growth precisely because of the rules of origin provisions under new and emerging free trade agreements.
- Effective and accurate self-certification relies on more than just understanding the applicable rules of origin – it also involves extracting information and documentation from the supply chain which in turn implies effective supplier management systems. The origin skills and expertise that self-certification encourages are equally applicable to other regimes that require or demand product traceability: product standards; quality standards; safety standards.

Of course, self-certification in general and the ASEAN self-certification pilot projects in particular also features various challenges to traders and administrators alike including:

- Although producers and exporters do know what they make and how their products are made, they are not always perfect in their knowledge or understanding in rules of origin. This can lead to inadvertent mistaken declarations of origin. Furthermore, from the perspective of producers and exporters: origin certifications without origin knowledge can lead to serious amounts of origin liability.
- In approved or certified exporter regimes such as those found in the ASEAN, government authorities must develop policies, systems and practices that ensure producers and/or exporters have the required knowledge and documentation to support their ability to credible origin certifications.
- Revenue risk: from the customs duty perspective, parties that pursue self-certification should take steps to ensure that duty free imports into their territory made on the basis of a self-certified statements of origin by producers/exporters are accurate.

These represent significant but not insurmountable challenges. As illustrated in the chart below, in some important respects, the individual origin activities undertaken by producers and administrators in third party and self-certification regimes are very similar – they are simply taken at different stages in the origin certification process:

Conventional Certification	ASEAN Self-Certification
1. Domestic Producer wants to export under preferential program/FTA	Domestic Producer wants to export under preferential program/FTA
2. Domestic producer may be visited by authorities to determine eligibility of products	Domestic producer must apply for certified exporter status and may be visited by authorities to determine eligibility of the producer
3. The domestic producer determines if his goods originate and if they do he prepares an origin declaration based on supporting documentation	Domestic producer determines if his goods originate or not and secures related supporting documentation
4. The domestic producer's origin declaration is certified by domestic authorities and the goods exported	The domestic producer who has been approved as a certified exporter makes an invoice declaration for originating goods that are exported
5. Authorities in the country of export monitor preferential declarations from time to time	Authorities in the country of export monitor preferential declarations from time to time
6. Authorities in the country of import monitor preferential imports and request verification where risk is suspected and/or on a random basis	Authorities in the country of import monitor preferential imports and request verification where risk is suspected and/or on a random basis
7. Verification performed by authorities in country of export and results shared with country of import – in case of origin fraud penalties and sanctions may apply	Verification performed by authorities in country of export and results shared with country of import – in case of origin fraud penalties and sanctions may apply

Conclusion & Policy Recommendations

General and strategic recommendations

In light of the above it is proposed that MOIT consider the following short-term and medium term initiatives:

1. Continue efforts to consolidate all issues relating to origin into a single Origin Directorate and that the private sector “mirror” this approach by creating an equivalent “meta-organization” or Origin Council that includes representation from all associations and private sector origin stakeholders
2. Introduce a temporary protocol into bring into law or regulation the 1st and 2nd Operational Certification Procedures (OCPs) of the ASEAN Self-Certification Pilot Projects (see OCP Matrix attached). It is recommended that these two pilot project be considered as different stages of a single process: start with authorizing only producers as certified exports but once familiarity and confidence in the process has been established then move onto other parties and exporters. This approach lessen convergence challenges between the two pilot projects within Viet Nam and with Viet Nam’s ASEAN trading partners.
3. Create a regional origin sub-committee of parties in the same situation as Viet Nam for both public and private sector origin stakeholders (i.e. Cambodia and Myanmar) in order to share implementation ideas, overheads and solutions.

Operational recommendations for Vietnam’s self-certification scheme:

4. The system recommended is based on the EC, Singapore and ASEAN pilot project model, has a successful track record and has proved to allow for running in parallel with a conventional certification system. The outlines are as follows:
 - Exporters who export goods under FTAs can apply to the designated competent authorities for an authorisation as a Certified/ Approved Exporter;
 - The authorities in question establish whether exporters’ records and administration will allow them to monitor/verify retrospectively the correctness of the origin declarations made;
 - If the authorities are satisfied, authorisation can be granted;
 - Authorisation allows the exporter to put an origin declaration - of a given model - on the invoice (or other relevant commercial documents that describe the goods sufficiently such as Billing statements, Packing List, Delivery order, etc.);

- Subsequent monitoring/verification by the designated Competent Authorities (depth/frequency to be risk-based), with additional verifications on the basis of verification requests from Customs Authorities in importing countries;
 - Establishment of a threshold value under which self-certification is allowed without prior authorisation;
 - Sanctions on abuse/fraudulent use of the scheme.
5. An application for an authorisation as an 'Approved/Certified Exporter' will have to be made in writing to the designated competent authorities in the country which the exporter is based. To ensure that the application contains all relevant information, it is recommended that a model format is designed and incorporated into the legal text (OCP).
 6. The core requirement for an exporter to be authorised as an 'Approved Exporter' is that after exportation the correctness of all origin declarations ('invoice declarations') made out can be traced and established. The exporter's current standing with the competent authorities – e.g. his compliance record under the conventional certification scheme – should also be taken into account. It is recommended to phrase the relevant criteria in such a way that there is sufficient room for the national competent authorities to use their discretion and adapt to the specific situation in the country of exportation. At the same time, a level playing field for exporters across FTA regions – as far as possible taking differences in the legal/administrative/commercial infrastructures and –environments into account - must be insured. However, the outlines of the criteria could be formulated in the legal text as follows:

'The designated competent authorities may authorise an exporter to make out declarations ('Invoice Declarations') on the status of (name of FTA, e.g. AFTA) originating goods. An exporter seeking such authorisation must offer to the satisfaction of the competent authorities all guarantees necessary to enable them to verify the originating status of the products after exportation. The competent authorities may grant the authorisation subject to conditions which they consider appropriate.'

Subsequently, issues like "all guarantees necessary" and 'conditions which they consider appropriate' would need to be further defined in the legal text to ensure a common understanding.

In the EC scheme, 'frequent shipments' under the FTA is an additional criterion, but this has never been further detailed and is being interpreted quite differently in the individual EC Member States. It is understandable, however, that the competent authorities may not be keen to go through the whole of the authorisation process and the subsequent monitoring/verification tasks for an exporter who will only use the authorisation incidentally. The above wording would allow competent authorities to turn down requests for authorisation for such a reason.

Competent authorities' pre-authorisation audit

7. Unlike the pre-exportation examination of goods to be exported under the conventional certification system, the emphasis here is on the exporter and his capabilities with regard to establishing and proving the origin of goods exported. A pre-exportation examination of the exporter and his capacities and capabilities would take the place of the pre-exportation examination of goods. The designated Competent authorities must be satisfied that the records

etc. of the exporter will fully enable them (i) to trace all export transactions for which the exporter has made out an origin declaration, and (ii) to retrospectively verify the correctness of those origin declarations. The authorities should also ensure that the exporter is fully aware of the relevant ROO (including the HS-classification where necessary to arrive at the correct ROO), and is able to apply them to the goods to be exported. Though this is also valid for an exporter under the conventional regime (in which case he has to declare origin in the application procedure for a certificate), it is more critical under self-certification, for obvious reasons.

Verification of imported shipment using invoice declaration

8. In this regard, it appears that the Thai risking and verification protocols outlined below provide a sensible approach:

The Thai Customs will rely on the risk management database system which is built and developed to manage the export and import activities. Accordingly, they will assess the risk level of each shipment to consider whether requesting examination. For example:

- Assessing the risk based on the new imports;
- Assessing the risk based on the value and volume of imports;
- Assessing the risk based on the exporting countries;
- Assessing the risk based on the origin criteria.

To combat fraud efficiently, the competent authorities of Thailand share information through a common database system called as National Single Window (NSW).

The customs clearance process and verification of origin for shipments using the invoice declaration are implemented as follows:

- When the exporter makes an import declaration, the customs will check the attached documents. If no error is found, the shipment will be cleared. If any error is found, the customs will immediately deny the preferential treatment. If no error is found, but the customs has doubts on the authenticity of invoice declaration, the Thai Customs shall promptly transmit a verification request to the C/O issuing authority of the exporting country.
- Within 7 days, the information of the shipment will be transferred to the Post Review Unit for review. In 15 days, this Unit takes a responsibility for random check, re-assesses the information of the shipment and compares with the risk management database. In case of any suspects, it requests for verification. Otherwise, it will transfer the information to the Post Audit Unit. (the Post Audit Unit and Post Review Unit has the same function as inspection parts of the Vietnam Customs).
- The Post Audit Unit has the right to re-inspect the import shipment within 5 years based on the principle of risk determination and may request verification for shipments in question or even just verification at random.

Pending verification, importers have to deposit an amount tantamount to the MFN rate and this deposit amount will be returned upon verification results are found satisfactory. If it turns out any violation or fraud, the importer will have to pay the MFN duty and be fined

However, these procedures outlined should be complemented with the risk management policies outlined in Appendix "A" attached.

General Policies & Initiatives

9. Intensive origin training and origin awareness activities for both the private sector and public sector across the country – possibly in cooperation with the national colleges and/or universities.