
Enhancing the ASEAN Trade Facilitation: The Self-Certification of Origin Mechanism and Vietnam's Implementation Efforts

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This study examines the development of the Association of Southeast Asian Nations (ASEAN)'s Self-Certification of Origin mechanism through two key phases. From 1993 to 2015, ASEAN strove to establish a common market and deepen economic integration. During this period, it introduced various pilot projects to enhance trade, streamline certification procedures, and experiment with trade facilitation initiatives. Following the official establishment of the ASEAN Economic Community in 2015, the focus shifted towards harmonizing trade procedures, enhancing regional coordination, and standardizing customs processes. These efforts culminated in the launch of the ASEAN-wide Self-Certification (AWSC) in 2020. In Vietnam, however, the implementation of AWSC has faced significant challenges. Despite these obstacles, the country has taken proactive steps to integrate AWSC into its trade system by issuing domestic regulations and guidance from regulatory authorities. This study explores the specific difficulties Vietnam faces in implementing AWSC and proposes recommendations to enhance its effectiveness.

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1. Introduction: The Legal Nature of the Self-Certification of Origin Mechanism

A. General Overview

Self-certification of Origin (SCO) is a form of certification of origin (C/O) that originates from the Rules of Origin (RoO) governing international trade in goods, particularly within the framework of free trade agreements (FTAs). In essence, the RoO represent the substantive foundation for these agreements, while the C/O acts as the formal mechanism to verify and confirm the origin of exported goods under FTAs.

The RoO were established under the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention), which came into force in 1974 and was revised in 1999.¹ Fundamentally, the RoO consist of origin criteria. They are certified and verified at the national level, as their primary purpose is to determine the country rather than the broader geographical region of origin.² The WTO Agreement on Rules of Origin³ further underscores their importance by addressing preferential origin – a facilitation mechanism designed specifically for parties to FTAs and the Generalized System of Preferences (GSP).⁴ Within each FTA, the RoO typically comprise multiple criteria for determining the origin of goods, along with requirements for providing evidentiary documentation demonstrating that a product meets the prescribed origin criteria. The C/O represents the procedural

1 According to Specific Annex K of the Convention, “rules of origin” means the specific provisions, developed from principles established by national legislation or international agreements, applied by a country to determine the origin of goods. See World Customs Organization (WCO), The International Convention on The Simplification and Harmonization of Customs Procedures (2006), http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv.aspx.

2 WCO, Rules of Origin Handbook (2017), at 6, <https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/origin/overview/origin-handbook/rules-of-origin-handbook.pdf?db=web>.

3 WTO, Agreement on Rules of Origin (1994), annex II, ¶ 3 [Common Declaration with regard to Preferential Rules of Origin], https://www.wto.org/english/docs_e/legal_e/ro_e.htm.

4 Kevin Kennedy, *The Generalized System of Preferences after Four Decades: Conditionality and the Shrinking Margin of Preference*, 20:3 MICH. ST. INT'L L. REV. 521 (2011).

dimension of the RoO and plays a critical role in the operation of FTAs. Even if a product satisfies the substantive origin criteria, it cannot qualify for preferential treatment⁵ unless it also adheres to the prescribed procedural requirements.

Unlike the RoO, however, which are explicitly defined under the WTO Agreement on Rules of Origin, there is no internationally standardized definition of the C/O. According to the World Customs Organization (WCO), the C/O refers to a set of procedures used to determine the origin status of goods by providing proof of origin.⁶ Proof of origin consists of documents or declarations (in either paper or electronic format) that serve as preliminary evidence. It confirms that the goods comply with the specific origin criteria established under the applicable RoO. These criteria include: (1) certificates of origin issued by competent authorities; (2) self-certified certificates of origin, or (3) a declaration of origin.⁷ There are multiple methods for issuing proof of origin, but the two primary forms are certification by the competent authority of the exporting country or self-certification by producer, manufacturer, exporter, or importer. These mechanisms ensure compliance with RoO, while facilitating trade under FTAs by reducing administrative burdens and expediting customs clearance.⁸ In this context, “self-certification of origin means a type of certification of origin which utilises a declaration of origin or a self-issued certificate of origin as a means to declare or affirm the originating status of goods.”⁹

In line with the guidelines provided by the WCO, Vietnam institutionalized the SCO mechanism through Decree No. 31/2018/ND-CP of Government, dated March 8, 2018, which details the Law on Foreign Trade Management regarding the origin of goods. Under this framework, SCO is defined as “a process whereby traders independently declare and commit to the origin of goods in compliance with applicable laws and regulations” (Article 3, Clause 7). Vietnam established procedures for SCO under the ASEAN Trade in Goods Agreement (ATIGA) through Circular No. 28/2015/TT-BCT, promulgated by Minister of Industry and Trade dated August 20, 2015.¹⁰ Circular No. 28/2015/TT-BCT regulates the implementation of the pilot self-certification of origin of goods under the ATIGA, specifically: “Self-certification of origin entails traders

5 WCO, Guidelines on Certification of Origin (2014), at 6-7, <https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/key-issues/revenue-package/guidelines-on-certification.pdf>.

6 *Id.* at 4.

7 *Id.* at 5.

8 WCO, Comparative Study on Certification of Origin (2020), at 13, https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/origin/instruments-and-tools/comparative-study/related-documents/comparative-study-on-certification-of-origin_2020.pdf?db=web.

9 WCO, *supra* note 5.

10 WCO, *supra* note 8.

declaring the origin of exported goods on a commercial invoice as a substitute for a Form D Certificate of Origin” (Article 3, Clause 1).

Adopting SCO significantly reduces the role of state authorities in certifying the origin of goods by shifting the responsibility from regulatory bodies to businesses and exporters. This mechanism enables enterprises and exporters to take an active role in verifying and ensuring compliance with origin criteria, while assuming full liability for the accuracy of their declarations. Unlike the traditional system, where businesses had to wait for approval from the competent authorities, SCO allows them to expedite the process, enhance operational efficiency, and streamline access to preferential tariff treatments under FTAs. However, SCO also necessitates greater accountability and compliance efforts from traders to prevent potential misdeclarations or fraudulent claims.¹¹

B. Self-Certification of Origin and Its Relationship with Trade Facilitation

Trade facilitation has long been a critical priority in the global effort to expand international economic integration. According to the Organisation for Economic Co-operation and Development (OECD), trade facilitation refers to measures aimed at rationalizing and simplifying the technical and legal procedures that govern goods at borders.¹² The WCO¹³ defines trade facilitation in alignment with its mission to enhance the efficiency and effectiveness of customs administration by harmonizing and simplifying customs procedures. Similarly, the International Chamber of Commerce (ICC) and the United Nations Conference on Trade and Development (UNCTAD) highlight that trade facilitation improves the efficiency of cross-border trade transactions by reducing delays and administrative burdens.¹⁴

Trade facilitation is a catalyst for international trade. Effectively implementing trade rules and regulations lowers trade costs, expedites customs clearance, and enhances the competitiveness of nations and businesses.¹⁵ SCO is a customs

11 WCO, *supra* note 5, at 8-10.

12 Evdokia Moisé & Silvia Sorescu, *Trade Facilitation Indicators: The Potential Impact of Trade Facilitation on Developing Countries' Trade* 7 (OECD Trade Policy Papers No. 144, 2013), https://www.oecd.org/en/publications/trade-facilitation-indicators_5k4bw6kg6ws2-en.html.

13 ADB & ESCAP, *DESIGNING AND IMPLEMENTING TRADE FACILITATION IN ASIA AND THE PACIFIC 2013 UPDATE* 4, <https://repository.unescap.org/bitstream/handle/20.500.12870/382/0%20-%20Full%20Report.pdf?sequence=1&isAllowed=y>.

14 Andrew Grainger, *Customs and Trade Facilitation: From Concepts to Implementation*, 2:1 WORLD CUSTOMS J. 17-30 (2008); United Nations International Symposium on Trade Efficiency, U.N. Doc. A/RES/49/101 (Feb. 27, 1995), at ¶ 4, <https://digitallibrary.un.org/record/172081?v=pdf>.

15 Victor Ijirshar, *Trade Facilitation and Economic Growth among Middle-Income Countries*, 9:1 J. ECON. & SOC. RES. 1-40 (2022).

simplification mechanism that is classified as a trade facilitation measure. By streamlining origin verification procedures and reducing reliance on governmental certification, SCO enhances efficiency, accelerates trade flows, and aligns with the overarching objectives of trade facilitation initiatives. The inherent advantages of SCO benefit the following groups.

1. Exporters

Exporters are the primary beneficiaries of SCO, as it grants them greater autonomy and flexibility, as well as a proactive role in demonstrating the origin of goods. First, SCO streamlines administrative procedures by minimizing the role of governmental authorities. This is particularly beneficial for exporters that operate across multiple FTAs, as it allows them to determine the most efficient method for verifying the origin of their goods. Instead of navigating the specific origin requirements of each FTA or rigid domestic regulations, exporters can adopt a tailored approach to compliance, ensuring that their goods meet the necessary origin criteria with greater ease. Second, SCO significantly reduces the costs associated with obtaining a C/O from competent authorities. These cost savings include expenses related to demonstrating origin, providing supporting documentation, and maintaining systems to track input materials to meet technical origin requirements, such as the wholly obtained rule or cumulation principles. In many cases, exporters – despite meeting all origin criteria – opt to forgo preferential tariff treatment due to excessive certification costs and procedural burdens, and instead pay the standard tariff. By contrast, SCO acts as a catalyst for exporters to maximize the extent to which they utilize trade preferences under FTAs, rendering them more competitive in international markets.¹⁶

2. Competent state authorities responsible for issuing C/O

SCO substantially alleviates the administrative burden on licensing authorities by transferring the responsibility of directly verifying the origin of goods to authorized enterprises or exporters. The increasing number of FTAs, each with its own unique RoO and verification processes, has led to a situation where officials tasked with reviewing applications may find it challenging to fully comprehend all requirements. As a result, officials may unintentionally complicate procedures. By shifting the burden of origin verification to exporters, self-certification not only streamlines administrative processes but also enhances efficiency and compliance in trade

16 Dang Minh Phuong, *Self-Certification of Origin Under ATIGA, EVFTA, and CPTPP* [Tự chứng nhận xuất xứ hàng hoá theo ATIGA, EVFTA và CPTPP], 9 VIET. J. LEGAL STUD. [Tập chí Luật học] 130 (2022), <https://tapchi.hlu.edu.vn/SubNews/Details/22703>.

facilitation.¹⁷

A study by the WCO reveals that among 209 next-generation FTAs, 141 (67.5%) incorporated at least one form of SCO.¹⁸ The most recent survey indicates that 62 out of 84 responding member countries (73.8%) have implemented a self-certification system, with the majority being ASEAN nations.¹⁹

C. Classification of Self-Certification of Origin

According to WCO guidance, there are four primary models of SCO. Each reflects different levels of regulatory oversight and trade facilitation, offering a spectrum of flexibility and government control in verifying the origin of goods.²⁰ The Approved Exporter System is the most restrictive, requiring exporters to undergo a rigorous approval process by the competent authority before attaining the right to self-certify origin. Even with this privilege, in most FTAs using this system, a government-issued certificate of origin remains the primary proof of origin.²¹ Exporters must demonstrate their understanding of origin rules and compliance procedures, and their information may be shared among the FTA parties to enhance regulatory oversight.

The Registered Exporter System offers a more facilitative approach by allowing exporters to self-certify origin after completing a registration process, which does not involve prior evaluation by the competent authority. Instead, exporters submit prescribed information, and their details are shared with customs authorities in the importing country to support risk assessment. This system shifts the burden of verification from pre-approval to post-export audits, reducing administrative complexity while maintaining compliance mechanisms.²²

The Fully Exporter-Based System removes direct government supervision altogether, permitting exporters or producers to issue proofs of origin independently. Unlike the Approved Exporter System and the Registered Exporter System, no authority in the exporting country oversees or intervenes in the certification process.

17 *Id.*

18 WCO, *supra* note 8, at 17.

19 WCO, Draft Study on the Digitalization of the Certificate of Origin (2023), at 22, <https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/ressources/permanent-technical-committee/239-240/pc0718ae1.pdf>.

20 WCO, *supra* note 5, at 9-10.

21 Kazuyoshi Torigoe, *FTA Origin Preference Claims: The Shift to Self-Certification*, 11:6 GLOB. TRADE & CUSTOMS J. 259-66 (2016).

22 Henrich Juhás, *The Registered Exporter System as a New Trade Defence Measure in Economic Relations between the European Union and Third Countries* [Systém registrovaného vývozcu ako nový nástroj ochrany obchodu v hospodárskych vzťahoch Európskej únie s tretími krajinami], in MERKÚR: INT'L SCI. CONF. PROC. 110 (2020), https://conferences.euba.sk/merkur/images/proceedings/merkur_2020.pdf#page=110.

Instead, this system typically features a post-export verification mechanism that allows customs authorities in the importing country to conduct direct inquiries with the exporter or producer who issued the proof of origin. This approach maximizes trade facilitation by eliminating procedural bottlenecks, but requires robust enforcement mechanisms to prevent fraudulent claims.²³

The Importer-Based System is the most liberalized framework. It allows importers to declare the origin of goods based on their own knowledge when claiming preferential tariff treatment. Under this model, there is no requirement for an exporter-issued certificate or prior government certification, thereby significantly reducing trade costs and documentation burdens. However, this system also necessitates strong post-import verification measures, as customs authorities must ensure compliance through audits and risk assessments.²⁴

According to Crook Wayne and Jenny Gordon, the way SCO systems are classified across trade agreements reflects differing levels of governmental oversight and trade facilitation.²⁵ For example, the Approved Exporter System (32.9% of agreements) is prevalent in intra-African and intra-Asian trade. It requires exporters to obtain certification of origin from competent authorities, ensuring compliance but increasing administrative burdens. The Registered Exporter System (36.9%), widely used in European agreements, allows pre-approved exporters to self-certify, balancing facilitation with regulatory oversight. The Fully Exporter-Based System (22.1%), which is more common in America, permits all exporters to self-certify, reducing costs but necessitating strong verification mechanisms. The Importer-Based Certification System (8.1%) is the least common. It allows importers to certify origin, maximizing efficiency but shifts compliance burdens to post-import audits.²⁶

The distribution of these proof-of-origin systems reflects the distinct priorities of regional trade policy. More regulated models, such as authority-issued and approved exporter systems, are prevalent in jurisdictions that emphasize strict compliance and fraud prevention, such as Asia, particularly within the ASEAN through the ATIGA and the Regional Comprehensive Economic Partnership (RCEP).

23 WCO, *supra* note 8, at 15-6.

24 *Id.* at 13.

25 WAYNE CROOK & GORDON JENNY, IN RULES OF ORIGIN: CAN THE NOODLE BOWL OF TRADE AGREEMENTS BE UNTANGLED? 22-3 (2017), https://www.zbw.eu/econis-archiv/bitstream/11159/647/1/Rules%20of%20Origin_%20can%20the%20noodle%20bowl%20of%20trade%20agreements%20be%20untangled_.pdf.

26 Mette Azzam, Certification of Origin, UNCTAD (Oct. 7-9, 2015), at 12, https://unctad.org/system/files/non-official-document/aldc2015_08-coo_wco_en.pdf.

2. The Establishment and Evolution of the Self-Certification Mechanism in the ASEAN

Recognizing the significant benefits of the SCO mechanism, the ASEAN policymakers have progressively institutionalized and implemented it as part of the region's broader economic integration strategy, particularly in the development of the ASEAN Economic Community (AEC). As a key step in this process, this part examines the pilot phases, SCPP 01 (2010) and SCPP 02 (2014), which laid the foundation for the adoption of the AWSC scheme in 2020. This milestone marked a crucial advancement in trade facilitation by standardizing self-certification procedures across all ASEAN member states, ensuring a more streamlined and cohesive framework.

A. Integration through the Single Market Strategy (1993–2015)

During this period, ASEAN attempted to realize the ASEAN Free Trade Area (AFTA) by facilitating trade through progressive tariff reductions and eliminations. In 2008, the ASEAN adopted the AEC Blueprint 2015, which set out four strategic objectives: (1) establish a single market and production base; (2) foster a highly competitive economic region; (3) promote equitable economic development; and (4) enhance integration into the global economy.²⁷ This framework laid the foundation for improved trade facilitation measures, including the gradual adoption of SCO to streamline customs procedures and reduce compliance costs for businesses across the region.

The ASEAN member states agreed that successfully establishing the AEC by 2015 required implementing a single market and production base strategy. This approach aimed to facilitate the free movement of goods, services, investments, capital, and skilled labour, serving as a fundamental pillar of regional economic integration.²⁸ However, while trade liberalization is essential for ensuring the free flow of goods, it would be impractical without effective trade facilitation measures, particularly concerning RoO – a critical mechanism for realizing a seamless regional market and production base.²⁹ Recognizing the strategic role of RoO in enhancing intra-ASEAN trade, member states agreed during the 22nd AFTA Council Meeting in August

27 Tahsin Anis et al., *ASEAN Economic Community (AEC): An Empirical Impact Analysis*, 12:4 S. ASIAN J. SOC. STUD. & ECON. 338-53 (2021).

28 Peter Petri et al., *ASEAN Economic Community: A General Equilibrium Analysis*, 26:2 ASIAN ECON. J. 93-118 (2012).

29 STEFANO INAMA & EDMUND SIM, RULES OF ORIGIN IN ASEAN: A WAY FORWARD 436 (2015).

2008 that it was necessary to develop mechanisms to enhance RoO procedures and streamline origin certification requirements.³⁰ This initiative aligned with the broader objectives of the AEC Blueprint 2015, which sought to reduce trade barriers and improve efficiency in regional supply chains.

As a direct outcome of these efforts, the SCO system was conceptualized and formally introduced at the 23rd AFTA Council Meeting in 2009 when the Action Plan for the Implementation of Self-Certification of Origin was adopted.³¹ Under this system, qualified exporters, traders, and manufacturers with demonstrated expertise and compliance capabilities in origin requirements can self-certify the origin of their goods rather than obtaining a C/O from designated government authorities.³²

The SCO system offers substantial benefits for businesses engaged in intra-ASEAN trade. Most notably, it is no longer mandatory for officials to issue Form D C/O,³³ significantly reducing administrative burdens and lowering transaction costs. The SCO system addresses procedural inefficiencies caused by variations in national public holidays across the ASEAN member states. It also mitigates delays that arise when goods arrive at the importing country's customs checkpoint before Form D C/O has been issued, a frequent issue in both land and air transport logistics. By enhancing trade efficiency and reducing bureaucratic complexities, the SCO mechanism represents a critical step toward deepening ASEAN's economic integration and facilitating greater participation in regional and global value chains.³⁴ Because this mechanism was unprecedented in the ASEAN, member states agreed to conduct two Self-Certification Pilot Projects (SCPPs) before full-scale adoption to ensure a prudent and controlled implementation:

SCPP 01, launched in 2010, included Brunei, Malaysia, Singapore, Thailand, Cambodia, and Myanmar. This pilot allowed manufacturers and traders to self-

30 Hirotoishi Ito, Self-Certification System in ASEAN, WCO (Jan. 21, 2014), at 8, https://www.wcoomd.org/en/events/upcoming-events/wco-origin-conference-2014/~/_media/F0C227DA7D9743EDAC3D0106CD9FDC2E.ashx.

31 *Id.*

32 APEC, ASEAN Self-Certification Pilot Project (Malaysia), APEC Doc. 2011/MAG/WKSP1/005, at 5-6, https://mddb.apec.org/documents/2011/mag/wksp1/11_mag_wksp1_005.pdf.

33 Form D C/O is a C/O under the ATIGA issued by the competent state authority of the exporting country that is an ATIGA member to the exporter, trader, or manufacturer when exporting goods to the ATIGA member countries. In Vietnam, a Form D C/O can be obtained from one of the 18 Import-Export Management Departments under the Bureau of Import and Export - Ministry of Industry and Trade or 37 Industrial Park and Export Processing Zone Management Boards authorized by the Ministry of Industry and Trade. *See* Vietnam Chamber of Commerce and Industry, Which Form of Certificate of Origin Applies Under ATIGA? Where to Obtain It? [Giấy chứng nhận xuất xứ hàng hóa theo ATIGA thuộc form nào? Xin ở đâu?], <https://aecvcci.vn/hoi-dap-n12916/giay-chung-nhan-xuat-xu-hang-hoa-theo-atiga-thuoc-form-nao-xin-o-dau.htm>.

34 Ito, *supra* note 30.

certify the origin of goods on commercial documents and permitted third-party invoicing, providing greater flexibility in trade documentation.³⁵

SCPP02, introduced in 2014, involved Indonesia, Laos, the Philippines, Vietnam, and Thailand. However, it imposed stricter conditions, allowing only manufacturers to self-certify origin on invoices, requiring more detailed information and prohibiting third-party invoicing.³⁶

The transition to a fully operational SCO system was postponed due to limited participation in SCPP 02, as its later implementation resulted in fewer case studies and necessitated procedural adjustments. Up until 2020, 505 companies had participated in SCPP 01, whereas only 154 companies had joined SCPP 02, highlighting the disparity in adoption across the two pilots.³⁷

B. Advancing a Highly Integrated and Cohesive ASEAN Economy (2015–Present)

The official establishment of the AEC in 2015 marked a pivotal transition from tariff elimination to trade facilitation as the primary driver of regional economic integration. The AEC Blueprint 2025, the follow-up to the AEC Blueprint 2015, aims to complete the unfinished business of the AEC 2015 and further deepen the integration process. It features new reform and cooperation initiatives consistent with the dynamically changing international environment.³⁸

The AEC 2025 set forth a strategic framework for the ASEAN's economic development from 2016 to 2025 and is structured around five core pillars: (1) a highly integrated and cohesive economy; (2) a competitive, innovative, and dynamic ASEAN; (3) an ASEAN with enhanced connectivity and deeper sector cooperation; (4) a resilient, inclusive, people-oriented, and people-centred ASEAN; and (5) a global ASEAN. Notably, the initial goal of “a single market and production base” was broadened to “a highly integrated and cohesive economy,” reflecting ASEAN's

35 Brunei, Malaysia, and Singapore initially joined SCPP 01 on August 30, 2010, followed by Thailand on October 28, 2011, Cambodia on July 7, 2015, and Myanmar on June 1, 2016. See The ASEAN Secretariat, ASEAN-wide Self-Certification (AWSC) Overview and Benefits (2020), at 7, <https://asean.org/wp-content/uploads/2021/09/ASEAN-wide-Self-Certification-Guidebook-web.pdf>.

36 For SCPP 02, Indonesia, Laos, and the Philippines became signatories on August 29, 2012, with Vietnam joining on December 19, 2014, and Thailand on May 1, 2015. See *id.* at 8.

37 *Id.* at 7–8.

38 Seiya Sukegawa, *ASEAN's Initiatives for Free Trade in East Asia under AEC*, 10:1 J. CONTEMP. E. ASIA STUD. 42–64 (2021).

evolving priorities in deepening economic ties.³⁹

Under the AEC 2015 framework, eliminating tariffs through the ATIGA and implementing trade facilitation measures significantly enhanced the free flow of goods within the region. Building upon these achievements, the AEC 2025 agenda prioritizes further reducing and eliminating border and behind-the-border barriers, ensuring that the intra-regional movement of goods is seamless, efficient, and competitive.⁴⁰ The Strategic Action Plan for Trade in Goods (2016-25) continues to reinforce the ASEAN's objective for a unified market and production base, with the free flow of goods remaining central. The Association is committed to deepening trade integration, dismantling residual trade barriers, and strengthening a rules-based system to optimize the benefits of ATIGA for businesses. Within this framework, the AWSC Scheme has been introduced as part of the strategic initiative to "simplify and strengthen the implementation of the RoO" under the AEC Blueprint 2025, streamlining certification processes and reducing administrative burdens for traders.⁴¹

After assessing the two SCPPs, ASEAN identified several key limitations, including their restricted applicability to only a subset of member states and significant procedural discrepancies in certification requirements. Recognizing the necessity of a uniform, region-wide system, the ASEAN adopted the Protocol to Amend the ATIGA during the ASEAN Economic Ministers' AEM Meeting in August 2018 to implement the AWSC system. Member states subsequently undertook their domestic ratification procedures. Brunei was the final member to complete its internal approval process and notify the ASEAN Secretary-General on August 21, 2020. Consequently, the AWSC became official on September 20, 2020, marking the formal termination of both SCPP 01 and SCPP 02.⁴²

Under the AWSC system, Certified Exporters (CEs) can participate in a harmonized self-certification mechanism implemented across the ASEAN. First, they must register their credentials in the ASEAN Secretariat's database, enabling importing authorities to verify and authenticate the origin of goods. The system may be utilized for any transaction compliant with the existing ATIGA Form D C/O requirements,

39 The AEC Blueprint 2025 was adopted by the ASEAN leaders at the 27th ASEAN Summit on November 22, 2015, in Kuala Lumpur, Malaysia. See The ASEAN Secretariat, *supra* note 35; ASEAN 2025: FORGING AHEAD TOGETHER 61-2 (2015), <https://www.asean.org/wp-content/uploads/2015/12/ASEAN-2025-Forging-Ahead-Together-final.pdf>.

40 Sukegawa, *supra* note 38.

41 ASEAN SECRETARIAT, *supra* note 39.

42 Rashesh Shrestha, *Trade Facilitation in Singapore: Results from the ASTFI II Survey*, in FOLLOW-UP ASEAN SEAMLESS TRADE FACILITATION INDICATORS 16 (Salvador Buban et al. eds., 2023); Gary Hawke, *The Promise and Challenges of ASEAN and AEC in a Fast-Changing East Asia: AEC Blueprint as Driver of Transformation of ASEAN Member States*, in THE ASEAN ECONOMIC COMMUNITY INTO 2025 AND BEYOND 87 (Rebecca Maria et al. eds., 2017), https://www.eria.org/ASEAN_50_Vol_5_Complete_Book.pdf#page=95.

provided that all requisite details are furnished. In standard transactions, a CE issues an origin declaration directly on the commercial invoice. However, in third-party transactions, where an intermediary issues the commercial invoice, the invoice may lack the origin declaration. In such cases, the exporter may provide it on alternative commercial documents, such as a billing statement, delivery order, or packing list, thereby ensuring that AWSC is continually applied in intermediary trade.⁴³

Pursuant to Annex 8 of the amended ATIGA, which governs the Procedures for Granting Operational Certification under the Rules of Origin in Chapter 3,⁴⁴ Article 12A and Article 2.4 set forth specific requirements for CEs regarding documentation, compliance standards, and absolute liability for all declarations of origin they issue. Moreover, upon obtaining CE status, each ASEAN member state must promptly update the CE's information in the AWSC database, which is administered by the ASEAN Secretariat. Any declaration of origin or product not registered in the database will not be recognized by the importing ASEAN member state. As of 2022, over 660 CEs have been authorized across the ASEAN member states, facilitating greater trade efficiency and compliance within the region.⁴⁵

The establishment of the AWSC system constitutes to serve as a pivotal advancement in the ASEAN's commitment to trade facilitation and regional economic integration. The progressive transition from the SCPPs to a standardized AWSC framework exemplifies the ASEAN's pragmatic regulatory approach, which balances trade liberalization and regulatory convergence among member states. This system not only enhances mutual confidence among the ASEAN members, but also ensures greater alignment with international trade norms, thereby reinforcing the ASEAN's position as a competitive and attractive trading bloc in the global economy. Nonetheless, the long-term efficacy of the AWSC will depend on continuously improving regulatory procedures, digitizing certification procedures, and implementing capacity-building initiatives to ensure that it is consistently and effectively implemented across all member states.⁴⁶

43 Annex 8: Operational Certification Procedure for the RoO under Chapter 3, Rule 12B, ¶ 2, https://www.enterprisesg.gov.sg/-/media/esg/files/non-financial-assistance/for-companies/free-trade-agreements/asean-fta/legal-text/AFTA_Annex8_Amended_ATIGA_OCP_to_allow_AWSC_from_20Sep2020.pdf.

44 *Id.*

45 Brunei: 02, Cambodia: 04, Indonesia: 131, Lao: 20, Malaysia: 193, Myanmar: 19, The Philippines: 12, Singapore: 75, Thailand: 197, Vietnam: 9. See Phan Manh Ha, ASEAN Proof of Origin: Challenges for Implementation, Asia Regional Integration Center (Sept. 1, 2022), at 9, https://aric.adb.org/experts/docs/proof-of-origin/Session2_ASEAN-Proof-of-Origin_PHM_PhanManhHa.pdf.

46 Sukegawa, *supra* note 38.

3. Vietnam's Regulatory Efforts in Advancing the ASEAN's Self-Certification of Origin Mechanism

As part of its commitment to implementing the SCPPs and the AWSC system, Vietnam has introduced a comprehensive legal framework governing the SCO mechanism, which includes the following circulars.

A. Circular No. 28/2015/TT-BCT

Circular No.28/2015/TT-BCT was promulgated by the Minister of Industry and Trade on August 20, 2015. It established the pilot project for self-certification under ATIGA.⁴⁷ This regulation was enacted during Vietnam's participation in the SCPP 02 project. After two years, to address certain implementation challenges, the Minister of Industry and Trade issued Circular No. 27/2017/TT-BCT, dated December 6, 2017, to amend and supplement this legislation.⁴⁸ The most significant amendment clarified that traders participating in SCPP 02 retained the right to request that the Form D C/O be issued (Article 1, Clause 2).

B. Circular No. 19/2020/TT-BCT

Circular No.19/2020/TT-BCT was promulgated by the Minister of Industry and Trade on June 14, 2020. It amended and supplemented various circulars governing the implementation of the Rules of Origin under ATIGA. This circular was issued following Vietnam's ratification of the First Protocol to Amend ATIGA, marking the transition from the SCPP 02 to the AWSC system. Accordingly, this circular regulates traders participating in SCPP 02 and those engaged in AWSC, while simultaneously repealing Circular No. 27/2017/TT-BCT.⁴⁹

47 Minister of Industry and Trade, Circular No.28/2015/TT-BCT [Thông tư số 28/2015/TT-BCT ngày 20/8/2015 của Bộ trưởng Bộ Công thương về thí điểm tự chứng nhận xuất xứ hàng hóa trong Hiệp định thương mại hàng hóa ASEAN] (2015), <https://vbpl.vn/TW/Pages/vbpq-toanvan.aspx?ItemID=78243&Keyword=28/2015/TT-BCT>.

48 Minister of Industry and Trade, Circular No. 27/2017/TT-BCT [Thông tư số 27/2017/TT-BCT ngày 06/12/2017 sửa đổi, bổ sung Thông tư số 28/2015/TT-BCT] (2017), <https://vbpl.vn/TW/Pages/vbpq-toanvan.aspx?ItemID=143757&Keyword=27/2017/TT-BCT>.

49 Minister of Industry and Trade, Circular No.19/2020/TT-BCT [Thông tư số 19/2020/TT-BCT ngày 14/6/2020 của Bộ trưởng Bộ Công thương sửa đổi, bổ sung các Thông tư quy định thực hiện Quy tắc xuất xứ hàng hoá trong Hiệp định Thương mại hàng hoá ASEAN] (2020), <https://vbpl.vn/TW/Pages/vbpq-toanvan.aspx?ItemID=143975&Keyword=19/2020/TT-BCT>.

C. Circular No. 10/2022/TT-BCT

Circular No.10/2022/TT-BCT was promulgated by the Minister of Industry and Trade on June 1, 2022. It revised and supplemented various circulars governing the implementation of the RoO under ATIGA. While formally an amendment, this circular effectively restructured and harmonized regulations on origin certification, particularly SCO, to ensure full alignment with the AWSC system. Notably, it eliminated transitional provisions related to SCO under the SCPP 02, as previously stipulated in Circular No. 19/2020/TT-BCT.⁵⁰

Vietnam's legal framework has fully and comprehensively incorporated the provisions of ATIGA. In practice, however, implementing the AWSC has entailed challenges that require cooperation from the ASEAN regulatory authorities, particularly customs agencies. To address specific issues arising in the SCO process, the General Department of Vietnam Customs has issued several official guidelines to ensure uniform implementation nationwide. Notable examples include Official Letter No. 7886/TCHQ-GSQL, dated December 15, 2020, regarding origin certification documents under the ATIGA Agreement and various official letters aimed at implementing the outcomes of the meetings of the ASEAN Trade in Goods Agreement's Sub-Committee on Rules of Origin (SCAROO/CCA).⁵¹

The Vietnamese government has made these efforts to address the persistent trade imbalance between Vietnam and the ASEAN, which has consistently favoured the ASEAN countries since ATIGA came into force. This imbalance reached its peak in 2021, with Vietnam's imports from the ASEAN totalling USD 41.1 billion, while exports amounted to only USD 29.1 billion, resulting in a USD 12 billion trade deficit.⁵² Even though the ASEAN is Vietnam's fourth-largest export market, Vietnamese enterprises have yet to fully capitalize on its potential and fully utilize trade facilitation mechanisms such as SCO. Although SCO has been in place since 2015 (including the SCPP phase), Vietnam continues to have some of the lowest numbers of CEs among ASEAN member states.⁵³

50 Minister of Industry and Trade, Circular No.10/2022/TT-BCT [Thông tư số 10/2022/TT-BCT ngày 01/6/2022 của Bộ trưởng Bộ Công thương sửa đổi, bổ sung một số Thông tư quy định thực hiện Quy tắc xuất xứ hàng hóa trong Hiệp định Thương mại hàng hóa ASEAN] (2022),

51 General Department of Vietnam Customs, Official Letter No. 7886/TCHQ-GSQL [Công văn số 7886/TCHQ-GSQL ngày 15/12/2020 của Tổng cục Hải quan về việc chứng từ chứng nhận xuất xứ hàng hóa trong Hiệp định ATIGA] (2020), <https://lawnet.vn/cv/Cong-van-7886-TCHQ-GSQL-2020-chung-tu-xuat-xu-hang-hoa-trong-Hiep-dinh-ATIGA-70951.html>.

52 The General Department of Vietnam Customs, Vietnam-ASEAN Trade Relations over the Past Decade [Quan hệ thương mại giữa Việt Nam - ASEAN gần 10 năm qua] (2024), <https://mekongasean.vn/quan-he-thuong-mai-giua-viet-nam-asean-gan-10-nam-qua-2071.html>.

53 The number of certified exporters granted in ATIGA member states: Brunei (2), Cambodia (4), Indonesia (131),

This issue arises from several key factors. The first factor involves the exporters themselves. While manufacturers and exporters have full knowledge of their production processes and the transformation of their goods, they may lack a comprehensive understanding of the RoO. This lack of expertise increases the risk of erroneous origin declarations. Moreover, an inadequate understanding of origin requirements could expose exporters to significant legal liabilities when engaging in self-certification.⁵⁴

The second factor involves the responsibilities of regulatory authorities. They must develop robust policies and mechanisms to ensure that manufacturers and exporters are equipped with sufficient knowledge and documentary evidence to support accurate and reliable self-certification. The underdeveloped infrastructure supporting the AWSC mechanism also presents a challenge, especially because the ASEAN member states lack a formalized cooperation framework. Currently, the ASEAN Single Window (ASW) only allows for issuing Form D C/O.⁵⁵

With respect to AWSC, most ASEAN member states have yet to establish an integrated IT infrastructure that would enable CEs to generate preferential self-certification documents. At present, IT systems are primarily designed to process CE applications rather than issue origin declarations, except in certain jurisdictions, such as the following.

Indonesia: Indonesia has implemented an electronic system (e-ska.kemendag.go.id) to facilitate SCO. Exporters are required to register with the competent authority via email (eska@kemendag.go.id) by submitting supporting documentation and a list of goods classified under six-digit harmonized system (HS) codes.⁵⁶ The relevant authority verifies the accuracy and compliance of these documents in accordance with the RoO applicable to each product. Upon approval, exporters are authorized to issue origin declarations.

Singapore: Importers in Singapore seeking to claim preferential tariff treatment for their goods must indicate their request in the import declaration through Singapore's National Single Window System. They must also submit supporting documents electronically to Singapore Customs for verification and approval.⁵⁷

Laos (20), Malaysia (193), Myanmar (19), The Philippines (12), Singapore (75), Thailand (197), and Vietnam (9). See Ha, *supra* note 45.

54 Dang, *supra* note 16.

55 Sanchita Das, *ASEAN Single Window: Advancing Trade Facilitation for Regional Integration*, 72 ISEAS PERSPECTIVE 8-9 (2017), https://www.iseas.edu.sg/wp-content/uploads/pdfs/ISEAS_Perspective_2017_72.pdf.

56 Indonesia Electronic Certificate of Origin, Tutorial, <https://e-ska.kemendag.go.id/home.php/home/tutorial>.

57 Singapore Customs, Handbook for Singapore Customs Authorised Self-Certification Regimes (2023), at 12-3, [https://www.customs.gov.sg/files/businesses/ttsb-roo/handbook%20on%20the%20implementation%20of%20the%20authorised%20self%20certification%20regime%20v3_clean%20\(002\).pdf](https://www.customs.gov.sg/files/businesses/ttsb-roo/handbook%20on%20the%20implementation%20of%20the%20authorised%20self%20certification%20regime%20v3_clean%20(002).pdf).

To implement the AWSC mechanism more effectively, the Vietnamese government should adopt a comprehensive approach that addresses both regulatory and operational challenges. First, it is crucial to strengthen awareness and capacity-building initiatives for exporters. Many Vietnamese manufacturers and exporters remain unfamiliar with the RoO and the legal obligations associated with SCO. To bridge this gap, the government should launch targeted training programmes, provide easily accessible guidance materials, and establish dedicated consultation services to assist businesses in navigating the self-certification process.

Moreover, Vietnam should prioritize developing a robust IT infrastructure to support AWSC. Currently, the ASW facilitates the exchange of electronic Form D C/O, but most ASEAN member states, including Vietnam, lack a fully integrated digital system for self-certification. The government should expand the National Single Window to accommodate self-certification functionalities, integrate Vietnam's system with the ASW for seamless cross-border verification, and explore the use of blockchain or other secure digital technologies to ensure the authenticity of self-certified declarations.⁵⁸

Additionally, the ASEAN member states must improve their cooperation to ensure the smooth functioning of AWSC. Vietnam should actively engage in regional dialogues to advocate for mutually recognizing self-certified declarations and push for the development of a unified ASEAN database for CEs. Furthermore, closer collaboration with ASEAN customs authorities is needed to harmonize enforcement mechanisms and minimize discrepancies in RoO compliance requirements across member states.

From a regulatory perspective, Vietnam should continue refining its domestic legal framework to align with international best practices while ensuring that administrative processes remain efficient and business-friendly. Establishing a specialized regulatory body to oversee self-certification, simplifying procedures for exporters applying for CE status, and implementing risk-based compliance mechanisms will significantly enhance AWSC's effectiveness.

Finally, the Vietnamese government should create incentives to increase private sector participation in AWSC. The country can increase its number of CEs by offering tax benefits, reducing administrative costs for compliant businesses, and expanding pilot programmes to support small and medium enterprises in transitioning to SCO. Vietnam can also learn from best practices implemented by leading ASEAN economies, such as Indonesia and Singapore, to foster greater confidence in the SCO

58 Das, *supra* note 55.

mechanism among producers and exporters.

By implementing these strategic measures, Vietnam can not only strengthen its trade facilitation framework, but also enhance its competitive position within the ASEAN region, ensuring that domestic businesses fully capitalize on the benefits that AWSC offers.

4. Conclusion

This paper examines the establishment and evolution of the SCO mechanism within the ASEAN, emphasizing its significance in enhancing intra-regional trade facilitation. As the ASEAN transitioned from tariff elimination under the AFTA to more advanced trade facilitation measures, the SCO mechanism emerged as a crucial initiative, enabling qualified exporters to self-certify the origin of goods, thereby reducing administrative burdens and transaction costs. The paper explores the pilot phases - SCPP 01 (2010) and SCPP 02 (2014) - which paved the way for the adoption of the AWSC scheme in 2020, a milestone that harmonized self-certification procedures across all ASEAN member states, ensuring a more efficient and unified approach to trade facilitation.

While the AWSC mechanism represents a significant step toward streamlining trade processes and deepening regional economic integration, Vietnam's implementation of self-certification, despite notable regulatory reforms and pilot programs, still faces considerable challenges. These include low exporter participation, insufficient awareness of the RoO, and a lack of fully integrated digital infrastructure. To maximize the benefits of AWSC, Vietnam must strengthen its legal framework, invest in IT infrastructure, enhance collaboration with the ASEAN counterparts, and provide targeted support to businesses transitioning to self-certification. By addressing these challenges, Vietnam can fully leverage the AWSC mechanism to improve trade efficiency, reduce compliance costs, and further reinforce its role within the ASEAN region.

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