

Customs and Global Trade Updates

February 2023

This update highlights the following matters:

- ▶ A number of Decrees promulgating preferential export tariffs and special preferential import tariffs to implement a number of Free Trade Agreements (FTA)
- ▶ Decision 2795/QĐ-BCT (Decision 2795) dated 16 December issued by the Ministry of Industry and Trade (MoIT) authorizing the Vietnam Chamber of Commerce and Industry (VCCI) to organize the registration and withdrawal of the Registered Exporter code (REX code)
- ▶ New regulations on the importation of used equipment
- ▶ Duty exemption applicable for materials and components which are imported for the production of information technology (IT) products, digital content and software
- ▶ Circular on the rules of origin under the ASEAN – Japan Comprehensive Economic Partnership (AJCEP)
- ▶ Amending the Product Specific Rules (PSR) under the European (EU) – Vietnam Free Trade Agreement (EVFTA)
- ▶ The European (EU) has imposed carbon tax on certain goods imported into the EU
- ▶ Various Official Letters (OL) issued by the General Department of Customs (GDC), regarding:
 - ▶ Implement Circular 31/2022/TT-BTC dated 8 June 2022 (Circular 31) issued by the Ministry of Finance (MoF)
 - ▶ Policy applied for goods which are subject to State Management
 - ▶ Liquidation of imported goods by selling to overseas customers
 - ▶ Customs value check for on-the-spot (OTS) imported and exported goods
 - ▶ Declaration of an invoice number on OTS export customs declarations

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A number of Decrees promulgating preferential export tariffs and special preferential import tariffs

On 30 December 2022, the Government issued 17 Decrees providing preferential export tariffs and special preferential import tariffs applicable from 2022 to 2027 in order to implement Vietnam's commitments under a number of FTAs.

The tariff rates specified in these Decrees are based on the List of Goods 2022. The Decrees inherit the contents of Decrees which were issued to promulgate preferential export tariffs and special preferential import tariffs from 2018 to 2022. These 17 Decrees take effect from the date of signing and replace all Decrees on tariff schedules which were issued previously.

The 17 Decrees are:

- ▶ Decree 112/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the FTA between Vietnam and Chile from 2022 to 2027
- ▶ Decree 113/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the FTA between Vietnam and the Eurasian – Economic Union from 2022 to 2027
- ▶ Decree 114/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the FTA between Vietnam and Cuba from 2022 to 2027
- ▶ Decree 115/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership from 2022 to 2027
- ▶ Decree 116/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the EU Vietnam FTA from 2022 to 2027
- ▶ Decree 117/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the UK – Vietnam FTA from 2022 to 2027
- ▶ Decree 118/2022/NĐ-CP dated 30 December 2022 by providing Vietnam's special preferential import tariff for the implementation of the ASEAN – China Mainland FTA from 2022 to 2027
- ▶ Decree 119/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the ASEAN – Korea FTA from 2022 to 2027
- ▶ Decree 120/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the ASEAN – Japan Comprehensive Economic Partnership from 2022 to 2027

- ▶ Decree 121/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the ASEAN – Australia – New Zealand FTA from 2022 to 2027
- ▶ Decree 122/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the ASEAN – India FTA from 2022 to 2027
- ▶ Decree 123/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the ASEAN – Hong Kong – China Mainland FTA from 2022 to 2027
- ▶ Decree 124/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the Japan – Viet Nam Economic Partnership Agreement from 2022 to 2027
- ▶ Decree 125/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the Vietnam – China Mainland FTA from 2022 to 2027
- ▶ Decree 126/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the ASEAN FTA from 2022 to 2027
- ▶ Decree 127/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the Vietnam – Lao FTA from 2022 to 2027
- ▶ Decree 129/2022/ND-CP dated 30 December 2022 providing Vietnam's special preferential import tariff for the implementation of the Regional Comprehensive Economic Partnership from 2022 to 2027

According to the guidance of the GDC, the import and export tariffs are updated on the e-customs system. When an enterprise declares goods with an HS code on its customs declaration, the e-customs system will generate the respective import and export tariffs and tax and duty will be calculated automatically.

Decision 2795 authorizing VCCI to organize the registration and withdrawal of REX code

On 16 December 2022, the MoIT issued Decision 2795 to authorize the VCCI to deploy the registration and withdrawal of REX codes under the scheme of Generalized System of Preferences (GSP) of Norway and Switzerland.

Upon the effective date of Decision 2765, the following Decisions will be canceled:

- ▶ Decision 4173/QD-BCT dated 6 November 2018 of the MoIT in which the MoIT authorized VCCI to deploy the registration and withdrawal of REX codes under the GSP scheme of the EU, Norway, Switzerland and Turkey.
- ▶ Decision 76/QD-BCT dated 21 January 2022 of the MoIT on the extension of the authorized period as prescribed in Decision 4173.

Decision 2795 enters into force from 1 January 2023 to 31 December 2027.

New regulations on the importation of used machinery, equipment and technological lines

On 20 December 2022, the Prime Minister issued Decision 28/2022/QĐ-TTg (Decision 28) amending a number of articles in Decision 18/2019/QĐ-TTg dated 19 April 2019 (Decision 18) on the importation of used machineries, equipment and technological production lines.

Some notable points in Decision 28 are as follows:

- ▶ Regulations on the importation of used technological lines for hi-tech enterprises or hi-tech application projects or projects subject to special investment incentives
- ▶ Such enterprises, or projects, can choose to perform either the customs procedures as specified in Article 7, Decision 18 or the procedures as specified in Article 7a, Decision 28.

If the latter

- ▶ The inspection will be carried out at the enterprise's manufacturing facilities or project site after the imported used technological line is installed.
- ▶ The validity of the inspection certificate will be up to three months from the date of issuance of the certificate
- ▶ Within three months upon completing customs procedures, the Ministry of Science and Technology (MoST) will coordinate with the relevant competent authorities to make an inspection to assess whether enterprise complies with the regulations on safety and economical and efficient use of energy and environmental protection.

Decision 28 includes two appendices:

- ▶ Appendix I – Amendment of HS codes of certain machines and equipment
- ▶ Appendix III – New template documents that must be used when importing used machinery and equipment

Decision 28 takes effect from 1 March 2023.

Find more details in Decision 28.

Duty exemption applicable for materials and components which are imported for the production of IT products, digital content and software

On 31 December 2022, the Ministry of Information and Communications (MIC) issued Circular No. 25/2022/TT-BTTTT (Circular 25).

According to Circular 25, materials and components imported for the production of IT products, digital content and software which are exempted from import duty are:

- ▶ Products specified in the Circular 09/2013/TT-BTTTT dated 8 April 2013 of the MIC amended by Circular 20/2021/TT-BTTTT dated 3 December 2021
- ▶ Products specified in the list of digital products issued by the MIC

To be entitled to duty exemption, products must not fall within the list of machineries, equipment, materials, supplies and components for the telecommunications – IT industry, digital content and software which can be produced domestically as specified in Appendix 8, Circular 05/ 2021/TT-BKHDT dated 17 August 2021 of the Ministry of Planning and Investment.

Procedures for application of duty exemption are stipulated in Article 30 and Article 31, Decree 134/2016/ND-CP dated 1 September 2016 amended by Decree 18/2021/ND-CP dated 11 March 2021.

Circular 25 comes into force on 15 February 2023.

Circular on the rules of origin under the AJCEP

On 23 December 2022, the MoIT issued Circular 37/2022/TT-BCT (Circular 37) stipulating the rules of origin under the AJCEP, which provides:

- ▶ The general rule of origin
- ▶ The specific rule of origin (PSR) which is built based on Harmonine System (HS) 2017 version
- ▶ Procedures for application, issuance, verification of a C/O issued under the AJCEP

Circular 37 takes effect from 1 March 2023. In the transition period, the following procedures shall be applied:

- ▶ Before the effective date of Circular 37, a C/O will be issued based on PSR which is based on HS 2002 version (the old PSR). Customs authorities in importing member countries will accept such C/O
- ▶ If a C/O is issued before the effective date of Circular 37 based on the HS 2002, but is submitted to the customs authority in an importing member country after the effective date of Circular 37, that C/O is still accepted in the importing country
- ▶ If goods are exported before the effective date of Circular 37 and if a C/O is issued after the effective date of Circular 37, PSR according to HS 2017 should be used for the C/O application and issuance
- ▶ With respect to back-to-back C/Os: If a C/O is issued based on the old PSR which is based on HS 2002, upon the exportation of goods, and if a back-to-back C/O is applied in importing country, the C/O-issuing authority in the importing country should change the HS code shown in the C/O to the respective HS code in the HS 2017 version

Circular 37 includes five appendices.

Find more details in Circular 37.

Amending the Product Specification Rules under the EVFTA

On 30 December 2022, the MoIT issued Circular 41/2022/TT-BCT (Circular 41) amending Circular 11/2020/TT-BCT dated 15 June 2020 (Circular 11) stipulating the rules of origin under the EVFTA.

Specifically, Circular 41 amends column 3 – Processing activities, Appendix II – PSR in Circular 11 as follows:

- ▶ With respect to HS heading 5309 to 5311, the phrase "*or spinning man-made filament*" is replaced by the phrase "*or extruded into man-made filament*"
- ▶ With respect to HS heading 5907: footnote number 3 "*Woven dyed or lint-covered ... given that the value of unprinted fabric used does not exceed 47.5% of the ex-works price of the product*" is removed.
- ▶ With respect to HS heading 6213 and 6214: footnote number 5 "*- embroidered; and*" "... *Manufactured from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product:5 or ...*" is amended
- ▶ With respect to HS heading 9608: the phrase "*... pen nibs and other products from the same subheading as the product may be used*" is replaced by phrase "*... the nib and ballpoint nib of the same heading as the product that can be used*"

Circular 41 comes into force on 20 February 2023.

The EU imposed carbon tax for imported good

On 13 December 2022, EU announced a Carbon Border Adjustment Mechanism (CBAM) where the EU will impose a carbon tax on goods imported into the EU based on the intensity of greenhouse gas emissions in the production process in the host country.

Initially, the CBAM will be applied to high-risk goods such as steel, cement, fertilizer, aluminum, electricity and hydrogen, which accounts for 94% of the EU's industrial emissions. Importers will be required to report the emissions contained in the imported goods. If the emissions exceed the EU standard, the importer is required to purchase an "Emission Certificate" at current carbon prices in the EU.

The CBAM is proposed to be implemented in 27 member countries of the EU from October 2023.

New Official Letters of the GDC

No.	Subject	Contents
5731/TCHQ-TXNK Dated 29 December 2022	Implement Circular 31 issued by the MoF	The MoF issued Circular 31 providing a list of Vietnam's imports and exports based on HS version 2022 which took effect from 30 December 2022 (List of Goods 2022). Therefore, the HS classification of imported and exported goods will be based on the List of Goods 2022, Six General Interpretative Rules as

No.	Subject	Contents
		<p>prescribed in Circular 31 and prevailing regulations on customs classification.</p> <p>OL 5731 provides two appendices which are:</p> <ul style="list-style-type: none"> ▶ Appendix 1: The export duty rates, preferential import duty rates, normal import duty rates and import duty rates outside the tariff quotas according to prevailing regulations ▶ Appendix 2: Instructions on manual customs duty declaration. In the event the duty rate in Appendix 1 is marked as “KBTC”, enterprises shall declare customs duty manually on the e-customs system <p>For preferential export tariff and special preferential import tariff under the FTA, enterprises shall refer to the relevant Decrees issued by the Government on 30 December 2022.</p>
<p>5772/TCHQ-GSQL</p> <p>Dated 30 December 2022</p>	Policy applied for goods which are subject to State Management	<p>The MoF issued Circular 31 providing the list of Vietnam’s imports and exports which are built based on HS version 2022 which took effect from 30 December 2022 (List of Goods 2022).</p> <p>However, many relevant Ministries have not yet updated the HS code for products specified in the lists of goods which are subjected to State Management and their supervision. The HS code of products in these lists are still based the old HS version.</p> <p>Upon carrying out customs procedures, enterprises shall self-determine the HS code based on the List of Goods 2022 and declare that in the customs declaration. Any Certification or License which was issued based on the old HS version is still accepted by the customs authorities.</p>
<p>39/TCHQ-GSQL</p> <p>Dated 4 January 2023</p>	Liquidation of imported goods by selling to overseas customers	<p>If an enterprise carries out a liquidation procedure by selling its imported goods to overseas customers, the enterprise shall make a B13 customs declaration if the imported goods did not undergo any processing activities in Vietnam. An enterprise is not required to make a customs declaration to change the use purposes before selling to overseas customers.</p>

No.	Subject	Contents
		If goods are declared under B13 customs declaration and if the enterprise cannot prove that such goods were imported by the enterprise or that such goods did not undergo any processing activities in Vietnam before the sale to overseas customers, customs duties shall be applied at the time of exportation. Then, the customs authorities will transfer the case to post-clearance customs audit for further checking.
87/TCHQ-TXNK Dated 6 January 2023	Customs value check for OTS imported and exported goods	<p>OTS imported and exported goods are subject to import and export duty; customs inspection and supervision policy as are applicable for normal imported and exported goods.</p> <p>If an enterprise lodges an OTS import and export customs declaration on the e-customs system and a notice of customs valuation risk is triggered, the customs authorities will conduct a check of the customs value of goods declared on such OTS import and export customs declaration.</p>
5653/TCHQ-GSQL Dated 23 December 2023	Declaration of invoice number on OTS export customs declarations	If a domestic enterprise declares and pays VAT by the credit method and sells goods to an export processing enterprise; an enterprise in a non-tariff zone, including toll-manufacturing facilities in a non-tariff zone, in the “invoice number” field on the OTS export customs declaration, the domestic enterprise is required to declare the number of warehouse note cum internal transport.

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APAC No. 16210201

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