

## Customs and Global Trade Updates

**June 2022**

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### This update highlights the following matters:

- ▶ On 28 May 2022, the Government issued Decree 35/2022/ND-CP (Decree 35) on the management of industrial parks and economic zones
- ▶ The 31st meeting of the ASEAN Directors - General of Customs
- ▶ Deferral of the Special Consumption Tax (SCT) payment deadline for domestically manufactured and assembled automobiles
- ▶ Issuance of C/O Form D in the old template until 31 October 2022
- ▶ Revision of the Product Specific Rules (PSR) under the Free Trade Agreement between Vietnam and Korea (VKFTA)
- ▶ Review of the application of anti-dumping measures on certain aluminum products originated from China
- ▶ Various Official Letters issued by the GDC, regarding:
  - ▶ The use of e-invoices in export customs declaration
  - ▶ On-the-spot export customs declarations without corresponding import customs declarations
  - ▶ Customs procedures for goods imported as replacements for poor quality products
  - ▶ Customs procedures for re-importing exported goods
  - ▶ Certificate of Origin
  - ▶ Enhance the State management on automobiles imported as gifts
  - ▶ Import procedures applicable for E-books

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For other Tax and Law Updates, visit [here](#).

## **Decree 35 on the Management of industrial parks and economic zones**

On 28 May 2022, the Government issued Decree 35 on the management of industrial parks and economic zones. Decree 35 provides revisions on the provisions on construction, development plans for industrial parks and economic zones, infrastructure investment, establishment, operation and development policies of the Government.

Decree 35 also amends particular regulations applicable for an export processing zone and export processing enterprise (EPE). Some notable points are as follows:

- ▶ In a dossier for establishment of an EPE, the investor shall submit a commitment that it satisfies the conditions on customs management and customs supervision. Then, the competent authorities will issue an Investment Registration Certificate (IRC) which certifies the investor's objective is to establish an EPE or they will issue a certificate granting EPE status for the investor.
- ▶ An EPE is entitled to the investment incentives and tax and duty policy applicable for a non-tariff zone since the IRC certifies that the investor's objective is to establish an EPE or a Certificate granting EPE status is obtained.
- ▶ The EPE is permitted to hire a warehouse outside the industrial park or economic zone to store its goods as long as the conditions set out in Decree 35 are satisfied and the customs authorities confirm the satisfaction of customs supervision conditions.
- ▶ The EPE is allowed to sell its goods on the domestic market and such goods will be subject to import tax and export tax as prescribed in the regulations.

Decree 35 takes effect from 15 July 2022 and replaces Decree 82/2018/ND-CP dated 22 May 2018.

## **The 31st Meeting of the ASEAN Customs Directors-General**

The 31st meeting of the ASEAN Directors-General of Customs was held from 7 to 9 June 2022 in Singapore. The meeting was attended by all 10 member countries and the ASEAN Secretary. The following important events occurred in the meeting:

- ▶ Implement the exchange of the ASEAN Customs Declarations (ACDD) among 8 ASEAN member countries, including: Brunei, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Singapore and Thailand. Implementation by the remaining member countries is expected in 2022.
- ▶ Exchange of the Electronic Quarantine Certificates between Indonesia, Malaysia and Thailand in 2022.
- ▶ Discussion took place on the exchange of electronic documents between Japan, Korea, China and the United States. Discussion on the legal and technical framework for the exchange of the electronic Certificates of Origin with China and Japan.

- ▶ The meeting encouraged other member countries to implement the ASEAN Harmonized Tariff Nomenclature (AHTN) 2022 by the end of this year in the event that Cambodia, Indonesia and Thailand have already implemented AHTN 2022 from the beginning of 2022.
- ▶ Discussion on the Low Value Shipment (LVS) and the expectation to finish a feasibility study on the simplification of customs procedures for LVS.

### **Deferral of the SCT payment for domestically manufactured and assembled automobiles**

On 21 May 2022, the Government issued Decree 32/2022/ND-CP allowing the deferral of SCT payments for automobiles which are domestically manufactured and assembled (Decree 32).

For SCT incurred during the tax period from June to September 2022, the payment deadline will be extended. The deferral lasts from the deadline prescribed in the relevant regulations until 20 November 2022. Late payment will not be imposed during deferral period.

Decree 32 also provides provisions on cases where tax payers make a revision on the SCT declaration, SCT declaration and payment for the branches of tax payers, etc. After 20 November 2022, once the deferral period under this Decree ends, submission of SCT for domestically manufactured or assembled motor vehicles shall conform to the prevailing regulation.

Decree 32 takes effect from the signing date to 31 December 2022.

### **Issuance of C/O Form D in the old template until 31 October 2022**

On 1 June 2022, The Ministry of Industry and Trade (MoIT) issued Circular 10/2022/TT-BCT (Circular 10) amending relevant Circulars regarding the implementation of the Rules of Origin under ASEAN Trade in Goods Agreement (ATIGA), including Circular 22/2016/TT-BCT dated 3 October 2016 and Circular 19/2020/TT-BCT dated 14 August 2020.

Circular 10 provides a provision on the termination of the old version and introduction of a new version of C/O Form D.

C/O Form D will be issued in the old template until 31 October 2022 and will be accepted by the customs authority within the timeline as specified in Circular 10.

Recall from the Official letter 1683/TCHQ-GSQL dated 12 May 2022 regarding the transition timeline:

- ▶ For C/O Form D, including the e-C/O and C/O in paper, issued from 1 May 2022 to 31 October 2022, both the old and new versions will be approved.
- ▶ For C/O Form D issued from 1 November 2022 onwards, only the new version is approved.

In comparison to the old version of C/O Form D, the new version has the following differences:

- ▶ In box 4: the phrase "Signature of Authorised Signatory of the Importing Country" is changed into "Signature of Authorised Signatory of the Customs Authority of the Importing Country". The phrase "Preferential Treatment Given under ASEAN Industrial Cooperation Scheme" is removed.

- ▶ In the Overleaf Notes, guidance on “ASEAN Industrial Cooperation (AICO) Scheme” in Section 1 and 2 is removed. The phrase “Original CO (form D)” in Section 12 is changed into “Original Proof(s) of Origin”.

Circular 10 will enter into force on 16 July 2022.

### **Revision of the PSR under the VKFTA**

On 1 June 2022, the MoIT issued Circular 09/2022/TT-BCT (Circular 09) to amend some Articles in Circular 40/2015/TT-BCT dated 18 November 2015 (Circular 40) on the implementation of the Rules of Origin under the VKFTA, as follows:

- ▶ The PSR in Appendix II in Circular 40 which is established according to the Harmonized System (HS) 2012 will be replaced by the Appendix in Circular 09 which is established according to the HS 2017.
- ▶ The procedures on issuance and examination of C/O Form VK will follow the guidances prescribed in Circular 40, Decree 31/2018/ND-CP dated 8 March 2018 and Circular 05/2018/TT-BCT dated 3 April 2018.

Circular 09 will take effect from 1 August 2022.

### **Review the application of anti-dumping measures on certain aluminum products originating from China.**

On 10 June 2022, the MoIT issued Decision 1149/QĐ-BCT announcing the second review of the application of anti-dumping measures on certain aluminum products originated from China (Decision 1149).

- ▶ Products subject to the review include aluminum, alloy or non-alloy, in rods and shapes, extruded, whether or not surface-treated, whether or not further worked, imported into Vietnam.
- ▶ HS code are 7604.10.10, 7604.10.90, 7604.21.90, 7604.29.10, 7604.29.90.
- ▶ Current anti-dumping duty rate is from 4.39% to 35.58%.
- ▶ The reviewed period starts from 1 April 2021 and ends on 31 March 2022.

The review will last 6 months from 10 June 2022 and can be extended up to 3 months.

Find Decision 1149 for more details.

## Some guidances provided in Official Letters of the GDC

No.	Subject	Contents
<p><b>2054/TCHQ-GSQL</b></p> <p>Dated 3 June 2022</p>	<p>The use of E-invoices for export customs declaration</p>	<p>The GDC provides its guidance on using e-invoices for export customs declaration as follows:</p> <ul style="list-style-type: none"> <li>▶ E-invoices shall be issued after completing export customs procedures</li> <li>▶ An export customs dossier should include commercial invoices and/ or equivalent documents. Therefore, e-invoices are not required to be included in an export customs dossier for export customs declaration purposes.</li> </ul>
<p><b>2011/TCHQ-GSQL</b></p> <p>Dated 1 June 2022</p>	<p>Guidance on on-the-spot export customs declarations without corresponding import customs declarations</p>	<p>If on-the spot export customs declarations (OTS export CDs) are completed, but the corresponding on-the-spot import customs declarations (OTS import CDs) have not yet been made, The GDC has requested city/provincial customs departments to do the following:</p> <ul style="list-style-type: none"> <li>▶ For OTS export CDs registered before 25 April 2021: <ul style="list-style-type: none"> <li>▶ If the goods are actually delivered and received, but such goods have not yet been used in production, city/provincial customs departments should request importers to make corresponding OTS import CDs and impose administrative penalties in accordance with the regulations.</li> <li>▶ If the goods are actually used in production by Importer, city/provincial customs departments will impose tax and duty and administrative penalty on the Importer. In this case, it is unnecessary to make corresponding OTS import CDs.</li> </ul> </li> </ul> <p>The city/provincial customs authorities shall report the list of OTS export CDs</p>

No.	Subject	Contents
		<p>pending the corresponding OTS import CDs on VNACSS system to the GDC for further guidance.</p> <ul style="list-style-type: none"> <li>▶ For OTS export CDs registered after 25 April 2021, the GDC requests city/provincial customs departments to strictly supervise the cases that (i) the corresponding OTS import CDs have not yet been made or (ii) the exporter has not yet notified the information of the corresponding OTS import CDs to the customs authorities.</li> </ul>
<b>1123/HQTPHCM-GSQL</b> Dated 25 May 2022	Customs procedures for goods imported as a replacement of imported poor quality products	<p>If goods are imported as a replacement of poor quality goods and there will be no payment or sales contract, the customs authorities request the Importer to lodge an import customs declaration using type H11.</p>
<b>707/GSQL-GQ2</b> Dated 27 May 2022	Customs procedures for re-importing exported goods	<ul style="list-style-type: none"> <li>▶ If an EPE exports goods and then has to re-import such goods for repair and maintenance, the EPE should declare G13 customs declaration for the re-importation of goods and declare G23 export customs declaration to re-export goods after the repair and maintenance.</li> <li>▶ If goods are re-imported and are disassembled and used to produce other products, this is not considered as an importation for repair or maintenance. The EPE has to declare and pay relevant import tax and duty upon the re-importation of such goods.</li> </ul>
<b>2307/TCHQ-GSQL</b> Dated 14 June 2022	Certificate of Origin	<p>If goods fall within the list of goods for which a C/O must be submitted upon the importation, and such goods satisfy the rule of origin under the Free Trade Agreements, such as: the ATIGA, the CPTPP, the EVFTA, the UKFTA, the RCEP, etc. the customs authorities will accept the self-certification of origin issued by the exporter</p>

No.	Subject	Contents
		(instead of a C/O issued by the competent authority) if the rules of origin set out in relevant regulations are met.
<b>1949/TCHQ-GSQL</b> Dated 30 May 2022	Enhance the state management on automobiles imported as gifts or presents	<p>The GDC requests city/provincial customs departments to:</p> <ul style="list-style-type: none"> <li>▶ Conduct checking and verification of relevant information before granting an import license for automobiles which are imported as a gift (non-commercial automobiles), such as: check current business activity and address indicated on the application form, whether the receiver registered in the application form refuses to receive the imported automobile as a gift and then report to the GDC.</li> <li>▶ Review customs documents and import licenses for importation of automobiles which are issued from 2016 until May 2022 and then report the status to the GDC.</li> </ul>
<b>715/GSQL-GQ1</b> Dated 30 May 2022	Import procedures for E-books on the Internet	<ul style="list-style-type: none"> <li>▶ The Inspection and Management Division of the GDC is of the opinion that the “E-books stored on the Internet” are not considered as goods which are listed on the List of imported and exported goods of Vietnam. Therefore, no HS code is appropriate for classifying e-books.</li> <li>▶ Therefore, it is not required to perform customs procedure upon importation of e-books.</li> </ul>

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APAC No. 16060701

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