

## Customs & Global Trade Updates

October 2023

This update highlights the following matters:

- ▶ Implementation of Decree 68/2023/ND-CP dated 7 September 2023 amending the Schedule of Preferential Export Tariffs and Special Preferential Import Tariffs under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) for the 2022-2027 period
- ▶ Tariff quota on textile and apparel goods exported to Mexico in 2023 under CPTPP
- ▶ Special-controlled drugs and medicinal ingredients at importation stage
- ▶ Updating the warning list of goods at risk of being investigated for trade remedies, origin fraud, illegal transshipment by the Ministry of Industry and Trade (MoIT)
- ▶ Various Official Letters (OL) issued by the General Department of Customs (GDC), regarding:
  - ▶ Custom value of goods temporarily exported for re-import
  - ▶ Handling the Special Consumption Tax (SCT) for imported cars used for amusement, entertainment, or sports
  - ▶ Tax policy for goods temporarily exported to and re-imported from Export Processing Enterprises (EPEs) under leasing contract
  - ▶ Duty refund for on-the-spot (OTS) imported goods

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## **Implementation of Decree 68 amending the Schedule of Preferential Export Tariffs and Special Preferential Import Tariffs under CPTPP for the 2022 to 2027 period**

In September, the Government issued Decree 68 adding Malaysia, Chile and Brunei to the list of countries applicable for the Schedule of Preferential Export Tariffs, Special Preferential Import Tariffs of Vietnam under CPTPP for the period 2022 to 2027. On 27 September 2023, the GDC issued Official letter no. 5021/TCHQ-TXNK (OL 5021) providing guidance on customs declarations with some notable points as below:

- ▶ For goods imported from Malaysia, Chile, Brunei to Vietnam:
  - ▶ Declare Tariff Schedule code B21 in the import customs declaration if satisfying the conditions for special preferential import tariff under CPTPP.
  - ▶ For imported goods subject to tariff quota annually set out by the MoIT for headings 04.07, 17.01, 25.01 (symbolized TRQ1) and 24.01 (symbolized TRQ2):
    - ▶ If the import quantity falls within tariff quota TRQ1 or TRQ2 and meets the conditions to apply the special preferential import tariff under CPTPP, the enterprise must declare Tariff Schedule code B21 and apply the in-quota import duty rate in accordance with Appendix II, Clause 4, Article 5 in Decree no 115/2022/ND-CP dated 30 December 2022 (Decree 115).
    - ▶ If the import quantity exceeds the tariff quota TRQ1 or TRQ2, the enterprise must apply the import duty rate in accordance with Article 10 in Decree 26/2023/ND-CP dated 31 May 2023 of the Government which took effect on 15 July 2023 (Decree 26).
  - ▶ For used automobiles imported subject to tariff quota under Headings 87.02, 87.03, 87.04:
    - ▶ If the import quantity falls within the prescribed tariff quota and meets the conditions to apply the special preferential import tariff under CPTPP, the enterprises must declare Tariff Schedule code B22 and apply the in-quota import duty rate in accordance with Appendix II, Clause 4, Article 5 in Decree 115.
    - ▶ If the import quantity exceeds the prescribed tariff quota or falls within the quota but fails to meet the conditions to apply the special preferential import tariff under CPTPP, the enterprises must apply the import duty rate in accordance with Article 7 Decree 26.
- ▶ For goods exported from Vietnam to Malaysia, Chile, Brunei:

- ▶ The customs declarants must declare the HS code and apply the export tariff according to Appendix I - the Schedule of Export Tariff attached in Decree 26 (take effective on 15 July 2023).
- ▶ With regards to tax overpayments: for customs declarations of goods exported from Vietnam to Malaysia, Chile, Brunei or imported to Vietnam from the previously mentioned countries, the handling of overpaid tax shall follow the provisions in Clause 2, 3, 4, Article 2 in Decree 68.

Please see more details in the OL 5021.

#### **Tariff quota on textile and apparel products exported to Mexico in 2023 under CPTPP**

On 3 October 2023, the MoIT issued Decision 2536/QĐ-BCT (Decision 2536) adopting the tariff quota on textile and apparel products exported to Mexico in 2023 under CPTPP.

Accordingly, from the issuance date of Decision 2536 to 31 December 2023, the tariff quota on selective textile and apparel products under CPTPP in 2023 will be as follows:

No.	Description	Unit of Measurement	In-quota quantity, weight
1	Yarn classified under Headings from 5202 to 5207, 5508, 5509, 5511; fabrics classified under Chapter 60; and products classified under Chapter 58, Headings 5902 and 5910 produced in Vietnam from materials listed in no. 2 and 3 in Appendix II in Circular 07/2019/TT-BCT dated 19 April 2019 of the MoIT (Circular 07).	Kg	250,000
2	Knitted apparel classified under Chapter 61, of which, no. 1, 4, 7 in Appendix II of Circular 07, goods in column Output Requirement are produced in Vietnam and made of materials indicated in column Description.	Piece	2,500,000
3	Woven apparel classified under Chapter 62, of which, no. 5 and 6 in Appendix II of Circular 07, goods in column Output Requirement are produced in Vietnam and made of materials indicated in column Description.	Piece	750,000

4	Textile and apparel classified under Sub-heading 6111.30, 6209.30 and napkin liners for baby made from synthetic fibres classified under Heading 9619.	Piece	50,000
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### Special-controlled drugs and medicinal ingredients at importation stage

The Drug Administration of Vietnam (DAV) received an Official letter from the GDC regarding the importation of drugs, which contain active substances included in the list of toxic drugs. It was suggested that these drugs must be marked as “import license is required upon importation” in their Certificate of Free Sale.

On 15 September 2023, the DAV issued Official letter no. 9437/QLD-DK responding to the suggestion as below:

- ▶ Drugs, which contain substances included in the list 1, 2, 3, 4, 5 and 6 in Circular 06/2018/TT-BYT dated 6 April 2018, are categorized as drugs, medicinal ingredients subject to special control and an import license is required during customs clearance.
- ▶ Previously, the Ministry of Health (MoH) issued Circular 08/2022/TT-BYT dated 5 September 2022 on the registration of drugs and medicinal ingredients before free sale. Accordingly, from 1 January 2023, every drug or medicinal ingredient is marked with a 12-digit registration number. In which:
  - ▶ The first three digits: national code
  - ▶ The next one digit: code of drug group
  - ▶ The next one digit: classification code of prescription drug
  - ▶ The next one digit: classification code for drugs subject to special control (0: Drugs not subject to special control; 1: Narcotic drugs, combined drugs that contain narcotic substances; 2: Psychotropic drugs, combined drugs that contain psychotropic ingredients; 3: Precursor drugs, combined drugs that contain precursors; 4: Toxic drugs; 5: Drugs in the list of banned substances in some fields and sectors; 6: Radiopharmaceutical
  - ▶ The next four digits: issuing sequence number
  - ▶ The next two digits: issuance year
- ▶ Based on the registration number of drugs or medicinal ingredients in the Certificate of Free Sale, the customs authority can determine whether it is subject to special control and an import license is required during customs clearance.

## Updating the Warning list of goods at risk of being investigated for trade remedies, origin fraud, illegal transshipment of the MoIT

On 5 October 2023, in the implementation of Decision 824/QĐ-TTg dated 4 July 2019 and Resolution 119/NQ-CP dated 31 December 2019 on the State Management in preventing origin fraud and illegal transshipment, the MoIT issued Official letter no. 6910/BCT-PVTM (OL 6910) updating the warning list of goods at risk of being investigated for trade remedies, origin fraud and illegal transshipment.

Accordingly, OL 6910 adds 18 products exported to Australia, the United States (the US) and the European Union (EU) to the warning list. In particular, it includes the followings:

- ▶ Hardwood plywood exported to the US with referenced HS codes: 4412.31, 4412.32, 4412.33, 4412.34, 4412.94, 4412.99.
- ▶ Wooden cabinets and vanities exported to the US with referenced HS codes: 9403.40, 9403.60, 9403.90.
- ▶ Seats with wooden frames, upholstered (Sofas) exported to the US with referenced HS code: 9401.61.
- ▶ Quartz surface products exported to the US with referenced HS code: 6810.99
- ▶ Ceramic tile exported to the US with referenced HS codes: 6907.21, 6907.22, 6907.23, 6907.30, 6907.40.
- ▶ Electric bicycles exported to the US, the EU with referenced HS code: 8711.60.
- ▶ Steel propane cylinders exported to the US with referenced HS code: 7311.00.
- ▶ Carton-closing staples exported to the US with references HS codes: 7317.00, 8305.20.
- ▶ Wood mouldings, millwork products exported to the US with referenced HS codes: 4409.10, 4409.22, 4409.29.
- ▶ Solar panels exported to the US with referenced HS codes: 8501.71, 8501.72, 8501.80, 8507.20, 8541.42, 8541.43.
- ▶ Corrosion-Resistant Steel (CORE) exported to the United States with references HS code: 7210.30, 7210.41, 7210.49, 7210.61, 7210.69, 7210.70, 7210.90, 7212.30, 7212.40, 7212.50, 7212.60.
- ▶ Pipe and Tube exported to the US with referenced HS codes: 7306.30, 7306.50, 7306.19, 7306.61.
- ▶ Prestresses concrete steel wire strand exported to the US with reference HS code: 7312.10.

- ▶ Large residential washers exported to the US with referenced HS code: 8450.20.
- ▶ Hot rolled structural steel sections exported to Australia with referenced HS codes: 7216.31, 7216.32, 7216.33, 7216.40, 7216.50, 7228.70.
- ▶ Aluminium wire and cable exported to the US with referenced HS code: 8544.49
- ▶ Aluminium extrusions exported to the US with referenced HS codes: 7604.10, 7604.21, 7604.29.
- ▶ Stainless steel flanges exported to the US with referenced HS code: 7307.21

Information and notes for each item are shown in Appendix attached in OL 6910.

Please see more details in the OL 6910.

#### Some guidance provided in OLs of the GDC

No.	Subject	Contents
<b>3892/TXNK-TGHQ</b> Dated 12 May 2023	Custom value of goods temporarily exported for re-import	<p>According to Article 17 in Circular 39/2015/TT-BTC dated 25 March 2015 of the MoF (amended by Circular 60/2019/TT-BTC dated 30 August 2019), goods temporarily exported for re-import, which are not under a leasing contract, are not considered as buy-sell transactions and hence, do not have a commercial invoice. Accordingly, the customs declarant must self-determine the customs value and declare it to the customs authority. In particular:</p> <ol style="list-style-type: none"> <li>1. For the temporary export customs declaration <ul style="list-style-type: none"> <li>▶ The customs value is determined based on the value of goods at the point of temporary exportation.</li> <li>▶ In the case of brand-new goods, the customs value is determined based on the goods original cost plus other relevant costs to bring the goods to the export border gate. If the goods are temporarily exported to an EPE, the gate of EPE or the gate of EPZ is considered as the export border gate.</li> <li>▶ If temporarily exported goods are used, the customs value is determined based on its</li> </ul> </li> </ol>

No.	Subject	Contents
		<p>remaining value at the point of temporary exportation.</p> <p>2. For the re-import customs declaration</p> <ul style="list-style-type: none"> <li>▶ The customs declarant must determine and declare the customs value of the re-imported good based on its remaining value at the point of re-importation.</li> </ul> <p>3. The customs authority shall request the enterprise to present documents and accounting records to conduct inspection for the purpose of determining the customs value upon performing temporary export for re-import.</p>
<p><b>4871/TCHQ-TXNK</b></p> <p>Dated 20 September 2023</p>	<p>Handling the SCT for imported cars used in amusement, entertainment or sports area</p>	<p>If an enterprise imports cars, which are designed to be exclusively used at amusement parks, entertainment or sports arenas, and are not registered with a vehicle operating permit nor driven on the road, such cars are not subject to SCT. Upon importation, it is required to present documents to the customs authority as prescribed under the regulations.</p> <p>If an enterprise imports cars, which are registered as being used at amusement parks, entertainment or sports arenas, but are not used in this way, the enterprise is required to declare this to the customs authority and pay the corresponding SCT.</p> <p>In case there is a change in the usage purpose after importation and the enterprise does not declare this to the customs authority to pay the SCT, penalties shall be imposed according to provisions in the Law on Tax Administration and relevant guidance.</p>
<p><b>4830/TCHQ-TXNK</b></p> <p>Dated 18 September 2023</p>	<p>Tax policy for goods temporarily exported to and re-imported from EPEs under leasing contract</p>	<ul style="list-style-type: none"> <li>▶ The transaction of selling, buying and exchanging goods between EPEs and outside parties is considered as an import and export.</li> <li>▶ A domestic enterprise that temporarily exports to and re-imports goods from EPEs under a leasing, or borrowing contract within a specified duration, is subject to export duty</li> </ul>

No.	Subject	Contents
<b>8619/TXNK-TGHQ</b>  Dated 26 September 2023		<p>upon temporary exportation and import duty upon re-importation as prescribed under regulations.</p> <ul style="list-style-type: none"> <li>▶ Goods, which a domestic enterprise temporarily exports to and re-imports from EPEs under a leasing contract, are not subject to VAT.</li> </ul>
<b>4980/TCHQ-TXNK</b>  Dated 26 September 2023	Duty refund for OTS imported goods	<p>Regarding tax policy:</p> <ul style="list-style-type: none"> <li>▶ If enterprises have paid import duty for OTS imported goods and produced these goods into finished goods for export, when the finished goods are exported overseas or to a non-tariff zone, the enterprise will be eligible to claim an import duty refund as prescribed under the regulations.</li> <li>▶ The taxpayers are responsible for accurately and truthfully declaring customs declarations pertaining to exported goods, which are manufactured from previously OTS imported goods.</li> </ul> <p>Regarding additional customs declaration after customs clearance, if there is any error detected, the customs declarant is allowed to make an additional declaration:</p> <ul style="list-style-type: none"> <li>▶ Within 60 days from the date of customs clearance but before the date the customs authority issues a decision on customs audit or customs inspection.</li> <li>▶ After 60 days from the date of customs clearance but before the date the customs authority issues a decision on customs audit or customs inspection and subject to administrative penalties according to current regulations.</li> </ul> <p>The customs administrative penalty shall be determined on a case-by-case basis, depending on the behaviour, nature, extent, consequence, subject of the violation and aggravating/mitigating factors.</p>



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