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## Customs & Global Trade Updates

November 2024

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### This update highlights the following matters:

- Vietnam and United Arab Emirates (UAE) sign Comprehensive Economic Partnership Agreement (the CEPA)
  - Vietnam lifts anti-dumping duties on cold-rolled stainless-steel originating from Taiwan, Indonesia, Malaysia, and China
  - Vietnam extends the application of anti-dumping measurements on alloy and non-alloy steel products originating from South Korea and China
  - Decree amending the schedule of export tariffs, preferential import tariffs, tariff nomenclature and corresponding fixed duties, mixed duties, out-of-quota import duties
  - Draft Circular amending Circular 38 and Circular 39
  - Draft Resolution of the National Assembly on reducing Value-Added Tax (VAT) rate by 2% for the first six months of 2025
- Official Letters (OLs) providing guidance on the following matters:
    - Customs procedures and tax policies applicable to an export-processing enterprises (EPE) that leases a factory to another EPE
    - Exports deposited at a bonded warehouse then re-imported into the domestic market
    - VAT refund for exported goods
    - Import duty refunds in the case of on-the-spot (OTS) import customs declaration
    - Country of origin labelling for exported goods

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## **Vietnam and UAE sign the CEPA**

On 28 October 2024, in front of the Vietnamese Prime Minister Pham Minh Chinh and United Arab Emirates (UAE) Vice President and Prime Minister Sheikh Mohammed bin Rashid Al Maktoum, Vietnamese Minister of Industry and Trade (MoIT) Nguyen Hong Dien and UAE Minister of State for Foreign Trade Thani bin Ahmed Al Zeyoudi signed the Comprehensive Economic Partnership Agreement between Vietnam and UAE (the CEPA).

- The CEPA is comprised of 18 chapters, 15 appendices and 2 bilateral letters focusing on cooperation between Vietnam and the UAE in terms of trading, services-investment, rules of origin, technical barriers to trade (TBT), sanitary and phytosanitary measures (SPS), customs and trade remedies, government procurement, intellectual property, legal and institutional frameworks.
- Under the CEPA, Vietnam and UAE made strong commitments to trade liberalization. Specifically, UAE made pledges to phase out tariffs on 99% of Vietnam's exports and Vietnam pledged to remove tariffs on 98.5% of UAE's exports. This agreement also includes various provisions facilitating trade and investment trending toward digital transformation and green development.
- Going forwards, to fulfil commitments under the CEPA, the MoIT will build a specific plan on the implementation of CEPA and popularize its content to relevant organizations.

## **Vietnam lifts anti-dumping duties on cold-rolled stainless-steel originating from Taiwan, Indonesia, Malaysia, and China**

On 12 November 2024, the MoIT issued Decision 3011/QD-BDT on the final investigation results of the application of anti-dumping measures on certain cold-rolled stainless-steel products originating from Taiwan, Indonesia, Malaysia, and China (case code: ER02.AD01).

The following goods were subject to the anti-dumping duty review: Cold-rolled stainless-steel products under HS codes: 7219.32.00, 7219.33.00, 7219.34.00, 7219.35.00, 7220.20.10, 7220.90.10, 7220.90.90.

The final investigation was conducted in accordance with Decision 2752/QD-BCT dated 23 October 2023 of the MoIT for domestic producers and based on the following criteria:

- Assessment of the likelihood of recurrence of dumping behaviours upon the termination of the anti-dumping measures
- Assessment of the potential and extent of damage or threat of damage to the domestic industry

Based on the finding of the investigation, which indicates there is no likelihood of continued or recurring dumping behaviour causing damage to the domestic industry, the MoIT decided to terminate and not extend the application of anti-dumping measures on the aforementioned goods from the issuance date of Decision 3011.

For further details, please refer to Decision 3011.

## **Vietnam extends the application of anti-dumping measurements on alloy and non-alloy steel products originating from South Korea and China**

On 25 October 2024, the MoIT issued Decision 2822/QĐ-BCT (Decision 2822) on the final investigation result regarding the application of anti-dumping measures on some flat-rolled, painted products of alloy and non-alloy steel originating from Korea and China. Specifically, it decided to:

- Extend the application period for another five years for flat-rolled, painted products of alloy and non-alloy steel classified under HS codes: 7210.70.12, 7210.70.13, 7210.70.19, 7210.70.21, 7210.70.29, 7210.70.91, 7210.70.99, 7212.40.11, 7212.40.12, 7212.40.13, 7212.40.14, 7212.40.19, 7212.40.91, 7212.40.99, 7225.99.90, 7226.99.19, 7226.99.99.
- Decision 2822 takes effect from the issuance date.

For further details, please refer to Decision 2822.

## **Decree amending the schedule of export tariffs, preferential import tariffs, tariff nomenclature and corresponding fixed duties, mixed duties, out-of-quota import duties**

On 1 November 2024, the Government issued Decree 144/2024/ND-CP (Decree 144) on amendments to Decree 26/2023/ND-CP dated 31 May 2023 (Decree 26) prescribing Vietnam's schedule of export tariffs, preferential import tariffs, tariff nomenclature, and corresponding fixed duties, mixed duties, and out-of-quota import duties.

Decree 144 introduced the following matters:

- Amend the export tax rates and preferential import tax rates for certain items specified in Appendix I of Decree 26 to the new export tax rates and preferential import tax rates stipulated in Appendices I and II issued together with Decree 144.
- For items under group 24.04 and items with HS code 8543.40.00 listed in Appendix II of the Preferential Import Tariff Schedule according to the List of goods subject to customs duty issued together with Decree 144, the preferential import duty rates will be applied in cases where the aforementioned items are permitted to be imported into Vietnam.
- Decree 144 comes into effect on 16 December 2024.

For further details, please refer to Decree 144.

## **Draft Circular amending Circular 38 and Circular 39**

The General Department of Customs (GDC) has been assigned by the MoIT to draft a Circular amending Circular 38/2015/TT-BTC dated 25 March 2015 (Circular 38) stipulating customs procedures; customs inspection, supervision; export duty, import duty, and tax management of exported and imported goods; and Circular 39/2018/TT-BTC dated 20 April 2018 (Circular 39) which amends Circular 38 (hereafter together referred to as the "Draft Circular amending Circular 38 and 39"). Circular 38 and Circular 39 introduced a number of terms prescribed under Decree 08/2015/ND-CP dated 21 January 2015 (Decree 08), of which the revised

version is being drafted and planned to be submitted to the Government for publication within the fourth quarter of 2024.

On 24 October 2024, the GDC issued OL 5164/TCHQ-GSQL to solicit opinions from relevant ministries, sectors, and competent departments regarding the contents of the Draft Circular amending Circular 38 and 39.

Some critical points of the Draft Circular include:

- In relation to procedures, it amends regulations on customs dossiers, the circumstances in which amendments to the customs declaration and cancellation are possible, and procedures to refuse receiving goods.
- In relation to processing and export manufacturing, it proposed the following:
  - Regulations on actual consumption rates, estimated consumption rates, methods for submission of finalization reports, and types of consumption rates classified by authorized economic operators (AEO) and other processing and export manufacturing enterprises.
  - Regulations regarding notification of manufacturing plants and facilities, conditions on customs inspection and supervision for export-processing enterprises (EPEs), regulations on leased warehouses of EPEs, and locations for customs procedures for branches of EPEs.
  - For regulations on OTS customs procedures, following the amendment plan prescribed in the Draft Decree amending Decree 08, the Draft Circular suggests the abolishment of Article 86 and the amendment of transition at provisions which take effect for one year from the effective date of the amended Decree. OTS customs procedures applicable for goods processed within Vietnam are included in the provisions guiding customs procedures for processing activities.
- Other matters regarding transportation under customs supervision, including transited and transhipped goods; tax policy; customs value; and customs classification code, etc.

For further details, please refer to the Draft Circular amending Circular 38 and 39.

### **Draft Resolution of the National Assembly on reducing the VAT rate by 2% for the first six months of 2025**

In accordance with the Resolution of the Government, on 14 November 2024, the MoF issued Official Letter No. 12477/BTC-CST proposing the formulation of a Resolution of the National Assembly on VAT reduction for the first 6 months of 2025.

The Draft Resolution proposes the following:

- A reduction of the VAT rate by 2% for groups of goods and services which are currently subject to a 10% VAT rate (the VAT rate reducing to 8%), except for telecommunications, information technology, financial, banking, securities and insurance activities, real estate business, metal production and prefabricated metal products, mining activities (excluding

coal mining activities), coke production, refined petroleum, production of chemicals and chemical products, and goods and services subject to special consumption tax.

- The application timeline is from 1 January 2025 to 30 June 2025.

This Draft Resolution is expected to be reported to the 15th National Assembly for approval at the 8th plenary session.

Some guidance has been provided in the form of OLS:

No.	Topic	Subject	Content
4929/TCHQ-GSQL Dated 11 October 2024	Customs procedures and tax policies	Customs procedures and tax policies applicable to an EPE that leases a factory to another EPE	<p>The GDC responded to a query regarding procedures and tax policies applicable to an EPE leasing a factory to another EPE as follows:</p> <ul style="list-style-type: none"> <li>▪ To determine whether an EPE is permitted to sublease an office or factory, enterprises should contact the competent authorities in charge of land, estate investment, and investment certificate issuance.</li> <li>▪ Where the subleasing of offices or factories is permitted and undertaken, EPEs must return any tax incentives granted in the form of tax exemption or reduction according to tax laws given the assets, machinery, and equipment subject to tax incentives applicable to EPEs are used for other business activities.</li> </ul>
5177/TCHQ-TXNK Dated 24 October 2024	Tariff incentives	Exports deposited at a bonded warehouse then re-imported into the domestic market	<p>Regarding queries on the conditions for the application of preferential import duty within the framework of Free Trade Agreements (FTA) to which Vietnam is a member (the Agreement) for exports deposited in bonded warehouses and then re-imported into the domestic market, the GDC provided guidance as follows:</p> <ul style="list-style-type: none"> <li>▪ For goods imported from bonded warehouses into the domestic market, if they satisfy the conditions as stipulated in the Decree promulgating the special</li> </ul>

No.	Topic	Subject	Content
			<p>preferential import tariff schedule in accordance with the Agreement, they are eligible for the application of the corresponding special preferential import duty rate.</p> <ul style="list-style-type: none"> <li>Regulations on direct transportation stipulated in Circulars prescribing rules of origin under Agreements apply to the whole process of transporting goods from the territory of the exporting member country to the territory of the importing member country, which includes transporting goods from overseas to bonded warehouses in Vietnam. In cases where the exported goods are deposited in bonded warehouses and then re-imported into the domestic market without any intervention, under the supervision of the customs authority, then they are considered as having satisfied conditions on direct transportation.</li> </ul>
<p>5025/TCT-KK</p> <p>Dated 6 November 2024</p>	<p>Duty refund</p>	<p>VAT refund for exported goods</p>	<p>The General Department of Taxation responded to queries on the categorization of VAT refund dossiers:</p> <ul style="list-style-type: none"> <li>For applications for VAT refund first, inspection later, the tax authority will review the application dossier and taxpayer information recorded in the database of the tax authorities to assess whether the case is eligible for tax refund.</li> <li>In cases where the information declared in the VAT refund application is different from the information found in the tax authorities' database, the competent tax authority will notify the taxpayer in writing for amendment and/or</li> </ul>

No.	Topic	Subject	Content
			<p>explanation. The time for additional amendments and clarification is not included in the time limit for processing the tax refund dossier.</p> <ul style="list-style-type: none"> <li>For cases where tax audits or inspections are conducted post-refund, the tax authorities review and check the taxpayer's bank payment vouchers. Based on the review results, the tax authority will determine the refundable tax amount and processes the tax refund application according to the regulations.</li> </ul>
<p>5556/TCHQ-TXNK Dated 11 November 2024</p>	<p>Duty refund</p>	<p>Import duty refunds in the case of OTS import customs declaration</p>	<p>Regarding customs procedures:</p> <ul style="list-style-type: none"> <li>For cases where goods are traded between Vietnamese enterprises and foreign enterprises or individuals without a presence in Vietnam, and the goods are designated to be delivered to and received by enterprises in Vietnam, the OTS export-import customs procedures shall be executed.</li> <li>The determination of foreign enterprises or individuals without a presence in Vietnam must follow the provisions of Clause 5, Article 3, Law on Foreign Trade Management No. 05/2017/QH14 and Clause 2, Article 3, Decree No. 90/2007/ND-CP dated 31 May 2007.</li> </ul> <p>Regarding policies and procedures of import duty refund:</p> <ul style="list-style-type: none"> <li>In cases where OTS imported goods are registered under the customs declaration for manufacturing and business purposes and import duties have been paid, and the goods imported under OTS are subsequently used in the manufacturing of exports and are</li> </ul>

No.	Topic	Subject	Content
			<p>actually exported overseas or into a non-tariff zone, they are eligible for a refund of the import duties previously paid.</p> <ul style="list-style-type: none"> <li>▪ The procedures and documentation for the import duty refund will be conducted in accordance with prevalent regulations.</li> </ul>
<p><b>5302/TCHQ-GSQL</b> Dated 30 October 2024</p> <p><b>880/XNK-TLH</b> Dated 17 October 2024</p>	<p>Origin of goods</p>	<p>Country of origin labelling for exported goods</p>	<p>Based on feedback from the MoIT and the Ministry of Science and Technology (MoST), the GDC responded to queries on origin labeling for exported goods, as follow:</p> <ul style="list-style-type: none"> <li>▪ Enterprises shall self-determine the origin for exported goods following guidance stipulated in Decree 31/2018/ND-CP dated 8 March 2018 of the Government regulating Laws on Foreign Trade Management regarding the origin of goods; Circular 05/2018/TT-BTC dated 3 April 2018 of the MoIT prescribing rules of origin (amended by Circular 44/2023/TT-BCT dated 29 December 2023); and Circulars prescribing the implementation of rules of origin under FTAs to which Vietnam is a signatory.</li> <li>▪ In cases where the origin cannot be determined following the aforementioned regulations, the labeling must follow the provisions in Clause 3, Article 15 of Decree 43/2017/ND-CP dated 14 April 2017, amended by Decree 111/2021/ND-CP dated 9 December 2021 of the Government.</li> </ul>



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