

## Customs & Global Trade Updates

September 2023

This update highlights the following matters:

- ▶ Draft Circular amending the Rules of Origin under ASEAN - Australia - New Zealand Free Trade Area (AANZFTA)
- ▶ Imposing anti-dumping tax (ADT) and anti-subsidy tax (AST) on some cane sugar products originating from Thailand
- ▶ Decree 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
- ▶ Various Official Letters (OL) issued by the General Department of Customs (GDC), regarding:
  - ▶ Imposing ADT at the time of changing usage purposes
  - ▶ Customs procedures and timeline for on-the-spot (OTS) import - export
  - ▶ Handling of customs declarations with incorrect customs declaration type and payment method
  - ▶ Certificate of Origin (C/O) under European-Vietnam Free Trade Agreement (EVFTA)
  - ▶ The Competent authority responsible for value-added tax (VAT) refund for goods imported then exported to a third country under customs declaration type B13

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

## **Draft Circular amending the Rules of Origin under AANZFTA**

The Ministry of Industry and Trade (MoIT) is seeking for opinions on the draft Circular which will amend some articles of Circular 31/2015/TT-BCT dated 24 September 2015 (Circular 31) on the application of Rules of Origin under AANZFTA (the Draft).

Some notable points in the Draft are as follows:

- ▶ Replacing Appendix II - Product Specific Rules specified in Circular 31 with the Appendix attached in the Draft.
- ▶ Amending the procedure for issuing and inspecting the C/O Form AANZ following the provisions below:
  - ▶ Appendix III attached in Circular 31
  - ▶ Decree 31/2018/ND-CP dated 8 March 2018 detailing the Law on Foreign Trade Management and Circular 05/2015/TT-BCT dated 3 April 2018 on the origin of goods

Please see more details of the Draft and its appendices at MoIT's [website](#).

## **Imposing ADT and AST on some cane sugar products originating from Thailand**

On 3 August 2023, the MoIT issued Decision No. 1989/QD-BCT (Decision 1989) on the result of the first review on imposing of ADT and AST measures on some cane sugar products originating from Thailand, in which:

- ▶ The subjected products scientific name: sacarose (sucrose). Common name: sugar, cane sugar, refined sugar, raw sugar, brown sugar, white sugar, yellow sugar, RE sugar, RS sugar, etc.
- ▶ HS code: 1701.13.00; 1701.14.00; 1701.91.00; 1701.99.10; 1701.99.90; and 1702.90.91
- ▶ ADT rate: 25.73% - 32.75%, depending on the manufacturer, exporter
- ▶ AST rate: 0% - 4.65%, depending on the manufacturer, exporter

ADT and AST are additional import duties, applied to some cane sugar products imported from certain manufacturers and exporters, originating from Thailand, including importation under tariff quota.

On a related note, on 16 August 2023, the GDC issued Official Letter No. 4261/TCHQ-TXNK providing guidance on how to declare and pay applicable ADT and AST.

Decision 1989 takes effect on 18 August 2023. The application timeline is from the effective date to 15 June 2026 (except in cases where the MoIT issues another Decision to amend or extend Decision 1989).

## Decree amending the Schedule of Preferential Export Tariffs and Special Preferential Import Tariffs under CPTPP for the 2022-2027 period

On 7 September 2023, the Government issued Decree No. 68/2023/ND-CP (Decree 68) amending some articles of Decree 115/2022/ND-CP dated 30 December 2022 (Decree 115) regulating the Schedule of Preferential Export Tariffs and Special Preferential Import Tariffs of Vietnam in pursuant to CPTPP for the period from 2022 to 2027.

Some notable points in Decree 68 are as follows:

- ▶ Amending the Schedule of Vietnam's preferential export tariff applicable for Malaysia (2022 - 2027), Chile and Brunei (2023-2027) (Appendix I - Decree 115)
- ▶ Amending the Schedule of Vietnam's special preferential import tariff, List of goods and special preferential import tariffs for used cars applying tariff quotas applicable for Malaysia (2022-2027), Chile and Brunei (2023-2027) (Appendix II - Decree 115)
- ▶ Including Malaysia, Chile and Brunei to the list of member countries in CPTPP whose imported and exported goods from Vietnam are eligible for preferential export tariffs and special preferential import tariffs
- ▶ With respect to the overpaid tax: For customs declarations (CDs) of goods exported to or imported from:
  - ▶ Malaysia: the period from 29 November 2022 to the day before the Decree 68 takes effect
  - ▶ Chile: the period from 21 February 2023 to the day before the Decree 68 takes effect
  - ▶ Brunei: the period from 12 July 2023 to the day before the Decree 68 takes effect

If such custom declarations meet all conditions to enjoy preferential export tariff and special preferential import tariff according to the provisions in Decree 115, Decree 68 and the higher duty rate has already been paid, the customs authority will handle tax overpayment in accordance with tax administration regulations.

Decree 68 takes effect from the signing date. Please see more details in the Decree.

### Some guidance provided in OL of the GDC

| No.                                      | Subject  | Contents  |
|--|--|---|
| 6852/TXNK-CST<br><br>Dated 7 August 2023 | Imposing ADT at the time of changing goods usage purpose | Where a taxpayer imported goods which were for export production, but their use changed to domestic consumption, the taxpayer is required to register additional CDs and declare and pay applicable taxes similar to that of ordinary |

| No.   | Subject   | Contents   |
|---|---|--|
|   |   | imported goods (inclusive of ADT if such goods are subject to ADT).  |
| <b>4350/TCHQ-GSQL</b><br>Dated 18 August 2023 | Customs timeline for OTS import - export  | <p>The GDC clarifies concerns related to the customs timeline for the OTS import - export:</p> <ul style="list-style-type: none"> <li>▶ For the OTS exporter: to be considered as eligible for import duty exemption upon importing goods for processing or, export production purposes the enterprise must notify the customs authority about the completion of OTS import within 15 days from the date of the OTS export customs clearance.</li> <li>▶ For the OTS importer: the enterprise must complete the OTS import procedure within 15 working days from the date of the OTS export customs clearance.</li> </ul> <p>As the customs timeline for each party is different, the OTS exporter is recommended to follow up with OTS importer to complete OTS import procedure within 15 days (instead of waiting for 15 working days).</p> |
| <b>1393/GSQL-GQ1</b><br>Dated 31 August 2023  | Handling of customs declarations with incorrect customs declaration type and payment method | <ul style="list-style-type: none"> <li>▶ If import CDs are granted customs clearance, and the imported goods have arrived at a customs supervision area, but the customs type is incorrectly declared, it is not permitted to cancel or make an additional customs declaration.</li> <li>▶ Where enterprises identify any discrepancy between actual payment terms and those declared in the CDs, they are allowed to make an additional customs declaration to correct the mistake. The customs authority will process the additional customs declaration, if the customs dossier provided by the Company is valid.</li> </ul>  |
| <b>1354/GSQL-GQ4</b><br>Dated 24 August 2023  | C/O under EVFTA   | <p>In relation to concerns regarding C/O under EVFTA, the GDC has the following point of view:</p> <ul style="list-style-type: none"> <li>▶ Regarding the HS code: Based on the notification of European Customs, the customs authority can look up information about the</li> </ul>   |

| No.  | Subject   | Contents  |
|--|---|---|
|  |   | <p>exporter (i.e., company name, address, whether it is a manufacturing company or a trading company), list of goods, etc., if the exporter agrees to populate such information on the EU Portal.</p> <p>If there is no doubt on the origin of goods, and the exporter has REX codes proving exported goods that are not included in this list; the customs authority cannot rely on such a reason to reject the C/O.</p> <p>► Regarding the content of self-certification: the GDC will verify with competent authorities in the EU and will provide guidance upon receipt of the verification result.</p> |
| <p><b>4363/TCHQ-TXNK</b></p> <p>Dated 21 August 2023</p> | <p>Competent authority responsible for VAT refund of goods imported then exported to a third country under customs declaration type B13</p> | <p>The GDC has instructed enterprises to contact the tax authorities to obtain guidance and perform VAT refunds of goods imported then exported to a third country under customs declaration type B13.</p> <p>Enterprises should be aware of this practice and contact tax authorities on VAT refund matters.</p>   |

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APAC No. 16270901

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