



Customs Alert

New Customs Updates on the Use of FTAs for imports into Thailand

Introduction

At the end of 2021, the Thai Customs Department released a number of Customs Notifications to update the rules on the utilization of Free Trade Agreements (FTAs) for imports into Thailand. The concerned FTAs are the ASEAN Trade in Goods Agreement (ATIGA), ASEAN – China FTA, ASEAN – Korea FTA, ASEAN – India FTA, ASEAN-Japan Comprehensive Economic Partnership (AJCEP), ASEAN – Australia – New Zealand FTA, ASEAN – Hong Kong FTA, Japan-Thailand EPA, Thailand – India FTA, Thailand – Australia FTA, Thailand – New Zealand FTA, Thailand – Chile FTA, Thailand – Peru FTA and the Regional Comprehensive Economic Partnership (RCEP).

Please find here below an overview of the updates.

What to Know?

Introduction of HS 2022

With the introduction of the new HS 2022, some of the HS codes covered in the existing FTAs, which still follow previous versions of the HS, have become outdated. While the (previous) HS codes as agreed in the FTA must continue to be indicated on the Certificate of Origin (CO), Thai Customs now requires importers to declare the (new) HS code under the HS 2022 on the import declaration. Therefore, it has provided Correlation Tables in the Customs Notifications for each FTA, to support importers in converting the (previous) HS codes under the FTA into the equivalent HS codes under the HS 2022.

Here below we have provided the previous HS lists that continue to apply under each of the FTAs in Thailand, and for which Customs has now created Correlation Tables to HS 2022. In practice, importers may end up in situations where they have to indicate one (previous) HS code on the CO and a different (new) HS code on the import declaration for the same product, due to the use of two different HS systems.

FTA	HS Code in Certificate of Origin
ATIGA (Form D)	AHTN 2017
ASEAN – China (Form E)	HS 2017
ASEAN – Korea (Form AK)	HS 2017
ASEAN – India (Form AI)	HS 2002
ASEAN – Japan (Form AJ)	HS 2002
ASEAN – Australia – New Zealand (Form AANZ)	HS 2017
ASEAN – Hong Kong (Form AHK)	HS 2012
RCEP (Form RCEP)	HS 2012
Thai – Japan (JTEPA)	HS 2017
Thai – India (Form FTA)	HS 2002
Thai – Australia (Form FTA)	HS 2002
Thai – New Zealand (Form C/O)	HS 2002
Thai – Chile (Form TC)	HS 2012
Thai – Peru (Form TP)	HS 2007

Indicating the “Origin Criterion” in the import declaration

According to the newly issued FTA Customs Notifications, Thai importers who utilize FTA privileges are now also required to indicate the applicable “Origin Criterion” (i.e., WO, PE, RVC xx%, CTH, or PSR) for the eligible products in the box “Origin Criteria” in the import declaration (besides indicating it in the FTA CO). Importers will be able to indicate the Origin Criterion in Field 64 of the import declaration in the E-Customs system. Going forward, the absence of the Origin Criterion on the import declaration (when FTA privileges are used) could become the cause for increased scrutiny or challenges by Customs.

Following the new rules, importers must also ensure that the origin criterion is indicated on the CO and import declaration exactly as prescribed in the applicable Customs Notification for the FTA that is being utilized. The newly issued FTA Customs Notifications go further than their predecessors in explicitly considering the absence or wrongful indication of the origin criterion on the Certificate of Origin as a non-compliance which leads to the rejection of the duty privileges.

In cases where the CO or other customs-related documents are found to be non-compliant with the Customs rules, Customs can deny the FTA duty privileges and may challenge the importer with a duty evasion offence.

What can you do?

To mitigate the risks of errors on the Certificate of Origin or import declaration that could potentially lead to the rejection of the FTA privileges and the imposition of fines by Thai Customs, importers are recommended to thoroughly review the new FTA Customs Notifications and identify the relevant requirements and formalities.

Importers should also align with their overseas suppliers on these FTA requirements to ensure the necessary requirements are being met at the time of Certificate-issuance in the country of export.

For more information or support, please contact our Deloitte Customs & Trade professionals.

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