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TAX & LEGAL ALERT

Update on the import, export of industrial precursor chemicals

September 2024



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The context

Recently, the import and export of industrial precursor chemicals have experienced more time-consuming process. Many enterprises experienced the delay or rejection on the import/export of industrial precursor chemicals shipments. This situation happened due to the tightened control of Narcotic substances under United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (“Convention 1988”) incorporated into Vietnam legislation through the Law on Prevention and Supervision of Narcotic Substances and Decree No. 105/2021/ND-CP. In August and September 2024, various seminars are hosted by the Ministry of Public Security in cooperation with the Vietnam Chemicals Agency (VINACHEMIA) under the Ministry of Industry and Trade to discuss the current prolonged procedures for import, export of industrial precursor and chemicals in parallel with raising awareness of enterprises on their routine responsibilities.

Regulation changes

The Law on Chemicals 2007 and Decree No. 113/2017/ND-CP have been in effect for many years and now in process of amendment and supplementation, with the Draft Amendment Law on Chemicals to be submitted for enactment by the National Assembly in October - November 2024.

Currently, 60 industrial precursor chemicals are under the supervision of the Ministry of Industry and Trade, the Ministry of Public Security and the Ministry of Health. Decree No. 90/2024/ND-CP has recently been promulgated to amend and supplement Decree No. 57/2022/ND-CP and update the list of precursor chemicals under management. Due to criminal activities in the field of narcotics and the recent deeper participation to the Convention 1988 by the member countries, there may be many substances/compounds/active ingredients that could be added to this list in the time to come.

Key implications when importing and exporting industrial precursor chemicals

Below are key implications under the required process for importing and exporting industrial precursor chemicals:

- **Stronger coordination between competent authorities:** VINACHEMIA must now coordinate with the Ministry of Public Security in evaluating import/export license applications by sending request to seek the Ministry of Public Security opinion before proceeding.
- **Required consultation between competent authorities of the exporting and importing countries:** Ministry of Public Security shall engage with the relevant competent authorities of the corresponding importing/exporting countries to ensure compliance with both domestic regulations and agreements under the Convention 1988. Especially for exporting of precursor chemicals, the Ministry of Public Security shall consult with the competent authorities of the importing country to ensure the importers have used such chemicals for the proper purposes.
- **The information required is more detailed and extensive:** Enterprises shall be required to prepare for more detailed and extensive information regarding the industrial precursor chemicals for the applications and compliance purposes.
- **Extended timeline for obtaining import/export licenses:** due to the increased complexity of procedures, the current practical reference timelines would be **07 to 10 working days for importation** and **03 to 04 weeks for exportation** instead 05 to 07 working days as before.

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Our recommendations

As the import and export of industrial precursor chemicals becomes increasingly burdensome and challenging due to intensive supervision by the Ministry of Public Security, other ministries and other countries' policies, enterprises having such business activities are advised to:

- 1 Build a process for review over the technical dossiers, particularly Material Safety Data Sheet (MSDS) of the to-be-imported/exported products to identify the precursor components potentially subjected to licensing obtainment;
- 2 Verify information of the contracting parties and the products used in transaction to avoid being considered as an act of storing and trading narcotic substances, which may lead to either administrative penalties and/or criminal violations.
- 3 Plan for necessary licensing procedures given its complexity and length, for business efficiency.
- 4 Seek for support from professional advisors for compliance enhancement and strategic plan, where necessary.

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