

ALERT ON TRADE AND CUSTOMS

**Update on Decree No.
53/2021/ND-CP and
MOIT Circular No.
02/2021/TT-BCT under
UKVFTA**

14 June 2021



General information

- Following the implementation of the UK-Vietnam Free Trade Agreement (“UKVFTA”) between Vietnam and the United Kingdom of Great Britain and Northern Ireland (“the Parties”), temporarily on 01 January 2021, and officially on 01 May 2021, the Government of Vietnam has issued:
 - Decree No. 53/2021/ND-CP dated 21 May 2021 (the effective date) to confirm the Export and Import Tariff Schedules that will apply **from 01 January 2021 until 31 December 2022**, and to guide on operational matters (“Decree 53”); and
 - Circular No. 02/2021/TT-BCT dated 11 Jun 2021 of Ministry of Industry and Trade (“MOIT”) to provide guidance on the rules of origin of goods under UKVFTA (“Circular 02”) with effect from 26 July 2021.
- In this Alert, we summarize the key contents of Decree 53 and MOIT Circular 02 and highlight the practical applications to be considered.

The main contents of Decree No. 53/2021/ND-CP and MOIT Circular No. 02/2021/TT-BCT



Decree No. 53/2021/ND-CP:

- Vietnam's Export and Import Tariff Schedule
- Conditions for the application of Export Tariff rates, Import Tariff rates under UKVFTA
- Tariff treatment on shipments declared on or after 01 January 2021 until the effective date of the Decree



MOIT Circular No. 02/2021/TT-BCT:

- Concept of “Originating Products”
- Proofs of Origin
- Cumulation of Origin and Insufficient Working or Processing

For more details of the above contents under Decree 53 and MOIT Circular 02, please refer to the following pages of this Alert.



Decree No. 53/2021/ND-CP

1. Export Tariff Schedule to be applied to goods exported from Vietnam to the United Kingdom of Great Britain and Northern Ireland

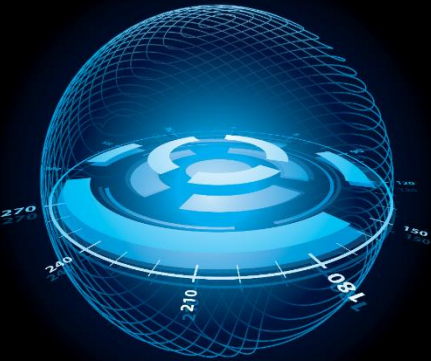
i. The Decree issues Export Tariff Schedule – advising:

- Those goods that are eligible to 0% tariff rate under the UKVFTA when exporting to the United Kingdom of Great Britain and Northern Ireland; and
- Those goods that are listed in the Export Tariff Schedule of Decree No. 57/2020/ND-CP, but fall out of the Export Tariff Schedule of UKVFTA, shall be subject to 0% tariff rate under the UKVFTA.

ii. Conditions for applying UKVFTA Export Tariff rates – namely:

- A transport document (copy) proving that the destination is the United Kingdom of Great Britain or Northern Ireland; and
- Import customs declaration to evidence the export consignment originating from Vietnam has been received into United Kingdom of Great Britain and Northern Ireland.

Note: *At the time of export from Vietnam, the MFN Export tariff rates shall be applied. Within one (01) year from the date of export customs declaration, on the provision of the above evidence with the UKVFTA tariff rates granted, the exporter can file a refund claim, for the difference between the MFN Export Tariff rate and the UKVFTA Export Tariff rate, to Vietnam Customs authority as regulated.*



Decree No. 53/2021/ND-CP

2. Import Tariff Schedule applied to goods imported into Vietnam from the United Kingdom of Great Britain and Northern Ireland

The Decree confirms:

- i. **The application of tariff quotas:-**
 - Listing a number of tariff lines in headings 04.07, 17.01, 24.01, 25.01 are subject to quotas;
 - The in-quota Import Tariff rates to be applied;
 - The volume of annual quotas; and
 - The out-of-quota Import Tariff rates to be applied.
- ii. **Conditions for application of preferential Import Tariff rates under UKVFTA:**
 - That the imported goods are listed in the Import Tariff Schedule specified in this Decree;
 - The goods were exported into Vietnam from United Kingdom of Great Britain and Northern Ireland; or from non-tariff zones in Socialist Republic of Vietnam to the domestic market; and
 - The goods meet the UKVFTA “Origin” requirements, and the exporter has provided the required “Proof of Origin”.
- iii. **Effective date:**
 - The Decree is effective from **21 May 2021**, but
 - Preferential duty treatment may be applied to qualifying imports from United Kingdom of Great Britain and Northern Ireland **that have declared to Vietnam Customs on or after 01 January 2021**.

Note: For imports into Vietnam that occurred during the period from 01 January 2021 to the effective date of Decree No. 53/2021, the MFN Import Tariff rates were applied. Importers can (with the appropriate evidence that the imported goods were eligible for UKVFTA treatment) file for a refund of the difference between the MFN Import Tariff and the UKVFTA Import Tariff rate to the Vietnam Customs authority.



MOIT Circular No. 02/2021/TT-BCT

1. Concept of “originating products”

The following products shall be considered as “originating” in a Party – and therefore eligible for preferential duty treatment under the UKVFTA – where the:

i. Products that are “wholly obtained” in a Party – e.g.:

- Agricultural products grown and harvested in a country;
- Mineral products extracted from soil or seabed;
- Live animals born and raised;
- Products of sea fishing by its vessels; etc.

OR

ii. Products (typically manufactured products) that are not wholly obtained, but where “non-originating materials” have undergone sufficient working or processing in a Party. There are four different types of rules, which vary according to the product:

- Through working or processing a maximum content of non-originating materials is not exceeded;
- Through working or processing the four-digit HS heading or six-digit HS subheading of the manufactured products becomes different from the four-digit HS heading or six-digit HS subheading, respectively, of the materials used;
- A specific working and processing operation is carried out; or
- Working or processing is carried out on certain wholly obtained materials.

Note: Specific guidance on the sufficient working or processing that needs to be carried out on non-originating materials are specified in “Product specific rules” and “Cumulative rules” under the UKVFTA.

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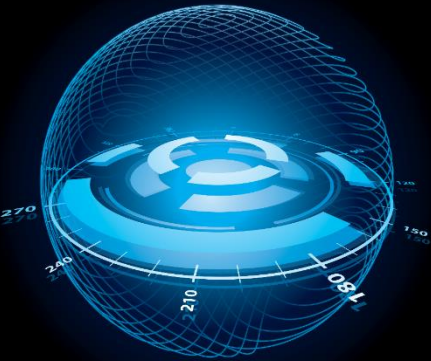
MOIT Circular No. 02/2021/TT-BCT

2. Proof of origin status

In order for the importer to evidence that the goods have met their required “origin” criteria and therefore entitled to preferential tariff treatment under UKVFTA, one of the following proofs of origin need to be submitted to the Customs Authorities of the importing country:

- i. COO Form EUR.1 issued by a competent authority of the exporting country; or
- ii. Self-certification of origin status issued by the exporter on their invoices, delivery notes or other commercial documents that have sufficient information of the goods.
 - For goods exported from the UK and Northern Ireland :
 - For consignments where the total value does not exceed 6,000 euros, **any exporter** can self-certify the origin status.
 - For consignments where the total value exceeds 6,000 euros, only “**approved exporters**” can self-certify the origin status.
 - For goods exported from Vietnam:
 - For consignments where the total value does not exceed 6,000 euros, **any exporter** can self-certify the origin status.
 - For consignments where the total value exceeds 6,000 euros, **COO Form EUR.1^(*)** will be used as proof of origin.

Note^(*): Box 2 (indicating name of Parties) of Form EUR.1 under UKVFTA shall be different from that of Form EUR.1 under EVFTA.



MOIT Circular No. 02/2021/TT-BCT

3. Cumulation of origin and insufficient working or processing

Products shall be considered as originating in the exporting Party if such products are obtained there by incorporating materials originating in the other Party of the UKVFTA and/or the other country which is not a Party of the UKVFTA, including:

- i. **The EU:** Only apply when a material originating in EU is included in the finished products of the exporting Party and the Party have arrangements on administrative cooperation which ensure the correct implementation of the cumulation of origin;
- ii. **The ASEAN countries that have existing FTA with the UK and Northern Ireland:** Only apply to “squid and octopus” products; and
- iii. **South Korea:** Only apply to fabrics used for further processed or incorporated into one of the products classified under Chapter 61 and 62.

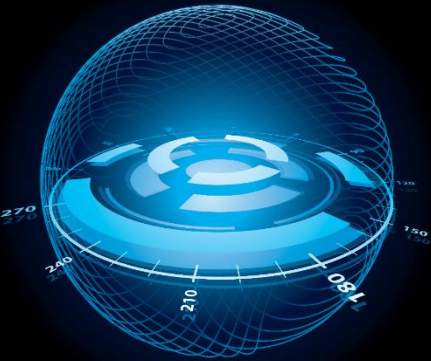
Provided that the working or processing carried out in the exporting Party (on i, ii, or iii above) goes beyond insufficient working or processing (e.g. preserving, breaking-up, washing, ironing, simple painting, husking or peeling).

Note: Other contents of the UKVFTA provided in the MOIT Circular No. 02/2021/TT-BCT are inherited from the **EVFTA**. Please refer to our Alert “**Rules of Origin under EU - Vietnam Free Trade Agreement**” issued on 26/06/2020 in the [link](#) for more information.

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How Deloitte can support

Deloitte Vietnam's Customs and Global Trade specialists can provide practical and hands-on support in the following areas:

Advice on rules of origin under UKVFTA and other Trade Agreements, especially applying "new" or specific rules of each Trade Agreement

Advice on preferential import/export duty rates according to the UKVFTA implementation milestones, and required steps to apply for preferential duty treatment

Review export products that meet the requirements of rules of origin and certification of origin under UKVFTA, and advise on strategies to meet necessary standards

Advise on business models, supply chain planning and opportunities to take advantage of preferential tariffs in targeted export markets

Advise on procedures for obtaining Form EUR. 1, or Self-certification of origin status under the UKVFTA, and support in registration process

Advise on other matters related to the practical application of the UKVFTA

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