

NEW REGULATIONS ON DETERMINATION OF ORIGIN OF IMPORTS AND EXPORTS

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On May 31, 2023, Circular 33/2023/TT-BTC (**Circular 33**) on determining the origin of imports and exports was issued by the Ministry of Finance. This Circular comes into force from July 15, 2023, replacing Circular 38/2018/TT-BTC (**Circular 38**) and other related Circulars. Below are some notable new points of this Circular to be addressed by organizations and individuals:

Firstly, changing the dossier component for pre-determination of exports and imports' origin. Accordingly, before conducting customs procedures for imported or exported consignment, organizations or individuals requesting for pre-determination of origin shall submit the relevant application dossier. Generally, the component of the application under Circular 33 is quite similar to the regulations stipulated in Circular 38. However, the Declaration of materials and supplies for goods production has been replaced by the Statement of production costs and the Origin declaration made by the domestic producer/supplier of materials or supplies which shall be used in the production of other products. Organizations and individuals must submit their application for pre-determination of origin to the General Department of Customs at least 60 days before exporting or importing the consignment. If necessary, these entities will have to discuss with the customs authority to clarify the application contents at the request of this agency.

Secondly, regulating the time limit to submit the proof for origin of imports. For imported goods eligible for a special preferential tariff under point a, clause 1, Article 10 of Circular 33, such proof must be submitted upon conducting customs procedures. However, Circular 33 allows the customs declarants to additionally declare and submit the proof of origin within one year from the date of registering customs declaration if the proof is not available at the time of conducting customs procedures. In addition, the customs declarants can submit the proof of origin at the time of conducting customs procedures or within 30 days from the date of registering the customs



declaration for the goods included in the Minister of Industry and Trade's list of goods subject to anti-dumping duty, countervailing duty, safeguard measures, tariff quotas, measures against evasion of trade remedies or limits on the quantity of goods. Furthermore, it should be noted that for the goods that must be accompanied with proof of origin to prove that they are imported from a country, group of countries, or territory excluded from the Consolidated List enclosed with the Resolution of the United Nations Security Council, or to prove that the goods are not imported from countries that pose a risk of causing harm to the social safety, community health or environmental hygiene, the declarants have to submit the proof of origin at the time of conducting customs procedures, otherwise, the goods will not be granted customs clearance and the declarants might be dealt with by provisions of the law.

Thirdly, adding the provision on handling harmonized system code (HS code) differences between proof of origin and customs declaration in specific circumstances. To resolve practical issues, Circular 33 adds specific regulations on a resolution where there is a difference between the HS codes on the proof of the imported goods' origin and the HS codes on customs declaration in certain cases. For instance, in the case that the goods have different HS codes on the proof of origin and on the customs declaration, but both have the criteria of origin from a specific procedure (SP), the customs authority shall accept this proof of origin if there is no other doubt about the accuracy of the information declared on this document. However, in case of different specific procedures, the customs authority shall verify the validity of the proof of origin under Article 19 of Circular 33.

Comments and recommendations

In general, Circular 33 provides specific and clear regulations, helping a more convenient approach to legal issues. The issuance of this Circular is to address the remaining inadequacies of the previous Circulars, particularly Circular 38, by amending and supplementing them in order to be aligned with the current practical situation in determining the origin of exports and imports. Organizations and individuals should update and study new regulations in Circular 33 to conduct related activities smoothly and ensure compliance with regulations of laws.