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Customs Department announces re-launch of Voluntary Disclosure Program

The Thai Customs Department recently announced an official re-launch of the "customs voluntary disclosure program", effective from 20 June 2014 to 30 September 2014. The aims of this program are to strengthen relationships between the Customs Department and entrepreneurs, promote a positive image of the department, and facilitate the process of duty collection for entrepreneurs who have not yet duly paid all payable import duties.

The guidelines and criteria for participating in the customs voluntary disclosure program are as follows:

1) Customs officers submit a letter to business operators (i.e. importers, exporters and related parties) who have no intention of committing a customs offence but who have not yet fully paid payable import duties to notify them to conduct a self-audit and make a voluntary disclosure to the Customs Department on any potential customs risks or customs offences found from their self-audit.

2) The business operators who are qualified to participate in the program will be eligible for waivers of import duty penalty and VAT penalty. In other words, they shall only be subjected to the payment of import duty shortage, VAT shortage and VAT surcharge of 1.5% per month.

3) The Post-Clearance Audit Bureau will facilitate the collection of outstanding import duties, negating the need for the business operators to contact customs ports to process lengthy customs formalities in order to settle outstanding import duties.

4) Those who have imported restricted goods without import licenses or those who have brought imported goods into Thailand by hand-carrying or smuggling goods, those with clear evidence of having the intention to evade tax, and those who are being investigated on customs-related issues by the Post-Clearance Audit Bureau, Investigation and Suppression Bureau, and other relevant government agencies, such as the Department of Special Investigation, will not be qualified to participate in the customs voluntary disclosure scheme.

5) Those who previously participated in this program are not allowed to repeatedly declare the same customs issue in the next session of the customs voluntary disclosure program

6) This customs voluntary disclosure program is effective from 20 June 2014 until 30 September 2014.

Importers as well as relevant parties therefore are advised to take this opportunity to conduct a self-audit and declare any potential customs risks they find to the Customs Department under this scheme in order to minimize duty exposures and enhance compliance with customs laws.

Should you require our advice in identifying potential customs issues for voluntary disclosure or have any question on your qualifications for participating in the abovementioned program, please feel free to contact us at malika.bhumivarn@bolliger-consulting.com.

Abolishment of declaration of FOB value in Form D in cases where Regional Value Content (RVC) is not an originating criterion

Pursuant with the resolution of the 27th meeting of the ASEAN Economic Ministers – ASEAN Free Trade Agreement (AEM-AFTA) Council on 19 August 2013, the Customs Department has issued a Customs Notification No. 64/2557 dated 20 June 2014 to declare FOB value in Box 9 of Certificate of Origin Form D under the ASEAN Trade in Goods Agreement (ATIGA) only in cases where the Regional Value Content (RVC) is used as a criterion for determining the origin. In other words, where the change in tariff classification, specific process, or wholly obtained goods are used as origin criteria,

the FOB value does not need to be declared in Box 9 of Form D.

The new version of Form D attached to the said customs notification has been implemented in Thailand and seven other ASEAN countries (i.e. Brunei, Indonesia, Laos, Malaysia, Philippines, Singapore and Vietnam) since 1 July 2014. However, any old version of Form D, which was issued prior to 30 June 2014, will continue to be valid and acceptable by customs authorities throughout the validity period of each form (i.e. one year from the date of issue).

In addition, it should be noted that the new version of Form D issued by Cambodia and Myanmar will be effective from 1 April 2016. Thus, in the meantime, the FOB must still be indicated in Box 9 of any Form D issued from these two countries regardless of the origin criteria.

Australia-China FTA expected to be signed by the end of 2014

Following its inception meeting back in 2005 and the 17 subsequent rounds of negotiation, the free trade agreement between Australia and China is finally starting to take shape and show positive signs of reaching conclusion.

On 24 June 2014, Andrew Robb, the Australian Trade Minister, and Joe Hockey, the Treasurer, met with Xu Shaoshi, the Chairman of the National Development and Reform Commission (NDRC), in Beijing. In a subsequent statement, Xu Shaoshi affirmed China's intention to advance the agreement with Australia. In the meeting, the two negotiating countries made pushed forward lower restrictions on foreign investment and service sectors. This liberalization of cross-border investment will coincide with the Australian government's plan to attract foreign investment as a part of its infrastructure upgrade program; while conversely, the Australian government is looking forward to expanding Australia's investment in China, particularly in the agriculture sector.

It is speculated that the Australian government is attempting to repeat the model of the New Zealand – China FTA, concluded in 2008, in which the effect was massively positive with the export of New Zealand dairy products doubling in the wake of the agreement coming into effect. In a separate comment, Bruce Gosper, the CEO of Aus Trade, said "Our interests stretch across a wide area of agriculture, more than just dairy and more than just livestock...[including] some quite sensitive areas in the Chinese context such as grains, rice and sugar".

Resulting from this bilateral trade agreement, it is possible that, in the light of further trade liberalization, more advancement could be mounting from emerging markets in a push for a more comprehensive regional free trade agreement. For example, India could be more active in progressing a larger scale agreement, such as the RCEP, to balance out increasing competitiveness from countries already agreed on liberalizing trade with China.

Stay informed with latest development in trade negotiations and changes in trade laws/regulations. Get an insight of how the latest news will affect your market and regulatory environment from our "Trade Digest".

If you have any comments or questions regarding Trade Digest or any matters discussed herein, or if you are interested in finding out more about Bolliger & Company Consulting services, please contact any of the persons below:

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