
Customs Affairs in Thailand

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DRKI has been representing clients in an increasing number of disputes with Thailand's Customs Department.

In this series of articles, DRKI discusses errors commonly made by importers to create awareness of these issues and perhaps provide readers a basis, or an encouragement, to perform their own internal customs compliance checks.

Customs Matters: Overview

Importers must be aware of three aspects of customs compliance: customs procedures, tariff classification, and valuation, all primarily governed the Customs Act B.E. 2560 (2017) and the Customs Tariff Decree B.E. 2530 (1987). At times, compliance can be tricky and lead to both civil and criminal penalties.

DRKI discusses the three areas of customs compliances, and frequent mistakes made by the importers or their shipping agents.

1. Customs Procedures

Importers and exporters are required to follow customs procedures during their movements of goods, e.g. possess a valid customs identification, submit import/export entries to the Customs Department for inspection, declare correct information of the goods, etc. The Customs Department will examine the entries and then impose duties based on the information declared in the entries before releasing the goods from its custody. Key customs procedures are briefly summarized below.

- Customs Registration: Thai customs procedures are now centralized into the online e-Customs system. All importers must register for the system using a prerequisite digital certificate for electronic signature to confirm their identities and provide authentication under the Electronic Transactions Act B.E. 2544 (discussed in the previous DRKILAWTALKS). Then, importers will have to complete the e-Customs registration and obtain customs identification to import/export.
- Import Licenses: Failure to obtain required import licenses is a common error among importers. Several types of goods require licenses to import/export, or are outright prohibited from import/export. Goods that require import licenses are, for example, foods and drugs, and chemical materials or components listed as hazardous substances, medical devices, etc. Importers can research whether goods require

licenses on the Customs Department website. Failure to obtain proper licenses will result in a violation of the Customs Act B.E. 2560 (2017), drawing hefty criminal fines.

- Certificates of Origin: In addition to standard shipping documents, like commercial invoices, packing list, bills of lading/airway bills, safety data sheets, etc., importers who wish to claim preferential tariff rate/exemption must present a certificate of origin. Importers must ensure that they understand applicable rules of certificates of origin as requirements can often change under free trade agreements.

2. Customs Tariff Classification

Tariff classification, a process of determining the correct code number for the imported/exported goods to accurately determine tariff rates, is the most complex of the three customs aspects.

The Customs Department adopted the Harmonized System as a basis for Thailand's tariff classification system. HS was developed by the World Customs Organization and is currently used in uniformity by more than 200 countries.

According to the Customs Tariff Decree B.E. 2530 (1987) imported goods are subject to tariffs according to the tariff schedule, and tariff classification of goods must be made according to the General Rules for the Interpretation, along with the Explanatory Notes to the Harmonized System.

Most disputes with the Customs Department relate to tariff classification, due to its complexity. While the Harmonized System accounts for more than 5,000 commodity groups and 100,000 products, there is only one correct tariff classification for each good. An erroneous tariff classification could subject the importer to criminal prosecution under the Customs Act B.E. 2560 (2017).

In any case, under the current customs regime, importers may request for an advance tariff classification ruling from the Customs Department before importing their products into Thailand.

3. Customs Valuation

Customs valuation is the determination of the tax base for calculation of import duty on imported goods. The Customs Department has, since 2000, has based its customs valuation methods on the World Trade Organization (WTO) Valuation Agreement.

There are six valuation methods under the WTO Valuation Agreement: transaction value, transaction value of identical goods, transaction value of similar goods, deductive value, computed value, and fall back value.

Transaction value, the price actually paid or payable for goods when sold for export, is most applied throughout the world, accounting for approximately 95 percent of imposed duty.

Transaction values must, according to law, be adjusted where certain elements form part of the value of the goods but are not yet included in the selling price. Any of the following elements would require an adjustment to transaction values:

- (1) Sales commission and brokerage, costs of containers and packing;
- (2) Value of goods/services directly/indirectly supplied by the buyer to the seller ("Assists");
- (3) Royalties and license fees related to imported goods and paid as a condition of sale;
- (4) Value of proceeds of subsequent resale, disposal/use of the imported goods that accrues directly/indirectly to the seller; and
- (5) Costs of transport and insurance.

As importers are prone to error during customs valuation, they should request an advance customs valuation ruling from the Customs Department before importing their products into Thailand. Rulings can normally be obtained within 30 days from the date importers completely file their request to authorities.

Author's Note:



DRKI will further discuss the offenses of false declaration and evasion of duties in its next article.

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