



Customs and Trade Alert

FTA updates for Thai importers and exporters

Introduction

Thai Customs' recent implementation of regulatory updates to existing Free Trade Agreements (FTAs) and an increase in enforcement measures by overseas customs authorities have a direct impact on Thai economic operators utilizing FTA privileges for import or export.

On the import side, Thai Customs has implemented a number of changes in relation to requirements on HS 2022 and Operational Certification Procedures for the correct use of FTA Certificates of Origin (C/O). Thai importers must adopt these changes to continue to act in compliance with the relevant FTA rules.

On the export side, Thai exporters to India who are making use of the ASEAN-India and Thai-India FTAs are facing more challenges and investigations by Indian Customs authorities into the FTA rules of origin requirements.

What to know?

Import

Since the beginning of this year, Thai Customs has implemented updates to the Regional Comprehensive Economic Partnership (RCEP), ASEAN-Japan Comprehensive Economic Partnership (AJCEP), ASEAN Trade In Goods Agreement (ATIGA) and ASEAN Australia New Zealand FTA (AANZFTA) for imports into Thailand. In the below table we have summarized the updates for each FTA.

FTA	Updates
RCEP	<ul style="list-style-type: none">Thai Customs Notification 150/2565Since 1 January 2023, HS 2022 must be used to indicate the correct HS code on the Form RCEP and the list with Product-Specific Rules of Origin (PSRs) has also been updated to HS 2022

AJCEP	<ul style="list-style-type: none"> • Thai Customs Notification 46/2566 • Since 1 March 2023, HS 2017 must be used to indicate the correct HS code on the Form AJ and the AJCEP PSR list is updated from HS 2002 to HS 2017.
ATIGA	<ul style="list-style-type: none"> • It is expected that from 1st April 2023, Thai Customs will require (by means of a Notification) that HS 2022 must be used to indicate the correct HS code on the Form D/ATIGA Origin Declaration and that the ATIGA PSR list will be updated from HS/AHTN 2017 to HS/AHTN 2022. • Please note that the official Customs Notification for the ATIGA update has not yet been released, but it is expected to be issued shortly.
AANZFTA	<ul style="list-style-type: none"> • Department of Foreign Trade (DFT) Announcement dated 10 March 2023 • Thai exporters using Form AANZ with third-party invoicing structures may face practical issues to indicate the correct invoice reference number on the Form. • From 1 April 2023, DFT will allow Thai exporters a choice to indicate the invoice number of either the manufacturer invoice, the exporter invoice or the trader invoice in Box 10 of the Form AANZ in case of "<i>third-party invoicing</i>".

Non-compliance with the above updated rules, may result in challenges or rejections of the FTA Certificates of Origin by Thai Customs upon import.

Export

Under the Indian Customs Administration of Rules of Origin under Trade Agreements Rules (CAROTAR), since 2020, Indian Customs has deployed additional tools and resources to investigate whether imports into India under FTAs effectively meet the applicable FTA origin rules. Specific focus of the investigations are imports from Southeast Asian countries, including Thailand, using duty privileges of the ASEAN-India FTA and Thai-India FTA.

At the moment, India Customs no longer seems to systematically accept the origin certification granted by the Department of Foreign Trade (DFT) in Thailand and has conducted additional verifications on importers in India or requested DFT to conduct documentary and/or on-site investigations on the Thai exporter. Recently these types of investigations into Thai exporters have ramped up.

The objective of the investigations into Thai exporters is to verify whether the export products meet the ASEAN-India or Thai-India FTA origin rules. If exporters cannot demonstrate that their products meet these rules on a shipment basis or SKU-level, the FTA privileges can be denied going forward and Indian Customs may decide to claw back duties on historic import shipments with penalties.

What can you do?

Companies using FTAs to import goods into Thailand are encouraged to check the new Thai Customs Notifications and align with the updated requirements and formalities. This may include a classification review to determine whether any products imported under FTA must be classified differently under the new HS codes and whether different PSR may apply.

Thai companies exporting to India using FTAs must put in place procedures to constantly monitor data that impacts the origin of the goods and keep good records of all evidence that can support the FTA compliance. In case of ongoing investigations, exporters must provide timely, adequate and consistent feedback and evidence to questions and information requests by Indian and Thai authorities to demonstrate compliance with the FTA rules and to minimize the scope of the investigation and potential exposure.

For more information and support, please contact our Deloitte Customs & Trade professionals.

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