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ZOOM IN TRADE

SHINHAN Customs Service Inc.



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Cover Story

Issues from WTO Appeal Panel's Decision on South Korean Banning Fukushima Seafood

Detailed Point at Issue

More over to the Cover Story from last month, WTO upholding South Korean ban on Fukushima Seafood, the following issues were raised in the WTO's appeal case and nullified lower panel's decision.

1. Discrimination, whether the lower panel erred the interpretation and the application of Article 2.3 of the Sanitary and Phytosanitary Measures (SPS Agreement) that a complainant must show that a measure arbitrarily or unjustifiably discriminates between Members where identical or similar conditions prevail, including between their own territory and that of other Members.
⇒ Appeal Panel agreed on Korea's side considering environmental condition factors caused by the nuclear accident, not only the radiation level that importing of contaminated seafood product is violating SPS Agreement.



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2. Limitation, whether the lower panel erred the application of Article 5.6 SPS Agreement in finding that Japan's proposed alternative measure achieves Korea's appropriate level of protection.
⇒ Appeal Panel agreed on Korea's side as lower panel only counted level of Caesium not considering environment condition effected by nuclear accident.
3. Qualification, Whether the lower panel erred in in finding that Korea's measures were more trade-restrictive than required under Article 5.6.
⇒ Appeal panel agreed on Korea's side that lower panel exceeded its mandate by taking into consideration evidence that was not available to the Korean authorities at the time of the measure was adopted, which means adopting evidence did not exist when the measures were adopted.
4. Uncertainty, whether Korea published and that such publication must make the publication contain sufficient content that the importing Member will know the conditions, including specific principles and methods, that apply to its goods
⇒ Appeal panel agreed on lower panel that Korea had not published the full content of the blanket import ban and the additional testing requirements.

Closing Remarks

It is the first case that appeal panel nullified lower panel related to SPS Agreement. Korea was able to defend import ban from most issues discussed in appeal panel by providing detailed evidence and explanation regarding environmental conditions. However, Korea also should be prepared for publishing reasons for import ban in details under SPS Agreement guideline.

For details of the appeal case, please find more in https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds495_e.htm or contact yhshin@shcs.kr.



New Southern Policy and Changes in FTA



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New Southern Policy

Korea's export market is experiencing challenges with global trends of protection trade due to major trade conflict and changes such as Brexit and U.S. - China Trade Dispute. To encourage and promote export market, Korean government is planning for New Southern Policy to cooperate with India and ASEAN countries.

Despite with high quality commodity and marketing strategy, non-tariff barrier is still not competitive compared to countries like Japan, who has more opened 86% of product not tariffed, yet Korea has 68% not tariffed. Thus, Korean government is working on to conclude more FTA with Philippine, Malaysia, and Indonesia within this year besides already concluded ASEAN FTA, moreover lowering non-tariff barrier with CEPA.

This steps are making progress, and re-negotiation for CEPA is also resumed as both parties from Korea and India officially stated re-negotiation process shall be soon concluded.

For details of the appeal case, please contact ysyoon@shcs.kr.



Voice From The Fields

Arrivals Duty Free Shop Opens



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- Item Classification

Arrivals Duty Free Shop

On May 31st, 2019 the first arrival duty free shop in Korea opened in Incheon International Airport. More arrival shops will be opening in other airports after six months of testing period.

Sales items include cosmetics, perfume, alcoholic beverages, packaged foods, leather and fashion products, sporting foods, toys, electronics, music album and souvenirs. Tobacco, fruits, animal processed products are excluded.

Addition to previous purchase limit of 3,000 USD, arrival duty free allows to purchase additional 600 USD, making total purchase limit 3,600 USD. However, exemption limit remains as 600 USD. When purchasing over exempted limit, goods purchased in duty free shops, both departure and arrivals, and in foreign countries shall be all added up and dutiable.

Voluntary declaration can be made to receive 30% tax exemption on duty with limitation of 140,000 KRW. If detected without self-report, 40% of additional tax will be imposed, and 60% of additional tax will be imposed when detected more than twice.

For more information and examples, please contact sh.park@shcs.kr.



Updated Customs Trading Regulation

Notice on the Partial Revision of Foreign Exchange Transactions Regulation



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- FTA Origin Verification
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Reason for the Revision

- Partial revision on Foreign Exchange Transaction is made to encourage and promote new business in Foreign Exchange, enhance financial competitiveness, improve convenience of foreign exchange, and renovate regulations.
- For the part of the revision, government official will demonstrate the necessary of "Regulatory Verification Responsibility Conversion System."
- Revision is also to promote Fintech Startup in Foreign Exchange sector to enhance financial competitiveness.
- Effective as of May 3rd, 2019

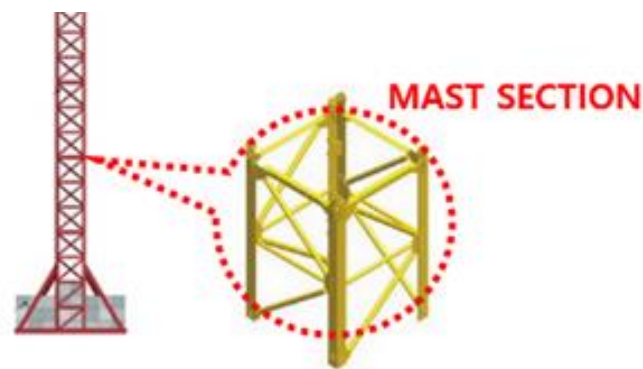
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Customs Case Study

Classification of Mast Section

[Tax Tribunal Case 2018 Customs 0098 (2019.03.06)]



Background

- Whether Mast Section should be classified under HS Code 7308 or 8431.
- HS Code 7308 is Structures and Parts of Structures with WTO (C) duty rate 0%.
- HS Code 8431 is Parts suitable for use solely or principally with the machinery of headings 8425 to 8430 with General duty rate (A) 8%.
- Article, Mast Section, supports tower crane (heading 8426.20-0000), adjusting the installation height by connecting each article with pins or bolts.
- Importer declared article classifying under HS Code 8431, and KCS requested to revise classification under HS Code 7308 as well as the Ruling result.



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Result from Tax Tribunal

- Classification of Mast Section was reviewed as only the article in different from without the necessary equipment for the operation of the tower crane were shown separately.
- It is difficult to assume that the tower crane is equipped with mechanical elements for lifting and loading functions, which is an essential function of the tower crane, it is concluded that article shall be classified under 7308.

Opinions

- Mast Section is a construction machinery unit which has a slight difference in characteristics from the tower and lattice masts as being removed when the construction is completed, but it is classified as 7308.20-0000.
- There are cases similar article classified as 7308.90-9000 (WTO (C) 0%) other steel structures that serve as support for hoisting, and some case of article classified as "tower crane grid structure mast" which is 7308.90.
- When there could be different opinions on classifications, filing ruling to the classification center would prevent any risk or incident on import and export of uncertain classification article. to the customs valuation classifier prior to import and export, This will be a way to reduce tariff risks.

For more information and examples, please contact joooh@shcs.kr.

KCS(Korea Customs Service) hosting, “YES FTA 2019” with SHINHAN Customs Service

We are inviting export companies planning to utilize FTA to the following educational seminar free of charge provided by Korean Customs Service.

Course	Topics	Target	Details	Course Hours	Class Size
Customized FTA Program	1:1 Export Consulting	CEO and employees planning to export	FTA 101, Import/Export Clearance, Drawback, Foreign Exchange Transaction, How to utilizing FTA on exports	3 Hours	4
	Supply Chain Management	Export Company and Partner Company	Classification, Filling out BOM and Forms for Country of Origin, How to Prepare for Customs Origin Verification	6 Hours	20

■ Location/Time : Flexible upon request of applicants

■ Registration

- Fee is free of charge, materials are included. Lunch is provided for 6 hours course.

- YES FTA Website (<http://www.yesftaedu.or.kr>)

- Registration via phone or e-mail is available

■ Other Questions?

- SHINHAN Customs Service : 82-2-3448-1181, fta@shcs.kr

- YES FTA Q&A Center : 82-1544-5702, yesftaedu@origin.or.kr

* Please find details on our website in here.(www.customsservice.co.kr)

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