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ZOOM IN TRADE

SHINHAN Customs Service Inc.



Where Is Grace Chang?

03 ... Laughter



Ideal and Reality

06 ... Discussion on Ways to Improve the Import and Export Customs Clearance System to Strengthen Export Competitiveness



Analysis on Recent Customs Judicial Precedent

12 ... Request for Claims that the Royalties at Issue Paid by the Claiming Corporation to the Exporter at Issue While Importing the Item at Issue in Return for the Right to Use the Trademark or Sell the Item at Issue with the Trademark Attached Were Not Paid as a Condition of Transaction for the Item at Issue (Tax Tribunal 2022, 0142)



HS case solved by logic

17 ... Classification of lighting equipment



Global Customs Insight

20 ... Have You Heard of TBT (Technical Barriers to Trade)?



FTA and import/export practical business guide

24 ... Domestic origin certificate system



Contents and Opinion of Customs Trade Amendment

28 ... Partial Amendment of the "Notice on Confirmation of Country of Origin (Comprehensive) Recognized by the Commissioner of the Korea Customs Service

Laughter

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CEO/Customs consultant



Hahahaha~ Hohoho~~

A refreshing sound of laughter comes from the back of the bus. Smiles also bloom on the faces that are indifferently looking out the bus window.

We had a sports day with employees who used to spend time in front of computers in the downtown building office. We divided into teams and did relay running, rope jumping, and ball rolling. The employees, who were hesitant at first, soon put their heads together and came up with a strategy to win the race. They pulled out all their strength to run the race, and cheered by shouting with the top of their lungs.

Laughter bloomed under the blue autumn sky.

The sound of laughter filled our tired bodies after exercise that had not been done for a long time.

The time spent cheerfully like the teenage girls who burst into laughter just by looking at the rolling fallen leaves, brightened our bodies and minds.

Ideal and Reality for this month is 'Discussion on Ways to Improve the Import and Export Customs Clearance System to Strengthen Export Competitiveness', Analysis on Recent Customs Judicial Precedent covers 'Request for Claims that the Royalties at Issue Paid by the Claiming Corporation to the Exporter at Issue While Importing the Item at Issue in Return for the Right to Use the Trademark or Sell the Item at Issue with the Trademark Attached Were Not Paid as a Condition of Transaction for the Item



at Issue(Tax Tribunal 2022, 0142)', and HS case solved by logic reports 'Classification of lighting equipment' and Global Customs Insight is 'Have You Heard of TBT (Technical Barriers to Trade)?', and FTA and import/export practical business guide is 'Domestic origin certificate system', Contents and Opinion of Customs Trade amendment Covers 'Partial Amendment of the "Notice on Confirmation of Country of Origin (Comprehensive) Recognized by the Commissioner of the Korea Customs Service'

As the saying 'Fortune comes to a merry home' goes, many good things happen to people who smile. People who laugh are more likely to be happy and successful, and laughter has a profound effect on human health.

Norman Cousins, who was an American journalist and professor, added [a cure for incurable diseases to the effect of laughter](#).*

At the age of 49, Norman Cousins fell ill with an extremely painful illness. The conclusion after several tests was that 'the exact cause of the disease is unknown and the chance of cure is 1 in 500.' With a strong desire for life, he began researching to find the cause of the disease.

He remembers that the physical and mental stress was very severe during his visit to the Soviet Union as head of the American delegation. With his body's resistance to disease lowered due to stress, he was tormented by diesel engine exhaust every night. In other words, the decline in adrenal function due to stress, the subsequent weakening of immune function, and weakened tolerance to environmental poisons were the main causes of his incurable disease.

He questioned 'How can I activate my adrenals or endocrine system?'. [He learned that unpleasant and negative emotions have a negative effect on the body's chemistry, resulting in a decrease in adrenal function, while active and positive emotions cause positive chemical reactions.](#) He came to believe that love, hope, faith, laughter, trust, and the will to live can play a good role in treatment.

Nevertheless, it was difficult for the patient to laugh as he lay motionless and his spine and joints felt as if they were on fire. He put all his effort into smiling every day. Knowing that people can laugh 33 times more when they get together, he invited his friends and laughed together. Thankfully [when he laughed in his belly for 10 minutes, he was able to fall asleep without feeling](#)

[pain for at least 2 hours](#). As about a week passed, the amount of time he spent sleeping became longer and longer.

The sound of such good laughter is disappearing. Not only bursting out laughter but also small giggles are not heard. As time goes by and the muscles of the body gradually become stiffen, the muscles of the mind also become hardened. The insensitive and expressionless faces are becoming fixed. The number of adults with faces as if they are wearing Hahoe masks is increasing. Children who laugh an average of 300 times a day are disappearing. The world is becoming where only adults who find it difficult to laugh 10 times a day are left behind.

['Laugh out loud' I hope for a world where the sound of children's laughter resonates.](#)

['Hahaha hohoho' I hope there will be more adults who take off their Hahoe masks and smile brightly..](#)

[They say that rather than laughing because we are happy, our lives become happy when we laugh. Laughing can make you feel better, rather than laughing because you are in a good mood.](#)

I hope you spend this day laughing a lot with children, adults, friends, and colleagues.
Thank you

*Norman Cousins, The Healing Power of Laughter (Seoul: Smart Business, 2007)





Ideal and Reality

Discussion on Ways to Improve the Import and Export Customs Clearance System to Strengthen Export Competitiveness

I . Participated in the pan-governmental one-stop export support group discussion.

On October 16, 2023, executives from the Ministry of Strategy and Finance, the Ministry of Trade, Industry and Energy, the Ministry of Oceans and Fisheries, the Korea Customs Service, and the Financial Supervisory Service attended a discussion session on ways to improve the competitiveness of the domestic customs clearance system held by the pan-governmental One-Stop Export Order Support Group and gave their opinions. Here is the brief explanation about it.

Korea's trade with China, its largest trading partner, is currently decreasing due to deepening friend-shoring in global trade, retaliatory tariffs between the U.S. and China, Russian export controls, and the IRA bill. Also the reliability of domestic brand products is greatly decreasing due to the individual customs clearance of counterfeit products through overseas direct purchase.



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It is believed that improving the system is the role of government officials who collect diverse opinions, and that the people's ideas, whether reasonable or destructive, are all valuable.

In order to improve the import and export customs clearance system, it is necessary to have detailed basic knowledge of customs duties and trade. Since the interests of only a few stakeholders should not be considered, it is necessary to be cautious, but make quick and courageous decisions to fix the problem. And it needs to be an ongoing discussion, not just a one-time event.

In that respect, the attempts by the Commissioner of the Korea Customs Service, Go Gwang-hyo, to lead to regulatory and digital innovation are an encouraging attempt to strengthen the international competitiveness of the import and export customs clearance system.

II. Opinion for improvement

1. Tens of millions of products are cleared through customs without import requirements through overseas direct purchases, and if we fail to prevent the import of counterfeit products, it could lead to a decline in the brand value of our companies and cause an economic crisis. It is hoped you will prevent this.

While there are many regulations on import and export customs clearance for Korean companies, small tax exemptions are applied to personal customs clearance, such as overseas direct purchases, and import requirements and counterfeit product regulations are not imposed, increasing damage to businesses and consumers.

Annually, 10 million items of food, 15 million items of health food, 5 million items of cosmetics, 8 million items of electrical appliances, and tens of millions of items of household goods are cleared through customs without import requirements. Even though there are hundreds of thousands of counterfeit products detected each year on each Internet platform, there is no improvement in preventing this.

The issue of importing and selling counterfeit products is a regular topic of government inspections every year. If crackdowns do not reduce the problem, institutional changes must be sought. If we hesitate even when we can come up with ways to prevent it through institutions and systems, the damage will fall on companies and the people.

2. It would be helpful to improve the requirement exemption confirmation system for research and repair items so that corporate researchers can comfortably develop and repair and operate equipment quickly.

In order to receive a certificate of exemption from import requirements for importing materials, parts, and samples for the development of new products for the research institute, an application, written explanation, and related materials must be submitted to the requirements confirmation agency. However, because the requirement exemption processing period takes 2 to 3 days, many researchers are wasting time because they do not have research materials during that time. We ask that the head of the customs office make a judgment regarding urgent research samples and materials and process them through customs.

If medical equipment or a supercomputer that was introduced and used several years ago breaks down or requires replacement of parts, the BOM must be submitted to a requirements verification agency to confirm whether it is a part of the equipment in order to receive an exemption from import requirements. If there are parts that were not present at the time of certification, even if the number is small, customs clearance may be difficult.

If the head of the customs office determines that the import requirements are exempted, the equipment can be repaired and operated in a timely manner. In particular, with expensive medical equipment, the patient's life may be at risk if examination or treatment time is delayed. It would be good to consider changing the system so that the head of the customs clearance can trust and process the goods as they are goods cleared by a company.

3. There are 12,000 item classifications based on HS, but each company manages HS by hundreds of thousands or millions of criteria. Since the introduction of the import declaration system in 1996, all responsibility for reporting has been placed on the taxpayer and the customs broker who is the import declarant. HS It would be nice if a cap on additional taxes for HS errors and ignorance is introduced.

One HS code must be determined for each product, and if there is an error or change in the HS code, the responsibility is entirely borne by the taxpayer and the import declarant, not the customs authorities. It is not possible to ask the Customs Valuation and Classification Center for all HS through pre-screening, and since it is a human job, there may be errors in HS judgment even if you are a customs broker or know the product well. The current penalty tax system places all responsibility on the taxpayer for such HS classification errors or changes. In cases where the minimum duty of attention is not observed, the current system, which imposes a large amount of additional tax, leading to an economically unrecoverable situation, needs to be improved.

When an HS issue arises in the Korea Customs Service's HS Item Classification Committee or the WCO World Customs Organization HS Committee, it takes between 6 months and 2 years to make a decision. If a person in charge of additional tax policy tries HS classification, he or she can see how difficult the task is. Now, I hope that people working at companies and customs agencies will not be anxious about excessive responsibility because of the HS classification. One electron microscope is assigned 5,000 HS codes, and a smartphone manufacturing company must assign about 60,000 HS codes. I cannot shake off the burden of additional taxes without deciding on the HS of an item, and I worry about that decision every day as I work.

4. There are cases where the country of origin of goods manufactured in Korea is not recognized as Korean due to retaliatory tariffs between the U.S. and China. It would be good to revise the criteria for substantial modification under the Foreign Trade Act.

The United States applies the non-preferential origin substantial modification criteria as a standard for imposing retaliatory tariffs between the U.S. and China, but the separate regulations are comprehensive and actual judgments are made based on precedents and cases, so there are uncertainties. On the other hand, Korea's Foreign Trade Act sets too high a substantial modification criteria for determining the country of origin when processing foreign raw materials domestically.

The standard under the Foreign Trade Act is that the added value must exceed 50% when the HS is changed by 6 units, and 85% when there is no change by 6 units, but this is different from the FTA origin determination criteria of 35%, 40%, and 45%. In this case, while the FTA can recognize it as a Korean product, there is the inconvenience of having to label it as a foreign product under the non-preferential origin determination criteria. The origin of exported goods follows the country of origin of the exporting

country, but there is the inconvenience of differently labeling the origin as Korean and exporting country while producing the same goods in one lot. It would be nice if the criteria for FTA origin and non-preferential origin are adjusted to be similar.

5. Re-examination system needs to be introduced at the Korea Customs Service's Item Classification Committee and Review Committee

Korea Customs Service Item Classification Committee and Review Committee members are mostly the head of the Ministry of Strategy and Finance, the director of the Korea Customs Service, the head of the headquarters customs office, lawyers, customs brokers, and experts in the relevant industry, and are usually busy people with a good reputation.

However, in the case of complex agendas that cannot be understood even after reading the bill and response from the claimant and the disposition office, it is often experienced that attendees attend without sufficient understanding of the agenda materials.

In the case of issues that require understanding of complex and specialized areas, it may take several months for the taxpayer and his/her agent, customs brokers, etc., to prepare data. However, decisions are made through discussion within a set time (40 minutes to 1 hour) per issue, so in many cases, sufficient time for thorough discussion on the issue may not be provided. Although the committee members say they understand it after reading it in advance, the questions asked by the committee members are at such a wide range of levels that it cannot be said that they all understand the complex issues.

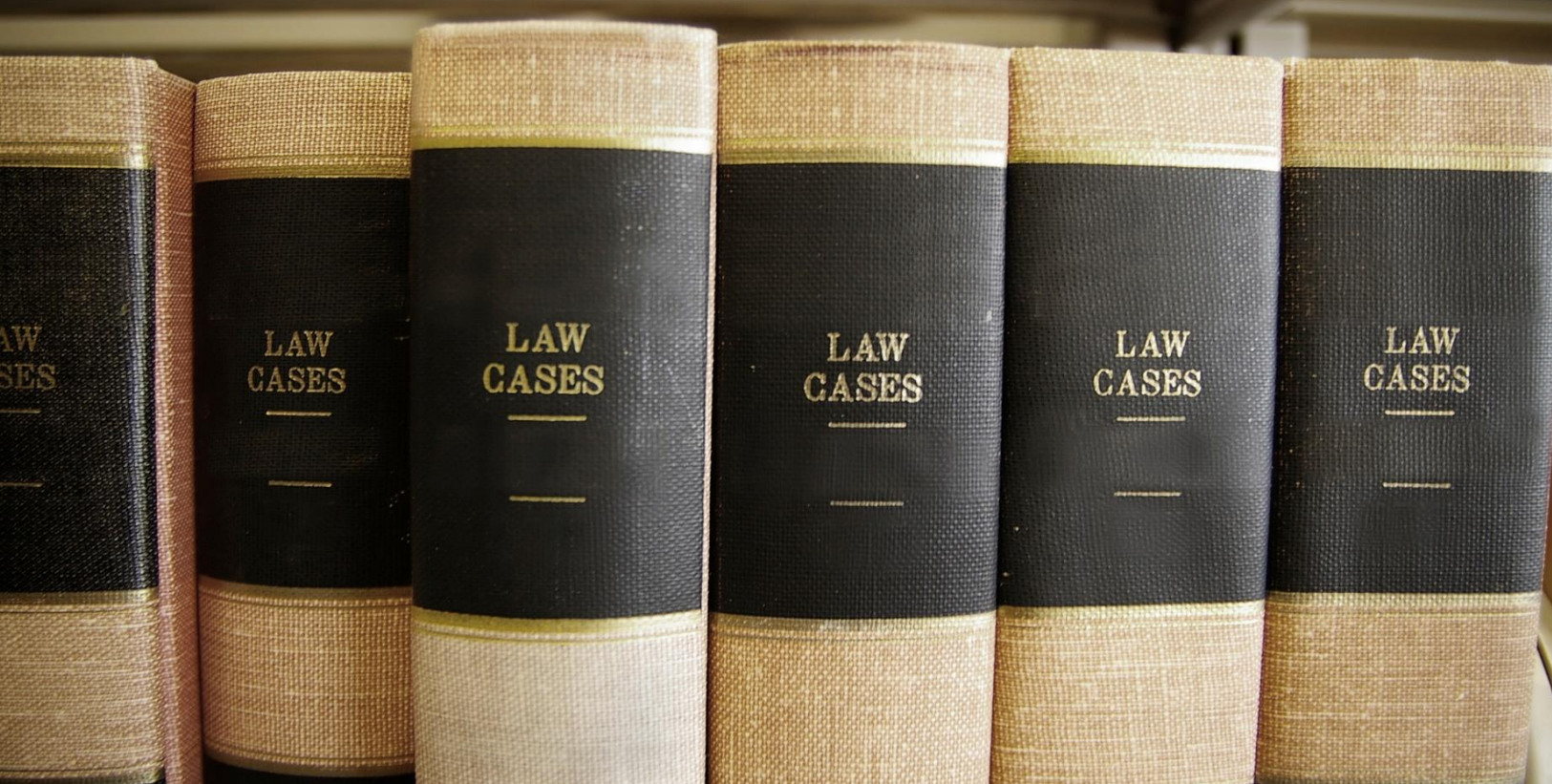
There are problems such as large costs and rewriting of data when going to a tax trial or administrative litigation, but there are also clearly parts that Tax Tribunal judges and court judges do not understand regarding import and export customs clearance.

If either the customs official or the taxpayer does not agree with decisions of the Item Classification Committee or the Review Committee, or if the hearing seems to be not satisfactory, it would be beneficial for a system to be established whereby a second judgment can be obtained from an examiner with better understanding of the matter through a re-examination.



III. conclusion

Discussions on system improvements were held between the Export Order Support Group, professors, and customs officials on various issues. It is hoped that system improvements will be made flexibly by reflecting the diverse perspectives of public officials from other ministries.



Analysis on Recent Customs Judicial Precedent

Request for Claims that the Royalties at Issue Paid by the Claiming Corporation to the Exporter at Issue While Importing the Item at Issue in Return for the Right to Use the Trademark or Sell the Item at Issue with the Trademark Attached Were Not Paid as a Condition of Transaction for the Item at Issue (Tax Tribunal 2022, 0142)

1. Facts

- The claimant company was established by the exporter at issue and AAA, each investing OO shares for the sale of products bearing the OO trademark (hereinafter referred to as the "trademark in issue") on January 1, 2015, pursuant to the contract OO (hereinafter referred to as the "Joint Investment Contract at Issue") made by OO (hereinafter referred to as the "exporter at issue") located at OO and OO Co., Ltd. OO [hereinafter referred to as "AAA Co., Ltd."]. The claimant corporation is granted the right to use the trademark at issue and to sell products with the trademark at issue (hereinafter referred to as "BBB products") in Korea from the exporter at issue in accordance with the joint investment contract at issue. In return for this, OO% of the net sales was paid quarterly to the exporter at issue as a rights usage fee (hereinafter referred to as "royalty at issue").



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- From June 8, 2017 to November 29, 2019, the claimant corporation imported clothing and accessories with the trademark at issue (hereinafter referred to as "item at issue") in a total of OO cases, including import declaration number OO, from the exporter at issue. They provisionally declared the amount of royalties at issue to be added to the taxable price of the item at issue pursuant to Article 28 of the 「Customs Act. 」, and the final price declaration was made by adding (revising) the amount of royalties at issue confirmed from March 2019 to October 2020, and the Disposal Office accepted it.

- OO (hereinafter referred to as "National Tax Service") conducted a tax investigation on the claiming company, and on October 29, 2020, notified the claimant of the results of the tax investigation to the effect that they would not be included as deductible expenses in accordance with Article 27 of the Corporate Tax Act since the royalties at issue are trademark royalties unrelated to business, and imposed the corresponding corporate tax.

- On May 20, 2022, the claimant corporation requested a correction based on the above imposition by the National Tax Service to the Disposal Office (formerly Director OO) and requested a refund of OO Won in customs duties, OO Won in value-added tax, a sum of OO Won corresponding to the royalties at issue, claiming that the royalties at issue were not paid as a condition of transaction for the item at issue. On July 20, 2022, the disposition office rejected (hereinafter referred to as "rejected dispute") this request, and the claiming company objected and filed for an adjudication claim on August 25, 2022.

2. Judgment

(1) Claimant's claim

- The National Tax Service reviewed several facts including that before 2014, AAA Co., Ltd. imported BBB products at the same price and did not pay royalties, that all importers around the world import BBB products without paying royalties, and that since the exporter's obligations under the contract for royalties were not fulfilled, there is no reason to pay the royalties separately, and since the royalties

are already included in the price of the goods, there is no reason to pay separate royalties. However, the claimant company is the only company that pays the royalty at issue. After reviewing the payment of royalties at issue, it was determined that the royalties at issue were not related to imported goods. Accordingly, the claiming company actively presented the unfairness of the royalties paid to the exporter at issue on January 1, 2020 and made the an amendment agreement (hereinafter referred to as the "Amendment Agreement at Issue") agreeing not to pay any more royalties to the exporters at issue, and is currently not paying separate rights royalties to the exporters at issue. The above facts prove that the purchase of imported goods and the payment of the royalties at issue can be separated, and therefore, the relevant tax amount should be refunded because it is evidence that the payment of the royalties at issue does not fall under the transaction terms of the item at issue.

- Duplicating corporate tax and customs duties on royalties at issue violates the principle of prohibition of excess and the principle of minimal infringement of legal interests, and even when tax is imposed, it coincides with the principles of tax legalism that tax is imposed only on one agency, whether the National Tax Service or the Korea Customs Service. When a company earns income from a foreign country, countries have double taxation prevention agreements that require companies to pay taxes in only one country either in their home country or in a foreign country. Korea has double taxation prevention agreements with 97 countries. Meanwhile, in order to solve the problem of double taxation of foreign-invested companies, Korea signed a memorandum of understanding (MOU) among the Ministry of Strategy and Finance, the Korea Customs Service, and the National Tax Service in January 2009 and took measures to prevent double burden of customs duties and domestic taxes. In relation to imported goods price, if the National Tax Service collects corporate tax, it is possible to claim a refund from the Korea Customs Service, and if the Korea Customs Service collects customs duties, it is possible to claim a refund from the National Tax Service.

(2) Disposal agency claim

- The fact that royalty fee is paid as a transaction condition means that the transaction is established on the condition of payment of the royalty fee, and this can be judged by whether 'purchase of imported goods' and 'payment of the royalty fee' can be separated. If it cannot be separated, it becomes a transaction condition, and if it can be separated, it does not become a transaction condition. The possibility of separation is determined depending on the conducting business method or the terms of the contract between the parties. It is not determined depending on whether there are provisions for payment of

royalties in the contract related to the purchase of imported goods between the parties or whether there are provisions for payment of royalties in a separate contract. In Korea, the right to purchase is considered an important standard in practice. Even if the importer pays the royalty fee, if there is a right to purchase, such as the ability to freely purchase the relevant imported goods in the open market, such as from a third party, the payment of the royalty fee does not establish the terms of a transaction condition. Since the claimant corporation imports the item at issue and only sells domestically, its business structure is such that sales cannot be generated without the import of the item at issue. Therefore, if the claimant corporation does not import the item at issue, no sales are generated and there are no royalties to be paid. This means that in order for the claiming corporation to maintain its business, it must import the item at issue. If the Joint Investment Contract at issue is terminated, the claiming corporation has no reason to import the products as it is impossible to distribute the products bearing the trademark at issue domestically. Accordingly, the claiming corporation imports the item at issue for domestic sales and pays the royalties at issue for a certain portion of the sales profits. The payment of the royalties at issue is a natural obligation of the claiming corporation under the contract and a condition of the import transaction. In addition, since the exporter at issue has only granted the right to advertise, promote and sell BBB products to the claiming corporation, the claiming corporation cannot directly develop and produce new products or select domestic or foreign sellers, and can only place orders through the exporter at issue, so the claiming corporation does not even have a right to purchase in the first place.

- The Disposal Office respects the National Tax Service's decision to deny business-related deductibles for the royalties at issue based on the Internal Revenue Code, but such circumstances do not mean that the royalties at issue were paid as a condition of the transaction of the item at issue. There are cases where the Tax Tribunal also deems under the Corporate Tax Act that royalty fees that were not included in the deductibles were judged to have been paid as a condition of the transaction (Tax Tribunal 2019 Section 135, June 8, 2020). There is a difference between corporate tax and customs duties in their purpose and timing of imposition, and while customs duties are determined on a case-by-case basis based on the item classification criteria for goods including their components, corporate taxes are determined by taking into account income and related costs for each period. The court also recognized this difference and ruled that there was no double taxation (Seoul High Court ruling 2016 Nu35610, January 18, 2017).

3. Conclusion

Under the joint investment agreement at issue, the claiming company is importing the item at issue with



the trademark at issue from the exporter at issue, and paying royalties at issue to the exporter at issue in return. The royalty at issue is related to the item at issue and is paid as a condition of transaction. It appears that it is difficult to believe that the claiming company can freely import goods with the trademark at issue from a third party without payment of royalties at issue, and no such performance has actually been submitted, and customs duties and internal taxes are for taxation purposes and subject to taxation. Because taxation of customs duties and internal taxes is imposed under separate laws with different tax purposes, subject to taxation, tax bases and tax calculation methods, it is difficult to view the imposition of internal taxes under the Internal Tax Act as affecting the imposition of customs duties or as double taxation (Seoul High Court, January 18, 2017, decision 2016 Nu 35610 Judgment and Ministry of Finance and Economy 47040-310, December 29, 2001, etc.). Because the National Tax Service does not include the royalties at issue as deductibles, it does not give the evidence that it does not meet the conditions of transaction and relevance to the item at issue, which are tax requirements under the Customs Act. Also it has not been confirmed whether AAA Co., Ltd. and importers around the world are importing BBB products at the same price without paying royalties, and even if such a fact exists, this is due to differences in contract terms. In light of the fact that it is difficult to conclude that the royalty payment at issue was not made in accordance with the terms of the transaction, the disposition office ruled that there was no error in rejecting the request for correction, considering that the royalties at issue were related to the item at issue and were paid in accordance with the terms of the transaction.



HS case solved by logic **Classification of lighting equipment**

1. outline

As the end of the year approaches, many lights are being imported to decorate the exterior walls of buildings such as department stores. For several years now, department stores have been successfully attracting customer attention through large trees and media façades, and are emerging as SNS-authenticated attractions. Media facades implement media functions by installing LED lights on the exterior walls of buildings, leading the year-end atmosphere and allowing customers to feel and experience the festive for themselves. In particular, as competition among industries intensifies and more colorful lights are used to decorate exterior walls every year, it is necessary to review the appropriate HS CODE classification and import requirements for imported lights.



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2. Classification of lighting items

1) outline

| division | HS CODE |
|---|--------------|
| Chandeliers and other ceiling and wall lighting | 9405.11-0000 |
| Electric table, desk, bed, floor lamp lighting | 9405.21-0000 |
| portable lighting equipment | 8513.10-9010 |
| String lights for Christmas decorations | 9405.31-0000 |
| solar rechargeable garden lights | 9405.42-0000 |
| non-electrical lighting | 9405.50-0000 |
| LED bulb | 8539.52-0000 |
| lighting fixture parts | 9405.99-0000 |

2) Example of item classification decision

| | |
|--------------------|---|
| Product Name | Lighting Fitting |
| Product Overview | Used for display cases in department stores, supermarkets, etc., and used to indirectly illuminate displayed items with fluorescent light. |
| decision HS code | 9405.40-9000 |
| Basis for decision | <p>-Tariff Schedule No. 9405.40 stipulates the classification of 'other electric lamps and lighting equipment'.</p> <p>- Tariff rate schedule commentary for No. 9405 I. In lamps and lighting fixtures (limited to those not classified in other headings), 'Electrical lamps and lighting fixtures of this heading may be equipped with lamp holders, switches, flexes, plugs, transformers, etc. In the case of fluorescent lamp fixtures, there are starters or those with ballasts attached.' Examples of classification in this heading include 'lamps and lighting fixtures commonly used for indoor lighting, lamps for outdoor lighting, special lamps, etc.'</p> <p>- This product is a lighting fixture with an electronic ballast built into the lamp holder and a fluorescent lamp (220V, 14~28W) attached, so it is not No. 8539, which is classified as a bulb-type fluorescent lamp that converts electrical energy into light. It should be classified under No. 9405, which is where lighting equipment using lamps are classified.</p> <p>- In addition, in relation to the 6-unit subheading classification within heading 9405, the items at issue are mainly used to indirectly illuminate items displayed with fluorescent light in display cases of department stores, etc. It is an electric lighting fixture and cannot be considered as special lighting equipment (chandelier, other ceiling or wall-mounted electric lighting equipment not used in public places or passageways, electric table, desk, bed or floor stand lamp, Christmas decoration lighting set) that are subject to the specific conditions specified in tariffs no. 9405.10 to 9405.30. It is classified in No. 9405.40-9000 according to General Rule 1.</p> |

| | |
|--------------------|---|
| ProductName | GLOBE LIGHT |
| Product Overview | It is a rechargeable lamp using LED as a light source and consists of a plastic sphere-shaped body, stainless steel legs (hanger), a USB charging terminal, and an on/off and 2-level brightness control switch. It is suitable for indoor and outdoor camping and leisure purposes. |
| decision HS Code | 8513.10-9010 |
| Basis for decision | <p>- In Note 1 (f) of Chapter 94 of the Tariff Schedule, "Lamps and lighting fixtures of Chapter 85" are excluded from this Chapter, so to review whether they are classified in Chapter 85,</p> <p>- Tariff Schedule No. 8513 stipulates "portable electric lights (limited to those equipped with self-powering functions such as batteries, accumulators, and magnet generators, excluding lighting fixtures of No. 8512)."</p> <ul style="list-style-type: none"> · The explanatory note for the same issue states, "This heading includes portable lamps designed to be lit by an equipped power source (e.g. batteries, accumulators, magnet generators)". "Portable lamps" refers only to lights (i.e. lights and power supply devices) that are manufactured to be carried and used in a person's hand or on the person, or to be attached to portable items or supplies. Usually they have a handle or holding device and are easily recognized by their special shape or light weight. Lights falling under this heading include the following: ... (2) Other hand lamps (including those with controlled beams): Hand lamps are sometimes fitted with simple devices for temporarily hanging them on walls, etc., while others are designed that can be placed on the ground. " <p>- Therefore, the item at issue corresponds to other portable LED lamps with built-in storage batteries and stainless steel legs that can be adjusted into various shapes for convenient carrying and mounting. In accordance with General Rules No. 1 and 6 on the interpretation of the tariff schedule, No. 8513.10, it is classified in No. 9010.</p> |



Have You Heard of TBT (Technical Barriers to Trade)?

Tariff barriers and non-tariff barriers

Tariff barriers(setting tariffs to protect domestic industry and secure fiscal revenue) and **non-tariff barriers**(Import restriction measures that do not involve tariffs) are a difficult task for export companies that are leading Korea's economic growth to advance overseas. Tariffs from tariff barriers have the effect of raising product prices, so companies recognize FTA as the first step toward exports by applying FTA preferential tax rates to increase price competitiveness. In this background, starting with the Korea-Chile FTA (2004), Korea has concluded 21 agreements with 59 countries and negotiated to ease tariffs and gain a price advantage in those countries. This is the result of the government's negotiating, and companies, related organizations, and academia working together.



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On the other hand, **TBT (Technical Barriers to Trade)**, which can be recognized as a representative non-tariff barriers is still an unfamiliar field to companies. TBT creates unnecessary obstacles for trade between countries by adopting and applying **Conformity Assessment Procedure** to determine **Technical Regulations, Standards** and whether a specific product complies with technical regulations. To put it simply by comparing TBT to our country's imports, in accordance with Article 226 of the Customs Act, the head of the customs office carries out the concept and path of protecting the health and safety of citizens from hazardous, uncertified, and substandard goods through procedures for checking imported goods in accordance with individual laws. Some example cases are, the import of all marine products harvested in Fukushima, Japan and the eight prefectures around the nuclear power plant is prohibited, or if the labels of imported food do not meet food standards and specifications, importing is difficult without supplementation or modification.

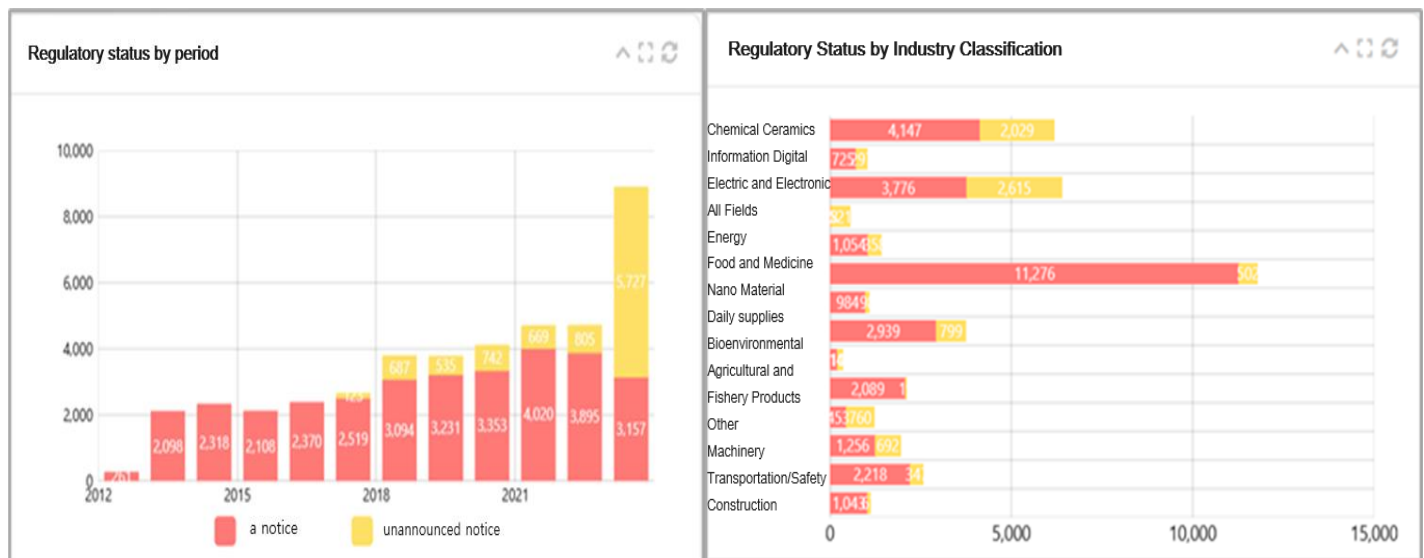
Impact of TBT

The purpose of **WTO TBT Agreement**(164 member countries) is to ensure that technical regulations, standards and conformity assessment procedures are non-discriminatory and do not create unnecessary obstacles to trade, but National security, prevention of deceptive practices, protection of human health or safety, life or health of animals and plants, environmental protection, etc. are considered legitimate purposes. Worldwide, each country is expanding TBT to emphasize the importance of technological regulation and certification for the safety, health, and environment of its citizens and to strengthen trade protectionism, so exporting companies need to be aware and prepare for TBT for each newly regulated item by each country. The TBT Agreement expands not only the concept of technical regulations and standards but also product performance to production and process methods. Therefore, in order to export, the international standards and conformity assessment of the relevant country must be observed. If technological reasons such as **non-compliance with national standards for each item, non-certification, lack of documentation, labeling/packaging, use of prohibited ingredients, and exceeding standards** occur, exported goods

may be refused for customs clearance in overseas markets, cannot be distributed within the market, and may be recalled. This may incur time and physical costs. Furthermore, this can cause **weakening corporate competitiveness** and damage the **national brand image**.

TBT global trends

The total number of WTO TBT notifications has been increasing every year for the past 10 years, and regulations by country and industry are being strengthened by the minute. According to the Korea Agency for Technology and Standards, the number of TBT notifications is approximately 3,000 during the first to third quarters of 2023, and 10 new regulations are being notified daily. In particular, not only Korea's major export items such as semiconductors, steel products, passenger cars, petroleum products, wireless communication devices, ships, automobile parts, computer peripherals, precision equipment, and home appliances, but also all fields such as food and pharmaceutical products, agricultural and marine products, and cosmetics are subject to TBT regulation. Accordingly, in order to systematically respond to TBT in the rapidly changing global market, the National Assembly **proposed the legislation of the 'Act on Response to Technical Barriers to Trade' (June 2023)**. It is currently under committee review.



'Strategic efforts to turn the TBT crisis into an opportunity' are needed.

Response to TBT is both a regulation and an opportunity to strengthen national competitiveness by improving the overall technological capabilities of Korean industries because of its characteristics of leading new technologies through efforts to comply with technical regulations and standards. This is a time when various countries are establishing technical regulations and standards for each industry and strengthening standards. **Long-term cooperation and communication between the public, government, and academia is needed, including increasing public interest in overseas TBT, government support and education, expert training and investment from the corporate, conducting research and support for technology improvement from the academic field, and institutions actively establishing mutual recognition agreements.**

Currently, FTAs, which ease tariff barriers, have become popular among companies and citizens through government-led education, investment, expert training, and support projects, and Korea, which has a large FTA territory, has superior competitiveness in exports. In order to also alleviate non-tariff barriers TBT in the future, all-around efforts are needed such as strategically responding to new regulations at the national level, developing experts for each industry to advance our technological level, and export companies being aware of the TBT of each export product and country, and thorough research and preparation from the product developmental stage.

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reference

Casebook on resolving difficulties related to non-tariff barriers (KOTRA)

Global technological barriers (TBT) trends and damage cases in trade (KOTRA)

TBT Comprehensive Support Center ([KnowTBT-Main](#))

Trade Navi ([Main - National trade information portal \(tradenavi.or.kr\)](#), which integrates and provides all trade information necessary for export, including tariffs, regulations, and marketing.



FTA and import/export practical business guide
Domestic origin certificate system

The bidding for the AE type low-voltage electronic power meter announced by KEPCO on September 21st was completed. This bid is the second project in which a domestic origin verification system has been introduced, following the AE type bid held at the end of July.

Domestic certificates of origin, which can be issued starting April 12, will continue to be used for national and public institution procurement projects, so companies need to be fully familiar with the system.



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1. Promotion background

The domestic origin certificate system was introduced due to problems with the country of origin labeling of solar power modules. Over the past few years, the government has expanded the solar power generation business nationwide as part of its new and renewable energy business. Even though solar cells, the core material of solar modules, are all manufactured in China, they are sold domestically or exported and distributed with 'Made in Korea' labels. It was pointed out that not only the reliability of domestically produced products declined but the government budget was being invested into fostering the Chinese parts industry.

In addition, before the introduction of the domestic origin certificate system, there was no means of verifying that products were made in Korea at the domestic wholesale/retail distribution stage, so there were frequent conflicts between suppliers in the public procurement market over whether products were made in Korea.

These various problems have led to the need for labeling and certification of Korean products in the domestic market.

2. Expected effects

It is expected that the introduction of a domestic origin certification system will establish order in domestic distribution transactions. Korea is a country with poor natural resources, and it is estimated that most of the products produced and distributed domestically use imported raw materials. Therefore, the correct use of Korean standards and their certification are required, which is expected to protect producers and consumers and improve the quality of domestic products.

Additionally, by encouraging production companies to use domestic raw materials, it is expected that the import structure will be improved and the added value of domestic industries will be expanded.

3. Products subject to issuance of domestic certificate of origin

A domestic certificate of origin cannot be issued for all products. Those subject to issuance are industrial products such as electronic and electrical devices, machinery and steel products, optical and medical devices, plastics and clothing. Products of HS codes 1 to 24 (agricultural and marine products and foods), Class 30 (medical supplies), and Class 33 (incense products, Cosmetics), Class 48 (paper and cardboard), Class 49 (books, newspapers, printed matter), Class 50~58 (textiles), Class 70 (glass), Class 72 (steel), Class 87 (general vehicles of 8701-8708) and Class 89 (vessels) are excluded from issuance.

Therefore, before issuing a domestic certificate of origin, companies must accurately check the HS code of the target product and confirm whether it is eligible for issuance.

4. Determination of origin as domestic product

In order to issue a domestic origin certificate, the target product must be ① sufficiently processed in Korea and ② meet the criteria for determining the origin. If either of the two conditions is not met, a domestic certificate of origin cannot be issued.

① Sufficient processing

Article 85, Paragraph 8 of the Foreign Trade Management Regulations stipulates 'simple processing activities', and the country of origin is not assigned to the country where these simple processing activities are performed. Therefore, in order to receive a domestic origin certificate, processing beyond the simple processing activities below must be performed domestically.

Simple processing

1. Processing activities performed to preserve goods in good condition for transportation or storage purposes
2. Processing activities to facilitate shipment or transportation
3. Activities related to packaging of goods for sale purposes, etc.
4. Even if HS 6 units are changed as a result of manufacturing or processing, processing that falls under any of the following items and processing that combines them is included in the scope of simple processing activities.
 - A. ventilation
 - B. Drying or simple heating (including roasting or baking)
 - C. frozen, refrigerated
 - D. Removal of damaged areas, removal of foreign substances, cleaning
 - E. Oiled, painted or painted for rust prevention or protection.
 - F. sifting or screening
 - G. sorting, classifying, or grading
 - H. test or measurement
 - I. Modifying or clarifying markings or labels

- J. Addition of water, dilution, moisture absorption, salting, sweetening, ionizing
- K. Husking, shelling or unshelling, deseeding and freezing of fresh or chilled meat, simple cutting and simple mixing.
- L. In the case of importing HS 01 livestock specified in Annex 9 and slaughtering them in the relevant country, slaughtering of livestock raised in the relevant country for a period less than the period for each item specified in the same Annex Table
- M. Spreading out, crushing
- O. Simple processing activities that are separately determined by the Minister of Trade, Industry and Energy as processing that complies with the provisions of items (A) through (H).

② Criteria for determining country of origin

A domestic certificate of origin can be issued if it meets one of the two criteria below.

[1] When the HS code 6 units of supplied/delivered goods and imported raw materials is changed
→ If the manufacturing cost of the supplied/delivered product (the amount of factory supply price minus sales/administration costs and profits) minus the import price (CIF price) of imported raw materials is more than 51% of the manufacturing cost (domestic added value of more than 51%)

[2] When the HS code 6 units of supplied/delivered goods and imported raw materials has not changed.
→ If the manufacturing cost of the supplied/delivered product minus the price of imported raw materials is more than 85% of the manufacturing cost (domestic added value of more than 85%)

5. Conclusion

In two public bidding projects conducted after the introduction of the domestic origin certification system, problems were raised regarding the appropriateness of the current origin determination criteria. PCBs are used to produce AE type watt-hour meters, and most PCBs are imported from China. In meeting the current origin determination criteria, there is no difference between companies importing PCBs from China and those manufacturing them directly in Korea. Rather, it is advantageous to import Chinese products in terms of price competition, so it does not meet the original purpose of the system to protect domestic manufacturing.

The Ministry of Trade, Industry and Energy said at the first corporate briefing session on the system that it would evaluate the progress of implementation of the system and review whether to expand the items subject to issuance and revise the origin determination criteria. The possibility of revising the origin determination criteria, etc. cannot be ruled out.



Contents and Opinion of Customs Trade Amendment

Partial Amendment of the “Notice on Confirmation of Country of Origin (Comprehensive) Recognized by the Commissioner of the Korea Customs Service [Korea Customs Service Notice No. 2023-56, partially revised on September 7th, 2023]

1. Name of Administrative Rule

- 「Notice on Country of Origin (Comprehensive) Confirmation Recognized by the Commissioner of the Korea Customs Service」 (No. 2022-61, December 23, 2022)

2. Reason for Amendment

- Support exports utilizing FTA by streamlining the country of origin verification process for recycled products



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3. Major Amendment

□ Documents and items subject to the notification have been expanded so that recycled products certified as excellent recycled products can easily prove their country of origin with the corresponding certificate.

* Good Recycled Product Certification (Good Recycled, GR) system

- (Overview) A system to evaluate the quality and eco-friendliness of recycled products developed and produced domestically and certify them as superior quality products in order to reduce carbon and foster the resource circulation industry.

- (Basis) Article 33 of the 「Act on the Saving of Resources and the Promotion of Recycling」 and Article 2 of the Enforcement Rules of the same Act, Article 2 (5) of the 「Basic Law on Low Carbon, Green Growth」, and Article 15 (2) 6 of the 「Promotion Law of Industrial Technology Innovation」 and Article 17 (1) 3, Article 17 (2), and Article 57 (1) 10 of the Enforcement Decree of the same Act.

○ Designate 'Excellent Recycled Product Certificate' as 'Comprehensive Confirmation of Country of Origin Recognized by the Commissioner of the Korea Customs Service' ('Form 19' newly established)

○ Designate 25 items, including 'recycled powdered laundry detergent', as items subject to the 'Notice on Country of Origin (Comprehensive) Confirmation Recognized by the Commissioner of the Korea Customs Service' ('Appendix 6' newly established)

4. Effective date

Enforced on September 7th, 2023.

5. Opinions on Amendment

To prevent environmental pollution, countries around the world are making efforts to reduce carbon emissions. It appears that the Amendment of the notice was intended to reflect this global trend and provide convenience to exporters of eco-friendly products. This Amendment to the notice seems to be intended to promote sustainable, eco-friendly international cooperation beyond simply supporting domestic exporters.

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