

Entry into Force of the HS Nomenclature 2022 Edition

Introduction

The Harmonized System Nomenclature ("**HS Nomenclature**"), developed by the World Customs Organization (WCO), sets the global standard for the classification of internationally traded goods. The HS Nomenclature, which globally harmonizes HS codes at the six-digit level, determines customs tariffs, allows for the collection of trade statistics, and supports governments in regulating the international trade of goods.

The HS Nomenclature is updated every five years. The latest round of updates came into effect on 1 January 2022, introducing a total of 351 sets of amendments covering a wide range of goods, such as items in the agricultural, chemical, machinery and transport sectors. The amendments seek to address changes in trade patterns and new categories of products developed over the past five years.

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Summary of affected products

We set out below a non-exhaustive summarized list of products affected by the updates in the HS Nomenclature:



Edible insects
(0410.10)



*Mushrooms
(07.09)



*Pine nuts
(08.02)



Vape pens
(24.04)



Radioactive materials
(28.44)



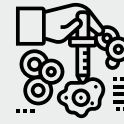
*Organic pollutants
(29.03)



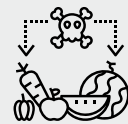
Halogenated derivatives of hydrofluorocarbons
(29.03)



Fentanyl and its derivatives
(29.33)





Cell cultures and cell therapy
(30.02)



Toxins
(3002.15)



 <p>Placebos and clinical trial kits (3006.93)</p>	 <p>Electric detonators (3603.60)</p>	 <p>*Rapid diagnostic kits (38.22)</p>	 <p>Mixtures containing hydrofluorocarbons (38.27)</p>	 <p>*Wood and articles of wood (44.03)</p>
 <p>*Glass fibers (70.19)</p>	 <p>*Biological safety cabinets (84.14)</p>	 <p>*Metal forming machines (84.62)</p>	 <p>*Machines for additive manufacturing (e.g., 3D printers) (84.85)</p>	 <p>Flat panel display modules (85.24)</p>
 <p>Electrical and electronic waste (85.49)</p>	 <p>Smartphones (8517.13)</p>	 <p>Electronic cigarettes and personal electric vaporizing devices (8543.40)</p>	 <p>*Heavy-duty vehicles with electric motors (87.04)</p>	 <p>Unmanned aerial vehicles (UAVs) (88.06)</p>
 <p>*Hazardous chemicals controlled under the Chemical Weapons Convention (CWC) and Rotterdam Convention, and for certain persistent organic pollutants (POPs) controlled under the Stockholm Convention</p>				

Items marked with asterisk (*): Changes cover various items under the subheadings.

Key implications

A change in the tariff classification for a product can lead to a range of duty, tax, origin and regulatory compliance implications. Businesses should, therefore, verify whether any of the amendments to the HS Nomenclature will result in a change of tariff classification for any of the products it imports into and exports out of the relevant jurisdictions.

Import duties and taxes

In particular, a product's tariff classification typically determines the customs duty, excise duty, anti-dumping, safeguard and countervailing duty, as well as indirect tax rate applicable when the product is imported into or exported from a jurisdiction. As such, an analysis on whether a change in the nomenclature would affect any of the input imported, as well as the output exported from any relevant jurisdiction, would be crucial to ascertain whether the



business will face any financial implication arising from the implementation of the new HS Nomenclature so that it is able to take steps to address such change (including a change in financial forecast and pricing, etc.).

Preferential tariff treatment

For manufacturers relying on a free trade agreement (FTA) to gain preferential tariff treatment when exporting its goods to another FTA member state, it would also be important to check whether any of its input or output is affected by the implementation of the new HS Nomenclature, as this may alter a business's ability to meet the rules of origin under the relevant FTA. Goods falling under a different tariff classification may be subject to different product-specific rules of origin. Further, a change in the tariff classification of either the raw materials or finished goods can also potentially affect the manufacturer's ability to meet the substantial transformation rule through tariff change. Where affected, businesses can consider whether any potential implication can be mitigated through the use of an alternative FTA with a lower regional content requirement or greater cumulation rule for origin calculation.

Existing import export licenses/permits/approvals

Certain goods are subject to import licenses/permits/approvals. These licenses may differ based on the tariff classification of the goods that the businesses seek to import and/or export. The updates to the HS Nomenclature may result in changes in the import/export licensing regimes in respect of certain products. Failure to obtain the necessary import/export licenses may cause an issue in the market-entry or customs clearance process. As such, it is necessary for businesses to check whether there will be any licensing implications arising from the new HS Nomenclature (e.g., whether the licenses should be updated, whether the product is no longer subject to import approval, etc.).

Ongoing dispute on classification

In certain jurisdictions, there is a lot of scrutiny from the local customs authority regarding tariff classification. Importers who are in dispute with the local customs authorities may want to consider whether the new HS Nomenclature proffers opportunities to optimize the outcome of the ongoing dispute in its favor or otherwise.

Conclusion

Traders should carefully verify whether amendments to the HS Nomenclature will impact the customs duties of products that they are seeking to import/export as the adoption of incorrect tariff classification may lead to import issues and post-import audits by customs authorities, leading to expensive investigations and potential penalties.

It is therefore important for businesses to review their inventories and supply chains to understand which of their products are affected, and implement system updates to account for HS code changes. Businesses should also update their freight forwarders and customs brokers at the earliest opportunity, such that correct declarations can be made and the risks of misclassification may be reduced.

Authors

Kelvin Hong (Senior Associate, Wong & Partners, Kuala Lumpur), Ivy Tan (Senior Associate, Singapore), Keerati Saneewong Na Ayudthaya (Associate, Bangkok), Nandina Kusumaningrum (Trade Specialist, HHP Law Firm, Jakarta) and Weng Keong Kok (Associate, Hong Kong)



Contact Us



Riza Buditomo

Partner

Riza.Buditomo@bakermckenzie.com



Anne Petterd

Partner

Anne.Petterd@bakermckenzie.com

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