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ZOOM IN TRADE

SHINHAN Customs Service Inc.



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和而不同* Tolerance and Harmonious

Grace Chang

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“
We need to spread our arms a little
wider and raise our gaze a little higher.
”



Trot, trot, trot! The little bird is scurrying around. It is a small bird with a body length of 10 cm and a weight of about 5 g. The yellow and red feathers on the head resemble the Sangmo worn by a farmer's folk band on their heads, hence the name Gold crest. It lives in coniferous forests in high mountains and feeds on insects such as caterpillars, aphids, and arachnids and brush seeds. It is distributed in North America and Eurasia and can be found in winter mountains near Seoul.**

There are some things we too need to learn from the strategy of the Sangmo Gold crests. First, the enthusiasm that runs around non-stop. It is reported that they look for food 45 times per minute. They scurry and fly ceaselessly to find the caterpillar larvae that are hiding in the ground. The second is harmony. Sangmo Gold crests survive the long, cold winter nights by sleeping in groups. To do this, from the day onwards, they constantly check with each other and their location. It is to gather friends that will spend the night together. What's even more amazing is that they survive the winter nights in groups not only with birds of the same species but also with other birds of different species as well.***

The enthusiasm and the strategies of 和而不同(화이부동) that small and cute birds use to overcome crises in a harsh environment should be learned by humans, who are a lot bigger in comparison and the lords of all creation.

Analysis on Recent Customs Judicial Precedent covers 'Propriety of Refusal of Penalty Tax Exemption Application for Amended Declaration Due to Error in Application of Agreed Tariffs (2021, 0102)', and Global Customs Insight is 'Enforcement of the U.S. Uyghur Forced Labor Prevention Act and our preparation, and FTA and import/export practical business guide is 'How to Apply for Approval of Use

Other Than the Intended Use Such As Customs Duties. In addition Contents and Opinion of Customs Trade Revision is ***'Partial Revision of 「Notice on Customs Clearance for Export」'***

Humans also try to form and stay in groups. For the people they love, they gather together. Sometimes, people gather together for their own safety and the need for someone to rely on. There are many reasons why people gather together, from the same area, attending the same school, or enjoying the same hobbies. There are groups of people who like the same person or the same group that gather together. It is a fan club of celebrities including celebrities in the entertainment business. They get together to honor their favorite celebrities. However, sometimes they go too far, and become reckless. They denigrate and criticize rivalry celebrities. They believe what they are doing will benefit the celebrity they follow. [It is a typical behavior of snobbish people who insist on being the same but cannot make harmony.](#)

It has been reported that there are people who followed the former president to the rural village where he currently resides, and are protesting through loudspeakers. In response, there are people who go to the current president's residence in the middle of downtown and turn on the loudspeakers to protest. [They coined the absurd term of a counterattack meeting. They come up with plausible reasons, but in the end their goal is to pursue their own interests.](#) They don't care about the damage they cause to others. They do not care about the safety of the people or the interests of the country.

There is only east or west, south or north. The southeast, northeast, or southwest in the middle cannot express their opinion. If they do, they have to take extreme and fierce criticism from both sides because there are [snobbish people who will fight fiercely if someone goes against their argument even a little.](#) But is it possible for anyone to agree 100% with someone? Is 100% objection possible? [There are some opinions that cannot be agreed, but there are thoughts that people should unite toward the same goal.](#)

[We need to spread our arms a little wider and raise our gaze a little higher. I wish we could look at this issues from high in the sky, not from this buzzing land.](#) If we look at the earth, which looks the size of a pea, Korea, and the people on the other side from a high place, won't our problems and hatred fade away? [Wouldn't we be able to shrug your shoulders and pat them with a smile? Couldn't we live like that?](#)

Even the little birds live in harmony.... May the human world be a world of harmonious and tolerant crowds!!

Thank you.

君子和而不同 小人同異不和

Confucius' Analects

A man of virtue (君子) tolerants each other's thoughts and makes harmony with others, but not at the cost of his personality or pride. However, snobbish people seek to be 'the same as others' by giving up all of their character to gain the advantage but do not make harmony.

*[Hwai Budong - Namu Wiki \(namu.wiki\)](#) [Analects](#) of Confucius This is a verse from Chapter 23

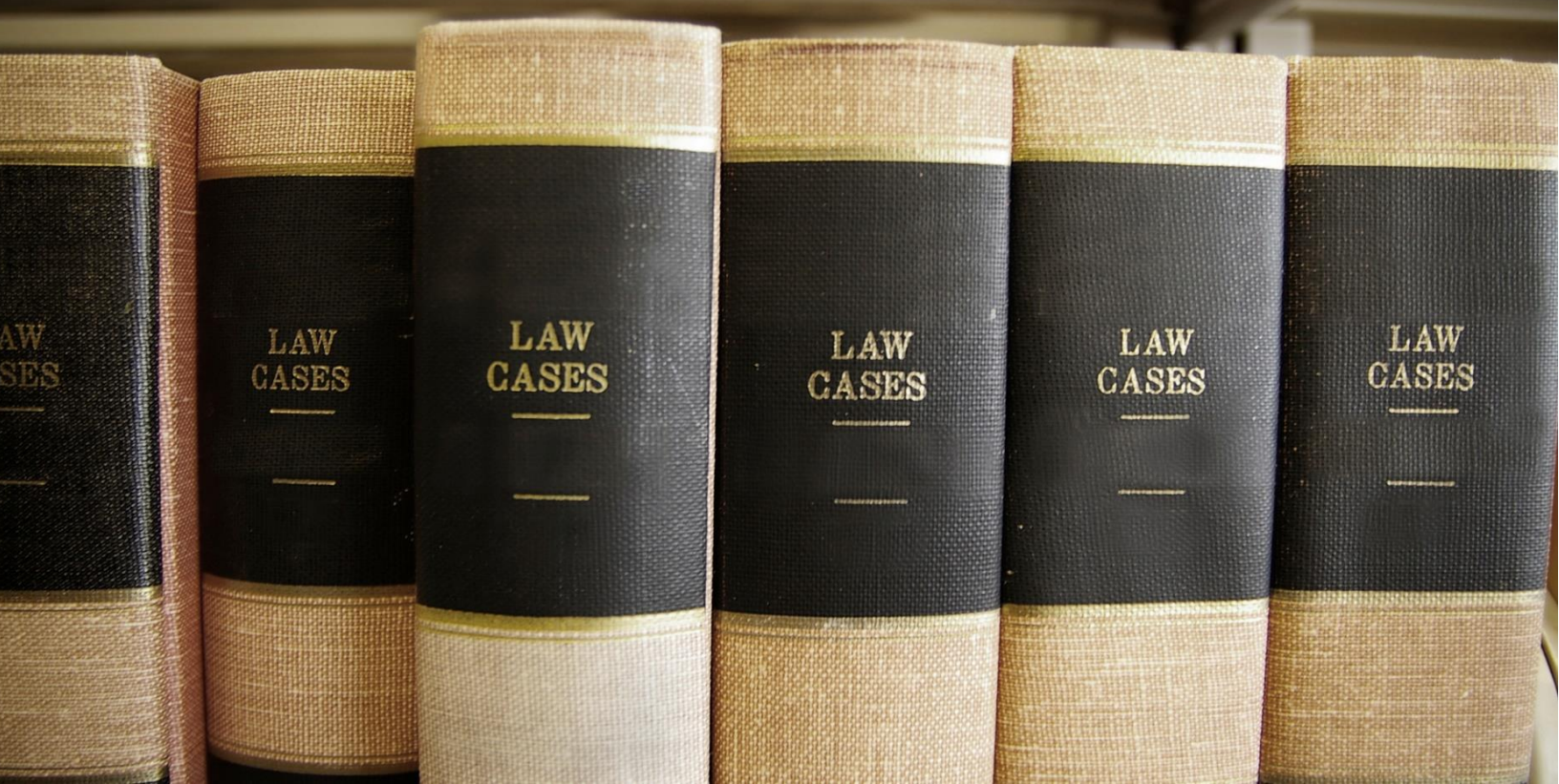
(Controlling Own Thoughts to Make Harmony, but Not Compromising His Personality)

<The Analects> [A gentleman mingles but not identical, snobbish people seek the sameness but no harmony: Naver Post \(naver.com\)](#)

**[Sangmo Gold crest - Wikipedia, Encyclopedia of All of Us \(wikipedia.org\)](#)

***[\[Seo Kwang-won's 'Ecology Walk for CEO' \(1\) | Animals get through the winter\] The secret of a 5g little bird overcoming the cold | JoongAng Ilbo \(joongang.co.kr\)](#)





Analysis on Recent Customs Judicial Precedent

Propriety of Refusal of Penalty Tax Exemption Application for Amended Declaration Due to Error in Application of Agreed Tariffs (2021, 0102)

1. Facts

- The claiming corporation imported the goods in question from September 27, 2016 to September 20, 2017, and reported the import by applying the Korea-US FTA tax rate to the disposition agency, and the disposition agency accepted it.
- After that, on April 12, 2021 the disposition agency notified the claiming corporation to check the appropriateness of the application of the agreed tariffs and correct it. The claiming corporation determined that the goods in question did not meet the Korea-US FTA origin determination criteria, and applied for penalty tax exemption. The disposition agency disapproved of the penalty tax exemption.



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- Duty Drawback

2. Judgment

(1) Claimant's argument

- The claiming corporation did not have a way to know the raw material supply route and the specific production process of the goods in question, and applied for the agreed tariff by trusting the certificate of origin provided by the exporter. This is the justifiable reason to exempt the penalty tax. In determining the criteria for the origin, there is a lot of information corresponding to the trade secrets of the exporter (manufacturer) such as manufacturing raw materials and the cost of materials. For this reason, it is too much to make the importer responsible to check whether the criteria for determining the origin on the certificate of origin are satisfied when the importer applied the agreed tariff by trusting the certificate of origin provided by the exporter.

- The claiming corporation tried to contact the exporter in question to confirm the origin of the item in question after receiving the voluntary inspection notice from the disposition agency for the item in question, but the exporter went out of business so it was impossible to confirm the origin. With the help from the customs broker, it was confirmed that the actual manufacturer was AAA. If the claiming corporation was suspected of applying the incorrect origin to the goods in question, the disposition agency would have notified the origin investigation rather than the self-inspection guide. Therefore, the refusal to approve the application for an exemption of the penalty tax is unfair since the claiming corporation found an error in the self-inspection and applied for an exemption of penalty tax before making a revised declaration.

-When the import declaration of the item in question was made, the part where reporting the origin determination criteria as value-added standard in the application form for the agreement tariff rate is a simple declaration error by the customs broker acting on behalf of the importer, and it is unreasonable for the disposition agency to assert the negligence of the importer for this reason. Therefore, this refusal is unfair because in respect of import declarations with different exporters and import dates, it is impossible for the claiming corporation to recognize in advance that the origin of import declarations made to other

exporters is wrong only by the fact that one of them has been investigated in writing.

(2) Disposal Agency's argument

-The claiming corporation argues that there are justifiable reasons for the claiming corporation to be exempted from penalty tax on the insufficient amount of tax on the item in question in light of the fact that ① It is hard to say the claiming corporation is at fault for the reliance on the certificate of origin provided by the exporter in question; ② It cannot be considered that the claiming corporation was aware in advance there is an error in the certificate of origin just because there was an written investigation on antecedent investigated item. However the application of agreement tariff can be made when legal and valid documentary evidence is in place, and it is entirely the importer's responsibility to check whether the necessary requirements for proof of origin have been met.

- Despite the fact that the criteria for determining the origin applied to the item in question in the Korea-US FTA is the HS 2 unit change in tariff classification, the claiming corporation has described the criteria for determining the origin of the item in question as the standard for changing the value added on the application form when applying for the agreement tariff. As such, the claiming corporation made no effort to check whether the item in question meets the criteria for determining the origin before import declaration of the item in question was made, and failed to check the criteria for determining the origin applied to the item in question under the Korea-US FTA agreement. So, there is a serious fault for claiming corporation for not fulfilling the minimum good faith responsibility required of an importer who intends to apply the agreement tariff.

- Therefore, in the application of the agreement tariff for the item in question, the claiming corporation is at fault for not fulfilling even the minimum responsibility of giving caution in relation to the country of origin, so it cannot be considered that there is a justifiable reason for exempting the penalty tax and the decision of refusal is appropriate.

3. Conclusion

As a result of the request for adjudication, it was determined that there was no wrongdoing in rejecting the application for exemption of penalty tax. In light of the points that the claiming corporation applied for an agreed tariff based on the certificate of origin of the exporter in question, in which the origin determination criteria was set as the value-added standard, even though the origin determination criteria of the item in question was the HS 2 unit change in tariff classification, and the claiming corporation failed

to submit objective evidence proving the fact the inquiry was made to AAA, the exporter or producer, in advance to check the criteria for determining the origin were satisfied, it is difficult to see the claiming corporation paid sufficient attention to the management of the country of origin for the application of the tariff agreement.

4. Implications

There is an increasing number of requests for amended declarations, additional collections, and appeals for tariff due to FTA autonomous inspections or country of origin investigations. As implied by this precedent, if an import declaration is to be made by applying the FTA agreed tariff, the importer and the customs office as an import declaration agent should give sufficient caution for the application of the treaty tariffs with the understanding of the FTA agreement and examination of the necessary requirements for FTA origin certificate.



Global Customs Insight

Enforcement of the U.S. Uyghur Forced Labor Prevention Act and our preparation

After the Uyghur Forced Labor Prevention Act came into effect from June 21, 2022, all products produced in the Xinjiang Uyghur Autonomous Region, China, was deemed to have been produced by forced labor and a US import ban was put in place. It is a strong measure to block entry to the US market of raw materials as well as final finished products produced by forced labor in Xinjiang, China. It is necessary to check all details of measures prior to the export when exporting to the US directly or through the third country.



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1. Background

Section 307 of the U.S. Customs Act (1930) prohibits any goods manufactured, produced, or mined wholly or in part by forced labor. The CBP prohibits any goods manufactured or produced in a foreign country where forced labor has been used or suspected, and a Withhold Release Order (WRO) may be placed to prevent entry at any port of the United States.

Section 307 (§ 307) of the U.S. Tariff Act (19 U.S.C. §1307) "All goods, wares, articles, and merchandise, mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/ and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, ..."

According to the data reported to the U.S. Congress, the CBP has started the implementation of a WRO on certain items of Chinese companies related to forced labor (cotton, tomatoes, polysilicon, hair products, etc.) in 2019 to block goods produced under the oppression of freedom and forced labor for ethnic and religious minorities in China's Xinjiang Uyghur Autonomous Region. The Uyghur Forced Labor Prevention Act, which came into effect on June 21, 22, has **been extended to all products produced in Uyghurs, not specific items**, requiring exporters and importers to prepare and respond in advance when exporting to the United States.

2. Target

Targets include products that are produced, manufactured, mined, etc. in whole or in part in Xinjiang Uyghurs, China, or products produced by combining these raw materials in areas other than Uyghurs and in third countries. For example, if Uyghur cotton is used to make textiles and clothing in Vietnam, and exported to the United States, or if Uyghur tomatoes are imported from Italy to make tomato sauce, canned tomatoes,



<Xinjiang Uyghur Autonomous Region, China>

Image Source: Wikipedia

and exported to the United States, the import of those products in the United States is banned.

3. Procedures

In order to avoid detention of goods at customs at the port of entry, the importer must submit clear evidence within 30 days proving that the goods to be imported were not produced in whole or in part by Xinjiang Uyghur forced labor in the supply chain. The importer must strategically comply with CBP's guidelines and be fully responsive to all inquiries from CBP, and must provide clear and convincing evidence in English that the goods were not produced by forced labor, in whole or in part. The evidence required to resolve the customs' presumption under the Uyghur Forced Labor Prevention Act has higher standards than the level required to be documented by the WRO under the Customs Act.

If the CBP determines that the goods to be imported are not related to Xinjiang Uyghur forced labor, the detention will be released under the condition that you comply with US laws. If the cargo is determined to be detained, the importer must re-export, relinquish the right to the cargo, or find a way to release it. This can increase the burden of time, effort and logistics costs for the importer.



4. Our preparation

Since the raw materials required for the production of goods can be supplied from all over the world, it is critical to check and manage the supply chain and the sources of the country of origin of raw materials for each part of the production.

For example, when exporting cotton T-shirts to the United States, it is necessary to indicate the entire supply chain from cotton harvesting to T-shirt making, identify the parties involved in the process, and provide proof of the acquisition process. Since the importer must carefully check the supplier and manage the country of origin, and submit reliable data, the exporter also has the obligation to record and prove that there was no forced labor from the process of supplying the goods to the importer at the contract

stage. Pre-inspection and management for each manufacturing process is required as to whether a company falls under the UFLPA Entity List announced by CBP in advance, or whether it is produced in Xinjiang and combined in a third country. It needs to be recognized that not only the United States but also the EU, Canada, and Australia are moving to regulate the import of forced labor products, and that the use of forced labor can act as an obstacle not only in ethical issues, but also in commerce.

Reference:

- 1) Xinjiang Uyghur Autonomous Region WRO Frequently Asked Questions | US Customs and Border Protection (cbp.gov)
- 2) Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China (Report to Congress, June 17, 2022)
- 3) Uyghur Forced Labor Prevention Act (UFLPA) Public Law No. 117-78 December 23, 2021 Importer Overview
- 4) Forced Labor | US Customs and Border Protection (cbp.gov)
- 5) Main contents and implications of the US 'Uyghur Forced Labor Prevention Act' (Korea Institute for Foreign Economic Policy 22.06.20)

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FTA and import/export practical business guide

How to Apply for Approval of Use Other Than the Intended Use Such As Customs Duties

1. Overview

One of the tasks that a person in charge of the import customs experiences at least once is to apply for approval of use other than the intended use. It is the task that needs to be taken care of when the shipper theoretically understands the concept of the usage tax rate but the shipper cannot use the imported goods for the intended purpose due to a specific reason, or an item that has actually been granted for the re-export reduction but cannot be re-exported. Hereinafter, we will look at how to apply for approval of use other than the intended use



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2. Relevant laws

Customs Act Article 83 Usage Tax Rate

Customs Act Article 97 Tax Exemption for Re-export

Customs Act Article 103 Use of Customs Reduced Goods for Other Purposes

Customs Act Article 107 Installment Payment of Customs

3. Items subject to application for approval of use other than the intended use

Based on applicable laws and regulations, among goods that the usage tax is applicable, goods that the re-exportation tax is reduced or exempted, goods for which customs duties have been reduced, of goods that installment payment is approved, when the goods cannot be used for the intended use purpose or purpose of reduction or exemption or when payment in installments becomes impossible, the shipper may directly apply for an application for approval of use other than the intended use, or a customs broker who handled the customs declaration may apply on the shipper's behalf.

In fact, the applications for UniPass are divided into the following categories.

신청인

| | | | |
|----------|---|---------|----------------------|
| 신청서구분 | <input checked="" type="radio"/> 용도외사용 <input type="radio"/> 양수도 <input type="radio"/> 임대 <input type="radio"/> 면제 | | |
| 적용물품구분 | <input checked="" type="radio"/> 관세감면 <input type="radio"/> 불합납부 <input type="radio"/> 용도세율적용 <input type="radio"/> 자수출면세 | | |
| *사업자등록번호 | <input type="text"/> | 상호 | <input type="text"/> |
| *대표자 성명 | <input type="text"/> | *사업인 종류 | <input type="text"/> |
| *주소 | <input type="text"/> | | |

4. Preparation of Product Specification for Use Other Than the Intended Use

In the application for approval of use other than the intended use, basic applicant information, company information, and the items to be changed are written.

Then the product specification for use other than the intended use among the import declared items is prepared. Applicable items are listed in the actual import declaration certificate.

Even if the import declaration certificate of the shipper is processed through a customs agency other than the customs agency who did the import declaration, the information inquiry can be made when the shipper authorizes the right to view inspection information. The information on the tax reduced products can be registered with the import declaration number.

용도와 사용(양도,양수,임대)물품 명세

*정보조회는 납세의무자(화주)로부터 권한위임을 받아야 합니다.

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| | | | |
|-------------|------------------------|-----------|------------------------|
| *수입신고번호 | <input type="text"/> | | |
| 수입신고수리일자 | | 통관지세관 | |
| 당초감면(분납)법조항 | <input type="text"/> | 관세감면(분납)액 | ₩ <input type="text"/> |
| 이미 납부한 관세액 | ₩ <input type="text"/> | 적용용도세율 | <input type="text"/> % |
| 당초용도 | <input type="text"/> | | |

When preparing the specifications of the import declaration certificate in the Unipass, the actual change in declared quantity, etc. must be accurately written. The head of the relevant import declaration department may directly figure out the basis of calculation of the customs amount changed or calculate the additional customs tariff due to the approval of use other than the intended use, and request to submit the basis of calculation of the tax amount.

Additional customs tariff, etc. can be paid within 15 days from the issuance date of the notice as follows.

납부고지서 겸 영수증서[납부자용]

(1쪽)

관세납부전용계좌 : 농협 790-0278-9659-445

| | | |
|------------|------|--------------|
| 회계구분 | 회계년도 | 세관사업자번호 |
| 관세청소관 일반회계 | 2022 | 224-85-25114 |

| | |
|------|---------------|
| 납부기한 | 2022년 06월 30일 |
| 발행일자 | 2022년 06월 15일 |

5. Remarks

Application for approval of use other than the intended use can be made electronically by attaching a statement of reason for application for other usage approval and related import declaration certificate through Unipass. Since the normal processing period is set to 4 days, when the period has elapsed, you should check whether there is a delay in processing by phone.

You can check the bill of customs duties to be paid additionally through Unipass after approval. If you cannot verify the approval, you should get the bill via fax and pay it within the due date.

In particular, in the case of import under re-export conditions, the customs officer must check the re-export period and confirm the progress of export, then check whether the re-export is reported. If the re-export is not done, inform the shipper to apply for the approval of use other than the intended use so the shipper does not pay the penalty.



Contents and Opinion of Customs Trade Revision

Partial Revision of 「Notice on Customs Clearance for Export」

1. Reason for revision

[Support for e-commerce export companies]

- ☐ Export performance is recognized even when an export declaration is made through the export list conversion declaration system*. Provides the same benefits as a general export declaration

* In the case of a manufacturer, a simple fixed amount refund is possible, and when re-importing, it is recognized as a tax-free subject.



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[Improvement of list clearance system]

- ☐ Improving duplicate handling procedures for traveler's carry-on items and resolving practical difficulties
- ☐ Establishing business processing basis by reorganizing regulations such as new regulations for omitting list clearance inspection

[Reflection of amendments to the Customs Act, etc.]

- ☐ Updating and unifying regulations by reflecting the amendments to the Customs Act

2. Major revisions

[1] Support for e-commerce export companies

- 「Notice on Export Clearance Customs Processing」 (Simple) Amendment of export declaration form (Annexed Table 12, etc.)

[2] Improvement of list clearance system

- Exclude traveler's carry-on items (Article 246 (4) 1 of the Enforcement Decree) from the list clearance items (Article 36).
- For traveler's carry-on items, there is an export declaration procedure pursuant to 「Notice on customs clearance for traveler's or flight attendant's carry-on items」, list customs clearance is an unnecessary duplicate procedure.
- The procedure for submitting an invoice for traveler's carry-on items is realistically difficult.
- Clarify the distinction of submission for list clearance documents and electronic documents (Articles 38 to 45)
- Ease the inspection requirements of goods declared for list customs clearance and newly establish the regulation for omission(Article 40)

- Currently the inspection is omitted when necessary so this needs to be reflected in the regulation.

[3] Reflection of amendments to the Customs Act, etc.

- o Add refundable goods pursuant to Article 106-2 (1) 3 of the Customs Act to the list customs clearance items (Article 36 (1) 9)

- Reflect the newly established Article 106-2 (1) 3 of the Customs Act*

* (New content) Consignment goods or postal items for which export declaration is omitted pursuant to Article 241 (2) of the Customs Act, which are less than the amount prescribed by Ordinance of the Ministry of Strategy and Finance ...

[4] Clauses are moved according to the workflow, and the terms are refined and the articles are rearranged according to the 「Standards for making easy-to-understand laws」

- o Move the article for export reporting of inspection objects (Article 52-5 to Article 17-(4)3)

3. Effective date

May 12, 2022

4. Comments on the revision

As the scope of recognition of export performance increases, it is expected that e-commerce exporters will receive various benefits including refunds and tax exemptions. In the case of inventory customs regulations, it has been revised to fit the practice.

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