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ZOOM IN TRADE

SHINHAN Customs Service Inc.



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My father

Grace Chang

CEO/Customs consultant

“
Thank you again for sending
warm consolation.
”



I finished the funeral praying that my father would go to heaven in peace.

Many people sent warm consolation, and I believe that my father, who is leaving, was also pleased. Thank you from the bottom of my heart for sending me messages, visits, and beautiful condolence flowers.

He started a business with his bare hands in a poor country after the war and spent his whole life for his children and company. He could have been a little more relaxed, he could have been a little more comfortable... He always clenched his fists and lived his life doing his best until the end. He did not succumb to a chronic illness for 40 years and took good care of his health, and even after his wife left, he steadfastly overcame the pain.

Ideal and Reality for this month is 'AliExpress, an Overseas Direct Purchase Site Now as of July 25, 2023'; Analysis on Recent Customs Judicial Precedent covers 'In relation to the application of the conventional tariff rate related to the item at issue, request for claim that the ship at issue loaded with the item at issue should be regarded as being brought into Korea based on the time of arrival in the exclusive economic zone.', and HS case solved by logic reports 'Item classification for waste lead-acid batteries' and Global Customs Insight is 'Goods subject to US-China retaliatory tariffs and criteria for determining them', and FTA and import/export practical business guide is 'Electronic Origin Data Exchange System



(EODES); Contents and Opinion of Customs Trade amendment Covers 'Announcement on import customs clearance of moving goods' (Notice No. 2022-2 of the Korea Customs Service, enforced on January 1, 2022)'

However, over the past month or so, his health has deteriorated rapidly. He wanted to be at home and not in the hospital. He spent time with his family, including his great-grandchildren, and ate rice gruel little by little.

And, while sleeping, he died quietly. (Friday, July 21, 2023 at 7:00 AM)

I am grateful that he stopped breathing in peace because there was no great pain on the way to the end.

I still don't realize that I am stepping out of the shadow of my father and president who protected me like a mountain with great love. There is also the fear of not being able to overcome it well... However, I will make up my mind to honor his will...

We offer a prayer of thanks, believing that you would have been delighted to meet your beloved wife and beloved son in heaven.

Thank you again for sending warm consolation.

July 25, 2023

Grace Jang



Ideal and Reality
**AliExpress, an Overseas Direct Purchase Site
Now as of July 25, 2023**

China's AliExpress, an overseas direct purchase site, is rapidly targeting the Korean market this year. Sooner or later, not only Seoul's Dongdaemun Market and Namdaemun Wholesale Market, Busan's Gukje Market and Seoul's Seomun Market, but also small merchants selling miscellaneous goods, daily necessities, electrical appliances, and electronic devices may disappear.

In a competitive society, it is natural to provide better products and services to consumers, but policymakers must institutionally compensate for the strengthening of monopolies by taking advantage of systemic loopholes.

Let's take a look at AliExpress as of July 25, 2023.



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The person in charge of overseas direct purchase policy may already know what we are talking about. That is, they are aware of it. However, it is not right to be aware and not take action in one's position or to suggest solutions in the wrong way.

Let's take a look for those who don't know

The first thing that stands out on the AliExpress platform is the lowest price supply.

Baseball caps, belts, and sunglasses are sold for 99 won. It's not a typo, it's actually selling for just 99 won. It seems to be a dumping price, but it is necessary to check whether Ali Express, a platform rather than an individual store, is involved, increasing the number of members, and using predatory pricing to drive out competing platform operators such as 11th Street, Naver, and Gmarket in the market. It is the task of the Fair-Trade Commission, and if the committee regulates only platform operators with business establishments in Korea, it must think about how to limit competition in the commercial space where the distinction between offline and online has already disappeared.

With the intention of raising prices tomorrow to the level of a monopoly, Ali Express sets prices low today and implements a low-price policy with the idea that it can drive out Korean platform competitors as a means to kill rival companies, which are the most powerful weapon of monopoly. Shortsighted consumers give in thoughtlessly to the temptation to take advantage. Even though consumers know that it is a means to monopolize them, and consumers know that if competition is eliminated, they will suffer the damage of monopoly, but when a monopoly situation arises, consumers mistakenly believe that there will be other options for themselves.

The second noticeable thing is that wireless devices and communication devices are also imported without certification.



Wireless and wired communication devices such as walkie-talkies and Ethernet switches are strictly managed by the National Agency for Technology and Standards in order to maintain high-quality wireless and wired communication through stable use of frequencies. If the overseas direct purchase products are imported thoughtlessly, the quality of wired communication devices may be affected. The Radio Research Institute and the National Agency for Technology and Standards must come up with regulatory measures for overseas direct purchase products that use electricity, radio waves, and wired cables.

Cisco's Ethernet switch (line distribution function), WS-C2960S-48TS-L, costs 1.4 million won in Korea and 350,000 won on AliExpress. If it is a genuine product, CISCO has so far overcharged it only in Korea. If it is a counterfeit product, the customs must ensure that it is not imported and distributed. In the case of wireless devices and communication devices, most of them are imported without type approval or radio wave certification for wireless communication devices. In many cases, they are for business use rather than personal use. Considering the price, it may be a counterfeit product that copied the brand and the device.

The third thing that stands out is that pharmaceuticals and health supplements are also subject to customs clearance without approval from the Ministry of Food and Drug Safety. The product name Speman is a nutritional tonic, but it is imported without any judgment as to whether it is a medicine or a health supplement. It is not confirmed whether it is hype or who the seller is.

For ginseng and red ginseng products, import customs clearance without food inspection is made, and the health supplements in the range of 50,000 won to 170,000-180,000 won make up the most products to get tax exemption of less than USD 150. The problem is that as of 2023, more than 15 million cases of health supplements and more than 10 million cases of food products will be imported through overseas direct purchase. If more than 10 million Koreans are importing it, it can be said the health of the people is not protected by the Ministry of Food and Drug Safety .

If tens of millions of items that are unknown in terms of ingredients and condition are imported without any inspection or verification, it is inevitable to conclude that the Ministry of Food and Drug Safety's Food and Drug Administration is not interested in the health of the people. Wouldn't it be better to abolish the imported food inspection system for all food imported by companies, and when problems arise, either the company or the individual should be held accountable? If food inspection is exempted for personal customs clearance of overseas direct purchases, it is necessary to listen to the thoughts of the person in charge of the



Ministry of Food and Drug Safety, who agreed to the idea when establishing the self-clearance standard in the first place, to see if it is because of the idea of dispatching Ministry of Food and Drug Safety staff to the airport and creating a department to increase the number of positions.

The fourth thing that stands out is that finished cosmetics are also cleared through customs without a standard customs clearance schedule report under the Cosmetics Act. China has significantly strengthened import regulations on cosmetics, and Korean cosmetics are experiencing difficulties in exporting to China, while cosmetics imports through overseas direct purchases are being cleared through customs defenselessly. Korean cosmetic companies equipped with research institutes and laboratories to develop products import cosmetics and cosmetic raw materials whose safety has been confirmed. However, the products imported through overseas direct purchase are not tested or checked for the ingredients, and the consumers have to bear the risks. The cosmetic department of the Ministry of Food and Drug Safety does not seem to care about it.

Medical devices for removing tattoos and beauty devices such as massagers are also imported and cleared for personal use. In fact, there will be very few cases where an individual uses a tattoo remover that uses electricity heat. It is a problem that it is cleared as a personal item even though it is not for personal use, but it is definitely a problem in itself to exempt items subject to safety inspection as personal use.

On the other hand, it seems that the Ali Express platform is trying to prevent counterfeit products with an intellectual property infringement report screen, but there are actually many items that appear to be counterfeit products. In other words, everyone knows that while pretending to manage on the outside, it is actually just a business system created in case problems arise. Based on experience, a customs import official can find items suspected of being counterfeit if he searches the AliExpress site for a day.

The Fair-Trade Commission, Customs, National Agency for Technology and Standards, Radio Research Institute, and Ministry of Food and Drug Safety conduct all sorts of investigations to impose severe punishment on goods imported by domestic companies, even for minor violations of procedures. But over 100 million overseas direct purchase products that are imported by Ali Express platform or other purchase agencies are being cleared defenselessly as self use products.



Of course, I know that customs officers at the customs clearance area for overseas direct purchases inspect the products while inhaling dust from all kinds of unstandardized boxes and sweating in the hot summer and cold winter. I know this well because I have done the same thing for 10 years in import customs clearance and express delivery.

The heads of ministries and working-level agencies related to overseas direct purchase have changed, and visit the site. A press release is issued stating that inspections will be strengthened as a measure to prevent illegal imports of overseas direct purchase items, and the media will report it. However, fundamentally, the problem is solved and public safety is guaranteed only when the regulations are amended so that the safety management of overseas direct purchase products is at the same level as that of general imported products. The public should not be fooled by the useless voice of strengthening inspections when the manpower is the same. If the person in charge has recognized the problem, he must have the courage to actually take action.

As of 2022, the amount of overseas direct purchases exceeded 5 trillion won, and the number of cases exceeded 100 million cases, exceeding the number of general import customs clearance cases, and will soon exceed 200 million cases.

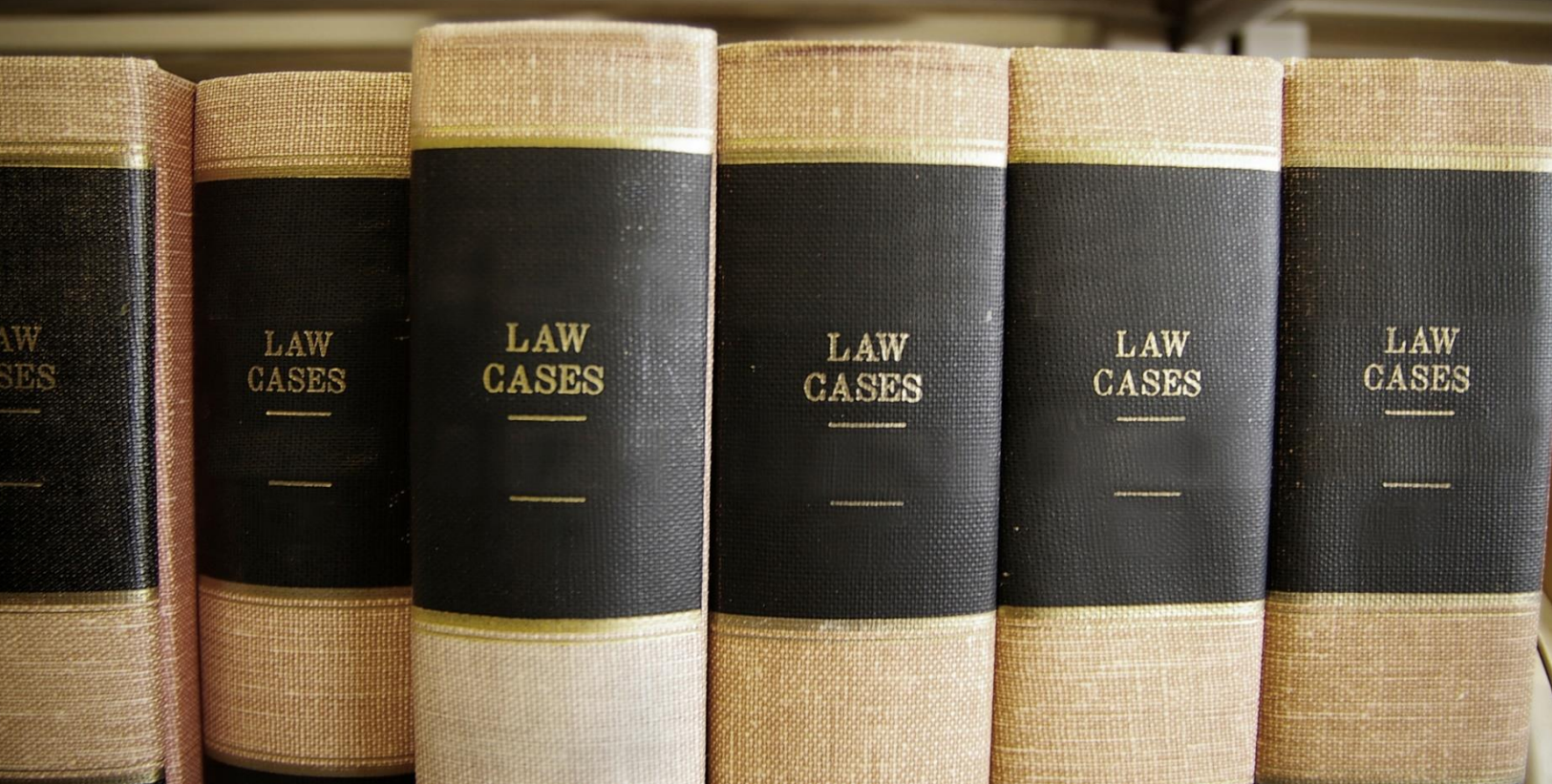
Regulations should block what should be blocked and release what should be released. Rather, while easing corporate regulations, management should be strengthened for public safety, but overseas direct purchases are doing the opposite.

This problem should not be covered up by telling the customs officer who opens and carries the heavy boxes in the dust on the express delivery area of overseas direct purchase goods to conduct thorough inspections. The Ministry of Strategy and Finance, the Fair-Trade Commission, the Ministry of Trade, Industry and Energy, the Korea Customs Service, the Ministry of Food and Drug Safety, the National Agency for Technology and Standards, and the Radio Research Institute should discuss the standards for self-clearance of goods purchased directly from overseas.

First of all, we ask you to visit the AliExpress customs clearance site first. The problem needs to be recognized, and once recognized, the action needs to follow. When you are in a responsible position, you must make every effort to correct wrongs and prevent the things that harm the safety of the people. A



public office position is not a place to pass by to build a career. The standards for self-use of products purchased directly from overseas must be quickly revised jointly with related organizations. If current conditions continue, both domestic importers and wholesale markets may collapse.



Analysis on Recent Customs Judicial Precedent

In relation to the application of the conventional tariff rate related to the item at issue, request for claim that the ship at issue loaded with the item at issue should be regarded as being brought into Korea based on the time of arrival in the exclusive economic zone.

1. Facts

- 1) On April 30th, 2021, the claiming corporation imported fresh potatoes for chips (WTO non-recommended tariff rate of 304%, hereinafter referred to as "items at issue") classified under heading 0701.19-0000 on Customs duty HSK with import declaration number OO from AAA located in OO. The import declaration was made before entry with the 0% of the conventional tariff rate applied only to fresh potatoes imported from December 1 of each year to April 30 of the following year (hereinafter "S-1 low tax rate") according to the Free trade agreement between Korea and OO government" (hereinafter referred to as "Korea-OO FTA"), and on May 6, 2021, the head of the OO customs office accepted this.



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- 2) The disposition agency confirmed that even though the ship loaded with the items at issue (OO, hereinafter referred to as "the ship at issue") entered Korea on May 1, 2021, the S-1 low tax rate was applied to the item at issue. So the disposition agency excluded the S-1 low tax rate applied to the item at issue and applied the Korea-OO FTA agreement tariff rate of 141.8% (hereinafter referred to as "S-1 high tariff rate") which is the rate applied to fresh potatoes imported from OO from May 1 to November 30 every year. On May 24, 2022, the disposition agency corrected and notified the claiming corporation of the sum of OO won for customs duties and OO won for additional taxes (hereinafter referred to as "disposition at issue").
- 3) The claiming corporation objected to this and filed an appeal for review on August 22, 2022.

2. Argument of claiming corporation and opinion of disposition agency

1) claiming corporation's argument

- (A) Since the ship at issue passed through the Exclusive Economic Zone (EEZ) on April 30, 2021, the item at issue was brought into Korea on April 30, 2021, so the import declaration before entry into the port is valid.
- (B) Even if the ship at issue has entered the port on May 1, 2021, it has entered the port within 5 days of the import declaration of the item at issue due to unavoidable reasons, so the import declaration before entry into the port is valid.

2) Opinion of the Disposition Agency

- (A) Since the item at issue arrived in Korea on May 1, 2021, they are not subject to the S-1 low tax rate.
- (B) The delay in the entry of the ship at issue is only the result of the slowing down of the vessel's discretionary judgment, and cannot be regarded as due to unavoidable reasons such as bad weather.

3. Hearing and Judgment

1) Facts

- (A) According to the data presented by the claiming corporation, the import shipment list for the item at issue was submitted on April 29, 2021, and

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the screening was completed on the same day. On April 30, 2021, the import declaration was made before entry. The first entry report date for the ship in question was April 30, 2021, but the final entry report date was May 1, 2021. The date and time the ship at issue reached the exclusive economic zone was at 22:00 on April 30, 2021, but the date and time of arrival (berthing) at OO new port appears to be 17:06 on May 1, 2021.

- (B) Article 244, Paragraph 1 of the 「Customs Act」 stipulates that, when prompt customs clearance is required, an import declaration can be made before the vessel or aircraft loaded with the relevant goods arrives in port as prescribed by the Presidential Decree. In this case, goods that are declared for import before entry into port are considered to have arrived in Korea. Article 249, Paragraph 3, Subparagraph 1 of the Enforcement Decree of the same Act stipulates the import declaration must be made after the loaded vessel, etc. 'arrives in Korea' for goods subject to or expected to be subject to laws and regulations requiring increased tax rates or new import requirements.
- (C) On July 24, 2019, the Minister of Strategy and Finance replied that regarding the import declaration before entry, 'arrival in Korea' in Article 249, Paragraph 3 of the 「Enforcement Decree of the Customs Act」 is, in principle, the time when the goods arrive in Korea's territory, such as the territorial sea. Even if entry to the port is made after 5 days have elapsed from the import declaration before entry due to the unavoidable reasons such as bad weather, applicable laws and regulations are applied at the time of import declaration and arrival in Korea.. The Minister replied (Customs System Division-646) to the effect that the acceptance of the import declaration was valid unless the effect of the import declaration was affected, such as a change in the tariff rate or the nature and quantity of the relevant goods.
- (D) In the data related to the exclusive economic zone and continental shelf from the Ministry of Maritime Affairs and Fisheries submitted by the requesting corporation, the exclusive economic zone is indicated outside the territorial waters of Korea. According to the results of the tracking inquiry of the ship at issue submitted by the disposition agency, the ship at issue appears to have entered Korean territorial waters on May 1, 2021.
- (E) According to the details of the change in the schedule of the ship at issue submitted by the claiming corporation, on April 27, 2021, the ship at issue was scheduled to arrive at 16:00 and dock at OO New Port Pier at 17:00 on the same day. But on April 30, 2021, the entry to the port time was changed to

04:00 on May 1, 2021, then it was changed to enter the port at 11:00 and dock at the pier at 12:00, and finally it was notified to dock at the pier at 17:04 on May 1, 2021.

2) judgment

The claiming corporation argues that the ship at issue reached the exclusive economic zone on April 30, 2021, and the item at issue was brought into Korea on April 30, 2021. Even if the ship at issue entered the port on May 1, 2021, it is due to unavoidable circumstances caused by the COVID-19 pandemic, so the import declaration before entry is valid. Therefore the S-1 low tax rate should be applied to the item at issue.

However, according to Korea-OO FTA, since the S-1 high tax rate is applied to fresh potatoes brought into Korea after May 1, 2021, the import declaration of the item at issue must be made after the ship arrives in Korea, not the import declaration before entry. The Korea-OO FTA stipulates that the concession tax rate table that is applied to imported goods to Korea to be determined based on HSK. Also in Article 2, Paragraph 12 of the Enforcement Decree of the FTA Special Customs Act and <Attached Table 13>, in relation to the application of S-1 low tax rate and S-1 high tax rate, it stipulates "limited to the seasonal import item". There is no definition of "import" in the FTA Special Tariff Act, and the 「Customs Act」 defines "import" as 'foreign goods arriving in Korea' or consumption or use of foreign goods in Korea.

The fact that the Minister of Strategy and Finance authoritatively interpreted the meaning of 'arriving in Korea' as having reached the territory of Korea, such as territorial waters, and the ship at issue appears to have reached Korea's territorial waters on May 1, 2021 after passing through the exclusive economic zone, not Korea's territorial sea on April 30, 2021. The item at issue does not appear to be subject to import declaration before entry,

According to 「Customs Act」 Article 244 Paragraph 6 and Article 2 of the Import Customs Clearance Notification, etc., the criteria for entry or arrival in Korea must be determined based on the time of the final port entry report. The final entry report for the ship at issue was made on May 1, 2021. Article 1.4 of the Korea-OO FTA and Article 2, Item 1 of the Enforcement Rule of the Special Customs Act of the FTA do not explicitly stipulate that the exclusive economic zone is included in the territory of the Republic of Korea. Article 7, Article 3 of the Import Customs Clearance Notice indicates that in the case of entry into a port after 5 days due to unavoidable circumstances such as bad weather, the import declaration before



entry is recognized as valid in case the effect of the import declaration is the same, such as the application of relevant laws and regulations at the time of arrival of the goods and there is no change in the tax rate.

However, in light of the fact that the item at issue have different tax rates, it seems difficult to apply the above exceptions to the import customs clearance notice, and objective data that can conclude that the entry of the ship at issue was delayed due to unavoidable circumstances such as bad weather was not submitted. it is judged that there is no error in the disputed disposition made by the disposition agency in which tariffs, etc. were levied by applying the S-1 high tax rate to the item at issue considering the item at issue was imported on May 1, 2021.

4. Implications

When using declaration before entry for import declaration within the valid period of the letter of concession recommendation, etc. to get applied for the agreed tariff rate, it is stipulated that the import declaration must be made after the transportation means in which the item is loaded "arrives in Korea". In this case, it is necessary to clearly recognize the scope of the Korean territory. Also it is necessary to prohibit arbitrarily expanding interpretation of "unavoidable reasons" such as bad weather in the delay of the arrival of the transportation means, and to be able to prove that it was inevitable through objective data.



HS case solved by logic

Item classification for waste lead-acid batteries

1. Overview

As the item classification was revised in 2022, new regulations were established for electrical and electronic waste and scrap.

In the case of waste lead-acid batteries, they were classified as heading 8548 in the past as they were included in primary batteries and storage batteries that had died. After the revision of the item classification, they are classified under heading 8549 as they are classified as electrical and electronic waste and scrap.



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2. Item classification review

(1) Product description

It is waste lead (lead acid, lead maximum weight) that has expired or is damaged and cannot be recharged. It is used as a raw material for making regenerated alloy lead (lead) ingots after going through processes such as melting and casting by separating and sorting electrodes from waste lead.

(2) HS CODE to be considered

HS CODE	8548.10.5000 (2017-2021)	8549.11-0000	8549.12-1000
tariff	0%	0%	0%

(3) Issues

As the item classification was revised in 2022, regulations on electrical and electronic waste and scrap were newly established, and electrical and electronic waste and scrap (e-waste) are classified as heading 8549.

E-waste includes only items suitable for recovery, recycling or disposal. It does not include items suitable for repair, refurbishment, renovation, reuse or repurposing to fit for its original purpose or to alter to be suitable for alternative purpose. Merely being used is not enough to convert to e-waste. The e-waste may be physically intact (but not functional) or in a decommissioned state (eg, destroyed, cut, damaged or otherwise).

(4) Classification of disputed goods

① Item classification before item classification revision

- Heading 8548.10-5000

In the item classification of 2017 version, for waste lead acid batteries, they are classified under No. 8548 considering that they are primary batteries and accumulators that have expired. In detail, they are classified under 8548.10-5000 since they are considered as products containing lead as a major component.

② First item classification after item classification revision

- Heading No. 8549.12-1000

"Electrical/electronic waste and scrap" is classified in heading 8549 of the Tariff Schedule, and further classified into HSK heading 8549.12-1000 (lead-containing) for leading containing batteries and their wastes. Although the presented product maintains a general state of a finished product in which the plastic case, insulation paper, etc. are not separated, it cannot be used for any purpose other than extracting lead (Pb) waste and scrap. Since the weight ratio of lead (Pb) accounts for most of the total weight among the materials used, the intrinsic property is a product containing lead (Pb)

Therefore, as the item in question falls under "electronic waste containing lead", they are classified under heading 8549.12-1000 according to Rules 1 and 6 concerning the interpretation of the Tariff Schedule.

③ Item classification in accordance with the notice of change in item classification

- Heading No. 8549.11-0000

In the Tariff Schedule heading 8549, "electrical and electronic waste and scrap" is classified, and in Subheading No. 8549.11, "waste and scrap of lead-acid batteries, and dead lead-acid batteries " is subcategorized

In the Explanatory Note to the same subheading explains, "Subheadings 8549.11 to 8549.19 classify the waste and scrap of primary batteries and accumulators of headings 8506 and 8507, and include dead primary batteries and dead accumulators that subheading Note 5 to this Chapter describes. These subheadings explain dead primary batteries and dead accumulators mean, regardless either in a physically intact state or in a decommissioned state (e.g. destroyed, cut or otherwise burned out or destroyed), a product suitable only for recovery, recycling or disposal. In the case of a capacitor that has expired, it means a product that cannot be recharged and the recharged state does not last long."

Therefore, since this product is a waste lead acid (lead) storage battery that cannot be reused or recharged since it is dead or damaged, etc., it is classified as heading 8549.11-0000 according to Rules 1 and 6 concerning the interpretation of the Tariff Schedule.

3. Requirements

In the case of waste lead acid batteries, they are subject to confirmation by the head of the customs office

when importing and exporting. Among the items of waste to which the Act on Transboundary Movement and Treatment of Wastes listed in Annex 14-1 of the consolidated announcement is applicable, the following are the items can be exported with permission confirmation of the head of the basin environment office or the regional environment office in accordance with Article 6 of the Act on the Transboundary Movement and Treatment of Wastes.

- waste lead acid battery in whole or shredded state (A1160)
- Unclassified waste batteries (excluding mixtures of batteries only from List B of the Basel Convention, but including waste batteries that contain substances in Annex I of the Basel Convention to a harmful extent and are not specified in List B of the Basel Convention) (A1170)

4. Closing remarks

Waste lead-acid batteries can be classified as subheadings 8549.11-0000 or 8549.12-1000.

The difference in tax headings is in the lead content weight. If the weight of lead takes the weight of an accumulator battery wholly or predominantly, the essential character of the article is to be classified in subheading 8549.11-0000 as containing lead. Lead-acid batteries partially containing lead may be classified in subheading 8549.12-1000 or, in some cases, in the other subheadings in heading 8549 according to weight ratio.



Global Customs Insight

Goods subject to US–China retaliatory tariffs and criteria for determining them

The United States, which has been in a trade war with China since 2018, is not expected to withdraw the retaliatory tariffs imposed on China (25% tariff rate added to the basic tariff rate). Regarding the retaliatory tariffs imposed on China, U.S. Treasury Secretary Janet Yellen said on July 16, "The tariffs were implemented due to concerns about unfair trade practices in China, but China has not yet resolved the issue and China itself operates retaliatory tariffs." and stated the U.S. position **"At least for now, it's too early to use tariffs to ease tensions."**



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As the U.S. Treasury Secretary mentioned, it is still premature to immediately withdraw the U.S.-China retaliatory tariffs. If a company with production subsidiaries in the U.S. uses Chinese raw materials for products produced in the U.S., prior confirmation whether items that are subject to U.S.-China retaliatory tariffs or are exempted from retaliatory tariffs is mandatory. The July 2023 issue of Global Customs Insight would like to explain the inquiry method and criteria for items subject to US-China retaliatory tariffs.

1. How to search items subject to US-China retaliatory tariffs

○ Items subject to US-China retaliatory tariffs (additional tariff rate of 25%)

➤ During the Trump administration from July 6, 2018 to May 13, 2019, the United States designated target goods on four occasions and imposed retaliatory tariffs of 25% on about 2,200 items. These target items can be found on the USTR homepage on the website by searching with 8 or 10 digits of the US HS CODE (HTSUS).

➤ USTR website access route

TRADE TOPICS >> Enforcement >> Section 301 Investigations >> Section 301-China Technology Transfer >> China Section 301-Tariff Actions and Exclusion Process >> Search Tariff Lists (Address: <https://ustr.gov/issue-areas/enforcement/section-301-investigations/search>)

○ U.S.-China retaliatory tariffs suspended (exempted) items

➤ On March 23, 2022, as inflation pressure in the United States intensified, the Biden government suspended (exempted) the retaliatory tariffs on 352 products among the retaliatory tariff items as a temporary exemption measure, and until September 30, 2023, the retaliatory tariffs will be suspended. Deferred items are designated in HTSUS 10 units and can be checked on the USTR website.

➤ USTR website access route

About Us >> Policy Offices >> Press Office >> Press Releases >> 2022 >> March >> USTR Issues Determination of Reinstatement of Certain Exclusions from China Section 301 Tariffs (the article on March 23, 2022 "The reinstated exclusions are set out in the Federal Register notice, which can be viewed [here.](#)"click)



2. The US-China retaliatory tariffs shall be determined by the country of origin.

Not all items exported from China get retaliatory tariffs imposed even if they are subject to the U.S.-China retaliatory tariffs. The U.S. Customs Authority (CBP) announced that the retaliatory tariffs are **Determined by Country of Origin, regardless of the exporting country of the goods and 19CFR§134 (Regulations on Country of Origin) are applied to determine the country of origin.** 19CFR§134 does not separately stipulate origin determination criteria for each item as in the FTA agreement, but only presents principles, so CBP comprehensively reviews existing cases of origin determination and makes decisions on a case-by-case basis.

Unlike the case where raw materials are produced, processed, and assembled in one country and the country of origin is clear, determining the country of origin is complicated and unclear when raw materials/intermediate products are produced in different countries or processed and assembled in different countries (called a consolidated process). Such **19CFR §134 proposes the principle that the country in which the actual transformation of the last material occurred is the country of origin for determining the origin of a consolidated process product.**

Regarding the meaning of the actual transformation, the federal court case (United States v. Gibson-Thomsen Co., 27 C.C.P.A. 267 (C.A.D. 98) (1940) **stipulated that the name, character, or use should change.** Accurate and legally effective origin determination can be obtained by applying to CBP for origin preliminary review (Ruling). Since ruling takes a long time, the relevant company needs to determine on its own in advance with experts.

[Source: Financial News (<https://www.fnnews.com/news/202212171634532731>), USTR website]



FTA and import/export practical business guide
Electronic Origin Data Exchange System (EODES)

In the era of FTA, the use of FTA is essential to secure price competitiveness in the import market. In order to apply the FTA, a legitimate certificate of origin as stipulated in the agreement is required, and the original certificate of origin must be verified and submitted to the customs office of the importing country.

If the original certificate of origin issued by the exporting country is not delivered to the importing shipper even after the cargo arrives in the importing country, the FTA cannot be applied. In this case, customs clearance delays occur until the original certificate of origin issued is delivered, and the importer bears additional costs due to the delay in customs clearance, such as warehouse fees and other fees. To eliminate this logistical inefficiency, the Electronic Origin Data Exchange System (EODES) was introduced.



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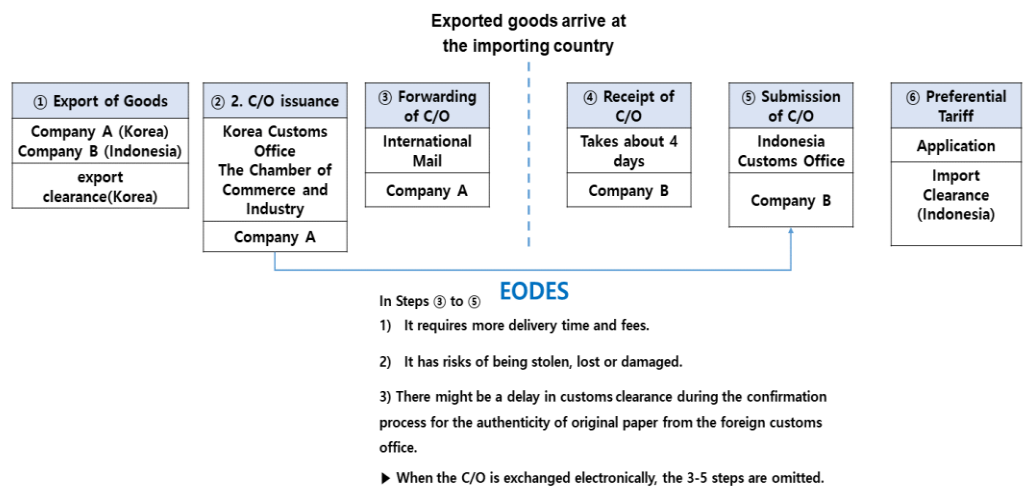
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1. EODES

EODES (Electronic Origin Data Exchange System) is a system that electronically exchanges FTA certificate of origin information in real time between customs authorities. If this system is established and operated between the two countries, importers from both countries do not need to submit the original 'paper' certificate of origin when applying for FTA preferential tariff.



If a certificate of origin is issued after export shipment, the exported goods may arrive in the importing country before the certificate of origin is issued and delivered to the importing country.

In this case, the importer will hold customs clearance until the certificate of origin arrives, even though the imported goods have already arrived, resulting in additional costs such as warehouse charges and logistics delays.

If the Electronic Origin Data Exchange System (EODES) is introduced between FTA countries, the two customs authorities can exchange information on the certificate of origin electronically and in real time, and since there is no need to submit the original 'paper' certificate of origin to the customs office of the importing country, the procedure for applying for preferential tariffs for exporters and importers will be expedited and simplified, and customs clearance time will be shortened as well as corporate logistics costs can be reduced.

In addition, it is possible to prevent customs clearance difficulties that occur in the process of verifying the authenticity of the paper certificate of origin by the customs of the other country.

2. EODES contract status

Currently, Korea has opened and has been operating EODES with China, Indonesia, and Vietnam. In particular, with Vietnam, EODES was opened and has been operated since July 15th. As a result, as of July 15, the original paper certificate of origin does not need to be submitted when applying for the application of the conventional tariff.

In addition, the Korea Customs Service is promoting the expansion of EODES with other new southern countries such as Thailand and India. Establishing EODES with 10 ASEAN countries and India is expected to generate an effect of 74.9 billion Won annually including reductions in customs duties and logistics costs.

3. EODES FAQ

(Q1) Is it not necessary to obtain a paper C/O when exchanging EODES?

(A1) EODES and C/O issuance/keeping/submission are separate matters. In accordance with the Act on Special Cases of the Customs Act for the Implementation of Free Trade Agreements and the Enforcement Decree of the same Act, proof of origin documents must be kept for 5 years, and C/O originals may be required to be submitted. Therefore, the importer must be provided with the original paper C/O signed by the exporter on the certificate of origin issued electronically by the exporting country.

(Q2) How is the customs clearance processed when an EODES transmission (exchange) error occurs?

(A2) Even if EODES is implemented, customs clearance is possible in the other country with the same paper C/O as before.

(Q3) After starting EODES pilot operation, Korea and Vietnam have different methods of listing quantity/weight/packaging unit in the certificate of origin. Are there any problems applying the agreement?

(A3) In Vietnam, de_script_ion (e.g., kilogram) is indicated in the quantity/weight/packaging unit of the certificate of origin, but a code (e.g., KGM) is transmitted through EODES.

On the other hand, in Korea, the unit code (eg: KG) is written when applying for/issuing a certificate of



origin and transmitting EODES. This difference is due to the difference in the system operation policy of the two countries and does not affect the validity of the Certificate of Origin.

(Q4) There is no QR code on the certificate of origin issued in Vietnam after July 1, 2023. Are both C/O with QR code and C/O without QR code valid?

(A4) Vietnam has been issuing a new certificate of origin form since July 1, 2023. Therefore, a certificate of origin without a QR code and the issuing authority's signature/seal stamped electronically may be an invalid document.



Contents and Opinion of Customs Trade Amendment

「Announcement on import customs clearance of moving goods」 (Notice No. 2022-2 of the Korea Customs Service, enforced on January 1, 2022)

[Reason for Amendment]

1. Among the standards for determining whether a mover can be exempted from customs duties on moving goods, the requirement for residing period to be eased, such as deleting the requirement of staying in a foreign country for at least 2/3 of the total period of residence
2. Deletion of exemplary regulations on goods that are not suitable for moving goods exempted from customs duties so that moving goods exempt from customs duties can be flexibly recognized according to changes in the social environment.



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3. To prevent confusion and to encourage accurate reporting by revising the moving item statement form so that it is easy for movers and other preparers to understand.

[Major Amendment]

1. Relaxation of residence period requirements for movers who can be exempted from customs duties on moving goods (Article 3)

- Moving goods brought in by Korean nationals entering the country after living abroad for at least 1 year (6 months if accompanied by family members) can be exempted from customs duties (Article 48-2 of the 「Enforcement Rule of the Customs Act」)

- To be determined as a moving person, only those who stayed abroad for 2/3 or more of the period from the date of initial departure to the date of final entry were recognized as moving persons. The requirement of staying 2/3 or more in the foreign country is deleted and is recognized as a moving person if the period of stay is longer than the period that Article 48-2 of the Enforcement Rule of the Customs Act indicates after relocating to a foreign country

- If a moving person falls short of the applicable period due to a temporary return, the temporary return period is included in the period of residence abroad if the head of the customs office approves that the period of temporary return does not appear to be the relocation of residence in light of the reason and period of temporary return.

2. Deletion of examples of goods not suitable for moving goods exempted from customs duties (Appendix 1)

- Grand pianos and projectors, which were subject to special consumption tax in the past, were exemplified as items not suitable for moving goods. These items are deleted* from the list of subject to special consumption tax, and the * 1 exemplifying 'items not suitable for moving goods' has been deleted.

* Grand piano ('99), projector ('04)

- The scope of items not recognized as moving goods* is stipulated in the proviso of Article 4 of the main text.

* ① Items brought in at the request of others, ② Items unsuitable for personal or household use, ③ Items deemed to be sold based on the type and quantity of items, ④ Items brought in in excess compared to the number of family members, ⑤ Others Goods deemed difficult to be recognized by the head of the customs office as moving goods

3. Amendment of the moving goods statement form so that movers can easily fill out (Form No. 1)

- Minimize confusion regarding the preparation of the move-in statement by specifying the residence (expected) period* according to the nationality of the mover when filling out the move-in statement

* If the nationality of the mover is Korea: the period of residence abroad

If the mover is 1) a foreign permanent resident with Korean nationality, or 2) a foreigner: period of residence in Korea

[Enforcement date: Aug. 7, 2023]

[opinion]

As globalization has been achieved by the recent development of transportation and science and technology, exchanges between countries have greatly increased both in quantity and quality. Although exchanges between countries have decreased due to the Covid, now we can travel anywhere in the world in a day, and the psychological distance to overseas is getting closer and closer. As a result, the number of immigrants increased and the number of people who immigrated to Korea also increased. It seems that the Amendment of the notice above was intended to expand the scope of the tax exemption system for moving goods by reflecting this trend. In addition, since one of the alternatives to the low birth rate and aging population, one of the most serious problems in Korean society, can be people who immigrated to Korea or people who immigrated abroad and then returned to Korea, this Amendment of the notification is not only for the convenience of people moving from abroad.

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