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COVID -19 Newsletter

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Korea's Tariff & Trade Policy Responses to Mitigate Impact of COVID-19

With the continued spread of COVID-19 and the severe impact on the global economy, here in Korea, the domestic supply of personal hygiene and healthcare products is dwindling (e.g, face masks and hand sanitizers). Both exporters and importers in Korea have been significantly impacted.

In response, the Korean government has tightened the regulation on the supply and demand of healthcare products. Further, the government is in the midst of developing policies to support exporters and importers, mainly through tax relief measures, and the government is expected to announce additional support programs.

As an introduction and overview of the Korean government's tax and trade-related relief measures, we discuss below: (i) the newly implemented "Emergency Measure" designed to help businesses cope with the COVID-19 pandemic; (ii) major tax support policies, particularly in relation to tariffs; and (iii) the current situation concerning major trade partners of Korea.

1. The Emergency Measure

On February 12, 2020, Korea's Ministry of Food and Drug Safety (the "MFDS") implemented the "Emergency Adjustment Measures for Supply and Demand" (the "Emergency Measure") under the existing Price Stabilization Act[1] to ensure the continued supply of healthcare products in Korea.[2]

Due to the sudden shortage of face masks in Korea and an increase in the outbound shipment to other countries, on March 6, 2020, the Emergency Measure was amended to prohibit all exports of face masks as a general rule, though in certain cases, it is permitted.

Under Article 3 of the Emergency Measure, manufacturers of face masks and hand sanitizers ("Manufacturers") are required to declare to the Minister of the MFDS:

(i) Their production quantity, export quantity, domestic sale and inventory quantity; and

(ii) Manufacturers must also declare, on a timely basis, the daily purchase quantity, purchase price, the seller, and quantity of used and stocked non-woven filter fabric (the "MB Filter"), which is an essential raw material for the production of face masks.

Initially, the Emergency Measure distinguished between face mask manufacturers and sellers, and allowed the manufacturers to export a certain percentage of the masks they produce.

Significance:

However, after the March 6 amendment, all exports of face masks are now prohibited, except for humanitarian aid purposes or where the competent authorities have given their prior approval. The Korean customs authorities, in cooperation with the relevant ministries and other government agencies, are conducting a crackdown on illegal export or smuggling of the products banned from export.

In particular, companies that export masks without prior approval, or individuals who declare the export of face masks under a disguised name or smuggle masks are being

1. *See* Article 6 (Emergency Adjustment Measures for Supply and Demand) (1) of the Price Stabilization Act: "The Government may take any of the following measures (hereinafter referred to as "emergency supply and demand adjustment measures") against an enterpriser of commodities in question or a person engaged in the business of importing and exporting, or shipping, or storing commodities in question for a fixed period of up to five months, as prescribed by Presidential Decree, when the stability of the people's livelihood and smooth operation of the national economy are feared to be endangered considerably due to rapid price increases and commodity shortages."

2. *See* MFDS Official Notice No. 2020-14.

targeted by the government crackdown.

Also, any alleged cornering or hoarding of healthcare products is also prohibited, and such practices are being reported to the relevant government agency for further examination.

Any person violating the Emergency Measure may be subject to criminal penalties – imprisonment for up to 2 years or a fine of up to KRW 50 million[3]. Additionally, a face mask manufacturer or seller hoarding masks may be ordered to release all of the hoarded masks to the government.[4]

2. Tax Support

Due to the COVID-19 pandemic, the Korea Customs Service and other tax authorities will implement various tax support measures to lessen the burden on exporters and importers, who are experiencing financial difficulties and challenges in obtaining the necessary raw materials.

(1) Emergency implementation of tariff quota for imported face masks and MB filters

On March 17, 2020, the State Council of South Korea (the "State Council") passed the "Motion to Amend the Tariff Quota Regulation" (the "Presidential Decree"), which includes cutting the tariff rates for face masks and MB filters to 0% until June 30, 2020.

As of March 18, the State Council also implemented a tariff quota [5] system as follows:

< Tariff Quota Application and Adjusted Tax Rates >

Article Name (HSK)	Category	Tariff Rate (%)		Quantity Limit
		Basic	Quota	
• Textile products (6307.90.9000)	Surgical and health-care masks	10	0	All

3. Under Articles 25 or 26 of the Price Stabilization Act.
4. Under Article 8 of the Official Notice of the Emergency Measure.
5. In this context, tariff quota refers the temporary adjustment of the tariff rates within plus or minus 40% of the basic tariff rates for stable supply of goods (under Article 71(1) of the Customs Act).

• Non-woven filter fabric (5603.12.1000) (5603.12.9000) (5603.92.0000)	(Meltblown)	8	0	All

As the tariff rates for imported face masks and MB filters have fallen to zero under the tariff quota system, it is expected that the domestic supply of imported face masks and MB filters will increase, and that the cost burden on face mask manufacturers will also ease.

(2) Special tax support for businesses impacted by COVID-19

Since February 6, 2020, for exporters and importers experiencing financial difficulty due to the COVID-19 pandemic, the Korean government has been providing the following special tax support:

- Up to one-year extension for the payment due date or permission to pay in installments without any security, subject to the submission of a written payment plan by the relevant business to the competent customs office;
- Deferment or postponement of a customs audit until the end of the special tax support; and
- Paperless application for one-day customs refund (i.e., payment first, screening later).

Implications / Opportunity for Input:

A business wishing to apply for the special tax support needs to first obtain the “Import and Export Business Support Center’s” confirmation as to whether the business is deemed to have been impacted by the COVID-19 pandemic, and must submit the application form and other required documents to the competent customs office.

Moreover, for three weeks (from March 30 to April 17, 2020), the Korea Customs Service announced that it will collect additional comments and suggestions for institutional improvement with a view to overcoming the COVID-19 pandemic. Exporters and importers in need of customs support are advised to make use of such an opportunity to submit their opinion for institutional improvement.

(3) Reduction of tariffs on imports by air of COVID-19-related materials

Also, to support the Korean manufacturing industry, the Korea Customs Service has decided to apply lower tariff rates to parts and semi-finished goods that are urgently transported by air through sea freight cost applications instead of air freight rates.

Goods eligible for such support are limited to those separately announced by the Commissioner of the Korea Customs Service, which currently include wiring harness (HSK 8544.30-0000), other plastic insulated cables/wires (HSK 8544.42-2090), and DC motors (HSK 8501.10-1000) (declared for importation after February 5, 2020).

3. South Korea's Major Trading Partners – Current Situation

According to the "Current Situations of Major Trade Partners" reports issued by the Korea Customs Service[6], the U.S., the E.U, and the ASEAN members have taken the following measures to deal with the COVID-19 pandemic.

(1) The United States ("U.S.")

- The U.S. government closed its border with Canada on March 18, 2020, and also announced the shutdown of the southern border with Mexico on March 21, 2020.
- Triggered by the increasing demand for tariff reduction (mainly for Chinese healthcare products and raw materials), beginning on March 7, 2020, tariffs are exempt for approximately 100 healthcare products imported from China, including surgical masks, gloves for medical examination, and wet wipes for sterilization.
- The U.S. Customs Service announced that it had received a number of requests for legal interpretations, including on HS classification and marking of country of origin, but that it would take more time than usual to issue such legal interpretations.

(2) The European Union ("EU")

- The World Customs Organization ("WCO") meetings held in Brussels, Belgium, have been canceled or postponed due to the spread of COVID-19.

6. *See* No. 2020-27 dated March 20, 2020; No. 2020-29 dated March 24, 2020; and No. 2020-33 dated March 30, 2020.

- The WCO created a webpage dedicated to COVID-19, and instructed the customs offices of each country to post their actions on exports and imports as well as contact information (address) for easy understanding and verification through direct contact.

- Italy issued a nationwide lockdown until April 13, 2020, which was extended on April 1, as the death toll from COVID-19 continues to rise.

- France allows flight transfer, but inland transport is not allowed between some countries in the EU without a permit.

- Entry into Germany is only allowed for people with permanent residency, the EU Single Permit (residence permit) or the EU Blue Card. By contrast, entry into Germany is not allowed for people with three-month residence permit or working holiday visa.

(3) ASEAN Member States

- Vietnam limits exports of masks to a certain quantity (25% of the domestic production quantity) only for international aid purpose.

- Indonesia plans to simplify the process to check import requirements for steel products, salt, sugar, flour, medicines and raw materials used as raw materials for manufacturing from April and automatically issue an export/import permission and exempt the requirement to submit an inspection report for certain companies selected by the Customs and Excise (136 companies with AEO certification)

QUESTIONS?

Should you have any questions or comments about the contents of this newsletter, or if we can be otherwise helpful, please do not hesitate to contact us.

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