

To: Our Clients and Friends

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Thai Customs Raises Penalties

The Thai Customs Committee has implemented a new directive in accordance with the Customs Act in cases involving the importation of restricted goods without import licenses or registration by the relevant agencies, as well as cases involving importation of goods with a false declaration of origin. Such cases are considered a violation of Section 27 of the Customs Act B.E. 2469, and to settle such cases with the Customs Department in lieu of court litigation, the violator will now be required to pay the Customs Department a penalty equal to the sum of the import duty, value added tax ("VAT"), excise tax, interior taxes and any other applicable taxes in addition to the forfeiture of the goods. Where there are no goods to be forfeited, the violator of the Section must pay for the value of the goods. Previously, the penalty for importing restricted goods without an import license was only forfeiture of goods. Where there was no good to be forfeited, the penalty was to pay the value of the imported goods plus any import duty, VAT and excise taxes.

The Director General of the Customs Department has instructed the Secretariat of the Customs Committee to publish this new directive to all divisions within the Customs Department and require them to implement it immediately. At this time, however, it is unclear whether the new penalties will apply only to newly filed charges or also to pending cases where charges have already been brought by Customs but the Customs Committee has yet to impose penalties.

The new directive also raises the question of how importers with imports in process are to proceed with pending shipments that have not been licensed. Responsible licensing agencies do not generally issue import licenses retroactively, and there is nothing in the new directive to suggest that importers who attempt to secure a license retroactively will be spared the higher penalties.

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