

3rd Party invoicing arrangements under ASEAN China Free Trade Agreement now accepted by Indonesia Customs



On 29 October 2010, the ASEAN countries and China signed the "Second Protocol" which included amendments to the procedures and implementation to the Operational Certification Procedures comprising of the following:

- a) Movement Certificate
- b) Verification Visit
- c) Third Party Invoicing
- d) Change of Definition of Issuing Authority
- e) Issuance date of Form E
- f) Format of Form E

Prior to July 2011, Indonesia Customs issued several Letters confirming that the amended Operational Certification Procedures, specifically items (a) to (e), would not be effective until the Second Protocol was ratified by the Indonesia government.

The Second Protocol was ratified by Presidential Regulation No. 37, 2011 on 7 July 2011. However, to date, there has been no accompanying implementation regulation issued by the Minister of Finance.

On 3 October 2011, Indonesia Customs issued Circular Letter No. SE-12/BC/2011, providing further detail on the guidelines for the amendment of the Operational Certification Procedures, in particular confirming that the Form E should be

verified by Indonesia Customs in accordance with the ratified Second Protocol.

Indonesia Customs will therefore now accept a third party invoicing arrangement for the purposes of applying preferential duty rates if the following criteria are met:

- a) The products fulfill the ASEAN-China Free Trade Agreement (ACFTA) Rules of Origin
- b) The Third Party Invoice is stated in Box 10 of the Form E
- c) Exporter and consignee of the goods are located in the ACFTA member countries
- d) A copy of the Third Party Invoice is attached to the Form E when the hard copy documents are submitted to Customs
- e) The Issuing authority has put a "tick" ("v") mark in box 13 about Third Party Invoicing

It is still unclear whether the changes will be applicable as of July 2011 or 3 October 2011, and whether an importer will be able to claim import duty drawback for imports declared prior to 3 October 2011. Based on experience, the latter is unlikely.

Indonesia Customs has informally indicated that the Circular Letter is effective 3 October 2011 and further that there should be a Minister of Finance Regulation to clarify whether or not the new Operational Certification Procedure can be retroactively applied since July 2011.

PwC Contact

If you would like to discuss the above content in more detail please contact:

Name	Email	Telephone
Enna Budiman	enna.budiman@id.pwc.com	+62 21 52890734