



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

February 16, 2017

CUSTOMS MEMORANDUM CIRCULAR
NO. 34-2017

To: All Deputy Commissioners
All Directors and Division Chiefs
All District/Port Collectors
And Others Concerned

Subject: ASEAN-Korea FTA/Sensitive Track – Normal Track

Attached is the letter of Assistant Secretary Anna Maria Rosario Diaz-Robeniol, Trade Policy and Negotiation, Department of Trade and Industry regarding the request of the Republic of Korea to update the Philippine Application of Reciprocal Treatment under the ASEAN–Korea Free Trade Agreement following Korea’s unilateral acceleration of certain tariff lines.

For your information and guidance.

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt hereof.


NICANOR E. FAELDON
Commissioner



FEB 20 2017



12 January 2017

Deputy Commissioner Edward James Dy Buco
Assessment and Operations Coordinating Group
Bureau of Customs, Port Area, Manila

Subject: Request to Update the Philippine Application of Reciprocal Treatment under the ASEAN – Korea Free Trade Agreement following Korea’s Unilateral Acceleration of Certain Tariff Lines

Dear Deputy Commissioner Dy Buco:

This refers to the attached letter from the Department of Foreign Affairs endorsing the letter from Director General Junha Kang, Ministry of Trade, Industry and Energy of the Republic of Korea (ROK) on the above subject matter. ROK unilaterally transferred five (5) items from the Sensitive Track to the Normal Track under the ASEAN – Korea Free Trade Agreement (AKFTA) on 31 March 2016. This matter was taken up at the inter-agency meeting convened by this Bureau on 10 January 2017 attended by the Department of Justice, Tariff Commission, Board of Investments and the Bureau of Customs to discuss the appropriate next steps.

In this regard, we respectfully request the Bureau of Customs to issue the appropriate Customs Memorandum Circular (CMC) to effect the implementation of the unilateral transfer of these TLs under the AKFTA reciprocity arrangement. We enjoin the cooperation of your Bureau in issuing the relevant Circular for its implementation.

For reference, we are also providing you the following documents: (i) List of the five (5) Tariff Lines as reflected in the Tariff Reduction of Korea and the Philippine Equivalent ASEAN Harmonized Tariff Nomenclature (AHTN) and the Applicable AKFTA Rates and (ii) Revised Interpretative Notes for the Implementation of the Reciprocal Arrangement under the AKFTA

You may coordinate directly with Ms. Mary Sillo, Sr. Trade-Industry Development Specialist and Ms. Camille Cyn G. Isles, Trade-Industry Development Specialist on this matter through (t) 4653300 local 433/423. We look forward to your prompt action on this matter.

Thank you.

Very truly yours,

for :
Anna Maria Rosario Diaz-Robeniol
Assistant Secretary for Trade Policy and Negotiations

Enabling Business, Empowering Consumers

OFFICE OF THE ASSISTANT SECRETARY

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Kagawaran ng Ugnayang Panlabas

Department of Foreign Affairs

OFFICE OF ASIAN AND PACIFIC AFFAIRS

25446

LTR- 1545 2016/DIV2

20 December 2016

Madam:

The Department respectfully transmits to your Office the enclosed letter from Mr. Junha Kang, Director General of Trade Legal Affairs of the Republic of Korea.

The letter is in regard to the following issues:

1. Transfer of the reciprocal agreement on tariff lines from the sensitive to the normal track;
2. Excess duty refund to Korean companies specified in AKFTA; and
3. Application of a reasonable tariff rate to the tariff lines whose rates were reduced as of 01 January 2016.

Thank you for your kind consideration.

Very truly yours,

For the Secretary of Foreign Affairs:


MILLICENT CRUZ-PAREDES
Assistant Secretary

ARLENE P. LIGAD

Supervising TIDS, ASEAN Division
Department of Trade and Industry
361 Trade and Industry Building, Makati City

Enclosure:

As stated.

November 30, 2016

Ms. Arlene P. Ligad
Department of Trade and Industry
Philippines

Dear Ms. Arlene P. Ligad ,

I am Junha Kang, Director General for Trade Legal Affairs at MOTIE. I have recently replaced Mr. Hodong Lee, Director General for Domestic Support in FTAs, as chief delegate for the AKFTA-IC. Since the entry into force of the AKFTA in June 2007, bilateral trade and investment have steadily risen, while our economic relations have continued to deepen.

With regard to the issue of the reciprocal arrangement, Korea already unilaterally transferred five tariff lines from the sensitive track to the normal track in March 2016 and requested Philippines in April 2016 to terminate the application of the reciprocal arrangement for these tariff lines. However, it is regrettable that Philippines has not yet completed the necessary measures.

Many Korean companies have continually asked the Korean government to secure their rights specified in the AKFTA. In this regard, I would like to urge Philippines to take substantial measures on this issue and also expect that the relevant companies can receive a refund of any excess duties on their products imported to Philippines after the time frames provided for in the Second Protocol to Amend the AKFTA.

Last but not least, I request, once again, Philippines to apply a reasonable reciprocal tariff rate to the tariff lines whose rates were reduced below 10% as of 1 January 2016.

I sincerely appreciate your active cooperation regarding the AKFTA, and I look forward to seeing you soon at the 15th AKFTA-IC in 2017.

Sincerely,



Junha Kang
Director General for Trade Legal Affairs
Republic of Korea

TARIFF REDUCTION SCHEDULE OF KOREA												PHILIPPINE EQUIVALENT AHTN LINES AND APPLICABLE AKFTA RATES							
HS code (HS 2012)	Description	Base Rate (%)	Category	AKFTA Tariff Rate (%)							Remark	AHTN2012	DESCRIPTION	CATEGORY (under the AKFTA)	CURRENT MFN Rate	Applicable Tariff Rate (%)			
				2016	2017	2018	2019	2020	2021	2022						2023	2024	with Reciprocal Treatment	Upon Termination of Reciprocal Treatment
2907111000	Phenol	5.5	NT	0	0	0	0	0	0	0	0	0	Transferred from SL to NT	2907.11.00	-- Phenol (hydroxybenzene) and its salts	NT	1	Phenol-1	0
3817000000	Mixed alkylbenzenes and mixed alkylnaphthalenes, other than those of heading 2707 or 2902.	6.5	NT	0	0	0	0	0	0	0	0	0	Transferred from SL to NT	3817.00.00	Mixed alkylbenzenes and mixed alkylnaphthalenes, other than those of heading 27.07 or 29.02.	NT	1	1	0
3902300000	Propylene copolymers	6.5	NT	0	0	0	0	0	0	0	0	0	Transferred from SL to NT	3902.30.30	-- In the form of liquids or pastes	NT	10	5	0
3908101000	Polyamide-6	6.5	NT	0	0	0	0	0	0	0	0	0	Transferred from SL to NT	3908.10.10	-- Polyamide-6	NT	1	1	0
2917350000	Phthalic anhydride	6.5	NT	0	0	0	0	0	0	0	0	0	Transferred from SL to NT	2917.35.00	-- Phthalic anhydride	NT	3	3	0

RECIPROCAL ARRANGEMENTS FOR PRODUCTS IN THE SENSITIVE TRACK UNDER THE AGREEMENT ON TRADE IN GOODS FOR THE ASEAN-KOREA FREE TRADE AREA

ANNEX 2, TIG AGREEMENT		INTERPRETATIVE NOTES
<p>6. Notwithstanding the Schedules in paragraphs 3 and 4, any Party may unilaterally accelerate the tariff reduction and/or elimination for its tariff lines placed in the Sensitive Track at any time if it so wishes. Nothing in this Agreement shall prevent any Party from unilaterally transferring any tariff line from the Sensitive Track into the Normal Track at any time if it so wishes.</p>		<p>The tariff reduction and/or elimination for tariff lines includes the transfer of tariff lines from Group E to the Sensitive List or another group in the Highly Sensitive List.</p>
<p>7. The reciprocal tariff rate treatment of tariff lines placed by an exporting Party in the Sensitive Track, excluding Group E, while the same tariff lines are placed by the importing Party in the Normal Track, shall be governed by the following conditions:</p> <p>(i) the tariff rate for a tariff line placed by an exporting Party in the Sensitive Track, excluding Group E, must be at 10% or below and the exporting Party has given notification to that effect to the other Parties in order for that exporting Party to enjoy reciprocity;</p>		<p>1. Paragraph 7 of Annex 2 applies to the situation when an exporting Party places a tariff line in the Sensitive Track, other than Group E, and the importing Party places the same tariff line in the Normal Track.</p> <p>2. As a general rule, products classified in the Sensitive Track, with the exception of those in Group E, shall be eligible for preferential tariff treatment only when the exporting Party, which has classified that product in the Sensitive Track, reduces its tariff rate¹ for that product to at least 10%. A product placed in the Sensitive Track shall be eligible for tariff concessions even if the applied MFN rate of that product is already at 10% or below.</p> <p>3. The exporting Party would have to give a notification to that effect to all the Parties. The notification shall be given by issuing a diplomatic note through the contact points as Attachment 1, with the relevant information on specific tariff lines that the reciprocity would be applied based on the latest</p>

¹ For this purpose, tariff rate may include applied MFN tariff rate, current MFN tariff rate, tariff reduction in accordance with the schedule under the AKFTA, or any other tariff reduction given to the AKFTA parties.

ANNEX 2, TIG AGREEMENT	INTERPRETATIVE NOTES
<p>(ii) the reciprocal tariff rate to be applied to a tariff line placed by an exporting Party in the Sensitive Track shall be either the tariff rate of that exporting Party's tariff line, or the Normal Track tariff rate of the same tariff line of an importing Party from whom reciprocity is sought, whichever is higher;</p> <p>(iii) notwithstanding sub-paragraph (ii), the importing Party can, on its discretion, apply its Normal Track tariff rate even if such rate is lower than the tariff rate of the exporting Party; and</p> <p>(iv) the reciprocal tariff rate to be applied to a tariff line placed by an exporting Party in the Sensitive Track shall in no case exceed the applied MFN rate of the same tariff line of an importing Party from whom reciprocity is sought.</p>	<p>version of HS Code in accordance with Table 1 and the correlation table for all those tariff lines in accordance with Table 2. The exporting Party must provide the legal enactments or other supporting documents to show that the tariff rate of these specific tariff lines has been reduced to 10% or below. Prior to the submission of the notification, the exporting Party may consult with the importing Party through the relevant contact points regarding the reciprocal arrangement of the importing Party.</p> <p>4. The application of preferential tariff treatment under the reciprocal arrangement for eligible products in the Sensitive Track shall be subject to the condition that a product is classified in the Normal Track of the importing Party and the exporting Party's tariff rate for that same product is 10% and below. The importing Party shall apply reciprocal tariff rates based on the notification by the exporting Party before 1 July of the same year in case where the notification is received from 1 October of the previous year to 31 March of the same year, and before 1 January of the following year in case where the notification is received from 1 April to 30 September of the same year, or within 90 days from the date of receipt of the notification. When the importing Party is not able to apply the reciprocal tariff rates within the period provided herein that Party shall promptly notify the exporting Party of the delayed application of the reciprocal tariff rates with rational reasons. In this case, additional 60 days will be given to that Party to do so.</p> <p>The reciprocal rate to be applied shall be whichever is higher between:</p> <ul style="list-style-type: none"> (i) the Normal Track rate of the importing Party for the same product; or (ii) the tariff rate of the exporting Party, provided that this is lower than the importing Party's MFN rate.

ANNEX 2, TIG AGREEMENT	INTERPRETATIVE NOTES
	<p>Nothing in the paragraph prevents the importing Party from granting to the exporting Party the Normal Track rate, even when such rate is lower than the exporting Party's tariff rate.</p>
	<p>5. The importing Party shall notify the reciprocal tariff rates to the exporting Party by issuing a diplomatic note through the contact points as Attachment 1 after the application of the reciprocal tariff rates. Should the importing Party decide not to apply the reciprocal tariff rate, it shall notify its decision with clear reasons through the contact points as Attachment 1 within 90 days of the date of receipt of the notification.</p>
	<p>6. If the tariff of a Sensitive Track product in the exporting Party has not been reduced to 10% and below, the applicable tariff rate shall be the MFN rate of the importing Party for that same product.</p>
	<p>7. If the product is in the Sensitive Track of both the exporting and the importing Parties, the applicable tariff rate shall be the tariff rate of the importing Party for that same product, regardless of applicable tariff rate of the exporting Party.</p>
	<p>8. Products in Group E of the Highly Sensitive List shall not be eligible for any tariff concession. Nothing in this Agreement prevents an importing Party from granting preferential tariff treatment to a product which the exporting Party has classified in Group E of the Highly Sensitive List.</p>

Table 1 Tariff Rates of [the name of the Party]

NO.	HS Code	Description (in English)	Product Category	Notified tariff rates (applicable year,%)	Remark
1	0206.10.0000	Of bovine animals, fresh or chilled	SL	9	AKFTA tariff rate
2	1902191000	Noodles	SL	5	MFN tariff rate

Table 2 Correlation Table

NO.	ST LIST (Previous Version)			ST LIST (New Version)		
	HS Code	Description (in English)	Product Category	HS Code	Description (in English)	Product Category
1	0202.20.0000	Other cut with bone in	HSL E	0202.20.1000	Short ribs	HSL E
				0202.20.9000	Other	HSL E