

Customs Clearance & Tariffs

1. Customs Clearance

Customs clearance refers to the import, export or return of goods pursuant to the procedures prescribed by the Customs Act. Customs clearance procedures are governed by the Customs Act and trade related laws. When a foreign investor makes an investment-in-kind with capital goods, he/she should complete the import clearance procedure and obtain a written confirmation of completion of investment-in-kind issued by the Commissioner of Korea Customs Service (KCS).

- Import Clearance
- Customs Clearance of a Foreign-Invested Company's Capital Goods
- Bonded Area

1-1 Import Clearance

Import clearance refers to a series of customs processes whereby goods that arrive in Korea from abroad are declared to a customs office. Upon import declaration, the head of the customs office checks the items listed in the import declaration to determine whether they correspond to the actual goods declared and adhere to the various import regulations, etc. before accepting the import declaration, at which time the due tariffs etc. are collected.

Import Declaration

An import declaration must be filed in the name of the owner or the customs broker, the customs brokerage firm, or the customs clearance handling firm. In principle, a declaration can only be filed after the ship or plane carrying the loaded goods has entered the port/airport. However, when swift customs clearance is required for imported goods, declaration can be made earlier as determined by the Commissioner of KCS (i.e., before departure from/entry into a port, before entering a bonded area, or following storage in a bonded area).

※ **Time of import declaration**

- Before departure from port: Declaring goods imported via a plane or ship from Japan, China, Taiwan, Hong Kong, etc. prior to the ship or plane's departure from the port/airport (Declaration can be filed starting five days before a ship's entry into a port, or one day before a plane's arrival at an airport in Korea.)
- Before entry into port: Declaring imported goods after the ship etc. carrying the goods leaves the port of loading and prior to its arrival (the time of cargo discharging declaration for air freight and sea freight) at the port (Declaration can be filed starting five days before a ship's entry into a port, or one day before a plane's arrival at an airport in Korea.)
- Before entering a bonded area: Declaring imported goods after the arrival of ships, etc. loaded with imported goods at the port and before entering a bonded area for customs clearance
- After storage in a bonded area: Declaring imported goods after storing the imported goods in a bonded area.

Import declaration becomes effective once the customs clearance system receives the declaration documents submitted by the declarer. The taxable goods, applicable laws, foreign exchange rate for taxation, taxpayer, etc. are determined at this point as well.

Required documents

- Invoice and price declaration report, packing list (if required)
- Copy of Bill of Lading (B/L) or Airway Bill (AWB)
- Country of origin certificate (only for required goods)
- Confirmation documents on goods subject to confirmation by the head of the customs office as prescribed by the Customs Act
- Tariff reduction or exemption (payment in installation) application/usage tariff rate application (only for required goods)
- Approval (application) for applying tax rate by agreement
- Confirmation of security for tobacco consumption tax payment under Article 71 of the Enforcement Decree of the Local Tax Act
- Original copy of Kimberley process certificate (limited to rough diamonds)

※ The original copy or a copy certified against the original by the importer can be submitted (the original copy is required for certain documents). In the case of paperless (P/L) declaration, the declarer (e.g., customs broker) should check the declaration documents in advance and submit the details of the declaration in the form of an electronic document. In such case, the declaration form and attachments are not required.

Selection of Goods to be Inspected

In order to check that the items listed in the import declaration form match the imported goods, and also to check whether there are any violations of related laws, selective inspections on imported goods (cargo selectivity, C/S) are carried out according to the standards set by the Commissioner of the KCS, and the goods to be inspected and the documents to be submitted are decided. The importer, manufacturer, declarer, etc.'s violation records and credibility are considered in the selection process.

Inspection of Goods

In principle, when import declaration is made, customs officers will check the formalities of the declaration form, the legal import requirements, and the documents submitted for declaration to accept the declaration. However, when the various marks, usage, functions, etc. cannot be checked solely through the import declaration and submitted documents, or when there is a need to check whether other goods are concealed and whether the declared goods match the actual goods, the goods are unpackaged and visually inspected.

Examination of Customs Clearance Requirements

Goods for post-inspection are inspected to verify compliance with the following formalities:

- Whether all required documents for declaration have been prepared, and whether the items listed in the declaration form match the actual goods
- Whether the items which the head of the customs office checks for compliance with the import requirements are appropriately classified and meet the import requirements
- Whether the country of origin has been marked, whether intellectual property rights have been violated, whether a request for analysis is needed, etc.

In principle, examination of taxation of imported goods is carried out after acceptance of the declaration. However, such an examination is conducted before accepting the declaration of certain items as described below. The following items are also examined to verify the appropriateness of classification, tax rate, taxable value, tax amount, and the appropriateness of the application for tax reduction, tax exemption, or installment payment.

- Goods subject to tax reduction or exemption and installment payment
- Goods declared by tariff delinquents, or goods subject to imposition notification
- Goods designated by the Commissioner of the KCS as requiring tax deliberation prior to declaration acceptance for the purpose of securing duty claims (agricultural products, used cars, etc.)

Payment of Tariffs, etc.

For the payment of tariffs and other taxes, a dual system is employed: the payment by report method, by which the declarer reports and pays the self-determined tax amount; and the imposition notice method, by which the head of the customs office determines the tax amount and notifies the relevant party thereof.

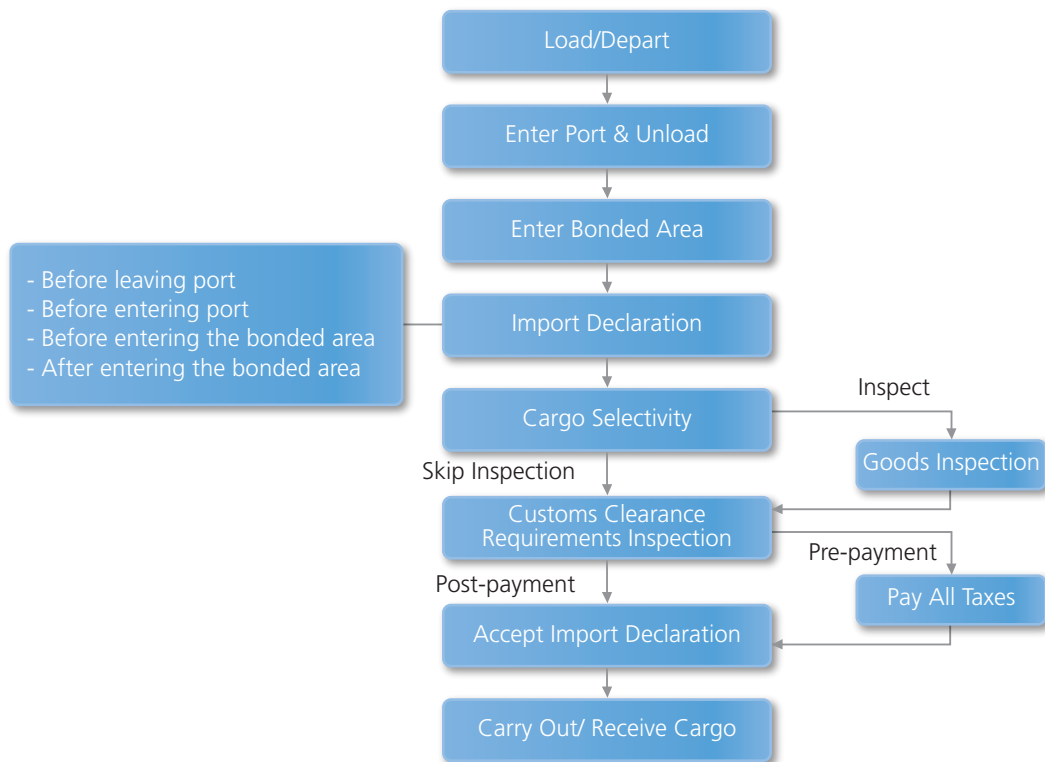
The tariff payer must declare the tax base, tax rate and paid tax amount on all imported goods, excluding goods subject to imposition notice, to the head of the customs office. The tariff must be paid within 15 days of acceptance of the import declaration, or prior to acceptance of the declaration. Upon receipt of the tax payment declaration, the head of the customs office examines the items listed on the import declaration and other matters based on the related regulations. When all the conditions are met, the import declaration is accepted and then the reported tax amount is examined.

When the head of the customs office collects tariffs via an imposition notice, the amount of tax to be imposed on the goods concerned is determined and the taxpayer is notified thereof. The taxpayer must pay the tax within 15 days of receiving the notice at a national treasury receipt bank or a post office.

Goods subject to imposition notice are as follows:

- Goods for which tariffs are imposed in accordance with Subparagraphs 1 through 6 and 8 through 11 of Article 16 of the Customs Act
- Facilities constructed at bonded construction sites which are operated prior to import declaration
- Goods carried into bonded areas and carried out prior to acceptance of the import declaration
- Goods subject to disposition of rectification by the head of the customs office (excluding the tax amount declared for tax payment)
- Other goods that are subject to notification of installment payment

<Import Clearance Procedure>



1-2 Customs Clearance of a Foreign-Invested Company’s Capital Goods

When foreign investors make an in-kind investment of capital goods, customs clearance of the capital goods should be completed in addition to investment notification and registration.

Confirmation of the Specifications of Imported Goods

Foreign investors who have completed the investment notification must apply for a confirmation of imported capital goods at a foreign exchange bank or KOTRA. The following items are to be confirmed:

- Capital goods exempted from tariff, individual consumption tax, and value added tax.
- Capital goods imported by a foreign investor for investment purposes.
- Import of external payment vehicles received by a foreign-invested company from foreign investors as an investment, or internal payment vehicles created in exchange for external payment vehicles, which are capital goods among the goods designated or notified by the Ministry of Trade, Industry & Energy according to Article 17 of the Enforcement Decree of the Foreign Trade Act.

Import Clearance

Foreign-invested companies must complete import declaration within five years of the date of notifying investment of the capital goods. However, the deadline may be extended up to one year for unavoidable reasons, such as a delay in factory construction.

If a foreign investor establishes a foreign-invested company through investment in-kind, the goods should clear customs after acquiring the business registration certificate before incorporation in order to benefit from a deduction of value added tax. Also, when foreign-invested companies that are granted tax reduction or exemption by the Ministry of Strategy and Finance import capital goods

or make investments in kind within the range of investment funds received in cash for direct use in businesses subject to tax reduction or exemption, tariffs, etc. may be exempted. However, capital goods imported with investment funds in the form of long-term loans do not benefit from tariff exemption. Applications for tariff exemption must be made before acceptance of import declaration. Retroactive applications for exemption, i.e., applications made after the acceptance of import declaration, are not accepted.

Confirmation of Completion of In-Kind Investment

For capital goods paid as objects of investment, a confirmation of completion of in-kind investment must be obtained from the KCS officer dispatched to KOTRA prior to incorporation registration and foreign-invested company registration.

<Customs Clearance Process for Capital Goods>

Notification of foreign investment	<ul style="list-style-type: none"> • Report to: A foreign exchange bank or KOTRA • Documents to submit: Two copies of the investment notification form (Three copies of the application form for tax reduction for businesses subject to tax reduction)
Confirmation of specifications of imported capital goods	<ul style="list-style-type: none"> • Report to: A foreign exchange bank or KOTRA • Confirmation item: Capital goods that are objects of investment • Documents to submit: Three copies of the application form, documentary evidence of price (bill of sale, etc.)
Import clearance	<ul style="list-style-type: none"> • Customs clearance after acquiring the business registration certificate issued in the name of the foreign-invested company • Documents to submit for capital goods subject to tariff exemption <ul style="list-style-type: none"> – A copy of the application form for tariff exemption – A copy of the confirmation of specifications of imported capital goods – A copy of documentary evidence (investment notification form) certifying that the capital goods are introduced through investment-in-kind or with cash – A copy of documents certifying that the business is subject to tax reduction or exemption (A document notifying that tax reduction or exemption has been granted) – Invoice, price report, B/L or AWB, packing list (only for required items), certificate of country of origin (only for required items), documents requiring proof and confirmation such as permits, approvals, etc. as prescribed by Article 226 of the Customs Act, notification of transport to bonded area (for goods that entered a bonded area), import agent contract
Confirmation of completion of in-kind investment	<ul style="list-style-type: none"> • Report to: KCS officer dispatched to KOTRA • Required documents : Two copies of the application form, copy of import declaration certificate
Registration of incorporation	<ul style="list-style-type: none"> • Report to : District courthouse registration department or registry office • Documents to submit: Application form and required documents. The certificate of confirmation of completion of in-kind investment should be attached in the case of investment-in-kind.
Registration of foreign-invested company	<ul style="list-style-type: none"> • Report to: A foreign exchange bank or KOTRA • Documents to submit: Application form and required documents. A copy of the certificate of confirmation of completion of in-kind investment should be attached in the case of investment-in-kind.

Aftercare of Capital Goods

To transfer or lease capital goods introduced as foreign investment and exempted from tariffs or to use such goods for purposes other than those notified before five years have passed from the date of import declaration acceptance under the Customs Act, a notification should be filed to a foreign exchange bank or KOTRA. If capital goods are transferred or used for purposes other than those notified, a sentence of up to five years' imprisonment or a fine of up to KRW 50 million may be imposed on persons who failed to notify the disposal of the capital goods.

Also, in the following cases, reduced or exempted tariffs will be collected.

- When a foreign-invested company's registration has been cancelled or business is closed down: The abated or exempted tax amount shall be collected retroactively for three years (individual consumption tax and added value tax: five years) from the date of cancellation or closure.
 - When the objects of investment are used for purposes other than those notified or are disposed of: The abated or exempted tax on capital goods that are used for purposes other than those notified or are disposed of within three years of acceptance of import declaration under the Customs Act (five years for individual consumption tax and value added tax) shall be collected.
 - When a foreign investor transfers stocks, etc. within three years of the date of exemption of tariff, etc.: The abated or exempted tax on the value of capital goods exceeding the foreign investor's investment amount remaining after the transfer of stocks, etc. shall be collected.
 - Where the requirements on payment for objects of investment, introduction of loans, or number of employees are no longer satisfied within five years of the date on which foreign investment was notified (three years in the case of employment-related requirements): Taxes reduced or exempted for five years retroactively from the date on which the requirements are no longer satisfied (three years in the case of employment related requirements) shall be collected.
- * When collecting tariff, if the value of the goods has depreciated due to usage, the tax collected shall be reduced proportionate to the reduced value.

However, the collection of tariffs can be exempted as an exception in the following cases:

- When registration of a foreign-invested company is cancelled due to the company's dissolution by a merger.
- When capital goods that have been imported with tariffs exempted cannot be used for their original purposes due to natural disasters and other force majeure, or due to other economic circumstances such as depreciation, technological advancement, etc. and when they are used for other purposes or are disposed of by obtaining the approval of the Minister of Strategy and Finance.
- When transferring stocks, etc. of a foreign-invested company to a national or a corporation of the Republic of Korea as part of initial public offering of the foreign-invested company concerned in accordance with the Financial Investment Services and Capital Markets Act.
- Where the relevant requirements for tax reduction or exemption have been met by completing payment for objects of investment within the deadline extended by the competent city mayor or provincial governor.
- In the following cases which are recognized as having fulfilled the aim of tax reduction or exemption:
 - When foreign investors who have invested in an industry-supporting service business or a business accompanying high technology transfer their business subject to tax reduction or exemption or their shareholdings to a national or a corporation of the Republic of Korea, and when the Minister of Strategy and Finance confirms that the products and services produced or

- provided by the said business can be produced domestically without any problem.
- When foreign investors transfer their stocks, etc. to a Korean national or a corporation of the Republic of Korea in accordance with government policies, and the transfer is confirmed by the Minister of Strategy and Finance.

※ **Customs clearance for moving goods**

'Customs clearance for moving goods' refers to the head of the customs office's simplification of the procedure for confirming the qualifications of the mover and the required documents, application of the relevant taxation or tax exemption, and other acts and procedures as prescribed by the Customs Act, by taking into consideration the movers' job, reasons for changing residence, etc. regarding products for daily use included in the individual's hand baggage and unaccompanied goods that are carried in by those entering Korea to change their residence. In principle, the Customs Act does not tax goods recognized as 'moving goods', but the scope of 'moving goods' is different depending on whether the owner of the goods is a mover, semi-mover or short-term visitor as categorized according to the period of a Korean national's stay abroad (excluding Koreans holding permanent residency of a foreign country) and a foreigner's intended period of stay in Korea (including persons holding citizenship).

For example, in order to have automobiles recognized as moving goods, there is a requirement to register and use the automobile for at least three months at the previous place of residence (an overseas country) prior to the date of entry into Korea (i.e., the loading date when loaded prior to the date of entry, and the cancellation date when cancelled prior to the date of entry). As such, the methods of determining the tariff may differ for individual items. Hence, the customs clearance requirements and the scope of recognition as moving goods must be checked in advance before bringing moving goods into Korea.

Packing and loading of goods > Transport (shipping company) > Domestic arrival (shipping company) > Entry into a bonded warehouse > Fill out import declaration and transmit EDI > Import declaration (customs office) > Goods inspection (taxation or tax exemption decided)/acceptance of import declaration > Delivery from warehouse

1-3 Bonded Area

Bonded areas are designated or licensed by the head of the customs office for the purpose of efficient freight management and customs administration. Activities conducted in bonded areas include the storage of foreign goods for customs clearance such as imports, exports, and returns; production, processing, or other similar activities by using foreign goods or a combination of foreign and domestic goods as raw materials; exhibition of foreign goods; construction using foreign goods; sale of foreign goods; and inspection of import and export goods. Bonded areas are divided into designated, licensed, and general bonded areas.

< Types of Bonded Areas >

Type	Details
Designated bonded area	Certain public facilities or areas designated by the head of the customs office as bonded areas: these include designated storage places used to temporarily store goods awaiting customs clearance, and customs inspection places used as sites for the inspection of goods by customs.
Licensed bonded area	Private for-profit facilities that have been licensed by the head of the customs office as a bonded area on the request of the owner. Licensed bonded areas are classified into commercial bonded areas for storing cargo for import and export and bonded warehouse for private use used by the owner to store his/her cargo (bonded warehouse, bonded factory, etc.).
General bonded area	Areas designated by the Commissioner of KCS where all the functions of the existing licensed bonded areas (entry, storage, manufacture & processing, exhibition, construction, and sale) can be carried out.

2. Tariff Reduction, Exemption & Refund

'Tariff reduction and exemption' refers to the full or partial waiver of tariff obligations, either conditionally or unconditionally depending on the case, for certain goods in order to achieve the specific aims of the country. The refund of customs duties on raw materials that are to be exported constitutes an export support system for the purpose of improving the price competitiveness of exported goods in the global market.

- Tariff Reduction and Exemption
- Tariff Refund

2-1 Tariff Reduction and Exemption

There are two types of tariff reduction: unconditional reduction of and/or exemption from taxes based on specific facts, and conditional tariff reduction and exemption in which tariffs are reduced or exempted on condition of specific usage. In principle, the Customs Act stipulates tariff reduction and exemption, although tariffs may be reduced or exempted according to the Foreign Investment Promotion Act, the Restriction of Special Taxation Act, the Submarine Mineral Resources Development Act, and multilateral and bilateral agreements.

< Tariff Reduction & Exemption under the Customs Act >

Unconditional Reduction & Exemption	Conditional Reduction & Exemption
<ul style="list-style-type: none"> • Exemptions for goods used by diplomats (Article 88) • Exemptions for goods used by the government (Article 92) • Exemptions for small-sum goods (Article 94) • Exemptions for travelers' personal effects, etc. (Article 96) • Exemptions for re-import (Article 99) • Reductions for damage (Article 100) • Reductions for overseas trusted and processed goods (Article 101) 	<ul style="list-style-type: none"> • Reductions or exemptions for correction of unbalanced tax rates (Article 89) • Reductions or exemptions for goods used for academic research (Article 90) • Exemptions for goods for religious use, etc. (Article 91) • Exemptions for specific goods (Article 93) • Reductions or exemptions for goods used to prevent environmental pollution (Article 95) • Exemptions for re-export (Article 97) • Reductions or exemptions for re-export (Article 98)

2-2 Tariff Refund

Tariffs paid or to be paid when importing raw materials for export are drawn back to the exporter or the manufacturer of the exported goods upon export, notwithstanding the Customs Act, etc.

< Tariff Refund Application Methods & Procedures >

Category	Details	
Exports subject to refund	<ul style="list-style-type: none"> • Exports for which export declarations are accepted under the regulations of the Customs Act. However, in the case of export without exchange, only the exports designated by the Ordinance of the Minister of Strategy and Finance are subject to refund. • Sales or construction, paid for in foreign currency within Korea, designated by the Ordinance of the Minister of Strategy and Finance • When supplying to companies in areas designated by the Ordinance of the Minister of Strategy and Finance as bonded areas under the Customs Act, or to companies in free trade zones under the law concerning the designation and operation of a free trade zone • Other exports as designated by the Ordinance of the Minister of Strategy and Finance 	
Raw materials subject to refund	When goods for export are produced	Materials that fall under any of the following: <ul style="list-style-type: none"> • Materials that are physically or chemically attached to the goods for export • Materials that are consumed in the process of producing the goods for export (excluding materials indirectly entered into the process of producing goods for export) • Packaging materials for the goods for export
	When goods are exported in their original imported state	Exported goods
Applicant	Exports	Either the exporter or the manufacturer who is listed as the refund applicant on the export declaration certificate
	When payments are received in foreign currency within Korea	Either the seller or the manufacturer of the concerned goods
	Entry into bonded areas and free trade zones, and other exports	Either the supplier or the manufacturer who is listed as the refund applicant on the 'Entry (load) of Export Goods for Refund Certificate' to confirm supply for exports, etc.
Application Period	Exports	When goods for export are loaded
	Other exports	Upon completion of the export, sale, construction, or supply of goods for export
Application deadline	<ul style="list-style-type: none"> • Within two years of the date on which the products manufactured or processed with imported goods subject to refund (raw materials) were supplied for export subject to refund. * Application for refund of tariff on the exported products shall be made collectively for all raw materials used to produce the exported products. * Tariffs on raw materials for export which are imported retroactively within two years of the date on which the export declaration is accepted or on which the export, sale, construction or supply thereof is completed shall be refunded. 	
Documents to be submitted	<ul style="list-style-type: none"> • Documents certifying that the goods have been supplied for exports, etc. (export declaration certificate etc.) • Statement of calculation of the used quantity • Documents certifying the amount of tax paid for used raw materials (import declaration certificate, etc.) • Other documents required for the confirmation of refunds 	