Introduction of new origin of import rules in the Kingdom of Saudi Arabia

On 2 July 2021, the Saudi Arabian Minister of Finance introduced a new set of national rules of origin by virtue of Ministerial Decree No. 3852, dated 02 July 2021 (22/111/1442). The new rules include additional conditions to be met by Gulf Cooperation Council ("GCC") products imported into Kingdom of Saudi Arabia ("*KSA*") to benefit from the GCC preferential treatment based on the GCC Unified Economic Agreement.

1. The GCC Unified Economic Agreement

On 21 December 2001, the leaders of the GCC countries signed the GCC unified Economic Agreement. This new economic agreement improved the 1981 economic agreement that settled rules of economic ties among member countries and by which Free Trade Zones of Cooperation Council were established.

Included is the chapter on customs unity / trade exchange which provides the following points:

- Unified customs tariff towards non-GCC countries
- Unified customs procedures and systems
- One entry point where collecting of unified customs occurs.
- Exemption from customs or non-customs restrictions of the transfer of goods between GCC Countries taking into consideration the application of agricultural and veterinary prohibition added to prohibited and restricted articles.
- Certain goods from other GCC countries shall be treated similarly as the national products of the subject GCC country.

Under the GCC Unified Economic Agreement, transfer of GCC national goods between GCC countries are exempt from customs restrictions including customs duties. In the new RoO introduced by the KSA, additional conditions for a GCC national good apply to benefit from the GCC preferential regime.

2. The new national rules of origin (“RoO”)

The new RoO is effective from 2 July 2021 and is expected to be valid until a Unified GCC RoO is issued and become effective. Below, we summarized some of the key points of the new RoO:

A. Conditions for preferential treatment on customs tariff

To qualify as a GCC national good subject to customs exemption under the GCC Unified Economic Agreement, the GCC manufactured product should meet the following conditions:

- The goods should be accompanied by a valid Certificate of Origin (“*CoO*”).
- The goods should be transported directly from the manufacturing GCC country to KSA or, if transiting through non-GCC countries, the goods shall be under Customs control.
- The origin labelling requirements must be considered.
- The local content added value of the product should not be less than 40% of the final product price. The local content added value is the difference between the value of the final product (excluding customs duties or local production charges applied on the product or any of its inputs) and the CIF value of the imported materials (excluding applicable taxes and duties, local transportation or any other charges that are not directly related to the production process.)
- The national (i.e., local) workforce of the GCC manufacturing entities should not be less than 25% of the total workforce of the factory.

The new RoO provides flexibility for the percentages of the required local workforce and local content value of the product. It defines that in case of a shortfall of one requirement it can be offset with the excess of the other requirement. However, the local workforce rate should be at least 10% and the local added value at least 20%.

Where the above conditions are not met, the GCC product imported into the KSA shall not qualify for the GCC preferential treatment. Hence, the product will not be exempt from customs duties in the KSA.

B. Goods with Israel link

Goods which include any component produced in Israel or manufactured by companies fully or partially owned by entities with commercial relations with Israel, as identified in the Arab boycott list, will be excluded from the GCC preferential regime.

C. Free zones

Free zones are areas which allow foreign companies to fully own companies and to work under lighter regulations. The following goods connected to any GCC free zones cannot qualify for the preferential treatment, hence are subject to customs duty:

- Goods manufactured in GCC free zones.
- Goods transported through free zones or according to invoices or shipping documents issued by free zones or an entity established in a free zone.

Following the above, the new rules provide that goods transported through free zones will not be a direct transport to KSA and cannot benefit from the preferential treatment.

3. Impact in the United Arab Emirates (“UAE”)

The new RoO is seen to be a huge blow to the trade relations between the UAE and KSA. The new rules on local workforce and free zones will hugely affect the UAE, especially considering that factories in the UAE rely heavily on expatriate workers and that free zones are among the main drivers of the UAE’s economy.

Below, we summarize some of the possible impact of the new RoO rules to companies in the UAE:

1. **Customs Duty** –UAE is a major hub for re-exporting foreign products to the KSA. With the new RoO rules, certain businesses established in the UAE may no longer enjoy the GCC preferential treatment of customs duty in its exports to KSA. This additional customs duty may be an additional cost to the company.

2. **Value-Added Tax -** Import VAT is calculated based on the declared landed value of the goods for customs purposes, inclusive of freight and insurance (equivalent to the Cost Insurance and Freight or CIF value), any customs or excise duties, and any incidental handling or storage charges, but excluding VAT, unless the import is exempt. This considered, with the additional customs duties imposed on certain imports to the KSA, the basis for calculation of import VAT in the Kingdom will increase, which will result to higher VAT payable to the Authority.

3. **Impact on Pricing Quotations** – The additional costs to the companies (e.g., customs duty and import VAT) will also likely affect how business quotes their products, hence, further affecting the commercial and financial aspects of UAE businesses.

4. Key takeaways

The changes support KSA's goal of diversifying its economy and attracting foreign investment.

With the changes in the RoO rules in KSA, importers in KSA and GCC manufacturers/ exporters must consider whether their manufacturing activities and associated supply chains meet the conditions set out in the new regulations.

In this regard, business may evaluate whether to adjust their current activities and operations to comply with the new rules, or to amend their pricing strategies to accommodate the possible additional costs.

In addition, this move by the KSA may set a precedent in other GCC countries. Hence, business may also have to consider putting in place contingency plans in case other GCC countries follow KSA's lead.

5. How Crowe can help

We expect that activities of many UAE companies may not meet the new RoO rules, and they are disqualified from the enjoyment of the preferential treatment for transfer of goods to KSA. We can assist with the following:

Evaluation of the impact of the new RoO rules in the Kingdom for the supply chain of companies in the UAE.

Provide advice and options on how companies in the UAE can accommodate the new RoO rules in the Kingdom.

Where the companies aim to meet the local workforce conditions in the UAE, assist with the compliance related requirements.

For your queries and more information regarding this new development please contact:

Markus Susilo
Partner
E : markus.susilo@crowe.ae
T : +971 4 22 00 198

Michel Ruitenberg
Tax Director
E : michel.ruitenberg@crowe.ae
T: +971 4 22 00 198