

## Abstract

The study of “Problem Concerning Export Promotion with Duty Measures under the Customs Laws of Thailand” researches the documents, domestic laws, Supreme Court’s decisions, legal articles, foreign laws, international agreements and analyzes them by descriptive and analytical method and by comparative methods.

The purposes and the results of analysis are as follows.

1. Studying the concept of export promotion and practice of many countries indicates that there is export promotion being in the responsibility of customs authorities. This covers customs duty benefit such as the refund of import duty already paid on such goods for producing and being exported or exempting import duty for goods being brought into a bonded warehouse of manufacturing plant type. Export promotion is also in the form of investment law for foreign direct investment. Thus, it provides both tax benefit and non – tax benefit such as permitting the investor to bring into the Kingdom of Thailand the foreign nationals.

2. Studying the Revised Kyoto Convention in the part of export promotion with customs duty measures indicates that there are some useful issues not being written in Customs laws. For example, the case that customs authority may exempt the collection of value added tax or sale tax for good brought into the country to follow drawback procedure or the case that temporary export for being produced abroad and bring back with duty exemption for all or part.

3. Studying export promotion measures according to the Investment Promotion Act B.E.2520 and the Industrial Estate Authority of Thailand Act B.E.2522 indicates that both are investment laws for attracting foreign direct investment. Thus, these laws have both export promotion provisions with duty measures and non - tax benefit such as benefit concerning foreign nationals to enter and work in Thailand, benefit of sending foreign currency to other countries, and benefit of owning land for investment purpose. The Act on compensating Tax and Duty Paid on Exported Goods Produced in Thailand, B.E.2524 is to assist exporter by reducing indirect duty being in the production cost by compensating tax in the form of tax card.

4. Studying export promotion policy and measures states that there is the usage of export promotion with non – tax measure such as using trade negotiation to open the market and solving trade barrier in every level and forum. Export promotion with monetary measure or policy by giving special low rate of interest to exporter or giving credit for export preparation. Export promotion with fiscal measure or policy are written in many laws by giving different tax or duty benefit. Such laws are Customs Act B.E.2469, Customs Act (No.9) B.E.2482, the Customs Tariff Decree B.E. 2530, the Investment Promotion Act B.E. 2520 and the Industrial Estate Authority of Thailand Act B.E. 2522. The two latter laws are investment laws for attracting foreign direct investment. Thus, the laws give tax benefit and also give non – tax benefit such as benefit to bring foreign nationals to enter Thailand and work. The Act on Compensating Tax and Duty Paid on Exported Goods Produced in Thailand B.E.2524 has the purpose as stated in no.3 of this abstract above.

The National Economic Development Plan, No.1 (B.E. 2504 – 2509) and the National Economic and Social Development Plan, No.2 to No.10 (B.E. 2510 – 2554) use all fiscal, monetary, and other measures or policies. The Development Plans, no.1 and no.2, protect import substitution industries. The Development Plans, no.3 and others emphasize export promotion. The Development Plans, no.9 and no.10, do not specifically state about export promotion.

Customs Union is the economic integration by not collecting customs duty among member countries and collecting customs duty from other countries that are not member of the Union. This is the export promotion among member countries.

World Trade Organization arises from the Marakesh Agreement Establishing the World Trade Organization having many annexes that member countries must follow. These are anti – dumping according to the Agreement of Article VI of the General Agreement on Tariff and Trade 1994 and the Agreement on Subsidies and Countervailing Measures. As a member of World Trade Organization, Thailand must implement the Marakesh Agreement by enacting the Act on Countervailing the Anti – Dumping and Subsidized Imported Goods B.E. 2542 and amend domestic law by enacting the Industrial Estate Authority of Thailand Act (no.4) B.E. 2550.

5. Studying the ideal export promotion system and the ideal export promotion system with customs duty indicates that the Revised Kyoto Convention is close to the ideal system.

6. The results of studying customs laws concerning export promotion are the following.

6.1 According to Customs Act B.E.2469, there are some deficiencies because the form of bringing goods out of a duty free zone is too narrow. Such goods will dispose to importer of section 19 bis of Customs Act (No.9) B.E. 2482. Hence, a duty free zone does not cover the case of section 19 and section 19 ter of Customs Act (No.9) B.E. 2482. Section 19 ter allows goods of section 19 bis transfer to a bonded warehouse but does not cover the case of section 19 and section 19 ter.

6.2 There is a Notification of the Ministry of Finance dated 31 December B.E.2549 that reduces tariff rate or exempts customs duty for imported goods. Some numbers of the notification contradict Customs Act B.E. 2469, or Customs Act (No.9) B.E. 2482 or Customs Act B.E. 2469 and the Investment Promotion Act B.E. 2520.

It should solve the problems of such customs laws application by abrogating the numbers of the notification that contradict Customs laws or the laws concerned and solving the deficiencies of customs laws just mentioned by enacting Customs Act (No...) B.E. .... as proposed by the writer. The law will include the good points of the notification and of the Revised Kyoto Convention not written in the present Customs laws.

Though the present export promotion system with customs duty has the deficiencies approximately 30%, the deficiencies will be solved by the proposed draft of Customs Act (No...) B.E. .... and the system will be comparable to the Revised Kyoto Convention which is the ideal export promotion system with customs duty.

6.3 For recommendation, Customs Department should extend the role of customs by using the concept of the Investment Promotion Act B.E. 2520 and improving it and using it to compete with foreign systems. Thus, Customs Department will use new benefit system along with benefit system that provides customs duty measure according to the present Customs laws which should be amended as proposed by the writer.