Compliance (noun)

“The formal act of obeying an order”?

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Compliance (noun)
“The formal act of obeying an order”?

The way trade and customs compliance is typically managed is fast becoming outdated and losing its fitness for purpose. In a world gone flat, businesses have been offshoring their manufacturing and sourcing operations, and seeking to enter new emerging markets in a bid to remain globally relevant and competitive. Global or regional value chains have become a mainstay in many companies as they seek to grow their revenues and keep costs low.

Correspondingly, this means they have to navigate diverse and constantly changing multinational complex legal landscapes, which include basic customs rules on classification, valuation, and origin, but also more fluid regulatory requirements such as non-tariff measures, dual-use goods, safety standards, licenses and the likes. Every so often, nuances of local practice present unforeseen complications, leading to clearance delays and increased costs. An increased number of trade disputes and incidences of economic and political volatility threaten to further throw a spanner in the works, eroding margins and straining valuable business relationships.

Unfortunately, despite the increased challenges, there remain severe repercussions for falling afoul of international trade and customs rules, as depicted on the right. A single event of non-compliance can trigger an audit and a full-blown investigation going back years, bringing issues that had previously gone unnoticed, and may not even have been within the responsibility of the current importer at the time they happened.

Safe to say, managing international trade has gotten increasingly complex over the years. Yet despite the high stakes, the reality is that the way companies approach customs and trade compliance has not kept up.

Ask any customs and trade executive for their view on managing compliance, and you are likely to get one of two responses: “a pain”, or maybe “a necessary evil”. Both these responses reflect the entrenched attitudes many have. The plethora of rules is there to be followed on an ad-hoc basis, because if they are not adhered to, otherwise smooth-flowing operations will be disrupted. Moreover, when asked if any of their protocols or directions are regionally or globally aligned the answer will almost inevitably will be a no. Certainly the term “value-creation” is unlikely to make an appearance.
Compliance as adherence

The idea of ‘compliance as adherence’ is simple enough. It suggests that good compliance is playing by the rules. Whenever you encounter something that needs complying with, you comply with it. No harm, no foul, business as-is. While there is nothing inherently wrong with such an approach, any company using it is inexorably sitting on a ticking time bomb and doing nothing about it. We take issue with such an approach because of its reactiveness. In the extreme it takes the form of “management by trial and error”: let’s try and import with what we’ve got, and see where we get stuck. It means teams are perpetually on the back foot when issues do arise. It takes only one small slip-up and a poor handling of it to blow up. This approach will never provide a holistic view that can make trade and customs processes cost- and time-efficient.

Too often, we sense complacency towards trade compliance. Little time and effort is invested to anticipate sometimes glaring issues that may arise (for instance when a new product is launched or new business strategy is implemented), or to ascertain how strong a company’s controls truly are. When complexities do arise, teams scramble to cope, putting together ad-hoc solutions that often end up proving unwise. For instance, waiting until an investigation is initiated and then figuring out ‘what next?’ is almost always a bad idea. Starting to analyse which HS code to use only when a shipment arrives at the port, when the project management team knew about the existence of this new product months back, is equally self-defeating. The situation only gets more complicated in larger companies, where the required information is seldom consolidated with one department. Emails and calls have to criss-cross the various departments from sourcing, purchasing, supply chain, manufacturing, finance and legal, when you simply do not have the luxury of time because the main objective is to clear goods as fast as possible.
Significant internal time and effort is likely to be dedicated to fire-fighting, only to end up still being charged penalties, encountering customs clearance delays, and losing revenue. Less tangible but potentially more damaging is the adverse effect that a reactive trade and customs management approach could have on a company’s reputation. Where the authorities detect that compliance is treated as an afterthought rather than prioritised, revenue-driven authorities could pinpoint the company as an ‘easy fish’. Even authorities that are not revenue-driven will have reason to doubt the veracity and accuracy of such a company’s statements, thereby damaging its trustworthiness in the eyes of the authorities. Even if an incident is successfully dealt with, teams are quick to smooth over it and revert back to hoping the situation does not arise again. Often, little is done to learn from the issue to mitigate future risk.

With trade and customs compliance teams being squeezed to be leaner and pressured to do more with less, an adherence approach is - bluntly put - inefficient and ineffective. Management by trial and error is not the way to go for any company that wants to step beyond firefighting and into a more proactive approach to managing cross-border trade.

**Going beyond adherence**

As mentioned above, we believe that companies must go beyond mere adherence as a strategy to compliance. What does this mean? Rather than seeing compliance as adherence to rules as and when they pop up, incorporating an element of proactivity is essential. This turns the customs and trade compliance function into one that is preventive in nature. Essentially, do not wait and see, but plan ahead.

The objective at the forefront of one’s mind should be engagement and preparation, in addition to the traditional identification and mitigation of risks. In this way, compliance is not simply an afterthought. For instance, greater oversight systematically increases the chance for teams to spot and therefore manage trade-related risks before the supply chain is disrupted.

A coherent, top-down approach to compliance ensures that customs and trade executives know how and when to react in different scenarios, lessening the risk of arriving at a suboptimal outcome. Not only is this likely to lower the likelihood of fines and penalties, it will also allow companies to shave off legal expenses and internal costs incurred when dealing with unforeseen trade compliance issues.

In our experience, there are some key aspects that companies can focus on to start building a great compliance program. These are:

1. Policies and procedures;
2. Training and development;
3. Automation;
4. Reviewing operations; and
5. Management support.
Below, we will share some of the key considerations that should come to mind under each of these components.

1. Policies and Procedures

Strong internal policies and procedures form the anchor-stone of good compliance management. We have seen companies have their imports halted as licence applications were overlooked, or licence provisions were not complied with.

In the absence of proper documented policies and procedures, there is an inherent risk of oversight. For instance, teams that operate based on past experience and memory alone risk being left temporarily incapacitated when a responsible person leaves. Having clear and documented Standard Operating Procedures (SOPs) that formalise work flow and clarify internal policies and procedures is useful in many situations. For one, it helps provide a clear delineation of roles and responsibilities. This is particularly useful in ensuring internal alignment on issues and a consistent message to authorities. Further, reliance on SOPs helps facilitate handing over procedures whenever there is a change in personnel and/or roles. In this manner, the critical elements to properly functioning trade and customs compliance are always prioritised.

SOPs should at the very least cover topical issues such as general import/export procedures; classification, origin and valuation management; documentation and record-keeping; etc. We find that companies that generate consistent and comprehensive import and export document sets, and have a good track record of presenting them on time when asked for, seldom find themselves needing to rely on them.
In addition to these topical SOPs, additional areas that should be covered include individual roles and responsibilities, broker/3PL management, escalation criteria and personnel (what type of issues should be raised and escalated), as well as incident/authority management processes (when and what course of action should be taken in the event of certain situations – for example, initiation of an investigation). For instance, we find that delays in document turnaround are relatively common. Teams struggle to pull the relevant documentation and information required, as they are stored in disparate systems with access limited to personnel from other teams.

2. Training and Development

Well-rounded training and development is a critical component of any proactive customs compliance program. The best training and development programs require customs and trade executives to think of themselves as active interrogators, and not as passive recipients of the news of change.

Needless to say, a strong grasp of your company’s business and the relevant rules and regulations are vital to identifying red flags in your company’s operations and to steer clear of violations. Customs and trade executives should be well-versed in topics such as classification, valuation, origin, export controls, licensing, record-keeping etc. Even if these functions are outsourced, an in-house team should maintain a baseline level of knowledge and understanding.

Trickier but no less important and yet often neglected are market-specific considerations. Such considerations allow teams to develop a fuller appreciation for how individual country landscapes can impact upon trade, and even help with allocation of resources. Trainings can focus on how specific countries can be categorised into different buckets according to the level of risk they cause the business, and interrogating why this might be so. It could be because customs administrations are major government cash cows in some of these countries, which often goes hand-in-hand with tougher enforcement and closer scrutiny. Other considerations include the level of sophistication of authorities, the divergence between legal text and actual practice, and the volatility of the landscape (e.g. next day regulatory changes). In certain countries, simply knowing the legal text and ensuring adherence to the rules will suffice. However, in many others, legal texts might have piecemeal coverage or nebulous terms. Overall, they could be unhelpful, or worse still, actual implementation and practice could simply be significantly at odds with the legal requirements. A good understanding of the regulatory and practical landscape assists with future planning and is critical for proactive compliance management.
Another focus should be to hone the ability of individuals to keep pace with potential changes and to extricate the risks they present to the company’s supply chain. General trends are relatively easy to monitor. For instance, customs administrations in the region are getting increasingly sophisticated with various knowledge sharing workshops and World Customs Organisation capacity-building programs. Teams should then be taught to unpack the risk it presents – the focus of authorities has invariably shifted from modest classification challenges to more complex valuation issues such as related-party pricing and royalties, where larger sums are usually at stake. Broader global concerns such as trade retaliatory measures or events such as Brexit, the Trans-Pacific Partnership, and climate change regulations similarly provide sufficient lead time for firms to plan ahead and develop contingency plans to ensure that potential trade disruptions and their impacts have been properly deliberated.

With this interrogative mindset, teams can just as easily be taught to spot opportunities that create value for their company. Consistent re-education and investigation of opportunities along with utilisation of various trade zones, tariff re-engineering, and duty deferral programs is best practice as it increases speed-to-market and regularly results in measurable cost savings. Turning your attention to using Free Trade Agreements (FTAs) to benefit customers is another strategy that firms have been adopting to cultivate closer relationships with downstream customers.

As roles that could impact on import and export can sometimes be dispersed across various functions in a company, customs and trade teams should be cognisant of including all relevant personnel in the process to ensure a comprehensive compliance strategy. Depth of training content should be tailored to reflect the target audience, with a more generic version disseminated to functions that only loosely relate to customs and trade. Care should be taken to ensure that new hires are not forgotten. Efficient dissemination in this case could take the form of a pre-loaded video.

3. Automation

Investment in technology solutions to automate trade and customs compliance frees up valuable time for customs and trade executives by releasing them from the more laborious and repetitive aspects of their work. It provides companies with more effective control over their data and their time, and can be customised to fit the needs of an organisation.

For instance, companies dealing with strategic goods can greatly benefit from strategic goods screening systems. These systems automatically place shipments on hold if they do not satisfy any of the pre-set export controls, whether this is due to uncertain end use of the goods, end country destination, or lack of requisite documentation. An alert is sent out to the responsible person flagging the shipment for closer review. When the controls are satisfied, shipments are automatically released. Similar solutions that conduct documentation checks for FTAs also exist for companies that are heavily reliant on FTAs. Clients dealing with perishable food products have also found license management solutions that assist with the data collection and license submission process helpful. Depending on your needs, these systems are able to determine the applicable licence, track licence expiry, and automatically populate and even submit licence applications.
Lately, we have seen that companies are not only implementing management tools to help with trade and customs processes, but also utilising data analytic tools. These can be used to review declarations in order to spot and act on missed opportunities and threats. They can also serve to assess pre-declaration information for adequacy before declarations are lodged, reducing the risk of making declaration errors or missing savings opportunities in the first place.

4. Reviewing operations

Under a proactive compliance management approach, reviews are required to test the efficacy of trainings and also to assess the general health of the trade compliance function. In theory, having periodic reviews protects against complacency and gives teams a proper chance to identify compliance gaps before they become endemic. Regrettably, we have seen situations where reviews are a foregone conclusion and teams simply administer self-audits to check a box. Apart from being a waste of time and resources, such reviews can actually perpetuate a false sense of security, entrenching the belief that 'all is well' even when reality is far from it.

Reviews under a good compliance management approach should cover the usual suspects (see figure on right), but also go further to encompass evaluations of external partners. Of these, perhaps the most important are customs brokers or third party logistics providers (3PLs).

Typical risks to look out for:

- Misclassifications;
- Misdeclared/unsupported transaction values;
- Undeclared values (eg, royalties or assists) and improper deductions;
- Poor document control (eg, unsupported FTA claims, customs duty exemption/duty deferral/refund schemes.);
- Poor compliance tracking (eg, with licence provisos);
- Impact of non-tariff measures;
- Authority management;
- Incident reporting;
- Quantity mismatches.

Many companies consider their broker/3PL responsible for the movement of goods and any problems in that respect should therefore be answerable by them. However, this is a common misnomer as customs authorities hold the Importer of Record (IOR) primarily responsible for customs and trade compliance. And even if a 3PL acts as a company’s IOR, the company may still be caught up in investigations, its products get delayed, customers are left unhappy, and brand and reputation take a knock. Therefore, regardless of how compliant your company might be internally, partnering with an external service provider without proper and ongoing due diligence exposes you to significant risks. To counteract this risk, it is advisable for teams to review their contractual terms with such service providers to ensure sufficient safeguards are built in. Strong controls over delegating powers and anti-corruption or bribery clauses are also necessary. Broker performance should be tracked in the form of key performance indicators (KPIs), which gives customs and trade executives greater visibility over day-to-day operations and leverage in terms of negotiating rates and fees.
For a review to be meaningful however, identifying gaps in compliance and opportunities in a report is not enough. Follow-through is just as critical. Results of a review must be taken seriously and acted upon, for instance by setting up a taskforce whose job is to evaluate the merit of any suggested actions based on the review. This ensures critical decisions and commitments are made on a supportable basis. Additionally, the results of reviews should circle back and feed into updating internal firm policies or procedures as well as trainings so they remain relevant and up-to-date.

If the team is short on manpower or lacks the expertise, external independent service providers can be roped in to assist, which often yields new insights on best practices in the market.

5. Management support

As cliché as it sounds, the hallmark of a strong compliance approach is the tone at the top. Management needs to understand that proactive compliance management is a firm-wide endeavour. While aspects of customs and trade compliance can be driven by the customs and trade team, cooperation and support from other functions across the organisation is also necessary. As a result, management should give due recognition to the ways in which a proactive compliance strategy benefits the wider company.

A common grievance is that trade teams find it hard to get a seat at the table and win sufficient budget for their initiatives, due to lack of support. In that respect, teams should work closely to establish links and win support from other teams in the company who are affected by trade compliance issues. For instance, duty and import GST reduction and deferral schemes directly impact on cash flow management, being an important measure for finance teams. Knowledge of local practices and attitudes of authorities can prove beneficial when launching new products in markets, being of relevance to business strategy or development teams. With the right approach to cross-company support and resources, customs and trade teams can play a much bigger role in organisations. They will have the ability to accelerate the movement of goods through the supply chain, increasing speed-to-market, and resulting in high customer satisfaction.
Conclusion

While there is no magic formula to managing trade and customs compliance, the above reflects what we think are key component parts to any successful compliance management approach. A fundamental shift from a reactive to proactive approach often requires an overhaul in the way teams operate. Hence there is a need for consistent, ongoing efforts, both by individuals in the customs and trade compliance team as well as support from their management.

Our advice to clients is always to make sure they understand both where they stand and where they want to be, in order to know how much they need to do. The logical starting point is always to conduct an assessment, either internally or with the help of external providers, to target areas where small changes could bring about the biggest wins to close the gaps between the “as-is” and the “to-be”. This provides early traction and helps deal with the resistance to change that pretty much every company will face.

We have seen that an important part of knowing the compliance level of a company is to have visibility of every player in the supply chain that can affect such compliance, including R&D teams, procurement, sales and marketing, finance, external brokers etc. In order to achieve this, we believe is important to develop and roll-out robust processes (SOPs) and support them with the available technological platforms that can provide quality information in order that all parties can take informed and timely decisions.

As global supply chains grow increasingly complex, compliance management needs to keep pace. Steps should be made to move your organisation towards a proactive compliance approach. While it is true that no one can predict the future, it should not stop us from preparing for it.
ASEAN

Singapore’s term as ASEAN Chair begins

Singapore took over from the Philippines as the Chair of ASEAN on 1 January 2018. As the ASEAN Chair, Singapore will be focusing on five economic priorities. These are:

1. The digital economy;
2. Trade facilitation;
3. Services integration and ease of investment;
4. Energy security; and
5. Strengthening of ties with ASEAN dialogue partners.

Minister for Trade and Industry, Lim Hng Kiang, has indicated that the first two are the top priorities. Singapore’s efforts toward creating a digital economy involves focusing on developing e-commerce trade rules, lowering barriers to entry, and enhancing digital connectivity amongst ASEAN nations. As for trade facilitation, Singapore will be pushing on with its efforts in implementing regional trade facilitation schemes such as the ASEAN Single Window and self-certification.

The business community is encouraged to share their recommendations and experiences. For instance, ease of payment issues were raised as a factor impeding regional e-commerce, and the development of an ASEAN e-wallet framework was mooted by interested companies.

The 2018 tentative meetings calendar has been updated and can be accessed via the following link: http://asean.org/storage/2015/05/AO09012018-2018-Notional-Calendar-external.pdf

Implementation of e-Form D

With the implementation of electronic certification of origin under the ASEAN Trade in Goods Agreement (“e-Form D”) in five ASEAN member states (Indonesia, Malaysia, Singapore, Thailand and Vietnam), it could be said that the ASEAN Single Window (ASW) has finally come truly alive. Of course, it provides only limited functionality and is more virtual than physical, but it is still an important step in the right direction. Below is a summary of the key aspects of implementation in each of the five countries.

Indonesia

Indonesia started implementing e-Form D with the issuance of Minister of Finance regulation number 229/PMK.04/2017 dated 29 December 2017. In general, e-Form D is similar to the manual Form D, except it is transmitted and exchanged electronically via the Single Window platform.

An e-Form D can be issued before, on the day of, or 3 days after the export date. Its validity expires 1 year after the export date. In the event that an e-Form D is issued 3 days after the export date, the exporter must fill the “Category Code” column with the IRA code (Issued Retroactively). If the issuer of e-Form D is located in a third country, the name of the issuing company and country must be mentioned in column “Invoice Party” and “Invoice Country”.

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In the event that an e-form D is rejected, Customs will send the rejection notification through the ASW. Notification will be provided within 60 days from the receipt of the e-Form D.

**Malaysia**

On 18 December 2017, the Malaysia Ministry of International Trade and Industry (MITI) announced that Malaysia, Singapore, Thailand, Vietnam and Indonesia were to transition to the ASW on 1 January 2018.

This means that from 1 January 2018, traders are able to electronically transmit the preferential Certificate of Origin for ATIGA (Form D) from Malaysia to any of the other three countries to enjoy preferential tariff treatment.

Malaysian exporters may now apply for an e-Form D via the Electronic Preferential Certificate of Origin (e-PCO) system. Once approved, the e-Form D will be sent directly to the customs system of the importing country. Exporters therefore will no longer be required to print on a pre-printed Form D, get endorsement at MITI service counters and send the hard copy to the importers. Exporters will only be required to provide the importer with the e-Form D reference number.

Although MITI is strongly encouraging exporters to use e-Form D for preferential treatment under ATIGA for exportation to Singapore, Thailand, Vietnam and Indonesia, hard copy Form D’s are still allowed until further announcement to be made by MITI.

**Singapore**

As reported in our previous edition of Trade Intelligence, since 1 January 2018, Singapore has been accepting electronic preferential certificates of origin issued under the ATIGA. This is also known as ‘e-ATIGA Form Ds’.

Form D application procedures on TradeNet remain unchanged. Exporters simply need to access the approved e-ATIGA Form D in TradeNet, and authorise the transmission of the approved form to the importing customs authority. For companies transhipping goods through Singapore, e-ATIGA Form Ds from the first exporting ASEAN country can be used for back-to-back Form D applications, subject to three conditions:

- The e-ATIGA Form D must be issued on or after 1 January 2018;
- The goods must have originated from an exchange-ready ASEAN country; and
- The e-ATIGA Form D must be successfully received into TradeNet.

To enable a transmission of e-ATIGA Form Ds, exporters must ensure they are registered with Singapore Customs. A copy of the registration form can be requested from Customs via the following email: customs_roo@customs.gov.sg

**Thailand**

The Customs and the Department of Foreign Trade have issued notifications in relation to the implementation of e-Form D. Currently, e-Form D is available for importing from/exporting to Singapore, Indonesia, Malaysia and Vietnam (Customs Notification no. 187/2560 and DFT Notification re: The issue of a certificate of origin (Form D) under ATIGA B.E. 2560 No. 1 and No. 2).

The Customs notification provides criteria and procedures regarding e-Form D that will be available by relying on the Electronic ATIGA Form D Process Specification and Message Implementation Guideline (attached to the notification). An importer must identify e-Form D reference number and issuance date in import entries when submitting it into the e-Customs system linking with the ASW before proceeding to clear the goods. As e-Form D status is equivalent to the paper Form D, the regular Form D can still be used for enjoying preferential duties if e-Form D is not available at the time of importation due to technical difficulties.
The DFT Notifications provide guidelines regarding e-Form D for exported goods including practices of Back-to-Back, Accumulation and e-Form D correction (which are amended under Notification no. 2). Relevant practices for the e-Form D are similar to the typical practices applied for a paper Form D. The main difference is that the application form and all supporting documents can be submitted in electronic files via a DFT system.

These notifications became effective from 1 January 2018.

**Vietnam**

Vietnam has accepted e-Form D issued from 1 January 2018. On 5 January 2018, the General Department of Customs (“GDC”) issued Official letter 78/TCHQ-GSQL (OL 78) to local customs departments providing guidance on the inspection of electronic Certificates of Origin form D (“e-Form D” or “C/O”) via the ASW.

OL 78 provides detailed instruction on declaration of e-Form D for customs declarants both via e-customs system or paper declaration. In case C/O is not available at the time of importation, customs declarants can submit C/O upon the availability of C/O by following guidance in OL 78.

Apart from guidance on the declaration of e-Form D, OL 78 also provides guidance to local customs officers on the procedures of receipt, inspection and processing when there are errors with the system.
Free Trade Agreements focus

### Agreements entered into Force

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<thead>
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<th>Agreement</th>
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<td>China – Georgia FTA</td>
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### Agreements signed

<table>
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<th>Agreement</th>
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<td>China – Maldives FTA</td>
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<tr>
<td>Chile - Indonesia Comprehensive Economic Partnership Arrangement (CEPA)</td>
<td>15 December 2017</td>
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### Agreements concluded

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<tbody>
<tr>
<td>Comprehensive and Progressive Agreement for Trans – Pacific Partnership (CPTPP)</td>
<td>23 January 2018</td>
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### Fourth round of tariff cuts under China – Australia FTA

The fourth round of import duty reductions under the China – Australia (ChAFTA) has entered into force on 1 January 2018. These reductions will benefit Australian products such as lead, abalone, oranges, bottled wine and skincare products. China has reduced import tariffs on Australian bottled wines from 5.6% to 2.8%, while import duties on bulk wine were reduced to 4%. Tariffs on these products will continue to be reduced each year as stipulated in the individual tariff reduction schedules within the FTA legal text. Both sides are also reviewing the service and investment chapters of the FTA and have expressed intentions to open negotiations to enhance commitments in these areas.

### Upgraded Singapore – Australia FTA (SAFTA) entered into force on 1 December 2017

The upgraded SAFTA has entered into force on 1 December 2017. The changes in the updated agreement include updated trade rules for goods, increased opportunities in bidding for government procurement contracts, as well as greater investment facilitation and enhanced access to service sectors on both sides. For example, under the expanded FTA, Singapore local businesses will be able to bid for procurement contracts from Australia’s federal government. They will also no longer be required to obtain approval from Australia’s Foreign Investment Review Board for investments in non-sensitive sectors that are lower than AUD 1.094 billion in value.

Apart from facilitating investments, the upgraded SAFTA will also contain more flexible rules of origin and reduce regulatory barriers, which will benefit and boost trade for products such as wine and distilled spirits, cosmetics, medical devices and pharmaceutical products. Rules to facilitate trade in the digital economy and improve mobility for business persons have also been included.

### Next phase of ASEAN – China FTA sees tariff cuts on 400 additional items

With effect from 1 January 2018, import tariffs on 400 items on the sensitive list have been reduced to between 0% and 5% as part of the continuing tariff reduction stages stipulated in the ASEAN - China Free Trade Agreement.
These 400 items include commodities and agriculture products, wheat, fruit juices, tyres, polyester, toys, chillers and electrical equipment among others. Once these tariff reductions have been phased in, both sides will proceed with the final stage of tariff cuts for items on the highly sensitive list.

Currently, import duties on approximately 90% of tariff lines, or 8,600 items, have already been reduced to between 0% and 5%. With further tariff reductions in the coming years, bilateral trade volume is expected to increase to USD 1 trillion by 2020.

**China and South Korea sign MoU and commence with negotiations on expanded FTA**

At the bilateral summit held in December, South Korea and China have signed an MoU to commence with negotiations for expansion of the South Korea – China FTA, which currently only covers trade in goods. The expanded agreement will cover the service and investment sectors. Both sides will also deepen economic cooperation in industries such as e-commerce, renewable energy, consumer goods and technology sectors, as well as previously excluded areas such as manufacturing, agriculture and mining. Before opening negotiations with China, South Korea will proceed with public hearings to seek public opinion on the scope and potential impacts of the expanded bilateral FTA. Both nations have also signed two additional MoUs on economic cooperation and trade remedies to facilitate bilateral business ties, expand collaboration in the advanced technology sector and enhance investor protection measures. Korean and China companies and state organizations have also separately signed 19 MoUs to deepen partnerships in the telecommunications, sports and technology sectors.

**China and Georgia FTA enters into force**

The China – Georgia FTA has officially entered into force on 1 January 2018. Under the FTA, 96.5% of China’s tariff lines will be eligible for immediate duty free entry into Georgia. In return, 90.9% of Georgian tariff lines will enjoy duty free treatment into China immediately, while tariffs on a further 3% of tariff lines will be reduced gradually to zero in the next 5 years. With the elimination of tariffs on wine and spirits, the FTA is also expected to further boost Georgia’s wine exports to China. Both sides will also further open up local markets and facilitate investment and strategic cooperation in areas such as e-commerce, environment and trade, and tourism.

**China and Maldives sign bilateral FTA**

China and Maldives have signed a bilateral FTA on 7 December 2017, having concluded negotiations for the trade pact via the signing of a Memorandum of Understanding (MoU) earlier in September. Under the FTA, tariffs will be exempted for over 96% of tariff lines of bilateral trade flows, including industrial and agricultural exports imported into Maldives, and fish products imported into China. Both countries will also be deepening cooperation in areas such as finance, medicine, tourism and fishing.

**India explores FTA opportunities with the United States, United Kingdom, Peru and Israel**

India is exploring FTA opportunities with the United States (US) and United Kingdom (UK). Although the UK is unable to commence with formal trade talks until it leaves the EU, both sides intend to build on the UK – India trade working group and have communicated that an FTA will likely boost bilateral trade, generate jobs, and enhance the competitiveness of India and UK. The US is also planning a comprehensive FTA with India, which is expected to boost trade in goods, services and investment flows between the US and the Indo-Pacific region.
Separately, India is also currently in talks with Peru and Israel for bilateral FTAs. The second round of FTA talks between India and Peru has been scheduled for March 2018. The FTA is expected to especially benefit the agricultural products and commodities sectors, which are important sectors for both countries. Although negotiations will not likely be concluded in the near term, both governments have decided to start off with single undertaking discussions for services, investment and trade in goods. Between India and Israel, the tenth round of talks will be held in February 2018 to continue with efforts to conclude a FTA and Bilateral Investment Treaty (BIT). Both sides will be focusing discussions on concluding the BIT first before further FTA negotiations are held.

**Indonesia to pursue more bilateral and regional FTA negotiations to boost exports**

Indonesia has expressed intentions to pursue bilateral FTA negotiations with 5 countries: Peru, Kenya, Mozambique, South Africa and Morocco, as well as a comprehensive economic partnership arrangement with the Gulf Cooperation Council. Such strategic partnerships are expected to boost Indonesia’s non oil and gas exports, such as machinery, mechanical appliances, apparel, footwear and pharmaceutical products through increased access to the South American and African markets.

Currently, Indonesia is also undertaking negotiations with Australia, Iran, the European Union and the European Free Trade Association (EFTA) member countries. The 4th round of negotiations for the Indonesia - EU CEPA is scheduled to take place in early 2018 following the exchange of offer lists from both sides. Final discussions for the Indonesia Australia CEPA are also underway and both sides are aiming to finalize the agreement by March 2018. The 14th round of negotiations for the Indonesia - EFTA CEPA will also be held within the first quarter of 2018.

Clearly Indonesia’s FTA negotiation agenda is ambitious. To what extent this will help or hinder it achieving successful timely outcomes remains to be seen.

**Indonesia offers concessions to Pakistan on 20 additional tariff lines under existing Preferential Trading Agreement (PTA)**

Since the Indonesia – Pakistan PTA (IP – PTA) entered into force in 2013, bilateral trade volume has increased from USD 1.23 billion in 2013 to USD 2.44 billion in 2017. However, due to concerns over worsening export volumes and trade imbalance, Pakistan has initiated a review of the PTA to achieve a more equitable agreement and to improve market access for Pakistan’s rice exports. In response to this, Indonesia has agreed to immediately eliminate import tariffs on 20 additional tariff lines, which includes Pakistan’s key export products such as mangoes, rice, tobacco, yarn, fabrics, denim, garments, towels and bed linen. An MoU was also signed to allow for the sourcing of rice from Pakistan.

Both countries are in discussions aimed at eliminating non-tariff barriers to create more mutually beneficial trade. Indonesia has stated that it would be easing import restrictions on kinnow and mango products. Both sides have signed a protocol to finalize and implement the above changes during an official visit by the Indonesian president to Pakistan in end January 2018.

**Chile and Indonesia sign Comprehensive Economic Partnership Arrangement**

On 15 December 2017, Indonesia and Chile signed the Indonesia – Chile CEPA, the first FTA inked between Indonesia and a South American nation. Under the CEPA, Indonesia will gradually remove duty rates on 9,308 tariff lines, and reduce import duties on a further 590 tariff lines by either 25% or 50% from current rates. In return, Chile will be eliminating import duties on 7,660 tariff lines - 78% of which will be effective immediately upon entry into force, expected to be early this year after the ratification process is completed. The remaining 12% will be fully abolished within the next 4 to 6 years. Products that are expected to benefit most are key export products including palm oil, agriculture...
Singapore and Sri Lanka sign bilateral FTA

The Sri Lanka – Singapore FTA (SLSFTA) was signed on 23 January 2018. Under the FTA, Sri Lanka will eliminate tariffs on approximately 80% of all tariff lines, which could result in duty savings of up to SGD 10 million annually. The most benefits will be felt by Singapore’s key export sectors, which include petroleum oils and diesel fuel, non-monetary gold, and jewellery. Singapore currently already applies a zero import tariff rate on approximately 99% of tariff lines.

Apart from tariff reductions, the SLSFTA also provides for “more flexible rules of origin” (publication of the texts will need to be awaited to find out what exactly that means) and covers areas such as investment facilitation and protection, e-commerce and services. For services, both countries have further committed to facilitating greater market access for professional, environmental, construction, tourism and travel-related services. Singapore firms will also be allowed to bid for government projects as part of Sri Lanka’s treaty commitment on government procurement.

Malaysia to commence FTA negotiations with Sri Lanka

Malaysia and Sri Lanka have agreed to commence FTA negotiations to strengthen bilateral trade and deepen economic relations. Both sides are proceeding with local processes and working towards conclusion of the joint feasibility study before formal trade talks are initiated. During the meeting, officials discussed the promotion of bilateral trade, investment and tourism, as well as the possibility of future cooperation in areas such as science, technology and innovation, and the digitization of judicial documents. Three MoUs relating to cooperation in training for diplomats, cooperation in foresight and Science2Action and collaboration in the biotechnology, science and technology industries were also signed.

Philippines – European Free Trade Association FTA ratified

President Duterte has confirmed and ratified the PH – EFTA FTA on 8 December 2017. Prior to entry into force, the trade pact will have to be concurred and ratified by the Senate, who has expressed that it will be included as a priority item in the legislative agenda upon resumption of senate sessions. Signed on 28 April 2016, the trade pact covers trade in goods, services, investment, government procurement, intellectual property rights, competition and sustainable development. Both sides are looking to deepen cooperation in industries including ship building, iron and steel, automotive, automotive parts, aerospace, Information Technology - Business Process Management (IT – BPM) and chemicals.

South Korea and the United States begin renegotiation for Korea – US FTA

Following Korea’s agreement to renegotiate the Korea-US (KORUS) FTA, a day-long session was held on 5 January 2018 to commence with discussions. During the meeting, both Korea and the US discussed proposals towards achieving a fair and reciprocal trade deal for both nations. The US brought up areas of concern relating to its key industrial goods sectors such as automotive and automotive parts and components, as well as cross-cutting and sector specific barriers that its export sector is currently facing. Korea highlighted concerns regarding investment protection and import restrictions such as safeguard measures and anti-dumping duties imposed by the US. Both nations have committed to expediting negotiations and have agreed to schedule follow-up meetings in the near term.
Thailand proceeds with FTA negotiations with Pakistan and the European Union

Following the exchange of final offer lists on 30 December 2017, Thailand and Pakistan were due to hold their 10th round of FTA negotiations in February 2018. The offer lists include concessions on automotive and textile products, as well as agro-products, plastics and pharmaceuticals, as requested by Pakistan. Both countries are aiming to reach a final agreement and sign the FTA by February 2018.

Thailand has also expressed that preparations will be fast-tracked to resume FTA talks with the EU, which has been suspended since the military coup in Bangkok in 2014. Additional areas to be addressed during negotiations include unregulated fishing issues, and the yellow warning card imposed by the EU on Thailand's aquatic products in 2015.

Vietnam further reduces tariffs under multiple FTAs in 2018

In line with Vietnam's commitments under existing FTA frameworks, Vietnam has eliminated tariffs for certain products under the ASEAN Trade in Goods Agreement (ATIGA), ASEAN China FTA (ACFTA), Vietnam – Japan CEPA (VJCEPA), as well as the Vietnam – Korea, and Vietnam – Eurasian Economic Union (EAEU) FTA.

The following specific tariff reductions under each FTA took effect from 1 January 2018:

<table>
<thead>
<tr>
<th>FTA</th>
<th>Import Tariff reductions</th>
</tr>
</thead>
</table>
| ASEAN Trade in Goods Agreement (ATIGA) | • Import duties removed entirely on 669 tariff lines. This includes products such as automobiles, motorcycles, automotive components, machinery fruits, vegetable oil, milk and dairy products and electronic appliances.  
• As prescribed under the ATIGA, sensitive agricultural products such as poultry, chicken, citrus fruits, brown rice, processed meat and sugar will be subject to a 5% tariff rate. |
| ASEAN China FTA (ACFTA)    | • Zero import duties for chicken, coffee, raw tea, processed food, apparel fabrics, clothes, electronic equipment and electrics.                           |
| VJCEPA                     | • 456 tariff lines covering products such as fat, sugar, machinery, equipment and automotive components duty free on import into Vietnam.                      |
| Vietnam – EAEU FTA         | • Import tariffs on 3,720 tariff lines reduced to 0%. This includes products such as milk, dairy products, automobile and spare parts, iron and steel and steel products. |
| Vietnam – Korea FTA (VKFTA) | • Import tariffs on 704 tariff lines reduced to 0%. This covers items such as seafood, wheat, confectionery, diesel fuel, machinery and electronic equipment.  
• Import tariffs for certain commodities ranging from 10% to 20% will be reduced gradually to 0% by 2022. |

For other ASEAN - Plus FTAs, such as the ASEAN – Korea, ASEAN – Japan, ASEAN – India and the ASEAN – Australia – New Zealand FTAs, Vietnam will also progressively reduce tariffs on certain commodities and tariff lines to zero percent from 2019 to 2022.
Negotiations concluded for the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

The 11 member countries of the CPTPP have officially finalized and concluded negotiations for the revised trade pact and are working towards signing the agreement in March this year. During the latest round of discussions, officials managed to resolve outstanding issues, finalize the list of suspended provisions under the CPTPP and complete legal verification of the agreement. This follows from the most recent meeting in November, where leaders agreed on core elements of the CPTPP and agreed that all commitments from the original TPP would remain intact, except for a limited number of provisions that would be temporarily suspended.

The CPTPP, which involves Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam, is expected to further enhance trade in the Asia-Pacific and result in a greater flow of goods, services and investment in the region. Companies will likely benefit from the substantial elimination of tariff and non-tariff barriers for goods, improved market access for services, greater facilitation of investments and improved access to government procurement contracts.
The 23rd Plenary meeting of the WA was held on 6-7 December 2017 in Vienna, and was chaired by Ambassador Jean-Louis Falconi of France.

Below are some highlights of the WA’s 2017 outcomes:

- Particular attention was paid to proliferation risks associated with Small Arms and Light Weapons (SALW);
- To keep pace with technological advances, new export controls were adopted to cover military explosives and specific electronic components. In addition, existing controls relating to certain products were clarified to make them more user-friendly, or relaxed to account for the evolving product capabilities;
- Proposals for best practice guidelines were considered, and existing guidelines due to be updated were flagged for review; and
- Experiences in licensing and enforcement practice, and ways to strengthen national export control implementation relating to arms trade risk assessment, end-use and end-user assurances, intangible transfers of technology, as well as catch-all provisions, were shared.

India was formally admitted into the WA on 8 December 2017. This makes India the Arrangement’s 42nd Participating State. See our India country report for more details.

Ambassador Leigh Turner of the United Kingdom has taken over as Plenary Chair from 1 January 2018. The next plenary meeting is scheduled for December 2018.

With India’s entry, the WA now has 42 participating states. Its Asia Pacific members are: Australia, Canada, India, Japan, New Zealand, Russia, South Korea, and the United States. While Singapore and Malaysia are not WA participating states, their domestic legislation (Strategic Goods (Control) Act 2003 and the Strategic Trade Act 2010 respectively) implements export controls based on the WA.


Update on the 2017 Export Control Forum

The 2017 Export Control Forum was held on 19 December 2017 in Brussels, where export control officials and representatives from the private sector gathered to exchange information on the ongoing dual-use export control implementation in the EU, and to share updates on the proposal for a modernisation of EU dual-use export controls.

Country reports

Australia

Changes to Australia Ozone Protection and Synthetic Greenhouse Gas Management Act 1989

The Australian Government has made certain legislative changes to the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989, Customs (Prohibited Imports) Regulations 1956 and the Customs (Prohibited Exports) Regulations 1958 to restrict the importation and use of certain items considered to have high global warming potential and impact on the environment. The legislation changes include regulating the importation of certain synthetic greenhouse gases and ozone depleting substances, low volume import exemptions for certain equipment, and a hydrofluorocarbons import phase-down. The hydrofluorocarbons import phase-down only applies to those imported in bulk, such as in ISO tanks or canisters, and does not apply to those imported in pre-charged equipment, such as air conditioners or refrigerators.

Customs duty reduction under the Korea-Australia Free Trade Agreement and the China-Australia Free Trade Agreement

The scheduled reduction of preferential customs duty rates across a wide range of goods occurred under the Korea-Australia Free Trade Agreement (KAFTA) and the China-Australia Free Trade Agreement (ChAFTA) on 1 January 2018. The next scheduled reduction will occur on 1 January 2019.

Changes to Import Processing Charge for goods imported under Status of Forces Agreements

From 20 December 2017, the Department of Immigration and Border Protection no longer applies the Import Processing Charges to goods imported under Status of Forces Agreements (SOFA) for the official use of a Visiting Force. These goods are already exempt from the payment of duties and taxes. The Customs Tariff Act gives SOFA goods of foreign governments and foreign forces a duty rate of 'Free'. Under goods and services tax (GST) legislation, goods imported under Items 10 and 11 of Schedule 4 are non-taxable importations and therefore exempt from GST.

Establishment of Australia's Home Affairs Portfolio

On 20 December 2017, the Australian Government formed the Department of Home Affairs (DoHA). The Australian Border Force (ABF) will now fall within the ambit of the DoHA. The establishment of the DoHA combines Australia’s immigration, border protection, law enforcement and domestic security agencies into a single portfolio. The DoHA will comprise of the ABF, the Australian Security Intelligence Organisation, the Australian Federal Police, the Australian Criminal Intelligence Commission, the Australian Transaction Reports and Analysis Centre and the Office of Transport Security.
### Customs Advance Rulings

On 26 December 2017, the General Administration of Customs (GAC) published GAC Order No. 236 regarding the “Interim Administrative Measures for Customs Advance Rulings of the People’s Republic of China”. With effect from 1 February 2018, prior to actual importation or exportation of goods, companies will now be able to apply for China Customs advance rulings for certain customs affairs related activities.

The GAC Order No. 236 marks another important milestone for China Customs in the implementation of the WTO Trade Facilitation Agreement. In response to demands by enterprises for more certainty and predictability on international trade, the development of a customs advance rulings program is likely to create a positive impact on China’s trade security and facilitation.

The scope, validity and requirements for application for an advance ruling is illustrated below:

**Scope of rulings:**
- Tariff classification;
- Country of origin or origin qualification criteria;
- Relevant factors for customs valuation or customs valuation methods;
- Others as approved by the GAC.

Applicants are required to be a Customs registered foreign trade business operator related to import or export activities.

**Application Process:**
- Applications with Regional Customs should be made 3 months prior to the scheduled time of import or export;
- Customs to review and decide whether to accept the application within 10 days of receipt of complete application materials;
- Customs may terminate the ruling application under certain circumstances, e.g. applicant’s inability to provide samples or other materials requested;
- Customs to issue an Advance Ruling Decision within 60 days from date of acceptance;
- The Advance Ruling Decision should be served to the applicant and would take effect as of the date of service.

**Validity**
- An Advance Ruling Decision will be valid for 3 years;
- An Advance Ruling Decision has no retrospective effect on imports or exports prior to the effective date of the Decision;
- Any changes to the relevant regulations that the Advance Ruling Decision is based upon would automatically nullify/void the Advance Ruling Decision;
- Customs may revoke an Advance Ruling Decision under certain circumstances (e.g. subsequent discovery of incorrect applications) and should notify the Applicant of the revocation.

**Application Materials:**
- Application form for Customs Advance Rulings;
- Other relevant materials as required by Customs (including Chinese translation of any materials in foreign languages);
- Samples as required by Customs;
- Supplementary materials as considered relevant by the applicant.
**Trade facilitation**

Declarations in accordance with an Advance Ruling Decision should reduce or avoid potential disputes with Customs that could otherwise arise during different stages of the import process, from declaration to post-importation audit. For companies conducting “self-declaration and self-payment”, Advance Rulings could also significantly improve customs compliance.

Compared to the existing Interim Measures on the Administration of the Administrative Rulings of Customs of the People’s Republic of China (GAC Order No.92), the new GAC Order No.236 provides Advance Ruling Decisions that would be effective nationwide. The decentralization of the application approval process from the GAC to Regional Customs is also expected to result in much speedier applications. Based on various informal discussions, as compared to the current location based customs valuation advance ruling scheme, we understand that there is now a possibility for companies to explore a nationwide advance ruling of the relevant customs valuation factors or methods that would extend beyond an individual import or export shipment.

According to the new GAC Order No.236, any foreign trade business operators registered with Customs related to import or export activities will be able to apply for Advance Rulings. No other requirements for qualification are stipulated in the Order.

**Preparation for successful Advance Rulings**

In view of the potential benefits brought by the Advance Rulings regime in relation to trade facilitation and compliance, it is advisable for companies to:

- Identify difficult and controversial issues surrounding their import and export activities, and seek opportunities to apply for Advance Rulings where applicable.
- Maintain close communications with Regional Customs to understand the practical requirements of an Advance Ruling.
- After the implementation of the Advance Ruling program, submit applications for difficult and controversial issues to Customs as soon as possible.
- Submit supplementary documents or samples to Customs within the stipulated deadline.

When applying for an Advance Ruling, companies should also take note of the following points:

- Ensure that you have a thorough understanding and citations as appropriate of the relevant customs and import tax collection rules and practices, including tariff classification, valuation and rules of origin.
- Ensure that all application materials are properly organized, especially in cases where a vast number of imported or exported goods are involved, to facilitate review.
- Be aware of and meet the application deadlines.
- Ensure that crucial technical issues are clearly presented and explained to Customs.
- Closely monitor relevant law and regulations on which the Advance Ruling Decision is based.
Amendments to Hong Kong’s tariff classifications

Import or export declarations for shipments on or after 1 January 2018 must be completed in accordance with the amended classifications made to the current edition of the Hong Kong Imports and Exports Classification List (Harmonized System). These amendments, published in the Gazette on 10 November 2017, took effect from 1 January 2018.

They involve 37 commodity items, including foodstuffs, chemical products, plastics, paper, machinery and electrical equipment, transport equipment and napkins. The amendment list can be downloaded at http://www.censtatd.gov.hk/trader/declaration/index.jsp

Updates on FTA Transshipment Facilitation Scheme

Background

The Mainland has established Free Trade Agreements (FTAs) with many different countries and regions in recent years. These FTAs stipulate that consignments routed through a non-party can be regarded as direct consignments, which means transport and tariff reduction can continue to apply, under certain circumstances. In particular, this holds if the goods in question remain under the control of Customs or designated authorities in the territory of the non-party.

The FTA Transshipment Facilitation Scheme (“FTA Scheme”) was launched by the Hong Kong Customs and Excise Department on 20 December 2015 to enrich the facilitation services provided under the Economic Cooperation Framework Agreement (ECFA) between the Mainland and Hong Kong, and to allow more transhipment cargo in Hong Kong to qualify for preferential tariff. This voluntary scheme provides traders with Customs supervision service and Certificates of Non-Manipulation to certify that transhipment cargo have not undergone any further processing during their stay in Hong Kong.

Coverage of the FTA Scheme has been extended from the ECFA to other 12 FTAs signed by the Mainland, including the China-Korea FTA and the recently signed China-Australia FTA.

Latest update

Hong Kong Customs recently launched the Company Registration Scheme and E-processing System to simplify application procedures under the FTA Scheme.

1. Company Registration Scheme

First-time applicants should submit a completed ‘Company Registration Form’ and a copy of business registration to Hong Kong Customs for registration. Once registered, the applicant will no longer need to produce any company information or copies of business registration for verification of identity. Their business registration number and FTA reference will suffice.

2. E-processing System

Hong Kong Customs has also launched the E-processing System and revamped the application form for the FTA Scheme.

The E-processing System will help Customs manage transhipment cargo information more effectively, and streamline the application procedures. Applicants are required to fill in the transhipment cargo information and submit the new application form (in Excel Format) together with copies of the supporting documents via email. The forms can be found at the following link: http://www.customs.gov.hk/en/trade_facilitation/fta/latest/index.html
Mid-term review of the Foreign Trade Policy 2015 – 2020

The mid-term review of the Foreign Trade Policy 2015-2020, which focuses on expanding market, alignment with GST and trade facilitation, was released by the government (Notification 41/2015-20 dated 5 December 2017).

The key points are listed below:

1. **Incentives under Merchandise Exports from India Scheme (MEIS) and Service Exports from India Scheme (SEIS)**
   - Under the Merchandise Exports from India Scheme (MEIS), incentives have been increased by 2% for major sectors such as leather, agriculture, carpets, hand tools, handloom, handicrafts, medical and scientific products and telecom equipment/components etc. MEIS incentives have also been increased from 2% to 4% for two subsectors - Ready Made Garments and Made Ups.
   - To promote services trade, incentives under the Service exports from India Scheme (SEIS) have been increased by 2% for notified services such as Business, Legal, Accounting, Architectural, Engineering, Hospital, Restaurants etc.
   - The validity period for MEIS and SEIS duty scrips has been increased from 18 months to 24 months.
   - Goods and Services Tax for the transfer or sale of scrips has been reduced from twelve to zero percent.

2. **Export Oriented Unit scheme (EOU)**
   - Under the Export Oriented Unit Scheme (EOU), earlier restriction of undertaking domestic sales up to 50% of FOB value of exports dispensed with.

3. **Improving trade facilitation and trade performance**
   - The government has also committed to using data analytics for continuous monitoring of trade performance which will help gain greater share of global trade.
   - As part of trade facilitation, a professional team will be put together to support exporters on specific issues. A new Logistics Division will also be established to assist in removing impediments and improving trade related infrastructure through partnership with stakeholders.
   - 24/7 custom clearance facilities are extended to all Bills of Entries at 19 sea ports and 17 Air Cargo complexes.
Revision in the Authorised Economic Operator Programme

The Central Board of Excise and Customs (CBEC) has issued a notification regarding the revised Authorised Economic Operator (AEO) programme (Circular No. 3/2018-Customs dated 17 January 2018). The revised programme merges the Accredited Client Programme and AEO programme, which aims at enabling faster import clearances. The key points of the revised programme are outlined below:

• Validity of AEO status for Tier 1 will be revised from 2 years to 3 years.
• AEO status holders are eligible to seek advance authorization on a self-declaration and self-ratification basis where there is no Standard Input Output Norm (SION) or valid Ad-hoc Norms for an export product. This is also possible for situations where SION has been notified but the exporter intends to use additional inputs in the manufacturing process.
• As a step towards decentralization and maximizing outreach, applications must now be filed with the office of jurisdictional Chief Commissioner of Customs with a copy to other specified authorities. Previously, applications could be filed with the Additional Director General, Directorate General of Performance Management.
• For confirmation on legal compliance by the relevant authorities, the details of the applicant will be displayed on CBEC’s website. The authorities can respond on legal compliance to the concerned AEO office within 14 days of uploading of information.
• Applicants seeking Tier 1 and Tier 2 status can submit a solvency certificate from a statutory auditor or from an independent reputable chartered accountant on basis of audited balance sheets. However, applicants seeking Tier 3, Logistics Operator Status, including applicants seeking renewal of Tier 2 status, are required to furnish a solvency certificate from the Statutory Auditor.
• The jurisdictional AEO cell must nominate a Client Relationship Manager (CRM) not below the rank of Assistant Commissioner / Deputy Commissioner for all AEO entities in its jurisdiction. Earlier facility of CRM was extended to AEO Tier 2 and 3.

Foreign exchange transactions to be reported by banking companies

The Government has introduced Customs (Furnishing of Information) Rules, 2017, under which information pertaining to foreign exchange transactions made or received by any person should be reported to the Director of Revenue Intelligence by the banking companies. Specified information with reference to outward and inward transactions should be reported electronically.
(Notification No. 114/2017-Customs (N.T.) dated 14 December 2017)
Increase in customs duty rate on import of various consumer durable electronics

The Central Government has increased customs duty rates on specified electronic goods primarily covered under Chapter 85, Chapter 90 and Chapter 94. Examples of products and rate increases are:

<table>
<thead>
<tr>
<th>Product</th>
<th>Previous rate</th>
<th>New rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Microwave ovens</td>
<td>10%</td>
<td>20%</td>
</tr>
<tr>
<td>Push button cellular phones</td>
<td>0%</td>
<td>15%</td>
</tr>
<tr>
<td>Television cameras</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Digital cameras</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>LED lamps</td>
<td>10%</td>
<td>20%</td>
</tr>
<tr>
<td>Light fittings</td>
<td>10%</td>
<td>20%</td>
</tr>
</tbody>
</table>

(Notification No. 91/2017 – Customs dated 14 December 2017).


Tariff concessions on imports under various free trade agreements

Additional tariff concessions in respect of specified goods have been granted to goods imported from:

- Republic of Korea, under the India-Korea Comprehensive Economic Partnership Agreement. There is a reduction of customs duty rates on various goods including menthol, cresols, sugar beet, fruits etc.
  (Notification No. 95/2017 – Customs dated 22 December 2017)
- ASEAN member countries, under the India-ASEAN Free Trade Agreement. The specified goods include paper and paperboard, machinery for sorting, electrical resistors, mechano therapy appliances, wooden furniture, ginger, seeds etc.
  (Notification No. 96/2017 – Customs dated 29 December 2017)
- Malaysia, under the India-Malaysia Comprehensive Economic Cooperation Agreement (IMCECA).
  (Notification No. 97/2017-Customs dated 29 December 2017)

Relaxation on mandatory e-sealing of export consignments

As per the recent clarification issued by the CBEC, the requirement of mandatory e-seals for export consignments will be optional up till 31 March 2018. This will be made mandatory from 1 April 2018 subject to conditions. (Circular No. 51/2017-Customs dated 21 December 2017)
New proposals announced in the Union Budget 2018

Being the first budget after the implementation of GST, the relevant changes are primarily limited to customs duty only. While there was no change in the merit rate of basic customs duty, to further encourage “Made in India” programme and reduce dependence on imports, customs duty rates on certain goods of, among other, food processing, electronics, and automotive, were increased and basic custom duty exemption on certain goods was withdrawn.

Change in Customs duty rate on import of goods

Below are the key changes pertaining to the rate of basic custom duty:

<table>
<thead>
<tr>
<th>Goods</th>
<th>Previous rate</th>
<th>New rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crank shaft for specified engines</td>
<td>7.50%</td>
<td>15%</td>
</tr>
<tr>
<td>Static converters except dip bridge rectifier</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Primary cells and primary batteries except parts</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Telephones for cellular networks or for other wireless networks</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td>PCBA of charger/ adapter and molded plastics of charger/ adapter of cellular mobile phones</td>
<td>Nil</td>
<td>10%</td>
</tr>
<tr>
<td>LCD/ LED/ OLED panels and other parts of television</td>
<td>7.5%/ 10%</td>
<td>15%</td>
</tr>
<tr>
<td>Specified parts of LCD and LED TV panels</td>
<td>Nil</td>
<td>10%</td>
</tr>
<tr>
<td>Parts and accessories of automobiles</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>All watches and clocks</td>
<td>10%</td>
<td>20%</td>
</tr>
<tr>
<td>New pneumatic tyres of rubber – radials</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Buses, cars, truck and motorcycles in CKD condition</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Specified parts or sub-parts or accessories of cellular mobile phones</td>
<td>7.5%/ 10%</td>
<td>15%</td>
</tr>
<tr>
<td>Trucks and buses in CBU</td>
<td>20%</td>
<td>25%</td>
</tr>
<tr>
<td>Spark and compression ignition engines for automobiles</td>
<td>7.50%</td>
<td>15%</td>
</tr>
<tr>
<td>Smart Watches</td>
<td>10%</td>
<td>20%</td>
</tr>
</tbody>
</table>

Introduction of Social Welfare Surcharge on imports

Education Cess and Secondary and Higher Education Cess leviable on imported goods at 2% and 1% respectively, on the basic customs duty, have been abolished. In its place, a Social Welfare Surcharge at the rate of 10% of basic custom duty, is levied. Goods earlier exempted from such cesses continue to be exempted from this surcharge. Further, there is a concessional rate of 3% notified for specified goods like petrol, high speed diesel gold, etc.
Initiatives on improving ease of doing business in India

The union budget has been aimed at further improving the ease of doing business in cross border trade, and to align certain provisions with the commitments under the Trade Facilitation Agreement, to smoothen dispute resolution processes and to reduce litigation. Key amendments proposed in this aspect are as follows:

• Guidelines for Advance Ruling have been revised as follows:
  – The term ‘applicant’ has been expanded to include any importer or exporter, or any other person with justifiable cause to the satisfaction of the authority.
  – The Central Government has been empowered to include any matter on which an Advance Ruling can be sought.
  – The time limit for pronouncement of a ruling has been reduced from 6 months to 3 months.
  – Appeal to the appellate authority against a ruling by the applicant or the customs authorities has been permitted.

• Process of pre-notice consultation by the authorities before issuance of demand notice for recovery of duty or refund in cases other than collusion, suppression, etc. has been set forth.

• Facility of electronic ledger for payment of duty, interest, penalty, fee, etc., automated system-based clearance and audit notified.

Other relevant changes proposed

• Central Government to enter into an agreement or arrangement for exchange of information with any country for facilitation of trade and enforcement of the Customs Act.

• The valuation methodology for computation of Integrated Goods and Service Tax and compensation cess for warehoused goods sold prior to clearance for home consumption or export has been prescribed.

• Provision related to customs audit of assessment introduced whereby the customs authorities will be undertaking audit of various transactions of an importer or exporter in relation to customs classification, fulfillment of conditions connected with any exemption claimed, valuation etc.
Increased import and export duty collection targets

The Indonesian Government announced the Indonesian State Budget for 2018 on 22 November 2017. As compared to last year’s Budget, import and export duty collection targets have increased to 7% and 11%, respectively. In terms of import and export performance, a balance growth of 5-6% is expected that would translate into a GDP growth of 5.4%.

<table>
<thead>
<tr>
<th>Type of Revenue</th>
<th>Year (in IDR trillion)</th>
<th>(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
<td>2018</td>
</tr>
<tr>
<td>Import Duty</td>
<td>33.28</td>
<td>35.70</td>
</tr>
<tr>
<td>Export Duty</td>
<td>2.70</td>
<td>3.00</td>
</tr>
<tr>
<td>Total</td>
<td>35.98</td>
<td>38.70</td>
</tr>
</tbody>
</table>

As the target collection growth is higher than that of other benchmarks, it may heighten scrutiny by the Directorate General of Customs and Excise (DGCE), especially on the use of import and/or export incentives including Free Trade Area Agreements. The number of companies targeted for post clearance customs audit is therefore expected to increase this year.

Plan to impose customs duties on import of goods transmitted electronically

Customs is currently discussing with the relevant ministries and government agencies whether to impose customs duty on import of goods transmitted electronically, such as software, e-books, and other digital goods. Such goods would be included in Chapter 99 of the Indonesia Customs Book Tariff (Buku Tarif Kepabeanan Indonesia/ BTKI). The explanation would be further elaborated in the Notes to Chapter 99.

Goods referred to Chapter 99 would be those that are not related to machines or devices that have been or will be imported. Otherwise, such goods are to be classified in the relevant chapter of the related machines or devices.

Clearly this approach is not in line with WTO guidelines and expectations, but Indonesia is not unique in considering dutying the import of electronic goods. Watch this space closely to be prepared for whatever is ultimately implemented.

Shifting of ‘at Border’ Control to ‘Post Border Control’ for Certain Restricted Goods

The Ministry of Trade (MOT) has issued several regulations shifting the examination of licensing requirements for imports of certain restricted goods that was previously conducted by Customs at the point of clearance (at border) to be conducted by the MOT after the goods are released from a customs supervision area (post border). This provision has been in force since 1 February 2018.

The new policy is believed to reduce the number of goods subject to ‘at border’ examination from 3,451 tariff lines to 809, which will also help improve dwelling time. For goods that are not subject to ‘at border’ control (2,642 HS Codes), the examination will be carried out after customs clearance processes (post border) by the MOT, who will visit the importer periodically to carry out audits on import compliance.
Commodities included in the post border control are, among others, iron and steel, alloy steel and its derivatives products, corn, forestry products, pearls, tires, color multifunctional machines, color photocopiers and color printers, plastic raw materials, lubricants, sheet glass, ceramics, rough diamonds, horticultural products, animal and veterinary products, measuring tools, weeds, non-new capital goods and refrigerated goods-based products.

Under this policy, importers are required to make a self-declaration through the Inatrade portal (http://inatrade.kemendag.go.id) declaring that the import requirements have been fulfilled before the imported goods are used, traded and/or handed over. The required import documents must be kept for 5 years for future examination purposes.

**Increase in de minimis limit for passenger carried goods**

The Ministry of Finance has issued a new regulation about de minimis limit of goods carried on a passenger or in the accompanied baggage of a passenger. Under this new regulation, goods brought in by a person with a value less than USD 500 are exempted from the imposition of import duty. Under the previous regulation, the maximum customs value amounts exempted from import duty was USD 250 per person, or USD 1,000 per family. The regulation became effective on 1 January 2018.

If the value of the goods exceeds USD 500, the passenger must pay a 10% import duty based on the excess. Under the previous regulation, the import duty rate was calculated based on the highest tariff of the goods.

The new regulation also introduces a new provision requiring passengers and transportation crew members to declare certain goods if they are carried overseas. The goods are:

1. Gold, pearl and other high value jewelry that fall into the types of goods listed in Chapter 71 of the Indonesian Customs Tariff Book;
2. Goods that will be re-imported into the customs area;
3. Cash and/or other payment instruments with a value of at least IDR 100,000,000 or foreign currency of equal value; or
4. Exported goods that are subject to export duty.

**New rules surrounding temporary importation**

Importers can now apply for a temporary import permit from the Head of the Customs Office through an electronic system known as CEISA. Customs will examine if the requirements are met, the purpose of use, and the supporting documents enclosed. Importers are no longer required to fulfil any restriction requirements if the imported goods are categorised as restricted or limited goods.
**Import duty under international agreements**

The MOF issued a new regulation relating to import duty imposition for the importation of goods under international agreements that revokes the old regulation, i.e. 205/PMK.04/2015.

Two key points that this new regulation introduced are as follows:
1. Implementation of e-Form D that has been elaborated on in our FTA section; and
2. Implementation of ASEAN Japan Comprehensive Economic Partnership (AJCEP) preferential duty rates.

The following are criteria for originating goods under AJCEP:
- Wholly obtained or produced;
- Not wholly obtained or produced:
  a. General rules:
     i. regional value content of 40%, calculated using the following formula:
     \[
     RVC = \frac{FGR - YNM}{FOB} \times 100\%; \text{or}
     \]
    ii. all the non-originating goods undergo a change in tariff heading (CTH);
  b. Product specific rules (PSR):

**New import duty rates for goods falling under APEC’s list of environmental goods**

The MOF issued a new regulation amending the classification of goods included under the Asia Pacific Economic Cooperation (APEC) List of Environmental Goods as set out in Attachment II of the regulation. This was prompted by a recommendation from the Ministry of Trade to lower import duty rates for goods on the list. Under this new regulation, there are additional goods included in the list that are imposed with a maximum import duty rate of 5% as set out in Attachment I of the regulation.

The regulation came into effect on 1 January 2018. The APEC List of Environmental Goods is as follows:

**Attachment I**

<table>
<thead>
<tr>
<th>Tariff Heading</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4418</td>
<td>Builders’ joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes.</td>
</tr>
<tr>
<td>8402</td>
<td>Steam or other vapour generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers.</td>
</tr>
<tr>
<td>8404</td>
<td>Auxiliary plant for use with boilers of heading 84.02 or 84.03 (for example, economisers, super-heaters, soot removers, gas recoverers); condensers for steam or other vapour power units.</td>
</tr>
<tr>
<td>8406</td>
<td>Steam turbines and other vapour turbines.</td>
</tr>
<tr>
<td>8411</td>
<td>Turbo-jets, turbo-propellers and other gas turbines.</td>
</tr>
<tr>
<td>8412</td>
<td>Other engines and motors.</td>
</tr>
<tr>
<td>8417</td>
<td>Industrial or laboratory furnaces and ovens, including incinerators, non-electric.</td>
</tr>
<tr>
<td>Tariff Heading</td>
<td>Description</td>
</tr>
<tr>
<td>----------------</td>
<td>-------------</td>
</tr>
<tr>
<td>8419</td>
<td>Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 85.14), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vaporising, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, non-electric.</td>
</tr>
<tr>
<td>8421</td>
<td>Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus for liquids or gases.</td>
</tr>
<tr>
<td>8474</td>
<td>Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomering, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand.</td>
</tr>
<tr>
<td>8479</td>
<td>Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter.</td>
</tr>
<tr>
<td>8501</td>
<td>Electric motors and generators (excluding generating sets).</td>
</tr>
<tr>
<td>8502</td>
<td>Electric generating sets and rotary converters.</td>
</tr>
<tr>
<td>8503</td>
<td>Parts suitable for use solely or principally with the machines of heading 85.01 or 85.02.</td>
</tr>
<tr>
<td>8504</td>
<td>Electrical transformers, static converters (for example, rectifiers) and inductors.</td>
</tr>
<tr>
<td>8514</td>
<td>Industrial or laboratory electric furnaces and ovens (including those functioning by induction or dielectric loss); other industrial or laboratory equipment for the heat treatment of materials by induction or dielectric loss.</td>
</tr>
<tr>
<td>8541</td>
<td>Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED); mounted piezo-electric crystals.</td>
</tr>
<tr>
<td>8543</td>
<td>Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this Chapter.</td>
</tr>
<tr>
<td>9013</td>
<td>Liquid crystal devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter.</td>
</tr>
<tr>
<td>9015</td>
<td>Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders.</td>
</tr>
<tr>
<td>9026</td>
<td>Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading 90.14, 90.15, 90.28 or 90.32.</td>
</tr>
<tr>
<td>9027</td>
<td>Instruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes.</td>
</tr>
<tr>
<td>9031</td>
<td>Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this Chapter; profile projectors.</td>
</tr>
<tr>
<td>9032</td>
<td>Automatic regulating or controlling instruments and apparatus.</td>
</tr>
<tr>
<td>9033</td>
<td>Parts and accessories (not specified or included elsewhere in this Chapter) for machines, appliances, instruments or apparatus of Chapter 90.</td>
</tr>
</tbody>
</table>
### Attachment II

<table>
<thead>
<tr>
<th>Tariff Classification</th>
<th>Description of Goods</th>
<th>Import Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2018</td>
</tr>
<tr>
<td>8404.10.20</td>
<td>- For use with boilers of heading 84.03</td>
<td>8.00%</td>
</tr>
<tr>
<td>8404.20.00</td>
<td>- Condensers for steam or other vapour power units</td>
<td>8.00%</td>
</tr>
<tr>
<td>8404.90.11</td>
<td>- Bodies, shells or casings</td>
<td>8.00%</td>
</tr>
<tr>
<td>8404.90.19</td>
<td>- Other</td>
<td>8.00%</td>
</tr>
<tr>
<td>8404.90.21</td>
<td>- Bodies, shells or casings</td>
<td>8.00%</td>
</tr>
<tr>
<td>8404.90.29</td>
<td>- Other</td>
<td>8.00%</td>
</tr>
<tr>
<td>8404.90.90</td>
<td>- Other</td>
<td>8.00%</td>
</tr>
<tr>
<td>8419.19.10</td>
<td>- Household type</td>
<td>8.00%</td>
</tr>
<tr>
<td>8479.89.31</td>
<td>- - Automatic service-vending machines</td>
<td>8.00%</td>
</tr>
<tr>
<td>8479.89.39</td>
<td>- - Other</td>
<td>8.00%</td>
</tr>
<tr>
<td>8501.64.00</td>
<td>- Of an output exceeding 750 kVA</td>
<td>8.00%</td>
</tr>
<tr>
<td>8502.31.10</td>
<td>- - Of an output not exceeding 10,000 kVA</td>
<td>8.00%</td>
</tr>
<tr>
<td>8502.39.10</td>
<td>- - Of an output not exceeding 10 kVA</td>
<td>8.00%</td>
</tr>
<tr>
<td>8502.39.20</td>
<td>- - Of an output exceeding 10 kVA but not exceeding 10,000 kVA</td>
<td>8.00%</td>
</tr>
</tbody>
</table>

**Lower threshold value of import of consignment goods exempted from duties**

The government plans to reduce the threshold of the value of consignment goods exempted from import duty to create a level playing field with local business players. The threshold is currently USD100 and will be reduced to USD75. This reduction will be in compliance with the WCO guidelines of low value consignments.

In addition, the government is also discussing to adjust import duty of consignments goods with the value of USD100 to USD1,500 which are currently subject to import duty of 7.5%.
Stricter compliance expected for importers

On 22 December 2017, the Ministry of Finance announced that the outline of the tax system revision for Japan’s fiscal year 2018 (i.e. 1 April 2018 to 31 March 2019) had been approved by the Cabinet. The draft bill will be submitted to the Diet for final discussion and approval and is largely expected to go through as it is.

In the draft bill, although no drastic changes have been made to the Customs section, it was stipulated in the outline that there would be stricter monitoring by Customs for goods imported under preferential duty rates. Although further details have not yet been published, it was also mentioned that such monitoring would be conducted via post-importation audits.

Separately, the MOF also published statistics for post-importation audits conducted during the period of July 2016 to June 2017. The results showed that 76.5% of audited importers were discovered to be non-compliant, and were required to pay additional duties and/or import consumption taxes. Compared to the previous year, there was an increase in the number of importers identified with issues, as well as the total amount of the additional duties, consumption tax and penalties collected.

Thus, there is a higher chance that Japan Customs will invest more effort towards conducting such audits to identify cases of non-compliance. It is therefore advisable for importers in Japan to proactively manage their customs compliance procedures and, where necessary, to confirm that their overseas supplier has managed and performed origin determination procedures appropriately in compliance with the relevant laws and regulations.

Further duty concessions available under EU-Japan FTA

On 15 December, 2017, the Ministry of Agriculture, Forestry and Fisheries published details on duty exemptions or reductions for Agricultural, Forest and Fishery products under the Japan-EU Economic Partnership Agreement. The Ministry of Economy, Trade and Industry has also published details on duty concessions for Industrial goods on 25 December 2017.

For Agricultural, Forest and Fishery products, tariffs will be eliminated on approximately 82% of tariff lines for Japan and 98% for the EU. The full details of the announcement and applicable tariff rates for agriculture, forestry and fishery products can be accessed at the following link: http://www.maff.go.jp/j/kokusai/renkei/fta_kanren/f_eu/index.html

For Industrial goods, tariffs will also be eliminated on approximately 100% of applicable tariff lines for both EU and Japan. The full details of the EU and Japan’s tariff rates for industrial goods can be accessed at the following link: http://www.meti.go.jp/english/press/2017/1225_003.html

Although further details are yet to come, it is advisable for companies to start considering strategic sourcing plans to maximize duty saving opportunities. Refer to the following link for more information regarding the Japan – EU Economic Partnership Agreement: http://www.mofa.go.jp/policy/economy/page6e_000013.html
Anti-Dumping Duty on polyethylene terephthalate

The MOF had previously announced that a provisional Anti-Dumping Duty (ADD) of 53% would be applicable on polyethylene terephthalate with a high degree of polymerization originating from China. This has been finalized on 14 December 2017, and the MOF has announced that such rates will be officially implemented from 28 December 2017 to 27 December 2022.

In addition, on 22 December 2017, the MOF had also prescribed that provisional ADD of 57.3% and 69.2% will be charged on welding joints of carbon steel bases originating from China and Korea respectively. This was concluded following an assessment that the aforementioned products had caused substantial damage to the local industry, and that applying the provisional ADD would be an appropriate measure. Effective from 28 December 2017, the Provisional ADD will be effective from 28 December 2017 and will be implemented provisionally until 27 April 2018. The customs committee in MOF may confirm the implementation of a final ADD.
New Customs Duties (Exemption) Order

Customs Duties (Exemption) Order 2017 will replace Customs Duties (Exemption) Order 2013 with effect from 3 January 2018. Relevant key changes include:

1. Any person importing goods via air courier service can now import all goods except cigarettes, tobacco and intoxicating liquor through Langkawi International Airport. The imported goods may not exceed a total Cost, Insurance and Freight (CIF) value of RM 500 per consignment.

2. The following goods no longer qualify for import duty exemptions:
   - Sports footwear classified under subheading 6402.19.000 that are fitted with spikes, studs, bars etc.
   - Video conferencing systems comprising of certain components (i.e. set top box, ISDN receiver, camera, microphone, remote control, custom-made adapter and power supply unit complete with cables and wires) falling under subheadings 8517.62.610 and 8517.69.900.
   - Audio conferencing systems comprising of certain components (i.e. base unit, maximum of two extension microphones, remote control, customs made adapter and power supply unit complete with cables and wires) falling under subheadings 8517.18 000, 8517.69 100 and 8517.69 900.

The complete Order can be found at the following link: http://www.federalgazette.agc.gov.my/outputp/pua_20171229_P.U.%20(A)%20445%202017.pdf

New Excise Duties (Exemption) Order

Excise Duties (Exemption) Order 2017 will replace Excise Duties (Exemption) Order 2013 with effect from 3 January 2018. Relevant key changes include:

1. Any person entering into Malaysia including Labuan, Langkawi and Tioman can now import the following goods:
   (a) Wine, spirit beer or malt liquor, with a total not exceeding 1 litre; and
   (b) Tobacco products not exceeding 225 grams (equivalent to 200 sticks of cigarettes).

   The following conditions apply:
   i. The goods are imported on or with the person or in his baggage;
   ii. The person is not a resident of Malaysia and intends to visit for at least 72 hours;
   iii. The person is a resident of Malaysia and is returning after an absence of at least 72 hours; and
   iv. If the person imports in excess of the quantity or value of goods exempted, he shall be liable to pay duty on the excess based on the prevailing rate imposed.

2. Any person entering into Malaysia from Labuan, Langkawi and Tioman can now import the following goods:
   (a) Wine, spirit beer or malt liquor, with a total not exceeding 1 litre;
   (b) Cigarettes not exceeding 200 sticks or tobacco products (other than cigarettes) not exceeding 225 grams.
The following conditions apply:

i. The goods are imported on or with the person or in his baggage;

ii. The person has visited Labuan for at least 24 hours;

iii. The person has visited Langkawi or Tioman for at least 48 hours; and

iv. If the person imports in excess of the quantity or value of goods exempted, he shall be liable to pay duty on the excess based on the prevailing rate imposed.

The complete Order can be found at the following link: http://www.federalgazette.agc.gov.my/outputp/pua_20171229_P.U.%20(A)%20444%202017.pdf

Malaysian Customs suspends licenses of 20 forwarding agents

On 27 December 2017, the Royal Malaysian Customs Department (RMCD) announced the suspension of the licenses of 20 forwarding agents nationwide. The suspension has come into effect in January 2018.

According to the Director-General of RMCD, Datuk Seri Subromanian Tholasy, the suspension of the licenses is in accordance with the Customs Demerit Point System that was introduced in April 2017. The implementation of Customs Demerit Point System is to ensure forwarding agents/customs agents abide by work procedures and conditions as stated on their licenses.
New Zealand

**Progress of the Customs and Excise Bill 2016**

The Customs and Excise Bill had its second reading in December 2017 and is expected to be passed into law by mid-2018. Following the second reading, the Bill is now in the “Committee of whole house” stage where officials will consider and vote on any proposed changes. The bill will then be required to go through a third reading for a final debate and vote before it is passed. Depending on the progress of this final section of the legislative process, the commencement of the new law will likely be on 1 July 2018 or 1 October 2018.

The new Customs and Excise Act will entirely repeal the previous Customs and Excise Act 1996 and introduce a more modern and business friendly set of customs rules. Future editions of Trade Intelligence will summarize the impact of the new law on both exporters and importers.


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New excise rates for tobacco and tobacco products

With effect from 1 January 2018, excise and excise-equivalent duty rates on tobacco and tobacco products will be adjusted to reflect the movement in the All Groups Consumers Price Index (excluding credit services) over the 12-month period ending 30 September 2017. The adjustment is about an 11.98% increase to reflect the CPI movement as well as the 10% increase announced in the 2016 Budget (legislated for in the Customs and Excise Act 1996).

The new excise rates are set out below.

<table>
<thead>
<tr>
<th>Tobacco product</th>
<th>Rate of excise and excise-equivalent duty from 1 January 2018 (GST excluded)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufactured cigarettes</td>
<td></td>
</tr>
<tr>
<td>Exceeding in weight 0.8 kg actual tobacco content per 1,000 cigarettes</td>
<td>$1,177.87 per Kilo Tobacco Content (KTC)</td>
</tr>
<tr>
<td>not exceeding in weight 0.8 kg actual tobacco content per 1,000 cigarettes</td>
<td>$826.58 per 1,000 cigarettes</td>
</tr>
<tr>
<td>Smoking tobacco, homogenized or reconstituted tobacco</td>
<td>$1,177.87 per Kilo Tobacco Content (KTC)</td>
</tr>
<tr>
<td>Other tobacco products, e.g. snuff, cigars, cheroots and cigarillos</td>
<td>$1,033.20 per Kilo Tobacco Content (KTC)</td>
</tr>
</tbody>
</table>

In addition to the annual indexation increase, there will also be a 10% duty rate increase as stipulated under Section 79AD of the Customs and Excise Act 1996. This is the second of four 10 percent increases that was announced in the 2016 Budget and legislated for in the Customs and Excise Act 1996.

Tobacco and tobacco products removed from a licensed manufacturing area or imported after midnight on 31 December 2017 will be subject to these new rates.

Philippines

Lifting of exemptions from x-ray inspections

Philippines Customs' green lane channel for cargo clearance processing has been suspended since September 2017, prompting shipments to be routed to either the yellow lane (document review) or the red lane (document review and inspection) instead. If selected to pass through the red lane, shipments were subject to non-intrusive inspection by X-ray. In October 2017, Customs exempted certain cargoes from the red lane channel to avoid long queues at the terminals. These were cargoes

1) bound to free zones which includes the Philippine Economic Zone (PEZA);
2) containing perishable goods;
3) belonging to qualified importers under Super Green Lane (SGL) program; or
4) intended for government projects.

On 4 January 2018, the Bureau of Customs issued a memorandum which ordered the lifting of the exemptions from red lane inspection for the aforementioned cargoes. Further, cargo spot checks are also initiated to deter misdeclaration or undervalued shipments. Customs have conducted physical examination of approximately 100 randomly selected containers, and have promised to continue with this practice. So far, there have been no reported delays in the release of cargoes as a result.

Refer to the following links to view the Customs orders:

Only Customs Chief can accredit importers and brokers

The Bureau of Customs has amended its importer and broker accreditation procedures to tighten control over the process and fight smuggling. Based on a memorandum dated 11 January 2018, the Customs Chief is now the sole authority that can approve or reject an accreditation. This is based on the recommendation of its Account Management Office (AMO) and applies to both new applications and renewals of licenses.

The AMO, which was previously able to process and approve an accreditation, now performs a more limited function. It is still tasked with reviewing and evaluating an application, which is then subject to the Customs Chief’s consideration on whether to grant or dismiss an application. Importers and customs brokers whose licences have been rejected may apply to the Customs Chief for reconsideration.
**New Excise Tax Rates**

Republic Act 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) took effect from 1 January 2018. It contains amendments to a number of provisions of the National Internal Revenue Code.

TRAIN primarily cuts the personal income taxes and amends the provisions for estate tax, donor’s tax, value-added tax and documentary stamps, among others. The law also introduces excise tax on cosmetics procedures and sweetened beverages and increases excise tax rates on petroleum products, cigars, cigarettes, mineral products and automobiles.

The new excise tax rates effective as of 1 January 2018 are as follows:

1. **Cigars and Cigarettes**

<table>
<thead>
<tr>
<th>Effectivity</th>
<th>Excise rate per Pack (Php)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017 (Pre-TRAIN)</td>
<td>30.00</td>
</tr>
<tr>
<td>Jan - Jun 2018</td>
<td>32.50</td>
</tr>
<tr>
<td>July 2018 – Dec 2019</td>
<td>35.00</td>
</tr>
<tr>
<td>Year 2020 – 2021</td>
<td>37.50</td>
</tr>
<tr>
<td>Year 2022 - 2023</td>
<td>40.00</td>
</tr>
<tr>
<td>Year 2024 onwards</td>
<td>4% increase every year</td>
</tr>
</tbody>
</table>

2. **Petroleum Products**

<table>
<thead>
<tr>
<th>Commodity Description</th>
<th>Pre-TRAIN 2017 (Php)</th>
<th>1 January 2018 (Php)</th>
<th>1 January 2019 (Php)</th>
<th>1 January 2020 (Php)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lubricating oils and greases (per liter / kg)</td>
<td>4.50</td>
<td>8.00</td>
<td>9.00</td>
<td>10.00</td>
</tr>
<tr>
<td>Processed gas (per liter)</td>
<td>0.05</td>
<td>8.00</td>
<td>9.00</td>
<td>10.00</td>
</tr>
<tr>
<td>Waxes and petrolatum (per kg)</td>
<td>3.50</td>
<td>8.00</td>
<td>9.00</td>
<td>10.00</td>
</tr>
<tr>
<td>Denatured alcohol to be used for motive power (per liter)</td>
<td>0.05</td>
<td>8.00</td>
<td>9.00</td>
<td>10.00</td>
</tr>
<tr>
<td>Naphtha, regular gasoline, Pyrolysis gasoline and other similar products of distillation (per liter)</td>
<td>4.35</td>
<td>7.00</td>
<td>9.00</td>
<td>10.00</td>
</tr>
<tr>
<td>Unleaded premium gasoline (per liter)</td>
<td>5.35</td>
<td>7.00</td>
<td>9.00</td>
<td>10.00</td>
</tr>
<tr>
<td>Aviation turbo jet fuel, aviation gas (per liter)</td>
<td>0.00</td>
<td>4.00</td>
<td>4.00</td>
<td>4.00</td>
</tr>
<tr>
<td>Kerosene (per liter)</td>
<td>3.67</td>
<td>3.00</td>
<td>4.00</td>
<td>5.00</td>
</tr>
<tr>
<td>Diesel fuel oil and on similar fuel oils (per liter)</td>
<td>0.00</td>
<td>2.50</td>
<td>4.50</td>
<td>6.00</td>
</tr>
<tr>
<td>Liquefied Petroleum Gas (per kg)</td>
<td>0.00</td>
<td>1.00</td>
<td>2.00</td>
<td>3.00</td>
</tr>
<tr>
<td>Asphalt (per kg)</td>
<td>0.00</td>
<td>8.00</td>
<td>9.00</td>
<td>10.00</td>
</tr>
<tr>
<td>Bunker fuel oil (per liter)</td>
<td>0.56</td>
<td>2.50</td>
<td>4.50</td>
<td>6.00</td>
</tr>
<tr>
<td>Petroleum Coke (per Metric ton)</td>
<td>0.00</td>
<td>2.50</td>
<td>4.50</td>
<td>6.00</td>
</tr>
</tbody>
</table>
3. Sweetened Beverages

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Excise Tax per Litre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beverages using caloric and/or non-caloric sweeteners</td>
<td>Php 6.00</td>
</tr>
<tr>
<td>Beverages using high fructose corn syrup whether or not combined</td>
<td>Php 35.00</td>
</tr>
<tr>
<td>with caloric/or non-caloric sweeteners</td>
<td></td>
</tr>
</tbody>
</table>

Milk products, 100% natural fruit or vegetable juices, meal replacement and medically indicated beverages, instant soluble coffee and pre-packaged powdered coffee products, beverages using purely sap coconut sugar, and purely steviol glycosides are exempted from excise tax.

4. Mineral Products

<table>
<thead>
<tr>
<th>Commodity Description</th>
<th>Pre-TRAIN</th>
<th>TRAIN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
<td>2018</td>
</tr>
<tr>
<td>Coal and Coke</td>
<td>Php 10 per metric ton</td>
<td>Php 50 per metric ton</td>
</tr>
<tr>
<td>Metallic and Nonmetallic Minerals and quarry resources</td>
<td>2%</td>
<td>4%</td>
</tr>
<tr>
<td>Indigenous Petroleum</td>
<td>3%</td>
<td>6%</td>
</tr>
</tbody>
</table>

5. Automobile

<table>
<thead>
<tr>
<th>Net Manufacturer’s Price / Importer’s Selling Price (Php)</th>
<th>TRAIN (Hybrid Vehicles)</th>
<th>TRAIN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 600,000</td>
<td>2%</td>
<td>4%</td>
</tr>
<tr>
<td>Over 600,000 to 1,000,000</td>
<td>5%</td>
<td>10%</td>
</tr>
<tr>
<td>Over 1,000,000 to 4,000,000</td>
<td>10%</td>
<td>20%</td>
</tr>
<tr>
<td>Over 4,000,000</td>
<td>25%</td>
<td>50%</td>
</tr>
</tbody>
</table>

* Purely electric vehicles and pick-ups are exempt from excise tax.*

For the full text of the TRAIN law and the President’s Veto Message, see

**Linkage between Singapore’s National Trade Platform (NTP) and Japanese equivalent**

In a bid to strengthen trade ties between Japan and Singapore, Singapore’s NTP will be test-linked to a similar Japanese digital platform aimed at the digitalisation of cross-border trade. The Japanese team working on the initiative are from NTT Data and the Bank of Tokyo-Mitsubishi UFJ Financial Group banking unit.

Cooperation between the two sides is a milestone as it is the first attempt at integrating digital platforms between two trading nations. It is a valuable chance for the teams to iron out common digitalisation or data exchange challenges including differing trade regulations and documentation standards. While countries have, to varying extents, developed paperless systems to manage domestic trade, international trade continues to rely heavily on paper documents.

Teams will be leveraging blockchain or distributed ledger technology (DLT) to enhance the security, efficiency, and transparency of cross-border flows. In the longer term, the goal is to foster greater trade and supply chain integration across the region.

The NTP aspires to be Singapore’s trade and logistics IT ecosystem that connects businesses, community, and government systems. It is designed to be a one-stop trade portal for Business-to-Government and Business-to-Business services, where trade data can be shared and re-used between businesses and the government. Find out more about the NTP at the following link: https://www.trade.gov.sg/home/

**Updated origin rules under the Singapore-Australia FTA**

From 1 December 2017, changes to the Singapore-Australia Free Trade Agreement (SAFTA) took effect. The amendments affecting the trade in goods relate to Rules of Origin (ROO) and to origin procedures. They are summarised below:

a. **ROO**

   • Full schedule of Product-Specific Rules (PSR) replaces General Rules
     
     The General Rules in Annex 2 (Rules of Origin) of the SAFTA have been replaced with Annex 2 (Product-Specific Rules of Origin). In this updated version, a locally manufactured good must satisfy the PSR to be considered an originating good eligible for preferential tariff treatment. The PSR provide the applicable origin criteria for each tariff line at up to subheading level.

   • Formula for calculating Regional Value Content (RVC)
     
     Under the previous version of the SAFTA, a product needed to have a local value content of not less than 50% based on ex-factory cost to satisfy the ROO. In the updated version, as mentioned in the first bullet point above, PSR replaces General Rules. Goods that are produced using non-originating materials can only be deemed originating provided such goods satisfy PSR as set out in Annex 2 of the SAFTA. Except for chemicals, there are six criteria in the PSR, i.e.

     1. **CC** – Change in tariff classification at chapter level (2-digit level);
     2. **CTH** – Change in tariff classification at heading level (4-digit level);
     3. **CTSH** – Change in tariff classification at subheading level (6-digit level);
     4. **RVC(40)** – The goods must have a regional value content of not less than 40% using either build-up or build-down method;
     5. **RVC(BD40)** – The goods must have a regional value content of not less than 40% using the build-down method;
6. RVC(BU30/BD40) – The goods must have a regional value content of either not less than 30% using the build-up method or not less than 40% using the build-down method.

If RVC is an applicable origin criterion, the formula is as follows:

a. Build-down Method: Based on Value of Non-Originating Materials (VNM)

\[
RVC = \frac{\text{Value of Good} - \text{VNM}}{\text{Value of Good}} \times 100
\]

b. Build-up Method: Based on Value of Originating Materials (VOM)

\[
RVC = \frac{\text{VOM}}{\text{Value of Good}} \times 100
\]

For chemicals, to be deemed as originating, the PSR are as follows:

1. Chemical reaction origin rule;
2. Distillation rule;
3. Direct blending rule;
4. Diluent rule;
5. Purification rule;
6. Mixing and blending rule;
7. Change in particle size rule;
8. Standards materials rule; and
9. Isomer separation rule.

• Three-year transition period for change in ROO

There is a 3-year transition period where importers can choose whether to use the old or the new ROO. During this period, importers should make appropriate changes to shift to the new ROO.

b. Origin procedures

• Change in documentation type to prove origin

Singapore Customs has stopped issuing Preferential Certificates of Origin (PCO) since 1 December 2017. This also means manufacturers and traders are not required to submit any Manufacturing Cost Statement to obtain a PCO.

Instead, importers in Australia can self-certify that their goods meet the ROO under the SAFTA via a Certification of Origin (CO) completed by the exporter, producer, or importer.

There is no prescribed format for the CO. It must specify that a good is both originating and meets the requirements of the SAFTA ROO chapter. It must also contain the minimum data requirements as set out in Annex 3A of the ROO chapter.

• Procedures to claim preferential tariff treatment for imports into Singapore

Importers in Singapore can opt for self-certification (importer’s CO), or third-party certification (CO made out by the exporter, producer, or their authorized representative) to claim preferential tariff treatment.

• There is no transition period for changes to origin procedures. The above changes take immediate effect.

The changes should enhance the ease of doing business for exporters from both countries.

The revised SAFTA can be accessed via the following link:
Launch of Sea Transport Industry Transformation Map

Singapore’s Sea Transport Industry Transformation Map (ITM) was unveiled by the Maritime and Port Authority of Singapore (MPA) on 12 January 2018. It is the product of joint cooperation between the MPA, industry, unions, and other government agencies.

A key thrust of the Sea Transport ITM is to enhance productivity via use of automation and digitalisation, as well as innovation. A three-way Memorandum of Understanding (MOU) was signed on the day of the launch, between MPA, Singapore Customs, and the Singapore Shipping Association (SSA). Key focus areas include:

- Digitalisation of trade and maritime documentation across the industry. The Bill of Lading (BL) has been cited as a priority document. Once successful, an e-BL will be implemented through the National Trade Platform.
- Capitalisation on emerging technologies such as distributed ledger technology or blockchain to safeguard the integrity of shipping documentation as they pass through the supply chain.
- Development standards for the digitalisation of documents.
Taiwan

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“Price Notification Form” for related party transactions

Taiwan customs just issued a press release encouraging companies who buy and import goods from related party suppliers and believe that the pricing strategy may affect the transaction price to voluntarily declare such instances to Customs upon submitting import declarations, using a “Price Notification Form”.

In the event where the inter-company pricing strategy may seem to affect transaction values, the Customs Administration has expressed that importers have the responsibility to be able to demonstrate that the transaction price is acceptable as a customs value, i.e. can be determined under Method I. Importers engaging in related party transactions are thus encouraged for to provide Customs with supporting documents such as a “Price Notification Form” upon importation of goods.

Launch of Pre-classification Ruling Online Application Service

On 10 January 2018, the Customs Administration announced that the “Pre-classification Ruling Online Application Service” is now operational and encouraged traders to use the service. This new online service is intended at speeding up clearance processes, reducing the usage of paper and providing traders with a more convenient platform to apply for pre-classification rulings.

Under the current model, all applications for such rulings must be submitted in paper format and delivered to Customs either via mail or in person. If any additional documents are required for verification, the applicant will only be notified once the file requests are delivered physically by mail. The online application system was introduced to speed up this process. With the online portal, traders will now be able to submit online applications and relevant files for review by Customs, and view the progress of the entire application process.

To apply for a pre-classification ruling, applicants must fill out all relevant information on the application form using their “Citizen Digital Certificate” (自然人憑證) or “Business Certificate” (工商憑證) to upload the relevant files for review by customs.

Anti-dumping duty on imported stainless steel products

The current anti-dumping duty on stainless steel products will reach its 5 year taxation deadline on 14 August 2018. As such, on 9 January 2018, the MoF has released an announcement informing domestic industry representatives that applications can be submitted and filed should they feel that there is a need for further implementation of anti-dumping tax on stainless steel products.

As part of the application, within a month from the announced date, the applicant is required to submit an application to the MoF proving that imported stainless steel is harming the domestic stainless steel industry. The MoF will then decide whether sunset investigations should be conducted and if there will be any scheduled hearings for the related parties.
Change to criteria for customs duty and VAT exemption for imported goods

Before 1 January 2018, goods with a CIF value below NTD 3,000, except for wine, tobacco and customs quota of agricultural products, were eligible for customs duty and VAT exemption. Duty and VAT exemption did not apply in cases where the same sender delivered goods to the same person and address more than 6 times within half a year, or more than 2 times within 30 days.

Effective from 1 January 2018, the value threshold is dropped to NTD 2,000, and the half year period is defined specifically as 1 January - 30 June or 1 July - 31 December.
Procedures on appeals against Notices of Assessment

Thai Customs has issued Customs Notification No. 189/2560 regarding the criteria, procedures, and conditions for the submission of appeal applications, the consideration of appeal applications, and requests for duty deferral payments. This notification details the required procedures in relation to appeal applications under the current Customs Act B.E. 2560. Key changes from prior practice are as follows:

• An appeal application relevant to excise taxes must be submitted separately at:
  – the corresponding Excise Area Office or Regional Excise Office in the area where the assessment officer’s office of an appellant is located;
  – an Excise Area Office or Regional Excise Office in the area where the factory, business office, or service facility is located; or
  – the Legal Affairs Bureau, Excise Department.

  The application procedures are detailed in the excise notification.

• Customs receipts are no longer listed as a required document for appeal applications.

• To align with the Customs Act, the Board of Appeal (BOA) will have to complete its consideration within 180 days. An extension of 90 days from the date of the appeal application or when all of the required documents are received is allowed.

• The notification provides a new appeal application form template (GorSorGor 171) which aligns with the current Customs Act.

From 29 December 2017, importers and/or exporters need to ensure that their appeal application complies with the conditions and requirements under this notification.

Seizure of property of duty and tax defaulters

Customs has issued a Customs Regulation regarding property seizure of duty and tax defaulters B.E.2560 (2017). This regulation was issued according to Section 24 of the current Customs Act (B.E. 2560) which vests in Customs the authority to seize the properties of the defaulters, and order them not to sell, transfer, or make any legal transactions or claims on the confiscated property, if there is a failure to pay the duty and taxes when a Notice of Assessment becomes due.

Seizure or confiscation of property will be effected only after Customs has stopped the shipments of defaulters and the defaulters continue to fail to make payments (except for cases where deferral payments are approved or the cases are still pending).

Under the notification, which has been effective since 27 December 2017, Customs will send a warning letter to the importer or exporter to pay the outstanding duty and taxes within 15 days from the date of receipt of the letter. If payment is not made, Customs will issue a seizure order and seize the property of the tax defaulters in order to secure and recover the duty and tax payments. Note that only certain types of properties can be seized under the notification. These include assets such as movable properties, immovable properties, property rights and money.

The property will be returned only when the defaulters make the necessary payment, or if there is an assessment appeal ruling or judicial decision indicating that the tax defaulters are not liable to pay the relevant duty or taxes. That said, if defaulters disagree with the seizure order, they are entitled to an appeal, and can reject the seizure order.
Changes on duty drawback

Customs Notification no. 177/2560 provides guidelines regarding the duty drawback scheme according to Section 29 of the Customs Act B.E. 2560 (formerly known as duty drawback under Section 19bis under previous Customs Acts).

An additional scope of activity (in addition to manufacturing, mixing, assembling and packing) has been introduced under this notification. ‘Other activities related to imported goods’ is now one of the allowed activities. According to the notification, this includes activities which cause a change in form, shape, characteristics or increase the value of imported goods.

The timeline for submitting a duty drawback application is limited to 6 months from the date of export, and can be extended for another 6 months. However, the extension is subject to the approval of the Director-General of Customs.

Definitions of ‘Production Formula’, ‘Standard Formula’ and ‘Transfer of Rights’ have also been added. The notification also specifies the details and samples of eligible materials (e.g. chemical substances that need to be attached to finished products) and ineligible goods (moulds, machine tools or fuel) under the duty drawback scheme.

Separately, Customs Notification no. 178/2560 provides guidelines on procedures to claim a refund on Customs duty for imported/exported goods in cases other than those under Section 29 of the new Customs Act B.E. 2560.

Most of the content remains unchanged from the relevant regulations under the previous Customs Act. However, there are some changes in the timeline for requesting the duty refund and the documents required for the duty refund request. For instance, the timeline for requesting refunds if reserving the right to refund duties has changed from two to three years.

Since there are several refund types included in this notification, it is important for companies to refer to the notification in more detail as different requirements may apply.

Both notifications became effective on 30 November 2017.

Implementation of export control measures for dual-use items delayed

A Ministry of Commerce (MOC) Notification on 20 December 2017 confirmed the delay of export control measures for dual-use items. Implementation was originally scheduled for 1 January 2018 but is now due to start 1 January 2019. To date, we understand that the two control lists in the original notification remain unchanged.

Despite the delay, companies are recommended to continue reviewing their products to ensure that they are ready for implementation. Preparation during 2018 will help reduce potential disruption and the risk of significant fines in 2019.
Special Preferential Import Tariffs under various FTAs

The Government released 10 Decrees outlining special preferential import tariffs under various Free Trade Agreements (FTAs) for the period of 2018-2022 or 2018-2023. The different FTAs and the associated official decree is listed below.

- Vietnam – Korea FTA (Decree 149/2017/ND-CP)
- VN-Eurasian Economic Union FTA (Decree 150/2017/ND-CP)
- ASEAN – China ACFTA (Decree 153/2017/ND-CP)
- Vietnam – China FTA (Decree 154/2017/ND-CP)

The above decrees are effective from 1 January 2018.

Inspection procedures for preferential origin of imported goods

On 25 December 2017, the General Department of Vietnam Customs issued a ruling for Provincial Customs Authorities regarding the enhancement of inspection procedures for goods imported under preferential origin.

Below are some notable points:

1) The submission and the validity check of Certificate of Origin (C/O) must be performed in accordance with current regulations.

2) C/O Form AK (for the ASEAN – Korea FTA) issued from 11 October 2017 without indicating “See Note Overleaf” in the reference box will be denied in accordance with current regulations. The Customs Authority may still consider accepting C/O form AKs that were issued before 11 October 2017.

3) Information declared on the C/O:
   a. C/O with invoice from third country/party:
      - For C/O involving invoice from a third country/party, the name and country of the issuing company should be indicated accordingly in box 7.
      - For C/O form AANZ (for the ASEAN-Australia-New Zealand FTA) involving a third country/party invoice: If information of the exporter/importer is not declared, the C/O will be denied.
      - For C/O form VK (for the Vietnam-Korea FTA) involving a commercial invoice issued by a country who is not a member of the issuing agreement but declared on the C/O as “third country / party invoicing” instead of “non-party invoicing”, the C/O is considered to not have been issued in accordance with the prescribed mode and will be reported to the General Department of Customs for further investigation.
   b. Exporter’s signature on the C/O:
      According to the declaration guidance of C/O, the exporter is required to sign on the C/O. Otherwise, the C/O will be considered invalid and denied.
   c. Declaration of information regarding third party invoices, retroactively issued C/O and back-to-back C/O:
      Declarations must be made by ticking the corresponding boxes in the C/O forms, or declared as “issued retroactively” for a retroactively issued C/O.
d. Information on exporter:
   For the C/O form E (for the ASEAN – China FTA), exporter information declared in box 1 as an “authorized party” will not be accepted. In case a trading company represents the importer, the commercial invoice number declared in box 10 must be the invoice issued by the manufacturer.

e. Information on declaration of origin, value, HS code:
   C/O with different goods should present detailed information on origin criteria, quantity and value (if required) for each of these goods.

**Inspections relating to intellectual property of exported goods**

Recently, Vietnam Customs has focused on inspections relating to exports of intellectual property. As such, the Counterfeit Goods & Anti-Smuggling Management and Intellectual Property Right Protection Team under the General Department of Customs have been instructed to collect documents, information and data from companies in relation to trademarks and bar codes printed on the packaging of products that are manufactured or processed for export.

Under prevailing regulations, Customs is allowed to request for individuals or organizations to provide relevant documentation and support to clarify any intellectual property rights concerns in relation to imported and exported products.

Upon request by Customs, companies are required to provide relevant information to prove that they are authorized to manufacture such products for export under foreign brands or trademarks, as well as to print foreign barcodes on the packaging of such products. It is thus recommended for companies to prepare the relevant documentations in advance and/or seek the support from professional advisors to assist in the event of customs challenges.
Results of PwC’s 21st CEO Survey

Published in January 2018, PwC’s Annual Global CEO Survey shows that CEOs are optimistic about the global economic and business environment for the coming year. A majority of chief executives expect that global economic growth will improve over the next 12 months, but are more cautiously confident in their own growth prospects except for in North America. The US remains the top spot for global investment, while India moves into the top 5, which also includes China, Germany, and the UK. The US also pulls further away from China as the top market for growth prospects. On the other hand, terrorism and cyber threats moved up on the list of concerns while uncertain economic growth and exchange rate volatility moved down.

2017 will almost certainly turn out to be the best year the global economy has seen since 2010 and is balanced across regions.

Key findings from the survey can be accessed at the following link: https://www.pwc.com/gx/en/ceo-survey/2018/pwc-ceo-survey-report-2018.pdf. A total of 1,293 CEOs took part in interviews across 85 countries via telephone, online, post or face-to-face. Some 40% of the companies they lead had revenues of $1 billion or more, and 56% of the companies were privately owned.

US tariffs on solar panels and washing machines from China/Korea

On 22 January 2018, the United States announced that it will impose a 20% tariff on the first 1.2 million imported washing machines in the first year, and a 50% tariff on washers above that number. The tariffs decline to 16% and 40% respectively in the third year. A 30% tariff will be imposed on imported solar energy cells and panels in the first year, with the tariffs declining to 15% by the fourth year. The tariff permits 2.5 gigawatts of unassembled solar energy cells to be imported tariff-free in each year. Advisers from the White House mentioned that additional trade measures related to steel, aluminium and other products from China could follow.

The imposition of tariffs might cause trade tensions with other countries which could result in an escalation of retaliatory trade measures against imports from the US. China and South Korea protested against the tariffs and will likely complain to the World Trade Organisation (WTO) to settle the trade dispute.
World Customs Organisation

Data analytics potential in Customs underlined by WCO

On 9 January 2018, a one-day workshop on Data Analytics took place at WCO Headquarters in Brussels, Belgium, attended by representatives from academia and international organisations, as well as Customs official from the member countries. This first of its kind event was organized to explore and discuss the potential use of data analytics in Customs. The discussions focused on Customs and trade data, as well as data analysis methods that could be used to help Customs gain a better understanding of themselves and the work they do, shaping the way towards more efficient and effective Customs administrations. The aim of the workshop was to discuss ways in which Customs could take greater advantage of the use of data analytics as a tool for improving the way Customs administrations work, at both the operational and strategic levels.

There is evidence that a big portion of data generated by Customs is currently underused. Enhancing Customs’ ability to perform increasingly sophisticated analytics using the available data is likely to become even more crucial in all future policy-making processes.

WCO workshop on implementation of SAFE and AEO in Sri Lanka

Between 8 and 11 January 2018, a workshop was held by the WCO and the China Customs Cooperation Fund (CCF) on the SAFE Framework of Standards (SAFE Framework) and Authorized Economic Operator (AEO) Program in Colombo, Sri Lanka. The main objective of the workshop was to provide participants with the WCO perspective and improve their understanding of various tools for the enhanced implementation of the SAFE Framework and an AEO Program. During the workshop, WCO experts outlined the concepts of the SAFE Framework, AEO requirements and benefits, the WTO Trade Facilitation Agreement (TFA), Mutual Recognition tools, supported by case studies and good practices. The workshop established a broad framework and strong foundation for Sri Lankan Customs in terms of an effective implementation of the SAFE Framework and the launch of an AEO Program in the near future, potentially through enhancement of their current compliance program.

World Trade Organisation

Trade facilitation outweighs trade restrictions

According to the Director-General’s annual report on trade-related developments that was presented to WTO members on 4 December 2017, fewer trade-restrictive measures were introduced by WTO members from mid-October 2016 to mid October 2017 compared to the previous year. In total 108 new trade restrictive measures were introduced, which included new or increased tariffs, customs procedures, quantitative restrictions and local content measurements. In the previous year a total of 180 similar measures were introduced.

On the other hand, a total of 128 trade facilitative measures were implemented to encourage trade, mainly focused on simplified customs procedures and reduction or elimination of tariffs. While these statistics may seem encouraging, it remains considerably lower as compared to the previous year when a total of 216 facilitative measures were introduced. The report also highlights that WTO members continued to implement more trade-facilitating than trade-restrictive measures,
which has been the trend over the past 4 years according to the annual reports that have been published.

The estimated trade coverage of the import-facilitating measures recorded in the review period was more than double the import-restricting measures in terms of dollar value. In addition, the import-facilitating measures implemented during the review period in the context of the expanded Information Technology Agreement (ITA) amounted to around US$ 385 billion.

The report can be accessed at the following link:


**Panel report on US paper duties**

On 6 December 2017, a WTO dispute panel published a report regarding anti dumping and countervailing measures imposed by the US on certain coated paper (CCP) from Indonesia. The report was the result of Indonesia requesting consultations with the US in March 2015.

The panel report concluded that Indonesia has failed to establish that the findings of the US International Trade Commission (USITC) in the near future subject imports would gain market share at the expense of the domestic industry and would have adverse effects on US prices are based on conjecture and remote possibility are inconsistent with Article 3.8 of the Anti-Dumping Agreement and Article 15.8 of the SCM Agreement.

As a conclusion to the report, the Panel makes no recommendation as the US had followed the rules and therefore the dispute was closed.

The report can be accessed at the following link:

https://www.wto.org/english/tratop_e/dispu_e/491r_e.pdf

**Launch of Global Trade Helpdesk**

The International Trade Centre (ITC), the United Nations Conference on Trade and Development (UNCTAD) and the WTO have come together to develop a tool to help businesses, in particular smaller firms, benefit from trade.

Smaller businesses, particularly those in developing countries, often struggle to access accurate and relevant trade information relating to their exports. Questions such as what label information to include on their products destined for certain markets, types of fees imposed at border clearances, and local formalities that apply, disproportionately impact upon smaller businesses.

The tool, referred to as the Global Trade Helpdesk, serves as a one-stop shop for businesses and policymakers to access trade data and practical information on target markets. It aims to improve the quality and transparency of trade-related information, and strengthen public-private dialogue. The Global Trade Helpdesk also aims to support economic actors, such as:

- Providing an unique entry point to existing trade-related information;
- Translating trade-related information into trade intelligence;
- Raising awareness and capacity of MSMEs on the use of trade information.

The tool can be accessed at the following link: http://www.helpmetrade.org/
WTO consultations requested by Vietnam for US duties on fish imports

On 12 January 2018, Vietnam requested for WTO consultations in response to the US decision to impose anti-dumping duties on imports of fish fillets from Vietnam.

In the request, Vietnam claimed that actions taken by the US appear to be inconsistent with provisions under the WTO’s Anti-Dumping Agreement, in particular in regards to how the anti-dumping duties have been determined. According to Vietnam, the US used an improper methodology for determining margins of dumping in administrative reviews as well as an improper application of an assessment rate in investigations and periodic reviews that is distinct from all other rates applied by the US Department of Commerce (USDOC). In addition, Vietnam alleges that the US used an improper implementation of adverse Dispute Settlement Body rulings relating to US anti-dumping practices.

Trade Facilitation Agreement ratified by Argentina

On 22 January 2018, Argentina completed its ratification process for the Trade Facilitation Agreement (TFA). Argentina became the 128th WTO member ratifying the Agreement. The TFA entered into force on 22 February 2017 following its ratification by two-thirds of the WTO membership. Five other members have ratified the agreement since the last meeting of the WTO Trade Facilitation Committee on 3 November 2017 (Central African Republic, Israel, Indonesia, South Africa, and Antigua and Barbuda). The TFA was concluded at the WTO’s 2013 Bali Ministerial Conference and contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues. It further contains provisions for technical assistance and capacity building in this area.

The full implementation of the TFA is estimated to reduce global trade costs by an average of 14.3%, with African countries and least-developed countries (LDCs) forecast to enjoy the biggest average reduction in trade costs. Furthermore, the TFA is forecast to add up to 2.7% a year to world export growth and more than 0.5% a year to world GDP growth between 2015 and 2030.
Contact details

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Our team is a blend of Asian nationals and expatriates with a variety of backgrounds, including ex-senior government officials, customs officers, international trade lawyers, accountants, and specialists from the private sector who have experience in logistics, customs and international trade.

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