When virtual becomes reality

The customs aspects of e-commerce are maturing but overlooked

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Trade Intelligence Asia Pacific seeks to capture the essence of selected issues that are of particular interest to clients of PwC. Our regional network of customs and international trade consultants routinely gather, analyse and disseminate information and knowledge to our clients. Based on studies as well as meetings and discussions that take place across the region with various trade and customs officials, we consolidate our findings into Trade Intelligence Asia Pacific.

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When virtual becomes reality
The customs aspects of e-commerce are maturing but overlooked

Singapore, in its role as ASEAN Chair for 2018, has made the signing of an ASEAN e-commerce agreement one of its key objectives. Southeast Asia is seeing a large potential for growth of e-commerce and it is estimated that the digital market in the region will be worth US$ 200 billion by the year 2025. At the same time, customs authorities around the region are struggling to cope with the increase in related product flows, which are often small shipments that lack the compliance infrastructure of traditional commercial trade. At the ASEAN Customs Directors-General (DGs) meeting held in May this year, several Customs DGs commented on their concerns in relation to managing e-commerce. Often heard concerns are that e-commerce could represent a threat in terms of both border security and revenue collection for customs authorities. Security concerns arise for imports of controlled goods that may not be subject to the same level of import checks and licenses if they are imported as individual items. Revenue concerns are about the reduction of taxes collected at borders due to an increase in shipments entering under de-minimis limits. Neither of these sets of concerns cover the management of imports of intangibles and services that governments may place under Customs’ purview, as recently suggested in Indonesia.

This article will take a snapshot of the key customs and cross-border trade elements that e-commerce companies should address as they start designing a viable growth model for their business. It also touches on other considerations, which may not at first appear problematic but are still important to plan for, such as the management of returns and customs valuation considerations. First, we will discuss e-commerce involving trade in physical goods. Thereafter, we will address some pertinent e-commerce issues involving trade in services and intangibles, and highlight the different risks and issues that result from such transactions. We do not attempt to provide (easy) answers – they usually do not exist. However, we trust that our deliberations will be helpful for those looking to enter or grow in the space of e-commerce.

Scope of e-commerce
The Organization for Economic Cooperation and Development (OECD) defines an electronic transaction as “the sale or purchase of goods or services, whether between businesses, households, individuals, governments, and other public or private organisations, conducted over computer-mediated networks. The goods and services are ordered over those networks, but the payment and the ultimate delivery of the good or service may be conducted on or off-line.”

With the advancement of technology and ingenuity of e-commerce companies, the scope of e-commerce has expanded greatly. E-commerce has now broadened beyond the sale of physical goods and provision of services to sale of intangibles and electronic goods. With the increase in companies offering marketplace platforms, the ‘traditional’ business-to-consumer trade has also broadened to consumer-to-consumer (“C2C”) trade.

Building a viable business model – a customs view
As an e-commerce company builds its business model, one of the first questions that it should address is whether it should ship direct to its customers as business-to-consumer (“B2C”) trade, or whether it should have a business-to-business-to-consumer (“B2B2C”) trade, where a local distributor (whether a related party or not) handles importation and distribution to individual customers. Commercially,
there will be many different factors to consider, and every company may come to different conclusions depending on its existing business structure, the industry it is in, and the markets it is entering into. For example, companies with existing brick-and-mortar stores in a local market may find that it is just as efficient to have its local entity play a part in the supply chain and transactions, whereas a company without existing local business presence may be more hesitant to set up operations for a B2B2C structure.

Either way, there are cross-border regulatory aspects to consider for any company entering into e-commerce, which may impact the decision on its most appropriate commercial business model. Here are a few, split between those that could immediately disrupt the flow of goods, and those that may become a future compliance problem:

**Considerations affecting the flow of goods**

*De minimis thresholds* – A de minimis threshold is a customs value threshold below which customs declaration and/or import duties are not applicable. Sometimes, declaration requirements are simplified and import licensing requirements may be waived or relaxed. The concept of the de minimis threshold originates from the time where postal or parcel services were mainly for movements of personal effects and not for broader commercial use. With e-commerce, companies have found that they can benefit from the de minimis threshold by selling and shipping small quantities and/or values of product.

With the quick growth of e-commerce, different countries are reacting differently. For example, to maintain the competitiveness of local retailers in comparison to overseas companies that can currently sell into a country without having to pay customs duties and GST, Australia removed the de minimis threshold of 1,000 AUD as of 1 June 2018. On the other end, the Philippines last year raised their de minimis threshold from 10 Php to 10,000 Php in a bid to encourage e-commerce.

E-commerce companies built on a model to benefit from such de minimis thresholds should continue to monitor this changing landscape, if not proactively try to influence it. Other than some countries, which are playing catch-up, the general trend seems to be towards increased protectionism for local players to level the playing field. In our opinion, a business model designed to benefit from low value imports may not be viable for long.
Importer of record – In most countries, only a locally registered company can be the “importer of record” (IOR). Nevertheless, the regulations in many countries allow for a local third party logistics company to act as IOR on behalf of a foreign entity. E-commerce companies that do not have a legal presence in a certain market may be hesitant to set up new local entities. Often they do not have the bandwidth to do so, or the regulatory landscape may be difficult to manage, the size of their sales may not warrant it and so on and so forth. Given that end-customers could be resident in a wide variety of countries, establishing a legal presence everywhere may not be an option in the first place.

In addition, e-commerce companies generally prefer not to be responsible for import clearance. In some countries it may be possible to have individual customers act as IOR. However, it is unlikely that such individual customers will be willing or able to carry out customs clearance procedures themselves. Customs clearance processes were designed for commercial imports by companies and can be complicated for an individual to navigate. Moreover, most customers will expect the products will be delivered to their door, and most, if not all, e-commerce companies compete by positioning themselves as providing a most convenient experience to their customers. Therefore, the import clearance process will still have to be managed by the e-commerce company, whether or not through a third party logistics provider.

Where an individual customer acts as IOR, either with or without their conscious knowledge (occasionally the small print makes them responsible, and a freight forwarder will declare in their name), companies should consider the consequences to the customers in the event of any issues with customs declaration, duty payment or the movement of a shipment itself. In most countries (if not all), the importer is responsible for any incorrect declarations. Customers will likely not appreciate having such responsibilities, so strict management of the declaration process by third parties and clear instructions on handling of any disputes at the border becomes crucial to prevent any regulatory issues that a customer may be held responsible for.

All in all, the decision as to whether an e-commerce company sets up its own entity in order to import, appoints a third party to import on its behalf, or has customers act as importer, wittingly or unwittingly, directly or through a third party, needs careful consideration and subsequent management.

Import licensing – A wide range of goods will be subject to import licenses or restrictions. Such licenses and
restrictions will vary market by market. For example, leather footwear can only be imported into Japan by a quota holder. Working out which licenses apply can be very difficult. Some licenses are based on a product’s customs classification code, which are relatively easily identified provided the correct classification code is used, which is itself not an easy task. Other licenses may be based on the characteristics of a product, and regulated by a variety of authorities (for example health and safety rules). Even if those licenses are administered by Customs, they will not be determined by customs classification codes. Hence determining which licenses are required may necessitate discussions with the relevant regulators.

Generally, import licenses must be obtained by the IOR and normally have to be presented at the point of importation. Obtaining import licenses can be difficult, and there may be conditions on who is eligible to obtain an import license (and therefore, in turn, who can be IOR). Goods Imported by parcel post below the de minimis threshold will sometimes have import license requirements waived. However, waiving licenses can pose a security concern, and in some instances, even within the de minimis threshold such requirements may not be waived. It is therefore necessary to understand the import restrictions and its applicability when designing the e-commerce model. Some import requirements are to be fulfilled at the point of export (e.g. pre-shipment inspections) and these could be manageable if the e-commerce company controls the export procedures well and there is good communication between the exporter and the customs brokers making the import declarations.

Given all the above, where import licenses must be obtained in the country of import, it is usually impossible to expect the customer to act as IOR and obtain the required licenses. There have been numerous cases of individuals being contacted by the authorities to produce a necessary license for a product they have purchased online, only for the customer to decide to give up on the product as it is not worth their hassle of obtaining a license. Clearly, this is a situation that e-commerce companies want to avoid.

**B2B2C** – If individual parcel post is not viable, companies may decide to import in bulk. Bulk shipments by commercial entities will normally be considered standard imports. Customs duties and licenses that are applicable will have to be paid and obtained.

**Considerations posing future compliance risks**

While the above considerations pose a direct supply chain threat that e-commerce companies should look at when designing their business models, there are also some issues that may not immediately impact the flow of goods, but should not be forgotten during the planning process as they can create significant future problems to manage.

**Customs valuation** – Companies that operate brick-and-mortar stores and would like to jump on the bandwagon to offer the convenience of e-commerce should consider if the same goods that will be offered in-store will also be offered for cross-border B2C transactions. If so, a product imported and sold to an in-market store for local sales will likely be declared to Customs at a lower value than the same product imported and sold directly to a customer.

While this is a completely legitimate commercial difference, at first glance, customs officers may not understand it. In most countries, such difference in value for seemingly identical products is very likely to be challenged by the customs authorities and waste precious resources, even if it can ultimately be supported. If it cannot be supported, retrospective duties and penalties may well apply.
Management of returns – Due to the nature their business, e-commerce companies will often allow customers to return products that they have purchased if those products are not according to order, or even if the customers changed their mind about purchasing the products. In our experience, even where companies do a good job at managing import management and compliance, they often forget about managing returns. For some industries, such as the fashion apparel industry, the volume of returns can be significant.

Similar considerations to those listed above for import apply. For example, should returns be managed on a C2B basis or on a C2B2B basis? Our experience is again that a spectrum of operational models exists. Some e-commerce companies require the customer to make their own arrangements to ship goods back to a specified location (perhaps in a bid to discourage returns). Some e-commerce companies will manage the returns process for customers. The same question arises on who should be the exporter of record. Can this be an individual customer? What will then be that customer’s responsibilities? Are any export licenses required? What value should be declared? All these become important topics to manage. Moreover, there are now multiple “suppliers” looking to export goods back to their country of origin, or perhaps into a local store or another country. Such rerouting of products may have a knock-on impact on the original import declaration.

Most companies will likely have returned goods follow the original product flow, but in the opposite direction – B2B2C arrangements will return C2B2B. This will constitute a regular export if the C2B portion is in-country. In some countries it may be possible to receive a refund on the original customs duties paid on importation for the returned goods (e.g. Taiwan), but this may require additional proof of the reason for re-export and may only apply for specified purposes, such as a breach of contract (e.g. incorrect or defective goods). Often, this will be difficult to explain and manage.

B2C returns are trickier to manage, as requiring a customer to manage the export process may be difficult if not impossible. E-commerce companies will likely have to take on the responsibility of the export process either directly or through the services of a third party logistics company. Both options come with their own management requirements to consider.

Services and Intangibles
Unlike trade in goods, trade in services and intangibles has not really been a focus for customs authorities in the past. However, because of e-commerce, it has become difficult to delink the impact of trade in services and intangibles as they often form an intrinsic part of the cross border movement of related products. Here are some relevant observations to consider.

Marketplace platform operators
While “regular” e-commerce activity will have an e-commerce company to manage all its own transactions, marketplace platform operators face added complications as they facilitate C2C transactions. From the perspective of marketplace platform companies, both sellers and buyers in any transaction are users (or customers) of their marketplace platform.

Some marketplace platform providers merely provide the platforms as a service and any shipping arrangements between the users are to be made on their own. Others go a step further in facilitating the transactions by providing sellers with suggested shipping options or even assisting with shipping arrangements.

Marketplace platform providers should understand the risks where they take on the responsibilities of importing and exporting for their users, either explicitly or implicitly. Goods are normally pre-packaged by the seller and the marketplace
platform companies cannot be sure of the contents of any package. Detailed information like product specifications, values, quantity etc will have to be provided by the sellers in order to make accurate customs declarations. It may be difficult to verify any such information, although blockchain technology might come in handy. If there are no checks in place, marketplace platform companies may find that the risks they take on may become too large for them to have a viable business model.

**Downloadable goods**

Before the internet and e-commerce, downloadable goods did not exist. Any products that today are typically downloaded (e.g. software) were transmitted through physical media (such as a CD), which were controlled by border controls. In May 1998, in view of increased e-commerce, WTO members adopted a Declaration on global electronic commerce. The Declaration included a moratorium on imposing customs duties on electronic transmissions. Whether the term electronic transmissions refers only to the transmission or also to the transmitted goods is unclear. One of the main discussion points since then has been whether the provisions for electronically transmitted goods should be considered to cover trade in goods, trade in services, or both. Due to this uncertainty, and the absence of physical importations, customs authorities have traditionally not focused on electronically transmitted goods. This will likely be a changing landscape. During the 11th WTO Ministerial Conference held in December 2017, the WTO reaffirmed its decision to not impose customs duties on electronic transmissions until the next Ministerial Conference in 2019.

Whether the moratorium will continue to be extended then, is debatable. In March this year, Indonesia created a new Chapter 99 in its customs tariff to cover goods that are electronically transmitted. It is not so clear yet how this will be implemented, and whether they will be regulated in the same way as physical goods. For now, the new Chapter 99 is still in line with the WTO Declaration as Indonesia has stipulated customs duties for such products at zero percent. However, the fact that such goods are being tracked and regulated is an important development and an indication that this might be a direction that other authorities around the world may be heading towards.

Quicker regulatory movements have been made in the space of consumption taxes such as VAT or GST, and these should not be overlooked. Many tax authorities have started imposing or started to study imposing such taxes on imported services and digital products. E-commerce companies that sell electronically transmitted goods cross border should monitor this regulatory space as they may find that they are required to register for, and report, such taxes in countries that they export to, even without a local entity in that country. Such requirements may hit e-commerce platform particularly hard.

**Conclusion**

From our experience, e-commerce companies grow very quickly and business models can change as quickly to adapt to market conditions. More often than not, we have seen e-commerce companies diving into new ideas without considering the immediate and future customs compliance risks. They then typically encounter a roadblock in the form of laws initially drafted to regulate more traditional trade movements. To carry on with expansion, such e-commerce companies implement workarounds or patchwork solutions that fix the immediate problem, but store up more trouble for the future.

Even though customs regulations may not adapt quickly, the growth of e-commerce and its growing importance to any economy, is forcing changes in the customs landscape. E-commerce companies should start to pay attention and manage them before the authorities start paying attention to the e-commerce companies.
ASEAN

Updates from the 32nd ASEAN Summit

Singapore hosted the 32nd ASEAN Summit and related meetings from 25 to 28 April 2018. Leaders discussed ASEAN’s priorities for the year ahead as well as challenges and opportunities that it faces.

In the area of customs and international trade, ASEAN is intensifying its efforts on trade facilitation. We have summarised several key points discussed at the summit, as follows:

• As previously reported, live operation of the ASEAN Single Window (ASW) initiative has been in place since 1 January 2018, in five ASEAN countries (Indonesia, Malaysia, Singapore, Thailand, and Vietnam). Work is currently underway to expand the ASW to not only enable member states to exchange e-ATIGA Form D, but also other customs and trade-related information and documents. Other ASEAN member states are also encouraged to join the ASW initiative.
• The ASEAN-wide Self-Certification Scheme is slated for implementation by end 2018.
• A feasibility study on the implementation of an ASEAN-wide Mutual Recognition Agreement on Authorised Economic Operations was proposed.
• In order to boost e-commerce and digital trade, ASEAN is seeking to conclude negotiations and sign the ASEAN Agreement on Electronic Commerce later this year. Its objective is to advance trade rules in e-commerce to promote greater digital connectivity and to facilitate the free movement of goods and services across the ASEAN members.
• ASEAN is aiming to conclude the Regional Comprehensive Economic Partnership (RCEP) by the end of 2018.
**Updates from the 27th meeting of the ASEAN Directors-General of Customs**

The annual meeting between ASEAN Directors-General of Customs was held in Langkawi, Malaysia, from 2 to 4 May 2018. The meeting was aimed at facilitating trade across ASEAN, towards the goal of ASEAN customs integration.

Below are key updates from the meeting:

- **ASEAN Harmonised Tariff Nomenclature (AHTN) 2017** - Eight members have implemented AHTN 2017 to date whilst the remaining members, i.e. Laos and Singapore, are aiming to implement it in June 2018. The Ministry of Finance of The Lao People’s Democratic Republic plans to issue the Notification on Implementation and Instruction on the Utilization of AHTN 2017 this month. Singapore Customs has published Circular No. 04/2018 on 22 May 2018 announcing that AHTN 2017 will start to be effective from 24 June 2018.

- **ASEAN Customs Transit System (ACTS) pilot project in North-South corridor** - completion of Parallel Run on March 2017 whilst Live Run (final phase) to commence upon entry into force of AFAFGIT’s Protocols 2 (Designation of Frontier Posts) and 7 (Customs Transit System) of the pilot project among Malaysia, Singapore, and Thailand (MST)

- **ASEAN Single Window (ASW)** - The ASW live operation has begun on 1 January 2018 among the five exchange-ready members, i.e. Indonesia, Malaysia, Singapore, Thailand and Vietnam, and the granting of preferential tariff duty would be made by accepting e-ATIGA Form D exchanged through the ASW Gateway. Brunei Darussalam, Cambodia and the Philippines have begun end-to-end testing on 19 March 2018, which was also supported by the exchange-ready members.

  Lao PDR and Myanmar need additional time to confirm their readiness to connect to the ASW gateway.

- **The ASEAN Technical Sub-Working Group on Classification (TSWGC)** was established to amicably settle differences in classification of goods that arise between ASEAN Member States. Indonesia will chair the TSWGC from May 2018 till June 2020.

- **ASEAN countries are prioritising the implementation of their respective Authorised Economic Operator (AEO) programs.** Currently, six Member States (Brunei, Indonesia, Malaysia, Singapore, Thailand, and Vietnam) have implemented AEO programs, with Philippines, Lao PDR, and Myanmar in the process of or at the initial stages of their AEO programs. Cambodia has committed to embark on its AEO program by the end of 2018.

- **Consultations were held with the Customs Administrations of Australia, China, Japan, and Korea to strengthen customs cooperation around the region, and with the private sector through various business councils.**

**Launch of EU-ASEAN flagship program on regional economic integration**

An EU-ASEAN flagship program, the ‘Enhanced ASEAN Regional Integration Support from the EU’ (ARISE Plus), was launched on 17 April 2018. It has a budget of EUR 41 million and will span six years. The initiative builds on the progress achieved under the original ARISE program which ran from 2012 to 2016.

The ARISE Plus initiative is aimed at facilitating ASEAN’s regional economic integration efforts, with a focus on the following areas: single market, trade facilitation, and reducing non-tariff barriers to trade. It is also aligned with ASEAN’s Economic Community (AEC) Blueprint 2025.
Free Trade Agreements focus

Agreements entered into force

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<tr>
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<td>European Free Trade Association (EFTA) – Philippines Free Trade Agreement</td>
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Agreements signed

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<th>Agreement</th>
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<tr>
<td>China – Eurasian Economic Union (EAEU) Free Trade Agreement</td>
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Australia and New Zealand to begin bilateral FTA talks with the EU

Following approval of two proposals for free trade agreements (FTA) with Australia and New Zealand by the European Council, the EU will soon begin negotiations with both countries. Officials from both sides are expected to convene to formally launch talks in June and negotiations are planned to begin officially in July. Impact assessments for both agreements have also been completed.

Topics that will likely be discussed include trade in goods and services, public procurement, sustainable development as well as energy and regulatory cooperation. The EU has expressed plans to fast track negotiations for conclusion of both agreements ahead of the Brexit deadline in 2019. Given the track record of negotiation trade agreements in the EU, that seems ambitious to say the least.

China signs trade and economic cooperation agreement with the Eurasian Economic Union (EAEU)

China and the EAEU signed a trade and economic agreement on 17 May 2018. The agreement is non-preferential in nature, hence, does not result in an elimination of duties or an automatic reduction of non-tariff barriers. However, the agreement will result in an improved market access to goods for both sides through improved trade facilitation via the simplification of customs procedures, as well as the increase in transparency and level of interaction throughout all levels of trade cooperation.

The signing of the FTA will also set the stage for deepening the trade and economic relationship between China and the EAEU and enhance current cooperative efforts towards China’s Belt and Road initiative. Topics on intellectual property rights, government procurement and e-commerce are also included in the agreement.

China, Japan and South Korea to accelerate negotiations for RCEP and an FTA among them

During the 7th China – Japan – South Korea leaders’ meeting in Tokyo on 9 May 2018, leaders from three countries convened to discuss efforts to improve regional development. All parties have agreed at the ministerial level to accelerate negotiations for a trilateral FTA, as well as to push for faster progress to conclude negotiations for the Regional Comprehensive Economic Partnership (RCEP) at an early date.

First proposed in 2002, the trilateral FTA is intended at reducing tariffs,
broadening market access and deepening regional economic cooperation among all three parties. During the 13th round of negotiations concluded in March, officials focused primarily on trade in services and the financial services and telecommunications sector, and exchanged policies on the management of trade in services. Dates for subsequent negotiations have not yet been finalized.

On the RCEP front, all three countries acknowledged the potential of the RCEP to enhance economic growth and contribute significantly to global trade growth. RCEP negotiators from member countries have been convening to iron out differences ahead of the ministerial meeting to be held on 1 July 2018.

**China and New Zealand to proceed with negotiations for FTA upgrade in mid-2018**

China and New Zealand are intending to proceed with negotiations in June 2018 for an upgrade of their bilateral trade pact. Following three rounds of negotiations, the fourth round will focus on issues relating to border security compliance, e-commerce and trade in services, reflective of efforts to modernize the FTA and further liberalize trade in goods and services. Apart from negotiations for an FTA upgrade, New Zealand is also intending to develop and enhance cooperation and involvement in China’s Belt and Road initiative specifically in the agriculture technology, science and technology sectors.

**China and Sri Lanka on track to sign trade pact by end 2018**

Following the signing of a Memorandum of Understanding (MoU) between China and Sri Lanka in 2014, both countries have since conducted six rounds of negotiations for the proposed China – Sri Lanka FTA (CSFTA). Upon entry into force, the CSFTA is expected to put Sri Lanka in a better position to compete at a regional level as it will grant preferential access to the Chinese market. The agreement is expected to cover trade in goods and services, investment, as well as economic and technical cooperation. Both sides have expressed intentions for ongoing negotiations to be finalized for signing of the trade pact by end 2018.

**EU-Japan Economic Partnership Agreement slated to be signed in July 2018**

On 18 April 2018, the EU Commission presented the final outcome of the Economic Partnership Agreement negotiations with Japan to the European Council for approval. The leaders of the EU nations and Japan are expected to sign and formally accept the agreement at a summit in Brussels in July 2018 for the agreement to enter into force before the current EU Commission term expires in 2019.

It has been agreed under the Agreement that customs duties on industrial products, such as chemicals, cosmetics, plastics, and textiles, and most agricultural products (except rice) will be eliminated. A number of non-tariff measures will also be eliminated, including the current quota system applied to imports of leather and shoes into Japan.

**Japan and the United States to commence with bilateral trade talks in July**

The United States and Japan have agreed to set up a new framework aimed at intensifying bilateral trade consultations. This framework is expected to put further pressure on Japan to commence with bilateral FTA discussions with the US, especially in relation to opening up its agricultural sector. Both sides, however, currently remain disagreed on the framing of trade talks, where Japan has delayed participation due to resistance on opening up politically sensitive sectors such as agriculture. Although Japan has indicated that their current efforts will be focused more on the entry into force of the CPTPP, officials on both sides...
have agreed to work towards commencing with bilateral trade negotiations in July under the new framework.

**Philippines’ FTA with the European Free Trade Association enters into force on 1 June 2018**

The European Free Trade Association (EFTA) – Philippines FTA officially entered into force on 1 June 2018. Following signature between the Philippines and EFTA states in 2016, the Swiss parliament has adopted the agreement in 2017 and obtained approval from the Federal Council on 9 May 2018 for official implementation of tariff concessions.

Upon entry into force, approximately 92% of EFTA exports benefit from duty free access into the Philippines. Such concessions include duty concessions for most industrial products, which are either eliminated immediately or reduced gradually within the next three to ten years. Duties are eliminated for all industrial and fishery products from the Philippines. Apart from industrial products, both sides also benefit from the reduction of duties on certain key agricultural products such as fruits, cheese, sugar and powdered milk etc. which are eliminated immediately or over a transition period of three to six years.

The trade pact also benefits local businesses by facilitating investment flows and providing increased opportunities for collaboration in the IT services, construction, environmental services, maritime transport and finance sectors.

**Sri Lanka – Singapore FTA enters into force on 1 May 2018**

The Sri Lanka – Singapore FTA (SLSFTA) has officially entered into force on 1 May 2018 following signature of the agreement by both sides in January. The SLSFTA covers areas such as trade in goods and services, E-commerce, telecommunications, investments, intellectual property and government procurement.

In relation to trade in goods, Sri Lanka has committed to the elimination of tariffs on 80% of all tariff lines within 15 years. The FTA also includes more liberal rules of origin, which will likely allow more exports to qualify for origin. Apart from trade in goods, business on both sides also benefits from increased access to government contracts and service sectors in each country. This includes many service sectors of interest, such as, environmental services, construction, tourism and travel – related services.

Based on International Trade Centre (ITC) data, in 2017, Sri Lanka’s top 3 exports to Singapore include motor spirits and fuels of Chapter 27, articles of apparel and clothing accessories of Chapter 61 and 62, and electrical machinery and equipment of Chapter 85. On the other side, Singapore’s top 3 exports to Sri Lanka include mineral fuels of Chapter 27, natural/cultured pearls and precious/semi-precious stones/metal of Chapter 71, and machinery and mechanical appliances of Chapter 84. Bilateral foreign direct investment is expected to further increase following the increased safeguards and protection as well as dispute resolution mechanisms provided for in the FTA.

More details on the rules of origin are detailed in the Singapore Section of this publication.

**Singapore’s FTA with the EU on track for entry into force in 2019**

On 18 April 2018, the European Commission presented the negotiation outcomes to the European council and has committed towards working to early implementation of the EU – Singapore FTA (EUSFTA). Seen as a key step towards the signing and conclusion of the FTA, the FTA will now be required to be approved by the Council of Ministers and undergo ratification by
from the Mercosur nations, South Korea has also expressed that negotiations will be launched in late 2018 for a potential FTA with the Pacific Alliance countries – including Mexico, Chile, Peru and Colombia.

**South Korea and the US agree on modifications for KORUS FTA**

Representatives from the US and Korea have reached an in-principle agreement on the general terms of amendments that will be made to the U.S. – Republic of Korea FTA (KORUS FTA). This follows from three negotiating rounds that have been held since 2017 for an FTA update in light of US’ trade deficit with Korea. Currently, officials on both sides are finalizing the terms of negotiations, before proceeding with the formal signing of the trade pact. The revised deal will also be required to undergo domestic ratification processes on both sides before entry into force.

The revised agreement addresses issues relating to investments, tariffs, trade in automobiles and steel products, and trade remedies. South Korea has agreed to reduce its steel exports by 30% and to further open its automotive sector by doubling the current import quotas for U.S. cars. In return, with effect from 1 May 2018, the US has also granted an indefinite country exemption for South Korea from tariffs imposed on steel imports into the U.S. Korean steel

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**South Korea and Mercosur nations launch FTA negotiations**

South Korea and the Mercosur nations officially restarted formal FTA negotiations in May 2018. The key focus for South Korea will likely be on soy and corn product from the Mercosur nations, which is an important import for Korea due to negligible domestic corn production. The trade deal will also reportedly be designed to increase Korea’s exports of consumer electronics and automotive parts, while benefitting corn, soybean and grain exports from Mercosur.

Established in 1995, the Mercosur trade bloc includes Argentina, Brazil, Paraguay and Uruguay and accounts for 75% of South America’s GDP. Apart from the European before entry into force. Both sides are targeting for the agreement to enter into force by mid-2019.

Currently, Singapore is the EU’s largest commercial partner in ASEAN, accounting for slightly under one third of the EU – ASEAN trade in goods and services. Apart from the elimination of tariffs, reduction of non–tariff trade barriers, the EUSFTA will also provide greater facilitation to trade in services and investment, and improved market access to government procurement opportunities.

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**South Korea and the US agree on modifications for KORUS FTA**

Representatives from the US and Korea have reached an in-principle agreement on the general terms of amendments that will be made to the U.S. – Republic of Korea FTA (KORUS FTA). This follows from three negotiating rounds that have been held since 2017 for an FTA update in light of US’ trade deficit with Korea. Currently, officials on both sides are finalizing the terms of negotiations, before proceeding with the formal signing of the trade pact. The revised deal will also be required to undergo domestic ratification processes on both sides before entry into force.

The revised agreement addresses issues relating to investments, tariffs, trade in automobiles and steel products, and trade remedies. South Korea has agreed to reduce its steel exports by 30% and to further open its automotive sector by doubling the current import quotas for U.S. cars. In return, with effect from 1 May 2018, the US has also granted an indefinite country exemption for South Korea from tariffs imposed on steel imports into the U.S. Korean steel
exports will still be subject to an import quota of 2.68 million tons per year, which amounts to approximately 70% of US steel imports.

**Thailand to initiate FTA talks with Bangladesh and Sri Lanka**

Thailand is planning to continue with negotiations with Bangladesh and Sri Lanka to further boost bilateral trade. Currently, Bangladesh already enjoys duty free access for 7,000 types of products its exports into Thailand. Areas that are likely to be discussed will include potential duty concessions for jute and apparel products, as well as the simplification of procedures e.g. the visa regime to facilitate the movement of individuals across borders for business or tourism purposes. Both nations have not yet determined exact dates for conclusion and signing of the trade pact.

Separately, Sri Lanka and Thailand have also commenced with talks in May to set out broad parameters for a bilateral FTA. During the meeting, officials discussed and agreed on the agenda, and scoped out areas including trade of goods, services and government procurement etc. that would likely be covered in the trade deal.

**Vietnam and Pakistan to sign FTA soon**

Officials from Vietnam and Pakistan have expressed intentions to accelerate negotiation processes for signing of the Pakistan – Vietnam FTA. This comes following several sessions of bilateral negotiations which have been smoothly ongoing since November 2017. As part of the negotiations, both countries have discussed ways to enhance cooperation in sectors of mutual interest, such as textiles and garments, energy, banking, chemicals, agriculture machinery, automobiles, food processing and infrastructure development by promoting B2B linkages and facilitating frequent interaction of private sectors.

In addition to the FTA, officials have indicated intentions to sign a Memorandum of Understanding (MoU) between the Vietnam Chamber of Commerce and the Sialkot Chamber of Commerce and Industry (SCCI) in Pakistan to further accelerate bilateral trade and commerce activities.
**Highlights from the 2018-19 Australian Budget**

On Tuesday 8 May the Australian Government released the 2018-19 Budget, announcing the following trade and indirect tax measures.

- **Excise relief for craft brewers and distillers**
  The alcohol excise refund cap has been increased from AUD 30,000 to AUD 100,000 for craft brewers and distillers. The increased refund cap will come into effect from 1 July 2019. Additionally, measures will be implemented in an effort to create an equal playing field between craft and large breweries. The concessional draught beer excise rate will be extended to apply to smaller kegs of 8 litres (and above), which are typically used by craft brewers to distribute their beer to pubs, clubs and restaurants.

- **Establishment of the Illicit Tobacco Taskforce and tobacco duty measures**
  The Australian Border Force will lead a new multi-agency Illicit Tobacco Taskforce to enforce new tobacco rules and target illicit tobacco supply chains. The legislative changes will be applied from 1 July 2019, and will require importers to obtain a permit to import tobacco and to ensure duty and tax liabilities are satisfied when the tobacco first enters Australia, rather than when it enters the domestic market from a licensed warehouse. For tobacco products which are held in a licensed warehouse at the commencement of the newly enacted provisions, transitional arrangements will apply for eligible entities to allow for the payment of the requisite liabilities on warehoused stock within 12 months.

- **Enhancing biosecurity measures - Sea import levy for port operators**
  As part of the Australian Agriculture and Export Growth Plan, the Government will provide AUD 86.9 million over four years from 2018-19 to improve Australia’s biosecurity system. Seeking to enhance biosecurity detection, identification and response measures, a new levy on sea imports will be imposed on port operators from 1 July 2019. The levy will be imposed at AUD 10.02 per twenty foot container (or equivalent) or AUD 1 per tonne of non-containerized cargo and payable on a quarterly basis.

- **Trade Modernisation agenda**
  To further the Government’s Trade Modernisation Agenda, AUD 10.5 million has been allocated over the 2018-19 period. An election commitment was made to work towards developing a single window for international trade in Australia. Part of this measure will be to complete an initial business case that will look to create a trade single window.

- **Australian Trusted Trader Benefits**
  Australian Trusted Traders will be provided with additional benefits through streamlined compliance requirements with the removal, under certain free trade agreements, of the requirement to produce certificates of origin.
• **Removal of luxury car tax on re-imported cars**
  From 1 July 2019, the Government will remove luxury car tax on cars re-imported into Australia after being refurbished overseas. This measure will align Australia’s trade obligations with foreign trading partners by ensuring consistent treatment of luxury car tax on refurbished cars regardless of whether they are refurbished in Australia or overseas.

• **Removal of tariffs on clinical trial kits and placebos**
  From 1 July 2018, customs tariffs will be removed for placebos and clinical trial kits imported into Australia. The measures will see a reduction in costs for companies conducting clinical trials in Australia.

• **Increased assistance for small and medium exporters**
  The Government has committed to providing AUD 20 million in order to establish a Small and Medium Enterprises Export Hubs program. The purpose of the Hubs program is to enable cooperation and boost the export capability of local and regional business. In addition, AUD 0.4 million will be provided to extend the Package Assisting Small Exporters program in order to continue providing grants to small exporters and supporting access to international markets.

• **Support for Australia’s Defence industry**
  A number of measures were announced as part of an AUD 80 million package to support Australia’s defence industry. The assistance will be provided over four years from 2018-19 and will encompass the following measures:
  – Provision of an additional AUD 4.1 million annually in order to expand the Centre for Defence Industry Capabilities grant program and capability amongst the Australian Defence industry’s small and medium sized enterprises to compete internationally;
  – AUD 6.3 million per year to the Australian Defence Export Office;
  – An additional AUD 3.2 million to the existing Global Supply Chain program administered by the Department of Defence.


**Goods and Services Tax on low value imported goods**

The Department of Home Affairs has released three Customs Notices on the upcoming legislative changes for GST on low value imported goods. Low value imported goods refer to imported goods with a customs value of AUD 1,000 or less. The following notices should be read in conjunction:

• **No. 2018/13 - Goods and Services Tax on low value imported goods**
  The notice highlighted the Integrated Cargo System (ICS) reporting requirements. The Department noted that border processes will not change, but recommended that entities review their business processes and systems nonetheless. Vendors who are registered for GST will need to ensure that relevant tax information for low value goods is included on import documents. To assist vendors with reporting requirements, the ICS will allow for: a Vendor ID, Importer ID, and the use of a GST-paid exemption code (where applicable). The notice can be accessed here: https://www.homeaffairs.gov.au/Customsnotices/Documents/home-affairs-2018-13.pdf
• **No. 2018/14 - Goods and Services Tax on low value imported goods – Use of the GST-paid exemption code**

  The GST-paid exemption can be used in specific circumstances to prevent double taxation. Goods imported in a consignment of AUD 1,000 or less will not require the use of the GST-paid exemption code. Where low value goods form part of a consignment over AUD 1,000, the GST-paid exemption code should be used to identify those items for which GST has been paid at the point of sale to avoid GST being double charged. GST-paid exemption code cannot be used for imports of tobacco, tobacco products and alcoholic beverages, as well as specified goods outlined in Notice 2018/14. The notice can be accessed here: [https://www.homeaffairs.gov.au/Customsnotices/Documents/home-affairs-2018-14.pdf](https://www.homeaffairs.gov.au/Customsnotices/Documents/home-affairs-2018-14.pdf)

• **No. 2018/15 - Goods and Services Tax on low value imported goods – Claiming a GST refund**


**Amendments to Customs (Prohibited Exports) Regulations 1958 – Defence and Strategic Goods**

The Customs (Prohibited Exports) Amendment (Defence and Strategic Goods) Regulations 2018 came into effect on 21 April 2018, which amended the Customs (Prohibited Exports) Regulations 1958.

The revised regulations seek to align the legislative framework of prohibited exports of goods listed in the Defence and Strategic Goods List (the DSGL) with the Defence Trade Controls Act 2012. Goods listed on the DSGL remain controlled in export and goods containing DSGL technology are now explicitly prohibited from export unless permission has been granted, or an exemption applies. The new regulations also include enhanced powers for the Minister for Defence to revoke a permit where it is determined that an export would prejudice the security, defence or international relations of Australia.

**Penalty for non-compliance with the Commerce (Trade Descriptions) Regulations 2016**

The Trade Descriptions legislative framework, which comprises of the Commerce (Trade Descriptions) Act 1905 and the Commerce (Trade Descriptions) Regulations 2016 (the CTD Regulation), outlines the labelling requirements at the border for the importation of certain goods. Specifically, it sets out which goods or classes of goods require labelling, what label is required, and where the label should be applied.

From 29 June 2018, a penalty will be introduced for non-compliance with the CTD Regulation. The penalty is capped at up to 50 penalty units (AUD 10,500).
Consolidation of Customs, China Entry-exit Inspection and Quarantine Bureau

During the First Session of the 13th National People’s Congress held on 13 March 2018, the State Council promulgated an institutional reform plan, allocating the administrative responsibility of China Entry-exit Inspection and Quarantine Bureau (CIQ) originally belonging to the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) into the General Administration of Customs (GAC).

At present, consolidation work is being carried out. Staffing transfers, unification of labels and workflows were completed on 20 April 2018. Further consolidation of staffing and responsibilities, and modification of laws and regulations will be finished before the end of 2018.

The GAC also published GAC Order No.238 and No.239 on 28 April 2018 to modify or abolish 73 regulations related to institutional reform, confirm the responsibility of Customs and cancel documents circulation and repetitive filling. These entered into force on 1 May 2018.

Highlights

1) Customs Declaration Procedure

- **“3 Ones”:** “One declaration, One verification and One release”. After the consolidation, the declaration requirement, inspection staffing, procedures and release orders will all be unified, and consigner and consignee will be able to pick up goods by the release order of Customs.
- **Certificates simplification:** The Certificate of Inspection for Goods Inward/Outward will no longer be required for low-value goods and mailing goods, and the Certificate of Inspection circulation between Customs and CIQ will become an internal procedure.

2) Enterprises Registration and Administration

- **Qualification of declaration:** Effective from 20 April 2018, after being registered with Customs, newly registered enterprises will be able to submit both customs and “inspection and quarantine” declarations at the same time. Old enterprises should go to Customs to renew and consolidate their registration information.
- **Enterprises rating management:** Customs and original CIQ hold different enterprise rating systems as shown below:

<table>
<thead>
<tr>
<th>Customs enterprise rating system</th>
<th>Original CIQ enterprise rating system</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advanced Certified Enterprise, General Certified Enterprise, General Credit Enterprise and Discredited Enterprise (4 levels)</td>
<td>AA, A, B, C, D (5 levels)</td>
</tr>
</tbody>
</table>

After consolidation, the CIQ enterprise rating system will be abolished while the related requirements could be merged into AEO management of China Customs. The detailed criteria revision of AEO is still under discussion and expected to be issued by the end of 2018.
3) Management of Country of Origin ("COC")

Under the original management mode, CIQ is responsible for issuing the certificate of COC for export products and managing the marks of COC, while Customs focuses on the verification of import and export processes, and drafts multilateral and bilateral regulations pertaining to COC etc.

After the consolidation, import/export data and enterprise and commodity information would be more comprehensive, meaning supervision and control is expected to be improved. Therefore, requirements on management of COC identification would be correspondingly stricter.

PwC comments

The reform program breaks the segregated management situation between Customs and CIQ, and is expected to facilitate more efficient clearance, reduce clearance costs and optimize services, to help build a new clearance supervision system. With the strengthening of supervision enforcement, the new customs authority is expected to implement stricter supervision and control on special restricted imported goods (e.g. solid waste).

To adapt to the changes of reform, companies are advised to focus on the following:

• Clearance and declaration management: Update your internal customs system and ensure staff are trained on the internal data exchange of “single system” and “paperless declaration”, as per the changes to clearance and declaration processes;
• Enterprise rating system: Keep a lookout for regulation changes to the customs enterprise rating system (certification criteria of AEO) and improve the communication with in charge Customs;
• Compliance management: Pay more attention to regulation requirements and administration measures, update internal working procedures when regulation changes, especially on controlled goods (e.g. solid waste).
Regulations for the import and export of encryption products

On 8 May 2018, the Hong Kong government released Strategic Trade Controls Circular No. 6/2018 stipulating license requirements for the import, export and transshipment of encryption products. This Circular supersedes the previous Circular No. 7/2009 issued on 12 May 2009.

In Hong Kong, the legal basis for imposing license controls on strategic commodities is provided for in the Import and Export (Strategic Commodities) Regulations (to be referred as “the Regulations” hereafter) under Chapter 60 of the Laws of Hong Kong on Import and Export Ordinance. Under the regulations, the import, export or transshipment of strategic commodities are required to be covered by valid licenses issued by the Director-General of Trade and Industry.

Control on Encryption Products

In implementing license requirements on strategic commodities, Hong Kong mirrors the controls adopted by the international control regimes such as the Wassenaar Arrangement, where encryption products are listed as controlled goods. Accordingly, under local regulations in Hong Kong, such products may be provided for under “Category 5, Part 2 - Information Security” of the Dual-use Goods List. Where such products are included in the list, their import and export will be subject to licensing requirements.

Exemptions of Control

Currently, the Regulations impose control over encryption products with a symmetric key length above 56-bits. Exemptions can however be granted for products of any key length, if they satisfy either one of the following scenarios:

1. Accompanying the user, for the user’s personal use; or
2. Meeting all of the following conditions:
   a. Generally available to the public by being sold, without restriction, from stock at retail selling points by either over-the-counter transactions, mail order transactions, electronic transactions, or telephone call transactions;
   b. The cryptographic functionality cannot easily be changed by the user;
   c. Designed for installation by the user without further substantial support by the supplier; and
   d. Where necessary, details of the items are accessible and will be provided, upon request, to the appropriate authority in the exporter’s country in order to ascertain compliance with conditions described in (a) to (c) above.

Additionally, applicants who frequently import or export the same types of encryption products are advised to make use of the pre-classification service and obtain a Pre-Classification Reference Number assigned by the Trade and Industry Department. By quoting the assigned reference number on future license applications for the same goods, applicants will not be required to re-submit technical specification/data sheets.

More details on specific licensing conditions and procedures, including required declaration and supporting documentation can be accessed at the following website: https://www.stc.tid.gov.hk/english/circular_pub/2018_stc06.html
Hong Kong Customs and Korea Customs Service hold 33rd Customs Cooperation Conference

On 10 April 2018, the Commissioner of Customs and Excise, Mr. Hermes Tang, and the Commissioner of the Korea Customs Service (KCS), Mr. Kim Yung-moon, attended the 33rd Customs Cooperation Conference between the Customs and Excise Department (C&ED) and the KCS.

During the meeting, both sides provided updates on various topics including the implementation of the Mutual Recognition Arrangement on respective Authorized Economic Operator Programmes, intellectual property rights enforcement as well as the implementation of the Free Trade Agreement (FTA) Transshipment Facilitation Scheme.

Mr. Tang and Mr. Kim also signed a Memorandum of Understanding (MoU) on co-operation and mutual assistance in the rules of origin administration under the China-Republic of Korea FTA. Under the MRA, the C&ED will be recognized as an issuing authority for the Certificate of Non-Manipulation for cargoes originating from China that are transshipped through Hong Kong to Korea. This will allow them to be eligible for preferential tariffs under the FTA.

Refer to the following website for more information of Customs Cooperation Conference held between C&ED and KCS: https://www.customs.gov.hk/en/publication_press/press/index_id_2144.html
Relaxation of compliance requirements for import of vehicles

Currently, the import of new and second hand vehicles classified under Chapter 87 is regulated by the import policy. As per the import policy, traders will be required to comply with the following compliance criteria as a pre-requisite for import of vehicles:

- The vehicle is required to conform to the provisions of the Motor Vehicle Act, 1988 and the rules made thereunder;
- A second hand or used vehicle should not be older than 3 years from the manufacturing date;
- The road-worthiness of the vehicle should be a minimum period of 5 years from the date of importation;
- The vehicle should have right hand steering, photometery to suit “keep left” traffic, etc.

Under DGFT Notification 07/2015-2020 dated 8 May 2018, the Director General of Foreign Trade (DGFT) has removed the specific compliance requirements outlined above for import of new or used vehicles for specified purposes. This includes:

- Automotive mining vehicles;
- Oil rigging equipment for operation in oil rigging areas/ captive mines; and
- Vehicles for research and development purposes.

Such treatment will be subject to the condition that these vehicles will either be re-exported or scrapped under certification from the concerned authorities once their purpose has been served. These vehicles will also not be allowed to ply on roads except for mobilization or demobilization purposes. The condition with respect to importation at specific port(s) will continue to apply.

(Reference: DGFT Notification 07/2015-2020 dated 8 May 2018)

Relaxation of import regulations on second hand goods for repair, refurbishment, re-conditioning or re-engineering purposes

The DGFT has amended the policy in relation to the import of second hand goods. The Foreign Trade Policy (FTP) now permits the import of second hand goods for repair, refurbishment, reconditioning or re-engineering purposes without any authorisation, subject to the following conditions:

- Imported items must be re-exported as per the customs regulations, and
- Waste generated during the process should be dealt with vis-a-vis domestic regulations and requirements including environmental safety and health norms.


Classification of solar equipment modules containing bypass diodes

In 2016, the then Central Board of Excise and Customs (CBEC) issued a clarification on the classification of solar modules, where it was clarified that:

- Solar modules / panels equipped with elements supplying power to an external load will be classified under Heading 8501.
- Solar modules / panels equipped with elements not supplying power to an external load, will be classified under Heading 8541.
- Solar modules / panels without elements are classified under Heading 8541.
Based on the representations received from traders, the Central Board of Indirect tax and Customs (CBIC) has further examined the classification of solar modules / panels equipped with bypass diodes. Most traders were of the view that as the function of bypass diode serves to protect the module/panel at the time of shading rather than the controlling of the direction of current, they should be classified in Heading 8541.

In accordance with the decisions made by the World Customs Organization, the CBIC has stipulated that solar modules / panels with bypass diodes will be classifiable under Heading 8541. However, modules / panels containing blocking diodes (which prevents reverse flow of current) should be classified under Heading 8501.

The Basic Customs Duty (BCD) rate on the tariff codes mentioned above are detailed below:

<table>
<thead>
<tr>
<th>Tariff heading</th>
<th>Description</th>
<th>BCD rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>8541</td>
<td>Solar panels or models equipped with bypass diodes</td>
<td>Nil</td>
</tr>
<tr>
<td>8501</td>
<td>Solar panels or models equipped with blocking diodes (whether or not including bypass diodes)</td>
<td>10%</td>
</tr>
</tbody>
</table>

(Reference: CBIC Instruction 08/2018 – Cus dated 06 April 2018)

**Change in BCD rates on components for mobile phones**

The Government has amended various notifications removing BCD exemption to inputs, connectors, camera modules etc. used in the manufacture of mobile phones. Under these notifications, such products will generally be charged a standard customs duty rate.

Key changes in BCD rates have been laid down in the below table:

<table>
<thead>
<tr>
<th>Description</th>
<th>Earlier BCD rate</th>
<th>New BCD rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Populated, loaded or stuffed printed circuit boards (Classified under heading 8517.70.10)</td>
<td>Nil</td>
<td>10%</td>
</tr>
<tr>
<td>Camera modules for use in manufacture of cellular mobile phones (Heading 8517 7090, 85258020, 85258090, 85299090)</td>
<td>Nil</td>
<td>10%</td>
</tr>
<tr>
<td>Printed Circuit Board Assembly (PCBA) of cellular mobile phones</td>
<td>Nil</td>
<td>10%</td>
</tr>
<tr>
<td>Camera or camera module of cellular mobile phones, parts of camera or camera module of cellular mobile phones, plugs and sockets for co-axial cables and printed circuits of connectors of mobile phones and connection and contact elements for wires and cables of connectors of mobile phones</td>
<td>Nil</td>
<td>10%</td>
</tr>
</tbody>
</table>

However, exemptions have been granted to various inputs used in the manufacture of the above products. These amendments may have been brought up in order to promote the “Make in India” initiative and boost domestic production. For example, exemptions are provided to inputs or parts for use in manufacture of Printed Circuit Board Assembly (PCBA), Camera Module and connector of cellular mobile phones and inputs or sub-parts for use in manufacture of parts used in manufacture of PCBA, Camera Module and connectors.

(Reference: Notification No 36, 37, 38, 39 and 40/2018 –Customs tariff dated, 2 April 2018)
**Government’s initiatives on ‘Ease of doing business’**

The Government of India is pursuing several initiatives as part of the “Ease of doing business” initiative. Some of the key initiatives are listed below.

- The DGFT had earlier allowed a one-time condonation for extension of block-wise export obligation period, extension of export obligation period and delay in submission of installation certificate against EPCG authorizations via Public Notice No. 35, 36 and 37 dated 25 October 2017. This one-time extension, which was previously provided up till 31 March 2018, has been further extended till 30 September 2018.
  (Reference: Public Notice No.1/2015-20 dated, 26 April 2018)

- Allow for application for advance authorisation to permit the submission of the manual Bank Realisation Certificate up till the time of online filing for the Export Obligation Discharge Certificate. The option to submit a self-attested copy of Exporter’s Copy of shipping bill till such time facility of online verification of shipping bills are also made available to regional licensing authorities.

- The facility of obtaining advance authorization was previously restricted to cases where no Standard Input Output Norms (SIONs) were fixed. This will now be extended to cases where no adhoc norms are notified and also to procure additional inputs for cases where SION or adhoc norms are notified. Wastage will be allowed as per the norms stipulated by the Norms Committee. Exporters will be required to comply with the same.

- Advance authorisation for annual requirement is now available where ad hoc norms are notified. Earlier, this facility was available only where SIONs was notified. However, no authorisation for annual requirement shall be issued where input is listed in Appendix-4J (export products with pre-import conditions on specified inputs)
  (Reference: Public Notice No.9/2015-20 dated, 14 May 2018)

**Procedures for issuance of a pre-notice consultation**

The Pre-Notice Consultation Regulations, 2018 stipulate timelines and procedures for issuance of a pre-notice consultation to the person chargeable with duty or interest. This is done in order to obtain a response or representation prior to issuance of the notice.

The key features of the Regulations are:

- Before issuance of notice, importers will be informed in writing of the intention to issue the notice specifying the grounds for consultation. The process of pre-notice consultation will be initiated at least two months before the expiry of the time limit to issue notice i.e., 2 years from relevant date.

- The importer is expected to respond in writing, including the option to be heard in person within 15 days. If a response is not received within the specified time period, the officer will proceed with issuance of the notice.

- Where an option of hearing is mentioned in the response, the hearing will be scheduled within 10 days of submission to decide whether or not to proceed with the notice. If the officer, based on the submissions and / or hearing, decides to not proceed with the notice, he shall, inform the person concerned via the issuance of a simple letter.

- The consultation process should be concluded within sixty days from the date of communication of grounds.
  (Reference: Notification No. 29/2018- Customs (N.T.) dated, 2 April 2018)
Abolition of Goods and Services Tax (GST) from 1 June 2018

With effect from 1 June 2018, Malaysia's GST rate will be reduced from 6% to 0%. GST on importation and removal of goods from the Free Zones into the Principal Customs Area (Malaysia except Tioman, Langkawi and Labuan), will be set at zero percent.

As complete abolition of GST has yet to be officially announced to the public, traders will still be required to comply with GST reporting requirements until further announcements are made. To “replace” GST, the government has announced on 30 May 2018 that Sales and Service Tax (SST) will be re-instated. However, whether it will be applied in the same form and use the same rates as the prior SST, or if changes will be made to the framework in order to adapt to changing business needs and realities, is yet to be known. No official announcement has been made so far.

In addition to the reduction in GST, the RMCD also revoked various GST regulations and orders such as the GST for supplies in respect of Free Zones and Designated Area, where GST will no longer be charged.

Refer to the following links (in English and Malay) published by the Royal Malaysia Customs Department (RMCD) for more details on the transition of GST from 6% to 0%.


Note that the Malay version is the most updated version containing additional information to the original FAQ. The updated version in English has yet to be issued.

Termination of anti-dumping duties on imports of electrolytic tinplate

On 15 May 2018, the Ministry of International Trade and Industry (MITI) issued a notice informing traders of the impending termination date for the imposition of anti-dumping duties on imports of electrolytic tinplate originating or exported from China and Korea. Currently, electrolytic tinplates classified under HS 7210.12.90.00 are subject to anti-dumping duty rates ranging from 0% and 9.78% of the export price. These anti-dumping duties will expire on 15 November 2018.

Importers, traders, producers and other interested parties likely to be affected by the termination can submit their views in writing by 30 June 2018.

Further details can be found at the following link:
Post-clearance audit practices

The Myanmar Ministry of Planning and Finance issued Minister’s Office Notification No.10/2017 to establish customs post-clearance audit practices in Myanmar. The Director General of the Myanmar Customs Department will assign audit teams to carry out reviews or inspections at companies’ premises as well as at relevant warehouses or storage areas.

The audit team has the authority to request for relevant documents, either in hard copy or in electronic format, concerning the import and export of goods going back seven years. Requested information includes import and export documents, accounting systems through which the audit team can assess the company’s flow of goods, and their financial transactions. Companies are obliged to fully cooperate throughout the audit process.

Companies will be subject to duty shortfall of shipments up to seven years prior to audit commencement date in cases of non-compliance. Penalties can also be applied. Subject to conditions, companies may request for refund of over-paid duties.

Companies are recommended to proactively prepare themselves by conducting self-reviews on their import/export processes to ensure general customs compliance and compliance with record keeping requirements.
New Customs and Excise Act 2018

The Customs and Excise Act 2018 (the “Act”), a landmark development by the NZ Customs Service (NACS), was passed into law earlier this year following extensive consultations with affected stakeholders. The new Act will entirely replace the previous Customs and Excise Act 1996.

This amendment comes as a result of a review of the previous Customs Act, where it was concluded that the 1996 legislation was highly prescriptive and not user friendly, and was not able to keep pace with changes in the business environment such as digitization and globalization of trade and travel, and changes to global business models and practices. The NZCS has thus undertaken a complete overhaul of the legislative framework to ensure that it is both progressive and user friendly.

For most sections, the new Customs and Excise Act will enter into effect from 1 October 2018. The following are two features stand out in the new Act:

• **Principles-based legislation**
  
  Under the new Act, the legislative framework is created to have more flexibility such that they can be easily adapted to suit any future operational, technological and business changes. As such, this has resulted in a new streamlined principles-based Act with supporting Customs Regulations and rules, which are divided into 6 parts and 9 schedules. Should any amendments to legislation be required in future, such changes can also be made more quickly by changing the individual regulations and customs rules via the principles laid out in the new Customs Act.

• **Several new and updated business oriented measures**
  
  As with any rewritten legislation, there will be changes that will affect businesses, most of which are positive. As part of the overhaul, the NZCS has also used the new legislation as an opportunity to improve its services and website and drafted various helpful guides on new areas such as the provisional value regime, valuation rulings, and disputes to provide further clarify to businesses.

We have provided a brief summary of key changes in the new Act in the previous February/March edition, and, as promised, here is a more substantive summary and and how we envisage those changes will impact businesses.
1. Provisional values for imports

The new regime will allow importers, who are unable to establish the customs value of goods at the time of importation, to declare a provisional value at the time of import. The final value of the goods can be declared later once all required information has been obtained within 12 months from the end of the importer’s financial year.

The provisional value scheme will end the current uplift programme, where importers are required to request acceptance for post-importation valuation adjustments by filing a voluntary disclosure or reconciliation with the NZCS.

The new rules stipulate the following three instances when importers will automatically qualify to use provisional values.

| 1. Transfer pricing agreements | If the importer is a party to a transfer pricing agreement for the supply of their imported goods with a binding ruling in place with the Inland Revenue. The agreement inhibits the importer from determining the final value of the goods at the time of import. |
| 2. Royalties and licence fees | If customs value of the imported goods is determined under the Transaction Value Method but there are royalty or licence fee payments to be added to the transaction value which may not be able to be finalised at the time of importation. |
| 3. Further proceeds | If customs value of the imported goods is determined under the Transaction Value Method but there are proceeds of any subsequent resale, disposal or use of the goods that are to accrue to the seller(s). |

If importers do not fall under any of the above 3 situations, they will need to request for the NZCS’ discretion to allow for utilization of the provisional value at the time of import. If this is not allowed, and the importer subsequently lodges a post-importation voluntary disclosure for an adjustment to the declared customs value, compensatory interest and penalties may apply to any underpayments of duties and/or taxes.

2. Valuation of goods

A new and improved Schedule 4 of the Customs Act deals with valuation matters. Apart from being easier to follow, more detailed guidance is also provided in relation to ‘related party’ transactions. The importer is required to have evidence demonstrating that the relationship between buyer and seller did not influence the price paid or payable for the goods. This includes, but is not limited to, evidence of:

   a. How the buyer and seller organizes their commercial relations; and
   b. How the price paid or payable for the goods was determined.

Such evidence may include the following information:

   • The nature of the goods being valued;
   • The nature of the industry that produces the goods being valued;
   • The season in which the goods being valued are imported;
   • Whether a difference in values is commercially significant;
   • The trade levels at which the sales take place;
   • The quantity of the sales; as well as
   • Certain other matters and charges that are incurred between unrelated parties or are not incurred between related parties.

3. Valuation rulings – more certainty for businesses

Importers will now be able to obtain customs valuation rulings. Under the new act, importers can request for a binding valuation ruling from the NZCS on valuation matters. Each ruling is required to be issued within 150 days of the application, providing increased certainty to businesses choosing to exercise this option under the new rules. The applicants may need to pay certain fees, per item, per ruling.
4. **New definition of “sold for export to New Zealand”**

The Act now includes a definition for the phrase “sold for export to New Zealand”, which is relevant in the calculation of the “transaction value” of imported goods. The legislation clarifies that when there are multiple sales in a supply chain, the sale that determines the value of goods is the last sale for export to New Zealand that occurs prior to the introduction of goods into New Zealand, instead of the first or earlier sale. Further detailed guidance on this will be developed by Customs over the next few months.

5. **New disputes procedures - Administrative reviews**

The Act provides importers with the ability to request for NZCS to conduct a formal review of any duty or penalty assessment(s), avoiding the need to apply to the Customs Appeal Authority or High Court. This process provides a low-cost initial avenue of appeal, and an efficient means of resolving small value disputes. Following an unsatisfactory outcome, the applicant will still have the option to lodge an appeal with the Customs Appeal Authority.

6. **Storing business records - modernizing operations**

The ability to store records offshore or in the cloud meets the needs of modern business practices, and aligns with rules stipulated by the Inland Revenue authority. An importer must apply to be authorized to do this, or must store their records with an authorized third party. The new rules also provide for certain circumstances where such authorizations is not required.

7. **Improved clarity of sanctions and penalties**

The old rules stipulated under the Customs Act 1996 were often unclear and overlapping. In this regard, the new Act provides more clarity in relation to sanctions and penalties. We have summarized the changes and their effect on businesses below.

<table>
<thead>
<tr>
<th>Area</th>
<th>Changes</th>
<th>Impact on businesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensatory interest and late payment penalties</td>
<td>The interest and late payment penalties scheme will replace the additional duty regime. Compensatory interest in this case will be based on Inland Revenue’s use of money interest rules, and applies in the same way to importers and producers of excisable goods. NZCS also provides concessions to remit or reduce late penalties or interest charges in specific circumstances.</td>
<td>These new rules allow businesses to have more certainty around the application of penalties and quantum of penalties that could be imposed. This will allow them to provide for any penalties as part of their fiscal planning.</td>
</tr>
<tr>
<td>Administrative penalties</td>
<td>The new act provides clarification on the level of penalties and the circumstances when a penalty will apply. The penalties have been extended to include export entries and are applied on a graduated basis depended on the materiality and degree of error.</td>
<td></td>
</tr>
<tr>
<td>Infringement Notices</td>
<td>The old ‘petty offences’ regime will end on 1 October 2018. The Act brings a new infringement scheme for minor offences. The new scheme has been designed to more efficiently deal with deliberate non-compliance.</td>
<td></td>
</tr>
</tbody>
</table>

The new Act rejuvenates existing customs rules and brings them up to date with modern practices. We look forward to working with businesses to help them become familiar with the implementation of these rules.

The full Customs and Excise Act 2018 can be accessed at the following link: http://www.legislation.govt.nz/act/public/2018/0004/42.0/DLM7038955.html
Advance cargo manifest and document submission requirements

On 10 May 2018, the Bureau of Customs (BOC) released a Customs Memorandum Order (CMO) 6-2018 requiring advance submission of the cargo manifest and related documentation via the BOC’s new electronic system, known as the Advance Manifest System (AMS).

The CMO stipulates guidelines for the transmission of hard copies and soft copies of the cargo manifest and supporting documentation in Portable Document Format (PDF) via the AMS.

This memorandum is applicable to shippers and consignees of goods, and carriers such as airlines, shipping lines, freight forwarders, cargo consolidators, international cargo operators, and non-vessel operating carriers (NVOCC), including their authorized agents.

As prescribed in the CMO, the timelines for cargo manifest submissions are as follows:

- 12 hours (If the transit time from the port of origin to port of entry is less than 72 hours), or 24 hours (If the transit time from the port of origin to port of entry is at least 72 hours), before arrival of the carrying vessel;
- 1 hour (If the port of loading is in Asia), or 4 hours (If the port of loading is not in Asia) before of arrival of the carrying aircraft.

Within the above specified time, the Stowage Plan, Container Discharging List, Supplemental Cargo Manifest, Load Port Survey (LPS) Report, and Bill of Lading will need to be entered into the AMS.

Submission of other documentation should be made 24 hours prior to the arrival of the carrying vessel or aircraft. The carrier or authorized agent will also need to obtain the commercial invoice and packing list from the shipper for submission via the AMS.

Information and documents uploaded in AMS will be used for Customs risk management, anti-terrorism, law enforcement and other related activities. Note that the AMS is a separate platform from BOC’s existing electronic-to-mobile (e2m) system, which also requires submission of the cargo manifest.

Under the CMO, Carriers, operators or their appointed agents who fail to transmit the cargo manifest within the prescribed time shall be liable to a fine of Php 100,000 – Php 300,000. Consignees will also be held liable for the shipper’s non-compliance on document submission, as they are considered responsible for communicating such requirements to suppliers, so that they may then inform the shipper.

The Chamber of Customs Brokers, Inc. (CCBI) and The Philippine Multi-modal Transport and Logistic Association, Inc. (PMTLAI) have since raised a petition to defer the CMO’s implementation due to numerous concerns, such as the imposition of penalty against consignees. The petition letter states that “The shipper and the consignee do not have a principal-agent relationship so as to bind one party to the misdeed or failure of the other. It would be highly unfair to penalize the consignee over a matter it has no full control of. Moreover, since CMO provides for a penalty provision for non-compliance, the same should have the approval of the Secretary of Finance and with prior public consultation”.

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**Philippines**

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In response to the above, BOC has issued a memorandum on 30 May 2018 advising temporary suspension of CMO 6-2018 until further notice


**Automating the List of Importables (LOI)**

The Bureau of Customs (BOC) is currently developing an automated system that will allow importers and customs personnel to more easily update and verify the List of Importables (LOI).

In April 2018, the BOC issued an order requiring compulsory submission of an approved LOI by the Account Management Office (AMO). Implementation of the order has, however, been subsequently deferred following concerns from importers surrounding the new policy. Hence, importers continue to be able to import goods that are not in their LOI at present.

However, upon implementation of the new LOI requirements, all goods declared on the Import Declaration will need to be counter-checked against the LOI before they are cleared from a customs area. Only goods listed in the LOI can be released to consignees. Goods not listed in the LOI will not be allowed for customs clearance until approval from the AMO is obtained.

The strict enforcement of the LOI requirements is expected to roll out as soon as the automated system becomes available.
Business-to-business tier of services available on the National Trade Platform

Since December last year, the National Trade Platform (NTP) has progressively rolled out the business-to-business tier (B2B) of services to companies that include core utility services and value added services provided by third-party service providers.

On 20 March this year, Singapore Customs published a notice announcing the utility services currently available. These services include a secure digital data repository to store and share structured data for trade-related transactions on the NTP. Such a tool removes the need for manual data entry, thereby improving data accuracy and saving time and manpower. It is a cloud-based service that allows users to digitise, upload, store and share documents with business partners and/or various government agencies. More utility services will be added going forward.

Third-party service providers have also been progressively listing their suite of Value-Added Services (VAS) on the NTP. A variety of services are on offer, including freight management services, shipment arrangement, trade financing, and permit preparation.

From 20 April 2018 up till 31 December 2018, traders can enjoy unlimited usage of NTP’s utility services without charge. Charges will commence from 1 January 2019. Traders are recommended to test and experience the range of tools available.

To utilise the above, traders must register for an NTP account. Registration for an NTP account can be completed at the following link: https://www.ntp.gov.sg/

Responses to public consultation on proposed amendments to Customs Act released

As reported in the April/May 2017 edition of Trade Intelligence, Singapore Customs and the Ministry of Finance (MOF) conducted a public consultation on proposed amendments to the Customs Act from 9 May to 5 June 2017.

On 26 April 2018, Singapore Customs and MOF released a joint response to key feedback received through the public consultation process. The Customs (Amendment) Bill 2018 is slated to be tabled in Parliament later this year, and will include all proposed amendments except for two. We have summarised the key amendments proposed, along with the clarifications received from Singapore Customs’ and MOF’s responses, where pertinent.

<table>
<thead>
<tr>
<th>Description of current provision</th>
<th>Proposed amendment</th>
<th>Singapore Customs &amp; MOF’s joint response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 ‘Motor fuel’ is narrowly defined as either motor spirit or compressed natural gas.</td>
<td>Broaden definition of ‘motor fuel’ to include diesel, and any other fuel that may be used to power a means of transport.</td>
<td>Clarification that the definition of ‘motor fuel’ will include any fuel, including diesel fuel, that can be used to power any means of transport.</td>
</tr>
<tr>
<td>Description of current provision</td>
<td>Proposed amendment</td>
<td>Singapore Customs &amp; MOF's joint response</td>
</tr>
<tr>
<td>----------------------------------</td>
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<tr>
<td>2  Section 42 identifies the parties liable for the payment of duties on durable goods that are unaccounted for when unshipped or landed in a Free Trade Zone (FTZ), approved landing place, or transit warehouse. However, it is silent on the duty treatment of goods used or consumed within those places.</td>
<td>Clarify that duty should be paid for goods used or consumed in a FTZ, approved landing place, or transit warehouse.</td>
<td>Rejection of feedback requesting that usage and consumption of goods in FTZs be exempted from duties. Clarification that the party responsible for payment of duties levied in such situations will be the importer, as defined in Section 3.</td>
</tr>
<tr>
<td>3  Section 14 allows customs or excise duties to be re-imposed if the duty-exempt goods cease to comply with conditions under which the exemption was granted. It states that duty liable is based on the value of the goods at the time of importation.</td>
<td>Clarify that duty can be re-imposed based on the value at the time of importation, or when the exemption ceases to apply.</td>
<td>Clarification that Singapore Customs will be the party that determines when duty-exempted goods become liable for payment of customs or excise duty as per Section 14. Clarification that Singapore Customs will ultimately compute the value of duties to be re-imposed on a case-by-case basis.</td>
</tr>
</tbody>
</table>
| 4  Sections 39(3) and 41(3) allows the Director-General of Customs the discretion to exempt the particulars of inwards and outwards goods to be furnished. | Allow the Director-General of Customs the discretion to exempt the pilot, owners, or agents from the submission of the manifest data for every vessel and aircraft arriving in or departing from Singapore. This reduces the compliance burden of freight companies and preserves Singapore's attractiveness as a transhipment/transit hub. | These two proposed amendments to Sections 39 and 41 were excluded from the bill, and will be subjected to further review. Concerns were raised that the proposed amendment would:  
  • Allow the Director-General of Customs to take a default position to not require manifests to be submitted once amendments are made.  
  • Limit the effectiveness of law enforcement agencies as less information on the supply chain is collected, which increases the risk of illicit trade.  
  • Fail to ease the compliance burden of freight companies as it is likely that manifests would still need to be prepared in anticipation of requests for submission.  
  • Lead to a perception that Singapore Customs favours some companies over others, if only some were exempted from submitting manifest data. |
### Description of current provision

<table>
<thead>
<tr>
<th></th>
<th>Proposed amendment</th>
<th>Singapore Customs &amp; MOF’s joint response</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Section 19 stipulates a one-year time limit for claimants to submit claims for refund of duties, taxes, or other charges where they have been overpaid or erroneously paid.</td>
<td><strong>Proposed amendment:</strong> Extend current time limit to 5 years to be in line with the GST Act. <strong>Singapore Customs &amp; MOF’s joint response:</strong> Clarification that the time limit change will not be implemented retrospectively. It will be implemented prospectively – i.e., only to cases detected after the Customs (Amendment) Bill 2018 is implemented.</td>
</tr>
<tr>
<td>6</td>
<td>Section 20 provides a one-year time limit for the Director-General of Customs to demand a recovery of duties, taxes, or other charges short levied or erroneously refunded.</td>
<td><strong>Proposed amendment:</strong> Extend current time limit to 5 years, and remove the time limit entirely in cases of fraud and wilful default to align with the GST Act and Income Tax Act. <strong>Singapore Customs &amp; MOF’s joint response:</strong> Clarification that the time limit change will not be implemented retrospectively. It will be implemented prospectively – i.e., only to cases detected after the Customs (Amendment) Bill 2018 is implemented.</td>
</tr>
</tbody>
</table>

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**New provisions guiding use of food additives and ingredients implemented**

The Food (Amendment) Regulations 2018 came into force on 28 March 2018. Key changes introduced by this amendment are as follows:

- Introduction of provisions on new additives and ingredients in food
- Extension of use of existing food additives to additional food categories
- Deletion of provisions allowing use of two chemical preservatives (propyl para-hydroxybenzoate and sodium propyl para-hydroxybenzoate)
- Deletion of maximum residue limits for six legacy pesticides

As the above applies to all food products that are imported, manufactured and sold in Singapore, traders should ensure that their food products up for sale on or after 28 March 2018 comply with the new requirements.

The details on the specific additives/pesticides, please refer to the legal text of the Food (Amendment) Regulations 2018. It can be accessed at the following link: [http://www.ava.gov.sg/legislation](http://www.ava.gov.sg/legislation)

**Singapore to start using HS2017 and AHTN 2017 (STCCED)**

On 22 May 2018, Singapore Customs announced that the Singapore Trade Classification, Customs and Excise Duties (STCCED) 2018 will replace the 2012 version from 24 June 2018. The STCCED 2018 adopts the ASEAN Harmonised Tariff Nomenclature (AHTN) 2017. Key changes in the 2018 version have been summarised as follows:

1. Specific HS codes have been introduced for the following vehicles: go-karts; golf cars; pocket motorcycles; powered kick scooters; mobility scooters; All-Terrain Vehicles (ATVs); self-balancing cycles; electric bicycles; and vehicles specially designed for travelling on snow. Duties on these vehicles are eliminated under STCCED 2018.
Note that these vehicles are subject to regulatory requirements as set out by the Land Transport Authority (LTA). As GST continues to apply to the importation of these vehicles, a Customs In-Payment (GST) permit must be submitted before such vehicles are imported into Singapore.

2. The following HS codes contained in Chapter 98 were deleted.

<table>
<thead>
<tr>
<th>HS Code</th>
<th>Description</th>
<th>Change in STCCED 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>9892.00.22</td>
<td>Trade samples</td>
<td>Deleted</td>
</tr>
<tr>
<td>9892.00.24</td>
<td>Used currencies</td>
<td></td>
</tr>
<tr>
<td>9892.00.25</td>
<td>Exhibition goods</td>
<td></td>
</tr>
<tr>
<td>9892.00.26</td>
<td>Empty containers and bottles, etc. for recycling purposes</td>
<td></td>
</tr>
<tr>
<td>9892.00.27</td>
<td>Goods on loan rental or for special project (including cinematographic films)</td>
<td></td>
</tr>
<tr>
<td>9892.00.29</td>
<td>Other special transactions not classified according to kind excluding dutiable goods and controlled items</td>
<td></td>
</tr>
<tr>
<td>9892.00.40</td>
<td>Stores and parts imported or exported direct for or from shipping or oil rig company’s own stock</td>
<td>Deleted; goods now classified under HS code 9892.00.30 (see point 3).</td>
</tr>
</tbody>
</table>

3. One product description contained in Chapter 98 was reworded.

<table>
<thead>
<tr>
<th>HS Code</th>
<th>Description</th>
<th>Change in STCCED 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>9892.00.30</td>
<td>Stores and parts imported or exported direct for or from shipping or aircraft company's own stock</td>
<td>Description reworded to “Parts and equipment from shipping, aircraft or oil rig company's stock for use solely in its own ships, aircraft or oil rigs”.</td>
</tr>
</tbody>
</table>

Traders should check if there are any changes to their AHTN 2012 HS codes. The relevant AHTN 2017 HS codes must be used for permit applications from 24 June 2018. For permits that have already been approved, traders can opt to amend the permit or cancel the permit (only if the permit is still valid and has not been used for cargo clearance). Refund applications are also allowed, although unlikely to be relevant.

An interactive e-book version of the STCCED 2018 can be accessed at the following link: https://www.customs.gov.sg/-/media/cus/files/stcced5b/index-h5.html#page=1


**Guidance for using the Sri Lanka-Singapore Free Trade Agreement**

As mentioned in our FTA Focus section, the Sri Lanka-Singapore Free Trade Agreement (SLSFTA) entered into force on 1 May 2018. Exporters who are claiming tariff preferences for Singapore-originating goods in Sri Lanka, or those intending to do so, should take note of the following:

- Preferential tariff treatment is being rolled out by Sri Lanka progressively, with the full preferences expected to be available to exporters by 1 July 2018. For now, the agreed upon tariff preferences are available for 3,539 items until 30

- In TradeNet, the SLSFTA Preferential Certificate of Origin (PCO) is Certificate Type 18. Exporters and declaring agents should note that in addition to the usual declaration requirements, the 6-digit HS code of the product and its origin criterion as indicated in the ‘Verification of Cost Statement’ letter must be declared in the ‘Certificate Item Description’ field.


**Better access to certain medical devices**

On 22 May 2018, the Health Sciences Authority (HSA) announced that it will be enhancing its regulatory legislation to enable faster access to some lower risk medical devices and standalone mobile applications, as well as to provide greater clarity on controls around telehealth devices and high risk devices for the modification of appearance or anatomy. The changes take effect from 1 June 2018. The changes are as follows:

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Affected devices</th>
<th>Change with effect from 1 June 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilitating access</td>
<td>Class A sterile medical devices, including sterile examination gloves and sterile intravenous sets</td>
<td>No longer need to be registered with HSA. Previously, registration was required to ensure that the devices complied with standards on sterility. The approval timeline is currently 30 working days, which will be reduced to 0 working days. Importers and manufacturers will need to list their Class A medical devices on HSA’s public online Class A database to allow for better post-market surveillance.</td>
</tr>
</tbody>
</table>
| Medical devices under the ‘expedited Class B registration route’ | Enjoy immediate market access. These devices will be subsumed under the ‘immediate Class B registration route’ if they meet the following criteria:  
  • No safety issues globally; and  
  • Approved by two of HSA’s independent reference agencies, or approved by one such agency with three years of marketing history. |
| Class B and C standalone mobile medical applications, including standalone application for calculation of insulin dosage or live monitoring of ECG for cardiac patients | Enjoy immediate market access under the immediate registration route, if:  
  • No safety issues globally; and  
  • Approved by one of the following agencies: Health Canada; Japan’s Ministry of Health, Labour and Welfare; United States Food and Drug Administration; Australian Therapeutic Goods Administration; or European Union Notified Bodies and the corresponding approvals listed under Section 5.1 Evaluation Routes of GN-15. |
Clarifying existing controls

<table>
<thead>
<tr>
<th>Telehealth devices intended for:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Medical purposes will be regulated as medical devices.</td>
</tr>
<tr>
<td>• Well-being or lifestyle purposes (e.g., smart watch to track heart rate) will not be subjected to regulatory controls. However, a clarification statement that the products are not meant for medical purposes has to be included on the product labels and advertisements.</td>
</tr>
</tbody>
</table>

High risk devices used for modification of appearance or the anatomy will be subjected to regulatory controls. A Positive List has been developed to guide identification of such devices. They include implants, injectable dermal or mucous membrane fillers, and invasive devices for fat removal or fat degradation purposes.

For more complex medical devices that require users to possess the relevant skills and knowledge for safe and effective use, manufacturers will need to provide the relevant training. This includes devices like implantable devices.

Access the official press release at the following link:
Guidance on customs valuation rulings

On 19 April 2018, amendments were issued to provide further clarity and guidance on the documentation required and application procedures for obtainment of a customs valuation advance ruling.

According to the guidelines, a customs valuation ruling applicant is required to file the Customs Valuation Advance Ruling Application Form to Keelung Customs, Customs Administration and prepare all necessary documentation in accordance with the documentation request list.

The documentation required for the application should be in accordance with the documentation stipulated in Article 29 of Customs Act. Such documentation may include, but is not limited to the following:

1. For commissions and brokerage sales and where costs of containers or packing are incurred by the buyer:
   • Commissions and brokerage: (1) Power of Attorney documentation or proof of the Power of Attorney relationship legally exists. (2) Contract agreement between the buyer and the seller. (3) Payment evidence of commissions or brokerage between the buyer and the seller.
   • The cost of containers and the cost of packing incurred by the buyer: (1) Documentation that contains the cost details of containers and the cost details of packing incurred by the buyer. (2) Contract agreement between the buyer and the seller. (3) Commercial invoice or relevant importation documentation.

2. For any expense item which is used in connection with the production or sale for export of the imported goods:
   • Contract agreement between the buyer and the seller.
   • Commercial invoice.
   • Documentation that contains the cost details of goods and services supplied by the buyer to the seller free of charge or at reduced cost for use in connection with the production or sale for export of the imported goods. Such cost must be apportioned appropriately.

3. For royalties and license fees related to the goods and paid by the buyer as a condition of sale:
   • Transaction related documentation and explanation documentation for legal relationships between all parties involved in the transaction.
   • Patent right, franchise and or licensing agreement.
   • Contract agreement between the buyer and the seller.

4. For transport cost of the imported goods to the port or place of importation, and loading, unloading and handling charges associated with the transport; and the cost of insurance:
   • Documentation that contains the cost details of the transport cost of the imported goods to the port or place of importation, and loading, unloading and handling charges associated with the transport; and the cost of insurance.
   • Contract agreement between the buyer and the seller.
   • Commercial invoice.
5. For expenses that should be excluded from the customs value, such as expenses for construction, assembly, maintenance or technical assistance undertaken after importation of imported goods:
   • Contract agreement of goods and services performance.
   • Documentation that contains the cost details of the technical assistance or work undertaken after importation of imported goods.
   • Communication evidence on the expenses of technical assistance or work undertaken after importation of imported goods.

6. Any other necessary documentation relevant to the expenses actually paid or payable for the imported goods, when requested by Customs Administration, Ministry of Finance for the Customs Valuation Advance Ruling Application.

The standard procedure and process to obtain a ruling is as follows:

1. Upon receipt of the Customs Valuation Advance Ruling Application filed by the applicant, Keelung Customs will upload the application and relevant materials onto its system and initiate the review processes. Customs will have to respond within 45 days from the submission date.

2. Where application materials are insufficient, Customs will notify the applicant to provide supplementary materials by a specific due date. If the applicant fails to provide the requested supplementary materials within the due date, Customs will terminate the application procedure and notify the applicant accordingly.

3. The applicant may request authorities to expedite review processes citing special reasons.

4. Where Customs has delayed responses to the applicant for more than 45 days upon receipt of the application or supplementary materials provided by the applicant, the applicant will be notified by Customs in writing.

5. Customs will issue a formal written document to notify the applicant and relevant competent authorities on the application outcomes.

For situations where applicants are unsatisfied with the initial decision, an administrative review request may be filed with Customs, who will subsequently re-visit the application and notify the applicant of the result within 20 days upon receipt of the request.

During the application processes, if the applicant imports the identical items as those indicated within the application, Customs may release the goods and regard the duty payment based on the customs value declared as a deposit. Customs will then re-visit the applicable customs value to levy or refund duty once the outcome of the ruling application is determined.

Refer to the following link for further information on the customs valuation advance ruling application: http://www.rootlaw.com.tw/LawContent.aspx?LawID=A040070061020100-1070419
Single-point additional duty payment programme

On 18 April 2018, Thai Customs announced its Single-point additional duty payment programme. The main purpose of this programme is to allow importers and exporters to voluntarily disclose non-compliance issues related to customs regulations and pay the corresponding duty and tax shortfall.

The programme requires companies to submit a self-disclosure letter to the Post-Clearance Audit Bureau (PCAB) for further consideration. If there is no evidence of fraud, potential fines would be waived. The duties and taxes (and surcharges) can be paid at the PCAB instead of each Customs port of discharge in case of ‘general’ self-disclosure.

Offences that render companies ineligible to join the programme are those relating to smuggling, evasion of duty with proof of fraudulent intent, evasion of import/export restrictions, and counterfeit trading. In addition, companies that are currently under audit, investigation, or other internal process by Customs, Department of Special Investigation (DSI), or Economic Crime Suppression Division will not be eligible to join the programme.

The programme is open from 1 April 2018 to 30 April 2019. Importers or exporters who wish to join the programme need to submit a request to join to the PCAB and submit the relevant documents within 30 days.

Businesses should note that there are recent developments between Customs and the Revenue Department to impose a VAT penalty (at one time of duty shortfall) under the programme. However this has not yet been confirmed. The exposure in such a case would be duty shortfall, duty surcharge, VAT shortfall, VAT surcharge and VAT penalty.

New phase of Customs Alliance

In May 2018, Thai Customs opened a new phase of Customs Alliance (CA) following the first phase in June 2017. It is aimed at encouraging efficient and transparent procedures for importers via the implementation of an application designed to enhance interactions between Customs and importers. Applicants recognised as being of low risk will enjoy greater facilitation.

Similar to the existing scheme, the new CA sets out that importers or exporters must qualify under one of the following conditions:

- Importers or exporters that have obtained a membership status confirmation from the relevant import or export associations (e.g. Imports-Exports Transportation Association, Thai Authorized Customs Brokers Association, Thai AEO Importer and Exporter Association, etc.) and have paid import duties of more than 50 million THB a year for the following group of products:
  - Chapter 7: agricultural products;
  - Chapter 30: pharmaceutical products;
  - Chapter 39: plastics and articles of plastics;
  - Chapter 72: iron and steel;
  - Chapter 73: articles of iron or steel;
  - Chapter 84: nuclear reactors, boilers, machinery and mechanical appliances and parts;
  - Chapter 85: electrical machinery and equipment and parts etc.; and
  - Chapter 87: auto-vehicles etc.
• Importers or exporters of products other than those in the 8 groups above who have obtained membership status confirmation from relevant import or export associations, paid import duties of more than 50 million THB a year, and obtained an approval by the Customs Alliances Team; or
• Importers or exporters who have obtained an approval from the Customs Department as proposed by the Customs Alliances Team.

The CA provides communication channels between Customs and enrolled business partners. This is done via a Customs appointed ‘Account Officer’ (AO) who is a customs official assigned to act as the direct channel and main coordinator between relevant customs bureaus and the enrolled business partners.

**Control on Weapons of Mass Destruction Act**

The revised draft of Thailand’s Control on Weapons of Mass Destruction (TCWMD) Act has passed the Council of State review, and will be passed to the National Legislative Assembly (NLA) for further consideration. The Act is expected to be effective on 1 January 2019. Seventeen sub-regulations will be issued tentatively in September 2018 as part of the implementation process.

In the meantime, the DFT is also working in parallel to officially implement the DFT screening system by September 2018. The system should fully integrate with the NSW to help screen controlled products based on HS codes (2017 version).

The DFT is also promoting the Internal Compliance Program (ICP). A key benefit of having an ICP in place is that companies can apply for a bulk license for multiple shipments, rather than an individual license per shipment. The anticipated sub-regulations will provide the criteria and guidelines for ICP applications. According to the latest draft, a company needs to demonstrate its compliance measures in six focused areas:

• management commitment;
• penalties and reporting;
• training;
• record keeping;
• trade screening; and
• internal auditing.

Depending on how robust a company’s measures are, DFT could grant ICP status of between 1 to 3 years. The DFT can also perform a review at the company’s premise, and in cases of non-compliance, the company’s ICP status can be withdrawn.
Guidance on customs procedures and inspection

On 20 April 2018, the Government issued Decree 59/2018/ND-CP amending Decree 08/2015/ND-CP to provide further guidance on customs procedures applied to imports and exports. This degree took effect from 5 June 2018.

Some notable changes are listed below:

• Checking of dutiable values at importation:
  - Where goods are subject to a value consultation at importation, Customs is granted the right to reject and impose new dutiable values (even if importers do not agree with this value). Under current regulations, for certain goods, the value consultation will be closed at importation and transferred to customs audit in the event of disagreement. This new regulation serves to strengthen the power of Customs at importation as the dutiable values will be determined at this stage.

• Production plant or capacity checks of export production/processing manufacturers will be carried out for the following situations:
  - The first import of goods to process / produce the goods for export;
  - Change of business information on address, product, size and production capacity without notification to Customs;
  - Companies who import goods for export processing with an overseas party but sub-contract the entire processing contract to other parties;
  - Storage of materials, supplies and finished goods at places other than those notified to Customs;
  - Random checks based on Customs’ risk management practices.

It is expected that the Circular guiding Decree 59 will be issued soon.

Special preferential duty rates for goods imported under in-country export/import procedures

Recently, the Ministry of Finance, Justice, and Industry & Trade has requested guidance from the Government regarding the use of special preferential Certificates of Origin (C/O) to access special preferential import duty rates for exported / imported goods in-country, which include:

• Goods processed in Vietnam under a toll manufacturing contract and sold to Vietnamese organizations/ individuals by overseas parties; or
• Goods traded between domestic enterprises and export processing enterprises or enterprises located in non-tariff zones; or
• Goods traded between Vietnamese enterprises and overseas organizations/ individuals that have no representative in Vietnam and the overseas organizations/individuals instructs the Vietnamese enterprises to deliver goods to other buyer located in Vietnam.

Accordingly, on 10 April 2018, the Government office issued Official Letter no. 3263/VPCP-KTTH (“OL3263”) providing confirmation on the application of special preferential duty rates for in-country arrangements. The key messages are detailed below:
For the period from 01/01/2012 to 31/08/2016, according to the regulations prevailing in this period, goods imported under in-country arrangements were eligible for special preferential import duty rates upon submission of a valid C/O.

However, from 01/09/2016, this special preferential duty rate will generally be applied only to in-country export/import transactions where the Vietnam supplier is an EPE (export processing enterprise) or based in a non-tariff area.

**Detailing Rules on Origin of goods**

On 3 April 2018, the Ministry of Industry and Trade issued Circular 05/2018/TT-BCT (“Circular 05”) regulating the origin of goods. Circular 05 provides guidance to determine the rules for both preferential and non-preferential origin of goods. Additionally, guidance on declaration of Certificates of Origin, Supplementals of Certificates of Origin and Certificates of non-manipulation are mentioned in Circular 05.

This circular has entered into force with immediate effect.
Around the world

Fear of trade wars continues to escalate: US re-announces tariffs on Chinese exports amidst trade talks

Since March 2018, trade tensions between China and the US have escalated sharply, with both sides announcing the imposition of higher tariffs of up to 25% on key exports - including steel and aluminium products, as well as agriculture, aerospace, medical, wine and machinery goods. Fuelling fears of a trade war, the US had also banned a Chinese technology company, ZTE, from purchasing key product components from US firms for seven years, to which China has retaliated harshly with the imposition of an import fee of 179% on US Sorghum following investigations of alleged dumping by the US.

To ease tensions, both sides had subsequently agreed in May 2018 to put all announced trade sanctions on hold and commence with trade talks to address key trade issues such as the growing trade imbalance. However, trade negotiations have yet again ended in an impasse following an announcement by the US on 29 May 2018, that tariffs on USD 50 billion worth of Chinese industrial exports will continue to be imposed with effect from 15 June 2018. To this effect, China has responded strongly, indicating that they would not hesitate to impose similar retaliatory tariffs on USD 50 billion of US exports, including aircrafts, automobiles and soybean products.

Both sides have failed to reach a consensus during the third round of trade talks concluded on 3 June 2018. China has expressed a firm stance that should the US continue with tariff increases, current trade negotiations and progress thus far could be derailed and negated. There were no further joint statements or new agreements issued during the session. We will continue to provide additional updates in subsequent issues of Trade Intelligence.

Updates to the Missile Technology Control Regime’s list of controlled items

The Missile Technology Control Regime (MTCR) Equipment, Software, and Technology Annex contains the Regime’s list of controlled items. It was updated on 22 March 2018. The changes are summarized below.

• Item 3.A.2.: The term ‘combined cycle’ engines was clarified in the Technical Note.
• Item 4.C.3.: A new propellant substance, Hydroxylammonium nitrate (HAN) (CAS 13465-08-2), was added to the control list.

World Customs Organisation

19th Asia Pacific Regional Heads of Customs Administration Conference

The 19th Asia Pacific Regional Heads of Customs Administrations Conference, held in Fiji from 15 to 17 May 2018, was attended by delegates from 24 WCO members in the region. During the conference, a variety of issues was discussed including e-commerce, WTO Trade Facilitation Agreement (TFA) implementation, as well as a review of current security initiatives underway. The WCO has stated that effort in the coming year will be focused on how to further engage economies in facilitating international trade, to continue with current efforts in developing a Framework of Standards for cross border e-commerce, and the setting up a working group focusing on accessions. Presentations and discussions were also held in relation to the proposed WCO Strategic Plan 2018 – 2020.

On the sidelines, a Private Sector Engagement Conference was attended by over 200 delegates from both Customs and private sector companies. Issues addressed included the future – proofing of business and the workforce, as well as how to manage and balance trade facilitation and related risks.

Framework of standards on cross-border e-commerce finalised

Held in Brussels from 9 – 12 April 2018, the 3rd WCO Working Group on E-commerce (WGEC) Meeting was attended by 150 delegates from customs administrations, government agencies, international organizations as well as private sector companies including e-platforms, postal operators, express service providers and freight forwarders. The WGEC updated meeting attendees on current progress and ongoing work, and finalized a draft framework of standards for cross border e-commerce. The draft has since been endorsed and adopted by the Permanent Technical Committee, and is now awaiting consideration and adoption by the Policy Commission and Council in June 2018.

The Framework of Standards is created as an instrument to assist WCO members in developing their own e-commerce strategic and operational frameworks via cooperation with key stakeholders. Going forward, the WGEC will continue to review and enrich the framework with technical specifications, guidelines and case studies for harmonized and effective implementation, as well as to solve any identified issues with stakeholders.
**WCO supports Philippines reform and modernization program**

In April 2018, representatives from the WCO and World Bank conducted an analysis which resulted in the finalization of a report to support cooperation between the Philippines Bureau of Custom (BOC) and the World Bank group for a reform and modernization program. The intention of the proposed program is to enhance and strengthen information and communication technology architecture, reinvigorate competency based human resource management, and to design and develop a BOC academy. All components will be implemented by BOC working groups, with close cooperation and support from the WCO and World Bank in order to achieve program objectives.

**WCO Permanent Technical Committee explores utilization of latest technology**

During its meeting on 19th April 2018, the WCO Permanent Technical Committee (PTC) discussed the latest technology and how it can be utilized in building a more secure business environment from a customs perspective. Areas covered included strategies supporting the introduction of new technologies such as blockchain, artificial intelligence, the Internet of Things, biometrics and drones etc., as well as the potential of using foresight in designing future customs, border and supply chain management. A draft study report on disruptive technologies is currently under development and will be revisited during the PTC meeting scheduled for 2019.

During the meeting, the PTC also endorsed the Coordinated Border Management Compendium, as well as the Recommendation and guidelines for trader identification number, which is expected to further facilitate implementation of Mutual Recognition Agreements and Arrangements.

**New e-learning portal for customs and trade professionals**

The WCO has launched a new learning portal – the WCO Academy - targeted at building customs skills for trade professionals in the private sector. The learning portal offers paid courses on the WCO data model, customs valuation and harmonized system that traders can enroll for. Users will also be granted access to purchase publications and solutions, view webinars on customs updates or utilize online tools such as the Harmonized System Database. Courses and customized solutions are also available for corporations intending to upskill or train staff in specific areas of interest.

The WCO academy can be accessed at the following link: https://academy.wcoomd.org/

**The Asia Pacific regional workshop on environmental issues**

A workshop on “Green” Customs was conducted in April 2018 in China, and attended by more than 60 customs officers from 20 different WCO member administrations. During the workshop, China expressed support towards WCO’s operations, and encouraged customs administrations in the Asia Pacific region to join efforts in combating illegal waste shipments and other “green” customs related offences such as illegal wildlife trade and illegal chemical shipments. Upon conclusion of the workshop, the operational plan for Operation DEMETER IV, a global operation targeted at combating illegal waste shipments was finalized. Representatives also shared best practices surrounding various customs policies in relation to environmental issues.
**World Trade Organisation**

**Strong trade growth to continue, but some slowdown expected**

According to the latest World Trade Outlook Indicator (WTOI) for the second quarter of 2018, released on 17 May 2018, trade expansion is likely to continue but is expected to slow slightly in the second quarter of 2018. The current WTOI value is 101.8, above the baseline value of 100 for the index, but below previous value of 102.3. This suggests continued growth in trade, but at a more measured pace than in the first quarter.

The full WTOI indicator report can be accessed here: https://www.wto.org/english/news_e/news18_e/wtoi_17may18_e.pdf

**Updates from the Committee on Trade Facilitation**

On 2 May 2018, the WTO Committee on Trade Facilitation gathered to review a total of 63 new notifications from WTO members. It covered their timelines, need for assistance, import and export procedures and other information for traders and governments, and details of available technical assistance and support for capacity building.

In terms of ratification progress, 136 members or 83% of WTO members have completed their domestic ratification processes of the Trade Facilitation Agreement (TFA). As of 2 May 2018, the TFA Database states that the current implementation rate is at 59.7%. On a closer look, this equates to a 100% implementation rate among developed members, 58% among developing members, and 21.2% among least developed countries.

Members also shared their experiences based on the themes of National Trade Facilitation Committees, transit, and broader implementation issues. Successful strategies as well as national and regional initiatives to resolve the various challenges encountered were also shared.
Calls for proposal and online registration for “Trade 2030”

WTO’s 2018 Public Forum is titled “Trade 2030” with sub-themes being sustainable trade, technology-enabled trade, and a more inclusive trading system. The forum is scheduled for 2-4 October 2018 to be held in WTO headquarters in Geneva.

a. Calls for proposal
WTO is calling for proposals for those interested in organizing sessions. Applications should be completed and sent to pf18@wto.org by 4 June 2018. More details can be accessed at the following link:
https://www.wto.org/english/forums_e/public_forum18_e/call_for_proposals_e.htm

b. Online registration
Interested parties will need to complete and submit the online registration form by 16 September 2018. The forum is free of charge. More details can be found here:
https://www.wto.org/english/forums_e/public_forum18_e/pf18_reg_e.htm

Forum to discuss challenges presented by Certificates of Origin

On 18 April 2018, the WTO held a forum aimed at better understanding the challenges faced by exporters in respect of certificate of origin requirements. Discussions centered on international legal instruments related to the certification of origin, private sector perspectives on the compliance requirements, as well as national practices.

Speakers from the private and public sectors shared the difficulties they have encountered, which include compliance costs and delays incurred, as well as the risk and uncertainty generated. Questions were raised regarding the utility of non-preferential certificates of origin. While they help enforce anti-dumping measures, ensure application of Most Favoured Nation (MFN) tariff treatment for WTO members, dictate labelling obligations, and determine quota applications, participants noted that they were sometimes viewed as presenting unnecessary barriers to trade.

Suggestions include greater alignment between preferential and non-preferential rules to make it easier for businesses to comprehend, and a mutual recognition framework. While the WTO’s Trade Facilitation Agreement is a step in the right direction as it contains provisions on transparency, prior processing, and customs cooperation, participants agreed that there remains room for improvement. WTO members were encouraged to consider measures that would make certification of origin requirements simpler, more transparent, and more affordable for businesses.
Recent disputes initiated in the WTO

Over the period of April-May 2018, the following disputes were initiated via the WTO Dispute Settlement Mechanism against the US.

<table>
<thead>
<tr>
<th>Dispute initiated by</th>
<th>Affected products and HS codes</th>
<th>Background</th>
<th>Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>Machinery, electronics, etc goods originating from China</td>
<td>US implemented an additional ad valorem duty of 25% on these goods on 3 April 2018.</td>
<td>WT/DS543/1</td>
</tr>
<tr>
<td></td>
<td>Steel and aluminum products</td>
<td>On 23 March 2018, the US implemented additional import duties of 25% and 10% on these steel and aluminum products respectively from all countries except Canada, Mexico, Australia, Argentina, South Korea, Brazil and the EU.</td>
<td>WT/DS544/1</td>
</tr>
<tr>
<td>India</td>
<td>Steel and aluminum products</td>
<td></td>
<td>WT/DS547/1</td>
</tr>
<tr>
<td>Korea</td>
<td>Crystalline silicon photovoltaic products (solar cells)</td>
<td>US imposed safeguard measures on imports of crystalline silicon photovoltaic products and large residential washers</td>
<td>WT/DS545/1</td>
</tr>
<tr>
<td></td>
<td>Large residential washers</td>
<td></td>
<td>WT/DS546/1</td>
</tr>
</tbody>
</table>
New safeguard investigations initiated

The WTO Committee on Safeguards has been notified of the following safeguard investigations that have been initiated.

<table>
<thead>
<tr>
<th>Affected products</th>
<th>Affected HS codes</th>
<th>Notifying country</th>
<th>Date of initiation of investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing</td>
<td>6907.21.21, 6907.21.22, 6907.21.23, 6907.21.24, 6907.21.91, 6907.21.92, 6907.21.93, 6907.21.94, 6907.22.11, 6907.22.12, 6907.22.13, 6907.22.14, 6907.22.91, 6907.22.92, 6907.22.93, 6907.22.94, 6907.23.11, 6907.23.12, 6907.23.13, 6907.23.14, 6907.23.91, 6907.23.92, 6907.23.93, 6907.23.94, 6907.30.11, 6907.30.19, 6907.30.91, and 6907.30.99</td>
<td>Indonesia</td>
<td>29 March 2018</td>
</tr>
<tr>
<td>Iron and steel products</td>
<td>72.08, 72.09, 72.10, 72.11, 72.12, 72.25, 72.26, 72.13, 72.14, 72.15, 72.16, 72.17, 72.27, 72.28, 73.02, 73.03, 73.04, 73.05, 73.06, 72.19, 72.20</td>
<td>Turkey</td>
<td>27 April 2018</td>
</tr>
</tbody>
</table>
Updates from the WTO Committee on Safeguards meeting

During a 23 April meeting of the WTO Committee on Safeguards, Mr Hyouk Woo Kwon (Korea) was appointed the new chair of the committee. Key issues reviewed include:

<table>
<thead>
<tr>
<th>Action by</th>
<th>Affected products</th>
<th>Action taken</th>
<th>Update</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>Imported solar cells (G/SG/N/10/USA/7)</td>
<td>Safeguard measure took effect from 7 February 2018 and will be applied for 4 years.</td>
<td>Concerns were raised by eight WTO members (Korea, Philippines, EU, China, Singapore, Switzerland, Norway, and Malaysia) and three WTO members respectively. On both, members alleged there was insufficient justification for the measures. Some were also concerned that the US was no longer refraining from utilizing trade remedies. The US responded that investigations were performed in a transparent manner, and members were provided the opportunity to present written arguments and consult with the US. The US is still considering requests for product exclusions and for members to expect an announcement.</td>
</tr>
<tr>
<td></td>
<td>Imported large residential washers (G/SG/N/10/USA/8)</td>
<td>Safeguard measure took effect from 7 February 2018 and will be applied for 3 years.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Imported steel and aluminum products</td>
<td>Additional import tariffs were imposed on imported products.</td>
<td></td>
</tr>
<tr>
<td>European Union</td>
<td>Certain imported steel products (G/SG/N/6/EU/1)</td>
<td>Safeguard investigation launched</td>
<td>Eight WTO members took issue with the EU's safeguard measure, claiming that the EU did not successfully show a sharp and significant increase in the targeted products and injury to domestic products; instead, it was contributing to protectionism globally. The EU responded that the investigation is still in its initial phases.</td>
</tr>
<tr>
<td>Chile</td>
<td>Imported powdered milk and Gouda cheese</td>
<td>Safeguard investigation launched</td>
<td>Five WTO members (US, EU, Argentina, Australia and New Zealand) raised concerns with the speed of the safeguard investigation and lack of apparent support of the local industry. Chile responded that there were exceptional circumstances to justify the investigation.</td>
</tr>
<tr>
<td>India</td>
<td>Imported solar cells</td>
<td>Safeguard investigation launched</td>
<td>EU and Japan expressed concerns, and India affirmed that its investigations will comply with WTO rules.</td>
</tr>
</tbody>
</table>
Updates from the WTO Committee on Anti-dumping Practices meeting

During a 25 April 2018 meeting by the WTO Committee on Anti-dumping Practices, the EU delivered a statement (G/ADP/N/1/EU/3/SUPPL.2) to clarify its regulation that protects against dumped and subsidized imports by non-EU countries (2017/2321). The regulation was implemented in December 2017, and changed the basis upon which the EU determines “normal value” (i.e. the home market price that serves as comparison to the export price when determining whether and to what extent dumping is taking place).

Specifically, it introduced a new methodology to determine “normal value” where “significant distortions” exist. This is where reported prices or costs (including the costs of raw materials and energy) are not due to free market forces as they are affected by substantial government intervention. The EU clarified how it will apply the new regulation, how “significant distortions” will be determined, and how “normal value” will be determined in such scenarios, among other things. WTO members continued to express concern, particularly owing to the concept of “significant distortion”, with some alleging that the amendments violate WTO rules in addition to increasing uncertainty for exporters.

In addition to the above, we have summarized below the main discussions during the meeting:

<table>
<thead>
<tr>
<th>Action by</th>
<th>Affected products</th>
<th>Action taken</th>
<th>Update</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>Acrylonitrile-butadiene rubber</td>
<td>Anti-dumping investigation initiated in November 2017.</td>
<td>Japan raised concerns. China reassured that the ongoing investigations are conducted in a reasonable and objective manner in line with WTO’s Anti-Dumping Agreement.</td>
</tr>
<tr>
<td>Brazil</td>
<td>Brazilian broiler (chicken) products</td>
<td>Anti-dumping investigation initiated in August 2017.</td>
<td>Brazil raised concerns and China responded that there was a significant decline in domestic prices and an increase in Brazil’s market share which has injured domestic producers.</td>
</tr>
<tr>
<td>Chile</td>
<td>Imported powdered milk and Gouda cheese</td>
<td>Safeguard investigation launched</td>
<td>Five WTO members (US, EU, Argentina, Australia and New Zealand) raised concerns with the speed of the safeguard investigation and lack of apparent support of the local industry. Chile responded that there were exceptional circumstances to justify the investigation.</td>
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Worldtrade Management Services (WMS) is the global customs and international trade consulting practice of PwC. WMS has been in Asia since 1992 and is a regionally integrated team of full-time specialists operating in every location.

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.

### Regional Partners

<table>
<thead>
<tr>
<th>Region</th>
<th>Partner</th>
<th>Phone Number</th>
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</tr>
</thead>
<tbody>
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</tr>
</tbody>
</table>

### PwC–Globally

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The materials contained in this article were assembled in April / May 2018 and were based on the law enforceable and information available at that time.