

Who's in control?

China's Proposed Export Control Law

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Management Services



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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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Who's in control?

China's Proposed Export Control Law

News of foreign investment blocks and punitive tariff measures between the United States and China certainly dominate the headlines. These are, however, merely small skirmishes in a much larger battle. The primary ground for which each side is fighting relates to technology. Not specifically China's practices as to the protection of intellectual property, which is the stated rationale for the Section 301 tariff measures imposed by the US—but rather the strategic control of competitive advantage in and access to technology globally.

The US has long had an export control regime that regulates trade worldwide in goods which may contain US-origin technology subject to the Export Administration Regulations even beyond the US border. China may soon be entering this particular fight more directly.

China's draft export control law: a game changer

The Ministry of Commerce (MOFCOM) of the People's Republic of China published a draft Export Control Law for public comment on 16 June 2017. If enacted, the China's new Export Control Law will be the first comprehensive and

unified export control legislation in China, which is aimed at upgrading the country's existing regime consisting of various disparate administrative regulations and internal circulars.

In March of this year, the State Council issued its legislative proposal for 2018. Amongst the proposed bills for submission to the Standing Committee of the National People's Congress this year is the Export Control Law. There is no guarantee that this bill will be passed into law this year but it is high on China's priority list and is widely expected to be enacted within the calendar year. We therefore examine more carefully the key provisions of the draft Export Control Law.

1. Control lists, embargoes, and export control “retaliation”

The draft Export Control Law introduces four categories of controlled items including

- (1) dual-use items which may be used for civilian and military purposes;
- (2) military items;
- (3) nuclear items; as well as
- (4) other goods, technologies, services and items that are related to national security.





Items outside these control lists could also be temporarily controlled for up to two years, subject to approval of the State Council, the Central Military Commission and their designated authorities (so called “Competent Authorities”). In addition, a “catch-all” provision extends potential control to items not included on these control lists but that the exporter “knew or should have known may give rise to national security and terrorism concerns”.

These Competent Authorities may also maintain blacklists of foreign importers and end-users that have been found to have violated the Export Control Law, and may have the authority to prohibit the export of controlled items to such entities outside of China.

Significantly, the draft law also provides that if China is subject to any discriminatory export control measures by any country, retaliatory measures against such country may be initiated under the Export Control Law. Furthermore, the controls over the export of any goods, technologies or services may be imposed in order to safeguard security and interests during wartime or urgent situations concerning international relations.

2. Controlled activities and licensing

The draft Export Control Law introduces the concepts of deemed export and re-export in China, which will bring China’s system closer to the export control regime implemented by the US. Deemed exports may include the provision of controlled items by a citizen, legal person or other organization in China to any foreign person. The item need not be physically exported from China. Re-export controls cover the export of controlled items (i.e. items comprising a prescribed amount of content controlled by China) from one overseas jurisdiction to another. Thereby applying Chinese law extraterritorially as does the US with its export control scheme.

The draft Export Control Law introduces a requirement to obtain licences from the Competent Authorities for carrying out controlled activities. Additionally, exporters may also be subject to recordkeeping and monopoly qualification requirements.

3. End-use controls

The Competent Authorities may request exporters to submit end-use certificates or documents issued by the importers or relevant agencies in the countries of import. The exporters are also under a positive obligation to review the end-users and uses of the exported items, and to immediately report to the Competent Authorities of any change in end-users or uses. The Competent Authorities may conduct on-site verifications on the end-users and end uses.

4. Enforcement and penalties

The draft grants the Competent Authorities significant investigative authority to enter the business premises of parties under investigation for violations of the Export Control Law, conduct interviews with staff and other persons of interest, access and copy relevant documents, inspect shipments as well as seize assets and bank accounts of exporters found to be in violation.

Violations of the Export Control Law could result in:

1. An administrative penalty of up to 10 times the illegal business revenue or a fine of up to RMB 500,000 (USD 73,660) could be imposed if the illegal business revenue is less than RMB 50,000 (USD 7,366); and
2. Any illegal income could be subject to confiscation.

In addition, the draft law includes a provision for personal liability for those directly responsible for any violations that could include fines of up to RMB 300,000 (USD 44,196). Finally, businesses also risk suspension or revocation of export privileges and licenses, being negatively marked in China's Enterprise Credit Management System and other non-financial penalties. More serious cases may even bear the risk of criminal charges. Finally, the draft text also incorporates

measures to encourage compliance including internal compliance mechanisms, self-policing, and a voluntary self-disclosure provision.

What does all this mean?

In a May 2017 policy paper, MOFCOM noted that China is responsible for 25 per cent of global manufacturing output and, anecdotally, more than 700 suppliers of Apple's iPhone in the Shenzhen area alone. Should China decide to exercise export control over content of Chinese origin, such manufacturing intellectual property could well provide China with significant leverage.

The on-going US-China trade dispute has been slowly brewing since before China's ascension to the World Trade Organisation. The deficit in US goods trade with China has long been a pressure point with succeeding US administrations. In recent years, that deficit has grown to unprecedented levels. In the most recent statistics from the US Census Bureau, the trade imbalance in goods imported from China versus goods exported to China has grown by more than a third in 2017, compared with the year before. For president Trump, who was elected in part on his tough talk surrounding US trade relations with China, this is not a headline for re-tweeting.

It is important to note that China is the largest trading partner of the US and the US is China's second-largest trading partner. Their relationship is therefore a high-stakes global issue. Under Trump, the US has taken aggressive action to try and enforce what, in its view, should be a more level playing field with China. China, for its part, appears to be implementing a longer-term strategy that recognises its competitive advantage in manufacturing, while building towards competing for control over the real value in the modern supply chain – the intellectual property.

Update on progress of the ASEAN Economic Community (AEC)

The third issue of the ASEAN Economic Integration Brief (AEIB) was published on 13 July 2018 providing information on the progress of the AEC. Here are some key highlights that we have summarized from the publication:

- Live operation of the ASEAN Single Window (ASW) in five ASEAN countries on 1 January 2018. Preferential tariff duties can be granted based on e-ATIGA Form D between Indonesia, Malaysia, Singapore, Thailand and Vietnam.
- Signing of the ASEAN - Hong Kong, China Free Trade Agreement (AHKFTA) which is expected to enter into force on 1 January 2019.
- Engagement in discussions to develop a framework laying out the parameters for a future ASEAN - EU FTA, to finalise the Joint Feasibility Study for an ASEAN-Canada FTA, and to develop a Memorandum of Understanding between ASEAN and the Eurasian Economic Commission.

The AEIB can be accessed here: http://asean.org/storage/2018/02/AEIB_3rd-Issue_v3-Ready-Print-Single-Page.pdf



Free Trade Agreements focus

Agreements entered into force	
Philippines – European Free Trade Association (EFTA) FTA	1 June 2018
Agreements signed	
Georgia – Hong Kong FTA	28 June 2018
EU – Japan Economic Partnership Agreement	17 July 2018

EU - Australia complete first round of FTA negotiations

The EU and Australia have officially launched negotiations for a bilateral FTA, aimed largely at reducing barriers to trade in goods and services and improving market access for local businesses. Both sides have indicated that a sticking point in negotiations would likely be surrounding concessions on agricultural products, which have traditionally been a highly protected sector for the EU. Australia has expressed intentions to negotiate more favourable access for commodities such as beef, sheep meat, sugar, cheese and rice that are currently subject to tariff quotas.

On 6 July 2018, negotiators concluded the first round of trade talks with the establishment of negotiation groups and organization of future work. Both sides have also started discussions on most chapters of the agreement although no specific details are released as yet. Further rounds of negotiations will continue in late 2018.

China and South Korea hold second round of FTA talks to expand bilateral FTA

On 9 July 2018, China and South Korea held the second round of negotiations for an FTA upgrade to enhance coverage of the service and investment sectors. The expanded agreement is expected to result in a legal framework for expansion of service markets and investment opportunities for both countries. This

will be likely achieved through the enhancement of current investment protection measures and collaboration in key service sectors such as tourism, culture, finance and healthcare. Negotiations will continue for finalization of details in the agreement.

Georgia and Hong Kong sign bilateral FTA

After ongoing negotiations since 2016, Georgia and Hong Kong signed a bilateral FTA on 28 June 2018 which is expected to further boost market access and investment flows between both countries. The FTA covers, among others, the reduction of tariff and non-tariff barriers, customs facilitation procedures, investment promotion and protection measures and intellectual property rights.

Specifically, Georgia will eliminate import tariffs on approximately 96.6% of tariff lines for Hong Kong imports. Through increased customs and investment facilitation measures, the FTA will also reduce bureaucratic barriers and provide Georgian businesses with better market access in Hong Kong, which will benefit Georgia's key exports such as cheese, alcoholic and non-alcoholic beverages, canned fruits and vegetables, hazelnuts, fruits, honey, textile and other products.

Both sides are targeting for the FTA to enter into force by end 2018.

India and EU struggle to reach agreement on EU - India FTA

Despite efforts to revive negotiations which have been stalled since 2013, representatives from both India and the EU have expressed that negotiations have made limited progress due to the inability to agree on and bridge gaps on crucial issues. With regards to duty preferences, the EU is seeking significant duty and tax concessions on automobiles, wines, spirits and dairy products, which India has been reluctant to agree with.

Other issues to be ironed out include the treatment of the movement of professionals as well as the protection of intellectual property rights. Both sides have indicated that due to repeated difficulties in reaching an agreement, further FTA talks may no longer be resumed following an assessment of outcomes. This is however still under deliberation and no official statement has been released as yet.

Indonesia and Tunisia proceed with negotiations for preferential trade agreement

Indonesia and Tunisia have officially launched negotiations for a Preferential Trade Agreement (PTA) on 25 June 2018. Under the PTA, both countries will lower current high import tariffs imposed, which is expected to contribute to improving trade and investment. Tunisia will also serve as an important hub for Indonesia's exports, providing increased market access to both African countries and the European Union. Both sides are intending to conclude negotiations for signing of the PTA by end 2018, although that sounds ambitious. There are also plans for eventual conversion of the PTA into a full FTA.

EU and Japan sign economic partnership agreement

Following 4 years of negotiations, the EU – Japan Economic Partnership Agreement has been signed by officials from both sides on 17 July 2018,

signaling the finalization of the EU's largest trade deal that will create a massive economic zone covering nearly one third of global GDP.

Under the trade pact, through a reduction of tariff and non-tariff barriers, the EU will eliminate tariffs on approximately 99% of Japanese exports and further open markets to industries such as automotive, electronics and chemicals. Specifically, customs duties on automotive products will be fully eliminated within 7 years. In return, Japan has committed to removing or reducing import tariffs on EU agricultural and farming products and processed food products, such as dairy, wine, cheese, pork and poultry. Both sides will also eliminate tariffs on fishery and forestry products either immediately or within 10 years from entry into force of the agreement.

In addition to trade in goods, customs procedures will be simplified and there will be increased cooperation with regards to public procurement and infrastructure projects, as well as in the services sectors. The FTA also provides for commitments in areas such as data protection, intellectual property rights and sustainable development.

The EU and Japan are now proceeding with the completion of domestic ratification procedures, which includes the EU obtaining the required approvals from the parliament and EU member states, before the agreement can enter into force. This is targeted and expected in the first half of 2019. Concurrently, both sides are also continuing with discussions on investment protection standards and dispute resolution.

Japan and Singapore ratify the CPTPP

Japan and Singapore ratified the Comprehensive and Progressive Agreement for the Trans-Pacific Partnership (CPTPP), also known as TPP-11, on 6 and 19 July 2018 respectively, making them the second and third countries to do so after Mexico ratified it in April 2018. The CPTPP will enter into force 60 days

after it is ratified by six member countries. This means that three more out of the remaining eight member countries will need to complete their domestic ratification processes before the trade pact can enter into force.

EU and New Zealand conduct first round of FTA talks

Following the official launch of trade talks in June, the EU and New Zealand have commenced with the first round of FTA negotiations in Brussels on 16 July 2017. Both sides are aiming to conclude negotiations within two years, with the second round of trade talks scheduled to be conducted in late 2018.

The trade pact is expected to cover trade in goods and services, and is also expected to encompass environmental sustainability, minority inclusiveness and the protection of human rights. Negotiations are also expected to center around sensitive issues such as tariffs and tariff rate quotas on agriculture and meat products, as well as pharmaceutical patent protection mechanisms. The EU is also expected to seek further concessions for key exports such as wine, food, textiles and apparel, pharmaceuticals and cars.

Philippines - European Free Trade Association (EFTA) FTA enters into force

On 1 June 2018, the FTA between the Philippines and the EFTA entered into force. This marks the second bilateral FTA for the Philippines after the Japan-Philippines Economic Partnership Agreement (JPEPA), which entered into force in 2008.

Under this FTA, imports of industrial and fishery products will enjoy duty free access into EFTA states. Basic and processed agricultural products, such as desiccated coconut, prepared or preserved pineapples, and raw cane sugar will also enjoy substantially reduced preferential tariffs when imported into EFTA states. In return, the Philippines will grant EFTA states significant concessions on agricultural products entering the Philippines, along with a number of other goods such as mineral and aerated waters, food preparations, chocolate, cheese, and wine.

In addition, exporters on both sides will be able to self-declare the origin of goods, instead of obtaining a certificate of origin from customs authorities.



Advance rulings will be available on tariff classification, applied rates of duty, valuation method, fees and charges, port of entry requirements, as well as rules of origin.

Minor hiccups attributed to pending internal procedures were reported at the beginning of implementation, resulting in tariff preferences not being granted in the Philippines. Nonetheless, the EFTA Secretariat stated that exporters and importers affected by this should try to claim preferential treatment using the necessary documentation with a view to obtaining reimbursement of levied duties at a later stage. We understand that the revised implementing memos are being signed and should be effective soon.

South Korea and the United States to sign revised bilateral FTA in September

South Korea and the United States have announced that negotiations have been finalized following an agreement on principles in March this year. Both sides have subsequently proceeded with conducting a local economic impact assessment. The US has already completed this study, while Korea is in the final stages of completion. The US will need to go through 60 days of consultations with the US congress for approval before signing of the FTA. Both sides are aiming to sign the revised FTA by September 2018.

South Korea and Russia to commence negotiations for bilateral FTA

South Korea and Russia have announced a decision to launch negotiations for a bilateral FTA, which is expected to boost bilateral trade to USD 30 billion by 2020. Both sides have agreed to commence with domestic processes for launching of FTA negotiations which will likely cover trade in goods, services, and investment. There have also been intentions for increased trilateral cooperation between both North and

South Korea and Russia for the Trans-Siberian Railway, as well as electricity and energy projects in order to develop and establish an economic community in Northeast Asia. Both countries have expressed commitment towards accelerating talks to reach a comprehensive and mutually beneficial deal.

Thailand progresses with FTA negotiations with Pakistan, Turkey and Sri Lanka

On 27 June 2018, the Thai government approved both frameworks for FTA talks with Pakistan and Turkey. Thailand and Pakistan will proceed with the 10th round of talks scheduled to be conducted in the second half of 2018, while the fourth round of negotiations will be held between Thailand and Turkey in the last quarter of the year.

Both FTAs will cover trade in goods, services and investment, as well as cooperation in other sectors to maximize benefits. Sectors expected to benefit from the FTAs include automotive and automotive spare parts, leather and wood products, chemicals, rubber and plastics, tourism and healthcare. This will also place Thailand in a favorable stance to enter the EU, African and Middle Eastern markets.

Apart from Pakistan and Turkey, FTA talks are also in progress with Sri Lanka, where both sides are first finalising a strategic partnership framework for signature upon approval by the Thai cabinet. This is expected to be signed in the second half of 2018. Both sides have officially launched negotiations for a potential bilateral FTA which will focus on boosting economic cooperation, trade and investment between them. A Memorandum of Understanding on technical cooperation, letter of intent on cooperation in small and medium sized enterprise development and a joint tourism programme was also signed.

EU and Vietnam conclude legal review for EU - Vietnam FTA (EUVFTA)

The EU and Vietnam have announced that legal review processes for the EUVFTA have been completed and both sides have reached an agreement on the details of the bilateral trade pact and investment protection agreement. They have also committed to proceed with official signing of the trade deal by end 2018, with local ratification and approval processes to be completed by in 2019.

In relation to this, officials have held a follow up meeting on the EUVFTA on 25 June 2018. During this meeting, the EU has offered support to Vietnam in capacity building post implementation, including enhancing the legal system, assisting in implementation of FTA commitments, strengthening trade and investment collaboration and increasing the competitiveness of small and medium enterprises.

RCEP members commit to endorse a “package of outcomes” by close of 2018

Member countries of the Regional Comprehensive Economic Partnership (RCEP) have committed to endorsing a package of outcomes during the ASEAN leader’s summit which will be held in November 2018. During the fifth ministerial meeting held in Tokyo, a joint media statement was released highlighting the value of the RCEP in opening new markets and advancing free trade amidst rising protectionism in the global trading environment.

Currently, out of the 18 chapters of the agreement, only two - on economic and technical cooperation and small and medium enterprises - have been concluded. This is largely due to a difficulty in agreeing on topics such as e-commerce and data, as well as traditionally sensitive issues such as the trade in agricultural products. There have also been different opinions and approaches towards the treatment of intellectual property rights by Australia, China and Japan, which has impeded the progress of discussions.

Going forward, officials have scheduled a series of meetings, including a negotiators’ meeting in Thailand and a ministerial meeting in Singapore, in a bid to accelerate negotiations. Leaders are targeting for a substantive part of the agreement to be finalized in August during the next minister’s meeting.



Export Control

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Updates from the 33rd Australia Group Plenary

The 33rd Plenary of the Australia Group (AG) was held in Paris, France, from 4-8 June 2018. The AG, a voluntary group established in 1985 of 42 member countries such as Australia, India, Japan, New Zealand, and the Republic of Korea, aims to safeguard against the diversion of sensitive dual-use goods and technology from legitimate trade to the production of chemical or biological weapons. This is achieved through coordinated export controls, information sharing, and outreach. Some of the key measures agreed to by the member countries and the EU are listed below:

- Issue a consensus statement expressing concerns about the re-emergence of the use of chemical weapons in Syria, Iraq, the United Kingdom, and Malaysia;
- Reinforce efforts at increasing awareness of emerging technologies, the potential for exploitation in the cyber sphere, and scientific developments that could be exploited for the production and delivery of chemical and biological weapons;
- Intensify efforts on prevention of the proliferation of goods, technologies, and information to parties that could enable production or delivery of chemical and biological weapons or attacks; and
- Exchange information with non-members (such as China) to share experiences in enforcing export controls, information, outcomes of investigations and operational activities. This includes a planned workshop on 'catch-all controls'.

Licensing and enforcement experts shared their experiences and suggested ways to prevent the proliferation of sensitive dual-use chemicals, biological materials and related equipment. This included discussions on how to keep pace with evolving technologies, complex financing schemes, exploitation of the cyber sphere, as well as efforts on refining controls on the Control Lists and safeguarding laboratory security.

The AG participants also scheduled a number of intersessional meetings between now and the 2019 Plenary to further explore effective implementation, catch-all controls, as well as the possible listing of nerve agents and its precursors.

The 34th Plenary will be held in Paris from 3 to 7 June 2019.

Updates from the 2018 Nuclear Suppliers Group Plenary

The 28th Plenary Meeting of the Nuclear Suppliers Group (NSG) was held in Jūrmala, Latvia, on 14-15 June 2018. The NSG aims to prevent the proliferation of nuclear weapons, through implementation of export controls on a national basis for nuclear and nuclear-related material, dual-use material, equipment, software and technology. At the Plenary meeting, participants exchanged views and agreed on a number of proposals to clarify and update the NSG Control List, and strengthened the NSG's policies around transparency and confidentiality.

The updated NSG Part 1 (Trigger List) and Part 2 (Dual-Use List) Control Lists can be accessed here: <http://www.nuclearsuppliersgroup.org/en/news/185-nsg-control-lists-updated>

Territory reports

Australia

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Deferral of import duty payments for Australian Trusted Traders

The Customs Amendment (Duty Deferral for Australian Trusted Traders) Regulations 2018 has been introduced providing an option for the deferral of import duty payable on goods imported by Australian Trusted Traders (ATTs). Under the measures, ATTs can elect to not pay duty at the border and to defer duty payment to the 21st day after the end of the month in which the goods were entered for home consumption (i.e. imported). This nonetheless needs to go through an industry consultation process and, as such, no fixed date for implementation has been announced yet.

Duty concession for imported clinical trial kits and placebos used in clinical trials

From 1 July 2018, a new concessional instrument provides a 'Free' rate of customs duty for:

- Clinical trial kits that do not indicate whether the contents are medicaments and/or placebos; and
- Placebos imported for use in a clinical trial.

In order to qualify for the concessional rate of customs duty, the clinical trial kits must satisfy a set of prescribed criteria.

While most medical devices and medicines imported into Australia already enjoy reduced or zero rates of duty, the way placebos are classified under the customs tariff means they were subjected to higher import duties. This new instrument extends the same tariff rates available to medical devices and medicines to imported clinical trial kits and placebos.

Further details can be found at the following link:
<https://www.homeaffairs.gov.au/Customsnotices/Documents/home-affairs-2018-21.pdf>

Legislative changes to Luxury Car Tax

Removing application of Luxury Car Tax (LCT) on re-imported cars refurbished overseas

- Draft legislation has been released to remove application of luxury car tax on cars re-imported following 'any treatment, industrial processing, repair, renovation, alteration or any other process since its export', provided the ownership of the car has not changed in the period beginning immediately before the car was exported and ending at the time it is returned to Australia. The change was announced as part of the 2018-19 Federal Budget, and will take effect from 1 January 2019.

LCT threshold and fuel efficient car limit 2018-19

- The Australian Tax Office (ATO) has determined that from 1 July 2018, the LCT threshold will increase from AUD 65,094 to AUD 66,331 (car's GST inclusive value). The fuel efficient car limit will remain the same at AUD 75,526.

China

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Revision to Customs Declaration Form (CDF)

On 21 June 2018, the GAC issued Announcement No. 60/61 specifying revisions to instructions on completing import and export CDF, and the format of CDF and registration forms. The changes came into effect on 1 August 2018.

Highlights of the changes are as follows:

1. Newly added items

Item	Specification	Notes
Overseas consigner/consignee	Fill in English name and code of overseas consigner/consignee	For AEO enterprises in countries/regions with AEO mutual recognition with China, the AEO reference number should be completed in the Overseas Consignee/Consignor No. box.
Port of Entry/Exit	Fill in Chinese name and code of domestic port from which inbound goods are unloaded and outbound goods depart	Divided into 5 scenarios, including: <ul style="list-style-type: none"> • general goods entry/exit; • multimodal cross-border transportation; • transit goods; • entry/exit from Customs Special Supervision Areas or Bonded Supervision Areas; and • no physical entry/exit.
Check box for Self-declaration and Self-payment	No need to fill for non-duty related CDF	When “self-declaration and payment” is adopted, fill in “yes”, otherwise fill in “no”.
Place of Cargo Storage	Fill in the place of cargo storage of inbound goods	Including place or location where inbound goods are stored, including customs supervision workplaces, distribution warehouses, designated processing plants, quarantine areas, companies’ own warehouses, etc.
Port of departure	Refers to the first overseas port for loading the China imported goods before arrival in China based on the <Codes of Ports> as issued by GAC (previously issued by CIQ before the merge of CIQ to GAC). For example, DEHAM is <Codes of Ports> for Port of Hamburg.	If the port is not listed in the <Codes of Ports>, the column should be completed with the name and code of the corresponding country or as a “Non-listed Special Supervision Area”.
Final destination country (area) / country of origin	“Final destination country” refers to country/areas where the imported goods are actually consumed, used, or last manufactured.	Import CDF added “final destination country”, export CDF added “country of origin”

2. Revisions made to four items

Original item	Revised item
Consignee and consigner	Domestic consignee and consigner
Import/export port	In-charge Customs Port of Entry/Exit
Attached documents	Attached Documents and Document No.
Port of Loading/Destination	Port of Transit/Port of Destination

3. Deletion of two items

- Data-entry staff
- Data-entry entity

4. Revision to commodity codes

Item	Specification
Product code	A 13-digit commodity code instead of the prevailing 10-digit code would need to be completed. The first 10 digits continue to be the tariff code based on the China Customs Import/Export Tariff Schedules. The last 3 digits are CIQ inspection and quarantine codes.

5. Merging of Customs' and CIQ's clearance parameters

Country	China	142	156	CHN
Currency	RMB	142	156	CNY
Port	Boston	3104	840066	USA066
Package type	Other package	7	9999	99
Transportation mode	Railway	3	2	3
Supervision mode	General trade	0110	11	0110
Container Specification	Other standard box	N	998	31

Some key highlights of the main changes to the format and instructions of the declaration forms are as follows:

- Revising the description and wording of the instructions for certain declaration items;
- Summarising various recent announcements relating to the format of declaration forms and instructions;
- Revising the instructions for some declaration items related to both CIQ and Customs; and
- Requiring the declaration of additional information related to the movement of goods.

In order to avoid a negative impact on customs clearance due to incomplete or incorrect declaration information, companies should work closely with overseas suppliers and buyers, forwarders and broker companies to obtain the new or updated information requirements.

Furthermore, companies using automation for document generation, EDI or even automated customs declarations may need to work with IT and/or other automation service providers to update the new information requirements.

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Updates on products under the CEPA

Since the implementation of the Hong Kong and Mainland China Closer Economic Partnership Arrangement (CEPA), Mainland China and Hong Kong have reached agreement on the Rules of Origin (ROOs) for 1,897 Mainland tariff codes. Products are eligible for zero tariff under CEPA if they meet respective ROOs and other relevant conditions.

According to Certificate of Origin Circular No. 2/2018, with effect from 1 July 2018, four Mainland tariff codes were added to the list of goods eligible for zero tariff under CEPA, as per the following table.

	Mainland 2018 Tariff Code	Product description	CEPA Rules of Origin
1	20082090	Other pineapples, prepared or preserved otherwise than by vinegar	Change in Tariff Heading
2	30045000	Medicaments containing vitamins or other products of heading 29.36 (mixed or unmixed, for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems), or in forms or packings for retail sale)	Change in Tariff Heading, except change from Tariff Heading no. 3003.
3	81082030	Titanium powder	Manufactured from titanium straps, plates, blanks and recycled materials (except sponge titanium), and powder size less than 200 microns.
4	84122910	Hydraulic motors	Change in Tariff Heading; or fulfilling the value-added content requirement.

For details, refer to the following link:

<https://www.tid.gov.hk/english/aboutus/tradecircular/coc/2018/coc022018.html>

New declaration requirements for CBNIs

The Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance, Chapter 629, Laws of Hong Kong (“the Ordinance”) came into operation on 16 July 2018.

For passengers

- Any person arriving in Hong Kong at a specified control point set out in Schedule 1 to the Ordinance and in possession of a large quantity of currency and/or bearer negotiable instruments (“CBNIs”), i.e. the total value of which is more than HKD 120,000, must make a written declaration to a Customs officer, using the Red Channel under the Red and Green Channel System.
- Any person arriving in Hong Kong other than at a specified control point (e.g. passengers arriving on cruise ships berthing at anchorages) or any person about to leave Hong Kong, must upon the requirement of a Customs officer disclose whether they are in possession of a large quantity of CBNIs. If so, they must make a written declaration.
- An adult who accompanies a young person (i.e. a person under the age of 16 years) and knows that the young person is in possession of a large quantity of CBNIs must make the declaration or disclosure on behalf of the young person.

A first time breach of these declaration / disclosure requirements may attract a penalty of HKD 2,000, provided that there is no previous conviction of any money laundering or terrorist financing offences and the CBNIs are not reasonably suspected to be crime proceeds or terrorist property. Other cases are subject to criminal proceedings, with the maximum penalty being a fine of HKD 500,000 and imprisonment for two years.

For cargo

An advance electronic declaration must be made to the Customs and Excise Department via the Currency and Bearer Negotiable Instruments Declaration System for importing or exporting a large quantity of CBNIs as cargo in one batch. All breaches are subject to criminal proceedings. The maximum penalty is a fine of HKD 500, 000 and imprisonment for two years.

For details, refer to the following link:

<https://www.customs.gov.hk/sc/enforcement/cds/index.html>



India

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Customs Audit Regulations notified

The Government had introduced Section 99A under the Customs Act, 1962 as a part of the Union Budget in February 2018. This Section enables Customs to carry out an audit on any person who is directly or indirectly concerned in the clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods, in addition to the importer or the custodian or licensee.

Key points from the regulations are as follows:

- The selection of auditee will be primarily based on risk evaluation through appropriate selectivity criteria.
- The officer will give at least 15 days' notice in advance to the auditee for conducting the audit at the premises of the auditee.
- The officer may inspect the import or export goods at the premises of the auditee or request the auditee to produce a sample.
- The officer must inform the auditee of objections, if any, before preparing the audit report, to provide him an opportunity to offer clarifications with supporting documents.
- Where the auditee is in agreement with the audit findings, he may make voluntary payments of duty, interest or other sums due, if any, in part or in full and the proper officer will record this in the audit report.
- The officer must complete audits conducted at the premises of the auditee within thirty days from the date of starting of the audit. This may be extended up to sixty days.

Contravention or failure to comply with these regulations will be liable to a penalty of fifty thousand Indian rupees.

(Reference: Notification 45 / 2018 - Customs - NT)

Intellectual Property Rights (Imported Goods) Enforcement Amendment Rules 2018 issued

Customs has the power to suspend the clearance of goods if the goods are infringing intellectual property rights (IPRs). The Government has made amendments to the Intellectual Property Rights (Imported Goods) Enforcement Rules 2007. Under the recent amendment contained within Customs Notification No. 56/2018-Customs (N.T.), dated 22 June 2018, the IPR right holder must inform the Customs Commissioner office within a period of one month of any amendment, cancellation, suspension or revocation of the IPR by the authorities under the intellectual property laws or any court of law or appellate board. Furthermore, the Customs Officer is authorized to amend, suspend or cancel the notice and the corresponding protection.

Government initiatives on ease of doing business and trade facilitation

Amendment to the Foreign Trade Policy (FTP) 2015-2020

The Government has made the following amendments to the FTP 2015-2020:

1. The provision in the FTP relating to the threshold level of earnings necessary to be eligible for benefits under the Service Export from India Scheme (SEIS) has been amended. Under the amendment contained within DGFT Notification No. 8/2015-2020, dated 24 May 2018, the service provider must have a minimum net free foreign exchange of US\$ 15,000 in the year of rendering the services and not the preceding year. This means that even if the exporter has no export turnover in the preceding year, he would be eligible for the benefit if he fulfills the threshold criteria in the year in which the last export was made.

2. DGFT Notification No. 9/2015-2020, dated 28 May 2018 introduced Basic Customs Duty (BCD) exemptions on imports of specified inputs to promote specific sectors.

Handloom industry

- Duty free import entitlement of specified trimmings and embellishments up to 5% of Free on Board (FOB) value of exports during the previous financial year. Handloom and made ups are included for the entitlement.
- Duty free import entitlement of hand knotted carpet samples up to 1% of FOB value of exports during the previous financial year.

Handicrafts industry

- Duty free import entitlement of tools, trimmings and embellishments up to 5% of FOB value of exports during the previous financial year. This is available to merchant exporters linked to supporting manufacturers.

Leather and footwear industry

- Duty free import entitlement of specified items up to 3% of FOB value of exports of leather garments during the preceding financial year.
- Duty free entitlement for import of trimmings, embellishments and footwear components for footwear (leather as well as synthetic) and leather products up to 5% of FOB value of exports of the previous financial year.

Marine industry

- Duty free import of specified specialised inputs/chemicals and flavouring oils up to 1% of FOB value of the preceding financial year's export.

Sports goods & toys industry

- Duty free import of specified specialised inputs/chemicals and flavouring oils up to 1% of FOB value of the preceding financial year's export.

Amendment in the Handbook of Procedures of the FTP 2015-2020

The DGFT has made the following amendments:

3. DGFT Trade Notice No. 14/2018, dated 30 May 2018, amends the guidelines for the filing/processing of Merchandise Exports from India Scheme (MEIS) applications in cases of Project Exports. Exporters were previously not able to claim higher benefits for products under the Project Exports category as provided for under the MEIS schedule (Appendix 3B). This was because the specific HS code is required to be mentioned on the shipping bill and the MEIS application had to be made only as per the HS codes available in the shipping bill. In these cases, the DGFT has issued the detailed guidelines to enable exporters to claim the higher benefits available.
4. For the export of SCOMET items, the authorization is automatic for repeat orders subject to certain conditions laid down under Para 2.79 of the HBP. This Para has been amended by DGFT Public notice No. 20/2015-20, dated 12 July 2018, to widen the scope of authorization for repeat orders. The key criteria include that:
 - The nature of the products is the same for which the advance authorization has been issued.
 - The application for a repeat order should be submitted within 3 years of the date of issue of the original authorization.
 - The cumulative quantity permitted against repeat export authorizations must be commensurate with the operational capacity of the end user.

5. The Government has extended the prohibition on the importation of milk and milk products (including chocolates and chocolate products, and candies/ confectionary/ food preparations with milk or milk solids as an ingredient) from China till 23 December 2018 or till further orders, whichever is earlier. This is contained within DGFT Notification No. 14/2015-2020, dated 22 June 2018.
6. DGFT Public notice No. 23/2015-20, dated 13 July 2018, includes new items and extends the benefit available for certain items under the MEIS scheme. A 10% benefit is now granted under the MEIS scheme for certain new products such as butter oil, butter milk, condensed milk, whole milk etc. Further, the MEIS benefit has also been enhanced to 10% on certain products such as processed cheese, ghee etc. The benefits are available from 13 July 2018 to 12 January 2019.
7. Obtaining Advance Authorizations on a 'net-to-net basis' is a facility allowed under the Foreign Trade Policy. It obviates the need for the fixation of Standard Input Output Norms (SIONs). However, the exporter needs to account for inputs in the export product and to disclose the same in the Shipping Bill. Due to the issues faced by exporters on accounting for inputs, the DGFT has issued DGFT Policy Circular No. 10/2018-19, dated 13 July 2018, in relation to the closure of advance authorizations issued with 'net-to-net accountability basis'. The key aspects are as follows:
 - Exporter should declare input quantities used in the export product in the relevant part of the shipping bill.
 - Authorisation holder should submit an accountability statement showing the description and quantity of exported products and inputs consumed therein as per the prescribed format.
 - A certificate from a Chartered Engineer with domain expertise certifying the nexus and usage of inputs in the export product.

Compliance with packaging and labelling rules for cigarettes and other tobacco products

The Government has stated in Notification No. 20/2018, dated 20 June 2018, that in addition to existing statutory requirements, businesses have to comply with amendments in health warning specifications prescribed by the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules 2018, before the clearance of import consignments or disposal of seized/confiscated tobacco products, including cigarettes.



Indonesia

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Implementation of the Electronic Integrated Business Licensing Service

On 21 June 2018, the Indonesian Government issued Government Regulation No. 24/2018 regarding the commencement of an Electronically Integrated Business Licensing Service. This regulation entered into force on the same date.

This service is intended to support the growth of investments and businesses in Indonesia via the establishment of an Online Single Submission (OSS) system for business licence processing. As part of the integrated system, applicants will now be able to apply online and obtain business license approvals issued by ministers, heads of agencies, governors, regents, and mayors that are authorized by their respective agencies. Upon approval, the business license or permit will be issued in the form of an electronic document accompanied with an electronic signature. This document is legally binding in accordance with local legislation.

Prior to securing business licences and commercial or operational licences, businesses are required to complete the following registration procedures.

- Register and apply for a Business Identity Number (Nomor Induk Berusaha/NIB) via the OSS system;
- Upon approval, the NIB will be issued and will function simultaneously as the Company Registration Certificate (Tanda Daftar Perusahaan/TDP), the Import Identification Number (Angka Pengenal Importir/API), and the customs access key.
- Upon obtaining the NIB, businesses are also automatically registered with the Social Security for Health (BPJS Kesehatan) and Manpower (BPJS Ketenagakerjaan) programs.

Any business licences previously applied for but yet to be issued will now be processed via the OSS portal following the entry into force of this Regulation.

Business licences and/or commercial or operational licenses approved and issued prior to this Regulation will remain valid. Businesses will still be required to register on the OSS system to obtain an NIB.

New Customs Value Declaration Form and Customs Value Information Request Scheme

On 6 June 2018, the Ministry of Finance issued Regulation No. 62/PMK.04/2018 amending the previous regulation on the customs valuation requirements for calculation of import duties. This regulation entered into effect on 21 July 2018.

Under the new regulation, the following importers will be excluded from the customs value examination:

1. Main Customs Partners (Mitra Utama Kepabeanan/MITA);
2. Authorised Economic Operators (AEO) (new to this regulation);
3. Importers and producers in low-risk categories (Green Lane);
4. Importers that obtain the facility from the Capital Investment Coordinating Board (new to this regulation);
5. Importers that obtain an Import Facility for Export Purposes (Kemudahan Impor Tujuan Ekspor/KITE) (new to this regulation);
6. Importers that obtain the facility from the Directorate General of Customs and Excise (new to this regulation); and
7. Central government agencies or local governments that directly import goods into Indonesia (new to this regulation).

In addition to the above provisions, a clause assigning responsibility to the importer and its attorney in ensuring the correctness and completeness of the information declared in the document, attachments and supporting documents has been added to the Customs Value Declaration (Deklarasi Nilai Pabean/DNP). The DNP is required to be submitted in response to a Value Information Request from Customs (Informasi Nilai Pabean/INP).

Implementation of excise duty on vape liquids

Following Ministry of Finance Regulation No. 146/PMK.010/2017 on excise duty rates for tobacco products, the Directorate General of Customs and Excise is currently conducting a socialization exercise to educate vape store entrepreneurs on excise duty rates of 57% that will be applied to vape liquids. The implementation of excise rates is intended at monitoring and controlling the local consumption and circulation of vape liquids containing tobacco extracts.

The excise duty will be applied to both importers and the producers of vape liquids. Although the regulation entered into effect on 1 July 2017, Customs have extended the time for implementation until 1 October 2018, since there is still no legal basis for application of excise duties to tobacco products other than cigarettes, such as vape liquids that contain tobacco extracts.



Japan

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Brazil, China, Malaysia, Mexico and Thailand will graduate from the GSP

Japan Customs has officially announced that effective from 1 April 2019, Brazil, China, Malaysia, Mexico and Thailand will graduate from the Generalized System of Preferences (GSP).

The GSP allows territories classified as “Developing countries” and “Least Developed Countries” to enjoy preferential duty rates for products imported into Japan. However, once these countries have attained a specific level of economic development, they will “graduate” from Japan’s GSP and will be subject to Most-Favored Nation (MFN) duty rates going forward.

The rule for GSP graduation was revised in May 2017. Generally, a country is expected to “graduate” from the GSP if it is classified by the World Bank as a “high income country” or an “upper-middle income economy” for three consecutive years, with an annual export value count of more than 1% of global annual export value for the same period. If a country had already graduated but is subsequently not able to fulfill the above conditions, a request can be filed to be re-designated as a beneficiary under the GSP.



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Amendments to the Customs (Prohibition of Removal) Order 2018

The Customs (Prohibitions of Removal) (Amendment) Order 2018 came into effect on 2 July 2018. The key amendment is that the headings and sub-headings in the First Schedule of the Order are now based on the 2017 version of the Harmonised System (with 10 digit tariff codes).

Further details of the Customs (Prohibitions of Removal) (Amendment) Order 2018 can be found at the following link:

[http://www.federalgazette.agc.gov.my/output/pua_20180629_P.U.%20\(A\)%20146%202018.pdf](http://www.federalgazette.agc.gov.my/output/pua_20180629_P.U.%20(A)%20146%202018.pdf)

Implementation of Sales and Services Tax

From 1 June 2018, the rate of Goods and Services Tax (GST) was reduced from 6% to 0%. It is proposed that with effect from 1 September 2018, GST will be abolished and replaced by a Sales and Services Tax (SST).

In the proposed SST implementation model, the key aspects of SST are as follows:

- An online system called MySST will be used for electronic dealings with the Royal Malaysian Customs Department (RMCD), e.g. registration, filing of returns and payments;
- The proposed SST sales threshold is RM 500,000. Existing GST-registered persons who fulfil the criteria will be automatically registered and informed via a letter;
- The proposed Sales Tax rates are 5%, 10% and an undisclosed specific rate; and
- The proposed Service Tax rate is fixed at 6%.

On 19 July 2018, RMCD published the following SST related documents on their website:

1. Frequently Asked Questions (FAQs) on Sales Tax [http://www.customs.gov.my/ms/sst/Sales%20Tax/FAQ%20\(BI\)%20Sales%20Tax%202018.pdf](http://www.customs.gov.my/ms/sst/Sales%20Tax/FAQ%20(BI)%20Sales%20Tax%202018.pdf)
2. FAQs on Service Tax [http://www.customs.gov.my/ms/sst/Service%20Tax/FAQ%20\(BI\)%20Service%20Tax.pdf](http://www.customs.gov.my/ms/sst/Service%20Tax/FAQ%20(BI)%20Service%20Tax.pdf)
3. Proposed Sales Tax Implementation Model <http://gst.customs.gov.my/en/SiteAssets/doc/17.7.18%20PRESENTATION%20SALES%20TAX.pdf>
4. Proposed Service Tax Implementation Model <http://gst.customs.gov.my/en/SiteAssets/doc/18.07.2018%20PRESENTATION%20SERVICE%20TAX%209.00pm.pdf>

In addition, queries around the transition from GST to SST can be found in the FAQs document.

The key transitional issues are as follows:

1. GST input tax credit can be claimed by GST-registered persons within 120 days of the effective date of SST.
2. From 1 September 2018 onwards, GST closure audits will be conducted by RMCD on GST-registered entities.
3. Goods held in hand before the effective date of SST must account for GST at 0% and declare the output tax in their final GST return.
4. Provision of special schemes under GST will no longer be applicable under SST.

New Zealand

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Update on the Customs and Excise Act 2018 - immediate action for importers under the provisional value scheme

The new Customs and Excise Act 2018 (“Act”) will apply from 1 October 2018. In our earlier Trade Intelligence, we reported on the rewritten legislation and summarised the main changes for businesses.

One of the significant new measures introduced by the Act is the “Provisional values” scheme. This is relevant to importers who cannot establish the Customs value of goods at the time of importation. It allows those importers within the scheme to enter a “provisional value” at the time of importation, and a final value later when full information is available. Compensatory interest and penalties (also introduced by the Act) will not be charged on any difference between provisional and final values.

Importers will automatically qualify to use provisional values if:

- They have a binding ruling in relation to a transfer pricing agreement (such as an advance pricing agreement (APA)) that involves the acquisition of goods, and because of that agreement the importer cannot determine the value of the goods at the time of importation.
- They use the “transaction value” method of valuing goods, and the following further adjustments to the value need to be made after importation of goods:
 - royalty or licence fees payments that the buyer must pay (directly or indirectly) as a condition of sale of the goods for export to New Zealand; or
 - proceeds of any subsequent resale, disposal or use of the goods by the buyer that are to accrue to the seller.

An importer who automatically qualifies must notify Customs that they wish to use provisional values.

NZ Customs also has a discretion to allow an importer, who cannot determine the final Customs value of goods at the time of importation but does not automatically qualify to use provisional values, to use the scheme. This might be the case, for example, if the price paid for goods will change because of transfer pricing but the importer does not have an APA, or the final value and / or contract payment are not known when the goods are first imported.

If you are an importer and cannot establish customs value at the time of importation of goods, you need to consider whether you should register for the provisional value scheme. NZ Customs has announced that it expects it will take up to 30 working days to process applications. This means if you wish to use provisional values from 1 October, you will need to submit your application with supporting information by 20 August.

Further information is available on NZ Customs’ website: <https://www.customs.govt.nz/2018-act-education/>.

The concept behind the new provisional value scheme

The new provisional values scheme allows certain importers to use a provisional value in their import declaration when they:

- cannot determine the final Customs value of their imported goods at the time of importation; or
- know that the Customs value is likely to change after importation.

By the end of the importer’s next financial year (when the importer can

provide an accurate Customs value), the importer will finalise all provisional values by providing one final value for the previous financial year.

The benefit of using provisional values is that if the final value is more than the total provisional values, then the importer will not be charged compensatory interest on the additional duty owed. If the importer is not in the provisional values scheme and they need to increase the import declaration value, then the importer must revisit the import declaration and change the Customs value. The additional duty owed will incur compensatory interest – if the duty amount meets the compensatory interest threshold.

The existing uplift programme operated by NZ Customs Service (NZCS) will cease to apply and will be entirely replaced by the provisional value scheme from 1 October 2018.

Businesses who automatically qualify

The Act specifies three instances when an importer automatically qualifies to use provisional values in your import declarations. These instances have to do with: a) transfer pricing b) royalties and licence fees c) further proceeds (to the seller for resale, disposal or use of the goods). If the importer does not meet the criteria, then the importer will automatically qualify to use provisional values. The importer still has to notify NZCS.

NZCS have advised the importer needs to complete a notification form and advise NZCS:

- the importer name
- the importer code (also known as your client code)
- contact information
- the financial year end
- the goods, or class of goods the importer is notifying NZCS about
- how the importer automatically qualifies.

The importer also needs to attach supporting document(s) that show how they automatically qualify to use the provisional values scheme. NZCS has set out detailed requirements for the notification and the supporting evidence.

Businesses who do not automatically qualify and hence need to apply for the scheme immediately

If the automatic criteria above are not met and the importer wishes to use the new scheme, the importer has to apply to NZCS in the prescribed format. NZCS have advised the importer needs to complete an application form and advise NZCS:

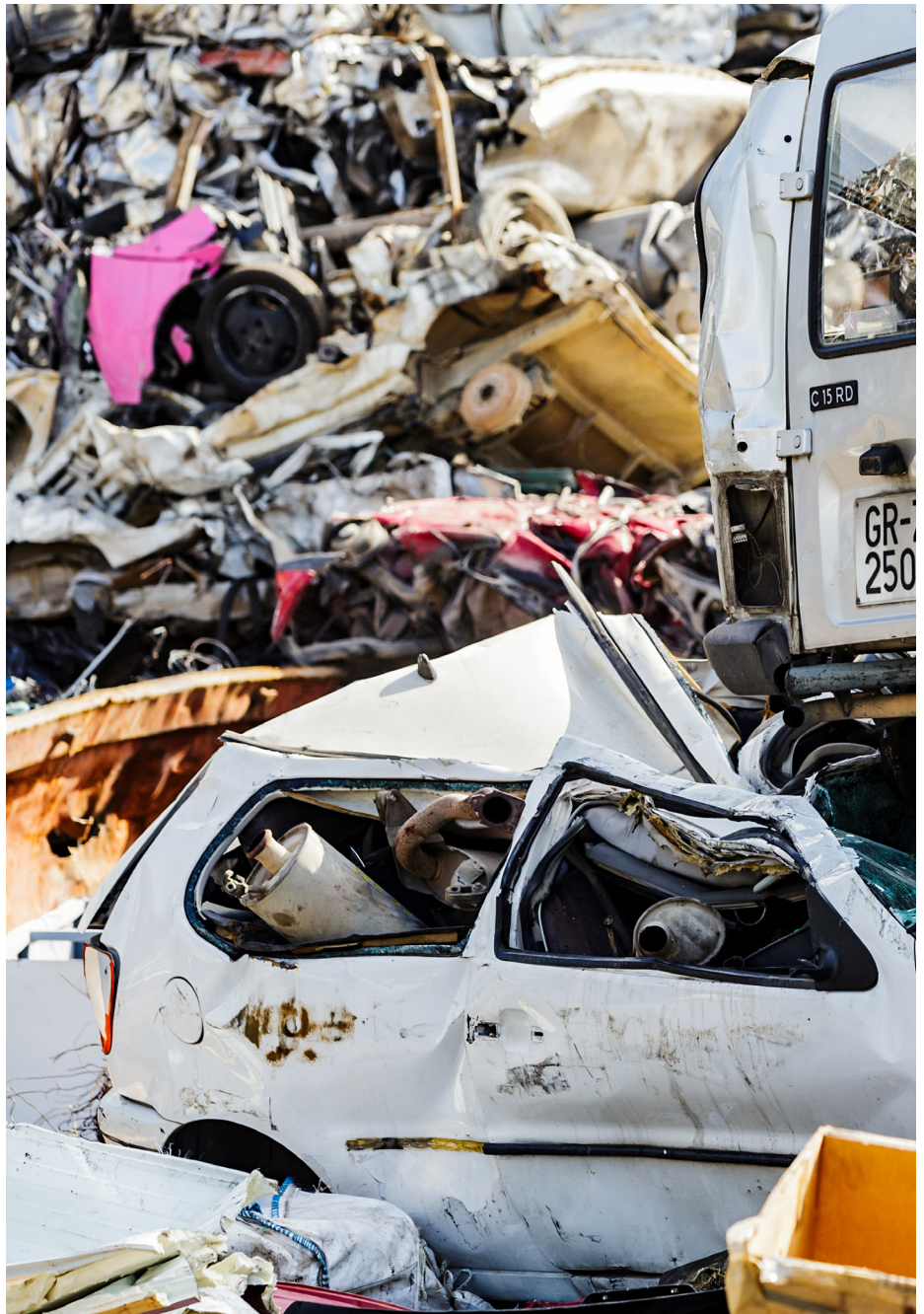
- importer name
- the importer code (also known as your client code)
- contact information
- the financial year end
- the goods, or class of goods the importer is applying for
- the reason why the final value cannot be provided at the time of importation
- how the provisional value will be determined
- which method of valuation will be used to establish the Customs value of the goods
- what the importer's expected timeframe is to finalise the Customs value (Examples: 6 months from the date you lodged your provisional value; 7 months after your financial year end; or 10 months after your financial year end.)
- which supporting documents the importer has provided

- other information relevant to the application.

The application must be provided in the correct format and all the supporting evidence supplied to NZCS.

Immediate practical aspects of the provisional value scheme

From 1 October 2018, importers and brokers can use different systems to lodge import declarations. To add a provisional value in the import declaration, the same system that used to lodge import declarations can be used. For example, if an importer or broker uses Trade Single Window (TSW) to lodge the import declarations, then they will use TSW to lodge the import declarations that will have provisional values in them.



Philippines

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Customs' Enhanced Goods Verification System piloted from 1 August 2018

The Bureau of Customs rolled out its Enhanced Goods Declaration Verification System (EGDVS) on 1 August 2018 at the ports of Subic, Clark and Batangas. The EGDVS pilot was originally slated for June, but was delayed.

The original format of the Good Declaration Verification System (GDVS) was initially implemented in two major ports in Manila, i.e. the Manila International Container Terminal and Port of Manila. It allowed stakeholders to verify the status of their import entries and clearances, with less face-to-face interaction with Customs officers, at designated kiosks at the two ports. It also assigns entries randomly to available Customs officers.

The EGDVS will allow stakeholders to verify the status of their entries online, as well as upload scanned import and shipping documents. According to a briefing provided by Customs, the EGDVS intends to make it mandatory for stakeholders to upload scanned copies of entries, so they can be verified against the entries lodged in Customs' electronic-to-mobile (e2m) system.

EGDVS is a subsequent procedure from the online submission of import entries in a separate Customs' electronic-to-mobile (e2m) system. However, despite having two separate electronic systems, Customs will still require the submission of hard copies of import entries and documents in order to start clearance formalities.

Board of Investment (BOI) extends 0% duty on capital equipment

Executive Order No. 57 of 2018 extends the incentive of zero percent duty rate on importation of capital equipment for another year.

The 0% duty rate can be enjoyed on imports by new and expanding enterprises registered with the Board of Investment (BOI) on certain goods. These are capital equipment, spare parts and accessories classified under Chapters 40, 59, 68, 69, 70, 73, 76, 82, 83, 84, 85, 86, 87, 89, 90, and 96, provided the items satisfy the following conditions:

- a. Not manufactured domestically in sufficient quantity, produced in comparable quality, or sold at reasonable prices; and
- b. Reasonably needed and to be used exclusively by the enterprise in its registered activity.

Importations under this incentive cannot be sold, transferred, or disposed within five years, without the approval of BOI. Otherwise, payment equivalent to twice of the import duties and taxes or Php 500,000, whichever is higher, will be imposed.

The Executive Order was signed 22 June 2018 and took effect immediately.



Revised procedures on the issuance of alert orders

Customs revised the procedure for the issuance and lifting of alert orders. Customs Memorandum Order (CMO) 07-2018 restricts the authority to issue an alert order to the (1) Customs Commissioner or other duly authorized Customs officials, and (2) District Collectors with jurisdiction over the goods.

Alert orders will be electronically issued using Customs' electronic-to-mobile (e2m) system, after filing of import declaration and before the release of goods from Customs custody.

Manual issuance of alert orders will only be allowed in the following situations:

1. the e2m system is not accessible;
2. when assessment has already been made and online payment instruction has been triggered by the e2m system;
3. for unmanifested cargoes/shipment;
4. for import declaration filed under informal filing;
5. for export cargoes; and
6. when issued by the Commissioner of Customs.

Whenever issued, importers, exporters or their customs broker should be notified through electronic mail, mail or facsimile, or public posting of order within the port and area of the warehouse operator.

Alerted shipments must be examined within 48 hours of issuance of the alert order, in the presence of the importer, exporter or customs broker, while Customs disposition must be rendered within 5 days (2 days for perishable goods).

Singapore

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Mutual recognition of AEO programs of Australia and Thailand

Since our last update, Singapore Customs has signed two Mutual Recognition Arrangements (MRAs) of the respective Authorised Economic Operator (AEO) programs with Australia and Thailand, on 31 May 2018 and 29 June 2018 respectively. With this mutual recognition, the supply chain security measures and standards between Singapore Customs' Secure Trade Partnership program and both Australia's Trusted Trader program and Thailand's Authorised Economic Operator Program, are deemed to be compatible. All three programs are based on the WCO SAFE Framework of Standards.

Singapore companies certified under the Secure Trade Partnership program as being of lower risk are able to enjoy faster customs clearance with reduced documentary checks and cargo inspections when their goods are imported into Australia and Thailand. The same treatment extends to Australian Trusted Trader businesses and Thailand's Authorised Economic Operator Program companies importing their goods into Singapore.

The signing of the two MRAs brings the total number of MRAs between Singapore and other customs administrations to nine (i.e. Australia, Canada, China, Hong Kong, Japan, Korea, Taiwan ROC, Thailand, and the United States).

Applications for certain certificates to be completed via NTP

As part of the progressive shift of services onto the National Trade Platform (NTP, www.ntp.gov.sg), applications for Certificates of Non-Manipulation (CNM), Certificates of Free Sale (CFS), Import Certificate and Delivery Verifications (ICDV), and Landing Certificates (LC) must now be made via the NTP. As of 20 June 2018, applications submitted via email and fax are no longer accepted. Businesses requiring to apply or renew such certificates are therefore advised to set up their CorpPass Account to be able to make use of NTP as soon as possible.

We have summarised the relevant procedures below.

1. **Sign up for an NTP account.** Register for CorpPass and sign up for NTP account using CorpPass.
2. **Add Singapore Customs as a Business Partner.** Under 'Partners & Networks' > 'Business Partners' > 'Search Business Partners', search for and add Singapore Customs as a partner. This sends a partner request to Singapore Customs and a notification will be sent of a successful partnering once the request is approved by Singapore Customs.
3. **Download and complete the relevant application forms.** These forms can be found under 'Government Services' > 'Customs eServices'.
4. **Upload application(s) via Data Repository.** Under 'Data Tools & VAS' > 'Data Tools' > 'Data Repository' > 'Partners folder' > 'Singapore Customs', upload application form(s) and supporting documents (if any). Click on the Out folder and click 'Upload'.
 - Upload applications as a single file in the following formats: JPG, GIF, PDF and ZIP.
 - Label the file name according to the type of application. A recommended file name is "Application for <insert application name, e.g., Landing Certificate (LC)>".
5. **Submit application(s).** Select 'Other' under 'Document Type' before submitting.

6. **Retrieve approved certificate(s).** Once a certificate has been approved, a notification will be sent to the NTP Notification Inbox. The approved PDF certificate(s) can be retrieved in the Data Repository, under 'Partners' > 'Singapore Customs'.
 - Note that existing modes of collection, including email, mail, and walk-in collection, will no longer be available. This includes collection from Changi Airfreight Centre.

New powers for Singapore Customs in enforcement of Intellectual Property rights

Singapore Parliament passed the Intellectual Property (Border Enforcement) Bill on 9 July 2018. This Bill enhances border enforcement measures for Intellectual Property (IP) rights, and implements Singapore's obligations under the EU-Singapore FTA (EUSFTA). The Bill amends the Copyright Act, Trade Marks Act, Registered Designs Act, and Geographical Indications Act. Key changes are as follows:

1. Power to seize suspected infringing goods

Under the existing Copyright Act and Trade Marks Act, Singapore Customs can seize goods suspected of IP rights infringement on the request of IP right holders only when they are imported. The amendment extends the same power of seizure to goods that are exported from Singapore. The Bill also introduces the same powers under the Registered Designs Act. Border enforcement powers in relation to geographical indications were passed in April 2014, but have not yet taken effect.

	Copyright Act	Trade Marks Act	Registered Designs Act	Geographical Indications Act
Power to seize goods on import, on request of IP right holders	Existing	Existing	New	Bill passed in April 2014, but not yet implemented
Power to seize goods on export, on request of IP right holders	New	New	New	Bill passed in April 2014, but not yet implemented

2. Power to obtain and share information

Officers will also be able to share the personal information (names and contact details) of individuals connected with the import or export of seized goods, allowing IP right holders to take legal action. There are two conditions for this:

- The infringing goods must have been seized by Singapore Customs; and
- The IP right holders provides Singapore Customs with a security deposit and supporting documents to prove their ownership of the IP.

The Bill also enables officers to request for information or documents relevant for border enforcement purposes.

3. Implementation timeline

Implementation of the above will occur in three phases, aligned with Singapore's EUSFTA obligations and Customs' operational needs:

- Phase 1 (upon passing the Bill) – Power for Customs to obtain and provide information under the Copyright Act and Trade Marks Act.

- Phase 2 (when EUSFTA enters into force) – Additional powers of seizure under the Copyright Act and Trade Marks Act.
- Phase 3 (within 3 years of the entry into force) – Additional powers of seizure under the Registered Designs Act; power for Customs to obtain and provide information under the Registered Designs Act and Geographical Indications Act.

Further details can be found at the following link:

<https://www.mlaw.gov.sg/content/minlaw/en/news/press-releases/factsheet-on-intellectual-property--border-enforcement--bill.html>

Singapore Customs amends description of dutiable diesels

Singapore Customs revised the descriptions of “Automotive diesel fuel” and “Other diesel fuels” under HS codes 2710.19.71 and 2710.19.72 to clarify that dutiable diesel includes all diesel satisfying the standards for sulphur for diesel under the Environmental Protection and Management Act, irrespective of the end use. Diesel fuel not intended for automotive usage, will still be dutiable as if it were dutiable if it meets the same standards. The revisions took effect on 24 July 2018.

HS Code	Description	Excise Duty
2710.19.71	Automotive diesel fuel	\$1.00 per dal of diesel fuel conforming to the standard for sulphur for such diesel fuel specified in Part I of the Eighth Schedule to the Environmental Protection and Management (Vehicular Emissions) Regulations (Cap. 94A, Rg 6)
2710.19.72	Other diesel fuels	\$1.00 per dal of diesel fuel conforming to the standard for sulphur for automotive diesel fuel specified in Part I of the Eighth Schedule to the Environmental Protection and Management (Vehicular Emissions) Regulations (as if such diesel fuel were automotive diesel fuel)

Note that there are no changes to the permit application process.

New statutory board: Singapore Food Agency

A new statutory board is due to be established by April 2019, called the Singapore Food Agency (SFA). It will be set up under the Ministry of Environment and Water Resources (MEWR) to consolidate functions and boost efficiency in the food-related industry. These functions are currently managed by three different agencies: the Agri-Food and Veterinary Authority of Singapore (AVA), the National Environment Agency (NEA) and the Health Sciences Authority (HSA).

The SFA will oversee all food safety and food security policies as well as harmonise all licensing standards for food businesses across the entire supply chain (including farmers, food manufacturers, food retailers, and food service operators). By doing this, SFA is expected to be able to strengthen management of foodborne disease outbreaks through better coordination of responses.

Importers and exporters of food products should monitor this closely for any changes to licensing procedures. The SFA will act as a single regulatory body and serve as a single point of contact for all food-related products and businesses. For instance, it will decide whether or not importers need to re-register current licenses held by them and provide additional information such as security requirements for the entire supply chain of food products.

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Amendments to enforcement rules for over- or underpayment of duties

The Taiwanese Ministry of Finance is calling for public comments in relation to proposed draft amendments to Article 54 of the Enforcement Rules of the Customs Act. Article 54 contains the enforcement rules of Article 65 of the Customs Act, which lays out the procedures in relation to shortage/excess of duty collection or refunds. The effective date of the amendments is yet to be announced. The Ministry of Finance is currently gathering input from public and stakeholders before finalising the amendments. We have summarised the proposed amendments to Article 54 of the Enforcement Rules of the Customs Act below, as follows:

Shortage of Duty Collection	Excess of Duty Collection
<p>The term “shortage of duty collection” as set forth in Article 65 of the Customs Act refers to cases where after payment of customs duty, a disproportionate collection is discovered either by Customs or by the duty-payer, with the cause being attributable to obvious errors in the application of tariff classification or the tariff rates, errors in calculation of the amount of customs duty payable, clerical error in the duty memo, or errors in currency, unit of pricing, exchange rates, freights or premiums.</p> <p>The term “obvious errors in application of tariff classification” referred to in the preceding paragraph is determined in accordance with the following principles:</p> <ol style="list-style-type: none"> 1. Where the description for classification in the Heading, Sub-heading, and division in the Customs Import Tariff has been clearly prescribed but is wrongfully applied; 2. In violation of relevant notes of section, Chapter, and Sub-heading clearly prescribed in the Customs Import Tariff; 3. Where the same importer wrongfully declares again after identical or similar goods have been determined by Customs through HS Code pre-classification application or have been rendered final and irrevocable on administrative proceedings. 	<p>The term “excess of duty collection” as set forth in Article 65 of the Customs Act refers to cases where after payment of the customs duty, a disproportionate collection is discovered either by Customs or by the duty-payer, with the cause being attributable to errors in the application of tariff classification or the tariff rates, errors in calculation of the amount of Customs duty payable, clerical error in the duty memo, or errors in currency, unit of pricing, exchange rates, freights or premiums.</p>
Shortage of Duty Refund	Excess of Duty Refund
<p>The term “shortage of duty refund” as set forth in the same Article refers to cases where, after the issuance of duty-refund notice, a disproportionate refund is discovered either by Customs or by the applicant for the duty refund, with the cause thereof being attributable to errors in calculation of refundable duty or clerical error in the duty-refund notice.</p>	<p>The term “excess of duty refund” as set forth in the same Article refers to cases where, after the issuance of duty-refund notice, a disproportionate refund is discovered either by Customs or by the applicant for the duty refund, with the cause thereof being attributable to obvious errors in calculation of refundable duty or clerical error in the duty-refund notice.</p>

Clearance procedures for returned goods and exported goods

The Ministry of Finance has issued an order amending the following customs clearance procedures. The revisions became effective from 6 June 2018.

- **Amendment of customs clearance procedures for returned goods**

Article 3. Upon re-importation of exported goods from abroad, the Importer of Record is required to comply with the following additional process, in addition to regular clearance procedures:

1. At the time of re-import declaration, provide the original export declaration number and verify on an item-level the number of times that re-imported goods have previously been exported in the original export declaration.
2. Importers who are importing goods in replacement of originally defective products that have been exported are required to provide the export declaration number of the replacement goods in the re-import declarations under the “Other Declarations” column.

- **Export raw materials for processed goods re-importation procedure**

Article 3. Processed goods exportation declaration must be submitted with a list of actual raw material exported, name of the materials, ingredients, quantity and specification, and estimated quantity and net weight of re-import processed goods after deduction of materials used. Additionally, the bill of materials of the processed goods must be provided. Export declaration statistic code is “95” for re-importation of processed goods, and “8C” for re-importation and then re-exportation of processed goods.

Article 5. Upon re-importation of processed goods, the Importer of Record is required to provide a description of the goods, quantity and specification on the import declaration. The importer must also indicate the code “3F” with under the column for mode of duty payment, and attach the bill of materials.



Thailand

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Heightened scrutiny on Free Zone local content verification

Customs has recently put more scrutiny on companies using the Free Zone local content privilege for duty exemptions. Companies will now need to verify and justify their local content calculation at a more detailed level.

The Free Zone local content privilege is an import duty exemption for products made in Free Zones destined for the domestic Thai market, which requires a company to declare its local content, including proving use of local materials and a local manufacturing process. The value of the local content must exceed 40% of the ex-factory price in order for the company to obtain approval from the Free Zone officer.

Recently, at particular Free Zones, the approval process has included Customs officials at the director level working with the assigned committee to review companies' declarations. This increased scrutiny is a result of increased focus by the National Anti-Corruption Commission and the State Audit Office of the Kingdom of Thailand on the usage of Free Zones.

In particular, the Customs officers will take a detailed look at cost allocations and request for justification or supporting evidence for their declaration. This is in line with Customs Notification no. 144/2560. Queries or questions could include providing details on:

- The manufacturing process to prove that it goes beyond 'minimal operations'.
- Supporting evidence from relevant agencies to justify 'local raw materials', e.g. a certification by the Thailand Automotive Institute or the Electrical and Electronics Institute.
- Justification of profit margins to ensure that they are appropriate for the company's operations.
- Allocation of overhead costs, e.g. depreciation costs, labour costs and other utilities costs.

All the above is very similar to checks required for obtaining certificates of origin for exports. Companies currently enjoying the Free Zone local content privilege are recommended to carry out a self-review of each element of their cost structure declaration and to prepare strategies to mitigate any potential risks. Also, Free Zone companies are recommended to keep internal records relevant to the cost structure in case they are questioned by Customs.

Outcome of public hearing on amendments of Medical Device Act

On 26 June 2018, the Thai FDA held a public hearing about amendments to the Medical Device Act 2008 (B.E. 2551). Several sessions were held in 2017 but this was the first this year. Based on the latest draft amendments, it appears the key changes from the current Act will include:

1. Definition of medical device
 - Deletion of 'devices for professional services' from the definition.
 - Addition of a definition for accessories: 'any items or products specifically designed to be used with the medical device'. Accessories will be considered to be medical devices.

2. Categories of medical devices and statutory penalties for non-compliance
 - In the draft amendments, medical devices are divided into three categories:
 - (A) Medical devices that require licenses for import or manufacturing.
 - (B) Medical devices for which facts must be declared for import or manufacturing.
 - (C) Medical devices for which facts must be notified for import or manufacturing.
 - The statutory penalties for non-compliance during importation vary across categories:
 - (A) Imprisonment of up to three years, a fine of up to 300,000 THB, or both.
 - (B) Imprisonment of up to two years, a fine of up to 200,000 THB, or both.
 - (C) Imprisonment of up to one year, a fine of up to 100,000 THB, or both.
3. Others
 - There are also amendments to the sub-regulations in relation to required compliance procedures. For example, the validity period of the license and declaration forms will be extended from one to two years.
 - The FDA processing fees will be revised.

At this stage, the amendments have not been finalised and there is no confirmation from the Thai FDA on the implementation of the revised version.

Additional procedural CO issuance requirements for companies on DFT's watch list

The Department of Foreign Trade (DFT) has announced additional procedural requirements around the application for Certificates of Origin (CO) for exporters that are on the DFT watch list.

A watch list includes companies with a history of non-compliance with DFT requests. This includes cases where a company failed to provide additional documents or a satisfactory explanation when requested. The DFT will send a letter to notify companies on the watch list.

Specific requirements are applied to exporters on the watch list who plan to submit a request for a CO for goods under Chapter 25-97. These new requirements are to:

1. Add invoice numbers next to product names and descriptions in Thai in the cost statement system when submitting the request for cost statement approval; and
2. Attach the approved cost statement to each request for the issuance of a CO.

This means that exporters on the watch list need to request a cost structure approval on a shipment basis, rather than having an umbrella approval valid for two years, which is the normal case.

This practice became effective on 16 July 2018.

New Customs Notifications on duty exemptions

On 9 July 2018, several Customs Notifications regarding the duty exemptions under Part IV of the Customs Tariff Decree B.E. 2530 (1987) were issued. At the same time, previous Customs Notifications relating to duty exemptions under Part IV of Customs Act B.E. 2469 (1926) were revoked in order to replace their criteria and conditions with those consistent with the Customs Act B.E.2560 (2017).

There are 19 categories under Part IV of the Customs Tariff Decree 1987 but so far the Notifications have only covered the seven categories below.

- Category 3(c) – vehicles, boats and aircrafts accompanied by the owner.
- Category 4 – awards and medals given by foreign countries to any person in Thailand.
- Category 13 – munitions to be used in official services.
- Category 14 – samples of merchandise.
- Category 15 – containers for the convenience or safety of international transport.
- Category 17 – goods to be used in international conferences.
- Category 19 – receptacles for containing, fitting, tightening or absorbing of imported goods.

There are no significant changes in the Notifications, but they do slightly change required procedures. For example the changes for Category 19 are:

- Updates in identifying ‘remarks’ when an importer would like to clear the goods before getting customs approval.
- The importer now has to submit a request for a duty refund claim within three years of the date of importation.

We expect Thai Customs to announce Notifications for the remaining categories soon.

Prohibition of Trans Fatty Acids from production, importation or sale

The Ministry of Public Health (MOPH) Notification no.388 B.E. 2018 stated that ‘Partially hydrogenated oils’ and ‘foods containing partially hydrogenated oils’ will be prohibited from production, importation or sale in Thailand. This Notification will become effective on 9 January 2019.

The prohibition is based on evidence that Trans Fatty Acids from partially hydrogenated oils, contained in bakery and fast foods, can lead to increased risk of coronary artery disease.

In order to comply with the Notification, companies in the relevant industries need to be aware of this enforcement.



Vietnam

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Customs' internal guidelines for assessment of customs valuation at port level

The General Department of Customs issued Decision no. 1810/QĐ-TCHQ dated 15 June 2018 (Decision 1810) guiding the internal procedures of border-gate customs authorities when performing their review, consultation and determination of customs value while carrying out customs procedures.

Attached with Decision 1810 is a list that standardizes generic names of goods, which includes the following: automobile, motorbike, electronic bike, air conditioner, washing machine, refrigerator, engine products/diesel engine, gas stove, iron/steel products, construction glasses, cloth, wines/spirits, beer, cell phones, and electric generator.

The decision can be obtained at the following link:

<https://www.customs.gov.vn/Lists/VanBanPhapLuat/ViewDetails.aspx?ID=10711>

Details on goods prohibited from permanent or temporary import

On 15 June 2018, the Ministry of Industry and Trade issued Circular 12/2018/TT-BCT ("Circular 12") dated 15 June 2018 which provides details on a number of articles under the foreign trade management law and Decree 69/2018/ND-CP dated 15/05/2018. Attached with Circular 12 are:

1. A detailed list of used consumer goods, medical equipment, transportation which are prohibited from import with their corresponding HS codes.
2. A detailed list of goods with their corresponding HS codes that are temporarily suspended from temporary import for re-export and transit purposes.
3. Forms and reports as regulated in Decree 69/2018/ND-CP (i.e. CFS application form, license for transit goods etc.)

New guidance on customs procedures

The Ministry of Finance issued Circular 39/2018/TT-BTC ("Circular 39") dated 20 April 2018 amending and supplementing some of the articles in Circular 38/2015/TT-BTC. It relates to customs procedures, customs supervision and inspection; import and export duty; tax administration on imported goods and exported goods. Below are some notable points:

1. A clear definition of consumption norms and guidance on the preparation and submission of a finalization report for toll-manufacturing and export production.
2. In situations where there are suspicions around the declared value of goods, Customs will issue a notice requesting for a valuation consultation, instead of transferring the issue to post-clearance audit as was the case previously. Customs can only reject the declared value when there is "sufficient basis".
3. One bill of lading can only be used for one customs declaration.
4. Import licenses must be obtained prior to performing customs procedures.
5. Customs dossiers will need to be submitted electronically via customs e-system.

Circular 39 took effect on 5 June 2018.

Quality inspection and certification for potentially unsafe goods

On 17 July 2018, the Ministry of Information and Communication (MoIC) issued official letter No. 2305/BTTTT-CVT regarding the quality inspection of goods under the List of Potentially Unsafe Goods/Products.

Prior to 1 August 2018, during importation, enterprises needed to submit a certificate of conformity of goods or receipt on conformity of goods.

Since 1 August 2018, enterprises importing goods under the List of Potentially Unsafe Goods/Products under the management of MoIC have to submit a registration for quality inspection, with confirmation from the inspecting authority (i.e. Telecommunication Department), at time of importation.



Around the world

The US and China from skirmishes to war?

With an additional 25% tariff already being applied by both the United States and China on a broad range of imports from the other, multinational clients are facing a business challenge of an unprecedented proportion. We have summarized the latest impact from both sides of the Pacific and offer some immediate tactics and broader strategies to consider to navigate this challenge.

US Tariff Measures

With effect from 6 July 2018, certain products from China imported into the United States are now subject to an additional 25% ad valorem duty pursuant to the Section 301 proceeding conducted by the Office of the United States Trade Representative (“USTR”). Annex A of the Federal Register Notice published by the USTR on 20 June lists all 818 of the covered tariff subheadings representing approximately US\$34 billion in trade, which predominantly comprise the following broad product categories:

- Residential appliances
- Televisions and stereos
- Agricultural machinery
- Plastic products
- Iron/steel/aluminum
- Chemicals
- Aerospace apparatus
- Electrical machines
- Machine tools
- Medical supply goods
- Semiconductors
- Power and hand tools
- Home furnishings
- Printed circuit boards
- Biomedical products
- Printers/scanners
- Motors/engine parts
- Brewing machinery
- Bearings
- Motorcycles/automotive

In order to facilitate the assessment of the additional duties, a new Chapter 99 subheading, 9903.88.01, has been established as a required secondary tariff classification for entry purposes.

In addition, the USTR is considering tariff measures on a further list of 284 tariff subheadings representing an additional US\$16 billion in imports from China, which an Inter-agency Section 301 Committee identified as benefitting from China’s industrial policies, including the “Made in China 2025” initiative. These 284 tariff subheadings have been provided in Annex C to the same Federal Register Notice.

Retaliation from China

Also on 6 July, China began the imposition of an additional 25% ad valorem tariff on products of US origin representing approximately US\$34 billion in trade. These products, predominantly soybean, agricultural products, automobiles, and water originating from the United States, are listed in an annexure to an announcement from the Chinese Ministry of Commerce announcing these measures. Although in Chinese, traders may reference the first 6 digits of the listed harmonized system codes in order to get a preliminary view as to whether these Chinese retaliatory measures may impact them.

What can traders do?

Those importers in the United States that are impacted by the Section 301 duties should consider a comprehensive approach to defending their economic interests. Taking every opportunity to pursue your rights may help in preserving your entitlement to any relief ultimately rewarded by the administration or, ultimately, the court.

Exclusion requests

The USTR has released a draft Federal Register notice, scheduled to be published this week, which outlines the procedures and requirements for making requests for exclusion of certain products from the Section 301 tariffs.

Any exclusion ultimately obtained will be effective starting from the July 6, 2018 effective date of the additional duties, and extending for one year after the publication of the exclusion determination in the Federal Register. In other words, an exclusion, if granted, will apply retroactively to the July 6 date of the imposition of the additional duties. USTR will periodically announce decisions on pending requests.

Interested parties will have 90 days to file a request for a product exclusion. All requests must be filed on or before October 9 2018.

Exclusion requests should address the following factors:

- Whether the particular product is available only from China. In addressing this factor, requesters should address specifically whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries;
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requester or other U.S. interests; and
- Whether the particular product is strategically important or related to “Made in China 2025” or other Chinese industrial programs.

All exclusion requests will be published on Regulations.gov, providing members of the public with 14 days in which to comment on a certain product exclusion request. After the close of the 14 day response period, interested persons will have an additional 7 days to reply to any responses received in support of or opposition to the request.

Special duty programs under US Customs administration

On July 3, 2018, CBP issued CSMS #18-000419, UPDATE: Sec. 301 Trade Remedies to be Assessed on Certain Products from China 7/6/18 which provides filing requirements for Chapter 98 entries and drawback. In this notice, US Customs clarified that the rates of duty imposed by subheading 9903.88.01 shall not apply to products for which entry is properly claimed under a heading or subheading in Chapter 98.

When submitting an entry in which a heading or subheading in Chapter 98 is claimed on merchandise covered by the Section 301 remedy, a filer must first report subheading 9903.88.01, followed by the applicable Chapter 98 subheading, and the Chapter 1-97 HTSUS classification for the commodity being imported.

In addition, US Customs also clarified that Section 301 duties are indeed eligible for duty drawback.

Supply chain planning opportunities

Those importers that are directly impacted by the Section 301 tariffs may not want to rely on what is likely to be a highly political exclusion request process. As such, affirmative steps can be taken immediately to reduce any impact on the bottom line, as we discussed in more detail in our lead article in the March edition of Trade Intelligence. As a reminder, these include:

- US first sale for export valuation;
- Supply chain restructuring;
- Changes to inter-company transaction prices
- Unbundling of royalties and other non-trade payments;
- Origin defense

What's next?

On 20th July 2018, the US threatened to additionally impose tariffs on more than USD 400 billion worth of imports from China, approximately double the value of products which additional tariffs have been already been applied. The US has also accused China of currency manipulation leading to an erosion of US competitiveness, to which China has responded that the recent depreciation of the yuan was merely a response to a strengthening US dollar and not a retaliatory measure. China has also warned that further threats could worsen tensions and rapidly escalate into a full-fledged trade war.



World Customs Organisation

Updates from 17th WCO IT Conference

The 17th WCO IT Conference was held in Lima, Peru, from 6-8 June 2018. Over 600 delegates from more than 75 countries were in attendance. The theme for this year's conference was "Building a Reliable Digital Landscape to Boost Cross-Border Trade". Ways in which information technology could be used to enhance Customs administrations' ability to identify high-risk goods and facilitate legitimate trade were explored.

The following topics were discussed as part of the conference:

- Ways in which artificial intelligence, supported by big data, data mining, and data analytics, could be employed to secure and facilitate cross-border e-commerce movement of goods.
- Advantages and risks associated with using cloud computing.
- Use of Internet of Things (IoT) technologies in supply chain management. Specifically, how customs administrations can use the data generated by retailers' and producers' use of IoT technologies in their supply chains.
- Issue of cybersecurity, in particular information security and data protection.
- Ongoing pilot projects on the use of block chain technology, and other current and future projects in the pipeline.

Presentations can be accessed at the WCO ITC event's website:
<https://www.eiseverywhere.com/ehome/itc2018/614252/>

Priority areas from the 132nd WCO Council Session

The 132nd WCO Council Session came to a close on 30 June 2018 in Brussels, Belgium. During the two-day annual meeting which brings together the highest decision-making body in the WCO (the WCO Council), discussions were held around six priority areas:

- Trade facilitation. The focus of the discussions was on the WCO Mercator Programme which helps WCO Members implement the WTO Trade Facilitation Agreement.
- E-commerce and the challenges it poses to Customs. In order to address the quickly evolving models in e-commerce, the Council examined and adopted the Framework of Standards on Cross-Border E-Commerce. This framework provides WCO members with a basis to develop and/or improve upon their own national e-commerce strategic and operational frameworks.
- Security.
- Illicit financial flows, including on trade mis-invoicing.
- Customs-Tax cooperation.
- Performance measurement, including ways to measure trade and Customs processes.

In addition to the above, the Council also agreed to set up a Working Group on a Comprehensive Review of the International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention), in a bid to ensure it remains relevant as a blueprint for modern and efficient Customs procedures. Other topics included the importance of research and the sharing of intelligence, close collaboration between the public and private sectors, and increased and better use of data analysis and related tools for risk management.

Global framework of standards on cross border e-commerce

On 10 July 2018, the WCO officially published the Framework of Standards on Cross Border E-Commerce, which was previously adopted in June during the 132nd Council meeting. The Framework of Standards sets out a global baseline for cross-border e-commerce, and contains 15 standards and is intended for reference by Customs administrations looking towards the development or enhancement of their local legislative and operational frameworks for such transactions. Specifically, the framework stipulates key principles and standards surrounding advance electronic data and risk management, facilitation and simplification of customs clearance and revenue collection procedures, and leveraging technology and data analytics to support such transactions.

The WCO has also indicated that going forward, this framework of standards will be further supported by technical specifications and guidelines in order to ensure effective and harmonized implementation. Capacity building activities such as workshops have also been scheduled in 2018 and 2019 to assist in the implementation of such standards. The first session for countries in the Asia Pacific region was conducted on 16 and 17 July 2018 in India and was attended by 26 customs administrations from the region.

The complete framework of standards can be accessed via the following link: http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/ecommerce/wco-framework-of-standards-on-crossborder-ecommerce_en.pdf?la=en

New mobile learning course for HS 2017

For those interested in learning about the 2017 Edition of the Harmonised System (HS2017), a new online course on the major changes has been released by the WCO on 21 June 2018. The HS2017 course contains educational videos and a knowledge test, as well as a search engine which allows users to search if a specific HS code has been amended in the 2017 version. The app is available on the Apple App Store and on Google Play, and is a free learning resource. More information can be accessed here: <https://clikc.wcoomd.org/course/view.php?id=664>.

WCO supports Vietnam with implementation of HS 2017 and AHTN 2017

To facilitate the correct use and application of HS 2017 and AHTN 2017 in Vietnam, the WCO conducted a national workshop with the General Department of Vietnam Customs in Hanoi from 2 to 6 July 2018. Facilitated by the Korea Customs Service (KCS), topics covered during the workshop included principles on general rules and HS classification techniques, as well as the implementation of new HS 2017 amendments. Specific classification issues, including the classification of specific commodities such as food supplements, pharmaceutical products, multicomponent goods and cosmetic products were also discussed. Additionally, the KCS shared best practices on how HS classification issues can be better managed via the implementation of infrastructure for an advance ruling system.

Rules of Origin Facilitator tool

The Rules of Origin Facilitator is a joint effort between the International Trade Centre (ITC) and the WCO, and is aimed at helping micro, small and medium-sized enterprises (MSMEs) benefit from international trade opportunities. In particular, it is aimed at making complicated trade rules more transparent and easily accessible to MSMEs.

The tool provides coverage of 85 countries, across all goods. It consolidates information available on ITC's database of rules of origin and origin provisions in trade agreements, thereby enhancing access to valuable information through a simple search function. This initiative was unveiled on 28 June 2018, and can be accessed here: <http://findrulesoforigin.org/>.

Workshop to support ASEAN member states in strengthening IPR enforcement

From 9 to 14 July 2018, the WCO conducted a workshop for ASEAN member states, which was attended by customs officials from nine countries. Apart from the sharing of techniques, knowledge and best practices to combat counterfeiting and piracy, the workshop was targeted at improving the competency of ASEAN customs administrations on Intellectual Property Rights (IPR) border measures and enhance understanding of the IPR legal framework including Trade Related Aspects of Intellectual Property Rights (TRIPS). Participants also identified specific future actions to be taken to improve IPR border enforcement in their respective countries.



World Trade Organisation

WTO 2018 Annual Report available for download

The WTO 2018 Annual Report was released on 31 May 2018. It took stock of WTO's areas of activity over 2017 and early 2018, highlighting the major events and activities held, as well as initiatives undertaken.

The report can be downloaded here:

https://www.wto.org/english/res_e/publications_e/anrep18_e.htm.

Updates from the WTO Technical Barriers to Trade (TBT) Committee meeting

From 19-21 June 2018, the TBT Committee met to discuss ideas on how implementation of the WTO TBT Agreement can be improved. This is part of the triennial review process, which is conducted every three years and looks at evaluating how members are applying the TBT Agreement. For this round of review, the process began in November 2017 and is slated to be concluded in mid-November 2018. We have summarised some of the proposals submitted:

- **Transparency.** The US proposed for members to furnish up-to-date website information identifying locations of adopted final texts on technical regulations and conformity assessment procedures, to be maintained by the WTO Secretariat. Australia proposed better use of the ePing notification system, by using keywords in notifications and adding new fields in the notifications document to indicate final measures and date of entry-into-force.
- **Labelling.** The EU proposed for discussions to extend to how to facilitate compliance with mandatory marking and labelling requirements on imported products, and the development of recommendations and guidance in this respect.
- **Improving technical assistance.** The Philippines, Mauritius and Uganda submitted a joint proposal calling for a dedicated TBT development facility [similar to the current Standards and Trade Development Facility (STDF) for Sanitary and Phytosanitary measures], or extension of the STDF to include TBT matters.

A total of 61 specific trade concerns were also discussed, 8 of which were new. They include the following:

Action by	Affected products	Notifying country	Update
India	Telecommunications and related equipment	United States	India introduced amendments that required local conformity assessments for a range of telecommunications and other equipment. The US was concerned that it would lead to duplication and overlap of testing and certification in India, whereas other countries simply accept a supplier's declaration of conformity or tests from relevant laboratories and schemes. India noted that the end goal was to ensure user safety and network security, and that it recognises testing results of partner countries.

Action by	Affected products	Notifying country	Update
Indonesia	Alcoholic beverages	Mexico	A draft regulation imposed certain safety and quality standards, as well as new labelling and advertising requirements. Mexico expressed concerns about the advertising restrictions and the maximum established level of methanol in the beverages, which is lower than that used in tequila. Indonesia clarified that the introduction of the standards were in defense of their public morals and that advertising restrictions apply uniformly regardless of product origin.
Indonesia	Biscuits	Switzerland	Indonesia was considering implementing national standards and certification requirements in relation to the importation of biscuits. Switzerland expressed concerns that such requirements will drive Swiss companies out of the Indonesian market, and requested for updates. Indonesia responded that the implementation has been postponed. No information was provided as to when it will be implemented.



Disputes initiated in the WTO

Over the period of June-July 2018, the following disputes were initiated via the WTO Dispute Settlement Mechanism.

Dispute initiated by	Dispute initiated against	Affected products	Background	Documentation
EU	United States	Certain steel products defined at the US Harmonized Tariff Schedule (HTS) 6-digit level as 7206.10-7216.50, 7216.99-7301.10, 7302.10, 7302.40-7302.90, and 7304.10-7306.90.	On 8 March 2018, US implemented 25% and 10% additional import duties on certain steel products and aluminum products respectively, from all countries except Canada, Mexico, Australia, Argentina, South Korea, Brazil and the EU. This took effect from 23 March 2018.	WT/DS548/1
Canada				WT/DS550/1
Norway				WT/DS552/1
Russia				WT/DS554/1
Mexico				WT/DS555/1
Switzerland				WT/DS556/1
		Certain aluminum products defined at the US HTS 6-digit level as unwrought aluminum (HTS 7601); aluminum bars, rods and profiles (HTS 7604); aluminum wire (HTS 7605); aluminum plate, sheet, strip, and foil (flat rolled products) (HTS 7606 and 7607); aluminum tubes and pipes and tube and pipe fitting (HTS 7608 and 7609); and aluminum castings and forgings (HTS 7616.99.51.60 and 7616.99.51.70).	From 1 June 2018, the EU, Canada, and Mexico were no longer exempt. The measures were not administered uniformly, with some countries still remaining exempted for some products, while others have had quotas introduced in relation to these products.	
Japan	South Korea	Stainless steel bars	South Korea concluded in their third sunset review to continue the imposition of anti-dumping duties on stainless steel bars from Japan.	WT/DS553/1

Trade policy review of China

The WTO's seventh trade policy review for China was concluded on 13 July 2018. Subsequently, the WTO secretariat and the China government have each released a report and statement respectively summarizing China's current trade policies and potential strategies going forward. The full report can be accessed at the following link:

https://www.wto.org/english/tratop_e/tpr_e/tp475_e.htm

Launch of OECD book on trade facilitation

On 26 June 2018 in Geneva, the Organization for Economic Co-operation and Development (OECD) published its book “Trade Facilitation and the Global Economy”. By focusing on what is happening on the ground, the report looks at how the WTO’s Trade Facilitation Agreement (TFA) helps to cut trade costs and why it matters. For instance, with nearly two-thirds of traded goods containing components made in at least two different countries, trade facilitation will help MSMEs partake in global supply chains, and help reduce the cost of inefficient border procedures on the cost of goods.

Through cooperation with its members, partner organisations, and the private sector, the OECD also introduced new Trade Facilitation indicators in this report. These indicators are intended to aid the monitoring and benchmarking of countries’ engagement with regards to trade facilitation, with the provision of verified information on what practical steps have been taken. This is expected to allow for cross-fertilisation of ideas, as countries will be able to assess their progress against others and identify room for improvement.

The report also noted that while WTO members are making progress in implementing the measures, progress remains uneven across countries and across various provisions of the TFA. Areas such as automation, streamlining of procedures, and engagement with the trade community have seen notable improvements, while less headway has been achieved in the area of cooperation of domestic and cross-border agencies.

Increase in trade restrictive measures implemented by G20 economies

The WTO 19th monitoring report on the Group of 20 (G20) trade measures was released on 4 July 2018. The period under review was mid-October 2017 to mid May 2018. Thirty-nine new trade-restrictive measures were introduced by G20 countries, including tariff increases, stricter customs procedures, and the imposition of taxes and export duties. This marks a doubling of measures when compared against the last review period. Over the same period, forty-seven new trade-facilitating measures were introduced, which eliminated or reduced tariffs, simplified customs procedures, and reduced import taxes. This is slightly higher than during the previous review period.

The report can be accessed here:

https://www.wto.org/english/news_e/news18_e/g20_wto_report_july18_e.pdf

WTO concludes workshop on SPS controls

Held in Geneva on the 9th and 10th July 2018, the WTO Sanitary and Phyto-sanitary (SPS) workshop was attended by more than 150 government officials and covered SPS controls, inspection and approval procedures, as well as the challenges and practices in implementing Article 8 and Annex C of the SPS agreement. The 2 day workshop also involved a sharing of best practices by several WTO member countries and standard setting bodies and a round table discussions around ongoing trade facilitation capacity building programs by the WTO and WCO.

The presentation materials from the SPS workshop can be accessed at the following link: https://www.wto.org/english/tratop_e/sps_e/workshop910718_e.htm

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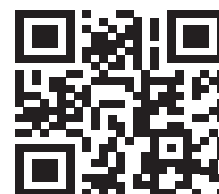
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The materials contained in this article were assembled in June / July 2018 and were based on the law enforceable and information available at that time.

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