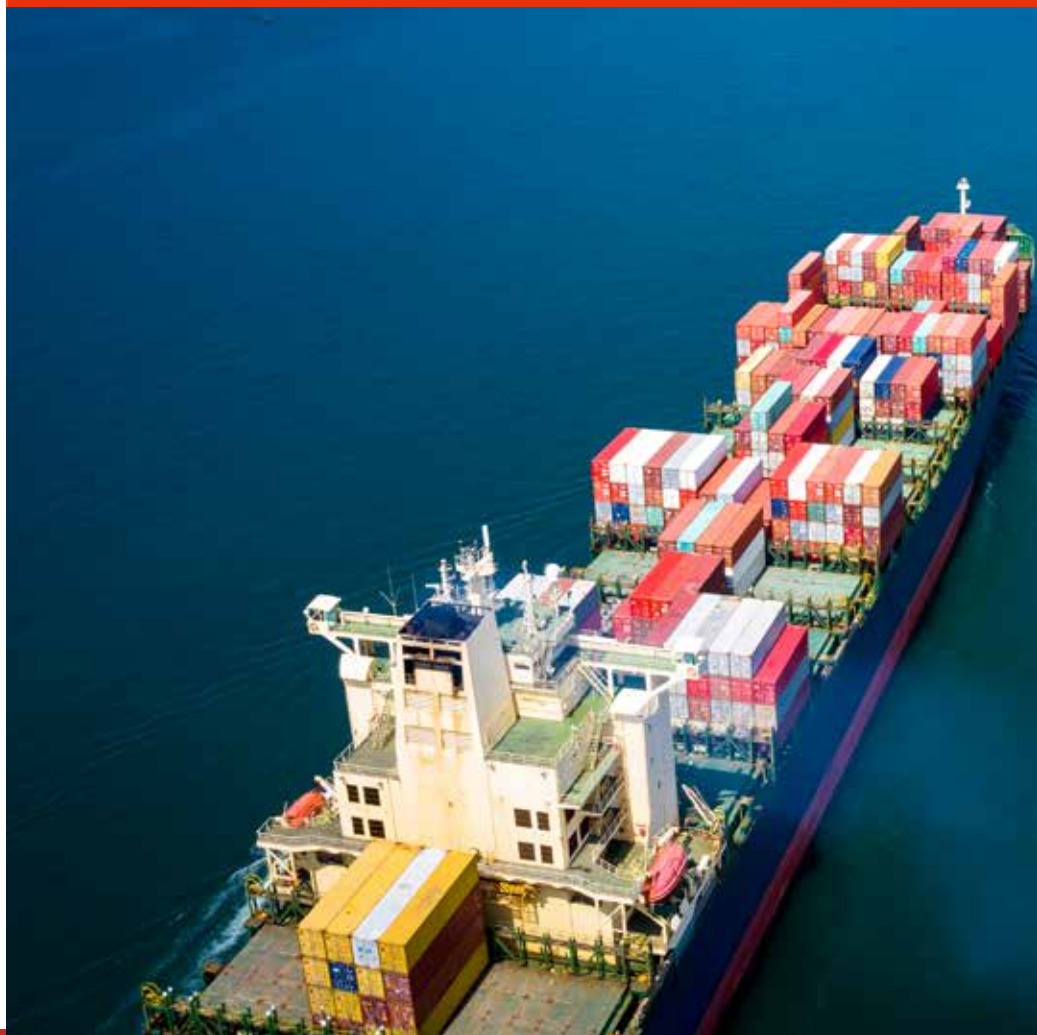


Truly Malaysia

More changes to the Customs, Excise and Free Zone Acts

Trade Intelligence Asia Pacific
June / July 2019

Worldtrade
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*Origin waiver for
Australian Trusted
Traders*

Page 20

*New Zealand to impose
GST on low-value
imported goods*

Page 36

*Shortened time period
for declarations in the
Philippines*

Page 38

*Thailand extends self-
disclosure program
for customs non-
compliance*

Page 47

*Import duty exemptions
now available for 'in-
country exported goods' in
Vietnam*

Page 50

*Duty refunds available
for CPTPP users in
Vietnam*

Page 16

*WCO Council adopts 2022
version of the Harmonised
System*

Page 51

Index

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.

Feature article

Truly Malaysia More changes to the Customs, Excise and Free Zone Acts	4
--	---

ASEAN

ASEAN symposium on boosting regional trade efficiencies	12
Release of 5th ASEAN Economic Integration Brief	12
Report on Non-Tariff Barriers to trade in ASEAN	13

Export control

US-China trade war to expand beyond punitive tariffs	14
Japan and South Korea trade dispute over export controls escalates	14

Free Trade Agreements focus

ASEAN-Hong Kong FTA enters into effect	16
Vietnam releases procedures for CPTPP	16
Japan simplifies declaration procedures for imports under Japan-EU FTA	17
RCEP updates	17
Australia steps up efforts in separate negotiations with UK and EU	18
China and Peru to upgrade existing FTA	18
China and Israel conclude sixth round of FTA negotiations	18
Malaysia and South Korea initiate FTA negotiations	19
Philippines and South Korea officially begin negotiations for potential FTA	19
Singapore and the Pacific Alliance continue negotiations	19
Vietnam signs FTA with the EU	19

Around the world

Australia	20
China	22
Hong Kong, China	24
India	25
Indonesia	28
Japan	31
Malaysia	32
Myanmar	35
New Zealand	36
Philippines	38
Singapore	45
Taiwan, R.O.C.	46
Thailand	47
Vietnam	50

Around the world

Expected changes under Incoterms 2020	51
---------------------------------------	----

World Customs Organisation

WCO Council annual meeting adopts HS 2022	51
Electronic data exchange between postal agencies and customs administrations	52
Review of the Revised Kyoto Convention	52
Gambia joins the Harmonised System Convention	52

World Trade Organisation

Progress of Trade Facilitation Agreement implementation	53
Trade-restrictive measures imposed by G20 and WTO members continue unabated	53
Discussions at the Technical Barriers to Trade meeting	54
Update on disputes and investigations initiated or notified to the WTO	57
Provisional program for 2019 Public Forum issued	59

Truly Malaysia

More changes to the Customs, Excise and Free Zone Acts

Overview

The Malaysian Government introduced yet another round of amendments to the Customs Act 1967 (**Customs Act**) through the Customs (Amendment) Act 2019 (**Customs Amendment Act**).

The Customs Amendment Act was passed by the Lower House of Parliament on 8 April 2019 and the Upper House on 7 May 2019, and gazetted as an Act of Parliament on 9 July 2019. This follows earlier amendments under the Customs (Amendment) Act 2018 and Customs (Amendment) (No.2) Act 2018 which entered into force on 1 September 2018 and 2 January 2019 respectively.

In addition, the Malaysian Government also passed and introduced amendments to the Excise Act 1976 (**Excise Act**) through the Excise (Amendment) Act 2019 (**Excise Amendment Act**) and amendments to the Free Zone Act 1990 (**Free Zone Act**) through the Free Zone (Amendment) Act 2019 (**Free Zone Amendment Act**). These Amendment Acts were gazetted as Acts of Parliament on 9 July 2019.

The entry into force of these Amendment Acts will be announced by way of gazette, but no official confirmation has been provided on expected timelines. Taken together, there are more than 160 pages of amendments which makes this the most significant and extensive round of changes to the Customs, Excise and Free Zone Acts to date.

The amendments appear to strengthen the mission of the Royal Malaysian Customs Department (Malaysia Customs) to collect revenue through enforcement and compliance with the customs laws, regulations and guidelines.

This article outlines the key changes, what these changes mean for companies doing business in Malaysia and how companies can prepare for them. We will further highlight some other key regulatory changes on the horizon in Malaysia.

What are the key amendments introduced under the Customs Amendment Act?

1. Increased timeframe to demand for back duties

The statute of limitations in Malaysia is currently three years, except in cases of fraud or default. In practice, during a standard post clearance audit, customs officers typically look back to the maximum permissible period of three years.

The Customs Amendment Act extends this timeframe to six years, meaning Malaysia Customs will be able to demand for payment of customs duty shortfalls within six years of the date on which customs duties become payable. This change accords with the six-year audit period recently announced by Malaysia Customs under the Compliance Audit Framework.

Customs' scope of demanding for back customs duties will also be expanded to include surcharges, penalties, fees or other monies that have not been paid or was erroneously refunded to companies.

In some areas, the Customs Amendment Act has failed to remedy the lack of clarity in the Customs Act. For one, there remains no clear definition of what constitutes "fraud" or "default". Situations where Malaysia Customs may lift the six years limitation period remains unclear. This is likewise the case in respect of which party (Malaysia Customs or a company) should bear the burden of proof to prove "fraud" and "default". Further guidelines or clarifications from Malaysia Customs with regards to the scope or definition of "fraud" and "default" will be welcomed by the business community.

2. *More stringent penalty regime*

Under the Customs Amendment Act, there will be a significant increase in scope and quantum of statutory penalties and fines. This aligns with Malaysia Customs' mission to strengthen enforcement, and has been achieved in two main ways.

The first being by introducing new categories of offences. This includes offences relating to incorrect declaration of origin, destruction or manipulation of data stored in computers to evade customs duty liability, unlawful claims for duty drawback or refunds, and deceptive packing of dutiable goods.

In addition, an increase has been made with regards to the severity of punishment for the smuggling of cigarettes containing tobacco and intoxicating liquor. For such an offence, the imprisonment period following a second or subsequent offence has been increased from five to seven years. The amendments were made to deter smuggling activities, and to prevent further loss of revenue to the Malaysia Government.



3. *Changes to the compounding of offences*

Currently, any senior officer of Customs may elect to compound any offence subject to certain criteria. The offence must be a compoundable offence, and the sum of money must not exceed MYR 5,000. In Malaysia, it is common for customs officers to compound offences such as incorrect declarations of classification and valuation of goods. Penalties and fines are typically only imposed when companies are convicted of any offences stipulated under the Customs Act.

Under the Customs Amendment Act, for a compoundable offence, any senior officer of Customs will be given the power to impose an amount not exceeding 50% of the maximum fine allowable. Similar to the current practices of Malaysia Customs, further guidelines or regulations on the compounding of offences are expected to be released.

4. *Enhanced enforcement powers for customs officers*

Under the Customs Amendment Act, the Public Prosecutor may authorize any customs officer to intercept any postal article transmitted by post as well as any message or conversation transmitted or received by any telecommunication service provider.

In addition, the Customs Amendment Act also allows customs officers to use any tracing and tracking device, non-intrusive instrument, or any form of aids in carrying out their duties. This discretionary power is expected to assist customs officers as they attempt to identify smuggling activities and suspicious movements of goods, but its effectiveness remains to be seen.

5. *Clearer but stricter record keeping requirements*

The current record keeping period for records relating to customs matters is six years. The Customs Amendment Act increases the record keeping period from six to seven years, starting from the latest date to which such records relate. The amendment also provides greater clarity on the records to be kept. They include:

- a. All records of importation and exportation of goods including goods in transit and transshipment;
- b. All payments and bank records including letter of credit, fund transfer applications and debit advice;
- c. All accounting, management and financial records;
- d. Sales and purchase records including invoices, receipts, debit notes and credit notes;
- e. Other business records including sales, distribution and royalty contracts or agreements;
- f. Accounting charts, access codes, program documentation and system instruction manuals;
- g. Inventory records; and
- h. Any other records as may be determined by the Director General of Customs.

A breach can attract a fine not exceeding MYR 100,000, imprisonment for a term not exceeding five years, or both.

Under the new rules, companies are also required to provide a translation for any document that is written wholly or partly in a language other than English or Malay.

6. Introduction of origin rulings

Under the Customs Amendment Act, an application for an origin ruling can be made to Malaysia Customs. Currently, a customs ruling application can only be made with respect to the classification and valuation of goods, and not the origin of the goods.

This is a positive change as importers and exporters can now apply for an origin ruling to support the origin status of their goods. Nevertheless, an application for an origin ruling may require a longer processing time than expected when the amendments become effective, given that they are unprecedented in Malaysia.

7. New rules governing goods origin

The Customs Amendment Act also introduces a completely new section on origin of goods and preferential and non-preferential tariff treatment. The section regulates various matters relating to the origin of goods, including:

- the issuing authority for a preferential or non-preferential certificate of origin;
- registration for producing a declaration of origin;
- responsibility of importer, producer or exporter when it comes to ensuring the true and correct declaration of the origin of goods;
- verification of documents and information relating to the origin of the imported goods or goods to be exported; and
- revocation or suspension of certificate of origin.

Currently, the Malaysian Ministry of International Trade and Industry (MITI) manages the administration and issuance of preferential certificate of origin. Under the Customs Amendment Act, the Minister responsible for international trade and industry has the power to appoint any Government agency as an issuing authority for the issuance of a preferential or non-preferential certificate of origin. There is therefore a high possibility that Malaysia Customs will take over MITI's role, and begin to administer and issue preferential and non-preferential certificates of origin in the future.

The introduction of rules around goods origin suggests that the Malaysia Government is placing a greater emphasis on ensuring the origin compliance of goods. This may be its response to the rising trend of origin verifications and challenges seen both regionally and globally. Companies are therefore encouraged to put more controls in place to manage origin compliance, including ensuring that the origin of all imported and exported goods is properly and sufficiently supported with documentary evidence.

8. Introduction of powers to offset drawback or refunds with outstanding payments owed

The Customs Amendment Act further introduces a new section that empowers the Director General of Customs to offset any drawback or refund of customs duties that is due to a company with outstanding payments owing to Customs. This means companies may not be able to claim their duty drawback or refunds in full if they have outstanding payments for customs or excise duty, sales tax, service tax, or goods and service tax.

9. Stricter rules around duty drawback

Section 93 provides for a duty drawback facility for duty paid on imported goods which are subsequently re-exported. Under the amendment, the original timeline for such goods to be re-exported for duty drawback purposes will be reduced from 12 months to only three months, beginning on the date customs duties were paid.

In addition, eligibility to claim duty drawback has been tightened. The minimum threshold to claim a duty drawback will be increased from MYR 50 to MYR 200.

This change may create significant cash flow issues for export-oriented companies that are unable to re-export their goods within the three-month timeframe permitted. In light of the above, companies that rely heavily on duty drawback facilities are advised to review their existing business model and to explore the possibility of utilising other available customs duty exemption facilities.

10. Tightened rules around licensed warehouses

The current Customs Act does not stipulate a maximum time limit for storage of goods in a licensed warehouse. Under the Customs Amendment Act, goods can only be stored in a licensed warehouse for a maximum period of two years from the date the goods are deposited, subject to an extension by the Director General of Customs.

Companies that need to store goods in a licensed warehouse for longer than two years are recommended to review their existing inventory turnover, and to evaluate whether to apply for the above approval or if it is able to store the goods in another location (e.g., Free Zone).

In addition, companies holding a Licensed Manufacturing Warehouse (LMW) license are advised to ensure that all movement of goods or inventories are properly tracked and accounted for. This is because the Customs Amendment Act allows Malaysia Customs to treat any deficiencies in the amount or quantity of dutiable goods as illegally removed. It permits Malaysia Customs to recover the corresponding duties from companies, unless strong evidence suggesting the contrary is furnished. That said, if Malaysia Customs accepts that the deficiency has been caused by an unavoidable leakage, breakage or other accident, and evidence is furnished to them, they may consider waiving a portion of or the entire sum of duties otherwise payable. The burden to proof lies with the companies.



11. Revised definitions for transit and transshipment

Prior to the Customs Amendment Act, goods meant for transshipment were regulated by rather loose requirements and the provisions were subject to abuse. Instead of being exported, goods purportedly in transit or being transshipped through Free Zones ended up being smuggled and leaked into the domestic market.

As a result, revised definitions for “transit” and “transshipment” have been introduced as part of the Customs Amendment Act.

- Transshipment refers to (a) the transfer of goods from one vessel or aircraft to another vessel or aircraft, or (b) the unloading of goods from a vessel or aircraft and depositing such goods in a customs or licensed warehouse for shipment out of Malaysia.
- Transit, on the other hand, refers to (a) the movement of goods between two or more customs offices in Malaysia, or (b) the movement of goods from a customs office in any country to a customs office in Malaysia for the sole purpose of being carried out to another country.

Clearer legal requirements for goods in transit or transshipment have been spelt out in the Customs Amendment Act. For example, Malaysia Customs will be able to monitor the licensed carriers and/or warehouse owners, as they will be required to submit records relating to inventory movements. Additionally, in the event that goods under the transit or transshipment procedures are interrupted, the owner or licensed carrier of the goods will be liable to pay the customs duties owed.

How will companies be affected and what should they do?

The Customs Amendment Act and recent publication of the Customs Compliance Audit Framework suggest that Malaysia Customs will increase its post-clearance activities to try to recover customs duties. The increase in the statute of limitations and post-clearance audit period to six years means a corresponding increase in the likelihood that Customs will recover customs duty shortfalls, compounds, fines or penalty collections for errors or non-compliance.

Companies that have not been audited recently (for instance, in the past three years) have a higher chance of being selected for a customs audit or investigation. For these companies, it is prudent to start preparing for this now by conducting an internal customs compliance review or a ‘customs mock audit’ of their import and export operations to identify potential issues and exposure. Based on the findings, corrective actions and measures should be taken to mitigate customs compliance risks uncovered. This not only helps enhance existing customs compliance levels, but also opens up the opportunity for companies to consider voluntarily disclosing any non-compliance in advance of a real audit or investigation.

Voluntary disclosure can help to mitigate hefty potential compounds, fines or penalties. While there is currently no official voluntary disclosure regime in Malaysia, Malaysia Customs generally welcomes disclosures made by companies voluntarily in the form of an explanation letter supported by evidence and supporting information, followed by a face-to-face meeting. Proper risk and implications assessment, as well as strategy formulation should be carried out prior to approaching Customs for the making of any disclosure.

Separately, give the emphasis placed on origin and the requirements for preferential and non-preferential certificates of origin under the amendments, it is increasingly important for companies to ensure origin compliance for goods imported into and exported from Malaysia.

Companies relying on licensed warehouses and duty drawback facilities are encouraged to revisit their existing business models and supply chains to assess the impact of the changes and if there is a need to explore other customs import duty exemption facilities in Malaysia.

Key changes to the Excise Act

Amendments to the Excise Act under the Excise Amendment Act are mainly in line with changes that will be brought about by the Customs Amendment Act. They include a change to the statute of limitation, record-keeping period, timeline for the imported excisable goods to be re-exported for duty drawback purposes, and new powers for Customs to offset unpaid duties or taxes against any drawbacks or refunds.

Excise licensed manufacturers, importers and other persons dealing with excisable goods should therefore take note of the extensive changes highlighted above as they are intended to strengthen customs enforcement and compliance.

Key changes to the Free Zone Act

Likewise, amendments to the Free Zone Act under the Free Zone Amendment Act also include changes to the statute of limitation, record-keeping period, and compounding of offences. Other key amendments include:

1. “Transit” is removed from the definition of “commercial activity”. In other words, under the Customs Amendment Act, commercial activities will only include trading (excluding retail trade), breaking bulk, grading, repackaging and relabeling. This is consistent with the new definition of transit in the Customs Amendment Act. Essentially, simply moving products through a Free Zone will no longer qualify as a commercial activity.
2. Any person who makes a declaration under the Free Zone Act or any corresponding regulation for the purposes of obtaining approval from the Customs authority will have the responsibility to give a full and true account relating to the following:
 - number and description of packages;
 - description of goods;
 - weight, measure or quantity of goods;
 - value of goods; and
 - country of origin of goods.
3. Similar to the section above on LMW under the Customs Amendment Act, a new section under the Free Zone Amendment Act also imposes additional responsibility on the owner of goods or the operator of a shop or warehouse, other building, place or premise in a Free Zone. The added responsibility pertains to accounting for all goods kept at the location. If a Free Zone or Customs officer determines that the quantity of goods in the Free Zone is deficient, the discrepancy can be deemed as illegally removed from the Free Zone into the domestic market. The owner or operator will then be required to explain the movement of goods and account for any customs duties, sales tax, penalties and other applicable charges to Malaysia Customs. However, if Malaysia Customs accepts that the deficiency has been caused by an

unavoidable leakage, breakage or other accident, and evidence is furnished to them, they may consider waiving part of or the entire sum otherwise payable. The burden to proof lies with the companies.

4. Heftier penalties will also be introduced as part of the amendment. This is to deter and prevent the misuse or abuse of Free Zone facilities and customs procedures. According to Malaysia Customs, the bulk of smuggling activities in Malaysia occur in Free Zones. For example, the maximum fine for failing to preserve all records and documents relating to activities in Free Zone for a period of seven years will be increased from MYR 5,000 to MYR 50,000.

Conclusion

As substantial amendments have been introduced under the Customs, Excise, and Free Zone Amendment Acts, it is critical for companies to ensure that they comply with the new requirements and at the same time consider strategies to minimize the impact of these changes to their operations. Companies should also proactively conduct self-assessments, enhance their existing customs standard operating procedures, and build more robust defence procedures and documentation to ensure they are well-placed when faced with customs challenges and audits.



ASEAN

ASEAN symposium on boosting regional trade efficiencies

On 24 June 2019, participants from the ASEAN Secretariat, ASEAN-USAID Inclusive Growth in ASEAN through Innovation, Trade, and E-Commerce (ASEAN-USAID IGNITE) and the ASEAN Business Advisory Council met to discuss strategies targeted at enhancing regional trade efficiencies. Specific mention was made on the exchange of trade-related documents amongst ASEAN member states, and between ASEAN and non-ASEAN territories.

ASEAN member states were also tasked to share updates on the ASEAN Single Window (ASW) implementation within their country as well as examine potential benefits and challenges of the ASW. The ASW is a platform that aims to cater for efficient sharing and exchange of trade information and documents between traders and officials. Currently, the ASW is adopted by Brunei, Indonesia, Malaysia, Singapore, Thailand and Vietnam, notably for the live exchange of electronic Certificates of Origin Form D (e-Form D) under the ASEAN Trade in Goods Agreement (ATIGA). Other ASEAN member states – Cambodia, Laos, Myanmar and the Philippines are pushing forward with initiatives to join the ASW.

Release of 5th ASEAN Economic Integration Brief

The ASEAN Economic Integration Brief is a biannual report on the economic outlook on both the world and the region. It includes a summary of the updates and developments of the ASEAN Economic Community (AEC), together with the most up-to-date economic data of the region.

The report briefly examines the impact the US-China trade war has on ASEAN, as well as other updates on the AEC such as the amendments to the ASEAN Comprehensive Investment Agreement (ACIA) to include trade in services. Other topics discussed in the report include ASW membership changes, strengthening ASEAN participation on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), as well as updates on the Fourth Industrial Revolution.

The ASEAN Economic Integration Brief can be accessed at:
https://asean.org/storage/2019/06/AEIB_5th_Issue_Released.pdf



Report on Non-Tariff Barriers to trade in ASEAN

The EU-ASEAN Business Council (EU-ABC) and the ASEAN Business Advisory Council (ABAC) jointly released a report titled “Non-Tariff Barriers (NTBs) in ASEAN and their elimination from a business perspective”. The report aims to educate its readers on the prevalence of NTBs, as well as the differences between Non-Tariff Measures (NTMs) and NTBs. By doing so, it hopes to encourage the expedited removals of NTBs and reduction of NTMs in the region with the aim to ultimately reduce the cost of trade within the region and double regional trade by 2025.

According to the report, businesses would be able to enjoy additional business cost savings and potential revenue growth should ASEAN member states move forward with the removal of NTBs.

The full report can be accessed at:

https://www.eabc-thailand.org/wp-content/uploads/2019/06/NTB_Study_Report_FINAL.pdf



Export Control

US-China trade war to expand beyond punitive tariffs

The recent inclusion of Huawei and its affiliates to the US Commerce Department's Entity List has sparked a shift in the US-China trade dispute, as both parties begin adopting export control measures. Once added to the Entity List, US companies are not allowed to trade with said entities unless a license is applied for. Historic data has shown that such applications are however usually denied.

In response, the Chinese Ministry of Commerce (Mofcom) has announced the creation of its own 'Unreliable Entities List'. However, no concrete details on the Unreliable Entities List and how it will be implemented have been released, leading to a high level of uncertainty amongst businesses.

The US Department of Commerce has further added five entities located in China on 24 June 2019 to its Entity List. The entities are Chengdu Haiguang Integrated Circuit, Chengdu Haiguang Microelectronics Technology, Higon, Sugon and Wuxi Jiangnan Institute of Computing Technology. These five entities and their affiliates are known to be related to the production and development of supercomputers.

For further details on the entities, please refer to the official document released by the US Commerce Department accessible at:
<https://www.federalregister.gov/documents/2019/06/24/2019-13245/addition-of-entities-to-the-entity-list-and-revision-of-an-entry-on-the-entity-list>

Japan and South Korea trade dispute over export controls escalates

Japan's Ministry of Trade, Economy and Industry (METI) released a press statement detailing two amendments to the Foreign Exchange and Foreign Trade Act targeted at South Korea.

Amendment	Details	Effective date
Exclusion of specific items from the bulk license	<p>Companies who have demonstrated sufficient compliance with Japan's export control regulations are able to obtain a bulk license from METI. This covers the majority of dual-use items exported to certain countries.</p> <p>Under the recent amendment, Fluorinated Polyimide, Resist, and Hydrogen Fluoride as well as their relevant technologies exported to South Korea are no longer covered under the bulk license. This means companies would have to apply for and obtain individual export licenses for transactions of these products from Japan to South Korea.</p> <p>Such products are known to be key components of the manufacture of high-tech electronics products such as memory DRAM chips. The complications in the trade procedures have adversely affected companies such as Samsung and SK Hynix by reducing the efficiencies within the supply chain of its semi-conductors.</p>	4 July 2019

Amendment	Details	Effective date
<p>Exclusion of South Korea from “White Country” list</p>	<p>METI categorises destination countries according to the export control risks they are deemed to pose. Countries deemed to pose the lowest risk are termed “White Countries”.</p> <p>On 2 August 2019, the Japan Cabinet removed South Korea from the “White Country” list. The revised laws has yet to be made public as of 5 August 2019. The anticipated impacts are as follows:</p> <ul style="list-style-type: none"> • There are several type of bulk licenses that can be obtained from METI. Each bulk license covers different transactions. One such license – General Bulk Export License (GBEL or 一般包括許可) – only covers transactions destined to White Countries. Accordingly, removal of South Korea from the White Country list would mean the GBEL will no longer be applicable to transactions to South Korea. As a result, companies with a GBEL would still be required to obtain an individual export control license for any dual-use items shipped to South Korea. Alternatively, companies may consider obtaining a different type of bulk license but these would generally require the meeting of stricter compliance standards. • Even if the exported goods are not dual-use items (namely the “List Items”), exporters are required to assess the sensitivity of the transaction in accordance with the “Catch-All Control”. This assessment is exempted for White Countries. The exclusion of South Korea from the White Country list would therefore mean that future exports to South Korea must be assessed for the applicability of the Catch-All Control, which includes considerations around end-user, end-use and country of destination. 	<p>28 August 2019</p>

Overall, the amendments are likely to cause disruptions within the supply chains of companies that export affected products from Japan to South Korea, in the form of an additional administrative burden. Companies are advised to assess the administrative impact of the amendments and where necessary, consider approaches to mitigate the extra workload.

South Korea has not yet retaliated but may seek to file a complaint with the WTO as per the warning made by South Korea President Moon Jae-In.

Free Trade Agreements focus

Agreements entered into force	
ASEAN-Hong Kong, China Free Trade Agreement (AH-KFTA)	30 June 2019
Agreements signed	
European Union-Vietnam Free Trade Agreement (EUVFTA)	30 June 2019

ASEAN-Hong Kong FTA enters into effect

The ASEAN-Hong Kong, China FTA entered into effect on 11 June 2019 for Hong Kong and five ASEAN member states –Laos, Myanmar, Singapore, Thailand and Vietnam as detailed in the previous issue of Trade Intelligence. The remaining ASEAN member states will only be implementing the agreement after their domestic ratification processes are completed.

Vietnam releases procedures for CPTPP

On 26 June 2019, the Vietnamese government issued Decree 57/2019/ND-CP (Decree 57) which implements Vietnam's tariff commitments under the Comprehensive and Progressive Agreement for the Trans-Pacific Partnership (CPTPP) for 2019-2022. The preferential rates are applicable to originating goods imported from and exported to CPTPP member states, including Australia, Canada, Japan, Mexico, New Zealand, and Singapore. Decree 57 came into effect immediately.

Under the rules, importers- and exporters-of-record can apply for a duty refund for past declarations where they were subject to the higher duty rate, since the CPTPP entered into force in Vietnam on 14 January 2019.

Importers looking to enjoy preferential import duties should be aware that Customs will inspect the Certificate of Origin Form CPTPP to assess compliance with the rules of origin as set out in the CPTPP.

On export, if the exported goods are subject to export duties, Decree 57 requires the exporter to complete the export declaration and pay the relevant export duties as per normal. To claim preferential export tariffs, the exporter is required to submit copies of the transport documents and overseas import declaration to evidence that the destination country is indeed a CPTPP member state. This can be done within a year from the date on the export declaration. The exporter will then need to complete an amended declaration to the initial export declaration and claim a duty refund.

Japan simplifies declaration procedures for imports under Japan-EU FTA

On 26 June 2019, the first meeting of the Committee on Rules of Origin and Customs-Related Matters of Japan-EU FTA was held. Following what had been agreed within the joint document, Japan Customs announced on 17 July 2019 that certain updates would be implemented in Japan.

Japan Customs previously required importers to attach an additional document providing details demonstrating that the origin requirement had been met. With the announcement, importers making a preferential declaration **under the exporter's statement** during import clearance are no longer required to provide origin information that the importer cannot obtain, and do not need to explain why the information is unobtainable. Exporters are also not required to provide supporting information on product origin.

In addition, where an importer is unable to provide additional information, Japan Customs also provided simplified procedures:

From 1 August 2019	From 1 December 2019
Enter in the text field of the electronic import declaration: <ul style="list-style-type: none">– “I cannot provide an additional explanation on the originating status of the product.”; or– “私は製品の原産性に係る情報は提供できません”.	Insert a predetermined code (to be developed) into the electronic import declaration.

Note that the above changes only apply to duty preferences being claimed on the basis of the exporter's origin statement. If the importer is claiming preference on his/her own knowledge, the importer is still expected to obtain all the information required to assess whether the origin criteria has been met.

While the announcement clarifies that the inability to furnish additional information does not immediately warrant a denial of preferential duties, Customs can still revisit application of the preferential duty rate during a post-importation audit. Companies are therefore advised to conduct their origin criteria assessments with due care, and to ensure they are able to demonstrate to Customs that the origin criteria has been met in the event questions are asked.

RCEP updates

The 34th ASEAN Summit and sub-meetings were held in Bangkok, Thailand from 20-23 June 2019. Relevant meetings such as the preparatory ASEAN trade negotiating meeting and the special ASEAN Economic Ministers' meeting on RCEP further outlined ASEAN's commitment to try to conclude the negotiations for RCEP by the end of this year. During the latter meeting, discussions were held on the provisions under the RCEP agreement and there was a collective decision to send envoys to India to break the deadlock in negotiations. Negotiations had stalled as the Indian government was cautious of the record-breaking pact possibly flooding the domestic market with foreign imports, and ultimately bringing more harm than good to the country.

China and India also held separate talks in New Delhi early July to discuss the concerns the Indian government had – primarily differing levels of duty concessions and potential negative impact on key domestic industries, such as textiles and automobiles. Reports mentioned a possibility of a trade deal without India, although this notion has been denounced by member states within ASEAN. There is also talk around kicking the RCEP off with an initial subset of countries,

with an option for others to join in after, similar to the CPTPP.

With the intensifying frequency of meetings and negotiations, there is growing confidence that the RCEP negotiations can be concluded by 2019.

Australia steps up efforts in separate negotiations with UK and EU

With the deadline on a possible Brexit decision fast approaching, Australia has stepped up efforts in separately negotiating and affirming economic relationships with both the UK and the rest of the EU. As mentioned in the December 2018/January 2019 issue of Trade Intelligence, Australia and the UK signed a Mutual Recognition Agreement to ensure current arrangements between Australia and UK do not change after a possible Brexit. Australia is also accepting public comments as it explores FTA opportunities with the UK. Refer to our Australia country report section for further details.

Separately, Australia and the EU concluded the fourth round of negotiations on the Australia-EU FTA held from 1-5 July 2019 in Brussels, Belgium. According to the Australian Department of Foreign Affairs and Trade (DFAT), the focus of the negotiations were on the parameters for the exchange of initial market access for goods, services and investments. Government procurement was also discussed.

The next round of negotiations will be conducted in October 2019. Comprehensive details on the complete areas of discussion can be found on DFAT's website at:
<https://dfat.gov.au/trade/agreements/negotiations/aeufta/Pages/aeufta-round-4.aspx>

China and Peru to upgrade existing FTA

On 17-19 June 2019, China and Peru conducted the second round of negotiations to upgrade the existing China-Peru FTA. Negotiations touched on a wide range of issues including customs procedures, trade facilitation, and rules of origin. Other topics such as the trade in services, investments, intellectual property rights and e-commerce were also discussed. Details have not been made public.

There has not yet been a projected signing date, but according to data from Chinese Customs, bilateral trade volume between the two parties hit USD 23.1 billion, a 14.7% year on year increase from 2018. Trade between the two nations is expected to increase at an even faster rate with the upgrade.

China and Israel conclude sixth round of FTA negotiations

China and Israel held the sixth round of negotiations of the China-Israel FTA from 20-23 May 2019. The FTA remains high on both parties' priority list, considering the role Israel can play offering infrastructure projects under the Belt-and-Road Initiative as well as the complementary nature of both countries in the high-tech product value chain.

As per the Chinese Ministry of Commerce press release, positive progress was made in the discussion on the trade in goods, technical barriers to trade and intellectual property rights. Other topics such as investments, government procurement, e-commerce and arbitration were also discussed.

Malaysia and South Korea initiate FTA negotiations

On 27 June 2019, government officials from South Korea and Malaysia declared the initiation of FTA negotiations between the two parties. The discussions will include the trade in goods, services, investments and other possibilities for economic cooperation, with the South Korea-ASEAN special summit in November 2019 as the target conclusion date.

As of now, Malaysia and South Korea have an existing regional agreement with each other in the form of the ASEAN-Korea FTA. Both countries are also in negotiations under the Regional Comprehensive Economic Partnership (RCEP). As of 2018, total trade between the two countries was at USD 17.98 billion, with the electronics, energy, chemical and iron and steel industries as the biggest contributors.

Philippines and South Korea officially begin negotiations for potential FTA

Philippines and South Korea started negotiations for an FTA on 3 June 2019, with a target to conclude by November 2019. The FTA is intended to balance trade between both countries by improving market access of Philippines' agricultural and industrial exports, as well as other services while ensuring a continuous flow of South Korean semiconductors, petrochemicals and automotive goods into the Philippines market.

The first round of negotiations focused on improved tariff schedules as well as market access of goods. Talks also touched on trade in services and investments through enhancing investments and job opportunities in the following rounds of negotiations.

Singapore and the Pacific Alliance continue negotiations

Singapore and the Pacific Alliance, a group of four countries – Chile, Colombia, Mexico and Peru, agreed to further negotiations on a Singapore-Pacific Alliance FTA. The FTA would give Singapore new market access to the Colombian market. While Singapore has existing trade agreements with the other three countries, the Singapore-Pacific Alliance FTA may open up further opportunities. For instance, in the form of deeper tariff cuts or product coverage. No further details on the negotiations have been released.

Vietnam signs FTA with the EU

The FTA between Vietnam and the EU was signed on 30 June 2019 after nine years of negotiations. Details on duty savings opportunities should the EU-Vietnam FTA (EUVFTA) enter into force were covered in our April/May 2019 edition of Trade Intelligence.

For instance, Vietnam's textile and garment industry is expected to benefit substantially. Currently, the EU is the second largest market for Vietnam's textile products after the US and the average tariff applied by the EU on these products will be eliminated within three years after the agreement enters into force.

The European Parliament is expected to give its consent in Autumn 2019, which would enable ratification by the end of 2019. No details on Vietnam's ratification timeline has been released. The agreement is the EU's second trade agreement with a member state of the ASEAN after Singapore.

Territory reports

Australia

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Australia calls for submissions on the impacts of a possible future FTA with the UK

The Australian Government's Department of Foreign Affairs and Trade (DFAT) has opened submissions from interested individuals and groups on the potential opportunities and impacts of a future FTA with UK. Stakeholders are invited to make submissions that comment on the commercial, economic, regional and other impacts that could arise from an Australia-UK FTA, with the information to help determine Australia's key priorities in future FTA negotiations with the UK.

An Australia-UK FTA would provide for benefits such as:

- Removal of barriers to trade in goods;
- Expansion of services and investment ties;
- Modernization of the rules governing trade between Australia and the UK; and
- Facilitation of trade and investment in digital economy and innovation.

While the EU rules provide that the UK cannot commence FTA negotiations with third-party countries until after Brexit, both the Australian and UK government have committed to expediting FTA negotiations when the UK has left the EU. The establishment of a Joint Trade Working Group (TWG) in September 2016 and the ongoing meetings of the TWG demonstrates the commitment of both governments to accelerating the transition to FTA negotiations to maintain their favorable trading relationship post-Brexit.

Origin waiver benefit for Australian Trusted Traders

From 28 June 2019, Australian Trusted Traders are no longer required to obtain or present origin certification documents (e.g. Certificate of Origin or Declaration of Origin) on importation in order to claim preferential rates of duty under certain FTAs. The origin waiver benefit reduces the red tape for claiming preferential tariff treatment and reduces the administrative burden of obtaining origin evidence and the costs associated with certification.

This announcement builds on the existing benefits of the Australian Trusted Trader Programme (an AEO equivalent programme), such as reduced supply chain costs and priority processing, and simplifies reporting procedures to further streamline border clearance and reporting requirements.

The origin waiver benefit provision applies to the following FTAs:

- Australia-Chile Free Trade Agreement
- Japan-Australia Economic Partnership Agreement
- Korea-Australia Free Trade Agreement
- Malaysia-Australia Free Trade Agreement
- Singapore-Australia Free Trade Agreement
- Thailand-Australia Free Trade Agreement

Trusted Trader importers will still be required to keep, and present if asked, sufficient evidence that imported goods comply with the relevant Rules of Origin under each FTA.

Australia and Japan sign Mutual Recognition Arrangement

Australia and Japan have signed a Mutual Recognition Arrangement (MRA) that enables Australia's Department of Home Affairs and Japan Customs to formally recognise each other's Authorised Economic Operation (AEO) programmes. The move provides benefits for businesses in both countries by strengthening cooperation at the border, strengthening supply chain security, and improving trade facilitation.

The MRA between Australia and Japan builds on Australia's existing MRAs with Canada, the People's Republic of China, Hong Kong, the Republic of Korea, New Zealand, Singapore and Taiwan. The Australian Government has also commenced negotiations with other major trading partners as MRAs can provide significant benefits through increased trade competitiveness and economic growth.



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General Administration of Customs to continue with trade facilitative measures

The General Administration of Customs (GAC) stated during a press conference held by the Information Office of the State Council of China that China's exports recorded a year on year increase of 6.1% to RMB 7.95 trillion, while imports increased by 1.4% to RMB 6.72 trillion in the first half of 2019. Consequently, China's foreign trade volume saw a corresponding increase to RMB 14.67 trillion, and China recorded a trade surplus of RMB 1.23 trillion. This is an increase of 41.6% from the previous year.

This good performance was attributed to the increase in trade with China's major trading partners – EU, ASEAN and Japan – and continued cooperation with countries participating in the Belt and Road Initiative. Specifically, industries that saw strong export performance include manufacturers of mechanical and electrical products, electric operated automotives, textiles and clothing, technology equipment and devices, and solar cells. Increase in imports was boosted largely due to higher demand of bulk commodities such as crude oil and coal.

During this period, the GAC had also made progress on the following aspects to promote the foreign trade environment.

Key measures introduced (First half of 2019)

1. Simplified supervision certificates for import / export inspection
 - Reduction of number of supervision certificates from 86 to 46;
 - Introduction of automatic online verification, and online declaration and processing for certain types of certificates;
 - Cancellation of automatic import licenses for 118 products;
 - Promotion of online declaration and self-printing of the certificate of origin; and “Customs-Specific Payment Form”.
2. Reduction of Customs fees
 - Reduction of operating services fee.
3. Reduction of customs clearance time
 - Optimisation of “advance declaration” procedures;
 - Speed up opening of “green channel” for faster clearance of agricultural products;
 - Optimisation of supervision for China Railway Express;
 - Negotiation of AEO Mutual Recognition Arrangements with partner countries;
 - Implementation of the “released before inspection” mode of bulk resource commodities, such as imported iron ore;
 - Carried out guarantee insurance for Customs tariff reforms etc; and
 - Rapid clearance of low-risk goods without intervention or inspection.
4. Commence with digitization of customs clearance process / procedures
 - 495 items of online services are provided through the “Single Window”;
 - Implementation of multiple applications with one document mode for customs clearance of international vessels; and
 - Introduction of New Generation Electronic Payment System for Customs Tariffs and Fees.
5. Promotion of continued trade facilitation
 - Conduct of a three-month special project (still in progress) to promote foreign trade facilitation in Beijing, Tianjin, and Shanghai, where 27 measures were launched.

Customs' focus areas in the second half of 2019

In the second half of 2019, to further promote the stable development of foreign trade, the GAC intends to implement additional measures aimed at improving trade facilitation.

Key priority areas to achieve by end 2019

1. Accelerating customs clearance trade facilitation
On 10 June, the GAC jointly issued a Notice on Accelerating the level of customs clearance trade facilitation with 10 other government departments, prescribing measures intended at further facilitating customs clearance for companies. These measures include intention to:
 - Further simplify supervision certificates;
 - Reduction of customs clearance time by improving online declaration processes; and
 - Reduction of customs fees.Detailed description of specific measures can be accessed via the following link: <http://www.scio.gov.cn/32344/32345/39620/40874/zy40878/Document/1658609/1658609.htm>
2. Support development of cross-border e-commerce
 - Strengthen supervision and optimize cross-border e-commerce statistics and data release systems; and
 - Enhance protection of intellectual property rights and consumer rights.
3. Innovation and replication of the Pilot Free Trade Zone
 - Replicate Pilot Free Trade Zone for fifth batch of pilot companies; and
 - Speed up integration and optimisation of customs Special Supervision Areas, focusing on promoting the VAT general taxpayer qualifications, bonded maintenance business, etc.
4. Promote diversification of export markets
 - Deepen international cooperation with countries in the "Belt and Road" Initiative;
 - Accelerate promotion of "Single Window" docking;
 - Signing of AEO mutual recognition arrangements with more partner countries; and
 - Promotion and development of the China Railway Express.
5. Implement policies for tax and customs fee cuts
 - Improvement of tax guarantee system;
 - Expansion of scope of "self-declaration and self-payment"; and
 - Implementation of policies for tax and fee cuts.

More detailed customs statistics and commentary can be accessed at the official statement released by the GAC at <http://fangtan.customs.gov.cn/tabid/660/Default.aspx>.



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New AEO Mutual Recognition Arrangements with Canada and Israel

During the 133/134 Council Sessions of the World Customs Organization (WCO) held in Brussels from 26 June to 29 June, Hong Kong signed a Mutual Recognition Arrangement (MRA) on Authorized Economic Operator (AEO) schemes each with Israel and Canada in line with efforts to uphold international cargo security and facilitate cross-boundary cargo movement.

In addition, Hong Kong also signed an action plan with Indonesia during the Council Sessions for future discussions aimed at finalising an MRA.

The signing of the two MRAs on AEO with Israel and Canada brings the number of MRAs on AEO signed by Hong Kong to 11 in total. The other nine economies with which Hong Kong has signed MRAs are Australia, Mainland China, India, Japan, Korea, Malaysia, New Zealand, Singapore, and Thailand.

AEO status is awarded by local customs administrations to companies that have demonstrated compliance with WCO or equivalent supply chain security standards. Under the MRAs, AEO enterprises in Hong Kong will enjoy customs clearance facilitation on import / export of goods from / to Israel and Canada. In a reciprocal fashion, companies accredited under the corresponding programmes in Israel and Canada will also enjoy customs clearance facilitation in Hong Kong following entry into force of the MRAs. This will allow Hong Kong AEO enterprises to leverage on their AEO status and enjoy trade facilitation benefits such as reduced examination rates and prioritized clearance. Generally, the inspection rate for AEO cargoes is approximately 80% lower compared to non-AEO cargoes.

To keep pace with the wave of global trade facilitation, Hong Kong authorities are aiming to obtain more MRAs with countries and regions participating in the Belt and Road Initiative. In light of the customs clearance facilitation benefits afforded to AEO enterprises, Hong Kong business should consider the various conditions to attain AEO status, and explore steps towards acquiring and maintaining AEO status.

More details can be accessed at the following link:

https://www.customs.gov.hk/en/publication_press/press/index_id_2604.html



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Changes under Fiscal Budget 2019

1. Changes to customs duty rates and exemptions

Major changes pertaining to customs duty rates and exemptions were made under the Fiscal Budget 2019. The changes were mainly driven by the Government's 'Make in India' and 'Ease of doing business in India' initiatives, environmental concerns, technology-led tax administration and to strengthen the defence sector of India. The changes were effective from 6 July 2019. We have summarised the key points below:

1. Basic Customs Duty (BCD) has been increased on precious metals, specified automobile parts (mirrors, intake filters, horns, lighting equipment, etc.), electronic equipment (digital video recorder, CCTV camera, optical fibres, indoor-outdoor unit of split AC etc.), iron and steel items, imported books, flooring materials etc.
2. BCD exemption has been withdrawn on specific electronic components, such as charger/power adapter for camera, plugs, sockets etc.
3. Reduction in BCD on a few items, such as medical supplies, nuclear fuels and nuclear energy, wood fibre, and capital goods for manufacture of specified electronic items, etc.;
4. The Ministry of Defense and Armed Forces have been given an exemption to import specified defence equipment and their parts;
5. To incentivise the Electric Vehicles (EV) sector, customs duties on specified EV parts has been eliminated.

Refer to Notification No. 18/2019-Customs to 27/2019-Customs, dated 6 July 2019 for further details. It is accessible via the following link:
<http://www.cbic.gov.in/Customs-Notifications>

2. Proposals to amend the Customs Act 1962

In addition to the above, a number of proposals to amend the Customs Act have been made in the Fiscal Budget 2019. Once these proposals receive the assent of the President, they will be incorporated into the Act. The amendments proposed are as follows:

1. Make both of the following non-bailable and arrestable offences:
 - fraudulently obtaining or utilising Duty scrips, authorisation, licenses etc. under Foreign Trade Policy (FTP 2015-20); and
 - availing or attempting to avail duty drawbacks or any exemption for a value exceeding INR 5 million.
2. Where the goods are believed to be liable for confiscation, customs authorities may compel a bank to pay out of the owner's bank account, without the owner's permission for a maximum period of 6 months. This can be further extended by 6 months if permission is granted;
3. The Designated Customs officer will be empowered to arrest any person committing specified punishable offences, regardless of whether the person is located in India;
4. Introduction of a new chapter titled "Verification of Identity and Compliance". This chapter empowers Customs to carry out verifications of individuals to assess compliance with the provisions of the Customs Act. The verification will be carried out by way of "Personal Identification" as prescribed in the Regulations;

5. Increase in the maximum penalties applicable for:
 - the violation of any rules and regulations under the Act, from INR 0.05 million to INR 0.20 million; and
 - the contravention of any offence not expressly mentioned in the Act, from INR 0.1 million to INR 0.4 million.
6. Introduction of rules around the amendment of documents including shipping bills, etc.

Refer to Finance (No. 2) Bill, 2019 presented on 5 July 2019 for further details:
https://www.indiabudget.gov.in/doc/Finance_Bill.pdf

Imposition of retaliatory duties on certain US imports

After repeated deferrals of retaliatory customs duties on certain products originating in the US, the Indian Government finally imposed retaliatory duties on 28 specified goods originating in or exported from the US to India. The 28 products include apples, walnuts, boric acid, specified chemical products, and iron and steel products. The higher duties took effect on 16 June 2019, and follow the US' withdrawal of the Generalised System of Preferences (GSP) facility for Indian goods.

Refer to Notification No. 17/2019-Customs, dated 15 June 2019 for further details. It is accessible via the following link:
<http://www.cbic.gov.in/Customs-Notifications>

Permission of authorities no longer required for processing in bonded warehouses

The Warehouse Regulations 2019 issued by the Government supersede the earlier Warehouse Regulations 1966. As a whole, the new regulations provide for reduced compliance requirements and introduce a more trust-based approach when it comes to use of a customs bonded warehouse.

Customs bonded warehouses allow for the warehousing of imported goods without payment of customs duty. Duty is only collected at the time of clearance from the warehouse.

Prior	Current
To perform manufacturing activities or other operations in the bonded warehouse, the owner of the bonded goods had to obtain the permission of the relevant authorities.	The applicant is not required to furnish detailed information, and can simply furnish an undertaking/declaration for the permission to be granted.
Permission was valid for a fixed duration.	Permission does not expire, and remains valid unless it is cancelled.

Refer to Notification No. 44/2019-Customs (N.T.), dated 19 June 2019 for further details. It is accessible via the following link:
<http://www.cbic.gov.in/Customs-Notifications>

Document digitisation efforts

In line with the Government's 'Ease of Doing Business' initiative in India, the following digitisation efforts have been undertaken with respect to import-export related processes:

Digitisation effort	Reference
<p>A physical copy of the Registration Cum Membership Certificate (RCMC) is no longer required when filing an application for incentives or entitlements under FTP 2015-20. This took effect on 1 July 2019.</p> <p>The authorities further clarified that only one RCMC is required per entity, as it can include any number of businesses into the certificate. An entity is also not required to obtain a second RCMC if it subsequently decides to export services in addition to goods.</p>	<p>Trade Notice No. 17/2019-20 dated 22 May 2019, accessible via: https://dgft.gov.in/policies/trade-notice</p>
<p>Exporters filing online applications for Advance Authorization (AA) and Export Promotion Capital Goods (EPCG) are no longer required to submit hard copies of the application and supporting documents with the respective Regional Authority (RA). This took effect on 20 May 2019.</p> <p>Exporters can now file the applications and upload the documents online, and receive an AA/EPCG authorisation within three working days.</p>	<p>Policy Circular No. 23/2015-20 dated 15 May 2019, accessible via: https://dgft.gov.in/policies/circulars</p>
<p>For applications under the Merchandise Exports from India Scheme (MEIS), separate applications are no longer required for shipments from different ports with Electronic Data Interchange (EDI).</p>	<p>Directorate General of Foreign Trade (DGFT) Public Notice No.13/2015-2020 dated 27 May 2019, accessible via: https://dgft.gov.in/policies/public-notice</p>
<p>An auto-registration facility has been enabled to simplify the procedures for obtaining Import Export Code (IEC) registration on ICEGATE for eSanchit. The facility uses data provided by the applicant during GST registration. It also does away with the requirement for a digital signature for beneficiaries who do not intend to file any documents through ICEGATE.</p>	<p>Circular No. 14/2019- Customs dated 3 June 2019, accessible via: http://www.cbic.gov.in/Customs-Circulars-Instructions</p>
<p>The eSanchit application system that permits the uploading of Licenses, Permits, Certificates and Other Authorizations (LPCOs) has been made fully available to Partner Government Agencies (PGAs). Beneficiaries (importers/ exporters/ customs brokers) are no longer allowed to upload the LPCOs.</p>	<p>Circular No. 13/2019- Customs dated 3 June 2019, accessible via: http://www.cbic.gov.in/Customs-Circulars-Instructions</p>

Clarity on import duty and taxes calculations with respect to Free Trade Zones

The Ministry of Finance (MOF) issued a new regulation – number 84/PMK.04/2019 (PMK-84/2019) – which became effective on 29 May 2019. It is the second amendment to MOF regulation number 47/PMK.04/2012 (PMK-47/2012), and updates the procedure on deliveries to and from Free Trade Zones (FTZs).

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PMK-84/2019 provides more clarity on how customs duties and taxes are calculated. It is similar to the guidance provided under MOF regulation number 131/PMK.04/2018 on bonded zones.

We have summarised the key points below:

1. Release of goods from the FTZ which originate from outside the Customs Area

Certain goods and raw materials may be subject to special import duties such as “anti-dumping” duty, compensation import duty, safeguard import duty, and/or requital import duty which are also exempted upon importation. PMK-84 states that these special import duties will be collected upon release of the raw materials from the FTZ to other places within the Customs Area, except in the event that the raw materials:

- have been processed into new goods and/or form part of goods produced in FTZ; or
- have been used to repair other goods, therefore becoming an inseparable part of these goods.

2. Release of goods produced in the FTZ to other places within the Customs Area

Goods produced in and released from a FTZ to other places within the Customs Area are subject to Import Duty, excise, VAT, and Article 22 Income Tax. PMK-84 sets the imposition base of these taxes to the selling price of finished goods upon being released from the FTZ. FTZ companies may use the original customs value of the initial goods or raw materials (instead of the finished goods’ selling price) when releasing the finished goods as long as the following requirements are satisfied:

- the FTZ company has a reliable and consistent conversion measurement for the use of goods or raw materials originating from outside the Customs Area; and
- a sale and purchase transaction was in place when the goods or raw materials entered the FTZ.

Authorised officers from the DGCE and the Directorate General of Tax may jointly run a test on the conversion, as mentioned earlier in point (1), on the basis of risk management.

New administrative sanction scheme

The Indonesian Government issued a new regulation 39 Year 2019 (GR-39/2019) which amends regulation 28 Year 2008 (GR-28/2008). It revises the administrative sanctions applicable for import and/or export duty payment shortfalls that result from errors in customs value declarations. GR-39/2019 came into effect on 15 July 2019.

Under GR-28/2008, the administrative sanction comprised five levels. In practice, the maximum penalty of 1,000% was often imposed since the discrepancy range was easily met. GR-39/2019 amends the previous discrepancy ranges and corresponding sanction levels to take further account of business sustainability concerns while safeguarding its deterrent effect.

Prior		Current	
% of discrepancy	Sanction (%)	% of discrepancy	Sanction (%)
Up to 25%	100	Up to 50%	100
Above 25% up to 50%	200		
Above 50% up to 75%	400	Above 50% up to 100%	125
Above 50% up to 75%	700		
More than 100%	1,000	Above 100% up to 150%	150
		Above 150% up to 200%	175
		Above 200% up to 250%	200
		Above 250% up to 300%	225
		Above 300% up to 350%	250
		Above 350% up to 400%	300
		Above 400% up to 450%	600
		Above 450%	1,000

If the customs notification registration date is prior to 15 July 2019, the GR-28/2008 sanction regime applies. If the date is on or after 15 July 2019, the GR-39/2019 applies. Further provisions regarding the calculation procedure for this administrative sanction will be laid out in an MOF Regulation.

Updated rates for cane sugar under the AIFTA

On 24 June 2019, the MOF issued a new regulation 96/PMK.010/2019 (PMK-96/2019) to amend MOF Regulation 27/PMK.010/2017 (PMK-27/2017). The amendment became effective on 8 July 2019. The import duty rate on cane sugar imported from India under the ASEAN-India FTA (AIFTA) has been amended as follows:

Tariff code	Description of goods	Import duty	
		Prior	Current
1701.13.00	Cane sugar specified in subheading Note 2 to this chapter	Rp 550/kg	5%
1701.14.00	Other cane sugar	Rp 550/kg	5%

Statement letter for temporary import relief scheme

The Director General of Taxation (DGT) issued a new regulation PER-12/PJ/2019 (PER-12/2019), which has been effective since 25 June 2019. It serves as the implementing regulation of MOF Regulation 178/PMK.04/2017 (PMK-178/2017) on the temporary import – relief scheme.

There are two types of temporary import schemes in Indonesia – exemption scheme and relief scheme – that cater to different purposes and types of goods. The new regulation details procedures under the relief scheme. It requires an applicant to obtain a statement letter from the DGT to utilise the ‘import VAT non-collected facility’ and also includes a template of the application letter. This facility refers to where import VAT is not collected on imports and/or deliveries of certain taxable goods and services.

Updated list of documents which are equivalent to a VAT invoice and a PIB

On 2 July 2019, the DGT issued a new regulation to clarify the list of documents that are treated as equivalent to a VAT invoice and an import declaration (PIB). PER-13/PJ/2019 revokes the existing regulation PER-10/PJ/2010 (latest amendments contained in PER-33/PJ/2014), and will be effective from 30 August 2019.

Documents equivalent to a VAT invoice	Documents equivalent to a PIB
<p>The new regulation introduced three new documents:</p> <ol style="list-style-type: none">1. Excise Document (CK-1);2. PIB along with a Tax Payment Slip (Surat Setoran Pajak/SSP), Customs and Excise Payment Slip (Surat Setoran Pabean, Cukai, dan Pajak/SSPCP) and customs assessment (in the event of import value deficiencies); and3. SSP for VAT payment for delivery of taxable goods and/or services from FTZ to non-bonded/non-FTZ areas (Tempat Lain Dalam Daerah Pabean/TLDDP), along with<ul style="list-style-type: none">– A FTZ Customs Declaration with code 01 (PPFTZ-01) for taxable goods.– An invoice/contract for taxable services and/or intangible taxable goods.	<ol style="list-style-type: none">1. Special Import Declaration (Pemberitahuan Impor Barang Khusus/PIBK);2. Customs Declaration for passenger and/or transporter crew (Pemberitahuan atas Barang Pribadi Penumpang dan Awak Sarana Pengangkut);3. Customs Declaration-BC 2.3 (Pemberitahuan Impor barang untuk ditimbun di Tempat Penimbunan Berikat);4. Customs Declaration-BC 2.4 (Pemberitahuan Penyelesaian Barang asal Impor yang Mendapat Kemudahan Impor Tujuan Ekspor (KITE));5. Customs Declaration-BC 2.5 (Pemberitahuan Impor Barang dari Tempat Penimbunan Berikat);6. Customs Assessment for courier goods (Surat Penetapan Pembayaran Bea Masuk, Cukai dan/atau Pajak atas barang kiriman); and7. Other PIBs in accordance with the Customs & Excise Law (PIB lainnya sesuai dengan ketentuan peraturan perundang-undangan).

Japan

Australia and Japan sign Mutual Recognition Arrangement

Australia and Japan have signed a Mutual Recognition Arrangement (MRA) that enables Australia's Department of Home Affairs and Japan Customs to formally recognise each other's Authorised Economic Operation (AEO) programmes. Refer to the Australia country report for further details.

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Amendments to Customs, Excise and Free Zone Acts

The amendments to the existing Customs, Excise and Free Zone Acts via the Customs (Amendment) Act 2019, Excise (Amendment) Act 2019 and Free Zone (Amendment) Act 2019 were gazette as an Act of Parliament on 9 July 2019. The date of coming into force of the Amendment Act is expected to be announced by way of gazette.

The key changes include:

- a revised timeframe to demand for back duties;
- changes to the provisions on offences;
- enhanced powers of enforcement for customs officers;
- new record keeping period;
- new provision on offsetting drawback or refund against customs duties owed to Customs; and
- introduction of rules of origin of goods and etc.

For more details on these and other changes, refer to the Malaysia country report in our April-May 2019 issue of Trade Intelligence and in our lead article of this issue.

As the amendments that are introduced under the Customs (Amendment) Act 2019, Excise (Amendment) Act 2019 and Free Zone (Amendment) Act 2019 are rather substantial, it is critical for companies to ensure that they comply with the new requirements and at the same time consider strategies to minimize the impact of these changes to their operations where possible. Companies should also proactively conduct self-assessments, enhance the existing customs standard operating procedures, and build more robust defence procedures and documentation to ensure customs compliance and be better placed to manage future customs enforcement, challenges and audits.

Introduction of excise duties on sweetened beverages

The Malaysia Minister of Finance introduced excise duties on sweetened beverages naturally containing sugar or manufactured in a ready to drink form with effect from 1 July 2019. The following categories of beverages are affected:

1. Fruit juices and vegetable juices whether or not containing added sugar or other sweetening matter under tariff heading 20.09 that contain a total sugar content exceeding 12 grams per 100 millilitres (e.g. certain orange juices);
2. Beverages including carbonated drinks and other non-alcoholic beverages under the tariff heading 22.02 that contain a total sugar content exceeding 5 grams per 100 millilitres, not including milk-based beverages (e.g. certain energy drinks)
3. Milk-based beverages containing total sugar content exceeding 7 grams per 100 milliliters (e.g. chocolate-flavoured milk drink)

Sweetened beverages falling in the above categories are subject to an excise duty rate of RM 0.40 per litre, and must be stored in a licensed premise. The excise duty will become due and payable when they are removed from the licensed warehouse into the customs territory of Malaysia.

Manufacturers of the above products are also required to obtain an excise licence from Malaysia Customs, unless they are exempted under the Excise (Exemption from Licensing) Order 2019.

Various pieces of legislation governing the implementation of the above can be found at the following links:

- Excise (Amendment) Regulations 2019:
http://www.federalgazette.agc.gov.my/outputp/pua_20190531_PUA%20157.pdf
- Excise Duties (Amendment) Order 2019:
http://www.federalgazette.agc.gov.my/outputp/pua_20190531_PUA%20154.pdf
- Excise Duties (Exemption) (Amendment)(No.2) Order 2019:
http://www.federalgazette.agc.gov.my/outputp/pua_20190531_PUA%20156.pdf
- Excise (Exemption from Licensing) Order 2019:
http://www.federalgazette.agc.gov.my/outputp/pua_20190531_PUA%20155.pdf
- Excise Duties (Sweetened Beverages) (Payment) Order 2019:
http://www.federalgazette.agc.gov.my/outputp/pua_20190628_PUA%20176.pdf

Reduction of import duty rates

With effect from 1 July 2019, import duty rates and unit of measurements for select items such as photographic or cinematographic goods, goods made of plastics or articles of plastics and electrical machinery and equipment have been reduced. We have highlighted the duty rate changes below:

HS Heading	Affected tariff code	Import duty rate	
		Past	Present
3506	3506.99.00 10	18%	15%
3707	3707.90.10 00, and 3707.90.90 00	10%	6%
3923	3923.10.90 10	15%	10%
4911	4911.99.90 10	7%	0%
8414	8414.59.49 10	18%	15%
8518	8518.21.10 00, 8518.21.90 00, 8518.22.10 00, 8518.22.90 00, 8518.30.59 00, 8518.40.20 00, 8518.40.30 00, 8518.40.40 00, 8518.40.90 00, 8518.50.10 00, 8518.50.20 00 and , 8518.50.90 00	6%	0%
8527	8527.13.90 00, 8527.19.90 00, 8527.21.00 10, 8527.29.00 00, 8527.91.90 00, 8527.92.20 00 and 8527.99.20 00	5%	0%
8528	8528.49.10 00 and 8528.49.20 00	6%	0%
8528	8528.71.11 00, and 8528.71.91 00	7%	0%
8536	8536.30.10 00, 8536.30.90 00, 8536.50.33 00, 8536.50.40 00, 8536.50.51 00, 8536.50.61 00, and 8536.50.99 20	9%	7%
8536	8536.50.95 00, 8536.90.12 00, 8536.90.22 00, 8536.90.32. 00, 8536.90.93 00, and 8536.90.94 00	15%	12%
8539	8539.39.30 10	7%	5%
9010	9010.50.10 00 and 9010.50.90 00	12%	10%
9028	9028.90.10 00	15%	12%
9504	9504.30.10 90	18%	15%

Refer to the link below for the complete list of affected products, including unit of measurement changes:

http://www.federalgazette.agc.gov.my/outputp/pua_20190626_PUA171.pdf

Possible expansion of Malaysian Authorised Economic Operator (AEO) programme

On 12 June 2019, Malaysian Customs and 11 other government agencies gathered to explore an expansion of the benefits under the existing AEO Programme. The intention is to allow low-risk traders as identified by the AEO programme to be able to receive benefits from these other government agencies, in relation to permit issuance for instance. No further details have been released, but companies may submit written feedback or suggestions to Malaysia Customs with regards to this initiative.



Myanmar

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Draft trade legislation to promote fair competition

The Ministry of Commerce (MOC) drafted a law that aims to promote fair competition as well as support locally-produced products, acquisition of technology and innovation to enhance integration in the global business sector. The Myanmar Parliament is expected to approve the draft legislation within the year. Key highlights are as follows:

- The draft trade law allows businesses to import, export and re-export goods by obtaining trade registration certificates and licences from the MOC.
- It further establishes a trade development body consisting of cabinet ministers, which has been tasked with implementing the law. The body is also authorised to issue lists of import restricted items and non-tariff regulations.
- The MOC is empowered to issue product restrictions and prohibitions and regulations relating to country of origin and other compliance certificates.
- Additionally, a one-stop service board will be formed to manage trade-related licencing and approval procedures.

Relaxation of alcoholic drinks

The MOC announced in mid-June that it is drafting legislation to relax the ban on the importation of alcoholic drinks. The draft legislation is expected to be ready by the end of 2019.

The bill is being touted a relaxation of current rules with foreign liquors still being subject to certain restrictions. This includes rules on import, manufacture, distribution and excise. The liberalisation is nonetheless expected to attract foreign investment in the beverage industry and reduce instances of smuggled alcoholic drinks, the result of the longstanding prohibition on alcoholic drink imports.

Facilitation of overland trade between Myanmar and Thailand

Myanmar and Thailand signed an agreement to facilitate overland cross-border trade through the Yangon (Thilawa)-Myawaddy-Mae Sot-Bangkok (Laem Chabang) route in June 2019. The agreement took effect from the end of July 2019. Government bodies on both sides issued licenses to logistics companies to permit them to transport goods overland via the above route. 100 vehicles from both countries will receive a one-year International Cross Border Operator (ICBO) license. Customs inspections are performed at the Thilawa Special Economic Zone for Thai vehicles and in Mae Sot for Myanmar vehicles.



New Zealand

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GST on low-value imported goods

New tax rules, which apply to overseas businesses selling low-value goods to New Zealand consumers, have been enacted into the law. From 1 December 2019, overseas businesses that sell goods valued at NZD 1,000 or less to consumers in New Zealand may need to register and account for Goods and Services Tax (GST) should they meet the GST registration threshold of NZD 60,000 in sales to local consumers in the preceding 12 month period. The key features of the new rules had been summarised previously in the December 2018/January 2019 Trade Intelligence publication.

The rules will apply to overseas businesses selling low-value goods directly to New Zealand consumers, including intermediaries such as online marketplaces (websites connecting offshore suppliers with local consumers) and re-deliverers (parties assisting in the purchase of or arrangement of delivery of goods to local customers). The NZD 1,000 threshold is based on the Free on Board (FOB) value of the goods. This means transport and insurance costs will be excluded when determining if GST needs to be charged.

As prescribed by New Zealand Customs, consignments valued NZD 1,000 or less can be cleared on an Inward Cargo Report (ICR), a Simplified Import Declaration (SID) or a standard Import Declaration. ICRs and SIDs will be written off as GST pre-collected or exempt unless the goods are alcohol or tobacco, where duty and/or GST will be payable.

Conversely, consignments valued over NZD 1,000 must be cleared under a standard Import Declaration, and the Import Entry Transaction Fee (IETF) and Ministry of Primary Industries (MPI)'s BSEL will be charged. There will be not be any changes to the GST and duty calculation for the processing of consignments over NZD 1,000. Where GST has been prepaid under the new Offshore Supplier Registration scheme, GST will only be payable on the duty amount.

Fine metals will continue to be GST-exempt under section 14 of the Goods and Services Tax Act 1985.

The table below summarises the new message data required by New Zealand Customs from 1 December 2019.

Inward Cargo Report (ICR) Consignment less than NZD 400	Inward Cargo Report (ICR) Consignment NZD 400-1,000	Simplified Declaration (SID)	Consignments over NZD 1000
Supplier GST number (Leave blank if supplier is not registered)	Supplier GST number (Leave blank if supplier is not registered)	Supplier GST number (Leave blank if supplier is not registered)	Supplier GST number (Leave blank if supplier is not registered)
yes or no in the GST prepaid indicator on the goods item line	yes or no in the GST prepaid indicator on the goods item line	yes or no in the GST prepaid indicator on the goods item line	yes or no in the GST prepaid indicator on the goods item line
	Tariff item for each item in the consignment		Each supplier's item to be shown on a separate goods item line

A summary of New Zealand Customs clearance information can also be found here: <https://www.customs.govt.nz/globalassets/documents/misc/new-gst-rules-for-lv-imported-goods.pdf>

Provisional values scheme

Since 1 October 2018, the provisional values scheme (PVS) has allowed some importers to use a provisional value in their import declaration if they cannot determine the final customs value of their imported goods at the time of importation; or if they know that the customs value is likely to change after import. The main benefit of opting into the PVS is that if the final customs value is determined to be higher than the total provisional values, importers will not be charged compensatory interest on the additional duty owed.

New Zealand Customs has issued several reminders to importers approved to use the PVS to include the code “PVL” in the “other information” field (otherwise known as the OINF field) when lodging provisional import entries. New Zealand Customs can only treat the final customs value as a provisional value if the importer has recorded this on the import declaration. The PVL code can be included on the whole import declaration, or on specific lines within an import declaration.

Should importers leave out the PVL code from their import entries, these import declarations or lines cannot be included in the final value calculations. Importers may then also be subject to compensatory interest upon subsequent amendment of values, or when New Zealand Customs identifies a shortfall. We recommend for companies to work closely with their customs brokers to ensure that the PVS is being correctly applied in practice, and all documentation is appropriately completed in line with customs requirements.

AEOs in Singapore to enjoy higher level of trade facilitation in New Zealand

On 27 June 2019, Singapore Customs and New Zealand Customs signed a Mutual Recognition Arrangement (MRA) of Authorised Economic Operators (AEO) during the 133rd/134th WCO Council Sessions. Refer to the update in the Singapore country report for further details.



Philippines

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Shortened period to lodge goods declarations

Customs Memorandum Order (CMO) 27-2019, which took effect on 15 June 2019, implemented the shorter seven day period for filing of goods declaration (from the previous 15 days).

It reminded the Bureau of Customs' (BOC) officers in piers and inspection divisions to be cautious in providing the actual discharge date of the last package from the vessel/ aircraft because this will affect the permissible period to file an entry.

An alternative 'provisional goods declaration' was also provided in the CMO in the event of incomplete information or unavailability of supporting documents to comply with the prescribed period. However at the time of writing, the Customs' e2m system is not yet configured to use the provisional goods declaration.

Shipments that were not filed with the needed goods declaration within the allowable time will consequently be tagged as 'abandoned' in the e2m system, and the BOC will issue importers with notices or 'decrees of abandonment' (DOA), either by electronic, or registered mail. An earlier memorandum issued on 4 June 2019 mandated one day turn-around time to 'untag' abandoned shipments. This applies to abandoned shipments without DOA. Importers can request for the 'untagging' by submitting the following documents to the BOC:

1. Notarized request and undertaking;
2. Bill of Lading duly endorsed by the shipping lines;
3. Certification from BOC's Law Division stating that the shipment is not subject for seizure; and
4. Authorization or Special Power of Attorney and other company registration and identification cards, if the request is made through a representative.

A separate procedure to lift the abandonment is available for shipments that were served with DOA. CMO 17-2019 was covered in our last publication.

Importers are advised to plan their importation schedules and prepare documentation early to avoid inconvenience brought by the shortened filing period. The grace period of seven days was originally introduced through CMO 18-2019 but was later recalled by the BOC after petitions were received from various sectors.

Following are links to access the relevant CMOs:

- http://customs.gov.ph/wp-content/uploads/2019/06/cmo-27-2019-Adjustment_of_the_Period_of_Lodgement_of_Goods.pdf
- http://customs.gov.ph/wp-content/uploads/2019/06/mem-2019-06-003-One_Day_Untagging_of_Abandoned_Cargoes_not_yet_covered_by_Decree_of_Abandonment.pdf
- http://customs.gov.ph/wp-content/uploads/2019/04/cmo-17-2019-Guidelines_on_the_Decision_of_Abandonment.pdf

BOC's list of fees and charges released

The schedule containing a list of the BOC's fees and charges was released in Customs Memorandum Order (CMO) 30-2019. The CMO listed all administrative and processing fees, charges for securing permits and registrations, including the basis for imposition of fines and penalties.

Refer to the following link to access the complete schedule of fees:

http://customs.gov.ph/wp-content/uploads/2019/07/cmo-30-2019-Allowed_Fees_and_Charges_Imposed_and_Collected_by_the_BOC.pdf

Non-brokers now permitted to register as declarants

Any interested party will now be allowed to submit and transact goods declarations with the BOC. The latest Customs Memorandum Order (CMO) 34-2019 provides interim rules on the registration of persons, other than customs brokers, to act as a 'Declarant' and sign goods declaration for consumption, warehousing, or transit.

This allows all importers or persons authorized to act as an agent to obtain a Certificate of Accreditation as a Declarant. Persons wanting to be accredited must apply for registration under the Client Profile Registration System (CPRS). Once approved, the registration is valid for one year.

An applicant must be a Filipino citizen of legal age, but exceptions are made for non-Filipinos who wish to be the declarant.

Under CMO 34-2019, a declarant may be any of the following:

1. A consignee or importer named in the bill of lading or air way bill;
2. An exporter, being the owner of the exported goods;
3. A customs broker acting under the authority of the importer or the holder of the bill of lading;
4. Person who has the right to dispose of the goods;
5. The holder of the bill of lading or air way bill duly endorsed by the shipping line or airline, which may be a natural or juridical person; or
6. A person authorized to act as an agent or attorney-in-fact for each holder.

A person duly empowered to act as an agent or attorney-in-fact will only be allowed to represent one importer or exporter.

A declarant will be responsible for the accuracy of goods declarations, for the payment of duties, taxes and other charges of imported goods, and any other violation of the customs and tariff law.

Refer to the following link to access the BOC issuance:

<https://www.scribd.com/document/418118458/Bureau-of-Customs-CMO-34-2019>



Registration of third parties dealing with BOC

The supervision and registration of third-party service providers was formalized by the BOC through issuance of Customs Administrative Order No. 06-2019. The CAO states that only registered third parties may transact with the BOC. These parties will be “treated equally as true importers or consignees” and “liable for violations committed” against the Customs, tariff and other related laws. Third-party service providers include:

- Private and common carriers for transport of goods	- Consolidators
- Airline representatives or airline grounds handling agents	- De-consolidators
- Shipping lines or their agents	- Non-vessel operating common carriers (NVOCC)
- Pipeline operators	- Logistics provider
- Freight forwarders	- Arrastre operator

Registration must be made to the BOC’s Account Management Office (AMO) or its equivalent office, with the required documentation. The application can be made individually, or through their duly-accredited organisation.

Registration is valid for one year, and is subject to renewal 30 days prior to expiry. A one-time registration privilege may also be granted to registered third parties with good compliance records under the Authorized Economic Operator (AEO) and other trade facilitation programs.

CAO 06-2019 also highlights that third parties are responsible for compliance with customs laws and other regulations in all of their dealings, and must submit authentic documents.

In the event of an investigation, third parties are obliged to cooperate by giving access to records of transactions performed on behalf of the importer and exporter in relation to importation, exportation, movement, storage and clearance of goods.

The CAO is accessible via the following link:

http://customs.gov.ph/wp-content/uploads/2019/07/cao-06-2019-Registration_of_Third_Parties_Dealing_with_the_Bureau-up1.pdf

Implementing guidelines for fuel marking program released

The Philippines released the implementing guidelines for a fuel marking program in Joint Circular (JC) No. 001-2019, signed between the Department of Finance (DOF), Bureau of Customs (BOC), and the Bureau of Internal Revenue (BIR) on 5 July 2019.

The fuel marking program was designed to implement the mandatory marking of refined, manufactured, or imported gasoline, diesel and kerosene in the country, including those withdrawn from free zones to be introduced into the country, after taxes and duties have been paid.

The BIR and BOC will implement the program, including collection of marking fees. The BIR will enforce and collect the fuel marking fees for locally refined or manufactured petroleum, while the BOC will do the same for imported petroleum products. The joint venture Swiss-based SICPA SA and SGS Philippines will be the fuel marking provider (FMP).

Markings will be introduced to petroleum products either by manual dosing or an automated flow injection system by authorized FMP trained specialists in the presence of the oil company/depot representatives and pertinent authorities.

Only petroleum for domestic distribution and consumption with proof of payment of taxes will be marked. Marked fuel products should not be stored and commingled with unmarked fuel products, while exportation of marked petroleum is prohibited.

We have highlighted the BIR and BOC's function and authority below:

- Witness the marking process together with the representatives from oil companies or depots, collect fuel marking fee, and obtain a duplicate of the Certificate of Marking from the fuel marking provider.
- Conduct random field testing and confirmation on fuel required to be marked for compliance purposes. The field testing in refineries and attached depots, gasoline stations and other retail outlets will be supervised by BIR. Field testing in all other areas such as vessels, depots, warehouses, tank trucks, or similar fuel-transporting vehicles will be supervised by BOC.
- Police powers to search premises, vehicles or vessels where there is probable cause or verified information that adulterated or diluted fuel is produced or stored in the following:

Location	Police powers
In a vessel, tank truck, or similar fuel-transporting vehicle	The BOC or BIR officer may conduct a stop-and-search for taxable products
In a fuel manufacturing or refining facility, gasoline station and other retail outlet, depot, warehouse, building or place	The BIR or BOC officer nearest to the facility may enter and search the premises

The BIR and BOC officials and personnel may search and seize petroleum products found to be unmarked, adulterated, or diluted. All members of the field inspection units are automatically deputized to perform the necessary function to effect the search, seizure and arrest.

Offenses relating to fuel marking are punishable under the relevant provisions of the BIR tax code and the customs and tariff law of the BOC.

Given that JC 001-2019 is already effective, stocktaking must be conducted on all tax paid petroleum products stored in depots and terminals. Thereafter, payment of taxes and appropriate markings must be done on all petroleum products intended for domestic market. After six months of implementation, all petroleum products in the Philippine market, including those stored in tanks, depots, and terminal facilities must be tested for compliance with the fuel marking program.

Refer to the following link to access JC 001-2019: http://customs.gov.ph/wp-content/uploads/2019/07/Joint_Circular_No_001-2019.pdf

Amendment to SGL clearance process

Customs Memorandum Order 29-2019 took effect on 17 June 2019. It is an amendment to CMO 28-2003 pertaining to the Super Green Lane (SGL) accreditation and clearance procedures.

The latest CMO introduced additional documentation and processes focused on the clearance of goods transacted by SGL importers that are regulated by the Department of Agriculture (DA) through its branch agencies – the Bureau of Animal Industry (BAI) and the Bureau of Plant Industry (BPI). These goods are meat, its by-products, animal feed and supplements, amongst others. We have summarised the effective amendments below:

1. *Clearance formalities*

For shipments of meat, meat products, feed ingredients, plant products, and others requiring clearance from BAI/BPI, an advance copy of the Bill of Lading is not required before import clearance/permit can be issued by BAI/BPI. Electronic/online checking and verification will be performed by BAI/BPI officers before the shipments are released from Customs custody.

For shipments containing frozen meat, meat and its by products, feed ingredients and supplements, etc., the Office of the Veterinary Quarantine Services will perform documentation tagging and clearance, to allow for guard against the threat of African swine fever and other animal diseases.

2. *Reporting and monitoring*

BPI and BAI will submit a list of its accredited importers and their imported goods to the Bureau of Customs on a monthly basis.

Refer to the following links for further details:

- http://customs.gov.ph/wp-content/uploads/2019/07/cmo-29-2019-Amendment_the_Super_Green_Lane.pdf
- <http://customs.gov.ph/wp-content/uploads/2014/03/CMO-28-2003.pdf>

Container dwelling time

The BOC published CAO 08-2019 implementing the policy and process with respect to the admission, movement, and re-exportation of containers at seaports. The CAO prescribes a 90 day dwell time for all incoming foreign containers (whether loaded or empty). This means containers, shipped as means of storage for imported goods, are accepted under temporary admission rules and are not subject to any forms of security posting or payment of duties and taxes, on the condition that they must be re-exported before the lapse of the 90-day period.

The shipping line and/or the carrying vessel will be the immediate accountable party on the movement, monitoring, storage and inventory of containers, regardless of whether it is carrier-owned, leased or owned by the shipper. This responsibility may only be transferred to the lessor or shipper upon presentation of evidence.

Fifteen days before the end of the allowable period, the BOC will notify the concerned shipping lines to re-export or file an applicable goods declaration for payment of duties and taxes. A suspension of time applies when:

1. there is an alert order issued against the shipment;
2. a warrant of seizure and detention has been issued;
3. the shipment has been declared abandoned; or
4. the shipment is forfeited in favour of the government.

Overstaying containers will be issued with an assessment notice, which needs to be settled within 15 days. If duties and taxes are not paid, the containers will be considered abandoned in favour of the BOC. The BOC can then seize the containers, whether they are inside its terminal facility, in an accredited inland container depot, or located elsewhere. If a container was sold or introduced locally, the responsibility of paying duties and taxes will be passed on to the buyer or possessor.

A penalty of PHP 300,000 will be imposed against the shipping line, lessor or shipper for every violation of the following:

- if the container is sold or donated without payment of duties and taxes;
- if the container is used other than its intended purpose of transporting goods without the payment of duties and taxes;
- if no payment of duties and taxes was made after the lapse of 15 days from notice assessment; or
- allowing overstaying containers to be used by exporters for export cargoes. This offense is also subject to the filing of a criminal case against the shipping lines if deemed appropriate by the BOC.

For any other violations not specified above, a PHP 100,000 penalty will be given.

For operational guidelines on the discharge, loading, and monitoring of containers, refer to the following link:

http://customs.gov.ph/wp-content/uploads/2019/07/CAO-08-2019-Policies_on_Admission_Movement_and_Re-exportation_of_Containers_at_the_Seaports_up1.pdf



Commodity updates: Mechanically deboned meat, basic oxygen furnace, and ceramic floor and wall tiles

The following is a collection of updates and developments on the importation of specified products in the Philippines:

Affected commodity	Update	Current status
<p>Mechanically Deboned Meat (MDM) of chicken, turkey and offal</p> <p>Affected tariff codes: 0207.1491, 0207.2791.A, 0207.2791.B</p>	<p>The BOC released Customs Memorandum Circular 131-2019 on 23 May 2019 reversing the 40% tariff on MDM in relation to the implementation of Republic Act 11203 or Rice Tariffication Act that took effect 5 March 2019.</p> <p>Back in 2017, the concessionary rate of 5% was extended in conjunction with the quantitative restriction (QR) on rice importation. Since the QR was removed, the BOC took the initiative to implement the higher tariff. After receiving petitions from an industry organization, the President signed Executive Order 82 returning the tariff rate to 5% until 2020. The Order took effect on 13 June 2019.</p> <p>Importers may retroactively collect the 35% tariff difference for MDM imports from 5 March to 13 June.</p> <p>http://customs.gov.ph/wp-content/uploads/2019/05/cmc-131-2019-Applicable_Duty_Rates_for_Product_under_Executive_Order_23.pdf http://customs.gov.ph/wp-content/uploads/2019/07/cmc-144-2019-Rates_of_Import_Duty_under_Section_1611_of_CMTA.pdf</p>	<p>MFN rate changed from 40% to 5% rate</p>
<p>Basic Oxygen Furnace (BOF) in 'slag' form</p>	<p>The BOC issued Customs Memorandum Circular 148-2019 prohibiting the importation of BOF cement additives in slag form. Nevertheless, it clarifies that BOF slag can be imported if it is intended for further refining and processing as provided in Table 10.1 of the Department of Environment and Natural Resources (DENR) Administrative Order 2013-22.</p> <p>http://customs.gov.ph/wp-content/uploads/2019/07/cmc-148-2019-Importation_of_Basic_Oxygen_Furnace_cement_additive.pdf</p>	<p>Prohibition on imports of BOF slag</p>
<p>Ceramic floor and wall tiles</p> <p>Affected tariff codes: 6907.2214, 6907.2121, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2284, 6907.2313, 6907.2314, 6907.2393, 6907.2394, 6907.4092</p>	<p>CMO 28-2019 was issued on 17 June 2019 pursuant to Department Order No. 19-06, s. 2019 issued by the Department of Trade and Industry. However, on 10 July 2019, CMO 28-2019 was suspended by CMC 165-2019 as instructed by the DTI. There is therefore no present impact to importers.</p> <p>CMO 28-2019 implemented provisional safeguard duties on ceramic floor and wall tiles for 200 days. The safeguard duty amounted to PHP 3/kg and was to be collected in a form of cash bond.</p> <p>http://customs.gov.ph/wp-content/uploads/2019/07/CMO-28-2019-Imposition_of_a_Provisional_Safeguard_Duty.pdf http://customs.gov.ph/wp-content/uploads/2019/07/cmc-165-2019-Suspension_of_the_Implementation_of_CMO_No_28-2019.pdf</p>	<p>No impact</p>

Singapore

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AEOs in Singapore to enjoy higher level of trade facilitation in New Zealand

On 27 June 2019, Singapore Customs and New Zealand Customs signed a Mutual Recognition Arrangement (MRA) of Authorised Economic Operators (AEO) during the 133rd/134th World Customs Organisation (WCO) Council Sessions. The agreement allows low risk companies or certified AEO companies by Singapore Customs to benefit from improved trade facilitation such as reduced documentary requirements and cargo inspections for goods exported to New Zealand. In the same way, companies certified by New Zealand Customs will enjoy the same level of trade facilitation for their goods exported to Singapore.

The Singapore-New Zealand MRA recognises the compatibility of the supply chain security programmes (commonly known as AEO) implemented by companies certified under Singapore Customs' Secure Trade Partnership (STP) programme and accredited companies under New Zealand's Secure Export Scheme. In addition to the aforementioned benefits, companies will be able to better predict the movement of their goods, and during international trade disruption, the MRAs would allow goods of the certified companies to be facilitated and cleared ahead of other companies when trade operations resumes.

To date, Singapore has existing MRAs with 10 countries: Australia, Canada, China, Hong Kong, Japan, Republic of Korea, Taiwan R.O.C., Thailand, the United States and the latest addition to the list, New Zealand.

Online application for Singapore Duty Paid Cigarette marking goes live

Importers and manufacturers who intend to import and sell new brands or variants of cigarettes in Singapore can now apply for Singapore Duty-Paid Cigarette (SDPC) marking through online application. This has been in effect since 1 July 2019, and the digitisation of the said application procedure replaces the existing hard copy application process for SPDC marking. Furthermore, it is no longer required for importers and manufacturers to submit a physical sample of the duty-paid samples of the cigarette sticks with SDPC marking. Applicants are instead only required to upload a photograph of the sample.

The application procedures and requirements can be accessed at the following links:

- <https://form.gov.sg/#!/5ccac0a442502b00107a9554>
- <https://www.customs.gov.sg/businesses/valuation-duties-taxes--fees/singapore-duty-paid-cigarette-sdpc-mark>



Taiwan, R.O.C.

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Interpretive rule clarifying imports from an FTZ

Taiwan, R.O.C.'s Ministry of Finance has released an order for the interpretive rule pursuant to Article 51 of the Customs Act. It states that when goods transported from a Free Trade Zone (FTZ) to a taxable zone are found to have been damaged or non-conforming to specifications or quality from the original contract thereby necessitating compensation or replacement by the original FTZ enterprise, the compensation or replacement goods are exempt from duty. This is on the condition that the situation is reported to Customs within one month of the date of importation of the original goods into the taxable zone.

Refer to the following link for further details:

<https://gazette.nat.gov.tw/egFront/detail.do?metaid=108260&log=detailLog>

Mutual Recognition Agreement on AEO with Australia implemented

The Ministry of Finance announced the implementation of the Mutual Recognition Agreement with respect to Taiwan, R.O.C.'s and Australia's Authorized Economic Operator (AEO) programs on 1 June 2019.

AEO-certified traders from both territories will now be able to enjoy mutual facilitation for goods exported to the other territory. Advantages include reduced rates of random inspections during customs clearance, and priority for examinations when selected for random inspection.

To benefit from the mutual recognition initiative, Taiwan AEO exporters may register with Taiwan Customs via Taiwan Customs AEO official website link below:
<http://www.iatepe.org.tw/upload/1081011253.pdf>



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Thai Customs extends the ‘Single-point additional duty payment programme’

On 7 June 2019, Thai Customs announced the extension of the ‘Single-point additional duty programme’, which generated great interest from the business community during the first year of implementation. Customs has since extended the programme, which will continue from 15 May 2019 till 30 April 2020.

The main purpose of this programme is to assist importers and exporters with the self-disclosure process for non-compliance issues related to customs regulations. Similar to last year’s program, the criteria to participate in the programme and the associated benefits will continue to apply.

Offences that render companies ineligible to join the programme are those related to smuggling, duty evasion with proof of fraudulent intent, evasion of import or export restrictions, and trade in counterfeit goods. Also, companies that are currently under any audit, investigation, or internal process by Thai Customs, the Department of Special Investigation (DSI), or Economic Crime Suppression Division are not eligible for this programme.

Importers or exporters wishing to join the programme are required to submit a request to the Post Clearance Audit Division and submit all relevant documents within 30 days. The decision to join the programme should always be carefully considered and we would advise companies to review their import and export operations before deciding to enrol.

Back-to-Back Form D together with a third-country invoicing arrangement now allowed

Customs Notification No. 114/2562, effective from 1 July 2019, amends the previous Customs Notification No. 187/2560 regarding Rules and procedures of duty exemption and reduction for goods originating in ASEAN.

This amendment adds the required procedures for using Form D and e-Form D for Back-to-Back (B2B) transactions together with a third-country invoicing arrangement. Before this Notification, there was no specific written rules for this arrangement under ATIGA or any other applicable FTAs.

The required procedures for importation under B2B transactions together with a third-country invoicing arrangement are:

- In addition to the normal procedure, the importer needs to attach the sales invoice issued by the business entity based in the country where the B2B Form D was issued.
- Tick ‘Back-to-Back CO’ and ‘Third-Country Invoicing’ in box 13 of Form D.
- State the name and country of the business entity in the last ‘third-country’ in box 7 of the B2B Form D.

The procedures above apply to both Form Ds and e-Form Ds.

Duty exemption and reduction under the ASEAN-Hong Kong Free Trade Agreement

Preferential duties under the ASEAN-Hong Kong Free Trade Agreement (AHKFTA) entered into force on 11 June 2019 under a Notification issued by the Ministry of Finance regarding duty exemption and reduction under AHKFTA. The required procedures for imported goods into Thailand are outlined in Customs Notification No. 89/2562.

AHKFTA accepts third party invoicing where the third party is a non-AHKFTA party. The agreement also applies the concept of back-to-back certificates of origin, under the name 'Movement Confirmation'.

Amendments to the Thailand Medical Device Act

The Medical Device Act (Issue No. 2) B.E. 2562 (2019) entered into effect on 1 May 2019, and amends the previous Medical Device Act B.E. 2551 (2008).

The updated Act contains two major amendments that could affect importers of medical devices:

Changes	Amendments to the Medical Device Act
Change in the definition of 'medical device'	<p>The new Act introduces a revised definition of 'medical device'. Compared to the previous definition, the current amendment eliminates the term 'parts' from the definition but replaces it with the term 'accessories' instead. Consequently, this means that accessories or items intended for use with medical devices will now fall within the regulatory scope of the Medical Devices Act.</p> <p>The new act also includes a separate definition of accessories: "Accessories are items, tools, or products designed by the manufacturers or product owners to be used particularly together with the medical devices to support or assist the application of the medical devices so that they can perform and achieve its objectives".</p>
New 'registration and notification' process requirements	<p>Under the previous Act there were two types of medical devices: medical devices subject to manufacturing or import licenses, and medical devices subject to a detailed notification process. The new act introduces a third category – "Medical devices subject to a non-detailed notification process".</p> <p>The notification document is valid for five years from the date of issue. Failure to comply with the non-detailed notifying requirements are subject to imprisonment up to six months, a fine of up to 50,000 baht, or both.</p> <p>A company who imports medical device in this third category would need to comply with certain requirements, including labelling requirements and storing practices.</p>

Companies involved in the import, sale and distribution of medical devices should look out for the issue of subsequent relevant sub-regulations and ensure that they are in compliance with the new rules and procedures stipulated in the amended act.

Prohibition on importation of used vehicles

On 13 June 2019, the Ministry of Commerce issued a Notification prohibiting the import of used vehicles into Thailand. The Notification does not prohibit import of all types of used vehicles, and some types can still be imported where prior permission is obtained. This Notification will be effective from 10 December 2019.

Used vehicles classified in HS headings 87.01 (except tow trucks), 87.02, 87.03 (except ambulances), 87.04, and antique cars of over 100 years classified in heading 97.06 are prohibited from importation. If used vehicles under these headings are imported, Customs has the requisite authority to destroy these vehicles upon import. Tow trucks of HS heading 87.01, ambulances under heading 87.03, and other used cars under heading 87.05 may still be imported provided prior import permission is obtained from the Ministry of Commerce.

The following used vehicles will also not be considered prohibited goods and will not require prior permission for import:

- Used vehicles used for quality inspection or transportation purposes to local distributors;
- Used vehicles under diplomatic privilege; and
- Used vehicles with pre-approval obtained from Customs that are imported for specific purposes and will be subsequently re-exported from Thailand.

Importers who are planning to import used vehicles after the effective date should determine the type of vehicles imported, as well as assess and comply with the applicable requirements prior to import.

The Notification is available in Thai on the Department of Foreign Trade site: <http://www.dft.go.th/th-th/Detail-Law/ArticleId/13483/13483>



Vietnam

Import duty exemptions for materials for “in-country exported goods”

On 25 June 2019, the GDC issued official letter no. 4138/TCHQ-TXNK to provincial Customs Departments. The letter reversed GDC's previous guidance, such that import duty exemptions are now available for imported materials that are used in the production of 'in-country exported' goods.

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This replaces the GDC's previous guidance, which stipulated that in-country exportation did not meet the definition of exportation activity specified in the Law on Commerce. As a result, import duty exemptions would not be available for such materials.

Procedures for domestic sale of scrap and waste incurred during export production

On 1 July 2019, the GDC issued Official letter no 4344/TCHQ-TXNK on customs procedures for domestic sale of scrap and waste incurred during export production.

When companies carry out domestic sale or local consumption of scrap collected during the manufacture of products to be exported, companies can choose to make their declarations to Customs using Form 04 (electronically) or Form 06/BKKT TXNK (in paper):

1. each time such scrap is sold domestically but before the issuance of commercial invoice; or
2. monthly but no later than the 10th day of the following month.

Companies do not need to register for a new customs declaration if there is a change in the usage of the scrap.



Around the world

Expected changes under Incoterms 2020

To keep up with developments in international trade, the International Chamber of Commerce announced earlier this year that it will be making changes to existing incoterms (Incoterms 2010). The new set of incoterms – Incoterms 2020 – will take effect from 1 January 2020. As the official version is slated to be released in early September 2019, we will cover the change in the lead article of our August September 2019 Trade Intelligence publication.

World Customs Organisation

WCO Council annual meeting adopts HS 2022

The WCO Council is WCO's highest decision-making body and comprises the Directors General of all Member Customs administrations. Its representatives met over 27-29 June 2019 for its annual meeting to assess the progress made in the previous year and to identify areas of focus in the next year.

The meeting saw the Council adopt the 2022 version of the Harmonised System which, we understand, includes new headings and/or defining Notes for:

- new or major technologies such as 3D printers, smartphones, drones, and novel tobacco products;
- electronic waste;
- gases with high global warming potential;
- rapid diagnostic kits for Zika virus and other mosquito-borne diseases;
- new fentanyl opioid derivatives;
- cultural objects;
- edible oils produced by microbes;
- edible insect products; and
- minimally-processed quinoa.

The WCO Council also endorsed an E-Commerce package and agreed to continue work on developing additional technical specifications, as well as adopted joint guidelines on the exchange of electronic advance data between postal agencies and Customs. Refer to the update below for details.

Lastly, a new WCO Strategic Plan for 2019/2022 was adopted which identified nine focus areas. They include coordinated border management; security and safety; the Revised Kyoto Convention; e-commerce; the Harmonised System; Capacity Building Strategy; performance measurement; integrity; and digital Customs and data analysis.

Electronic data exchange between postal agencies and customs administrations

As reported in the update above, the WCO Council adopted the joint WCO Universal Postal Union (UPU) guidelines on the exchange of electronic advance data between postal agencies and customs administrations. The guidelines was released on 18 July 2019.

It is intended to serve as a basis for national implementation of e-commerce provisions under the WCO SAFE Framework of Standards (2018), which requires the submission of electronic advance data on all postal items and pre-loading of certain data elements as specified in Annex III.

The guidelines can be accessed with the following link:

<http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/instruments-and-tools/tools/upu/joint-wco-upu-guidelines.pdf?db=web>

Review of the Revised Kyoto Convention

The WCO Working Group on the Comprehensive Review of the Revised Kyoto Convention (RKC) held its fifth meeting from 3-6 June 2019.

In the ‘Members/Contracting Parties only’ session, delegates broke into subgroups to discuss various proposals submitted. Proposals included those on the periodical update mechanism; data issues; electronic declarations; advance cargo information; authorised economic operators; advance rulings; rules of origin and single window. Plenary discussions were also held on key subjects such as revision of the RKC Work Plan, and Terms of Reference. Certain proposals that had sufficient general agreement were upgraded to Track D status, meaning they will be converted into formal texts for text-based proposals/discussions.

The ‘Stakeholder engagement’ session involved private sector stakeholders, other international organisations as well as academics. Key takeaways of the session include:

- push for greater levels of implementation of the RKC since transparency and predictability are important to the private sector;
- suggestion for an analysis of the economic benefits of implementing the RKC;
- need for clearer objectives for the WCO, including a focus on implementation;
- need for a mechanism to monitor and evaluate implementation;
- for RKC to retain its binding nature as opposed to ‘best endeavour’ commitments; and
- emphasis for parties to prepare and provide operational procedures, information and communication technology support, and training to staff to ensure proper implementation.

The above Working Group meeting was followed by the 20th meeting of the RKC Management Committee on 17-18 June 2019. The Management Committee discussed the work plan of the Working Group and its working methods; and efforts in stakeholder engagement and experience sharing.

Gambia joins the Harmonised System Convention

Gambia acceded to the Harmonised System (HS) Convention on 29 June 2019, making it the 158th Contracting Party to the Convention. The Convention enters into force for Gambia on 1 January 2021.

World Trade Organisation

Progress of Trade Facilitation Agreement implementation

On 25 June 2019, the Committee on Trade Facilitation gathered to discuss how efforts at implementing the Trade Facilitation Agreement (TFA) were progressing. At present, 144 members (approximately 90% of all WTO members) have deposited a ratification instrument with the WTO Secretariat.

Under the TFA, developing and least developed countries were afforded some time to decide which provisions should fall into Category A (immediate implementation), B (implementation after a transition period), or C (implementation upon receiving assistance and capacity building support). A number of members reminded developing country members of the 22 August 2019 deadline to submit their Category 3 designations.

During the meeting, members shared their experience on ongoing work in line with transparency obligations, and representatives of various trade facilitation groups provided updates on various completed and upcoming projects.

Updates from General Council meeting

The WTO General Council held its annual meeting over 23-24 July 2019. During the meeting, 50 interventions were made by various WTO members in response to the Trade Negotiations Committee Report. The Chair provided an update on progress made by WTO bodies under the Bali, Nairobi and Buenos Aires Ministerial mandates, and noted developments made in relation to developing an informal process on appellate body matters. Updates on advancements made under the work program on e-commerce was also provided to the Council.

Various WTO members commented on procedural guidelines that WTO Committees and member countries should follow when raising trade concerns; ways to improve the transparency of notifications raised to the WTO; Japan's export restrictive measures against Korea; and transparency in WTO dispute settlement process.

Details can be accessed here:

https://www.wto.org/english/news_e/news19_e/sum_gc_jul19_e.htm

Trade-restrictive measures imposed by G20 and WTO members continue unabated

The WTO released the 21st monitoring report on Group of 20 (G20) trade measures on 24 June 2019. Based on the study conducted, new import restrictive measures imposed by G20 economies from mid-October 2018 to mid-May 2019 covered USD 335.9 billion in global trade, a volume that is the second highest after the previous reporting period of USD 480.9 billion. These figures are the highest since the trade monitoring exercise was initiated in May 2012. The average sits at approximately USD 96 million.

On balance, an estimated USD 397.2 billion worth of import-facilitating measures were implemented by the G20 in the review period, which is 1.8 times higher than in the previous reporting period. This includes eliminations or reductions of import tariffs and export duties, as well as simplification of export procedures.

Following the above, on 8 July 2019, the WTO Director-General issued the latest mid-year report on trade measures implemented by WTO members. For the period

of mid-October 2018 to mid-May 2019, USD 339.5 billion worth of import-restrictive measures were implemented, second only to the USD 588.3 billion in the previous reporting period. On balance, import-facilitating measures within the same period totalled USD 398.2 billion, which averages out to approximately seven new trade-facilitative measures per month. This makes it the lowest monthly average since 2012 when reporting began.

Details on the G20 and WTO trade monitoring report can be accessed via the following links:

- https://www.wto.org/english/news_e/news19_e/g20_wto_report_june19_e.pdf
- https://www.wto.org/english/news_e/news19_e/trdev_22jul19_e.htm

Both reports urged G20 economies and WTO members to follow through on their commitment to trade and a rules-based international trading system amidst the turbulent economy.

Discussions at the Technical Barriers to Trade meeting

At WTO's eighth triennial review of the Technical Barriers to Trade (TBT) Agreement, WTO members agreed to hold thematic sessions on relevant TBT issues alongside the regular meetings of the Committee on TBT. A session on transparency was held on 18-19 June 2019 where discussions centred on the functioning of enquiry points, tracking and reacting to measures and notifications, as well as the handling of comments.

Following these sessions, the Committee on TBT conducted its regular meetings over 20-21 June 2019. A total of 65 specific trade concerns were discussed. We have summarised some of the new concerns discussed below:

Affected country	Alleged TBT	Background
China	Proposed regulation on cosmetic inspection	The current version of China's draft regulation on cosmetic inspections requires companies to conduct animal testing, perform inspections and submit samples. Japan, Korea and the US noted that the requirements could be discriminatory and could affect the shelf life of certain products. China was urged to accept test results by in-house or foreign laboratories and to provide an adequate transition period for companies to adapt. China responded that the regulations are in a draft format and comments will be provided at a later stage.
India	Proposed amendment to cosmetic rules	The US and EU raised concerns with India's draft amendments to its cosmetic rules which require imported cosmetics to be tested in India to the satisfaction of local standards, and for product certifications and testing protocols to be submitted. India does not accept foreign test results and their local standards are not in line with international standards. India remarked that it had notified the proposed rules in June 2019 and that members had 60 days to comment.

India	Proposed quality control order on imported toys	<p>The US, EU and Canada requested further details on a regulatory change requiring in-country testing of imported toys. India previously accepted overseas test results by accredited laboratories under particular international standards.</p> <p>India clarified that consultations are still ongoing and the draft will be notified to the WTO once it is ready.</p>
South Korea	Proposed package recycle labelling regulation	<p>Canada and the US pointed out that Korea's package recycling regulation disregards recycling efforts in other countries and use of Korea-specific packaging requirements could disrupt trade.</p> <p>South Korea agreed to notify other members once it is available.</p>
India	Final regulation on moisture content for Cassia Verra (Cinnamomum Burmani)	<p>India implemented its regulation on the moisture content in Cassia Verra which is more stringent than existing international standards. In addition to requesting for justification for the limit set, Indonesia noted that it has not been able to export Cassia Verra to India from early 2019 despite complying with maximum moisture limits as the regulation has been inconsistently applied.</p> <p>India noted that this is a trade facilitation issue, and not a TBT issue.</p>

Further information on the thematic session on transparency can be accessed via this link:
https://www.wto.org/english/tratop_e/tbt_e/thematicsession1819_06_29_e.htm.

The full list of TBT concerns can be found here:
https://www.wto.org/english/news_e/news19_e/tctbt_21jun19_e.pdf.



Discussions at the Sanitary and Phytosanitary Measures meetings

The WTO Secretariat organised a thematic Sanitary and Phytosanitary (SPS) workshop for more than 40 government representatives and experts on 15-16 July 2019. The transparency and coordination workshop facilitated experience- and knowledge-sharing on transparency-related coordination and domestic institutional arrangements. A key area of focus was on the difference in scope between the SPS Agreement and the TBT Agreement, and on notification of measures that contain both elements – for instance, whether a ‘single window’ covering both worked.

Later in the week, a subsequent meeting was held by the Committee on SPS Measures on 18-19 July 2019. During the meeting, WTO Members discussed a total of eight new specific trade concerns, and 16 previously raised concerns. We have summarised some of the new concerns discussed below:

Affected country	Alleged TBT	Background
EU	Proposed lowering of maximum residue levels (MRLs) for a pesticide – lambda-cyhalothrin – in tea and other herbal infusion products	<p>The EU proposed to lower the MRLs for lambda-cyhalothrin in tea and other products from 1 mg/kg to 0.1 mg/kg. China voiced its concerns and alleges that the measure lacks scientific support. It also urged the EU to evaluate the health risks posed to consumers and to consider a transition period of at least one year.</p> <p>The EU responded that the newly proposed limit is based on scientific data, and that the regulation does have a transitional period that permits products that are already in the market to be kept.</p>
China	Restrictions on US beef	<p>The US raised concerns over China’s import restrictions on US beef. It highlighted that the World Organisation for Animal Health classified the US as a territory with negligible risk for Bovine Spongiform Encephalopathy (BSE).</p> <p>China responded that after its risk assessment, it resumed importation of deboned and boned beef under 30 months of age in June 2017. To protect its cattle industry and for public health reasons, this was not extended to beef over 30 months of age from members with a record of BSE.</p>
Vietnam	Restrictions on several products, including melons, live cattle, beef, and meat and bone meal	<p>Brazil expressed concern over as Vietnam’s restrictions on a number of products. It alleges that the process of negotiating International Sanitary Certificates and excessive information requests are unnecessary, and are used as barriers to trade.</p> <p>Vietnam replied that the measures are not discriminatory and were notified to the WTO. It explained that it is trying to ensure an appropriate level of protection of human, animal, and plant life and health.</p>

Japan	Delay in pest risk analysis process	<p>Brazil raised concerns over what it regards as Japan's unjustified delay in concluding a pest risk analysis before opening its doors to Brazilian avocados.</p> <p>Japan highlighted that the delay is due to concerns over infestation by the Mediterranean fruit fly, and is not yet satisfied by the information provided by Brazil in this regard.</p>
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Update on disputes and investigations initiated or notified to the WTO

We have highlighted disputes and investigations relevant to the Asia Pacific region that were initiated with the WTO Dispute Settlement Body (DSB) in June and July 2019. The DSB consists of all WTO members and oversees legal disputes between them.

Dispute / Investigation initiated by	Dispute/ investigation initiated against	Affected products or areas	Background	Reference No.
Indonesia	Various countries	Evaporators used in the cooling system of refrigerators and freezers	<p>On 12 June 2019, Indonesia notified the WTO of its initiation of a safeguards investigation on the importation of evaporators. Specifically, evaporators in a type of plate (e.g., roll-bond evaporator) and fin (e.g., fin-cross evaporator) that is used in the cooling system of refrigerators and freezers, under Indonesia tariff code 8418.99.10.</p> <p>The investigation is ongoing.</p>	G/SG/N/6/IDN/30
Brazil	Indonesia	Chicken meat and chicken products	<p>Brazil requested the establishment of a panel to determine if Indonesia has complied with the DSB's earlier recommendations and rulings, or if it has continued to close its domestic market off from Brazilian chicken imports by delaying the approval of international health certifications. The reasonable period for implementation expired on 22 July 2018. By virtue of an August 2018 procedural understanding between the two countries, Indonesia did not block Brazil's request.</p>	WT/DS484/18
United States	India	Measures imposing additional duties on certain US imports	<p>Between June 2018 and June 2019, India imposed additional duties that the US claims discriminate against its imports. The US alleges that imports from other WTO members are not subject to the same additional duties, and that the duties applied are higher than those set out in India's schedule of concessions. In view of this, the US requested consultations with India on 3 July 2019.</p>	WT/DS585/1

Philippines	Thailand	Various fiscal and customs measures on imported cigarettes	<p>On 12 July 2019, the WTO issued a second panel report on Thailand's measures against imported cigarettes. In this round, Philippines challenged two sets of measures adopted by Thailand in 2017.</p> <p>The first set of measures pertained to criminal charges that the Public Prosecutor filed against Philip Morris Thailand for under-declaring the customs values for 780 entries of cigarettes between 2002 and 2003.</p> <p>The second set of measures related to 1,052 revised Notices of Assessments that Philip Morris Thailand received from Thai Customs. The notices were received in November 2017 and were rejections of its declared transaction values and determinations of the revised customs values for imports over 2001 to 2003.</p>	WT/DS371/RW2
China	United States	Countervailing measures on thermal paper, pressure pipe, line pipe, citric acid, lawn groomers, kitchen shelving, oil country tubular goods, wire strand, magnesia bricks, seamless pipe, print graphics, drill pipe, aluminium extrusions, steel cylinders, solar panels, wind towers, and steel sinks from China	<p>On 16 July 2019, the WTO Appellate Body issued its report in response to this longstanding dispute between China and the US. In essence, the Appellate Body upheld previous findings.</p> <p>By way of background, on 25 May 2012, China initiated a dispute against the US over the US' imposition of countervailing duties on certain China products and the US Department of Commerce's investigations and determinations. The DSB issued its recommendations and rulings which the US failed to implement within the time period set. China initiated compliance proceedings against the US on this basis. A compliance panel was subsequently established and on 21 March 2018, a compliance panel report was issued. Both the US and China lodged appeals on various points of law and legal interpretations adopted by the compliance panel.</p> <p>The Appellate Body report issued on 17 July 2019 is in relation to the above appeals. It examined the compliance panel's reasoning and findings, and upheld the panel's findings on issues raised.</p>	WT/DS437/28
China	United States	Safeguard measure on imports of crystalline silicon photovoltaic products	<p>Following the failure in consultations, China initiated a dispute against the US in relation to a US safeguard measure on imports of crystalline silicon photovoltaic cells. China alleged that the tariff rate quota which became effective in January 2018, is unjustified.</p> <p>The US disagreed, claiming that it was permitted to do so under WTO rules and that its process was open and transparent. It objected to the establishment of a panel as China had included a claim in its panel request that had not been raised in its request for consultations.</p> <p>The DSB agreed to revisit the matter.</p>	WT/DS562/8

Australia Brazil Guatemala	India	Various support measures for domestic sugar and sugarcane production	<p>Three countries separately initiated complaints regarding India's domestic support measures for domestic sugar and sugarcane producers. Measures include administered prices, minimum selling prices, and price-setting, achieved through stockholding requirements, subsidies, financial assistance and schemes providing export incentives.</p> <p>India responded that the measures help prevent exploitation of its farmers, and do not result in trade distortion. It claimed that these measures have instead made sugar imports more lucrative as it increased the domestic price of sugar.</p> <p>The DSB agreed to revisit the issue.</p>	WT/DS579/7, WT/DS580/7, WT/DS581/8
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New issue of World Tariffs Profiles

On 2 July 2019, the WTO issued the latest edition of the World Tariff Profiles. The publication is a joint annual effort with the International Trade Centre and the United Nations Conference on Trade and Development. It provides detailed information on tariff and non-tariff measures adopted by more than 170 countries and customs territories worldwide. The full publication can be accessed here: https://www.wto.org/english/res_e/booksp_e/tariff_profiles19_e.pdf

Release of book highlighting WTO Ministerial Conferences key outcomes

A new book titled 'WTO Ministerial Conferences: Key Outcomes' was unveiled by the WTO on 18 July 2019. It highlights key results achieved from all 11 WTO Ministerial Conferences held since the WTO was established. Further information can be accessed here: https://www.wto.org/english/res_e/publications_e/mc_outcomes_e.htm

Provisional program for 2019 Public Forum issued

This year, the WTO Public Forum titled 'Trading Forward: Adapting to the Changing World' is taking place on 8-11 October 2019. The provisional program was released on 23 July 2019.

According to the program, 137 sessions have been organised and will involve representatives from WTO member countries, non-governmental and international organizations, academia, and private sector participants. The provisional program also features a youth panel on what 'Generation Z' and 'Millennials' want from global trade. The draft program can be accessed here: https://www.wto.org/english/forums_e/public_forum19_e/draft_programme_e.pdf

2019 statistical publications now available

The WTO released its World Trade Statistical Review 2019 on 29 July 2019. The publication contains analytical chapters that cover the trade in goods and services across developed, developing and least-developed countries, developments in regional preferential trade arrangements, global value chains, and digital trade. It also encompasses trade profiles of 197 economies and various trade-restrictive and facilitative measures imposed by various economies. The full publication can be accessed here: https://www.wto.org/english/res_e/booksp_e/trade_profiles19_e.pdf

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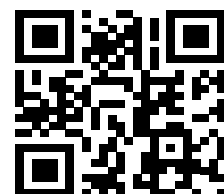
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