



Veni vidi vici virus

Managing cross-border trade during
and after the crisis

Trade Intelligence Asia Pacific
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Key intelligence



COVID-related measures - at the start of each country report; overview

50

Malaysia simplifies back-to-back Certificate of Origin applications

29

Philippines introduces Provisional Goods Declarations

35

Thailand Board of Investment updates its list of promoted activities

46

Indonesia details facilitation available for users of Special Economic Zones

25

Malaysia and Indonesia vie to be ASEAN's automotive hub

26, 30

India introduces Remission of Duties and Taxes on Exported Products scheme

21

Singapore Customs permits storage of dutiable goods in FTZ

41

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		Territory reports	
Veni vidi vici virus	4	Japan	27
Managing cross-border trade during and after the crisis		Malaysia	28
		Myanmar	32
ASEAN		New Zealand	33
Summary of ASEAN meetings	9	Philippines	34
		Singapore	41
Export control		Taiwan, R.O.C.	42
US publishes new rules to the International Traffic in Arms Regulations	10	Thailand	43
		Vietnam	45
Free Trade Agreements focus		Around the world	
Philippines component for AHKFTA enters into force	11	Summary of trade measures undertaken in light of COVID-19	50
RCEP developments	11	WCO & WTO step up monitoring of COVID-19 related trade and trade-related measures	51
Australia and the United Kingdom exploring trade agreement	11	Updates on US – China Trade War	51
China conducts first round of negotiations for potential bilateral FTA with Cambodia	11	World Customs Organisation	
India requests FTA partners to temporarily allow imports without certificates of origin	12	Consolidated list of COVID-19 related measures around the world	52
India and Chile to pursue upgrade to existing bilateral free trade agreement	12	HS classification reference document for COVID-19 medical supplies	52
India and Japan conduct review of IJCEPA	12	Progress on key Council and Policy initiatives	52
India and United States commence negotiation for potential free trade agreement	12	World Trade Organisation	
Indonesia ratifies bilateral free trade agreement with Australia	12	Implications of COVID-19 on WTO meetings	53
Malaysia and EFTA nations resume negotiations for FTA	12	Developing countries and LDCs urged to submit TFA notifications	53
		Trade in goods to further weaken in Q1	53
Territory reports		Rules of origin: a complex state of affairs	53
Australia	13	16 WTO members set up contingency appeal arrangement	54
China	15	Updates from WTO Technical Barriers to Trade meetings	54
Hong Kong	17	2020 Public Forum	54
India	18	Disputes at the WTO	55
Indonesia	23		

Veni vidi vici virus

Managing cross-border trade during and after the crisis

It would be hard to imagine anyone, let alone any of our readers, not being aware of the fact that a new virus has been going around. Life has changed at a speed perhaps previously unimaginable. International supply chains have been affected in many different ways. Some have sped up. Others have emerged overnight out of nothing. Yet others have slowed down or disappeared altogether.

Rightly, the immediate focus of governments, companies and individuals alike has been on the medical emergencies. Staying healthy and safe. Getting the right supplies, often medical supplies, to the right people at the right time. Getting people back to factories and productive. Increasing production of products that are either insufficiently available, or that are not, or cannot get to, the right place.

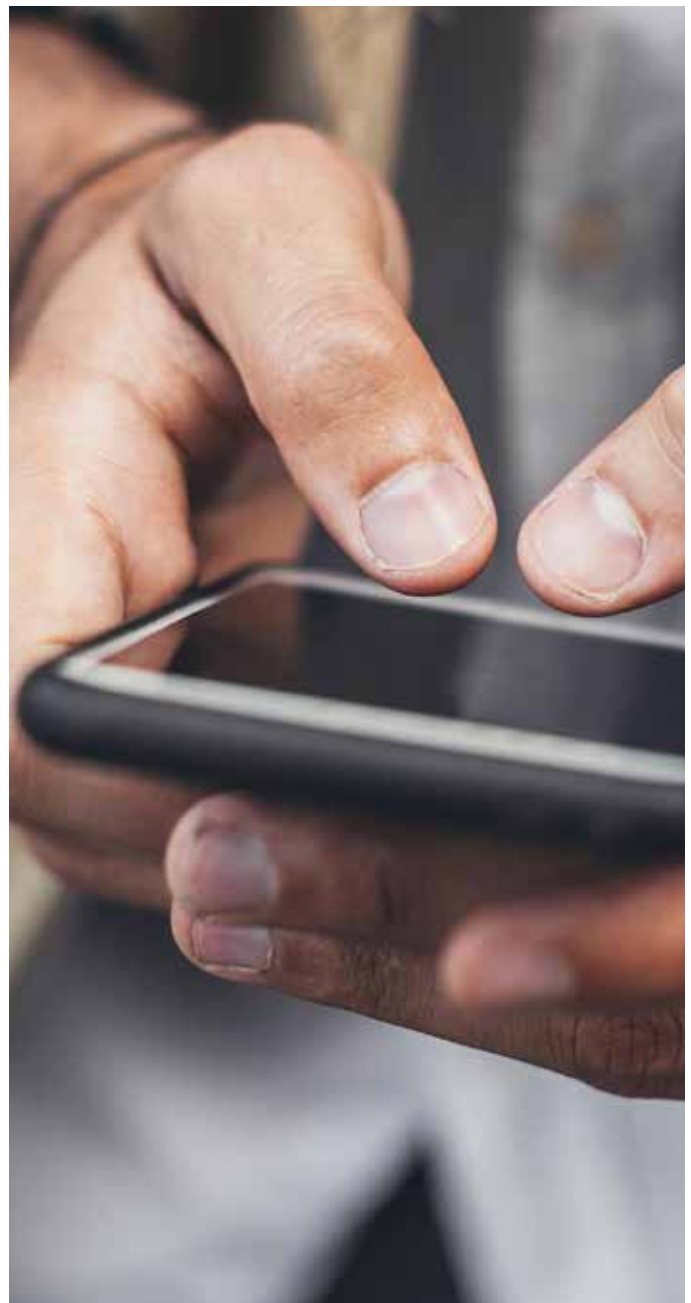
Some of the latter is simply a confluence of circumstances. It is not always possible or even easy to create manufacturing capabilities in a short period of time. Even where production facilities can be adjusted to make other things (think auto manufacturers making ventilators and fashion companies making hand sanitisers), meeting the necessary regulatory standards, either normal ones or temporary COVID-19 ones, may not be so easy. In other cases, active government policy is making it harder to get the right things in the right place. Restrictions on exports have been particularly widely reported as disruptive to international supply chains, both directly - e.g. ban on exports of masks - or indirectly - e.g. manufacturers of packaging materials being forced to remain closed, making it impossible for manufacturers of food products to get their products to market.

The crisis the world is dealing with is thus not limited to any particular country, industry or profession. Consequently, nobody is in a position to deal with that crisis in isolation. But at the same time, everyone can contribute in their own way to support the efforts to get the world back on its feet.

In our case, that revolves around customs and international trade compliance and management. How to handle current border clearance as efficiently and effectively as possible? How to ensure that appropriate compliance with regulatory requirements is not forgotten? How to take on board the various, hopefully temporary, regulatory requirements that governments have been putting in place to handle the crisis?

This article does not attempt to address broader international supply chain questions, but rather focuses on the immediate, near term and longer term matters that companies need to be considering to manage their trade and customs compliance. We first look briefly at the changed and changing regulatory landscape, while considering what that means in terms of immediate trade and customs management. We then touch on

more medium and long term challenges and considerations, which are arguably even more important for importers and exporters to get their heads around. On the one hand this involves preparing for what the immediate aftermath of the current crisis may require. On the other, it involves taking the opportunity now to do what is necessary to be better prepared for when the next crisis hits.



Changing regulations

Governments around the region, and indeed the world, have been introducing new legislation amending import and export related rules at breakneck speed. There is little point trying to list them here – any list would be hopelessly out of date before this article is published. We do keep track of key regulatory changes around the region on our website ([customs.pwc.com](https://www.pwc.com/customs)), which will be a better source for such information. In addition, regulators are clearly “finding their feet” under significant stress, introducing new rules that seem like a good idea at face value, only to meet with strong but reasonable private sector protest or unintended and unforeseen consequences that require quick and often multiple redirections.

However, it may be still be useful here to consider the types of rules that are being put in place, and what they mean in more general terms for importers and exporters in the immediate future.

Rules easing the importation of medical supplies.

These rules are probably the most widely spread, with most countries offering at least some kind of relief. This relief could be prioritised clearance, such as in China, South Korea and Malaysia. It could also include a waiver or deferral of import related taxes, such as in China, the Philippines and Indonesia, and a waiver of penalties or late payment charges. It may extend to simplification or relaxation of authorisations or import license requirements, such as in Thailand and Indonesia.

If you are a company in the healthcare industry, you are probably well aware of these facilities. It should be noted though that often the above type of relaxations also extend to materials that are necessary for the production of medical products. Companies that import such materials should ensure that they are not losing out. In addition, companies may be importing materials that they traditionally were not on-selling to producers of medical products, but they may be in a position to do so. This would not only help with the ramping up of production of medical supplies that the governments are looking to achieve, but also allow such companies to diversify their customer base. This could be particularly important if their traditional customer base is not in a position to purchase their normal volumes.

There may also be an opportunity to push for the – at least temporary – opening of markets for refurbished products. Many countries in the region have historically been concerned to be saddled with lower quality products, and consequently restrict or forbid the import of second-hand goods. This would, for example, include refurbished components for medical devices. Clearly, in current circumstances, a good argument could be made for the relaxation of such rules, opening new markets for companies that deal in them. At the same time, concerns have already emerged on inappropriate quality of personal protective equipment apparently manufactured in a rush.

It is not necessarily always clear whether measures facilitating imports are based on tariff classification of products, or on the commercial or practical characteristics of such products. Either way, it would not hurt for any importer to review their tariff codes and make sure that they are declaring appropriate ones for their imports, so that the correct entitlements apply.

All in all, the message is essentially simple: be aware of all the temporary import incentives and opportunities that are available, and do not miss out.

Rules restricting the exportation of products.

With both the immediate medical emergencies and the growing uncertainty of how long the crisis will last, an increasing number of countries have started restricting the exportation of certain products. Such restrictions could take the form of outright bans, export quotas, export license requirements, or similar. China has also tightened quality and labelling requirements after some reports of complaints on product standards in some importing countries. The export rules typically affect medical supplies, such as personal protective equipment as well as hospital equipment, but also goods deemed of more strategic longer term interest, such as food and agricultural products.

As is the case for the relaxation of import rules, companies operating in affected industries are probably well aware of the new, and ever-changing, requirements. However, these requirements may not always meet their desired goals. It may take time for domestic demand to adjust to the sudden spike in domestic supply. Many manufacturers may produce products to standards that are required in their intended export markets, not for domestic consumption. This means that they may find it difficult if not impossible to sell in their domestic markets. Particularly food products may need to meet different requirements (e.g. halal in Indonesia or Malaysia) that are not possible for such producers to meet. In addition, food products do not usually have the long shelf-lives of medical products that give companies enough time to adjust.

Hence in many cases, there are opportunities to talk to the regulators to obtain exemptions from export restrictions. Although governments want to secure sufficient supplies for their own populations, they are also acutely aware of the pain that their economies are going through. Hence they are unlikely to want their manufacturers and exporters to suffer unnecessarily. The rules governing exports of rice from Vietnam are a good example of this.

Once again, measures may or may not be driven by applied tariff classification codes, and it would be wise for exporters to review and validate such codes, so that any applicable restrictions are not accidentally avoided, nor unnecessarily applied. And again, generally a fairly simple message: be aware of the export restrictions that apply to you, but do not simply sit back and let them wash over you – explore any and all opportunities to obtain reasonable exemptions.

Availability of officials

Not directly a regulatory change per se, but in many countries customs officials are not as available as you would normally expect them to be. Many of them may be quarantined or have been told to stay at home. Others may have been re-deployed to different, more urgent assignments to manage more immediate medical emergencies. Some border crossing may be closed altogether.

The officers that are on duty may be focused on clearance of prioritised merchandise: medical supplies, food etc. For anyone else, this may mean that their goods get stuck at borders, or are cleared “provisionally” or with minimum oversight. Deferral of submission of relevant paperwork or payment of fees and taxes may apply and needs to be managed closely. In some countries, the requirement for a representative of the importer to be physically present for clearance has been waived. This may sound attractive on face value, but what if there is a question or

problem – can that be resolved remotely, or does it mean the shipment drops to the bottom of the clearance priority list?

In some countries, such as India, certificates of origin are not being issued and will need to be obtained retrospectively at some point in the future. In other countries manufacturing cost statements may not be approved because the authorities cannot carry out a site verification. All this may present a particular challenge for the importers at destination: clear against payment of a deposit or incur demurrage charges while waiting for a certificate of origin to follow at some uncertain time in future – neither option being particularly attractive in times where cash flow is paramount.

The common thread in all these measures is an increased need for exporters and importers to be proactively on top of the latest requirements and challenges that apply, and look for alternatives. Is a border closed? For how long? What is the nearest or most appropriate alternative port of entry? Don't have an import license? Is there someone else in the supply chain who can help out? Perhaps even your customer? Don't have a certificate of origin? Have you considered self-certifying? And so on and so forth.

Every situation may be somewhat unique. Still, there will be good and bad options to handle them. The more creative the thinking, the more likely it is a workable solution can be found. More proactive clearance control will likely mean less pain. Hence now may be a good time to tighten the relationships between importers and their third-party logistics service providers to manage both current and likely future pain points better.

Immediate commercial challenges

The advantage, if we can call it that, of changes implemented by the regulators is that in many cases they require obvious immediate handling and management, as imports and exports cannot continue without it in the short term.

Perhaps less obvious, although possibly more impactful to companies, are the indirect implications of changing cross-border supply chains that have the ability to create immediate as well as long term difficulties. In particular, the risk of temporary arrangements having a lasting impact on “business as usual” should not be underestimated.

This is perhaps best illustrated through a handful of examples, as it would be both inappropriate and impossible to try and be comprehensive. Let us first look at some immediate challenges that may need to be overcome.

Meeting export requirements

Many companies have obtained authorisations or been given government incentives to promote the creation of export driven economic activity. This would include the use of special economic zones as well as designated facilities aimed at production or processing for export. In most cases, such facilities come with various requirements, for example having to export all or a majority of the value of production or retaining a particular entity status or ranking.

It may not be possible during this time to meet export targets or retain a required entity ranking. For example, a physical inspection to renew a certain status may not be possible. Export restrictions, the closure of borders, or the reduced manufacturing capacity may all reduce the absolute or relative level of exports,

in turn leading to a company missing its targets. In a similar vein, goods that were imported temporarily may be nearing the end of their permitted stay in a country, yet their owners may not be able to re-export them.

Although in some instances governments have explicitly allowed automatic extensions or relaxation of related requirements, in many cases they have not. Companies may be tempted to think that in today's unusual circumstances other authorities will also be flexible in relaxing requirements, but there is no guarantee of that. Challenges are only likely to occur a few years into the future, hence it is imperative to keep evidence of any such informal approvals. At the same time, there are examples where authorities have explicitly stated that certain licenses or approvals will not be renewed.

In addition, many export production-oriented authorisations specifically list approved suppliers or approved materials that may be imported. If such suppliers are unable to supply these materials, there is no guarantee that a company can obtain the necessary approvals to substitute them with alternative supplies.

It is therefore of crucial importance that companies using any and all such export focused facilities review their obligations and start a discussion early with the relevant authorities to address any challenges they see on the horizon, preferably with suggestions as to how they would prefer those authorities to deal with them. Although it is unlikely that the authorities will issue generic or blanket approvals, it will likely pay off to be proactive as well as offer reasonable solutions for consideration.

Losing originating status

Manufacturers that export goods under cover of certificates of origin, or self-certify such origin, often rely on supporting documentation from their suppliers to benefit from cumulation rules. These allow them to include the materials from such suppliers as originating in their value-add calculations. If those suppliers are not able to provide the necessary supporting documentation, or if alternative suppliers need to be used that are not in a position to issue such support, it may well be that products exported by those manufacturers no longer meet the relevant rules of origin. It may also mean that an underlying manufacturing cost statement needs to be updated, which, as highlighted above, may not be possible at this point in time. This in turn means that upon import in destination territories, higher import duties will be payable on such products.

Affected manufacturers should review their origin calculations and requirements in detail to try to optimise the use of free trade agreement benefits as much as possible. For example, it may be possible to consider an alternative rule of origin. Or it may be possible to use accounting segregation rules to safeguard originating status. If not all exports can be protected, it may be possible to dedicate originating materials to certain export production only, so as to safeguard the exports that benefit from the highest level of preference in destination markets.

All of this will be difficult to achieve if preferential origin management is done on an ad-hoc basis, rather than through the use of appropriate technology. If so, now may be a good time to re-visit the value of using such technology. Even though purse strings for spend on technology may be tight, an appropriate cost-benefit analysis may uncover some surprisingly quick returns on investment, particularly for smaller companies.

Selling obsolete stock

Many companies may have ended up with inventories of products that can no longer be sold as intended. They may be perishable or seasonal, like food or fashion. Their usual buyers may have gone out of business. Or they may be prohibited from being exported from a regional distribution centre.

In many such cases, it would be in the best commercial interest of a company to sell these products at the best possible price, sometimes even at a loss. However, this may risk a challenge under customs valuation rules. Some countries may not allow a product to be imported at a value lower than the value at which it was first placed under bond. Other countries may not allow re-exportation at a value lower than that of the original importation, under a variety of foreign exchange rules. Yet other countries may not allow the importation of a product at a significantly lower value than it, or a very similar product, was imported at in the past.

There are no easy general answers to such challenges. Each case will have to be supported on its own merit. However, in all circumstances would it be helpful for a would-be importer or exporter to create supporting argumentation under prevailing customs value legislation as to why they believe the customs value they want to declare is an appropriate value.

Longer term dangers

Hopefully the above illustrative list of examples creates enough food for thought for our readers to think more broadly about the immediate implications of temporary trade and customs regulations and ways of navigating them in the short term.

It may be difficult to think about a post-crisis world while handling challenges as mentioned above. Yet it is probable that significant dangers are hidden in short-term actions that potentially will only emerge in that post-crisis world.

In this context, it is important to bear in mind that many governments will have established significant levels of debt that they will be looking to repay. As a result, it is likely that there will be increased focus and pressure on revenue generation, including on the customs authorities. These authorities are already dealing with a significantly reduced level of international trade, as well as an ongoing growth in the use of Free Trade Agreements. It is therefore quite imaginable that they will have an assertive focus on compliance audits and penalty impositions for non-compliance after the immediate crisis has passed.

Combining this with current relaxations in many territories on the clearance of goods, as well as the many changes to companies' supply chains, it is easy to see non-compliance, or at the very

least challengeable customs declaration practices, finding their way into an importer's or exporter's daily trade and customs processes. On both sides, government regulations and company practices, it is not unlikely that some of the immediate changes will end up being (semi-)permanent. Hence being aware of the underlying risks and preparing for them accordingly would be time and money well spent.

Again, let's illustrate this through some examples.

Future customs value nightmares

Many companies will be diversifying supply chains, either out of necessity or out of choice. This means that they will be looking to purchase and import similar goods from multiple sources, possibly from both related and unrelated parties. This may well lead to different import pricing for goods that to a customs official look pretty much identical.

Meanwhile, profitability targets are likely to be missed for the current financial year, or massively exceeded for those in some of the industries thriving in the current crisis. Any multinational with a transfer pricing policy (which is pretty much all of them) will likely end up having to make significant adjustments to the prices of imported goods retrospectively.

At the same time, many licensing and service fees may need to be revisited, either purely from a recharge value perspective, or from an underlying services perspective. For example, a sales target-based royalty may not be due if sales targets fall below a certain level. Where such fees were dutiable additions in the past, their adjustment needs to, and probably can, be managed accordingly. However, other such fees may simply be waived to take account of current commercial circumstances, even if the underlying contracts do not cater for such eventualities.

As mentioned earlier, some products may need to be sold at significant lower prices, sometimes at significant losses. It would be appropriate for the entrepreneur in any supply chain to underwrite such losses, which may not only result in significant retrospective payments being made into a market, but also in significant go-forward price reductions to cater for the expected challenging commercial reality in the years to come. This is most likely to be between related parties, and Customs will commonly assume that it was only done because of the relationship between the seller and the buyer. In this respect, it is worth noting that it will typically take at least two years for benchmark data to catch up with current problems. By then it may be too late to see off a challenge by the authorities.

All of the above create customs valuation risks. Whether it means no longer being able to use a transaction value approach, or



imputing a dutiable royalty that was never paid, or a forced uplift to an invoice value, all of it would be painful. And it would probably only come to light during a customs audit that could be a few years away.

We have been advocating the creation of specific customs value supporting documentation on the back of, but separate and distinct from, existing transfer pricing documentation. It can be argued that now is an even more important time to create such documentation, before customs audit activity returns with a vengeance.

Undetected declaration errors

Although some countries have severely limited the ability to import and export, in many countries, import and export clearance takes place with much less than the usual oversight. Importers or their representatives are often not present, and the handful of officers that are clearing goods are under pressure and guidance to facilitate the flow of goods.

However, that does not mean that compliance requirements and expectations have relaxed. As a result, any declaration errors or inaccuracies may well go undetected until reviewed during a subsequent audit. Examples could be the use of a wrong currency on a value declaration, a missing import license, or the declaration of an inaccurate classification code.

Where importers or exporters are using automated systems and electronic data interchange, the chance of errors is much reduced but not entirely eliminated. Many companies rely significantly if not exclusively on the services of third parties who are rewarded or incentivised based on their ability to clear goods cheaply and swiftly. Although they are (usually) not out to be non-compliant, compliance is typically not their key concern, as it is often not clearly their responsibility. In many cases they take guidance from custom officials which may not be in the best interest of the importer or exporter.

Therefore, companies may need to take care that they review their current import and export declarations with more scrutiny than usual, to increase the chances that they spot any errors early and in time for a self-disclosure. This may be easier said than done, as there are plenty of companies out there that do not as a matter of course have access to their own customs declaration data.

Inappropriate claims of origin

We mentioned above the immediate impact of losing the ability to claim originating status and / or obtain a certificate of origin. Although this may be painful, at least it would be compliant. A bigger long term risk is that exporters continue to obtain certificates of origin, or self-declare originating status, on the back of budgeted information that is out of date and incorrect.

Origin audits and verifications were already on the rise pre-COVID-19. It is likely that they will become even more prevalent in the subsequent period. This is particularly so as customs authorities are often finding that origin claims do not stand up to scrutiny. There are many possible reasons for products losing originating status: change of raw material suppliers or supplies; change in price of the exported product; retrospective price adjustments; change in shipping routes; loss of customs control in intermediate markets; to name but a few.

It is therefore of paramount importance that exporters take extra

effort to monitor the qualifying status of their exported products so as not to claim such status incorrectly. For many companies this could be a tedious and complex task. Perhaps a good time to automate that process?

Still not enough to do?

With all the above in mind, it may seem unlikely that there are trade and customs managers out there that are twiddling their thumbs with not enough to do. However, given the supply and demand disruptions that are taking place, it may well be the case that day-to-day crisis management has dropped significantly, leaving such managers more time for what they should be doing in the first place: strategic planning. If so, here are some of the things that they should be thinking about:

- Data analytics and visualisation: good and proactive trade and customs management comes from knowing what is going on. Too many customs managers still lack the basic data to allow them to understand duty and related cross border trade implications of their company's historic footprint, let alone the impact of all the current stop-gap measures or scenario planning and analysis of, say, diversifying supply chains. Creating the mechanism and using the technology to capture and display such information in meaningful ways should be a first step in preparing for the future.
- When economic activity picks up, Authorised Economic Operators (AEOs) and their equivalents will be prioritised when it comes to getting their goods cleared, applications or renewals processed, rulings issued and so on and so forth. Although it may be difficult to get on that bandwagon right now, doing the homework to be ready for a successful AEO application whenever it becomes possible may be of some help to come out of this crisis fighting, but would certainly help better deal with the next one.
- Better use of technology: this may be as simple as making sure all available electronic facilities are used, such as e-certificates of origin or automated duty payment, or as complex of implementing advanced technology solutions to global trade management. It is unlikely that much budget will be available for discretionary and broad-based IT spend. But technology tools that can quickly pay for themselves, such as preferential origin management tools, should be high on the priority list.
- If times are slow, it may be a good time to carry out some desktop mock audits of past compliance, and – as appropriate – strengthen the underlying processes and procedures that would lead to better compliance once things get back to (more) normal and yet again time for self-assessments is at a premium.
- Develop and/or roll out a technical training programme for all personnel directly or indirectly involved in trade and custom compliance management.

As indicated at the start of this article, it did not intend to be broad or comprehensive. It did try, and hopefully succeed, in triggering some thinking about how best to manage the clear and present challenges of the COVID-19 crisis on trade and customs management, as well as prepare for a possibly controversial and unpredictable future landscape as comprehensively as possible.

Summary of ASEAN meetings

The months of February and March 2020 saw a decline in ASEAN-wide trade related meetings due to the outbreak of COVID-19. However, certain countries had bilateral and/or virtual meetings to reaffirm development plans and bolster partnerships with ASEAN. Japan, Chile, New Zealand and the United Kingdom had separate individual meetings with the ASEAN body on various topics.

The ASEAN-Chile Development Partnership Committee, set up in June 2019, held its first meeting with Chilean officials on 31 January 2020. Cooperation in key areas, including trade and investment, were emphasised.

The 14th ASEAN-Japan Joint Cooperation Committee Meeting was held in March 2020, where trade and investment were yet again key agenda items. Both sides expressed that they are working towards signing the RCEP agreement by the end of 2020. Although future physical negotiation meetings have been cancelled due to COVID-19, dialogue partners have re-affirmed this commitment and scheduled trade negotiations to continue via video conferencing and virtual meetings.

The meeting between ASEAN and New Zealand also touched on the upgrade of the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA). Further details are provided in the FTA Focus section.



US publishes new rules to the International Traffic in Arms Regulations

The US Directorate of Defense Trade Controls (DDTC) recently published ITAR interim-final rule 84 FR 70887, which will come into effect 25 March 2020. The rule creates a new definition on activities that are not considered exports, re-exports, re-transfers, or temporary imports and therefore the DDTC does not need to authorise. Such activities include:

1. the launching of items into space;
2. the transmission or transfer of technical data to US persons within the United States;
3. the transmission or transfer of technical data between or among US persons within a single foreign country;
4. the movement of a defense article between the states, possessions, and territories of the United States;

5. the sending, taking or storing of technical data that is:
 - unclassified;
 - secured with end-to-end encryption as prescribed;
 - not intentionally sent to a person in or stored in countries subject to restrictions under ITAR § 126.1 or the Russian Federation; and
 - not sent from a restricted country under ITAR § 126.1 or the Russian Federation.

In addition, the new rule provides the regulatory framework for management of secured encrypted technical data and the means of decryption, also known as 'Encryption Rule'.

The newly introduced rule provides description for "activities that are not exports, re-exports, re-transfers, or temporary imports" which the DDTC does not need to authorise.



Agreements entered into force	Date
ASEAN - Hong Kong Free Trade Agreement (FTA) - For the Philippines	12 May 2020

Philippines component of AHKFTA enters into force

On 31 March 2020, Hong Kong announced that the Free Trade Agreement (FTA) and the Investment Agreement (IA) between Hong Kong and the Association of Southeast Asian Nations (ASEAN) will enter into force on 12 May 2020 for the part in relation to the Philippines.

Under the AHKFTA, the Philippines will eliminate or reduce customs duties on the goods originating from Hong Kong. This includes products such as jewellery, clothing and clothing accessories, watches and clocks, toys etc.

For trade in services, service providers from Hong Kong will benefit from better business opportunities and legal certainty when doing business in the Philippines. These services are industries with traditional advantages or potential for further development in Hong Kong, including business services, telecommunications services, construction and related engineering services, financial services, tourism and travel related services and transport services.

Under the Investment Agreement, the Philippines will provide fair and equitable treatment of investments, physical protection and security of investments as well as the assurance of the free transfer of investments and returns to ASEAN and Hong Kong investors. The Philippines will also provide compensation to enterprises from AHKFTA member countries investing in the Philippines in accordance with the standards agreed to under the IA when their investments are expropriated or losses are incurred due to war or armed conflict.

The AHKFTA is currently in force for Laos, Malaysia, Myanmar, Singapore, Thailand and Vietnam. The dates of entry into force for the remaining Parties will be announced as soon as they are confirmed.

RCEP developments

Representatives from member nations of the Regional Comprehensive Economic Partnership (RCEP) met early February 2020, in Bali, Indonesia, for a round of talks. The meeting was held three months after the summit in Bangkok, Thailand, where all 16 participant countries, except India, agreed on the "text-based negotiations".

India did not participate in the most recent talks and its absence throws a spanner in the works for negotiations and the expected signing of the deal before the end of 2020. Japan has reiterated the importance of India's participation to avoid a China-dominated trade agreement and may even choose to not sign nor join the agreement unless India does. Nevertheless, China has expressed that it will continue to work with other RCEP

members to ensure signing of the agreement by end 2020. All parties are currently pushing forward the review of legal texts and other internal processes to prepare for the final texts. In view of the COVID-19 situation, dialogue partners from all countries will strive to continue with negotiations via video conferencing or virtual meetings to achieve the end 2020 target.

Australia and the United Kingdom exploring trade agreement

On 6 February 2020, British Foreign Secretary Dominic Raab visited Australia, and further emphasised the United Kingdom's (UK) desire for a free trade agreement with Australia. Since the UK left the European Union (EU) on 31 January 2020, there has been a build-up in trade negotiations between British government representatives and existing EU free trade agreement partners such as Australia, Japan and South Korea. The UK also announced that Huawei will only be allowed a limited role in building its 5G network and will be excluded from security-critical core functions. Officials have reiterated that this would not affect trade negotiations.

China conducts first round of negotiations for potential bilateral FTA with Cambodia

Beijing hosted the first round of negotiations between China and Cambodia on 20 and 21 January 2020. The negotiations touched on key aspects of FTA negotiations such as trade in goods, rules of origin, customs procedures, trade facilitation, e-commerce and technical barriers to trade. In addition, trade in services, investments, transparency, cooperation under the "Belt and Road" Initiative and related legal matters were also discussed.

The negotiations succeeded positive results from the joint feasibility study which was concluded in 2019. China and Cambodia are currently both members of the ASEAN-China Free Trade Agreement, and it will be interesting to see what additional benefits would be committed by both countries for this bilateral agreement.

India requests FTA partners to temporarily allow imports without certificates of origin

The outbreak of the COVID-19 pandemic in India has caused the government to go into lockdown. Domestic authorities are closed and are unable to issue Certificates of Origin to exporters of Indian products.

As preferential certificates of origin are documentary proof evidencing the origin of goods to authorities of the importing country, importers are now unable to claim preferential tariff treatment resulting in an otherwise unnecessary duty payment. The India government is therefore requesting for FTA partners to continue to grant preferential treatment for imports temporarily even if they are not accompanied by a Certificate of Origin.

India and Chile to pursue upgrade to existing bilateral free trade agreement

The India-Chile Preferential Trade Agreement was signed 8 March 2006 and came into force in August 2007. An expansion in the coverage and scope of the agreement took effect in 2016. In February 2020, both territories initiated negotiations for a second upgrade of the agreement, with further negotiation rounds scheduled in New Delhi and Chile in March and April 2020. Both sides have not released any updates on the progress of negotiations, although this is expected to slow or be delayed due to the COVID-19 situation.

The continual upgrade is driven by the diversification of export baskets to both nations. The upgrade is expected to cover a wider range of industries such as transport, metals, healthcare, chemicals, textiles, foodstuff and industrial machinery.

India and Japan conduct review of IJCEPA

The India-Japan Comprehensive Economic Partnership Agreement (IJCEPA) entered into effect on 1 August 2011 and is the most comprehensive free trade agreement that India has with any country. In December 2019, the Commerce and Industry Minister raised the issue of the rising trade deficit between India and Japan, which sparked a review of the CEPA between the two countries. Accordingly, officials of both countries agreed to prepare a time bound action plan to address these issues and strengthen India-Japan trade relations. India has agreed to reduce the majority of concessional rates provided under the CEPA agreement for most tariff lines. More specific details are provided in the India country report.

India and United States commence negotiation for potential free trade agreement

The United States (US) removed India from its Generalised System of Preference (GSP) list, preventing it from benefiting from the related trade preferences for Indian imports into the US. However, President Donald Trump, in his recent

visit to India on 24 and 25 February 2020, together with Indian Prime Minister Narendra Modi, signalled the commencement of negotiations for a potential bilateral free trade agreement. This would not only possibly restore the GSP benefits to India, but also improve market access of American made products into India.

Any new trade deal is expected to also include provisions similar to that of other new-age trade deals, where investments, trade in services, intellectual property rights and e-commerce are key tenets. There has not yet been any news on future rounds of negotiations, but both nations are understood to pursue the finalisation of the deal with an aggressive timeline.

Indonesia ratifies bilateral free trade agreement with Australia

The Indonesian government ratified the Indonesia-Australia Comprehensive Economic Partnership Agreement (IA-CEPA) on 6 February 2020, upon the receipt of the necessary approvals from the Indonesian parliament.

The IA-CEPA is the second agreement between the two nations, as they are both members of the existing ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA). Under the IA-CEPA, almost all exports from both nations can be imported duty-free into the other. In addition to preferential tariff treatment on almost all products, the IA-CEPA allows for improved trade facilitation, such as simplified documentary requirements for exporters, as well as automatic issuance of import permits for certain goods.

Indonesian President Joko Widodo met Australian Prime Minister Scott Morrison, alongside other Australian and Indonesian Ministers on 10 February 2020 to further affirm commitment towards a fast and full implementation of the IA-CEPA. There is as yet no news on the implementation date of the IA-CEPA.

Malaysia and EFTA nations resume negotiations for FTA

From 25 to 28 February 2020, representatives from Malaysia as well as from the European Free Trade Association (comprising Iceland, Liechtenstein, Norway and Switzerland) convened in Kuala Lumpur, Malaysia, for the ninth round of negotiations on a potential Economic Partnership Agreement. This round was the first complete negotiation round since March 2017, due to changes in the Malaysian ruling government then which led to a reassessment of Malaysian trade policy priorities.

The ninth round was crucial as it paved the way for future negotiation in all areas currently under discussion. These include trade in goods – technical barriers to trade, trade remedies, rules of origin, and trade facilitation; trade in services; investments; legal and horizontal issues; competition; intellectual property rights; government procurement; cooperation and trade and sustainable development. The recent changes in Malaysia's ruling government as well as the outbreak of COVID-19 may impede future negotiations of the Malaysia-EFTA EPA.

Australia

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Vitamins and weight loss gummies classified as medicaments

In a recent case, the High Court of Australia (HCA) unanimously dismissed an appeal from a judgment of the Full Federal Court concerning the classification of certain goods for the purpose of the Customs Tariff Act 1995 (the Tariff Act). In doing so, the HCA affirmed that certain vitamins and weight loss gummies were classifiable as medicaments for the purposes of Schedule 3 of the Tariff Act 1995, with no duty owed on their importation.

The case examined the tariff classification of pastilles, which are a type of medicinal candy containing sucrose, glucose syrup, gelatin, flavours and other substances including vitamins of specified descriptions or a quantity of hydroxycitric acid.

The importer claimed the goods were classified as “medicaments” under heading 3004 and therefore no duty was owed. The Australian Border Force (ABF) claimed the goods were classified as either a “sugar confectionery” under heading 1704 or as “food preparations” under heading 2106, and therefore dutiable at a rate of 5% or 4%. The ABF contended that the pastilles were excluded from heading 3004 because they answered the description of “food supplements” within Note 1(a) to Chapter 30 which states that the chapter does not cover “foods ... such as ... food supplements”.

The HCA held that the Administrative Appeals Tribunal (AAT) was correct in concluding that the pastilles fell outside the description of “food supplements”, were classified under heading 3004, and were therefore duty-free. The HCA further held that the AAT did not wrongly equate the expression “food preparations” in heading 2106 with the expressions “foods” or “food supplements” in Note 1(a) to Chapter 30.

Broadly, the case establishes potentially guiding precedent for importers as they may be able to recover duty paid for goods that should have been classified as medicaments or allow for duty-free importations of medicaments in the future.

The above case is *Comptroller General of Customs v Pharm A Care Laboratories Pty Ltd* [2020] HCA 2.

Export prohibitions and a rescue package in response to COVID-19

The Australian Border Force released a Customs Notice implementing a temporary prohibition on non-commercial exports of certain goods that help in the control of COVID-19. This refers to goods that are exported for personal or non-commercial purposes. Under the regulations, export prohibitions will not apply only where goods are exported by an Australian manufacturer, or by a person who exports such goods in the course of their business.

The Customs (Prohibited Exports) Regulations 1958 applies to personal protective equipment and disinfectants and provides exemptions under which the exports of these goods are allowed. This aligns with the Prime Minister’s call to intervene against “illegitimate” exports and assist “legitimate” supply chains in supporting the COVID-19 response.

Separately, Trade Minister Simon Birmingham announced a new AUD 170 million COVID-19 rescue package aimed at providing relief to Australia’s export sector. The package includes a \$110 million International Freight Assistance Mechanism designed to assist Australia’s agriculture and fisheries sectors in securing freight flights into major Asia Pacific export markets, with returning flights bringing back vital medical supplies, medicines and equipment. To assist the government in guiding the initiative the Department of Agriculture, Water and the Environment has opened an online form allowing exporters to share their freight requirements and highlight key ports of demand. The initiative comes as a welcome reprieve to exporters that have suffered due to major air-freight shortages and disrupted supply chains as a result of the pandemic.

An additional AUD 50 million will also be injected into the Export Market Development Grants, allowing exporters to claim additional reimbursements for the costs associated with marketing and developing their products in new markets.

Guide on movement of goods under customs’ control

The ABF released a guide titled “Movement of goods under customs control”, highlighting the importance of correctly handling goods under bond. Incorrect handling of goods under bond may impact ABF’s ability to prevent the importation of illicit goods and protect the community. This Guide is particularly important when a person is dealing with goods subject to excise-equivalent duties, that is, imported alcohol, fuel and petroleum products.

The ABF highlights that approved movements allow goods subject to customs control to be moved directly between

two specified places. The guide warns of the risk of possible offences and/or goods forfeiture for non-approved movement and/or storage of goods. This includes the timely acquittal of approved movements, and the correct procedure in situations where 'underbond' movement requests require withdrawal or amendment.

The ABF also highlights the obligations of persons and entities who are entrusted to deal with goods subject to customs control under licensed conditions. Particular attention is drawn to high-risk goods such as excise-equivalent goods (e.g. alcohol).

Importers, depot/warehouse licence holders and other affected supply chain partners are reminded of the High Court decision in *Comptroller General of Customs v Zappia* [2018] HCA 54, which found that any person who participates in the management or control of the warehouse may ultimately be held liable as one of several persons. This can be in addition to the corporate depot/warehouse licence holder, in the event of a theft or other failure to account for goods subject to customs control, for any reason.

Notice on foreign currency conversion

The ABF released a Customs Notice reiterating that goods invoiced in a foreign currency must be converted to Australian dollars using the prevailing rate of exchange for that particular currency on the day of exportation.

Under subsection 161J (4) of the Customs Act 1901 (Customs Act), the day of exportation in relation to imported goods is determined based on the day the goods left the place of export. Where the ABF finds evidence that the date of export declared does not comply with the requirements set out in the Customs Act with respect to the day of exportation and place of exportation, then the import declaration is considered to be incorrect and must be amended.



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Various measures to support enterprises in fight against COVID-19

The negative impact on enterprises, especially importers and exporters, due to the COVID-19 outbreak is expected to continue in the near future. Thus, we recommend for importers / exporters to make full use of the supporting policies issued by the China government and engage in active business planning to mitigate losses.

From January 2020, apart from various control measures aimed at controlling the spread of disease, the China authorities have released various supporting policies aimed at facilitating trade and helping importers and exporters to resume production. The main announcements / circulars issued are as follows:

Release date	Document number	Document name
January 25, 2020	GAC Announcement [2020] No. 17	Announcement on the Customs Clearance Procedures for Imported Anti-Epidemic Materials
January 27, 2020	GAC-Department of General Operation [2020] NO.19	Notice on Ensuring Rapid Clearance of Anti-Epidemic Materials Related to COVID-19
February 1, 2020	MOF, GAC, SAT Joint Announcement [2020] No.6	Announcement on the Tax Exemption Policies for Imported Anti-Epidemic Materials

February 1, 2020	Tariff Commission [2020] No.6	Notice on Exclusion of Additional Tariff for Anti-Epidemic Materials imported from the US
February 3, 2020		Ministry of Commerce: Notice on Further Facilitating the Import and Export of Technology During the Period of COVID-19 Epidemic
February 3, 2020	GAC Announcement [2020] No. 18	Announcement on the Temporary Extension of Consolidated Tax Payment Period and Matters Concerning Late Payment Surcharges During the Period of COVID-19 Epidemic
February 6, 2020		Ministry of Commerce: Notice on Further Facilitating Enterprises' Application for Import and Export Licenses During the Period of COVID-19 Epidemic
February 6, 2020	GAC Announcement [2020] No. 21	Announcement on the Temporary Extension of write-off Period for Processing Trade Manual (Account) and Matters Concerning Registration and Filing During the Period of COVID-19 Epidemic
February 11, 2020	GAC Announcement [2020] No. 24	Announcement on Exempting the Consignees and Consignors' from Attending to Customs onsite Inspection During the Period of COVID-19 Epidemic

These initiatives are intended to facilitate the import of anti-epidemic goods and reduce customs clearance costs in order to promote trade growth and ensure the smooth clearance of essential supplies, and allow enterprises to resume work and production.

These measures include:

- Introduction of preferential tariffs and clearance measures for import of anti-epidemic materials
 - If import licenses are required for medical materials such as medicines, medical devices, special biological products, etc. used for epidemic prevention and control, Customs can release such goods with approval from the relevant competent authorities. The importing company can then follow up and complete the relevant license procedures after the importation of goods.
 - Imported materials donated by enterprises, institutions, and individuals for epidemic prevention and control are exempted from import taxes. Relevant collected taxes will be refunded for eligible import materials.
 - The additional customs duty on US originated commodities will not be levied on tax-exempted commodities used for epidemic prevention and control, for example, medical reagents, materials for disinfection

or protection equipment such as masks, protective gloves and goggles, as well as ambulances or other emergency vehicles imported from 1 January 2020 to 31 March 2020.

2. Facilitation policies for customs supervision during the epidemic period

- During the epidemic period, companies are provided an extension for the import / export tax payment period and will be allowed to pay taxes within 15 days from the date of resumption of work.
- If there is a delay in the resuming of work which causes the expiry of the processing trade manual (account), Customs will provide an extension. Similarly, if the declaration work for processing trade exceeds the prescribed time limit, for example, tax payment procedure of domestic sales, Customs will extend the time limit for tax payment. However, the specific extension period is not stipulated and dependent on local customs practice.
- For enterprise registration and filing, Customs will give priority to importers involved in the importation of epidemic prevention and control materials.
- Customs will expedite the release of bonded goods donated by enterprises or expropriated for the purpose of epidemic prevention and control.
- To minimize physical contact during the epidemic period and to ensure the continued inspection and release of goods, Customs will conduct goods inspection without

requiring the consignee or consignor to be present.

3. Other measures to optimise government services

- Positively promote remote service and paperless work for the registration of technology import and export contracts.
- Quicker response and service will be provided for businesses dealing with technology importation on epidemic prevention and public health safety.
- Documentation requirements and procedures will be simplified for import and export license applications. Enterprises are encouraged to apply for import and export licenses online.

Apart from import and export related policies, we recommend for companies to also pay attention to other financial and tax preferential policies related to the epidemic, and special supporting policies in various regions. This includes, but is not limited to, VAT exemption policy for transportation services of anti-epidemic materials as well as financial support policies and exemption/reduction policies of social insurance payments.

As new policies are implemented, enterprises are advised to actively participate in communications with the relevant authorities, and voice their difficulties and suggestions for policy improvement.



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United Nations Sanctions (Somalia) Regulation 2019 – Amendment 2020

On 20 March 2020, Hong Kong gazetted United Nations Sanctions (Somalia) Regulation 2019 – Amendment 2020, which is made under section 3 of the United Nations Sanctions Ordinance (Cap.537) to implement United Nations Security Council Resolution 2498 dated 15 November 2019 in relation to Somalia, which covers, inter alia, the following:

- consolidating and streamlining of the provisions of the arms embargo;
- imposing an improvised explosive device (IED) components ban;
- extension of the mandate of the Panel of Experts until 15 December 2020; and

- renewal of the partial lift of the arms embargo on Somalia, the humanitarian exemption to the assets freeze, and the maritime interdiction of charcoal and weapons or military equipment until 15 November 2020.

Traders should take note of the relevant sanctions or trade restrictions and determine whether their current operations remain in compliance with those imposed under the Laws of Hong Kong, or by the United Nations or other origin countries of the concerned products.

The relevant law in Hong Kong governing trade sanctions is the United Nations Sanctions Ordinance (Cap. 537). Violating any prohibitions imposed under the law will result in substantial penalties which may include a fine and/or imprisonment of not exceeding 7 years.

Refer to the following link for more details:

https://www.tid.gov.hk/english/aboutus/publications/nontextiles/un_somalia2020.html



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Summary of actions taken by India in response to COVID-19

In view of the COVID-19 outbreak and the lockdown persisting within India, the Government of India has introduced the below trade restrictions and trade-related measures for provide relief:

Scheme/ restriction	Measures introduced	Reference
Restriction on export of specified products	<ul style="list-style-type: none"> Prohibition on exports of all Personal Protection Equipment (PPE) including clothing and masks. This covers all (class 2/3/4 and N-95 masks) of HS subheading 901850, 901890, 9020, 392690, 621790 and 630790 subject to given exceptions such as surgical or disposable masks, all gloves except NBR gloves, surgical blades, breathing appliances, etc. Restriction on exports of specific Active Pharmaceutical Ingredients (APIs), as well as 13 formulations made from these APIs. This includes specific products of HS Heading 2922, 2933, 2936, 2937, 2941, 2942 and 3004. In view of the issues faced by the exporters, it has been clarified that: <ul style="list-style-type: none"> The restriction on exports is not applicable to Special Economic Zone (SEZ) units; All items other than the ones falling under the item description specified against the ITC HS codes given in the respective Notification, are allowed to be exported; Exports of all formulations for ITC HS codes falling under Chapter 30 will be allowed in case of Advance Licenses issued on or before the date of issuance of original notification i.e. 3 March 2020. <p>On 6 April 2020, the Department of Foreign Trade issued an amendment stating that export restrictions have been relaxed and removed for the specific APIs and their formulations covered under Notification no. 02/2015-2020.</p> Exports of all ventilators, surgical/disposable (2/3 Ply) masks and textile raw material for masks and coveralls only falling under the specified ITC HS Codes have been prohibited. Exports of all kinds of ventilators including any artificial respiratory apparatus or oxygen therapy apparatus or any other breathing appliance/device and sanitizers falling under the specified ITC HS Codes have been prohibited. Exports of Hydroxychloroquine and formulations made from Hydroxychloroquine falling under the specified ITC HS Codes have been prohibited subject to following exceptions: <ul style="list-style-type: none"> Restriction on exports not applicable to Special Economic Zone (SEZ) units; Restriction not applicable in case such exports are made to fulfil export obligation under any Advance license issued on or before the date of this Notification; Exports will be allowed in case of shipments where Irrevocable Letter of Credit has been issued before the date of this notification or in case where full advance payment has been received by the exporter in India against specific shipment, subject to submission of documentary; Exports will be allowed by the India government to other countries on humanitarian grounds on a case by case basis on the recommendation of the Ministry of External Affairs. 	<p>Notification No. 47 and 48/2015-2020 dated 25 February 2020</p> <p>Notification No. 50/2015-2020 dated 3 March 2020 Notification No. 02/2015-2020 dated 6 April 2020</p> <p>Notification No. 52/2015-2020 dated 19 March 2020</p> <p>Notification No. 53/2015-2020 dated 24 March 2020</p> <p>Notification No. 54/2015-2020 dated 25 March 2020</p> <p>DGFT Policy Circular 33/2015-20 dated 20 March 2020 DGFT Policy Circular 34/2015-20 dated 20 March 2020</p>

Extension of timelines		
Scheme	Relief Measures	Reference
Foreign Trade Policy (FTP) 2015-20	<ul style="list-style-type: none"> Extension of existing FTP 2015-20 and validity of Handbook of Procedure Volume-I extended upto 31 March 2021 Waiver until 30 September 2020 to furnish Registration Cum Membership Certificate for claiming export benefits, where the validity has expired on or before 31 March 2020 	<p>Notification No. 57/2015-2020 dated 31 March 2020</p> <p>Public Notice No. 67/2015-2020 dated 31 March 2020</p>
Merchandise Exports from India Scheme (MEIS)	<ul style="list-style-type: none"> Shipping Bills where the Let Export Order date falls between 1 February 2019 to 31 May 2019, the application can be filed within a period of 15 months from the Let Export Order instead of 12 months 	<p>Public Notice No. 67/2015-2020 dated 31 March 2020</p>
Service Exports from India Scheme (SEIS)	<ul style="list-style-type: none"> Last date of filing of SEIS application for the year 2018-19 extended upto 31 December 2020 	<p>Public Notice No. 67/2015-2020 dated 31 March 2020</p>
Advance Authorization (AA) Scheme	<ul style="list-style-type: none"> Automatic extension for 6 months granted from the date of expiry for all advance authorizations where the validity for import would expire between 1 February 2020 to 31 July 2020; further extension of validity available as per eligibility; Automatic extension for 6 months granted from the date of expiry for all advance authorizations where the export obligation period would expire between 1 February 2020 to 31 July 2020; requirement to file application and pay composition fee dispensed; further extension of validity available as per eligibility; Exemption from payment of Integrated Goods and Services Tax (IGST) and Compensation Cess for goods imported against AA license extended up to 31 March 2021 	<p>Public Notice No. 67/2015-2020 dated 31 March 2020</p> <p>Notification No. 18/2020- Customs dated 30 March 2020</p>
Export Promotion Capital Goods (EPCG) Scheme	<ul style="list-style-type: none"> Installation certificate is required to be submitted by the authorization holder within 6 months of completion of imports; cases where such timeline is expiring during 1 February 2020 to 31 July 2020, the period of submission of installation certificate stands extended by a further period of 6 months from the original due date; For specified authorizations issued under earlier policies or policy periods including the present period where the block wise export obligation is expiring during 1 February 2020 to 31 July 2020, the period stands extended for 6 months from the date of expiry; Exemption from payment of IGST and Compensation Cess for goods imported against EPCG license extended upto 31 March 2021 	<p>Public Notice No. 67/2015-2020 dated 31 March 2020</p> <p>Notification No. 18/2020- Customs dated 30 March 2020</p>
Deemed Exports	<ul style="list-style-type: none"> Last date for filing Terminal Excise duty refund or duty drawback claims in cases where the due date falls on or after 1 March 2020, stands extended to 30 September 2020 	<p>Public Notice No. 67/2015-2020 dated 31 March 2020</p>
Rebate of State and Central Levies and Taxes (RoSCTL)	<ul style="list-style-type: none"> Last date for filing online claim extended to 31 December 2020 	<p>Public Notice No. 67/2015-2020 dated 31 March 2020</p>
Transport and Marketing Assistance (TMA) for specified agricultural products	<ul style="list-style-type: none"> Quarterly claims filing under the TMA scheme for the period ending March 2019 and 30 June 2019 can be filed up to 30 September 2020 	<p>Public Notice No. 67/2015-2020 dated 31 March 2020</p>

Certificate of Origin (COO)	<p>Extension of concessional customs duty benefit under Free Trade Agreements on retrospective basis subject to subsequent furnishing of COOs by the exporter</p> <ul style="list-style-type: none"> Considering the lockdown situation, the authorised Indian agencies are unable to issue the respective COOs under India's Free Trade Agreements (FTAs), Comprehensive Economic Cooperation Agreements (CECA), Comprehensive Economic Partnership Agreements (CEPA) and Preferential Trade Agreements (PTAs); Till such time period, eligible imports under the respective trade agreements would be allowed on a retrospective basis subject to the subsequent production of the COOs by the Indian exporters upon the issuance of COO after the end of lockdown situation; India is ready to honour its preferential trade agreement imports subject to the respective governments also making a formal request or putting up a notice in this regard. 	Trade Notice No. 59/2019-2020 dated 28 March 2020
Export Oriented Units (EOU)	Exemption from payment of IGST and Compensation Cess for goods imported by EOUs extended upto 31 March 2021	Notification No. 16/2020- Customs dated 24 March 2020
General Customs facilitation	<ul style="list-style-type: none"> 24/7 helpdesk and customs clearances will apply till 30 June 2020. Waiver of late fees levied on delayed filing of Bills of Entry Finalisation of prior and advance Bill of Entry, amendment and delivery of Bill of Entry for cleared goods by email Endorsement and acknowledgement over emails Warehousing permission without demurrage charges for cargo where importers are facing difficulties in clearance Extension of deadline to file appeals, refund applications, furnishing of reports, documents, returns or statements etc, under the Central Excise Act and Customs Act for the period of 20 March 2020 to 30 June 2020. 	<p>Instruction 02/2020- Customs dated 20 February 2020, and Trade Notice 52/2019-20 dated 2 March 2020</p> <p>Taxation and Other Laws (Relaxation of certain provisions) Ordinance 2020 dated 31 March 2020</p>
Exchange controls	<ul style="list-style-type: none"> Extension of export realisation period to 15 months for exports made up till 31 July 2020 inclusive Exemption up till 30 September 2020 for exporters on the caution list for non-closure of export documentation due to pending export realisation 	Reserve Bank of India, Press Release No. 2019-2020/2167
Logistics and shipping considerations	<ul style="list-style-type: none"> Waiver of demurrage charges payable at Air Cargo Terminals till 14 April 2020, under the condition that the cargo must have landed in India on or after 20 March and cannot be removed by midnight. 50% of the charges will be payable for clearances between 14 to 16 April 2020. Waiver of detention charges on import and export consignments from 22 March 2020 to 14 April 2020. Waiver of detention charges by shipping lines between 22 March and 14 April 2020 inclusive. Revision of import free time for cargo between 25 March 2020 to 7 April 2020 by the logistic service provider <p>Such measures have been temporarily put in place in view of India's nationwide lockdown due to COVID-19. Depending on the situation, supplementary measures or waiver extensions may be announced subsequently.</p>	<p>Government of India, Ministry of Civil Aviation Order No. AV -2901214112020-ER</p> <p>Directorate General of Shipping (DGS) Order No. 7 / 2020</p>

Government approves Remission of Duties and Taxes on Exported Products (RoDTEP)

India's key export incentive schemes relating to merchandise exports have faced challenges at the World Trade Organization (WTO). The WTO dispute settlement body held that these schemes are not compliant with WTO rules and need to be phased out or modified given their linkage to exports. India has filed an appeal against the ruling which is currently pending before the appellate body. However, as the Appellate Body procedure of the Dispute Settlement Body has stopped functioning since 10 December 2019 after the US blocked appointments to the body, it is likely that appeal reviews will be delayed.

Given existing disputes, in September 2019, the Government of India announced the "Remission of Duties and Taxes on Exported Products" (RoDTEP) scheme, which replaces the current Merchandise Exports from India Scheme (MEIS). This has been effective from 1 January 2020 and will be rolled out in a phased manner starting with the textile and garments sectors.

The introduction of RoDTEP is approved by the Cabinet Committee of Economic Affairs and is part of the new Foreign Trade Policy that has entered into force on 1 April 2020. Under the scheme, a mechanism would be created for reimbursement of taxes/duties/levies incurred, at the central, state and local level during the manufacture and distribution of exported goods, that are not currently being refunded under any other mechanism.

The key features of the RoDTEP are as below:

- An inter-ministerial Committee will determine the items and their respective rates for which the reimbursement of taxes and duties will be provided, as well as the prioritization of sectors covered and the sequence of roll-out across sectors.
- The quantum of benefit provided on various items will be decided and notified by the Department of Commerce. These benefits will be extended in the form of electronically transferable duty credit/electronic scrip to the exporters, which will be maintained in an electronic ledger.
- For exports, any taxes/duties/levies outside of Goods and Service Tax, that are not currently refunded, such as Value Added Tax on fuel used in transportation, duty on electricity used during manufacturing etc. will be eligible for reimbursement under the RoDTEP Scheme.
- The rebate will be calculated as a percentage of the Freight on Board (FOB) value of exports.
- A monitoring and audit mechanism, with an Information Technology based Risk Management System (RMS), will be put in place to physically verify exporter records.

Existing MEIS benefits on specific tariff lines or items will be discontinued once the new rates under the RoDTEP Scheme are announced. All exporters should monitor developments and evaluate the impact of the introduction of this new scheme and prepare for discontinuation of old incentives. This includes understanding the differential quantum of benefits provided and adapting to changes in documentation and processes etc.

Refer to the Press Release issued by the Cabinet Committee on Economic Affairs on 13 March 2020 for further details.

Introduction of and exemption from health cess levy on specific medical devices

A health cess levy of 5% was introduced with effect from 2 February 2020, and will be levied on imports of specific medical devices classified under HS heading 9018 to 9022.

The following goods have been exempted from the health cess levy when imported into India:

- Goods of HS Heading 9022 which includes apparatus based on the use of X-rays or of alpha, beta or gamma radiations, other than those for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like.
Note that HS Heading 9022 includes all such apparatus regardless of whether they are used for medical, surgical, dental or veterinary purposes. However, exemption from the health cess levy will only be granted to goods classified in HS Heading 9022 that are not used for such purposes.
- Specific medical and surgical equipment which had been previously exempted from payment of basic customs duty under various exemption notifications will continue to be exempted from the health cess levy.

Refer to Notification No. 08/2020-Customs dated 2 February 2020 for further details:

<http://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs08-2020.pdf;jsession-id=069100982034715A4C4A35D9F304E9E6>

Deeper tariff concessions for imports of specified goods from Japan under the IJCEPA

In December 2019, the Commerce and Industry Minister raised the issue of the rising trade deficit between India and Japan, which sparked a review of the India-Japan Comprehensive Economic Partnership Agreement (IJCEPA). In view of the above, concessional rate changes have been made under the IJCEPA and the effective basic customs duty rate on most of the products have been reduced by half of the existing rate. Of the 812 tariff headings where duty exemptions are provided for under the IJCEPA, the following is a brief summary of the amendments made currently:

- Total number of tariff headings - 812 items
- Rate changes made to 677 items
- No rate changes made to 135 items

For the 677 tariff lines subject to a rate change, it is important to note that rates for all tariff lines, except one tariff heading, have been changed to provide a deeper concession (rates reduced by half) for the goods. Duty rates have only been increased on one tariff heading, 8473.40 (covering all goods, other than parts of typewriter), from the existing full exemption to a 0.7% concessional rate of duty.

The existing health cess exemption provided via Notification 08/2020 dated 2 February 2020 will continue to apply for the respective applicable products.

Refer to Notification No. 17/2020-Customs dated 25 March 2020 for further details.

Automated clearance of Bills of Entry from all Customs locations

Earlier, the Customs Act had granted Customs officers the right to issue an order permitting clearance for local consumption if goods are not prohibited or controlled and all applicable duties have been paid by the importer. However, there was no provision for granting such permission electronically.

Under the amendment, an order for clearance of goods can be issued electronically via the customs automated system based on risk evaluation. Thus, the Customs Automated System can give electronic automated clearance to Bill(s) of Entry on completion of Customs Compliance Verification (CCV) and payment of duty by the importer. With effect from 5 March 2020, this facility has now been extended to all Customs locations where the Indian Customs EDI System (ICES) and Risk Management System (RMS) are enabled and functional.

Refer to Circular No. 05/2020-Customs dated 27 January 2020, Circular No. 15/2020-Customs dated 28 February 2020 and Circular No 09/2019-Customs dated 28 February 2019 for further details.

Control on exporters using self-certification under the EU-GSP

Exports of specified goods to the European Union (EU) are eligible for concessional customs duty benefits under the EU Generalised Scheme of Preferences (EU GSP). To enjoy these benefits, the exporter will need to ensure that the exported products meet the requisite Rules of Origin and a certificate to that effect will need to be presented at the time of import. Similar to Free Trade Agreements, the EU GSP also requires compliance with requirements such as minimal operations, tariff shift, value addition, etc.

Since 2017, the Registered Export System (REX), a new system based on the self-certification of origin of goods by exporters, was introduced by the EU with the purpose of extending GSP benefits for consignment values in excess of EUR 6,000. Under self-certification, the origin of goods is declared by exporters themselves by means of a "statement of origin" on any commercial document (such as the commercial invoice, etc.).

Recently, the Department of Foreign Trade issued Trade Notice No. 49/2019-20 clarifying various aspects of the REX system in terms of procedure and compliance with GSP requirements in order to ensure better compliance under the self-certification regime and monitoring of exporters using the REX system. Specifically, exporters will be required to submit fortnightly statements in the prescribed format by the DGFT on all

Statements of Origin issued and respond to verification by the EU in a timely manner. Exporters who fail to do so will risk annulling the REX number.

Refer to Trade Notice No. 49/2019-20 dated 11 February 2020 for further details:

<https://dgft.gov.in/sites/default/files/T.N%2049.pdf>

Extension of export incentive on export of specified mobile phones

An additional 2% ad-hoc incentive under the MEIS has been extended to cover mobile phones, other than push button types falling under tariff code 8517.12.11 and 8517.12.19. This benefit is applicable where the export order date is within 1 January 2020 to 31 March 2020. The basis of calculation of the incentive is based on the realised Free on Board (FOB) value of exports or on the FOB value of exports declared in the Shipping Bill, whichever is lower.

The notification does not specify if retrospective claims are possible. At the time of writing, there had not been any indication from authorities if this incentive could be extended further after 31 March 2020.

Refer to Notification No 43/2015-20 dated 29 January 2020 and Notification No. 14/2020 - Customs dated 14 February 2020 for more details.

Permission for resubmission of applications for TMA assistance

The Transport and Marketing Assistance (TMA) for specific agricultural products scheme is intended to aid with international freight and marketing costs for export of agricultural produce, in order to mitigate the disadvantage of higher freight costs on such goods.

To enjoy benefits under this scheme, exporters of such products will need to follow specific procedures and complete specific forms notified by the Central Government. This includes filing and submitting a claim of all eligible shipments on a quarterly basis. On request by the trade industry, the Department of Trade has granted a one-time permission allowing for resubmission of applications for claiming assistance under the TMA scheme. This facility is only available for current applications that are pending disbursement. No supplementary applications or enhancements to the original claim can be made where the disbursement has been done.

Refer to Trade Notice No. 48/2019-20 dated 4 February 2020 and Trade Notice No. 51/2019-20 dated 21 February 2020 for further details.

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Relaxation of import controls in response to COVID-19

In light of the COVID-19 outbreak, the Ministry of Trade (MOT) relaxed certain import controls through an amendment to MOT Regulation No. 87 M-DAG/PER/10/2015. The amendment came into effect on 23 March 2020.

Import restrictions on the following goods will be lifted. Note that this measure only applies to goods shipped from a port of loading no later than 30 June 2020. The date on the Bill of Lading will be taken as proof.

No.	Tariff code	Product description
1	3307.49.10	Room perfuming preparations, whether or not having disinfectant properties
2	3307.90.30	Paper and tissues, impregnated or coated with perfume or cosmetics
3	ex. 3401.30.00	Antiseptic products, whether or not containing soap
4	6115.10.10	Stockings for varicose veins, of synthetic fibres
5	ex.6210.10.19	Garments, made up of fabrics of heading 56.02, 56.03 that do not include protective work garments
6	6210.20.30	Garments in subheadings 6201.11 to 6201.19 that are used for protection from chemical substances or radiation.
7	6210.30.30	Other garments, of the type described in subheadings 6202.11 to 6202.19 used for protection from chemical substances or radiation
8	6210.40.20	Other men's or boys' garments used for protection from chemical substances or radiation
9	6210.50.20	Other women's or girls' garments used for protection from chemical substances or radiation
10	6211.33.30	Garments made from man-made fibres that are used for protection from chemical substances or radiation
11	6211.39.30	Garments made from other textile materials that are used for protection from chemical substances or radiation
12	6211.43.10	Surgical gowns made from man-made fibres

No.	Tariff code	Product description
13	ex.6211.43.90	Examination gowns made from man-made fibres
14	6307.90.40	Surgical masks
15	ex.6307.90.90	Other masks, excluding surgical masks, made from nonwoven materials
16	ex.8543.70.80	Infrared thermometer
17	9619.00.19	Disposable sanitary towels (pads) and tampons, napkins and napkin liners for babies and similar articles, of any materials that do not include: <ul style="list-style-type: none"> Disposable articles with an absorbent core of wadding of textile materials Sanitary towels and tampons of paper, paper pulp, cellulose wadding or webs of cellulose fibres Baby napkins and pads for incontinence, of paper, paper pulp, cellulose wadding or webs of cellulose fibres Other articles made of paper, pulp, cellulose wadding or webs of cellulose fibres

No official announcement has been made on when the measures will end. Importers are advised to closely monitor the quickly-changing landscape to ensure compliance.

Budget for import duty support for specific industries

The Indonesian MOF issued a new regulation i.e. 12/PMK.010/2020, on the Government's budget for import duties for year 2020. Every year, the MOF sets aside a budget in support of specific industries by bearing the costs of import duties imposed on specific imported raw materials.



The budget allocation by sectors for year 2020 is as follows:

Government authorities	Industry/sector	Allocated budget ceiling (IDR)
Director General of Metal, Machine, Transportation, and Electronics Industry - Ministry of Industry	Manufacturing of motorized vehicle components and/ or components (rural multipurpose mechanical equipment)	131,319,954,000
	Manufacture of Electric Motorcycles	40,295,000
	Manufacturing of certain part large tools and/or assembling large tools	903,274,000
	Manufacturing of agricultural equipment and machinery	500,000,000
	Manufacturing of boiler and electrical component equipment	4,448,264,000
	Manufacturing of components and / or electronic products	11,000,000,000
	Manufacturing of telecommunications equipment	300,000,000
	Manufacturing of optical fiber cable	3,600,000,000

Government authorities	Industry/sector	Allocated budget ceiling (IDR)
Director General of Chemical, Pharmaceutical and Textile Industries - Ministry of Industry	Manufacturing of resins in the form of alkyd resins, unsaturated polyester resins, amino resins, emulsion resins, phthalate pigments, solution acrylic/ synthetic latex, latex synthetic resin dispersion, plasticizer, formaldehyde and formaldehyde resin	8,200,000,000
	Manufacturing of special chemicals, namely masterbatch: neutralizing wastewater in the form of aqua clear series (flocculant), chemicals for paper, and catalysts in the form of mepoxe, cypoxe, cypoxe liquid, benzoxe	4,310,000,000
	Manufacturing of plastic packaging (except plastic bags that are levied), plastic sheet, biaxially oriented poly propylene film, plastic bags, plastic pallets, plastic bottles and jerry cans, plastic pipes, plastic sheeting, geotextile, goods and/ or household furnitures from plastic	114,000,000,000
	Manufacturing of cosmetic	6,950,000,000
	Manufacturing of paint	13,150,000,000
	Manufacturing frit	410,805,000
	Manufacturing of gypsum	7,341,744,000
	Manufacturing of carpets, rugs, prayer rugs and/or PU, artificial PVC	78,500,000,000
	Manufacturing of fibers/yarn/artificial filament strips and/or staple fibers	3,600,000,000
	Leather tanning	1,000,000,000



Government authorities	Industry/sector	Allocated budget ceiling (IDR)
Director General of Agro Industry - Ministry of Industry	Processing of almonds	2.100,000,000
Deputy for Drug, Narcotics, Psychotropic, Precursor, and Addictive Substances – National Agency of Drug and Food Control	Manufacturing of pharmaceuticals	13,900,000,000

In addition to the budget allocated, the MOF also stipulates the type of goods that are eligible for such relief in Appendix B of the regulation.

The regulation can be accessed here:

<https://www.ssas.co.id/wp-content/uploads/2020/02/12-PMK.010-2020-isi.pdf>

Facilitation for users of Special Economic Zones

On 24 February 2020, the Indonesia Government issued regulation no. 12/2020 (GR-12). GR-12 regulates the facilitation enjoyed by legal entities established in Special Economic Zones (Kawasan Ekonomi Khusus/KEK). As each KEK is designed for a specific industry, not all companies will be able to avail of this facilitation.

The facilitation offered is broad in nature and includes concessions with regards to taxation, customs and excise, logistics, employment obligations, immigration, land and spatial planning, business licences and other matters. We have focused on the customs and excise aspect of the facilitation.

The eligibility criteria are as follows:

Type of entity	Eligibility criteria
Business Entity (Badan Usaha/BU) - refers to taxpayers organising a KEK's business activity	<ul style="list-style-type: none"> Be registered as a domestic taxpayer; Be registered as a BU by the relevant Government agency that develops or manages a KEK; Be compliant with the government guidelines on stages of business; and Have a business license from a relevant institution
Business Player (Pelaku Usaha/PU) - refers to taxpayers carrying out business in a KEK	<ul style="list-style-type: none"> Be registered as a domestic taxpayer; and Have a business license from a relevant institution

In the construction and development stage of a KEK, a BU can enjoy exemptions on import duties and import taxes (i.e., import VAT/LST and Income Tax Article 22) for the importation of capital goods. A PU can enjoy the same facilitation (importation of capital goods), as well as for products and materials for its business purposes. After the construction and development stage, the PU is eligible for a postponement of import duties and excise exemption, so long as the imported goods are raw materials or ancillary materials used in the production of non-excisable goods.

We have provided a summary of the facilitation available for the movement of goods in the KEK:

a. For incoming goods

Source	Import duty exemption / postponement	Excise exemption	'Non-collection' of import taxes	'Non-collection' of domestic VAT/LST
Overseas	Yes	Yes	Yes	N/A
A PU in another KEK	Yes	Yes	Yes	
A Bonded Stockpiling Zone outside the KEK	Yes	Yes	Yes	
A Free Trade Zone	Yes	Yes	Yes	
A local company without any facilitation	N/A	Yes		Yes
Another PU within the same KEK	Yes	Yes	Yes	Yes

b. For outgoing goods

Destination	Tax and customs treatment
Overseas	As per the prevailing regulations on exports
A PU in another KEK	As per the facilitation available in the destination
A Bonded Stockpiling Zone outside the KEK	As per the facilitation available in the destination
A Free Trade Zone	As per the facilitation available in the destination
A local company without any facilitation, and for domestic use	<p>Import duty, excise and import taxes which were not collected, exempted or postponed must be paid.</p> <p>Import duty is not applicable for products with minimum 40% local content.</p>

In order to enjoy the import duty facilitation, the BU or PU must have their information systems connected to the Directorate General of Customs and Excise.

Amendments to Indonesia's Customs Tariff Book aimed at automotive production

The Indonesian Ministry of Finance (MOF) issued a third amendment to the Indonesia Customs Tariff Book. The changes are aimed at attracting new investment and to encourage motor vehicle production in Indonesia.

The new regulation revises Chapter 98, which pertains to the importation of incompletely knocked down (IKD) automotive products. It sets forth certain requirements for an importer to apply the classification stipulated in Chapter 98. The amendment became effective on 25 March 2020.

Heading 98.01 elaborates upon IKD or IKD chassis fitted with engines, and also refers to vehicles with HS subheading 8701.20, and headings 8702, 8703 and 8704. To be able to be classified under these headings, three criteria must be fulfilled:

1. The goods must be imported by a manufacturing company that makes vehicles with four or more wheels;
2. The importer must obtain an approval from the officers appointed by the Minister of Industry (Mol); and
3. The goods must meet the provision regulated in Mol Regulation Number 34/2017 concerning motor vehicles with four wheels or more which has been amended by Mol Regulation Number 5/2018.

Meanwhile, goods classified under heading 9802 are components of IKD that are imported by companies in the component industry. Again, to be able to be classified under this heading, the imported goods must fulfill the requirements regulated in the Mol Regulation Number 59/2010 concerning the automotive industry.





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Increased flexibility in customs and import/export control procedures due to COVID-19

In response to disruptions caused by the COVID-19 pandemic, Japan Customs and the Ministry of Economics, Trade and Industry (METI) have announced several measures to provide increased flexibility around customs and import and export control procedures.

For Customs, the main facilitative measures are as follows:

1. If importers and exporters are unable to complete the relevant goods declaration processes at the required Customs office due to the impact of COVID-19, they can choose to declare goods at a more convenient Customs office, subject to prior consultation and confirmation with Customs.
2. If it is difficult for importers or exporters to stamp their company chop on documents requested by Customs due to the impact of COVID-19, such documents may be submitted without the stamp.
3. If importers or exporters are unable to submit paper documents requested by Customs, depending on the circumstances, such documents can either be submitted electronically, or a deadline extension can be requested from Customs.

4. As a general policy, Customs has stated that it will be flexible in extending deadlines for delayed Certificates of Origin and security bonds for duty deferral applications.

For procedures involving METI, the main measures are as follows.

1. If importers applying for an extension on the validity of METI-issued import licenses are unable to submit evidentiary documents demonstrating the need for the extension due to the impact of COVID-19, they may instead submit a letter to METI explaining the need for the extension citing the reason for not being able to submit the evidentiary documents. This is effective through 30 June 2020 and may be extended further if deemed necessary.
2. Exporters at risk of being unable to export within the valid period of their export licenses may request for an extension of the license validity period prior to the original expiration date.
3. For export licenses that require fulfilment of certain conditions by a specific date before 30 June 2020, the deadline for fulfilling these conditions have been automatically extended to 30 June 2020 and may be extended further if deemed necessary. Nevertheless, exporters are encouraged to fulfil such conditions by the original deadline to the extent possible.

The original announcements are available in Japanese at the following links:

https://www.customs.go.jp/news/news/20200304_index.htm

<https://www.meti.go.jp/press/2019/03/20200305002/20200305002.html>



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Export restrictions and import duty and sales tax exemptions in response to COVID-19

(a) Export restrictions

On 19 March 2020, the Ministry of Finance (MOF) issued a Customs (Prohibition of Exports) (Amendment) (No. 2) Order 2020. From 20 March 2020, exportation of the following face masks requires an approval from the Ministry of Domestic Trade and Consumer Affairs (MDTCA) due to the COVID-19 outbreak.

Description of goods	Tariff codes	Destination
Face mask (surgical/medical) 1 ply (ear loop)	6307.90.40 00	All countries
Face mask (surgical/medical) 2 ply (ear loop)	6307.90.40 00	
Face mask (surgical/medical) 3 ply (ear loop/head loop/head tie-on)	6307.90.40 00	
Face mask (surgical/medical) N95	6307.90.90 00	

Malaysia exporters of face masks should ensure compliance by obtaining an export approval from MDTCA prior to exportation to any country.

(b) Import duty and sales tax exemptions

On 21 March 2020, Malaysia Customs with the approval from the MOF exempted import duties and sales tax on imported face masks. In addition, locally manufactured face masks sold by local registered manufacturers are sales tax exempted. The notification took effect on 23 March 2020 and will be in force until further notice by the MOF. The list of face masks and tariff codes are identical to the above article.

On 24 March 2020, Malaysia Customs published another notification in relation to the import duty and sales tax exemption on medical and laboratory equipment, personal protective equipment and raw materials supplied to the Ministry of Health to curb the COVID-19 outbreak. The details of the notification including the list of goods exempted and its tariff codes can be assessed at the following links:

<https://www.mysst.customs.gov.my/assets/document/Announcement/MAKLUMAN%20PENGECEUALIAN%20DUTI%20IMPORT%20DAN%20CUKAI%20JUALAN%20MULAI%2024%20MAC%202020.pdf>

https://www.mysst.customs.gov.my/assets/document/Announcement/LAMPIRAN%20A_B_dan_C_Pengecualian.pdf

<https://www.mysst.customs.gov.my/assets/document/Announcement/Pindaan%20Lampiran%20Terbaharu.pdf>

The situation and measures taken are quickly evolving. Importers and local manufacturers of the above are advised to closely monitor the development of the import duty and sales tax exemption regime to ensure compliance.

Economic Stimulus Package 2020

On 28 February 2020, the Malaysia Government announced the Economic Stimulus Package (ESP). The ESP has as its objective the following:

1. to mitigate the impact of COVID-19;
2. to spur economic growth; and
3. to promote quality investment.

The following summarises relevant customs and trade measures:

Measure	Effective period	Description
Import duty and sales tax exemption on equipment and machinery for port operators	1 April 2020 to 31 March 2023	Currently, port operators who are no longer enjoying tax incentives under the Approved Service Projects are not entitled to claim any import duty and sales tax exemption. The ESP proposes an exemption of import duty and sales tax for these existing port operators on imported or locally purchased equipment and machinery used directly in port operations. The exemption is proposed to apply from 1 April 2020 to 31 March 2023. This exemption does not apply to the importation or purchase of spare parts and consumables including those that are used for maintenance purposes. Applications for exemption have to be submitted to the Ministry of Finance from 1 April 2020 to 31 March 2023.
Relaxation of condition to purchase duty free goods for persons entering Malaysia	From 1 April 2020	For persons entering Malaysia via international airports, the Government has proposed the relaxation of the eligibility period to purchase duty free goods from 72 hours to 48 hours. The threshold amount of the allowable duty-free goods purchased has also been increased from RM500 to RM1,000. The threshold amount is for items other than goods which are already eligible for exemption under the specified limit such as alcohol, cigarettes, clothes, shoes, food and personal electrical appliances.

Measure	Effective period	Description
Value added activities carried out in LMWs and FIZs	From 1 April 2020	<p>The ESP proposes for the scope of value-added activities allowed to be performed in a Licensed Manufacturing Warehouse (LMW) or a Free Industrial Zone (FIZ) to be expanded to include:</p> <ul style="list-style-type: none"> • supply chain management; • strategic procurement operations; and • total support solutions. <p>It further proposes the centralization of the approval process for all value-added activities, such that approval will be given by Malaysia Customs at State and Zone levels.</p> <p>Currently, such permissible value-added activities include:</p> <ul style="list-style-type: none"> • research and development; • design; • marketing (for companies with International Procurement Centre status); • distribution (for companies with Regional Distribution Centre); • quality control; • testing and commissioning including calibration and configuration; • labelling, packaging; and • remanufacturing, repairing and servicing. <p>These value-added activities must be approved by either Malaysia Customs Headquarters or the Ministry of Finance.</p> <p>Companies are advised to review and determine their eligibility to apply for the approval.</p>

The ESP 2020 can be accessed via the following link:
https://www.treasury.gov.my/pdf/pre2020/Booklet_2020_Economic_Stimulus_Package.pdf

Reduced documentary requirements for Back-to-Back Certificates of Origin applications

With effect from 2 February 2020, the Ministry of International Trade and Industry (MITI) eased documentation requirements for Back-to-Back Preferential Certificate of Origin (B2B PCO) applications in Malaysia.

Malaysian exporters are no longer required to submit invoices, packing lists, and bills of lading to support the original PCO issued by the authorities of the First Exporting Party as part of the B2B PCO application process. Malaysian exporters utilising B2B PCO are advised to take note.

The revised checklist of required documents for B2B PCO applications are as follows:

Mandatory documents required from the First Exporting Party	<ul style="list-style-type: none"> • A valid original PCO • K8 chit/receipt or free zone declaration
Mandatory documents required from Malaysian Exporters	<ul style="list-style-type: none"> • Invoice • Bill of lading • Free zone or K8 declaration <p>Provision of a Packing List is optional</p>

New regulations on compounding of offences

Following the enforcement of the Customs (Amendments) Act 2019 on 1 January 2020 which governs the imposition of compounds on companies, the Ministry of Finance has issued three compounding of offences regulations under Customs Act 1967, Excise Act 1976 and Free Zones Act 1990 respectively. The three regulations set out the following:

- the offences which can be compounded;
- the criteria for compounding;
- the methods and procedures for compounding such offences; and
- the payment method for the compound.

In Malaysia, it is common for Customs or Excise 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 offences stipulated under the Customs, Excise and Free Zone Acts.

Under the regulations, any Senior Officer of Customs or Excise (defined to include the Director General and his/her deputy, a superintendent of Customs and Excise, as well as certain specific customs officers and police officers), with the written consent of a Public Prosecutor, may elect to compound any offence subject to certain criteria, for an amount not exceeding 50% of the maximum fine allowable. The offence must be a compoundable offence. Previously, the sum of compound must not exceed MYR 5,000.

The methods for compounding are outlined as follows:

- Any Senior Officer of Customs or Excise may with the written consent of a Public Prosecutor in the prescribed form (Form 1) issue an offer to compound the offence in the prescribed form (Form 2).
- If an offer to compound is accepted by the person to whom the offence is made, the person has to respond in the prescribed form (Form 3).
- A full payment of the compound by cash or bank draft must be made to Malaysia Customs within 14 days from the issuance date of Form 2 to avoid any further proceedings that may be taken against the offender.

The complete list of compoundable offences and the prescribed

forms can be accessed via the following links:

Customs (Compounding of Offences) Regulations 2020:

http://www.federalgazette.agc.gov.my/outputp/pua_20200303_PUA83_2020.pdf

Excise (Compounding of Offences) Regulations 2020:

http://www.federalgazette.agc.gov.my/outputp/pua_20200303_PUA82.pdf

Free Zones (Compounding of Offences) Regulations 2020:

http://www.federalgazette.agc.gov.my/outputp/pua_20200303_PUA81_2020.pdf

National Automotive Policy 2020

On 21 February 2020, the Malaysia Government announced the National Automotive Policy 2020 (NAP 2020). The NAP 2020 has a vision for Malaysia to become a regional leader in manufacturing, engineering, technology and sustainable development in the automotive sector.

The NAP 2020 is based on NAP 2014 with the addition of the following elements:

- Next generation vehicle (NxGV) – Energy efficient powertrains, advanced driving capabilities and connected vehicles
- Mobility-as-a-Service (MaaS) – Transportation that is consumed as a service, preparing for new ownership models
- Industry 4.0 (IR 4.0) – Smarter and leaner manufacturing, future-proof business, global market competitiveness

It has the following objectives for the advancement of Malaysia's automotive industry:

- develop NxGV technology ecosystem to transform Malaysia into the regional hub for the production of NxGV;
- expand the participation of the domestic automotive industry in the sector of MaaS;
- ensure the domestic automotive industry is well-equipped with new automotive paradigm
- closely related to IR 4.0;
- ensure the entire ecosystem benefits from the spin-off of NxGV implementation; and
- reduce vehicle carbon emission by improving fuel economy level in Malaysia by 2025.

The following summarises the key customs and trade considerations under NAP 2020.

1. Comprehensive customised incentives for investment in Energy-Efficient Vehicles, NxGV, critical components and testing centres

The Malaysian Government is providing comprehensive customised incentives covering direct tax, customs and indirect tax to encourage investment in specific areas.

The key criteria in determining the customised incentives include value of investment, total production, technology transfer, research and development activities, green processes at manufacturing and assembly level, critical

component manufacturing, supply chain development, value-added activities, total exports, vehicle carbon emission, etc.

2. Continuation of import licenses (more commonly known as Approved Permits in Malaysia)

Import licenses (both Open and Franchise Approved Permit) will still be required, to protect the local automotive industry and for data collection purposes.

3. Discontinuation of MSP scheme

Import duty exemptions are currently available under the Multi Sourcing Parts (MSP) scheme. MSP refers to components which are not imported together with Complete Knocked-Down kits and are purchased separately from several overseas or local suppliers.

This MSP scheme will be discontinued by 2021, to encourage more local sourcing and utilisation of Free Trade Agreements (FTAs). Malaysia has 14 existing regional and bilateral FTAs.

The NAP 2020 can be accessed via the following link:

<https://www.miti.gov.my/index.php/pages/view/nap2020>

New import and export restrictions on hydrofluorocarbons

On 26 February 2020, the Ministry of Finance issued two amendment orders. The orders amend the Customs (Prohibition of Imports) Order 2017 and Customs (Prohibition of Exports) Order 2017 with effect from 1 March 2020.

The following goods are now subject to an import and export license from the Department of Environment (DoE):

- hydrofluorocarbons (HFCs) covered under the Montreal Protocol, falling under subheading 2903.39.90 and
- goods containing perfluorocarbons (PFCs) or HFCs but not containing chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs), falling under subheading 3824.78.00.

Importers and exporters should therefore review if their goods are affected and ensure the necessary licenses are obtained from the DoE prior to importation and exportation.

The list of affected goods and the corresponding HS subheading can be found at the following links:

Customs (Prohibition of Imports) (Amendment) Order 2020:

http://www.federalgazette.agc.gov.my/outputp/pua_20200226_PUA70.pdf

Customs (Prohibition of Exports) (Amendment) Order 2020:

http://www.federalgazette.agc.gov.my/outputp/pua_20200226_PUA71.pdf

Updated tariff codes for products under heading 29.03 and 38.24

On 26 February 2020, the Ministry of Finance issued five amendment orders in relation to the expansion of two tariff lines:

Tariff code	Description of goods
2903.39.90 00	Goods other than fluorinated, brominated or iodine derivatives of acyclic hydrocarbons and bromoethane
3824.78.00 00	Goods containing perfluorocarbons or hydrofluorocarbons but not containing chlorofluorocarbons or hydrochlorofluorocarbons

The Most-Favoured-Nation (MFN) and preferential duty rates remain the same at 0%.

Importers of the affected goods should take note of the changes to ensure the correct tariff codes are being declared to Malaysia Customs at the point of importation.

The complete Orders can be assessed at the following links:

- Customs Duties (Goods under the Framework Agreement on Comprehensive Economic Co-Operation between ASEAN and China) (Amendment) Order 2020:
http://www.federalgazette.agc.gov.my/outputp/pua_20200226_PUA69.pdf
- Customs Duties (Goods under the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area) (Amendment) Order 2020:
http://www.federalgazette.agc.gov.my/outputp/pua_20200226_PUA68.pdf
- Customs Duties (Goods under the Agreement Establishing the ASEAN-Hong Kong, China Free Trade Area) (No.2) (Amendment) Order 2020:
http://www.federalgazette.agc.gov.my/outputp/pua_20200226_PUA67.pdf
- Customs Duties (Goods of ASEAN Countries Origin) ASEAN Harmonised Tariff Nomenclature and ASEAN Trade in Goods Agreement) (Amendment) Order 2020:
http://www.federalgazette.agc.gov.my/outputp/pua_20200226_PUA66.pdf
- Customs Duties (Amendment) Order 2020:
http://www.federalgazette.agc.gov.my/outputp/pua_20200226_PUA65.pdf



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Increased customs duty rate on alcohol

In February 2020, the Ministry of Planning, Finance and Industry (MOPFI) announced and published new tariff rates for alcohol imports under HS Heading 2208 (Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol.; spirits, liqueurs and other spirituous beverages).

The rates have been increased from 40% to 50% on all items under heading 2208, including whiskies, gin, vodka, and other spirituous beverages. The changes took effect from 1 April 2020.

Online procedures for obtaining import and export licenses

On 30 March 2020, the Ministry of Commerce announced that it will adopt online procedures for the issuance of import and export licenses for more than 150 types of goods.

While this measure was implemented as part of the government's effort to enforce social distancing to reduce the spread of COVID-19, there is no indication that this is a temporary measure. Use of online procedures for issuance of import and export licenses are expected to continue after the COVID-19 disruptions.

The online licensing applications started on 1 April 2020. The new list of goods for online import licensing applications include pharmaceutical products, medical devices, diesel, gasoline, construction materials, fertilisers, and cooking oil. Goods for export include natural gas, rubber, cement, sugar, seeds, garlic and onion. Companies need to complete their online application forms on Myanmar Trade Net.

Advance income tax on exports waived

On 16 March 2020, the Myanmar government announced a waiver of the 2% advance income tax on exports until the end of the current fiscal year. The current fiscal year 2019-2020 started on 1 October 2019 and ends on 30 September 2020. The announcement of the tax waiver followed the formation of a central committee to tackle the impacts of the global coronavirus outbreak on Myanmar's economy and calls from the business community for government assistance.

The official notification has been released by the MOPFI on 18 March 2020 and took effect on 1 April 2020. Companies that are seeking for the 2% advance income tax waiver are required to apply for an approval letter from the Internal Revenue Department and to attach the approval letter when declaring goods to the Customs Department.

Myanmar-India border closures

On 9 March 2020, the Indian government announced the closure of border gates in Mizoram and Manipur, India that are used for border trade between Myanmar-India, as a precaution against the spread of the coronavirus. It has not been announced at this point when the border will be resumed for trade.

In addition, border trade between Myanmar-China and Myanmar-Thailand have slowed down due to COVID-19 but borders remain open.





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Relaxation of rules around payment and tariff concessions in response to COVID-19

The New Zealand Government has placed temporary entry restrictions into New Zealand to assist with the containment of COVID-19. Given that trade is considered an essential service, New Zealand Customs Service (NZCS) will continue to ensure that imports and exports clear the border during all COVID-19 Alert Levels. In line with other COVID-19 relief measures that have recently been released by the New Zealand Government, NZCS will issue its own guidelines soon. In the meantime, NZCS has provided some guidance on the following issues.

Deferred payment account

Under normal circumstances if an importer business defaults on making payment, NZCS would immediately cancel the deferred payment account and consider action to recover the debt. In light of the current COVID-19 situation, the following will apply:

1. NZCS will not immediately cancel the deferred payment account if the business is unable to make payment;
2. NZCS is willing to work with businesses to develop a mutually acceptable repayment plan, which allows the business to continue to have the deferred payment account while repaying the amount owed over a period of time;
3. No firm decision has been made at this stage on the remission of use-of-money-interest (UOMI). Information on the remission of UOMI will be included in NZCS's upcoming guidelines. UOMI will continue to apply until the guidelines are issued.

In exceptional cases, NZCS may agree to allow an instalment plan (for taxes due) in which case late payment penalties will be waived. Each situation will be evaluated on a case-by-case basis.

Tariff concessions

The New Zealand Government has approved two tariff concessions for products critical for the containment of COVID-19. A summary of these concessions, which remove the duty element of the import charges, is as follows:

- Concession 311042H - Soap, of a kind suitable for use in the COVID-19 event
- Concession 311043F - Goods including COVID-19 testing kits, and diagnostic reagents, of a kind suitable for COVID-19 testing

These concessions fall within the Special Situation category. Under normal circumstances, a Special Situation concession would be limited to a specific importer. However, the decision

has been made to remove this limitation, allowing the entire industry to utilise these concessions.

For more information, refer to the Concessions Approval Notice 11:

<https://www.customs.govt.nz/globalassets/documents/tariff-concession-notices/tariff-concession-approval-notice-11-2020.pdf>.

Draft law to zero-rate New Zealand transport services

In February, the New Zealand Inland Revenue published a Goods and Services Tax (GST) issues paper. It identified a number of instances where the GST Act produces an outcome that does not reflect the underlying policy intent. One issue relevant to the supply chain regards the GST treatment of the New Zealand leg of the international transport of goods.

Currently, services provided to transport goods to and from New Zealand are zero-rated. However, the New Zealand leg of the international transport of goods can only be zero-rated if it is supplied by the main transport supplier. If an international transporter sub-contracts the domestic leg to a New Zealand-based courier, that New Zealand courier must add 15% GST to their charge, even if they are associated with, or a wholly owned subsidiary of, the international transport supplier.

To date there has been significant non-compliance and uncertainty around these rules. Many goods transporters are incorrectly zero-rating their domestic services, even though they do not qualify under the GST rules.

Who is affected?

- New Zealand-based logistics transport providers.
- Offshore transporters who sub-contract to New Zealand logistics providers.
- Ultimately, consumers, who have historically borne the cost of irrecoverable GST in the supply chain.

Proposed solution

Inland Revenue is proposing a change in the law to allow New Zealand transport services supplied to the primary (non-resident) transport supplier to be zero-rated. This is similar to the current approach taken in Australia and Singapore.

Inland Revenue has also asked for views on the proposals, including whether any further amendments are required, such as whether all New Zealand transport services related to an international transport service should be zero-rated (whether or not the international transport provider is non-resident).



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Customs initiatives and operations in response to COVID-19

The Philippines government has adopted a number of measures and initiatives in response to COVID-19. We have detailed them below.

(a) Customs operations

Due to rising concerns around the spread of COVID-19, most cities and provinces in the Philippines were placed on community quarantine from 13 March till 13 April 2020. On 7 April 2020, the community quarantine was further extended to 30 April 2020. This means the suspension of land, air and sea transportation, and closure of private and government offices, except for establishments and government agencies that deal with health needs, food and medical supplies, and security control.

On 2 April 2020, the Department of Finance, Department of Agriculture, and the Department of Trade and Industry issued Joint Administrative Order (JAO) 20-1 to improve the flow of containerised cargoes and facilitate immediate customs clearance of essential goods. This refers to shipments containing food, medicines, medical and basic goods. JAO 20-1 is effective for a three-month period, from 2 April - 2 June 2020. We have highlighted the key measures below:

- For applications for import permits and licenses:
 - Processing time has been shortened to three working days
 - Close cooperation between the BOC and other regulatory agencies to expedite applications
- For clearance of goods:
 - Importation of essential goods are categorised as being of low-risk to facilitate immediate release
 - Promotion of use of provisional goods declaration where there is missing information or documentation
 - Implementation of strict timelines: Importers must file the goods declaration within two days of goods arrival. Goods declarations for goods imported in a refrigerated container should be made prior to its arrival. BOC will complete its assessment within 24 hours, and importers must make payment of import taxes within 24 hours of BOC's final assessment. Importers have three days to claim the goods from customs warehouses or container yards. Where goods are unclaimed, they will be declared as abandoned and proceedings will be held to determine the mode of disposal. If no goods declaration is filed within seven days for goods imported in refrigerated containers, it will be considered abandoned
- For existing containers in yards and terminals:
 - Existing containers in yards and terminals on 2 April 2020 must be claimed by importers within the specified period. If unclaimed, terminal operators will transfer the container to another facility at the expense of importers/shipping lines.

Prior to the issuance of JAO 20-1, the Bureau of Customs (BOC) had prioritised immediate goods clearance by:



- Increasing the 7-day lodgement period for goods declaration to 15 days, which could be extended for another 15 days upon request of the importer.
- Enforcing a zero contact policy by implementing online submission of documents through the BOC portal at client.customs.gov.ph.
- Extending the validity of accreditations of stakeholders (importers, customs brokers, others) that expire during the quarantine period.
- Prioritising clearance of health-related goods and donations.

Further details can be accessed at the following links:

<https://www.officialgazette.gov.ph/downloads/2020/03mar/20200402-JOINT-ADMINISTRATIVE-ORDER-NO.-20-01-RRD.pdf>

http://customs.gov.ph/wp-content/uploads/2020/03/ocom-memo-60-2020-Suspension_of_7_day_Period-to_Lodge_Goods.pdf

http://customs.gov.ph/wp-content/uploads/2020/03/ocom-memo-61-2020-Online_Filing_of_Goods_Declaration.pdf

http://customs.gov.ph/wp-content/uploads/2020/03/ocom-57-2020-Extension_of_Validity_of_Accreditation_of_Stakeholders_during_the_ECQ.pdf

(b) Customs initiatives

The approval of Republic Act No. 11469 or the Bayanihan to Heal as One Act granted the President emergency powers to tackle the COVID-19 crisis. Among its provisions are tax exemptions for the importation of healthcare equipment and supplies and measures that minimise the supply chain disruption to ensure availability of essential goods. The BOC has issued several guidelines to facilitate the immediate clearance of essential goods and processing of medical supplies and equipment, with duty and tax exempted.

Under Customs Memorandum Order (CAO) 7-2020, the importation of the below goods is exempt from duties and taxes with appropriate endorsement from the Department of Finance (DOF). CAO 7-2020 took effect on 23 March 2020 and is valid for three months. Its validity may be extended by Congress.

- Personal protective equipment (PPE) such as gloves, gowns, masks, goggles, face shields, surgical equipment and supplies;
- Laboratory equipment and its re-agents;
- Medical equipment and devices;
- Support and maintenance for laboratory and medical equipment;
- Surgical equipment and supplies;

- Medical supplies, tools, consumables, such as alcohol, sanitizers, tissue, thermometers, hand soap, detergent, sodium hydrochloride, cleaning materials, povidone iodine, common medicines like paracetamol tablets and suspension, mefenamic acid, vitamin tablets and suspension, hyoscine tablet and suspension, oral hydration solution, and cetirizine tablet and suspension; and
- COVID testing kits and others that may be identified by the Department of Health.

Local manufacturers of health-related equipment and supplies will also enjoy duty and tax exemptions on importation of materials used in production of these products. This is provided the materials are included in the master list of the Department of Trade and Industry or registered with incentive promotion agencies.

As the required DOF endorsement is expected to take some time, the BOC is allowing the filing of provisional goods declaration for immediate goods release while the tax-exempt endorsement process is ongoing. The importer is required to submit the endorsement after the quarantine period. This applies to importations intended for donation and commercial purposes.

Further, the CAO relaxes the regulatory clearance requirement. It waives the presentation of commodity clearance from the Food and Drugs Administration in cases of:

- Donations of PPEs, ventilators, respirators and its accessories for treatment of COVID-19 patients.
- Donations of health products that are certified by regulatory agencies or accredited third-party organisations in the originating countries.
- Importation of medical equipment and supplies for commercial purposes, provided the importer can produce its license to operate (LTO) from FDA and proof of pending application for commodity clearance. Importation of ventilators, respirators, and its respective accessories for commercial purposes will only need to provide a copy of the LTO.
- Companies, other than medical device establishments, importing facemasks for use in their company operations.

For more details visit the following links:

http://customs.gov.ph/wp-content/uploads/2020/04/CAO-07-2020_Bayanihan.pdf

http://customs.gov.ph/wp-content/uploads/2020/03/ocom-53-2020-Provisional_Goods_Declaration_for_Relief_Consignment_under_a_State_of_Calamity.pdf

Use of provisional goods declaration

The BOC has introduced the use of Provisional Goods Declarations (PGD) for shipments with value of FOB/FCA Php 10,000 and above. With the PGD, importers will be able to submit a goods declaration to the BOC even if particular information or importation requisites such as import permit, commodity clearance, licenses, tax exemptions, or an authority to release imported goods (ATRIG) are not yet available at the

time of importation.

The PGD is aimed at helping importers who are encountering difficulties in complying with the shortened seven days period to file a goods declaration and avoid shipment abandonment.

To submit a PGD, an importer or declarant must:

1. Prepare an electronic PGD using the declaration code of '4PG 4' under Box 1 of the Single Administrative Document (SAD) on Customs' e2m system.
2. In Box 37a, encode procedure code '4400' and the applicable three-digit additional code in Box 37b;
3. Provide the necessary mandatory information requested for and submit the SAD electronically;
4. Regular manual submission of printed SAD and supporting documents to the BOC must be made within 48 hours of online submission.

The importer may request for goods release based on BOC's tentative assessment of duties and taxes, subject to approval and posting of security/cash bond. Once the additional information is submitted, an adjustment can be made to the assessment of duties and taxes to complete the goods declaration.

In the event of failure to submit the lacking information or document, the BOC will impose the amount of security equivalent to the duty and tax differential.

If the reason for filing of PGD is the absence of import permit, commodity clearance, licenses, tax exemptions, or ATRIG, the following will strictly be applied:

- An importer must be able to comply with the needed permit, license, or clearance within the prescribed period if the regulating agency allows the said permit, clearance, or license to be secured after the arrival of the shipment.
- Customs clearance processing will be put on hold until the lacking permit, clearance, license, or ATRIG are supplied by the importer. In case the period for submission has lapsed, the shipment will be seized by the BOC.
- If a commodity permit, license or clearance is required by the regulating agency to be secured prior to goods departure in the exporting country, or prior to the arrival of goods to the Philippines, the PGD will not be accepted by the customs officer and the shipment will be seized by the BOC.

The following link contains further details:

http://customs.gov.ph/wp-content/uploads/2020/03/CMO-07-2020_Provisional_Goods_Declaration_withannex.pdf

Amendments to ATIGA Operational Certification Procedures

The Philippines will implement amendments to the Operational Certification Procedures (OCP) under the ASEAN Trade in Goods Agreement (ATIGA). The amendments relate to the declaration of product origin and an updated list of products under the Information Technology Agreement in AHTN 2017.

Amendments to the declaration of product origin is mostly to implement the ASEAN-wide Self Certification scheme.

1. Changes to Rule 7 to allow electronically applied signatures and seals on Form Ds.

2. Changes to Rule 11 to reflect the need to include the date and reference number of the original Form D when using back-to-back Form D.
3. Changes to Rule 25 to remove the requirement to input FOB value on Form Ds. This is applicable for all ASEAN member states except for Cambodia, Indonesia, and Lao PDR.
4. Updated Form D and overleaf notes.

The expected date of implementation is 31 March 2020, but the Office of the President has yet to release the required executive order so implementation may be delayed.

Following the executive order, the BOC is also expected to release related memoranda to widen the implementation of ATIGA self-certification scheme, which is currently being piloted with a small number of participants.

For more details, refer to:

http://customs.gov.ph/wp-content/uploads/2020/02/cmc-34-2020-Updates_on_Implementation_of_Arrangements_of_ATIGA.pdf

Consolidated fines and surcharges for clerical errors, misdeclaration, misclassification, and undervaluation

In accordance to the provisions of the amended customs and tariff legislation, the BOC issued a memorandum consolidating fines and surcharges for violations relating to the declaration of imported goods.

Offense	Situation	Fines and surcharges
Clerical error on goods declaration	Clerical errors are accidental or unintentional in nature and must not be related to fraud or gross negligence. They can be a misspelling and/or incorrect input of data on a goods declaration such as: <ul style="list-style-type: none">• consignee name,• importing vessel or aircraft,• port of departure or destination,• date of arrival,• number/s and mark/s of packages, quantity,• nature and description of goods.	Fine of Php 5,000 for every clerical error made

Offense	Situation	Fines and surcharges
Misdeclaration, misclassification, or undervaluation resulting in discrepancy in duty and tax of 10% or more.	<ul style="list-style-type: none"> Misdeclaration on quantity of goods Misdeclaration on quality of goods - e.g., declaring new goods as used goods Misdeclaration on description of goods Misdeclaration in weight of goods Misdeclaration on measurement of goods Undervaluation Misclassification 	Surcharge of 250% on the duty and tax difference between the declared duty and tax payment, and the BOC's determination.
Fraudulent or intentional misdeclaration, misclassification, or undervaluation	<ul style="list-style-type: none"> Misdeclaration on quantity of goods Misdeclaration on quality of goods - e.g., declaring new goods as used goods Misdeclaration on description of goods Misdeclaration in weight of goods Misdeclaration on measurement of goods Undervaluation Misclassification 	Surcharge of 250% on the duty and tax difference between the declared duty and tax payment, and the BOC's determination.

Surcharges are not applicable in the following circumstances:

- Less than 10% discrepancy in duty and tax;
- The declared tariff heading was rejected by the BOC in a dispute settlement process involving highly technical question on tariff classification;
- The declared value was rejected by the BOC as a result of an official ruling or decision from a dispute settlement process on a highly technical question relating to customs valuation rules; or
- Misdeclaration, misclassification, or undervaluation that was subject to timely amendment and that was corrected before examination of goods or making of final customs assessment.



Guidelines for door-to-door and small value shipments

The BOC released several guidelines implementing a uniform clearance procedure among different air express companies offering door-to-door services and to improve the clearance of low value shipments.

Importers that are using courier services or shipping low value items by air or sea transportation are advised to take note of the requirements to avoid delays when importing goods into the Philippines.

The BOC released a guidance on the simplified procedure for the clearance of imported goods shipped through an Air Express Cargo Operator (AECO). AECO refers to a company that arranges delivery of express (door-to-door) shipments for shippers or consignors, either as direct common carrier or an indirect air carrier. An AECO issues its own airway bill to shippers or consignors and includes a courier service provider.

The table below summarises the clearance procedures for door-to-door shipments under four different categories.

Category	Description	Clearance process	Releasing and import taxes
Document parcels	Parcels containing documents and correspondence (except those recorded in media), including diplomatic pouches with official seals	Consolidated clearance processing through filing of cargo manifest by AECO. Cargo manifests serve as goods declaration for clearance by BOC.	Immediate release of parcels without payment of duties and taxes.

Category	Description	Clearance process	Releasing and import taxes
Packages containing goods qualified as de minimis importation	Packages with FCA value of Php 10,000 or less	Consolidated clearance processing through filing of cargo manifest by AECO, except for packages containing regulated goods which must be declared separately per air waybill.	Immediate release of packages from BOC without payment of duties and taxes, except for packages that contain regulated goods.
Packages containing low-value dutiable goods	Packages with FCA value of Php 10,001 – Php 49,999	Filing of cargo manifest with computed amount of duties and taxes, and filing of informal entry under simplified goods declaration by AECO prior to goods arrival. Note that where there are two or more low value non-document packages of the same shipper and consignee, with an aggregate FCA value of Php 50,000 and above, the clearance will be subject to formal entry processing.	Packages may be released from the BOC prior to payment of applicable duties and taxes, subject to posting of security deposit by AECO. The security deposit is a minimum of Php 5 million, and must be maintained in a BOC-authorized bank.

Category	Description	Clearance process	Releasing and import taxes
Packages containing high-value goods	Packages with FCA value of Php 50,000 and above	Filing of individual electronic goods declaration under formal entry procedure through Customs' system. To file an electronic goods declaration, the importer must have an accreditation from the BOC.	Payment of applicable duties and taxes through the importer's dedicated bank account. Package will be released from BOC after completion of customs formalities.

Filing of cargo manifest must be done electronically within the prescribed period before the arrival of carrying aircraft.

Misrouted or missorted packages may be returned to the shipper by the AECO within 24 hours from their arrival, subject to the filing of necessary documentation and reporting to the BOC.

Packages that are imported under the following circumstances cannot be immediately released from the BOC:

- Packages declared as 'without commercial value', or with value declared with 'for customs purposes' or any similar phrases.
- Packages containing controlled products, except for personal use that falls within the quantity limits allowed by the regulating agency.
- Packages intended for warehousing, addressed to economic zones or free ports, and those that qualify under "conditionally-free importation". "Conditionally-free importation" refers to importation under specific situations under the Customs legislation, including importation of personal effects of returning residents; fish and seafood harvested in international waters; repaired items from abroad; goods for exhibition or public display; diplomatic purposes; as well as containers or packages used for exporting products.

Another guideline was released by the BOC implementing automated submission and assessment of **low value commercial goods arriving at seaports and airports**. This excludes express shipments, postal items, and e-commerce goods. The table below summarises the process.

Category	Description	Clearance process	Releasing and import taxes
Low value commercial goods shipped through sea or air transportation Excludes express shipments, postal items, and e-commerce goods	FOB/FCA value of Php 10,001 – 50,000	Filing of individual electronic goods declaration through Customs' automated system, followed by submission of hard copies of supporting documentation to BOC for clearance processing. To be able to submit an electronic goods declaration, the importer must be registered in Customs' electronic system as a Small Value Importer (SVI).	Payment of applicable duties and taxes can be made either in cash at the BOC collection unit, or through the importer's dedicated bank account. Packages will be released from BOC after completion of customs formalities.

Registered SVI intending to import goods exceeding the stated value threshold will need to secure a regular importer's accreditation from BOC in order to clear the goods using the formal entry procedure.

Refer to the following links for further details:

http://customs.gov.ph/wp-content/uploads/2020/03/CAO_05-2020-Customs_Clearance_Procedures_on_Express_Shipments.pdf

http://customs.gov.ph/wp-content/uploads/2020/03/cmo-06-2020-Automated_Clearance_Procedures_for_Commercial_Goods_under_the_Informal_Entry_Process.pdf

BOC issues guidelines for pilot implementation of AEO Program

In line with the Philippines' commitment to the supply chain standards prescribed by the World Customs Organization, the BOC issued guidelines on the pilot implementation of the Authorised Economic Operator (AEO) program. The AEO program involves partnership between Customs and the private sector to address issues on security of goods in the supply chain

and facilitate seamless movement of goods across borders. The AEO program provides accreditation to a qualified party, which could be an importer, exporter, shipping agent, customs broker or warehouse operator. The BOC is currently offering the initial pilot program to importers and exporters.

Customs Memorandum Order 09-2020 establishes the interim AEO office and provides guidelines for the program's accreditation of importers and exporters. The interim AEO office will have three units, namely: the Accreditation Unit (AU), Post Validation Unit (PVU), and the Mutual Recognition, Statistical and Records Management Unit (MRSRMU).

The AU will be responsible for processing and reviewing applications, as well as evaluating the level of risk to cargo security and customs compliance of the applicant. The PVU will be in-charge of monitoring and post compliance review of transactions of AEO members in coordination with BOC's Post Clearance Audit Group, while the MRSRMU will monitor the performance of the whole program, initiate study, recommend strategy and negotiate mutual recognition agreements with other countries.

The program is open to applicants in operation for at least one year. Companies that are operating as both an importer and exporter may apply for two memberships by filing and submitting one application form for both categories. Applications for both categories will be evaluated separately and will each be issued with a Certificate of Accreditation per category.

Approved applicants will be given an accreditation as Level 1 AEO member, which can be upgraded to Level 2 or 3 depending on the result of subsequent revalidation within one year from the initial certification. Rejected applicants may re-apply within one year.

Each level of AEO membership is granted access to different levels of facilitation benefits:

	Benefits
Level 1	<ul style="list-style-type: none"> exemption from renewal of customs accreditation; use of trade documents to self-assess duty and tax liability; lodgment of goods declaration by means of an entry in the BOC database system by the authorized person to be supported subsequently by a supplementary goods declaration; and dedicated help desk for AEO applicants.
Level 2	<p>In addition to the existing benefits provided to level 1 members, level 2 members will have access to:</p> <ul style="list-style-type: none"> dedicated processing and selectivity lane for AEO shipments; advance clearance processing; periodic lodgment allowing single goods declaration for a given period; one-time exemption certificate for goods subject to duty and tax exemption; and expedited export clearance.

	Benefits
Level 3	Level 3 members will have extended benefits that will be determined by the Bureau of Customs.

The AEO program was first introduced in the Philippines in 2012 to exporters located at the Clark Freeport Zone. Similar programs known as the Super Green Lane (SGL) program are still functioning and allow members to enjoy advanced customs clearance processing. According to the BOC, SGL members will eventually be enrolled as AEO after passing the evaluation on cargo security and supply chain practices under the AEO program.

More information on applications guidelines and forms can be accessed here:

http://customs.gov.ph/wp-content/uploads/2020/03/cmo-9-2020-Implementing_the_Authorized_Economic_Operator_Program.pdf



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Singapore Customs permits temporary storage of dutiable goods in FTZs

On 21 February 2020, Singapore Customs released Circular No: 01/2020 which allows dutiable goods (liquors and tobacco products only) pending for transshipment or removal to a licensed warehouse or licensed factory warehouse to be temporarily stored in a Free Trade Zone (FTZ) for up to 30 days. However, dutiable goods that would need longer storage duration are required to be transferred from the FTZ into licensed premises. Restrictions do not apply to dutiable goods that are shipped into FTZs under a through Bill of Lading or through Airway Bill.

This move is expected to reduce the turnaround time for transshipments and increase entrepot trade in Singapore. Previously, liquors and tobacco products were not permitted to be stored in an FTZ under the Free Trade Zone Act and the Free Trade Zone (Prescribed goods) Notification.

The circular can be accessed via this link:

<https://www.customs.gov.sg/-/media/cus/files/circulars/circular012020ver1.pdf>

Trader Notification Service upgraded to include GST and duty data

The Trader Notification Service was recently upgraded allowing traders to view the total amount of duty and/or GST payable for in-payment permits which then can be used to check against their data pertaining to the amount of duty and/or GST that had been paid.

This is in addition to the current notifications that traders can normally receive under the previous version of the service such as permit number, name of Declaring Agent and approval date, and whenever a permit with the trader's Unique Entity Number (UEN) in the importer/exporter UEN field is approved, cancelled, or amended.

For further information on how to sign-up to the notification service, visit the following link:

https://www.tradenet.gov.sg/TN41EFORM/tds/sp/splogin.do?action=init_acct



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New investigation measures on customs value assessment

On 13 March 2020, the Ministry of Finance (MOF) released a new tax ruling (Tai Tsai Guan #1091005171) providing further interpretation of Article 42 of the Customs Act, which regulates investigation measures taken by customs officials to verify the customs value, tax levy and any penalties applicable on imported goods. This may include request and review of relevant supporting documents such as remittance records, transaction dockets, etc.

As stipulated in Article 42 of the Customs Act, customs officials may, in verifying the customs value:

- Examine documents concerning the price of imported goods;
- Make enquiries into the transaction value or deductive value declared for the imported goods;
- Examine records declared for previous shipments;
- Investigate account books and vouchers related to the imported goods, or identical or similar goods sold by other sellers; and
- Request to review any other evidence relevant to the valuation of imported goods.

Under the announced ruling, Customs have identified cross border e-commerce companies as “high risk enterprises”, whose import transactions will be subject to higher scrutiny. This may be extended to cover other industries or enterprise types in the future. For high-risk enterprises, customs value verification process is no longer limited to an individual approach (on a per importation or per shipment basis), where information or documents are only requested in relation to the imported goods assessed. Customs can use a more active approach and request for the importer to provide any relevant supporting document or information to evidence that goods are imported at a reasonable customs value, as long as the amount and type of information requested is reasonable, necessary and within legal limits. This is intended to enhance customs risk management, deter tax evasive behaviours and achieve a fair business environment.

As specified in Article 42 of Customs act and a relevant ruling (Jin Guan Yin #09510002020) released by the Financial Supervisory Commission on 23rd May 2006, when assessing the customs value of an imported good, the MOF can also request for specific documents from financial institutions involved for verification purposes. For example, Customs can request cross border e-commerce companies to provide financial information or supporting documents of the end customers of the e-commerce transactions, which will be used to cross-verify with details on the import declaration forms.

In light of increased scrutiny by authorities on the customs value and more active customs value verification processes, importers and exporters should ensure that they have the relevant documentary evidence in place to support the declared value.



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Thai Customs temporarily allows photocopies of Form E

Due to the COVID-19 quarantine control measures implemented by the Chinese government in various parts of China, some importers may be unable to obtain the original copy of the certificate of origin (Form E) required under the ASEAN-China Free Trade Agreement (ACFTA) that will need to be presented at the time of customs clearance. As a result, the Thai Customs Department issued Customs Notification No. 47/2563 to temporarily ease such operational requirements.

From 3 March to 31 May 2020, importers can obtain approval to present a photocopy of the Form E for verification purposes at the time of clearance instead of the original Form E. To obtain approval to use a photocopied Form E, importers must:

- Indicate the phrase "Request to use a photocopied certificate of origin (Form E) for now and will submit the original Form E later" on the import entry form in the online entry system;
- Fill up the application form attached to Customs Notification No. 132/2562 'Request to use a photocopy of a certificate of origin (Form E) to proceed customs clearance under Customs Notification No. 132/2562 re: rules and regulations for duty exemption and reduction under ACFTA';
- Request a meeting with a Customs officer via the online system; and
- Meet with a Customs officer to get the photocopied Form E and request form approved.

Importers will need to present the original version of the Form E within 30 days from the date of goods clearance and release from Customs custody. If the importer is unable to do so, Customs will consider the preferential duties as invalid, and issue a notice of assessment to the importer for payment of outstanding duties.



Import, export and distribution requirements for medical masks and alcohol-based hand sanitisers

In response to the COVID-19 outbreak, medical masks and alcohol-based hand sanitisers are now considered controlled goods requiring compliance and regulation for import, export, distribution and sales. This affects all importers, exporters, manufacturers, sellers and distributors.

Note that more regulations and announcements could be issued. Manufacturers, importers, exporters and distributors should regularly check for updates.

Product	Announcement	Publication date	Change
Medical masks	Central Committee on the Price of Goods and Services (CCP) Announcement No. 9 BE 2563	6 March 2020	Reporting requirements for all manufacturers, exporters, distributors and importers regarding the notification, price display and allocation, or sale of medical masks: <ul style="list-style-type: none"> Manufacturers, exporters, and distributors must report the cost, purchase price, sales price, production volume, export volume, sales volume, and inventory balance to the Department of Internal Trade (DIT) on a daily basis. Importers must report the cost, purchase price, sales price, import volume, sales volume, inventory balance, name and address of buyers, and storage location for each import shipment to the DIT on the day of import.
	CCP Announcement No. 4 BE 2563	20 February 2020	Reporting requirements for spun-bond polypropylene used in the production of medical masks: <ul style="list-style-type: none"> Manufacturers, exporters, importers, and distributors must report the purchase price, sales price, production volume, import volume, export volume, and sales volume to the DIT on a monthly basis, by the 15th day of the following month.
	CCP Announcement No. 8 BE 2563	25 February 2020	Reporting requirements in the form of additional criteria, methods, and conditions of export permission requests, approvals, forms, and export method, for exports of medical masks: <ul style="list-style-type: none"> Exporters must obtain written permission from the DIT for exports of more than 500 medical masks by submitting a request form and all data related to the export shipment. This includes the name and address of buyers, purpose and use, specifications, volume, product grade, destination country, and shipment date.
Alcohol-based hand sanitisers	CCP Announcements No. 5 and 11 BE 2563	20 February 2020 and 6 March 2020, respectively	Reporting requirements for manufacturers, importers, and exporters of alcohol-based hand sanitisers: <ul style="list-style-type: none"> Manufacturers, importers, and exporters must report the cost or purchase price, sales price, production volume, and import or export volume to the CCP on a monthly basis, by the tenth day of the following month.
	Food and Drug Administration March 2020 Notification	March 2020	Registration and compliance requirements for importers and manufacturers of alcohol-based hand sanitisers, as per Cosmetic Committee conditions: <ul style="list-style-type: none"> The alcohol in the product must be at least 65% weight by weight (%W/W). There can be no content claiming disinfection capability (e.g. anti-bacteria, anti-virus) unless the manufacturer or importer has an ISO 17025 certification issued by a government agency. The product must clearly state that its use is only for hand sanitisation and is not for use as a cleaning product. The product must display the alcohol percentage of volume by volume (%V/V).
	Ministry of Public Health Notification on cosmetics containing alcohol for hand sanitisation BE 2563	9 March 2020	Prohibition on manufacturing, importing and sale of certain alcohol-based hand sanitisers: <ul style="list-style-type: none"> Alcohol-based hand sanitisers containing less than 70% V/V ethanol, isopropanol or n-propanol cannot be manufactured, imported or sold in Thailand.

Other relief measures due to COVID-19 pandemic

In March 2020, the Thailand government introduced several relief measures to help businesses navigate the COVID-19 pandemic situation. The measures are relevant to both import and export as follows:

1. **Storage timelines** for Free Zones (FZ) and Bonded Warehouse (BW) can be extended for a year. The regular storage period in FZ and BW is two years from the date of receipt of goods in the areas, but this can be extended upon request by companies. Normal procedures for storage in the FZ and BW will still apply. This is stipulated in the Customs memo dated 19 March 2020.
2. The Ministry of Finance introduced a new notification prescribing **duty exemptions** for imported goods necessary for COVID-19 treatment or prevention. The duty exemptions apply to imported respirators and surgical masks of tariff codes 6307.90.40 and 6307.90 sub-code 01. In addition, raw materials imported for the production of finished goods of tariff codes 6307.90.40 and 6307.90.90 are also allowed duty exemptions, although certain conditions apply and pre-approval will need to be obtained. This is covered in the Ministry of Finance Notification on Duty reduction and exemption under Section 12 of Customs Tariff Decree B.E. 2530 (No.3), which is effective from 24 March 2020 to 30 September 2020.
3. The Department of Foreign Trade (DFT), the issuing authority for certificate of origin, has allowed traders to extend the **validity period of existing cost statements** for a further six months from the date of expiry. This applies to traders whose cost statements are due to expire during the period from 20 March 2020 to 30 September 2020. Typically, cost statements for preferential duties are valid for two years. This is in accordance with DFT Notification on Inspection of origin criteria for preferential duties (No.2) B.E. 2563, which was effective from 19 March 2020.

Companies affected by the COVID-19 pandemic should monitor relevant regulatory updates by the Thai authorities to mitigate business disruptions.

Electronic data submissions allowed for Single-Point-of-Payment Program (SPPP) during the COVID-19 pandemic

The Single-Point-of-Payment Program (SPPP), established by the Thai Customs Department, allows importers to disclose issues of non-compliance and settle payment of tax and duty shortfalls without having to visit multiple ports of entry.

In normal circumstances, an importer who would like to join this program will need to submit their SPPP application and supporting documents in hardcopy to the Post-Audit Clearance Division (PCAD) for consideration. However, due to the COVID-19 pandemic, importers face difficulties in submitting hardcopy documents to the PCAD in person. To comply with the government's social distancing policy, Customs has temporarily allowed importers to submit the SPPP application electronically.

To do this, the importers must email a letter (with an e-signature) specifying the request to send an electronic SPPP application together with the SPPP application and its supporting documents to the PCAD's General Administrative Unit for acknowledgement and approval. The request letter should indicate that original hardcopy documents will be submitted when the situation is back to normal.

This temporary approach not only helps prevent the spread of COVID-19, but also facilitates SPPP application by reducing the logistics costs of assigning personnel and cutting travel expenses. Nevertheless, companies should review its technical position before considering an application for the SPPP. All documents should be carefully reviewed prior to submission to ensure that all gaps are identified and resolved to prevent future imposition of any penalties or fines.

The SPPP is available until 30 April 2020. As of 8 April 2020, no official extension plan has been announced yet.



Amendments on promoted activities from the Board of Investment

The Thailand Board of Investment (BOI) recently issued several notifications to amend BOI Notification No. 2/2557, which had been effective since 2014.

The amendment notifications specifically refer to additional promoted activities, amended activities, conditions, as well as incentives, such as the granting of import duty exemptions on machinery, raw materials and essential materials, as well as corporate income tax incentives.

The table below lists the key amendments for each notification.

Notification	Additional or amended activities
BOI Notification no. Sor 3/2562 dated 13 December 2019	Section 7.35: Charging stations for electric vehicles
BOI Notification no. Sor 4/2562 dated 13 December 2019	Section 5.1.1: Smart electrical appliances Section 5.1.2: Manufacturing of air conditioners, refrigerators, and washing and dryer machines Section 5.1.3: Manufacturing of other electrical devices Section 5.2.3: Manufacturing of compressors and/or motors for electrical devices Section 5.2.6.1: Manufacturing of high-density batteries Section 5.2.6.2: Manufacturing of supercapacitors Section 5.2.6.3: Manufacturing of typical batteries, except lead-acid batteries Section 5.3.2: Manufacturing of telecommunication devices Section 5.3.3: Manufacturing of electronic and control measurement devices for industrial uses Section 5.3.4: Manufacturing of security control and equipment devices Section 5.3.5: Manufacturing of audio/visual products Section 5.3.6: Manufacturing of electronic devices for office uses Section 5.3.7: Manufacturing of other electronic devices Section 5.3.8: Manufacturing of smart electronic devices Section 5.4.3: Manufacturing of parts for telecommunication devices Section 5.4.4: Manufacturing of parts for electronic and control measurement devices for industrial uses Section 5.4.5: Manufacturing of parts for security control and equipment devices Section 5.4.9: Manufacturing of semi-conductor and parts Section 5.4.12: Manufacturing of flexible printed circuit boards, printed circuit boards and their parts Section 5.4.14: Manufacturing of printed circuit board assembly (PCBA) or their by-products
BOI Notification no. Sor 1/2563 dated 15 January 2020	Section 5.9: Digital services, including services for software platforms, digital architecture design, FinTech and DigiTech Section 7.9.2.2: Digital park industrial zones
BOI Notification no. Sor 2/2563 dated 11 March 2020	Section 7.36: Accommodation for lower-income citizens Section 7.22.8: Cable cars and trams for tourism Section 7.23.1: Hotel businesses

We recommend for companies engaged in the manufacturing or production of any of the above products to carry out a detailed review of the amended conditions as well as the additional promoted activities to ensure compliance. Details of the specific notifications can be accessed at:

https://www.boi.go.th/index.php?page=boi_announcements&language=th

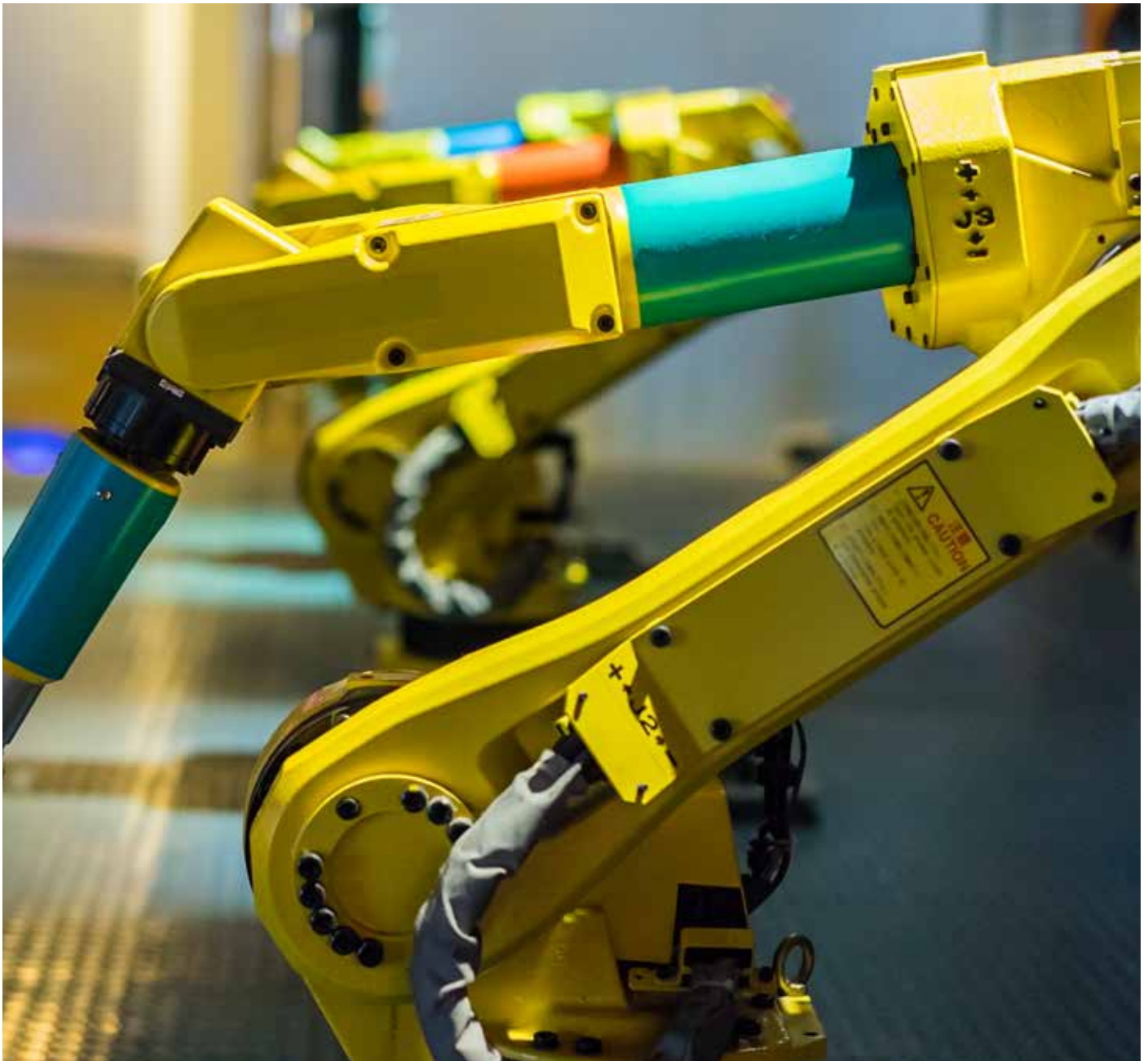
Draft notification on the transit of hazardous substances

The Food and Drug Administration (FDA) has published a draft Notification regarding the criteria, procedures and conditions for the transit of hazardous substances through Thailand to another neighbouring country. Previously, there were no specific FDA requirements governing the transit of hazardous substances through Thailand. However, as the scope of governance of the Hazardous Substances Act (No. 4) B.E. 2562 (2019) has been extended to cover the transit of hazardous goods, importers and exporters of hazardous substances are required to comply with the additional administrative processes.

Upon entry into force, the draft notification will affect businesses that are carrying out or are planning to carry out a transaction where hazardous substances are transited in Thailand and out of the country. This draft Notification completed public hearings on 29 January 2020 and the key proposed conditions include:

- For Category I and II hazardous substances, importers are required to notify the FDA before every transit. For Category III hazardous substances, the importer must request permission from the FDA prior to transit of goods through Thailand.
- Once approved, the FDA will issue importers a transit certificate, which will need to accompany the goods and be presented on customs clearance when being imported into and exported out of Thailand. The transit certificate will expire within 45 days from the date of issuance.
- The hazardous substances must be exported out of Thailand within five days after the goods have been imported and passed through customs clearance.

Companies involved in such operations should monitor the implementation of the Notification closely to reduce the risk of significant fines and seizure of goods in case of non-compliance.



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Importation of medical goods in response to COVID-19

On 7 February 2020, the Ministry of Finance issued Decision 155/QD-BTC on the importation of goods in light of the COVID-19 situation.

Import duty rates will be eliminated for certain products such as medical masks, hand sanitizers, mask materials, disinfectant and protective clothing. To claim the 0% import duty rate, importers of such products will have to meet requirements imposed by the Ministry of Health. Specifically, importers will have to obtain a circulation number issued by a competent authority.

Goods labelling at the time of importation

On 1 March 2020, the General Department of Customs issued Official letter 1512/TCHQ-PC. The letter provided guidance to the customs departments of provinces and cities on the inspection of goods labelling.

Vietnamese regulations stipulate information that must be indicated on the goods label at the point of release into the market. The letter clarified that a fine should not be imposed where the goods label lacks the requisite information at the time of importation. This clarification follows earlier letters suggesting that a fine will be imposed where the goods label lacks requisite information, such as use of Vietnamese language, at the point of importation.

Anti-dumping measures applied on products made of plastic and plastic products made from propylene polymers

On 18 March 2020, the Ministry of Industry and Trade issued Decision 880/QD-BCT, which took effect on 25 March 2020.

Decision 880 applied temporary anti-dumping measures on products made of plastic and plastic products made from propylene polymers (also called Biaxial Oriented Polypropylene film or BOPP) with Chinese, Thai and Malaysian origin, under the following HS codes: 3920.20.10 and 3920.20.91.

Exporting country	Range of anti-dumping duties applied
Exporters from China	14.99% – 43.04%
Exporters from Thailand	20.35%
Exporters from Malaysia	10.91% – 23.05%

Temporary anti-dumping measures applied on imported MSG of China and Indonesia origin

On 18 March 2020, the Ministry of Industry and Trade issued Decision 881/QD-BCT imposing provisional anti-dumping measures on some MonoSodiumGlutamate (MSG) products originating from China and Indonesia, under HS code 2922.42.20. Accordingly, MSG originating from China and Indonesia will be subject to anti-dumping duties between VND 2,889,245 (US\$ 123.8) per ton and VND 6,385,289 (US\$ 273.59) per ton on import into Vietnam.

The Decision has entered into effect on 25 March 2020, and will continue to apply for 120 days from the effective date unless extended.

New export license requirement for medical masks due to COVID-19

On 28 February 2020, the Government issued Resolution 20/NQ-CP providing instruction on exportation of medical masks amidst the COVID-19 pandemic. As instructed in Resolution 20, the Government has assigned the Ministry of Health to administer the export licensing policy to medical masks. Exports of medical masks will only be allowed for international aid and assistance purposes, and the total export amount must not exceed 25% of domestic production. 75% of production volume must be reserved and maintained for domestic usage.

To this effect, the Ministry of Health has issued Decision 868/QĐ-BYT dated 11 March 2020 stipulating procedures to obtain an export license for medical masks. The General Department of Customs has also issued Official letter 1431/TCHQ-GSQL dated 9 March 2020 stipulating customs clearance procedures for medical mask exports. For exported masks declared as non-medical masks (HS code 6307.90.90), Customs will perform physical inspection to identify the nature of such shipment.

Suspension of rice exports due to COVID-19

On 24 March 2020, the General Department of Customs issued an urgent decision suspending customs declaration and clearance for rice export shipments. This decision follows the Prime Minister's instruction at the regular meeting on ensuring food safety during the COVID-19 pandemic, and entered into effect on the same day.

However, following the issuance of the decision, the Ministry of Industry and Trade has requested for the Prime Minister to allow resumption of rice exports in consideration of opinions and

comments from businesses. Discussion is currently ongoing and authorities are re-evaluating the situation. As of 7 April 2020, a final decision has not been reached.

New template for Certificate of Origin Form CPTPP

The Comprehensive and Progressive agreement for Trans-Pacific Partnership (CPTPP) entered into force for Vietnam on 14 January 2019. This means Vietnamese importers can now claim preferential tariff treatment on qualifying goods when importing into Vietnam. Vietnamese manufacturers/exporters will also be able to boost their export competitiveness if their products meet the relevant criteria under the agreement.

To facilitate usage of the CPTPP, on 24 March 2020, the Ministry of Industry and Trade issued Circular No. 06/2020/TT-BCT, which amends and supplements Circular no. 03/2019/TT-BBCT on the rules of origin in CPTPP. Circular 06/2020/TT-BCT provides an updated Certificate of Origin (CO) Form CPTPP template to amend and supplement the content in boxes 1, 2, 3, 5 and 11 with specific guidance on declaration. The content-related boxes are as follows:

CPTPP Form boxes	Amendments
<ul style="list-style-type: none"> Box 1: the exporter's information Box 2: the importer's information Box 5: the producer's information 	The email address and telephone number is supplemented in above-mentioned boxes.
<ul style="list-style-type: none"> Box 3: the means of transport and route 	This information is optional to declare.
<ul style="list-style-type: none"> Box 11: the declaration by exporter 	The new template includes the confirmation of origin declaration by exporters in accordance with section 9, annex 3-B under CPTPP. This supplemented guidance will help importers and exporters avoid ambiguities during procedure implementation.

Circular no. 06/2020/TT-BCT, and the updated CO template will enter into force on 8 May 2020.

Update on requirements for Certificate of Origin Form AANZ

On 30 March 2020, the Ministry of Industry and Trade (MOIT) issued Circular no. 07/2020/TT-BCT to amend and supplement some articles of Circular no. 31/2015/TT-BCT dated 24 September 2015 on the implementation of the rules of origin prescribed under the Agreement Establishing the ASEAN – Australia – New Zealand Free Trade Area (AANZFTA).

Specifically, Circular 07/2020 stipulates that it is not mandatory for the exporter or manufacturer of goods to declare the number and date of the commercial invoice issued for transactions

conducted with third-party traders. Previously, companies were required to declare the commercial invoice details in Box No. 10 of the Certificate of Origin (CO) Form AANZ that is submitted to the importing country's customs authority for granting preferential tariff treatment on imported goods. Accordingly, the number and date of the commercial invoice issued either by the exporter, manufacturer, or the third-party trader related to the imported goods must be declared in Box No. 10.

Circular 07 is retrospectively effective from 1 October 2015. Companies may wish to review previously submitted COs that had been rejected by customs authorities due to missing information on the number and date of the commercial invoice issued by the exporter or manufacturer and consider retrospectively claiming duties from Customs.





Summary of trade measures undertaken in light of COVID-19

The table below summarises the various trade measures that Asian territories have undertaken in response to COVID-19, as of 31 March 2020. The listing is not exhaustive, and may well have changed since then. Most of the key measures below have been covered in greater detail in the relevant Territory reports.

Territory	Measure
Australia	<ul style="list-style-type: none"> Export prohibitions on non-commercial exports of personal protective equipment and disinfectants Launch of International Freight Assistance Mechanism Boost in Export Market Development Grants
China	<ul style="list-style-type: none"> Simplification of licensing procedures Refund of import taxes for imported materials donated for epidemic prevention and control Tariff reduction on imports of certain products, e.g., medical supplies, raw materials, agricultural products, meat Exclusion of additional import tariffs for anti-epidemic materials imported from the US, including medical reagents, materials for disinfection or protection equipment such as masks, protective gloves and goggles, ambulances and other emergency vehicles
India	<ul style="list-style-type: none"> Health cess exemption for imports of certain medical and surgical instruments and apparatus Tariff reduction on imports of medical or surgical instruments and apparatus Export restriction on Personal Protective Equipment Export restriction on Active Pharmaceutical Ingredients, Export restriction on masks, ventilators, and textile raw materials for masks and coveralls Export restriction on ventilators, including any artificial respiratory apparatus or oxygen therapy or any other breathing appliances/devices and sanitizers Export restriction on hydroxychloroquine
Indonesia	<ul style="list-style-type: none"> Relaxation of licensing requirements
Japan	<ul style="list-style-type: none"> Relaxation of licensing requirements
Malaysia	<ul style="list-style-type: none"> Tariff exemption on imported face masks Sales tax exemption on imported face masks Tariff exemption on imported medical and laboratory equipment, personal protective equipment and raw materials supplied to the Ministry of Health Sales tax exemption on imported medical and laboratory equipment, personal protective equipment and raw materials supplied to the Ministry of Health Export restriction on face masks
New Zealand	<ul style="list-style-type: none"> Tariff exemptions on certain products, e.g., soap, COVID-19 testing kits, and diagnostic reagents Relaxation of rules around making of customs payment
Philippines	<ul style="list-style-type: none"> Relaxed regulatory and more facilitative customs clearance procedures, Duty and tax exemptions for the importation of healthcare equipment and supplies and materials used in production of these products
Thailand	<ul style="list-style-type: none"> Import restriction on certain alcohol-based hand sanitisers Export restriction on medical masks Export restriction on bird eggs Extension of storage timelines for Free Zones (FZ) and Bonded Warehouse (BW), and extension of validity period of existing cost statements Exemption of duties on imported respirators and surgical masks
Vietnam	<ul style="list-style-type: none"> Tariff exemption on imports of certain products, e.g., medical masks, hand sanitisers, mask materials, disinfectant, protective clothing New export license and quota requirements for medical masks Suspension of rice exports

WCO & WTO step up monitoring of COVID-19 related trade and trade-related measures

Concurrently, the World Trade Organization (WTO) has ramped up monitoring of the COVID-19 pandemic and the resulting trade implications. All member countries have been encouraged to submit information to the WTO Secretariat on any trade and trade-related measures or policies that have been introduced and implemented in response to the COVID-19 pandemic. This will provide greater transparency to all countries with regard to trade-related measures imposed, which is especially useful for the majority of countries that heavily rely on imports for medical supplies. All countries are urged to continue to ensure openness in trade flows to ensure continued global access to essential medical equipment, food and energy products.

The WTO Secretariat has also put together a task force to monitor the impact of COVID-19 on trade flows and the overall global economy. These findings will be updated and taken into account for the WTO's annual trade projections, which are expected to be released in April 2020.

To this effect, the WTO has set up a dedicated webpage, which will provide up-to-date information on the trade-related measures by WTO members in response to the COVID-19 outbreak, the impact on exports and imports, and how WTO activities have been affected by the pandemic. The webpage can be accessed at the following link:

https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm

Similarly, the World Customs Organization (WCO) has also set up a dedicated site compiling information on instruments, tools, initiatives and databases that can be utilized to address various COVID-19-related challenges faced by WCO Members. The website also shares best practices introduced by member customs administrations to prevent and fight the spread of COVID-19. The site can be accessed at the following link:

<http://www.wcoomd.org/en/topics/facilitation/activities-and-programmes/natural-disaster/coronavirus.aspx>

US-China trade war update

The 'Phase One' Economic and Trade Agreement signed between the US and China has entered into force on 14 February 2020. Since then, the US and China have both granted further exemptions on additional tariffs imposed on specific products in line with commitments agreed under the trade deal.

US approves additional product exclusions for goods subject to Tranche 3 tariffs

- In addition to the exclusions granted in December covering tariff reductions from 15% to 7.5% on List 4A of Chinese goods, the United States Trade Representative (USTR) released another federal register on 6 January 2020 approving additional product exclusion requests for certain goods subject to Tranche 3 tariffs. The duty exclusions granted impacts specific products from China covered under Annex A, which includes fabrics, steel and stainless steel products and automotive accessories etc.

- Three new product exclusion requests were also granted approval in February and March 2020. These lists similarly exempt specific goods, such as seafood and food products, medical supplies and equipment such as disposable waste bags, gloves, household appliances, fertilisers or herbicides, fabrics etc. from additional tariffs imposed.
- The exemptions will retroactively apply from the effective date of the Tranche 3 tariffs on 24 September 2018 up till 7 August 2020. Importers can apply for a refund of duties paid by submitting a request to the USTR.
- To combat the COVID-19 outbreak, the US has also indicated that potential new measures, such as additional tariff deferrals or exemptions on medical supplies like protective equipment, masks, ventilators and other essential goods are under consideration and may be implemented following consultations with the public and private sector. Specific details are still under review by the USTR and have yet to be publicly released.

The exclusions and annexes stipulating the impacted goods and their HS Codes can be accessed at the following link:

<https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-china/200-billion-trade-action>

Separately, the USTR is also openly obtaining feedback from the public, private sector and government agencies specifically in relation to comments on products subject to tariff actions that have an impact on the US' medical response to COVID-19. The comment period will run till 25 June 2020.

China approves multiple tariff exemptions on US goods

- On 7 February 2020, China announced the halving of punitive tariffs on 1,717 US goods, which applies to the list of additional tariffs on USD 75 billion of goods that took effect on 1 September 2019. Goods covered include products such as meat, seafood, fruits and vegetables, cars, consumer products and raw materials. Tariffs will be reduced from 10% to 5% for certain products, and from 5% to 2.5% for others. This is in line with the US' tariff cuts on USD 120 billion of Chinese goods which was effective from 14 February 2020.
- On 17 February 2020, China's tariff commission announced exemption of punitive tariffs on 696 types of US commodities. This includes pork, beef, soybeans, wheat, corn, sorghum, ethanol, crude oil, liquefied natural gas, steel rails and certain types of medical equipment. Chinese companies are also allowed to sign contracts to purchase and import such goods from the U.S. with effect from 2 March 2020.
- On 21 February 2020, China further released two new lists granting exemptions from additional tariffs on specific US products. This will apply to 55 types of goods and 10 types of US commodities classified under the HS Codes listed in the exemption list. This includes products such as timber, presswork, hydraulic motors, diaphragm pumps, aircraft parts and certain types of medical equipment. Both lists are effective for one year from 28 February 2020 to 27 February 2021.

The full circular, and tariff exemption lists released by the China Tariff Commission under the Ministry of Finance can be accessed here:

http://gss.mof.gov.cn/gzdt/zhengcefabu/202002/t20200221_3472600.htm

However, as this only constitutes a partial removal of additional tariffs imposed, tariff pressures will likely continue for most companies. Companies should review the exclusion lists to proactively assess if products are eligible for tariff refunds in the US.

Potential difficulty in meeting “Phase One” commitments due to COVID-19

Although tariff removals are heartening, the global coronavirus pandemic, which has created severe disruptions to global supply chains and contributed to decreased economic activity and trade volumes, is also expected to affect implementation of the “Phase One” trade deal. It is likely that China may struggle to fulfil its purchase commitment of at least USD 200 billion in US goods by 31 December 2021. Further worsening of the economic climate may also lead US and China to re-evaluate the feasibility of meeting existing commitments and re-negotiate deal terms.

World Customs Organisation (WCO)

Consolidated list of COVID-19 related measures around the world

The WCO has noted that certain member countries have introduced import support measures and export licensing restriction or authorisation requirements for certain categories of critical medical supplies, including face masks, gloves as well as protective gear and equipment in response to COVID-19.

Temporary import support measures include lowering or waiving of direct or indirect duties and taxes on critical medical supplies, or relaxing import restrictions and facilitating customs clearance for such products. The list of countries and the relevant national legislation can be accessed here:

<http://www.wcoomd.org/en/topics/facilitation/activities-and-programmes/natural-disaster/temporary-import-support-measures-adopted-by-members.aspx>

Export restrictions include the imposition of export licensing and authorisation requirements, export prohibitions or quota restrictions on critical medical supplies. The list of countries and the links to the relevant national legislation have been published on the dedicated WCO site for COVID-19 and can be accessed here:

<http://www.wcoomd.org/en/topics/facilitation/activities-and-programmes/natural-disaster/list-of-countries-coronavirus.aspx>

The published lists are non-exhaustive, and will be regularly updated based on official information or notifications provided by member countries. The WCO has also encouraged WCO

member administrations to work with local public health and safety agencies to facilitate the smooth movement of relief goods (supplies, medicine and equipment etc.). All members are encouraged to follow the operational guidelines stipulated in the “Resolution of the Customs Co-operation Council on the role of customs in natural disaster relief”.

HS classification reference document for COVID-19 medical supplies

The WCO published a HS classification reference document aimed at helping businesses that import and export COVID-19 related medical supplies. The following product categories are covered:

- COVID-19 test kits, instruments and apparatus used in diagnostic tests;
- Protective garments (including face and eye protection, gloves, and other associated items);
- Thermometers;
- Disinfectants and sterilisation products;
- Other medical devices (including CT scanners, medical ventilators, etc); and
- Medical consumables

Businesses that import or export the above are advised to consult the reference document to determine if the HS codes currently used by their business is in line with the reference document. Note that the document does not have legal status and is meant as an indicative list only.

The HS classification reference document can be accessed here: http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/natural-disaster/covid_19/hs-classification-reference_en.pdf?la=en

Progress on key Council and Policy initiatives

During the 11th WCO Capacity Building Committee (CBC) meeting held from 4 – 6 March 2020, the WCO provided updates on the progress of key Council and Policy Commission outcomes that were identified as critical in ensuring sustainable reform and development for Customs. The following activities were completed during the meeting:

- Report on Trade Facilitation Agreement (TFA) implementation rates and update on developments under the WCO’s capacity building programme, the Mercator Programme, including areas where TFA implementation support was most commonly requested e.g. in human resources development and trainings establishing legislative and regulatory frameworks and providing Information and Communication Technology support.
- Update on implementation of the WCO Capacity Building

Strategy and Implementation plan, including discussions on potential support to boost usage of technology and data analytics in Customs.

- Review of progress on the development of the “Reform and Modernization – Monitoring Activities and Projects” (RAM-MAP) and the Single Window Interactive map. The draft site showing a list of WCO’s current and upcoming regional and global activities can be accessed here:
<https://rammap-swim.wcoomd.org/>
- Endorsement of the draft declaration on Gender Equality and Diversity in Customs, which will be presented for review by the WCO Council.

At the same time, the WTO Trade Facilitation Agreement Working Group (TFAWG) also agreed on the Work Programme and Annual Work Plan 2020 / 2021. The WCO has expressed that it will continue to enhance capacity building support for WCO members to help with TFA implementation.

World Trade Organisation (WTO)

Implications of COVID-19 on WTO meetings

In light of the current situation with COVID-19 and the World Health Organisation’s declaration of a pandemic, the WTO has announced that it is no longer feasible to hold the 12th Ministerial Conference (MC12). The MC12 conference was originally scheduled for 8-11 June 2020 in Nur-Sultan, Kazakhstan. A special General Council Meeting will be held, and revised arrangements will be made and communicated to WTO members. All WTO meetings will also be suspended from 11 March 2020 until at least the end of April 2020.

Developing countries and LDCs urged to submit TFA notifications

The aim of the Trade Facilitation Agreement (TFA) is to expedite the movement, release and clearance of goods across borders. It entered into force on 22 February 2017. Developing countries and least developed countries (LDCs) were permitted to self-designate Category A provisions (immediate implementation), Category B provisions (after a transition period), and Category C provisions (upon receiving assistance and support for capacity building).

On 11 February 2020, the WTO Committee on Trade Facilitation reported at its meeting that a 100% of developed members, 63.9% of developing members, and 29.6% of LDCs have implemented their TFA provisions. In addition, 29 LDCs had until 22 February 2020 to notify the WTO of their implementation deadlines for Category B provisions but only nine were received. Various countries have urged LDC and developing members to

submit information to the WTO on their implementation timelines, trade procedures, contact points, and other details as required by the TFA.

The current rate of implemented commitments can be accessed here:

<https://tfadatabase.org/implementation>

Trade in goods to further weaken in Q1

On 17 February 2020, the WTO released the results of its Goods Trade Barometer. It signaled that world merchandise trade growth is expected to further dip in the first quarter of 2020. The measure of trade trends is 95.5, lower than 96.6 recorded in November and reported in our October - November 2019 edition of Trade Intelligence.

The overall decline has been driven by further drops in container shipping and trade in agricultural raw materials. Export orders, air freight and electronic components remain below baseline but have stabilised. These results do not account for recent developments such as the COVID-19 outbreak, which is expected to further dampen trade prospects.



Figure 1: WTO Goods Trade Barometer, December 2019

Details can be accessed here:

https://www.wto.org/english/news_e/news20_e/wtoi_17feb20_e.pdf

Rules of origin: a complex state of affairs

The WTO Committee on Rules of Origin gathered on 4 March 2020 to celebrate the 25th anniversary of the Agreement on Rules of Origin. Discussions centred around the importance of making rules of origin simple for businesses and for consumers. Yet the situation today is arguably more complicated than before:

- Efforts at harmonising non-preferential rules of origin are still ongoing. With no other international instrument regulating the design and use of rules of origin, more governments are implementing their own set of rules, leading to divergent rules around the world.

- The advent of regional and global production chains has fragmented the production of goods, so determination of product origin is increasingly complex.
- The proliferation of bilateral and regional trade agreements has also created multiple regimes with distinct rules of origin.

16 WTO members set up contingency appeal arrangement

As reported in our December 2019 – January 2020 edition of Trade Intelligence, the Appellate Body procedure of the Dispute Settlement Body stopped functioning on 10 December 2019. This is after the US blocked appointments to the body.

In light of this, 16 WTO members consisting of the EU and 15 other WTO Members, namely Australia, Brazil, Canada, China, Chile, Colombia, Costa Rica, Guatemala, Hong Kong, Mexico, New Zealand, Norway, Singapore, Switzerland, and Uruguay have agreed to work together to develop a Multi-party Interim Appeal Arbitration Arrangement. This temporary arrangement is intended to provide an efficient, impartial and binding dispute settlement process for potential trade disputes that arise among participating members.

Based upon Article 25 of the Dispute Settlement Understanding, the Multi-party Interim Appeal Arbitration Arrangement mirrors usual WTO appeal rules and can be used by any participating WTO members. This will serve as an interim contingency measure that will apply until the WTO Appellate Body becomes fully operational again. It is expected that this arrangement will be officially notified to the WTO and become fully operational in the upcoming months upon completion of internal procedures.

The official statements and notifications released by the European Commission can be accessed here:

https://ec.europa.eu/commission/presscorner/detail/en/IP_20_538

Updates from WTO Technical Barriers to Trade meetings

The Technical Barriers to Trade (TBT) Committee gathered on 25-26 February 2020 to discuss how to enhance regulatory cooperation on autonomous vehicles and medical devices. WTO members highlighted that regulations in these areas are not fully developed and encouraged members to focus on regulatory compatibility and cooperation.

Details are available here:

https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/thsession_grp_25022020_e.htm

At the same meeting, WTO members shared their experiences with respect to how they assess conformity assessment results (tests, certificates) from other members, as well as the challenges they face in accepting these results. The following sectors were discussed: toys, medical devices, machinery and electrical and electronic devices.

Details on the discussions may be accessed here:

https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/thsession_cap_25022020_e.htm

Following the above, the regular meeting of the TBT Committee was held on 26-27 February 2020 where the following specific trade concerns involving territories in Asia were raised:

• China's regulation of overseas producers of imported foods

China has proposed a draft regulation requiring additional certification procedures for producers of food products exported to China.

Mexico, Korea, Switzerland, the US, Japan, the EU, and Taiwan, R.O.C expressed concern that these procedures would further burden exporters of such products. China emphasised that the regulations were still in the draft phases and that members would get the opportunity to provide comments when the measure is notified to the TBT Committee.

• India's food safety standards

India introduced a draft measure on the labelling of food products. Specifically, it requires nutritional information to be labelled on the front of packages and a warning on alcoholic beverages.

The EU urged India to align its regulations with Codex standards on labelling for pre-packaged foods and nutrition labelling, and requested for a longer transitional period to allow industry players to adapt. The US raised that the measure would impact exports of processed food products and alcoholic beverages, and create consumer confusion.

India agreed to remove the front of packaging requirement from the draft measure, but maintained that warning labels for alcoholic beverages were based on World Health Organisation and Codex recommendations.

The next TBT meeting is scheduled for 12-14 May 2020.

2020 Public Forum

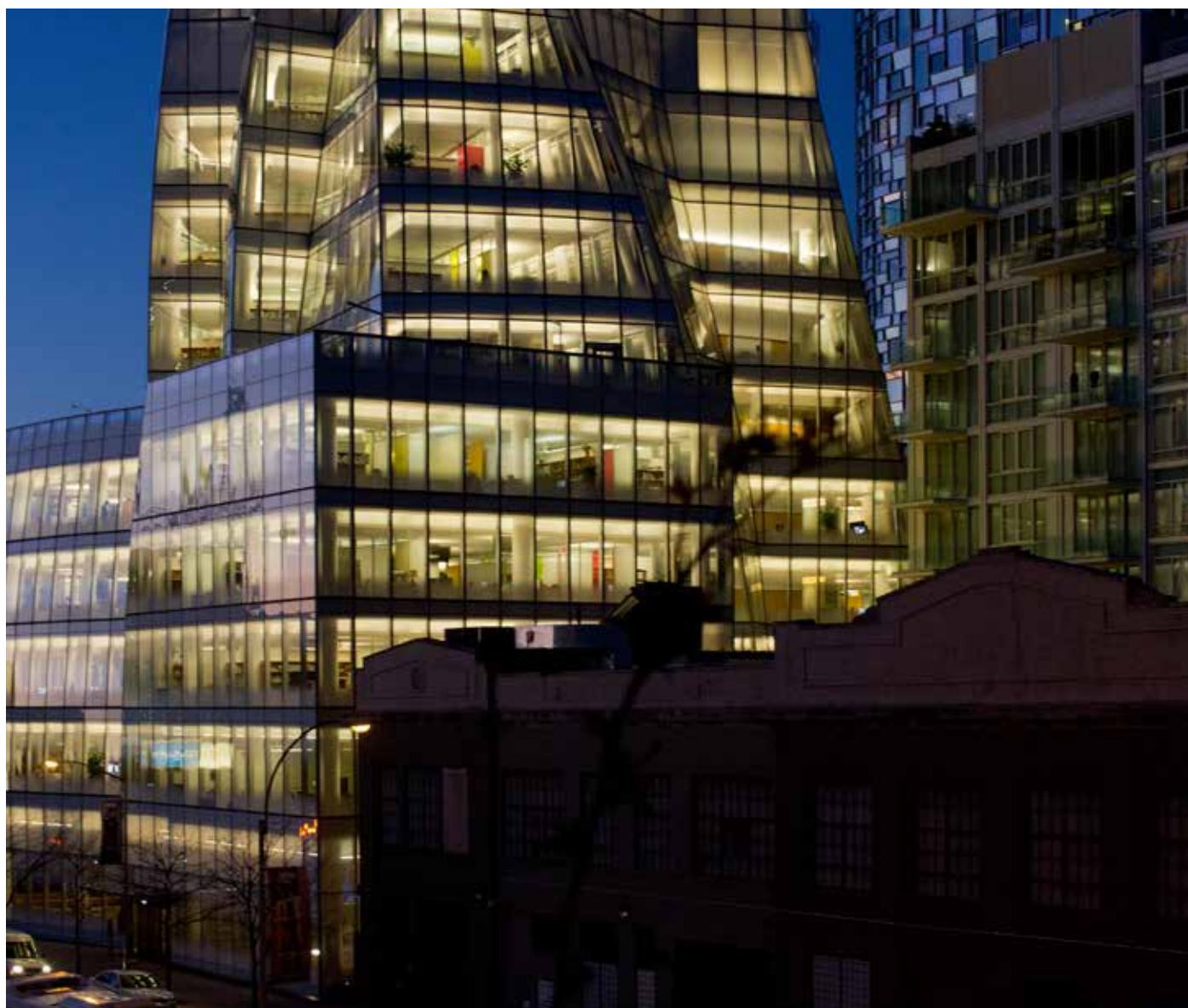
The WTO's 2020 Public Forum will be held from 29 September to 2 October 2020. The main theme for this year's event is "Building on 25 years of the WTO". Registration is scheduled to commence on 4 May 2020. More details on the planned sessions will be furnished closer to the date.



Disputes at the WTO

Over the period of February 2020 to March 2020, updates on the following disputes involving territories in Asia have been made via the WTO Dispute Settlement Mechanism:

Dispute initiated by	Dispute initiated against	Affected products	Summary	Reference no.
EU	India	Certain information and communications technology (ICT) goods	The EU has requested for a panel to rule on India's import tariffs on ICT goods. Unsuccessful consultations were previously held between the EU and India. The issue is with respect to India's alleged failure to meet its commitment not to apply import duties on ICT products. The EU alleges that India has adopted measures applying and increasing import duties on ICT products, in violation of its commitments. The Dispute Settlement Body has agreed to revert to the matter.	WT/DS582/9
Indonesia	Australia	A4 copy paper	Australia and Indonesia reached an agreement on the reasonable period of time for implementation. Australia has till 27 September 2020 to implement the panel report. Refer to our December 2019 – January 2020 edition of Trade Intelligence for details on the dispute.	WT/DS529/15



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Worldtrade Management Services (WMS) is the global customs and international trade consulting practice of PwC. WMS has been in Asia since 1992 and is a regionally integrated team of full-time specialists operating in every location. Our team is a blend of Asian nationals and expatriates with a variety of backgrounds, including ex-senior government officials, customs officers, international trade.

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The materials contained in this publication were assembled in February / March 2020 and were based on the law enforceable and information available at that time.

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