

# From soba to udon

*Are the noodles in the FTA bowl getting too thick?*

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

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## From soba to udon

### *Are the noodles in the FTA bowl getting too thick?*

If nothing else, the COVID-19 crisis has forced companies to look for cost savings with significantly increased vigour. Sooner or later, they should be considering the use of Preferential Trade Agreements. These agreements offer companies preferential access to the markets of member territories (“parties”), provided they meet the conditions of the agreement.

So far so good. But that appears to be where the easy part ends. The use of such agreements (let’s for ease of reference call them FTAs for the purpose of this article, as that is the most common colloquial term, although there are many others floating around) has however been continuously disappointing. Perhaps most surprising is how little most companies know or – apparently – care about such agreements.

It is not immediately evident why this is so. Governments have spent considerable time, effort and political capital negotiating FTAs. From simple beginnings, many have relentlessly expanded the scope of what they cover. Governments have also spent significant resources publicising and socialising such agreements, and dedicated further resources to helping companies use them.

Yet in our daily work at PwC, we come across many companies that seem to be missing out. Some don’t appear to have heard of FTAs at all (which in truth is quite an impressive feat!). Others have simply never considered the use of FTAs, either for their existing supply chains or for planning new ones, based on their assumptions that they won’t help. Others are missing out because no one in their organisation has clear responsibility for evaluating FTAs, with everyone thinking it is someone else’s job. Yet others have considered and analysed them but cannot benefit from them. On the flipside, there is a not inconsiderable set of companies that are reaping benefits but really shouldn’t, much to the concern of the authorities.

This article does not intend to solve all of that (although it would be nice if it did). It does attempt however to address some of the apparent elephants in the room as to why FTAs are either not used or not used correctly, before thinking out loud as to what perhaps regulators and businesses can do to reap more rewards from FTA usage.

#### **Problems all around**

FTA ignorance cannot stem from them being so new and unfamiliar. By some accounts, the first FTA dates back to 1860, when tariffs between France and England were removed (wine, brandy and silk in one direction, and coal and iron in the other!) under the Cobden-Chevalier Treaty. The immediate economic impact was small. But the principle caught on and was quickly and widely replicated.

For a long time, and predominantly still, most people and businesses thought about FTAs as just that: a way to reduce tariffs on good originating in one party upon entry into another. Although somewhat simplistic, that is not necessarily a bad way to think about FTAs, at least for companies that ship goods across borders. There are however many other companies that do not trade tangible goods across borders, but may be able to benefit from provisions on services, investment, government procurement etc. These more recent extension to FTAs have by and large either gone unnoticed, or at least have not been picked up by businesses in a constructive way.

For FTAs to be better considered and used, many conditions need to be met. Some of the most important examples from our experience are:

- Knowing and understanding the FTAs. There is no lack of databases relatively easily available to query. There are also ever more summaries of the key points of FTAs. And increasingly, technology tools are around to assess what a specific FTA may offer and how it could be of value to a particular company. Yet they are all – for now at least - approximations of the true complex nature of FTAs. They are unlikely to include exceptional but crucial considerations that have a material impact on the actual value of the FTA provision(s) being considered. The original ASEAN Free Trade Agreement text was a blissful 25-or-so pages of simple text. The current ATIGA, including its annexes, runs into hundreds of pages of legalese. The CPTPP outdoes that by at least a factor ten. WHEREAS these texts are well intended, for the average reader they simply lose the plot.
- Early analysis of options. All too often, value chain decisions are made irrespective of trade considerations, be it on sourcing, location of manufacturing or services centres, ownership structures, shipping routes, storing options, priority consumer markets and so on and so forth. FTAs are subsequently “overlaid”, to assess whether the value chains that have already been decided on offer potential for FTA benefits. Often, they do not, and it is too late, politically or economically, to change earlier decisions on value chain structuring. Employees that may understand FTAs and the opportunities they offer are usually at too low a level in the pecking order to be able to make a difference.
- Understanding of the rules of origin. There are two sides to this. Often, an FTA’s Rules of Origin are simply too complex for anyone to understand, let alone apply. The core rules are usually easy enough. Add 40% value. Change tariff heading. But the devil in the detail, for example on what value can count as being added, or how the rules interact

with one another, creates a web of interdependencies right on impossible to navigate. That results in many companies either giving up or getting it wrong. On the other hand, many companies do not or cannot allocate sufficient, or sufficiently trained, resources, either in-house or external, to allow a proper analysis and evaluation of the options. Even if analyses do happen, they tend to be snapshots in time that rarely consider predictable future developments. Finally, we see or hear of many companies taking shortcuts, “taking a chance” and only looking in earnest if forced to do so. This obviously makes the authorities more nervous and keener to audit, which in turn puts would-be users of FTAs off.

- **Predictable implementation of the rules.** One of the biggest bugbears for companies large and small has been the inconsistent and unpredictable implementation and application of the many FTAs rules in practice. Between FTAs, within the same FTA but between parties, between different officers within the same party, and even with the same officer on different days, importers can experience a wide range of varying practical requirements that need to be met. Documentation to be presented. What constitutes minimal processing. What is “customs control”. What colour pen to use. It is not just not knowing whether an originating product is going to be accorded preferential treatment, it is also the inability to plan for sustainable supply chains that is at stake.
- **Penalty regimes.** As implied earlier, the increasing complexity of FTAs results in many companies using them inappropriately, be that accidentally or on purpose. That of course does not make the regulators very happy. FTA audits, particularly on the use of preferential tariffs, have become more commonplace and more intrusive in recent times. That in itself is not necessarily a problem when it comes to using FTAs. However, the unpredictability encountered by companies on practical implementation of FTA rules when benefits are sought are carried over into the audit world. Hence, a company that may have thought it was doing everything right and has the requisite documentation or evidence may find itself in a position where customs auditors have a different interpretation of the rules and assess that company nonetheless. Coupled with the fact that customs authorities are always looking for further revenues, back-duties and penalties can add up to significant amounts that are not recoverable from customers in retrospect. Especially for smaller companies, this “FTA fear factor” is often insurmountable.



- **Other trade measures.** FTAs do not operate in isolation. FTA benefits can easily be negated by other taxes or measures that suddenly apply. A simple example is the recent (re-) introduction of punitive tariffs by the US on Canadian originating aluminium products just a month or so after the implementation of the USCMA. The increased use of direct or indirect taxes to capture the developing digital economy can also play havoc with value chain decisions that are driven by FTA utilisation. With no clear hierarchy between the different taxes and measures, many companies simply cannot be asked.

As per usual, pointing out problems and being critical is much easier than being constructive. At the same time, a more open discussion and understanding of the key challenges getting in the way of better use of FTAs is a good and essential starting point.

So, let's have a stab at some suggestions for changes that might have a positive impact, either for the regulators or for would-be users of FTAs in the private sector.

### **What might the regulators want to consider?**

The main purpose of FTAs is, obviously, to facilitate trade. Underlying this objective is the assumption that facilitated trade leads to increased economic activity in a party, thus generating more employment and wealth. Direct evidence for this is hard to present, and popular opinion has consequently turned somewhat against the idea of open trade being a force for good. But there are quite a few things that regulators could do to help themselves and their economies create better argumentation. Here are a few:

- **Alignment.** The different regulatory bodies involved in the negotiations and implementation of FTAs have different, and often conflicting, objectives and KPIs. The expanded scope of FTAs also means that an increasingly large number of separate regulatory bodies is involved in their negotiation and implementation. Without proper alignment between them, implicit or explicit contradictions within an FTA are becoming more prevalent, either in the legal text itself or in its implementation and application. Accepting that such differences exist but taking a consistent approach for the overall and greater good should be the driver for all affected regulatory bodies, win or lose.
- **Simplicity:** FTAs, both in their scope and in their detail, have become too complex. The noodles in the bowl have become too thick. Although there is much to say for ambition of coverage and concern about loopholes, in practice both appear to be leading to less use of FTAs, not more. It is likely unrealistic that existing FTAs can easily be split into independent components and its rules and exceptions be made simpler. Nevertheless, any move in that direction would be helpful. It would make clearer which agreement intends to achieve what, and who (which companies and who in such companies) should be looking at them. Simpler rules, such as rules of origin - less interwoven, combined with a better system of guidelines and rulings on implementation (see below), perhaps combined with a clearer penalty regime, could go a long way in making FTAs more manageable, especially for smaller companies.
- **Predictability:** There are few things the business world likes more than predictability. Uncertainty kills opportunity, investment and growth. The complexity mentioned above in itself makes predictability harder to achieve, as it invariably



leads to multiple reasonable interpretations of rules. Combined with a lack of formal and informal guidance (see below), companies are rightfully concerned that any effort and resources allocated to utilising FTAs, no matter how sincerely, may end up being wasted. Whatever the regulators can do to reduce unpredictability would help. That should start with recognising that there are problems and attempting to clearly identify them. The reluctance, for example, of creating a clear and comprehensive listing of non-tariff measures and non-tariff barriers in ASEAN, based on the practical experience of businesses (perception IS reality) is not very helpful. Clearer listing of such problems would allow the many requirements that are just a nuisance (colour pen?) to be removed, and pave the way for an open and constructive discussion to take place on what else can be tackled and how.

- Coming off the fence. To help deal with the complexity and increase the predictability referred to above, it is essential for authorities to be willing and able to provide guidance and rulings on the correct interpretation of an FTA. Simplifying the legal text would make that even more important. Yet in many territories, “in-principle rulings” appear not to find much favour with the authorities. It is not immediately clear whether this is out of a reluctance to decide, an inability to reach consensus, a fear of abuse by the private sector, a combination of those, or something else altogether. Nevertheless, it is one of the biggest stumbling blocks for companies to make a case to utilise relevant provisions of FTAs. A telling example is ASEAN’s ARISE. Its early implementation focused very much on details of a specific import transaction, rather than the point of principle in question. This resulted in real or perceived negative implications for the affected importer. Not only was ARISE not used much then, but also its improved successor remains underutilised because companies are too fearful of its repercussions. Meanwhile, the authorities treat this as evidence that if no issues are raised, there must be none! The much-touted argument that rulings cannot be published because they contain companies’ confidential information likewise holds little ground – many lawyers have no problem scrubbing texts of confidential information without losing the essence of what they say.

### What might businesses want to consider?

Clearly, there is much that the regulators could do to improve FTA utilisation and ensure chances that companies would not let the efforts that have gone into negotiating FTAs to waste. However, many companies are well advised also to look at themselves in order to enhance their fortunes on the back of FTA opportunities. Again, some examples:

- Appropriate consideration. It is our experience that in many organisations the analysis of and argumentation for the potential use of FTAs is at best ill-defined and at worst entirely non-existent, with accidental allocation of responsibility the most common middle ground. This holds for large MNCs as much as for smaller businesses. It is probably less excusable in the former. Consequently, not only are FTAs not well understood, they are also not considered at the right time and at the right level to have a meaningful impact. Creation of a “Chief FTA Officer” position would probably go a bit too far, but the concept is not a bad one. Bearing in mind the ever expanding scope of FTAs, it

is also likely that this responsibility needs to be clearly split between and allocated to a range of people, depending on subject matter expertise. Beyond this, allocating an appropriate level of resources, in-house or through third parties, is good business management – cutting corners or not spending at all is sub-optimal at best.

- Materiality. We see many examples of FTA benefits being dismissed for not being significant. Although it is obviously each company’s prerogative to determine what is worthwhile and what is not, in many cases future and indirect benefits of FTAs tend to be undervalued, while risks of complications and penalties are overblown. Creating a mentality of pursuing the concept of FTA benefits without worrying unduly about the scale of an individual opportunity can carry significant long-term value. A good example is one company that implemented a “no-shipment, however small, leaves any of our factories without a Certificate of Origin” approach which drove thinking and efficiencies that led to multiple-millions of dollars of annual savings for very limited sustained effort.
- Sustainability. Just as it is too easy to dismiss opportunities by having too short a horizon, it is easy to lose sight of the fact that significant savings can be at risk if not properly and proactively managed and maintained. Commercial situations change almost daily. Decisions are taken within organisations, for example by a procurement team, that affect ongoing compliance with FTA rules. This is becoming a bigger problem with the front line of governance of FTA compliance being pushed more onto companies than authorities. Development and implementation of appropriate processes and technology to safeguard FTA benefits is not a luxury but tends to be treated as one. That is surprising to say the least, considering the negative impact of falling foul of the rules, monetary, reputationally and perhaps criminally.

### The way forward

As mentioned in the introduction, this article has attempted to address some of the apparent elephants in the room as to why FTAs are either not used or not used correctly, and present some ideas about what perhaps regulators and business can do to reap more rewards from them.

None of the problems listed are new. Yet they are nowhere near talked about enough in the open to allow even a start to potential resolutions. Some of our thoughts and ideas for a path to improvement may be unrealistic or too ambitious, utopian even. Yet none of them are predestined to fail without at least a half decent attempt.

Perhaps summarising the recipe:

- Thinner noodles (simpler FTAs);
- More bowls (different FTAs for different subject matters);
- Clearer soup (better predictability);
- Lower calories (reduced materiality thresholds); and
- Better cutlery (more appropriate resourcing).

Bon appetit!

## Greater scrutiny on ASEAN FTA preference claims in India

India Customs are placing higher scrutiny on imports that are claiming preferential treatment under FTAs. Reports indicate that India Customs had uncovered large quantities of China originating goods that had been imported or routed into India under the ASEAN-India or India-Singapore FTA with only re-labelling processes taking place in the respective ASEAN markets. India Customs therefore is aiming to conduct tougher origin inspections and verification on imports to ensure the origin criteria of the respective FTAs are met.

Exporters utilising FTAs with India, such as the ASEAN-India FTA, are advised to review and ensure that their products comply with the origin criteria and compliance requirements of the respective FTAs. In addition, exporters are required to retain all the relevant records relating to the origin of the goods as per the FTA document retention period.

## Adoption of the Hanoi Action Plan to facilitate regional trade amid COVID-19

The ASEAN Economic Ministers Meeting was held via video conference on 4 June 2020. During the meeting, the 'Hanoi Plan of Action on Strengthening ASEAN Economic Cooperation and Supply Chain Connectivity in Response to the COVID-19 pandemic' was adopted. Its main objective is to boost the region's economy during and post-pandemic by enhancing connectivity of supply chains and economic cooperation within the bloc. A key feature of the action plan is to ensure that markets for essential goods remain open. The meeting recognised SMEs as companies most affected by the pandemic's economic damage. As a response, the ASEAN members committed to deliver solutions in the technology and digital commerce space that are targeted towards assisting SMEs.

The Hanoi Plan of Action was further built on in a meeting amongst the ASEAN Business Advisory Council (ASEAN-BAC), where the following measures were recommended as key strategies to respond to these trying times:

- increasing the mass testing of COVID-19 within the region;
- eliminating non-tariff barriers and minimising non-tariff measures;
- enhance customs automation and streamlining;
- signing of the Regional Comprehensive Economic Partnership (RCEP) agreement within a short time frame;
- easing the flow of essential goods and services intra-ASEAN; and
- the inclusion of the private sector in government discussions within the region, including ASEAN-BAC and its partners.

The Hanoi Plan of Action must be endorsed by the ASEAN

Economic Community Council before it can be submitted to the ASEAN Leaders. Full details of the action plan and ASEAN's agreed commitments to easing the economic impact of the COVID-19 pandemic have yet to be released.

## ASEAN continues to strengthen relationships with ASEAN+ nations

Through June and July 2020, ASEAN has maintained and reaffirmed its commitment to cooperate with ASEAN+ nations. This included multiple Joint Committee Meetings with key representatives from ASEAN+ nations such as Australia, China, India and New Zealand.

In addition to recognising and reaffirming commitment to cooperation in areas such as the upgrading of the respective ASEAN+ Free Trade Agreements (FTAs), the RCEP was also discussed, with nations stressing the importance of pushing for a swifter conclusion of the negotiations.

The discussions on upgrading of the respective FTAs included add-on provisions in the fields of human rights, investments, infrastructure and supply chain connectivity and digital trade and economy. The meetings also introduced the various Plans of Action for the next five years between the regional bloc and its respective counterparts. Full information regarding the specific plans have not yet been publicly released.

## ASEAN-Japan Economic Resilience Action Plan

The ASEAN Economic Ministers and the Japan Minister of Economy, Trade and Industries (METI) adopted the ASEAN-Japan Economic Resilience Action Plan on 29 July 2020.

The Action Plan translates the joint statement made by the ministers in relation to COVID-19 initiatives which was published on 22 April 2020, into actions. It aims to enhance cooperation in mitigating the economic challenges brought about by the COVID-19 pandemic and ensure long-term economic resilience for ASEAN and Japan's post-pandemic recovery.

The Action Plan comprises 52 strategic measures. Those relating to customs include the commitment to refrain from imposing non-tariff measures; simplify and streamline existing non-tariff measures; raise awareness on Mutual Recognition Arrangements through workshops; and develop enforcement mechanisms for standards. It also includes efforts towards digitalisation of trade procedures, and outreach to improve understanding of existing trade platforms (e.g., ASEAN Single Window, electronic Certificate of Origin systems).

The ASEAN-Japan Economic Resilience Action Plan can be found here:

[https://asean.org/storage/2020/07/AJ-Economic-Resilience-Action-Plan\\_AR.pdf](https://asean.org/storage/2020/07/AJ-Economic-Resilience-Action-Plan_AR.pdf)

## China releases revised draft of Export Control Law for public comments

On 28 June 2020, the second review draft of the Export Control Law was deliberated during the 20th Meeting of the 13th National People's Congress (NPC) Standing Committee of the People's Republic of China. The draft was released publicly on 3 July 2020 for public comments. The period for public consultation ran until 16 August 2020.

The second review draft maintains the main structure and content of the 2019 draft. Key amendments are:

- Clarification on temporary control measures

The earlier 2019 draft permitted the imposition of temporary controls on unlisted items for up to two years but did not elaborate on the treatment of these items after the time period had lapsed. Article 9 of the second review draft clarifies that prior to the expiration of a temporary control, an evaluation will be conducted, and a decision will be made on whether to cancel or extend the temporary measure or add the items to the export control list.

- Relaxations to internal compliance program requirement

In the 2019 draft, export operators had to establish an internal compliance review system for export controls. The recent amendment relaxed Article 14 such that failure to establish such a system is no longer a violation. Instead, it incentivizes export operators to establish and maintain an internal compliance program by granting licensing convenience measures. Secondly, the second review draft further relaxes the conditions to be granted licensing convenience measures. The condition to have “no record of major violations” has been removed. The only remaining conditions are: establishing an internal compliance review system for export controls and maintaining a well-functioning system.

- Strengthen the control of end users and end uses

Article 17 of the second review draft adds the expression “strengthening end-user and end-use management” to strengthen management in this regard. It further expands the scope of evaluation beyond end-user and end-use certification documents submitted by export operators, to evaluation and verification of the end user and the end use themselves.

- Specify the legal obligations of relevant intermediaries

The second review draft inserted a new Article 20, which bars any organization or individual from providing agency, freight, delivery, customs declaration, third-party e-commerce trading platform and financial services to export operators engaged in illegal export control activities. This was previously captured in the enforcement section of the 2019 draft. The insertion of a separate article clarifies the legal obligation of relevant intermediaries in a supply chain.

- Removal of the defined 45-day decision period for grant of export license

The new Article 22 only states that decision on whether or not to grant a license will be decided within “a legal period.” A specific defined period may be set in future implementing regulations.

- Clarify the extraterritorial effect of the law

Article 44 of the second review draft gives the law extraterritorial effect. It allows organizations and individuals outside of China that violate the export control regulations; obstruct the fulfilment of international obligations such as non-proliferation; and endanger national security and China's interests to be held legally responsible.

Note that these amendments are not finalised and are subject to additional round(s) of deliberation.

## US tightens export control regulations on Hong Kong

In response to Hong Kong's new security law that came into effect on 30 June 2020, US President Trump signed the President's Executive Order on Hong Kong Normalization (“the Executive Order”) on 4 July 2020. This Executive Order directs the revocation of Hong Kong's special status, eliminating the US' special and preferential treatment towards Hong Kong.

Previously, Hong Kong was treated as a separate destination from Mainland China for the purposes of US Export Administration Regulations (EAR). Thus, Hong Kong has been enjoying certain preferential treatments on export licensing control, such as license exceptions on certain items subject to US EAR.

However, pursuant to the Executive Order, if Hong Kong is moved into “Country Group D:1” alongside Mainland China, stricter export control requirements currently in place for Mainland China will effectively also apply to Hong Kong. This means that certain export license exceptions will be revoked, i.e.

- License Exception TSR (Technology and Software under Restriction);
- License Exception TSU (Technology and Software Unrestricted);
- License ENC (Encryption Commodities, software and technology);
- License Exception Adjusted Peak Performance (APP), etc.

The elimination of License Exception Civil end-users (CIV), which previously allowed exports, reexports, and transfers of certain items to most civil end users for civil end uses in Mainland China, and the revisions to the Military End User and End Use provision in EAR would potentially be applicable to Hong Kong as well. Hence, the most significant impact would be for companies involved in export of US controlled goods, software and technology, including computer chips, encrypted items and dual-use technology.



## Updates to the Singapore Strategic Goods (Control) Regulations

On 1 June 2020, the Strategic Goods (Control) (Amendment) Regulations 2020 was gazetted, and took effect from 3 August 2020. Updates were primarily focused on enhancing efficiencies in the administration of strategic trade controls, as well as the provision of sufficient information for risk assessment.

Key changes are as follows:

### 1. For Individual and Bulk Permit Holders and Registered Persons (Brokering)

- Currently, all permit holders and registered persons are required to maintain a list of records/documents listed under Reg 20(1) of the Singapore Strategic Goods (Control) Regulations ("SGCR"). In addition, if any documents or records are not in English, an English translation has to be provided upon request by Customs.
- If there is change in any information submitted at the time of the application for the permit, the permit holder must, within 14 days of such change, apply to the Director-General of Customs to make an amendment to the permit.

### 2. For Registered Persons (Brokering)

- Registered persons (brokering) are required to submit a report (including a nil return) containing information that relates to the documents specified in Part II of the Third Schedule in the SGCR.

### 3. For Bulk Permit Holders

- Bulk permit holders are required to submit a monthly report (including a nil return) for any Intangible Transfer of Technology (ITT) within the scope of approval, containing information listed in Reg 7(2) of the SGCR, where applicable, on the 14th of each month or upon request by Customs. Such reports should be submitted to [Customs\\_schemes@customs.gov.sg](mailto:Customs_schemes@customs.gov.sg).
- Bulk permit holders are required to provide all relevant information such as the Customs Procedure Code, Processing Code 1 and Processing Code 2 (containing the STS bulk permit number) when applying for the TradeNet permit for export of strategic goods.
- Bulk permit holders are required to keep the documents listed in Part III of the Third Schedule in the SGCR (e.g. screening of the consignee, documents of business transactions related to export of strategic goods, internal audit reports, internal training records, etc.) for a period of at least 5 years.

Failure to comply with the SGCR is an offence, and persons guilty of such an offense are liable to penalties stated either in the SGCR or the Strategic Goods (Control) Act.

To avoid violation of US export control regulations, affected companies should take immediate action to assess the relevant export control risks, including screening of business partners, reviewing whether the concerned goods are subject to any US EAR restrictions, determine the relevant ECCN codes, conduct end user verification etc. In the long term, it is also critical to set up a more comprehensive and robust export control compliance program, covering all aspects in compliance with the BIS guidelines including management commitment, risk assessment, export authorization, handling export violations and tracking corrective actions, training, record keeping, audits, and building and maintaining an export compliance manual.

## Philippines commences export control authorisations

The Philippines Strategic Trade Management Office (STMO) began authorizations for exports of strategic goods on 1 July 2020 under Republic Act no. 10697, also known as the Strategic Trade Management Act.

The authorisation scheme presently focuses on export activities and will in future gradually be expanded to cover other types of activities, such as transit/transshipment, re-export, reassignment, related services, and importation.

Exporters of strategic goods must first register with the STMO before filing an application for authorisation. There are three types of authorisation, depending on the number of destinations or end-users. As of this time, only individual and global authorisations can be applied for, because the guidelines for general authorisations are not yet available.

Type	End user and country location	Validity
Individual	One end-user	2 years
Global	Two or more end-users, located in different countries	5 years
General	Limited to specific countries	Lifetime

An authorisation must be presented to the Bureau of Customs before the departure of the carrying vessel or airline.

The Act regulates the movement of strategic goods which can be used as or for weapons of mass destruction. Strategic goods are defined as products and technologies that fall into the Philippines' National Strategic Goods List (NSGL). This list consists of three categories: military goods, dual use goods, and nationally controlled goods.

The STMO is also issuing 'Non-Strategic Goods Certificates' for goods that do not meet the technical specifications in the NSGL, but are similar to controlled strategic goods, so as to avoid unnecessary inquiries and delays by border control agencies.

Due to the COVID-19 situation, the administrative penalties related to registration and authorisation errors are suspended until further notice.

## Expected delay on implementation of Thailand export control regulations

The Department of Foreign Trade (DFT) hosted public seminar sessions in June and July this year providing updates on Thailand's Trade Controls on Weapons of Mass Destruction Act (TCWMD), which had entered into force on 1 January 2020. Due to the economic downturn caused by the COVID-19 pandemic and in consideration of the level of preparedness of the public and private sector, the DFT had decided that the TCWMD, including its two lists of controlled goods, will not be fully enforced in Thailand at this stage. Instead, the DFT will pursue a Catch-all-Control (CAC), focusing specifically on Dual-Use Items (DUI) and measures to control suspicious goods (on reasonable grounds) via their end-use and end-users.

Since the two TCWMD lists specify DUI as goods requiring a licence (under list I) or self-certification (under list II) before export are not likely to be stipulated as expected, the DFT encourages exporters to monitor the end-uses and end-users of their products (e.g. by checking against the UN sanction lists and consulting with the DFT). The DFT also encourages exporters to consider developing an Internal Compliance Programme (ICP) based on DFT guidelines to mitigate the risks of being caught under the CAC.

It is expected that the DFT will soon announce certain sub-regulations in relation to the CAC and ICP, together with related practical guidelines for compliance with the TCWMD. Given that the timeline remains unclear, all companies can do is to proactively monitor export transactions and verify export products, while keeping a lookout for further updates and guidance released by the authorities.



Agreements signed	Date
Cambodia-China FTA	12 August 2020
Agreements entered into force	Date
ASEAN-Hong Kong FTA - for Indonesia	4 July 2020
Indonesia-Australia Comprehensive Economic Partnership Agreement	5 July 2020
ASEAN-Japan Comprehensive Economic Partnership - Upgrade Protocol	1 August 2020
EU-Vietnam FTA	1 August 2020

## ASEAN-Hong Kong FTA enters into force for Indonesia

The part relating to Indonesia under the Free Trade Agreement and the Investment Agreement between Hong Kong and ASEAN entered into force on 4 July 2020. With this, the FTA and the IA has entered into force for all ASEAN member states except for Brunei Darussalam and Cambodia, whose dates of entry into force have not yet been announced.

Goods originating from Indonesia will continue to benefit from duty-free access into the Hong Kong market. On the other hand, Indonesia promised to progressively reduce and eliminate tariffs on goods originating from Hong Kong, such as jewellery, articles of apparel and clothing accessories, watches and clocks as well as toys. Traders are required to comply with the relevant preferential rules of origin and apply for certificates of origin to enjoy the preferential tariff treatment under the FTA.

## India threatens to pull out of ASEAN-India FTA

While there has been no official announcements yet, news reports published at the end of July 2020 suggests that the Indian government is reviewing its FTA strategy with existing FTA partners. As part of this review, India has raised concerns over its rising trade deficit with ASEAN and has requested for a renegotiation of certain provisions.

India perceives ASEAN as being reluctant to engage, as ASEAN is prioritising finalisation of the RCEP. A number of government officials have stated that India is considering the option of pulling out of the ASEAN-India FTA. We will provide more updates as they become available.

## ASEAN-Japan upgrade effective

The upgrade, or more formally: the First Protocol to ASEAN-Japan Comprehensive Economic Partnership (AJCEP) agreement, entered into force on 1 August 2020 following Japan's announcement that it had completed its domestic procedures. As of the time of writing, the revised deal applies to Laos, Japan, Myanmar, Singapore and Thailand, as they have already completed their necessary domestic procedures. It was reported that the remaining ASEAN members will complete their procedures by the end of 2020.

The First Protocol adds provisions on trade in services, movement of persons, and investment to the AJCEP, which entered into force in 2008. This is expected to strengthen Japan's trade economic relationship in the region, serving as another stepping stone for the push of Japanese companies diversifying their businesses.

The text of the First Protocol can be accessed here:

[https://www.mofa.go.jp/policy/economy/fta/page23e\\_000570.htm](https://www.mofa.go.jp/policy/economy/fta/page23e_000570.htm)

## Thailand further delays its plan to join CPTPP

It is reported that Thailand's planned application for membership of the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) has suffered another setback after the country's House Committee in charge of the trade deal stated that they need more time to scrutinise the details. The committee further expressed that the plan to join CPTPP may not be approved if the stakeholders cannot reach an agreement. Opposition groups are voicing their concerns against the trade pact, saying that it would place Thailand's agricultural sector, pharmaceutical and health industry at a disadvantage.

Pro-CPTPP groups together with the Commerce of Ministry are backing the membership plan to stimulate the country's economy as it continues to feel the heat of the COVID-19 pandemic. Currently, the CPTPP is already in force for seven countries - Australia, Canada, Japan, Mexico, New Zealand, Singapore, and Vietnam while the remaining members - Brunei, Chile, Malaysia and Peru have yet to complete their domestic procedures. Other countries eyeing to join the CPTPP include Indonesia, South Korea, and the United Kingdom.

## MERCOSUR-Singapore FTA delayed due to COVID-19

Singapore's FTA with the South American Trade Bloc, Mercosur, encountered a hurdle after one of its members, Argentina, announced that its withdrawal from the ongoing talks for the MERCOSUR-Singapore Free Trade Agreement to re-align its efforts on dealing with the rising negative impacts of the pandemic. Based on reports, Singapore is in contact with the trade bloc after Argentina's announcement to withdraw from the trade pact.

The FTA was set to include provisions on market access, rules of origin, micro and small enterprises, phytosanitary barriers, safeguard mechanisms, trade in goods and services, investments, simplification in negotiations, intellectual property, e-commerce, and exchange between governments.

## RCEP on track to be signed later this year

After years of negotiations, hopes are high for the Regional Comprehensive Economic Partnership (RCEP) as members announced their commitment to sign the agreement within this year. Once signed, they will all need to complete their domestic ratification procedures before it can be fully implemented.

The mega trade deal includes the 10 ASEAN member states, plus Australia, China, Japan, New Zealand and South Korea. It started as a 16-member trade pact but India decided to withdraw due to concerns that the agreement would be detrimental to its local industries.

## Australia-Indonesia bilateral agreement enters into force

On 5 July 2020, the long awaited Indonesia-Australia Comprehensive Economic Partnership Agreement (IA-CEPA), which took over 15 years to negotiate, finally entered into force. This comes after Indonesia completed its domestic ratification procedures in February, just two months after Australia also gave the green light to the agreement. The implementation of this trade deal is expected to help with the recovery from the impact of COVID-19.

Under the agreement, all Indonesian originating exports will receive duty free entry into Australia. In exchange, 99% of Australian originating exports - by value - to Indonesia will enjoy 0% duty or a preferential tariff. Indonesia will facilitate the agricultural exports of Australia by automatically granting import permits to Australian exporters. Indonesia's electric vehicle industry is set to gain from the agreement with the granting of more liberal origin requirements. Other features of the deal include a dedicated chapter on non-tariff measures, and improved administrative procedures to facilitate trade in goods.

The full legal text can be assessed at the following link:  
<https://www.dfat.gov.au/trade/agreements/in-force/iacepa/iacepa-text/Pages/default>

## Free trade deal negotiations launched between Australia and the UK

On 17 June 2020, Australia and the United Kingdom of Great Britain and Northern Ireland (UK) announced the commencement of negotiations for a bilateral FTA. During the 2018-2019 period, trade between Australia and the UK was valued at AUD 30.3 billion. The bilateral trade agreement, which focuses on increased two-way trade in goods and services and greater access to new technologies and innovative practices, will play an important role in growing and diversifying the Australian economy and creating jobs in the COVID-19 recovery phase.

## Cambodia-China FTA expected to be signed in late August 2020

Cambodia and China concluded negotiations for their bilateral FTA on 20 July 2020. The negotiations kicked off in December last year and only three rounds of negotiations have taken place since then.

Officials from both parties were originally scheduled to meet in Beijing, China on 12 August 2020 for signature of the new agreement. This was unfortunately not met, and the signing has been reportedly pushed to the end of August or some time within 2020, although the exact date has not yet been publicly released. No specific reasons have been provided for the delay. Upon signature and entry into force, the trade deal will be the first bilateral FTA for Cambodia and is expected to boost the country's agricultural exports to China such as rice, cassavas, bananas, and mangoes. China, on the other hand, will leverage the trade pact to promote its raw materials for the manufacturing and construction sectors in Cambodia.

Cambodia's officials expect the FTA to provide a partial cushion to the impact from the COVID-19 pandemic, and the EU's decision to suspend tariff preferences on a range of products including products from its textile and garment industry.

## EU to sustain decision on denying Cambodia of tariff preferences

From 12 August 2020, Cambodia will no longer enjoy tariff preferences for some of its exports to the EU following the decision to partially remove Cambodia's preferences under the "Everything but Arms" (EBA) scheme. The partial suspension was announced in February this year due to a series of human rights violations and other offences reportedly committed by Cambodia. The withdrawal is expected to impact selected goods including garment and footwear, travel goods and sugar, which amount to one-fifth or €1B of Cambodia's exports to the EU. Several requests had been made to postpone the suspension of the scheme as the COVID-19 pandemic continues to hurt Cambodia's economy. However, EU officials expressed that only significant progress in improving political and civil rights can convince the EU Commission to reinstate Cambodia's full EBA status.

The EBA is similar to the Generalised Scheme of Preferences



(GSP) and allows a Least Developed Country (LDC) to have access to the EU single market and enjoy tariff preferences for all its exports except arms and ammunition. Under this scheme, beneficiaries are required to adhere to the principles of human and labour rights.

## Cambodia and South Korea to launch FTA talks

Following the completion of a feasibility study in May this year, Cambodia and South Korea have announced the start of a negotiation process for a bilateral FTA. Although both parties are already enjoying the benefits from the ASEAN-Korea FTA, they have decided to have a deeper economic relationship by striking a bilateral agreement.

Cambodia's exports to South Korea are mainly textile materials, clothing, and agricultural products. South Korean exports to Cambodia primarily include vehicle, beverages and textile materials. There are also a number of South Korean garment manufacturers that have plants already set-up in Cambodia producing automotive wire harness parts, which are re-imported into South Korea. These are just some of the many goods expected to benefit from the FTA once it enters into force.

South Korea's FTA negotiation with Cambodia is part of its "New Southern Policy" which aims to diversify and enhance the country's relationship with ASEAN countries.

## Call for evidence for Japan and UK FTA

As reported in our [April-May 2020 edition of Trade Intelligence](#), Japan and the UK launched trade negotiations for a bilateral FTA. On 25 July 2020, the UK House of Lords issued a call for evidence on a range of issues which will be used to inform the negotiations:

- Consideration of a "mini deal" between Japan and the UK, instead of a comprehensive FTA;
- Potential that a Japan-UK deal could be a stepping stone to the CPTPP, and the benefits of joining the CPTPP;
- Impact of the removal of tariffs on Japanese automobile and parts on the UK automotive industry as well as on UK consumers;
- Appropriate Rules of Origin and cumulation requirements for the automotive industry;
- Impact of a bilateral deal on the UK agriculture and food industries; and
- Use of the digital trade provisions to enable UK businesses.

Submissions must be received by 31 August 2020.

Refer to the following link for information on how to make a written submission:

<https://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-international-agreements/news/uk-japan-trade-negotiations/>

## Vietnam's FTA with the EU enters into force

On 8 June 2020, Vietnam's Free Trade Agreement and Investment Protection Agreement (IPA) with the European Union (EU) received the stamp of approval from the Vietnam's National Assembly. It took over eight years and many rounds of negotiation before the FTA finally entered into force on 1 August 2020.

Some Vietnamese goods are currently enjoying a preferential treatment upon import into the EU through the EU's Generalised Scheme of Preferences (GSP). Importers utilising the GSP scheme should note that Vietnam will lose its GSP beneficiary status two years after the EVFTA has entered into force. This means that:

- For the period from 1 August 2020 up to 31 December 2020, importers into the EU will be able to choose whether to utilise preferences under EVFTA or the GSP. The applicable GSP rate will be fixed at the prevailing rate on 31 July 2020.
- Irrespective of the above, the requisite proofs of origin will still be required for preferential claims on import. Therefore, GSP preferences should be claimed for products that have been exported from Vietnam with a Form A.
- Past 31 December 2020, GSP preferences will lapse for Vietnam and importers into the EU will no longer be able to avail of the GSP preferences. That said, for all tariff lines, the applicable rates under the EVFTA are equivalent or better than the GSP rates.

Vietnam exporters can now enjoy tariff benefits under the EVFTA which offers elimination of customs duties for 85% of tariff lines or 70.3% of Vietnam exports to the EU upon entry into force. After 7 years, 99% of tariff lines will have customs duties eliminated. In contrast, 48.5% of tariff lines or 64.5% of EU exports to Vietnam, will enjoy a 0% duty treatment. Additional details on the potential duty savings were reported on our [April/May 2019 issue of Trade Intelligence](#).



## Australia

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### **Consolidated cargo reporting benefit for Australian Trusted Trader importers**

The Australian Border Force (ABF) has announced a new Consolidated Cargo Reporting (CCR) benefit for Australian Trusted Trader (ATT) importers. Effective as of 30 June 2020, the CCR permits ATT cargo reporters to lodge a single cargo report for consignments from multiple suppliers, consolidated overseas and shipped to a single ATT importer.

The CCR builds on the consolidated cargo clearance benefit already provided under ATT, whereby ATT importers can lodge a single import declaration for consignments covered by multiple cargo reports that are completed at the supplier level. The new benefit allows ATT cargo reporters to provide one cargo report with the freight forwarder/consolidator listed in lieu of the consignor, rather than a cargo report for each supplier in a consolidated shipment. The new CCR benefit will reduce and simplify the cargo reporting system for ATT cargo reporters and ATT importers for all sea and air cargo types.

To be eligible for the CCR benefit, the following requirements must be met:

- The cargo reporter/freight forwarder is an ATT;
- The importer is an ATT;
- The supplier details are listed in the full import declaration (FID); and
- The FID is lodged at least 48 hours prior to arrival at the first port of sea cargo and 2 hours prior to arrival for air cargo.

Importers not accredited under ATT are still required to submit a cargo report and import declaration for each consignor (supplier) in a consolidated shipment.

### **Enhanced transparency for FTA negotiations**

The Australian Government announced it will establish a Ministerial Advisory Committee (MAC) to assist the Government's ongoing commitment to enhancing transparency around FTA negotiations. The MAC will provide a platform for trade experts and representatives from industry and consumer groups to inform Australia's trade negotiations and policies going forward and ensure the continued engagement of business and community leaders in Australia's growing FTA agenda. The implementation of the MAC highlights the Government's commitment to delivering high-quality FTAs, especially for Australian farmers and businesses impacted by recent drought and bushfires, that drive export opportunities, economic prosperity and job creation.

### **Decision on tariff classification of manufactured pipes**

In the case of Smoothflow Australia Pty Ltd and Comptroller-General of Customs [2020] AATA 1890, the Australian Administrative Appeals Tribunal (AAT) overturned the decision of the Department of Home Affairs (DHA) in assessing the tariff classification of manufactured pipes to be used in high-rise building fire sprinkler systems. The AAT followed the High Court's decision in *Comptroller-General of Customs V Pharm-A-Care* [2020] HCA that consideration of both the French and English translation of the International Convention on the Harmonised Commodity Description and Coding System (Harmonised Convention) should be used in determining the tariff classification of certain goods because the Harmonised Convention provides that both texts are equally authentic.

In applying the English and French text, the AAT determined that the goods are, *prima facie*, classifiable under both Heading 7306 and 7308 and thus relied on Rule 3(a) of the General Rules for the Interpretation of Schedule 3 of the Customs Tariff Act 1995. In doing so, the AAT held that the goods were to be classified in Heading 7308 which provides a more specific description of the goods as it details the purpose for which the pipes were designed (i.e., pipes to be used in a building structure), compared to the general description of Heading 7306. As such, anti-dumping duties did not apply to the goods.

The AAT also stated that the Harmonized System Explanatory Notes (HSEN) were not used as an aid in this case as there was no ambiguity as to the tariff classification, and as such, the General Rules of Interpretation were relied on to reach a decision.

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## Master plan for the Hainan Free Trade Port

On 1 June 2020, the Central Committee of the Communist Party of China and State Council issued the “Master Plan for the Construction of the Hainan Free Trade Port”. The vision is for Hainan Free Trade Port to be an internationally recognised first-class free trade port in terms of trade facilitation, cross-border capital flow facilitation, transportation facilitation, modern industrial systems, etc. Companies should pay attention to the following customs and trade policy developments pertaining to the Hainan Free Trade Port.

### (a) Trade facilitation

- A “front line” will be set up between the Hainan Free Trade Port and foreign countries or regions. Goods will have to meet quality, safety, and health standards to flow through the “front line”. All goods will be permitted free entry and exit, with the exception of a list of prohibited and/or restricted goods which is being developed.
- A “second line” will be set up between the Hainan Free Trade Port and other regions within the customs territory of China. Import formalities, tariffs and import taxes will be handled at the “second line” before goods are moved inland from the Hainan Free Trade Port.
- Customs will minimise intervention and permit free production and operation for enterprises in the free trade port.
- There will be simplified customs formalities for goods in transit that are shipped from abroad and transported to other countries or regions.
- No storage period restrictions will be set for goods stored in the Hainan Free Trade Port, and storage locations can be selected freely.

### (b) Import taxes

- Zero tariffs: Before the whole island of Hainan is classified as an independent customs area, some imported commodities are exempted from import tariffs, value-added tax and consumption tax. After the island is classified as an independent customs area, import tariffs will be exempted for commodities outside of the catalog of commodities subjected to import tariffs.
- Processing trade: No import tariffs will be levied at the “second line” on goods that are produced by qualified industrial enterprises in Hainan, provided the goods do not contain imported materials or contain imported materials whose added value from processing in the Hainan Free Trade Port exceeds 30% (inclusive). Import value-added tax and consumption tax will be imposed in accordance with regulations.
- Free Trade Agreements: Imported goods qualifying under a FTA with China can be accorded preferential tariff treatment at the “second line”, assuming all requirements are met. This includes production of an effective Certificate of Origin (COO). Preferences are unlikely to be granted to goods produced in the free port and imported into China due to the lack of an accompanying COO. Imported raw materials and/or semi-finished products that undergo manufacturing/processing in the Free Trade Port before being sold domestically at the “second line” may enjoy FTA benefits at the “first line”.

Refer to the “Master Plan for the Construction of the Hainan Free Trade Port” and the Hainan Free Trade Port Law and other specific regulations as and when they are released for further details.

## Pilot for cross-border e-commerce B2B export policy

Cross-border e-commerce B2B export refers to a trade model in which China based companies directly export goods to overseas companies or overseas warehouses, and complete the transactions through cross-border e-commerce platforms.

In recent years, China's cross-border e-commerce business has developed rapidly, and the GAC has introduced various measures to support cross-border e-commerce businesses. On 12 June 2020, the GAC issued the "Announcement on Initiating the Pilot Program on the Regulation of Cross-border E-commerce Business-to-Business Export". The pilot program was launched from 1 July 2020 in Beijing, Tianjin, Nanjing, Hangzhou, Ningbo, Xiamen, Zhengzhou, Guangzhou, Shenzhen, and Huangpu.

Key points from the announcement include:

1. New customs supervision codes
  - "9710" is applicable for direct export of goods to overseas companies under the cross-border e-commerce B2B model
  - "9810" is applicable to goods exported to overseas warehouses.
2. Enterprise registration management
  - Domestic enterprises engaged in this business, such as cross-border e-commerce enterprises, cross-border e-commerce platform enterprises and logistics enterprises, must apply to their local Customs office to get registered.
  - Enterprises engaged in cross-border e-commerce export to overseas warehouses must also file a record with Customs indicating the business mode of such exports to overseas warehouses.
3. Customs clearance management
  - Enterprises must submit customs declaration data to Customs through the "single window" or "Internet Plus Customs" and are responsible for the authenticity of the data.
  - Goods under this trade model must comply with the relevant provisions on inspection and quarantine.
  - Customs may inspect goods under this trade model.

Refer to the "Announcement on Initiating the Pilot Program on the Regulation of Cross-border E-commerce Business-to-Business Export" (Announcement of the General Administration of Customs [2020] No.75) for details.

## New preferential policies to encourage domestic sales of processing trade enterprises

On 17 June 2020, the General Office of State Council issued its "Implementation Opinions on Supporting the Transfer of Export Products to Domestic Sales" to encourage processing trade enterprises to sell their products into the domestic market. Following that, on 1 July 2020, the GAC issued the "Announcement on Adjusting the Time Limit for Tax Declaration of Domestic Sales for the Processing Trade". According to the announcement:

- Outside the special customs supervision area, qualified processing trade enterprises may first sell bonded goods of processing trade domestically, before going through customs procedures for domestic sales taxation. It was previously necessary to make a consolidated tax declaration for domestic sales in a month before the 15th of the next month. After the implementation of the new policy, the customs declaration can be completed within 15 days after the quarter ends.
- Within the special customs supervision area, qualified processing trade enterprises can first transport goods out of the bonded area with an outbound delivery order, and subsequently go through the customs declaration procedures within the prescribed time limit. Originally, it was necessary to merge and declare batches of domestic sales in a month before the 15th of the next month. After the implementation of the new policy, the customs declaration can be completed within 15 days after the quarter ends.
- Enterprises need to declare quarterly tax declarations before 15 April, 15 July, 15 October, and 31 December each year.

Refer to the "Implementation Opinions on Supporting the Transfer of Export Products to Domestic Sales" (Guobanfa [2020] No. 16) and "Announcement on Adjusting the Time Limit for Tax Declaration of Domestic Sales for the Processing Trade" (General Administration of Customs Announcement [2020] No. 78) for details.

## Second public consultation on the "Export Control Law"

On 28 June 2020, the Standing Committee of the National People's Congress reviewed the "Export Control Law of the People's Republic of China (Draft) (Second Review Draft)". On 3 July 2020, the second review draft was published on the China National People's Congress website ([www.npc.gov.cn](http://www.npc.gov.cn)), and public consultation ran till 16 August 2020.

Refer to our [Export Controls section](#) for details on the amendments.



# Hong Kong, China



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## Impact of US President's Executive Order on Hong Kong Normalization

### Revocation of Hong Kong's Special Status

On 14 July 2020, President Trump signed The President's Executive Order on Hong Kong Normalization ("the Executive Order"). This Executive Order directs the revocation of Hong Kong's special status, eliminating the US' special and preferential treatment towards Hong Kong.

Previously, under the United States-Hong Kong Policy Act of 1992, the US had treated Hong Kong as a semi-autonomous part of China with its own legal and economic system separate from Mainland China. Under the Executive Order, within 15 days, the heads of agencies will:

- Eliminate preferences for Hong Kong passport holders;
- Revoke license exceptions for certain exports/reexports/transfers;
- Suspend the US' extradition agreement with Hong Kong;

- End training for police and security service members;
- Terminate the Fulbright scholar exchange program;
- Threaten sanctions against certain individuals; and
- Reallocate refugee slots to Hong Kong residents.

### Applicability of Section 301 US-China Additional Tariffs

The 19 U.S.C. 1304 on country of origin marking requirements was also specifically mentioned in a number of statutes being amended as per the Executive Order, where Hong Kong originating goods may be required to be marked as "Made in China". Referring to previous Federal Register Notices, Section 301 tariffs that appear to apply to "products from China", this requirement for Hong Kong originating goods to be marked as "Made in China" effectively means that the punitive tariffs could apply to goods of Hong Kong origin.

The Executive Order, however, does not specifically mention the applicability of Section 301 tariffs in the legal text. Hence, as yet, it is still unclear whether products of Hong Kong origin would be subject to these tariffs. Nevertheless, we would recommend companies exporting Hong Kong originating goods to the US to start analysing the likely tariff exposure and explore risk-mitigation options.

### Tightened Export Control regulations on Hong Kong

Previously, Hong Kong was treated as a separate destination from Mainland China for the purposes of US Export Administration Regulations (EAR). Thus, Hong Kong has been enjoying certain preferential treatments on export licensing control, such as license exceptions on certain items subject to US EAR. For more details on this, refer to the [Export Control section](#) of this issue.



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## New trade measures taken in view of COVID-19 pandemic

Category	Measure introduced	Reference													
<b>Restriction on export of specified products</b>	<b>Export of diagnostic kits:</b> Specified diagnostic or laboratory kits/ reagents, whether as an individual item or a part of any other diagnostic kit or reagent have been put under the restricted category for export. Other diagnostic kits can be freely exported subject to meeting the respective requirements.	Notification No. 9/2015-2020 dated 10 June 2020													
	<b>Export of alcohol-hand sanitizers:</b> Earlier, alcohol-based hand sanitizers falling under ITC HS codes 3004, 3401, 3402 and 380894 were prohibited for export. Now, the restriction remains only for “alcohol-based hand sanitizers exported in containers with dispenser pumps” falling under above mentioned codes. Other alcohol-based hand sanitizers in any other form/ packaging can be freely exported.	Notification No. 08/2015-2020 dated 1 June 2020													
	<p><b>Export of personal protection equipment (PPE):</b> The following items have been prohibited for export.</p> <table border="1"> <thead> <tr> <th>ITC HS Code</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>901850</td> <td>Following PPEs exported either as part of kits or as individual items:</td> </tr> <tr> <td>901890</td> <td>1. Medical coveralls of all classes/ categories (except surgical drapes, isolation aprons, surgical wraps and x-ray gowns)</td> </tr> <tr> <td>9020</td> <td>2. Medical goggles</td> </tr> <tr> <td>392690</td> <td>3. All masks other than non-medical/ non-surgical masks (cotton, silk, wool, polyester, nylon, rayon, viscose – knitted, woven or blended)</td> </tr> <tr> <td>621790</td> <td>4. Nitrile/NI3R gloves</td> </tr> <tr> <td>630790</td> <td>5. Face shield</td> </tr> </tbody> </table> <p>However, with effect from 29 June 2020, for PPE coveralls covered under ITC HS codes 39260, 621790, 630790 and 901890, the export policy has been changed from ‘prohibited’ to ‘restricted’. Restriction is that only 5 million PPE medical coveralls can be exported per month, subject to the submission of documents and fulfilment of eligibility criteria as prescribed. Further, the license granted for export is valid for a period of 3 months only.</p> <p>Further, with effect from 21 July 2020, based on industry representations, the exporters have been allowed to export samples of PPE medical coveralls for COVID-19. The sample export is restricted to 50 units per Import Export Code (IEC) per territory. Online application is to be made and the exporter needs to follow the procedure as prescribed.</p>	ITC HS Code	Description	901850	Following PPEs exported either as part of kits or as individual items:	901890	1. Medical coveralls of all classes/ categories (except surgical drapes, isolation aprons, surgical wraps and x-ray gowns)	9020	2. Medical goggles	392690	3. All masks other than non-medical/ non-surgical masks (cotton, silk, wool, polyester, nylon, rayon, viscose – knitted, woven or blended)	621790	4. Nitrile/NI3R gloves	630790	5. Face shield
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621790	4. Nitrile/NI3R gloves														
630790	5. Face shield														

	<p><b>Export of textile raw materials for mask and coveralls:</b> Earlier in March 2020, export of textile raw material for masks and coverall were prohibited completely. Now, the export policy has been modified to the following extent:</p> <p>Prohibition on export of non-woven fabrics for 25-70 grams per square meter falling under ITC HS 560312 and 560392;</p> <ul style="list-style-type: none"> <li>prohibition on export of melt blown category of non-woven fabric falling under ITC HS 560311, 569313, 560314,560391,560393 and 560394 and</li> <li>All other non-woven fabrics other than 25-70 grams per square meter would be allowed for export freely.</li> </ul>	Notification No.18/2015-20 dated 13 July 2020
<b>Restriction lifted on export of certain products</b>	<p><b>Paracetamol APIs (Active Pharmaceutical Ingredients):</b> The restriction on export of these APIs have been lifted with effect from 28 May 2020.</p>	Notification No. 07/2015-2020 dated 28 May 2020
	<p><b>Export of Hydroxychloroquine and formulations made therefrom:</b> Earlier in March 2020, export of Hydroxychloroquine and specified formulations were 'prohibited' except for exports made under Advance authorisation or from Special Economic Zone (SEZ) /Export Oriented Unit (EOU) or against receipt of full advance payment. The export of these products is now permitted.</p>	Notification No. 13/2015-2020 dated 18 June 2020

### Digitisation initiatives released

The Indian Government has introduced the below digitisation initiatives.

Category	Measure introduced	Reference
<b>Turant Customs – faceless assessment regime</b>	<p>The Government has rolled out the concept of faceless e-assessment under the initiative of Turant Customs, which will be implemented in a phased manner. Pan-India implementation is expected by December 2020.</p> <p>A detailed framework of this e-assessment has been released. The Customs automated system will assign the bill of entry to officers, removing the physical interface between the importer and customs authorities.</p> <p>This should reduce cargo clearance times and transaction costs. It should also encourage importers and companies to handle import and export clearances themselves.</p>	Circular No.28/2020-Customs dated 5 June 2020;
<b>Paperless Customs</b>	<p>The Government has directed that from 22 June 2020, only the digital copy of the Shipping Bill bearing the Final Let Export Order would be electronically transmitted to the exporter and the present practice of printing copies of the said document for the exporters would be discontinued.</p> <p>For the purposes of export, all supporting documents must be uploaded in e-Sanchit and collection of physical dockets will be dispensed with.</p>	<p>Circular No.30/2020-Customs dated 22 June 2020;</p> <p>Circular No.32/2020-Customs dated 6 July 2020 and</p> <p>Instruction No.09/2020-Customs, dated 05 June 2020</p>
<b>Online issuance of Certificate of Origin (COO)</b>	<p>In view of the pandemic, the Government initially introduced online issuance of COOs to facilitate claiming of FTA benefits on import in FTA partner countries. However, feedback from exporters indicate difficulties in obtaining preferential access in Thailand and Vietnam using such electronic COOs. As a result, participating agencies will continue with online issuance of COOs, but physical copies will also be allowed upon request.</p> <p>COO applications for exports under ASEAN-India FTA to all ASEAN countries except Thailand will be submitted through the e-COO Platform by the exporters to the offices of the designated issuing agencies i.e. EIA, MPEDA and Textile Committee. No physical applications have been accepted since 22 June 2020. However, manual applications submitted prior to the said date may be issued.</p>	Trade Notice No. 15/2020-2021 dated 21 June 2020



## Restriction placed on import of pneumatic tyres

The Government has placed restriction on imports of new pneumatic tyres of automobiles, two wheelers, bicycles, etc., classifiable under ITC HS codes 40111010, 40111090, 40112010, 40112090, 40114010, 40114020, 40114090, 40115010 and 40115090. Going forward, the import of tyres will require a specific license from the DGFT (Directorate General of Foreign Trade).

Refer Notification No. 12/ 2015-20 dated 12 June 2020 for further details.

## Annual update of SCOMET (Special Chemicals, Organisms, Materials, Equipment and Technologies) items list

The annual update to the classification related annexure of the ITC (HS) has been notified. The amendments/ modifications will come into effect within 30 days from date of issue i.e. from 10 July 2020, except for certain specified items listed in the said notification.

Refer Notification No. 10/2015-2020 dated 11 June 2020 for further details.

## Harmonisation of appendices for MEIS exports

Certain additions/amendments have been made to the Merchandise Exports from India Scheme (MEIS) schedules to align it with the changes made in the ITC (HS) Policy notified on 1 January 2020. The changes are as follows:

- 143 new entries have been added to the MEIS Schedule. The export of these items with effect from 1 January 2020 would be entitled to the MEIS benefit. These include various items falling under Chapters 22, 29, 59, 74, etc.;
- MEIS for goods exported from 1 January 2020 will not be available for specific ITC (HS) codes which ceased to exist from 1 January 2020; and
- Description of goods against MEIS entries of specific ITC (HS) goods have been amended for exports made from 1 January 2020.

Refer Public Notice 09/2015-2020 dated 1 June 2020 and Public Notice 12/2015-2020 dated 10 July 2020 for further details.





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## Changes to preferential rates and Certificates of Origin

On 4 July 2020, the Ministry of Finance (MOF) implemented new preferential import duty rates for the ASEAN-Hong Kong, China Free Trade Area Agreement (AHKFTA) and the Indonesia-Australia Comprehensive Economic Partnership Agreement (IACEPA). To enjoy these rates, importers must obtain the required Certificates of Origin (i.e., Form AHK and Form IA-CEPA) and submit them during the clearance process.

The MOF has also introduced a new preferential import duty rate scheme for certain goods under the IACEPA. The new scheme takes the form of an 'in quota' (for importation of goods within the quota) and 'out quota' (for importation of goods once the quota has been exceeded) mechanism. The quota system applies to the following: live cattle; potatoes; carrots; oranges; feed grains; hot/cold rolled steel coil; and other goods as stipulated in the new MOF regulation. The quota will be based on the quantity permitted by the Australian Government. Notably, preferential import duty rates offered by the IACEPA for these products are lower than those under the ASEAN-Australia-New Zealand Free Trade Agreement.

The Ministry of Trade (MOT) has also implemented the new Form AHK and Form IA-CEPA for finished products originating in Indonesia that would be exported to the relevant AHKFTA and IACEPA members from 2 July 2020.

## Revision to post-border requirements

The MOT issued a new regulation on post-border requirements, effectively removing the obligation of importers to submit a self-declaration within 48 hours of the import declaration registration. By implementing a new e-reporting monitoring system, the e-reporting will automatically monitor and examine the accuracy of the information declared in the import declaration for importing restricted goods, based on the relevant import approvals issued to the importer.

There would be regular monitoring and/or special inspection conducted by the MOT to check whether the importer has correctly declared the information on the import declaration form (also known as PIB) based on the relevant import approval and/or the surveyor report, and/or if the importer has obtained the correct import approval and/or surveyor report during the import clearance process.

If the monitoring mentioned above shows that the importer did not follow the import restriction requirements, the MOT will issue a warning letter to the importer or revoke the importer's Import Identification Number (API), depending on the precise violation.



# Japan



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## Japan Customs announces relief measures for torrential rainstorms

On 15 July 2020, Japan Customs announced special relief measures following torrential rainstorms that have ravaged several parts of the country. These are summarised as follows:

### 1. Customs procedures related to relief supplies

Customs duty and consumption tax are being exempted on relief supplies imported for those affected by the rainstorms. In addition, importers may apply for exemption using a simplified form.

### 2. Flexibility for customs procedures

Customs has announced several measures to expedite and simplify customs procedures for goods affected by the torrential rainstorms. The main measures include the following:

- Flexibility in choosing customs office for declaration - Importers or exporters of goods affected by the disaster who have difficulty lodging a declaration with their usual customs office are allowed to lodge their declaration at a more convenient customs office. Prior consultation with Customs is required.
- Simplification of procedures related to damaged cargo - If imported cargo is altered or damaged due to the torrential rainstorms, customs duty and consumption tax are reduced or refunded according to the degree of alteration or damage. Importers do not need to submit documents detailing the alteration or damage.
- Other measures include deferred submission of certificates of origin; simplification of application for placing cargo outside bonded areas; flexibility in bonded transportation approval; and simplification of lost cargo procedures.



## Malaysian Government implements additional measures due to COVID-19

On 5 June 2020, the Malaysian Government announced the implementation of a MYR 35 billion stimulus package known as the National Short-Term Economic Recovery Plan (known as 'PENJANA' in Malay). The Economic Recovery Plan is the fourth out of six stages in the government's 6R strategy, which aims to address the health and economic challenges of COVID-19.

The customs and trade measures covered in the PENJANA are as follows:

Measure	Description	Implementation timeline
Sales tax exemptions on specified locally-assembled and imported motor vehicles	<p>Locally-assembled motor vehicles will be granted 100% sales tax exemption while imported motor vehicles will be granted 50% sales tax exemption.</p> <p>The objective of this sales tax exemption is to boost the sales of the automotive sector and provide financial relief to buyers.</p>	Starting 15 June to 31 December 2020, subject to conditions imposed by MOF and Customs.
Remission of penalty for late payment of sales tax & service tax	<p>A 50% remission of penalty will be granted for late payment of sales tax and service tax that is due and payable from 1 July 2020 to 30 September 2020.</p> <p>The remission will be granted for the taxable periods ending on 31 May, 30 June, 31 July and 31 August 2020, unless otherwise permitted by Customs.</p> <p>Further details in relation to the remission such as conditions and application can be found in the FAQ.</p>	1 July 2020 to 29 December 2020
Export duty exemptions on certain commodities	<p>A 100% exemption on export duty will be given to the following commodities:</p> <ol style="list-style-type: none"> <li>1. crude palm oil</li> <li>2. crude palm kernel oil and</li> <li>3. refined bleached deodorized palm kernel oil.</li> </ol> <p>The objective of this export duty exemption is to increase the export competitiveness of the Malaysian palm oil industry.</p>	Starting 1 July 2020 to 31 December 2020

More details with regard to the announcement and Frequently-Asked Questions (FAQ) of the Short-Term Economic Recovery Plan can be found at the following links:

- PENJANA Booklet: <https://penjana.treasury.gov.my/pdf/PENJANA-Booklet-En-v3.pdf>
- FAQ: <https://mysst.customs.gov.my/assets/document/Annoucement/SOALAN%20LAZIM%20PENJANA.pdf>

## Introduction of the Approved Major Exporter Scheme for Sales Tax

On 30 June 2020, the Ministry of Finance announced the introduction of the Approved Major Exporter Scheme (AMES). The AMES was proposed in Budget 2020 and has entered into effect from 1 July 2020. Under the AMES, approved traders and manufacturers will be eligible for full sales tax exemption on the following categories of goods or raw materials, components and packaging materials (subject to certain conditions and requirements under Sales (Amendment) Regulations 2020):

- Category 1: Imported taxable goods;
- Category 2: Goods transported from a designated area or special area;
- Category 3: Locally purchased goods from a registered manufacturer (also known as sales tax licensed manufacturer); and
- Category 4: Goods acquired from a registered manufacturer;

Interested traders or manufacturers are required to meet certain conditions to qualify for AMES status. This includes meeting a minimum 80% annual export sales value requirement. The minimum export requirement includes delivery of goods by the approved traders and manufacturers to a designated area (such as Labuan and Langkawi) or special area (such as free zone and licensed warehouse).

Further conditions and requirements including goods that are not eligible for sales tax exemptions as well as the validity of the approval can be accessed here:

[http://www.federalgazette.agc.gov.my/outputp/pua\\_20200706\\_PUA196.pdf](http://www.federalgazette.agc.gov.my/outputp/pua_20200706_PUA196.pdf)

## Two new Customs Duties Orders under AJCEP and AKFTA

On 29 June and 13 July 2020, the Ministry of Finance (MOF) issued two new Customs Duties Orders:

1. Customs Duties (Goods under the Agreement on Comprehensive Economic Partnership among the Government of the Member States of the ASEAN and Japan) Order 2020, which replaces the previous Order issued in 2008; and
2. Customs Duties (Goods under the Framework Agreement on Comprehensive Economic Co-operation among the Government of the Member States of the ASEAN and the Republic of Korea) Order 2020, which replaces the previous Order issued in 2015.

The Orders entered into effect on 1 July 2020 (AJCEP) and 1 August 2020 (AKFTA) respectively. Important details have been summarised below.

FTA	Summary of key changes
AJCEP	<ul style="list-style-type: none"> <li>• Replacement of headings and subheadings based on the Customs Duties Order 2012 (9 digit HS codes) with Customs Duties Order 2017 (10 digit HS codes);</li> <li>• Replacement of Customs Duties Order 2012 with Customs Duties Order 2017. For goods or HS Codes that are not specified in the new order, goods will be subject to import duty at full rates specified under Customs Duties Order 2017.</li> <li>• Reduction of import duty from 30% to 10% for goods imported into Malaysia that are intended for non-commercial use (except motor vehicles, alcoholic beverages, spirits, tobacco and cigarettes).</li> <li>• Addition to overleaf notes in relation to the Free On Board (FOB) value criteria. For instance, the FOB value shall only be reflected in Box 9 when the regional value content criterion is applied in determining the origin of the goods.</li> <li>• Updated preferential import duty rates under ACJEP from 2020.</li> </ul>
AKFTA	<ul style="list-style-type: none"> <li>• Replacement of headings and subheadings based on the Customs Duties Order 2012 (9 digit HS codes) with Customs Duties Order 2017 (10 digit HS codes).</li> <li>• Replacement of Customs Duties Order 2012 with Customs Duties Order 2017. For goods or HS Codes that are not specified in the new order, goods will be subject to import duty at full rates specified under Customs Duties Order 2017.</li> <li>• Reduction of import duty from 30% to 10% for goods imported into Malaysia intended for non-commercial use (except motor vehicles, alcoholic beverages, spirits, tobacco and cigarettes).</li> <li>• Updated preferential import duty rates under AKFTA from 2020.</li> </ul>

The Orders are to be laid before the Dewan Rakyat pursuant to subsection 11(2) of the Customs Act 1967 and will become effective if there are no objections after 120 days. Companies claiming or considering claiming preferential import duty treatment under AJCEP and AKFTA are advised to take note of the above changes.

The complete Orders can be found at the following link:

AJCEP: [http://www.federalgazette.agc.gov.my/outputp/pua\\_20200629\\_PUA191\\_2020.pdf](http://www.federalgazette.agc.gov.my/outputp/pua_20200629_PUA191_2020.pdf)

AKFTA: [http://www.federalgazette.agc.gov.my/outputp/pua\\_20200713\\_PUA202D.pdf](http://www.federalgazette.agc.gov.my/outputp/pua_20200713_PUA202D.pdf)



## Acceptance of electronically affixed signature and seal on Form D for exports to Myanmar

Effective 29 June 2020, Malaysian exporters exporting to other ports in Myanmar (ports not included in the list of ports that are ready to accept e-Form D, excluding Yangon port) are allowed to provide a manual (or paper-based) Form D with an electronically affixed signature and seal without manual endorsement by the Ministry of International Trade and Industry (MITI).

Malaysian exporters are required to ensure that they meet the following two requirements:

1. The "ASEAN Single Window (ASW) Consent for ATIGA" box must not be ticked in the ePCO system. This is to ensure the official signature and seal can be electronically affixed on the Form D; and
2. A duplicate copy of the Form D must be submitted to MITI monthly.

Malaysian exporters exporting goods to Myanmar under the ASEAN Trade in Goods Agreement should take note of the new requirements to ensure compliance. The full announcement can be accessed here:

<http://www.dagangnet.com/wp-content/uploads/2020/06/Announcement-Manual-Form-D-Export-to-Myanmar-26062020.pdf>

## Liechtenstein added to Registered Exporter System under GSP

Following the implementation of Registered Exporter (REX) System under the Generalised System Preferences (GSP) for Norway and Switzerland announced by MITI on 17 April 2020, Liechtenstein has also been added to REX system under GSP on 10 June 2020. There are no changes to the previously announced commencement date for implementation of the REX system (i.e. 1 July 2020).

This means that Malaysian exporters looking to take advantage of the GSP scheme when exporting to these countries will need to follow the REX system process as of 1 July 2020 and complete a declaration of Statement on Origin instead of submitting the hardcopy Form A as previously required.

The notification on the implementation of REX System under the GSP can be found at the following link and our April-May 2020 Trade Intelligence:

[https://www.miti.gov.my/miti/resources/Preferential%20Certificate%20of%20Origin/Announcement/ePCO\\_Notification\\_-\\_UPDATES\\_Implementation\\_of\\_REX\\_under\\_GSP\\_Norway\\_and\\_S.\\_.pdf](https://www.miti.gov.my/miti/resources/Preferential%20Certificate%20of%20Origin/Announcement/ePCO_Notification_-_UPDATES_Implementation_of_REX_under_GSP_Norway_and_S._.pdf)

## Notice on GST refund payment

On 16 June 2020, Malaysia Customs issued a notification in relation to Goods and Services Tax (GST) refund payments. Malaysia Customs is entrusted to process and verify GST refund payments in accordance with the GST (Repeal) Act 2018.

To ensure the refund can be made to companies in a shorter period of time, Malaysia Customs implemented a new "pay first, and audit later" approach in two categories:

- First category: GST refund payment below MYR 100,000
- Second category: GST refund payment of MYR 100,000 and above

Affected companies are advised to ensure that the relevant customs and financial records are retained for customs GST audit purposes for a period of six (6) years starting from 1 September 2018.

More details in relation to the customs verification process including desk review and field audit for each of the categories can be found at the link below.

<https://mysst.customs.gov.my/assets/document/Annoucement/NOTIS%20PEMBERITAHUAN%20STRATEGI%20PEMBAYARAN%20BALIK%20REFUND%20GST.pdf>

## Designation of Senai Airport City as a Free Zone

On 30 June 2020, the Ministry of Finance (MOF) announced that Senai Airport City located in Johor will be declared as Free Commercial Zone and Free Industrial Zone commencing 1 July 2020. As a result, goods entering into Senai Airport City will be exempted from import duty and sales tax.



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## New import protection law

On 1 July 2020, the Myanmar government issued Notification 83/2020 on the 'Law to Prevent an Increased Quantity of Imports'. It will take effect on 1 July 2021. The government announced the approval of the law in December last year.

The law attempts to support and protect the competitiveness of local manufacturers and SMEs against an increase in import quantities into Myanmar. The new law will enable the Ministry of Commerce (MOC) to conduct an investigation to determine the risk and impact of the increase in imports is having on the domestic market. Increased quantity of imports is defined under the new law as "a quantity of any kind of imports into Myanmar which is significantly higher than the amount of domestically produced goods that are similar or directly competitive".

Under the law, a committee under the MOC will be formed for the implementation. The MOC may assess the extent of increase in import quantities and determine appropriate remedies for the prevention thereof.

Inspection measures to monitor whether local producers are affected may include the following:

- the rate and amount of the increased imported goods;
- the share of increased import goods in the local market / local production volumes; and
- change of a sales / production (capacity) / profit and loss / employment situation.

Trade remedies or safeguard measures to protect domestic producers may include tariff and import quantity restrictions in order to prevent serious injury to domestic producers from uncontrolled imports. The MOC will lead the committee and the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) will be a member of the committee representing the private sector.

An importer can appeal in accordance with the law to reconsider the preventive tariff and the restriction imposed on an imported good.

Conversely, a Myanmar manufacturer or its representative affected by increased imports may apply to the committee for the application of a safeguard measure.

A safeguard measure for an investigated product would not apply if it is imported from a developing country and if it meets certain stipulated conditions.

Currently, most imported products in Myanmar include construction materials, food products, fuel and vehicles.

## Import license exemption for customs warehouses

On 8 July 2020, the Ministry of Commerce published Notification 50/2020 that makes changes to the import licensing regime for goods.

Previously, the Myanmar Export-Import Procedures 2015 notification under the Export and Import Law stated that goods must already have the requisite import license prior to reaching the harbour.

In the new notification, the provision was amended to create an exemption for imported goods to be placed in customs warehouses. When goods requiring an import license are brought into a customs warehouse and intended to be released into the Myanmar market, an import license must be obtained following the new procedures. All remaining goods must have approval prior to arrival at a Myanmar port. The amendment has been made in order to comply with the procedures on customs warehouses issued under notification 68/2019 by the Ministry of Planning, Finance and Industry.

## Additional list of goods requiring export licenses

On 8 July 2020, Notification 51/2020 was issued by the Ministry of Commerce. It contains an additional list of goods (1,224 specific product types) that will now require export licenses relating to national security, food security and environmental protection. They include the following products:

- animal products (including rare fish species);
- medicinal plants;
- forest products;
- mining raw materials;
- restricted chemicals;
- explosives; and
- fertilizers.

With this addition, more than 15,000 product types will now require export licenses. Exporters in Myanmar are advised to review their goods to ensure compliance with Myanmar's export licensing requirements.

# Philippines

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## Philippines' FTA partners accept electronic scanned copies of Certificates of Origin

Philippine exporters are now allowed to submit scanned copies of the Certificate of Origin (COO) for customs clearance at certain destination markets. Due to COVID-19 quarantine restrictions, which have created difficulty for issuance of physical COOs, the Philippines government had requested and obtained favourable responses from various countries relating to the acceptance of electronic scanned copies of the COO as a basis for granting preferential treatment at the time of import.

The countries listed below have acceded to the Philippines request and will accept scanned documents subject to the stipulated conditions. In return, the Philippines will also accept scanned copies of COOs from these countries.

Country	FTA	Condition
Brunei Darussalam	ATIGA, AANZFTA, ACFTA, AIFTA, AJCEP, AKFTA	Submission of original copy within one month from goods clearance
Cambodia		Submission of original copy within 45 days from goods clearance, and CO may be verified electronically, or via other means
Indonesia		Scanned documents must be coloured (not monochrome)
LAO PDR		Scanned documents must be coloured (not monochrome), and original copies must be submitted within one month from goods clearance. This measure is effective till 30 September 2020.
Malaysia		Submission of original copies in 30 days after the lifting of Movement Control Order in Malaysia
Myanmar		Scanned documents must be coloured (not monochrome), and submission of original copy within one month from goods clearance
Singapore		Accepts scanned copies without any other conditions
Thailand		Submission of original copy within one month from goods clearance. This measure is effective till 30 September 2020.
Vietnam		CO must be verifiable electronically, or through other means.
Australia		AANZFTA
China	ACFTA	Accepts scanned copies without any other conditions
Japan	AJCEP, PJEPA	Scanned documents must be coloured (not monochrome), and submission of original copy within one month from goods clearance
Korea	AKFTA	Accepts scanned copies without any other conditions
New Zealand	AANZFTA	Accepts scanned copies without any other conditions

India has not yet responded to the request. However, for exports to India, Indian customs has allowed for provisional clearance of imported goods with preferential treatment even without presentation of a COO. In this case, importers will still be able to claim for preferential tariffs and only submit original COO copies after import.

Full details can be accessed in OCOM Memo No. 137-2020 issued by the Bureau of Customs on 29 June 2020:

[http://customs.gov.ph/wp-content/uploads/2020/07/ocom-memo-137-2020-Acceptance\\_Philippine\\_FTA\\_Partners\\_of\\_Electronic\\_Submission.pdf](http://customs.gov.ph/wp-content/uploads/2020/07/ocom-memo-137-2020-Acceptance_Philippine_FTA_Partners_of_Electronic_Submission.pdf)

## Extension of transition period for REX application until 31 December 2020

The Philippines Government has obtained approval from the EU Directorate-General for Taxation and Customs Union to extend the transition period for application under the EU's Registered Exporter (REX) system. With the extension, exporters, traders and stakeholders are now allowed to submit their applications for the REX system up until 31 December 2020.

Accordingly, the manually issued General System for Preference (EU-GSP) Manual Form A Certificate of Origin issued in the Philippines will continue to be accepted by EU member countries for claiming preferential treatment. From 1 January 2021, the Bureau of Customs will no longer issue manual Form A's for the EU-GSP. Instead REX registrants will be required to declare and self-certify the origin of products on commercial documents.

As such, Philippine exporters are encouraged to comply with the relevant registration requirements before the extension period lapses. Exporters can lodge their registration via the REX application portal here:

<https://customs.ec.europa.eu/rex-pa-ui/#/create-preapplication/> and submit documents to the Bureau of Customs at the following site:

<https://client.customs.gov.ph/index.php>

The full circular can be accessed at the following link:

[http://customs.gov.ph/wp-content/uploads/2020/07/aocg-memo-91-2020-Extension\\_of\\_Transition\\_Period\\_of\\_Application\\_to\\_the\\_EU-GSP\\_REX.pdf](http://customs.gov.ph/wp-content/uploads/2020/07/aocg-memo-91-2020-Extension_of_Transition_Period_of_Application_to_the_EU-GSP_REX.pdf)

## Removal of temporary additional tariffs on crude oil

The temporary additional import duty on imported crude oil is no longer in effect after legislators failed to pass an extension of the Republic Act No. 11469 or 'the Bayanihan to heal as one act' that had lapsed on 25 June 2020. Hence, the collection of customs taxes for imported crude oil, consisting of import duty, excise tax, and import VAT, has reverted to original rates.

Since 2 May 2020, an additional 10% tax was levied on certain imported crude oil and refined petroleum products. With the expiry of the Act, the import duty rates of such products will automatically revert back to 0% with effect from 25 June 2020. Likewise, the expiration of the act means that the granting of tax exemptions to imported health equipment and supplies critical to COVID-19 response is no longer in effect from 25 June 2020.

The relevant memorandums issued by the Bureau of Customs can be accessed here:

- Reversion of modified import duty rates:  
[http://customs.gov.ph/wp-content/uploads/2020/06/ocom-memo-128-2020-Reversion\\_of\\_the\\_Modified\\_Rates\\_of\\_Import\\_Duty.pdf](http://customs.gov.ph/wp-content/uploads/2020/06/ocom-memo-128-2020-Reversion_of_the_Modified_Rates_of_Import_Duty.pdf)
- Cessation of tax and duty exemptions to importations:  
[http://customs.gov.ph/wp-content/uploads/2020/06/ocom-memo-129-2020-Cessation\\_of\\_the\\_Effectivity\\_RA\\_11469.pdf](http://customs.gov.ph/wp-content/uploads/2020/06/ocom-memo-129-2020-Cessation_of_the_Effectivity_RA_11469.pdf)

## Float glasses now free from general safeguard measure

Float glasses classified under HS subheadings 7005.10.90, 7005.21.90, and 7005.29.90 are now free from safeguard duties. The safeguard duty on imports of reflective, tinted, and clear float glass from various countries have been lifted based on the outcome of the formal investigation conducted by the Tariff Commission.

Previously, a provisional safeguard duty of Php 2,835 or approximately USD 58 per metric ton was imposed from October 2019 to May 2020.

The full memorandum can be accessed here:

[http://customs.gov.ph/wp-content/uploads/2020/07/cmc-172-2020-Implementation\\_of\\_CMC\\_No\\_244-2019.pdf](http://customs.gov.ph/wp-content/uploads/2020/07/cmc-172-2020-Implementation_of_CMC_No_244-2019.pdf)

## Regulations on e-commerce under consideration

The Philippine government is considering establishing policies and programs to regulate online e-commerce transactions. In this regard, the Department of Finance is reportedly in the process of drafting an administrative regulation governing e-commerce transactions and is exploring the collection of Value-Added Tax (VAT) on local and cross-border digital transactions.

Concurrently, there are already two bills proposed in congress relating to amendments of the VAT law as well as on registration, consumer and intellectual property protection, and tax on subscriptions to video and music streaming applications, advertisements on social media sites and the sale of goods online.

No further details have been disclosed on the content of the administrative regulation. The congressional bills are still currently only at an early stage of proposal.





# Singapore

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## Updates to the Singapore Strategic Goods (Control) Regulations (SGCR)

On 1 June 2020, the Strategic Goods (Control) (Amendment) Regulations 2020 was gazetted, which took effect from 3 August 2020. The updates were primarily focused on enhancing efficiencies in the administration of strategic trade controls, as well as the provision of sufficient information for risk assessment.

Refer to the [Export Controls section](#) for details.

## Singapore signs two Digital Economy Agreements

Singapore, Chile and New Zealand formalised an agreement regarding the digital economy on 12 June 2020, where representatives of the three nations signed the Digital Economy Partnership Agreement (DEPA) via video conference. Negotiations concluded in January this year, and the agreement was expected to be signed in April during the APEC meeting, as reported in our earlier publications.

DEPA is the first Digital Economy Agreement (DEA) signed and concluded by Singapore, which establishes a common set of rules, standards and guidelines on digital trade, and ultimately promotes the interoperability between the three nations and addresses issues such as e-commerce brought about by digitalisation.

Refer to our [April - May 2020 edition of Trade Intelligence](#) for further details.

In addition, Singapore also signed the Singapore-Australia Digital Economy Agreement (SADEA) with Australia on 6 August 2020. The SADEA establishes multiple cooperation initiatives and attempts to build a collaborative environment for Singaporean and Australian businesses to tap into the growing digitalisation of the economy.

Apart from upgrading the digital trade arrangements under Singapore and Australia membered FTAs, such as the Comprehensive and Progressive Agreement on the Trans-Pacific Partnership and the Singapore-Australia Free Trade Agreement, SADEA also includes seven Memoranda of Understanding targeted at operationalising the following key areas - Artificial Intelligence, trade facilitation, safeguarding of digital identities, data innovation, e-certification of agricultural commodities, e-payments and e-invoicing, and the protection of personal data.

## Singapore signs MOU to develop common standards for maritime platforms

On 28 July 2020, the Maritime and Port Authority of Singapore (MPA) signed a Memorandum of Understanding (MOU) with five international partners: CargoSmart (solution provider for the Global Shipping Business Network), GTD Solutions (representing TradeLens), GeTS and PSA International (jointly representing CALISTA), and the Port of Rotterdam Authority. A key objective is to develop and adopt a set of common data standards and Application Programming Interface (API) specifications to facilitate data exchange for port and maritime services transactions.

This push towards interoperability is key as more port authorities are developing their own maritime single windows to facilitate electronic exchange of information for port clearance. The MPA and its partners will hold a series of technical workshops to design, test, and publish the API specifications.



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## Import inspections on medical masks

The Ministry of Health and Welfare announced “Regulations for the Inspection and Examination of Imported Medicament” indicating that medical masks classified under tariff code 6307.90.50.31-1 may now be subject to randomly-selected batch examinations by the Food and Drug Administration upon importation into Taiwan. This has entered into effect on 7 July 2020.

The official circular can be accessed at the following link:

<https://gazette.nat.gov.tw/egFront/detail.do?metaid=116831&log=detailLog>

## Extension of temporary reduction of tariffs on undenatured ethyl alcohol

On 11 June 2020, the Ministry of Finance has announced the extension of the temporary reduction of general tariff rates from 20% to 10% on other undenatured ethyl alcohol of an alcoholic strength by volume exceeding 90% classified under tariff code 2207.1090.22.0. The reduced tariff rates apply from 27 May 2020 to 26 August 2020. This tariff reduction only applies to undenatured ethyl alcohol imported for use as production material of medicinal alcohol. Accordingly, approval documents from the Ministry of Health and Welfare will need to be presented to customs at the time of import to enjoy this benefit.

The official announcement can be accessed at the following link:

[https://web.customs.gov.tw/News\\_Content.aspx?n=3655DD2CDA2ED6C1&sms=9FA66FA17135CFC2&s=946048463CB658AD](https://web.customs.gov.tw/News_Content.aspx?n=3655DD2CDA2ED6C1&sms=9FA66FA17135CFC2&s=946048463CB658AD)





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## Expected delay on implementation of Thailand export control regulations

The Department of Foreign Trade (DFT) hosted public seminar sessions in June and July this year providing updates on Thailand's Trade Controls on Weapons of Mass Destruction Act (TCWMD), which had entered into force on 1 January 2020. Due to the economic downturn caused by the COVID-19 pandemic and in consideration of the level of preparedness of the public and private sector, the DFT had decided that the TCWMD, including its two lists of controlled goods, will not be fully enforced in Thailand at this stage. Instead, the DFT will pursue a Catch-all-Control (CAC), focusing specifically on Dual-Use Items (DUI) and measures to control suspicious goods (on reasonable grounds) via their end-use and end-users.

Refer to our [Export Controls section](#) for more details.

## Domestic trading entity invoices accepted for claiming of preferential rates under FTAs

Invoices from overseas exporters and manufacturers are typically presented during customs clearance for claiming of preferential rates under Free Trade Agreements (FTAs). This evidences that an actual transaction has occurred between the foreign exporter or manufacturer and the importer in Thailand. However, the application was unclear and did not address cases where importers purchased goods through a domestic trading entity and would thus only have a domestic invoice for clearance.

To clarify this, the Customs Tariff Division issued Notification No. 4/2563, stipulating that domestic trading entities are recognised as part of the transaction flow, and an invoice from a domestic trading entity can be used for customs clearance. This will provide importers with an alternative to manage transaction flows, in addition to the common direct flow or third country invoicing arrangements.

To do so, importers will need to submit the domestic invoice and declare the values based on this invoice. The Notification also clarifies that purchasing goods through a domestic trading entity is not considered to fall under a third country invoicing arrangement under FTA provisions. This means the importer does not need to address 'Third Party Invoicing' or add a slash mark (/) on the certificate of origin. All other FTA compliance requirements will still need to be complied with for granting of preferential treatment.

Although not explicitly mentioned under the Notification, the exporter is still required to indicate the invoice number and values on the certificate of origin. Under this circumstance, the values in the certificate of origin would be different from the values in import entries. This should be acceptable to Customs but we

recommend to engage with the relevant customs port before a first shipment to mitigate a risk of clearance disruption.

A separate Revenue Department Order also clarifies that VAT will not be charged on the domestic invoice so the importer will not be paying VAT twice.

This Notification entered into force on 22 May 2020, but may not have retroactive impact. Importers are recommended to review their past transactions to identify potential non-compliance for transactions where the domestic invoice was used for clearance, and to ensure that future transactions comply with the requirements under the notification.

## Exemptions from relevant laws for imported raw materials brought into the IEATFZ for export purposes

On 1 July 2020, the Royal Gazette announced the criteria, methodology and conditions for imported raw materials brought into the Free Zone of the Industrial Estate Authority of Thailand (IEATFZ) for manufacturing, mixing, assembling or packing for export purposes to be exempt from the application of certain laws. The relevant laws relate to labelling, standards and quality control requirements for imported raw materials brought into the IEATFZ for export purposes. Customs laws are not included in this exemption and the importation of such raw materials are therefore still subject to the general Customs formalities, procedures and regulations under the Customs laws.

Importers or manufacturers who wish to request an exemption from these laws must ensure that their imported raw materials:

1. are not goods that are prohibited from import into Thailand;
2. do not contradict any treaties or international agreements;
3. do not fall under other controlling processes, except for the import process;
4. are recorded for quantity-usage electronically and are traceable; and
5. are stored in a safe and well-maintained warehouse in the IEATFZ that complies with the Factory Act and other relevant laws.

Requestors must prepare the required exemption request documents for their type of IEATFZ operation. The granted exemption certificate will be valid for one year from the date of issue. This regulation has been retrospectively effective from 2 June 2020.

Before requesting an exemption, importers or manufacturers are recommended to review the criteria and conditions specified by the IEAT to ensure full compliance with all requirements.

## Compulsory licence requirements for portable power banks

The Ministry of Industry (MOI) issued a Ministerial Regulation specifying industrial product standards and safety requirements for portable power banks, which imposes compulsory licensing requirements on the manufacture and import of such products. This was announced on 19 June 2020 and will enter into effect on 16 November 2020. Under the new regulation, importers and manufacturers of portable power banks will need to meet the standards outlined in MOI Notification No. 5091 for Industrial Standards No. 2879-2560.

The industrial standards cover portable power banks and any portable energy storage devices containing secondary batteries with charging circuitry via a DC output of up to six volts, and at least one charging port. This includes power banks that support an external voltage supply for the fast charging of electrical and electronic devices. Electrical equipment with a built-in battery whose main function is not the supply of electricity – e.g. portable speakers or portable computers, power banks with a DC output higher than six volts, or uninterrupted power systems (UPS) are not regulated by this standard.

Importers and manufacturers of covered products must obtain a Thai Industrial Standards Institute (TISI) licence prior to the manufacture or import in Thailand. Although these requirements are not yet in effect, manufacturers and importers are recommended to check if their products can meet the new standard requirements. Applications for the TISI license should be made in advance to avoid any shipment delay.



## FDA license waiver for re-imported and re-exported hazardous substances

The Thailand Food and Drug Administration has announced a waiver on licensing requirements for certain re-imported and re-exported hazardous substances. This will apply to hazardous substance types 1, 2, and 3 that are under the regulatory control of the FDA. To qualify for the waiver, importers and exporters are required to comply with the following:

Re-import	Re-export
<ul style="list-style-type: none"> <li>The hazardous substance must not change its state, container or labelling and must have the same batch and lot number as other hazardous substances when exported.</li> <li>The export date of the hazardous substance must not exceed a year from the re-import date.</li> <li>The importer of record for a re-imported hazardous substance must be the same as the exporter of record for that hazardous substance.</li> </ul>	<ul style="list-style-type: none"> <li>The hazardous substance must not change its substance state, container or labelling and must have the same batch and lot number as other hazardous substances when imported.</li> <li>The exporter of record for an imported hazardous substance must be the same as the importer of record for that hazardous substance.</li> </ul>

Operators interested to obtain the license waiver must request approval from the FDA prior to re-importing or re-exporting affected products. Supporting documentation, including reasons for re-importing or re-exporting, a copy of relevant import or export entries, invoices, corresponding bills of lading or airway bills and photographs of containers and labels showing the substances' names (i.e. MSDS) and manufacturing dates should be submitted together with the application.

The approved waiver request must be used for customs clearance within 45 days from the date of issue. Should there be suspicion around the products, the FDA has the authority to hold or confiscate them at the trader's premises.



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## Rules of Origin under EVFTA

As reported in the [FTA Focus section](#), Vietnam's National Assembly ratified the EU-Vietnam Free Trade Agreement (EVFTA), which consequently entered into force on 1 August.

On 15 June 2020, the Ministry of Industry and Trade issued Circular 11/2020/TT-BCT (Circular 11) which regulates the Rules of Origin (ROO) under the EVFTA. Circular 11 also took effect on 1 August 2020.

The following are some notable points:

- The applicable ROO is specified as a Product Specific Rule at HS Chapter/Heading level. The rule can be categorised as “Wholly Obtained” or “Sufficiently Worked or Processed”.
- Regional value content under EVFTA will be calculated based on the Ex-works price.
- Goods can enjoy special preferential import duty rates under the EVFTA if one of the following proofs of origin are provided:
  - Valid Certificate of Origin (COO) Form EUR.1; or
  - Origin declaration made out by a certified exporter
- An origin declaration made out by any certified exporter of the exporting country is allowed for goods with a total value not exceeding EUR 6,000.
- Information on the name and address of consignee, transportation detail, HS code and ROO of goods are not required to be presented on the COO Form EUR.1.
- A COO Form EUR.1 will be valid for 12 months from the issuance date.
- Any documents related to application of the COO Form EUR.1 must be retained for at least 3 years.





## COVID-19 related updates

### Summary of COVID-19 related trade measures

The table below summarises various trade measures that Asian territories have undertaken in response to COVID-19, covering the period from 1 June to 31 July 2020. Trade measures implemented prior to 1 June 2020 were reported in our [April - May edition of Trade Intelligence](#).

The listing is not exhaustive, and may well have changed since our date of reporting. Most of the key measures below have been covered in greater detail in the relevant Territory reports.

For more up-to-date and detailed reporting, refer to our COVID-19 webpage here:

<https://customs.pwc.com/en/recent-developments/responding-to-covid-19-cross-border-trade-measures.html>

Territory	Measure
Australia	<ul style="list-style-type: none"> <li>Tariff relief on a range of Personal Protective Equipment (PPE) and medical items</li> </ul>
India	<ul style="list-style-type: none"> <li>24/7 customs clearance at all ports</li> <li>Relaxation from furnishing bonds prescribed for provisional assessment, warehousing and specific clearances under bond including exemption notification (until 30 June 2020)</li> <li>Validity extension of AEOs expiring between 1 March 2020 and 31 May 2020 to June 2020</li> <li>Extension of concessional customs duty benefit under Free Trade Agreements on a retrospective basis subject to subsequent furnishing of Certificate of Origin by the exporter.</li> <li>Amendments introduced in the Export Policy of Paracetamol API</li> <li>Export prohibitions or restrictions on certain Personal Protective Equipment, masks, alcohol-based hand sanitisers and diagnostic kits, laboratory reagents and diagnostic apparatus</li> <li>Extension of time limit for re-import facilities from 3 months to 6 months</li> </ul>
Indonesia	<ul style="list-style-type: none"> <li>Relaxation on exports of specific raw materials to produce personal protective equipment (PPE). For example, masker and/or finished PPE products are now allowed if export approval is obtained from the Ministry of Trade</li> <li>Tax incentives for companies operating under Bonded Zone, and Import for Export Facilities</li> </ul>
Malaysia	<ul style="list-style-type: none"> <li>Sales tax exemptions on specified locally-assembled and imported motor vehicles</li> <li>Remission of penalty for late payment of sales tax &amp; service tax</li> <li>Export duty exemptions on certain commodities</li> </ul>
Philippines	<ul style="list-style-type: none"> <li>Suspension of fines and administrative penalties for non-compliance in relation to the implementation of export control authorization on strategic goods</li> <li>Acceptance of online payment for miscellaneous fees, customs fees and processing charges</li> </ul>
Thailand	<ul style="list-style-type: none"> <li>Flexibilities on the AEO program - Remote Physical Inspection and online consultations</li> </ul>



## US-China trade war update

### Progress on “Phase One” trade deal commitments

Since the signature of the “Phase One” Economic and Trade Agreement in January 2020, the US and China have both taken steps to implement their respective obligations under the agreement. Both sides are continuing with the review and implementation of their respective tariff exclusion process to facilitate imports. China also relaxed import restrictions on food and agriculture imports from the U.S, which is expected to fuel US exports and reduce the US’s trade deficit with China.

More specific details are provided below.

#### US considers extension of previously granted tariff exclusion requests

- On 16 July 2020, the USTR released a notice and request for comments regarding the potential extension of certain tariff exclusions (List 1) that are due to expire on 1 September 2020. The USTR is considering a possible extension of up to 12 months and accepted submission of comments from stakeholders up to 14 August 2020. These will be considered on a case-by-case basis.

#### China relaxes import restrictions on US agricultural imports

- China has allowed imports of certain US agriculture products, including California Hass avocados, blueberries, barley and other forage related products such as alfalfa hay or almond pellets and cubes etc. This provides increased market access and new opportunities for US producers who are now able to export to China.
- At the end of May 2020, China published a new domestic standard for dairy permeate powder for human consumption under its Food Safety Law, that will allow imports of this product from the US.
- From April to July 2020, China expanded the lists of US facilities that are eligible to export beef, pork, poultry, seafood, dairy and infant formula products to China. The updated list now covers 499 beef, 457 pork, 470 poultry, 397 seafood, and 253 dairy and 9 infant formula facilities in the US.

### US - China trade conflict continues to escalate

Despite progress on “Phase One” commitments, diplomatic tensions between both countries have continued to escalate in other areas, in particular fueled by US concerns over China’s increasing assertion of authority over Hong Kong. Specifically, the US announced several sanctions on Hong Kong, including the revocation of Hong Kong’s special trade status, and more recently the enactment of the Hong Kong Autonomy Act. In response, China has announced plans to impose its own sanctions (that have yet to be specified) targeting certain US officials and companies. This could involve listing certain US companies that have a heavy reliance on China on its “Unreliable Entities” list or further restricting access to China’s market.

On 14 July 2020, the US published an interim rule effective from 13 August 2020, prohibiting federal government agencies e.g. US government contractors, subcontractors and recipients of federal grants and funding from issuing new contracts or extending or renewing existing contracts to entities utilising certain telecommunications and video surveillance equipment and services from five targeted Chinese suppliers. The listed Chinese entities include Huawei Technologies, ZTE telecommunications equipment and services, Hytera Communications, Hangzhou Hikvision Digital Technology, and Dahua Technology video surveillance equipment and services.

These measures come amidst an already strained relationship between both parties due to the COVID-19 outbreak, and could hamper progress made with the “Phase One” Agreement or even potentially re-ignite the trade war.





## World Customs Organisation (WCO)

### Updated Comparative Study on Certification of Origin

On 25 June 2020, the WCO Secretariat published an updated version of the Comparative Study on Certification of Origin, which covers the present state of affairs regarding preferential and non-preferential certification of origin. This update is in consideration of new trends, as well as to enrich procedural material as part of the Phase IV of the Action Plan on Revenue Package that was endorsed in 2019. The main updates include:

- Reconsolidation of data on the costs of certificates of origin issued by Chambers of Commerce in the previous study, including development in e-COs and digitization of certificates.
- Updated preferential origin certifications to cover newly introduced origin certification features in recent Economic Partnership Agreements or Free Trade Agreements e.g. the Pan-Euro-Med, EU-Korea, EU-Japan, CPTPP, CETA, USMCA etc. and the REX system in EU GSP.
- Addition of a new section on future developments on certification of origin, which covers the use of blockchain for origin.
- Review of Annex K of the Revised Kyoto Convention (RKC) aimed at modernizing international standards for origin procedures established by the RKC.

The comparative study on the Certification of Origin is available in English and can be accessed here:

[http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/origin/instruments-and-tools/comparative-study/related-documents/comparative-study-on-certification-of-origin\\_2020.pdf?db=web](http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/origin/instruments-and-tools/comparative-study/related-documents/comparative-study-on-certification-of-origin_2020.pdf?db=web)

### Virtual Permanent Technical Committee Meeting

The Permanent Technical Committee (PTC) meeting was successfully concluded on 3 July 2020. Due to COVID-19, the meeting was structured as a document based virtual meeting, during which participants managed to derive substantial outcomes on key agenda items such as e-commerce, the role of Customs in mitigating the effects of COVID-19, strategic foresight and passenger control and facilitation.

The key outcomes are summarised below:

- In relation to COVID-19, the PTC accepted proposals and will conduct further discussions on the role of Customs in the disaster management cycle, including conducting a review and gap analysis of existing instruments and tools, developing new tools to promote business continuity, and to develop a database or compendium of best practices.
- The PTC endorsed 3 outstanding annexes to the E-Commerce Package: The Compendium of E-Commerce Case Studies, The update/maintenance mechanism of the E-Commerce Framework of Standards and The capacity building plan for E-Commerce.
- The PTC endorsed the proposed plan of future work on strategic foresight and the roadmap for development of the Strategic Plan 2022-2025. The following documents and

tools in relation to passenger control and facilitation were also endorsed:

- Business Case and draft Terms of Reference (ToR) of the new Working Group on Passenger Facilitation and Control (PFCWG);
  - Amendments to the ToR for the Counterfeiting and Piracy (CAP) Group;
  - Compendium of Practices in the Area of Transit; and the Final Report of the Technical Experts Group on Air Cargo Security (TEGACS) to the Policy Commission.
- The PTC reviewed a proposal to establish an ad-hoc mini group to draft new PTC Rules of Procedure (RoP) for extraordinary circumstances such as COVID-19. Discussions will continue to identify areas of the PTC RoP that will need to be addressed, which will be informed to the Policy Commission/Council.

The next PTC meeting is scheduled to be held in the 3rd or 4th quarter of 2020. The exact date has not yet been released.





## Director-General candidates

Eight candidates have been nominated for the WTO Director-General role, to succeed the current Director-General Roberto Azevêdo who will step down on 31 August 2020.

In a meeting on 15-17 July 2020, the candidates presented their vision for the WTO to members and responded to questions from the floor. This is part of the second phase of the selection process, where candidates have to make themselves known to members. The third phase begins on 7 September 2020. This will comprise consultations with WTO members to assess their preferences and determinations will be made to determine which candidate has consensus support. The third phase will last a maximum of two months.

Concrete plans for handover during the interim period have not yet been announced, although the WTO has indicated the possibility of appointing an acting interim chief to succeed Azevedo before a new, permanent director-general is named. This interim arrangement is still under discussion and has not yet been finalised.

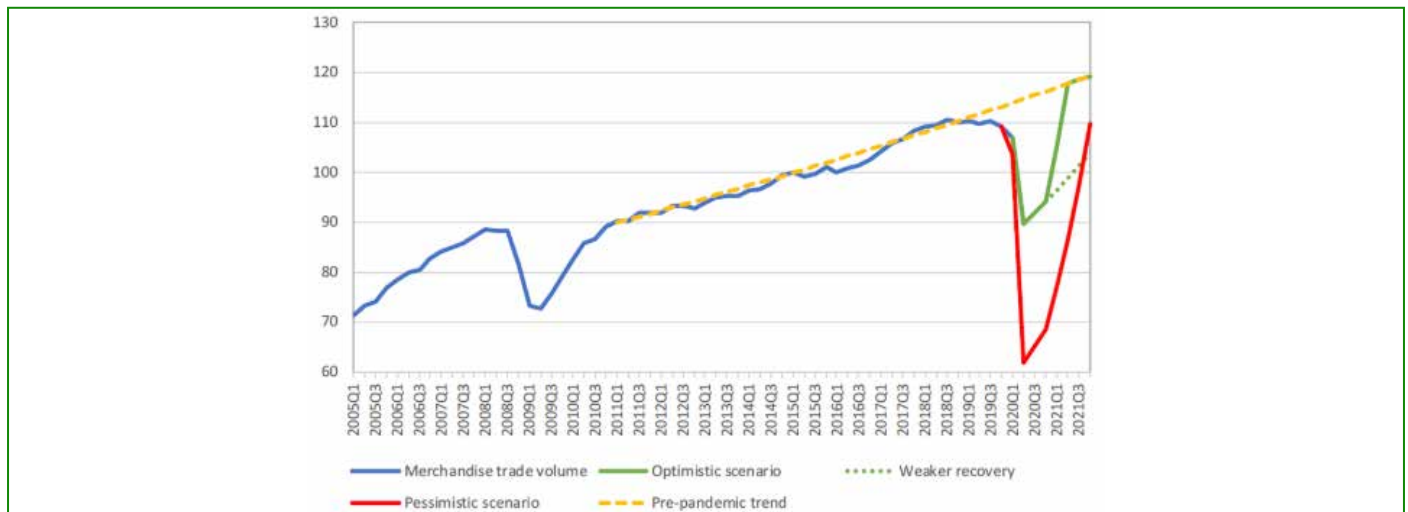
Details on each candidate can be accessed here:

[https://www.wto.org/english/news\\_e/news20\\_e/dgssel\\_17jul20\\_e.htm](https://www.wto.org/english/news_e/news20_e/dgssel_17jul20_e.htm)

## Government response cushions blow to world merchandise trade

In our [April - May 2020 edition of Trade Intelligence](#), we reported on WTO's trade forecast for the year. The 20 April 2020 forecast included a pessimistic and optimistic projection, where trade volumes would contract by 32% and 13% respectively.

In its latest press release, on 22 June 2020, the WTO updated that while trade volumes will shrink sharply in 2020, initial estimates are suggesting that volumes are unlikely to reach the pessimistic scenario projected in April. Trade would only need to grow by 2.5% per quarter for the rest of the year to meet the optimistic projection. This has been attributed to rapid government responses in the form of strong fiscal, monetary and trade policies. Actual performance is likely to be dependent on the impact of the second wave of COVID-19 outbreaks, economic growth, and recourse to trade restrictions.

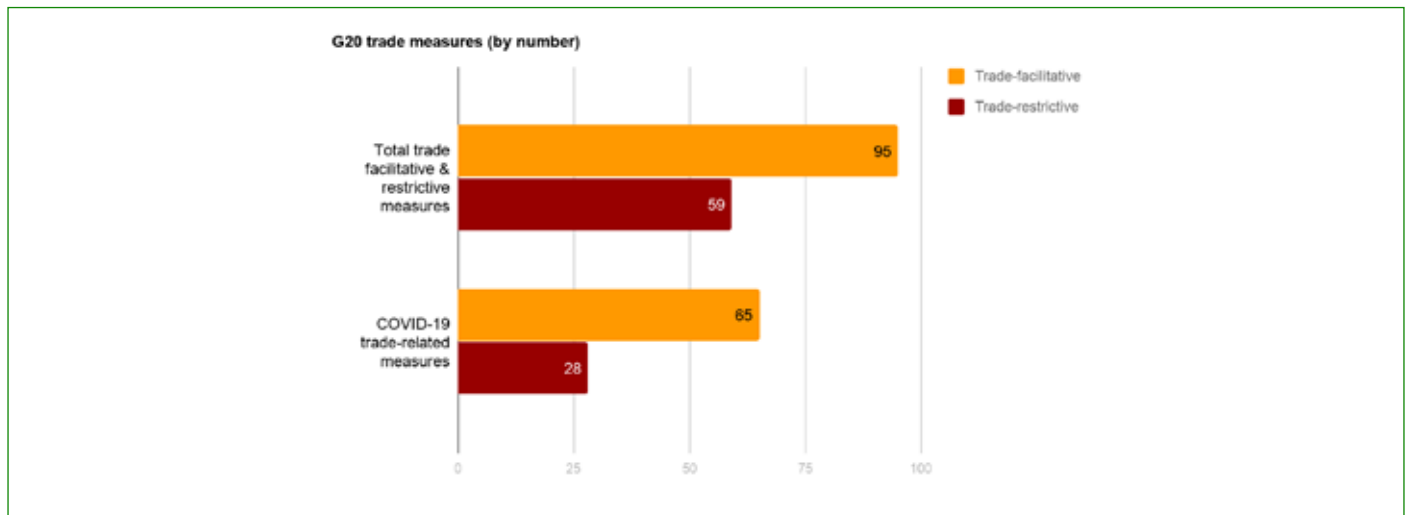


Source: WTO/UNCTAD and WTO Secretariat estimates

# G20 Trade Monitoring Report: More trade facilitative than restrictive measures have been implemented

The latest WTO biannual report on trade measures was released on 29 June 2020. It covers the time period of mid-October 2019 to mid-May 2020, which coincides with the start of the COVID-19 pandemic.

Within the review period, G20 economies enacted 154 new trade and trade-related measures. Of these, 95 facilitated imports and 59 restricted imports. 93 of these measures (approximately 60%) were enacted in response to the COVID-19 pandemic. Out of these 93, 65 were trade facilitative while 28 were trade restrictive. These combined figures include temporary restrictive or facilitative measures that have been adopted by members and informed to the WTO and are further specified in the report. Currently, the majority of such measures relate to COVID-19 trade and trade-related measures that have mostly been adopted by countries on a temporary basis.



The figures also provide further insight into the temporary restrictive measures that have been adopted by members and informed to the WTO

The report noted that prior to the pandemic, world trade was already slowing as a result of global trade tensions and slowing economic growth. At the start of the pandemic, G20 economies principally employed trade-restrictive measures, particularly export bans. However, as of mid-May 2020, 70% of all COVID-19 related measures were facilitative in nature. Around 36% of COVID-19 specific restrictions were also repealed by mid-May.

The trade coverage of the 30 non-COVID-19-related import facilitative measures was estimated to be USD 735.9 billion which is the highest since November 2014. Trade coverage of the 31 new trade-restrictive measures unrelated to the pandemic was estimated at USD 417.5 billion, which is the third-highest value since May 2012.

The full Trade Monitoring Report can be accessed here:

[https://www.wto.org/english/news\\_e/news20\\_e/report\\_trdev\\_jun20\\_e.pdf](https://www.wto.org/english/news_e/news20_e/report_trdev_jun20_e.pdf)

## Launch of expanded Global Trade Helpdesk to support MSMEs

The International Trade Centre (ITC), the United Nations Conference on Trade and Development (UNCTAD) and the World Trade Organization (WTO) have rolled out an improved and expanded Global Trade Helpdesk, which now contains trade information aimed at assisting Micro, Small and Medium sized Enterprises (MSMEs), to take advantage of market opportunities. The WCO has continued to support this initiative by providing border-related information, especially in the areas of Rules of Origin and Authorized Economic Operators.

Via the Global Trade Helpdesk, MSMEs can access up-to-date trade statistics, information on tariffs, regulatory requirements, as well as information about voluntary standards, and contact information for key public and private partners. This includes being able to:

- Access and review import, export and transit trade procedures by exporting and importing market;
- Identify and evaluate export opportunities across target markets in preparation for business expansion; and
- View consolidated COVID-19 resources from across international agencies, including information on temporary restrictions enacted in response to the crisis.

The platform is now accessible in Russian in addition to Arabic, English, French and Spanish. The Global Trade Helpdesk can be accessed here:

<https://globaltradehelpdesk.org/>

## Updates from the Council for Trade in Goods

At the 10-11 June 2020 meeting of the Council for Trade in Goods, WTO members addressed a range of trade concerns. The following trade concerns involved territories in Asia:

- EU's carbon border adjustment charge

The European Green Deal announced in December 2019 includes implementation of a carbon border adjustment charge. This involves levying a tax corresponding to the carbon footprint of an import from outside the EU. Countries expressed concerns with the consistency of such a measure with WTO rules against discrimination, and sought clarity on implementation timelines and affected products.

The EU assured WTO members that such carbon leakage initiatives will be designed in a WTO-compatible manner. In terms of timeframes, public consultations are being held in 2020 and announcements for the first tranche of affected sectors will be made in 2021.

- US's restrictions on bulk power and information and communication technology (ICT)

China raised concerns that two measures from the US may lead to the abuse of the national security exceptions in WTO rules. The first relates to the US' Executive Order on Securing the United States Bulk-Power System, issued on 1 May 2020. In that Order, the US prohibited the use of certain foreign components in the US power grid - specifically, bulk power equipment and parts with foreign "adversary" origin deemed to pose a threat to US national security. China requested a definition of foreign adversaries and sought assurance that normal business activities will not be impeded. Secondly, China highlighted that US' restrictions on ICT are impacting trade flows for sectors that are critical in the COVID-19 crisis.

The US noted that the Goods Council was not the right forum for discussions on issues relating to national security.

- Revisions to joint proposal to enhance transparency obligations

The US made revisions to a joint proposal aimed at enhancing compliance with transparency obligations. Amongst other changes, the revision introduced an exemption for least-developed countries (LDCs) such that under certain conditions, they will not be penalised for failing to submit required information on trade measures and other policies to the WTO in a timely manner.

The UK signalled its intention to sign as the twelfth co-sponsor of the proposal. Members of the LDC Group said they will consult further with their respective capitals. Other countries including Thailand, Bangladesh, China and India opposed the use of punitive measures for delayed notifications.

- China's import restrictions on recyclable materials

In April 2020, China approved a revised law on solid waste management which imposes import restrictions on recyclable materials. The US raised concerns that it sets differing requirements for foreign and domestic commodities which runs contrary to WTO rules on non-discrimination, and that the law heightens the risk that scrap will end up in landfills and seas.

China noted disposal activities and their residue have led to pollution in the past, and that each country has the mandate to manage its solid waste.

- India's import restrictions on peas, lentils, beans and other pulses

A number of countries expressed concern that India's import restrictions on peas, lentils, beans and other pulses do not conform with WTO rules. For instance, India extended quantitative restrictions on pulses to 31 March 2021, and has a quota of zero for yellow peas for 2021. Countries noted that a three-year extension does not constitute a temporary measure.

India responded that the measures are required to secure the livelihood of farmers amidst domestic surplus and that it will continue to review the situation.

- Korea's proposal for an authoritative interpretation of the "enabling clause"

The "enabling clause" is an exemption to the principle of non-discrimination. Korea proposed to use this clause to permit non-reciprocal tariff preferences to be granted by developing countries to LDCs. Currently, a 1999 waiver is renewed every 10 years to give developing countries such means. China and India expressed support.

## Latest World Tariff Profiles published

On 6 July 2020, the WTO, UNCTAD and ITC released the 2020 version of World Tariff Profiles. The statistical publication contains a compilation of the key tariff and non-tariff parameters for the 164 WTO members plus other territories, where data is available.

It provides an overview of each territory's average "bound" or maximum tariff it may apply to its imports, and the average tariff it applies in practice. It also summarises the import tariffs applied by product groups and trading partners, and statistics on non-tariff measures including safeguards and anti-dumping measures.

In this edition, the publication also examined market access to medical goods related to COVID-19. The average tariff applied by WTO members for all medical products is 4.8%, with the highest tariffs (11.5%) applied to personal protective products.

The World Tariff Profiles 2020 publication can be accessed here: [https://www.wto.org/english/res\\_e/booksp\\_e/tariff\\_profiles20\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/tariff_profiles20_e.pdf)

## 2020 edition of World Trade Statistical Review published

The WTO issued the latest edition of its flagship annual publication on international trade statistics on 31 July 2020. The World Trade Statistical Review 2020 examines global trade trends, and analyses the trade in goods and services and in value-added terms. It reviews major changes impacting trade in recent years, the countries that are leading traders, and the performance of various countries and regions. This edition also includes an analysis of the impact of COVID-19 on trade and the outlook for the year.

The World Trade Statistical Review 2020 can be accessed here:

[https://www.wto.org/english/res\\_e/statis\\_e/wts2020\\_e/wts20\\_toc\\_e.htm](https://www.wto.org/english/res_e/statis_e/wts2020_e/wts20_toc_e.htm)

## Disputes at the WTO

In the period of June and July, the following disputes involving territories in Asia have been progressing via the WTO Dispute Settlement Mechanism:

Dispute initiated by	Dispute initiated against	Affected products	Summary	Reference no.
Honduras  Dominican Republic	Australia	Tobacco products	<p>On 9 June 2020, the WTO Appellate Body issued its reports in cases brought by Honduras (DS435) and the Dominican Republic (DS441) against Australia. The cases pertain to Australia's imposition of certain restrictions on trademarks, geographical indications, and other plain packaging requirements on all tobacco products sold, offered for sale, or otherwise supplied in Australia.</p> <p>In its reports, the Appellate Body found that the appellants failed to demonstrate that the tobacco plain packaging measures were more trade restrictive than necessary to fulfil a legitimate objective under Article 2.2 of the Technical Barriers to Trade Agreement; and failed to demonstrate that the same measures are inconsistent with Articles 16.1 and 20 of the TRIPS Agreement.</p> <p>As a result, the Appellate Body upheld the Panel's findings and no recommendations were made to the Dispute Settlement Body. This landmark decision concludes that Australia's plain packaging laws do not flout WTO laws and marks the end of almost a decade of legal tussles. It is expected to pave the way for other countries to follow suit.</p> <p>The full report can be accessed here:  <a href="https://www.wto.org/english/tratop_e/dispu_e/435_441abr_e.pdf">https://www.wto.org/english/tratop_e/dispu_e/435_441abr_e.pdf</a></p>	WT/DS435/28  WT/DS441/29



Dispute initiated by	Dispute initiated against	Affected products	Summary	Reference no.
EU	India	Certain information and communications technology (ICT) goods	<p>This is the EU's second request for the establishment of a panel, after its first request was blocked on 5 March 2020.</p> <p>The EU alleges that India has introduced measures that regularly increase import duties on certain ICT products, at times up to 20%. Consultations were held by the complainants with India, but failed to resolve the dispute. The EU requested for India to agree to the establishment of a single panel as similar complaints and arguments over the same products have been made by Japan and Taiwan, ROC (see below).</p> <p>India alleges the EU is seeking to take advantage of an error it made when transposing its tariff lines to an updated HS, and requiring India to agree to commitments under the expanded Information Technology Agreement (ITA-II). It rejected the establishment of a single panel to hear Japan and Taiwan, ROC's complaints.</p> <p>On 29 June 2020, the Dispute Settlement Body (DSB) established a panel.</p>	WT/DS582/9
Japan Taiwan, ROC	India	Certain information and communications technology (ICT) goods	<p>Similar to the EU (see above), Japan and Taiwan, ROC requested the establishment of a panel over the same issue. India did not agree to the establishment of the panels.</p> <p>The DSB agreed to establish a panel.</p>	WT/DS584/9 WT/DS588/7
Korea	Japan	<p>Products used in the production of semiconductors, and smartphones and television displays.</p> <p>This includes fluorinated polyimide, resist polymers, and hydrogen fluoride.</p>	<p>Korea alleges that Japan's revised export licensing policies and procedures have resulted in delays, uncertainty, cost and other negative impacts for Korean importers and are inconsistent with WTO rules.</p> <p>Korea and Japan held consultations on 11 September 2019, but failed to arrive at a mutually acceptable solution. On 19 June 2020, Korea requested for the establishment of a panel.</p> <p>Japan responded that the export licensing requirements relate to dual-use items that have military applications, and that the WTO rules permit members to adopt export control policies and systems and decide on the manner of enforcement.</p> <p>The US noted that the matter was not appropriate for adjudication in the WTO in so far as it relates to national security considerations.</p> <p>Nonetheless, the DSB agreed to establish a panel.</p>	WT/DS590/4

Dispute initiated by	Dispute initiated against	Affected products	Summary	Reference no.
Indonesia	EU	Palm oil and oil palm crop-based biofuels	Following failed consultations, Indonesia requested the establishment of a panel to rule on measures adopted by the EU that it deems to be inconsistent with WTO rules. The EU said its measures are justified and was not ready to accept establishment of a panel. Malaysia expressed concerns with the EU's measures, viewing them as trade distortive.  The DSB will establish a panel.	WT/DS593/9

## Safeguards investigations initiated

The following safeguard investigations were initiated in June or July. Interested parties are invited to submit their views and present evidence to the respective national authority.

Initiated by	Affected products
Indonesia	Carpets and other textile floor coverings
Philippines	<ul style="list-style-type: none"> <li>Aluminum zinc sheets, coils and strips</li> <li>Prepainted galvanized iron and prepainted aluminum zinc; and</li> <li>Galvanized iron sheets, coils and strips</li> </ul>



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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 June / July 2020 and were based on the law enforceable and information available at that time.

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