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Trade Intelligence Asia Pacific
December 2020/January 2021



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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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FTAigue (n) - extreme tiredness resulting from too many FTAs

Can RCEP break the trend?

2020 was a tough year for international trade. Headlines were dominated by the negative impact of COVID-19, neverending Brexit discussions and the ongoing China-US trade war. While the slowdown in global trade was no surprise given COVID-19, the growing pressure put on free trade has been more worrying. At least to us free trade believers.

The signing of the Regional Comprehensive Partnership (RCEP) in November last year therefore came at a great time, sending a very positive message on how the leading economies in the Asia-Pacific are looking towards free trade to promote economic growth and recovery. While the agreement is only expected to enter into force in late 2021 or early 2022, the signing had an immediate impact. There has been a lot of positive messaging in the media, and for once a trade agreement is getting the attention of senior executives within organisations.

However, if you are familiar with free trade agreements (FTAs), you will know that the Asia Pacific is already flooded with multiple FTAs. Aside from RCEP being the first trade agreement linking China, Japan and South Korea (which is a big deal in itself), the remaining RCEP members already have multiple trade agreements with one another that can be used today. So there are also many less optimistic views out there on what the RCEP noodle actually will add to the bowl.

So what does RCEP actually mean to businesses? What can and should businesses be doing with RCEP in specific, and FTAs in general when planning for the future? In this article we will not so much focus on the technical content and wording of RCEP, but consider what it means in the context of broader business development and supply chain structuring questions. This is what we believe companies in Asia should be prioritising in order to understand what RCEP brings to the table and how it can be used as a trigger for optimising an overall FTA strategy.

Nevertheless, having a basic understanding of RCEP contents is important to understand where we are coming from in this article. Therefore, before sharing our thoughts on RCEP 'management', we have prepared a brief summary of RCEP in the next section to make sure everyone is up to speed on what it is.

A Snapshot of RCEP...

The basics...

RCEP is an FTA between the 10 ASEAN member states of Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam, as well as Australia, China, Japan, New Zealand and South Korea. When RCEP enters into force it will be the world's largest FTA when measured by combined GDP (26 trillion dollars), population (2.27 billion) and total export value (5.2 trillion dollars) of signatory parties.

An important fact is that RCEP does not replace any of the existing FTAs that its signatories already have between them, either on a multilateral or bilateral basis. Instead, it adds an additional dimension to regional economic collaboration. Although RCEP is not quite as wide or deep as many had hoped for, its final text has still exceeded the expectations of many observers. The agreement includes 20 chapters in total, covering commitments in areas such as trade in goods, trade in services, investments, intellectual property, e-commerce, competition, government procurement and dispute settlement. Some commitments are relatively deep, such as duty preferences, whereas others are very shallow, such as for government procurement.

Before entering fully into force, the RCEP will require a ratification process to be completed by all member countries. The agreement will only take effect after at least six ASEAN member states and three non-ASEAN member states have completed ratification, and then only for trade between those countries that have ratified it. This can sometimes be a relatively quick process, but can take years in some countries. We expect the agreement to enter into force for most members either in the later part of 2021 or in early 2022.



Main advantages.

The trade in goods chapter will likely be the most important and immediately impactful chapter of the RCEP for most companies. Key provisions under this chapter that may give RCEP an edge over existing agreements include:

A single rule of origin - All members have agreed to apply consistent rules of origin for all products. This is a critical benefit under RCEP as companies do not have to worry about satisfying multiple rules across different agreements.

Wider cumulation - Originating materials from any RCEP member can count as originating content when used in another member as inputs in the production of a finished product. This will be an important benefit over other available FTAs as it offers greater flexibility on sourcing and production.

Flexibility on the proof of origin - A notable provision that is not present in many other agreements in Asia is the gradual introduction of self-certification of origin.

Duty refunds - Importers who do not claim RCEP benefits at the time of importation may retroactively apply for duty refunds based on the duty rate under RCEP.

For more specific details on the coverage of the agreement, refer to our separate publication [here](#).

How can and should businesses respond to the RCEP?

Let's start with the basics. If you are looking to understand what specific benefits RCEP will offer, you need to perform an impact assessment. For this, there are no secret shortcuts that will quickly tell you what RCEP means to your company. You need to dive into the details of the agreement and evaluate it based on your current (and/or future) operations, product flows and objectives. This may sound simple enough, but it is a first hurdle where we see many companies fail. Often they simply do not do their homework to fully understand the actual benefits. This is not unique to RCEP and applies to all FTAs. Despite what many articles try to make you believe, you cannot draw good conclusions for your own organisation based on some alleged impact on an industry, or a territory, as a whole. It may well be that your competitors get a massive advantage over you simply because they are contract manufacturing and you are toll manufacturing, to give a simple example.

Having said that, the reality is that RCEP is not expected to offer many new benefits to many companies. Especially to those that are already leveraging FTAs, at least from a tariff perspective. This is mainly a result of all the existing FTAs available in Asia Pacific and between RCEP members. While RCEP may be a big deal given its size, it does not replace any of the existing FTAs that you can already benefit from today, and may not offer anything new for your specific business operations. Nevertheless, if an RCEP review leads to (better) use of other FTAs, it would still have some value for you. Therefore, all possible trade agreements available should be reviewed and taken into consideration to understand what work(s) best for you. This is where a broader FTA impact assessment could add tremendous value to an organisation.

Let's look at an example focusing on duty preferences to see how what sounds straightforward can get quite complicated in practice quite quickly.



A complicated example...

Let us assume you are looking to bring a new product to market over a five year horizon and want to prioritise and optimise your duty footprint.

Your starting point has nothing to do with RCEP, or FTAs in general. You need to determine the appropriate tariff classification of these products. That is not the topic of this article, but don't underestimate the effort required, especially for new products not easily catered for in current tariffs. Using an automatic classification tool may be tempting, but would not give you much support if you are challenged by any specific customs authority. Disagreements between authorities on appropriate tariff classification is a very common reason why FTA use fails. A strong rationale, and perhaps some rulings, would be a wise idea.

Now you have a supportable tariff code, you need to identify the tariff preferences ("margin of preference", in jargon) offered under all applicable FTAs to understand which agreement offers the best duty access. Sometimes you can just look this up in an online tariff schedule, but often the information is hard to get and not necessarily trustworthy. That's not so great if you are making multi-million dollar decisions on supply chain structuring. So best get this right, not just for today, but for the next five years, at least. By doing such an analysis, you may find that for your new product, in some customer markets RCEP will offer the best tariff benefit, but only if it is made in one of 10 RCEP members, not the other five. You may also find that for an existing product, RCEP offers a better rate than what you are getting today under the ASEAN-China FTA, but only after 3 years. And who knows, the preferential rate may only apply to a certain volume of such products, from you or any of your competitors.

As you can imagine, if you are using multiple manufacturing locations and plan trade flows across the entire region, there are plenty of scenarios to cover. Unfortunately there are no secret shortcuts (again!) and you need to look through all the relevant agreements and tariff schedules (which each can be thousands of pages!) to determine the "best" rate that will apply for each product and flow. This is another hurdle which many companies don't get past, leading them either to give up, or to "Manage By Hope".

Still with us? Let's then make things a bit more complicated. Identifying the "best" tariff rate is not the end of this road. There are many reasons this rate may not apply to your product.

- You may not meet the origin qualifying rule specific to the FTA and specific to the product. This rule can vary, often subtly, by agreement.
- You may do your final stage processing in the wrong country, or your final stage process makes you "lose" origin.
- You may not be able to "cumulate" the value of materials of subcomponents or materials if they come from the wrong place or come without the required documents.
- You may not be able to meet the supply chain rules specific to the FTA. Provisions on direct shipment, invoice flows, the format of certificates of origin etc. are just some considerations that you will need to assess based on your company's supply chain.
- You cannot get the required paperwork.

All, and more, of the above considerations may determine that your products only qualify under a particular agreement. This should feed into your supply chain decisions on where to source, where to process, and where to sell. And those considerations need to be reviewed real-time, or at least at regular intervals. It may not be possible to build a new plant purely for FTA purposes, but it may well be possible to change sourcing, swap production between facilities, sell to different markets and so on and so forth. Or simply change the agreement you use.

In short, no shortage of complexity. And we are only looking at duty preference. No wonder many companies struggle. A common challenge is often in managing all the stakeholders, be they internal or external.

Internally, product design can easily have an unintended impact on product tariff classification and therefore FTA eligibility. Sourcing and production decisions similarly can ruin any ability to benefit from RCEP duty rates. Sales and marketing executives may choose target markets where you simply cannot be competitive because you cannot use any FTA. This is especially impactful in industries and for products with low margins.

Externally, priorities and interests of various parties are typically not aligned. The manufacturer/exporter must manage compliance, the importer reaps the benefits and takes on the risk, while core supply chain decisions often are made centrally by a principal company somewhere else. Third party suppliers, particularly smaller ones, usually have no idea about tariff classification and FTAs. This is the reality in modern supply chains which often result in FTA responsibilities being overlooked or dismissed. We come across many companies who get lost in the details and are discouraged by the level of work required. And what is the result you may wonder? The sad truth is that such companies simply do not take full advantage of the benefits at offer. In their defence, it may be a result of how the media and governments tend to report on FTAs. Focusing more on the "expected" macroeconomic benefits without reporting (and understanding) the details and practical challenges companies face on a day to day basis.



Looking beyond trade in goods...

The level of RCEP complexity does not necessarily end here. So far we have focused on the trade in goods chapters of the RCEP and optimising your tariff reduction strategy. This is mainly because tariff benefits tend to be of most importance and interest to companies. But what about all the other chapters in RCEP and FTAs in general?

We already know Asia is flooded with FTAs and how, as a result, many question the actual impact of RCEP. This is a valid point. However, one of the main and underlying objectives of RCEP, which is often overlooked, is the intention of building on existing FTAs to put in place a modern and comprehensive FTA that is ready for the future, and set a foundation to tackle changing and future trade realities. This has been achieved by updating and expanding the coverage of the existing ASEAN Plus One FTAs in areas such as services and investments, and by including specific chapters on facilitating e-commerce, and SMEs' use of FTAs. RCEP also goes into further depth and detail on customs procedures and trade facilitation compared to existing agreements.

To briefly return to our example, the new product may need servicing either physically or remotely. The ability to create an in-market servicing company, send in engineers, or provide remote services, would be covered in the investment chapter, the chapter on movement of qualified labour, and RCEP members' schedules of allowable services. For the latter, some members have provided lists of all allowable services (positive list), whereas others have opened up everything bar some specifically listed (negative list). The related provisions may be hidden in many thousands of pages of text. In our experience, few companies have the interest, let alone the wherewithal, to look into this.

The reality is that most companies have a very limited understanding of what the benefits actually are, tariff or otherwise. If you are looking to optimise your use of the RCEP, you should consider all aspects of the agreement to understand what aspects can add value to your company, beyond other FTAs or general rules. A brief review of China's services schedule, for example, suggests that RCEP offers little in addition to what is already generally allowable. But the devil is in the detail, and even a single small addition can make a massive difference to your particular company.

Many companies will try to avoid the problem and just say that these other RCEP aspects are not of great importance to them. That would then justify why nobody within their organisation has the specific responsibility for looking at the non-trade-in-goods aspects to understand the benefits available and decide what to do with them. Obviously, we would not recommend such an ostrich approach to FTA management.

Creating opportunities - the best in class approach...

Optimising your FTA strategy is clearly not easy. But the good news is that with the right mindset and approach you can actually create a lot of value to your organisation. At the end of the day, what matters to companies is how to create value that benefits the organisation in the short, medium and long term. This is exactly what the right FTA strategy can achieve.

More often than not, we see companies treating FTAs in isolation. Even companies who do it well often start by treating FTA management as an afterthought. So how can that change and what should you do if you want to be best in class and create a competitive advantage for your company? The answer to this

question is surprisingly simple. And that is to make sure your FTA strategy aligns with your overall company strategy, is supported and understood by upper management, and is considered when important supply chain decisions are being made. This requires making sure sufficient time and resources are invested to get it right. If FTAs receive the attention and priority they deserve within your organisation, better and more informed decisions can be made on how to use and leverage FTAs to create the most, and most sustainable, value.

The idea of optimising your FTA strategy will only become more relevant as proven by recent events. The COVID-19 pandemic, the US-China trade war and Brexit are recent and current challenges that have forced many companies in Asia-Pacific to start thinking about long term supply chain planning. Building a more resilient business model and being prepared to respond to disruption are key priorities for many companies today and will likely become more important going forward. For example, if your company is looking to expand in the region, is worried about single sourcing, is thinking about reengineering your supply chain, or simply looking at ways to cut cost or stay more relevant, FTAs in general, and RCEP in particular can and should be an important aspect discussed and evaluated at the right level within the organisation. Even if it does not provide any immediate benefits, the additional insight and consideration will ensure better and more future-proof supply chain decisions are taken.

Key takeaways...

Making sure that you take full advantage of RCEP's benefits while managing its complicated compliance is not easy. Doing the same for any other FTA would be the same. Let alone taking them all on together. It takes effort, resources and a significant amount of time if you want to get it right. But at the end of the day it is important to understand that FTA use is not a right, it is a privilege that potentially offers your company a great advantage and should therefore be treated accordingly. It is also treated by the authorities as a privilege, hence any shortcuts can have serious consequences.

If you want to make the most of FTAs you should make sure there are clearly defined responsibilities within your organisation. Who is ultimately responsible, who performs the analyses, who manages compliance, who makes sure FTA preferences are always claimed when they are available, etc. These are questions that are of increasing importance to every company. The allocation of those responsibilities should be clear if you are looking to optimise your company's FTA use.

Based on our experience, having buy-in from senior management to make sure FTA management is considered when important business or supply chain decisions are made is crucial. One of the biggest benefits of RCEP, or at least the reporting on it, is that such senior management is currently acutely aware and probably worried about the impact of RCEP on their business. So the time is right to get them on the bandwagon of proactive FTA management by making sure the right resources (internal or external) are made available.

We are not quite pushing for the CFO to be a "Chief FTA Officer" rather than a "Chief Finance Officer". But in reality, CFOs that are eagerly pursuing half a percent drop in Effective Tax Rate while missing out on tariff costs reductions amounting to multiples of that are not doing their companies much good. With the right processes, procedures and allocation of responsibilities, RCEP can add tremendous value to your company. So... what are you waiting for?

Electronic exchange of ACDD through ASW goes live

As of 31 December 2020, ASEAN member states can utilise the electronic exchange of ASEAN Customs Declaration Document (ACDD) through the ASEAN Single Window (ASW). The ACDD is an electronic document to facilitate the exchange of declaration information between ASEAN members. This is expected to provide benefits such as shorter customs clearance timing for exporters, improved consistency, and reduced risk of entry errors. However, as exporters are less scrutinised by authorities, they tend to be less diligent with the accuracy of information that they provide in their export documents. This practice exposes corresponding importers to a significant risk, and they should therefore be mindful and extra careful with the information that they receive especially with the implementation of the ACDD.

Participation in the ACDD is optional but is open to all companies exporting to ASEAN members that have implemented the system. As of writing, Cambodia, Myanmar and Singapore are the only ASEAN members that are exchange-ready. More ASEAN members are expected to participate when they are ready to commence operations of the system.

For more information on how to participate in the electronic exchange of ACDD, please visit the following links:

<https://www.customs.gov.sg/news-and-media/circulars/2020-12-31-Circular142020.pdf>

[https://www.customs.gov.sg/businesses/international-data-exchange/acdd#:~:text=The%20ASEAN%20Customs%20Declaration%20Document%20\(ACDD\)%20is%20an%20electronic%20document,information%20between%20exchange%2Dready%20AMS.](https://www.customs.gov.sg/businesses/international-data-exchange/acdd#:~:text=The%20ASEAN%20Customs%20Declaration%20Document%20(ACDD)%20is%20an%20electronic%20document,information%20between%20exchange%2Dready%20AMS.)

Brunei's priorities as ASEAN Chair

The ASEAN chairmanship rotates to a new member state at the start of each calendar year. The member state assuming the chairmanship is in-charge of ASEAN summits and important meetings.

Brunei has taken over the ASEAN chairmanship for 2021. It hosted its first official meeting, the ASEAN Senior Economic Official Meeting retreat, via video conference on 11 January 2021. As the Chair, Brunei proposed 10 priority deliverables for the year. These are divided into three focus areas: recovery, digitalization, and sustainability.

Recovery	Digitalisation	Sustainability
Assessment of non-tariff measures	Workplan on the implementation of the ASEAN Agreement on e-commerce 2021-2025	ASEAN framework to support small-producers, cooperatives, and MSMEs in the food, agriculture, and forestry sector
Post-COVID recovery plan for ASEAN tourism sector	Regional action plan on the implementation of the norms of responsible state behavior in cyberspace	ASEAN Joint declaration on Energy transitions and energy security
Launch the negotiation for an ASEAN-Canada Free Trade Agreement	-	Framework for circular economy
ASEAN Investment Facilitation Framework	-	Imperatives for Regional Cooperation in Minerals: Key recommendations to responds to the opportunities and challenges of minerals-intensive future

The territory also hosted the ASEAN Foreign Ministers' retreat meeting on 21 January where several topics were discussed, among them:

- COVID-19 response and recovery strategies;
- establishment of the ASEAN Travel Corridor Arrangement Framework;
- early ratification and implementation of the Regional Comprehensive Economic Partnership (RCEP);
- progress on the deliberation of Timor-Leste's application for ASEAN membership.

Export controls

The US makes multiple amendments to its Export Administration Regulations

The US Department of Commerce's Bureau of Industry and Security (BIS) made various amendments to the Export Administration Regulations (EAR) in December 2020 and January 2021:

1. Removal of the differential and preferential treatment of Hong Kong under the EAR

On 23 December 2020, the BIS amended the EAR by implementing Executive Order 13936 which specifically removes prior provisions allowing a differential and preferential treatment for exports, re-exports and transfers of goods to Hong Kong (as distinct from Mainland China). The executive order is available at: <https://www.federalregister.gov/documents/2020/07/17/2020-15646/the-presidents-executive-order-on-hong-kong-normalization>.

Notable changes include:

- Hong Kong's Territory Grouping and related licensing exceptions to mirror China's;
- Removal of Hong Kong License Exception Suspension provision;
- Consolidating Entity and Unverified Lists of Hong Kong entities with those of China;
- Electronic Export Information (EEI) Filing requirements to apply to exports to Hong Kong
- China specific licensing policies to apply Hong Kong, including those for Military End-Use and End-User Restrictions;
- Exports to Hong Kong are now covered under the Foreign Direct Product Licensing Requirements;

These changes result in Hong Kong being subject to similar licensing requirements and provisions as applying to China. There have not yet been any reports on potential updates to Executive Orders by the new Biden administration.

2. A new "Military End User List" to target Chinese and Russian entities

On 23 December 2020, the BIS amended the EAR by adding a "Military End User List" as supplement to part 744 of the EAR. This list adds a total of 102 entities from China, Russia and Venezuela. Entities on the "Military End User List" are subject to license requirements on the export, reexport or in-territory transfer of goods covered in Supplement No. 2 to part 744 of the EAR.

3. Re-categorisation of Cyprus, Mexico and Ukraine under the EAR

On 28 December 2020, the BIS re-categorised Cyprus, Mexico and Ukraine into less restrictive, permissive territory groups due to these territories' commitments to multilateral export control regimes and parallel national security policies. A general overview of the grouping of territories under the EAR can be found [here](#), with Group A being the least restrictive and Group E covering territories with sanctions and embargoes in place.

The key impacts of this re-categorisation are:

(i) Ukraine moving from Group D to Group B:

- Additional license exceptions provided under part 740 of the EAR
- More lenient licensing policy
- Fewer export restrictions provided under parts 744 and 736 of the EAR

(ii) Addition of Cyprus and Mexico to Territory Group A:6:

- License Exception Strategic Trade Authorization to be available for exports, reexports and in-territory transfers of less sensitive goods controlled for National Security reasons (allowing part 740 of the EAR).



Changes to China's export licensing regime for commercial cryptography items

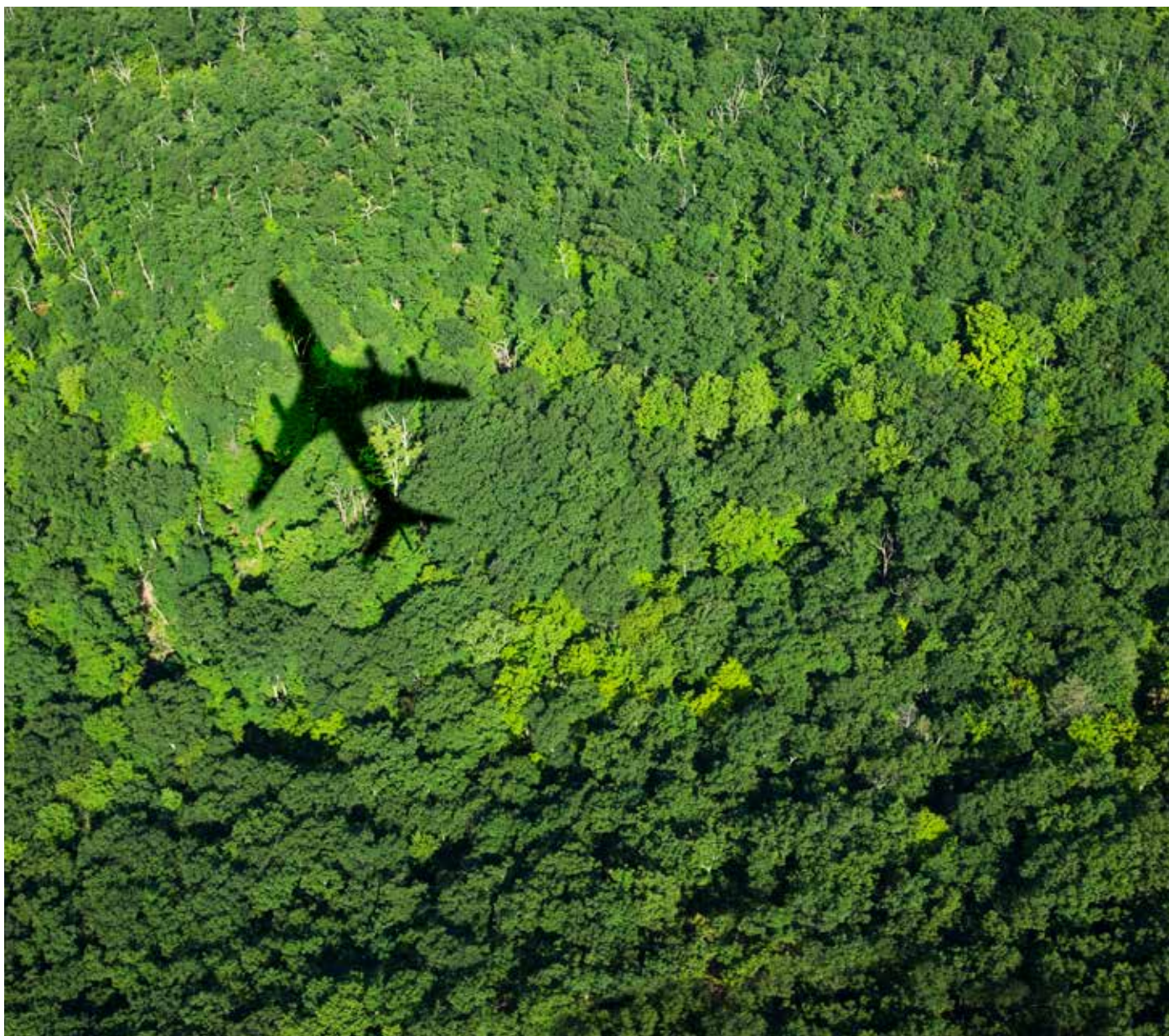
On 2 December 2020, the Ministry of Commerce, the State Cryptography Administration, and the General Administration of Customs jointly issued an "Announcement on Issuing the Import Licensing List and Export Control List of Commercial Cryptography and Relevant Administrative Measures". The announcement came into effect on 1 January 2021. Refer to our [China territory report](#) for more details.

China issues new Blocking Rules supporting Chinese entities and persons targeted by foreign measures

On 10 January 2021, China's Ministry of Commerce (MOFCOM) put into effect the Rules on Counteracting Unjustified Extra-Territorial Application of Foreign Legislation and Other Measures (the "Blocking Rules"). The Blocking Rules will take effect should any application of foreign legislation impedes, prohibits or restricts Chinese persons or entities in the eyes of the Chinese regulators from engaging in normal economic and trade related activities with their foreign counterparts.

Most notably, the Blocking Rules include an avenue for Chinese entities and persons affected by an entity's compliance with a foreign measure to seek legal proceedings and claim compensation in a Chinese court from that entity. The Chinese government also announced support for Chinese persons and entities who suffer significant losses due to foreign intervention in economic or trade related activities.

Refer to our [China territory report](#) for more details.



Agreements entered into force	Date
ASEAN - Hong Kong, China Free Trade Agreement (AHKFTA)*	12 February 2021
Japan - UK CEPA	1 January 2021
Korea - UK FTA	1 January 2021
Singapore - UK FTA **	11 February 2021
Vietnam - UK FTA	31 December 2020

*Full entry into force after Cambodia's ratification

Agreements signed	Date
Indonesia-Korea Comprehensive Economic Partnership Agreement (IKCEPA)	18 December 2020

AHKFTA enters into full effect

The ASEAN - Hong Kong, China FTA (AHKFTA) had previously entered into force for Hong Kong and the ASEAN Member States that had completed their internal procedures for ratification. With the recent entry into force by Cambodia, the AHKFTA has finally entered into force in full.

The dates of entry into force of the AHKFTA for respective ASEAN Member States are summarized below:

Entry into force	Member state
11 June 2019	Laos, Myanmar, Singapore, Thailand and Vietnam
13 October 2019	Malaysia
12 May 2020	The Philippines
4 July 2020	Indonesia
20 October 2020	Brunei Darussalam
12 February 2021	Cambodia

UK continuity agreements with Japan, Singapore, Korea and Vietnam enter into force

Following the end of the transition period for UK's exit from the EU, EU trade agreements no longer apply to trade with the UK. The UK's continuity agreements with four territories - Japan, Singapore, Korea and Vietnam - have entered into force over the new year.

- [Japan-UK Comprehensive Economic Partnership Agreement \(CEPA\)](#)
 The agreement entered into force on 1 January 2021. Refer to our [October-November 2020 edition of Trade Intelligence](#) for a detailed comparison of the Japan-UK and Japan-EU agreements.

- [Korea - UK FTA enters into force](#)
 The agreement entered into force on 1 January 2021. The agreement reached by both parties is similar to what was applied under Korea-EU FTA in terms of tariff treatment for goods. However, the treatment and benefits under the trade deal are only temporary and parties have to renegotiate the content of the agreement within two years. Under the agreement, EU materials may be cumulated into Korean or UK products, but certain conditions have to be met.

Both parties have also agreed that EU materials or processing used in UK or South Korean goods are still considered originating under the Korea - UK FTA.

- [Singapore-UK FTA](#)
 The agreement entered into force on 11 February 2021. It follows the benefits and preferences offered under the Singapore-EU FTA, including the same tariff reduction schedule, i.e., the timeline for tariff reduction/elimination will follow the EU-Singapore FTA's entry into force on 21 November 2019. Singapore's FTA with the UK contains certain cumulation rules that may allow EU or ASEAN content to be cumulated, but the conditions are complex and need to be carefully evaluated on a case-by-case basis.
- [Vietnam-UK FTA](#)
 The agreement entered into force on 31 December 2020. Tariff commitments remain the same as under the Vietnam-EU EPA, meaning that there are no changes to preferential rates available. Important sectors that will enjoy benefits for Vietnam exporters to the UK include textiles, footwear and seafood. The UK's top exports to Vietnam that will enjoy preferential tariffs under the agreement include pharmaceutical products, machinery, and chemicals.

Changes have been made to tariff rate quotas. On the Rules of Origin, both parties agreed that EU materials incorporated into the UK or Vietnamese goods are considered originating under VUKFTA.

Importers and exporters who are affected by the above changes should confirm whether new rules of origin and preferential duty rates, if any, apply to their products.

Australia to explore new FTAs with EFTA and Israel

The Australian Government has announced that the Department of Foreign Affairs and Trade (DFAT) will commence feasibility studies to scope the benefits of FTAs with the European Free Trade Association (EFTA), comprising Iceland, Liechtenstein, Norway and Switzerland, as well as Israel.

As there is currently no bilateral FTA in place with EFTA territories or Israel, the proposed agreements will present new export and investment opportunities for Australian businesses whilst also supporting existing negotiations to secure an ambitious FTA with the EU.

Australia and India in talks for an FTA

During an interview with the Australia-based foreign policy group, India officials shared that the territory is in talks with Australia to discuss the possibility of a bilateral free trade agreement. This is only one of India's economic strategies to deal with the possible impacts from the territory's withdrawal from the Regional Comprehensive Economic Partnership Agreement (RCEP). India is banking on its defence ties with the Australian government and plans to leverage this to have greater trade relationships through an FTA.

Bangladesh in trade talks with ASEAN to strike an FTA deal

In December 2020, the Commerce Secretary of Bangladesh had forwarded a signed negotiation letter to the ASEAN headquarters to formally start negotiations for an FTA with the trade bloc. This is in preparation for the anticipated graduation of Bangladesh from the UN's 'least developed territory' status to a 'developing territory' in 2024. Once the transition has been completed, all the tariff benefits that the territory is enjoying as a Least Developed territory will be lifted.

Bangladesh's main objectives for pursuing a trade deal with ASEAN are to access the trade bloc's huge market, safeguard tariff preferences after the graduation to 'developing territory' status, and bypass the need to negotiate bilateral trade agreements with the individual members of ASEAN. Currently, Bangladesh is in negotiations with Indonesia for a Preferential Trade Agreement for selected goods, but has hit a roadblock due to some disagreements, particularly on Bangladesh's primary export goods such as garments. This particular issue may remain in Bangladesh's negotiations with the region and could potentially make it difficult to strike a deal.

Indonesia and South Korea formally ink trade pact

After eight years of negotiations, Indonesia and South Korea officially signed the Indonesia-Korea Comprehensive Economic Partnership Agreement (IKCEPA) on 18 December 2020. The agreement reached by the two parties is said to have greater coverage than the Regional Comprehensive Economic Partnership Agreement (RCEP) and ASEAN-Korea FTA (AKFTA). Under IKCEPA, South Korea will eliminate tariffs on 95.8% of its

tariff lines, and in return, Indonesia will remove tariffs on 92.06% of its tariff lines.

In addition to what is already covered by RCEP, Indonesia has provided tariff preferences or shortened periods of duty reduction on certain goods. These goods include South Korea's primary exports such as automobiles, steel products and vehicle parts and components. For instance, Indonesia will eliminate tariffs on vehicle parts and components, and certain chemical products, more quickly than under the RCEP. Other notable benefits under the agreement are that Indonesia has opened up more of its online gaming service market, and improved foreign investment equity restrictions in the retail and construction sectors.

After the two parties have completed their domestic procedures in ratifying the agreement, business from both parties can start utilising the preferential treatment offered under the trade agreement.

Philippines looking to join the CPTPP

After signing the Regional Comprehensive Economic Partnership (RCEP) Agreement on 15 November 2020, the Philippines is now gearing up to join another multilateral trade agreement. The 11-member Comprehensive and Progressive Trans-Pacific Partnership or CPTPP will be the Philippines' next focus to add to its FTA portfolio to boost its trade relations with other nations and create more investment opportunities and jobs in the territory.

Philippines and South Korea extend target to sign FTA

As we have pointed out in previous Trade Intelligence editions, the Philippines and South Korea's initial timeline of completing trade talks for an FTA by November 2019 turned out to be too ambitious and unrealistic. The two parties remain at the negotiation table and set the first quarter of 2021 as their new deadline. The root cause of the said delay is a disagreement on the contents of the Market Access section of the FTA.

Specifically, the Philippines is trying to persuade South Korea to cut down its current 30% duty rate on Philippine agricultural products, particularly bananas and mangoes, to at most five percent. On the other hand, South Korea is requesting the Philippines to eliminate its tariff for cars. South Korea would also like the Philippines to extend preferences to auto parts and other industrial products. One proposal put forward by the negotiators to resolve the issue is for South Korea to invest in the Philippines and carry out car manufacturing in the territory. As at the time of reporting, there has been no confirmation on whether South Korea would accept such a proposal.

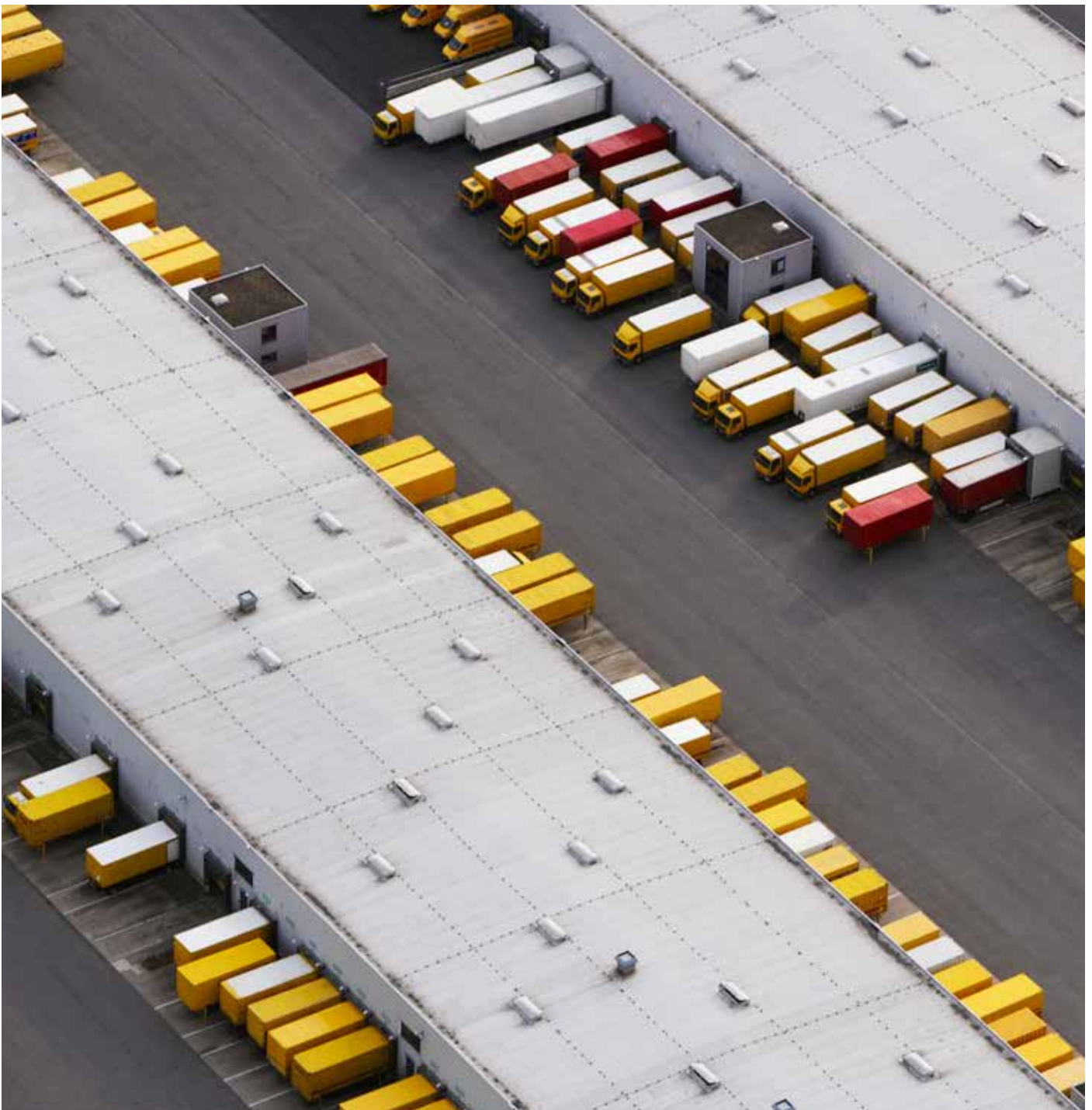
US GSP expires for the Philippines

As of 1 January 2021, Philippine exports to the US will no longer be able to benefit from preferential duty access under the US Generalised System of Preferences (GSP) scheme. This means such products will be subject to standard customs duty rates in the US.

The renewal of the Philippines GSP status is under discussion. The US Congress has not made a formal decision at the time of writing. Should the US Congress renew the Philippines status, importers will be able to claim retrospective GSP benefits for imports during the intermediate period. Philippine exporters should therefore coordinate with their US importers to apply for Special Tariff Program Indicator “A” to ensure GSP classification of imports, which will be eligible for duty refunds if and when the program is reinstated by the US Congress.

Singapore and Pacific Alliance FTA slated to be signed this year

The signing of the Pacific Alliance - Singapore Free trade Agreement (PASFTA) is expected to happen this year after the agreement was “substantially concluded” in December 2020. The Pacific Alliance is a Latin American trade bloc composed of Chile, Colombia, Mexico, and Peru. Singapore already has existing trade agreements with three out of the four members of Pacific Alliance: Chile, Mexico and Peru.



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Extension of duty-free status for COVID-19 medical and hygiene products

The Australian Border Force has further extended the temporary customs duty-free status of certain imported medical and hygiene goods used in the COVID-19 response, to help support the increased supply of these goods until 30 June 2021.

Goods will be eligible for a “Free” rate of customs duty upon importation into Australia if the following is satisfied:

1. The goods are medical products or hygiene products;
2. The goods are capable of use in combating the novel coronavirus that causes the disease known as COVID-19; and
3. The time for working out the rate of duty on the goods is in the period beginning on 1 January 2021 and ending at the end of 30 June 2021.

Repeal COVID-19 export control regulations

The Australian Government has repealed the temporary export control regulations that were imposed to prohibit the export of specified medical goods that contribute to controlling and preventing the spread of COVID-19, including personal protective equipment and disinfectants.

A review was undertaken by the Australian Government in which it was determined that the temporary export control regulations have fulfilled its purpose of preventing the diversion of essential goods and profiteering, and was no longer necessary.

Deregulation Taskforce to examine excise and excise equivalent customs duty regime

The Australian Government has announced that the Deregulation Taskforce will review the current excise and excise-equivalent customs duty regime to identify and remove duplicated administrative processes that impose unnecessary costs on businesses.

The Deregulation Taskforce will not review any bases or rates of taxation. They will focus on improving the administrative systems of the Australian Tax Office and the Australian Border Force to support Australian importers and exporters of excisable goods.

Reforms to the EMDG scheme

The Australian Government has recently passed legislation to reform the Export Marketing Development Grant (EMDG) Scheme. The EMDG Scheme is a financial assistance program that helps small- to midsize enterprises (SMEs) increase their marketing and promotional activities in international markets.

The key reforms include changing the current reimbursement scheme to an eligibility-based grants program to allow eligible SMEs to get up-front funding certainty over multiple years, tailoring financial assistance based on what stage of the export journey the SME is at (being either “new to export”, “planning to expand” or “continuing to expand”) and lowering the grant eligibility threshold of SMEs eligible for a grant from AUD 50 million to only those with an annual turnover of AUD 20 million or less.





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Changes to import and exporting licensing regime of commercial cryptography items

On 2 December 2020, the Ministry of Commerce, the State Cryptography Administration, and the General Administration of Customs jointly issued an "Announcement on Issuing the Import Licensing List and Export Control List of Commercial Cryptography and Relevant Administrative Measures". The announcement came into effect on 1 January 2021.

The new lists and Cryptography Law will result in the following changes to China's commercial cryptography import and export management system:

- Classification of commercial cryptography - Article 28 of the Cryptography Law stipulates a classification of commercial cryptography. Based on this classification:
 - Import licenses are required for commercial cryptography with encryption functionality and when there are national security concerns or public interests;
 - Export licenses apply to commercial cryptography with national security concerns, public interest, or where China has international obligations to enforce controls;
 - Commercial cryptography used in consumer products are deemed low risk and easily controllable, hence import and export licenses do not apply in such instances.
- Ministry of Commerce selected as the competent authority - The announcement introduces commercial cryptography items as dual-use items and technologies. As a result, the Ministry of Commerce will be responsible for import and export licensing of commercial cryptography items.
- Specific list of commercial cryptography items subject to export controls - China's commercial cryptography regulations did previously not have a specific list of products subject to export controls. The new announcement contains a listing of such items. This means there is a "Import Licensing List of Commercial Cryptography" and an "Export Control List of Commercial Cryptography".

- Import and export licensing procedures - Companies wishing to apply for import and/or export licenses must do so through the provincial commerce department. An application form for import and export of dual-use items and technologies must be completed and submitted, along with relevant documents including technical descriptions of commercial cryptography, end-user and end-use descriptions, etc.

For details, refer to "Announcement on Issuing the Import Licensing List and Export Control List of Commercial Cryptography and Relevant Administrative Measures" (Announcement of the Ministry of Commerce, the State Cryptography Administration and the General Administration of Customs [2020] No. 63).

Rules to curb foreign laws with extraterritorial application

On 9 January 2021, the Ministry of Commerce introduced the "Rules on Counteracting Unjustified Extraterritorial Application of Foreign Legislation and Other Measures". The rules took effect on the date of issuance.

The new rules apply to situations where there is extraterritorial application of foreign laws and measures that are deemed to impact economic and trade activities between Chinese persons/entities and third-territory entities.

Key points are highlighted below:

- Reporting obligation - Chinese entities in a situation where foreign rules prohibit or restrict their normal economic, trade and related activities with third-territory entities must truthfully report such matters to the competent Department of Commerce of the State Council within 30 days.
- Issuance of prohibition orders - Where unjustified extraterritorial application of foreign rules is assessed and deemed to exist, the competent Department of Commerce of the State Council may decide to issue a prohibition order. The prohibition order will have the effect of rejecting and nullifying the foreign legislation and other measures.

Various factors will be taken into account in determining whether there is unjustified extraterritorial application of foreign rules. This includes international law, principles of international relations, China's national sovereignty and security, the rights and interests of Chinese entities or citizens, etc.

Even after a prohibition order has been issued, it can be suspended or withdrawn depending on actual circumstances.

- Government support in complying with prohibition orders - Where unjustified extraterritorial application of foreign rules is deemed to exist, guidance will be provided to the relevant Chinese entities.

Where Chinese entities adhere to a prohibition order and suffer significant losses resulting from non-compliance with the relevant foreign rules, relevant government departments may provide necessary support to reduce losses, depending on the specific circumstances. Further details on the kind of support have not been released.

- Countermeasures - The Chinese Government may take countermeasures it deems necessary in response to extraterritorial application of foreign rules, based on actual circumstances and needs.
 - Consequences of non-compliance - Failure to truthfully report (as per the above reporting obligations) and/or failure to comply with the prohibition order has consequences. It may result in a warning, an order to make rectifications within a specified timeframe and/or a fine depending on the severity of the circumstances.
- Further, where a Chinese entity chooses to comply with the foreign rules despite issuance of a prohibition order, thereby infringing upon the rights and interests of other Chinese entities, the latter may institute legal proceedings in court to claim compensation from the former.
- Exemption from prohibition order - Chinese entities can apply for an exemption from complying with the prohibition order. A written application must be submitted to the competent Department of Commerce of the State Council. It must contain reasons for requesting the exemption and the scope of exemption. A decision will be made within 30 days from the date of acceptance of the application.

For details, refer to: "Rules on Counteracting Unjustified Extraterritorial Application of Foreign Legislation and Other Measures" (Order of the Ministry of Commerce of the People's Republic of China [2021] No. 1).

Issuance of 2021 Tariff Adjustment Plan

On 30 December 2020, the Customs Tariff Commission of the State Council issued the "Notice on the 2021 Tariff Adjustment Plan" (Shui Wei Hui [2020] No. 33) to adjust import tariffs on certain commodities. The adjustments took effect 1 January 2021.

- Adjustment of provisional import tariff rate: From 1 January 2021, 883 items (excluding tariff quota products) will have provisional tariff rates lower than their MFN rates.
 - Tariffs have been temporarily eliminated on the second batch of anti-cancer drugs and rare disease drugs as well as food needed for special children patients, etc. Tariffs on the first batch of drugs and food were reduced as part of the 2019 Tariff Adjustment Plan.
 - Import tariffs on artificial heart valves, hearing aids and other medical equipment, as well as whey protein powder, Lactoferrin and other infant milk powder raw materials have been reduced.
 - Import tariffs on certain equipment, parts and raw materials required for new infrastructure or high-tech industries such as fuel cell circulating pumps, aluminum silicon carbide substrates, arsine, etc. have been reduced.
 - Lower provisional import tariff rates have been imposed on aviation materials such as fuel pumps for aircraft engines.
 - Import tariffs on commodities such as diesel engine exhaust filtration and purification devices and exhaust gas recirculation valves have been reduced.
 - Provisional import tariff rates for wood and paper products, non-alloy nickel, unwrought niobium and cotton have been reduced.
- Adjustments to other tariff quota rates, conventional tariff rates, and tariff items.

For details, refer to: "Announcement of the Customs Tariff Commission of the State Council on the 2021 Tariff Adjustment Plan" (Shui Wei Hui [2020] No. 33).



Revised measures on the reduction and exemption of import and export taxes

On 21 December 2020, the General Administration of Customs published the “Administrative Measures of the Customs of the People’s Republic of China for the Reduction and Exemption of Import and Export Taxes” (hereinafter referred to as the “Measures”). The Measures will come into force on 1 March 2021.

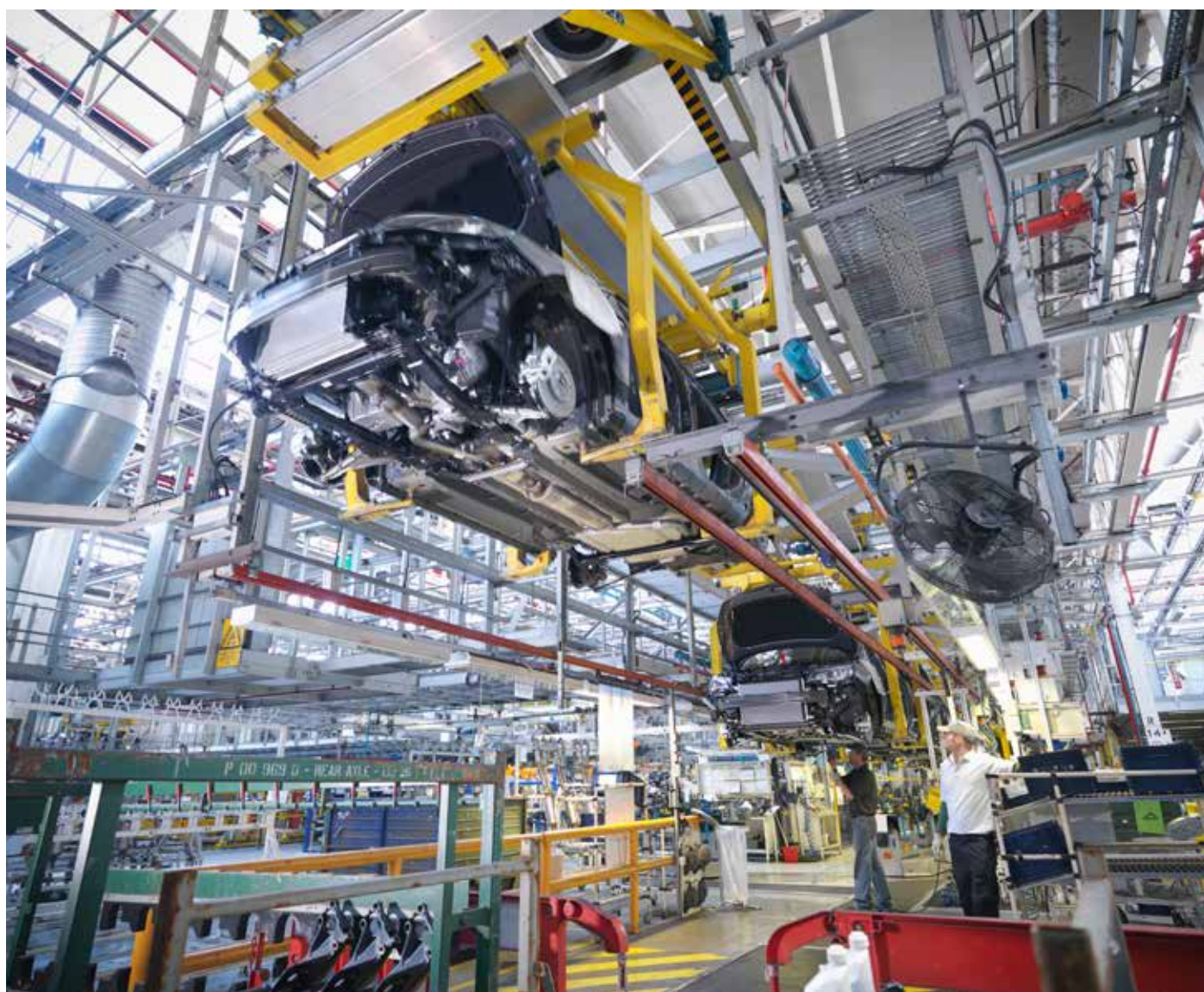
This revision of the regulations mainly focuses on two areas: First, regulations on ‘tax reduction and exemption approval’ are adjusted to ‘tax reduction and exemption review and confirmation’, and related business processes and procedures are simplified. Second, the integration of customs clearance, paperless customs clearance and other related reform initiatives of recent years, and the customs credit management system are reflected in the Measures.

The main changes in this revision of the Measures are as follows:

- Cancellation of tax reduction and exemption filling procedure - The revision replaces the original procedure of “Tax Reduction and Exemption Filing” with “Tax Reduction and Exemption Review”, which simplifies tax reduction and exemption management business processes.

- Subsequent disposal of goods - The restrictive statement “no disposal without customs permission” is amended to “could be disposed after going through relevant procedures”. This “makes the best use of” the goods under the premise of ensuring effective customs supervision.
- Extension of submission of annual report - The revision extends the submission time of the “Report on the Use of Goods Entitled to Tax Reduction or Exemption”. It clarifies that the “Report on the Use of Goods Entitled to Tax Reduction or Exemption” must be submitted before 30 June each year, and companies that fail to submit will be included in the list of abnormal credit.
- Simplification of business processes - The new Measures implement a self-declaration and self-payment system, and clarifies applicants’ responsibilities in relation to authenticity, accuracy and completeness. In addition, the measures eliminated certain unnecessary business procedures, which further reduces business process costs.

For details, refer to: “Administrative Measures of the Customs of the People’s Republic of China for the Reduction and Exemption of Import and Export Duties” (Order of the General Administration of Customs No. 245).



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India Union Budget 2021

On 1 February 2021, India presented its Union Budget 2021. We have highlighted the key proposals and amendments from a customs and trade perspective.

A. Proposed amendments to the Customs Act 1962

The below changes will become effective once they receive Presidential assent.

- Mandate filing of bill of entry before the end of the preceding day of the arrival of goods (Section 46 of the Act).
- Trade facilitation measures to improve the ease of doing business:
 - Use of a common customs electronic portal for facilitating service of notices, orders, filing of bill of entry, etc. The portal will act as a one-point digital interface to interact with Indian Customs.
- Efficiency and accountability:
 - The Government will review more than 400 old custom duty exemptions and overhaul the custom duty structure. All conditional exemptions given under the Act will remain valid till 31 March 2023 (Section 25 of the Act). New conditional notifications issued will also be valid for 2 years after which it will be reviewed again.
 - A definitive time limit of two-years has been prescribed for the completion of any proceedings under the Act. The Commissioner can extend this time limit by a year (new Section 28BB).
- Improving tax compliance:
 - Any goods entered for re-exportation that makes a wrongful claim of remission or refund are liable for confiscation (sub-section (ja) added to Section 113 of the Act)
 - A new Section 114AC prescribes penalties up to five times the amount of refund claimed where any person has utilised Input Tax Credit to discharge any duty or tax on goods entered for re-exportation, on the basis of a fraudulent invoice.

B. Amendments to Indian Customs Tariff

From 2 February 2021, importers should take note of the below changes to customs duty rates.

Increase in Basic Customs Duty (BCD) rates	Decrease in BCD rates
<ul style="list-style-type: none"> • Chapter 22, 23, 52 products; • Autoparts falling under Chapters 70, 73, 85 etc.; • Compressors falling under Chapter 84; • Inputs, parts and sub-parts of mobile phones falling under Chapters 84, 85 etc.; • Solar heaters and solar lanterns falling under Chapter 95; and • Other sectors that will be impacted include gems and jewelry, leather, and plastic industries. 	<ul style="list-style-type: none"> • Decrease in BCD rates; • Chemical sector goods falling under Chapters 27, 31 etc., including coal, lignite, peat and urea; • Ferrous and non-ferrous metal products falling under Chapters 72, 74 etc., including melting scrap of iron or steel (other than stainless steel), and hot rolled coils; and • Other sectors that will benefit from reductions are the petrochemical, textile, precious metals industries.

Our above listing is not exhaustive. Importers are advised to refer to Notification No. 02/2021-Customs (Tariff) dated 01 February 2020 for further details.

C. Amendment to IGCRD

Under the Import of Goods at Concessional Rate of Duty (IGCRD) scheme, manufacturers can import notified goods with concessional rates of duty, subject to the conditions laid down. The IGCRD is governed by the Customs (IGCRD) Rules 2017. It provides the procedure to be followed for availing the benefit, provision for re-export of goods in certain events, etc. Key amendments announced as part of the Union Budget 2021 pertain to:

- Imported goods at the concessional rate of duty for job work (except gold, jewellery and precious metals);
- Allow complete outsourcing of manufacturing of goods on job work; and
- Imported capital goods used for a specified purpose to be allowed to clear on payment of differential duty, along with interest, on the depreciated value.

Refer to Notification No. 09/2021-Customs (N.T.) dated 1 February 2020 for further details

D. Levy of AIDC

A new cess called Agriculture Infrastructure and Development Cess (AIDC) has been introduced and has been effective since 2 February 2021. The purpose of this cess is to finance improvements in agricultural infrastructure and other development expenditure.

- The AIDC is levied at varied rates on imports of various products, including wine, coal, cotton, silver etc. It is levied as a duty of customs, based on the value of the imported goods, and will not exceed BCD rates.
- To limit the burden on consumers, the BCD on most of the affected items have been correspondingly lowered.
- AIDC will also be levied as an additional excise duty on the manufacture of petrol and high-speed diesel.

Refer to the Finance Bill, 2021 presented on 1 February 2021 for further details.

RoDTEP incentive for all eligible exports

As of 1 January 2021, the Remission of Duties and Taxes on Exported Products (RoDTEP) scheme has been fully rolled out to cover all exported products. The RoDTEP was partially introduced by the Government in 2019 to replace the Merchandise Exports from India Scheme (MEIS) and initially only covered the textile and garments sectors.

Key features of the scheme are:

- The RoDTEP scheme will refund exporters the embedded Central, State and local duties/taxes that were not rebated/refunded, to avoid placing Indian exports at a disadvantage.
- The refund will be credited to the exporter's ledger account with Customs and will be used to pay Basic Customs Duty on imported goods. Credits can also be transferred to other importers.
- Rates under the scheme have yet to be announced, and will depend on the HS codes of the products. Irrespective of the date of notification, the notified rates will apply with effect from 1 January 2021 to all eligible exports.
- Benefits under the RoDTEP scheme will not be available to Advance Authorisation holders, Export Oriented Units, etc.

Refer to the Press Release issued by the Ministry of Finance on 31 December 2020 and Advisory No. 01/2021 dated 1 January 2021 for further details.



New import and export restrictions and relaxations

Measure	Details	Reference
Lifting of export restriction on medical goggles and specified gloves Lifting of export restriction on medical goggles and specified gloves	Medical Goggles and Nitrile/ NBR Gloves In July/October 2020, export of Medical Goggles (HS 9018) and Nitrile/NBR Gloves (HS 3926.90 and 4015) were restricted. The restriction has now been lifted such that all medical goggles and Nitrile/NBR gloves are freely exportable and companies no longer need an export authorisation to export such products.	Notification No. 47/2015-2020 dated 22 December 2020
Lifting of import restriction on odoriferous preparations	Preparations for perfuming or deodorising rooms, including odoriferous preparations used during religious rites Earlier import of such preparations including room fresheners / car fresheners were restricted. The restriction has been lifted to make odoriferous preparations (that do not operate by burning) classified under HS code 3307.49.00 freely importable.	Notification No. 54/2015-2020 dated 1 January 2021
Removal of value limitation for import and export of COVID-19 vaccines through courier	COVID-19 vaccines The Government has allowed the import and export of COVID-19 vaccines through courier, without any value limitation.	Circular No 56/2020-Customs dated 30 December 2020

Progress of digitisation initiatives

Initiative	Details	Reference
Issuance of Preferential Certificates of Origin (PCOs) for GSP exports to the UK	To address the UK's departure from the EU, new guidelines pertaining to the electronic issuance of PCOs for exports to the UK under the Generalised Scheme of Preferences (GSP) have been issued.	Trade Notice No. 37/2020-2021 dated 11 January 2021
E-PRC system for policy/procedure relaxation now fully online	An online process has been introduced to allow the public to seek relaxations from the Policy Relaxation Committee (E-PRC) on aspects of the Foreign Trade Policy. From 25 January 2021, all applications for relaxation of policy/procedure must be submitted online and no physical copies will be accepted. Refer to the Trade Notice for details on navigating the system and for further guidance.	Trade Notice No.38/2020-21 dated 15 January 2021

Clarification on verification process under CAROTAR Rules 2020

The Government has issued clarifications on the verification process and steps to be followed for CAROTAR compliance. The CAROTAR process permits origin-related verification to be sought from authorities in the exporting territory. The intention of these clarifications are to avoid supply chain disruptions and having exporting territory authorities receiving multiple queries for verification from importers.

Refer to Instruction No.20/2020-cus dated 17 December 2020 for further details.

Waiver of bank guarantee for transshipment of EXIM cargo via Sri Lanka and Bangladesh

The Government has waived the bank guarantee requirement for transshipment of Export-Import (EXIM) cargo through Sri Lanka and Bangladesh. This relaxation is intended to promote the movement of coastal goods through these two countries.

The bank guarantee waiver as set out in Circular No. 45/2005-Cus dated 24 November 2005 is extended to the below categories of transshipment of EXIM cargo through Sri Lanka and Bangladesh:

- Carriers of containerized cargo handling more than 1,000 Twenty-Foot Equivalent Unit (TEUs) as import containers in a financial year; and
- Carriers with annual transshipment volume below the limit of 1,000 TEUs but with a good track record, subject to specific approval by the jurisdictional Commissioners of Customs.

Refer Circular No 01/2021-Customs dated 14 January 2021 for further details.

Third-party invoicing accepted in cases of wholly obtained goods under the DFTP Scheme

Prior to the implementation of Customs (Administration of Rules of Origin under Trade Agreements) Rules 2020 (CAROTAR), third-party invoicing was accepted by customs authorities even where the Rules of Origin were silent. This practice was changed under the CAROTAR rules.

The Government has clarified that under the Duty Free Tariff Preference (DFTP) Scheme by India for Least Developed Countries (LDCs), third-party invoices will be accepted for 'wholly obtained' goods. The reason provided was that the value of goods do not impact on the originating status of such products. All other requirements of the DFTP Scheme such as RBI requirements and customs verifications must be complied with.

Refer to Circular No 53/2020-Customs dated 8 December 2020 for further details.

Instruction for timely disbursal of duty drawback

The Government has clarified that all pending drawback claims should be disposed off by 31 March 2021. Further, at least 90% of drawback claims should be credited within a time period of three days.

Refer to Instruction No 21/2020-Customs dated 16 December 2020 for further details.



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New schemes added into the Voluntary Declaration and Voluntary Payment

In December 2020, the Ministry of Finance (MoF) issued a new regulation, number 201/ PMK.04/2020 relating to the Voluntary Declaration & Voluntary Payment, which takes effect on 17 February 2021 (based on the information from the MoF website).

Under the new regulation, there are six aspects covered under the voluntary declaration system:

1. Dutiable Royalty;
2. Proceeds;
3. Future Prices;
4. Freight (new);
5. Insurance (new); and
6. Assists (new).

In addition, the MoF will also allow importers to make voluntary payments for the following:

1. incorrect customs value,
2. incorrect customs classification, and,
3. incorrect type and quantity of goods,

Such payments can be declared in the Import Declaration (PIB) without having to make any voluntary declaration as long as the importers are not being audited when conducting the voluntary payment.

The benefit of making voluntary declarations and/or payments is that the importers will then be exempt from any administrative sanctions in the form of penalties in the range of 100% to 1,000% of the underpaid import duties. This should encourage importers to carry out a compliance review or health check to identify any discrepancies in customs value and/or type and quantity of goods declared in the PIBs. In addition, the new voluntary declaration procedure allows for importers to apply for a refund to the related Customs Office should the amount paid be higher than that declared.

As a result of the new regulation, MoF's regulation concerning Voluntary Declaration on Customs Value for Calculation of Import Duty (regulation number 67/PMK.04/2016) will be revoked.

Enforcement of tax and customs incentives for companies in Special Economic Zones

On 30 December, the MoF issued a new regulation, number 237/PMK.010/2020 concerning the Tax, Customs and Excise Treatment in Special Economic Zones (Kawasan Ekonomi Khusus/KEK). The new regulation revokes the previous regulation number 104/PMK.010/2016 and became effective on 30 January 2021.

The new regulation adds logistics centres as an additional type of business permitted in KEKs which previously only included manufacturing and tourism. The logistic centres allowed within KEKs share similar purposes and incentives with the existing Bonded Logistic Centres (BLC).

With the new regulation, the MoF also established new customs declarations for any incoming/outgoing goods and/or services in KEK, i.e. Pemberitahuan Pabean Kawasan Ekonomi Khusus (PPKEK) for goods and Pemberitahuan Jasa Kawasan Ekonomi Khusus (PJKEK) for services.

Similar to Bonded Zone regulations, this regulation provides a self-service scheme (Pelayanan Mandiri) that includes the attachment and/or removal of safety signs; incoming goods services; clearance goods services; storing goods services; uploading goods services; releasing goods services, etc.

Lastly, companies in KEKs can voluntarily pay for any discrepancies in quantity and/or customs value of imported goods without having to pay the administrative sanction in the form of a penalty. This is allowed as long as the discrepancies have not yet been found by the customs authorities.





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Japan-UK Comprehensive Economic Partnership Agreement goes into effect

Refer to the [FTA Focus section](#) for more details.

Abolition of signature and seal requirements on customs-related documents

The Japanese government released a notice in December 2020 pertaining to procedures for documents requiring signatures or seals. Previously, many government forms required either a signature or a company seal, also known as a chop or hanko. This is done in light of the increase in telecommuting owing to the COVID-19 pandemic as well as the Japanese government's prior intention to move away from such manual requirements.

Examples of customs documents which no longer require a signature or seal include:

- Season ticket application
- Customs rulings application
- Customs Affairs Representative (CAR) application form for non-resident importers

While a space for exporters' signatures is still present in preferential certificates of origin, an exporter's signature will not actually be required for the certificate to be valid.

In addition to documents under the purview of Japan Customs, some documents issued by other ministries will also have the requirement for signature and/or company seal removed. This includes export control-related documents from the Ministry of Economy, Trade and Industry, as well as import licenses for various products such as food and medicine.



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Change in the statute of limitations for origin verification assessments

The statute of limitations for the assessment of customs duties in Korea, in principle, is five years from the initial assessment. As exceptions to the five-year statute of limitations, Article 21 of the Customs Law of Korea previously stipulated that an origin verification assessment may be made within one year from the date the Korea Customs Service (KCS) receives a response from customs authorities in the territory of exportation on the authenticity of the certificate(s) of origin declared for goods imported to Korea as part of an origin verification audit.

Under the amended Customs Law effective from 1 January 2021, the statute of limitations for assessment of customs duties resulting from an origin verification audit in accordance with the Law on Special Cases of the Customs Law for the Implementation of Free Trade Agreements is further extended. The deadline after the amendment is the earlier of:

- one year from the date on which the KCS received a response from the customs authorities from the territory of exportation or
- one year from the deadline stipulated in the relevant free trade agreement

The amendment intends to reflect the generally longer lead time needed to obtain the response from the customs authorities in the territory of exportation.

Extended validity of product classification ruling

A product classification or reclassification ruling issued by the Customs Valuation and Classification Institute (CVCI) was previously valid for three years from the issue date. Under the amended Customs Law effective from 1 January 2021, the ruling on product classification issued by the CVCI will be valid until the KCS decides that a modification to the classification of the good in question is necessary. With the product classification ruling expected to remain valid beyond the previous three-year validity period, the benefits of product classification rulings are expected to increase for importers.

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Updates to customs regulations pertaining to the tobacco industry

1. Changes to controls on the import of tobacco products and cigarettes

Following the Budget 2021 speech in November 2020, the Minister of Finance (MOF) issued amendments to the Customs (Amendment) (No.2) Regulations 2020, Excise (Amendment) Regulations 2020, Sales Tax (Amendment) (No.2) Regulations 2020 ("The Regulations") and Free Zones (Exclusion of Goods) (Amendment) Order 2020 on 31 December 2020.

The amendments came into force on 1 January 2021 and the salient provisions included stricter controls on cigarette imports such as:

- The new Free Zones (Exclusion of Goods)(Amendment) Order 2020 includes a list of goods (cigarettes, electronic cigarettes and other tobacco products and devices) that are not eligible for import duty and sales tax exemptions when they enter into Free Zones unless they are meant for re-exportation;
- The Regulations also specify that no cigarette may be exported or re-exported by sea or air from Malaysia unless the cigarettes are to be exported or re-exported in containers that conform to the specifications by the International Organisation for Standardisation.
- The regulation also requires cigarettes imported for re-export to take the same route as that taken for entry into Malaysia;
- The Regulations also spell out specific customs ports for transshipment of cigarettes by sea;
- An additional customs regulation requirement is introduced for duty drawback under Section 93 of Customs Act 1967 pertaining to cigarettes exported or re-exported by sea or air from free zones;
- A license application to import intoxicating liquor, tobacco and denatured spirit is now required to be made in writing to the Director General of Customs at least 90 days before the importation; and
- An increase of licensing fees for intoxicating liquors, tobacco and denatured spirits from RM 2,400 to RM 4,800.

The complete Regulations and Order can be accessed via the following links:

- **Customs (Amendment) (No.2) Regulations 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20201231_PUA404.pdf
- **Excise (Amendment) Regulations 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20201231_PUA405.pdf
- **Sales Tax (Amendment) (No.2) Regulations 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20210101_PUA418.pdf
- **Free Zones (Exclusion of Goods) (Amendment) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20210101_PUA415.pdf

2. Addition of new tariff codes and preferential tariff rates for new-age tobacco, cigarettes and related products to existing Free Trade Agreements

On 31 December 2020, MOF issued seven customs duties amendment orders that came into effect on 1 January 2021. The amendments Orders are:

- Customs Duties (Goods of ASEAN Countries Origin) (ASEAN Harmonised Tariff Nomenclature and ASEAN Trade in Goods Agreement) (Amendment) (No. 4) Order 2020 (**ATIGA**)
- Customs Duties (Goods under the Framework Agreement on Comprehensive Economic Co-Operation between ASEAN and China) (Amendment) (No. 2) Order 2020 (**ACFTA**)
- 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) (Amendment) Order 2020 (**AKFTA**)
- Customs Duties (Goods under the Agreement on Comprehensive Economic Partnership among the Government of the Member States of the ASEAN and Japan) (Amendment) Order 2020 (**AJCEPA**)
- Customs Duties (Goods under the Malaysia – New Zealand Free Trade Agreement) (Amendment) Order 2020 (**MNZFTA**)
- Customs Duties (Goods under the Agreement Establishing the ASEAN – Australia – New Zealand Free Trade Area) (Amendment) (No. 3) Order 2020 (**AANZFTA**)
- Customs Duties (Goods under the Agreement Establishing the ASEAN – Hong Kong, China Free Trade Area) (No. 2) (Amendment) (No. 2) Order 2020 (**AHKFTA**)

The following tariff codes for cigarettes and its related products are added to the above Orders.

Tariff codes	Description
3824.99.99 10	Preparation of a kind used for smoking through electronic cigarette and electric vaporising device, in form of liquid or gel, not containing nicotine
3824.99.99 10	Other
8543.70.90 10	Electronic cigarettes and similar personal electric vaporising devices
8543.70.90 90	Other
9614.00.90 10	Smoking pipes (including pipe bowls)
9614.00.90 90	Other

The above goods are subject to the same preferential duty rates of 0% starting from 2019 or 2020 for all seven Orders, except for 'smoking pipes (including pipe bowls)' under the AHKFTA. It is currently subject to 18% preferential import duty rates which will gradually reduce year-on-year to 0% in 2028.

3. Guidelines on renewal of import licenses for cigarettes

The Budget 2021 also places emphasis on the reduction of smuggling activities of high duty goods such as cigarette products. The Malaysian Government has therefore decided to freeze any new import license applications for cigarettes starting from 1 January 2021.

The renewal of import licenses for cigarettes will still be allowed, but subject to stricter customs reviews and additional renewal conditions in relation to import quotas. More details are as follows:

- Each import license holder is required to comply with the minimum import requirements set by Malaysia Customs (RMK Licensing Panel) for a period of 12 months; and
- The cigarette import quota for each license holder will take into consideration the average import quantity 3 years from the date of renewal or according to the import licensing period for those companies with the import license less than 3 years.

The complete guideline is only available in Bahasa Melayu and can be found at the following link:

<http://www.customs.gov.my/en/faq/Documents/20201230%20FAQ%20BAJET%202021%20VOL.8.pdf>

4. Imposition of customs duty and excise duty on electronic cigarettes and other smoking devices

On 31 December 2020, MOF gazetted the imposition of customs duty and excise duty on electronic and non-electronic cigarettes. This is in line with the Budget 2021 that was tabled and delivered by the MOF on 6 November 2020. The amendments to the Customs Duties (Amendment) (No.3) Order 2020 and Excise Duties (Amendment) Order 2020 entered into effect on 1 January 2021.

The types of electronic and non-electronic cigarettes, HS codes, unit of quantity as well as the rate of customs duty and excise duty are as follows:

HS codes	Description of goods	Unit of quantity	Rate of import duty	Rate of export duty	Rate of excise duty
3824.99.99 10	Preparation of a kind used for smoking through electronic cigarette and electric vaporising device, in form of liquid or gel, not containing nicotine	kg	0%	0%	RM 0.40 per millilitre
3824.99.99 90	Other	kg	0%	0%	Not subject to excise duty
8543.70.90 10	Electronic cigarettes and similar personal electric vaporising devices	u	0%	0%	10%
8543.70.90 90	Other	u	0%	0%	Not subject to excise duty
9614.00.90 10	Smoking pipes (including pipe bowls)	kg	30%	0%	10%
9614.00.90 90	Other	kg	30%	0%	Not subject to excise duty

The detailed amendments can be found at the following link:

- **Customs Duties (Amendment) (No.3) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20201231_PUA398.pdf
- **Excise Duties (Amendment) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20210101_PUA417.pdf

5. Change of import licensing requirement for tobacco, manufactured tobacco and cigarettes

On 31 December 2020, MOF also published the Customs (Prohibition of Imports) (Amendment) (No.5) Order 2020.

- No import license is required for tobacco and manufactured tobacco falling under HS heading 24.01, 24.02 and 24.03 that are meant for:
 - transshipment in a full container load;
 - intended for private consumption; or
 - intended for official use of the embassy, consular office or international organisation.
- Similarly, no tax stamp is required to be affixed on the cigarettes with the tariff codes 2402.20.20 00 and 2402.20.90 00 that are meant for:
 - transshipment in a full container load;
 - intended for private consumption; or
 - intended for official use of the embassy, consular office or international organisation.

Companies importing tobacco, manufactured tobacco and cigarettes shall take note of the changes above.

More details can be found at the link below:

http://www.federalgazette.agc.gov.my/outputp/pua_20201231_PUA406.pdf

New customs duty, excise duty and sales tax on excisable goods entering duty free islands

Starting 1 January 2021, importers are required to pay customs duty, excise duty and sales tax on excisable goods entering into the duty free islands Tioman, Pangkor, Langkawi and Labuan from overseas or the domestic market. The rate of customs duty, excise duty and sales tax are in accordance with Customs Duties Order 2017 and Excise Duties Order 2017 and Sales Tax Act 2018.

The affected excisable goods include:

- Cigarettes
- Tobacco products
- Electronic cigarettes and similar persona electric vaporising devices
- Smoking pipes (including pipe bowls)
- Preparation of a kind used for smoking through electric cigarettes and electric vaporising devices, in the form of liquid or gel not containing nicotine.
- Motor vehicles entering Tioman and Pangkor

More details of the Orders can be found at the following links:

- **Customs Duties (Labuan) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20210101_PUA414.pdf
- **Customs Duties (Langkawi) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20201231_PUA409.pdf
- **Customs Duties (Tioman) (Amendment) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20210101_PUA413.pdf

- **Customs Duties (Pangkor)(Amendment) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20210101_PUA412.pdf
- **Excise Duties (Tioman) (Amendment) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20210101_PUA407.pdf
- **Excise Duties (Pangkor) (Amendment) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20210101_PUA408.pdf
- **Excise Duties (Langkawi) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20201231_PUA410.pdf
- **Excise Duties (Labuan) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20201231_PUA411.pdf
- **Sales Tax (Imposition of Sales Tax in respect of Designated Area)(Amendment) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20210101_PUA420.pdf



Updates on anti-dumping duties

1. Anti-dumping duties on flat rolled products

Starting from 12 December 2020 to 11 December 2025, importers importing flat rolled products of non-alloy steel plated or coated with aluminium and zinc from China, South Korea and Vietnam will be subject to anti-dumping duties.

The affected tariff codes and corresponding anti-dumping duties by territory of export are as follows:

Affected tariff codes	Territory of export	Range of anti-dumping duties
7210.61.11 00 7210.61.12 00 7210.61.19 00 7210.61.91 00 7210.61.92 00 7210.61.99 00 7212.50.23 00 7212.50.24 90 7212.50.29 10 7212.50.29 90	China South Korea Vietnam	2.18% - 18.88% 9.88% or 34.94% 3.06%37.14%

More details can be accessed at the following link:

http://www.federalgazette.agc.gov.my/outputp/pua_20201211_PUA348.pdf

http://www.federalgazette.agc.gov.my/outputp/pub_20201211_PUB679.pdf

2. Provisional anti-dumping duties on imports of polyethylene terephthalate and cold rolled stainless steel

On 24 December 2020, MOF also announced the imposition of provisional anti-dumping duties on the following imports based on the notice of affirmative preliminary determination issued by Ministry of International Trade and Industry:

- Polyethylene terephthalate with intrinsic viscosity of 0.70 decilitres/gram or more from China, Indonesia, South Korea and Vietnam and
- Cold rolled stainless steel in coils, sheets or any other form from Indonesia and Vietnam.

The affected tariff codes and corresponding anti-dumping duties by territory of export can be found at the following links:

- **Customs (Provisional Anti-Dumping Duties)(No.2) Order 2020)**
http://www.federalgazette.agc.gov.my/outputp/pua_20201224_PUA377.pdf
- **Customs Provisional Anti-Dumping Duties)(No.3) Order 2020**
http://www.federalgazette.agc.gov.my/outputp/pua_20201224_PUA378.pdf

Both Orders took effect from 26 December 2020 and will be in force until 24 April 2021.

Extension of sales tax exemption on passenger motor vehicles

On 29 December 2020, MOF announced an additional 6-months extension to the sales tax exemption on passenger motor vehicles from 31 December 2020 to 30 June 2021.

This exemption was announced by the Malaysian Government in the Short-term Economic Recovery Plan ("PENJANA") on 5 June 2020, and states that a 100% sales tax exemption will be given to sales of locally assembled passenger motor vehicles while a 50% sales tax exemption will be given to the importation of passenger motor vehicles for the period between 15 June 2020 and 31 December 2020.

Sales tax exemption was also expanded to include franchise holders, distributors and dealers selling locally manufactured motor vehicles to the Malaysian government. This is provided the following key conditions are met:

1. The goods are purchased from a registered manufacturer by a franchise holder, distributor or dealer of motor vehicles (including motorcycles); and
2. The goods are to be supplied to any Federal or State Government Department in Malaysia through an appointed agent.

This amendment came into effect on 1 January 2021.

An application for the certificate of exemption can be made by the franchise holders, distributors or the dealers to the Senior officer of Sales Tax and submitted together with the written notification from the appointed agent.

More detailed information on the conditions can be obtained from the following link:

http://www.federalgazette.agc.gov.my/outputp/pua_20201222_PUA367.pdf

Reduction of import duty rates on electrical apparatus, devices and photographic equipment

The Customs Duties (Amendment) (No.2) Order 2020 entered into effect on 15 December 2020. Import duty rates have been reduced for electrical and photographic apparatus.

More details on the changes and on the relevant tariff codes of the affected products can be found at:

http://www.federalgazette.agc.gov.my/outputp/pua_20201214_PUA350.pdf



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Import/export license application requirements through TradeNet 2.0

In our [October/November 2020 edition of Trade Intelligence](#), we reported on the introduction of the TradeNet 2.0 system. The Ministry of Commerce published a newsletter on 4 December 2020 regarding the requirements to apply for an import/export license using the online platform.

The requirements are summarised as follows:

- When applying for a license, the importer/exporter certificate should have at least three months validity.
- The import/export certificate can be extended six months before the expiry date.
- For import/export licences where the overseeing authority enforces shorter validity periods, reference should be made to the validity period stated in the “recommendation letter” issued by the relevant authority.
- The license process should be completed (from application to receiving the license) within 10 working days, as the system automatically deletes the application form otherwise.
- Starting from 90 days after the issue date of the newsletter, companies that do not issue the permitted license three times consequently or five times within three months will temporarily not be able to apply for an import/export license for a six month period.

The newsletter can be accessed [here](#).



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Permits for imports and exports of plastic waste

In our [Around the World section](#), we reported on amendments to the Basel Convention that will impact the import and export of plastic waste. From 1 January 2021, importers and exporters in New Zealand will require a permit to import or export certain types of plastic waste. Plastic waste that now require a permit from the Environmental Protection Authority (EPA) include:

- hazardous plastic waste
- most mixed plastic waste
- contaminated plastic waste

Without the right permit, shipments could be seized at the New Zealand port, refused entry to territories along the shipping route or at the destination territory. Shipments that are refused entry may be returned to the importer or exporter at their cost (e.g., storage and retrieval costs). The onus is on the importer or exporter to comply with both New Zealand law and the laws of the importing territory. This applies even if a third party is used to import or export plastic waste.

Importers and exporters of plastic waste not covered by this requirement should upload documentation onto Trade Single Window to validate their declaration that the waste does not require a permit. The plastic waste should be photographed at the point of containerisation to demonstrate that it is sorted and free of contamination. Clean sorted plastic waste can only be exported without a permit if it is to be recycled in an environmentally sound manner so exporters may need to supply evidence from overseas destinations to validate this is to occur.



Philippines

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New safeguard measure on vehicles

Effective 01 February 2021, the Philippines implemented a provisional safeguard duty on motor vehicles from various territories. Vehicles subject to this are completely build-up passenger cars classified under the ASEAN Harmonized Tariff Nomenclature (AHTN) heading of 8703 and light commercial vehicles, specifically pick-up trucks, classified under AHTN codes 8704.2119 and 8704.2129.

The provisional safeguard duty will be in effect for a period of 200 days and will be collected in the form of cash bond amounting to PHP 70,000 (approx. US\$1,450) per unit of passenger vehicle and PHP 110,000 (US\$2,300) per unit of light commercial vehicles. The Bureau of Customs is yet to release a memorandum to implement the provisional safeguard measure.

The provisional measure was decided by the Department of Trade and Industry after having completed a preliminary investigation on the petition filed by a union of workers from the automotive industry. It was said that the measure was placed to encourage vehicle manufacturers to invest in the Philippines and support local employment which has been affected by the surge of imported vehicles following the decision by a number of manufacturers to close down production in the Philippines and switch to import of vehicles instead.

A final decision will be released after the conclusion of a formal investigation conducted by a separate investigating agency. The formal investigation will involve consultation from petitioners and concerned parties both local and foreign. If the outcome of the formal investigation is affirmative, the collection of safeguard duty will be implemented for the next four (4) years.

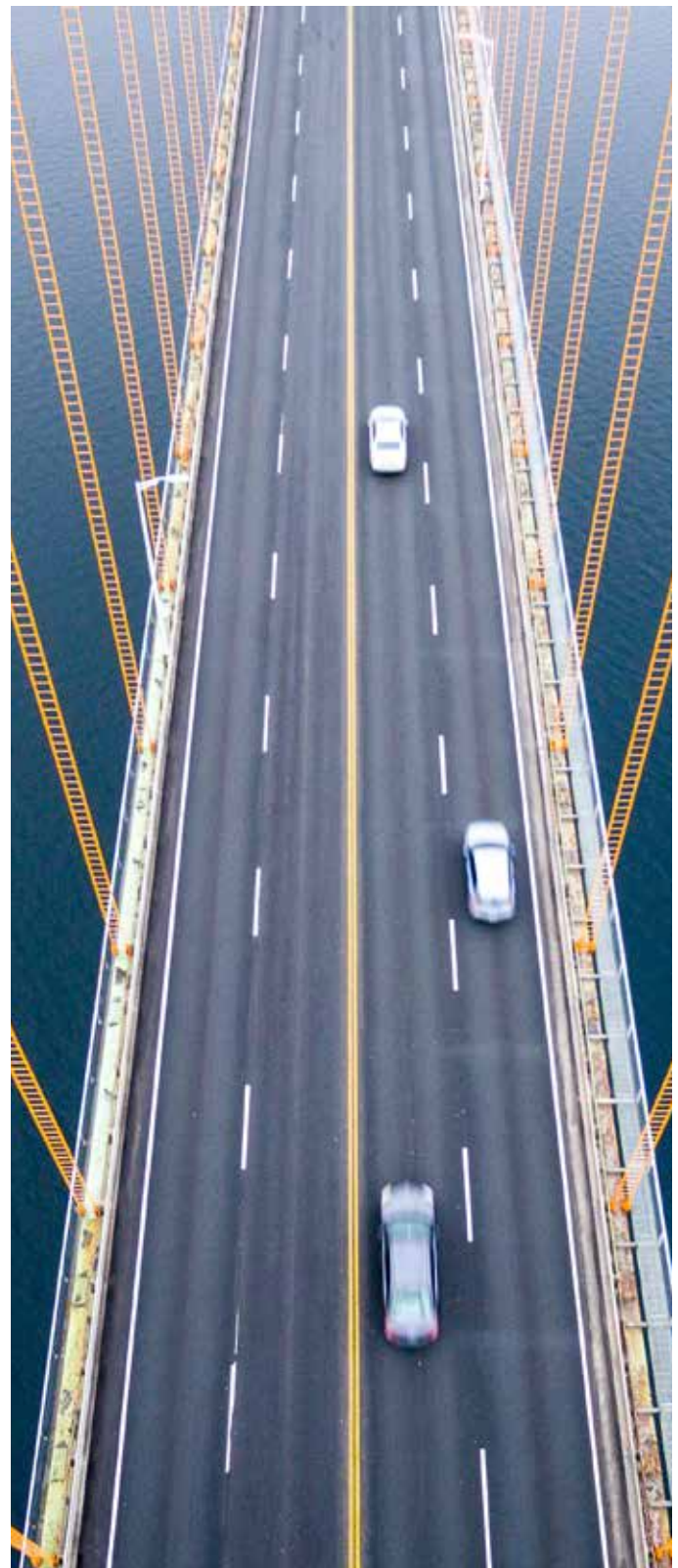
Excluded in the investigation are used vehicles, and completely knocked-down and semi knocked-down forms of the subject vehicles. Special purpose vehicles such as ambulances, hearses, electric motor vehicles, and luxury vehicles with high end-features with a value of more than US\$25,000 for passenger cars and US\$28,000 for light commercial vehicles are excluded. Imports from developing territories are also exempted.

The Philippines sources a significant portion of its vehicles from other ASEAN members. In 2019, the top two sources of passenger vehicles were Indonesia and Thailand. Thailand also accounts for 99% of imported light commercial vehicles into the territory.

Aside from the new safeguard duty, motor vehicles have 30% duty rates that can be avoided using the benefit of the ASEAN Trade-In Goods Agreement, and the ASEAN-Australia-New Zealand free trade agreement. Imported vehicles from territories covered by these agreements must have a Certificate of Origin to make use of 0% preferential duty rate.

US GSP expires for the Philippines

Refer to the [FTA Focus section](#) for details.





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Singapore Customs reminds importers on the eligibility and requirements of summary listing for customs clearance

Citing several cases on the incorrect use of summary listing for customs clearance at Changi Airfreight Centre (CAC), Singapore Customs released a circular reminding importers on the eligibility and requirements for the use of such documents. As pointed out in the circular, a summary list can only be used if the goods are non-controlled (excluding liquors and tobacco), eligible for GST relief, and with a CIF value not exceeding S\$400. Ineligible goods are required to secure a permit and submit other relevant documents.

Failure to comply with the summary listing requirements would result in a possible fine of S\$10,000 and/or possible imprisonment for up to 12 months. For better compliance, we advise companies to conduct a check on past import transactions. Where errors have been made in relation to the use of summary listing, a voluntary disclosure must be made and submitted to Singapore Customs.

For additional details and procedures, please refer to the following links:

<https://www.customs.gov.sg/news-and-media/circulars/2021-01-15-Circular012021.pdf>

<https://www.customs.gov.sg/news-and-media/circulars/2016-03-16-Circular042016.pdf>

New process for cancellations of COs

Starting from 11 January 2021, companies who wish to cancel non-preferential Certificates of Origin (CO) and Preferential Certificates of Origin (PCO) issued by Singapore Customs must file an online request through the FormSG's platform. For the cancellation of an export declaration with CO, a cancellation request must first be submitted through TradeNet. Once the export permit has been cancelled, the CO can then be cancelled separately via the FormSG platform.

COs/PCOs are deemed as cancelled seven days after the cancellation application has been filed unless otherwise advised by Customs. Cancelled hard copies of COs/PCOs are not required to be returned to Customs, but companies are advised to invalidate such documents.

FormSG's link to CO cancellation form:

<https://form.gov.sg/#/5f2cc687777f950011129385>

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FormSG's link to CO cancellation form:

<https://form.gov.sg/#/5f2cc687777f950011129385>

Claiming of preferential benefits under the new trade agreement with the UK

As reported in our [FTA Focus Section](#), the Singapore-UK Free Trade Agreement provisionally entered into force on 1 January 2021. This means the Singapore-EU FTA will cease to apply to trade between Singapore and the UK.

The agreement operates on a self-certification basis. This means exporters from Singapore can make a declaration that their goods are of Singapore origin. For the importers in the UK to claim preferential tariff treatment, the exporters in Singapore must do the following:

1. Submit an Origin Declaration (OD) to the importer that certifies that the goods are originating from Singapore - the OD, in English, must be in the appropriate format and should describe the goods in sufficient detail for identification;
2. Select "PRI" under the "Preferential Indicator" field in the TradeNet export declaration permit. This is to indicate that the importer will claim preferential tariff treatment for the goods to be imported to the UK.

Before issuing an origin declaration and claiming preferential tariffs under the trade agreement, the exporter must ensure the goods meet applicable qualifying requirements as outlined in the rules of origin chapter of the agreement.

For the more information, and to access the legal text of the agreement, please visit following links:

<https://www.enterprisesg.gov.sg/non-financial-assistance/for-singapore-companies/free-trade-agreements/ftas/Singapore-ftas/UKSFTA>

<https://www.customs.gov.sg/news-and-media/circulars/2020-12-31-%20Circular%20162020.pdf>

<https://www.customs.gov.sg/news-and-media/circulars/2020-12-31-%20Circular152020.pdf>

Proposed Bill to give legal recognition to electronic trade documentation

On 4 January 2021, the Singapore government introduced the Electronic Transactions (Amendment) Bill (Bill) into Parliament to amend the Electronic Transactions Act (ETA). The Bill makes certain amendments to the existing ETA, and adopts the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Transferable Records with certain modifications.

The current ETA gives legal recognition to electronic records in specified circumstances, and establishes a framework on the authentication and integrity of electronic records. However, the ETA as it stands excludes from its application electronic transferable records (ETRs). This includes electronic trade

documents such as negotiable instruments, documents of title, bills of exchange, consignment notes, bills of lading and warehouse receipts, amongst other things. The Bill seeks to remove this exclusion, thereby expanding the coverage of the ETA to ETRs.

The Bill also adopts the definitions in the UNCITRAL Model Law on ETRs and stipulates specific requirements that an ETR must meet to have the functional equivalence of a paper record.

The Bill must now run through the parliamentary process and be passed into law to become effective. The Bill can be accessed here:

[https://sso.agc.gov.sg/Bills-Supp/1-2021/
Published/20210104?DocDate=20210104](https://sso.agc.gov.sg/Bills-Supp/1-2021/Published/20210104?DocDate=20210104)



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Revised extension period for storage in manufacturing bonded warehouses

The Customs Department has issued Customs Notification 187/2563 to revise the period for storing goods in manufacturing bonded warehouses (MBW). This notification amends Customs Notification 127/2561 dated 8 May 2018 and is effective from 1 December 2020.

Previous Notification 127/2561, states that goods can be stored in MBW for up to two years, which can be extended for another one year if necessary. Under the new Notification 187/2563, the storage period can be extended for another five years if required due to contractual obligations with government agencies. Note that the extension period is only limited to products needed for government contracts.

To utilise the five-year extension, the products must have a shelf life of at least five years. Also, a letter explaining the reason for the storage necessity, including supporting documents and evidence from the relevant government agencies are required.

New tax compensation rates for export goods

In December 2020, the Tax Compensation Committee announced two new notifications to update key tax compensation issues for exported goods:

- **No. Or 1/2563** – updates the tax compensation rates for export goods produced in Thailand, covering a wide range of products based on HS codes. It specifies that the person eligible to request compensation must not be entitled to other privileges, i.e. duty refund. Other issues addressed are import duty exemption on items released from production bonded warehouses for export and other transactions related to free zones under Thai Customs law, import duty exemption in IEAT free zones, and import duty exemption or reduction of materials (excluding machinery) under BOI privileges. This notification has been in effect since 1 January 2021.

You can view the notification and the full list of tax compensation rates [here](#).

- **No. 1/2563** – specifies the method to calculate the Free on Board (FOB) value of exported goods which must be used as a compensation calculation base. If any discrepancies are found in the export value against the actual payment, the officers will use the lower value for their calculation. This notification has been in effect since 23 December 2020.

You can view the notification [here](#).

Extension for using Certificate of Origin copies until 31 March 2021

To help importers declare Certificates of Origin (COs) during the COVID-19 pandemic, Customs has issued Customs Notification 203/2563 to extend the acceptance of CO copies until 31 March 2021.

The COs covered under this Notification are for the following agreements:

- ASEAN Trade In Goods Agreement (ATIGA - Form D);
- ASEAN - Australia - New Zealand FTA (AANZFTA - Form AANZ);
- ASEAN - China FTA (ACFTA - Form E);
- ASEAN - Hong Kong FTA (AHKFTA - Form AHK);
- ASEAN - India FTA (AIFTA - Form AI);
- ASEAN- Japan FTA (AJFTA - Form AJ);
- ASEAN - Korea FTA (AKFTA - Form AK);
- Thai - India FTA (Form FTA Thai-India);
- Japan - Thailand EPA (JTEPA - Form JTEPA);
- Thailand -Chile (Form TC).

The Notification also includes COs under the protocol between Thailand and Peru to accelerate the liberalisation of trade in goods and trade facilitation, and covers digital COs under the Thailand-India and ASEAN-India free trade agreements.

Note that the procedures to request using a CO copy remain unchanged and are based on Customs Notification 81/2563 and 166/2563. These include adding a request statement in the remark box on import entries, as well as submitting a request form and an original CO within a certain timeline.

The Thai version of the Notification can be downloaded from the Customs Department's website [here](#).



Duty exemptions for imported items used for COVID-19 purposes

In the Royal Gazette on 28 December 2020, the Ministry of Finance (MoF) announced a notification (No.2) on the import duty exemption for imported items used to treat, diagnose or prevent COVID-19.

The duty exempted items include all relevant tariff codes listed in Part 2 of the Customs Tariff Degree (No.6) B.E. 2559. However, the exempted items must follow the issued list in a related Ministry of Public Health notification.

The MoF notification is effective from 1 October 2020 to 31 March 2021.

You can view the details [here](#).



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UK-Vietnam Free Trade Agreement goes into effect

Refer to the [FTA Focus section](#) for more details.

Guidance on the Certificate of Origin Form D under ATIGA self certification

On 15 December 2020, the General Department of Customs issued an official letter no.7886/TCHQ-GSQL on new guidance on the new ASEAN-Wide Self-Certification (AWSC) scheme and the the Certificate of Origin Form D under the ASEAN Trade In Goods Agreement (ATIGA). Notable inclusions are:

A. FOB value in box 9 in the Form D (C/O Form D):

For the new Form D (issued from 20/9/2020), the FOB value will only be required when goods are exported or imported from Cambodia, Indonesia, or Laos, and when the regional value content rule of origin is applied.

B. Guidelines for declaration content under AWSC:

- Exporters applying for the pilot scheme are recommended to follow the declaration content prescribed in Clause 7, Article 3 in Circular 19/2020/TT-BCT:

"The exporter of the product(s) covered by this document (Certified Exporter Authorization Code.....) declares that, except where otherwise clearly indicated, the product(s) (HS Code/s:.....) satisfy the Rules of Origin to be considered as ASEAN Originating Products under ATIGA (ASEAN country of origin:) with origin criteria:"

In addition, exporters using the AWSC should complete the above with the signature and name of the authorised representative.

- For exporters applying the AWSC scheme: follow the instructions on required information as prescribed in Clause 3, Article 12, Appendix 1 in Circular 19/2020/TT-BCT.

Imported tobacco raw materials subject to import tariff quota

On 4 December 2020, the Ministry of Industry and Trade issued Circular no. 43/2020/TT-BCT regarding the amount of raw tobacco materials allowed to be imported into Vietnam in 2021. Accordingly, the import tariff quota for tobacco raw materials (under HS heading 2401) in 2021 is set at 62.053 tonnes.

This import tariff quota will be effective from 18 January 2021 to 31 December 2021.

Details on the proof of origin under the EU-Vietnam Free Trade Agreement

On 8 December 2020, the General Department of Customs issued the Official letter no. 7735/TCHQ-GSQL regarding the proof of origin under the EU-Vietnam Free Trade Agreement (EVFTA).

Notable points are summarised as follows:

- EU-originating goods imported from bonded warehouses into Vietnam after the effective date of the EVFTA set at 1 August 2020 are able to enjoy preferential duty rates, providing that a proof of origin is submitted as specified in Circular 11/2020/TT-BTC and Circular 38/2018/TT-BTC. Proofs of origin on products originating in member countries to the EVFTA certifies that the product is eligible for preferential tariff treatment under the agreement. The EVFTA's permissible forms of proof of origin includes either a formal certificate of origin or declaration of origin made by the exporters subject to various requirements.;
- Self-certification can be done by eligible exporters on commercial documents such as delivery notes, commercial invoices, proforma invoices, or packing lists. It is important to note that bills of lading are not considered valid commercial documents to be used for self-certification;
- An approved exporter as defined by the EU (i.e. REX registered) is not required to sign an origin declaration. Signatures are only required for non-REX registered exporters for shipments with a value under 6,000 EUR;
- Proofs of origin must mention the European exporting territory to be accepted.





Asian COVID-19 related updates

Summary of COVID-19 related trade measures

Territory	Measure
Australia	<ul style="list-style-type: none">Extension of duty exemption on COVID-19 medical and hygiene products until 30 June 2021
Indonesia	<ul style="list-style-type: none">Extension of tax incentives for companies operating under Bonded Zone, and Import for Export Facilities until June 2021.
Thailand	<ul style="list-style-type: none">Extension of the temporary acceptance of photocopied certificates of origin until 31 March 2020.

HS classification reference for COVID-19 vaccine and related supplies and equipment

Guidance materials are being developed by the WTO Secretariat in partnership with relevant international organisations to facilitate cross-border movement of COVID-19 and other critical medicines and vaccines. This includes highlighting existing HS classification for critical medicines, vaccines and associated medical supplies necessary for their manufacture, distribution and use.

The new HS Classification reference for vaccines and related supplies and equipment can be accessed on this page: <http://www.wcoomd.org/ru-ru/media/newsroom/2021/january/new-hs-classification-reference-for-vaccines-and-related-supplies-and-equipment.aspx>

Role of trade policy in roll-out of COVID-19 vaccines

A new information note on trade-related issues for the production, manufacturing and deployment of COVID-19 vaccines has been published by the WTO Secretariat. The note details how trade policy can support the rapid roll-out of vaccines.

The information note can be accessed here: https://www.wto.org/english/tratop_e/covid19_e/vaccine_report_e.pdf

Examination of trade in medical goods relating to COVID-19

The WTO Secretariat issued an information note on trade in medical goods in response to COVID-19 on 3 April 2020. On 22 December 2020, an update was published which examined key developments and trade statistics in the first half of 2020. Some key points include:

- Imports and exports of medical goods increased by 16% in the first half of 2020 as compared to the same period in 2019, reaching USD 1,139 billion in value. This is compared to total world trade which had declined by 14%.
- Trade was critical in helping to meet demand spikes for medical goods.

The report can be accessed here: https://www.wto.org/english/tratop_e/covid19_e/medical_goods_update_e.pdf



World Customs Organisation (WCO)

Topic	Description	URL
Amendments to the Basel Convention regarding plastic waste enters into force	Parties to the Basel Convention adopted amendments relating to plastic waste. The adopted amendments that affect the import and export of plastic waste entered into force on 1 January 2021. National customs administrations are expected to update their policies and procedures to reflect the new plastic waste obligations. See for instance the New Zealand territory report .	http://www.wcoomd.org/en/media/newsroom/2020/december/new-international-rules-for-import-and-export-of-plastic-waste-come-into-effect-on-1-january-2021.aspx
Virtual diagnostic mission for Customs on control of plastic waste	The WCO conducted a virtual diagnostic mission with Indonesia, Philippine, and Vietnam Customs as part of the Asia Pacific Border Management Waste Project. The objectives were to strengthen Customs' response to legal and illegal imports of plastic waste and to highlight the new amendments on plastic waste that took effect on 1 January 2021.	http://www.wcoomd.org/en/media/newsroom/2020/december/wco-completes-virtual-diagnostic-mission-for-the-implementation.aspx http://www.wcoomd.org/ru-ru/media/newsroom/2021/january/wco-completes-two-virtual-diagnostic-missions.aspx
WCO E-Commerce Package now available	The full WCO E-Commerce Package that supports the implementation of the Framework of Standards on Cross-Border E-Commerce (E-Commerce FoS) is now available on the WCO website. It includes documents that can serve as a guide to member territories as they develop their approach towards Business-to-Consumer and Consumer-to-Consumer shipments.	http://www.wcoomd.org/en/media/newsroom/2020/december/the-full-e-commerce-package-is-now-online.aspx WCO E-Commerce Package: http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/ecommerce.aspx
Asia Pacific customs administrations learn about effective implementation of WCO E-Commerce FoS	The WCO held a workshop on e-commerce for the Asia Pacific region, focused on explaining the 15 E-Commerce Framework of Standards (FoS) as reported above. The facilitators also shared the tools available to support their implementation and practical examples of E-Commerce FoS implementation in various areas. This includes data exchange with postal operators, and expanding the concept of AEO to e-commerce stakeholders.	http://www.wcoomd.org/en/media/newsroom/2021/january/members-of-the-asia-pacific-region-discuss.aspx
Complementary amendments to the HS Nomenclature 2022 Edition	After the acceptance of the HS2022 amendments, HS Contracting Parties highlighted the need for certain corrections and amendments. Refer to the link for detailed changes. These complementary amendments were accepted, but will not be binding on Contracting Parties till they enter into force on 1 January 2023. Nonetheless, Contracting Parties can opt to apply these amendments from 1 January 2022.	http://www.wcoomd.org/ru-ru/media/newsroom/2021/january/complementary-amendments-to-the-hs-nomenclature.aspx
Regional Training Centre and Regional Customs Laboratory established in Indonesia	The WCO and Indonesia Customs signed a Memoranda of Understanding establishing a WCO Regional Training Centre and Regional Customs Laboratory in Indonesia.	http://www.wcoomd.org/ru-ru/media/newsroom/2021/january/mou-on-the-establishment-of-a-regional-training-centre-and-regional-customs-laboratory-in-indonesia.aspx
Release of Authorised Economic Operator (AEO) Compendium 2020	The latest edition of the AEO Compendium reviews existing AEO programs and Mutual Recognition Arrangements/Agreements (MRAs). It contains details on accreditation criteria, procedures, expected benefits, and associated MRAs.	http://www.wcoomd.org/en/media/newsroom/2020/december/now-available-aeo-compendium-2020-edition.aspx

Topic	Description	URL
Free Zone conference	The First Global Free Zone Conference explored collaborative solutions to better balance economic development with the safety and security of trade. The important role of Customs in the management and control of free zones was highlighted.	http://www.wcoomd.org/en/media/newsroom/2020/december/first-global-free-zone-conference-paved-the-way-for-free-zones-competitiveness.aspx
Status of adoption of WCO Data Model available online	The status of adoption of the WCO Data Model by member territories as of 1 July 2020 is now published on the WCO website. The status is expected to be updated annually.	http://www.wcoomd.org/en/media/newsroom/2020/december/status-of-global-adoption-of-wco-data-model.aspx
Review of the Revised Kyoto Convention advances to Step 2	The Working Group on the Comprehensive Review of the Revised Kyoto Convention (WGRKC) submitted their recommendations, thereby finalising Step 1 of the 'four step framework' to review the RKC. In Step 2, the mandate was passed to the RKC Management Committee.	http://www.wcoomd.org/en/media/newsroom/2020/december/the-rkc-mc-successfully-held-its-23rd-meeting-virtually.aspx
Customs administrations in Asia discuss importance of performance measurement	22 customs administrations in the Asia Pacific region attended a virtual workshop held by the WCO on Organisational Performance Measurement. Attendees shared their views on performance measurement, including its impact on strategic decision making, development of key performance indicators and data collection.	http://www.wcoomd.org/en/media/newsroom/2020/december/virtual-workshop-on-organizational-performance-measurement-for-the-wco-a-p-region.aspx
Updated Coordinated Border Management Compendium	New features in this updated version include brief descriptions of WCO instruments and tools that are relevant to strengthening Coordinated Border Management implementation, and inclusion of cooperation between customs administrations and postal operators.	http://www.wcoomd.org/en/media/newsroom/2020/december/wco-publishes-updated-version-of-the-cbm-compendium.aspx
Philippines Customs receives training on strategic trade controls	Members of the Philippines Strategic Trade Management Office attended training conducted by the Strategic Trade Control Enforcement (STCE) Programme.	http://www.wcoomd.org/en/media/newsroom/2020/december/the-stce-programme-delivers-a-national-training-for-the-customs-administration-of-the-philippines.aspx
Asia Pacific members attend National Customs Enforcement Network meeting	In the second regional meeting of the WCO's National Customs Enforcement Network (nCEN), customs administrations from the Asia Pacific region shared their experiences of using nCEN in investigations and risk management. An upgraded version of nCEN 3.3.0 was also showcased.	http://www.wcoomd.org/en/media/newsroom/2021/january/regional-meeting-of-ncen-programme-leaders-in-the-asia-pacific-region.aspx



World Trade Organisation (WTO)

Topic	Description	URL
Global trade volume picked up in third quarter of 2020	In the third quarter of 2020, world trade volume rose 11.6% as compared to the previous quarter. It fell 12.7% in the second quarter. This growth is largely attributable to electronics, textiles, and automotive products. Despite the recovery, the trade volume remains 5.6% lower than the same period last year.	https://www.wto.org/english/news_e/news20_e/stat_04dec20_e.htm https://www.wto.org/english/news_e/news20_e/stat_18dec20_e.htm
Adoption of recommendations to help MSMEs participate in global trade	A package of six recommendations and declarations were adopted by the Informal Working Group on Micro, Small and Medium-sized Enterprises (MSMEs). The recommendations and declarations are aimed at addressing challenges faced by MSMEs when they trade.	https://www.wto.org/english/news_e/news20_e/msmes_11dec20_e.htm
Report on trade-related developments	There was a marked drop in trade-restrictive and trade-facilitative measures adopted by WTO members between mid-October 2019 and mid-October 2020.	https://www.wto.org/english/news_e/news20_e/trdev_11dec20_e.htm
Compendium of GATT dispute settlement reports	The WTO has issued a new compendium containing a complete set of GATT dispute settlement reports issued under GATT 1947 and its related instruments. A searchable database is being built.	https://www.wto.org/english/news_e/news20_e/publ_14dec20_e.htm
Updates from the Trade Facilitation meeting	Trade-related challenges in response to the COVID-19 pandemic took centerstage in the WTO Committee on Trade Facilitation meeting. The WTO Secretariat also provided an update on ratifications and implementation of the Trade Facilitation Agreement.	https://www.wto.org/english/news_e/news21_e/fac_27jan21_e.htm
Updates on disputes brought by or against Asian territories	Australia initiated a complaint against China over its imposition of anti-dumping and countervailing duties on imports of Australian barley.	https://www.wto.org/english/news_e/news20_e/ds598rfc_21dec20_e.htm
	Indonesia appealed the WTO compliance ruling in the case brought by Brazil against Indonesia on the latter's use of non-tariff measures against imported chickens.	https://www.wto.org/english/news_e/news20_e/ds484apl_17dec20_e.htm
	Malaysia initiated a complaint against the EU regarding its palm oil measures. This is the second dispute following the complaint raised by Indonesia that pertain to the EU's palm oil-related measures.	https://www.wto.org/english/news_e/news21_e/ds600rfc_19jan21_e.htm
	The WTO issued its panel report in a case brought by Korea against the US. It regards the US' imposition of anti-dumping and countervailing measures on imports of certain corrosion-resistant steel products, cold-rolled steel flat products, hot-rolled steel flat products, and large power transformers (LPTs) from Korea.	https://www.wto.org/english/news_e/news21_e/539r_e.htm
	Korea appealed a panel report issued by the WTO in the case brought by Japan against Korea regarding its sunset review of anti-dumping duties on stainless steel bars.	https://www.wto.org/english/news_e/news21_e/ds553apl_25jan21_e.htm

Topic	Description	URL
Updates on disputes brought by or against Asian territories	Following the failure of bilateral consultations, the EU requested for a dispute panel to rule on Indonesia's measures relating to raw materials, including its export prohibition on nickel ore and domestic processing requirements on minerals.	https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds592_e.htm
	Hong Kong submitted its request for a panel to rule on the US' new origin marking requirements for goods produced in Hong Kong.	https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds597_e.htm



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