

Ripple or wave?

Some significant developments risk flying below the radar

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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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Ripple or wave?

Some significant developments risk flying below the radar

You may sometimes wonder what it takes to make the business community notice of some of the developments in international trade and their impact on such businesses. It is one thing to banish the function to a windowless back room somewhere, but quite another to routinely underestimate the importance of regulatory developments on the profitability and perhaps even viability of a business.

There have been three examples of this in the past month or so: the US EAR updates, a notice on the implications of the Hamamatsu case in the UK, and a court ruling in Korea on the customs treatment of transfer pricing adjustments.

Let's start with the US EAR updates, as this has received quite a bit of press coverage and senior management attention, albeit it mainly because of its geopolitical implications, not its operational realities. Although it is a US regulation with a focus on the semiconductor industry, many companies in Asia, whether or not with significant exposure to the US, and possibly in other industries, may well be caught in the net. Even if they are not caught in this particular net, they may well be caught in a future net with similar intentions. Sanction regimes are developing at breakneck speed. The regulators know that international supply chains are complex, and that their enforcement capabilities are limited. Nevertheless, the principles of the rules are clear: reduce or - better still - stop the exports of products of concern to companies and countries of concern.

Every company should therefore be asking itself two fairly simple questions: am I making any products of concern, and am I selling such products to parties of concern. Answering those two questions can occasionally be simple (don't sell technology to a company in North Korea, for example). More often, they can be surprisingly tricky to answer. The dual-use nature of many products is typically not well understood by companies that make them. The designers or engineers that understand the products and what it can be used for, intended or not, usually have little awareness, let alone understanding, of the details of sanction regimes. Sales managers may understand sanction regimes much better, but will find it hard to assess whether the products they are selling are captured, and would often rather not know.

The second question is fast becoming more complex than simply checking whether a customer is on a denied party list. Not only should you know your customer ("KYC"), you should know what they are likely to do with the product you sell to them, what else they may be engaged in, who they are likely to sell to, and so on and so forth. Increasingly under sanctions rule, the default is that if you don't know everything, you should not sell. But that may not be commercially attractive, especially if your competitors seem far less concerned with all those pesky rules and your sales colleagues are keen to go ahead.





Pulling the various pieces together in an effective trade compliance function that combines all necessary requirements remains seriously challenging for most companies. However, with penalties ranging from simple fines to denial of export privileges or being blacklisted, potentially cutting off access to trade finance, should make everyone think again. There have been high profile cases where companies have had catastrophic restrictions on their businesses, and inevitably there will be more.

The second and third examples are both in the area of customs valuation and its relation to inter-company transfer pricing. First to the UK. HM Revenue and Customs has issued guidance that reminds companies that UK tax law and customs law require prices in a multinational enterprise to be set, for both Corporation Tax and customs valuation purposes respectively, as if group members are not related. So far so good. It goes on to say that a related party transfer price may only be used as the basis of a Transaction Value Method if all relevant costs are included in the dutiable value if paid separately from the transfer price of the imported goods. Also nothing new there. It then explains that when considering if a transfer price meets the requirements of applying a Transaction Value Method, multinational enterprises must justify their basis of value under customs valuation law and cannot rely solely on their transfer pricing methodology. Still ok.

However, it then proceeds to very firmly state that you will not (usually) be able to use a Transaction Value Method with a margin-based transfer pricing model, because the real economic value for the imported goods cannot be assured at the time when they are sold for export to the UK. This would also lead to uncertainty with any later adjustments. Wait. What? Many transfer pricing models (cynics might say all of them) are margin based. So that suggests that in much multinational intercompany trade, the Transaction Value cannot be used. Agreeing a different valuation method with Customs can be a difficult endeavour in most territories. Not all may end up allowing importers to declare a transfer price provisionally under some sort of fall-back method until a final price can be determined (such as, for example, in different ways, Australia and Japan). The lack of publicity around this guidance may suggest that its implications have not quite yet hit home for many companies. It's based on the European Court of Justice Hamamatsu case, but it is one of the first adoptions of a surprising court conclusion into national guidance. Historically, it has been estimated that around 94% of declared customs values use the transaction value. If this new policy gains general acceptance that will probably fall to less than 50%, with the almost no related party prices being accepted under the transaction value. That is a huge consequence for all concerned (and not least the customs authority that asks to be consulted on all uses of methods other than the transaction value).

Then to Korea. At first sight, a far more business friendly development, but on second thought maybe leading to the same conclusion. A recent court ruling concluded that Customs cannot insist on increasing the import value of specific imports retrospectively as a result of a transfer pricing adjustment if such adjustment cannot be clearly and directly linked to such imports.

Most of us who have been involved in disclosing retrospective transfer pricing adjustments to Customs will know that allocating them to specific imports is very hard, if not impossible. Typically, an agreement is reached with Customs on how such allocation should be done based on some degree of common sense. But it is rarely if ever a direct or clear link to individual imports, as ultimately it relates to excess profit in a legal entity that can come from margins on imported goods as well as post importation activities..

Hence at first sight a 'victory' for business. No more disclosures to Customs of retrospective transfer price increases. No more additional duties or other ad valorem import taxes. Sounds too good to be true? Almost certainly is, in reality. This ruling is not in line with common practice in Korea and other territories, and it is different from the usual understanding and acceptance of importers on how such adjustments are to be treated for customs valuation purposes. However, if Customs were to accept this principle, it would only be a small step for them to argue that at the time of import of affected products, there is a "consideration on which it is not possible to place a value", hence the Transaction Value method cannot be used and another customs value must be agreed with Customs and applied. And there you have it: through a very different route we arrive at the same outcome as we just saw in the UK. So not so good after all. Therefore, another development that deserves much more attention, thought and discussion than it is getting.

Don't miss some other noteworthy developments in this issue of Trade Intelligence. Traction on exchange of information within ASEAN under the ACDD, for example, or between ASEAN and Japan on e-certificates of origin. Australia's deliberations about how to convert imports valued in cryptocurrency into Australian dollars is another sign of the times, as are Thailand's efforts to encourage local production of electric vehicles and Indonesia moving its complaints handling online.

Meanwhile, Vietnam is explicitly dealing with allowing the application of preferential treatment of goods that were made in Vietnam, exported to be stored in a regional distribution centre, and subsequently re-imported for sale in the Vietnam domestic market - something that should be equally of interest or concern, and clear, in all other Asian markets (but rarely is).

More traditionally, Indonesia's ratification of the RCEP and Malaysia's of the CPTPP bring those agreements a little closer to full implementation. Like it or not, everyone loses interest in those things after the hype of the initial signature, even though ratification and implementation are more important in practice.

Finally, the result of Japan's increased audit drive on export controls compliance is a good reminder that any and all customs audit activity around the region is picking up considerably post-COVID. Your next audit is probably just around the corner...

Negotiations to upgrade the existing ACFTA and AANZFTA start at the ASEAN Summit 2022

During the ASEAN Cambodia Summit in early November 2022, ASEAN leaders and their counterparts from China and Australia and New Zealand officially launched negotiations for the upgrade of the [ASEAN-China Free Trade Agreement \(ACFTA\)](#) and the [ASEAN - Australia and New Zealand Free Trade Agreement \(AANZFTA\)](#) respectively. A key driver for the start of these negotiations is that all parties agree on the need for an upgrade to reflect the post-pandemic situation.

While the negotiations are at an early stage, common aspects that are being looked at include the digital economy, sustainability, education services, participation of micro, small and medium enterprises (MSMEs), and supply chain connectivity. For the AANZFTA, there are discussions to upgrade the FTA to assist smoother flow of essential goods during periods of crisis.

Our take: While the news that upgrade negotiations have started for both agreements are positive, it will likely take time until any specific details are announced and then implemented. Only at that stage can companies start to evaluate what they will mean to the trading community. However, companies are encouraged to monitor progress and look out for potential opportunities to provide input to potential future consultation sessions. It is also a good time to proactively reach out to local authorities or chambers of commerce if there is anything in particular they want to suggest or change, so that this may be taken on board in the negotiations. In our experience, companies routinely underestimate the negotiators' willingness and ability to include suggestions from businesses.



FTA focus

Headline	New development
Australia-European Union Free Trade Agreement talks back on track	<p>Free trade negotiations between Australia and the European Union (EU) have resumed with the goal of concluding a deal by the end of 2023. In June 2018, Australia and the EU began discussions over a free trade agreement (FTA). So far, the agreement drafting process has completed eleven rounds of negotiations.</p> <p>There is no confirmation as yet to when the FTA will be concluded. However positive signs, such as the Australian Government's climate position, would mean a signature could possibly be reached before the end of 2023.</p> <p>Through the Australia-EU FTA, Australia hopes to increase market access to Australian agricultural and industrial products, secure access for service providers and reduce barriers to trade and investment.</p> <p>Our take: This is a very exciting trade agreement which has been on hold since it began negotiations in 2018. Traders of goods between Australia and the EU should closely follow this update. However, it is still important to note for traders to conduct an opportunity assessment to understand what impacts this FTA will ensue for them.</p>
Indonesia ratification of RCEP and IK-CEPA	<p>The Indonesian Government has announced the ratification of RCEP and the Comprehensive Economic Partnership with Korea (IK-CEPA). Currently there is still no regulation regarding the implementation procedure to obtain the preferential tariff rates for both RCEP and IK-CEPA.</p>
Malaysia ratifies the CPTPP	<p>On 5 October 2022, the Malaysian government announced that it had ratified the Comprehensive and Progressive Trans Pacific Partnership (CPTPP), thus becoming the 9th out of the 11 member territories to do so.</p> <p>Unlike the Regional Comprehensive Economic Partnership (RCEP), the CPPTPP brings in new trade partners to Malaysian companies such as Canada, Mexico and Peru, which are not covered by any existing Malaysian FTA.</p>
Thailand and the EFTA accelerate Free Trade talks	<p>Thailand and the European Free Trade Association (EFTA) are ramping up efforts to establish an FTA. An EFTA Parliamentary Committee visited Thailand in early September 2022 to discuss economic ties as well as sustainable economic growth goals between the parties.</p>
India opts out of trade talks with US-led Indo-Pacific group	<p>On 10 September 2022, it was reported that India had opted out of trade talks with a US-led group of Asian nations, otherwise known as the Indo-Pacific Economy Framework (IPEF). It was noted that India had opted out due to being unclear on the related benefits from trade commitments as well as issues around the environment, labour and digital trade.</p> <p>India has indicated that it would want to avoid any conditions that would harm a developing territory such as itself and would stay engaged with these discussions before formally associating itself in the near future.</p>
Australia and India start FTA negotiations	<p>Australian and Indian Chief Negotiators met in Delhi on 26 September 2022 for talks towards a Comprehensive Economic Cooperation Agreement (CECA) between the two territories.</p>
Cambodia - South Korea FTA to come into force from 01 December 2022	<p>On 2 October 2022, South Korea confirmed that the Cambodia-Korea Free Trade Agreement (CKFTA) will enter into force on 1 December 2022.</p>
Cambodia and Bangladesh look to boost bilateral trade	<p>On 23 September 2022, Cambodian Prime Minister Hun Sen and Bangladesh's Prime Minister Sheikh Hasina discussed the possibility of signing an FTA between the two territories.</p>

FTA focus

India to start Economic Partnership talks with Bangladesh	India Prime Minister Narendra Modi announced on 06 September 2022 that India and Bangladesh will soon begin discussions on the establishment of a Comprehensive Economic Partnership Agreement (CEPA); with the aim of completing the deal when Bangladesh becomes a developing territory by 2026.
India to seal FTAs with Canada and the UK by 2022	India is on track to complete FTA deals with the United Kingdom and Canada by the end of 2022.
India and EU discuss Free Trade Agreement	After meeting Executive Vice-President of the European Commission Valdis Dombrovskis in Bali during the G20 Ministerial Meeting on 21 September 2022, India's Commerce and Industry Minister Piyush Goyal confirmed that both India and the European Commission are eager to expedite the dialogue for an FTA.
India to seek FTA review with Japan	India's Commerce and Industry Minister Piyush Goyal announced during a meeting between Japan's Minister of Trade, Economy and Industry and himself on 8 September 2022 that it would be seeking a review its FTA with Japan. The FTA, which was implemented in August 2011, would be reviewed to seek increased market access for respective domestic products as well as potentially resolve issues which hinder trade between both territories.
India and New Zealand call off Free Trade Agreement talks	On 6 October 2022, the New Zealand and Indian governments formally announced an end to their talks on a potential FTA, concentrating instead on their business relationship.
India-Sri Lanka FTA to be revived and upgraded	Sri Lanka's President Ranil Wickremesinghe announced on 15 September 2022 that the India-Sri Lanka FTA would be revived and upgraded into a Comprehensive Economic and Technological Partnership.
Japan keen to sign FTA with Sri Lanka	On 25 September 2022, the Deputy Head of Mission Embassy of Japan in Sri Lanka announced that both Japan and Sri Lanka are keen to sign an FTA with a view to increase bilateral trade between the two territories.





Australia

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Guidance released on how cryptocurrencies can be used to pay for imported goods

The Australian Border Force has recently issued guidance to importers on how cryptocurrencies used to pay for goods are to be treated for customs valuation purposes. The guidance provides that cryptocurrencies will be treated in the same manner as any flat foreign currency. That is, they must be converted into Australian dollars based on the exchange rate for the cryptocurrency on the day of export.

However, as cryptocurrencies are not included in the list of foreign exchange rates published by the Reserve Bank of Australia, the Australian Border Force advised that a reputable cryptocurrency exchange must be used to convert the cryptocurrencies to Australian dollars. The Australian Border Force (ABF) has not provided a list of what is considered a reputable cryptocurrency exchange. However, it advised importers to consider factors such as the length of operation of the particular exchange, its standing among traders, method of generating the current price of a particular cryptocurrency when considering which cryptocurrency exchange to use, etc.

Our take: It is the obligation of the owner of the imported goods to ensure that the conversion to Australian dollars can be justified as fair and robust, especially since cryptocurrencies can be subjected to significant variations over a short period of time. As such, importers should carefully consider the use of cryptocurrencies to pay for the imported goods and seek to agree the methodology with the ABF if cryptocurrency will be used on an ongoing basis to purchase imported goods. With such fluctuations of the exchange rates, importers using cryptocurrency should be prepared for fluctuating duty payments and possible challenges on the declared customs value.

Latest Australian Federal Budget includes increase in penalty rates

As part of its latest Federal Budget, the Australian Government has announced that from 1 January 2023 onwards, the value of the penalty unit will increase from its current amount of A\$222 to A\$275 (which is then subject to further regular indexation). The increase will be applicable to offences committed following the effective date of the relevant legislative amendment, including for all Customs related infringements.

Our take: While the increase may not seem much, it can amount to substantial financial costs, for example, offences for making false or misleading statements in an import declaration will now be subjected to a minimum penalty of A\$12,375 per transaction (up from A\$9,990). This shows that authorities are ensuring that the penalties are adjusted to reflect the inflation rates we've seen recently.



Court confirms steel pallet racking imported from China is subject to anti-dumping duties

In the recent case of Stop Pallet Racking Pty Ltd v Comptroller-General of Customs [2022] AATA 2881, the Administrative Appeals Tribunal (AAT) held that steel pallet racking exported to Australia from China is subjected to dumping duties as it is within the scope of anti-dumping measures imposed by the notice:

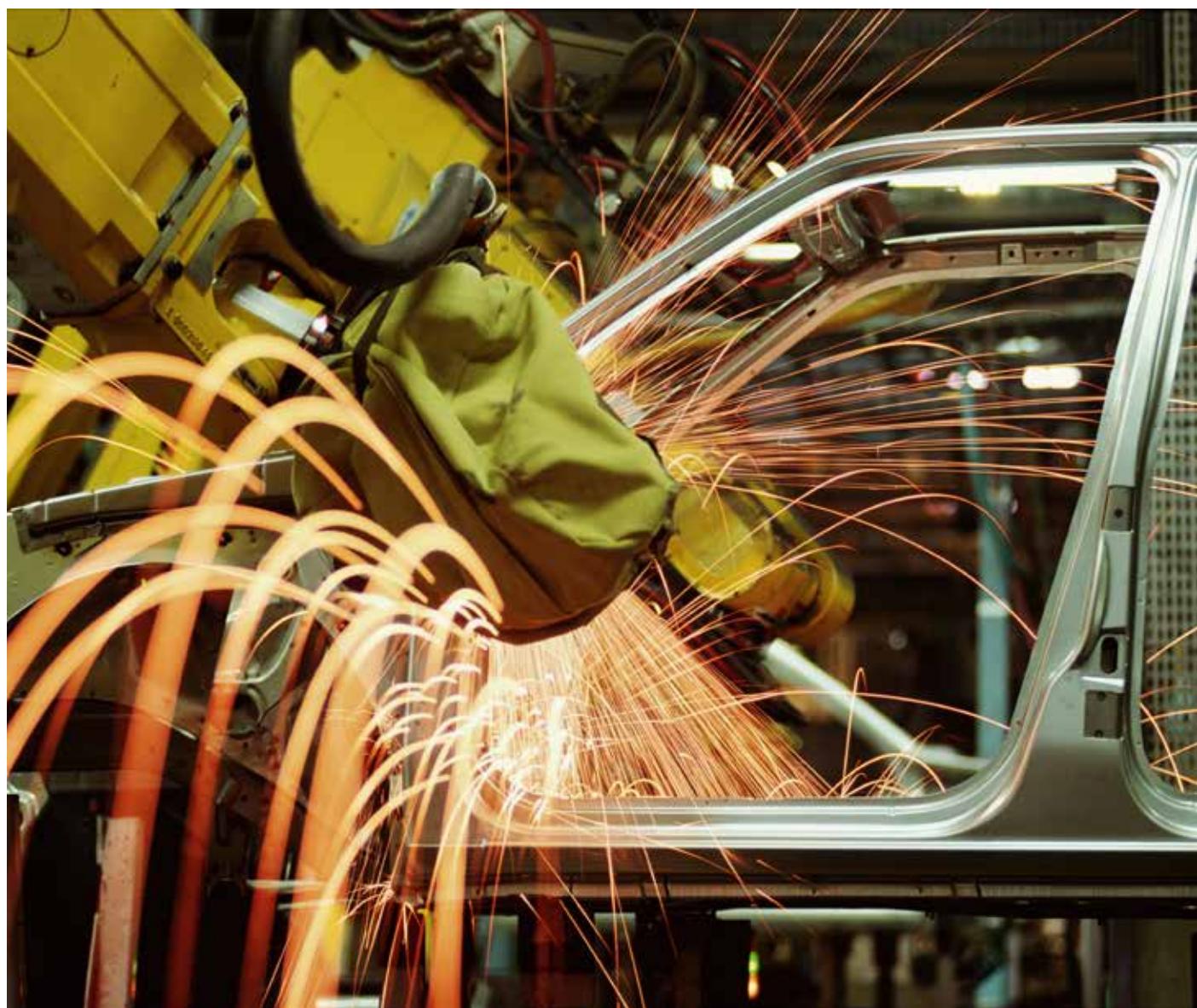
steel pallet racking, or parts thereof, assembled or unassembled, of dimensions that can be adjusted as required (with or without locking tabs and/or slots, and/or bolted or clamped connections), including any of the following – beams, uprights (up to 12m) and brace (with or without nuts or bolts)...

While the importer argued that the steel pallet racking was not covered by the dumping duty notice issued as the pallet racking was not adjustable due to its fixed width, height and depth, the AAT held that the ability to alter the storage height levels of the goods was sufficient to meet the description of the goods under consideration in the dumping duty notice. As such, the AAT affirmed the decision by the Australian Border Force to refuse a refund of the dumping duties paid.

Our take: Similar to other recent decisions of the AAT, this decision highlights the importance for importers of products that are subjected to anti-dumping and countervailing measures to consider whether dumping duty notices apply to their goods. Companies should assess their risk of application of anti-dumping duties on their imports and other similar measures with trained professionals. This will help reduce the risk of needing to go through such a prolonged process which would lead to unplanned spending on the tribunal and more importantly, the time spent on the case.

Additional customs duty on Russian and Belarusian imports extended

The Australian government has extended the increase in customs duties on goods from Russia and Belarus for another twelve months. The additional customs duties, which have a rate of 35% or higher, were imposed in response to Russia's invasion of Ukraine and the support provided by Belarus. Goods will continue to be deemed produced or manufactured in Russia or Belarus even where those goods are exported to another territory and undergo certain processes there.





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GAC adopts third-party inspection of imported or exported commodities

On 20 September, 2022, the General Administration of Customs ("GAC") issued "[Measures of the Customs of the People's Republic of China for the Administration of the Adoption of Inspection Results of Imported and Exported Commodities](#)" (hereinafter referred to as "Measures") which will be implemented from 1 December 2022 onwards. Once implemented, inspection results of commodities from third-party inspection institutions can be adopted by Customs, which can further exert social forces to undertake the technical work of Customs.

The key contents are as follows:

- **Commodities allowed for third party inspection** - the GAC will determine and publish the range of commodities that are subjected to adoption and relevant specific requirements and make dynamic adjustments.
- **Supported inspection institutions** - the inspection must be done by approved third party inspectors which are specified by the GAC.
- **Application of Adoption** - Inspector institutions can accept commissions from the consignee and consignor of import and export goods or their agents to inspect the related commodities and issue inspection reports.

If the inspection results meet Customs' requirements and are adopted by Customs, no sampling inspection will be conducted by Customs, unless a reconfirmation is required as part of risk control.

Our take: The promulgation and implementation of the measures is a reform of the Import and Export Commodity Inspection. For Customs, adoption of third-party inspection results could release its workload, focus Customs' management on high-risk goods and enterprises as well as enhance the ability of risk warning, assessment and rapid response. For enterprises, the choice of import and export commodity inspection institutions is more diversified, which could further promote the facilitation of imports and exports. If companies decide to use third party inspectors, companies should keep track that the inspectors continue to be approved by Customs.

Import and Export Commodities subject to compulsory inspection

On 30 August 2022, the General Administration of Customs ("GAC") issued "[Announcement on Adjusting the Catalogue of Import and Export Commodities Subject to Compulsory Inspection](#)" (hereinafter referred to as "Announcement"). The key amendments are as follows:

- For import commodities involving 87 10-digit HS Codes, Customs will no longer be conducting inspections. The Announcement came into force on 1 October 2022.
- The adjustment involves 2 HS codes for light textile products, 61 HS codes for metal materials and related products, 22 HS codes for dryer equipment and equipment for the electronic processing industry, 1 HS code for non-special purpose video cameras and 1 HS code for other vehicles with aluminium wheels and parts.

Although these commodities have been transferred out of the catalogue, Customs will continuously pay attention to the quality and safety of imported goods in close contact with consumers through risk monitoring.

Our take: This adjustment is a dynamic adjustment of the catalogue based on the risk assessment of the quality and safety of imported and exported goods by the GAC. Enterprises should understand the relevant requirements of Customs in advance, truthfully declare to Customs and actively cooperate with Customs supervision. Meanwhile, we suggest for enterprises concerned that the scope of compulsory inspection is not limited to the goods in the catalogue but also includes other import and export goods that will be inspected by Customs as stipulated by laws and regulations. For instance, as stipulated in the Administrative Regulations on the Safety of Hazardous Chemicals, Customs will inspect imported and exported hazardous chemicals.

Comprehensive Deepening of Reform and Opening Up of Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone

On 7 September 2022, the General Administration of Customs ("GAC") issued the [Measures to Support the Comprehensive Deepening of Reform and Opening Up of Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone](#) which introduced 18 measures to further optimise the business environment in Qianhai and promote cooperation between Shenzhen and Hong Kong.

Some examples of the new measures include:

- **Support Qianhai to build a cross-border trade big data service platform**

Shenzhen Cross-border Trade Big Data Platform (hereinafter referred to as the "platform") is the first trial version of the national platform. The platform will establish a collection and transmission mechanism for trade data among regulatory authorities, industry institutions and enterprises, and provide cross-border trade big data services.

In the future, the platform will play an important role in optimising the business environment and improving the efficiency of customs clearance. It is expected to benefit the majority of import and export enterprises in Shenzhen, and is expected to be replicated and promoted nationwide.

- **Upgrade Qianhai to a comprehensive bonded zone**

Qianhai will be upgraded into a comprehensive bonded zone similar to those of Shenzhen and Hong Kong. Supporting facilities for production and operation activities will be established in designated areas, including catering, retail of daily consumption goods, charging posts and others.

Our take: The new measures issued made a mention of "pilot" a total of 9 times which suggests this initiative is in an early exploratory phase. However, it does demonstrate the GAC is making positive progress in implementing innovative rules and changes to open up and facilitate trade between Shenzhen and Hong Kong.





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Air Transhipment Cargo Exemption Scheme for Specified Strategic Commodities

Hong Kong's Trade and Industry Department has [implemented the Air Transhipment Cargo Exemption Scheme for Specified Strategic Commodities to facilitate the air transhipment of specified strategic commodities through Hong Kong](#). Subject to certain conditions, S.A.R. Registrants under this Scheme who deal with air transhipment cargo of specified strategic commodities are exempted from licensing requirements under the Import and Export Ordinance (Cap. 60) and the Import and Export (Strategic Commodities) Regulations (Cap. 60G). The scope of the Scheme, including the definition of air transhipment cargo, and the types of strategic commodities covered by the Scheme are set out in [Appendix I](#). The conditions of exemptions such as requirement for the goods to remain within the cargo transhipment area, physical custody of the goods, and no further processing or substitution requirements are listed in [Appendix II](#).

Carriers and parties involved in handling air transhipment cargoes at the Hong Kong International Airport, including airlines, ground handling agents and freight forwarders, who wish to obtain exemptions from licensing requirements for air transhipment cargo of specified strategic commodities in 2023 are now invited to register under the Scheme.



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India announces export prohibition of key food commodities

Particulars	Measures introduced
Prohibition imposed on exportation of broken rice Notification No. 31/2015-2020, dated 08 September 2022	Prohibitions have been imposed on the exportation of broken rice which was freely exportable earlier. This prohibition came into effect on 09 September 2022.
Prohibition imposed on exportation of wheat or meslin flour Notification No. 30/2015-2020, dated 27 August 2022	<ul style="list-style-type: none"> The food security of India, neighbouring territories and other vulnerable territories is at risk due to a sudden spike in the global prices of wheat or meslin flour. Hence, the Government has prohibited the exportation of wheat which was freely exportable earlier subject to the recommendation of the Inter-Ministerial Committee to allow for the exportation of wheat.

Extension of e-scrips validity in Electronic Duty Credit Ledger Regulations

The Government has extended the validity of e-scrips issued under the Electronic Duty Credit Ledger Regulations, 2021 from one year to two years from the date of generation. In addition, consequential amendments have also been made under the RoDTEP and RoSCTL schemes to reflect this change.

Refer to Notification No. 79/2022-Customs (Non-Tariff) dated 15 September 2022, Circular No. 21/2022- Customs dated 26 September 2022 and Circular No. 22/2022- Customs dated 26 September 2022 for further details.

Updates on the implementation of RMS for risk-based examination

Initiative	Details
Phased implementation of Standard Examination Orders through Risk Management System ('RMS') Circular No. 16/2022- Customs dated 29 August 2022	<p>India Customs announced the implementation of the Risk Management System to conduct risk-based reviews of traded goods. The system will generate centralised examination orders, in cases of risk-based selection of bills of entry ('BoE') for examination after assessment has been conducted. The implementation will be in a phased manner and started on 5 September 2022.</p> <p>Our take: This functionality is expected to streamline and standardise the customs assessment procedures. It will further provide the following benefits:</p> <ul style="list-style-type: none"> Enhancement of the uniformity in the examination process by the customs authorities Reduction in time taken by customs authorities in the examination process and associated costs This step can be viewed as the fulfilment of the ultimate objective of faceless assessment under customs.

Import of goods at concessional rate of duty or for specified end use rules

India Customs announced the new Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 ('IGCR Rules, 2022'). It took effect from 9 September 2022 and superseded the earlier IGCR Rules from 2017. The coverage of the new rules has been expanded to cover cases where the intended purpose is for directing the imported goods to a specified end use along with those which pertain to the manufacturing of any commodity or provision of output service. The new rules follow a similar overall scheme as the earlier IGCR Rules 2017.

For further details, please refer to Notification No. 74/2022-Customs (Non-Tariff) dated 09 September 2022 and Circular No. 18/2022- Customs dated 10 September 2022.

Extension of the FTP and HBP till 31 March 2023

The validity of the Foreign Trade Policy (FTP) 2015-20 and Handbook of Procedures (HBP) 2015-20, which was previously extended to 30 September 2022, has been extended to 31 March 2023. The extension was announced through notification [Notification No. 37/2015-20](#) dated 29 September 2022.

This implies that all the policies and procedures specified in the FTP and HBP 2015-20 will continue to be in force until 31 March 2023.

Extension to file annual report under the EPCG Scheme till 31 December 2022

Under the Export Promotion Capital Goods ('EPCG') scheme, importation of capital goods is allowed duty free treatment, subject to fulfilment of the Export Obligation ('EO'). With a view to enhance the ease of doing business and reduce compliance burden, certain relaxations have been provided in the scheme.

One of the key relaxations provided in the initiative was that the due date for complying with the annual reporting of EO was shifted from 30 April to 30 June every year. The due date for FY 2022-23 was previously extended to 30 September 2022, which has been further extended to 31 December 2022, as announced in [Public Notice No. 27/2015-20](#) dated 29 September 2022.

Notification on the settlement of trade transactions in Indian rupees

Due to the growing interest of the international trade community in the domestic currency, the Reserve Bank of India ('RBI') had recently instructed banks to set up additional provisions for export and import transactions in Indian rupees ('INR'). In an effort to promote trade in domestic currency, the Government permitted exports and imports to be invoiced, paid for, and settled in INR through [Notification No. 33/2015-20 dated 16 September 2022](#).

Procedure for export of SCOMET items after repair conducted in India

The procedure for General Authorisation for Export after repair in India ('GAER') has been notified through [Public Notice No. 31/2015-20](#) dated 14 October 2022. The exportation of imported Special Chemicals, Organisms, Materials, Equipment, and Technologies ('SCOMET') items to the same entity abroad after repair in India will be allowed on the basis of a one-time GAER subject to post-reporting on a quarterly basis. Note that certain conditions apply which are outlined in the notice.

Amendments to conditions under RoDTEP and RoSCTL

In September 2021, an additional condition was announced for the Remission of Duties and Taxes on Exported Products ('RoDTEP') and Rebate of State & Central Taxes and Levies ('RoSCTL') schemes which allowed the customs authorities to recover duties and taxes from the subsequent buyers of the scrip (transferees) amounts due for the non-realisation of the sales proceeds by the exporters to whom the scrip was originally issued. The Government made amendments in the manner of issue of duty credit for goods exported under the RoDTEP scheme and RoSCTL scheme. The amendment in these schemes limits such recovery from the exporter and it will safeguard the transferee who purchased the scrip in good faith.

Please refer to Notification No. 75/2022-Customs (Non-Tariff) and Notification No. 76/2022-Customs (Non-Tariff) dated 14 September 2022 for further details.

Levy of export duty on certain products of rice

The Government has amended the export schedule of Custom Tariff Act, 1975 to introduce export duty on following products from 09 September 2022 onwards:

S. No.	ITC HS Code	Description	Rate of Duty
6A.	1006.10	Rice in the husk (paddy or rough)	20%
6B.	1006.20	Husked (brown rice)	20%
7A.	1006.30.90	Semi- milled or wholly milled rice, whether or not polished or glazed (other than Parboiled rice and Basmati rice)	20%

Refer to Notification No. 49/2022-Customs (Tariff) dated 08 September 2022 for further details.

Proposed amendment related to the exportation of drones/UAVs

On 30 August 2022, the India government circulated the [proposed amendment in the Special Chemicals, Organisms, Materials, Equipment and Technologies \('SCOMET'\) Policy for the exportation of drones/UAVs for public/industry comments and feedback](#). Changes have been proposed in Category 5B of SCOMET List and are related to the exportation of drones/ Unmanned Aerial Vehicles ('UAVs') and procedures for grant of General Authorization for Export of Drones ('GAED')/UAVs (excluding Software and Technology) for specific types of drones/ UAVs.



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Customs objection procedure to become fully online from 1 January 2023 onwards

On 12 September 2022, the Indonesian Ministry of Finance announced [an update to the Customs objection procedure](#). The amendment will become effective from 1 January 2023. It mainly changes the way the customs objection procedure is conducted. Previously, customs objection letters were submitted manually to the Customs Office. In practice, some Customs Offices have their own web-based system for the submission of customs objection letters (for example a system called "SLIM" is used in Customs Office Tanjung Priok). However, these systems are not integrated with other Customs Offices.

Once the new regulation becomes effective, customs objection letters will no longer be submitted manually or through a Customs office specific web-based system. Instead, the customs objection letters will be submitted through the Directorate General of Customs and Excise ("DGCE")'s Portal. Once submitted, the objection letter submission receipt as well as the DGCE's Decision Letter will be issued through the portal as well. In case of an operational disruption to the portal, the objection letter will be submitted manually to the nearest Customs Office. In such cases, the submission receipt as well as the objection ruling will be issued manually.

All the objection letters submitted before the coming into force of this new amendment are still regulated by the original regulation.





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Results of on-site inspections of Foreign Exchange and Foreign Trade Act Compliance

The Ministry of Economy Trade and Industry (METI) has published the results of its [FY2021 audits on the export compliance of Japanese exporters](#). METI conducts audits that are related to both individual export licences as well as bulk licences. Upon application for a bulk export licence, exporters are required to establish an export control compliance program (CP). Also, in order to ensure the execution of appropriate export controls compliance by all exporters, METI conducts on-site audits for export compliance purposes, pursuant to Article 68 of Foreign Exchange and Foreign Trade Act.

On-site audits for export compliance purposes are generally targeted at exporters who have submitted a CP pursuant to an application for a bulk export licence. As a method of on-site audit for export compliance purposes, METI interviews and checks the status of internal rules and actual practices in place with checking related documents based on the “Overview of Exporters / Self-Management Checklist (CL)” submitted to the METI.

The findings of on-site audits were categorised as (1) no findings, (2) request for improvement/review, or (3) serious findings. “Verbal advice” is also given by METI for ensuring sound export control. If exporters who received a notification (2) or (3) do not take necessary actions for improvements, a subsequent CP may be rejected when requesting for a bulk export licence. In FY2021, considering the COVID-19 pandemic, on-site audits for export compliance purposes were conducted remotely with the WEB meeting system from the previous year.

Results of the on-site inspections FY2021 are as follows:

- The number of on-site audits for export compliance purposes conducted in FY2021 was 90 (75 out of 90 cases are CP notification companies). On-site audits of small and medium-sized enterprises accounted for about 38% of the total cases.
- In the on-site audits, the ratio of total businesses who received notifications of “request for responses”, or “serious findings” is 70%. When it comes to focusing only on small and medium-sized enterprises, the ratio is 74% and slightly higher than the total figures.
- Most of the issues pointed out as “request for responses” or “serious findings” were related to “transaction screening” and “governance of export control”.
- Most of the advice from METI was related to “transaction screening”, “internal audit”, and “internal education”.

Our take: Based on the findings, exporters should take necessary precautions to confirm that their compliance processes will pass METI's inspection. It is interesting to see

comparable results between SMEs and the total figures. This shows that even larger enterprises are still having issues with export control compliance. For those exporters that are using or considering bulk licences, they should take necessary actions to confirm their Compliance Program will meet with METI's approval. Rejection of bulk licence permits will lead to various consequences to your business, so it would be prudent to ensure that all measures are taken seriously. Given that the Japanese government is operating with minimal COVID-19 precautions as compared to FY2021, exporters should expect to see a sharp increase in METI's audit activity.

Japan Customs introduce data exchange of e-CO with major ASEAN economies

With the aim of improving the business environment related to trade, Japan Customs held a series of discussions since 2021 with Thailand, Indonesia and the rest of ASEAN in cooperation with relevant ministries in Japan to realise [data exchange of EPA certificates of origin \(e-CO\)](#) between territories of export and import. The major points of discussion include data items required for e-CO and technical matters for connection with the systems in partner territories. The authorities plan to start the data exchange as soon as possible after all the necessary verifications have been completed.

Advantages of Certificate of Origin data exchange includes:

- Exchanging data directly from exporting authorities to import customs makes customs procedures for claiming EPA tariff rates in importing territories faster and easier.
- Ensuring the authenticity of the Certificate of Origin.

Our take: For businesses who enjoy the benefits of an EPA with a Certificate of Origin issued by the issuing authority, the introduction of e-CO would be a welcome improvement. Once e-CO is realised, the exporter will not be required to send a document to the importer but can submit it to the customs authority in the importing territory directly. Accordingly, the lead-time of sending the original Certificate of Origin to a territory of import would be reduced. Customs can also benefit from the e-CO. Specifically, Customs can reduce its work burden because it does not need to conduct verifications of unclear Certificates of Origin, as e-CO would ensure the authenticity of the Certificate of Origin. Conversely, importers should also consider this scheme since it will reduce the risk of challenges from Customs during clearance, since the document has been verified at source. That is not to say that there is no risk of a challenge. The customs authorities in the territory of import can conduct audits at the exporter or manufacturer in case there is doubt as to the origin qualification.

Export ban on raw materials for military chemical preparations for Russia

Japan has announced [additional sanctions on Russia](#) which pertain to export prohibitions of items that can potentially strengthen Russia's military capabilities. Accordingly, the amended Export Trade Control Order came into effect on 7 October 2022 and covers the exportation of goods related to chemical weapons to Russia.

The following additional items are added to the control list:

Scope	Examples of products covered
Substances that are raw materials for chemical preparations, substances that have toxicity equivalent to chemical preparations for military use and substances that are their raw materials. This affects a total of 73 items.	Acetylene, acetone, benzaldehyde, chlorine, ethylene, ethylene glycol (aka ethanediol), sodium hypochlorite, yellow phosphorus, red phosphorus, methanol, ethanol, dichloromethane (aka methylene dichloride), pyridine, arsenic, diethyl ether, isopropanol , and picric acid
Equipment used in the manufacture of chemical preparations and parts and accessories thereof. This affects a total of 11 items.	Reactors, storage vessels, heat exchangers and condensers, distillation and absorption columns, agitators, valves, pumps and their parts, local exhaust systems, equipment used for the analysis or detection of chemical substances and their parts and accessories Equipment, electrolytic cells and their parts, and compressors
Equipment and parts thereof, used for the production of bacterial preparations. This affects a total of 5 items.	Equipments and its parts used for physical containment, fermenters, centrifuges, equipment for protection used in physical containment facilities, and equipments for the synthesis of nucleic acids or for the binding of nucleic acids to nucleic acids

Do note that for chemical substances, mixtures are subjected to export ban if the substance content exceeds 90% of the total weight. Businesses may need to pay attention to not only raw materials but also to mixtures.



Malaysia

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Ratification of the CPTPP in Malaysia

On 30 September 2022, Malaysia ratified the [Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#), becoming the ninth out its eleven member territories to ratify the agreement (accurate to the time of writing). The members of CPTPP are Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore and Vietnam. The Agreement will come into effect for Malaysia on 29 November 2022.

The CPTPP contains trade-facilitative Rules of Origin (ROO) that are designed to support modern business practices and further promote deeper integration of Malaysian businesses into regional supply chains. The Agreement allows Malaysian manufacturers to source raw materials from all CPTPP members for the purpose of fulfilling the ROO requirements and consequently qualifying for reduction and elimination of import duties. Some examples of ROO include wholly obtained or produced (WO) Goods, change in tariff classification (CTC) and regional value content (RVC).

In facilitating ROO compliance, the Agreement also provides exporters with multiple RVC calculation methods, compared with the limited methods that are currently available under the existing free trade agreements (FTAs).

Our take: Unlike the Regional Comprehensive Economic Partnership (RCEP), CPPTPP brings in new trade partners to Malaysian companies such as Canada, Mexico and Peru which are not covered by any existing Malaysian FTA. Companies should analyse the benefits of utilising the CPTPP against other FTAs together with applicable ROO and other conditions to ensure access to new markets.

Customs and trade implications of Budget 2023

On 7 October 2022, the Ministry of Finance (MOF) announced its Budget 2023. We have summarised the key points of the proposed amendments that are related to customs and trade as follows:

1. Extension of import and excise duties exemption to imported Completely Build-Up (CBU) EVs

With effect from 1 January 2024, the import and excise duties exemptions for imported CBU EVs, which include passenger vehicles, commercial vehicles and motorcycles will be extended for one year until 31 December 2024.

Currently, imported complete built up (CBU) EVs are fully exempted from import duty and excise duty from 1 January 2022 to 31 December 2023.

2. Extension of sales tax exemption on the purchase of locally assembled buses

It is proposed that the sales tax exemption on the purchase of locally assembled buses including air conditioners will be extended for another 2 years until 31 December 2024. Application for the sales tax exemption has to be made to the MOF before the purchase of the buses.

Currently, sales tax exemption is available until 31 December 2022 for locally assembled buses including air conditioners purchased by eligible bus operators.

3. Excise duty exemption on tourism vehicles

It is proposed that the exemption be brought back for 2 years and for new locally assembled hire-and-drive cars for tourists and excursion buses. The exemption is granted to applications received by MOF from 1 January 2023 to 31 December 2024.

4. Excise duty and sales tax exemptions on the sale, transfer and disposal of taxis

It is proposed that from 1 January 2023 onwards, excise duty and sales tax exemptions are extended to executive taxis, Teksi 1 Malaysia and airport taxis.

Currently, excise duty and sales tax exemption are granted to the sale / transfer / private use / disposal of individually owned budget taxis and hired cars. The qualifying age of the vehicle is proposed to be reduced from 7 years to 5 years from the registration date.

5. Import duty and sales tax exemptions on nicotine replacement therapy (NRT) products

It is proposed that import duty and sales tax exemptions be granted to NRT products such as nicotine gums and nicotine patches from 1 January 2023 to 31 December 2027.

6. Currently, these products are subjected to import duty and sales tax.

Import duty and sales tax exemptions on studio and film production equipment

It is proposed that import duty and sales tax exemptions are granted to providers of such equipment, production services, studios and cinemas from 1 January 2023 to 31 December 2024. The application for these exemptions must be submitted to the Ministry of Finance (MOF).

Currently, studio and film production equipment are subjected to import duty and sales tax.

7. Import duty & sales tax exemption for Carbon Capture and Storage (“CCS”)

It is proposed that companies undertaking CCS in-house activities or CCS services will be given import duty and sales tax exemption on equipment for CCS technology. The application for exemption must be received by the MOF from 1 January 2023 to 31 December 2027.

Currently, there is no specific import duty and sales tax exemption that is readily available for CCS technology related equipment.

Implementation of Customs, Excise, Free Zone and Sales Tax Amendment Acts

Following our update in the previous edition ([July/August 2022](#)) of [Trade Intelligence](#) regarding the amendment bills in relation to the Customs, Excise, Free Zone and Sales Tax Amendment Acts, these acts have been gazetted on 18 October 2022 without any changes from the bills.

- [Customs \(Amendment\) Act 2022](#)
- [Excise \(Amendment\) Act 2022](#)
- [Free Zones \(Amendment\) Act 2022](#)
- [Sales Tax \(Amendment\) Act 2022](#)

This includes amendments regarding payment timeline of duties and other charges leviable on imported dutiable goods, specification of forms relating to Customs Act and Excise, sales tax treatment of low value goods, etc.

The effective dates of the above amendment acts have yet to be confirmed and will come into force on dates which will be notified at a later stage.

Further postponement of implementation of “sugar tax” on pre-mixed preparations

The Royal Malaysian Customs Department has announced another postponement of the implementation of excise duties on pre-mixed preparations. It will take effect on 1 January 2023 instead of 1 November 2022.

The manufacturers of premix preparation of the following goods will be required to apply and obtain an excise licence for a fee of RM200 per year:

- Chapter 18: Cocoa and cocoa preparations
- Chapter 19: Preparations of cereals, flours, starch or milk; pastrycooks’ products
- Chapter 21: Miscellaneous edible preparations

The excise duty will be levied on and paid by the licensed manufacturer when the pre-mixed preparation is removed from a licensed place/warehouse for consumption within Malaysia. Note that an excise duty exemption may be granted under certain conditions.

The above amendments are announced by way of gazette

through the issuance of [Excise Duties \(Amendment\) Order 2022](#), [Excise \(Amendment\) Regulations 2022](#), [Excise Duties \(Premix Preparation\) \(Payment\) Order 2022](#), [Excise Duties \(Exemption\) \(Amendment\) \(No.2\) Order 2022](#) and [Excise \(Exemption from Licensing\) \(Amendment\) Order 2022](#).

Our take: While Customs did not provide a reason for the postponement, we understand that affected manufacturers requested for more time to prepare and make the necessary adjustments to their operations considering that the excise duties orders on pre-mixed preparations were only issued in September 2022. The postponement will provide the manufacturers with additional time to make the necessary preparations, register and get guidance on the compliance aspects.

New import licence application procedures for Completely Knocked-Down (CKD) vehicles

On 19 October 2022, the Ministry of International Trade and Industry (MITI) issued a [notice](#) regarding application of import licence (AP-Approved Permit) for Completely Knocked-Down (CKD) vehicles following the full enforcement of the Definition of CKD Under the Customs Regulations 1988 (“Regulation”).

Under this update, AP application by companies that have received approval for local assembly can be done through the E-Permit system based on the following AP categories:

1. CKD AP for imports that meet the definition of CKD under Customs Regulations 1988; or
2. Parts / Sub-Assemblies AP for imports that do not meet the definition of CKD.

The importation of vehicles in the form of CKD must comply with the Regulation from 1 January 2023 onwards.

New MITI requirement for importation of iron and steel products

From 1 September 2022, MITI requires [Import Permit \(AP\)](#) [applications for Iron and Steel](#) products under HS code 7225.99.90 00 (Others Coated Alloy Steel) to be accompanied with an advance ruling or any other documents to prove that a ruling application has been made to Malaysia Customs.

This implementation is to ensure that HS code of the imported products is appropriately and accurately declared.

Amendments on Sales Tax (Exemption from Registration) Order 2022

On 1 September 2022 the Ministry of Finance (MOF) published an amendment to the [Sales Tax \(Exemption from Registration\) Order 2018](#). The amendments announced the sales tax registration exemption for any person who:

- Operates a single manufacturing operation to produce a good from several operation manufacturing chains; or
- Operates more than one manufacturing operation specified but the manufacturing operations are not related to the production of goods.

Philippines



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Customs and trade related automation developments in the Philippines including ACDD and ePhyto certification

The Bureau of Customs (BOC) has issued [guidelines](#) on the electronic exchange of the ASEAN Customs Declaration Document (ACDD). This will facilitate the exchange of import and export data between the Philippines and other ASEAN member states using the ACDD Portal that connects to the ASEAN Single Window (ASW).

The ACDD is an electronic document used to exchange export declaration information between ASEAN member states. This year, the Philippines have implemented electronic data exchange with Cambodia, Myanmar, Thailand, Malaysia, Singapore, Brunei, and Indonesia; with Lao PDR and Vietnam expected to join the data exchange scheme soon.

The use of ACDD is optional and open to Philippine traders. Exporters with an active profile with the BOC's electronic-to-mobile system may register in the [ACDD Portal](#).

After registration, exporters will be able to send ACDD data to the importing territory. In the same manner, the BOC will receive incoming ACDD information from other ASEAN member states. This helps the BOC's risk management activities which effectively reduces customs clearance time for import transactions.

In the future, the ACDD module will be available in the TradeNet system (the Philippines' National Single Window). The TradeNet system facilitates electronic processing of import and export permits of different regulating government agencies. Currently, there are 21 regulatory agencies onboard, and additional 51 agencies will soon connect to Tradenet.

As part of other automation developments, exporters may now also secure electronic phytosanitary (ePhyto) certificates using the relaunched electronic phytosanitary system by the Bureau of Plant and Industry (BPI). The system was first implemented in 2018 but was suspended due to system enhancements. An ePhyto certificate guarantees that a plant or plant product for export is free from pests and diseases, and conforms with other phytosanitary requirements of the importing territory.

The ePhyto system is to be implemented in phases. Currently at phase 1, the system is available for application filings but physical copies of the certificates still need to be secured from the BPI offices. For the phase 2, ePhyto system will be able to electronically send certificates to the importing territories through a global centralised e-phyto hub, or through the ASW.

Separately, the Department of Trade and Industry (DTI) has also introduced a new website that allows businesses to access DTI's various services. Among the benefits it offers is the electronic registration and filing of [applications for a Certificate of Authority](#)

[to Import \(CAI\)](#). CAI is a requirement for importation of used motor vehicles, parts, and components.

Our take: The Philippines targets to make import and export transactions of essential goods to be paperless by 2028. Various promising automation developments have been introduced for that purpose; and for companies operating in the Philippines to benefit from. Such companies should do all they can to take advantage of available digitisation improvements for their efficient management of customs and trade related requirements. Although the new technologies are optional as of now, it is likely that in the future the BOC will push for further digitalisation and make some of it mandatory. This means that companies should aim to utilise such schemes to avoid falling behind in future.

3-year safeguard duty against HDPE

After its formal investigation on the petition filed by local industry producers, the [Department of Trade and Industry decided to impose definitive safeguard duty against imported High Density Polyethylene \(HDPE\)](#) pellets and granules; which are used in the production of plastic bottles, corrosion-resistant piping, plastic lumber, and others.

The safeguard duty will be collected on imports of HDPE pellets and granules falling under ASEAN Harmonized Tariff Nomenclature (ATHN) 3901.20.00 for a period of three years in the following schedule:

	Safeguard duty per metric ton (in Philippine peso)
First year	1,338
Second year	1,271
Third year	1,208

Exempted from the safeguard duty are imports coming from developing territories that are accompanied by a Certificate of Origin (CO) issued in the territory of manufacture, authenticated by the Philippine Embassy or Consulate General, as applicable.

Our Take: Any company involved in the import of HDPE must carefully take note of this safeguard duty application and assess its impact to its business. As a result of this safeguard duty implementation, affected companies should consider conducting a cost analysis to determine the impact of the safeguard duty to decide whether it makes more sense to consider sourcing HDPE locally.



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Singapore to increase its GST to 8%

[Singapore's Goods and Services Tax \(GST\) rate will be increased from the current 7% to 8% on 1 January 2023](#). The hike is the first out of the two planned increases in the GST rate as mentioned in the 2022 state budget announcement. The second increase from 8% to 9% will occur on 1 January 2024.

In this regard, imported goods and goods released from licensed premises into Singapore will be subjected to the new GST rate on 1 January 2023. Goods imported and released from licensed premises by 31 December 2022 would still be subject to the current GST rate of 7%.

Importers who have an In-Payment Permit issued before the new rate applies but can only clear the goods after 31 December 2022 must apply for a GST Short-payment permit to pay the additional 1% GST. If importers know that their goods cannot be released before 31 December 2022, they may request to issue the In-Payment permit at the new GST rate at 8% starting 25 December 2022.

Our take: For GST-registered businesses, this should not have any significant impact to operations since GST would still be recoverable. However, businesses should plan ahead and apply the correct rate in the In-Payment permit if the goods will arrive in Singapore before the new year but cannot be cleared before the rate change to avoid needing to apply for a GST Short-payment permit.

Minor changes to fees related to permit and CO applications submitted through TradeNet

On 31 Aug 2022, Singapore Customs issued a [circular on the changes of the processing and messaging fees for permit and Certificate of Origin \(CO\)](#). There are three main aspects to the fees paid for permit and CO application through TradeNet, these fees are messaging fees, processing fees and the statutory fees. The statutory fees have remained unchanged at SGD 0.90 and SGD 4.00 for permit and CO applications respectively. However, due to rising costs of operating and maintaining TradeNet, the messaging and processing fees for both permit and CO applications has been increased. Effective 7 November 2022, the messaging fee has increased to SGD 0.20 per application from SGD 0.18 while the processing fee has increased to SGD 1.98 per application from SGD 1.80.

Our take: All things considered, these increases are minor, and should not impact a company's operations. Nonetheless, it is good to note the direction of travel and the impact inflation has on application fees.

Updated procedures for electronic submission of ACDD under the ASW

On 9 September 2022, Singapore Customs issued a circular to inform traders on the [updated procedures](#) for the electronic submission of ASEAN Customs Declaration Document (ACDD) under the ASEAN Single Window (ASW). It supersedes the previous Circular No.14/2020 which was dated 31 Dec 2020. Under the updated procedures, the registration of the ACDD can be completed on the [Networked Trade Platform \(NTP\)](#).

The ACDD is a cross ASEAN initiative under the ASW to communicate export declaration information to the importing ASEAN Member States (AMS). The ACDD contains a specific set of TradeNet export permit data, sent to the Customs authority in the importing exchange-ready AMS for the purpose of supplementing risk management by the Customs authority in the importing territory.

Our take: The ACDD is one of the many digitalisation efforts to increase trade transparency and efficiency within the ASEAN region. The benefits for participating traders include potential reduction in customs clearance time for consignments which are supported by the ACDD and imported into exchange-ready AMS. This will help trading partners to smoothen supply chain flow and potentially reduce the frequency of goods being held up at customs clearance or being selected for physical inspection.



Implementation of OVR regime in Singapore

On 21 October 2022, Singapore Customs published a circular on the [implementation of the Overseas Vendor Registration \(OVR\) regime](#). Due to the rise of international e-commerce traders, Singapore wants to create a more level playing field for its local businesses to compete effectively with such international traders.

During Budget 2021, the Minister for Finance had announced that Goods and Services Tax (GST) will be applied to imported low-value goods ("LVG") under business-to-consumer ("B2C") transactions. This will effectively remove the import GST relief for LVG applied when non-dutiable goods imported to Singapore are valued below SGD 400, whether imported through air or land.

To support this removal of the import GST relief, the Overseas Vendor Registration (OVR) has been introduced. This scheme requires overseas vendors to collect GST on behalf of their customers and will be implemented from 1 January 2023 onwards.

Our Take: Overseas vendors who are dealing in "B2C" transactions in Singapore must take note of this change. Any overseas vendor looking to continue shipping its goods into Singapore must enrol into this scheme to collect GST on behalf of its customers. To avoid any delays, applicable overseas vendors should ensure that this system is in place so that when the removal of the GST relief becomes effective, shipments are not disrupted. It is also important to note that the GST will increase from 7% to 8% come 1 January 2023.





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Taiwan extends anti-dumping duty on steel products to six territories

[Taiwan's Customs Administration announced a sunset review of anti-dumping duty on steel products imposed starting from 14 September 2022](#). As a result, the anti-dumping duty will continue to apply on steel products originated in or imported from Brazil, China, India, Indonesia, Korea, and Ukraine for five more years. However, note that the extension will be suspended for Ukraine for one year following Russia's invasion. Implementation measures are as below:

- For flat-rolled steel products plated or coated with zinc or zinc-alloys, Chinese and South Korean manufacturers and vendors will face import duties of 43.38 % and 77.3 %, respectively.
- For carbon steel plates, Brazilian vendors and exporters will face a duty of 31.1% while the anti-dumping tariffs on such products from China, India, Indonesia and Ukraine are set at 59.57 %, 32.82 %, 42.91 % and 49.29 %, respectively.
- South Korean vendors of carbon steel plates face an anti-dumping duty ranging from 5.8 % to 80.5% depending on the companies.

Taiwan extends tariff cuts for 22 imported food commodities

[Taiwan's Customs Administration has announced the extension of tariff reduction and exemption on food commodities](#). This means that the import tariff on beef and selective butter products and milk powder products will continue to be reduced by 50%. The tariff on imported corn, soybeans and wheat is waived.

These measures have been in place since 1 December 2021 and will continue to be in effect until 31 December 2022 to curb the effects of inflation.





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Import duty exemption for electric vehicles assembled or produced in Free Zones

The Ministry of Finance (MOF) issued a [notification](#) detailing the duty exemption conditions for battery electric vehicles (BEVs) assembled or produced in the Customs Free Zone (CFZ) or Industrial Estate Authority of Thailand Free Zone (IEAT FZ) for domestic use or sales. The privilege is in effect from 8 October 2022 to 31 December 2025.

The key conditions to enjoy duty exemption privileges are as follows:

1. The cumulative value of ASEAN-produced materials, imported battery cells, labour costs, other actual production costs and profits is no less than 40% of the ex-factory value. BEV manufacturers must ensure that their calculation of materials' value follows the MOF's criteria;
2. The BEVs must undergo a substantial transformation process in the CFZ or IEAT FZ;
3. Eligible companies must be free zone manufacturers or importers of the BEVs from the free zone to receive the excise tax subsidy; and
4. Customs' approval must be obtained for duty exemption before removing the BEVs from the free zone.

Our take: This measure steers Thai customers to purchase locally manufactured BEVs with reduced duty costs. To stay competitive in the growing Thai EV market, companies manufacturing BEVs in Thailand for the Thai market should consider utilising this scheme provided that they can meet the conditions. Non-compliance may lead to Customs revoking your privileges and imposing penalties and fines in addition to duty shortfall claw back.



Thai Customs introduces scheme to assist IPR holders combating IPR infringement

Thai Customs [issued Notification No. 106/2022 on controlling import, export and transit goods infringing trademarks and intellectual property rights on 27 July 2022](#) to encourage intellectual property right (IPR) holders to voluntarily register their IPR with Thai Customs. It is hoped that this scheme can improve the efficiency of inspections and seizing of infringing goods.

Companies interested in this scheme may register their IPR through the [Thai Customs IPR Recordation Systems \(TCIRs\)](#). TCIRs is a new database which Thai Customs launched to facilitate the private sector and increase the efficiency of inspections. Companies are required to provide information such as brand logo, trademark registration number, and tips for Customs officers to inspect the trademark. The IPR information submitted to Customs will be valid for three years from the submission date or the remaining trademark protection period, as specified under the Thai Trademark Law, whichever expires first. Companies can request a three-year extension to the original validity period.

If Customs suspects that imported, exported or transit goods may infringe a trademark or IPR, they will temporarily seize the goods and inform the importer/exporter. This will involve requesting for clarification and any evidence the company can provide to prove the suspected goods do not infringe any trademark or copyright.

Customs will also inform the IPR holder of the challenge. The IPR holder can request Customs to physically inspect the suspicious shipments and participate in the Customs investigation. Customs will await confirmation from the IPR holder about whether the suspected goods infringe a trademark or IPR. If the IPR holder finds that the goods does indeed infringe on IPR, Customs will subsequently inform the trader of the goods to seize the goods or submit to Customs a dispute to the IPR holder's claim.

Our take: We recommend that all trademark and IPR holders provide Customs with their trademark and copyright information to protect and preserve the reputation of such trademarks and IPR. Importers, exporters and logistics services providers must ensure that shipped goods are not goods that infringe any IPR. Products suspected of infringement may be stopped at ports, which could lead to reputational damage, supply chain disruption, or financial impacts from the seizure of the suspected goods.

Procedures for importing controlled industrial products for further processing and re-export

The Thai Industrial Standards Institute (TISI) issued [criteria and conditions](#) for the import of controlled industrial goods that undergo further processing before they are exported from Thailand. This notification replaces and repeals a previous notification and has been in effect since 11 August 2022.

Under the notification, exporters of finished goods must now report to TISI on the export amount, remaining amount and residual management procedures (if any). Additionally, the notification requires the exporter to submit the report together with the final export entries (Status 0409 - Goods Loaded) within 30 days of receiving them from Thai Customs. If the exporter is not the same as the importer, evidence proving the legal relationship between the two parties must also be submitted.

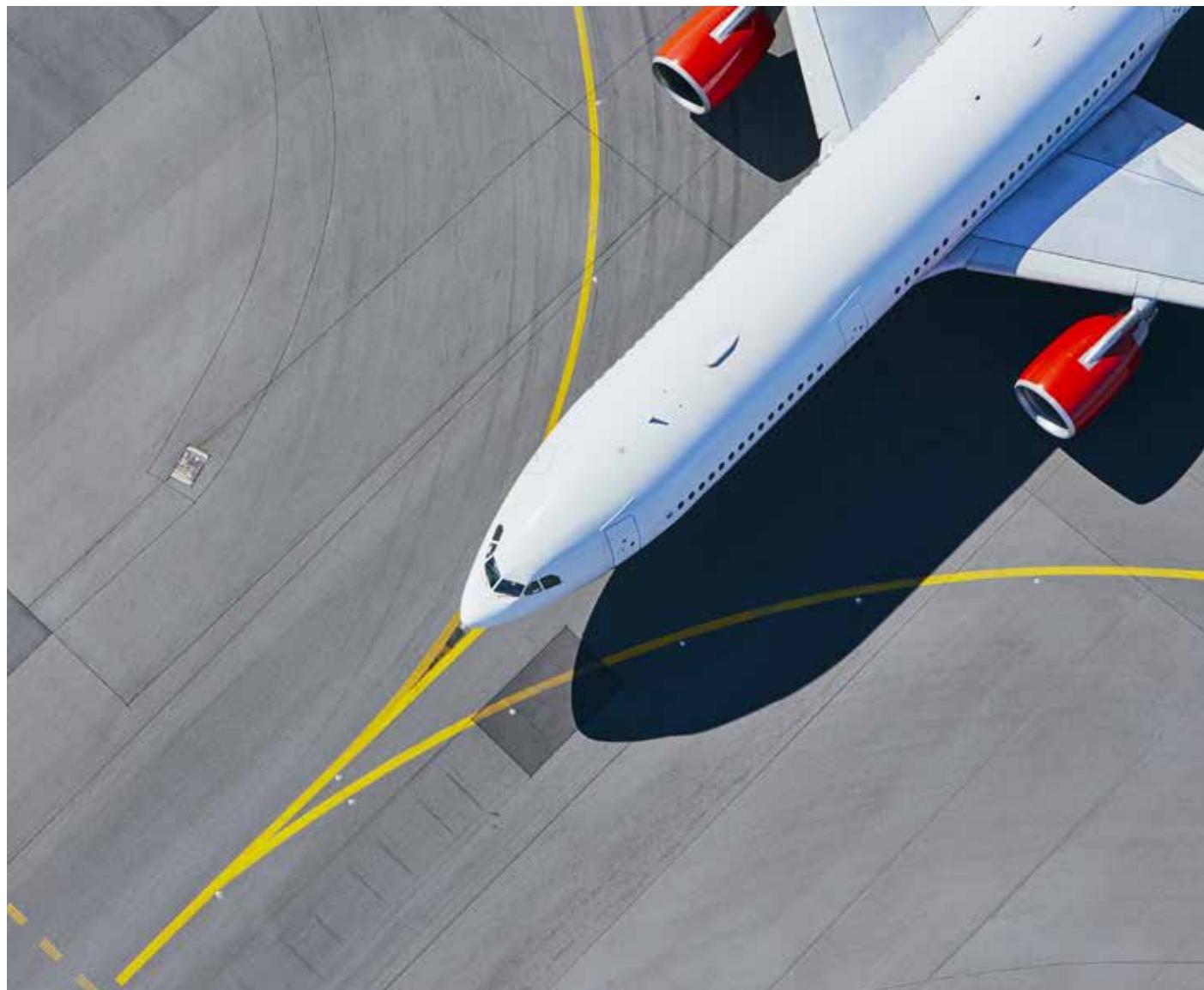
Another key update is that conditions are added for cases where there is a need to re-import the goods. Importers need to inform TISI and provide supporting evidence to prove they are the same goods that were previously exported, without any changes in physical characteristics and conditions. The goods must be re-imported within one year from the export date, with the possibility of a two-year extension, to be approved on a case by case basis.

Our take: The updated regulation provides more intensive TISI control on imported industrial goods which will be subsequently exported for use outside of Thailand. Exporters are now required to report their stock balance and submit the final export entries via TISI's online system after export. Therefore, importers who import standard-controlled goods into Thailand should establish good inventory control and follow the conditions laid out in this notification to avoid stock discrepancies and non-compliance. From a customs perspective, failure to obtain prior approval from TISI may be deemed as 'importing restricted goods without a licence', which could lead to the seizure of goods or a fine equal to the value of the goods.

Extension of ability to use a Dummy Permit Number under the ACTS

During the COVID-19 pandemic, Thai Customs issued [Notification 40/2565 on the use of a Dummy Permit Number under the ASEAN Customs Transit System \(ACTS\)](#). This relief measure allows vehicles to use a Dummy Permit Number generated from the ACTS to reduce in-person interaction.

A new Notification 124/2565 extends the effective period of the relief measures to 31 March 2023.





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Guidance on back-to-back Form D for return shipments

On 5 October 2022, the General Department of Customs issued [Official Letter 4180/TCHQ-GSQL](#) to clarify the treatment of back-to-back Certificates of Origin (CO) Form D under the ASEAN Trade in Goods Agreement (ATIGA) for return shipments.

In the official letter, Vietnam Customs has clarified that back-to-back Form D's will be accepted when there are only two territories participating in the transaction. This means that goods of Vietnamese origin that are exported from Vietnam to a bonded warehouse in another ASEAN member state where a back-to-back Form D is issued before the goods are re-exported back to Vietnam will be entitled to preferential tariff treatment upon re-import.

Our take: In the past year, we have seen importers being challenged on the use of Form D privileges on the basis of a return shipment and we noted that this practice is different between ports. Hence this guidance is likely to be welcomed by traders in Vietnam, as it adds clarity to an issue that has been contentious to many in Vietnam. That being said, there were discussions on this issue in the recent Standing Committee on ATIGA Rules of Origin (SC-AROO) Meetings, but no conclusion has been reached at a regional ASEAN level. With the increase of regional distribution centre (RDC) business models in the Asia Pacific region, we view that this issue will likely pop up more often in other territories. Therefore, traders in other ASEAN territories should be aware of this development and potential implications to their trade flows, especially if they are running or planning to run an RDC.

Self-printed CO form from 15 October 2022

The Ministry of Industry and Trade (MOIT) announced [a change in the procedure of Country Of Origin certification by allowing exporters to self print CO content](#) on A4 paper instead of obtaining the CO from MOIT. The measure started from 15 October 2022.

The new policy will apply to CO Forms of 14 Free Trade Agreements including: D, E, AK, AJ, AI, AANZ, AHK, RCEP, CPTPP, VK, VJ, VN-CU, S, VC.

During the transition period from 15 October 2022 to 15 April 2023, exporters may continue to use CO forms of the above types issued by the MOIT.

Our Take: Exporters should take note of this new procedure and for which forms this procedure could be used, as it would make it easier for exporters to produce physical copies to Vietnamese Customs as and when required.

Concerns raised regarding the suitability of the AEO scheme

On 28 September 2022, The General Department of Customs issued [Official Letter No. 4044/TCHQ-CCHDH responding to a petition of companies in the Vietnam Business Forum \(VBF\)](#).

The VBF raised a concern regarding the practicality of the Authorised Economic Operator (AEO) scheme in Vietnam. The concerns are summarised below as follows:

- The current AEO regulations do not distinguish between manufacturing and trading enterprises to be applicable for the AEO scheme. Hence, some criteria are not suited for the functions of the respective enterprises.
- Companies with centralised manufacturing procedures on a global/regional scale are not eligible for the AEO scheme. This means that companies with global/regional centralised functions such as logistics, finance, accounting, or customs would not be considered to fulfil the AEO requirements.

In response to this, the General Department of Customs stated that (i) the current criteria for the AEO scheme have been recognized by World Customs Organization (WCO) and are applicable for all types of companies and (ii) companies with centralised manufacturing procedures on a global/regional scale are eligible for the AEO scheme if they meet the current criteria. Therefore, Customs do not expect these concerns will lead to any changes to the AEO scheme in the near future.

Additionally, the General Department of Vietnam Customs has completed the comparison of its AEO scheme with those of other ASEAN member states and is expected to sign a Mutual Recognition of AEO Scheme Agreement in 2023. Thus, it can be said that the AEO program is in line with international practices (SAFE-FOS-WCO) in general and the ASEAN region in particular.

Our take: Vietnam Customs' response points out that it is unlikely that any changes raised by the VBF will be applied to the AEO scheme. Companies that are looking to utilise the AEO should instead plan around the conditions set by Vietnam Customs. A detailed study on the cost and benefits of enrolling into the AEO should be conducted to review the magnitude of changes that the applying company will need to make to ensure AEO certification.

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