

# Celebrate or Commiserate?

Taking stock in the world of customs and international trade

Trade Intelligence Asia Pacific  
February / March 2021



## Navigating tomorrow today

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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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## Celebrate or Commiserate?

Taking stock in the world of customs and international trade



## Navigating tomorrow today

- PwC global festival of customs and international trade | 12 April - 7 May 2021

We are delighted to play an important and driving role in PwC's upcoming global festival of customs and international trade, a fully virtual event allowing us to connect and share experiences without the need to travel. Before we go into details of what we are planning to cover, if you haven't signed up already, please register your interest [here](#) today and we will give you access to the full programme of events. Should you be unable to complete the google form, please contact Serene Png directly [here](#).

This festival is free of charge and will start on Monday 12 April and run until Friday 7 May. Each week will have a theme, and provide both global, regional and national content. There will be anchor sessions throughout the festival, supplemented with a whole range of other contributions.

The first three weeks will focus on the festival's three themes; (1) Cost Optimisation; (2) Risk Mitigation; and (3) How to manage customs and trade within the organisation. The fourth week has been set aside to host "virtual client meetings".

## Why a global festival of customs and international trade?

With emergency responses to the COVID-19 pandemic, trade wars, Brexit, a change at the helm of the World Trade Organization, significant new trade agreements like RCEP and the EU-UK Trade and Cooperation Agreement, the incredible pace of change in customs and international trade shows no sign of slowing down. Things that were so standard that nobody even thought about them, such as paper based physical clearance of goods at a border, or on-site inspections and validations by customs authorities, have disappeared and been replaced by new approaches that may be here to stay, such as the “Turant Customs” programme in India and an online Factory Acceptance Test by Malaysian Customs.

We feel therefore that it is important to take stock of what this all means for customs and international trade compliance and management. By and large, laws and regulatory requirements have not changed. The HS is still the HS. The Transaction Value remains the primary method for customs valuation. Import and export licenses continue to be required. We could go on. But at the same time, the various recent crises have an impact on how managing those laws and regulations should be approached. Flexibility and resilience are the name of the game in supply chain management now. Diversification of supply will lead to increased imports of “identical or similar products”, impacting tariff classification and customs valuation. Economic hardship will affect Transfer Pricing comparables that often underlie the support for declared customs values. Increased revenue pressures on customs authorities to support their governments in financing a wide range of stimulus packages may well lead to more and more assertive audits, and more detailed review of the use of preferential tariffs. At the same time, more reliance on technology will make errors easier to spot, for the authorities but also for importers and exporters, who will be expected to have a handle on them. Increased use of sanctions will require constant review of business partners to ensure continued compliance with many, and sometimes conflicting, rules.

The lead articles in Trade intelligence have addressed many of those topics in the past year. Yet we felt that bringing the whole of our network together to discuss both macro- and country-specific developments in a virtual, predominantly discussion-based conference, would be of value to anyone out there trying to come to grips with the changed and changing realities of cross border trade. We look to share our experiences, ideas and insights with you, and help you navigate an ever-increasing web of regulations and controversy efficiently, effectively and successfully.

We have split the festival in three broad themes that are distinct yet closely related: finding cash, staying compliant, and managing the function. Let’s consider each of those in turn.

### Week 1: Cash flow optimisation

2020 was not an easy year. We saw an ever-increasing number of companies struggling for survival or withdrawing/postponing their previous expansion plans. An immediate and common priority shared by many companies has since been to look for cash, preferably directly for their bottom line, or otherwise through cash flow improvement. Cash flow management and finding cost saving opportunities in the supply chain has become even more crucial than normal, either to get through the still ongoing challenges, or, to come out ready for an unpredictable future.

The use of Free Trade Agreements (FTAs) is fast becoming the first stop on the search for cash. Our regular readers will know that FTAs have been around for a very long time. Still, many companies have not evaluated and benefited from the opportunities FTAs offer anywhere near as much as they should have. The signing of the Regional Comprehensive Economic Partnership (“RCEP”) is exciting news for businesses operating in the Asia Pacific area and for once a trade agreement is getting the attention of senior executives within organisations. But what does it actually mean to an individual company? How do you 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? What are the risks of getting it wrong?

These are by no means easy questions to answer, but not seriously evaluating FTAs is fast becoming not an option if you want to stay competitive. This is why we will be dedicating specific sessions to sharing our experience on how companies should think and respond to FTAs to provide you with the right tools and thinking to help your company optimise its FTA strategy.

### **What you can expect for Asia**

Each week during the festival we will host dedicated webinars and panel discussions for Asia. These sessions will be focused around the festivals three themes:

Week 1: Cash flow optimisation

Week 2: Risk mitigation

Week 3: How to manage customs and trade within the organisation

These core topics have been chosen for a reason and will drive the content we will be sharing each week. To give more of a flavour of what you can expect, here is a brief introduction to each week and an outline of the core session we will be hosting for Asia. To get more details and access to all this content, including the global content, make sure you [sign up](#).



| Week 1 - Cash flow optimisation; anchor sessions |   |   |
|--|---|---|
| Date   | Topic   | Brief description of event  |
| 13 April   | RCEP & FTA optimisation   | Optimising your FTA strategy is not easy and in this session we want to provide you with the right thinking to get there.   |
| 13 April   | Interview with David Wijeratne, the architect behind PwC's Asia Pacific's Time report | PwCs recent publication "Asia Pacific's Time ( <a href="https://www.pwc.com/gx/en/asia-pacific/asia-pacifics-time-nov2020.pdf">https://www.pwc.com/gx/en/asia-pacific/asia-pacifics-time-nov2020.pdf</a> ) highlights the opportunities for businesses when focusing on growth in Asia Pacific. We talk to the architect behind this report for his views on how he believes customs and trade matters can support or may get in the way of materialising such opportunities. |
| 14 April   | Reducing supply chain costs through trade facilitation                                | Under the principles of the Revised Kyoto Convention, most countries provide a range of trade facilitation options. Making use of such facilities can significantly enhance supply chain efficiency and reduce supply chain costs. During our session, we will share more about old or new trade facilitation options, their usefulness, challenges and practical considerations.   |
| 14 April   | Panel discussion with the ASEAN Business Councils                                     | The ASEAN Economic Community was established in 2015. 6 years on, although there has been significant progress in many areas, much work remains to be done. We talk to the Joint Business Councils in ASEAN about their views and expectations for future trading around ASEAN, with a particular focus on Non Tariff Barriers.   |
| 15 April   | How companies can find cash in their cross border supply chain                        | Cash is king. A common priority shared by many companies is to look for cash, preferably directly for their bottom line, or otherwise through cash flow improvement. This session will focus on where you may find the cash from your supply chain, what are the practical challenges and most importantly, how to secure your savings.   |

FTA savings may be the most obvious, but far from the only option to find cash in cross-border trade. Duty exemptions or suspensions, either permanent or temporary, customs value optimisation, tariff engineering, use of appropriate bonded facilities for manufacturing or storage, all offer potentially significant benefits to cash outlay or cash flow. Businesses need to be streetwise when selecting priority savings opportunities for implementation. Procedures, trade facilitative options, relevant legislation, authorities sentiment, etc. can vary significantly by territory, or even port. Knowing when and how to engage with customs authorities adds another layer of complexity which often results in companies doing very little to explore a specific savings opportunity. Forming an understanding of all available options, how useful they are, what challenges may need to be overcome, what practical considerations may be encountered, and a solid cost-benefit analysis, are all steps in the right direction. We will dedicate specific sessions during the festival to address these important points.

Most savings opportunities are prospective, but some may be retrospective and provide extra cash-in-hand, for example Tariff Concession Orders in Australia. In practice, retrospective refunds, even under FTAs that specifically provide for them can be devilishly hard in most territories in Asia. An approach that focuses on go-forward savings and takes any retrospective refund as a bonus will generally work best, both in terms of convincing senior management to "give it a go", and successful implementation.

Finally, it is important to note that although many companies have been looking hard for any cash saving possible, the emerging trend for international supply chains is on ensuring flexibility and resilience. That may not sit so well with customs savings. This is where a solid cost-benefit analysis is so important. Avoiding additional future costs, for example loss of FTA benefits because of the implementation of a regional distribution center, needs to have a number to it that is taken into account when evaluating future supply chains. At the same time, faster and / or more predictable clearance, such as that offered to trusted traders, has a value to it that also needs to be quantified and thrown into the mix.

#### Week 2: Risk mitigation

One of the most underestimated yet potentially costliest aspects of customs and trade management is the risk resulting from non-compliance. Even if you have been getting through the COVID-19 crisis relatively 'scratch free', from a compliance perspective, it is critical to understand that plenty of medium and long term (and potentially hidden) challenges remain. Arguably, this should be a priority for importers and exporters to get their heads around.

There are quite a few reasons to pay extra attention to sustainable compliance at this particular juncture in time. Firstly, during the COVID crisis, in many territories compliance assessment took a bit of a back seat. Focus instead was on keeping goods flowing, avoiding unnecessary physical contact, and trying not to make life harder for companies than it already was. Yet at the same time, governments were spending significantly on bailouts or other means to prop up their economies. It is therefore not unreasonable to expect an uptick in both frequency and intrusiveness of customs audits and investigations in the foreseeable future. Indeed the first evidence of this happening is already out there. Both retrospective checks on compliance during the periods that clearance was made easier, as well as a drive to increase revenue will be the order of the day.

Secondly, as we will look at in week 1, companies have been more keenly and aggressively looking to save money. That may mean more use of FTAs, more aggressive customs valuation planning, expanded use of import tax deferrals or suspensions and so forth. In our experience, not everyone gets it right all the time, and, perhaps more worryingly, those who do get it right often lack the documentation and support to evidence that they got it right. All this makes it easier for Customs to challenge and challenge successfully. Now is the right time to get your house in order, before the challenges start coming.

Thirdly, the world has changed, and cross-border supply chains have changed with it. Increased diversification and flexibility in supply chains have put a strain on FTA use. Meeting the requirements for bonded manufacturing or storage facilities will also become harder. Separately, there will be customs valuation comparables that previously did not exist. In addition, with profitability in many supply chains severely affected, new transfer pricing documentation is likely to lead to significantly changed profitability indicators. These in turn will have an impact on customs valuation support. All these, and other, impacts of supply chain changes on cross-border trade compliance are at risk of being ignored or overlooked.

Fourthly, the regulatory landscape has changed and continues to change. Some measures that were introduced to deal with the COVID crisis may be here to stay, if only because governments forget to withdraw them. Trade disputes continue to rage, and together with tangential topics such as labour rights and climate conditions, are having a lasting impact on trade regulations, duty rates, and sanctions. In a world where the rules have not changed so much in the past few decades, such changes are also at risk of being missed by importers and exporters.

Finally, technology. Usually considered as the harbinger of positive change and improvement, we see that in practice its early use in customs and trade management tends to create significant risk. That is partly because implementation of good and compliant trade management tools is hard. The field is incredibly transactional, and the necessary data are still hard to come by. Hence errors and oversights are common. What's more, even if specific tools can be demonstrated to produce fewer errors than a previous manual approach, in our experience the authorities often tend to be more forgiving, or at least understanding, of human errors as opposed to system errors. At the same time, the authorities themselves are increasingly using technology to spot declaration errors, and are getting better at it fast. Certainly faster than companies are. That may not be a fair comparison. After all, companies need to get it right all the time, whereas the authorities only need to detect one or a few mistakes. Nevertheless, compliance by its very definition is absolute, so importers and exporters would be wise to step up to the plate and stay ahead of the technical prowess demonstrated by the authorities.

All of these topics, and more, are addressed in week 2 of our festival, in regional anchor panels, supplemented with country-specific content.

| WEEK 2 - Risk mitigation; anchor sessions |   |  |
|---|---|--|
| Date                                      | Topic                                     | Brief description of event   |
| 20 April                                  | How to defend your customs values in Asia | Managing customs valuation compliance in Asia is not easy work. In today's session, we will be talking about the challenges in managing customs valuation in Asia and how you can manage them.   |
| 20 April                                  | The role of Logistics Service Providers   | The ever-changing nature of international trade keeps logistics service providers on their toes. Increased use of technology, single windows, blockchain, contactless clearance, onshoring, exploding e-commerce - what does it all mean in the world of LSPs? Hear the thoughts from DHL's senior customs leaders in the express and "normal" forwarding space. |
| 21 April                                  | Export control compliance                 | The US and EU continue to enhance their export controls regulations and enforcement. Meanwhile, many territories in Asia are looking to follow suit. Just take China's "Export Control Law" as an example. What is the best practice for companies in terms of export control compliance in the region and beyond.   |
| 22 April                                  | Surviving customs audits post COVID-19    | Post virus crisis, many businesses have been stretched thin and no matter how much attention is paid to customs and trade compliance, challenges will from time to time crop up. Hear the thoughts, insights and tips we are going to share on how to better manage customs audits post COVID-19 in Asia Pacific region.   |



| WEEK 3 - How to manage customs and trade; anchor sessions |  |   |
|---|--|---|
| Date  | Topic  | Brief description of event  |
| 27 April  | Managing customs & trade in Asia post COVID-19 - what has changed? | COVID-19 has impacted all our lives at a speed perhaps previously unimaginable. In the world of customs and international trade compliance and management, companies have been faced with several different challenges. What is less obvious are the indirect implications of changing cross border supply chains that have the ability to create immediate as well as long term difficulties. In this session we will be talking about how to best tackle these challenges and how to plan for the future. |
| 28 April  | Using technology to best effect                                    | A plethora of technology tools is available in the market. Some focus on specific topics, such as sanctions control or FTA use, others try to capture all aspects of trade management. Many make ambitious claims. Hear from some of PwC trade technology leaders on their experience of what works and does not work, and how you can make wise choices.   |
| 29 April  | Creating the most appropriate in house/outsourced team             | Gone are the days where customs management could be a backroom function simply managing whatever cross-border activities a company happened to engage in. In this session we will focus on where cross-border customs and trade management should be and how it can be an integral part of a company's growth plans.  |



### Week 3: How to manage customs and trade within an organisation

From our experience working with clients across the region for nearly 30 years, we know that there is no magical blue-print or 'one solution fits all' to how to best manage a customs and trade function. A common thread over all this year has been a steady stream of companies asking us that very question though. What should we do? How many people should we have? National or regional? Or both? Where do they report? What are other companies doing? What should our KPIs be? How do I best report to management? Should I prioritise compliance or focus on creating value? Should I seek external support? Should I take a proactive or reactive approach?

These are just some of the questions to reflect over when deciding on how to operate a customs and trade function. Figuring out what works best for you and your company is not easy and will not happen overnight. Moreover, as we have seen in weeks 1 and 2, the landscape is changing, and with it the role, requirements and expectations of customs and trade managers.

There are however some guiding principles that should help you make up your mind and establish a well-performing, efficient and effective customs function. First and foremost, you need a mindset that is both confident as well as constructive. Gone are the days where customs management could be a backroom function simply managing whatever cross-border activities a company happened to engage in, and ringing the alarm bell if that was not possible. Here are the days where cross-border customs and trade management needs to be an integral part of a company's growth plans, both in terms of looking to facilitate those plans and in finding solutions to challenges to make them happen. That requires customs professionals to have a much wider and deeper understanding of what matters to their organisation and society at large, and finetune its approach in light of those. A territorial distribution rights fee is simply not going to work if a company's business model is geared towards having the most limited risk distributors possible. FTA use needs to be designed to protect intellectual property and confidential information. Tariff engineering requires a thorough understanding of production processes and their "what-ifs". We could go on.



Equally important is better use of technology, as already touched on for both cost savings and compliance management. That does not mean blind introduction of as many tools and systems as possible. It does however require getting a good (perhaps to start with: much better!) handle on data. Most companies, large and small, continue to fall depressingly short of knowing their customs and trade footprint. Only a good knowledge of this will be able to support clever deployment of technology. FTA management may require advanced BOM-analysing solutions, or be possible with a simple spreadsheet. Tariff classification may be done by AI, or may require significant human intervention to create support as well as a “black-box” number. Sanctions and license management may require constant updating, or require only the occasional review. Whether an overall trade management system is required to create value, or targeted tools can do just as well much more cheaply, is a decision not to be rushed into, yet also one that needs to be reached in the not too distant future.

Finally, training and development of employees needs to develop with the times. Cross-border supply chains are becoming increasingly complex. Regulators are becoming increasingly savvy. Customs and trade professionals need to know how to stay abreast, if not ahead, of emerging regulations. They need to understand the business environment they operate within, to ensure they stay relevant for it. They should not feel that their career is a dead end technical street, but one that opens broader strategic opportunities for them professionally in the organisation that they work in. They therefore also need to be trained in soft skills to help them be more impactful and valuable, not just in the technical skills that keep goods flowing.

We could fill a month talking about this, but will try and squeeze as much as possible in a week.

We hope that at the end of our festival we have helped you in your professional journey to provide real value for the organisation you work in. And, of course, we are always there to help you further!



## ASEAN signs MRA to remove duplicate testing for automotive products

On 16 January 2021, ASEAN member states signed the ASEAN Mutual Recognition Arrangement on Type Approval for Automotive Products (APMRA) which aims to eliminate duplicate testing requirements on 19 automotive products in the region.

Under the APMRA, all ASEAN member states must accept or recognise the conformity assessment results issued by the Listed Technical Services (i.e., those authorised and accepted by all ASEAN member states or the ASEAN Automotive Committee). This effectively allows automotive parts that have been tested and certified as compliant by the production territory to be imported and marketed in other ASEAN member states without undergoing further rounds of testing by the importing territory. This applies even if the automotive part is incorporated in a vehicle.

The APMRA will enter into force after all ASEAN member states complete their ratification or at the latest by 16 January 2022. A guidance document for the implementation of APMRA is expected to be issued in Q4 2021 to facilitate a smooth implementation.

The full text of the signed APMRA can be accessed here:  
<http://agreement.asean.org/media/download/20210205131820.pdf>

## ASEAN and Canada reaffirm commitments

On 24 February 2021, representatives from Canada and the ASEAN member territories met via videoconference for the 9th ASEAN-Canada Cooperation Committee meeting, where they discussed cooperation under the new Plan of Action 2021-2025. The new action plan was adopted during the ASEAN-Canada Ministerial meeting in September of 2020.

During the meeting, a variety of topics were discussed including post-COVID recovery plans, access to vaccines, development of MSMEs, collaboration on public health, innovation, digital economy, gender equality, peace and security and, investment and trade.

On trade, parties expressed the intention for a deeper trade and investment linkage and for pursuing discussion on a possible ASEAN-Canada Free Trade Agreement. Next year is the 45th anniversary of the ASEAN-Canada Dialogue Partnership so it is expected that further developments on the proposed FTA will be pushed through.

## ASEAN-United States strategic partnership

The 12th meeting of the ASEAN-United States (US) Joint Cooperation Committee (JCC) was held virtually on 17 March 2021. The meeting reviewed the cooperation between ASEAN and the US, and the progress achieved from the strategic partnership on the 2016-2020 plan of action. During the meeting both parties also affirmed commitment to implement their 2021-2025 plan of action, which focuses on addressing issues across ASEAN pillars on political-security, economic, and on socio-cultural. The committee further talked about strengthening cooperation to maintain peace and stability through the existing ASEAN-led mechanism. Also included in the agenda is the intention to have a deeper collaboration between parties on areas of human capital development, public health, innovation and digital economy and most importantly, trade.

Objectives on trade under the 2021-2025 plan of action includes continued consultation and dialogues between ASEAN and the US trade representative to explore ways to enhance trade and investment ties.

## New ASEAN guideline on cross-border road freight for COVID-19 recovery

ASEAN released a guideline to help its member states restore and strengthen national and regional road freight transportation operations following COVID-19. The document aims to support member states in adopting the guideline and developing national and regional plans that focus on road freight connectivity.

The guiding principles and policy actions are focused on three priorities:

1. transport workers' safety and training;
2. preserving connectivity for efficient and resilient supply chains; and
3. 'building back better' through digital, resilient, and decarbonized transport connectivity.

The guidelines recommend responses on immediate, medium term (6 months) and long-term (12 months) implementation to support the development of cross-border road freight transport. It also suggests measures to improve the efficiency of transport systems through development and use of system platforms and real-time sharing of information.

The full guidelines can be accessible from:  
[https://asean.org/storage/ASEAN-COVID-19\\_Guidelines\\_for-public\\_final\\_rev.pdf](https://asean.org/storage/ASEAN-COVID-19_Guidelines_for-public_final_rev.pdf)

## European Union approves updated regulations on dual-use export controls

The European Union (EU) Parliament voted and approved the updated regulation for the exports of dual use products and technologies. The parliamentary endorsement specifically relates to Regulation (EU) 2020/1749 which amends Regulation (EC) No 428/2009 as covered in our [October/November 2020](#) publication. The new regulation introduces (1) new criteria for approving export licensing on dual-use products as mentioned within the latest EU 2020 Dual-Use List which came into effect 31 December 2019, (2) checks on the trade of dual-use products which may contribute to/prevent human rights violations and (3) controls on the trade of cyber-surveillance technologies.

In 2020, the European Commission released Regulation 2020/1749 governing the export, transfer, brokering and transshipment of dual-use items (DUI) which replaces the 2019 EU list. As elaborated below, the 2020 EU list amends seven of the ten sections contained in the 2019 EU list:

- Added list of items
  - Section 1:
    - » 24 chemicals under Export Control Classification Number (ECCN) 1C350.66-89, 5D001.e and 9A004.h
    - » New viruses related to respiratory diseases in the Middle East (MERS-related coronavirus) under ECCN 1C351.a.59
  - Sections 5 and 9:
    - » Controlled products under 5D001.e, 5A004.b and 9A004.h.
- Change in characteristics of items
  - Sections 2, 3 and 9
    - » ECCN 2B350.g, 3D003 and 9E003.a.11
- Added or amended notes
  - Sections 5, 6, 7 and 9
    - » ECCN 5E002.a, 6A008.i, 7A103.c, 7A117 and 9E003.a.11

With the Parliament's formal endorsement of the updated regulation, it is left to the EU Council to officially approve it before it can enter into effect. Territories and governments not limited to those in the EU are preparing to adopt and amend their local regulations in line with the updated EU dual-use list and accompanying regulations.

## US impose sanctions on Myanmar

Following the military coup in Myanmar on 1 February 2021, US President Joe Biden issued Executive Order 14014 on 10 February to impose sanctions on specific Myanmar entities, agencies etc, in response to the coup. In addition, the US Treasury Department's Office of Foreign Assets Control (OFAC), and the US Commerce Bureau of Industry and Security (BIS) have enforced stricter controls on Myanmar entities believed to be contributing to the coup.

The Executive Order 14014 specifically targets entities and legal persons believed to contribute to or are responsible for overthrowing the democratically elected government, known as Specially Designated Nationals (SDN). The sanctions are not a blanket sanction that restricts all forms of investments or exports of financial services to Myanmar unlike before.

SDNs are defined by the OFAC to:

- operate in the Burmese defence industry;
- be responsible for or complicit in actions or policies that (i) undermine democratic processes in Burma, (ii) threaten Burma's peace, security or stability, (iii) prohibit, limit or penalise the exercise of freedom of expression or assembly or access to print, online or broadcast media, or (iv) constitute arbitrary detention or torture or other serious human rights abuses;
- be a leader or official of (i) the Burmese military or security forces, (ii) the Government of Burma on or after February 2, 2021, or (iii) an entity that has engaged in activities described above or is designated under Executive Order 14014 as a result of the leader's or official's tenure;
- be a political subdivision, agency or instrumentality of the Government of Burma or that is owned or controlled by or that has acted on behalf of the military or security forces of Burma or any person designated under the order;
- be a family member of an individual who is designated pursuant to Executive Order 14014; or
- have materially assisted or supported an SDN designated pursuant to Executive Order 14014.

US persons and entities are prohibited from engaging in transactions with SDNs and entities that are 50% or more owned by SDNs.

In addition, the BIS have also suspended license exceptions made available to Myanmar by amending Myanmar's Country Group placement under the Export Administration Regulations. The BIS have also announced the revoking of existing/previously issued licenses that are still in effect to SDNs or related departments and entities. Myanmar is now added to the list of territories subject to the EAR's military end-use and end-user controls, military intelligence's end-use and end-user controls, as well as downgrading of the territory's group status within the EAR.



| Agreements in effect       | Date         |
|----------------------------|--------------|
| India - Mauritius CECTA    | 1 March 2021 |
| Korea-Central America FTA* | 1 March 2021 |

| Agreement signed                       | Date            |
|--|-----------------|
| China-New Zealand FTA Upgrade Protocol | 26 January 2021 |

\*Full entry into force as Panama is the last member to implement the agreement

## ASEAN and India commence review of FTA

A decade after the ASEAN-India FTA (AIFTA) entered into force, both sides agreed and started reviewing the FTA agreement scope in February 2021. The review aims to make it simpler, facilitative, and to streamline customs and regulatory procedures.

India believes that there is uneven market access due to the weak origin rules under AIFTA. Hence, India pushed for a revisit of the agreement to make the necessary changes to level the playing field among the FTA parties. An ASEAN-India Leader's summit is scheduled to happen in November 2021.

## Negotiations concluded for Cambodia-South Korea FTA

Despite the difficulties brought by the COVID-19 pandemic and ambitious timelines, Cambodia and South Korea have completed the negotiations for their bilateral FTA in less than a year with only 4 rounds of negotiations. The conclusion of the agreement was announced during a virtual meeting attended by the trade ministers of both parties on 3 February 2021.

The concluded Cambodia-Korea Free Trade Agreement (CKFTA) includes chapters on trade in goods, rules of origin, customs procedures and trade facilitation, trade remedies, economic cooperation, transparency, dispute settlement, among other things. Based on reports, the CKFTA is expected to provide greater market liberalisation compared to the existing ASEAN-Korea FTA and the Regional Comprehensive Economic Partnership, to which both territories are parties.

Both sides expect to sign the agreement in mid-2021. It would subsequently enter into force in the latter part of the year. South Korea is now the second bilateral FTA partner of Cambodia after China.

## China and New Zealand sign upgrade protocol to CNZFTA

On 26 January 2021, China and New Zealand signed a Protocol on Upgrading the China-New Zealand Free Trade Agreement. The signing happened through a virtual meeting attended by the trade ministers of both territories.

This upgrade to the 12-year old FTA aims to advance the trade in goods, trade in services, and investment cooperation between the two parties. In the original agreement, New Zealand applied zero tariffs to all imports from China; meanwhile, China applied zero tariffs to 97% of tariff lines of imports from New Zealand. In the upgrade protocol, China will eliminate tariffs on timber and paper products such as fiberboard, napkin, kraft paper, etc. The rules of origin, technical barriers, and customs facilitation have also been improved. For trade in services, China opened up its market on aviation, education, finance, elderly care, and passenger transport. In the investment sector, New Zealand loosened its screening threshold for investments from China, which is expected to be at the same level applied under the CPTPP.

Both parties will proceed with domestic procedures before the Upgrade Protocol will be implemented.

## China and Norway pushing to conclude FTA in the near future

On 11 March 2021, negotiators from China and Norway held a virtual discussion to progress their FTA negotiations. Areas discussed include trade in goods and services, investment protection, rules of origin, customs procedures and trade facilitation, and technical trade barriers. In addition to the ongoing FTA negotiations, China and Norway already signed an agreement that grants Norwegian salmon and other seafood products better access to China's growing seafood market. Currently, this agreement is renewable every two years until an FTA is agreed between the two territories.

Both parties agree that speeding up the FTA negotiations would help offset the economic impact of COVID-19 and further strengthen economic and trade cooperation between the two parties.

## China and Thailand complete RCEP ratification, Japan approves bill to ratify the agreement

China and Thailand completed their domestic procedures to ratify the Regional Comprehensive Economic Partnership (RCEP) in February and March respectively. In February, Japan's cabinet approved a bill to ratify RCEP - its first trade agreement



with China and Korea. A number of other RCEP members are expected to ratify the agreement within this year.

The agreement will enter into force after being ratified by at least six ASEAN members and three non-ASEAN members. Entry into force is expected to happen late this year or early next, so companies are advised to start looking into the agreement's details and requirements to reap its potential savings and other benefits.

## India and Bangladesh to speed up CEPA negotiations

During a meeting held between Bangladesh and India on 8 March 2021, the two parties agreed to fast-track their Comprehensive Economic Partnership Agreement's (CEPA's) feasibility studies. The CEPA is expected to cover certificate of origin procedures, regional connectivity initiatives, anti-dumping duty on certain products, harmonisation of standards, removal of port restrictions, and trade infrastructure-related matters.

Bangladesh's benefits as a Least Developed Country (LDC) will cease to apply once the transition period ends in 2026. Before this happens, Bangladesh is actively looking to forge new trade agreements with important trading partners to cushion the potential impacts of graduating from LDC status.

## India-Mauritius CECPA enters into force

On 01 March 2021, the India-Mauritius Comprehensive Economic Cooperation Partnership Agreement (CECPA) entered into force following its signing on 22 February 2021. This is India's first FTA with an African territory and could pave the way for India's expansion of its reach into the African continent.

Under the CECPA, preferential market access will be granted to 615 tariff lines for exports from Mauritius, which in particular covers agricultural and fish products, beer and alcoholic beverages, and apparel. On the other side, India's 310 covered tariff lines include foodstuff and beverages, agricultural products, textile products, metallic products and plastic and chemical products. The two parties have also agreed to negotiate an Automatic Trigger Safeguard Mechanism for several highly sensitive products within two years after signing the agreement.

## Indonesia in talks with Canada for a CEPA

Earlier this year, Canada conducted a public consultation on a potential Comprehensive Economic Partnership Agreement (CEPA) with Indonesia to expand its trade and investment footprint in the southeast Asian territory.

An Indonesia-Canada (CEPA) is expected to bolster the relationship between two parties on agriculture and livestock, infrastructure, and the digital service sector. Indonesia's main exports to Canada include rubber products, textiles, cocoa, and paperboards. Canada's main exports to Indonesia consist of wheat and meslin, fertilisers, chemicals, aircraft, and soya beans.

Currently, Australia holds a huge share of Indonesia's agricultural and livestock import market. It is anticipated to grow even further

as the Indonesia-Australia CEPA was just ratified in February last year. Forging a trade agreement with Indonesia would help Canada to better compete with Australia on the said market sectors.

In addition to the immediate benefits of a CEPA with Indonesia, Canada views this as a stepping stone in establishing a free trade agreement with the larger ASEAN bloc.

## South Korea's FTA with Central America enters into full effect

On 01 March 2021, the Korea - Central America FTA entered into force for Panama, thereby allowing the agreement to be fully effective across all signatory parties. Parties to the agreement from Central America include Costa Rica, El Salvador, Honduras, Nicaragua and Panama. Guatemala joined at the early stages of the negotiations but decided to conduct separate bilateral FTA negotiations with Korea due to concerns that the agreement would hurt domestic industries in Guatemala.

Under the agreement, Korea and Central America will eliminate tariffs progressively on more than 95% of traded products between the parties. Panama's coffee bean industry is expected to benefit from the agreement as Korea will eliminate all its tariffs on these products. On the other hand, the Korean products that are anticipated to benefit from the agreement include automobiles, auto parts, steel products, cosmetics, medicines, and fibres.

## UK mirrors EU's GSP scheme

Following the end of the United Kingdom's transition period to exit the European Union, the United Kingdom has launched its Generalised Scheme of Preferences (GSP) on 01 January 2021. The UK's GSP programme will cover all the beneficiary territories that currently benefit under the European Union's GSP programme. This means that eligible goods originating from beneficiary territories will continue to benefit from tariff preferences when imported in the UK.

The UK's GSP has three frameworks: Least Developed, General, and Enhanced. Under the least developed framework, territories classified by the UN as Least Developed Countries can export goods into the UK with zero import duties and quota-free access other than arms and ammunition. Territories under this framework include Bangladesh, Cambodia, and Myanmar. For the General Framework, territories classified by the World Bank as low-income and lower-middle income territories such as Indonesia and Vietnam will enjoy reduced import duties for certain goods. Under the Enhanced Framework, territories classified by the World Bank as low-income and lower-middle income are economically vulnerable will enjoy zero import duties in the UK. Territories under this framework include the Philippines and Sri Lanka. In addition, territories under the Enhanced Framework must implement 27 conventions relating to human labour rights, environment, and good governance.

Traders who wish to take advantage of the UK's GSP are advised to check eligibility of their goods, and the documents required by the UK government.

## Australia

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### New amendments to the Customs Tariff Act

Following a number of recent cases in Australian Courts and Tribunals, the Australian government has introduced legislation to amend the Customs Tariff Act 1995 (the Act). The Customs Tariff Amendment (Incorporation of Proposals and Other Measures) Bill 2020 has now passed both houses of Parliament and makes the following changes to the Act:

- removes the AUD 12,000 customs duty applied to used and second-hand motor vehicles that are originating goods under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and Peru-Australia Free Trade Agreement (PAFTA);
- separately identifies formulated caffeinated beverages, formulated supplementary sports foods and formulated supplementary foods by creating new tariff subheadings in Schedule 3 of the Act;
- inserts new additional notes to the relevant headings to:
  - specifically identified vitamins and food supplements;
  - provide that wheelie bins do not fall within the classification of vehicles; and
  - provide that plates, rods, angles, shapes, sections, tubes, pipes and the like requiring further modification prior to being used cannot be classified as parts;
- repeals redundant provisions specifying phasing of customs duty rates under certain Free Trade Agreements; and
- incorporates two Customs Tariff Proposals to provide for a free rate of customs duty for certain medical and hygiene products to combat the COVID-19 pandemic between 1 February 2020 and 31 December 2020.

### Obligations of importers on e-commerce consignment declarations

The significant increase in e-commerce shipments being imported into Australia has led the Australian Border Force (ABF) to release a new Customs Notice, reminding importers of the importance of understanding their obligations to provide correct information in import declarations.

The notice highlights the definitions of consignment, consignor and consignee in accordance with sections 68 and 64AB of the Customs Act 1901, as well as provides clarification on avoidance measures taken in respect of split consignments and structured ordering, which has been increasingly common as a way to avoid paying duties and leverage low value import concessions.



## Australian Federal Court decision on the tariff classification of pipes

In the recent case of *Comptroller-General of Customs v Smoothflow Australia Pty Ltd* [2021] CA 144, the Federal Court of Australia (FCA) dismissed an appeal from Customs. It found no error of law in the Administrative Appeals Tribunal's (AAT) decision that pipes imported into Australia to be used in high-rise building fire sprinkler systems are classified under Heading 7308 in Schedule 3 of the Customs Tariff Act 1995 (the Act).

The AAT had followed the High Court's decision in *Comptroller-General of Customs v Pharm-A-Care* [2020] HCA requiring consideration of both the French and English translation of the International Convention on the Harmonised Commodity Description and Coding System (Harmonised Convention) in determining the tariff classification of certain goods. The FCA, however, noted that the AAT's construction of the translated version of Heading 7308 did not give simultaneous effect to the English text and the translation of the French text and was thus inconsistent in interpreting the English and French translation of the headings.

Despite the AAT's translation error, the FCA held that the error was not material to the decision that the goods were classified under Heading 7308 as pipes prepared for use in structures. Further, the FCA was not satisfied that consideration of the Harmonized System Explanatory Notes (HSEN) would have resulted in a different outcome (i.e. classification of the goods under Heading 7306).

The case reinforces the precedent set in the case of *Comptroller-General of Customs v Pharm-A-Care* [2020] HCA in that the "treaty interpreter should seek the meaning that gives effect, simultaneously, to all the terms of the treaty, as they are used in each authentic language".

## Dispute settlement over China's anti-dumping duties on barley

Following China's recent imposition of anti-dumping and countervailing duties on Australian barley exports, the Australian Government has announced it will request the establishment of a World Trade Organisation dispute settlement panel. The dispute settlement panel is designed to allow Members to settle their differences over trade matters and address concerns with measures imposed by other trading partners.

## Extension of International Freight Assistance Mechanism

On 1 April 2020, the Australian Government announced an AUD 110 million International Freight Assistance Mechanism (IFAM) to assist Australia's agricultural and fisheries sectors in securing freight flights into major Asia Pacific export markets, with returning flights bringing back vital medical supplies, medicines and equipment. The Australian Government recently announced the extension of IFAM to the end of September 2021. The fund continues to be used to secure air freight capacity into key Asian export markets for Australian exporters.





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## Draft Administrative Measures on Approved Exporters

On 4 March 2021, the General Administration of Customs (GAC) released the Administrative Measures of the Customs of the People's Republic of China for Approved Exporters (Draft for Comment) (Administrative Measures).

The Administrative Measures were open to the public for comments until 5 April 2021, and are part of China's effort to prepare for the implementation of the rules of origin under the Regional Comprehensive Economic Partnership Agreement (RCEP) amongst others.

Key points to note are as follows:

### Certification criteria

An enterprise (the "applicant") that applies for an approved exporter certification must understand the rules of origin under the relevant agreement, although it is not yet clear how GAC intends to test this understanding. Applicants must also fulfil GAC's requirements on the credit level and type of enterprise.

Customs will not approve the application in the below scenarios:

- The applicant does not meet credit level requirements;
- The content of the application document is false, incomplete or invalid; and
- The applicant's approved exporter certification was revoked by Customs within the last 2 years.

### Rights and obligations

Enterprises can issue a Declaration of Origin for products that qualify under the relevant preferential trade agreement. This Declaration of Origin will be used to claim preferential tariff treatment upon importation.

In order to issue such Declarations of Origin, enterprises first need to file information with Customs. This includes the Chinese and English names of the goods, the 6-digit HS codes, applicable preferential trade agreements and other relevant information. In our experience, this may include a list of the

product's manufacturing costs, such as the originating and non-originating materials. Enterprises can then issue a Declaration of Origin for such goods through the information platform established by GAC within the validity period of the approved exporter's certification.

If the enterprise is a trader, it must obtain information pertaining to the goods' originating status from the manufacturer and confirm it prior to filing.

The enterprise must establish a document management system to maintain documents on the originating status of goods. Documents must be kept for three years from the date of issuance of the Declaration of Origin.

The enterprise is responsible for the authenticity and accuracy of information filed, the Declaration of Origin and any modifications.

### Management measures

Customs will cancel an enterprise's approved exporter certification and issue a written notice in the following circumstances:

- An enterprise no longer meets the required credit rating and enterprise type;
- An enterprise provided false information or documents to obtain an approved exporter certification;
- An enterprise engaged in forgery, alteration, sale or theft of the Declaration of Origin; or
- An enterprise has issued Declarations of Origin that are non-compliant with the Administrative Measures and relevant Preferential Trade Agreement. Specifically, the number of non-compliant Declarations of Origin exceed 1% of the Declarations of Origins issued in the past year, and the cumulative value of exported goods covered by these Declarations of Origin exceed 1 million RMB.

For details, refer to Administrative Measures of the Customs of the People's Republic of China for Approved Exporters (Draft for Comment):

<http://www.customs.gov.cn/customs/302452/302329/zjz/3563920/index.html>



## **“Zero Tariff” for self-use production equipment in Hainan Free Trade Port**

On 4 March 2021, the Ministry of Finance, GAC, and State Administration of Taxation jointly issued a circular governing the “Zero Tariff” policy for self-use production equipment in the Hainan Free Trade port (the Circular). The GAC also introduced trial implementation measures to give effect to the Circular (Implementation Measures).

Key points are as follows:

- **Scope of production equipment:** The Circular defines production equipment as equipment required for production and operation activities, such as infrastructure construction, processing and manufacturing, R&D, inspection and maintenance, logistics and warehousing, medical services, cultural, sports and tourism.
- **Blacklist management:** Tariffs, import value-added taxes and consumption taxes are exempted for production equipment for own use, with certain exceptions. Goods stipulated as not tax-exempted by laws and relevant regulations, goods that are prohibited from import by national regulations, and equipment in the blacklist attached to the Circular are exceptions. The blacklist is updated from time to time.
- **Enterprise list:** The list of enterprises that meet the conditions for enjoying the policy will be determined by the Hainan Provincial Department of Development and Reform, Industry and Information Technology in conjunction with the Hainan Provincial Department of Finance, Haikou Customs, and the Hainan Provincial Taxation Bureau of the State Administration of Taxation. The list will be transmitted to Haikou Customs through the “China International Trade Single Window”.
- **Supervision period:** “Zero-tariff” production equipment can only be used by enterprises that meet the conditions of the policy and regulations within the Hainan Free Trade Port. The equipment will be subject to customs supervision for a period of three years, calculated from the date of release of the goods. Customs supervision is automatically removed after the supervision period expires.
- **Punishment system:** Enterprises that violate the relevant provisions of the Implementation Measures and transfer such production equipment for other purposes will be required to pay relevant import taxes in accordance with the regulations. They might also be subject to administrative penalties according to Implementing Regulations of the Customs of the People's Republic of China on Administrative Penalties.

For details, refer to:

- Circular on “Zero Tariff” Policy for the Production Equipment for Self-use Purposes in the Hainan Free Trade Port (Cai Guan Shui [2021] No.7)
- Announcement on Issuing the Customs Trial Implementation Measures of the Customs on “Zero Tariff” Policy for the Production Equipment for Self-use Purposes in the Hainan Free Trade Port (Announcement of the GAC [2021] No.23)

## **Industry Catalogue issued for the Hainan Free Trade Port**

On 27 January 2021, the catalogue of encouraged industries in the Hainan Free Trade Port was issued (Industry Catalogue). This 2020 Edition of the Industry Catalogue was jointly issued by the National Development and Reform Commission, the Ministry of Finance, and the State Administration of Taxation, with approval from the State Council.

The Industry Catalogue will apply from 1 January 2020 to 31 December 2024. Key features are as follows:

### **Structure of the Industry Catalogue**

- The Industry Catalogue includes encouraged industries in the existing national industry catalogue as well as newly encouraged industries in the Hainan Free Trade port.
- It adopts the “National Economic Industry Classification Standard”, which includes 14 major industries and 143 sub-industries. Together, it covers the key industries and fields in Hainan’s free trade port.
- Key focus is on the sub-industries of the following three major industries: tourism and performing, professional medical care, and the development and application of biomaterials.

### **Preference enjoyed by enterprises in encouraged industries**

- Enterprises in these encouraged industries that are registered and operating in Hainan Free Trade Port will enjoy a reduced corporate income tax rate of 15%.
- Goods produced by these enterprises that do not contain imported materials or contain imported materials with a value added percentage of more than 30% through processing at the Hainan Free Trade Port will be exempt from import tariffs when entering the mainland. Import value added tax and consumption tax will be levied according to regulations.

### **Enterprise requirements**

- To qualify, the enterprises’ main business must be within the Industry Catalogue, and its main business income must account for more than 60% of its total income.
- The substantive operation of the enterprise must be located in Hainan, which means that the actual management institution of the enterprise needs to be located in the Hainan Free Trade Port. Substantive and comprehensive management and control of the enterprise’s production and operation, personnel, accounting, and property must also be implemented.

For details, refer to Circular on Issuing the Catalog of Encouraged Industries in the Hainan Free Trade Port (2020 Edition) (Fa Gai Di Qu Gui [2021] No. 120).

## Regulatory requirements on Hainan duty-free shopping's delivery and pick-up

On 3 February 2021, the GAC announced regulatory requirements for duty-free shopping delivery and pick-up. The implementing measures specify the delivery and pick-up methods for passengers.

- Travelers that travel to Hainan Island and purchase duty-free goods to be sent to their address outside Hainan Province can choose to get the goods by mail. The duty-free shops are required to verify that the shopping travelers meet the mailing requirements and have left the island. The duty-free goods purchased will be delivered at one time.
- Where residents on the island purchase duty-free goods before leaving the island, they can pick up the goods at pick-up stations set up by the duty-free shops upon their return. Residents include Chinese citizens holding Hainan Provincial Identity Card, Hainan Provincial Residence Permit or Social Security Card, as well as foreigners who work and live in Hainan Province and hold a residence permit.

For details, refer to Announcement on the Regulatory Requirements of Duty-Free Shopping's Delivery and Pick-up Methods (Announcement of the GAC [2021] No. 13).



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## Digitisation initiatives

| Initiative  | Details   | Reference   |
|---|---|---|
| <b>Importer Exporter Code ('e-IEC')</b>   | <p>All services relating to IEC such as issuance of IEC, updates to IEC, authorisation issuance, etc. have been done online since last year. The following changes have been made:</p> <ul style="list-style-type: none"> <li>An e-IEC will be issued for online applications that need to be filed directly on the DGFT portal.</li> <li>An IEC holder must ensure that details in its IEC are updated electronically every year in the first quarter. If there are no changes, an online confirmation is still required.</li> <li>An IEC may be deactivated if a timely update is not done or a confirmation of 'no change' is not received within the prescribed timelines.</li> </ul>   | Notification No. 58/2015-2020 dated 12 February       |
| <b>Online PCO application for exports to Mercosur and Thailand</b>                                | <p>Preferential Certificates of Origin (PCOs) for exports to Mercosur and Thailand can be applied for online from 25 February 2021. Manual applications will no longer be accepted. The detailed application process is laid out in the trade notice.</p>   | Trade Notice No. 43/2020-2021 dated 23 February 2021  |
| <b>Electronic non-preferential COs</b>  | <p>Issuance of non-preferential Certificates of Origin has moved online with effect from 1 April 2021. The online application will be processed on the basis of the exporter's self-declaration to the notified issuing agencies.</p> <p>Companies should note that while a review of uploaded documents will not be reviewed during issuance, they can be reviewed post-issuance.</p>  | Trade Notice No. 42/2020-2021 dated 19 February 2021  |
| <b>Introduction of online e-TRQ system</b>  | <p>With effect from 8 February 2021, applications under the Tariff Rate Quota scheme has moved from the existing "Restricted Item Import Licencing eCom module" to the e-TRQ portal. Examples of goods with quantitative import restrictions requiring TRQ licenses include skimmed milk, crude, sunflower seed, and mustard oil.</p> <p>e-TRQ can be accessed in the Import Management System, through the importer's dashboard on the Directorate General of Foreign Trade website. The TRQ license data will be transmitted electronically to the Customs Authorities.</p>   | Trade Notice No.40/2020-21-DGFT dated 4 February 2021 |
| <b>Online application for adjudication, appeal and review proceedings under Foreign Trade Act</b> | <p>A module for online adjudication, appeal and review proceedings under the Foreign Trade Act 1992 has been introduced, effective 27 February 2021.</p> <p>Adjudication, review and appeal proceedings related to any violations of DGFT Schemes, Foreign Trade policies, procedures and orders must be initiated and conducted online. Exporters must submit all documents online through the DGFT website.</p> <p>Exporters are required to update their email address on the DGFT Portal as all correspondence will be sent via email only. Non-receipt owing to failure to update the email address is considered the liability of the exporter.</p> <p>Note that a transition period up till 31 March 2021 was introduced for appeals only.</p> | Trade Notice no. 44/2015-2020 dated 1 March 2021      |
| <b>e-Certificate Management System for processing of certain applications</b>                     | <p>With effect from 22 February 2021, the following application types must be submitted online through the importer/exporter's dashboard on the DGFT Website:</p> <ul style="list-style-type: none"> <li>I Card</li> <li>Free Sale and Commerce Certificate</li> <li>End User Certificate</li> <li>Status Holder Certificate</li> </ul> <p>All such certificates will be electronically issued with a QR code and a Unique Document Identification Number (UDIN) for electronic verification.</p>   | Trade Notice No. 41/2020-21 dated 15 February 2021    |



## Verification of exporters' declaration under EU GSP

The EU provides concessional customs duty benefits on exports of specified goods from India to the EU under its Generalised Scheme of Preferences (GSP). The GSP operates on a self-certification basis known as the Registered Exporter System (REX), which was implemented in India through the Handbook of Procedures 2015-2020. It permitted exporters with a REX number to self-certify the Statement on Origin of their qualifying goods.

On 15 February 2021, the Director General of Foreign Trade revised paragraph 2.104 to introduce a new standard operating procedure for verification of self-certified electronic Certificates of Origin to be followed by all authorised agencies and local administrators.

Refer Public Notice No 39/2015-2020 dated 15 February 2021 for details.

## Introduction of Coal Import Monitoring System

Under an earlier policy, coal under HS codes 2701.11.00, 2701.12.00, 2701.19.10, 2701.19.20 and 2701.19.90 could be freely imported. With effect from 1 April 2021, import of products falling under these HS codes will be monitored. It is mandatory for importers of such products to register in the Coal Import Monitoring System (CIMS).

- The CIMS is an online system that requires importers to submit advance information for the import of items. Importers will be given an Automatic Registration Number (ARN) after payment of a registration fee equivalent to 0.01% of the CIF value of the imports, subject to a minimum of INR 500 and maximum of INR 100,000.
- Importers can apply for the registration no earlier than 60 days before and not later than 15 days after the expected import consignment arrival date. The ARN will be valid for 75 days and the registration number and expiry of ARN will need to be entered in the Bill of Entry.
- Bills of Entry filed on or after 1 April 2021 for listed coal items will be governed by CIMS. The facility of online registration will be available from 15 February 2021.

Refer Notification No 49/2015-2020 dated 22 December 2020 and Notification No 56/2015-2020 dated 28 January 2021 for details.

## Inclusion of 'High Speed Rail Projects' in project imports

With effect from 2 February 2021, the Central Government has notified 'High Speed Rail Projects' under project imports Heading 9801 of the First Schedule to the Customs Tariff Act 1975. This means items imported under this heading will attract a blanket concessional rate of custom duty.

Refer Notification No. 09/2021-Customs dated 1 February 2021 for details.

## Exemption from Social Welfare Surcharge lifted for certain products

In 2018, the Government exempted specified goods such as motor spirit (commonly known as petrol), high speed diesel, silver and gold (including silver plated with gold or platinum) unwrought or in semi-manufactured forms, or in powder form from the levy of Social Welfare Surcharge in excess of 3%. This exemption was lifted on 2 February 2021 and the goods now attract Social Welfare Surcharge at the general rate of 10%.

Refer Notification No. 12/2021-Customs dated 1 February 2021 for details.







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## New facility offered for Special Economic Zones designed for tourism

The Indonesian Government has issued a new regulation about Special Economic Zones. The new regulation grants an import duty and taxes exemption facility for consumable goods in Special Economic Zones designated under the tourism industry.

This new regulation has been effective from 2 February 2021.

## Revocation of excise duty exemption for Free Trade Zones

The Indonesian Government has issued a regulation targeted at Free Trade Zone (FTZ) facilities (regulation number 41/2021). The benefits offered under the new FTZ scheme remain the same as the previous schemes except for the treatment of excisable goods. Under the new regulation, most excisable goods entering a FTZ are no longer exempt from excise duty. An exemption of excise duty will only continue to be granted for excisable goods that are used as raw materials to produce finished goods.

Under the new regulation, the customs declaration for FTZ schemes will no longer be manually prepared and instead will be integrated with the Indonesian National Single Window (INSW). The INSW is also integrated with the Directorate General of Taxation's system.

In addition, companies qualifying as a Customs Main Partner or with Authorised Economic Operator (AEO) status will be granted a certain degree of additional administrative relief during the FTZ clearance process.

The new regulation has been effective since 2 February 2021 and revokes the previous government regulation number 10/2012.



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## Japan launches safeguard against US beef

On 17 March 2021, Japan Customs announced that it was activating the safeguard mechanism provided within the United States - Japan Trade Agreement against US-originating beef. The safeguard mechanism is provided in Section B, Sub-Section 4, Paragraph 9 of Annex I to the Agreement, which allows Japan to activate such a mechanism should imports of beef reach a pre-designated level within a certain period. In this case, Japan's aggregate import volume of US beef since April 2020 exceeded 242,000 metric tons, which thus allowed Japan to raise the current Agreement duty rate of 25.8% to the MFN duty rate of 38.5%.

Japan Customs' announcement indicated that the safeguard would last for 30 days, from 18 March 2021 to 16 April 2021. Following the expiry of the safeguard, the applicable duty rate on beef is expected to be reduced to 25.0% in line with the staging regime of the agreement.



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## Extension of re-exportation timeline for duty drawback applications

Following the implementation of the Movement Control Order (MCO) 2021 on 13 January 2021, Malaysia Customs issued a notification in relation to duty drawback applications made to Malaysia Customs during the Malaysian Movement Control Order (MCO) period. Applications for duty drawback in Malaysia are only available through hardcopy submissions which were impeded due to the MCO.

As an interim measure, Malaysia Customs will provide a time extension for exporters to re-export manufactured finished goods under the specific sections within the following Acts:

- Section 99 of Customs Act 1967 (Drawback on imported goods used in manufacturing or packaging; and
- Section 19 of Excise Act 1976 (Drawback)

The deadlines are extended to 30 September 2021 or within 30 days from the end of the MCO, whichever earlier, should the original re-exportation deadline fall during the MCO period.

Before the announcement of this interim measure, exporters were required to re-export within twelve months from the date at which the import duty and excise duty were paid on the imported raw materials used in the production of exported goods.

Further details in relation to specific duty drawback application requirements can be found using this [link](#).

## Exemption of excise duty on motorcycles (150cc and below)

On 17 March 2021, the Prime Minister of Malaysia announced a new stimulus package (PEMERKASA) with the following objectives:

- Control the COVID-19 pandemic;
- Encourage economic recovery;
- Strengthen the territory's competitiveness; and
- Ensure inclusivity.

Customs related provisions under the stimulus package allow locally assembled motorcycles with engine capacity of 150cc and below to be fully exempted from excise duties during the period from 1 April 2021 to 31 December 2021.

## Updates on Free Zones

### 1. Declaration of new Free Commercial Zone in Penang

On 25 January 2021, the Ministry of Finance (MOF) declared North Butterworth Container Terminal as a Free Commercial Zone in Penang. The notification took effect from 1 February 2021. More details in terms of the location can be found at the following links:

[http://www.federalgazette.agc.gov.my/output/pub\\_20210125\\_PUB%2048.pdf](http://www.federalgazette.agc.gov.my/output/pub_20210125_PUB%2048.pdf)

[http://www.federalgazette.agc.gov.my/output/pub\\_20210125\\_PUB%2049.pdf](http://www.federalgazette.agc.gov.my/output/pub_20210125_PUB%2049.pdf)

### 2. Change in operating hours of Free Zones in Johor

The new operating hours took effect from 1 February 2021 in the following Free Zones in Johor.

| Free Zones   | Prior to 1 February 2021  | Starting 1 February 2021                                     |
|--|---|--|
| Pasir Gudang Port Free Zone, Mukim of Plentong, District of Johor Bahru              | Monday to Saturday: 8.00am to 11.00pm including public holidays | Monday to Friday: 8.30am to 5.30pm excluding public holidays |
| Tanjung Bin Petrochemical and Maritime Industrial Hub Free Industrial Zone (Phase 1) |   |  |

More details can be found here:

[http://www.federalgazette.agc.gov.my/output/pua\\_20210126\\_PUA29.pdf](http://www.federalgazette.agc.gov.my/output/pua_20210126_PUA29.pdf)

## Updates on anti-dumping duties

### 1. Anti-dumping duties on cold rolled coils of alloy and non-alloy steel

Starting from 24 January 2021 to 23 May 2021, importers importing cold rolled coils of alloy and non-alloy steel of the following specifications from Vietnam are subject to anti-dumping duties.

- Thickness between 0.20 millimetres to 2.60 millimetres
- Width between 700 millimetres to 1300 millimetres.

The anti-dumping duties on alloy and non-steel alloy cold rolled coils are at the rates of 7.42% and 33.70%, and levied on the specific producer/exporter. Do note that the imposition of this round of anti-dumping duties does not cover the importation of tin mill black plate.

Further details on the affected tariff codes and the corresponding anti-dumping rates can be found at the following links:

[http://www.federalgazette.agc.gov.my/output/pub\\_20210122\\_PUB46.pdf](http://www.federalgazette.agc.gov.my/output/pub_20210122_PUB46.pdf)

[http://www.federalgazette.agc.gov.my/output/pua\\_20210122\\_PUA25.pdf](http://www.federalgazette.agc.gov.my/output/pua_20210122_PUA25.pdf)



## 2. Extension of anti-dumping duties on prepainted, painted or colour coated steel coils

Anti-dumping duties imposed on prepainted, painted or colour coated steel coils imported from China and Vietnam will be further extended to 20 July 2021. They previously came into effect on 24 January 2016 and were valid for a period of 5 years from 24 January 2016 to 23 January 2021.

There are no changes to the anti-dumping duty rates as well as affected tariff codes.

Further details can be found at the following links:

Customs (Anti-Dumping Duties) Order 2016

[http://www.federalgazette.agc.gov.my/outputp/pua\\_20160122\\_P.U.%20\(A\)%2011%20-%20Perintah%20Kastam%20\(Duti%20Anti-Lambakan\)%202016.pdf](http://www.federalgazette.agc.gov.my/outputp/pua_20160122_P.U.%20(A)%2011%20-%20Perintah%20Kastam%20(Duti%20Anti-Lambakan)%202016.pdf)

Customs (Anti-Dumping Duties) Order 2016 (Amendment) 2018

[http://www.federalgazette.agc.gov.my/outputp/pua\\_20181003\\_PUA\\_249%202018.pdf](http://www.federalgazette.agc.gov.my/outputp/pua_20181003_PUA_249%202018.pdf)

Customs (Anti-Dumping Duties) (Extension) Order 2021

[http://www.federalgazette.agc.gov.my/outputp/pua\\_20210122\\_PUA26.pdf](http://www.federalgazette.agc.gov.my/outputp/pua_20210122_PUA26.pdf)





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## Imports and exports slowdown

From 1 February 2021, there has been a significant slowdown of both import and export of goods. Most import and export related businesses have suspended operations, including the container trucking industry. Operations for essential goods, such as medicines, remain available. Border trade has also been affected, although exports of fruits, vegetables and perishable products to China remains operational. Imports have been delayed due to stranded incoming trucks at trading zones.

The 2% advanced income tax exemption on exports was extended to 31 March 2021 and yet again to 30 April 2021 by the Ministry of Planning, Finance and Industry. The exemption was initially granted due to COVID-19 and is expected to be extended on a monthly basis. We have not seen any other customs and trade related regulatory updates.

Our WMS team will remain in touch with clients and continue to be available to address customs and trade matters.

## New Zealand as 2021 APEC Chair

New Zealand will chair the Asia-Pacific Economic Cooperation (APEC) in 2021. New Zealand's three priorities as chair are:

1. Economic and trade policies that strengthen recovery
2. Pursuing innovation and a digitally-enabled recovery
3. Increasing inclusion and sustainability for recovery

Since the COVID-19 pandemic began, customs administrations were required to adopt a range of new measures focusing on new trade patterns, trade facilitation, lockdown constraints, and minimising health risks. Many of these measures were also effective in streamlining trade. New Zealand Customs Service (NZCS) will be responsible for virtually hosting the Sub-Committee on Customs Procedures (SCCP) meetings at APEC. The SCCP is a forum that sits under the Committee for Trade and Investment (CTI) and is focused on trade facilitation, trade security and related enforcement matters. NZCS will lead Customs' related discussions with delegates from the 21 APEC economies.

APEC comprises of 21 Pacific Rim members: Australia; Brunei Darussalam; Canada; Chile; China; Hong Kong, China; Indonesia; Japan; Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; the Philippines; Russia; Singapore; Taiwan, ROC; Thailand; the United States; and Vietnam. The focus of APEC's work is connecting and integrating economies within the region so it is easier to do business within and between them. It does this by providing a forum for leaders, ministers and officials to meet, share experiences, and develop best practices and shared norms for trade and economic policy.

More details available here:

<https://www.apec2021nz.org/>





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## Proposed suspension of tariff concessions for Thai products

The Philippines have taken another step forward in pursuing countermeasures against Thailand in relation to a long-standing dispute between the two territories involving a cigarette case. In February, the Philippines conducted a public hearing to identify Thai products for which tariff concessions may be suspended.

The proposed list includes a diverse list of products covering 112 tariff lines. Key products on the list include rice, corn, white cement, cosmetics, rubber products, machinery, and motor vehicles.

Last year, the Philippines sought authorisation from the WTO to implement retaliation measures against Thailand due to the latter's refusal to comply with the WTO ruling on the case won by the Philippines regarding its tobacco export to Thailand.

The complete list of products under review can be viewed using this link:

<https://drive.google.com/file/d/1DyAUA4mqKTndnc4l0n3rkZaLJztYKciG/view>

To access the link, please use internet explorer browser or google chrome in incognito mode.

## Shortened validity of Product Evaluation Report

According to a memo released by the Bureau of Customs (BOC) dated 5 February 2021, the validity period of a Product Evaluation Report (PER) has been shortened from five years to three years.

A PER is a document that confirms a product has been examined by the BOC to determine origin under relevant free trade agreement(s). PER is a requirement for requesting and issuance of Certificate of Origin in the Philippines.

Exporters who are affected by the changes have been given until 5 April to file an application with the BOC to update their PER. Without a valid PER an exporter will not be able to obtain Certificates of Origin.

Exporters of locally produced and/or wholly obtained products are not affected by this change as such products do not require a PER.

Further detail can be found here:

[https://customs.gov.ph/wp-content/uploads/2021/02/aocg-memo-67-2021-Evaluation\\_of\\_Goods\\_Applying\\_for\\_Certificate\\_of\\_Origin.pdf](https://customs.gov.ph/wp-content/uploads/2021/02/aocg-memo-67-2021-Evaluation_of_Goods_Applying_for_Certificate_of_Origin.pdf)

## Halal product certification for products exported to Indonesia

The Philippines is currently working on a memorandum of understanding (MoU) with Indonesia to help Philippine exporters comply with Indonesia's law on Halal Product Assurance. Under the Indonesian law, all exported halal products to Indonesia must be registered with the Indonesian Halal Product Certification Agency. To get a halal certification, a product must first be certified in the Philippines by an authorized halal certification body.

The MoU would lead to Indonesia's recognition of halal certification bodies in the Philippines that are accredited by the Department of Trade and Industry. The MoU is currently awaiting confirmation.

Exporters to Indonesia must be able to process and secure a halal certification as soon as the certification body in the Philippines has been set-up.

## Philippines included in the UK GSP

The Philippines will continue to have duty-free access throughout the year for exports to the UK under the UK Generalised Scheme of Preferences (GSP) Enhanced Framework. The UK GSP effectively replaces the European Union (EU) GSP following the end of the BREXIT transition period.

The UK GSP provides the same benefits and market access as granted under the EU's GSP, which includes 0% tariff for more than 6,000 products originating in the Philippines. Products benefiting from the duty free treatment include agricultural produce, footwear and nuclear machinery and appliances as top exports to the UK.

To ensure goods qualify under the UK GSP, exporters must confirm whether new rules of origin apply to their product and secure either of the following:

- a duly authorized GSP Form A, or
- an origin declaration on an invoice, packing list or consignment note, including information that would confirm the product's Philippine origin.



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## Importers urged to use Trader Notification Service to avoid declarant fraud

Through Circular No: 03/2021, Singapore Customs revealed that several cases had been detected where freight forwarders or declaring agents declared lower values and paid lower GST for the purpose of pocketing money from importers. Forwarders or declaring agents then submitted forged import permits to importers that reflect the higher correct figures for billing purposes.

As such, Singapore Customs urges importers to register and take advantage of the Trader Notification Service to detect if fraudulent and similar activities are being carried out without their knowledge. Once registered, importers will receive notifications containing relevant information regarding their import permits. Importers can then use the data from the notification to compare the amount declared and GST payable to what is asked by their appointed forwarders or declaring agents.

## New excise duty rates for motor spirits

From 16 February 2021, updated duties for motor spirits are as follows:

| Description                                       | HS codes                               | Excise Duty (per dal) |           |
|---|--|-----------------------|-----------|
|   |  | Old                   | New       |
| Motor Spirit of RON 97                            | 2710.12.21<br>2710.12.22<br>2710.12.23 | SGD6.40               | SGD7.90   |
| Motor Spirit of RON 90 and above but below RON 97 | 2710.12.24<br>2710.12.25<br>2710.12.26 | SGD5.60               | SGD\$6.60 |

## Singapore port experiences congestion, drives longer waiting period and extra charges

The Singapore port is reportedly experiencing congestion due to an increasing number of vessels and containers arriving in the territory. For instance, container vessels of 18,000 TEU and above have a typical turn-around time of two days, but this has extended up to seven days. In addition to the increased port activities, changes in global supply chains such as the imposition of new lockdowns in other territories have also contributed to the delays.

Port congestion is also reported in China and other Southeast Asia territories. For example, some ports in Malaysia and Sri Lanka have similar issues causing some shipments to be diverted to Singapore instead.

The congestion is causing freight costs to increase and businesses are advised to monitor the situation to manage supply chain and freight costs.



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## Pre-clearance certificate of origin for bicycles and electric bicycles

On 10 March 2021, the Bureau of Foreign Trade (BoFT) announced that bicycles or electric bicycles exported to the European Union (EU) and the UK will require a Pre-Clearance Certificate of Origin prior to exportation.

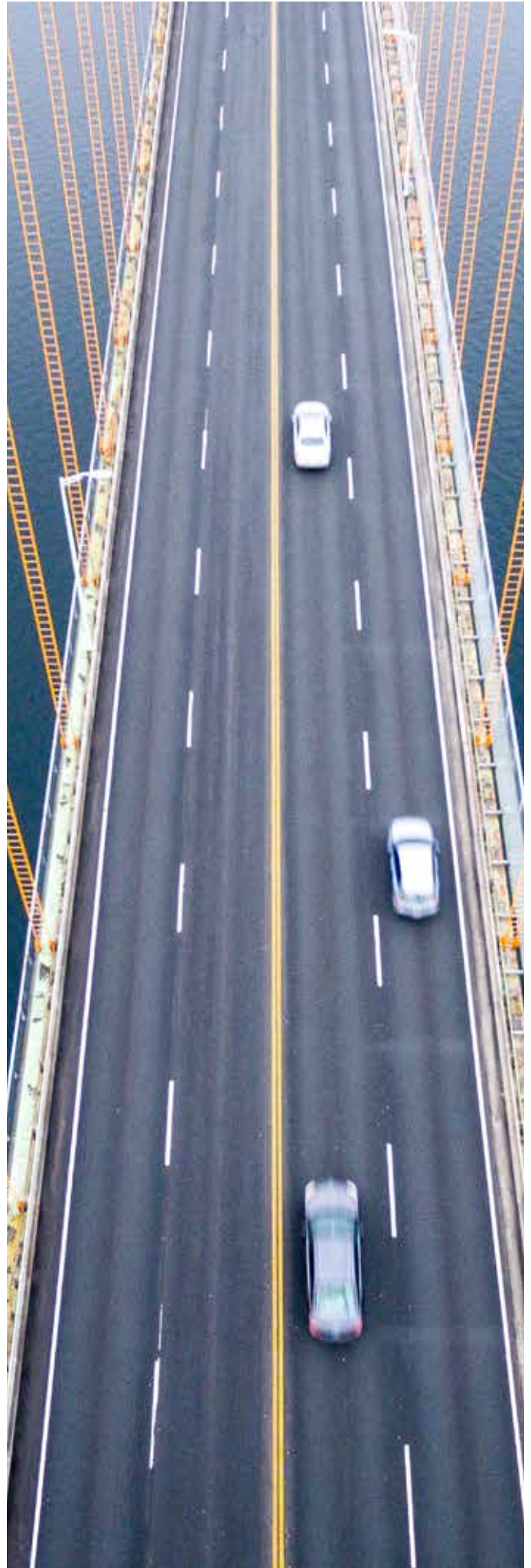
Exporters seeking the Pre-Clearance Certificates of Origin are required to submit relevant documentation, including certificate of origin application, company registration, commercial invoice and contract agreements to the competent authority.

The commodity classification codes (CCC) and product description of affected bicycles are listed below.

| CCC code        | Product description  |
|-----------------|--|
| 8711.60.20.00-7 | Cycles with electric motor for propulsion  |
| 8712.00.10.10-9 | Folding bicycles   |
| 8712.00.10.20-7 | Bicycles for young children, height of saddles under 635 mm  |
| 8712.00.10.30-5 | City and trekking bicycles, height of saddles 635mm or more, width of tires 28mm or more                         |
| 8712.00.10.40-3 | Mountain bicycles, height of saddles 635mm or more, suspension system and width of Knobby tires 28mm or more     |
| 8712.00.10.50-0 | Road bicycles, height of saddles 635mm or more, width of tires not exceeding 28mm and weight not exceeding 12 kg |
| 8712.00.10.90-2 | Other bicycles   |
| 8712.00.90.00-4 | Other cycles   |

Details can be accessed here:

[https://www.trade.gov.tw/Pages/Detail.aspx?no-delID=39&pid=716529&dl\\_DateRange=all&txt\\_SD=&txt\\_ED=&txt\\_KeyWord=&Pageid=0](https://www.trade.gov.tw/Pages/Detail.aspx?no-delID=39&pid=716529&dl_DateRange=all&txt_SD=&txt_ED=&txt_KeyWord=&Pageid=0)



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## Duty exemption for goods used for robot and automation production

The Ministry of Finance has issued a notification on duty exemption for imported goods (regardless of tariff codes) for robot and automation production in Thailand. The list covers a wide range of goods, including electric motors, sensors/transmitters, controllers, industrial software, hydraulics, power supplies, signal cables, and accessories.

Certain conditions must be satisfied before the exemption can be utilised. These include being certified by the Centre of Robotics Excellence (CoRE) and obtaining pre-approval in principle from Thai Customs before the first importation. Also, the imported goods must be used to manufacture robots and automation as approved by CoRE within one year (with the possibility of two extensions).

This notification is in effect for five years, starting from 17 February 2021. Importers should review the full list of eligible goods and the conditions laid out in the notification to avoid non-compliance issues.

## New BOI incentives for electric vehicles, parts and equipment manufacturers

The Thailand Board of Investment (BOI) recently issued a notification 3/2564 to amend the list of promoted activities under BOI notifications 2/2557 and 5/2560 on the manufacturing and conditions of electric vehicles, parts and equipment.

This new amendment notification introduces both additional promoted activities and amended activities, their conditions, and import duty incentives and corporate income tax benefits for these groups of products.

The table below lists the key activities that are subject to the BOI promotions.

| Notification 3/2564   | Promoted activities  | Privilege types  |
|---|--|--|
| Additional promoted activities  | <p>Section 4.24: Manufacturing battery electric vehicles (BEV), plug-in hybrid electric vehicles (PHEV) and hybrid electric vehicles (HEV)</p> <p>Section 4.25: Manufacturing battery-powered electric motorcycles</p> <p>Section 4.26: Manufacturing battery-powered electric tricycles</p> <p>Section 4.27: Manufacturing battery-powered electric buses and trucks</p>  | <p>A2, A4 or B1 depending on vehicle type and conditions</p> <p>A4</p> <p>A4</p> <p>A4</p> |
| <p>Amended activities:</p> <ul style="list-style-type: none"> <li>The differences from BOI notification 5/2560 are underlined</li> <li>Newly introduced promoted activities: Section 4.8.3.14 – Section 4.8.3.1.17</li> </ul> | <p>Section 4.8.3: Manufacturing parts and equipment for electric vehicles including:</p> <p>Section 4.8.3.7: Manufacturing charging equipment for electric vehicles i.e. <u>wallbox sockets</u></p> <p>Section 4.8.3.13: Manufacturing front/rear beams for electric buses <u>and trucks</u></p> <p>Section 4.8.3.14: Manufacturing reduction gears</p> <p>Section 4.8.3.15: Manufacturing high-voltage harnesses</p> <p>Section 4.8.3.16: Manufacturing a battery cooling system</p> <p>Section 4.8.3.17: Manufacturing a regenerative braking system</p> | <p>A2</p> <p>A2</p> <p>A2</p> <p>A2</p> <p>A2</p> <p>A2</p>                                |



| Notification 3/2564   | Promoted activities   | Privilege types                                    |
|---|---|--|
| <ul style="list-style-type: none"> <li>The differences from BOI notification 2/2557 are underlined</li> </ul>                                   | Section 4.9: Ship building or repairing<br><br>Section 4.9.2: Building or repairing ships that weigh no less than 500 tons gross (only steel or fibreglass ships with installed engines <u>or drive system</u> and equipment) | A2   |
| <ul style="list-style-type: none"> <li>Newly introduced promoted activities: Section 5.2.6 manufacturing high energy density storage</li> </ul> | Section 5.2.6: Manufacturing high energy density storage<br><br>Section 5.2.6.1: Manufacturing high energy density batteries<br><br>Section 5.2.6.2: Manufacturing supercapacitors  | A1, A2 or A3 depending on the conditions<br><br>A2 |

In addition to the table above, following section 30 of the BOI Act B.E. 2520, the notification specifically grants a 90% import duty reduction on raw materials and essential materials for the manufacturing of activities 4.8.3.1 and 5.6.2.1.

We recommend detailed research on the additional promoted activities and amended activities to ensure compliance. The notifications can be found at the following link:

[https://www.boi.go.th/index.php?page=boi\\_announcements&language=th](https://www.boi.go.th/index.php?page=boi_announcements&language=th)

## Procedures for placing an e-guarantee in a classification dispute

The Customs Department has announced notification 28/2564 regarding the procedures for placing an e-guarantee in the case of a classification dispute. This guarantee can be placed when the importer imports goods under the following conditions:

1. Identical or similar goods were imported before, and the importer is in the process of getting a ruling from Customs or under appeal; or
2. Goods were not imported before, but the importer voluntarily asks for a ruling from Customs upon importation.

In either case, Customs may request a sample of the goods or further information, including product specifications or material safety data sheets (MSDS), for their review of the tariff code.

As the guarantee placement under this notification is not requested by Customs, but is based on the importer willingly placing the guarantee, it is not eligible for interest from Customs under Section 27 of the Customs Act BE 2560 (2017).

If the tariff code is reviewed and the result favours the importer, Customs will return the guarantee. However, if the result favours Customs, they will issue a notice of assessment (NoA) for the importer to pay the outstanding duties and taxes. Although the idea of placing a guarantee on a classification dispute case is not new, the introduction of the e-guarantee would ensure importers have more options and greater facilitation when in a dispute with Customs.

## Guidelines for certificate of origin issuance

The Department of Foreign Trade (DFT) has announced guidelines for issuing a Certificate of Origin (CO) with multiple invoices and requesting a CO copy via the electronic signature and seal system (ESS). The guidelines have been in effect since 8 February 2021 and more details are provided below.

### A. Request a CO when there are several invoices

- The CO types below do not have a limit on the number of invoices per CO.
  1. Form D (ASEAN Trade in Goods Agreement),
  2. Form E (ASEAN-China FTA), and
  3. Form AHK (ASEAN-Hong Kong FTA).
- Other types of CO forms are limited to five invoices only. If there are more than five invoices, another CO must be requested.

### B. Request a copy of a CO under the ESS system

- The requester can request a CO copy under the ESS system without contacting the DFT.

These guidelines are provided to update the current practice for Thai manufacturers, traders, and exporters of goods originating in Thailand. However, these are not clearly specified in the DFT regulations as it is more of an operational update. We recommend to keep monitoring updates from the DFT for any future changes.

## Public hearing on revising duty exemption criteria

The Customs Department has recently announced a public hearing on a draft amendment of Tariff Decree B.E. 2530 (1987). The purpose of this amendment is to standardise the criteria and conditions in the Tariff Decree to ensure transparency and fairness for importers and exporters.

The key amendments of the Tariff Decree will be on criteria and conditions for duty exemption according to the Part IV privilege. The aim of the newly proposed Tariff Decree draft is to designate only the Director-General (DG) of the Customs Department as the authority with the power to prescribe rules and conditions for duty exemption.

The draft amendments and one new type of the Part IV privilege are shown in this table:

| Type of Part IV | Proposed amendments   |
|-----------------|---|
| Type 5          | Duty exemption on personal items of a reasonable value brought into Thailand by the owner for their own or professional use that were previously not specified will now be as prescribed by the DG. |
| Type 6          | Duty exemption on used household items of a reasonable value brought into Thailand by the owner that were previously not specified will now be as prescribed by the DG.                             |
| Type 19         | Duty exemption on the re-export of returnable containers will be expanded to include the re-import of returnable containers.  |
| Type 20         | The addition of this new type allows duty exemption for the temporary import of yachts for non-commercial use. The yachts must be re-exported within three years from the import date.              |

After the public hearing in April and issuing the Tariff Decree amendment (if applicable), it is expected that Customs will soon announce certain sub-regulations together with related practical guidelines in relation to the amendments of the Part IV privilege. We encourage importers to continue monitoring announcements for any changes or the actual implementation date of the amended Tariff Decree to ensure full compliance.

## Thailand prepares to adopt EU 2020 list of dual-use items

At present, Thailand uses the EU list as a guideline for DUI under the Trade Controls on Weapons of Mass Destruction (TCWMD) Act B.E. 2562 (2019), which came into force on 1 January 2019. The DFT, as the responsible Thai government department, is now in the process of drafting sub-regulations specifying the measures that conform with the current trade situation.

More details of the 2020 EU list can be found at the following links:

[https://trade.ec.europa.eu/doclib/docs/2020/december/tradoc\\_159198.pdf](https://trade.ec.europa.eu/doclib/docs/2020/december/tradoc_159198.pdf) and  
[https://eur-lex.europa.eu/eli/reg\\_del/2020/1749/oj](https://eur-lex.europa.eu/eli/reg_del/2020/1749/oj)

## Update on Thai Customs relief measure due to COVID-19

The Customs Department recently announced Notification No. 50/2564 regarding the presentation of certificates of origin (COs) for importers affected by COVID-19. Customs will allow importers to present photocopies of COs under certain free trade agreements if they cannot obtain the original CO by the time of import clearance from 1 April 2021 until 30 September 2021.

The COs covered under this notification are Form E, Form D, Form AK, Form AJ, Form JTEPA, Form AI, Form FTA Thai-India, Form AANZ, Form AHK and 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 digital COs under the Thailand-India and ASEAN-India free trade agreements.

Importers need to obtain prior approval from Customs to use a photocopy of each CO by completing the form attached to the notification, present the form upon import clearance and place a remark in the import entry stating the importers intent to request to use a photocopy of a CO and that the original version will be submitted at a later date. The original CO must be presented to the customs officer in charge within 30 days (with the possibility of a 30 days extension) to avoid non-compliance. Failure to provide the original CO within the allowed period will invalidate the submitted photocopy of the CO, and the importers will be required to pay the duties retroactively.



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## Updated requirements relating to import and export duty exemptions for contract manufacturers and Export Processing Enterprises in Vietnam

### 1. Import and export duty exemptions for subcontracted materials under contract manufacturing arrangements

On 13 March 2021, the Vietnamese Government released Decree 18/2021/ND-CP amending and supplementing a number of articles of Decree 134/2016/ND-CP which is aimed at guiding the Law on export and import duties.

Under Decree 18, materials imported under contract manufacturing models are eligible for import duty exemption even when the materials are sent to local vendors for processing. Previously, the General Department of Customs ("GDC") issued some official letters such as Letter no. 4007/TXNK-CST dated 18 October 2017 in response to a specific company, in which GDC confirmed that subcontracted materials would not be exempt from import duty.

With the implementation of the new Decree, the import duty exemption will be granted even if the production of the exported goods is partially outsourced or if a portion of the imported materials are sent to local vendors for processing and the importers fulfill relevant customs procedures.

### 2. Import and export duty exemptions for Export Processing Enterprises (EPE)

A new provision relating to Export Processing Enterprises (EPE) is also added in Decree 18. In order to be eligible for the import duty exemption on imported goods, EPEs must have physical fences separating the EPEs from outside areas and must have entrances/exits that monitor and control the entry and exit of all goods. EPEs are also required to have camera systems installed that can observe all entrances/exits and goods storage areas at all times. The camera images must then be retained for at least 12 months. The camera systems must also be connected to the respective customs authority's system. A software to monitor the usage of the duty-exempt imported goods is required as well.

In addition, Decree 18 implements certain administrative changes to duty exemption and duty refund procedures.

Decree 18 takes effect from 25 April 2021 onwards. Companies can find further details on Decree 18 posted on the Government's portal:

[http://vanban.chinhphu.vn/portal/page/portal/chinhphu/hethongvanban?class\\_id=1&mode=detail&document\\_id=202806](http://vanban.chinhphu.vn/portal/page/portal/chinhphu/hethongvanban?class_id=1&mode=detail&document_id=202806)







## Asian COVID-19 related updates

### Facilitating cross-border movement of COVID-19 vaccines

On 25 February 2021, the WCO Secretariat published a new Secretariat Note containing guidance on implementation of the December 2020 “Council Resolution on the Role of Customs in facilitating the cross-border movement of situationally critical medicines and vaccines”. It details various WCO instruments and tools that can help and examples of Member’s practices. This will help customs administrations around the world implement the Resolution.

The Secretariat Note is intended as a living document that will be updated with Members’ practices and learnings in relation to customs clearance of COVID-19 vaccines, related supplies and equipment.

The note is available here:

[http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/natural-disaster/covid\\_19\\_vaccine/secretariat-note-vaccines\\_en.pdf?la=en](http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/natural-disaster/covid_19_vaccine/secretariat-note-vaccines_en.pdf?la=en)

### Addressing fake COVID-19 vaccines and other illicit goods

The WCO launched a new initiative on 9 March 2021 to tackle the problem of cross-border consignments of fake vaccines and other illicit COVID-19 related goods, while ensuring smooth movement of legitimate shipments.

Details can be accessed here:

<http://www.wcoomd.org/en/media/newsroom/2021/march/launch-of-a-new-wco-project-on-customs-control-of-fake-vaccines.aspx>





## World Customs Organisation (WCO)

| Topic   | Description  | URL  |
|---|--|--|
| New annexes to E-Commerce Package ready for use | <p>In December, the WCO Council adopted three new annexes to the Framework of Standards on Cross-Border E-Commerce Technical Specifications. They were:</p> <ul style="list-style-type: none"> <li>Reference Datasets for Cross-Border E-Commerce - Provides examples of datasets which customs administrations are currently collecting to track, target and identify small e-commerce shipments</li> <li>Revenue Collection Approaches - Describes existing revenue collection models</li> <li>E-Commerce Stakeholders: Roles and Responsibilities - Describes roles and responsibilities of various e-commerce stakeholders to ensure transparent and predictable cross-border movement of goods.</li> </ul> <p>The WCO emphasised that no additional obligations were added to the stakeholders under the new annexes.</p> <p>The Council also endorsed the E-Commerce Framework of Standards update/maintenance mechanism. 17 cases were included in the first edition of the Compendium of Case Studies on E-Commerce which contains practical examples of how customs administrations exchange advanced electronic data, facilitation, de minimis levels, and revenue collection etc.</p> <p>Lastly, the WCO Council took note of the KPIs released in early 2020 for customs authorities to assess their level of implementation of the framework.</p> <p>Taken together, this means the full WCO E-Commerce Package that supports the implementation of the Framework of Standards on Cross-Border E-Commerce is now available on the WCO website. It contains Technical Specifications to the E-Commerce FoS, definitions, E-Commerce Business Models, E-Commerce Flowcharts, Implementation Strategy, Action Plan and Capacity Building Mechanism, which have now been supplemented by the documents on Reference Datasets for Cross-Border E-Commerce, Revenue Collection Approaches and E-Commerce Stakeholders: Roles and Responsibilities. It should serve as a guide to member territories as they develop their approach towards Business-to-Consumer and Consumer-to-Consumer shipments.</p> | <p><a href="https://mag.wcoomd.org/uploads/2021/03/WCONews94.pdf">https://mag.wcoomd.org/uploads/2021/03/WCONews94.pdf</a></p> <p><a href="http://www.wcoomd.org/en/media/newsroom/2020/december/the-full-e-commerce-package-is-now-online.aspx">http://www.wcoomd.org/en/media/newsroom/2020/december/the-full-e-commerce-package-is-now-online.aspx</a></p> <p><a href="https://mag.wcoomd.org/magazine/wco-news-94/new-documents-e-commerce-package/">https://mag.wcoomd.org/magazine/wco-news-94/new-documents-e-commerce-package/</a></p> |
| Launch of WCO Trade Tools subscription service  | <p>The WCO released a new online database, known as Trade Tools (<a href="https://www.wcotradetools.org/">https://www.wcotradetools.org/</a>), which provides information on goods classification and determination of customs tariffs and taxes. It is offered as a paid subscription service.</p>  | <p><a href="http://www.wcoomd.org/en/media/newsroom/2021/march/launch-of-wco-trade-tools-a-new-online-database-for-the-hs-origin-and-valuation.aspx">http://www.wcoomd.org/en/media/newsroom/2021/march/launch-of-wco-trade-tools-a-new-online-database-for-the-hs-origin-and-valuation.aspx</a></p>   |
| Second Global Origin Conference                 | <p>From 10 to 12 March 2021, over 1,300 participants joined 27 speakers from customs administrations, international organisations, the private sector and academia for the Second Global Origin Conference. The conference sought to advance understanding of the current situation with respect to Rules of Origin (ROO) and its related challenges.</p> <p>Discussions covered regional integration, impact of non-preferential ROO, HS updates, work of the Revised Kyoto Convention/other WCO tools, future actions in implementing ROO, and international guidelines/standards in relation to implementing ROOs. Trade professionals also shared the practical challenges faced when applying ROOs.</p>   | <p><a href="http://www.wcoomd.org/en/media/newsroom/2021/march/second-global-origin-conference-successfully-held-virtually.aspx">http://www.wcoomd.org/en/media/newsroom/2021/march/second-global-origin-conference-successfully-held-virtually.aspx</a></p>   |

| Topic  | Description   | URL  |
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| 39th meeting of the Technical Committee on Rules of Origin | The WCO Technical Committee on Rules of Origin met on 2 February 2021. They discussed developments relating to the WCO Action Plan on Preferential Rules of Origin; the Revenue Package; and the practical application of rules of origin, including implementation of advance ruling systems.  | <a href="http://www.wcoomd.org/en/media/newsroom/2021/february/the-wco-hosted-the-39th-technical-committee-on-rules-of-origin-virtually-on-2-february-2021.aspx">http://www.wcoomd.org/en/media/newsroom/2021/february/the-wco-hosted-the-39th-technical-committee-on-rules-of-origin-virtually-on-2-february-2021.aspx</a>  |
| RKC/MC progresses its review                               | <p>The 24th Meeting of the Revised Kyoto Convention Management Committee (RKC/MC) was held from 1-5 March 2021. The objective was to tackle Step 2 of the four-step framework for the comprehensive review of the RKC which was adopted during the 22nd Meeting of the RKC/MC. Step 2 refers to the assessment of developed recommendations against the RKC, its guidelines and other existing WCO instruments and tools.</p> <p>During the meeting, the group reviewed the first draft of the Step 2 assessment, which contained proposals made regarding COVID-19 (eg, relief consignments), e-payments, postal procedures, passengers, use of IT and technology, etc. The group reviewed these proposals to decide which proposals should be dealt with in the RKC, its guidelines, or other new or existing WCO instruments and tools. The next RKC/MC is scheduled for 7-11 June 2021.</p> | <a href="http://www.wcoomd.org/en/media/newsroom/2021/march/the-rkc-mc-progressed-the-comprehensive-review-of-the-rkc-during-its-24th-meeting.aspx">http://www.wcoomd.org/en/media/newsroom/2021/march/the-rkc-mc-progressed-the-comprehensive-review-of-the-rkc-during-its-24th-meeting.aspx</a>  |
| Guidelines seeking to harmonise AEO and RA/KC programs     | On 16 February 2021, the WCO and International Civil Aviation Organisation (ICAO) jointly released guidelines to align Customs Authorised Economic Operator (AEO) and Aviation Security (AVSEC) Regulated Agent/Known Consignor (RA/KC) programs. The guidelines ultimately seek to harmonise WCO AEO and AVSEC RA/KC programs.   | <a href="http://www.wcoomd.org/en/media/newsroom/2021/february/publication-of-joint-wco_icao-guiding-principles-and-guidelines.aspx">http://www.wcoomd.org/en/media/newsroom/2021/february/publication-of-joint-wco_icao-guiding-principles-and-guidelines.aspx</a>  |
| Liberia, Turkmenistan and Uzbekistan accede to RKC         | In the months of February and March, Liberia, Turkmenistan and Uzbekistan acceded to the Revised Kyoto Convention (RKC). The RKC will enter into force for these territories on 14 March 2021, 3 May 2021 and 16 May 2021 respectively.   | <a href="http://www.wcoomd.org/en/media/newsroom/2021/february/the-rkc-now-has-126-contracting-parties-following-the-accession-of-liberia-and-turkmenistan.aspx">http://www.wcoomd.org/en/media/newsroom/2021/february/the-rkc-now-has-126-contracting-parties-following-the-accession-of-liberia-and-turkmenistan.aspx</a><br><br><a href="http://www.wcoomd.org/en/media/newsroom/2021/february/uzbekistan-accedes-to-the-rkc-becoming-the-127th-contracting-party.aspx">http://www.wcoomd.org/en/media/newsroom/2021/february/uzbekistan-accedes-to-the-rkc-becoming-the-127th-contracting-party.aspx</a> |
| Lao Customs receive training on customs enforcement        | Customs officials in Lao PDR received training on the implementation and use of the WCO National Customs Enforcement Network (nCEN). Ultimately, this is intended to boost Laos' risk management, customs modernisation, and trade facilitation capabilities. As the nCEN program is in a train-the-trainer format, the next step is for Lao Customs to produce and issue a local nCEN user guide to assist in a nation-wide rollout.   | <a href="http://www.wcoomd.org/en/media/newsroom/2021/march/virtual-train-the-trainer-workshop-on-ncen.aspx">http://www.wcoomd.org/en/media/newsroom/2021/march/virtual-train-the-trainer-workshop-on-ncen.aspx</a>  |
| Cambodia Customs receive strategic trade controls training | From 16 - 19 February 2021, Cambodia Customs received training on strategic trade control enforcement. The Strategic Trade Control Enforcement (STCE) program aims to support WCO Members in their fight against illicit trafficking of weapons of mass destruction and related items.  | <a href="http://www.wcoomd.org/en/media/newsroom/2021/march/the-stce-programme-delivers-a-virtual-national-training-for-cambodia-customs.aspx">http://www.wcoomd.org/en/media/newsroom/2021/march/the-stce-programme-delivers-a-virtual-national-training-for-cambodia-customs.aspx</a>  |
| Asia Pacific customs examine disruptive technologies       | More than 17 Asia/Pacific customs administrations attended the WCO Asia/Pacific Regional Online Experience-Sharing Workshop on Disruptive Technologies from 22 - 24 March 2021. This is the first in a series that looks at the use of blockchain, artificial intelligence, machine learning, and the internet of things by exploring use cases, innovation projects and discussing findings and lessons learnt. Issues examined included the role of public-private partnership, ways of supporting the data pipeline, use of technologies for enhanced risk management capabilities and automated threat detection, and the relevant international standards (eg, the WCO Data Model) and their role in achieving interoperability and paperless trade.   | <a href="http://www.wcoomd.org/en/media/newsroom/2021/march/series-of-wco-experience-sharing-workshops-on-disruptive-technologies.aspx">http://www.wcoomd.org/en/media/newsroom/2021/march/series-of-wco-experience-sharing-workshops-on-disruptive-technologies.aspx</a>  |

| Topic  | Description  | URL   |
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| Regional Customs Laboratory established in India | A WCO Regional Customs Laboratory (RCL) was established in India on 2 March 2021. The expertise and facilities of this RCL will be made available to WCO Members in the Asia Pacific region. It will also be used to share knowledge on analysis methodologies and techniques to improve the accuracy and effectiveness of Customs laboratory analysis work. | <a href="http://www.wcoomd.org/en/media/newsroom/2021/march/online-signing-ceremony-for-an-mou-on-the-establishment-of-a-regional-customs-laboratory-in-india.aspx">http://www.wcoomd.org/en/media/newsroom/2021/march/online-signing-ceremony-for-an-mou-on-the-establishment-of-a-regional-customs-laboratory-in-india.aspx</a> |

## World Trade Organisation (WTO)

| Topic   | Description  | URL   |
|---|--|---|
| WTO Trade Barometer: Global trade volume remains strong for now | In the fourth quarter of 2020, the growth in world trade volumes continued from the third quarter and remained strong. However, indices for export orders and automotive products have peaked recently and started to lose momentum. Trends suggest upward momentum will not last into the first half of 2021.   | <a href="https://www.wto.org/english/news_e/news21_e/wtoi_18feb21_e.htm">https://www.wto.org/english/news_e/news21_e/wtoi_18feb21_e.htm</a>   |
| Roadmap for review of TFA                                       | On 3 March 2021, the WTO Committee on Trade Facilitation adopted a roadmap to review the progress made in implementing the Trade Facilitation Agreement (TFA). Under the TFA, a review of the operation and implementation is supposed to take place every four years, beginning 22 February 2017. The roadmap aims to conclude the review in advance of the 12th Ministerial Conference, which is scheduled for the end of November.  | <a href="https://www.wto.org/english/news_e/news21_e/fac_03mar21_e.htm">https://www.wto.org/english/news_e/news21_e/fac_03mar21_e.htm</a>     |
| WTO members finalise clean negotiating text on "spam"           | On 5 February 2021, WTO Members finalised a clean negotiating text on the issue of unsolicited commercial messages, also known as "spam". The effort is aimed at minimising spam messages in e-commerce.   | <a href="https://www.wto.org/english/news_e/news21_e/ecom_05feb21_e.htm">https://www.wto.org/english/news_e/news21_e/ecom_05feb21_e.htm</a>   |
| Trade-related training available online                         | WTO launched an online portal allowing individuals to apply for trade-related technical assistance and training courses. The effort is primarily aimed at helping officials strengthen their understanding of trade-related issues, but some courses are open to the public. More information on target audience and eligible candidates can be found via the Technical Assistance Management System ( <a href="https://tamis.wto.org/public/activities-catalogue">https://tamis.wto.org/public/activities-catalogue</a> ).              | <a href="https://www.wto.org/english/news_e/news21_e/tech_10feb21_e.htm">https://www.wto.org/english/news_e/news21_e/tech_10feb21_e.htm</a>   |
| New WTO handbook on TBT Agreement                               | The WTO published a new handbook providing an overview of the purpose and scope of the WTO Agreement on Technical Barriers to Trade (TBT Agreement). It sets out the key principles of the TBT Agreement and examines these in light of recent disputes under the Agreement. The handbook is available here: <a href="https://www.wto.org/english/res_e/publications_e/tbt3rd_e.htm">https://www.wto.org/english/res_e/publications_e/tbt3rd_e.htm</a>   | <a href="https://www.wto.org/english/news_e/news21_e/tbt_22feb21_e.htm">https://www.wto.org/english/news_e/news21_e/tbt_22feb21_e.htm</a>     |
| Updates from TBT Committee                                      | The Committee on TBT met on 23-26 February 2021. Members discussed and reviewed proposals submitted under the Triennial Review of the TBT Agreement. The review is expected to be finalised by November 2021 which will culminate in a set of recommendations that will define the next cycle of the Committee's work from 2021 to 2024.<br><br>During the meeting, 20 new trade concerns were raised. They related to cosmetics, medical devices, household electrical appliances, chemicals and cryptography products, amongst others. | <a href="https://www.wto.org/english/news_e/news21_e/tbt_26feb21_e.htm">https://www.wto.org/english/news_e/news21_e/tbt_26feb21_e.htm</a>     |
| 12th Ministerial Conference scheduled for November 2021         | The Ministerial Conference is the highest decision-making body of the WTO. The 12th Ministerial Conference was rescheduled to the week of 29 November 2021 and will be held in Geneva, Switzerland.  | <a href="https://www.wto.org/english/news_e/news21_e/minis_01mar21_e.htm">https://www.wto.org/english/news_e/news21_e/minis_01mar21_e.htm</a> |
| WTO chairpersons for 2021                                       | The WTO General Council announced the chairpersons for WTO bodies on 4 March 2021. Refer to the link for the names.  | <a href="https://www.wto.org/english/news_e/pres21_e/pr874_e.htm">https://www.wto.org/english/news_e/pres21_e/pr874_e.htm</a>                 |



| Topic   | Description   | URL   |
|---|---|---|
| Updates on disputes brought by or against Asian territories | A panel will be established to rule on Indonesia's measures relating to raw materials. This includes Indonesia's export prohibition on nickel ore and domestic processing requirements on minerals. The request was made by the EU. | <a href="https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds592_e.htm">https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds592_e.htm</a>     |
|   | The Dispute Settlement Body agreed to establish a panel to review the US' imposition of origin marking requirements for goods imported from Hong Kong, China. The request was made by Hong Kong, China.                             | <a href="https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds597_e.htm">https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds597_e.htm</a>     |
|   | On 19 March 2021, the US notified that it will appeal the panel report previously issued on anti-dumping and countervailing duties imposed on Korean products.  | <a href="https://www.wto.org/english/news_e/news21_e/ds539apl_19mar21_e.htm">https://www.wto.org/english/news_e/news21_e/ds539apl_19mar21_e.htm</a> |





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

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