

Customs & Global Trade news

Your technical destination

February 2013 Edition

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Welcome to Deloitte's Customs & Global Trade newsletter, which covers topical customs and trade legislation and transactions from across the globe. This publication aims to keep you informed of changes to international trade rules and what those changes may mean for your business.

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North America

United States

Bureau of Industry and Security (BIS) issues revisions to the Export Administration Regulations (EAR) to clarify Commerce Control List (CCL)

On 29 November 2012, BIS proposed changes to the EAR designed to clarify the CCL and make it easier for exporters to use. These include:

- 1) Additional regulatory guidance for exporters attempting to classify items. There are clearer definitions of the terms “Parts” and “Components” (originally announced 15 July 2011), and confirmation that certain Export Control Classification Numbers (ECCNs) extend- to both “Parts” and “Components”;
- 2) Changes to conform the CCL to the multilateral export control regime control lists (including the Wassenaar Arrangement and the Missile Technology Control Regime);
- 3) Structural changes to improve the clarity including revisions to section headings used in most ECCNs and additional detail on reporting requirements to individual ECCNs; and
- 4) Removal of 14 ECCNs subject to the exclusive jurisdiction of the Nuclear Regulatory Commission.

Comments on the proposed rule were sent to BIS by 28 January 2013.

For more information, contact [Michele McGuire](#).

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Customs and Border Protection (CBP) increases informal entry limit

On 6 December 2012, CBP published a final rule increasing the value limit for informal entries from US\$ 2,000 to

US\$ 2,500, effective 7 January 2013. Informal entries expedite customs clearance because, unlike formal customs entries, they do not require the filing of a formal entry summary (Customs Form 7501) or posting of a Customs surety bond. Further, informal entries are generally liquidated upon release, and subject to a Merchandise Processing Fee (MPF) of US\$ 2 (formal entries are subject to a minimum MPF of US\$ 25).

CBP is increasing the informal entry value limit to meet one of its commitments under the “Beyond the Border” initiative with Canada, as well as to address inflation. Under the Beyond the Border Initiative, the United States and Canada agreed to expedite customs clearance between the two countries by increasing and harmonizing the value thresholds for informal entries to USD 2,500.

As part of the final rule, CBP also removed language requiring formal entry for certain articles currently subject to absolute quotas under the Agreement on Textiles and Clothing. With the pending elimination of these absolute quotas, CBP will no longer require formal entries for these articles and the informal entry process will be available. However, formal entries are still required for all anti-dumping and countervailing duty entries, regardless of value.

For more information, contact [Michele McGuire](#).

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United States-Russia Trade Relations

On 14 December 2012 President Obama signed H.R. 6156 to comply with the World Trade Organization (WTO) rules to establish “immediate and unconditional” Permanent Normal Trade Relations (PNTR) with Russia and Moldova. Russia joined the WTO on 22 August 2012 after a 19-year accession process. The passing of this bill allows for the bilateral trade benefits with Russia to be realized by United States companies that export to Russia.

The benefits are lower tariff rates and trade dispute resolution through the WTO. About 60 percent of United States exports to Russia consist of aircraft, machinery (mostly parts for oil and gas production equipment), and meat (beef, pork and poultry).

For more information, contact [Michele McGuire](#).

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South America

Mexico

Free Trade Agreement

On 30 November 2012, the Mexican Ministry of Economy made a formal announcement in the official federal gazette setting 1 January 2013 as the official date for the Free Trade Agreement between Mexico and the Republics of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, to take effect between Mexico and Honduras.

this Free Trade Agreement took effect as of 1 September 2012 between Mexico and the Republics of Guatemala and El Salvador. The only two pending countries are Guatemala and Costa Rica.

For more information, contact [Cecilia Montaña Hernández](#).

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Macro Agreement for the Pacific Alliance

On 30 November 2012, the Mexican Senate approved the Macro Agreement for the Pacific Alliance signed in Parnal, Antofagasta, Chile on 6 June 2012.

Through this agreement, Mexico, Peru, Colombia and Chile agreed to advance in the process of integrating the free trade of goods, capital and people among these countries; promoting growth, development and the competitiveness of its economies.

For more information, contact [Cecilia Montaña Hernández](#).

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Mexican Foreign Trade Rules modifications

On 6 November 2012, additional changes were made to the Mexican Foreign Trade Rules for 2012, specifically related to Annex numbers 1, 4, 14, 22, 25 and 29.

Annex 1 includes all forms regarding declarations, notices, and instruction manuals for petition filing purposes. Updates to these forms are normally published on a yearly basis and this modification includes such an update.

Among notable Annex information, Annex 4 contains the updated version of the operating hours for all customs ports of entry and exports from Mexico. Annex 14 includes a list of all the customs ports of entry through which a second revision mechanism will need to be activated by the importer.

In addition, on 29 November 2012 a second modification to the Mexican Foreign Trade Rules took effect: in order to publish the proper procedures regulating the import of a single used vehicle into Mexico by Chihuahua State residents into such State.

Regulations include proper use of import declaration forms, codes, payment forms, ports of entry, customs brokers and additional requirements.

For more information, contact [Cecilia Montaña Hernández](#).

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Uruguay

Value Added Tax (VAT) and import duties – treatment applicable to e-books

Imports and local sales of books are exempt from VAT and import duties in Uruguay. The treatment applicable to books in an electronic format (e-books) has been an object of discussion in several binding opinions issued by the Uruguay Tax Authority.

In this respect, the situation regarding import duties was relatively clear, since the exemption is applicable not only to “physical books”, but also to “any other new instrument which derives from technology improvements”. Hence,

imports of e-books are exempt from import duties, provided they are literary, artistic, scientific, teaching or educational.

Regarding sales of books in the local market, the exemption for books did not make any direct reference to “technology improvements”. A few months ago, the Uruguay Tax Authority issued a binding opinion in which it expressed that e-books were not included in the concept of “books”, enjoying the VAT exemption. They were therefore subject to the general VAT rate of 22 percent when sold in the local market.

A new Decree issued by the Executive Branch of Uruguay, however, modified the scope of goods subject to exemption. Newspapers, magazines and books edited in an electronic format are now included in the VAT exemption as defined by regulations. Licenses for the use, as well as the transfer, of rights of use and exploitation of such goods are also included. In effect, e-books are now also exempt from VAT when sold in the local market.

It is worth mentioning that the exemption described is not applicable to the e-reader, but only to the e-book itself.

This modification is effective for all operations as of 1 December 2012.

For more information, contact [Javier Bugna](#).

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Europe

Belgium

Belgian program law: abolition of 'environmental taxes' and higher Excise Duty Rates for alcohol (excluding beer) and tobacco

On 21 December 2012, the Belgian Parliament adopted the program law containing the measures in executing the federal budget plan for 2013. This program law was published in the Belgian Gazette and contains measures applicable as of 1 January 2013 for all alcohol products (except beer) and products subject to environmental tax. Those for tobacco products are applicable as of 1 February 2013.

The following modifications took effect:

- **Alcohol:** an average Excise Duty Rate increase of 12 percent on wine, sparkling wine, other fermented sparkling and non-sparkling beverages, so-called “intermediate products” (aperitifs) and ethyl alcohol;
- **Tobacco:** a decrease of the special ad valorem Excise Duty Rate to 4.47 percent and an increase of the specific special Excise Duty Rate to EUR 15 per 1000 pc. cigarettes. The specific special Excise Duty Rate on rolling tobacco is increased to EUR 12 per kg. Furthermore, the minimal excise/taxation on the weighted average price is increased to 97 percent for cigarettes and to 95 percent for rolling tobacco; and
- **Environmental tax:** abolition of the tax on batteries, disposable cameras and recipients containing certain industrial products (i.e. inks, glues and solvents).

For companies active in the tobacco or alcohol industry, this increase will directly affect consumers as pricing will most likely reflect the increases. With respect to the abolishment of environmental tax on batteries, disposable cameras, etc., the changes result in the disappearance of certain administrative formalities (i.e. submission of a

registration or exemption application).

(We invite you to carefully monitor [Deloitte Belgium's Budget 2013 website](#) which is regularly updated with all the latest information.)

For more information, contact [Fernand Rutten](#).

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Italy

New electronic procedures for customs transactions

Starting 27 November 2012 the Italian Customs issued new procedures, as follows:

- New electronic filing for different declarations under the ordinary procedure (i.e., definitive imports, inward processing relief, temporary admission and introduction of goods into the warehouse);
- E-clearance of import declarations under the local clearance procedure; and
- Computerized discharge when handling the goods placed into the warehouse.

In the short term, there could be the possibility of applying for a pre-clearing authorization and, for AEO operators who are holders of the Local Clearance Procedure authorization, to choose a place of unloading the goods other than the ones selected for the controls.

For more information, contact [Alessandra Di Salvo](#).

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Customs value: guidelines on royalties and license fees

At the end of November 2012, taking into account the World Customs Organization (WCO) Commentary 25.1 of 2011 and the European Commission Document TAXUD/800/2002, rev. 2007, the Customs Central Department provided Customs Offices with detailed guidelines in a Circular to be applied by all the local Customs Offices in order to ascertain if royalties and license fees should be added to the customs value of imported goods.

Further to this new Circular, it is expected that there will be an increase of Customs controls on these matters.

For more information, contact [Alessandra Di Salvo](#).

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Italian State Monopoly annexed to Customs Authority

As of 1 December 2012, the Italian State Monopoly has been annexed to the existing Customs Authority, under the new name "Agenzia delle dogane e dei Monopoli" (i.e., "Customs and Monopoly Agency"). Operators should adopt the new name for all matters relating to administrative and juridical proceedings with the Italian Customs.

For more information, contact [Alessandra Di Salvo](#).

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News on Excise Duties

The following is a summary of other new acts relating to Customs matters:

- Customs Authority Note no 133377 of 14 November 2012 confirmed the possibility to offset the treasury credits arising from the suppressed (provincial) additional tax on Excise Duty on electricity with Excise Duties;
- Decision of Customs Authority Director no 24211 of 14 November 2012 issued procedures relating to the authorization, guarantee fulfillments and bookkeeping of the fiscal representative appointed for supply in the Italian territory of goods already subjected to excise duties in another European Union Member State, with the exception of manufactured tobacco;
- Circular letter no 19/D of 16 November 2012 of the Customs Authority, includes instructions aimed to obtain an authorization for the setting up and carrying out mineral oils processing/storing plants [including some coast warehouses, warehouses of fuel for aviation placed into airports, storing warehouses used for petroleum products (such as LPG with authorized capacity not lower than 10,000 cubic meters excluded), LPG storing warehouses with authorized capacity not lower than 200 tons and some oil pipelines] and storing vegetable oils for energetic uses;
- Ministry of Finance Decree of 29 October 2012, published on 3 December 2012, introduced new payment procedures of the Excise Duties due on ethylic alcohol, alcoholic beverages and energy products (other than natural gas, coal, lignite and coke) which are released for consumption between 1 December 2012 and 15 December 2012. In particular, these payments shall be carried out, in the same year: i) within 18 December 2012 if carried out through the F24 form (credit offsetting excluded) or ii) within 27 December 2012 if carried out at the State Treasury (either directly or through postal account).

For more information, contact [Alessandra Di Salvo](#).

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Excise Duty Rates

The following Excise Duty Rates are applicable starting 1 January 2013.

- **Gasoline and gasoline with lead:** EUR 728,40 for 1,000 liters;
- **Gas oil used as fuel:** EUR 617.40 for 1,000 liters.

For more information, contact [Alessandra Di Salvo](#).

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Combined heat and power generation plants

The criteria to determine the quantity of energy products (e.g., natural gas) deemed to be destined for the production of electricity for Excise Duty purposes (especially that used at combined heat and power production plants), has been extended through 30 June 2013. The previous validity period expired on 31 December 2012.

For more information, contact [Alessandra Di Salvo](#).

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New energy products subjected to the Italian Excise Code

Starting 1 January 2013 certain types of anti-knock preparations based on lead compounds (CN codes 3811 11 10, 3811 11 90 and 3811 19 00), as well as some additives for lubricating oils (CN code 3811 90 00), fall within the scope of the Excise Law provisions relating to controls and Intra-EU circulation as provided by Italian Excise Code.

For more information, contact [Alessandra Di Salvo](#).

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New deadlines for some excise fulfillments

The following new deadlines have been stated for the electronic use of Single Administrative Document:

- 1 January 2015 for products subject to excise duties; and
- 1 January 2016 for lubricating oils, petroleum bitumen and other products.

On the other hand, authorized warehouse-keepers carrying out their activity in the beer sectors exclusively, with yearly production lower than 10.000 hectoliters, must electronically transmit the relevant accounting data to Customs Authority before 1 January 2014.

For more information, contact [Alessandra Di Salvo](#).

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Lithuania

Amendments of the Law on Excise Duty

On 20 December 2012 the new Law amending the Law on Excise Duty went into effect. In turn, the following changes apply to Excise Duty Rates for both tobacco products and energy products:

Up to 1 January 2013	From 1 January 2013
<ul style="list-style-type: none">• Excise Duty Rate on gas oils amounts to LTL 1,043.	<ul style="list-style-type: none">• Excise Duty Rate on gas oils amounts to LTL 1,140.
Up to 1 March 2013	From 1 March 2013
<ul style="list-style-type: none">• the specific component of Excise Duty Rate on cigarettes amounts to LTL 140;• minimum combined Excise Duty Rate on cigarettes amounts to 232 LTL for 1,000 cigarettes; and• Excise Duty Rate on cigars and cigarillos amounts to LTL 84 per kilogram of the product.	<ul style="list-style-type: none">• the specific component of Excise Duty Rate on cigarettes amounts to LTL 148;• minimum combined Excise Duty Rate on cigarettes now amounts to 244 LTL for 1,000 cigarettes; and• Excise Duty Rate on cigars and cigarillos amounts to LTL 88 per kilogram of the product.

For more information, contact [Tatjana Vaičiulienė](#).

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The Netherlands

Court Case – C-320/11, C-383/11, C-330/11 and C-382/11 – concerning classification set-top boxes

In November 2012, the Court of Justice of Netherlands ruled in a classification case regarding set-top boxes. Prejudicial questions were asked by the 'Administrativen sad – Varna' (Bulgaria) with regard to three companies providing digital television and internet, which imported set-top boxes originating from Korea. The set-top boxes were declared under CN code 8528 71 13 (zero duty rate). After inspection, customs authorities took the view that the set-top boxes were not equipped with an integrated modem and should have been classified under CN code 8528 71 19 instead, for which a 14 percent Duty Rate applies.

The companies claimed that the Customs Authorities classified the product without physically checking the product. As such, a retroactive duty claim could not be imposed. The Court ruled that Customs Authorities are allowed to classify products on the basis of written documents without being required to physically check the products. The Court further held that the reception of television signals and the presence of a modem allowing access to the internet are two equivalent functions for this product in order to be classified under CN code 8528 71 13. If one or both these functions are missing, the product must be classified under CN code 8528 71 19. Furthermore, the capacity to gain access to the internet, and not the technique used to achieve this, is the sole relevant and determining factor for the purpose of classification under CN code 8528 71 13. Therefore, it is not a necessity that these kinds of products have an integrated modem.

The products in these cases have the capacity to gain access to the internet and thus CN 8528 71 13 applies.

For more information, contact [Klaas Winters](#).

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India

China's 2013 tariff policy went into effect

The Tariff Commission of the State Council recently issued a Circular (Shuiweihui [2012] No. 22) on China's tariff policy for 2013. It increases the tariff codes from 8,194 to 8,238, and adjusts a number of Import and Export Duty Rates. In summary, the changes are:

- About 50 additional products are now subject to the interim Import Duty Rates, in relation to those that accelerate/support equipment manufacturing, products in the food and medicine sector, energy and resource, farming and textile, and the strategic emerging industries;
- The interim Import Duty Rates of some products are reduced, including special infant formula milk powder, smoked sheets, and technically specified natural rubber (TSNR);
- While there are generally no changes to the Export Duty Rates, there are adjustments of interim Export Duty Rates for some fertilizers (e.g., their interim Export Duty Rates during the off season are reduced); and
- Both the Import Duty Rates for the Most Favored Nation (MFN) and the conventional Import Duty Rates remain unchanged for 2013.

The above adjustments will affect selected companies' current classification of import and export goods and the applicable Duty Rates. Hence, to ensure the correct Duty and Export Refund Rates are applied, companies should

review their adopted classification in a timely manner, and apply for Customs pre-classification if necessary.

For more information, contact [Sarah Chin](#).

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India

Revised guidelines for implementation of Authorised Economic Operator (AEO) program

The Central Board of Excise & Customs Authority of India has issued revised guidelines for implementation of an AEO program. The various benefits under the program to AEO status holders such as importers, exporters, logistics service providers, custodians/terminal operators, custom house agents and warehouse operators have been specified in the revised guidelines. The guidelines also contain a procedural roadmap for obtaining AEO status.

For more information, contact [Prashant Deshpande](#).

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Refund of Special Additional Duty (SAD) admissible if process undertaken on imported goods does not result in different commodity

The Tribunal held that processing undertaken by the appellant on the imported goods would not disentitle the claim for refund of SAD levied at the time of import. The refund of SAD is available on sale of goods on payment of Value Added Tax (VAT) in the domestic market. In the instant case, the appellant imported certain goods and undertook cutting/splitting of the same before sale. This process also resulted in a change in tariff classification which was distinct from the imported goods. Overruling the contention that imported goods had completely lost their identity and that co-relation between the imported goods and sold goods cannot be established, the Tribunal held that the goods have remained the same notwithstanding a change in form and thus a refund claim cannot be denied.

For more information, contact [Prashant Deshpande](#).

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Malaysia

Import duty and sales tax exemption for PETRONAS and Authorised Companies

Effective 30 November 2012, the Malaysia Royal Customs Department (MRCD) has allowed Import Duty and Sales Tax exemption on a number of items, including raw materials, machinery, and equipment used in the RAPID complex for PETRONAS and companies authorised by PETRONAS. There are several conditions which must be met in order to claim the exemptions stated in the Orders.

The Orders can accessed through the following links :

- a [Customs Duties \(Exemption\) \(Amendment\) \(No.4\) Order 2012](#)
- b. [Sales Tax \(Exemption\) \(Amendment\) \(No.6\) Order 2012](#)

For more information, contact [Fan Kah Seong](#).

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Singapore

Advance export declaration requirements effective 1 April 2013

Singapore Customs issued Circular No.: 01/2012 on the implementation of Advance Export Declaration (AED) on all goods to be exported from Singapore, effective 1 April 2013.

The implementation of AED aims to strengthen Singapore's supply chain security and align its export practices with international standards. To achieve this objective, Singapore Customs now require companies to declare information of all goods leaving the country prior to the intended shipment date.

To facilitate companies in fine-tuning their processes and procedures to meet AED requirements, Singapore Customs will provide an 18-month adjustment period (i.e. up to 30 September 2014). During the adjustment period, companies which are identified to be non-compliant (i.e., late submissions and/or inaccurate declarations) to the AED requirements will not be penalized. However, these companies are more likely to be subjected to security checks at the borders.

Note: Any other applicable customs offences and penalties are still applicable.

Companies that export products from Singapore are reminded to note the procedural changes and are strongly encouraged to review their internal processes and systems in order to comply with the AED requirements before the adjustment period commences.

Companies that are currently exporting strategic items under the Strategic Trade Scheme (STS) (i.e., Tier 2 and Tier 3 permits), will now need to submit their export declarations before the actual shipment.

Note: Current procedures require controlled goods exported under Tier 1 permit to be declared prior to their export.

To ensure compliance with the AED requirements, companies performing export transactions from Singapore should:

- Proactively review their existing internal processes and procedures (including work arrangements with their appointed customs broker) to ensure that AEDs are submitted to Singapore Customs before export. For air shipments at least one hour before flight departure, and for sea shipment at least eight hours prior to arrival of the vessel for outbound movement;
- Consider the impact AED requirements will have on their existing supply chain as failure to comply could result in shipment delays; and
- Ensure that information provided on the AED is accurate – although it is possible that some fields (e.g., FOB/CIF, date of departure, etc.) can be amended within the permit validity period.

For more information, contact [Bob Fletcher](#).

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Strategic goods control list revisions issued in January 2013

Following Circular No. 15/2012 issued by Singapore Customs in November 2012, Singapore Customs is targeting to implement the Strategic Goods (Control) Order 2013 by January 2013.

With the new Strategic Goods (Control) Order 2013 which adopts the Wasenaar Arrangement 2011 and Annex I of Council Regulation (EU) No. 388/2012, a series of revisions to the existing Strategic Goods control list is expected.

This Order replaces both the Strategic Goods (Control) Order 2010 and the Strategic Goods (Control) Amendment Order 2011.

The key changes to the Munitions List includes:

- Editorial changes for consistency and clarification/ elaboration on controls;
- New definition on “unmanned aerial vehicles” (UAV);
- Removal of control on Triazoles – NTDNA from [ML8.a.32.];
- Expansion of existing controls for certain products; and
- Relaxation of existing controls for certain products and technologies.

Changes to the Dual-Use List will be made across all 10 categories and these revisions include editorial changes for consistency and clarification/elaboration on controls. However, companies exporting goods in the following categories may need to review their product list to determine whether any of their products are now included or excluded in the new control list:

- Telecommunication, Information Security, and Sensors and Lasers following a series of relaxation of control; and
- Aerospace and Propulsion following the expansion of control on a number of category codes.

Companies which were not previously impacted by the Strategic Goods Control Act may now have products which are classified as strategic items under Strategic Goods (Control) Order 2013.

Equally some companies may benefit from a relaxation or removal of export controls of their items following the update of the control list. In turn, companies should:

- Review their current or future list of products to determine whether their products are affected by the revisions and are now subject to control or decontrol;
- Ensure that their goods which are subjected to export control are classified in the correct Strategic Goods Control category; and
- Critically assess adequacy of the existing internal compliance measures adopted to ensure that the company complies with the Strategic Goods (Control) Act and Regulation.

For more information, contact [Bob Fletcher](#).

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Recent developments in the European Union, Japan and United States strategic export control regimes

On 11 December 2012, Singapore Customs jointly hosted an outreach seminar with Germany's Federal Office of Economics and Export Control, Japanese Security Export Control Policy Division (METI), and the U.S. Bureau of Industry and Security (BIS).

The objective of the seminar was to provide updates to Singapore businesses on recent developments to the export control regimes around the region, particularly in the European Union, Japan and United States.

For more information, contact [Bob Fletcher](#).

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European Union Export Control System

Developments to the EU Export Control System involve the implementation of:

- Regulation (EU) No. 1232/2011 in November 2011 to introduce five new general licenses for dual use goods;
- Regulation 388/2012 – New Annex I which modified the control list adopted by the International Export Control Regimes in 2010; and
- Directive 2009/43/EC which aims to facilitate Intra-Community Transfers (ICT) of military items to certified end-users and adoption of the new national general licenses.

For more information, contact [Bob Fletcher](#).

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Japan End-Use Certificate system

Since 1 April 2012, Japan implemented a revised End-Use Certificate (EUC) system for the export of strategic goods. The revised EUC system introduced the following changes to Japan's export control system:

- Civil fines which will be imposed on exporters which do not comply to the export control requirements;
- Provision of EUC only from the end-user of the exported goods in the importing country (i.e. the requirement for exporter to produce a separate EUC is abolished); and
- Official EUC format provided by Japan's Ministry of Economy, Trade and Industry (METI) to ensure EUCs submitted are in line with METI's requirements.

METI has observed an upward trend where businesses are adopting a "consignment" model, and thus face issues around the undefined end-users at the time of export.

To facilitate businesses operating under the "consignment" arrangement, METI allows exporters to submit EUCs to cover the export to the intermediate importer (in the foreign country) and subsequently resubmit the EUC from the identified end-user once a sale is concluded.

Note: For companies which intend to operate under a "consignment" business model and EUC arrangement, prior consent from METI should be sought.

For more information, contact [Bob Fletcher](#).

United States export control reform – current status

In August 2009, U.S. President Obama directed a broad-based inter-agency review of the U.S export control system. While the objective of the export control reform is to enhance national security, it also aims to reduce inefficiencies of the export control system by:

- Harmonizing the scope of controls and products to be included on control list;
- Providing clearer definitions to terms used in the control list to reduce ambiguity; and
- Stream-lining inter-agency processes and procedures through implementation of a single IT system for license applications.

Key updates to the U.S. export control system include:

- Introduction of the Export Administration Regulations (EAR) 600 series for items moved from the U.S. munitions list to the Commerce list;
- Finalisation of category VI, VII, VIII, XIX and XX reviews in the U.S. munitions list – targeted to be completed by January 2013; and
- Introduction of a new license exception - Strategic Trade Authorisation (STA), to allow for certain transactions both within and out of the US subject to fulfilling specific conditions under the U.S. EAR.

The developments of the export control systems in the EU, Japan and United States may impact businesses having cross-border transactions of controlled goods with these countries, within their supply chain.

To ensure compliance with the relevant export control laws, companies should:

- Stay abreast of the development of Export Control regimes not only within Singapore, but also the controls that are implemented by the importing and/or exporting countries to fulfil their export control obligations; and
- Implement a robust Internal Compliance Program (ICP) to manage the companies' supply chain security and minimise the company's risk of any exposure to any potential non-compliance.

Companies should:

- Review their current or future list of products and determine whether or not their products and technology originating from the European Union, Japan and United States are impacted by these revisions, and ensure necessary licenses are obtained for related transactions;
- Review the company's record-keeping procedures that are currently adopted to ensure necessary documents are obtained and kept for the period stipulated by the respective export control regimes in the various countries; and
- Assess the adequacy of the company's ICP to ensure that processes and procedures are current and relevant to existing export control laws – i.e., processes are implemented for transactions involving both strategic and non-strategic items and technology.

For more information, contact [Bob Fletcher](#).

European Union – Singapore Free Trade Agreement (EUSFTA) concluded

Singapore and the European Union (EU) successfully concluded negotiations for the EUSFTA on 16 December 2012. EUSFTA is the first bilateral free trade agreement concluded between the EU and an ASEAN country.

Under the EUSFTA:

- Singapore committed to eliminate all customs duties on goods of EU origin immediately upon the EUSFTA entering into force; and
- The EU committed to eliminate customs duties for 80 percent of goods of Singapore origin immediately upon the EUSFTA going into effect, with the remaining 20 percent of the tariff lines scheduled to be eliminated over a period of five years.

The removal of EU customs duties will particularly benefit Singapore exporters in the following sectors:

- Chemicals;
- Electronics;
- Pharmaceuticals; and
- Processed foods products.

Besides removal of customs duties, the EUSFTA also committed to remove a number of non-tariff measures between the EU and Singapore, thereby improving access for exporters of pharmaceuticals and electronics. It will also widen access to government procurement opportunities.

The EUSFTA would come into effect once the FTA is approved by the European Council and ratified by the European Parliament. Based upon the EU-South Korea FTA, which took almost two years to enter into force upon conclusion, it is anticipated the EUSFTA will not be operational until around 1 January 2015.

Singapore companies that export originating goods into the EU will find their goods more competitive in the EU market as they will be able to import at preferential import duties, which are either reduced or completely eliminated from the applied Most Favored Nation rates.

Singapore companies that are importing originating goods from the EU will be able to benefit from zero import duties.

Note: Excise Duties will still be applicable.

Companies should:

- Follow the development on the status of EUSFTA;
- Critically examine whether their goods meet the required origin criteria under the EUSFTA. Assuming that the goods qualify under the EUSFTA, companies should plan in advance to put in place the necessary procedures to evidence origin of goods; and
- Review their supply chain and consider export volume into EU, in order to take advantage of preferential rates under the EUSFTA, once the EUSFTA comes into force.

For more information, contact [Bob Fletcher](#).

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Australia

New Anti-Dumping Commission announced

The Australian Government announced that it will establish a new anti-dumping agency in 2013. A recent independent review of Australia's anti-dumping arrangements found that the administration of anti-dumping and countervailing activities in Australia is currently under-resourced and underperforming, and this would be best addressed by putting in place a more robust administration with a defined identity, higher profile, stronger leadership and adequate resources. In addition to establishing the new agency, the Australian Government announced its intention to:

- Double the number of officers investigating anti-dumping cases;
- Change the anti-dumping system to make it easier for small and medium-sized businesses to use; and
Introduce stricter remedies against overseas producers who deliberately circumvent the Australian anti-dumping rules.

For more information, contact [Jon Graham](#).

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Low value threshold

The Government announced its interim response to recommendations made by the Low Value Parcel Processing Taskforce (Taskforce). The Taskforce was established by the Australian Government to investigate new approaches for the handling and administration of low value imports of goods (particularly those arriving as international mail), including options for revenue collection. The Taskforce investigation was initiated as a precursor to the Australian Government deciding whether to lower Australia's low value threshold. Currently, Goods and Services Tax (GST) and Customs Duty is not payable on imports valued at less than AUD 1,000.

In summary, the Australian Government announced that it would:

- Not implement an immediate reduction in the low value threshold (there have been several recent calls for it to do so); and
- Begin preparing business cases and possible implementation plans for reforms to low value parcel processing, in order to further examine the reforms recommended by the Taskforce and to fully consider the costs and benefits of any changes. The Australian Government confirmed that it would not make a decision about whether to lower the low value threshold before this examination is completed.

The Australian Government also acknowledged, on the basis of fairness and tax neutrality, that Australian retailers should not be disadvantaged by taxation arrangements that favour overseas retailers, and that the current threshold is very high by international standards.

The Australian Government intends to provide its final response to the Taskforce recommendations in 2013.

For more information, contact [Jon Graham](#).

The Decision went into effect 21 January 2013.

For more information, contact [Vladimir Kononenko](#).

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Formation of general registers

Eurasian Economic Community (EEC) Collegium Decision No.271 dated 11 December 2012 approves the following:

- The form and the procedure for the formation of a common register of:
 - Customs representatives;
 - Customs carriers;
 - Temporary storage facility owners;
 - Customs warehouse owners; and
 - Residents/members of free, special or specific economic zones; and
- The technical conditions for the formation and structuring of electronic common registers (of customs representatives, customs carriers, owners of temporary storage facilities, and the owners of customs warehouses);

The Decision was officially published on 14 December 2012 and went into effect 30 days after the date of its publication.

For more information, contact [Vladimir Kononenko](#).

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Cooperation and mutual assistance as part of the Eurasian Economic Community

The Agreement on Cooperation and Mutual Assistance in Customs Matters Concerning the Activities of Customs Offices of the Member States of the Customs Union as part of the Eurasian Economic Community (Agreement) was ratified through Law of the Republic of Kazakhstan № 58-V dated 26 November 2012. In order to ensure cooperation between the customs services of the Parties to the Agreement, the following general functions take place:

- Monitoring the implementation of the CU customs legislation;
- Preparing proposals to improve the implementation of legislation within the scope of the CU;
- Analyzing the implementation in a host country of customs and other types of state control at customs checkpoints on the border of the CU, and the development of proposals for their unification and improvement;
- Analyzing data on the flow of goods across a customs border of the CU (including goods in transit and the goods of individuals);
- Examining the technologies used by the customs services of a host country; and
- Participating in information exchange between the customs authorities of the Parties to the Agreement.

The Law was officially published on 2 December 2012.

For more information, contact [Vladimir Kononenko](#).

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Account keeping and reporting to the customs authority

Government Resolution of the Republic of Kazakhstan № 1447 dated 15 November 2012 added the following rules and report forms to Government Resolution of the Republic of Kazakhstan № 1150 dated 3 November, 2010, "On certain issues on account keeping and reporting to the customs authority":

- The rules of reporting to the customs authority, including the use of information technology; people who enjoy special simplifications; and the form of reporting for stored, transported, sold, processed, and/or used goods; and
- The rules of reporting to the customs authority, including the use of information technology, individuals who use and/or own foreign goods; and the form of reporting on the use of foreign goods, including goods subject to import duties that are lower than the import duties established by the Common Customs tariff for that period.

The aforementioned report should be provided quarterly and by no later than the tenth day of the quarter following the quarter being reported, to submit the report on foreign good(s) with an increasing total as at the last day of the month of the reporting period.

For more information, contact [Vladimir Kononenko](#).

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Certain issues on transferring and accounting for inflows of customs fees, taxes, customs duties and penalties

Government Resolution of the Republic of Kazakhstan № 1499 dated 27 November 2012 amends Government Resolution of the Republic of Kazakhstan dated 23 November 2010 № 1229, "On certain issues on accounting for revenue transfers and customs duties, taxes, customs fees and penalties" (Resolution).

Among other things, it is now found that if there is a divergence in information on customs duties, taxes, fees and penalties when reconciling personal accounts, the payer should submit copies of the following documents to the customs authority within 10 working days:

- The payment document confirming the payment of customs duties, taxes and customs fees;
- Customs declarations, customs receipt orders, adjustments of customs values and the other documents needed for customs clearance according to which customs duties, taxes and customs fees were accrued and paid; and
- Other documents, issued during the customs escort of goods and transport, on the acceptance of a preliminary decision on the classification of the goods or the country of origin of the goods, for the formulation of which customs fees were paid and which were presented when these fees were paid without a customs declaration.

The Resolution goes into effect 10 calendar days after its first official publication (at the time of this Legal Alert's

issue, the Resolution had not been published).

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