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March 2013

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Americas

United States: U.S. CBP shortens automated export system post-departure filing period.

On 13 February 2013, U.S. Customs and Border Protection (CBP) announced a significant update to the Automated Export System (AES) filing options: a shortening of the post-departure filing deadline from 10 days to five days from the date of exportation. The update is scheduled to take effect on 30 September 2013. AES is an electronic export reporting system jointly developed by several U.S. federal agencies and private enterprise (e.g. exporters, carriers, port authorities and other interested parties of the exporting community).

To report commodity data in AES, two electronic filing options are available to the United States Principal Party in Interest (USPPI) or its authorized agent: pre-departure and post-departure filing. The post-departure option is only available for approved USPPIs and allows the USPPI to provide complete commodity data to the U.S. government after the date of export. Certain commodity shipments may not use the post-departure filing option, unless specific approval has been granted by the appropriate licensing agency. Companies that are approved to use the post-departure AES filing option may need to review and update their internal controls and ERP systems to account for the shortened post-departure filing deadline.

United States: U.S. CBP announces impact of automatic spending cuts (Sequestration) on International Trade.

On 1 March 2013, the U.S. government imposed a policy of automatic spending cuts via “sequestration.” Sequestration is a fiscal policy procedure which requires the U.S. Congress to agree on the federal budget deficit. The Department of Homeland Security and U.S. Customs and Border Protection (“CBP”) will reduce agency-wide expenditures, including a significant reduction of CBP officers at ports of entry, mandatory employee furloughs (unpaid absences) and overall cuts to agency programs. It is expected that importers, exporters and travelers will all experience service impacts. CBP estimates delays of several hours at land border crossings and up to five additional days to cargo inspection times at ocean ports of entry.

Additionally, CBP has indicated that the trade community likely will encounter delays in receiving advice or rulings from CBP. However, CBP will continue to process perishable commodities as a top cargo priority and will continue to provide trade benefits for trusted trader participant programs, such as C-TPAT (Customs-Trade Partnership Against Terrorism) and ACAS (Air Cargo Advance Screening). Members' access to supply chain security specialists, account managers and Center of Excellence and Expertise personnel will continue. At this stage, CBP believes that no individual ports will be closed, although this is subject to change as sequestration continues. CBP is requesting that traders pre-file import entries to allow sufficient time for risk assessment before cargo arrival.

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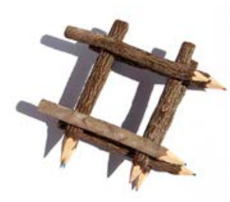

Argentina: Eliminates non-automatic import license requirement, raises import tariffs.

Argentina has eliminated the non-automatic import license requirement imposed on all foreign-made goods. The decision was adopted by the Ministry of Economy and Public Finance by the Resolution 11/2013. This rule will apply from 25 January 2013.

However, Argentina has also increased import tariffs to the 35 percent maximum allowed under World Trade Organization rules on 100 imported products , including foods such as kiwi fruit, coffee, tuna, tomatoes, mushrooms and pineapple; cosmetics; herbicides and disinfectants; vehicle tires; footwear uppers; jewellery; household articles such as sponges, gloves, light bulbs, lamps and electric hair clippers; household appliances such as coffee makers, washing machines and ovens; cell phones, computers and multifunction printers; tools such as stainless steel adjustable wrenches; industrial equipment such as centrifugal pumps and fans, electric hoists and drilling machines; lawn mowers; motorcycles; sunglasses; electric musical instruments; metal furniture; sporting goods such as balls, roller skates and ice skates; and personal items such as toothbrushes, pens, markers and lighters.

Mexico: Mutual recognition of NEEC and C-TPAT.

On 18 January 2013 the Mexican Tax Administration Service (SAT by its acronym in Spanish) issued a press release communicating that both SAT and the U.S. Customs Border Protection (CBP) have signed a mutual recognition on the Mexican New Scheme of Certified Company (NEEC) program, and the U.S. program Customs Trade Partnership Against Terrorism (C-TPAT).

The action plan towards a mutual recognition will be implemented for the next two years and seeks to facilitate the processes for the companies of both countries to apply for NEEC and C-TPAT programs. Once reached the level of mutual recognition and complied with the corresponding requirements, the participating companies in one of the programs will be recognized as a member participant of the other. These actions are intended to reach a safe and easy trade for the crossing goods at border.

In Mexico, NEEC has operated since January 2012 as an evolution of the scheme of the “Certified companies” program (which focused on companies with a high volume of foreign trade transactions and not on security controls surrounding the supply chain). The NEEC introduced security measures based on international standards set by the World Trade Organization (WTO) and C-TPAT.

As is C-TPAT, NEEC is a voluntary program designed with the private sector, with the objective of increasing the security measures in the global trade supply chain. Companies that comply with the program standards are given benefits such as access to exclusive express lanes and FAST for import and export clearance, along with a reduction in the payment of fines, among other benefits.

Mexico: Quota for exporting passenger vehicles from Brazil.

In the 15 January 2013 edition of the *Federal Official Gazette*, The Ministry of Economy published quotas and amounts for the exportation of passenger vehicles produced in Mexico and exported to Brazil. The quota of Mexican car exports for vehicle production during the period from 19 March 2013 to 18 March 2014 is fixed at an amount of USD108 m for Nissan Mexicana, S.A. de C.V., and an amount of USD1.9m for North Pole Star, S. de R.L de C.V..

Mexico: Export controls.

In the 8 February 2013 edition of the *Federal Official Gazette*, the Ministry of Economy published a modification to the Wassenaar Arrangement agreement that establishes the export permissions for: (i) weapons, dual-use goods; (ii) software, and; (iii) technology. The following modifications were made:

a) Annex V:
“Technical Definitions” modified to include the Chemical Abstract Service Number (code which identifies chemical products between different countries)

b) Annex VII:
Equipment for distillation (HTS code 8419.40) and heat exchangers (HTS code 8416.50), and some biological agents such as viruses, bacteria and fungus now require export control permissions

Mexico: Single window is now operating for sanitary permits at Mexico City’s International Airport.

Since 15 January 2013, all import permit submission to Secretary of Agriculture, Livestock, Rural Development, Fishing, and Feeding under the National Service of Health and Agro food Quality department will be processed through a single window platform.

Mexico: Mexico enters into the Border Privacy Rules System (CBPR) of Asia-Pacific Economic Cooperation (APEC).
On 16 January 2012, the Asia-Pacific Economic Cooperation (APEC) notified Mexico of its inclusion in the Border Privacy Rules System (CBPR). Mexico has expressed interest in participating in the system since September 2012.

Through its official website on 8 February 2013, The Mexican Ministry of Economy confirmed the inclusion of Mexico in the CBPR.

The CBPR will allow Mexican companies that carry out business with the APEC economies and that voluntarily participate in it, to develop practices that improve the protection of personal data.

The system is designed to ensure the continued free flow of personal information among APEC member economies to boost e-commerce in Asia-Pacific . These joint efforts are designed to protect the market while establishing meaningful protection for the privacy and security of personal information.

Mexico: Modification to the FTA Mexico – Uruguay.
On 27 February 2013 the Ministry of Foreign Relations published in the *Federal Official Gazette* modifications to the Free Trade Agreement between Mexico and Uruguay, signed on 15 November 2003.

The most relevant modifications are as follows:

- Milk and skim of milk are no longer subject to import/export permits

- Three new rules of origin for oils were created, demanding a tariff shift from specific raw materials to consider oils as originating from the Free Trade Agreement.

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Africa

South Africa: 2013/14 Budget announcement
Stemming from the South African Minister of Finance his 2013/14 Budget Speech delivered on 27 February 2013, the following changes will be implemented:

Excise duties on wine, clear beer, spirits and tobacco

An increase in the rates of excise duties payable on tobacco products and alcoholic beverages in line with a targeted total tax burden (excise duties plus Value Added Tax) of 23, 35, 48 and 52 percent of the average retail price for wine, clear beer, spirits and tobacco, respectively (between 5 and 10 percent).

The excise duty amendments to the above were effective from 27 February 2013.

Fuel Taxes

The general fuel and road accident fund levy is to be increased by 22.5 and 8.0 cents per liter (respectively) with effect from 3 April 2013.

Ad valorem excise duties

Ad valorem excise duties on industrial video cameras (value for customs duty purposes exceeding R13 000) falls away on 1 April 2013.

General customs and excise matters

A proposal has been made to provide VAT relief on goods destroyed, damaged or abandoned comparable to customs duty relief.

Plastic bag and incandescent light bulb levy will increase to 6cents/bag and R4 per bulb (respectively) effective 1 April 2013.

Biofuels production incentive: An infant industry support incentive based on benchmark costs of hypothetical world-scale plants in South Africa is proposed to compensate for monthly movements in benchmark feedstock and output prices. The initial cost of the incentive will be 3.5c/l to 4c/l of petrol or diesel (included in the monthly price determination) and will be phased out over an assumed 20 year lifetime of a benchmark plant.

Special economic zones (SEZ): The following tax incentives will be authorized for businesses operating in certain SEZ:

- A 15 percent corporate income tax rate
- An employment incentive allowing for a tax deduction for employment of workers earning less than R60 000 per year
- An accelerated depreciation allowance for buildings in these areas, based on the existing regime for urban development zones

A single registration process for all tax types and customs will be launched to simplify all business registrations.

With effect from 1 April 2013, carbon emissions tax for passenger vehicles will increase from R75 to R90 for every gram of emissions per kilometer above

120gCO2/km and in double cabs, from R100 to R125 for every gram of emissions per kilometer above 175gCO2/km.

Carbon tax will be phased in over time. During the first phase (between 2015 and 2020), a basic tax-free threshold of 60 percent is proposed and an offset percentage of 5 to 10 percent to allow for emission intensive and trade exposed industries to invest in projects outside their normal operations to help reduce their carbon emissions. From 1 January 2015, a carbon tax rate of R120 per ton of CO2 equivalent is proposed with an annual increase of 10 percent. A gradual phasing out of the electricity levy as carbon tax is phased in is under consideration.

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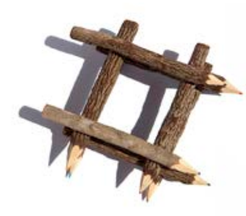

Asia Pacific

India: Company dues cannot be recovered from directors.
The Mumbai High Court held that the Customs Act 1962 does not contain any provisions by virtue of which dues of a company can be recovered from the its directors, unlike the Income Tax Act 1961. The court ruled that a company is a juristic entity independent of its shareholders and directors.

India: Mere non-payment of duty does not amount to collusion or willful misstatement or suppression of facts.
The Supreme Court held that the fact that duty has not been paid would not be construed as collusion, wilful misstatement or suppression of facts on part of the assesse where longer period of limitation can be invoked.
The court further observed that the burden of proving any form of mala fide lies on the shoulders of the one alleging it. In absence of any specific averments in the show cause notice and nothing on record to display wilful default on part of the appellant, an extended period of limitation could not be invoked.

India: Union Budget 2013-14.
The Finance Minister presented the Union Budget 2013-14 before the Parliament on 28 February 2013. The key features of the budget proposals are:

- Peak rate of Customs Duty retained at 10 percent
- Import / export manifest for import or export of goods by vessels and aircraft to be filed electronically
- Increase in import duty on yachts and specified vehicles
- Time limit of interest free period for payment of import duty reduced from five days to two days
- Definition of 'activity' for the purpose of Advance Ruling is amended to include

any new business of import or export proposed to be undertaken by an existing importer or exporter

Detailed analysis of budget proposals can be viewed at **http://www.deloitte.com/view/en_IN/in**.

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Japan: Amendment of the Customs Tariff Law.

The Ministry of Finance of Japan submitted “Proposed Law to revise part of the Customs Tariff Law and other laws” to the Diet on 1 March 2013. Importantly, this proposed law newly stipulates that a buyer of an import transaction shall be a Japanese resident. This would prevent importers from declaring a transaction value between non-residents as the customs value. The proposed law also clarifies the costs to be included in the customs value (i.e., consideration for use of patent rights, cost of material provided from a buyer to a seller, etc.) and calculation based on generally accepted accounting principles.

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Malaysia: Import duty on Australian, Japanese cars to be cut.

On 28 February 2013, International Trade and Industry Minister Datuk Seri Mustapa Mohamed announced that import duty imposed on new vehicles from Japan and Australia will be gradually phased out by 2016. An initial reduction on current import duty of 30 percent on all types of new vehicles from the two countries to 22 percent is effective from this year.

Malaysia: Collection of anti-dumping duties on steel wire rods.

The Malaysian Royal Customs Department issued a Customs (Anti-Dumping Duties) Order 2013 on 18 February 2013 relative to steel wire rods with carbon content of less than 0.6 percent, which will be effective from 20 February 2013 through 19 February 2018.

Companies importing steel wire rods under AHTN Codes 7213.10.00 00, 7213.20.00 00, 7213.91.10 00, 7213.91.20 00, 7213.91.90 00, 7213.99.10 00, 7213.99.20 00, and 7213.99.90 00 from Chinese Taipei, Indonesia, Korea, China, and Turkey may need to pay anti-dumping duties subject to certain exceptions.

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New Zealand: Amendment to New Zealand customs regulations allows New Zealand import entries to be made earlier.

From 1 February 2013, an import entry can be submitted any time prior to the arrival of the goods in New Zealand, whether by sea or air. The entry will be processed and a response message will be provided if mandatory fields are complete and all data passes normal validation checks.

Previously, for sea freight, import entries were to be lodged no earlier than five days prior to arrival, and for air freight, no earlier than 24 hours prior to arrival. The requirement to make an entry no later than 20 days after arrival in New Zealand has not changed.

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Singapore: Budget 2013 – Increase in excise duties on "non-cigarette tobacco" products.

The Singapore Government, in its Budget 2013, outlined an increase in excise duties for Beedies, Ang Hoon, smokeless tobacco and unmanufactured tobacco. This measure harmonizes the excise duties between cigarettes and non-cigarette tobacco products. With the latest increase effective from 25 February 2013, non-manufactured tobacco and cigarettes now attract the same rates. It is anticipated that Beedies, Ang Hoon and smokeless tobacco will see further increases in excise rates next year.

Singapore: Budget 2013 – Tiered Additional Registration Fee (ARF) structure for vehicles.

A new tiered ARF structure, effective for vehicles registered with Certificates of Entitlement (COEs) obtained from March 2013, was announced by the Singapore Government in its Budget 2013. This structure will cover passenger cars and taxis, including private passenger cars, goods-cum-passenger vehicles, imported used cars and vintage normal (transferable) vehicles. The ARF rates are calculated based on the Open Market Value (OMV), which is determined by Singapore Customs, based on costs associated with the sale and importation of vehicles into Singapore. The tiered rates under this structure are as follows:

Vehicle OMV	ARF Rate
First S$20,000	100% of OMV
Subsequent S$30,000	140% of OMV
Exceeding S$50,000	180% of OMV

Singapore: Full implementation of the China-Singapore Mutual Recognition Arrangement (MRA) on Authorised Economic Operators (AEOs).

The China-Singapore MRA on AEOs became fully operational from 15 March 2013. Under this arrangement, companies classified as Singapore Customs Secure Trade

Partnership-Plus Members and General Administration of China Customs Measure of Classified Management of Enterprises - AA enterprises, are considered of lower risk, secure, and are entitled to expedited clearances of their goods by both Customs authorities.

Singaporean and Chinese companies trading between these two countries are encouraged to assess their eligibilities to participate in these AEO programmes to enjoy benefits of reduced inspections, costs, risks, better reputation in trading communities, and increase in supply chain management efficiency.

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Thailand: Customs ruling precedent: Incorrect and/or incomplete version of COO should not void ability to claim preferential duty rates under FTAs.

Thailand Customs have frequently denied claims for preferential duty rates under FTAs where the Certificate of Origin (COO) submitted at the time of importation was incorrect and/ or incomplete.

Deloitte have recently obtained a landmark private ruling from Thailand Customs that submission of incorrect and/or incomplete COO at the time of importation should not in itself void the company's ability to claim the preferential duty rates as long as the imported goods satisfy the relevant origin criteria under the relevant FTA.

The favourable ruling was granted as the replacement COOs (correctly completed) were presented to Thailand Customs within the prescribed period stipulated in the FTA – and were voluntarily disclosed to Thailand Customs prior to formal Customs Audit.

The case serves as a reminder that importers should carefully review the COOs received from suppliers, and if there are concerns on their validity or accuracy, seek to obtain correctly completed replacements, and where appropriate, file for a private ruling from Thailand Customs to protect the preferential duty treatment.

Thailand: Importers encouraged to proactively prepare for Thai Customs audits.

With the phased reduction of Thai Corporate tax rate from 2013, greater emphasis is being placed on customs duty/VAT collection by Thailand Customs to supplement government revenues.

There is growing evidence that Thailand Customs are increasing their audit activity, with focus on import values (particularly between related parties), tariff classification and entitlement to preferential duty rates under FTAs.

Thai importers are encouraged to take proactive measures by performing customs internal reviews/ health checks to determine potential exposure to customs duty/VAT. This exercise should also help the importers to determine the most appropriate course of action for addressing past exposures and also changing their position for future imports, as appropriate.

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CIS

Kazakhstan: Temporary ban on the export of petroleum products.
Government of the Republic of Kazakhstan Resolution No.1694 of 28 December 2012 establishes a temporary ban for six months on the export of kerosene (CN FEA CU Code CU 2710 19 210 0 - 2710 19 250 0), gas oil (CN FEA CU Code CU 2710 19 420 0 - 2710 19 480 0, 2710 20 110 0 - 2710 20 190 0) and other petroleum products (CN FEA CU Code CU 2710 20 900 0), except for special gasoline (HS Code 2710 TS 12210 0 - 2710 12250 0) and domestic heating oil.
This resolution came into effect on 1 January 2013.

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Europe/Middle East

Belgium: Entry into force of EU FTAs with Colombia, Peru and Central America; talks launched for an EU-US FTA.
On 11 December 2012, the European Parliament Plenary voted to ratify the following Free Trade Agreements (FTAs) signed by the European Union:

- The FTA with Colombia and Peru
- The first region-to-region Agreement signed with Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama)

The negotiations for both FTAs were concluded in 2011 and the signature of the texts took place in June 2012. Since then the ratification process has been ongoing. With the European Parliament’s green light, ratification within the European institutions has concluded. The only remaining procedures depend on the Latin American partners to take final steps towards ratification in their national legislative bodies.

The European Commission expects that the two FTAs’ Trade Pillars will provisionally come into force during the first months of 2013 after all countries ratify the texts. According to forecasts, the FTA with Colombia and Peru could become applicable during Q1 2013 while the FTA with Central America might become effective during Q2 2013.

In a 12 February 2013 joint statement, the U.S. President, the President of the European Commission and the President of the European Council requested the initiation of required procedures to launch negotiations on a Transatlantic Trade and Investment Partnership. The aim is to achieve further liberalisation and address regulatory differences at bilateral level between the U.S. and the EU.

Free Trade Agreements can have an important impact on trade operations as they eliminate or reduce import duties and other trade barriers for almost all products. Significant savings are at stake for companies involved in import and export operations between FTA partners, and can benefit from the changing legal framework.

Belgium: Classification of denatured alcohol.

The European Commission recently published several new classification implementing regulations. One of these new classifications in particular concerns the classification of denatured alcohol. On 26 January 2013, the European Commission published **Implementing Regulation 70/2013** concerning CN code 2207 20 00. Products of CN-code 2207 20 00 contain ethyl alcohol and ethyl-tertiair-butylether. These can be used as a biofuel, which is usually classified under heading 3824. However, the classification under heading 2207 attracts a much higher duty rate than biofuel that is classified under 3824. Denatured alcohol is classified under heading 2207 because, by application of general classification rule 3a, heading 2207 is considered to be a heading with a more specific description compared to heading 3824 (with a more general description).

If a company imports denatured alcohol classified under heading 3824 and the product concerned must be classified under CN code 2207 20 00, a much higher duty rate will become applicable. This could also mean that customs duties can be retroactively claimed by customs authorities. This implementing regulation entered into force on the date it was published (26 January 2013).

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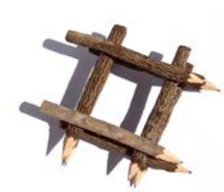

Italy: Customer Satisfaction Analysis on Authorized Economic Operator.

On 9 January 2013 the Italian Customs Authorities communicated the result of a Customer Satisfaction Analysis on Authorized Economic Operator, carried out by them on a sample of Authorized Economic Operator subjects. In short, a general satisfaction on benefits has been published as well as with regard to the procedural aspects.

Italy: Ratification and execution in Italy of agreement between EU and

Republic of Korea.

The general agreement between the EU and Republic of Korea, issued in 2010, has been ratified and executed in Italy with Law no. 240 of 30 November 2012, providing its full and whole execution starting from the effective date. This agreement provides for customs cooperation between the parties, simplifying procedures and increasing transparency.

Italy: Recommendation to operators for correctly filling in the SAD box 44.

With Note no. 22592 dated 22 February 2013, the Customs and Monopoly Agency made recommendations relative to correctly completing the SAD box 44 ("Additional information/Documents produced/Certificates and authorizations", e.g. sanitary certifications), announcing that this box will be link with the "telematics dialogue" among Italian Administrations [i.e. at the date when the "one-stop-shop" as provided by art. 26 of Regulation (EC) No 450/2008 of the European Parliament and of the Council will be activated].

Italy: News for Export Controls of armament materials.

The Italian Ministry of Foreign Affairs has issued Decree no. 19 dated 7 January 2013 (i.e. published on 4 March 2013 and effective 19 March 2013), implementing new regulations on export, import and transit of armament materials (i.e. Law no 185 dated 9 July 1990 as further amended).

The act provides definitions for the purposes of the regulation as well as detailed operative rules regarding the relevant fulfillments to be met by the involved operators (i.e. communications, authorization requests, etc.).

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