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Asia Pacific

Australia: Hefty import processing charge (IPC) increases for AUD10,000 + consignments

The government has announced that the IPC will be increased from 1 January 2014 to ensure that costs of import-related cargo and trade functions performed by Australian Customs are fully recovered.

The planned increases are substantial (i.e. over 200 percent). The IPC for electronic sea and air import declarations will increase to AUD152.60, and to AUD122.10 for

consignments over AUD10,000. No changes will be made to the IPC for consignments of AUD1001-10,000. There is no IPC for lower value consignments. It is expected that these additional processing charges will significantly affect importers, exporters (who import for manufacturing) and their service providers.

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Malaysia: Ubiquitous Customs (U-Customs) system to go live by Jan 2015

The Malaysian Royal Customs Department has announced that by 2015, they will replace the 17-year-old Customs Information System (SMK) with a more comprehensive and sustainable online electronic system called 'Ubiquitous Customs' (U-Customs).

U-Customs when implemented will not only facilitate direct interface for companies to the customs system but will also enable sharing of shipping information and declarations of import/export trade with 'authorized partners' (e.g. shipping agents, customs brokers), any time, through a single access web portal.

To ensure successful implementation of the new system with local industry participation, the Malaysian Ministry of Finance has created a U-Customs Steering committee. Deloitte Malaysia, along with other nominated Federation of Malaysian Manufacturers members, will provide input to the U-Customs Steering committee on the issues faced by industry users of SMK and the proposed areas of improvement for incorporation in U-Customs.

Malaysia: Collection of anti-dumping duties on Biaxially Oriented Polypropylene (BOPP) Films

The Malaysian Royal Customs Department has issued a Customs (Anti-Dumping Duties) Order on Biaxially Oriented Polypropylene (BOPP) imported from of China, Indonesia, Taiwan, Thailand, and Vietnam.

This Customs Order is effective from 23 April 2013 to 22 April 2018, will impose anti-dumping duties of up to 12.37% on BOPP films classified under HS Codes 3920.20.200 and AHTN Codes 3920.20.10.00 when imported from these countries exporters/producers.

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New Zealand: New Zealand Secure Export Scheme (SES) – United States committed to the Mutual Recognition Agreement (MRA)

New Zealand customs have an existing MRA with United States customs that recognizes partners of US Customs Trade Partnership against Terrorism Program (CT-PAT) and NZ Customs Secure Exports Scheme as trusted traders.

New Zealand currently holds tier two status under the US CT-PAT, which means that exports made by NZ SES companies are 3.5 times less likely to be held up for customs examinations. With the low security risk rating the SES companies are assured priority clearance from both customs authorities.

Despite recent U.S. budget cuts that may affect cargo service levels, US customs have advised that the trusted trader program will continue.

New Zealand has existing MRAs with Japan and Korea. New Zealand exporters trading with these countries are encouraged to participate in the SES program to enjoy prioritized clearances, reduced costs and supply chain efficiency.

New Zealand: Trial import clearance procedures allow full New Zealand-China Free Trade Agreement (NZ-China FTA) benefits for Chinese importers of New Zealand export goods

The New Zealand and China customs have recently announced a 12-month import procedures trial for clearing New Zealand goods held in bonded storage (Special Customs Control Areas and Bonded Places) when they arrive in China.

Beginning in the latter half of 2013 at ports of Guangzhou, Nanjing, Qingdao, Shenzhen, Shanghai and Tianjin, this trial will allow the multiple use of a Certificate of Origin under the NZ-China FTA when goods are declared in part for domestic consumption. This will ensure that importers in China receive the same preferential tariff rates for the entire shipments of New Zealand goods even when multiple parts of the shipment are being released into the Chinese domestic market.

The new procedures allows New Zealand exporters to realise the full benefits available to them under the FTA by enabling China importers to receive tariff preferences on entire shipments of qualifying goods, not just parts of them.

New Zealand exporters that are selling goods to China and are using bonded storage facilities are encouraged to take advantage of these changes to receive full benefits under the NZ-China FTA. This currently allows New Zealand goods to enter China at lower duty rates than those applicable to international competitors.

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Philippines: Customs cooperation agreement between Russia and Philippines signed

The governments of the Philippines and Russia entered into a Customs Mutual Administrative Assistance Agreement on 24 April 2013. This agreement allows for the exchange of information, intelligence and documents that will ultimately assist both the Philippines and Russia in the prevention and investigation of transnational crimes, smuggling, border security breaches and other customs offenses. This agreement will also help to ensure accuracy and timeliness of customs duty collection.

Companies trading between these two countries are encouraged to actively review their existing declaration processes to prevent any potential customs challenges.

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Singapore: Negotiations on agreement between Singapore and the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu on Economic Partnership (ASTEP) concluded

In May 2013, Singapore and Taiwan completed negotiations on the ASTEP, a comprehensive trade pact covering bilateral trade of goods and services, foreign investment, e-commerce, and customs procedures.

The formal trade agreement is expected to be signed in 2013 after legal processing is complete.

Taiwan's export to ASEAN countries have increased rapidly over the last few years, accounting for nearly 20 per cent of their total exports. The ASTEP will be Taiwan's first free trade agreement with a Southeast Asian country. It is anticipated that this positive move will induce Taiwan to have similar trade pacts with other Association of Southeast Asian Nations (ASEAN) countries.

Companies doing businesses in these two countries are encouraged to track the developments of the ASTEP and review their supply chains to take advantage of the possible customs duty savings generated through the preferential tariff commitments under the agreement.

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CIS

Russia: Decrease of special duty with respect to caramel imported into the territory of the Customs Union (between Russia, Belarus and Kazakhstan)

The Eurasian Economic Commission Collegium Resolution No. 100 of 24 April 2013 amends the Resolution No. 856 of 18 November 2011 related to measures of protection of the economic interests of the producers of caramel in the Customs Union. Currently, special duty of USD 294.1 is charged per ton of caramel (1704 90 710 0, 1704 90 750 0, 1806 90 500 1, 1806 90 500 2 classification codes according to the Combined Nomenclature of the Customs Union) imported into the territory of the Customs Union.

From 15 June 2013, special duty will be decreased to USD 283.8 per ton. Further, from 15 December 2013 to 7 July 2014, inclusive, special duty in the amount of USD 273.5 per ton will be effective. The special duty is levied in addition to the import customs duty charged on imported goods.

Russia: Imposition of anti-dumping duty on Chinese seamless cold-deformed stainless steel pipes imported into the territory of the Customs Union (between Russia, Belarus and Kazakhstan)

The Eurasian Economic Commission Collegium Resolution No. 65 of 9 April 2013 imposes anti-dumping duty in the amount of 19.15 percent of the customs value of Chinese seamless cold-deformed stainless steel pipes (7304 41 000 9 classification code according to the Combined Nomenclature of the Customs Union) imported into the territory of the Customs Union for a period of five years. The anti-dumping duty is levied in addition to import customs duty charged on imported goods. This resolution comes into effect on 15 May 2013.

Russia: Imposition of the anti-dumping duty on Chinese enameled bathtubs imported into the territory of the Customs Union (between Russia, Belarus and Kazakhstan)

The Eurasian Economic Commission Collegium Resolution No. 64 of 9 April 2013 imposes anti-dumping duty in the amount of 51.87 percent of the customs value of Chinese enameled bathtubs (7324 21 000 0 classification code according to the Combined Nomenclature of the Customs Union) imported into the territory of the Customs Union until 25 January 2018, inclusive. The anti-dumping duty is levied in addition to the import customs duty established with respect to imported goods. This resolution comes into effect on 26 May 2013.

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Europe/Middle East

Belgium: Belgian Court of Appeal clarifies the direct shipment condition for the

first sale for export principle in customs valuation

Recently, the Belgian Court of Appeal ruled that the first sale for export principle can be used to determine the customs value when goods ordered from an intermediary are shipped directly from the manufacturer to the European Union. Contrary to the Belgian customs administration's point of view, it is neither required for transport to be the manufacturer's responsibility nor that transport is facilitated on his behalf.

Import into the European Union

The import of goods into the European Union may involve the payment of customs duties. The amount of duties to be paid upon import depends on the applicable customs duty rate as well as on the customs value of the products concerned. The customs value of a product is often based on the transaction value which increases or decreases by factors such as freight costs or royalty payments.

First sale for export principle

In global supply chains, it is common that multiple sales transactions take place before a product is actually imported into the EU. In most cases, the last transaction in the chain will be used to determine the customs value. Under certain conditions, EU customs legislation allows a previous sale (before the import) to be the basis for value. Such prior transactions are referred to as the first sale for export. This structure could lower import duties upon customs clearance.

The first sale for export principle can be used if the products are sold for export to the European Union. This must be proven to the satisfaction of the customs authorities based on delivery conditions, ordering instructions, etc.

Condition of direct shipment

In their commentary number seven, the EU Customs Code Committee gives examples of how to demonstrate that goods have been sold for export to the Community's customs territory.

One of the examples given by the Committee is direct shipment, stating that the first sale for export principle can be used when specific goods are ordered from an intermediary who sources the goods from a manufacturer and the goods are shipped directly to the EC from that manufacturer.

As the Dutch version of the above Commentary leaves some room for interpretation, the Belgian Customs Administration believed that transport should not only depart from the manufacturer's premises, but that the transport should also be organized by him or on his behalf.

As the Belgian Customs Administration's interpretation is not in line with the wording in the English and French texts, the Belgian Court of Appeal ruled that the first sale for export principle can be used if the goods are shipped directly from the manufacturer to the European Union and that it is not a requirement that transport be the manufacturer's responsibility, nor that transport is performed on his behalf.

In order to apply the first sale for export principle it is sufficient to prove that the

goods have been shipped directly from the manufacturer to the EU.

Based on this case, it may be possible for companies to reduce the customs value and, consequently, the payment of import duties (in cases where the direct transport condition was not fulfilled today).

Belgium: The European Union imposes provisional anti-dumping tariffs on Chinese solar panels

On 5 June 2013 the EU has published a regulation to impose provisional anti-dumping duties on imports of solar panels, cells and wafers from China (Regulation (EU) No 501/2013). Since the European market for solar panels is a very important market and the Chinese products were “dropped” at prices which were 88% lower than could be accepted, the European Commission had to take measures to make sure the European market was not disrupted.

In this respect the Commission opted for a phased approach. The duty is set at 11.8% from 6 June to 6 August 2013. From August on, the duty will be set at the level of 47.6% which is the level required to remove the harm caused to the European industry by the dumping.

Since the Chinese government did not welcome these measures, it launched an anti-dumping probe into European wine imports.

It goes without saying that these decisions will probably trigger additional consequences.

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Netherlands: The European Commission amends the additional duty rate and list of goods which are applicable on imports from the United States (Byrd-Amendment)

The United States' failure to bring the Continued Dumping and Subsidy Offset Act (Byrd-Amendment) in compliance with its obligations under the WTO agreements resulted in 2005 in an imposed 15% ad valorem additional duty (Regulation (EC) 673/2005) on imports of certain products originating from the United States. Since Regulation (EC) 673/2005 came into force, it has been amended several times.

In April 2013, new adjustments have been made by the European Commission. These adjustments concern the ad valorem additional duty on imports originating from the United States and the list of goods (Annex I to the Regulation) on which this duty is applicable.

As of 18 April 2013 an additional ad valorem duty of 26% is applicable on imports of goods with the following CN-codes:

- 0710 40 00 - Sweetcorn
- 9003 19 30 - Frames and mountings for spectacles
- 8705 10 00 - Crane lorries
- 6204 62 31 - Denim clothing for women/girls

If your company imports goods that have United States origin, classified under one of the products of the above mentioned CN-codes, an additional duty of 26% is applicable as of 18 April 2013, a substantially higher rate than the 6% of last year. For products that fall under CN-code 6204 62 31, the impact will be even higher as this code is new in Annex I of this Regulation.

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United Kingdom: Significant changes to US export control framework

The U.S. controls the export and re-export of dual use and defence articles through regulations administered by the Departments of Commerce and State, respectively. The State Department maintains the U.S. Munitions List (USML), which is administered through the International Traffic in Arms Regulations (ITAR), and the Commerce Department maintains the Commerce Control List (CCL), which controls dual-use U.S. origin items through the Export Administration Regulations (EAR).

President Barack Obama launched the Export Control Reform (ECR) Initiative in August 2009 when he directed a comprehensive review of the U.S. export control system. The scope of the review included a comprehensive analysis and rationalization of the USML, as well as the harmonization of export licensing processes, the establishment of an Export Enforcement Coordination Center (E2C2) and an IT system modernization exercise. A stated goal of the USML review initiative was to “build higher walls around fewer items,” by shifting certain parts and components from the USML to the CCL, thus ensuring that the USML, which requires a license or exemption for every transaction, controls only strategic and sensitive military items.

The Administration established a plan by which items removed from the USML will be transitioned to what is known as the “600 Series” on the CCL, where they will be subject to the control of the Export Administration Regulations (EAR). These items will be eligible for a number of CCL exceptions, notably the new STA exception, but will also face restrictions that other CCL items do not – such as a blanket prohibition on export or re-export to arms embargoed countries, like China. Each USML category has been reviewed and will be finalized over a period of time, resulting in a number of Final Rules for the updated USML and CCL, which will be published in tandem in the Federal Register on a rolling basis as they are completed.

On 16 April 2013, the first of the Final Rules were published, formalizing the shift from the USML to the 600 series of the CCL for certain aircraft and gas turbine engine parts and components. This Final Rule also established a new USML Category, Category XIX, for gas turbine engines; established an updated definition of “specially designed” – a foundational concept for determining the jurisdiction of U.S. origin items; and, finalized a transition plan, outlining the options companies have for shifting from the use of ITAR authorizations to the use of EAR authorizations. The Rule will go into effect on 15 October 2013.

Companies should assess the impact that ECR will have on their global organization, through reviewing the proposed updates to USML and CCL Categories and through comparing those proposed updates to the jurisdiction and classification of items in their inventory and supply chain. Companies will also need to assess the impact of ECR on their internal compliance programs, understanding the impact the new ECR classification and export authorization requirements will have upon their current policies, procedures and standard work. [\(Please click here for the complete article\)](#)

United Kingdom: UK tribunal decisions

The Upper Tribunal has upheld HMRC’s appeal with regard to customs value in the Asda case. The judge ruled that as Asda are buying clothing, the customs value must be based on the payment made to the benefit of the clothing seller. The rebates received by Asda for the hangers are immaterial as they did not affect what the clothing suppliers were paid. This ruling is only applicable to the facts of the Asda case and not rebates in general. Where a third party supplies goods to a supplier, the cost of those goods must be included in the customs value. However, where a supplier offers a rebate or discount on the price paid or payable for imported goods, then subject to the current legislation, it can be used to reduce the customs value of the imported goods.

The Upper Tribunal has reversed the decision of the First-tier Tribunal in the case of Sprint C.P.A Ltd and decided that Top Tube Child Seats imported into the EU from China should be classified as saddles and not as seats, resulting in an Anti-Dumping Duty charge of 29.6 %.

United Kingdom: Import licences

HMRC has updated its guidance on how to apply for import licences in relation to textiles and clothing, wood products originating in Russia, certain iron and steel products and firearms. The guide on how to apply for an import licence for sanction derogations has also been updated.

United Kingdom: Customs procedures with economic impact

HMRC has also updated its guidance on Inward Processing Relief (IPR). The updates

touch on various aspects of the procedure, such as retrospective and simplified IPR authorisations, the throughput periods and compensatory interest calculation. HMRC has advised that traders should ensure that clear instructions are issued to their agents as regards entering goods into IPR and using the correct Customs Procedure Codes (CPC). Following on from the Dohler court case, HMRC also reminded IPR operators to ensure that the Bills of Discharge are submitted in good time.

The conditions for which goods may be imported free of customs duty under the airworthiness certificate scheme have been extended to not only cover direct imports but also goods that are in a suspensive regime prior to release to free circulation, for example a customs warehouse.

Following on from the Eurogate court case, HMRC reminded UK businesses to ensure that an appropriate entry into the stock records is undertaken when goods are placed into the customs warehouse and prior to removing them to avoid incurring a customs debt.

HMRC has confirmed that from 30 June 2013, UK traders should use the Temporary Admission (TA) customs procedure to temporarily remove items from a customs warehouse for the purpose of exhibition with a view to sale, a possible sale, a sale by auction or similar activities. Traders need to be authorised to operate TA and put in place a financial guarantee. This requirement can be waived when a trader meets customs compliance criteria similar to those required under the AEO scheme.

United Kingdom: New online notification system to register vehicles brought into the UK permanently from abroad

Since 15 April 2013 new or used vehicles brought into the UK permanently from abroad must be notified to HMRC within 14 days of the vehicle arriving in the UK. It will not be possible to register and license these vehicles until HMRC have confirmed that the notification has been successfully processed and that any VAT due has been paid or accounted for. To support this change, HMRC has introduced a new online system, called Notification of Vehicle Arrivals (NOVA).

United Kingdom: Excise

HMRC has issued guidance regarding the exportation of excise goods and the procedures to be followed to enable customs authorities to issue a report of export to the dispatching warehousekeeper to close an excise duty suspended movement.

With the accession of Croatia to the European Union on 1 July 2013, HMRC advised that excise movements that start before 1 July 2013 should continue to be treated as exports to a third country. Excise movements that start on or after 1 July 2013 should be treated as intra-EU movements.

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