

In this issue:

Regional summaries
Americas
Asia Pacific
CIS
Europe

Related links:

Customs & Global Trade
Indirect tax rates around the world

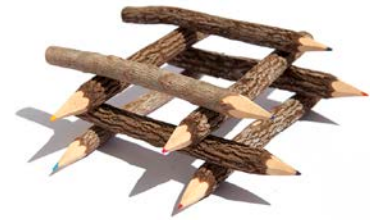
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Regional summaries

Americas

Costa Rica:

- The legislative assembly of the Republic of Costa Rica approved the agreement that established an association between Central America and the European Union and its Member States **More**

Mexico:

- Free trade agreement between Mexico and Costa Rica **More**
- Modification of general foreign trade rules **More**
- Increase of duty-free amounts for passengers **More**
- Suspension of temporary import programs for certain companies **More**

Asia Pacific

China:

- China - Iceland and China - Swiss Free Trade Agreements (FTA) **More**
- Update on anti-dumping by EU & China **More**
- Shanghai Free Trade Pilot Area to be established **More**

India:

- Clarification of difficulties faced by oil exploration sector in availing customs duty exemption **More**
- India: License fee / royalty payable to licensor with respect to the import from a replicator has to be included in the assessable value **More**
- Principles of unjust enrichment do not apply to refund of fine and penalty **More**
- Refund of special additional duty (SAD) allowed on goods cleared from Special Economic Zone (SEZ) to Domestic Tariff Area (DTA) and subsequently sold **More**

- Clarifications issued in respect of deemed export benefits [More](#)

Indonesia:

- Custom duty borne by Government for certain industries [More](#)
- Update on master list facility application [More](#)

Myanmar:

- Advance income tax introduced on the import and export of goods [More](#)

New Zealand:

- Annual adjustment to excise and excise equivalent duty rates [More](#)
- ALAC Levy on alcohol to be HPA Levy from 1 July 2013 [More](#)

Singapore:

- Singapore-Costa Rica Free Trade Agreement (SCRFTA) [More](#)
- Permit exemption for air exports increased to S\$1,000 [More](#)

Taiwan:

- Kaohsiung approved as delivery port of London Metal Exchange (LME) [More](#)

Vietnam:

- Adjustment of consumption rate on imported materials after exportation of finished products [More](#)
- Advance ruling procedures [More](#)
- Stricter conditions for grace period to pay import duty for materials used in manufacturing exports [More](#)

CIS

Kazakhstan:

- Agreement on the customs value of goods for transfer across the Customs Union border [More](#)

Russia:

- Imposition of the anti-dumping duty on light commercial vehicles (LCV) originating from Germany, Italy and Turkey imported to the Customs Union (between Russia, Belarus and Kazakhstan) [More](#)
- Setting import customs duty rates with respect to certain types of cables [More](#)
- Increase of import customs duty rate with respect to non-inertial gas-powered water heaters [More](#)
- Launching of an updated official site of the Eurasian Economic Commission [More](#)

Europe

Belgium:

- New generalized systems of preferences [More](#)

Netherlands:

- Postponed application date of the modernised customs code [More](#)
- Communication of the European Union with respect to the explanatory notes of the nomenclature [More](#)

Spain:

- Barcelona and Valencia ports inclusion in the EU-China Smart and secure trade lanes pilot project [More](#)
- Alcohol and tobacco taxes increase [More](#)
- Approval of the model of declaration of responsibility [More](#)

Americas

Costa Rica: The legislative assembly of the Republic of Costa Rica approved the agreement that established an association between Central America and the European Union and its Member States

The Legislative Assembly of the Republic of Costa Rica, by Law No. 9154 of 3 July 2013, approved the Agreement that established an association between Central America and the European Union and its Member States, signed in Tegucigalpa, Honduras, on 29 June 2012.

The Association Agreement between Central America and the European Union (ADA UECA) is a major trade agreement. This will open important trade and economic relationships with the EU and it would impact the productive sectors and civil society in Central America.

Costa Rica ratified this agreement on the same day that it was approved, 3 July 2013.

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Mexico: Free trade agreement between Mexico and Costa Rica

On 1 July 2013, the free trade agreement between México, Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, became effective between Mexico and Costa Rica.

This free trade agreement was signed on November of 2011 and published in the

Mexican Official Journal on August 2012, with the objective of encouraging expansion and diversification of trade of goods and services between the parties.

Mexico: Modification to general foreign trade rules

On 8 July 2013, the Tax Administration Service published the fifth resolution of modifications to the General Foreign Trade Rules in the Mexican Official Journal. This modification entered into force the day after its publication.

Several rules were modified, however the most significant changes are the following:

- New with respect to the “Certified Company” (Mexican Authorized Economic Operator)
 1. Textiles companies may apply for this registration as long as they comply with certain amount of imports, number of employees and value of fixed assets.
 2. Foreign companies who have been operating in Mexico for three years under the temporary import program (shelter modality) of a Mexican Company, and are now considered an independent entity in Mexico, would be exempt from the requirement of having three years of foreign trade operations before applying for this certification.

- Importers of cigarettes should now register on the sectorial importers registry, a special requirement applicable to sensitive industries, and the importation is now limited to certain customs points of entry.

- Exporters of gold, silver and copper are required to be registered on the sectorial exporters registry in order to export such metals. In addition, this change included that those goods could only be exported.

Mexico: Increase on duty-free amounts for passengers

According to the Paisano Program, from 1 July to 31 August 2013, the value of goods that Mexican passengers arriving by land from abroad may bring into Mexico without the payment of import duties was increased from \$75 to \$300.

Mexico: Suspension of temporary import programs for certain companies

On 9 July 2013, the Ministry of Economy, through the Mexican Official Journal, issued a resolution with the names and program numbers of companies that are suspended from the benefit of making temporary imports for their manufacturing or service processes. This suspension is due to the lack of compliance with the requirements established by this temporary import program.

Suspended companies will be able to reactivate their eligibility for the program as long as they comply with the relevant requirements before the last business day of August. Otherwise, they will not be eligible for the program .

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The China Iceland FTA was signed on 15 April 2013 (the effective date has not been announced). In addition, China and Switzerland concluded the relevant FTA negotiations in May 2013, and have announced that they may sign off the China Swiss FTA in July 2013.

It is agreed between Iceland/Switzerland and China that:

- For China originated products to be imported into Iceland and Switzerland, more than 9 percent of the import amount will be applicable to the zero import duty immediately from the effective date of the above FTAs;
- For Iceland originated products to be imported into China, approximately 82 percent of the import amount will enjoy zero import duty immediately from the effective date, and most of the remainder will incur zero duty in the future;
- For Switzerland originated products to be imported into China, approximately 67 percent of the import amount will incur zero duty immediately from the effective date, and another 17 percent will incur zero duty in the future.

It is expected that China will further negotiate the FTAs with other European countries. Therefore, the relevant import/export companies are recommended to continue to monitor their development with a view to enjoy more favorable treatments upon import/export.

China: Update on anti-dumping by EU & China

Further to the EU's initiation of an anti-dumping proceeding on the crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating from China in September 2012, the EU Commission announced on 4 June 2013 the imposition of a provisional anti-dumping duty of 11.8 percent on these products from 6 June 2013 to 6 August 2013. If China and the EU fail to reach a settlement by 6 August 2013, the import duty may be increased to 47.6 percent. As a result, import costs in EU may increase significantly, and therefore affect the market shares of Chinese solar manufacturers in the EU.

In response to this, on 5 June 2013, the PRC Ministry of Commerce ("MOC")

announced it would launch an anti-dumping and countervailing investigation on EU originated wine (the details and timeline have not been released). It is expected that it will take some time for China to investigate how to impose the anti-dumping duties. As an interim measure, in the process of the investigation, MOC may increase the import taxes which will become importers' costs and ultimately be borne by consumers.

Affected companies should assess the impacts of the above and take them into consideration in its import/export business.

China: Shanghai Free Trade Pilot Area to be established

On 3 July 2013, the "Overall Plan for China (Shanghai) Free Trade Pilot Area (FTPA)" was approved by the State Council.

According to this plan, Shanghai FTPA will include four current customs' supervised areas (Yangshan Bonded Port, Pudong Airport Comprehensive Bonded Zone, Waigaoqiao Free Trade Zone and Waigaoqiao Bonded Logistic Park.), integrating/improving their current functions related to import/export, to facilitate import/export businesses. It is expected that Shanghai FTPA will provide preferential treatment to import/export companies, in particular with respect to the aspects of foreign exchange control, investment, taxes, and Customs supervision. In addition, the government has indicated that, if this pilot runs well, it will roll the program out to other places in the future.

The government has not announced the detailed policies of Shanghai FTPA, so its potential impact and affected industry sectors are not clear at this stage. Development will be monitored closely in the coming months.

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India: Clarification issued on difficulties faced by oil exploration sector in availing customs duty exemption

The Oil Exploration sector enjoys certain exemptions under the Customs law on the import of goods; however practical difficulties were being encountered by the trade and industry in claiming such exemption from payment of customs duty. The Central Board of Excise & Customs has clarified the issues as under:

The goods imported for oil exploration in terms of the Essentiality Certificate ("EC") issued by the Director General of Hydro Carbon ("DGH") can be directly transferred to other eligible project subject to conditions mentioned in the Notification issued in this regard.

The execution of a re-export bond is not required at the time of clearance of goods imported under the exemption notification.

An individual constituent of a consortium with its name as importer on the EC is allowed to import and avail the exemption even if the contract with the Government of India ("GOI") is signed by the consortium.

The absence of the name of a sub-contractor in the contract between the contractor / consortium and GOI cannot be grounds for denying the benefit of the exemption. However, the name of the sub-contractor should be mentioned on the EC issued by DGH as per the condition in the notification.

India: License fee / royalty payable to licensor with respect to the import from a replicator has to be included in the assessable value

The Respondents entered into a licensing agreement with an overseas licensor and acquired the right to import and sell/ distribute DVDs in India. The copyright in the DVDs rested with the licensor and royalty/ license fee in respect of sale in India was payable to the licensor. The Respondents imported the DVDs from replicators (other than licensor) for sale/ distribution in India. The Mumbai Tribunal held that the license fee/ royalty payable to the licensor shall be included in the assessable value in respect of imports from replicators. The Tribunal observed from the agreement that the entire transaction of sale by replicator was controlled, regulated and closely monitored by the licensor. It was held that a replicated media also contains the artistic/ intellectual inputs and hence the cost of the same is to be considered for assessable value.

India: Principles of unjust enrichment do not apply to a refund of a fine and/or penalty

The Mumbai Tribunal ordered the refund of a pre-deposit paid towards fine and penalty and held that the principle of unjust enrichment applies only to duty and cannot be made applicable to fine or penalty.

India: Refund of Special Additional Duty (SAD) allowed on goods cleared from Special Economic Zone (SEZ) to Domestic Tariff Area (DTA) and subsequently sold

Refund of SAD is generally allowed on sale of imported goods subject to fulfillment of specified conditions. The goods were cleared from SEZ to DTA on payment of appropriate duties including SAD. On subsequent sale of these goods, the Appellant claimed a refund of SAD. The revenue objected to the refund on the ground that goods procured from SEZ cannot be construed as import and goods have to be brought from outside India for eligibility of refund. The Ahmedabad Tribunal observed that the exemption Notification has to be read holistically with the SEZ Act,

2005 and therefore, the goods cleared from SEZ to DTA shall be considered as imported into India for the purpose of the Notification granting a refund.

India: Clarifications issued in respect of deemed export benefits

Deemed export benefits are allowed with respect to the supply of goods to any projects or purpose which are eligible for import of goods at zero customs duty provided that such supply is made under the procedure of international competitive bidding ("ICB"). However, a relaxation regarding supplies to Mega Power Projects was granted. The ICB procedure is not required if the project has been awarded through tariff based competitive bidding. Following clarifications have now been issued in this regard:

- Deemed export benefits are not available for supplies to Non Mega Power Projects;
- Benefits of deemed exports are available only if the supplies are made under ICB. In case of Mega Power Projects, the supplies are exempted from payment of terminal excise duty ("TED") if made under ICB. In case such supplies to Mega Power Projects are not made under ICB, the same shall be eligible for refund of TED.

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Indonesia: Customs duty borne by Government for certain industries

With effect from 11 April 2013 The Directorate General of Customs and Excise (DGCE) issued a series of regulations that stipulate customs duty borne by the Government for goods and materials imported by certain industries for fiscal year ending 31 December 2013.

Airplane Repair and Maintenance Services industry no longer qualifies for the facility but other industries such as Smart Card Industry, Steam Turbine Industry, Component and Heavy Construction Equipment, Plastic Packaging Industries have now become eligible.

In order to benefit from the facilities, the Importer must submit an application to the DGCE in accordance to the prescribed template

Indonesia: Update on master list facility application

The master list facility grants customs duty exemption to machinery imported by any company that conducts development or expansion of certain industry. With effect from 24 May 2013, applicants are required to disclose additional information such as the HS code and entry port of each of the machines, goods or materials. The information should be disclosed in the importer's RIB (Goods Import Plan) and in accordance with the prescribed format of the master list (investor module) that has been standardized by the Indonesian Coordinating Board (BKPM).

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Myanmar: Advance income tax introduced on the import and export of goods

To reduce noncompliance with income tax laws and to collect tax revenue more quickly, Myanmar has introduced a new advance income tax on the import and export of goods.

The tax, which is in effect from 14 June 2013, is equal to two percent of the customs value of imported and exported goods and is levied on the importer/exporter.

Notably, the tax may be credited against the importer's/exporter's income tax liability for that year. If the tax exceeds the income tax liability, the excess will be refunded.

Exemptions from the two percent tax are provided for construction materials and raw materials imported during the initial construction period by a Myanmar Investment Commission permit holder. This includes temporary imports, imports intended for duty drawback, and raw materials imported for the packaging industries, among others.

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New Zealand: Annual adjustment to excise and excise equivalent duty rates

With effect from 1 July 2013, New Zealand Customs will make annual adjustments to the excise and excise-equivalent duty rates for alcoholic beverages and motor spirits.

The adjustment on alcoholic beverages is based on movement in the Consumer Price Index (excluding credit services) over the 12-month period ending 31 March 2013. The adjusted rates on alcoholic beverages are set out in the excise and excise-equivalent duties table (Alcoholic Beverages Indexation) Amendment Order 2013.

According to Customs and Excise (budget measures – motor spirits) Amendment Act 2013, the excise on motor spirits will increase to 53.524 cents from 50.524 cents.

New Zealand: ALAC levy on alcohol to be HPA levy from 1 July 2013

The Health Promotion Agency (HPA) has taken over the functions previously carried out by the Alcohol Advisory Council (ALAC) including the imposition of the ALAC levy.

The ALAC levy is imposed by a government agency that has the aim of encouraging responsible attitudes to alcohol. Levies are based on alcohol content and as such, drinks with a higher volume of alcohol contribute a higher proportion to the levy.

From 1 July 2013, the ALAC levy will be known as the HPA levy. The new HPA levy rates are set out in the New Zealand Public Health and Disability (Health Promotion

Agency Levy) Order 2013.

The payment of the HPA levy, and the GST on the levy, should continue to be recorded on entries as the ALAC levy until further notice.

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Singapore: Singapore-Costa Rica Free Trade Agreement (SCRFTA)

The Singapore-Costa Rica Free Trade Agreement (SCRFTA) signed on 6 April 2010 will become effective on 1 July 2013. Costa Rica will eliminate customs duties for 90.6 percent of its tariff lines and tariffs on the remaining products will be eliminated over a period of 10 years. Singapore will eliminate customs duties for all imports from Costa Rica but excise duties will still be applicable at their respective rates. Companies should be familiar with the Rules of Origin and other FTA requirements in order to take advantage of the benefits under the SCRFTA.

Singapore: Permit exemption for air exports increased to S\$1,000

Singapore's Imports and Exports Regulations (RIER) require exporters to apply for a permit prior to exporting goods. Historically, an exemption has been available for air exports of non-controlled and non-dutiable goods where the total value does not exceed S\$400.

With effect from 1 July 2013, the permit exemption threshold has been increased to S\$1,000 to facilitate industries that require rapid turnaround time for air cargo.

Exporters must still obtain a permit for export of goods removed from approved licensed premises regardless of the total value of the goods.

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Taiwan: Kaohsiung approved as delivery port of London Metal Exchange (LME)

On 17 June 2013, the Kaohsiung Free Trade Zone becomes the 9th official delivery port of the London Metal Exchange ("LME") for the delivery of non-ferrous metals such as primary aluminum, aluminum alloy, copper, lead, nickel, tin and zinc. The other LME delivery port are located in Singapore; Nagoya and Yokohama in Japan; Busan, Gwangyang and Incheon in South Korea; and Johor and Port Klang in Malaysia.

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Vietnam: Adjustment of consumption rate on imported materials after exportation of finished products

Companies that are importing duty exempted materials to manufacture products for export purposes were required to register the rate of consumption of materials imported with Customs prior to their export. Any discrepancy between the actual consumption rates of the imported materials with the rate registered with customs resulted in the levy of import duties on the imported materials.

On 11 June 2013, the Prime Minister of Vietnam accepted the proposal submitted by the Ministry of Finance which allows for adjustment of consumption rate after exportation. The adjustment of waste rate due to changes in quality of raw materials and manufacturing conditions will be accepted if scrap materials and defective goods are made available for checking. Specifically:

- Companies must have sufficient evidence, and Customs must have sufficient basis, to prove the accuracy and legitimacy of the adjustments.
- Adjustments can be made after exportation, but before submission of the finalization dossier, and before the consumption rate is audited or reviewed by Customs.

The Ministry of Finance will shortly provide further guidance on the detailed procedures for implementation, to ensure that the changes do not adversely affect business activities of companies.

Vietnam: Advance ruling procedures

The Amended Law on Tax Administration effective 1 July 2013 offers importers the opportunity to seek advance rulings from Vietnam Customs in the areas of HS classification and valuation.

This program will help importers efficiently manage their operations by obtaining prior confirmation of duty and tax payables in advance of importation.

Importers may submit ruling requests to local port offices; however, the ruling itself will be issued by the General Department of Vietnam Customs. The ruling will be valid for three years.

Vietnam: Stricter conditions for grace period to pay import duty for materials used in manufacturing exports

Effective 1 July 2013, the Ministry of Finance issued an official letter reinforcing stricter conditions on the duty payment grace period for imported materials used to manufacture export goods. Under this program, a 275 day grace period is provided for payment of duties for such materials; however, importers seeking to use the grace period must:-

- Have a qualified facility in Vietnam for export manufacturing and must have conducted import/export operations for at least two years;

- Demonstrate a good compliance record for two years covering all tax, customs, and accounting regulations; and
- Have no outstanding liabilities or penalties on imported or exported goods.

The official letter also specified that the materials imported from 1 July 2013 onward that were later re-exported without subsequent manufacture shall be subject to late duty payment penalties. The penalties shall be calculated back from the clearance dates when the materials were imported.

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CIS

Kazakhstan: Agreement on the customs value of goods for transfer across the Customs Union border

Kazakhstan Law № 109-V dated 21 June 2013 has ratified a Protocol on the introduction of amendments and additions dated 23 April 2012 to the Agreement on the Customs Value of Goods for Transfer across the Customs Union Border dated 25 January 2008 (the “Protocol”).

Among others, the Protocol establishes a range of conditions for setting the customs value of goods using method one, the transaction value of imported goods, and method five, the composition of costs method.

A new term has also been introduced, “Procedure for the deferred setting of the customs value of goods”, along with an application method.

The Law was published on 25 June 2013.

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Russia: Imposition of the anti-dumping duty on light commercial vehicles (LCV) originating from Germany, Italy and Turkey imported to the territory of the Customs Union (between Russia, Belarus and Kazakhstan)

The Eurasian Economic Commission Collegium Resolution No. 113 of 14 May 2013 imposes anti-dumping duty on light commercial vehicles (LCV) (8704 21 310 0 and 8704 21 910 0 classification codes according to the Combined Nomenclature of the Customs Union) in the following amounts: for LCVs originating from Germany - 29.6% of the customs value, for LCVs originating from Italy - 23% of the customs value, for LCVs originating from Turkey – 11.1% of the customs value. The anti-dumping duty is imposed for a period of five years. The anti-dumping duty is levied in

addition to the import customs duty established with respect to imported goods. This resolution came into effect on 15 June 2013.

The anti-dumping measure may affect the activities of such producers of vehicles as Daimler, Volkswagen, PSA Peugeot Citroen, Fiat and Ford. Some of them have stated that they do not agree with the measure imposed and will try to challenge it by legally established means.

Russia: Setting import customs duty rates with respect to certain types of cables

The Eurasian Economic Commission Collegium Resolution No.105 of 14 May 2013 establishes the import customs duty rate with respect to certain types of cables. With respect to cables classified under 8544 49 950 1 classification code according to the Combined Nomenclature of the Customs Union a zero percent rate of import customs duty is established. With respect to cables classified under 8544 49 950 9 classification code, the Combined Nomenclature of the Customs Union establishes a 15 % rate of import customs duty. This resolution came into effect on 14 June 2013.

Russia: Increase of import customs duty rate with respect to non-inertial gas-powered water heaters

The Eurasian Economic Commission Collegium Resolution No. 106 of 14 May 2013 increases the import customs duty rate with respect to non-inertial gas-powered water heaters (8419 11 000 0 classification code according to the Combined Nomenclature of the Customs Union) from 0% of the customs value up to 8.3% of the customs value. This resolution came into effect on 14 June 2013.

Russia: Launching of an updated official site of the Eurasian Economic Commission

The Eurasian Economic Commission Collegium Resolution No. 83 of 16 April 2013 defines the Internet address of the official website of the Eurasian Economic Commission as <http://www.eurasiancommission.org>. Official documents (e.g. the Eurasian Economic Commission Collegium Resolutions) are published in this website as well as the general information regarding the activities of the Eurasian Economic Commission Collegium. Currently the website is in Russian only. It is planned that in the future the English version of the website will be also launched.

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Europe/Middle East



Belgium: New generalized systems of preferences

In October last year, the Council adopted a regulation amending the European Unions' (EU) Generalized Systems of Preferences (GSP). Said new GSP will apply as of 1 January 2014. Based on the GSP, goods originating in certain countries (i.e. the GSP beneficiary countries) may enjoy a lower customs duty rate upon import into the EU.

The most important changes of the new GSP can be divided into five main areas:

Country coverage: the list of beneficiary countries is re-evaluated and is substantially shortened.

Preference margins and product coverage: products covered by the preference schemes and margins for some of these products are changed.

Product graduation: preferential EU market access may be revoked for certain products from a given country if the import of such products from that country exceeds a percentage of the total imports of the same products from all beneficiary countries, changes are made in said thresholds and the concerning products and countries.

GSP+: GSP+ countries benefit from further reduced duty rates, the procedure for countries to apply for GSP+ and the criteria to be eligible for this scheme are changed.

Special safeguards: special safeguards are introduced for the textile, agriculture and fisheries sectors.

[\(Please click here for the complete article\)](#)

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Netherlands: Postponed application date of modernized customs code

The European Commission has proposed to postpone the ultimate date of application of the Modernised Customs Code ('MCC'), since the Union Customs Code ('UCC') that was supposed to replace the MCC was not finished. As expected, Regulation (EU) 538/2013 has been adopted in which the ultimate application date of the MCC has been changed from 24 June 2013 to 1 November 2013.

This delay was considered necessary to prevent difficulties in the applicable customs legislation of the European Union and to provide the legislature with more time to complete the process for the adoption of the UCC.

Netherlands: Communication of the European Union with respect to the explanatory notes of the nomenclature

The European Commission has published a communication regarding changes to

the Explanatory Notes of the Customs Nomenclature done by the HS Committee.

The following product groups are affected by these changes:

Enzymes, rubber, felt, nonwovens, textile fabrics impregnated, rubberised textile fabrics, motor vehicles for persons or goods, air-conditioning machines, presses used for beverages, machines used for manufacturing food, accessories for machines in heading 8469 to 8472, electromechanical domestic appliances, sugar products, pharmaceutical products, solid-state non-volatile storage devices, medical instruments.

A Binding Tariff Information (hereafter: BTI) for products from aforementioned product groups ceases to be valid from the day the BTI becomes incompatible with the interpretation of the Customs Nomenclature as a result of the new Explanatory Notes.

Products from aforementioned product groups may need to be classified differently in the Customs Nomenclature as a result of the new Explanatory Notes. Due to said amendments, BTI's for products from those groups may not be valid.

Consult the communication published by the European Commission (2013/C 180/03). If a product is subject to the changes, check if the interpretation of the Customs Nomenclature may now be different when classifying this product in the Nomenclature.

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Spain: Barcelona and Valencia ports inclusion in the EU-China smart and secure trade lanes pilot project

Last June, the ports of Barcelona, Valencia and Hong Kong joined the EU-China Smart and Secure Trade Lanes Pilot Project. The project is coordinated by the European Commission and implemented by the customs administrations of participating Member States.

The EU-China Smart and Secure Trade Lanes Pilot Project was developed to test the customs to customs pillar of the WCO's SAFE Framework of Standards. The objective was to strengthen end-to-end supply chain security based on multi-layered risk management. Controls performed at export are based on joint risk assessment rules, allowing Customs to better target dangerous traffic at the beginning of the supply chain. Thus safe consignments can be identified and trade facilitation benefits can be provided to legitimate trade. The project is also highly valuable for the future development of Globally Networked Customs (GNC) by establishing global standards for customs information exchange.

Spain: Alcohol and Tobacco taxes increase

On 28 June 2013, the Spanish government raised the Excises duties of Alcohol and Tobacco with the entry into force of the Royal Decree-Law 7/2013. The modifications introduced in said regulation consist mainly of the increase of the tax rates of both duties on alcoholic beverages and tobacco, a measure that will raise about 700 million EUR per year according to the Ministry of Finance and Public Administrations.

Regarding alcoholic beverages, the duty rises 10% on average, from 8.30 EUR per liter of pure alcohol to 9.13 EUR per liter, representing an increase of 83 cents. Please note that the Ministry informs that this measure will not affect either the wine or the beer.

For tobacco, the different rates increase for cigarettes and fine-cut tobacco intended for the rolling of cigarettes. The rates for "fine-cut tobacco intended for the rolling of cigarettes" will increase the most.

Spain: Approval of the model of declaration of responsibility

The Royal Decree 335/2010 allows enrollment of customs representatives from other EU Member States to enroll in the Spanish Customs Representatives data base. Customs brokers legally established in other EU member state must meet the criteria stated in Article 14, letters A to D of Regulation (EC) n° 450/2008 of the European Parliament and of the Council of 23 April 2008, which establishes the Community Customs Code (Modernized Customs Code).

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