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ASIA TRADE & CUSTOMS



Legal intelligence from DS Avocats

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**DS Avocats, together with its local offices and partners (AYMP Atelier of Law) monitors and selects trade & customs highlights across China, India, Indonesia, Singapore and Vietnam.**

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### **Revised Catalogue of Technologies Prohibited or Restricted for Export**

On December 21st, 2023, the Ministry of Commerce and the Ministry of Science and Technology jointly issued the newly revised Catalogue of Technologies Prohibited or Restricted for Export (the “Technologies Catalogue”), with immediate effect.

#### **• Why this matters?**

The Technologies Catalogue is established in the framework of the Foreign Trade Law, which is independent from the Export Control regulation system, although there could be some overlaps. The new version has made some major changes to the previous 2020 version, and the total number of items on the catalogue is reduced from 164 to 134, with 34 deleted, 4 added and 37 modified. The main changes with adverse impact cover, for instance, the life science sector (addition of “Cell Cloning and Gene Editing Technology for Humans” as export-prohibited technology), the automotive sector (addition of “LiDAR systems” as export-restricted technology), the drones (addition of new control points), etc. Generally speaking, the 2023 revisions focus on restrictions of certain emerging or foundational technologies and try to eliminate or loosen the control on those technologies that have been outdated.

### **Revised Catalogue of Dual-Use Items and Technologies Subject to Import and Export Licensing**

On December 29th, 2023, the Ministry of Commerce and the General Administration of Customs made public the 2024 Catalogue of Dual-Use Items and Technologies Subject to Import and Export License Administration, which took effect on January 1st, 2024.

- **Why this matters?**

The 2024 version has made some adjustments to HS code (for reference use) of certain controlled items and added to the catalogue the temporary control measures that were announced and implemented during 2023 (e.g. gallium and germanium). The frequent issuance of temporary control measures and regular yearly revision have shown that the Chinese government becomes now much more active in updating its export control policies according to the economic and political trends.

### Anti-dumping investigation open on EU brandy

On January 5th, 2024, the Ministry of Commerce announced to open the anti-dumping investigation on the brandy originating in the EU in containers of less than 200 liters. The dumping margin claimed in the petition is 15.88%.

- **Why this matters?**

The investigation mainly impacts the French spirit companies such as Hennessy, Remy Cointreau, Cognac etc., and also some Spanish brands. This move is seen by some market practitioners as a response to the EU's anti-subsidy inquiry into Chinese electric vehicles which started in last October.

### Issuance of full sets of discretion standards in imposing the customs penalties

Issuance of full sets of discretion standards in imposing the customs penalties - In December 2023, the General Administration of Customs published three sets of discretion standards regarding the customs administrative penalties (the "Discretion Standards"), covering all areas such as general customs supervision (including tariffs) and solid waste treatment (Set I), inspection and quarantine (Set II), intellectual property related customs administrative penalties (Set III). The Discretion Standards set rather objective criteria or indicators depending on which the penalties are classified in the five levels:

- Absence of penalty (including the exemption cases)
- mitigated penalty
- lighter penalty
- ordinary penalty
- aggravated penalty

The Discretion Standards also provide for a detailed list of circumstances that could apply the penalties exemption regime, as well as specific criteria for the cases handled under the simplified or fast-track procedure.

- **Why this matters?**

The Discretion Standards are designed to restrict the discretion power of local customs authorities in determining the penalties in case of customs violation, by standardizing and unifying the criteria at the national level. After the complete relief measures on customs voluntary disclosure are established, gradually, since last few years, the issuance of the Discretion Standards is seen as a further step in creating greater justice and transparency in the administration of customs matters in China.



# India

## Free Trade Agreement signed between India and the European Free Trade Association

On 10 March 2024, Member States of the European Free Trade Association (EFTA) – Iceland, Liechtenstein, Norway, and Switzerland – and India signed a comprehensive Trade and Economic Partnership Agreement (TEPA). The EFTA-India TEPA covers the following areas: Trade in Goods (including Rules of Origin and Trade Facilitation), Trade Remedies, SPS, TBT, Trade in Services, Investment Promotion and Cooperation, Intellectual Property, Government Procurement, Competition, Trade and Sustainable Development, Dispute Settlement.

- **Why this matters?**

This Agreement will enhance the development of trade relations between India and EFTA countries. The Agreement will allow traders to benefit from duty reductions or exemptions on products exchanged between the two areas, and to develop more integrated supply chains.

## Mandatory electronic filing of Non-Preferential Certificate of Origin delayed once more

While India passed a law in order to impose the mandatory electronic filing of non-preferential CoO, Trade Notice 36/2023-24 published on December 26th, 2023 confirms that the transition period, allowing for CoO applications to be filed by other means still, until December 31st 2024.

- **Why this matters?**

Operators will have more time to adapt their process to the new electronic filing of non-preferential CoO through the online platform. During this period, the operator will have the possibility either to submit e-CoO or manual/paper applications.

## Implementation of the Track and Trace system for export of pharmaceuticals and drugs consignments delayed once more

The date for implementation of track and trace system for export of drug formulations with respect to maintaining the parent-child relationship in packaging levels and its uploading on Central Portal has been extended up to February 1st, 2025. Notably, the extension is applicable to both small scale industries (SSI) and non-SSI manufactured drugs. This initiative aims at enhancing transparency and accountability in the export of drug formulations, emphasizing the maintenance of the parent-child relationship in the packaging levels and their movement in the supply chain.

- **Why this matters?**

This extension allows pharmaceutical manufacturers more time to integrate the necessary technological infrastructure, ensuring the seamless implementation of the track and trace system.

## Exemption of certain exporting units from quality control requirements

Government decided on March 8th, 2024, in notification 70/2023, to exempt advance authorization holders and export-oriented units (EOUs) from mandatory quality control orders for imported goods that are used as inputs for exported products.

- **Why this matters?**

India seeks to be a leading manufacturing hub in the coming years. To promote India's position, the country offers various favorable export processing schemes designed to attract production investment in special zones.



### Reformation in Indonesia's e-commerce ecosystems

Reformation to e-commerce activity and licenses started on September 2023. It will change the playing field and provide more access to the Government of the Republic of Indonesia to details of foreign e-commerce activity, leading to closer supervision.

- **Why this matters?**

The alignment of the e-commerce business licensing treatment with a risk-based business license gives clarity for e-commerce business actors in obtaining business licenses. On the other hand, restricting marketplace and social commerce platforms from acting as producers can prevent unfair business competition, such as predatory pricing. Further, imposing a minimum sales price for foreign merchants may prevent the entry of underpriced imported products that could disrupt the sustainability of micro, small, and medium-sized enterprises (UMKM). Therefore, it is vital for all stakeholders, such as foreign merchants, local businesses, and consumers, to stay informed and be prepared for any potential impacts on their operations.

### New Provisions on Import and Export of Consignment Goods

Late in 2023, the Minister of Finance ("MOF") has issued Regulation No. 96 of 2023 on Customs, Excise and Tax Provisions on the Import and Export of Consignment Goods ("MOF Reg. 96") which amended by MOF Regulation No. 111 of 2023 ("MOF Reg. 111"). Please note that MOF Regulation 96 revokes MOF Regulation No. 199/PMK.010/2019 of 2019 on Customs, Excise and Tax Provisions on the Import of Consignment Goods ("MOF Reg. 199").

In general, consignment goods refer to goods sent through postal operators. MOF Reg. 96 specifies the types and criteria of consignment goods, which were not previously detailed in MOF Reg. 199.

1. PPMSE (e-commerce organizers) as the Importer of Consignment Goods. Previously, under MOF Reg. 199, PPMSE (Penyelenggara Perdagangan Melalui Sistem Elektronik) only acted as a partner of Directorate General of Customs and Excise (Direktorat Jenderal Bea dan Cukai or "DJBC"). However, in MOF Reg. 96, PPMSE is treated as the importer. MOF Reg. 96



stipulates that if consignment goods are from trade transactions through PPMSE”)=, the entity to be treated as the importer is as follows:

1. PPMSE located within the customs area; or
  2. Business entity located within the customs area that has been designated as a representative of PPMSE located outside the customs area.
2. PPMSE's Obligation to Partner with DJBC. Previously, under MOF Reg. 199, it was stipulated that PPMSE could form partnerships with DJBC. In MOF Reg. 96, this partnership scheme is mandatory. This also affects the customs notification system and the determination of the customs value, which was previously an official assessment in MOF Reg. 199 but is now a self-assessment under MOF Reg. 96. The partnership between PPMSE and DJBC takes the following forms:
1. Exchange of electronic catalog data (e-catalog) and electronic invoices (e-invoice) for consignment goods processed through PPMSE.
  2. Other forms of partnership that enhance the services and supervision conducted by the Directorate General of Customs and Excise.

Please note that there is an exemption from the mandatory partnership with DJBC for e-commerce operators that have fewer than 1,000 shipments in a calendar year.

- **Why this matters?**

The issuance of MOF Reg. 96 is driven by the rapid growth of the import consignment goods shipping business through postal services, which needs to be complemented by more advanced service procedures and supervision utilizing information technology. Furthermore, MOF Reg. 96 also clarifies provisions concerning the export of consignment goods, which were not previously regulated in MOF Reg. 199.

### **New Import Regulation on the Provisions for Electronic Goods and Certain Commodities**

In November 2023, there has been a significant number of complaints from traders, business associations, and the public concerning the increasing presence of imported goods in traditional markets, the decline in the activity of these traditional markets, and the sharp rise in the sale of imported products through digital platforms (e-commerce). This has raised serious concerns for the government, necessitating a re-evaluation of the entry of imported goods that could potentially disrupt local communities and domestic markets.

In response to the above as well as to the directive of President Joko Widodo to tighten the controls on the importation of certain commodities in Indonesia, the Indonesian government is planning to enact new import regulation which set out the prohibition/restriction (Larangan/Pembatasan or “Lartas”) provisions for electronic goods and certain commodities. This new import regulation will amend the Minister of Trade (“MOT”) Regulation No. 20 of 2021 as amended by MOT Regulation No. 25 of 2022 (“MOT Reg. 20”). Certain commodities which are the focus of import tightening consist of ready-made garments, children's toys, electronics, footwear, cosmetics, finished textile goods, traditional medicines, and health supplements, as well as bag products.

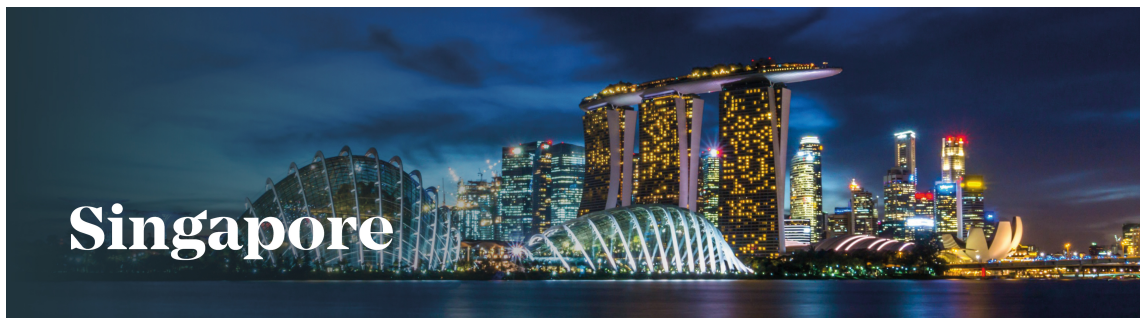
For context, the enactment of this new import regulation aims to safeguard the interests of the public, small and medium-sized enterprises, and domestic industries. In general, the key changes

that will be highlighted in the new import regulation consist of changes in the supervision of imports through changes of supervision method from post-border to border.

To strengthen the role of compliance examination for service users after the goods have left the customs area (post-clearance control through risk-based re-examination mechanisms), the Minister of Finance ("MOF") has issued MOF Regulation No. 78 of 2023 on Customs Re-examination. The regulation came into force on October 20<sup>th</sup>, 2023.

- **Why this matters?**

In essence, the new import regulation will amend the supervision policy of certain commodities from post-border to border, with compliance to the fulfilment of Import Approval and Surveyor Report. Importers should pay close attention to several changes in the import license for several items. As previous items that did not require import licenses, might suddenly shift to require an import license. Failure to do so will result in re-exportation.



### [AEO mutual recognition agreement between Malaysia and Singapore](#)

On January 18th, 2024, Singapore and Malaysia have signed the Mutual Recognition Arrangement (MRA) of their respective Authorized Economic Operator (AEO) programs. AEO is a status granted to traders who voluntarily meet a range of criteria work in close cooperation with customs authorities to assure the common objective of supply chain security are entitled to enjoy benefits in return.

- **Why this matters?**

This Agreement enables Singapore's certified AEO exporters' shipments to Malaysia to enjoy less customs documentation checks and/or cargo inspections, and vice versa.

### [Memorandum of Understanding \(MoU\) signed between Singapore and Malaysia to work on a Johor-Singapore Special Economic Zone](#)

Signed on January 11th, 2024, the MoU consolidates this relationship with the laying of the foundation stone for a trade zone on the border between the two countries

- **Why this matters?**

This Special Economic Zone will enable operators to facilitate their international freight operations, notably by limiting the impact of customs procedures on operations.

### [Signature of the MERCOSUR-Singapore Free Trade Agreement \(MCSFTA\)](#)

Signed on December 7th, 2023, at the 63rd Summit of Heads of State of MERCOSUR and Associate States.

- **Why this matters?**

This Agreement will enhance the development of trade relations between Singapore and MERCOSUR countries (Brazil, Argentina, Paraguay, and Uruguay). The Agreement will allow traders to benefit from duty reductions or exemptions on products exchanged between the two areas.



### Completion of the draft Decree on customs management for exported and imported goods traded via e-commerce platform

The draft Decree on customs management for exported and imported goods traded via e-commerce has been developed by the General Department of Customs, completed with comments from relevant units and submitted to the Government for approval. However, as it takes time to build an information technology system to serve the implementation of this Decree, the date of issuance of the Decree is expected to be in the fourth quarter of 2024 and take effect from January 1st, 2025.

- **Why this matters?**

In addition to subjects carrying out customs procedures as for normal import and export goods, the Decree addresses additional subjects, for example, owners of websites providing e-commerce services, applications providing e-commerce service. sales application... Tax regimes and compulsory declare obligation will be regulated for the trading activities via e-commerce platform.

### Implementing the conversion of Rules of Origin in the ASEAN

Korea Agreement - On March 25 - 27, 2024, in Quang Ninh province, the Import-Export Department - Ministry of Industry and Trade and the ASEAN Secretariat organized a Conference on conversion of Rules of Origin within the framework of the ASEAN-Korea Free Trade Agreement (AKFTA). The purpose of this Conference is to convert the List of product-specified rules (PSR) according to the HS Harmonized System of the World Customs Organization (WCO). From there, it is convenient for importers to use Certificate of Origin C/O form AK to enjoy special preferential tax rates from AKFTA.

- **Why this matters?**

Rules of origin are a tool to neutralize the advantages of an FTA if the goods do not meet the requirements and are a tool to differentiate the advantages of countries in the FTA from countries outside the FTA. Conversion of PSR will ensure predictability and transparency for businesses of AKFTA's members.

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