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



Export control developments :

- *Gallium and Germanium* - On July 3rd, 2023, the Ministry of Commerce and the State Customs Administration announced to start to impose export control on gallium and germanium products. The measures are effective as from August 1st, 2023.
- *Drone-related equipment and extended consumer-grade drones* – On July 31st, 2023, the Ministry of Commerce, the State Customs Administration and the defense authorities jointly announced the export controls on drone-related equipment including some special engines and radio communications devices of unmanned aerial vehicles (UAV). The government also imposes the temporary export control for 2-year period on certain types of consumer-grade UAVs (with a scope more extensive than before). The export measures are effective as from September 1st, 2023.
- *Graphite* – In an announcement of October 20th, the government of China informed that export control on some categories of graphite would be put in place as of December 1st, 2023.

• Why this matters?

Export control measures have soared over the last months in China, in a trend that is expected to expand. Companies now have to obtain a prior approval from the Ministry of Commerce before exporting the controlled items. The government stresses that the measures show the country's determination to maintaining global security and regional stability. Gallium and germanium are both crucial raw materials for the production of semiconductors, electric vehicles and fiber optic cables. Graphite is essential for electric batteries. Those measures already disrupt supply chains in these sectors, and will continue to do so. Statistics show that the export of gallium and germanium fell to zero in August. The Ministry of Commerce has recently started to issue the first batch of approvals.

Extension of anti-subsidy duties on EU potato starch imports for five years

On September 14th, 2023, the Ministry of Commerce announced to continue the anti-subsidy duties on potato starch from the EU, according to the result of the sunset review launched in 2022.

• Why this matters?

It is the second time that the measures are extended since China started to impose countervailing duties on EU potato starch in 2011. Except for one company which is subject to the reduced tariff of 7.5%, the other affected companies will be subject to the tariff of 12.4%.

Revision of Compulsory Product Certification Catalogue

On September 5th, 2023, the catalogue of products subject to mandatory certification was updated – Announcement 36/2023.

● Why this matters?

Product certification is a non-tariff barrier to trade that is often overlooked by trade operations. For all the products concerned, certification is mandatory condition for importation into China.

Ban of production of disposable medical devices containing (HCFCs) as silicone oil diluents or cleaning agents

Certain disposable medical device products using HCFCs as silicone oil diluents or cleaning agents will not be allowed to be produced in China anymore. This concerns sterile syringe, needleless syringes, injection needles, puncture devices and other items listed in Bulletin 2023/29 of the Ministry of Ecology and Environment.

● Why this matters?

China is fostering the implementation of regulations designed to help the country fulfilling objectives laid out in the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer.

Announcement on Handling Matters Related to Voluntary Disclosure Violations)

In order to further optimize the business environment and promote the high-quality development of foreign trade, Chinese customs implements a voluntary disclosure mechanism for customs-related violations. Announcement No. 2023 of 127 of October 8th, 2023, specifies the circumstances and conditions under which this mechanism can be applied for.

● Why this matters?

Voluntary Disclosure mechanisms usually offer additional means for companies in view of mitigating existing risks related to customs operations.



Export of Pharmaceuticals and drug formulations

The Directorate General of Foreign Trade extend the delay for the implementation of the Track and Trace system for export of Pharmaceuticals and drug formulations to 1st February 2024.

● Why this matters?

As a reminder, [the Handbook of Procedures 2023](#) published by the Directorate of General of Foreign Trade on 1st April 2023 created an obligation for exporters of drug facilitation to implement a procedure to facilitate tracking and tracing of their products. This new obligation will be in addition of the preexistent obligation to maintain Parent-Child Relationship data of their products. [Public Notice No. 26/2023](#).

Cross-border E-Commerce – workshops

Publication of the Notice for the inscription to the Monthly workshops on Cross-border E-commerce-reg. These workshops intend to reunite private and institutional actor in order to discuss of the elements of the incoming proposition of regulation on Cross-border E-commerce. Trade Notice No. 25/2023-24.

• Why this matters?

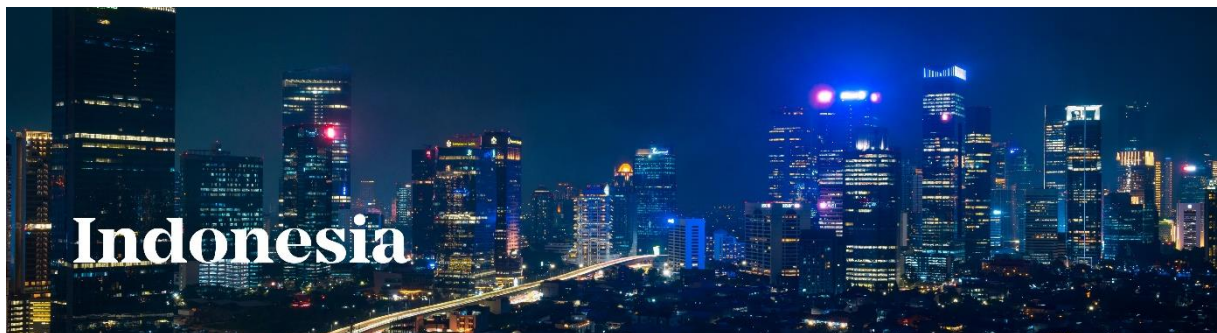
Cross-border E-commerce is still booming, and triggers the adoption of new regulations as well as deep revisions of existing legal schemes in many territories around the world (e.g. Canada, EU, etc.). This is particularly significant on customs valuation, trade simplification and trade digitization matters.

Certificate Origin Applications

Last extension of the transition period for mandatory filing of applications for Non-Preferential Certificate of Origin through the e-CoO Platform will expire for exporters on 31st December 2023. From 1st January 2024, every filling of Non-Preferential Certificate of Origin will have to be done through the <https://coo.dgft.gov.in/> platform. Trade Notice No. 22/2023.

• Why this matters?

CoO are important documents for international traders, which are required to be presented upon importation in many countries.



Post-border audit by MOT

In 2020, the Ministry of Trade (MOT) unveiled a new post-border import regulation, MOT Regulation No.51 of 2020 on Post-border Import Inspection and Supervision (MOT Reg. 51), heralding a significant shift in the oversight of imported goods. MOT Reg. 51 replaced all prior policies governing post-border import supervision, encompassing the spectrum of import licenses subject to scrutiny, the inspection procedures, and the penalties applicable to offenders.

• Why this matters?

A notable aspect of the Post Border Audit is that it is conducted by the Ministry of Trade, which scrutinizes and compares the alignment between the utilization of import approvals/licenses held by importers and the import declarations/PIB data sourced from the Indonesian Customs office, facilitated by the Indonesian National Single Window (INSW) system. It is worth noting that Customs officials do not partake in this Post Border Audit, as the focus of the audits diverges.

Digital market trading in Indonesia: a proposed harmonization plan

On August 8th, 2023, in an effort to keep up with the rapidly changing global digital landscape, the Ministry of Trade ("MOT") has announced strides to improve the digital market trading environment. Their latest proposal aims to achieve harmony by updating the current MOT Regulation No. 50 of 2020, which governs business licensing, advertising, supervision, and oversight of electronic commerce entities.

The Minister of Trade ("MOT") has issued MOT Regulation No. 31 of 2023 on Business Licensing, Advertisement, Development and Supervision in Trading Through Electronic Systems ("MOT Reg. 31"). The important points are (i) threshold requirement for the mandatory of having a local present for foreign merchants and (ii) imposition of a minimum sales price for foreign merchants in cross-border trading. The regulation came into force on September 26th, 2023.

• Why this matters?

It is crucial to make sure that foreign e-commerce transactions are compliant with the proposed minimum import price. The MOT's supervisory role becomes essential in monitoring compliance.

Re-examination in the field of customs

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 20th, 2023.

• Why this matters?

Importers should take into account the current import compliance level. If there is an underpayment of import duty and taxes due to a mistake in the customs value and quantity declaration, then administrative sanctions in the form of fines will still be imposed following applicable customs regulations. Thus, importers should still anticipate reassessment from the Customs officials that results in underpayment of import duties and taxes.

Partnership with Customs Office

To provide guidelines and support from a customs supervision standpoint, the Minister of Finance ("MOF") has issued MOF Regulation No. 96 of 2023 on the Provisions on Customs, Excise, and Tax for Import and Export Couriers ("MOF Reg. 96"). Please be advised that MOF Reg. 96 is scheduled to take effect on 14 November 2023 (60 days since its issuance date). However, due to the presidential mandate related to the urgent need to implement the regulation immediately, the effectiveness of MOF Reg. 96 has accelerated to 17 October 2023.

• Why this matters?

MOF Reg. 96 mandates that a partnership between customs and private sector must be established within a maximum of 10 days from the date of receiving the notification letter from customs. Failure to comply with partnership obligations may result in sanctions, such as the importation of courier shipments which will not be served or processed.



Import of bulk aggregates in Free Trade Zone (FTZ)

As of September 6th, importers of bulk aggregates via Jurong FTZ may declare one import permit to account for the import of the shipment. When entering the FTZ, goods are exempted from duties and GST payment à more in [Circular 16/2023](#).

- **Why this matters?**

Free Trade Zones are privileged areas offering numerous facilitations to trade operators. Those facilitations come with several conditions which are to be respected.

Change to the Strategic Goods Control List

As of October 1st, 2023, a new list of strategic goods controlled for exportation from and/or importation into Singapore will be implemented. The new list includes new developments for certain military items (ML4, ML10, ML11, ML13 and ML15) and dual use items (lasers, radars, aeronautics, electronics, etc.). All items concerned by the Strategic Goods Control List are subject to specific restrictions at exportation and/or importation from Singapore. Licenses application for exportation of controlled goods must include end-user certificates (EUC), who official format has also been reviewed recently. A new EUC format is in place since August 1st, 2023.

- **Why this matters?**

The global trade environment helps the rise of export control measures, which come with additional enforcement actions from competent authorities. Export control of sensitive technologies is particularly by targeted.



GSP – Cumulation Cambodia and Vietnam on bicycles

On September 19th, 2023, the EU Commission confirmed that Cambodian exporters were entitled to use certain materials or parts used in the production of bicycles, originating in Vietnam, in order to produce and export to the Union under the GSP preferential customs duties certain types of bicycles. For more details on the eligible categories of parts and bicycles, see [Regulation \(EU\) 2023/1810](#) and [Notice to Importers C/2023/174](#).

● Why this matters?

GSP is, together with Free Trade Agreements, important mechanisms aiming at enhancing export of manufactured goods to the EU. Regarding the cycling industry, this decision offers real opportunities to EU buyers to supply items from Cambodia at lower costs, while supplies from China are heavily targeted by antidumping and anti-countervailing duties.

Antidumping proceedings:

- *against aluminum products* – On October 6th, 2023, the Ministry of Industry and Trade issued Decision No. 2537/QD-BCT on the investigation and final review of the application of anti-dumping measures (CBPG) to a number of aluminum products from the People's Republic of China classified under HS codes 7604.10.10, 7604.10.90, 7604.21.90, 7604.29.10 and 7604.29.90 (Case number: ER01. AD05). Interested parties are invited to register until December 18, 2023.
- *against wind-power tower materials* – Decision No. 2494/QD-BCT on investigating the application of anti-dumping measures (CBPG) to wind power tower products from the People's Republic of China classified under HS codes: 7308.20.11 and 7308.20.19, in case imported as part of wind-powered generator sets, classified according to HS codes 8502.31.10 and 8502.31.20 (Case Numbers: AD18). Interested parties are invited to register until December 18, 2023.

● Why this matters?

At the end of the inquiry, it is likely that these products will be subject to antidumping duties at importation in Vietnam, which may impact costs goods purchased in regional/global supply chains.

Publication of Explanatory Notes to the Tariff Nomenclature

Supplementary Explanatory Notes (SEN) are a tool developed to help international traders to determine the HS codes of the goods traded from/into Vietnam. On July 24th, 2023, Vietnam Customs issued OL no.3866/TCHQ-TXNK, which includes the updated notes.

● Why this matters?

Each HS code has an import and/or export duty. As an exporter or importer, rightfully determining the HS codes of its products helps reducing customs risks.

Export processing scheme – exclusion of packaging activities

Export processing enterprises (EPE) are enterprises that are established and operate in an export processing zone (EPZ) or that specialize in manufacturing products for exports in an industrial or economic zone. EPZs offer tariff-free trade for goods imported and reexported after processing. During a dialogue with private companies held in August 2023, Vietnam Customs confirmed however that goods imported in Vietnam solely for packaging purposes are excluded from this scheme.

● Why this matters?

EPE is an attractive status offered in Vietnam that however comes with specific conditions for its benefit. Companies must be aware of the conditions before applying for the status.

Ozone Depleting Substances – trade in and out of Vietnam

Circular 24/VBHN-BCT provides for the management of imports, exports and temporary import-re-export of ozone-depleting substances.

- **Why this matters?**

Vietnam is fostering the implementation of regulations designed to help the country fulfilling objectives laid out in the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer.

Post-clearance audits – strategy for 2024

On October 4, 2023, the General Department of Customs organized a conference on post-customs clearance audits (PCA). Instructions were given to focus inspection on high-risk businesses and specific themes identified (such as origin, policy abuse, etc.)

- **Why this matters?**

Vietnam is developing its PCA policy, on the basis of risk management data analysis. High-risk businesses (high level of duties and compliance requirements) and specific themes identified will apparently remain the focus this policy implementation.

Contact

General: Arnaud Fendler, fendler@dsavocats.com

China: Anne Séverin, severin@dsavocats.com

India: Lisbeth Lanvers-Shah, lanversshah@dsavocats.com

Indonesia: Lucas Mascarade, mascarade@dsavocats.com & Riza Buditomo, riza.buditomo@aymp.law

Singapore & Vietnam: Olivier Monange, monange@dsavocats.com

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