IMPORTS AND EXPORTS IN CHINA

There are several issues affecting imports and exports in China. These issues are described in the following sections below and should be considered when importing / exporting goods to / from China.

1. Import and export rights

China's implementation of its WTO commitment to grant import/export rights to foreign-invested enterprises has been controversial. However, a significant step forward was taken when China amended the Law of the People's Republic of China on Foreign Trade (the "Foreign Trade Law"). The amendments replace the system of special, licensed import/export companies with a registration system under which enterprises, other organizations or individuals may engage in import/export business after registering with the foreign trade authorities. To implement the new changes, MOFCOM issued the Measures for the Registration of Foreign Trade Operators (the "Registration Measures") on June 24, 2004. Prior to introduction of the new registration system, joint ventures and WFOEs have generally only been authorized to import goods, materials and equipment for their own use and to export self-manufactured products. Now they should be able to obtain import/export rights for all types of product other than goods subject to state trading. However, it is important to note that import rights do not equal distribution rights. Even if a foreign-invested enterprise obtains import rights, it will not be able to sell the imports unless it also has distribution rights.

2. Taxes affecting imports and exports

Imports and exports are subject to Customs duties, value-added tax. They may also be subject to consumption tax. Please refer to the chapter on "Taxation" for further details.

3. Customs valuation

As part of China's accession to the WTO, China committed to adopt the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (the "GATT Valuation Code"), which is reflected in the Measures of the PRC Customs for the Assessment and Determination of Dutiable Value of Import and Export Goods. The value of imported goods must be measured accurately in order to determine the amount of customs duty payable.

In general, all imported goods are appraised in accordance with the Transaction Value of the goods. However, where the Transaction Valuation is not an appropriate method of valuation (e.g. in related-party transactions where the special relationship affected price), the following valuation methodologies may be used: Transaction Value of Identical Goods; Transaction Value of Similar Goods; Deductive Value; Computed Value; and Derivative Value.

4. Tariff classification

China adopts a commodity classification system based on the Harmonized Commodity Description and Coding System ("HS"). Commodity classification determines the applicable customs duty rate, import / export licensing requirements, export refund rates, etc.

There are 98 different categories with detailed import and export duty rates for all goods and commodities. Both "general rates" and "most favored nation rates" are shown for each category. Failure to provide an accurate HS Code will attract penalties and can impact the customs duty rate applied to imports. If this results in underpayment of customs duty, China Customs can penalize the importer for Duty evasion.

China Customs has adopted the six General Rules of Interpretation ("GRIs") for classifying imports and exports.

5. Customs declaration

A declaration to Customs must be made at the place of importation within 14 days of entry into the country. Taxpayers for exports must submit a declaration to Customs at the place of exportation upon arrival of the goods at the Customs supervision and control zone at least 24 hours prior to loading[1]. The duty payable will be calculated based on the product's customs tariff classification and the dutiable value, and is payable to a designated bank within 15 days from the date of the Customs Duty Certificate(s). If payment is not made on time, taxpayers may be liable to daily late payment interest of 0.05% of the total amount of duties payable commencing from the due date, or additional penalties if payment is more than three months late. A taxpayer who is unable to pay customs duties on time due to the occurrence of a force majeure event or State adjustment of tax policies may defer payment for up to six months.

1 Under a pilot program initiated by the General Administration of Customs ("GAC") in 2006 and subsequently expanded in 2013, qualified companies (based upon their track record of compliance and credit rating) may file import or export declarations to Customs where they are registered. Depending on the qualifications of the companies, they may further apply for release of the goods to Customs where they are registered, or Customs at the gateway port.

6. Origin

Place of origin rules exist in order to implement two customs duty rates on import commodities, i.e. standard rate and preferential rate. If the imported product has been produced in two or more countries, the last country in which there has been substantial transformation to the product shall be deemed as its country of origin, as a general rule applicable to standard custom duty rates.

Preferential custom duty rates, which are reduced rates, are applicable to imported goods that fall within the ambit of a free trade agreement. It is therefore important to ascertain the origin of the goods so as to know whether they are entitled to preferential treatment. Specific preferential rules are provided under the various Free Trade Agreements. In some instances, the rules are product-specific.

7. Special custom zones

China has a number of different special custom zones that offer preferential customs and VAT treatment. These zones are specific geographical areas that are marked out and administered by Customs. They may be considered to be outside the Customs territory of China, but may be considered to be part of China Proper by other agencies. The preferential treatment that an enterprise established within the various zones may be different, and the type of activities permitted may also be different. Below is a table that lists the major types of special custom zones in China:

	Processing	Logistics	Trading	Exhibitions	Export VAT Refunds
Bonded Zones	√	√	√	√	X
Export Processing Zones	√	√[2]	X	X	√
Bonded Logistics Zones	X	√	√	√	√
Bonded Logistic Centers (Type B)	X	√	√	X	√
Bonded Port Zones	√	√	√	√	√
Bonded Integrated Zones	√	√	√	√	√

8. Free trade agreements / preferential trade agreements

China has signed numerous Free Trade Agreements ("FTAs") with various countries, all providing customs duty concessions for imports into China, as well as according China originating exports to these countries at preferential import duty rates. Importers / exporters should consider whether such agreements could be used to reduce the amount of customs duty paid. As of November 2014, the following FTAs are in force:

- Association of Southeast Nations ("ASEAN") - China FTA;
- Asia Pacific Trade Agreement;
- China - Chile FTA;

2 Beginning 19 April 2007, subject to approval of Customs, companies registered in an export processing zone ("EPZ") may use the EPZ for temporary storage of goods which are not produced within the EPZ.

- China - Pakistan FTA;
- China - New Zealand FTA;
- China - Singapore FTA;
- China - Peru FTA;
- China - Costa Rica FTA;
- China - Iceland FTA;
- China - Switzerland FTA;
- Mainland and Taiwan Economic Cooperation Framework Agreement ("ECFA")
- Mainland and Hong Kong Close Economic Partnership Arrangement ("CEPA"); and
- Mainland and Macao CEPA.