

Trade

Singapore

1. Customs

1.1 Updated Documentation Requirements for Removal of Shut-Out Goods from Free Trade Zone

On 26 April 2016, Singapore Customs released Circular No. 07/2016 on the updated documentation requirements for the removal of shut-out goods from Free Trade Zones (“FTZs”).

Shut-out goods refer to goods which are not carried on the intended vessel or aircraft. Shut-out goods sent to FTZs and authorised piers/places for export may be re-imported into a licensed warehouse (for dutiable goods) or local warehouse (non-dutiable goods) for reasons including, *inter alia*, change of departure date, time or transportation mode (for example, from air to sea).

The updated documentation requirements relate to the type of Customs permits required, as well as the supporting documents required to be produced to the Immigrations Control Authority for cargo clearance.

The circular covers the documentation requirements for the removal of shut-out goods from FTZs in the following scenarios:

- Goods removed within 24 hours from the entry of goods into a FTZ, where the goods were not previously released from a Licensed Warehouse/Zero GST Warehouse, not previously imported under a Temporary Import Scheme or not under transshipment with inter-gateway movement;
- Goods removed after 24 hours from the entry of goods into a FTZ, where the goods were not previously released from a Licensed Warehouse/Zero GST Warehouse, not previously imported under a Temporary Import Scheme or not under transshipment with inter-gateway movement;
- Goods that were previously released from a Licensed Warehouse/Zero GST Warehouse;
- Goods that were previously imported under a Temporary Import Scheme; and

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- Goods that were previously under transshipment with inter-gateway movement.

The circular also notes that goods that are not meant for export should not be brought into the FTZs as FTZs are meant to facilitate entrepot trade and transshipment activities.

1.2 Development of National Trade Platform

As part of measures introduced to implement industry-level transformation to the Singapore economy, the Singapore Government has announced that it will develop a one-stop trade information management system known as the National Trade Platform. The National Trade Platform will eventually replace the current TradeNet and TradeXchange systems, which are used, *inter alia*, to make Customs declarations and facilitate the exchange of information within the trade and logistics community.

Under the National Trade Platform, firms can expect to only have to provide trade information once and authorise its use by logistics providers and business partners. The information can also be used for Customs and other trade regulatory approvals.

The National Trade Platform is also expected to be developed as an open innovation platform, so that other service providers can develop value-added services and apps in areas such as operations, visibility and trade finance.

2. Export Control

2.1 New Strategic Goods Control Order 2015

Singapore's strategic goods control list is prescribed under the Schedule to the Strategic Goods (Control) Order ("**SGCO**"). On 2 November 2015, a new SGCO 2015 replaced the SGCO 2013. The SGCO 2015 brings Singapore's strategic goods control list up to date with the 2014 Wassenaar Arrangements Munitions List and the 2014 EU List of Dual-Use Items ("**EUDL 2014**"). However, the SGCO 2015 Dual-Use List contains certain deviations from EUDL 2014 to incorporate more recent changes to the Wassenaar List of Dual-Use Goods. In particular, a new General "Information Security" note has been added after the General Software Note and the entire Category 5 Part 2 - "Information Security" has been rewritten.

The SGCO 2015 incorporates revisions such as new entries, deletions, re-categorisations and editorial changes for consistency and clarity of controls. With the exception of Category 8 (Marine), key changes including new controls and major de-controls are made to all Categories of the Dual-Use List. Changes have also been made to many categories of the Munitions List, and new definitions and changes to technical parameters have been introduced to further clarify the extent to which an item is subject to a strategic goods permit requirement.

As a result of the comprehensive changes introduced by the SGC 2015, consequential changes related to transshipment and transit controls were also introduced to the 4th and 5th Schedules of the Strategic Goods (Control) Regulations. In addition, corresponding technical amendments were also made to the Strategic Goods (Brokering) Order 2007. These changes also came into effect on 2 November 2015.

3. FTAs and BITs

3.1 Implementation of Revised Rules of Origin and Operational Certification Procedures under ASEAN-Australia-New Zealand FTA

Effective 1 April 2016, the rules of origin (“**ROO**”) and operational certification procedures (“**OCP**”) under the ASEAN-Australia-New Zealand FTA for exports to Australia, New Zealand, Brunei, Laos, Malaysia, Myanmar, the Philippines, Thailand and Vietnam have been revised.

Under the revised ROO, a locally-manufactured good must satisfy new product specific rules (“**PSR**”) specified in the updated ROO chapter to the FTA in order to be considered as an originating good and be eligible for preferential tariff treatment when imported into the above-mentioned countries. As such, a new set of origin criteria will be adopted for Box 8 of Form AANZ.

The revised OCP abolishes the requirement to specify the FOB value of the goods in the Form AANZ for exports to the above-mentioned countries (save for Myanmar), provided that the applied origin criteria for the good does not include a Regional Value Content criterion. However, the FOB value of the goods must continue to be specified in the Cargo Clearance Permit for the export, regardless of the origin criteria applied.

Please note that the above changes do not apply to exports to Indonesia and Cambodia until further notice.

3.2 Ninth Package of Commitments under the ASEAN Framework Agreement on Services

On 27 November 2015, Singapore signed the Protocol to Implement the Ninth Package of Commitments under the ASEAN Framework Agreement on Services.

One of the salient features was the removal of the fourth Mode of Supply of services from Singapore's Schedule of Specific Commitments.

The previous eight Packages of AFAS Commitments concluded aimed to eliminate restrictions to trade in four Modes of Supply of services:

- i. Mode 1: Cross-border supply

- ii. Mode 2: Consumption abroad
- iii. Mode 3: Commercial presence
- iv. Mode 4: Presence of natural persons

The Eighth Package of AFAS Commitments, which was signed on 28 October 2010, was the last Package to contain provisions relating to Mode 4. In November 2012, the ASEAN Member States signed the ASEAN Agreement on the Movement of Natural Persons (the "**MNP Agreement**"). The Schedules of Commitments made under the MNP Agreement are to supersede Commitments made under Mode 4 of previous Packages of AFAS Commitments once the MNP Agreement comes into force. As such, it appears that the Ninth Package of AFAS Commitments has been restricted to the first 3 Modes of Supply to facilitate the coming into force of the MNP Agreement (not yet in force at the time of writing).

3.3 Singapore Minister for Trade Signs Singapore-Iran Bilateral Investment Treaty

On 29 February 2016, the Singapore Minister for Trade and Industry signed an Agreement on Reciprocal Promotion and Protection of Investments, also known as a Bilateral Investment Treaty ("**BIT**") with Iran. The BIT follows the lifting of international sanctions against Iran, and is intended to protect investors' interests on both sides and develop business and investment opportunities.

Under the BIT, Singapore companies operating in Iran will enjoy protection from the treaty on top of the protection accorded under Iran's domestic laws. Singapore investors and investments in Iran will enjoy equal treatment to other foreign or local investments. In addition, amongst other features, the BIT will also facilitate the cross-border transfer of capital and returns, and will provide a dispute resolution mechanism to resolve investment disputes.

4. Sanctions

4.1 Circular on Compliance with UN Regulations

Singapore Customs released an advisory circular on 28 August 2015 (Circular No. 10/2015) to traders and declaring agents providing guidance on the issue of combating terrorism financing and proliferation financing.

The Circular reminds that as a member of the United Nations (the "**UN**"), Singapore is required to give effect to the requirements and decisions made under UN Security Council ("**UNSC**") Resolutions. The requirements are made legally binding through Regulations issued pursuant to the United Nations Act (the "**UN Regulations**"), with which all non-financial institution ("**FI**") persons in Singapore are required to comply.

Any breach of the Regulations could subject an individual to a fine not exceeding S\$500,000 or to imprisonment for a term not exceeding 10 years, or to both. In any other case, the person committing the offence could be subject to a fine not exceeding S\$1 million.

Among other provisions, the UN Regulations prohibit persons in Singapore from dealing with UN-designated individuals and entities. These prohibitions include the prohibition against dealing with the property of designated persons, and against the provision of resources and services for the benefit of designated persons.

The Circular recommends that traders and declaring agents screen both existing and prospective customers against publicly-available lists of UN-designated individuals and entities. Should one encounter a customer or transaction that is covered by the UN sanctions list, one should take immediate action to comply with the relevant UN Regulations. Where appropriate, the trader or declaring agent should also lodge a Suspicious Transaction Report with the Suspicious Transaction Reporting Office of the Commercial Affairs Department. Traders and declaring agents are also encouraged to keep abreast of changes to the lists of UN-designated individuals and entities as well as other relevant announcements.

4.2 Monetary Authority of Singapore Issues Asset-Freeze Regulations against Individuals from South Sudan

On 21 December 2015, the Monetary Authority of Singapore (the “**MAS**”) issued the MAS (Freezing of Assets of Persons – South Sudan) Regulations 2015 (the “**Singapore Regulations**”) which came into operation on 22 December 2015. The Singapore Regulations apply to all FIs in Singapore, and assist in giving effect to UN Resolution 2206 (2015). Amongst other sanctions, UN Resolution 2206 imposes asset freezing on individuals and entities designated as responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies that threaten the peace, security or stability of South Sudan.

Pursuant to the Singapore Regulations, any FI that, on or after 22 December 2015, has in its possession, custody or control in Singapore, any funds, other financial assets or economic resources owned or controlled, directly or indirectly, by a person designated under UN Resolution 2206 (2015) must immediately freeze them. The FI must also ensure that such funds, financial assets or economic resources are not made available, whether directly or indirectly, to or for the benefit of the designated person. Such funds, other financial assets or economic resources include those that are held by an entity owned or controlled, directly or indirectly, by any designated person or any individual or entity acting on behalf of, or under the direction of, any designated person.

Every FI is also under an obligation to immediately inform the MAS if it has possession, custody or control of any funds, financial assets or economic resources owned or controlled, directly or indirectly, by any designated person. FIs are also under an obligation to inform the MAS if it has information about any transaction or proposed transaction in respect of such funds, financial assets or economic resources.

FIs may credit to any frozen account interest or other earnings due on the account, or payments due under any contract, agreement or obligation that arose before 22 December 2015. However, such interest, earnings or payment must also be frozen.

4.3 MAS Issues Regulations Revoking Sanctions Against Former President of Liberia and Connected Persons

In May 2004, the MAS (Freezing of Assets of Former President of Liberia and Connected Persons) Regulations 2004 (the “2004 Regulations”) came into effect. The 2004 Regulations provided for the freezing of funds, financial assets and economic resources of the former president and connected persons held by FIs in Singapore pursuant to UNSC Resolution 1532 (2004). On 4 February 2016, the MAS issued the MAS (Freezing of Assets of Former President of Liberia and Connected Persons) (Revocation) Regulations 2016 revoking the 2004 Regulations with effect from 2 September 2015

4.4 Monetary Authority of Singapore Cancels Prohibitions on Transactions with Iranian Government, Central Bank and FIs

On 18 June 2012, the MAS issued a Notice to all Singapore FIs prohibiting the entry into, continued participation in, and arrangement or facilitation of, transactions with the Iranian Government, the Central Bank of Iran (including its branches and subsidiaries), Iranian FIs (including its branches and subsidiaries), as well as any person or entity owned or controlled by the abovementioned parties. This prohibition was cancelled by the MAS on 28 January 2016.

4.5 Singapore-Registered Shipping Company Ordered to Pay Fine of S\$80,000 for Facilitating Shipment of Arms to North Korea

It was reported on 29 January 2016 that a Singapore firm was fined over a North Korean arms shipment. Chinpo Shipping Company (Private) Ltd (“**Chinpo**”), a Singapore-registered shipping company, had on 8 July 2013, paid Panama shipping agent C B Fenton and Co US\$72,016.76 for the passage of a North Korean vessel through the Panama Canal. The North Korean vessel had been carrying six trailers associated with surface-to-air missile systems and 25 shipping containers loaded

with arms including two disassembled aircraft, 15 aircraft engines, components for surface-to-air missile systems and ammunition, which were hidden beneath 10,500 metric tons of sugar and en route to North Korea from Cuba.

Chinpo was found guilty of paying the sum which "may reasonably be used to contribute to the nuclear-related programmes or activities" of North Korea, and was fined S\$80,000 on the charge for transferring the money to C B Fenton and Co, in breach of Regulation 12(b) of the United Nations (Sanctions – Democratic People's Republic of Korea Regulations 2010 ("**DPRK Regulations**")), which is punishable under Section 5(1) of the United Nations Act ("**UN Act**"). At the time of the offence, Section 5(1) of the UN Act referred to a fine not exceeding S\$100,000 or to imprisonment for a term not exceeding 5 years or to both. The maximum penalty under Section 5(1) has since been updated to a fine not exceeding S\$500,000 or to imprisonment for a term not exceeding 10 years or to both.

Regulation 12(b) of the DPRK Regulations provides that no person in Singapore and no citizen of Singapore shall transfer financial assets or resources, or other assets or resources, that may reasonably be used to contribute to the nuclear-related, ballistic missile-related, or other weapons of mass-destruction related programmes or activities of North Korea.

Commerce

5. Updates to Personal Data Protection Act Regime

The Personal Data Protection Commission ("**PDPC**"), the organisation responsible for the enforcement of the Personal Data Protection Act ("**PDPA**"), has issued various advisory guidelines summarising the manner in which the PDPC will interpret provisions of the PDPA. To date, the guidelines released include the following:

- i. Advisory Guidelines on Key Concepts in the PDPA;
- ii. Advisory Guidelines on the PDPA for Selected Topics;
- iii. Advisory Guidelines on the Do Not Call Provisions;
- iv. Advisory Guidelines on Requiring Consent for Marketing Purposes; and
- v. Advisory Guidelines on Enforcement of Data Protection Provisions.

There have also been sector-specific Advisory Guidelines issued by the PDPC, in respect of the telecommunication, real estate, education, healthcare and social service sectors. General guides published by the PDPC also include the Guide to Securing Personal Data in Electronic Medium and a Guide to Managing Data Breaches.

On 21 April 2016, the PDPC also released details of several enforcement decisions relating to the breach of the personal data protection obligations under the PDPA. The penalties imposed ranged from warnings for failure to obtain consent or put in place reasonable security measures to prevent the disclosure of personal data, to the imposition of financial penalties against the organisations in breach.

The highest financial penalty imposed to date is against K Box Entertainment Group Pte. Ltd ("**K Box**"), a Singapore karaoke chain that suffered a data breach of approximately 317,000 members' sensitive personal data in 2014. K Box was fined S\$50,000 for breaching the protection and openness data protection obligations. The PDPC also enforced the PDPA against K Box's data intermediary for breaching the protection obligation, namely, the failure to put in place reasonable security measures to provide adequate protection. The data intermediary was also fined S\$10,000.