



# Asia Trade

## Update on Trade Agreements

### Malaysia and Korea to Conduct Bilateral FTA Feasibility Studies

Malaysia and the Republic of Korea ("ROK") have agreed to conduct separate studies to assess the feasibility of commencing free trade agreement ("FTA") negotiations. This is a follow-up to the decision made by leaders of both countries to explore means of further enhancing and strengthening bilateral trade and investment relations.

The objective of the study is to identify the implications of establishing an FTA between the two countries and assess the economic benefits and challenges that may arise. Based on the assessment, both countries shall develop concrete policy recommendations for the possible initiation of bilateral FTA negotiations.

The study will be conducted over a period of 12 months starting from May 1, 2011. It has been agreed that within 6 months from the start of the study, the two countries will hold a meeting to share information on the progress of study as well as to exchange intermediate outcomes.

ROK has been a major trading partner for Malaysia in recent years and was Malaysia's 13<sup>th</sup> largest trading partner in 2010. ROK's trade with Malaysia reached USD15.65 billion, an increase of 31.6 percent as compared to the same period last year.

Malaysia, together with its ASEAN partners, has established an FTA with the ROK. The ASEAN-Korea Framework Agreement on Comprehensive Economic Cooperation came into force on July 1, 2006. By January 1, 2010, Malaysia and Korea have eliminated import duties on 90 percent of their products.

### Philippines Not Likely to Participate in TPP in 2011

The Philippines will have to wait at least another year to be invited to the Trans-Pacific Partnership ("TPP") as the existing members will be using this round of talks to iron out their own issues.

In an interview on May 5, 2011, Trade and Industry Undersecretary A. Cristobal, Jr. said that while he remains optimistic the Philippines would eventually be invited to join the TPP talks, he admitted that it was unlikely such invitation would come this year. He further stated that it is difficult now to enter the talks, as existing member economies are already in advanced stages of negotiations. In the meantime, informal discussions with TPP member economies would continue to ensure that the Philippines would be invited in the future. As the Asia-Pacific Economic

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Conference (“APEC”) meetings will be held in May 2011, the Philippines will hold informal meetings with some of the members.

The Department of Trade and Industry (“DTI”) will also conduct discussions with various stakeholders, including members of the Senate and House of Representatives, the academe, and the private sector to apprise them about the benefits of TPP participation as well as the country’s readiness to meet the commitments under the agreement.

### **Philippines to Commence Bilateral Negotiations with the EU by 4<sup>th</sup> Quarter of 2011**

In an interview conducted on May 6, 2011, Trade and Industry Secretary G. Domingo said that the Philippines will be ready to conduct preliminary negotiations with the European Union (“EU”) on a bilateral free trade agreement (“FTA”) by the 4<sup>th</sup> quarter of 2011. At the last ASEAN Summit held in Jakarta, Secretary Domingo met with EU Trade Commissioner de Gucht where he was briefed on the consultations undertaken in the Philippines.

In the same interview, Secretary Domingo stated that the Department of Trade and Industry (“DTI”) has started public consultations on May 4, 2011 as part of efforts to make sure that everybody is agreeable to the projected negotiations with the EU. According to Secretary Domingo, consultations will be completed within 3 months. During this period, impact studies will be done by a government research institute, including dialogues with specific sectors. It is expected that the outcome of the consultations will help define the scope of the Philippine-EU bilateral FTA.

### **Preparations Underway for Vietnam-EU FTA**

Vietnam and the European Union (“EU”) are finally making preparations for the first round of negotiations on a free trade agreement (“FTA”) after years of delay.

On May 11, 2011, the Vietnam Chamber of Commerce and Industry and the Delegation of the European Union to Vietnam held a seminar “Scale up Vietnam-European Union (“EU”) Trade and Investment” in HCM City. At the seminar, Mr. Jean Jacques Boufflet, the EU’s Minister-Counsel in Vietnam, said that authorities of both parties are making preparations for the first round of negotiations on the FTA between EU and Vietnam.

Mr. Nguyen Canh Cuong, Deputy Director of the European market, attributes the delay in negotiations between Vietnam and the EU to the two countries’ different approaches to bilateral FTA. Mr. Cuong feels that the EU’s insistence on outlining the scope and depth of trade liberalization before starting negotiations is entirely new for Vietnam, adding that this approach may be too inflexible and time-consuming.



# REGULATORY DEVELOPMENTS IN ASIA

## China

### GAC and Guangdong Provincial Government Sign MOU to Jointly Establish Pilot Area of Processing Trade Transformation

On May 16, 2011, the General Administration of Customs ("GAC") and the Guangdong Provincial Government signed a Memorandum of Understanding ("MOU") for the joint establishment of a pilot area to achieve the transformation of processing trade model. This is in response to the requirement by the central government to speed up adjustment of China's economic structure and fulfill the commitment to the 2008-2020 Zhujiang Delta Area Development Plan.

Before the commencement of the signing ceremony, both parties held a bilateral discussion, during which officials from the Guangdong province pointed out that the evolution of the processing trade model is aligned with China's goal to further open up trade and the economy, constituting a crucial part of economic transformation. The MOU represents the needs of Guangdong province and is highly operational in practice. It is believed that the cooperation between the two parties will inject fresh energy into the development and reform of processing trade in Guangdong. The officials pledged that Guangdong will be fully dedicated to the project, taking measures to extend supply chain, increase domestic sales and cultivate a number of companies engaged in selling self-branded products instead of just undertaking simple processing and assembly.

According to the MOU, the GAC and the Guangdong Provincial Government will make efforts in the area of processing trade model innovation, domestic sales facilitation, extension of processing trade supply chain and encouragement of global outsourcing, etc. In particular, five major breakthroughs are expected to be achieved:

- i. Improvement of processing trade management – An electronic information sharing platform will be built, connecting the Ministry of Commerce, GAC and enterprises, guaranteeing free flow of information and efficient supervision.
- ii. Breakthrough in industry structure – New bonded business, like research, testing and repair, will be allowed in a number of bonded zones and outsourcing will be given special support.
- iii. Facilitation of domestic sales – The approach of collective customs declaration for domestic sales will be extended to enterprises outside the electronic supervision network.
- iv. Promotion of eco-friendly production – A set of measures will be put in place to provide incentives for the use of clean and renewable energy.
- v. Extension of processing trade supply chain – The procedures for outward processing between different customs regions will be simplified to help strengthen extended supply chain.



## Indonesia

### MOI Issues Regulation Regarding Government Recommendation for Importation of Used Capital Goods

The Indonesian Ministry of Industry ("MOI") issued regulation No. 25/M-IND/PER/2/2011 ("MOI-25"), introducing the rules and mechanism for granting government recommendation for importation of used capital goods.

The regulation provides a reference for the private sector to understand the common procedures used by the MOI in determining the recommendations required for the importation of used goods, particularly for capital goods in line with MOI-25 and other Government regulations.

Importation of used capital goods are allowed for the following companies as stated in MOI-25:

- i. Reconditioning or remanufacturing companies in line with Ministry of Trade regulation No. 58/M-DAG/PER/12/2010 ("MOT-58"), especially for goods not from HS 8901, 8902, 8903, 8904 and 8905;
- ii. Direct users of transportation companies and/or other maritime companies that import used capital goods of HS 8901, 8902, 8903, 8904 and 8905, which are of 20 years of age as specified by MOT-58; and
- iii. Other direct users not in line with MOT-58 for the following purposes:
  - Export development;
  - Investment;
  - Industrial relocation;
  - Infrastructure development; or
  - For export.

The companies shall receive recommendations issued by the MOI prior to importing the used capital goods. The MOI, through the Director General of Industrial Development, an institution responsible for issuing the said recommendation, will take into consideration the following in making the recommendations:

- i. The abilities of the reconditioning or remanufacturing companies as well as the abilities of domestic companies in fulfilling the market demand for similar goods;
- ii. After sales services; and
- iii. Result of survey report.

The surveyors conducting inspections for recommendation purposes are independent and hold permit license as surveyor service providers. They are also members of the International Federation of Inspection Agency ("IFIA").



The regulation is effective from March 2, 2011 until December 31, 2011.

## Japan

### Japan's AEO Mutual Recognition with the EU and Korea Going Forward

On June 24, 2010, the Ministry of Finance ("MOF") in Japan announced that Japan and the EU signed the decision establishing mutual recognition of Approved Economic Operators ("AEOs") between the EU and Japan. The mutual recognition offers enhanced trade facilitation opportunities to certified AEO traders who have invested in securing their supply chains. On May 10, 2011, Japanese Customs announced on their web site that Japan-EU AEO mutual recognition will be implemented in customs operations starting from May 24, 2011. AEO traders in Japan will be treated as a good compliance trader in the EU by presenting JPN-EU mutual recognition code to their EU trade counterparts. The benefits include fast-track of goods through a "green lane" for customs clearance. Likewise, in order for EU traders to have mutual recognition benefits in Japan, the Japanese AEO trader should request the JPN-EU mutual recognition code from EU partners, and input the code into Japan's online customs declaration system "NACCS" in each customs declaration. The code is 12-digit number designated to each AEO certified trader.

In addition, on May 20, 2011, Japan MOF announced in their press release that Japan and Korea signed mutual recognition of AEOs. Traders both in Japan and Korea will be treated favorably, less inspected, and prioritized by the customs authority of the other country. 370 companies are registered as AEO operators in Japan, such as Toyota and Nippon Express, while Korea has 141 companies, according to a major news agency. The MOF expects trade between Japan and Korea to increase in the steel and semiconductor industries.

Japan has already established AEO mutual recognition with New Zealand and the US, while signing agreements with EU and Canada. Feasibility studies are underway with Singapore, China and Malaysia. Traders who have AEO status and operate in global supply chain are expected to benefit more with the increase in mutual recognition programs.

## Philippines

### Further Delays in Issuance of EO for Five-year MFN Tariff Schedule

Trade and Industry Secretary G. Domingo said on May 5, 2011 that the issuance of a five-year MFN tariff structure would be delayed again. The next window for the signing of the Executive Order ("EO") would be during the congressional recess from June 10, 2011 to July 24, 2011.

During the NEDA Cabinet Committee Meeting on Tariffs and Related Matters ("TRM") on May 4, 2011, Secretary Domingo requested the TRM Technical Committee to review the Technical Committee's proposal to increase the tariffs to 10 percent -15 percent on certain items which were supposed to be reduced to one percent - five percent under the new tariff schedule. The Technical Committee's recommendation was in consideration of some local manufacturers whose operations may be affected by influx of cheap, if not smuggled competing imported goods.



As Secretary Domingo's concern was higher tariffs could only encourage more smuggling activities, the issue would be further studied.

## Vietnam

### Prime Minister Introduces Customs Development Strategy by 2020

On March 25, 2011, Prime Minister Nguyen Tan Dung signed Decision No. 448/QĐ-TTĐ to approve the Customs Development Strategy by 2020.

The strategy focuses on the following overall goals:

- Build a modernized Vietnam customs administration, on the basis of IT applications and central data processing, with complete and transparent mechanisms and policies as well as simple and harmonized customs procedures, meeting international standards.
- Build a Customs workforce with professional and expert qualifications, using modern technology and effective operations, contributing to the facilitation of legitimate commercial activities, tourism development, foreign investment attraction, national security, social security, protection of state interests, legal rights and obligations of organizations and individuals.

Some of the specific targets and implementation schedules are as follows:

- E-customs procedures: By 2015, 100 percent for Customs departments, 100 percent for Customs sub-departments in key areas (seaports, airports, international border gate and key economic zones), 60 percent for basic customs forms, 70 percent for export turnover, 60 percent of enterprises to implement e-customs procedures. By 2020, 100 percent for Customs departments, 100 percent for Customs sub-departments, 100 percent for basic customs forms, 90 percent for export turnover, 80 percent of enterprises to implement e-customs procedures.
- Percentage of actual inspection of goods: The target is below 10 percent and below 7 percent by 2015 and 2020 respectively. The rate of import and export permits through national customs OSS mechanism shall be 50 percent in 2015 and 90 percent in 2020. Centralization of electronic data processed in the customs clearance system shall be done by 2015.

In order to implement the customs development strategy mentioned above, the Prime Minister will, over a period of time, complete the following tasks: building institutions, expanding customs business, improving tax management, customs examination, organizational structure, human resources, facilities, equipment and technology, information technology and customs statistics.



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