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CHINA TAX ALERT

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China Ratifies WTO's Trade Facilitation Agreement

Regulation discussed in this issue:

- Trade Facilitation Agreement of World Trade Organization

On 4 September 2015, China submitted its formal acceptance letter to the World Trade Organization (WTO) – indicating China's ratification of the protocol of the Trade Facilitation Agreement ("TFA" or "the Agreement") -- and became the 16th member accepting this specific protocol. The TFA aims at facilitating the international trade, lowering trade cost and promoting the increase of world trade volume and the global economic growth. The TFA will enter into force once two-thirds of the WTO members complete their ratification process.

Background

Trade facilitation issues were initially placed on the agenda of WTO at the Singapore Ministerial Conference early in 1996. In October 2004, a specific negotiation team was established and negotiations begun. On the basis of various proposals raised from WTO members, the draft version of the TFA protocol was released in December 2009. On December 7, 2013, at the Bali Ministerial Conference, it was decided to complete negotiations on the protocol. In November 2014, the WTO General Council formally passed the protocol on the TFA and included the protocol in attachment 1A of the WTO Agreement, which endowed the TFA legal effectiveness as a multilateral agreement on goods trade.

Main content of the TFA

Per the protocol, members should improve the facilitation of trade from the following aspects:

1. Publication and availability of relevant information regarding import and export
2. Opportunity to comment, exposure to the information and consultations on various import and export regulations before their entry into force
3. Advance rulings of the good's tariff classification and the country of origin, etc.
4. Procedures of application of an administrative appeal and/or corresponding review
5. Other measures to enhance impartiality, non-discrimination and transparency

6. Regulations on fees and charges in connection with the importation and exportation
7. Release and clearance of goods, including:
   - pre-arrival processing
   - electronic payment
   - segregation between customs clearance and the corresponding import tax collection
   - risk management system
   - post-clearance audit
   - establishment and publication of average release time
   - trade facilitation measures for authorised operators
   - expedited shipments
   - release for perishable goods as early as possible.
8. Border agency cooperation
9. Movement of goods intended for import under customs' supervision
10. Formalities in connection with importation, exportation and transit, including:
    - rapid release and clearance of goods
    - acceptance of paper or electronic copies of supporting documents from the import of records
    - use of international standards as a basis for the formality and procedure of import , export, or transit
    - establishment of single taxpayer-facing window handling relevant matters
    - no mandatory requirements for pre-shipment inspections in relation to tariff classification and customs valuation
    - no mandatory use of customs brokers
    - common border procedures and uniform documentation requirements for all members within their territories;
    - allowance for importer to re-consign or return rejected good
    - entire or partial exemption on import duties on goods for temporary admission, and for inward and outward processing.
11. Freedom of cross-border transit
12. Customs cooperation.

As promised by the Chinese government, except for some special measures – the determination and publication of the average release period, the establishment of a single window, re-importation of processing goods and customs cooperation, which are to be enforced after the grant of a buffer period – all other measures will become effective immediately upon the conclusion of the TFA.

Positive Impact of the TFA

As the first multilateral trade agreement concluded by the WTO since its establishment approximately 20 years ago, the TFA is an important milestone since the launch of the Doha Round Negotiations and has far-reaching influence on the world's economy. According to estimates by international organisations, the effective implementation of the Agreement will reduce trade costs of developed countries by approximately 10% and those of developing countries by approximately 13% to 15.5%. The implementation of the TFA could also enable the increase of export of developing countries by up to 9.9% each year (USD 569 billion in amount), and increase exports of developed countries by 4.5% (USD 475 billion in amount). This could ultimately lead to an increase of the global GDP of USD 960 billion and the creation of additional of 21 million jobs.

With regard to China, the implementation of the TFA will accelerate the procedure of goods' release and flow, improve trade efficiency, and reduce trade costs. It will also play a very positive role in raising the level of trade facilitation, improving the trade facilitation environment of major exporter members, reducing the import and export barriers of Chinese products, and creating a convenient customs environment, thereby pushing forward robust development of Chinese foreign trade.

KPMG Observation

Import and export entities should pay close attention to the effectiveness of the TFA. Import and export entities are encouraged to provide suggestions/recommendations to customs authorities on the potential conversion of the TFA clauses into China's domestic customs regulations and prepare for the conversion in order to maximise the benefits to be obtained from the TFA.

KPMG's Trade and Customs team has extensive knowledge and experience on various global and China customs affairs and could assist enterprises in aspects like the involvement in providing suggestions to the domestic customs regulations as well as the application for trade facilitation treatment under the TFA.

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