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Tax Analysis

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PRC Tax

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China-Peru Free Trade Agreement enters into force

The China-Peru Free Trade Agreement (CPFTA), which was signed on 28 April 2009 and entered into force on 1 March 2010, is China's first comprehensive free trade agreement (FTA) with a Latin American country. The CPFTA covers trade in goods, services, investment, intellectual property, etc. The following discussion will mainly focus on the measures relating to trade in goods.

Tariff elimination schedule

Trade in goods between China and Peru will benefit from a tariff elimination schedule per the following four categories:

- Category I (accounting for 61.19% and 62.71% of the total tariff codes, respectively, in China and Peru): goods in this category are duty free as from 2010;
- Category II (accounting for 11.70% and 12.94% of the total tariff codes, respectively, in China and Peru): tariffs on goods in this category will be eliminated within five years from the entry into force of the CPFTA;
- Category III (accounting for 20.68% and 14.35% of the total tariff codes, respectively, in China and Peru): goods under this category will enjoy a zero duty rate within 10 years from the entry into force of the CPFTA;
- Category IV (accounting for 0.99% and 1.95% of the total tariff codes, respectively, in China and Peru): tariffs on goods in this category will be eliminated within eight, 12, 15, 16 and 17 years from the entry into force of the CPFTA.

China's light industry, electronics, household appliances, machinery, automobile, chemical, and fruits and vegetables will benefit from the tariff elimination measures, as will Peru's fish meal, minerals, fruits, fish and other products.

Certain goods are excluded from the tariff elimination schedule, such as lithium chloride, methanol, certain engines, color satellite TV receiver products imported into China and some textiles, plastics and chemical fiber products imported into Peru. These products account for 5.44% and 8.05% of the total tariff codes of China and Peru, respectively.

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Origin requirements

Under the CPFTA, products will be eligible for preferential tariff treatment if they are:

- Wholly obtained or produced within the territory of one or both parties; or
- Produced in the territory of one or both parties exclusively with materials originating from China or Peru; or
- If produced with non-originating materials, the products conform to the Product Specific Rules of Origin specified in the CPFTA:

  a. Regional Value Content Rule, i.e. where the value added in the manufacturing country of the finished goods (China or Peru) exceeds a certain ratio of the FOB export value (the ratio is 40%-50% depending on the goods) ;

  b. Change in Tariff Classification, i.e. the non-originating materials used in the production of the goods undergo a change in tariff classification as specified in the CPFTA as a result of production processes carried out in China or Peru.

According to the CPFTA, for originating goods to maintain their originating status, the goods must be transported directly between China and Peru. The following will be considered direct transportation for these purposes:

- Goods that are transported without passing through the territory of a non-party;
- Goods whose transport involves transit through one or more non-parties jurisdictions, with or without trans-shipment or temporary storage of up to three months in such jurisdictions, provided

  a. The goods do not enter into trade or commerce in that non-party jurisdiction; and

  b. The goods do not undergo any operation in that jurisdiction other than unloading and reloading, repacking or any operation required to keep them in good condition.

Simplified Customs procedures

In parallel with the tariff concessions under the CPFTA, Peru and China have also agreed to simplify their Customs procedures to facilitate trade in goods. The key commitments include:

- *Advance rulings:* Application can be made for an advance ruling on the eligibility of goods for preferential treatment under the CPFTA, which should provide companies with more certainty on the status of their goods at the country of import. The provision will enter into effect three years after the CPFTA enters into force;
- *Use of automated systems in the paperless trading environment:* China and Peru Customs will apply information technology to support customs operations in a cost-effective and efficient manner, including the submission and processing of information and data before arrival of the shipment, as well as electronic or automated systems for risk management and targeting.

- *Risk management:* China and Peru Customs have agreed to facilitate the clearance of low-risk consignments. No details have yet been announced as to what constitutes a "low-risk consignment."

- *Release of goods :* China and Peru Customs have committed to expedite the clearance and release of goods generally within 48 hours after their arrival. This provision will enter into effect one year after the CPFTA enters into force.

Comments and recommendations

After the implementation of the CPFTA, more than 90% of the goods from China and Peru will gradually enjoy zero tariffs, thus benefitting both importers and exporters of the two countries. In addition to the tariff concessions, the CPFTA promises faster import/export clearances through Customs controls in both China and Peru.

The CPFTA is China's eighth FTA; the other seven agreements already in force are the Closer Economic Partnership Arrangement between the Mainland and Hong Kong and Macao; and FTAs with ASEAN, Chile, Pakistan, New Zealand and Singapore. China has concluded FTA negotiations with Costa Rica and is in negotiations with Australia, the Gulf Cooperation Council (including the member states of Saudi Arabia, Kuwait, UAE, Oman, Qatar and Bahrain), Iceland and Norway.

Enterprises should ensure they remain current on the status of FTA negotiations to effectively structure their supply chain (production, sales and purchase) and to take full advantage of the preferential duty treatment under the agreements.

How Can We Help

Our Indirect Tax Services Group has extensive experience in maximizing opportunities under FTAs. Specifically, we can assist companies to:

- Determine the correct Harmonized System (HS) codes of goods to be exported;

- Determine which HS codes fall within the Tariff Elimination Schedules;

- Determine whether exported goods satisfy the appropriate Rules of Origin to determine whether preferential tariffs can be enjoyed;

- If preferential tariffs are not available, identify what steps can be taken to enable the goods to be exported to qualify for preferential duty treatment;

- Obtain advance rulings from Customs that the products to be exported meet the qualifying criteria for preferential treatment;

- Obtain certified Preferential Tariff Certificates of Origin from the appropriate approval authorities; and

- Defend any challenges by the Customs authorities as to eligibility to claim preferential duty treatment.

For more information, or to discuss how Deloitte can assist your business, please feel free to contact our Indirect Tax professional team.

Tax Analysis is published for the clients and professionals of the Hong Kong and Chinese Mainland offices of Deloitte Touche Tohmatsu. The contents are of a general nature only. Readers are advised to consult their tax advisors before acting on any information contained in this newsletter. For more information or advice on the above subject or analysis of other tax issues, please contact:

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About the Deloitte China National Tax Technical Centre

The Deloitte China National Tax Technical Centre (“NTC”) was established in 2006 to continuously improve the quality of Deloitte China’s tax services, to better serve the clients, and to help Deloitte China’s tax team excel. The Deloitte China NTC prepares and publishes “Tax Analysis”, “Tax News”, etc. These publications include introduction and commentaries on newly issued tax legislations, regulations and circulars from technical perspectives. The Deloitte China NTC also conducts research studies and analysis and provides professional opinions on ambiguous and complex issues. For more information, please contact:

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