

eBook on East Asia Customs Procedures

The People's Republic of China



eBook on East Asia Customs Procedures

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eBook on East Asia Customs Procedures

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MESSAGE FROM CHAIRMAN

Blessed with geographical proximity, cultural affinity, close business ties and natural advantages for trade and economic cooperation, East Asia is one of the regions in the world with the most potential and development prospects. Since its establishment in 2004, East Asia Business Council (EABC) has always held the belief that cross-border trade, investment liberalization and facilitation are the prerequisites and foundations for East Asian countries to



promote industrial advancement, reduce unemployment and improve the quality of economic development. EABC has long been devoting to reducing trade and investment barriers and facilitating enterprises to carry out cross-border trade and investment.

In 2018, EABC agreed to compile eBook on East Asia Customs Procedures and listed it as a top priority in the Council's annual work in 2019. Today, the eBook is officially launched, with the expectation to strengthen regional economic and trade information sharing and further improve trade facilitation and connectivity among East Asian countries.

The eBook on East Asia Customs Procedures covers the guides of Customs procedures in 13 countries in East Asia, with 24 major items related to the Customs clearance of goods such as legal system, clearance procedures,

prohibitions and restrictions, duty collection (including classification, valuation, rules of origin), trade statistics, violations and sanctions, FTAs, AEOs and etc. The eBook is published electronically in English, providing companies with practical reference for international trade.

I believe that the eBook will help enterprises in the region, especially small and medium-sized enterprises, improve their capabilities in business management, investment and financing, and international market development. We hope that enterprises will take full advantage of the eBook to actively explore the regional market and achieve development goals.

Lu Pengqi
EABC Chairman 2019

ACKNOWLEDGEMENTS

Heartfelt gratitude and sincere respects should be addressed to China Committee, East Asia Business Council (in short EABC China, also China Council for the Promotion of International Trade - CCPIT), to organize, support and sponsor the edition and publication of the eBook on East Asia Customs Procedures to provide manufactures, trader and related service-providers with comprehensive information and elaborate references on Customs procedures in 10 ASEAN member countries and China, Japan and the Republic of Korea, which is a unique, innovative and significant contribution to regional and even international trade community.

Cordial appreciations should be extended to the Trilateral Cooperation Secretariat (TCS) for supporting and partially sponsoring the eBook of China, Japan and the Republic of Korea and CCPIT Guangxi Sub-council for supporting the project.

Dedicated gratitude should also be expressed to all members of the editing team, proofreading team, project team for their arduous and continuous efforts during the process.

EDITOR'S STATEMENT

Customs procedures in almost every country are usually very professional, diverse, technical, abstruse, ambiguous, and even trapped for cross-border manufactures, traders and related service-providers, sometimes even cause significant invisible “barriers” to trade. Thus all the stakeholders imminently need information, materials and references as comprehensive, elaborate and concrete as possible in different countries to enhance the effectiveness and efficiency of cross-border trade.

This eBook on East Asia Customs Procedures aiming to provide a general picture involves in almost all aspects of Customs procedures in 10 ASEAN member countries and China, Japan and the Republic of Korea. For each eBook, a framework of 24 parts of contents is basically followed with certain flexibility of adjustments according to specific situation of each individual country.

It is not an easy task to edit this panorama-type of eBook and during the process the editors are facing significant challenges including English language proficiency, professional competence and most importantly very limited information and materials in English for references.

The contents of each eBook are based on current publicly available information and materials in English, mainly contained in the publications and on the websites of related Customs administrations, government departments and agencies, international organizations and private professional institutions. The editors believe the selection and use of publicly available information will not affect the interests of the above-mentioned organizations and sincerely appreciate those organizations having their information and publications publicly available.

During the editing process, the biggest and greatest challenge is the lack of information and materials in English, which are very limited in almost all countries and even very deficient, very scarce in some countries. Therefore some citations from the official websites and excerpts from legal documents do exist in the eBook.

As a first remarkable pilot project in the fields, this eBook on East Asia Customs Procedures are not perfect and flawless and we are satisfied with the qualities of the majority and will keep on improving the rest.

ABBREVIATIONS

| | |
|-------|---|
| ACE | Advanced Certified Enterprise |
| AEO | Authorized Economic Operators |
| AJI | AEO Joint Incentive |
| APEC | Asia and Pacific Economic Cooperation |
| APTA | Asia Pacific Trade Agreement |
| ASEAN | Association of Southeast Asian Nations |
| ATA | A Combination of the Initial Letters of the French Words “Admission Temporaire” and the English Words “Temporary Admission” |
| CBZ | Comprehensive Bonded Zone |
| CCC | China Compulsory Certification |
| CCCN | Customs Cooperation Committee Nomenclature |
| CEPA | Closer Economic Partnership Arrangement |
| CIQ | China Inspection and Quarantine |
| CITES | Convention on International Trade in Endangered Species |
| CMAA | Customs Mutual Assistance Agreement |
| CNCA | China National Committee of Certification and Accreditation |
| ECFA | Economic Cooperation Framework Agreement |
| EU | European Union |
| FTA | Free Trade Agreement |
| GACC | General Administration of Customs of China |
| GATT | General Agreement on Tariff and Trade |
| GCE | General Certified Enterprise |

| | |
|-------|--|
| HS | Harmonized Commodity Description and Coding System |
| IMECM | Interim Measures for Enterprise Credit Management |
| ITA | Information Technology Agreement |
| LDC | Least Developed Country |
| MECM | Measures for Enterprise Credit Management |
| MFN | Most Favored Nations |
| NDRC | National Development and Reform Commission |
| PCA | Post-clearance Audit |
| PFTZ | Pilot Free Trade Zone |
| SAR | Special Administrative Region |
| SCSZ | Special Customs Supervision Zone |
| SMEs | Small and Medium Enterprises |
| SSM | Special Safeguard Mechanism |
| TFA | Trade Facilitation Agreement |
| VAT | Value-added Tax |
| WCO | World Customs Organization |
| WTO | World Trade Organization |

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The People's Republic of China

1. INTRODUCTION OF CHINA CUSTOMS

As the whole nation's economic gate, China Customs is a rapidly reforming and technology-driven administrative agency that responsible for not only trade facilitation and supervision, duty collection, anti-smuggling and trade statistics, but also port management, bonded business, Customs PCA, Customs IPR protection, and international Customs cooperation and so on.

1.1 Missions & Guidelines

China Customs' missions are:

- safeguarding the border;
- providing quality service;
- preventing potential risks;
- building a qualified workforce.

Its work guidelines are:

- exercising law-based administration;
- serving the economic interests;
- promoting social development.

Its workforce building principles to ensure that Customs officers are:

- politically committed;
- professionally qualified;
- fully accountable.

China Customs' spirit is loyal, impartial, revitalizing Customs and rejuvenating China. Its core values are patriotism, virtue, integrity, innovation and dedication.

1.2 Organization

The organization of China Customs is structured by the General Administration of Customs of China (GACC), the regional Customs, and subordinate Customs under the regional Customs. GACC, the General Administration of Customs of China, which is a ministerial-level government agency that directly reports to the State Council, is the headquarters of China Customs and manages all the Customs administrations nationwide.

After the institutional restructuring of China Customs and China Inspection and Quarantine (CIQ) in 2018, China Customs has absorbed the responsibility and staffs of the CIQ. Now, under the leadership of the GACC, the sub-level system of GACC is consisting of 1 sub-administration in Guangdong, 2 supervising office in Shanghai and Tianjin, 21 internal departments, 11 directly subordinated institutions and 45 regional Customs. China Customs also established 3 overseas representative offices in the EU, the Russian Federation and the United States of America, and 1 liaison office of the central government in the Hong Kong SAR. It should be noted that China Customs is not a law enforcement agency for Customs affairs in Hong Kong SAR, Macau SRA and Taiwan province of China.

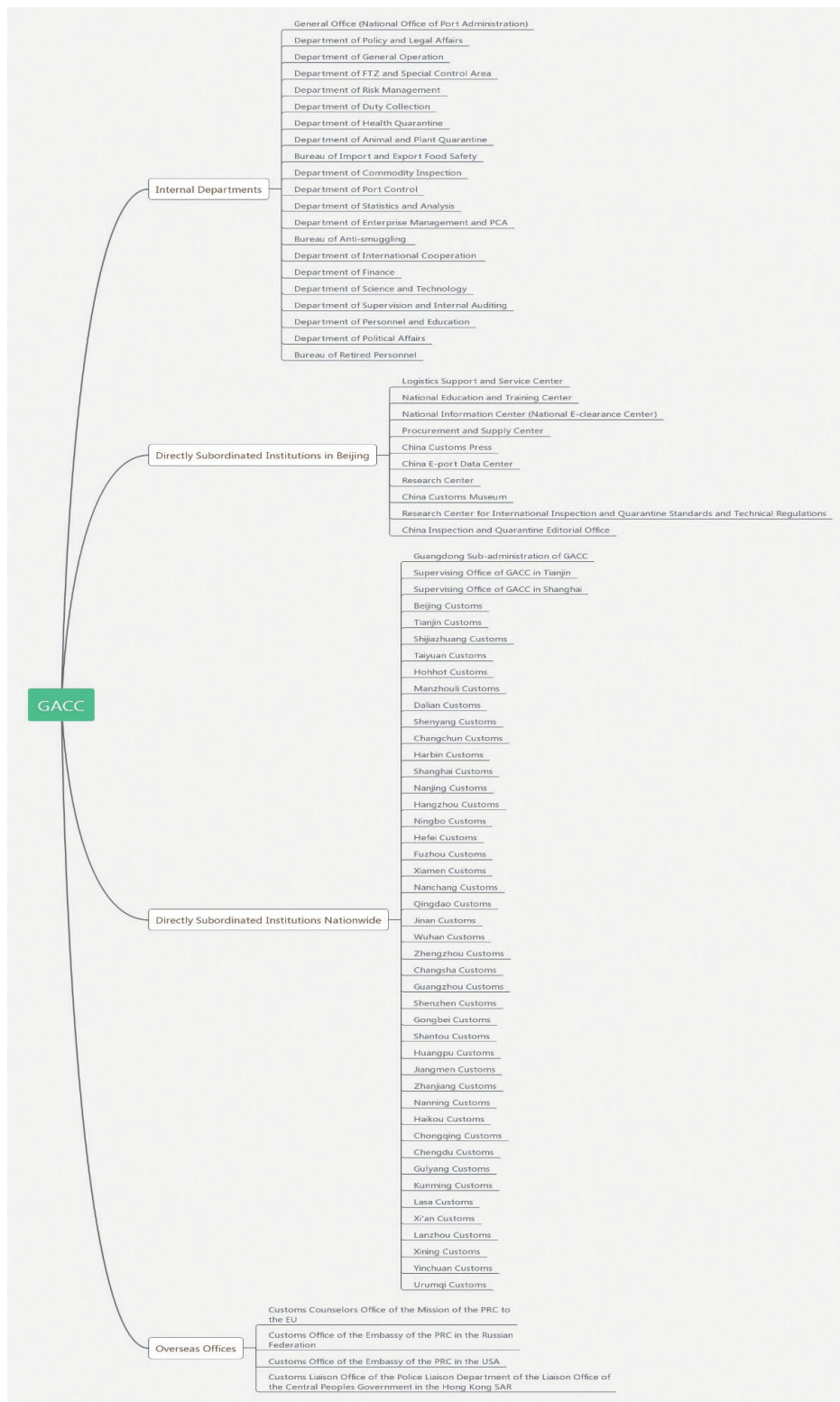
As the main local branch of China Customs, there are 46 regional Customs in China which is characterized by "Customs directly under the GACC" and their jurisdictions are not classified according to China's provincial jurisdiction. For example, 7 regional Customs are located in Guangdong Province and they are specifically organized by the sub-administration of GACC in Guangdong to coordinate their responsibilities. In 2019, there are 678 subordinate Customs under the regional Customs.

In the future, China Customs will continue to improve control and revenue collection, crack down on smuggling. Cooperation with Customs administrations of countries along "the Belt and Road" will be strengthened and support domestic enterprises "going global". Innovative regulatory measures for the

pilot free trade zones will be promoted on a larger scale and new measures to support newly established pilot free trade zones will be rolled out. China Customs will continue to upgrade Customs special control areas and push forward regulatory reforms on processing trade and bonded operations. Clearance efficiency will be further raised and time needed for the release of goods will be cut by one-third. China Customs aims to achieve nation-wide integrated clearance, push forward coordinated control at ports, promote the nation-wide adoption of a standard version of "Single Window" for international trade, and ensure full coverage of random inspection and public release oversight model.

In 2019, China Customs has a total staff force of more than 100,000 including Customs Anti-smuggling Police.

Figure 1 Organizational Structure of China Customs



Source: www.customs.gov.cn

2. CUSTOMS LEGAL SYSTEM

The characteristics of the Customs related legal regime can be traced back to political and historical factors which occurred in China's history leading, up to now, to a division of three main periods. The first period covers the time between the founding of the PRC until 1979; this date also functions as the starting date of the second period of reform and opening up until 2001 when China entered the WTO. As such the WTO entrance date marks the start of the third period.

2.1 Customs Law

After the founding of the PRC, the first Customs Law of New China was enacted in 1951. The current Customs Law of China was completely reworked and enacted in 1987 firstly and wholly amended in the year of 2000. Being amended several times, the newest amendment of the Customs Law has taken effective as of 2017.

Divided into 9 Chapters and 102 Articles, this Law provides not only the regulatory details on the imposition and collection of Customs, but also the matters concerning the overall Customs administrative details, such as the taxpayer's right, bonded areas, clearance procedures, and punishment of Customs criminals, etc. The Customs Law is very likely to be revised in the near future.

The titles of the Chapters of Customs Law are as follows:

- | | |
|----------------|---------------------------------------|
| - Chapter I | General Provisions |
| - Chapter II | Inward and Outward Means of Transport |
| - Chapter III | Inward and Outward Goods |
| - Chapter IV | Inward and Outward Articles |
| - Chapter V | Customs Duties |
| - Chapter VI | Customs Security |
| - Chapter VII | Enforcement Supervision |
| - Chapter VIII | Legal Responsibilities |
| - Chapter IX | Supplementary Provisions |

Please click [here](#) for more details of the Customs Law of China in English.

2.2 Related Laws

The following are the laws and regulations related to cargo clearance for reference.

2.2.1 Foreign Trade Law

With a booming economy, the current Foreign Trade Law took effective as of 1994, when China was still negotiating its way to get into the predecessor of the WTO, the GATT. In 2004, China enacted the new Foreign Trade Law which had been effective as of July 1, 2004 after the foundation of the Ministry of Commerce. With its 70 Articles and 11 Chapters the new Foreign Trade Law is 26 Articles and 3 Chapters larger than its 1994 version. The newest version was revised on November 7, 2016.

The titles of the Chapters of Foreign Trade Law are as follows:

- | | |
|----------------|--|
| - Chapter I | General Provisions |
| - Chapter II | Foreign Trade Dealers |
| - Chapter III | Import and Export of Goods and Technologies |
| - Chapter IV | International Trade in Services |
| - Chapter V | Protection of Trade-Related Intellectual Property Rights |
| - Chapter VI | Foreign Trade Order |
| - Chapter VII | Foreign Trade Investigation |
| - Chapter VIII | Foreign Trade Remedies |
| - Chapter IX | Foreign Trade Promotion |
| - Chapter X | Legal Liabilities |
| - Chapter XI | Supplementary Provisions |

The revision of the Foreign Trade Law lives up to its main aim of implementing China's WTO commitments and promotes the healthy development of foreign trade according to WTO rules. As such the Foreign Trade Law, which is general legislation, provides a good and rather complete framework. However, the State Council and the administrative agencies must promulgate implementing rules and regulations.

Please click [here](#) for more details of the Foreign Trade Law of China in English.

2.2.2 Tonnage Tax Law

The newest amendment of the Tonnage Tax Law took effect as of 2018. Divided into 22 Articles, this Law has provided that the tonnage tax is collected by China Customs.

Please click [here](#) (only in Chinese) for more details of the Tonnage Tax Law of China.

2.2.3 Import and Export Commodity Inspection Law

As the Import and Export Commodity Inspection Law had been effective as of February 1989, the newest amendment of this Law took effect at the end of 2018. Divided into 6 Chapters and 41 Articles, this Law has become an important basis for China Customs after the integrated reform with CIQ.

The titles of the Chapters of Import and Export Commodity Inspection Law are as follows:

- Chapter I General Provisions
- Chapter II Inspection for Import Commodity
- Chapter III Inspection for Export Commodity
- Chapter IV Supervision and Management
- Chapter V Legal Liabilities
- Chapter VI Supplementary Provisions

The core content of the Law is the establishment of a statutory inspection system for commodities. According to the Law, the import and export goods covered by the list of statutory inspection must be filed to China Customs (the commodity inspection authority) for commodity inspection to finish the clearance procedures.

Please click [here](#) (only in Chinese) for more details of the Import and Export Commodity Inspection Law of China.

2.2.4 Frontier Health and Quarantine Law

The Frontier Health and Quarantine Law is also one of the fundamental laws of CIQ before. The newest amendment of this Law took effect at the end of 2018. Divided into 6 Chapters and 27 Articles, this Law has become an important basis for China Customs after the integrated reform with CIQ.

The titles of the Chapters of Frontier Health and Quarantine Law are as follows:

- Chapter I General Provisions
- Chapter II Quarantine
- Chapter III Infectious Disease Surveillance
- Chapter IV Health Supervision
- Chapter V Legal Liabilities
- Chapter VI Supplementary Provisions

Please click [here](#) (only in Chinese) for more details of the Frontier Health and Quarantine Law of China.

2.2.5 Inward and Outward Animal and Plant Quarantine Law

The Inward and Outward Animal and Plant Quarantine Law is also one of the fundamental laws of CIQ before. The newest amendment of this Law took effect in 2009. Divided into 8 Chapters and 50 Articles, this Law became an important basis for China Customs after the integrated reform with CIQ.

The titles of the Chapters of Inward and Outward Animal and Plant Quarantine Law are as follows:

- Chapter I General Provisions
- Chapter II Inward Quarantine
- Chapter III Outward Quarantine
- Chapter IV Transit Quarantine
- Chapter V Quarantine for Carrying and Mailing Articles
- Chapter VI Quarantine for Transportation Means
- Chapter VII Legal Liabilities

- Chapter VIII Supplementary Provisions

Please click [here](#) (only in Chinese) for more details of the Inward and Outward Animal and Plant Quarantine Law of China.

2.2.6 Law on Prevention and Control of Environmental Pollution by Solid Waste

The Law on Prevention and Control of Environmental Pollution by Solid Waste is one of the most important environmental laws. The newest amendment of this Law took effect in 2005. Divided into 6 Chapters and 91 Articles, the titles of the Chapters of Law on Prevention and Control of Environmental Pollution by Solid Waste are as follows:

- Chapter I General Provisions
- Chapter II Supervision and Management
- Chapter III Prevention
 - Section 1 General Provisions
 - Section 2 Industrial Solid Waste
 - Section 3 Domestic Waste
- Chapter IV Special Provisions on Hazardous Wastes
- Chapter V Legal Liabilities
- Chapter VI Supplementary Provisions

Please click [here](#) (only in Chinese) for more details of the Law on Prevention and Control of Environmental Pollution by Solid Waste.

2.2.7 Food Safety Law

For the purpose of restructuring of China Customs and CIQ in 2018, China revised the [Food Safety Law](#) (only in Chinese) so that this Law became one of the important bases for China Customs to perform its functions. The Food Safety Law has imposed broader and stricter controls on food production and management including the importation and it contains 10 Chapters with 154 articles. It is noted that 50 new articles were added to the version in 2015.

The titles of the Chapters of Food Safety Law are as follows:

- Chapter I General Provisions
- Chapter II Food Safety Risk Monitoring and Evaluation
- Chapter III Food Safety Standards
- Chapter IV Food Production and Management
 - Section 1 General Provisions
 - Section 2 Production and Operation Process Control
 - Section 3 Labels, Brochures and Advertisements
 - Section 4 Special Foods
- Chapter V Food Inspection
- Chapter VI Food Import and Export
- Chapter VII Disposal of Food Safety Accidents
- Chapter VIII Supervision and Management
- Chapter IX Legal Liability
- Chapter X Supplementary Provisions

2.2.8 Laws related to IPR Customs Protection

The [Trademark Law](#), the [Copyright Law](#), and the [Patent Law](#) of China are basic laws related to IPR Customs Protection. Please click the link for more details.

2.3 Customs Regulations

In recent years, China Customs further strengthened its legal system by pushing forward the legislation of Customs, establishing a long-term mechanism in reviewing and sorting out Customs regulations. The following are the main regulations related to China Customs:

- Import and Export Tariff Regulations (revised in 2017);
- Customs Audit Regulations (revised in 2016);
- Regulations on Customs Guarantee (revised in 2018);

- Customs Statistics Regulations (enacted in 2005);
- Regulations on Intellectual Property Customs Protection (revised in 2018);
- Regulations on Customs Administrative Penalties (enacted in 2004);
- Implementation Rules of the Frontier Health and Quarantine (revised in 2019);
- Implementation Regulations on Import and Export Commodity Inspection (revised in 2019);
- Implementation Regulations on Entry and Exit Animal and Plant Quarantine (enacted in 1996);
- Regulations on Technology Import and Export (enacted in 2001);
- Regulations on the Administration of Import and Export of Goods (enacted in 2002);
- Regulations on Safeguards (revised in 2004);
- Anti-dumping Regulations (revised in 2004);
- Anti-Subsidy Regulation (revised in 2004);
- Regulations on the Export Control of Biological Dual-Use Products and Related Equipment and Technologies (enacted in 2002);
- Regulations on Export Control of Nuclear Dual-Use Products and Related Technologies (revised in 2007);
- Regulations on Nuclear Export Control (revised in 2006);
- Regulations on Export Control of Missiles and Related Items and Technologies (enacted in 2002);
- Regulations on the Administration of Military Products Export (revised in 2002);
- Certification and Accreditation Regulations (revised in 2016);
- Implementation Regulations of the Food Safety Law (revised in 2016);
- Implementation Regulations of the Administrative Reconsideration Law (enacted in 2007);
- Government Information Disclosure Regulations (enacted in 2007);
- Implementation Regulations of the Trademark Law (enacted in 2002);
- Regulations for the Implementation of the Copyright Law (enacted in 2002);
- Implementation Rules of the Patent Law (revised in 2002);
- World Expo Logo Protection Regulations (enacted in 2004);
- Olympic Symbol Protection Regulations (enacted in 2002);

- Computer Software Protection Regulations (enacted in 2002);
- Regulations for ozone depleting substances (enacted in 2010);
- Decision of the State Council on the establishment of an administrative license for administrative approval projects that need to be retained (enacted in 2004).

And please visit the GACC's English website of [laws and regulations](#), [Decree of GACC](#), and [Announcement of GACC](#) for details.

3. CUSTOMS CLEARANCE PROCEDURES

Being the largest country in global commodity trade, China's Customs clearance efficiency is always one of the most concerned issues in the trade field. According to the Doing Business Report 2019 released by the World Bank in 2018, China's ranking for trading across borders moved from 97 to 65, up 32 spots year-on-year.

By May 2019, China had met its annual target of cutting overall imports and exports Customs clearance time by half from 2017. The State Council decided to further facilitate Customs clearance and continue to optimize the business environment at ports in June. It means that China will continue to streamline the integrated Customs clearance procedures by implementing a Two-Step Customs declaration mode, a simplified declaration before Customs release, and then a complete declaration within a time frame. The Two-Step Customs Declaration mode is being tested at Huangpu Customs, Shenzhen Customs in Guangdong, and Qingdao Customs in Shandong, starting on August 2019.

At the same time, the for International Trade Single Window system enables 25 ministries to share information, operates online cooperation projects among 68 departments, and provides 495 services for enterprises at all ports so far. It will be applicable to all major businesses by the end of the year. Please refer to 6. International Trade Single Window.

In addition, import and export supervision certificates and documents will be simplified further, and all

certificates except for those involving security or confidentiality and other special circumstances should be submitted and processed online by the end of 2019, one year ahead of schedule.

Local governments in China are asked to announce time limit standards for enterprises providing port operation services in a timely manner, to improve port efficiency. Control on the list of port charges will be strengthened, fee reductions will be implemented, and monopoly charges will be investigated according to law.

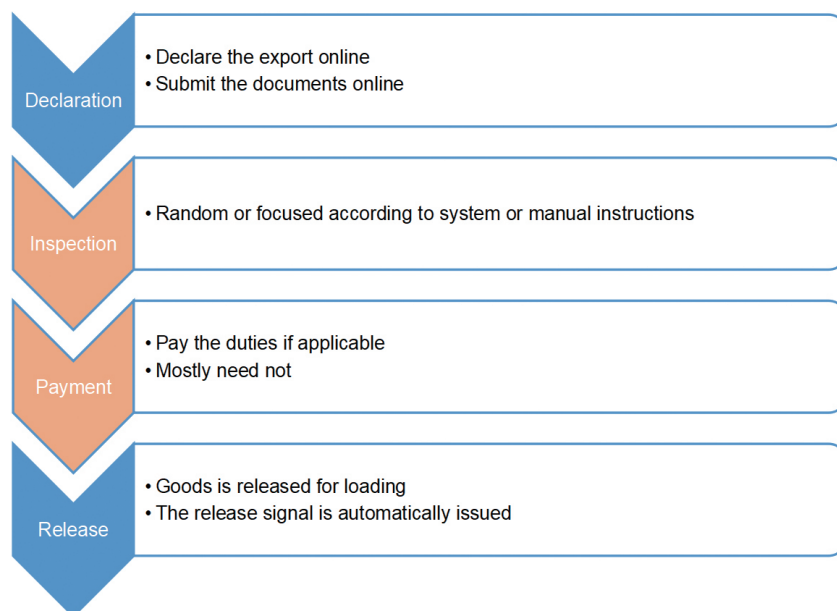
Please watch the [video](#) in English to learn the profile.

3.1 Qualification

According to the “Foreign Trade Law” (enacted from July 1, 1994, revised from July 1, 2004, revised from November 7, 2016), the qualifications of import and export had changed from permit system to filing system before China joined the WTO. The filing procedures are subject to local commerce supervision departments (a total of 59 locations nationwide, each province, autonomous region, municipality, special planning cities) after 2006. In the latest facilitated measures of the New District of Shanghai FTZ, the filing process is no longer required.

3.2 Export

Figure 2 Flow of Export Clearance Procedures



The Customs clearance procedures for goods, in terms of exporters, can be divided into four steps: declaration, inspection (if applicable), payment of taxes (if applicable), and release. Please refer to the above Figure 2.

3.2.1 Online Declaration

When exporting, the consignor or its agent shall declare to China Customs within the time frame specified by Customs Law. Specifically, after the export goods arrive at the designated place or area which stipulated by the Customs such as the seaport, railway station, airport, post office, etc., they should be declared to the China Customs in 24 hours before the loading¹. When exporting, export licenses and other documents such as commercial invoices, packing lists and other documents, should be submitted.

It is noted that after the implementation of the national all-in-one clearance reform, the online declared data can be transmitted to any Customs agency within the country, and processed by the e-Customs system. The exporter can also track the Customs clearance status online.

3.2.2 Inspection

To determine whether the status, quantity, and value of the exported goods are consistent with the contents of Customs declaration, the Customs officials may inspect the goods. Inspection can prevent counterfeit and shoddy products, illegal export and smuggling, and violations.

The following requirements should be noted:

- (1) when the Customs officials inspect the goods, the consignor/shipper or his agent shall be present and shall deliver, unpack and repackage the goods following the requirements of the Customs officials. If the consignor/shipper or his agent is not present, the cargo storage staff can be a witness at the site;
- (2) when the Customs officials deems it necessary, they may conduct inspections without notifying the consignor/shipper, re-inspect the goods or obtain samples;
- (3) when the Customs officials inspects the goods causing damage, the consignor/shipper can ask for compensation.

¹ The pre-declaration will be introduced later.

3.2.3 Duty Payment

At present, except for a small number of goods, most of the goods are exported without tariffs. For details, please refer to 10. CUSTOMS DUTIES AND TAXES.

3.2.4 Release

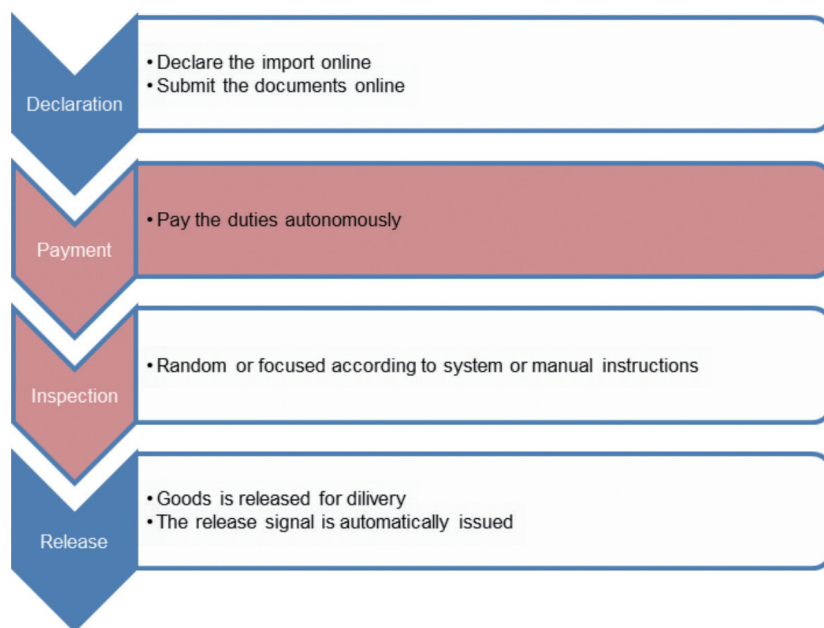
Release means ending Customs control. After the Customs release, the exporter can handle the shipment.

3.3 Import

If the importer is already registered with China Customs, the importer can handle the Customs clearance directly or entrust the Customs broker (forwarder); if not, the importer needs to entrust a Chinese Customs broker or forwarder to handle the Customs clearance process. After get the filing record number or ID, then can login the Single Window for Customs declaration.

If necessary, the importer shall apply to the competent Chinese official authorities for the import license or permit, which requires the importer or its agent in China to provide relevant information for such application. In most cases, the hard copy of the import license is not required since electronic network verification is commonly conducted. The relevant information is available at the [website](#). The forwarder or the Customs broker may be entrusted to apply for the import license and the cost incurred shall be borne by the importer.

Figure 3 Flow of Import Clearance Procedures



3.3.1 Online Declaration

When importing, the consignee or its agent shall declare to the China Customs within the time frame specified by Customs Code. Specifically, after the day that the vessel, train, vehicle and aircraft have declared to China Customs for its arrival, the imported goods should be declared to the China Customs within 14 days².

When importing goods, import licenses or other documents such as commercial invoices, Packing Lists, Bill of Lading/Airway Bill and other documents should be submitted. The declaration may be rejected automatically by the e-Customs system because the documental requirements are not fulfilled. The documental requirements are listed by HS code at the [website](#).

The importers registered can declare to China Customs by themselves, but in general, more than 80% of the Customs declarations have been made by Customs brokers or the freight forwarders. The importer with qualified declaration, the entrusted freight forwarder or the Customs broker must ensure the completeness and accuracy of the import documents and timely declare the electronic data of the imported goods to the China Customs. The requirements of China Customs declaration are available at

² The pre-declaration and two-step declaration will be introduced later.

the [website](#).

Automatic data verification can be completed in less than 0.5 working days. But if there's no convincing reason, any mistake will cause the delay of the Customs clearance, which will lead to further auditing. Moreover, a penalty will be imposed on the importer and the agent according to the seriousness of the case.

It is noted that after the implementation of the national all-in-one clearance reform, the online declared data can be transmitted to any Customs agency within the country, and processed by the e-Customs system. The importer can also track the Customs clearance status online.

3.3.2 Duty Payment

The International Trade Single Window system calculates the amount of duties automatically based on the HS code and applicable tariff rates that the importer or the Customs brokers declared. After that, they can pay the duties online autonomously.

For details, please refer to 10. CUSTOMS DUTIES AND EXCISES.

The import duties shall be paid within 15 days from the date of issuance of the tax bill. At present, China Customs encourages importers to pay the first day or the day after the issuance of the tax bill.

3.3.3 Inspection

Only a fairly low percentage of the goods are currently inspected by China Customs. The purpose of the inspection is to ensure that the declaration is consistent with the actual goods. The basic requirements for import inspection are similar to those for export inspection. Please also refer to 3.2.2 Inspection.

The marine cargo is generally inspected on the following day after being scheduled. Fresh, perishable and rotten goods can be prioritized for inspection. Air cargo usually completes the inspection on the same day. The importer needs to pay the service fee of CNY 300-500 to the operator of the inspection site, and the Customs does not charge any fees.

3.3.4 Release

The importer or their agent will receive the electronic release notice of the Customs since the Single

Window service is provided. The importer or their agent can check if the goods have been released at the [website](#).

3.4 Temporary Inward or Outward

3.4.1 General Requirements

Goods imported in China or exported from China for display or demonstration are exempted from Customs duty when they import or re-import, provided they are re-exported or re-imported within six months. The time limitation may be extended for another six months with 3 times. The exhibition organizer must obtain advance approval from China Customs and provide a guarantee.

Some exhibits imported under the temporary admission may be sold after the trade event is completed, in which case the duties owed on these items are levied by Customs.

3.4.2 ATA Carnet

ATA Carnet is an international Customs document for temporary export/import that is accepted in 87 countries, and is also utilized to simplify the process of bringing commercial samples, professional equipment, and many goods for exhibitions into China. According to the Corporation for International Business, the ATA Carnet issuing authority in China no longer requires a cover letter along with the carnet presented to China Customs officials.

4. DECLARATION DOCUMENTS

When making declarations to China Customs, Import Export Declaration Form and Export Declaration Form must be submitted online together with other supporting commercial documents and necessary licenses and certificates.

4.1 Commercial Documents

Necessary documents vary by products but may include standard documents such as a Bill of Lading, invoice, Packing List, Customs Declaration Form, and sales contract as well as more specialized documents such as import license (where applicable), an import quota certificate for general commodities (where applicable), inspection certificate issued by the Customs (where applicable), and other safety or quality licenses.

Table 1 Documental Requirements for Customs Clearance

| No. | Documentations Name | Documents Provider |
|-----|--|-----------------------------|
| 1 | Authorization letter for Customs declaration (where applicable) | Consignee |
| 2 | Customs Declaration Form (not required with paperless declaration) | Customs Broker |
| 3 | Contract (where applicable) | Consignee |
| 4 | Commercial invoice | Consignee |
| 5 | Bill of Landing | Consignor |
| 6 | Packing List | Consignor |
| 7 | Preferential Certificate of Origin (where applicable) | Country of origin Authority |

For the restrictive imported products, there are about several tens of different kinds of Customs declaration documents applicable for different kinds of commodities. Please refer to 9. PROHIBITIONS AND RESTRICTIONS.

4.2 Licenses and Certificates

The following are the types of import and export licenses and certificates that can be verified online by China Customs.

Table 2 Import and Export Licenses and Certificates

| Code | Titles | Verified Online |
|------|---|-----------------|
| 1 | Import permit | √ |
| 2 | Dual-use item and technology import license | √ |

| Code | Titles | Verified Online |
|---------|---|-----------------|
| 3 | Dual-use item and technology export license | √ |
| 4 | Export license | √ |
| 7 | Automatic import license | √ |
| E | Endangered species permit export certificate | √ |
| F | Endangered species permit import certificate | √ |
| G | Dual-use item and technology export license (Specific countries) | √ |
| I | Import and export permit for anesthetic psychotropic drugs | √ |
| J | Gold and gold products import and export permit | √ |
| L | Drug import and export permit | √ |
| M | Password product and equipment import license | √ |
| O | Automatic import license (new and old mechanical and electrical products) | √ |
| P | Solid waste import license | √ |
| Q | Import drug Customs clearance | √ |
| R | Imported veterinary drug clearance form | √ |
| S | Import and export pesticide registration certificate | √ |
| U | Proof of Customs clearance of legal fishing products | √ |
| V | Human genetic resources materials export, exit certificate | √ |
| W | Import and export permit for narcotic drugs - abolition | √ |
| X | Notice of Environmental Management Release of Toxic Chemicals | √ |
| Z | Proof of importing CDs for overseas processing | √ |
| b | Imported radio, film, and television programs (slices) | √ |
| d | Foreign aid project task notification letter | √ |
| f | Audiovisual products (finished products) import approval form | √ |
| g | Technology export contract license | √ |
| i | Technology export license | √ |
| k | Import and export approval form for civil explosives | √ |
| z | Paleontology fossil outbound approval | √ |
| no code | Seed quarantine approval form | √ |

| Code | Titles | Verified Online |
|---------|--|-----------------|
| no code | Introduction of forest seed and seedling quarantine approval form | √ |
| no code | Agricultural Genetically Modified Organism Safety Certificate (Import) | √ |
| no code | Special medical use formula registration certificate | √ |
| no code | Health food registration certificate or health food record certificate | √ |
| no code | Infant Formula Milk Powder Product Formula Registration Certificate | √ |
| no code | Compulsory product certification or certification document | √ |
| no code | Special equipment manufacturing license and type test certificate | √ |
| no code | New food ingredients license | √ |
| no code | Imported foods that do not yet have food safety national standards | √ |
| no code | Medical device registration certificate | √ |
| no code | The first type of medical device filing certificate | √ |
| no code | Imported special purpose cosmetics hygiene permit approval | √ |
| no code | Imported non-special use cosmetics hygiene permit approval | √ |

5. RECENT CLEARANCE FACILITATION MEASURES

In recent years, China Customs has initiated many significant reform measures to facilitate international trade by reducing clearance time and reducing clearance costs with the final goal to optimize cross-border business environment.

5.1 Pre-declaration

According to [Regulations on Import and Export Goods Declaration](#) and [Regulations on Duty Collection for Import and Export Goods](#), Pre-declaration means the consignee of the imported goods and the entrusted

Customs broker can declare in advance on the premise of the advance transmission of the manifest data.

For goods using paperless declaration, electronic payment of duties, and not involving inspection and quarantine, importer can use the Bill of Lading or Waybill or manifest to complete declaration procedures, so as to greatly improve the efficiency of Customs clearance.

A. Relevant Application

According to the provisions of Article 18 of the Regulations on Import and Export Goods Declaration, the validity period of the import and export licenses for Pre-declaration shall be subject to the date of declaration acceptance by the Customs.

According to the provisions of Article 13 of Regulations on Duty Collection for Import and Export Goods, before the arrival of the imported goods, if the declaration is approved by Customs, the rate when the means of transport entry into the country shall apply to.

In addition, except for enterprises that enjoy convenient Customs clearance measures, goods that implement temporary safeguard measures are not allowed to be pre-declared.

B. Time Limit

The imported goods may be pre-declared to the Customs after the goods have been shipped, before the arrival of the goods, and the manifest has been transferred to the Customs and confirmed.

The exported goods must be pre-declared within 3 days after being transported to the Customs supervision site.

5.2 Aggregate Declaration

In cross-border e-commerce, the Customs implemented a new Customs clearance mode of “manifest release and aggregate declaration”. “Aggregate Declaration” means that the e-commerce enterprise regularly reorganizes the manifest according to the prescribed rules, and aggregates the data in the Declaration Form according to the import and export.

Operating Procedures

Taking the general export mode of cross-border e-commerce as an example:

- (1) foreign buyers order online, which generate “three lists” (orders, logistics and payment);
- (2) Customs Platform transmit the “three list” data automatically and the filing information of the e-commerce enterprises and commodities to the Customs clearance system;
- (3) at the same time, the e-commerce enterprises hand over the sold goods to the logistics company, and under the supervision of the Customs on-site, the goods will be released automatically;
- (4) after the goods leave the country, the e-commerce enterprises can regularly aggregate the lists to a Customs declaration;
- (5) the e-commerce enterprises handle the tax refund and foreign exchange with the Customs declaration, and the Customs can conduct trade statistics according to the declaration.

5.3 Release First and Taxation Later

According to the provisions of the Customs Law, import and export goods can be released after paying taxes, or can be paid after the goods are released under the premise of providing guarantees. “Release First and Taxation Later” refers to a facilitated measure that the Customs may release the goods after the tax memo is issued under the condition that the taxpayer guarantees to pay the tax within the statutory time limit. It enables the importer to significantly shorten the Customs clearance time which is especially suitable for bulk goods.

5.4 Aggregate Taxation

“Aggregate Taxation” is a follow-up facilitated measure to “Release First and Taxation Later”. It means that the importers and their agents can pay the duties in aggregate manners before the 5th of the following month.

Application

- tariff electronic payment system user;
- the Customs credit management category is general certification and above;

- the average monthly tax payment for the previous natural year is not less than 4 times;
- the declaration meets the requirements, provides the necessary information for the Customs document review, complies with the Customs duty collection regulations, and pays taxes in a timely manner.

Guarantor

The banks and other guarantors that provide aggregate guarantee for the taxation shall meet the following conditions:

- good credit and large asset scale;
- no stagnation or delay in the Customs duties;
- commitment to pay the full amount of the taxable payment of the import and export goods within the time limit of the guarantee;
- establish a verification mechanism for the authenticity of the letter of guarantee with the Customs.

Procedures

- submit the aggregate guarantee to the Customs, which is a deposit or a letter of guarantee, and the beneficiaries of the guarantee are the Customs;
- complete the payment of aggregate taxation of the previous month before the end of the fifth working day of each month, and shall not select the electronic payment guarantee method;
- In principle, taxes cannot be paid in years.

5.5 Tariff Guarantee Insurance

Tariff Guaranteed Insurance has taken effective in 2018 and it is a newly developed insurance product. The Tariff Guaranteed Insurance is the written document issued by insurance companies to China Customs at the request of the applicant (importer) to guarantee that the applicant will fulfill the obligation of paying Customs duties.

Functions

Reduce capital occupation, accelerate Customs clearance and decrease trivialness of tax rebate

formalities caused by temporary import articles.

Features

- avoid capital occupation caused by paying margin of Customs duties to improve fund turnover rate;
- accelerate Customs clearance to avoid increasing costs caused by detaining goods at ports;
- avoid repeated formalities of Customs clearance;
- simplify tax rebate formalities for temporary entry of goods;
- facilitate duty deferral.

Scope of Application

- import and export commodities related to duty deduction or exemption policies on the state import and export commodities;
- the person who temporarily need to import and export equipment and machineries in the process of foreign engineering contract, exhibition and sales;
- processing trade enterprises import materials and parts;
- situations that the Customs implement "Release First and Taxation Later" for some goods.

Application Qualifications

- the applicant shall have the qualification to engage in underlying transactions;
- the applicant shall maintain good credit standing without any bad credit record;
- the applicant shall have sufficient credit line or be able to pay sufficient margin necessary for issuing the letter of guarantee;
- the applicant shall possess real relationship of transactions that meets requirements on business compliance of the banks;
- the applicant shall provide complete and valid business information.

Process of Insurance Company (Insurer)

- receive application for letter of guarantee and relevant documents;

- reviews the documents and issues the letter of guarantee;
- charges guarantee fees;
- amends the letter of guarantee;
- if applicable, makes compensation against the letter of guarantee or cancels the letter of guarantee.

From January 1, 2019, "Tariff Guaranteed Insurance" can be used to Aggregate Taxation.

5.6 Two-Step Customs Declaration

According to an official announcement (No. 127 of 2019) of the GACC, from August 24, 2019, China will start to test run the Two-Step Customs Declaration in designated regional Customs branches, which aims to further optimize business environment and facilitate trade.

After the merger of the China Customs and CIQ, the combined merger Customs declaration was also completed in August 2018. There are more than 100 blocks on Customs Declaration Form to populate them with the required information until now. However, errors whether accidentally or intentionally made are all captured and recorded by Customs and will trigger penalties in various forms. Under traditional mode, the process of revising/modifying a declaration after submission is difficult and cumbersome.

The Two-Step Customs Declaration will allow the importer to make a Brief Declaration upon the arrival of shipment, and make a Complete Declaration a few days after release of the goods. It is quite similar to the Customs Clearance process of US Customs, where there are two steps in typical consumption entries

- declaration on Customs Form 3461 and declaration summary on Customs Form 7501.

To be specific, the eligible importer under Brief Declaration only needs to provide 13 pieces of information to Customs:

- domestic consignee;
- mode of transportation;
- vehicle name and No. ;
- B/L No. ;
- control code;
- HS code (6 digits);

- commodity description;
- quantity & unit of measurement;
- total value;
- country of origin;
- gross weight;
- container No. ;
- license ID (if applicable).

Please note that the Two-Step Customs Declaration applies to imports only and when making import declarations, importers have discretion over whether to use the new mode or not. If they want to use, their eligibility depends on the following criteria:

- the credit rating of the importer shall be equal to or higher than “General Certified”;
- the shipments are physically imported through one of the designated Customs houses;
- the licenses required for the importation are available for Customs online verification.

It is noted that the currently Customs authorities are able to verify 44 kinds of licenses online.

6. INTERNATIONAL TRADE SINGLE WINDOW

The Single Window system is a trade facilitation tool. As such, the implementation of a Single Window system enables international (cross-border) traders to submit regulatory documents at a single website and/or single entity in which the declaration data is processed.

China has more than 300 international trade ports of diversified categories which had been approved by the State Council. In recent years, a series of important policies in the field of economic development

issued by the State Council emphasize the construction of Single Window based on e-Port and the promotion of trade facilitation. International Trade Single Window has been written into the Central Government Work Report for three consecutive years (2016-2018). As the competent port authority, the GACC duly performs its duty in port management and promotes International Trade Single Window in line with the general requirements of Integrated Customs Clearance proposed by the State Council.

Since 2017, the standardized International Trade Single Window has been promoted all around China. China Customs also improved the Customs clearance efficiency and overall Customs clearance environment by reducing the Customs clearance time of imports and exports by one third.

At present, the standard version of China's International Trade Single Window has 12 basic functions, realized docking and information sharing with 25 ministries and commissions, and operated online cooperation projects between 68 departments, providing 495 online service items covering sea, air, railway, and road transportation. Various types of Customs and trade affairs such as special Customs control areas, pilot FTZs, cross-border e-commerce, and various types of enterprises, such as Customs brokers, logistics, business, financial insurance, etc., are organized together by Single Window all over the country. "One-stop" operation has basically realized since 2018.

At present, the cumulative number of registered users for China's International Trade Single Window has reached more than 2.2 million, and the total amount of declared business exceeds 270 million votes. The application rate of the main reporting business (goods, manifests and ship declarations) is over 90%, and the application rate of goods declaration is 100%.

The 11 regulatory documents of 8 departments have implemented online declaration and online processing on the Single Window system and the export certificate of origin has also been online and self-printed through it. Single Window has also strengthened cooperation with some banks and insurance institutions, and played a crucial role in the cross-border trade big data platform to help solve the financing difficulties and financing problems of SMEs.

In the next step, GACC will continue to make efforts to carry out two key tasks before the end of the year: firstly, to speed up cooperation and cooperation with civil aviation, ports and railways, and provide full support for market players; and second is to focus on the "Belt and Road" and the construction of new international land and sea trade routes, promote international exchange and cooperation and information exchange, and actively carry out interconnection outside the country.

The goals of Single Window include:

- one entry point and one submission; standardized documents and electronic information; data sharing between relevant authorities;
- through continuing optimization and integration to cover all major aspects of the international trade supply chain and gradually become the major access point for enterprises;
- to improve the interoperability among the systems of domestic stakeholders in the international trade supply chain, optimize the business process of Customs clearance, improve the efficiency of declaration, shorten the clearance time, and reduce the cost of enterprises and promote trade facilitation.

7. CUSTOMS BROKERAGE SERVICE

China Customs has the administrative right to approve domestic enterprise legal persons to be registered as Customs brokers to conduct Customs declaration business and provide Customs related services as entrusted by consignees and consignors of imported and exported goods.

7.1 Registration

The following requirements shall be met by Customs brokers applying for registration license:

- having the qualifications as a domestic enterprise legal person;
- having registered capital of no less than CNY 1.5 million;
- having sound organizational structure and financial management system;
- being staffed with no less than 5 Customs declarers;
- the investors, person in charge of the Customs declaration business and Customs declarers have no record of smuggling;

- person in charge of the Customs declaration business has more than 5 years' working experience in foreign trade or Customs declaration;
- the license for registration has never been revoked by Customs due to unlawful acts such as smuggling;
- fixed site and facilities for business operation necessary for providing Customs declaration services are available; and
- other conditions as required by Customs supervision.

Documents to be submitted upon application for registration license include:

- Application for Registration License of Customs Brokers;
- duplicates of the Enterprise Business License or copy of the Notice on Pre-approval of Enterprise Name;
- Articles of Association;
- copy of Capital Contribution Certificate;
- feasibility study report on conducting Customs declaration business;
- CV of the person in charge of the Customs declaration business;
- certificate of ownership or leasing of the site for business operation of Customs declaration services; and
- other materials related to the application for registration.

The Customs directly under the GACC that make the decision on approval of the license of registration may revoke the said license in any of the following circumstances:

- Customs officers make the decision on approval of the license of registration by means of abuse of power or neglect of duty;
- decision on approval of the license of registration is made beyond legal capacity;
- decision on approval of the license of registration is made in violation of legal procedures;
- license of registration is granted to an applicant who is ineligible for application or fails to meet the legal conditions; or
- other circumstances where the license of registration can be revoked according to the law.

In the event that the lawful rights and interests of the licensee are damaged by the revocation, the Customs will compensate for the direct loss borne by the licensee according to the law. License of registration shall be revoked if it is obtained by the licensee through illegal means such as fraud and bribery. The interests obtained by the licensee on the basis of the license of registration are not under protection. The license will not be revoked if the revocation may significantly damage the public interest.

The Customs shall cancel the license of registration according to the law in any of the following circumstances:

- license of registration is not extended upon expiration;
- license of registration is legally terminated by Customs broker or its cross-Customs district branch;
- license of registration is revoked or withdrawn, or certificate of registration licensing is revoked according to the law;
- it is impossible to implement items under the license of registration as a result of force majeure; or
- other circumstances provided by laws and administrative regulations where the license of registration shall be cancelled.

7.2 Cross-Customs District Branches

The following requirements shall be met by cross-Customs district branches of Customs brokers applying for registration license:

- the conditions for establishment of branches of domestic enterprise legal person are met;
- number of Customs declarers is no less than 3;
- fixed site and facilities for business operation necessary for providing Customs declaration services are available;
- person in charge of the branch has more than 5 years' working experience in foreign trade or Customs declaration; and
- person in charge of the Customs declaration business and Customs declarers have no record of smuggling;
- the Customs broker shall increase its registered capital by CNY 500,000 for application of each license for registration of cross-Customs district branch.

- Documents to be submitted upon application for a cross-Customs district branch of a Customs broker include:
- application for Registration License of Cross-Customs District Branches of Customs brokers;
- feasibility study report on conducting Customs declaration business by the branch;
- CV of the person in charge of the branch and the person in charge of the Customs declaration business;
- certificate of ownership or leasing of the site for business operation of Customs declaration services;
- the evidential materials issued by the Customs directly under the GACC at the place of registration of the Customs broker, which proves that the Customs broker meets the conditions to apply for registration of a branch; and
- other materials related to application for registration license on establishment of a branch of the Customs broker.

The following requirements shall be met by Customs brokers applying for registration license for the normal branches:

- it has been 2 years since the day when the Customs broker obtained the Certificate of Registration of Customs Brokers of the Customs of the PRC approved and issued by the Customs;
- the Customs broker has not been punished due to smuggling within the most recent 2 years from the date of application.

8. CUSTOMS GUARANTEES

Chapter 6 of the Customs Law stipulates that before the consignee or consignor requests to release the goods before determining the classification, valuation, and provision of valid Customs declaration

documents or other Customs procedures, China Customs shall release the goods after the corresponding guarantees are provided. Besides, some exceptions for the guarantees are also stipulated by laws and administrative regulations. However, if there are restrictions on import and export goods and articles, which means the importer and exporter should provide licenses but they cannot provide, as well as other circumstances that cannot be guaranteed by laws and administrative regulations, China Customs may not conduct any guarantee release.

8.1 Basic Rules

The importer or exporter can apply for a guaranteed release to China Customs under the following circumstances:

- (1) Customs classification or Customs valuation is not determined, and therefore the relevant import and export procedures have not been completed, and the consignor or consignee requires Customs to release the goods first;
- (2) import and export documents cannot be inspected at the time of Customs declaration (such as invoices, contracts, Packing Lists, etc.), and the goods have been delivered to the port, waiting for withdrawal or shipment, and the consignor or consignee requires Customs to release the goods first and supplement the relevant documents later;
- (3) it is applying to Customs for tariff reduction and exemption procedures, and the goods have been delivered to the port, waiting for withdrawal or shipment, and the consignor requests Customs to delay the import and export tax payment procedures;
- (4) for goods that should be taxed, the consignor or consignee requests to delay the payment of taxes;
- (5) goods with Temporary Admission (including goods under the ATA Carnet);
- (6) with the consent of Customs, temporarily store the goods that have not been released in a place outside Customs control area;
- (7) imported bonded processing trade goods;
- (8) except for prescribed by other law, regulations, and administrative regulations, the import or export goods and articles are illegal but are not suspected of being confiscated according to, and the goods are requested to be released first.

8.2 Special Rules

The general principle of the guarantee is if the Customs formalities are not settled for various reasons, and the consignee or consignor requests Customs to release the goods, the goods shall be guaranteed to Customs. However, Customs will not allow the guaranteed release in the following special cases:

- (1) the taxpayer has transfer or hiding the taxable goods and other property obviously within the prescribed tax period;
- (2) applying for the detention or release of goods suspected of infringing intellectual property rights;
- (3) imports are initially determined to be dumped, established subsidies and the official authorities announce the requirements for guarantee;
- (4) there are suspected violations of the laws, but they cannot be detained or inconveniently detained;
- (5) the party that has no permanent residence in the territory subject to Customs administrative punishment, but he/she are not satisfied with the penalty decision of Customs, or shall not be able to pay the fine before the departure;
- (6) import and export of gold and silver, endangered animals and plants, cultural relics, Chinese and Western medicines, food, sports and hunting firearms and ammunition and civil explosive equipment, radio equipment, security machines and other import and export goods subject to relevant state regulations, cannot be guaranteed.

8.3 Collateral

The guarantor can provide the following guarantees of property and rights:

- (1) CNY, freely convertible currency;
- (2) money order, promissory note, cheque, bond, certificate of deposit;
- (3) letter of guarantee from the bank or non-bank financial institution;
- (4) other property and rights recognized by Customs in accordance with the law.

8.4 Total Guarantee

China Customs accept the total guarantee for the whole year so that the consignee or consignor don't

need to apply for Customs guarantee repeatedly when duty amount does not exceed the guarantee amount within the time limit of the guarantee.

9. PROHIBITIONS AND RESTRICTIONS

In principle, Foreign Trade Law (please refer to 2.2.1) lists the circumstances under which the state may impose restrictions or prohibit the import or export of goods and technology and such is allowed under the WTO rules. This law also provides for the adoption of any necessary measures to protect the national security. Most goods prohibited from importing and exporting are subject to the obligations of international conventions. Prohibition and restriction are implemented according to the code of the tariff code.

9.1 Import Prohibitions

There are many catalogues of prohibited imports is officially announced and may be adjusted occasionally. It is noted that the prohibition on imported goods is not actually limited to the categories. The principles are as follows:

- imports will be prohibited in order to preserve national security, public interests and public morals;
- imports will be prohibited to protect the life or health of humans, animals and plants, to protect the environment;
- imports will be prohibited in accordance with laws and administrative regulations;
- imports will be prohibited in accordance with the provisions of international treaties and agreements concluded or joined by China.

Prohibited imports are as follows:

- animal and plant pathogens (including bacterial and toxic species, etc.), pests and harmful organism;

- animals, plants, foods and other articles coming from disease-stricken areas;
- animal corpse;
- tiger bone, rhino horn, ivory and its products;
- soil;
- weapons, ammunition, explosives and military supplies;
- poisons and narcotics such as anesthetics, opium, morphine, heroin, cocaine;
- some used boilers, machines and equipment;
- some used machine electrical products, equipment, unsorted parts, dismantling parts, damaged parts, crushing parts;
- counterfeit currencies and counterfeit negotiable securities;
- food containing certain prohibited food colorings and prohibited additions;
- printed matter, magnetic media, films or photographs which are determined to be detrimental to the political, economic, cultural and moral interests of China;
- cargo in countries/regions where trade with China is suspended or prohibited.

Solid Wastes

It is noted 14 major categories of 125 commodities description with ten-digital HS code of imported solid wastes are banned:

- waste animal and plant products, such as waste human and animal hair;
- ashes and soot of metallic minerals, vanadium slag, ore and residue, such as mica waste, copper containing 10% copper smelting furnace slag;
- aluminum waste and scrap, there are 2 kinds of commodities, polysilicon waste materials and silicon waste;
- waste drug (1 ten-digital HS code, only for reference);
- miscellaneous chemical waste, such as municipal waste, chemical waste, etc.;
- waste plastics from non-industrial sources, such as waste and scrap of ethylene polymers, waste and vinyl waste of vinyl chloride polymer (8 ten-digital HS code, only for reference);
- waste rubber, leather, such as waste tires and their cuts, finished leather trim, etc.;

- recycling (waste) paper and cardboard, waste wallpaper, waxed paper, dipped wax paper, carbon paper and other waste paper (2 ten-digital HS code, only for reference);
- waste textile raw materials and products, such as waste cotton yarn, old clothes, etc. (11 ten-digital HS code, only for reference);
- waste glass (1 ten-digital HS code, only for reference);
- wastes of metals and metal compounds, such as deposited copper, aluminum waste and the like;
- waste battery, only one product;
- dispose of electromechanical calculators and equipment and their unsorted parts, such as waste printers, waste gaming machines, etc.;
- others, such as waste fishing nets, other unlisted solid wastes, etc.

In addition

At the end of December 2018, 16 kinds of solid wastes have been added, mainly including metal wastes containing manganese and iron produced by melting, smelting and refining of metals; waste plastics from industrial sources; and mixed metal wastes.

At the end of December 2019, 16 new types of solid waste will be added, mainly wood and cork waste; metal and alloy waste and scrap.

For more details, please visit:

- [1st List of Import Prohibition](#), effective as of December 20, 2001;
- 2nd List of Import Prohibition was mainly for used machine electrical products and effective as of January 1, 2002. [The new list \(2019\)](#) was effective as of January 1, 2019;
- 4th and 5th Lists of Import Prohibition are revised because of the imported solid wastes, as mentioned above;
- 3rd and 6th Lists of Import Prohibition are mainly for chemical substances that destroy the ozone layer.

Others to be Noted

- China has banned the production, sales, import and export of home appliances using chlorofluorocarbon as coolant or foaming agent based on the [announcement](#) from September 1, 2007;
- based on the [announcement](#), the import and export of ractopamine and ractopamine hydrochloride is prohibited;
- the import of alkaline manganese batteries with mercury content exceeds 0.0001% of the battery weight is prohibited;
- trade with North Korean suspend;

9.2 Import Restrictions

There are many catalogues of controlled imports is officially announced and may be adjusted occasionally. It is noted that the restriction on imported goods is not actually limited to the categories. The principles are following:

- imports should be restricted in order to maintain national security, public interests and public morals;
- imports must be restricted to protect the lives or health of humans and animals and plants, and to protect the environment;
- imports should be restricted to nurture and promote specific industries in China if necessary;
- imports should be restricted for all products in the agriculture, livestock and fisheries industries if necessary;
- imports should be restricted to ensure China's international financial balance if necessary;
- other import restrictions in accordance with laws and administrative regulations;
- other import restrictions in accordance with the provisions of international treaties and agreements concluded or participated by China.

9.2.1 Import Tariff Quota

Import quota is formulated by the State Council in the Regulations on Import and Export Control of Goods.

The number of import quotas is issued once every year, and importers need to obtain quotas in advance when importing these items and submit import quota license to China Customs. In 2019, China adopts import quota management for the following imported products:

- agricultural products such as wheat, cotton, etc.;
- sugar;
- wool;
- fertilizer.

9.2.2 Import License

Used Mechanical and Electrical Products, Ozone Depleting Substances

Import license is also formulated by the State Council in the Regulations on Import and Export Control of Goods. Import license is a kind of non-quantity management for imported goods and the list of import license is issued each year.

According to [Import Restricted Machinery and Electrical Product List 2008](#), import of some metal products, machinery and equipment, electrical and electronic products, vehicles, instrument is limiting.

According to the [announcement](#), used mechanical and electrical products (13 categories with 69 10-digital HS code in the 90th chapter of Chinese Tariff Schedule) and ozone depleting substances (49 10-digital HS code of Chinese Tariff Schedule) are subject to import licensing control.

It is noted based on the [announcement](#), the import of specific type of used mechanical and electrical products is prohibited. From January 1, 2019, 2nd List of Import Prohibition was mainly for used machine electrical products and effective as of January 1, 2002. [The new list \(2019\)](#) was effective as of January 1, 2019.

Sensitive Materials and Technologies

With sensitive materials and technologies such as nuclear, biological, chemical, missile and radioisotopes, the substances [listed](#) in 2019 including:

- monitoring chemicals (69 categories);

- chemicals that can be converted into stimulants or other illegal drugs (48 categories);
- the radioactive isotopes (10 categories).

Products and devices with cryptographic technology

All products and devices listed in the [list](#) are subject to import license management.

Solid Waste Used as Raw Materials

Based on the [announcement](#) in 2017, Import of certain types of solid waste that can be used as raw materials is restricted and subject to import licensing control:

- metal-containing waste generated by melting, refining and refining metals;
- plastic scrap and scrap;
- used paper and cardboard;
- metal and alloy scraps (in a form that is not strongly metallized);
- solid waste containing powdery, mud, dusty or dangerous liquids;
- mixed metal waste (including die-casting of discarded vehicles and mixed metal waste of scrap ships).

Please note the importation of solid waste that can be used as raw materials will be stricter at the end of 2019.

- from December 31, 2018, waste metal, waste car die-casting and waste ship mixed metal waste, gold metal-containing waste, plastic scrap generated from genus melting, refining and refining and 16 types of waste, such as Millwood, are prohibited from importing;
- from December 31, 2019, 16 kinds of scraps such as alloy scrap, scrap titanium scrap, scrap wood scrap, etc. are prohibited from importing;
- In addition, from July 1, 2019, eight types of disposal such as iron scrap, copper scrap, aluminum scrap, etc. goods are recorded are restricted.

9.2.3 Automatic Import License

In order to monitor imports, a system of import license automatically issued for certain mechanical and electronic products has been established. To import mechanical and electronic products subject to automatic import licensing, the importer should apply to Ministry of Commerce or its authorized agencies for an Automatic Import License before completing Customs formalities. Please visit [website](#) for the list.

It is noted that since April 2018, the automatic import license of some automobile products and parts has been cancelled; since January 1, 2019, the automatic import license management of engines and main parts, food machinery, spinning machinery, etc. has been cancelled.

9.2.4 Reporting System

China implements reporting system for some imported bulk agricultural products and imported foods.

9.3 Export Prohibitions

There are catalogues of prohibited exports is officially announced and may be adjusted occasionally. It is noted that the prohibition on exported goods is not actually limited to the categories. The principles are as follows:

- exports will be prohibited in order to preserve national security, public interests and public morals;
- exports will be prohibited to protect the life or health of humans, animals and plants, to protect the environment;
- exports from China should be banned to protect resources that may be in short supply or exhausted;
- imports will be prohibited in accordance with laws and administrative regulations;
- imports will be prohibited in accordance with the provisions of international treaties and agreements concluded or joined by China.

Prohibited exports are as follows:

- weapons, ammunition, explosives and military supplies;
- counterfeit currencies and counterfeit negotiable securities;

- printed matter, magnetic media, films or photographs which are determined to be detrimental to the political, economic, cultural and moral interests of China;
- poisons and narcotics such as anesthetics, opium, morphine, heroin, cocaine;
- animal and plant pathogens (including bacterial and toxic species, etc.), pests and harmful organism;
- food/drugs that threaten the health of human, and where epidemics are occurring/endemic, and food/drugs that spread other diseases;
- cultural relics and heritage;
- precious animals and plants (including specimens), endangered animals and plants (including specimens) and their species and breeding materials;
- cargos in countries/regions where trade with China is suspended or prohibited.

It is particularly noted that the following export are prohibited in China:

- tiger bone;
- musk;
- rhinoceros' horn;
- natural bezoar;
- logs (crude wood);
- platinum, precious metals and their products;
- carbon tetrachloride used as a cleaning agent;
- 1.1.1-trichloroethane;
- charcoal;
- forest litter, peat (grass).

Please click the link for all the 5 lists: [list 1](#), [list 2](#), [list 3](#), [list 4](#), [list 5](#).

Others to be Noted

- China has banned the production, sales, import and export of home appliances using

chlorofluorocarbon as coolant or foaming agent based on the [announcement](#) from September 1, 2007;

- based on the [announcement](#), the import and export of ractopamine and ractopamine hydrochloride is prohibited;
- trade with North Korean suspend;

9.4 Export Restrictions

There are many catalogues of controlled exports is officially announced and may be adjusted occasionally. It is noted that the restriction on exported goods is not actually limited to the categories. The principles are as follow:

- exports should be restricted in order to maintain national security, public interests and public morals;
- exports must be restricted to protect the lives or health of humans and animals and plants, and to protect the environment;
- market size of export destination is limited and should be restricted if necessary;
- exports should be restricted because it can seriously harm to export order;
- other export restrictions in accordance with laws and administrative regulations;
- other export restrictions in accordance with the provisions of international treaties and agreements concluded or participated by China.

The main control measures for export restriction are export quota and export license. Export License List is promulgated every year and each target is determined by HS code.

9.4.1 Export Quota

Export quota is formulated by the State Council in the Regulations on Import and Export Control of Goods. A limited number of export quotas are issued annually, and exporters need to obtain quotas in advance when exporting these items and submit export quota license to China Customs. In 2019, China adopts export quota management for the following imported products:

- licorice and its products (Quota Bidding);

- valerian and its products (Quota Bidding);
- artificially planted ephedra;
- live pig;
- live cattle;
- live chicken;
- wheat;
- corn;
- rice;
- wheat flour;
- corn flour;
- rice flour;
- coal;
- crude oil;
- oil (excluding lubricating oil, grease, lubricating base oil);
- sawn timber;
- cotton.

9.4.2 Export License

The main contents of export license management in 2019 are as follows:

Export License Based on the Quota

- live cattle (for Hong Kong and Macao);
- live pigs (for Hong Kong and Macao);
- live chickens (for Hong Kong);
- wheat;
- corn;
- rice;

- wheat flour;
- corn flour;
- rice flour;
- artificially planted ephedra;
- coal;
- crude oil;
- oil (excluding lubricating oil, grease, lubricating base oil);
- sawn timber;
- cotton;
- licorice and its products (Quota Bidding);
- valerian and its products (Quota Bidding);

It is noted that exporting the listed goods by processing trade should apply for export licenses with quota documents and export contracts for goods.

Export License Based on Application

The following are the list to apply for an export license (processing trade also needs to apply for):

- live cattle (outside Hong Kong and Macau);
- live pigs (outside Hong Kong and Macau);
- live chicken (outside Hong Kong);
- beef;
- pork;
- chicken;
- bauxite;
- phosphate rock;
- magnesia;
- talc (powder);

- fluorite;
- rare earth;
- tin and its products;
- tungsten and its products;
- molybdenum and its products;
- antimony and its products;
- coke;
- refined oil (lubricating oil, grease, lubricating base oil);
- paraffin;
- some metal and its products;
- disodium sulfate;
- silicon carbide;
- ozone depleting substances;
- citric acid;
- Vitamin C;
- penicillin industrial salt;
- silver;
- platinum (exported by processing trade);
- indium and its products;
- motorcycle (including all-terrain vehicles) with its engine and frame;
- automobile (including complete sets of parts) and its chassis.

Please visit [websitefor](#) details.

Sensitive Materials and Technologies

Please refer to 9.2.2 Import License.

Noted

- the goods in the catalogue provided under the foreign aid of the Chinese government are not subject to the export quota and license management;
- Customs declarations for the export of licorice are designated to Tianjin Customs, Shanghai Customs and Dalian Customs;
- Customs declarations for the export of licorice products are designated to Tianjin Customs and Shanghai Customs;
- Customs declarations for the export of natural sand to Taiwan, Hong Kong and Macao are designated to regional Customs where the exporter is located.

9.5 Commodity Inspection

After the institutional restructuring of China Customs and China Inspection and Quarantine (CIQ) in 2018, China Customs has absorbed the responsibility and staffs of the CIQ. Referring to 2.2.3 Import and Export Commodity Inspection Law, China Customs conducts inspection on import and export commodities according to related laws and regulations. [The Statutory Catalogue](#) subject to inspection is issued by China Customs every year. In addition, with the reform of China Customs and the development of trade facilitation, this system is changing and the scope of the catalogue is shrinking. The main commodities in the catalogue are:

- lignite;
- ferrosilicon;
- some hazardous chemicals;
- medical diagnosis and blood type determination reagent;
- electrocardiograph;
- some electronic product;
- some food;
- veterinary vaccine;
- child safety seat;
- vehicles parts;

- oxygen equipment.

All other imported and exported products may be sampled to inspection. In order to alleviate the burden on exporters, all export goods, transportation vehicles, containers and other statutory inspection goods are exempt from fees.

9.6 China Compulsory Certification

China implemented a new domestic system of compulsory certification since 2002. Safety and other regulatory requirements also apply to imports of medicines, foodstuffs, animal and plant products, and mechanical and electronic products. China National Committee of Certification and Accreditation (CNCA) is responsible for the quality standards.

Under this system, a unified catalogue, standard, mark and fee schedule were put in place and the CCC (China Compulsory Certification) mark system replaced the old system. The CCC mark is the certification mark for products which are allowed to be imported, sold or used in China. Catalogues of products requiring the CCC mark have been drawn up and published. Details can be found on the CNCA website.

9.7 Other Related Requirements

9.7.1 Commodity Description and Labelling

All goods sold in China must be labelled in the Chinese language with a required description of their contents, grades and specifications as to quantities where applicable, the production date and expiration date (in particular for food-related items and pre-packaged foods), and explanatory warnings of any potential hazard associated with the products.

China also adopted a labelling system for the management of GM (Genetically Modified) agricultural bioproducts and publishes a catalogue accordingly. All GM agricultural bioproducts listed in the catalogue must be properly labelled if they are to be sold in the Chinese market.

In addition, fumigation is required for all wooden packing materials, in accordance with IPPC standards, and must bear the IPPC (International Plant Protection Convention) symbol.

9.7.2 Overseas Manufacturer Registration

Overseas manufactures of specific commodities (such as drugs) are required to register with the competent Chinese official authorities (not China Customs), but the exporters are disqualified for this registration. Please be noted that overseas manufacturers shall be recommended by the official authorities of exporting country (region) to conduct the registration in the competent Chinese official authorities. For example, the registration/confirmation for dairy, aquatic and meat products will be conducted at the following [website](#).

9.7.3 Overseas Exporter Filing

Overseas exporters and their agents of food, cosmetics and medicines shall file their information with China Customs at the [website](#).

10. CUSTOMS DUTIES AND TAXES

Currently, the revenue collected by China Customs mainly includes import duty, export duty, import VAT, consumption tax and vessel tonnage tax.

10.1 Duty Structure

From a legal perspective, there are many different types of duties in China.

Based on freight logistics

- Import duty, refer to 10.2;
- Export duty, refer to 10.3.

According to dutiable calculation standards

- Ad valorem Duty:

$$\text{Duty Payable} = \text{Dutiable Value} \times \text{Tariff rate}$$

- Quantity-based Duty:

$$\text{Duty payable} = \text{Quantity of imported goods} \times \text{Amount of duty per unit}$$

- Compound Formula Duty:

$$\text{Duty payable} = \text{Dutiable Value} \times \text{Tariff rate} + \text{Quantity of imported goods} \times \text{Amount of duty per unit}$$

- Sliding Duty; (It is currently only for cotton without import quota.)
- Alternative Duty.

Dutiable Value and duty payable should be calculated in CNY using the benchmark exchange rate published by the People's Bank of China.

10.2 Import Duty

The State Customs Tariff Commission of the State Council announces the annual implementation plan each year. For more information, please refer to the [2019 Customs Tariff Adjustment Plan](#) (effective from January 1, 2019). China's import duty is divided into:

10.2.1 MFN Duty

MFN (Most Favored Nation) Duties are applicable to:

- imported goods from WTO members with the common application of MFN clauses;
- imported from countries/regions that have bilateral trade agreements with China granting MFN clauses to;
- imported goods that China is the country of origin.

The MFN Duty Rate has gradually decreased with the entry of the WTO. By 2010, China had fulfilled all its duty reduction obligations, reducing its average arithmetic duty rate to 9.8%. According to the WTO,

China's average MFN Duty Rate has been progressively lowered from 15.3% in 2001 to 7.5% in 2019.

According to the 2019 Customs Tariff Adjustment Plan, the ITA (Information Technology Agreement of WTO) duty rate has been integrated into the MFN Duty Rates and the fourth tariff reduction has implemented on information technology products from July 1, 2019.

Table 3 Weighted Average MFN Duty Rate and Comparison 2018

| | Total | Agricultural products | Non-agricultural products |
|-----------|-------|-----------------------|---------------------------|
| Japan | 2.1 | 11.1 | 1.2 |
| USA | 2.4 | 3.8 | 2.3 |
| EU | 3.0 | 7.8 | 2.6 |
| Australia | 4.0 | 2.4 | 4.1 |
| Korea | 6.9 | 55.4 | 4.0 |
| India | 7.6 | 38 | 5.6 |
| China | 4.4 | 9.7 | 4.0 |

Source: WCO Statistics.

Table 4 Import Duty of China 2018

| Summary | Total | | | Ag | | | Non-Ag | | |
|---------------------------|--------------------|------|------|----------------|-------|-------|--------|------|-----|
| | 4.4 | | | 9.7 | | | 4.0 | | |
| Frequency Distribution | free | 0~5 | 5~10 | 10~15 | 15~25 | 25~50 | 50~100 | >100 | NAV |
| | MFN applied duties | | | | | | | | |
| Ag MFN applied | 7.2 | 6.8 | 26.4 | 24.6 | 25.7 | 6.7 | 2.7 | 0 | 0.3 |
| Non-Ag MFN applied | 7.2 | 19.3 | 47.0 | 14.5 | 10.7 | 1.2 | 0 | 0 | 0.3 |
| Product groups | MFN applied duties | | | | | | | | |
| | AVG | | | Duty-free in % | | | Max | | |
| Animal products | 14.2 | | | 13.4 | | | 25 | | |
| Dairy products | 12.3 | | | 0 | | | 20 | | |
| Fruit, vegetables, plants | 14.8 | | | 4.9 | | | 30 | | |
| Coffee, tea | 14.9 | | | 0 | | | 32 | | |
| Cereals & preparations | 23.0 | | | 8.8 | | | 65 | | |

| | | | |
|-----------------------------|------|------|----|
| Oilseeds, fats & oils | 10.9 | 9.1 | 30 |
| Sugars and confectionery | 28.7 | 0 | 50 |
| Beverages & tobacco | 23.7 | 2.0 | 65 |
| Cotton | 18.0 | 10.0 | 40 |
| Other agricultural products | 11.8 | 8.5 | 38 |
| Fish & fish products | 10.9 | 4.1 | 23 |
| Minerals & metals | 7.8 | 5.9 | 50 |
| Petroleum | 5.3 | 16.7 | 9 |
| Chemicals | 6.7 | 0.4 | 47 |
| Wood, paper, etc. | 4.1 | 41.0 | 20 |
| Textiles | 9.6 | 0 | 38 |
| Clothing | 16.0 | 0 | 25 |
| Leather, footwear, etc. | 13.2 | 0.6 | 25 |
| Non-electrical machinery | 8.1 | 9.1 | 35 |
| Electrical machinery | 8.4 | 24.2 | 35 |
| Transport equipment | 12.3 | 0.8 | 45 |
| Manufactures | 11.6 | 10.2 | 35 |

Source: WTO Statistics.

10.2.2 Conventional Duty

According to the kinds of trade agreements concluded between China and the relevant countries/regions, goods imported from the relevant countries/regions and complied with relevant Rules of Origin will be subject to Conventional Duty. The current implementation is as follows:

Table 5 Conventional Duty of China

| Countries/Regions | Agreement Backgrounds |
|---|------------------------------|
| Korea, India, Sri Lanka, Bangladesh, Laos | Asia-Pacific Trade Agreement |

| Countries/Regions | Agreement Backgrounds |
|----------------------|--|
| ASEAN | Sino-ASEAN Comprehensive Framework Agreement |
| Chile | Sino-Chile Free Trade Agreement |
| Pakistan | Sino-Pakistan Free Trade Agreement |
| New Zealand | Sino-New Zealand Free Trade Agreement |
| Singapore | Sino-Singapore Free Trade Agreement |
| Peru | Sino-Peru Free Trade Agreement |
| Costa Rica | Sino-Costa Rica Free Trade Agreement |
| Switzerland. | Sino-Swiss Free Trade Agreement |
| Iceland | Sino-Iceland Free Trade Agreement |
| Australia | Sino-Australia Free Trade Agreement |
| Korea | Sino-Korea Free Trade Agreement |
| Maldives | Sino-Maldives Free Trade Agreement |
| Georgia | Sino-Georgia Free Trade Agreement |
| Hong Kong SAR, China | CEPA (Closer Economic Partnership Arrangement) Hong Kong |
| Macau SAR, China | CEPA (Closer Economic Partnership Arrangement) Macau |
| Taiwan, China | ECFA (Economic Cooperation Framework Agreement) |

It is noted that according to the 2019 Customs Tariff Adjustment Plan, the following treatment will be implemented from January 1, 2019:

- the import duty rates for goods imported from New Zealand, Peru, Costa Rica, Switzerland, Iceland, Korea, Australia, Georgia and countries participating in the Asia-Pacific Trade Agreement have been further reduced;
- In addition, according to the agreement between China and Hong Kong/Macau, the CEPA Hong Kong/Macau import duty rate will fully be imposed to zero.

10.2.3 Preferential Duty

According to the trade or tariff preferential agreement signed by China and relevant countries/regions,

bilateral official exchange of documents and decisions of the State Council, Preferential Duty is applicable to specific goods from the following countries or regions (refer to the tariff columns of Tariff Schedule of PRC 2019):

Table 6 Preferential Tariff of China

| Countries/Regions | Agreement or Documents Backgrounds |
|--|--|
| Bangladesh, Laos | Asia-Pacific Trade Agreement |
| Myanmar, Laos, Cambodia | Sino-ASEAN Comprehensive Framework Agreement |
| Ethiopia, Burundi, Equatorial Guinea, Congo, Djibouti, Guinea, Guinea-Bissau, Lesotho, Madagascar, Malawi, Mali, Mozambique, South Sudan, Sierra Leone, Senegal, Sudan, Somalia, Tanzania, Uganda, Chad, Central Africa, Afghanistan Yemen, Vanuatu, Comoros Union, Mauritania, Togo, Liberia, Rwanda, Angola, Zambia, Nepal, Niger, Eritrea, Cambodia. (35) | zero-tariffs treatment according to the trade or tariff preferential agreement signed by China and relevant countries/regions, bilateral official exchange of documents and decisions of the State Council |
| Benin, East Timor, Myanmar (3) | |
| Bangladesh (1) | |

10.2.4 Tariff Quota

The Tariff Quota is applicable to goods imported within the import quota.

10.2.5 Temporary Duty

Based on the 2019 Customs Tariff Adjustment Plan, the Temporary Duty will apply to imported products for 706 HS codes. The Temporary Duty is targeting specific imported products:

- if the import goods that are subject to the MFN Duty are also applicable to the Temporary Duty, the Temporary Duty shall apply to;
- If the imported goods that are subject to the Conventional Duty or Preferential Duty are also applicable to the Temporary Duty, then the Temporary Duty shall apply to.

10.2.6 General Duty

General Duty is applicable to imported goods from countries/regions that are not applicable to MFN Duty, Conventional Duty, Preferential Duty, and imported goods from unknown country of origin.

10.3 Export Duty

Export Duties are classified into temporary and general. In 2019, only 108 HS codes are within the scope of taxation, and the rate remained as 2018. Please visit the [website](#) for details.

10.4 Special Import Duties

10.4.1 Anti-Dumping Duty

When imported products enter the Chinese market by dumping and seriously damage China's existing industries or cause major obstacles to the growth of China's domestic industry, Anti-Dumping Duty will be imposed after the investigation. The Anti-Dumping Duties collection period shall not exceed 5 years.

10.4.2 Countervailing Duty

When imported products are subsidized by the government and seriously damage China's existing industries or cause major obstacles to China's industrial development. In addition, Countervailing Duties will be imposed after the investigation. The period of countervailing duty collection shall not exceed 5 years.

10.4.3 Safeguards Measures

If the number of imported products increases and seriously damages the Chinese industry, Safeguards Measures (not more than 200 days) will be imposed on the investigation that usually indicate the temporary special duties. According to the final ruling of the investigation, special duties or quantitative restrictions may be imposed. The period of protection must not exceed 4 years.

10.4.4 Special Safeguard Mechanism

Special Safeguard Mechanism (SSM) is only a temporary emergency measure for developing countries that have implemented tariff management for agricultural imports. It is applicable only to agricultural

products specified in the agreement and it can be activated automatically when the import volume increases rapidly or the import price is lower than the specified standard.

10.4.5 Retaliatory Duty

Over the course of the US-China trade disputes, China has imposed retaliatory Duties on US goods, including beef, lamb, pork, vegetables, juice, cooking oil, tea, coffee, refrigerators, and furniture, among many others.

10.5 VAT for Imported Goods

From April 1, 2019, all goods imported into China are subject to the Value-added Tax (VAT) of either 9% or 13 %. The 9% tax is available for certain goods that fall mainly within the categories of agricultural and utility items, while the 13% tax applies to other goods subject to the VAT.

The VAT rates were originally 11 percent or 17 percent but were decreased to 10 percent or 16 percent in May 2018, then to 9% or 13% in April 2019.

10.6 Consumption Tax for Imported Goods

Consumption Tax is imposed on importers who import taxable products. Imported products taxable under China's consumption tax regime include:

- tobacco or alcohol;
- firecrackers and fireworks;
- luxury goods like fine jewelry, precious stones and cosmetics
- high-end products, such as passenger cars and motorcycles, golf balls and equipment, high-end watches, yachts;
- disposable wooden chopsticks;
- hardwood floorboards;
- batteries and coatings.

For imported goods, the consumption tax rate varies depending on the type of product being brought into the country. Calculating consumption tax can be done by using either the ad valorem or quantity-based

method.

10.7 Cross-Border E-Commerce Import Tariff

There are two circumstances that can apply Cross-Border E-Commerce import tariff:

- goods purchased from merchants registered in China's cross-border e-commerce network; or
- goods purchased from any overseas merchant and shipped by a courier company that is able to present three required documents (commercial invoice, airway bill, and proof of payment), and who can take legal responsibility for the import.

Personal imports of these types, with a Customs value (CIF value) up to CNY 5,000, and where the accumulated transaction value has not surpassed the personal annual limit of CNY 26,000, are exempt from import duty, and subject to 70% of the applicable VAT and Consumption Tax rate.

Imports which exceed these limits will be subject to all duties and taxes. It is noted only products in the positive list (i.e. a list of products approved by China's Ministry of Finance) can be imported under this regime.

10.8 Reduction, Exemption and Refund

10.8.1 Reductions and Exemptions

General

The following goods imported and exported may be exempt from Customs Duties by-law:

- the goods of one receipt of duty amount under CNY 50;
- advertising articles and trade samples of no commercial value;
- materials gifted by international organizations or foreign governments free from charge;
- the fuels, materials, and beverage needed for the entry and exit transportation tools on the route of loading;
- the goods damaged or lost before releasing by Customs;
- other goods free from or reduced on Customs Duties by-laws (such as the goods, articles free

from or reduced of Customs Duties as stipulated in the international conventions that China has concluded or participated).

At the same time when the duty is reduced, exempt for the above imported goods, the VAT and Consumption Tax on the stage of importation may be reduced or exempted.

Special

Duty exemption or reduction and temporary exemption or reduction of duty to special area, specific enterprise or for special use may be granted in line with the regulations of the State Council. The Customs Duties on the following imported for self-use may be exempted:

- imported equipment and parts by the foreign and domestic investment projects and research centers, encouraged, listed and approved by official authorities (including China Customs);
- Importing certain key components and raw materials or exporting certain key technical equipment and products listed in the catalogue to eligible Chinese domestic enterprises is exempt from import VAT and Customs duties (the Catalogue of State-supported Key Technical Equipment and Products, the Catalogue of Imported Key Components and Raw Materials of Key Technical Equipment and Products took effect on January 1st, 2019), encouraged, listed and approved by official authorities (including China Customs);
- imported equipment and parts by integrated circuit manufacturing enterprises (projects), software enterprises (projects) and anime enterprises (projects), encouraged, listed and approved by official authorities (including China Customs);
- imported articles for science, research, and teaching, encouraged, listed and approved by official authorities (including China Customs);
- imported articles specially for the use of the disabled, encouraged, listed and approved by official authorities (including China Customs);
- oversea donated, poverty support or charity goods approved by official authorities (including China Customs);
- the commodities imported by the border residents by mutual market trade with a limit.

It is noted that the duties on the bonded components and raw materials for processing trade are also exempted.

10.8.2 Duty Refund

The duty payers may apply for the refund of the duty within one year after the date of payment by written form:

- if the duty-paid goods are re-exported out of China due to quality or specification reasons;
- if the duty-paid goods are re-imported into China due to quality or specification reasons;
- if the duty-paid goods are not loaded or exported;
- if there is any damage, bad quality, wrong specification or other shortage of the duty-paid goods.

China Customs may examine the goods or ask for the qualified proof, such as an inspection report.

11. HS CLASSIFICATION

The Harmonized Commodity Description and Coding System, also known as the Harmonized System (HS) of tariff nomenclature is an international standardized system of names and numbers to classify traded products. The determination of the correct HS Code for tariff classification purposes is important since the applicable Customs tariff rates and import licenses/certificates for specific imported goods are determined according to their HS Codes.

From August 1, 2018, the HS Code system of China has been changed from the original 10-digital HS code to the new 13-digital HS code. The first 6 digits of these codes are the same to those used by other members of the WCO, the 7-8 digit are the commodity code of China, 9-10 digit are Customs additional control codes, and 11-13 digit are additional numbers for inspection and quarantine. The 8-digital Tariff Schedule published by the Customs Tariff Commission of the State Council includes 8,549 8-digital codes. The following is the structure of a 13-digital code:

- 1-2 digit Chapter;
- 1-4 digit Heading;
- 1-6 digit Sub-heading
- 1-8 digit Article
- 9-10 digit Customs additional control code
- 11-13 digit Additional numbers for inspection and quarantine

To gain more certainty on the HS classification of a product to be imported into China, the importer may apply to China Customs for a Advanced Ruling on the HS code.

12. CUSTOMS VALUATION

According to the important decree of GACC, the Measure for Customs Valuation of Imported and Exported Goods, China Customs uses the globally accepted methodology to assess the dutiable value. Based on the measure, the dutiable value of imported goods should be assessed based on the transaction value, which is defined as the complete actual price of the goods, including both direct and indirect payments made by the buyer to the seller, with certain required adjustments. The dutiable value also includes transportation-related expenses and insurance premiums on the goods prior to unloading at the place of arrival in China. Import duties and taxes collected by Customs are excluded from the dutiable value.

To assess a dutiable value, e-Customs may automatically access to a valuation database that lists appropriate valuations for various imports, based on international market prices, foreign market prices, and domestic prices. Normally, the price on the Invoice will be accepted. However, if the reported value is too far out of line with the database, China Customs officer may inspect the goods and evaluate the goods based on the following methods with certain required adjustments in order:

- (1) Transaction Value Method;

- (2) Identical Goods Method;
- (3) Similar Goods Method;
- (4) Domestic Sale Price Method;
- (5) Calculating-costs Method;
- (6) Reasonable Standards Method.

These methods must be applied sequentially starting with the first method, and any evaluation method of lower priority can be applied only when the dutiable value determined by the method of higher priority cannot be applied. However, the fifth method may be applied in advance of the fourth method in case where the person liable for duty payment makes a request for it.

In recent years, both Chinese Tax Administration and Customs administrations have placed their focus on transfer pricing, particularly of multinational enterprises. Some new requirements and regulations provide Customs authorities with more information and an approach to evaluate declared dutiable values. Since March 2016 the GACC has announced several adjustments to the Customs Declaration requirements, requiring importers to disclose related party transactions and to confirm whether import prices have been influenced by the relationship between the buyer and seller.

China Customs, by leveraging the newly established Customs National Center for Duty Collection and Management for national all-in-one clearance reform, have increased their supervision and monitoring of import transactions between related parties and have instructed the audit division and port clearance division to carry out focused inspections.

However, from China Customs' standpoint, if the company's profit margin is higher than the upper quantile established by the benchmark comparable companies, the Customs authorities would tend to consider whether the high profit rate is caused by the low import price.

As part of group transfer pricing policies, many MNEs set up licensing arrangement for local Chinese subsidiaries to pay royalties relating to the right to use certain intangibles (i.e. trademark fees, technology fees) to relevant intangibles owners. Currently, procedure-wise the MNEs could remit the outbound royalties without preapproval from the Chinese tax or Customs authorities. However, both authorities could still look into royalty payments closely even after the outbound royalty payments are made. Customs valuation rules focus on whether the royalties are connected to the imported goods, such that the royalty payment constitutes the condition to sales to China, to assess whether the royalty payment

should be dutiable and additional duties and import VAT should be levied. MNEs may also consider available mechanisms such as Customs Advance Rulings and China Customs has introduced the Customs Advance Ruling mechanism from February 1, 2018.

13. RULES OF ORIGIN

Rules of origin are technical content that is closely related to the collection of cross-border taxes in international trade. Usually, Rules of Origin are used:

- to implement measures and instruments of commercial policy such as anti-dumping duties and safeguard measures;
- to determine whether imported products shall receive most-favored-nation (MFN) treatment or preferential treatment;
- for the purpose of trade statistics;
- for the application of labelling and marking requirements; and
- for government procurement.

Being the criteria needed to determine the “nationality” of a product, there is wide variation in the practice of different governments with regard to it especially with the growth of bilateral and multilateral regional free trade agreements. While the requirement of substantial transformation is universally recognized, governments apply the criterion of change of tariff classification, others the ad valorem percentage criterion and yet others the criterion of manufacturing or processing operation.

China has offered special preferential tariff treatment to the Least Developed Countries (LDCs). For example, China began providing special preferential tariff treatment to selected products imported from Laos, Cambodia and Burma from November 2001. So far, importation from more than 40 countries to China can enjoy the special preferential tariff treatment.

GACC issued Administrative Measures of the PRC Customs on Rules of Origin of Imported Goods from the Least Developed Countries Entitled to Special Preferential Tariff Treatment in 2017. With this publication, the previous decrees regarding the rules of origin of goods imported from the LDCs are abolished. The Decree applies to the administration on country of origin for importations from the LDCs that enjoy special preferential tariff treatment, which represents the new requirements of China Customs regarding administration on country of origin.

The rules of origin for special preferential tariff treatment have been further improved with the issuance of the Decree, becoming more similar to the rules of origin in the newly signed free trade agreements between China and beneficiary countries. The newly introduced rules in the Decree make it easier for goods to be regarded as originating from beneficiary countries. The introduction of Advanced Ruling and Declaration of Origin gives importers more choices when applying for the beneficiary tariff rate.

It is noted that besides offering special preferential tariff treatment to LDCs, China has already signed bilateral FTAs with many countries/regions, as well as 2 regional FTAs. Goods imported from contracting parties can enjoy the agreed preferential tariff treatment with the support of specific Rules of Origin. Rules of Origin are different among different FTAs, which were determined based on the negotiation between China and the contracting countries. For example, although “wholly obtained” and “substantially transformed” are two basic standards in the rules of origin, different FTAs have different rules in details.

In addition, some specific provisions regarding cumulation, minimal operations or processes, direct consignment, de minimis, neutral elements, packaging materials and containers, fungible materials and sets of articles may not be included in all FTAs, and each specific rule may not be same in different FTAs.

Originating Goods

Aside from products that are “wholly obtained or manufactured in beneficiary countries” and “not wholly obtained or manufactured but are substantially transformed in beneficiary countries”, products that are completely manufactured in beneficiary countries with originating materials regulated by the Decree will be treated as originating products from beneficiary countries.

Advanced Ruling and Declaration of Origin

A Declaration of Origin can be accepted in place of a Certificate of Origin for any consignment of goods covered by an advance ruling issued by China Customs that deems the goods to be qualified as

originating from beneficiary countries, so long as the facts and circumstances on which the ruling was based remain unchanged and the ruling remains valid.

Electronic Data Exchange System

If China Customs has already acquired the electronic data of a Certificate of Origin or Declaration of Origin from beneficiary countries through the electronic data exchange system, the consignees or their agents of imported goods do not need to submit hard copies of the documents.

De Minimis Rule

A good that does not satisfy change in tariff classification requirements will nonetheless be an originating good if:

- (a) the value of all non-originating materials used in the production of the good in question does not exceed 10% of the value of the good as determined in accordance with WTO GATT Customs Valuation Agreement; and
- (b) the good meets all other applicable provisions of the Decree.

Cumulation

Where originating goods or materials of China are for producing into a product in the beneficiary country, the goods or materials so incorporated should be regarded as originating materials.

If the beneficiary country is a member of a specific regional group where originating goods or materials of other beneficiary countries within the group are incorporated for producing into a product, the goods or materials so incorporated should be regarded as originating materials.

Clarification on the Calculation of Regional Value Content

$$RVC = (\text{Value of the good} - \text{Value of non-originating material}) / \text{Value of the good} \times 100\%$$

While value of the good should be determined in accordance with the provisions of the Measure for Customs Valuation of Imported and Exported Goods, adjusted on an FOB basis.

Direct Consignment

If an originating good of a beneficiary country is transported through other country or region before arriving in China, the maximum duration of staying in the country or district has been extended from 3 months to 6 months.

Waiver of Certificate of Origin or Declaration of Origin

The requirements for the presentation of a Certificate of Origin or Declaration of Origin have been waived for any consignment of originating goods of a Customs value not exceeding CNY 6,000.

14. CUSTOMS ADVANCED RULINGS

In 2017, GACC released the Interim Administrative Procedure for Customs Advance Rulings, which comes into effect on February 1, 2018. The new provisions permit importers and exporters to request advance rulings from China Customs in advance of the actual importation or exportation of the goods online.

Eligibility for Advance Ruling Applications

Applicants shall be foreign trade operators (importers and exporters) registered with China Customs. In addition, applicants shall only apply for advance ruling on Customs affairs in relation to their own foreign trade activities.

Scope of Advance Rulings

- HS Classification;
- Country (region) of Origins or qualifications as original products;
- dutiable value and valuation methods for imported goods;

- other Customs affairs prescribed by the GACC.

Time Limit and In-charge Customs Office

An applicant shall apply to the Customs directly under the GACC at the place where it is registered in three months before the scheduled importation and exportation.

Under exceptional circumstances, an applicant that has valid reasons may apply for advance rulings within three months before the scheduled importation or exportation.

Advance Ruling Decision

After the submission of an application for advance ruling, the in-charge Customs shall review and make a decision on whether or not to accept the application within 10 days. Once the application is accepted, an advance ruling decision shall be issued within 60 days. Except for those involving business secrets, the Customs office reserves the right to publish the rulings letters.

An advance ruling decision is valid for three years. In case of any changes to the relevant laws, administrative regulations, Customs regulations and announcements of the GACC on which the advance ruling decision is based, the advance ruling decision shall be null and void automatically.

Advance ruling decisions have no retroactive effect on goods imported or exported before these decisions come into force.

Any applicant that has objections to an advance ruling decision may apply to the GACC for administrative review, and may further institute administrative proceedings with the people's court in accordance with the law if it still has objections to the review decision.

15. FREE TRADE AGREEMENTS

In 1982, China was recognized as an observer of the GATT and applied to join in 1986 (restoring the status of the GATT signatories). On December 11, 2001, PR China joined the WTO officially.

Currently, China has signed and implemented 17 Free Trade Agreements (FTAs), while 13 FTAs are in negotiations and another 10 are under considerations. China has FTAs in force with countries and economic blocs such as ASEAN, New Zealand, Singapore, Switzerland, Korea and Australia. It is currently negotiating FTAs with countries and organizations including the Regional Comprehensive Economic Partnership (RCEP), the Gulf Cooperation Council (GCC) countries, Norway, Japan-Korea, Sri Lanka, and Maldives.

Table 7 FTAs Status of China in 2019

| In Force | Negotiating | Preparing |
|-------------|------------------------|------------------|
| APTA | RCEP | Colombia |
| ASEAN | GCC | Mongolia |
| Australia | China, Japan and Korea | Bangladesh |
| CEPA | Sri Lanka | Canada |
| Chile | Israel | Papua New Guinea |
| Costa Rica | Norway | Nepal |
| ECFA | Mauritius | Fiji |
| Georgia | Moldova | |
| Iceland | Panama | |
| Korea | Palestine | |
| Maldives | | |
| New Zealand | | |
| Pakistan | | |
| Peru | | |
| Singapore | | |
| Switzerland | | |

Source: The Ministry of Commerce, China.

16. BONDED TRADE

16.1 Bonded Processing Trade

China has a bonded system on processing trade which refers to the business activity of importing all, or part of, the raw and auxiliary materials, parts and components, accessories, and packaging materials from abroad in bond, and re-exporting the finished products after processing or assembly by enterprises within China. Under this system, the amount of materials and components imported for the purpose of processing trade is exempt from tariffs. There are normally two kinds of processing trade that can be adopted.

16.1.1 Categories of Bonded Processing Trade

Processing with Supplied Materials

In terms of processing with supplied materials, which is also named contract processing, raw materials and components are supplied by a foreign company and processed by a Chinese enterprise. Ownership of raw materials and components remains that of the foreign customer. The Chinese company does not have to make foreign exchange payments, and is paid through charging a processing fee. Finished products are owned and distributed by the foreign customer. If any of the bonded materials under processing trade are diverted for domestic consumption, China Customs would collect the corresponding amount of duties and VAT.

Processing with Imported Materials

Processing with imported materials means that a Chinese corporation purchases raw materials and components (either from the ultimate foreign purchaser or a third party) and it is also named as import processing. Therefore, it has to make foreign currency payments. The ownership of those imported commodities remains that of the Chinese enterprise. The Chinese enterprise exports the finished products to any foreign customer after processing and assembling. The Chinese manufacturer is allowed to purchase raw materials from overseas suppliers free of import duty and VAT.

16.1.2 Advantage of Bonded Processing Trade

China has a bonded system on processing trade that includes bonded zones and bonded factories. Under the bonded system, processing companies are entitled to defer payment of duties and import-related taxes on all imported materials and components. However, if the finished products are intended to be sold on the Chinese market, China Customs will levy duties and interest on deferred payments subject to valid approval documents for sale on the Chinese market issued by the relevant authorities.

Furthermore, the imported machines provided by a foreign party for the purpose of processing trade will also be exempt from Customs duties and import value-added tax, except for a few non-duty-exempt commodities as specified by China Customs.

16.1.3 Prohibitions and Restrictions

In the case of processing trade, imported or export goods are classified into prohibited, restricted and permitted.

Prohibitions for Processing Trade

According to the national industrial policy, processing trade with high energy consumption and high pollution are prohibited. The list was adjusted several times and has a total of 1862 10-digital HS. Please click [List of Trade Prohibited Products](#) for details. It is noted that the following products are also prohibited in accordance with the processing trade:

- imported seeds, seedlings, seed materials, fertilizers, feeds, additives, antibiotics, etc., for export farming and aquaculture products, etc.;
- imitation gun production and export;
- imported smelting slag and other waste;
- imported scrapped cars and scrap metal products to recycle metals;
- imported smelting copper;
- imported waste motors for recycling copper (including discarded game consoles);
- imported waste aluminum recycling;
- disassembly and other variable structure ships;

- ore and soot containing 10% or more of vanadium pentoxide;
- imported raw hides are directly processed into leather products and then exported;
- imported raw leather is processed into semi-finished leather or finished leather, which is then directly processed or processed through the special supervision and management area of the Customs, and further processed into leather products, which are then re-exported by the endothelium leather products company;
- imported raw leather is processed into semi-finished leather or finished leather, which is exported to special Customs supervision areas such as bonded areas and export processing zones, and then processed into leather products, which are then re-exported by local companies.

Restrictions for Processing Trade

According to the national industrial policy, some specific processing trade are restricted. The list was adjusted several times and has a total of 356 10-digital HS codes for import and 95 10-digital HS codes for export. Please click [list](#) for details.

It is noted that enterprise engaging in processing trade can voluntarily carry out the import which are subject to import license.

16.1.4 Customs Procedures

Since August 1, 2019, the e-account-book management and e-Customs clearance procedures for processing trade have been carried out through the Golden Gate II System, and the procedures for handling enterprises are easier and faster.

16.2 Bonded Logistics

16.2.1 Bonded Warehouse

A. Public Bonded Warehouses

Operated by the independent domestic enterprise legal persons, public bonded warehouses provide bonded storage services to the public.

B. Self-use Bonded Warehouses

Self-use bonded warehouses are operated by specific independent domestic enterprises legal persons in China, and only store the bonded goods of such enterprises of its self-use.

C. Special Bonded Warehouses

Special bonded warehouses comprise bonded warehouses for liquid dangerous goods, for stock materials, for consignment and maintenance, and other special bonded warehouses.

Scope of goods that may be stored in bonded warehouses:

- imported goods for processing trade;
- transit goods;
- oil, materials and maintenance spare parts for vessels and aircrafts used for international voyages or flights;
- imported consignments of spare parts for maintenance of foreign products;
- goods temporarily stored by foreign merchant;
- ordinary trade goods that have not gone through Customs clearance;
- other goods that are approved by the Customs but have not gone through Customs clearance.

16.2.2 Bonded Logistics Center - Type A

Bonded Logistics Center - Type A means a Customs-supervised self-use logistics center operated by a domestic enterprise legal person in China, and only provides bonded warehousing/logistics services to the enterprise itself or its internal members.

Goods that may be stored in logistics centers:

- domestic export goods;
- transit goods and international transshipment goods;
- goods temporarily stored by foreign merchants;
- imported and exported goods for processing trade;

- materials and maintenance spare parts for vessels and aircrafts used for international voyages or flights;
- imported consignments of spare parts for maintenance of foreign products;
- ordinary trade imported goods that have not gone through Customs clearance;
- other goods that are approved by the Customs but have not gone through Customs clearance.

16.2.3 Bonded Logistics Center - Type B

Bonded Logistics Center - Type B means a centralized Customs-supervised place that operated by a domestic enterprise legal person in China, where many enterprises are located and specialized in bonded warehousing/logistics business.

Goods that may be stored in logistics centers are same to Type A.

16.3 Special Customs Supervision Zone

Special Customs Supervision Zone (SCSZ) is a type of economic development zone in China, which is empowered for bonded processing trade, bonded logistics, and bonded related service such as cross-border e-commerce. Upon approval by the State Council, SCSZ is set up under the supervision of Customs authorities. SCSZ is usually surrounded by an iron mesh enclosure, making them segregated areas. Thus, while the SCSZ is in the territory of China, enterprises in the SCSZ are treated as “overseas”.

Goods entering SCSZ from abroad are not categorized as imports and enjoy preferential bonded policies. Similarly, goods from domestic out-zone areas entering some SCSZ may enjoy export rebates. In fact, while SCSZs occupy only 1/20,000th of China’s land, they generated around one-sixth of the country’s total foreign trade in 2018. In recent years, Comprehensive Bonded Zone (CBZ) is becoming the dominant type of SCSZ attributed to current policy trends.

16.3.1 Types of SCSZ

Currently, there are six types of SCSZs existing in China:

Table 8 Six Types of SCSZs in China

| SCSZ | Functions |
|---------------------------------|--|
| Bonded Zone | Bonded warehousing, transit trade, export processing, etc. |
| Bonded Logistics Park | Bonded warehousing, international transfer, international procurement, international distribution, product exhibition, international enter pot trade, etc. |
| Export Processing Zone | Export processing, etc. |
| Bonded Port | Bonded warehousing, logistics, international transfer, international procurement and distribution, testing and after-sales maintenance service, product exhibition, R&D processing, manufacturing, port operations, etc. |
| Cross-border Industrial Park | Manufacturing, logistics, transit trade, product exhibition, etc. |
| Comprehensive Bonded Zone (CBZ) | Bonded warehousing, logistics, International transfer international procurement and distribution, testing and after-sales maintenance service, product exhibition, R&D processing, manufacturing, etc. |

After 2015, all existing SCSZs will be integrated into CBZs. Further, except for some Bonded Zones, most SCSZs will transition or are currently transitioning into becoming CBZs.

16.3.2 Comprehensive Bonded Zone (CBZ)

The Guidelines on Projects Suitable for Entry into CBZ, issued by the GACC in April 2019, offers a list of preferential policies in CBZ, the categories of enterprises highly encouraged to do business in CBZ, and sample cases of entry projects for reference for potential investors.

Preferential Tax Policy

- goods entering CBZ from abroad are bonded in the zone;
- goods from Chinese non-zone areas entering CBZ can enjoy export rebates;
- in-zone goods sold to domestic markets can be declared to Customs, according to the relevant provisions on the import of goods, and be taxed, according to the actual state of the goods;
- goods transactions between in-zone enterprises are exempted from VAT and consumption tax;

- imported materials and equipment of capital construction will be exempted from tariffs and import-related taxes; and
- other approved or authorized tax policies.

Trade Control Policy

No import and export quota or license administration shall be required for goods entering or leaving the country, unless specifically required.

Bonded Supervision Policy

No storage period for bonded goods stored in the area; and bonded goods can be transferred freely among enterprises in the zone.

Foreign Exchange Policy

Goods entering or leaving the zone (within the territory and outside the zone) may be settled in foreign currency or CNY.

Future Policy Trends

In January 2019, the State Council issued the Opinions on Promoting High-level Opening and High-quality Development of CBZ (New 21 Articles), aiming to promote CBZ to become five centers – processing and manufacturing centers, R&D centers, logistics distribution centers, testing and maintenance centers, and sales and service centers. The opinion announced 21 measures to facilitate in-zone enterprises to expand their business scope. As of January 2019, China has a total of 140 SCSZ and 96 CBZ.

16.4 Pilot FTZ

The establishment of Pilot FTZ (Free Trade Zone) represents China's major move to adopt a more proactive strategy of opening up in line with the new trend of global economic development. The State Council has so far approved 18 Pilot FTZs. The Pilot FTZs has made considerable progress in trade facilitation and institutional innovation. In line with this, it is now expected that the new Customs system that comply will Pilot FTZs practices will be put in place across China within the next years.

The FTZ have implemented a Customs reform of “open the first line, control the second line, free move in the zone”. In addition, there are more than 100 facilitation measures utilized such as:

- enter first and declare later;
- aggregate declaration;
- paperless clearance; and
- intelligent E-gate.

These facilitation measures have significantly improved the efficiency of Customs clearance and reduced the logistics costs.

In the latest development, the adoption of:

- third-party test results;
- global repairs industry supervision;
- risk management for incoming and outgoing biological products;
- management of certificate of origin for goods in transit;
- reform of paperless inspection, quarantine, and Customs clearance;
- pre-inspection of import goods;
- separate supervision and management of inspection and quarantine;
- a negative list for the examination and approval of quarantine of animals and plants and their products;

have been copied and promoted.

Table 9 FTZs in China

| Time of establishment | Pilot FTZs |
|-----------------------|------------|
| September 2013 | Shanghai |
| April 2015 | Guangdong |
| | Tianjin |
| | Fujian |

| Time of establishment | Pilot FTZs |
|-----------------------|--------------|
| March 2017 | Liaoning |
| | Zhejiang |
| | Henan |
| | Hubei |
| | Chongqing |
| | Sichuan |
| | Shaanxi |
| October 2018 | Hainan |
| August 2019 | Shandong |
| | Jiangsu |
| | Guangxi |
| | Hebei |
| | Yunnan |
| | Heilongjiang |

17. CUSTOMS POST-CLEARANCE AUDIT

As one of the risk management measures, China Customs Post-clearance Audit (PCA) aims at identifying non-compliances. The Customs PCA can be a randomly pre-determined audit or routine audit by the local Customs.

17.1 Scope of PCA

According to the PRC Customs Audit Regulations, the scope of Customs audit is to examine the “truthfulness and legality” of import and export activities. At any time within 3 years after imported or exported goods are released, China Customs is entitled to audit these goods as well as all related import

and export documents and accounting books and records.

The scope of audit will be indicated on the audit notice. Most likely Customs audit may focus on HS codes, value, royalties, origin, export control and so forth. In the audit, the Customs auditors or their authorized third party may request to review all documents related to import and export activities. Such documents include three-year accounting books, Customs declaration documents, import and export records, resale records and so forth. It is the company's legal duty to properly compile and retain these documents and records.

17.2 Procedure of PCA

Notice of Audit

A Customs audit must start with a formal notification to the company 3 days before the audit. In urgent cases where the documents or goods may be transferred, hidden or destroyed by the company, no advance notice is necessary and notice of audit can be served on the day when the dawn-raid audit starts.

On-site Audit

Customs must dispatch at least two auditors to conduct the on-site audit. These auditors must show the company their Customs Audit Certificate before they start the audit.

When conducting audit, the audit team can visit and enter office, workshop and warehouse to examine goods, review and copy accounting books and other documents, inquire the legal representative and personnel.

Sometimes the audit team may request all routine works suspended until the on-site audit finished. Audit team may also examine the bank accounts of the company. In the circumstances where the Customs suspects that the documents may be hidden or destroyed by the company, the Customs may seal up or seize the documents or goods during audit.

Pre-decision Notice

If any non-compliance is identified through the audit, before a formal audit conclusion is made, the auditor

will send the pre-decision notice to the company soliciting views from the company on the facts found and conclusions to be made.

Comment on Pre-decision Notice

The company may submit written comment on the pre-decision notice to the Customs auditor within 7 days after receiving the same notice. The company must avoid imprudent admission of any allegation if it is not a fact.

Audit Decision

If the Customs audit does not identify any non-compliance, the auditor may directly make a decision without a need to issue the pre-decision notice.

If the audit team identifies underpaid import taxes, it will make decision of tax compensation.

In case that non-compliance is found out, the auditor will make a decision to transfer this case to Anti-Smuggling Bureau of Customs who has the authority to investigate illegal activities and make administrative punishments.

17.3 Obligations of Auditees

The company has a legal duty to cooperate with the Customs, provide necessary space to the audit team and submit documents as requested by the Customs auditors.

The company is not supposed to refuse or delay in providing the Customs with the accounting books, documents and other related materials as well as related electronic data, nor to transfer, conceal, falsify or destroy accounting books, provide false information to the Customs auditors, or conceal important facts. Any violation of this duty may result in administrative or criminal punishment to the company or the responsible personnel.

There must be reasonableness in a request of the Customs for any data or information. If any data or information is obviously not relevant to truthfulness or legality of imported or exported goods, the company could raise an objection to refuse provision of such data or documents.

17.4 Voluntary Disclosure

The New Customs Audit Regulations provide a "voluntary disclosure mechanism" where companies, directly related to the importation/exportation of goods, voluntarily report their violations to Customs and accept the corresponding Customs consequences should be subject to lenient treatment or reduced administrative penalties.

Through voluntary disclosures, companies should be subject to lenient treatments or reduced penalties on their disclosed violations. Therefore, one of the aims of voluntary disclosure is to encourage companies to make use of their routine internal control processes to improve compliance.

18. CUSTOMS ADMINISTRATIVE LICENSING

Administrative licensing refers to the act of China Customs that, according to the application of a citizen, legal person or other organization, is subject to legal review and is permitted to engage in specific activities. After the governmental reform in recent years, administrative licensing matters have been greatly reduced and strictly controlled.

The contents and jurisdiction of the Administrative Licensing of China Customs are as follows:

Approval by GACC

- Registration of Tax-free store;
- Registration of oversea institution engaged in production, processing and storage of imported animal or plant products (including which involved in after entering China);
- Registration of foreign suppliers of solid waste used as raw materials;
- Registration of overseas manufacturer for imported food;
- Permit of inspection for import and export commodity inspection and appraisal business.

Approval by GACC and other Ministries and Commissions

- Bonded Logistics Center - Type B registration.

Approval by GACC or Authorized Regional Customs

- Quarantine of inward, outward, and transit animals and plants and their products.

Approval by Regional Customs

- Export supervision warehouse, bonded warehouse establishment;
- Bonded Logistics Center - Type A registration;
- Registration of institution and personnel engaged in import and export quarantine business;
- Registration of oversea institution engaged in production, processing and storage of exported animal or plant products;
- Registration of domestic consignee of solid waste used as raw materials;
- Health and quarantine for inward and outward special items.

Approval by Authorized Subordinate Customs under the Regional Customs

- Customs brokers registration;
- Customs supervision cargo warehousing;

Approval by Customs in Charge for

- Port health permit issuing;
- Filing of domestic manufacturer for exported food.

19. CUSTOMS ENFORCEMENT AND APPEALS

19.1 Smuggling Violations

19.1.1 Smuggling

Breach of Customs Law and relevant laws and administrative regulations, evasion of Customs control, defraud payable impost, elusion of national inward and outward prohibition or restriction in any of the situations listed below shall be deemed as smuggling:

- (a) to transport, carry or mail goods and articles prohibited or restricted by the State from entering or leaving the territory or goods and articles subject to render duties and taxes;
- (b) to sell bonded goods, goods under specific duty reduction or exemption and other goods, articles or inward foreign means of transport under Customs control, within the territory, without Customs permission, and without having paid the payable duties and taxes or producing relevant licensing document;
- (c) to have other acts evading Customs supervision and control that constitute smuggling;

If any of the acts listed above does not constitute the crime of smuggling, the Customs may impose a fine; goods or articles that are used for smuggling, means of transport that are used for smuggling shall be confiscated, equipment specially made for concealing smuggled goods or articles shall be demolished or confiscated.

Where any of the acts listed above that constitutes a crime, the person or persons concerned shall be investigated for criminal liability.

19.1.2 Deemed as Smuggling

The following acts shall be deemed as smuggling and punished:

- (a) to purchases the imported goods or articles by smuggling directly and illegally from the smugglers;
- (b) crew members which transport, purchase or sell goods or articles prohibited or restricted by the

State from being imported or exported, or transport, purchase or sell goods subject to duties and taxes without legal certificates in inland sea, territorial waters, boundary rivers and boundary lakes.

19.1.3 Accomplice of Smuggling

Whoever:

- counterfeits, falsifies, purchases or sells Customs documents,
- conspires with smugglers and provides loans, funds, account numbers, invoices, certificates or Customs documents,
- conspires with smugglers and provides transport, storage, mailing or other conveniences,

where the case constitutes a crime, he shall be investigated for criminal liability; where the case does not yet constitute a crime, the Customs may impose a fine.

19.2 Administrative Penalty

19.2.1 Violating Customs Control Provisions

A fine may be imposed for any of the following acts which violate Customs control provisions and the illegal proceeds obtained therefrom shall be confiscated:

- (a) for a means of transport, to enter or leave the territory at a place without a Customs office;
- (b) fail to inform the Customs of the arrival or departure time, the place of stay or any change of the place of a means of transport;
- (c) fail to declare truthfully to the Customs the goods or articles or the transit, transshipment and through goods;
- (d) fail to accept the check and inspection by Customs of the means of transport, goods or articles;
- (e) for a means of transport to load or unload goods or articles or embark or disembark passengers without Customs approval;
- (f) for a means of transport staying at a place with Customs office to leave without Customs approval;
- (g) for a means of transport, on the way from a place with Customs office to another, failing to

complete the Customs formalities and without Customs approval, to move out of the territory or to a place within the territory without Customs office;

- (h) for a means of transport to engage concurrently or change to engage in domestic transport without Customs approval;
- (i) for a vessel or aircraft which, due to force majeure, being forced to anchor or descend at a place without Customs office, or chuck or unload goods or articles within the territory, to fail to report to Customs nearby without reasonable excuse;
- (j) to open and dismantle, collect, deliver, forward, transpose, refit, mortgage, impawn, keep, transfer, replace label, shift to other use or conduct other treatment on goods under Customs control without Customs permission;
- (k) to open or break Customs seals without permission;
- (l) while engaging in such operations as transportation, storage and process of goods under Customs control, the records of loss of goods or related records are untrue without reasonable excuse; or
- (m) to have any other acts violating Customs control.

19.2.2 Other Violations

- to an enterprise approved by Customs engaging in related operations, Customs may order it to correct, render it a warning, suspend it from engaging or revoke its registration;
- anyone engages in declaration business without Customs registration or occupation qualification shall be banned, the illegal proceeds obtained therefrom shall be confiscated, and a fine shall be imposed concurrently;
- to a Customs clearing agent or its staff declares illegally, Customs may order it to correct, impose a fine on it or suspend it from operating;
- to anyone bribes Customs personnel, Customs may revoke its declaration registration or its occupation qualification and concurrently impose a fine;
- anyone imports or exports goods which constitute infringement on the intellectual property rights under protection by Customs, the infringing goods shall be confiscated and a fine shall be imposed thereof; where the case constitutes a crime the person or persons concerned shall be investigated for criminal liability according to law;

- goods, articles or means of transport detained by Customs according to law shall not be disposed of before the People's Court makes a judgement or Customs makes a decision of punishment. However, hazard goods or such goods and articles not suitable for storage for a long time as fresh and live ones, perishable ones or easy to be expired ones and goods or articles that the owner applies to sell off in advance may be sold off, and Customs shall keep the money thus obtained and inform the owner;
- the smuggled goods or articles, illegal proceeds obtained therefrom, means of transport or equipment specially made for smuggling being confiscated by judgment of the People's Court or punishment decision of Customs shall be disposed by Customs, the money thus obtained and the fine imposed by Customs shall be turned over to the State Treasury;
- Where a person concerned refuses to carry out punishment decision of Customs overdue nor apply for reviewing or file a lawsuit to the People's Court, the Customs giving the punishment decision may hand over his security or, sell off the detained goods, articles or means of transport of the party and hand over the money thus obtained, or apply to the People's Court for a compulsory execution.

19.3 Administrative Review

Customs administrative review means that citizens, legal persons or other organizations believe that the specific administrative actions of Customs and their staff infringe upon their lawful rights and interests, and apply to the legal agency, and the Customs legal agency will review the specific administrative actions in accordance with legal procedures and requirements, and then making a decision.

In China, it is noted that the Customs administrative review must:

- (1) applied by a citizen, legal person or other organization of China;
- (2) applied that the respondent of the administrative review is the Customs agency that made the specific administrative action;
- (3) applied that the citizens, legal person or other organization believe that their legal rights and interests are violated;
- (4) applied that the review agency is Customs.

Pretage of Administrative Review for Duty Disputes

When the specific administrative action is involved in duty collection such as the taxpayer, taxable

price, classification of the goods, the country of origin, applicable tax rate or exchange rate, reduction or exemption, refund, forfeit penalty, etc. The specific administrative action must be administratively reviewed before they can be sued again in the people's court.

20. CUSTOMS IPR BORDER PROTECTION

The Customs Law of the PRC prohibits the export or import of goods from or to China that infringe IPR. Whereas most countries' Customs only examine imported goods, China differs in that China Customs examine goods being imported and exported. China Customs have the authority to protect IPR by confiscating infringing goods and imposing fines on infringers. If the infringement of IPR exceeds a certain threshold, then the Customs authorities will also arrange for criminal proceedings to be brought against the infringing party.

According to the Regulations of the PRC on Customs Protection of Intellectual Property Rights promulgated by the State Council, the IPR protected by China Customs shall refer to exclusive right to use trademark, copyrights and copyright-associated rights, and patent rights relating to import and export goods and protected by PRC laws and administrative regulations. In addition, China Customs shall also protect the Olympic symbols and World Exposition symbols in accordance with the Regulations on the Protection of Olympic Symbols and the Regulations on the Protection of the World Exposition Symbols.

20.1 Enforcement Proceedings

The IPR protection by China Customs can be divided into the two ways of "Protection on Request" and "Protection Ex Officio".

20.1.1 Customs Protection on Request

The Protection on Request refers to the measures taken by Customs to detain the goods that are suspected of infringement at the request of an IPR holder who applies according to the Regulations on Customs Protection of Intellectual Property Rights when such goods are found to be imported or exported.

Because Customs will not investigate the suspected infringing goods that are detained on request, and the IPR holder will therefore have to file a lawsuit with the people's court for relevant infringement dispute, the Protection on Request is also called Customs "Passive Protection" of the IPR.

20.1.2 Customs Protection Ex Officio

The term "Ex Officio" comes from the Agreement on Trade-Related Aspects of Intellectual Property Rights. The Protection Ex Officio refers to the measures taken by the Customs during their supervision, when they find any import/export goods suspected of infringing any IPR that is registered, to proactively suspend the Customs clearance procedures, inform relevant IPR holders and detain the suspected goods on the request of the IPR holders according to the Regulations on Customs Protection of Intellectual Property Rights. Because the Customs will proactively use their power of office to deter suspected infringing goods from import and export and have the power to investigate the IPR infringement and impose penalty on the infringers, the Ex-officio protection is also called Customs "proactive protection" of the IPR.

20.2 IPR Record with Customs

The types of IPR that can be recorded with the GACC are trademarks, patents (including patents for invention, utility model and design patents) and copyrights and separate applications need to be filed for separate IPR. In the case of trademarks, for example, holders must submit a separate application for Customs record for each trademark in each class. To record IPR, the applicant must submit:

- a copy of business registration certificate (including a Chinese translation);
- a copy of the trademark certificate (China registration);
- information regarding related licenses, photos of the goods and their packaging;
- a power of attorney in the name of the agent responsible for the registration process, if it is used;
- the fee is suspended of collection.

In addition, IPR holders can also register information about infringers that they may have collected independently, such as names, company names, contact details etc.

Within 30 days of receipt of all relevant documents, the GACC will make a decision whether to record the IPR in question. If the GACC approves the submission, the record of IPR is valid for the duration of the IPR or for a maximum period of ten years. Renewal of Customs record can be filed six months prior to

expiration.

The Regulations provide that IPR can be recorded with the GACC in Beijing. Although it is not compulsory to record IPR in order to apply to local Customs for enforcement proceedings, it is beneficial for a company moving goods in and out of China, because if IPR are registered with Customs, then Customs have the power to detain at will any suspected infringing consignment of goods. In addition, local Customs offices are more pro-active when IPR are recorded mainly because the record provides Customs officials with easy access to internal IP databases and makes it easier for them to determine whether goods passing through Customs are genuine or counterfeit.

21. AUTHORIZED ECONOMIC OPERATOR (AEO)

Known as AEO, “Authorized Economic Operator” is a global institutional foundation of Customs management. The WCO definition of AEO is a party that participates in the international circulation of goods in any way and is determined by the Customs authorities to meet the World Customs Organization or the corresponding supply chain security criteria.

AEO System of China Customs was first launched in June 2005. On December 1, 2014, Decree No 225 of GACC, Interim Measures for Enterprise Credit Management by the Customs Administration of the PRC (referred to as IMECM) and the Criteria of Certified Enterprises of Customs Administration took effect. On May 1, 2018, Decree No 237 of GACC Measures for Enterprise Credit Management by the Customs Administration of the PRC (referred to as MECM) replaced the old one and the revised regulations brought China's system into closer alignment with AEO legislations outlined in the WCO framework leading to greater mutual recognition.

21.1 MECM

MECM is a mechanism to determine the status of an enterprise from three broad categories:

Certified Enterprise

A certified enterprise is an Authorized Economic Operator (AEO) recognized by China Customs. There are two levels of Certified Enterprises:

- Advanced Certified Enterprise (ACE);
- General Certified Enterprise (GCE).

General Credit Enterprise

- An enterprise registered for the first time;
- and a certified enterprise that is no longer in compliance with the requirements of Article 9 of the decree and does not fall in any of the circumstances set out in Article 10 of the decree; or
- an enterprise that has been identified as discredited for one full year and no longer falls in any of the circumstances set out in Article 10 of the decree.

Discredited Enterprise

The following management principles and measures shall apply to discredited enterprises:

- A high inspection rate of import and export goods;
- Focused review of documents for import and export goods;
- Heightened supervision over processing trade; and
- Other management principles and measures prescribed by the GACC.

21.2 Criteria of Credit Rating and Supervision

The criterion for ACE contains 18 categories and 32 items; for GCE contains 18 categories and 29 items. The process for determining the enterprise classification is based on impartial evaluation of areas of the enterprise's operations, management, internal controls, compliance and other objective indicators indicative of the credit status of the enterprise. Certified enterprises and its foreign counterparts with mutual recognition will enjoy the clearance facilitation, while the discredited enterprise will be subject to stricter Customs controls.

The following are the basic criteria and other considerations for each credit rating level as provided for under Chapter 3 of Order 237.

Table 10 Criteria and Considerations for Credit Rating

| | | |
|----------------------|-----|---|
| Certified Enterprise | ACE | <ul style="list-style-type: none"> - As with General Certified Companies, this credit rating may only be obtained by affirmative application and verification. - Companies that have obtained Advanced Certification status must re-certify once in every 3 years period. - China Customs will send notification to the Advanced Certified Company prior to initiating the recertification review. - Should the company be downgraded as a result of the review, Customs will issue a formal determination of the adjustment of the credit rating, which downgrade will become effective on the date of service of such notice. - If a company applies to abandon the re-certification review, it is deemed to have failed the review and a downgrade will be issued. |
| | GCE | <ul style="list-style-type: none"> - An enterprise must affirmatively make application to China Customs in order to be a Certified Enterprise. - Within 90 days of receiving the application and extendable by an additional 30 days, China Customs will make its final determination on the enterprise's credit status. - Those companies that fail to pass the certification may not reapply for one year. - During the period of applying for certification, if the enterprise is involved in an investigation or an investigation of an alleged smuggling offense, China Customs will terminate the certification application. - Similarly, where a company that has made application for certification is under review for a violation of Customs supervision conditions shall have its application suspended for up to 3 months, at which point the company is either cleared in the investigation or its application will also be terminated. - A General Credit Enterprise that was previously a General Certified Company can reapply for Certified status after one year. - Likewise, if an Advanced Certified Company is downgraded to a General Certified Company, it may not reapply for an upgrade for one year. |

| | |
|---------------------------|--|
| General Credit Enterprise | <ul style="list-style-type: none"> - A newly-established enterprise or companies first registered with Customs will be considered General Credit Enterprises; - Enterprises that do not meet the requirements of certification or re-certification as Certified Enterprises but have not had smuggling or administrative penalties sufficient for a rating as a Dishonest Enterprise will also be considered as General Credit Enterprises. - Enterprises that were previously rated as Dishonest Enterprises but have since been operating in a compliant fashion for two consecutive years. |
| Discredited Enterprise | <ul style="list-style-type: none"> - Enterprises that have committed smuggling or engaged in smuggling activities, which are defined as: - Enterprises that have violated Customs supervision and have been assessed administrative penalties of more than CNY 1 million; - Inaccurate declarations in excess of those discovered in the previous year and for which the accumulated Customs penalties within that year exceed CNY 300,000. - Underpayment of duties or fines and penalties. In such circumstances where the arrearages exceed 90 days, China Customs will also list the company on its public Credit Information Management System on the Abnormal Credit list. - Taking unfair advantage on the guise of the Customs or other enterprises; - Making false or misleading submissions to Customs in order to influence the enterprise credit rating; - In serious cases where the enterprise fails to cooperate with China Customs - A criminal violation determined by another government agency that impacts the China Customs credit rating under the “3 Mutuals” concept; and - Any other circumstances as prescribed by China Customs. |

The criteria state an enterprise must conduct a self-assessment in advance to rectify any practice that fails to meet the criteria. Authority has been delegated to regional Customs and the processing time shortened to less than 90 days.

MECM further strengthened the supervision of certified enterprises. It will conduct recertification every 3 years for ACE and conduct irregular recertification for GCE. Third-party certification agencies have been authorized to get a more comprehensive understanding of the production, operation and the integrity of enterprises. If the enterprise fails to pass the recertification, they will downgrade to GCE and forbidden to apply for the status of ACE for one year.

In addition, China Customs established a business credit information management platform to collect information to reflect import and export credit status. On the condition that state secrets, trade secrets and personal privacy are protected, the Customs administration publicly discloses 4 kinds of credit information of an enterprise:

- Business registration filed with Customs;
- Corporate credit status;
- Corporate administrative sanctions information;
- Other information.

Of significance in Decree No 237 is the provision that enterprises submit an annual report of relevant Customs credit information. This so called “Corporate Credit Information Annual Report” will be submitted through a yet to be established information management system and these reports will be filed between 1 January and 30 June each year.

21.3 AEO Benefits

GCEs will receive a relatively low inspection rate for import and export shipments with simplified examination of documentation. In addition to the management principles for GCE and ACE companies can go through the inspection and release formalities before the commodity classification, Customs valuation and origin of import and export shipments are determined.

By promoting corporate integrity, simplifying certification procedures, and creating greater benefits internationally, the MECM has significant advantages over the preceding enterprise program by driving significant efficiencies in Customs clearance for companies that have implemented robust systems and processes in their import/export operations.

21.4 AEO Joint Incentive (AJI)

In October 2016, a pan-governmental initiative called the AEO Joint Incentive (AJI) program was launched in China. Under the new scheme, companies which have met pre-determined standards under the existing AEO program and have been certified by China Customs as ACE will be entitled to enjoy as many as 49 facilitation measures provided by China Customs and other government departments. At present, there are about 3,000 ACEs, accounting for more than 30% of national import and export volumes in China.

This program involves some 40 government departments. These include border agencies such as Customs, civil aviation and port authorities, and non-border agencies such as the National Development and Reform Commission (NDRC) and the China Council for the Promotion of International Trade (CCPIT), as well as agencies in charge of taxation, finance, environmental protection, market supervision and banking supervision.

The AJI facilitation measures can be divided into six major categories:

- Category 1 - **“Green Lane”** (for example, the tax authority has set up a green channel for AEOs to expedite formalities such as duty declaration);
- Category 2 - **“Less Inspection”** (includes provisions to carry out fewer inspections at ports);
- Category 3 - **“Priority Treatment”** (includes measures giving priority to companies requiring intellectual property protection related services);
- Category 4 - **“Simplified Procedure”** (comprises measures reducing the number of documents required by participating agencies to the minimum);
- Category 5 - **“Major Reference Benchmark”** (includes measures aimed at ensuring that the accredited AEO status of a company is taken into account when inspected by other participating AJI agencies);
- Category 6 - **“Pilot Reform Project”** (includes measures giving priority rights to AJI companies to participate in pilot projects implemented by Customs and other government departments).

21.5 MRAs

At present, China Customs has signed and implemented AEO Mutual Recognition Arrangements (MRAs) with 36 countries/regions such as:

- Australia;
- Singapore;
- Israel;
- South Korea;
- EU (28 member states);
- Switzerland;

- New Zealand;
- Japan;
- Hang Kong SAR of China.

Among them, 13 "One Belt One Road" countries have been covered. The countries and regions that currently under negotiations are:

- Malaysia (signed action plan);
- Taiwan province of China (scheduled);
- the United States;
- Canada;
- Kazakhstan;
- Brazil;
- Mexico;
- Belarus;
- Serbia.

Countries and regions that are actively promoting AEO mutual recognition cooperation include:

- Thailand;
- Russia;
- South Africa
- Mongolia;
- Saudi Arabia;
- Egypt;
- Uganda.

Benefits for AEO Mutual Recognition:

- Reduced documentation check;

- Lower inspection rate;
- Priorities in physical inspection of goods;
- Customs coordinators responsible for solving problems during clearance;
- Priorities in Customs clearance if encountering with the interruption of international trade.

22. INTERNATIONAL CUSTOMS COOPERATION

Since 2014, China Customs has signed Customs cooperation documents with Russia, the European Union, Mongolia, Kazakhstan, Belarus, Armenia, Poland, Iran, Singapore, Laos and other Customs to provide legal basis and institutional guarantee for Customs clearance.

In 2019, China Customs has made the following progress in international cooperation:

- China Customs initiated the establishment of the “Belt and Road” Customs information exchange and sharing platform, and established electronic distribution of origin information with Chile, Pakistan, Singapore, Georgia and other countries;
- China Customs signed an inspection and quarantine cooperation document with the United Nations Industrial Development Organization, Cambodia Customs;
- 33 transportation and Customs agencies, port companies, port authority and terminal operations in 13 countries including China, Egypt, Sri Lanka, United Arab Emirates, Latvia, Slovenia, Belgium, Spain, Fiji, Italy, Netherlands, Denmark, Romania, Singapore founded the "Marine Meridian Road" Port-Cooperation Mechanism;
- China Customs has put forward the initiative of "Customs-Railway Operators to Promote China-European Train Safety and Rapid Customs Clearance Partnership Program".

23. TRADE STATISTICS

The statistics of China Customs are statistics of trade in goods imported into and exported out of China, which represent an important component of the national economy statistics and are the most important macroeconomic decision-making references. Following the working principle of making the statistics “accurate, timely, scientific, complete and internationally comparable”, and comprehensively applying the statistical standards recommended by the United Nations, China Customs surveys on and produces statistics about import and export trade in goods of China.

China Customs produces monthly, quarterly and yearly statistics in both Chinese and English.

24. CONTACT INFORMATION

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25. OFFICIAL WEBSITE

- [GACC](#)
- [National Development and Reform Commission](#)
- [Ministry of Commerce, PRC](#)
- [State Administration for Market Regulation](#)
- [State Administration of Foreign Exchange](#)
- [State Taxation Administration](#)
- [China Council for the Promotion of International Trade](#)
- [China International Trade Single Window](#)

REFERENCE

1. China Customs, <http://www.customs.gov.cn/>.
2. Annual Reports, GACC, 2005-2017: <http://english.customs.gov.cn/about/annualreports>.
3. KPMG, CHINA TAX ALERT, 2019.
4. China and the WTO: https://www.wto.org/english/thewto_e/countries_e/china_e.htm.
5. Doing Business Report, 2019, World Bank.

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