

英文版
English Version

Trade Facilitation Annual Report of China

2017 Edition, by TFARC Committee

中国贸易便利化年度报告（2017）



Beijing Re-code Trade Security and Facilitation Research Centre

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Mr. JIANG used to serve in the General Administration of China Customs, Local Customs Authority, Bureau of Foreign trade and other government agencies as well as foreign trade corporation and global top 500 companies. He is now a member of the think-tank of the China Customs magazine, guest professor of the University of International Business and Economics and cross-border trade expert of Asian Development Bank (ADB). Being an active participant and influencer in the development of China Customs System, Mr. JIANG has hosted and organized a series of research projects with applied value, including Customs Control System of International Inbound and Outbound Express Freight, Current Status and Development of Small-scale Trade in Border Regions (ADB program), Reform on the Circulation Management System of Bonded Goods in Special Customs Supervision Zones, and Research on Release Time of Import and Export Sea Cargoes. Mr. JIANG is the initiator, designer, organizer, coordinator as well as writer of the Annual Report on Trade Facilitation in China (2016).



林倩

北京德和衡律师事务所合伙人、执业律师，北京睿库贸易安全及便利化研究中心研究员，中国政法大学研究生院兼职教授。

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Mr. LIN was a senior legal expert on customs matters who was engaged in trials of smuggling cases and legislation in the General Administration of China Customs. He is currently a guest writer of “Lin’s Legal Viewpoint” column of the China Customs, publishing dozens of articles on import and export trade compliance and legal risk prevention.



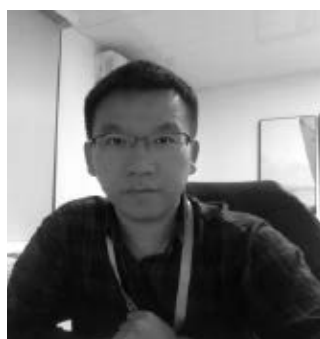
李越

长期在海关系统基层、机关多个岗位工作，有丰富的海关工作经验，对通关监管、贸易管制等业务较为熟悉。《中国贸易便利化年度报告》（2016）

课题项目组成员。

Mr. LI Yue

Mr. LI has long been working in the grass-roots positions as well as administrative posts at customs department with rich experience. Mr. LI is familiar with customs clearance and trade control. He is a member of project of Annual Report on Trade Facilitation in China (2016).



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Mr. ZHANG Hao

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熊斌

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具备深厚的疑难涉外问题处置和

解决能力，指导众多大中型涉外企业的海关、税务、外汇、工商、贸易模式、供应链筹划工作，帮助其建立贸易合规管理体系。积极参与新型贸易业态创新筹划、课题研究和政策推进工作。长期担任商务部培训中心、中国国际商会、中国贸易促进会、中国五矿化工进出口商会特邀培训专家。著有《外贸企业轻松应对海关估价》、《涉外型企业海关事务风险管理报告》、《加工贸易实务操作与技巧》、《AEO认证实用手册》等系列书籍。《中国贸易便利化年度报告》（2016）课题项目组成员。

Mr. XIONG Bin

Founding partner of Shenzhen Mbase Consultants Co., Ltd

Mr. XIONG has long been engaged in the research of trade policy, providing consultations on the management of foreign-related enterprises, and offering technical services. He is equipped with outstanding capabilities in solving challenging problems concerning foreign affairs. Mr. XIONG provides guidance to many large and medium-sized enterprises on issues regarding customs, taxation, foreign exchange, business, trade mode and supply-chain, and helps them to establish trade compliance management system. He is actively involved in the planning of innovation of new-type trade mode, research and policy promotion. He has been serving as the guest trainer for the Training Center of Ministry of Commerce, China International Chamber of Commerce, China Trade Promotion Association and China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters. He has authored a number of books including Techniques of Customs Valuation for Foreign Trade Enterprises, Report on Risk Management of Customs Matters of Foreign-related Enterprises, Practice and Techniques of Processing Trade and Handbook of AEO Accreditation. He is a member of project of Annual Report on Trade Facilitation in China (2016).

郭崢

长期从事关务信息工作，熟悉海关、外贸政策动态，擅长关务资讯产品生产全流程管理。《中国贸易便利化年度报告》（2016）课题项目组成员。

Mr. GUO Guo

Mr. Guo has long been engaged in customs information matters, is sensitive to customs and foreign trade policy. Mr. GUO is an expert in whole-process management of the production of customs information products. He is a member of project of Annual Report on Trade Facilitation in China (2016).



于德水

长期在检验检疫系统基层一线多个岗位工作，对检验检疫技术法规、标准、合格评定等较为熟悉。

主持和参与多个检验检疫系统内总局、直属局科研、政研课题，及系统外省、市级课题，主持制订 SN 行业标准 2 项，发表论文多篇，并多次在全国性的标准化、认证认可、检验检测等领域的征文中获奖，连续两次被评为直属局学科带头人培养对象。《中国贸易便利化年度报告》（2016）课题项目组成员。

Mr. YU Deshui

Mr. YU used to work in the inspection and quarantine field and served in a few grass-roots positions for a long-time, and thus is familiar with Technical regulation, standard and Conformity assessment procedures.

Mr. YU hosted and participated in a number of academic and policy research programs hosted by the General Administration of Quality Supervision, Inspection and Quarantine of China and its subordinated bureaus as well as programs of provincial and municipal level. Moreover, he took a leading role in drawing up two industrial standards of SN, published a number of essays, won awards for many times in the essay competition centering on national standardization, certification and accreditation, and inspection and testing. Mr. YU was targeted as the academic leader twice by the municipal bureau. He is a member of project of Annual Report on Trade Facilitation in China (2016).



周卓见

经济学硕士，专业领域为国际贸易与数据分析。2014 年加入北京睿库贸易安全及便利化研究中心，参与了《中国进出口货物口岸放行时间评

测》、《贸易便利化评价指标体系》、《口岸收费调查》等一系列研究课题的方案设计和具体实施工作，并主要承担了各项目中的流程整理和数据分析任务。

Mr. ZHOU Zhuojian

Mr. ZHOU , master of economics and specialized in international trade and data analysis. Mr. ZHOU joined Beijing Re-code Trade Security and Facilitation Research Centre in 2014, and he was involved in the design and implementation of a few research projects, including Time Release Study of Import and Export Goods at Ports in China, Assessment Indicator System of Trade Facilitation and Charge Survey at Ports, and undertook the process collection and data analysis.

Readers' Guide

1. This report is structured according to Section I of Trade Facilitation Agreement (TFA) of the World Trade Organization (WTO). It reviews how China has implemented TFA, provision by provision. Re-code has made certain modifications and adjustments on the "Assessment Index System of Trade Facilitation" adopted in the relevant reports by the Organization for Economic Co-operation and Development. By designing the special evaluation questionnaire, Re-code organized a questionnaire assessment and produced a quantitative report.

2. On September 4, 2015, China ratified the protocol of WTO TFA, becoming the 16th member to accept it and contributing significantly to its implementation at an early date. China had reservations about Paragraph 6 of Article 7 "Establishment and Publication of Average Release Times", Paragraph 4 of Article 10 "Single Window", Paragraph 9 of Article 10 "Temporary Admission of Goods and Inward and Outward Processing", and Article 12 "Customs Cooperation". This Report also reviews these provisions except Article 12.

3. Among the main body of the text, those parts listed by Arabic numbers or English letters, and spanning the full width of the content area, are the original articles of WTO TFA. The rest are comments made by Re-code.

4. The regulations, policies, and information sources contained in this Report are attached to the text with hyperlinks for the readers' reference.

5. This Report is for reference only. The research and comments in this Report are only for reference and are not necessarily exhaustive or completely accurate.

6. This Report is open-ended. Readers are welcome to make comments and suggestions to help us render it more thorough and accurate.

7. All the information, materials, and data in this Report are valid until October 30, 2017.

Preface

The Trade Facilitation Agreement (hereinafter referred to as TFA), which took effect in February 2017 is an important achievement of the World Trade Organization (hereinafter referred to as WTO) with the active involvement and promotion of China, and will definitely have positive and far-reaching influence on global economy and trade.

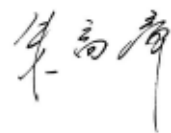
In the context of the sluggish global economic recovery and rising trade protectionism, the entry into force and implementation of TFA is of great significance to increase the transparency of global trade policies, reduce trade costs and stimulate global economic recovery.

The primary challenge faced by WTO members in the implementation of TFA is to assess the current state of the cross-border trade facilitation of their own countries and regions. To address this issue, scientific assessment needs to be conducted to identify root causes of the problems, based on which corresponding measures according to the actual situation of their own countries should be taken in order to effectively improve the level of trade facilitation.

Functioning as a nongovernmental think tank, Beijing Re-code Trade Security and Facilitation Research Center, following the principle of objectiveness and impartiality, invited experts and professionals from both domestic and abroad to compile China's first Annual Report on China's Trade Facilitation from the perspective of an independent third party based on the implementation of trade facilitation measures of the WCO members by using self-assessment methodologies recommended by WTO, which is a valuable and meaningful work to promote China's trade facilitation.

The Trade Facilitation Annual Report of China covers a collection of first-hand research findings, as well as documents and materials from both domestic and abroad. The informative report is helpful to clearly understand the actual state of trade facilitation in China, which contributes to increase the international competitiveness of Chinese enterprises and provides reference for the government to improve the level of trade facilitation in China.

Beijing Re-code Trade Security and Facilitation Research Center is one of the first institutions at home and abroad to compile annual report on trade facilitation. I really expect the Annual Report on China's Trade Facilitation could be compiled year by year, covering wider and deeper information. Moreover, I also expect government agencies could pay attention to the report and listen to the voices of the trade circles, and provide better services and make greater contribution to the implementation of the Belt and Road Initiative.



Former Director General of the World Customs Organization Compliance and Facilitation Directorate,
member of the World Economic Forum's Global Agenda Council on Logistics & Supply Chain and Global
Agenda Council on Illicit Trade, former director-general of the International Cooperation Department of
General Administration of China Customs

Foreword

Trade Facilitation Annual Report of China (2016 Edition), which takes an objective and impartial attitude, positively evaluated by the business circle at home and abroad, as well as relevant institutions after its publication. Therefore, we are greatly inspired and make up our minds to continue the compilation of the report on a yearly basis as planned, and endeavor to improve the quality of the report.

More information are supplemented and updated in the main body of Annual Report on Trade Facilitation in China (2017). Moreover, significant initiatives and major events of the Chinese government in promoting trade facilitation are introduced, helping the outside world to fully understand the trade facilitation in China.

On the occasion of the publication of the new annual report, I would like to express my gratitude to Madam Maria Rosaria Ceccarelli, Chief of Trade Facilitation Section, Economic Cooperation and Trade Division, the United Nations Economic Commission for Europe (UNECE), Madam Deepali Fernandes, Economics Affairs Officer, Trade Facilitation Section, Economic Cooperation and Trade Division, UNECE and Dr. Andrew Grainger, Assistant Professor from the University of Nottingham, who put forward pertinent comments after an intensive study of the Report of 2016. Meanwhile, my sincere thanks go to the following companies for their contribution to the report: Cainiao Network Technology Co., Ltd., Shenzhen Tai Zhou Technology Co., Ltd., Amber Road China Ltd., Cummins (China) Investment Co., Ltd., Shenzhen Mbase Consultants Co., Ltd., Shanghai Xingya Customs Brokers Co., Ltd., Kunshan Su-Soft Technology Co., Ltd., Huize Shangtong (Beijing) Technology Co., Ltd., Shanghai Xinhai Customs Brokerage Co., Ltd., Jiangsu Hongkun Supply Chain Management Co., Ltd. and Intel China Ltd..

In particular, I would like to express my sincere appreciation to the editing team for their dedication to improve the quality of the report.

Any well-intentioned and constructive criticism and suggestions are accepted with an open mind. Professionals are sincerely welcomed to participate in the project by ways of internet or Wechat. The website for online evaluation: <http://www.re-code.org/>. Wechat: jiangxp1234.



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术语表

Glossary

中国海关	China Customs
海关总署	GACC (General Administration of China Customs)
中国检验检疫	Inspection and Quarantine
国家质量监督检验检疫总局 / 质检总局	AQSIQ (General Administration of Quality Supervision, Inspection and Quarantine)
商务部	Ministry of Commerce
财政部	Ministry of Finance
国家发改委	National Development and Reform Commission
经认证的经营者	AEO (Authorized Economic Operator)
申报	Declaration
归类	Classification
估价	Valuation
担保	Guarantee
行政复议	Administrative Review
行政裁定	Administrative Ruling
预裁定	Advance Ruling
预审价	Advance Price Review
预归类	Advance Classification
原产地预确定	Advance Determination of Place of Origin
单一窗口	Single Window (SW)
三互	Three Mutual
全国通关一体化改革	National Customs Clearance Integration Reform
进境维修	Inward Maintenance
出境加工	Outward Processing

Review According to TFA Text

ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION

Laws and Regulations

Customs and I&Q:

In December 2001, China officially became a member of World Trade Organization.

In the 15 years since then, the Chinese government has attached great importance to the disclosure of government information.

In 2007, the State Council promulgated Regulations of the People's Republic of China on Government Information Disclosure (Link 1). In the following 9 years, the State Council issued 7 notices on the disclosure of government information via its General Office (Link 2), making substantial progress in disclosing government information including that of administration of cross-border trade.

According to Regulations of the People's Republic of China on Government Information Disclosure, General Administration of Customs of the People's Republic of China ("GACC") formulated and implemented Measures of the People's Republic of China on Customs Government Information Disclosure. (Link 3)

General Administration of Quality Supervision, Inspection and Quarantine ("AQSIQ") formulated and implemented Guide of AQSIQ on Government Information Disclosure. (Link 4)

In August 2016, GACC updated the Guide of GACC on Government Information Disclosure. (Link 5)

In 2017, AQSIQ issued Notice of General Office of AQSIQ on Printing and Issuing the Key Points of Government Information Disclosure for the National Quality Inspection System and Notice of AQSIQ on Printing and Issuing the Work Plan of AQSIQ for the "Internet + Government Services" to promote the government information disclosure. (Link 6 and 7)

Implementation

Customs and I&Q:

The aforementioned government departments not only disclose information through traditional media including books, newspapers, magazines, and television and new media including the Internet and mobile apps, but also offer consultation to the public via hotlines and online platforms and provide information on public applications.

In July 2017, the updated China Customs Portal website went live. The new column "Internet + Customs" provides comprehensive customs information and services.

In the sub-column "Government Information Disclosure" under the column "Information Disclosure" on China Customs Portal website, information including the customs government information disclosure list, annual disclosure report, key work points, disclosure form by application is displayed in detail.

Meanwhile, businesses still hold higher expectations for the publication and availability of information on cross-border trade.

General Comment

Customs and I&Q:

There has been substantial progress and the implementation is relatively adequate.

Links

1. Decree No.492 of the State Council Regulations of the People's Republic of China on Government Information Disclosure: <http://www.gov.cn/xxgk/pub/govpublic/tiaoli.html>
2. Measures of the People's Republic of China on Customs Government Information Disclosure: <http://sousuo.gov.cn/s.htmlt=paper&advance=true&title=%E6%94%BF%E5%BA%9C%E4%BF%A1%E6%81%AF%E5%85%AC%E5%BC%80&content=&pcodeJiguan=&pcodeYear=&pcodeNum=&filetype=&mintime=&timetype=timeqb&maxtime=>
3. Decree No.492 of the GACC, method for government's information disclosure of Customs of People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab49564/info697587.htm>

4. Guide of AQSIQ on Government Information Disclosure: http://www.aqsiq.gov.cn/xxgk_13386/xxgkzn/201506/t20150608_441570.htm
5. Three official websites for public to conveniently obtain the cross-border trade management information:
 - A. China Customs Portal site: <http://www.customs.gov.cn/publish/portal0/>
 - B. AQSIQ site: <http://jyjgs.aqsiq.gov.cn/>
 - C. Ministry of Commerce: <http://sms.mofcom.gov.cn/>
5. Guide of GACC on Government Information Disclosure: <http://gkml.customs.gov.cn/tabid/1032/Default.aspx>
6. Document No. 469 [2017] of General Office of AQSIQ Notice of General Office of AQSIQ on Printing and Issuing the Key Points of Government Information Disclosure for the National Quality Inspection System: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/qtwj/201705/t20170508_488062.htm
7. Document No. 116 [2017] of General Office of AQSIQ Notice of AQSIQ on Printing and Issuing the Work Plan of AQSIQ for the "Internet + Government Services": http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/qtwj/201705/t20170515_488471.htm

1 Publication

1.1 Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them:

(a) procedures for importation, exportation, and transit (including port, airport, and other entry-point procedures), and required forms and documents;

Implementation

Customs:

In "Online Service" on its website, the GACC provides "Administrative Licensing", "Business Services", "Individual Services", "Public Servants", "Download Center", "Work Guide", "Service Guide", "Information Inquiry", "Online Books" and other information services, meeting most of the information needs of customs clearance.

In "Download Center", forms and documents required for customs clearance are posted. (Links 1)

In "Special Services", the GACC provides "scene service of customs clearance for inbound and outbound passengers", "online processing platform for customs administrative examination and approval", "Internet + Customs", "overseas customs clearance guidelines" and other information services. (Link 2)

In terms of processes for importation, exportation, and transit, no concise procedure guides, forms, or documents have ever been posted.

Nanjing Customs published on its website a flow chart of procedures of importation and exportation by sea and air. (Links 3, 4 and 5)

Inspection and Quarantine:

Procedures for importation, exportation, and transit (including port, airport, and other entry-point procedures), and required forms and documents are not found on the website.

On its government information disclosure site and the sub-sites of its departments, AQSIQ posted the detailed import and export inspection and entry-exit quarantine procedures (commodity inspection, animal and plant quarantine and health quarantine and AQSIQ).

General Comment

Customs and I&Q:

The information is diverse, but not well-organized and there is still room for improvement.

Recommendations

Customs and I&Q:

Customs as well as Inspection and Quarantine agencies should classify import and export goods under different administration systems applied according to means of trade or transportation, types of products, etc. and provide detailed and instructive procedures and the required forms and documents for businesses.

Links

1. "Online Service" on website of the GACC: <http://www.customs.gov.cn/tabid/49564/Default.aspx>
2. "Sepcial Services" on above site on the right side of the home page: <http://www.customs.gov.cn>
3. Flow chart of procedures of importation by sea and air published by Nanjing Customs on its website: <http://www.customs.gov.cn/publish/portal119/tab68279/info718730.htm>
4. Flow chart of procedures of exportation by sea (advance declaration) published by Nanjing Customs on its website: <http://www.customs.gov.cn/publish/portal119/tab68279/info718731.htm>
5. Flow chart of procedures of exportation by air (advance declaration) published by Nanjing Customs on its website: <http://www.customs.gov.cn/publish/portal119/tab68279/info718733.htm>
6. Food Import and Export Process and Scenario Services: <http://jkspaqj.aqsiq.gov.cn/>; Filing of Inspection Enterprises: <http://www.eciq.cn/>; Entry-exit Animal and Plant Quarantine Government Information Disclosure: <http://dzwjyjs.aqsiq.gov.cn/>; Measures on The Administration of Examination and Approval of the Quarantine of Entry Animals and Plants: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2016/201605/t20160511_466076.htm;
Measures for the Administration of Quarantine of Entry-Exit Cruise Ships: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2016/201612/t20161209_478743.htm;
Measures for Supervision and Administration of Inspection and Quarantine of Entry Aquatic Animals: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2016/201607/t20160729_471140.htm;
Quarantine Requirements for Import of Fresh Grapes from Argentina and Fresh Avocados from Chile and Requirements for Import of Fresh Fruits from Chile by Sea & Air to China through the Third Country: http://dzwjyjs.aqsiq.gov.cn/zxjyjq/201611/t20161123_478041.htm

(b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;

Implementation

The Chinese government adjusts rates of duties and taxes on Import and Export Goods once a year. The adjusted Import and Export Tariff of the People's Republic of China ("IET") is published by China Customs Press, China Commerce and Trade Press, the Economic Daily Press, China Financial and Economic Publishing House, etc. (Link 1)

This publication on tariff has two defects: 1. it is paper-based and users have to pay; 2. it is updated once a year and therefore importers and exporters need to follow adjustments to rates of duties and taxes and provisional measures for duties through other media before the update is completed.

"Online Search" under "Online Service" on GACC's website provides "Tariff and Tariff Code Search", "Tariff Goods and Item Annotation Search", "China's Subheading Annotation Search", "Classification Decision Search", "Key Commodities Search", "Import and Export Commodity Tariff Rate Search"; users may search for "Tariff Rate" by the tariff code and commodity name under "Internet + Customs". (Link 2)

The Catalogue of Import-Export Commodities Subject to Inspection and Quarantine by Entry-Exit Inspection and Quarantine Organs should be updated once a year (usually at the beginning of the year). If the national policy is adjusted, it will be updated in the mid-year. The inspection and quarantine categories such as M/N, R/S, P/Q, V/W, L and customs supervision conditions such as A/B and D should also be updated accordingly. (Link 3)

General Comment

The implementation is relatively adequate but there is still room for improvement.

Recommendations

1. IET is a national regulation and should be published on the websites of GACC and Ministry of Finance;
2. As rate adjustments and provisional or regional measures for tariff are promulgated and implemented, they should also be updated in IET for the sake of importers and exporters.

Links

1. The adjusted Import and Export Tariff of the People's Republic of China ("IET"), such publication can be found in the online bookstore of Amazon: <http://www.amazon.cn>
2. "Online Search" on GACC's website: <http://www.customs.gov.cn/customs/302427/302442/index.html>; "Tariff Rate" under "Internet + Customs": <http://online.customs.gov.cn/static/pages/taxRateQuery.html>
3. Catalogue of Import-Export Commodities Subject to Inspection and Quarantine by Entry-Exit Inspection and Quarantine Organs (20170106): http://tgyws.aqsiq.gov.cn/xxfw/fjml/201608/t20160831_473148.htm

(c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;

Implementation

Customs:

Customs of China has canceled all administrative charges. (Link 1)

Inspection and Quarantine:

AQSIQ has published on its website a detailed list of charges. (Link 2)
According to the Notice of the Ministry of Finance and National Development and Reform Commission on Cleaning up and Standardizing a Batch of Policies on Administrative Charges (Notice of the Ministry of Finance No. 20 [2017]), as of April 1, 2017, the collection of entry-exit inspection and quarantine fees will be stopped. No administrative fees for inspection and quarantine will be collected. (Link 3)

General Comment

Customs and I&Q:

The implementation is adequate.

At present, in the import and export process, customs and inspection and quarantine departments have canceled the collection of all

administrative charges. The fees collected in the entry–exit process are mainly operating service charges for handling customs, inspection and quarantine procedures.

Links

1. GACC's website provides List of administrative charges for national institutions, central departments and companies: <http://www.customs.gov.cn/customs/302249/302303/302305/310866/index.html>
2. Charging situation of AQSIQ system: <http://jhcws.aqsiq.gov.cn/sfgl/>
3. Cancel or stop 4 administrative charges: <http://www.aqsiq.gov.cn/ztlm/2017/2017t/>;

List of administrative charges for the quality inspection system managed by the Chinese central government: <http://120.27.27.168/TSJ/ChargePublic/Html/html/yilan.htmlid=78d8f889-f3e8-4d95-b4bd-f245b79909da>; List of charge categories and charging bodies of AQSIQ: <http://120.27.27.168/TSJ/ChargePublic/Html/html/yilan.htmlid=b7cdf15e-4f71-48f9-acfd-3ea046b6b328>; centralized publicity of charging items by industry associations (societies) attached to AQSIQ: <http://120.27.27.168/TSJ/ChargePublic/Html/html/yilan.htmlid=d4f782d6-4964-48c0-ac4c-5f880f107a76>; publicity of inspection and quarantine charges: <http://120.27.27.168/TSJ/ChargePublic/Html/html.html>; notice of the General Office of AQSIQ on the implementation of the cleaning up and standardization of business operational service charges by National Development and Reform Commission and other 3 departments (Letter of GO of AQSIQ on Finance No. 509 [2017]): http://www.bjciq.gov.cn/Contents/shoufei/shoufeiyiju/content_52260.html; notice of AQSIQ on reducing the charging standard of quarantine treatment (Letter of GO of AQSIQ on Finance No. 137 [2017]): <http://www.ahciq.gov.cn/chizhou/zhengwugongkai/zfxgkml/sfgs/shoufeiyiju/8aa286035b64afa5015bf6a9eca61d3c.shtml>

(d) rules for the classification or valuation of products for customs purposes;

Implementation

The customs has disclosed the following information to the public:

Commodity Classification:

Decree of GACC No. 158 Rules of GACC on Commodity Classification of Import and Export Goods (Link 1);

Announcement of GACC No.49 [2009] Issues on Additional Declaration of Import and Export Goods (Link 2);

GACC decides on classification of some products and publishes its decisions and administrative ruling as announcements;

Users may access the search for commodity classification at "Decisions and Rulings on Classification" under "Online Service" on GACC's website (Link 3).

Valuation:

Decree of GACC No. 213 Measures of the People's Republic of China on Reviewing and Determining Customs Value of Import and Export Goods (Link 4);

Decree of GACC No. 211 Measures of the People's Republic of China on Reviewing and Determining Customs Value of Bonded Goods Intended for Sale in the Domestic Market (Link 5).

General Comment

GACC's disclosure of rules for the classification and valuation of commodities is transparent. The implementation is adequate.

Recommendations

The legally binding or instructive rulings, decisions, and guides, on commodity classification issued by GACC and customs directly subordinate to GACC should be gathered, systematized, classified and published promptly via a separate column. GACC should enable importers and exporters to pinpoint a tariff using the function "Search for Tariff Rate" under "Online Service" on its website.

Links

1. Decree of GACC No. 158 Rules of GACC on Commodity Classification of Import and Export Goods:

<http://www.customs.gov.cn/publish/portal0/tab38320/info59255.htm>

2. Announcement of GACC No.49 [2009] Issues on Additional Declaration of Import and Export Goods:

<http://www.customs.gov.cn/publish/portal0/tab49576/info428675.htm>

3. Search for "Decisions and Rulings on Classification" under "Online Service" on GACC website: <http://www.customs.gov.cn/customs/302427/302442/gljdhcd/index.html>

4. Decree of GACC No. 213 Measures of the People's Republic of China on Reviewing and Determining Customs Value of Import and Export Goods:

<http://www.customs.gov.cn/publish/portal0/tab49564/info692855.htm>

5. Decree of GACC No. 211 Measures of the People's Republic of China on Reviewing and Determining Customs Value of Bonded Goods Intended for Sale in the Domestic Market:

<http://www.customs.gov.cn/publish/portal0/tab399/info692816.htm>

6. Books published by Customs related departments, such as GACC's decision on commodity classification, Manual of classification and declaration of key import and export commodities, Explanatory and Application Guide for "Specification declaration", Customs Regulations of Customs of People's Republic of China, Measures of Customs Valuation of People's Republic of China etc.. Some of those books have introduction and purchase channel on GACC's Website: <http://www.customs.gov.cn/customs/302427/302443/index.html>

(e) laws, regulations, and administrative rulings of general application relating to rules of origin;

Implementation

The State Council promulgated Regulations of People's Republic of China on the Place of Origin of Import and Export Goods; GACC and AQSIQ published rules about preferential places of origin on their websites. (Links 1 and 2)

General Comment

The laws and regulations of China Customs as well as China Inspection and Quarantine on rules of origin are open and transparent.

Links

1. Rules of origin for general goods:

Category	Doc	Link
Certificate of Origin	Decree of the State Council of the People's Republic of China, No. 416: Regulations of the People's Republic of China on the Place of Origin of Import and Export Goods	http://www.customs.gov.cn/publish/portal0/tab399/info3579.htm
	Regulations on Substantial Transformation in Rules of Non-preferential Origin	http://www.aqsiq.gov.cn/xxgk_13386/jgfl/tgyws/200701/t20070105_23785.htm
	AQSIQ Decree No.114: Measures of the People's Republic of China on Signing of Certificate of Non-preferential Origin	http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/20092010/201210/t20121015_235242.htm
Gneralized System of Preferences	Notice of State Administration of Import and Export Commodities Inspection, No. 72, 1996: SACI Notice of Issuing the Implementation of Measures on Signing of Certificate of Non-manipulation (Trail)	http://www.cqn.com.cn/news/zjpd/jcgy/77692.html

Category	Doc	Link
Generalized System of Preferences	Regulations of the People's Republic of China on Signing of Generalized System of Preferences Certificate of Origin	http://www.ccic.com/web/static/articles/catalog_ff8080812c3019e0012cc47e550e02d8/2010-12-16/article_ff8080812c3019e0012cdd5ba1920421/ff8080812c3019e0012cd5ba1920421.html
	Notice of State Administration of Import and Export Commodities Inspection, No. 317, 1990: SACI Notice of Issuing Rules of the People's Republic of China for the Implementation of Regulations on Signing of Generalized System of Preferences Certificate of Origin	http://www.chinaport.gov.cn/zcfg/zjl/zhywfg/zhyw/7017.htm
	Notice of State Administration of Import and Export Commodities Inspection, No. 248, 1993: SACI Notice of Issuing "Advices on Enhancing Survey on Signing of Generalized System of Preferences Certificate of Origin" and "Regulations on Qualification of Signing Officers of Certificate of Origin (Trail)"	http://www.aqsiq.gov.cn/xxgk_13386/xxgkztfl/zcfg/201210/t20121016_241717.htm
Origin Mark	Notice of State Administration of Import and Export Commodities Inspection, No. 51, 2001: SACI Notice of Issuing "Regulations on Origin Mark" and "Rules for the Implementation of Regulations on Origin Mark"	http://www.mofcom.gov.cn/article/bh/200301/20030100063308.shtml
Kimberley Certificate	Joint Announcement No. 132, 2002: Joint Announcement on Kimberley Process Certificate Scheme	http://www.aqsiq.gov.cn/xxgk_13386/xxgkztfl/zcfg/201210/t20121016_250854.htm

Category	Doc	Link
FTA	Joint Announcement No.81, 2003: GACC, MOFCOM and AQSIQ Joint Announcement on Issuing Rules of Origin for the China-ASEAN Free Trade Area	http://www.customs.gov.cn/ publish/portal0/tab399/info8535. htm
	Notice of Implementing Signing of Certificate of Origin Form E under Agreement on Commodity Trade for the China-ASEAN Free Trade Area	http://www.aqsiq.gov.cn/ xxgk_13386/xxgkzftl/zcfg/201210/ t20121016_250862.htm
	Joint Announcement No.32, 2005: GACC, MOFCOM and AQSIQ Joint Announcement on Issuing Specific Origin Standards for Goods under Rules of Origin of the China-ASEAN Free Trade Area (1st Part)	http://www.aqsiq.gov.cn/ xxgk_13386/xxgkzftl/zcfg/201210/ t20121016_250852.htm
	Notice of Issuing Certificate of Origin of China-Pakistan Free Trade Area	http://www.aqsiq.gov.cn/ xxgk_13386/xxgkzftl/zcfg/201210/ t20121016_250865.htm
	Joint Announcement No.66, 2005: GACC and AQSIQ Joint Announcement on Implementing the Early Harvest Program of China-Pakistan Free Trade Area	http://www.customs.gov.cn/ publish/portal0/tab399/info16616. htm
	Joint Announcement No.67, 2005: GACC and AQSIQ Joint Announcement on Issuing Rules of Origin of China-Pakistan Free Trade Area	http://www.customs.gov.cn/ publish/portal0/tab399/info16620. htm
	Notice of Issuing Certificate of Origin Form F of China-Chile Free Trade Area	http://www.aqsiq.gov.cn/ xxgk_13386/jgfl/tgyws/200610/ t20061025_2722.htm

Category	Doc	Link
FTA	Notification Letter of State Administration of Import and Export Commodities Inspection, No. 654 ,2008: Announcement on Related Issues of Signing of Preferential Certificates of Origin of China–New Zealand Free Trade Area	http://www.aqsiq.gov.cn/jgfl/tgyws/zcfg/201210/t20121016_250867.htm
	AQSIQ Announcement No.139 ,2008: Announcement on Signing of Preferential Certificates of Origin of China–Singapore Free Trade Area	http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2008/200901/t20090105_238205.htm
	Joint Announcement No.100, 2008: GACC, MOFCOM and AQSIQ Joint Announcement on Issuing Rules of Origin of the China–Singapore Free Trade Area	http://www.customs.gov.cn/publish/portal0/tab514/info155983.htm
	Notification Letter of State Administration of Import and Export Commodities Inspection, No. 604, 2008: Announcement on Related Issues of Signing of Preferential Certificates of Origin for China–Singapore Free Trade Area	http://www.foodmate.net/law/qita/186927.html
	Notification Letter of State Administration of Import and Export Commodities Inspection, No. 90, 2010: Announcement on Related Issues of Signing of Preferential Certificates of Origin of China–Peru Free Trade Area	http://www.foodmate.net/law/qita/186927.html
	AQSIQ Announcement No.72, 2014: Announcement on Edition–changing of Specific Rules of Origin for Commodities under China–ASEAN Free Trade Agreement and China–Singapore Free Trade Agreement	http://www.aqsiq.gov.cn/xxgk_13386/tzdt/zttz/201003/t20100301_241126.htm

Category	Doc	Link
FTA	AQSIQ Announcement No.60, 2014: Announcement on Cross-references after Edition-changing of Specific Rules of Origin for Commodities under China-New Zealand Free Trade Agreement	http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2014/201405/t20140528_413659.htm
	AQSIQ Announcement No.56, 2014: Announcement on Application Acceptance and Signing of Certificate of Origin under China-Iceland Free Trade Agreement	http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2014/201405/t20140529_413802.htm
	AQSIQ Announcement No.54, 2014: Announcement on Application Acceptance and Signing of Certificate of Origin under China-Switzerland Free Trade Agreement	http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2014/201405/t20140514_412472.htm
	AQSIQ Announcement No.147, 2015: Announcement on Application Acceptance and Signing of Certificate of Origin under China-Australia Free Trade Agreement	http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2015/201512/t20151211_456282.htm
	AQSIQ Announcement No.146, 2015: Announcement on Application Acceptance and Signing of Certificate of Origin under China-Korea Free Trade Agreement	http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2015/201512/t20151211_456287.htm
	Announcement on Manipulation Procedure for Signing of Certificate of Origin under China-ASEAN Free Trade Agreement	http://www.aqsiq.gov.cn/xxgk_13386/tzdt/zztz/201012/t20101231_241123.htm

Category	Doc	Link
FTA	Joint Announcement No.77, 2007: GACC, MOFCOM and AQSIQ Joint Announcement on Manipulation Procedures for Signing and Check of Certificate of Origin under Asia-Pacific Trade Agreement	http://www.customs.gov.cn/publish/portal0/tab399/info94035.htm
	Announcement on Related Issues of Signing of Certificate of Origin under Early Harvest Program of Economic Cooperation Framework Agreement	http://www.aqsiq.gov.cn/xxgk_13386/jgfl/tyyws/201012/t20101231_174611.htm
	GACC Announcement No. 83, 2011: Announcement on Specific Rules of Origin for Commodities under Early Harvest Program of Economic Cooperation Framework Agreement (2010 Version)	http://www.customs.gov.cn/publish/portal0/tab515/info353844.htm
	GACC Announcement No. 39, 2016: Announcement on Related Issues of Electronic Networking of Origin Information and Instructions for Filling the Declaration Forms of Import and Export Goods	http://www.customs.gov.cn/publish/portal0/tab49659/info806074.htm
General	GACC Announcement No. 73, 2015: GACC and AQSIQ Announcement on Information-sharing Related to Certificate of Origin	http://www.customs.gov.cn/publish/portal0/tab49661/info783339.htm
	Notice of State Administration of Import and Export Commodities Inspection, No. 227, 2000: SACI Notice of Issuing Regulations on Electronic Certificate of Origin	http://tyyws.aqsiq.gov.cn/jcgw/gfxwj/201502/P020150204539108312794.pdf

2. Preferential Rules of Origin:

<http://www.customs.gov.cn/publish/portal0/tab49619/>, Including:

Category	Doc
FTA	China–Peru Free Trade Agreement
	China–Singapore Free Trade Agreement
	China–New Zealand Free Trade Agreement
	China–Chile Free Trade Agreement
	China–Pakistan Free Trade Agreement
	China–ASEAN Free Trade Agreement
	Regulations of the Customs of the People's Republic of China on the Import and Export Goods of Preferential Origin
	Early Harvest Program of Economic Cooperation Framework Agreement
Preferential Trade Arrangement	Zero Tariff Treatment for Agricultural Products from Taiwan
	Regulations of the Customs of the People's Republic of China on Rules of Origin for Import Goods under Special Preferential Tariff Program for Least–developed Countries
	Mainland and Macau Closer Economic Partnership Arrangement
	Mainland and Hong Kong Closer Economic Partnership Arrangement
Others	Asia–Pacific Trade Agreement

(f) import, export or transit restrictions or prohibitions;

Implementation

China Customs amends and publishes The Handbook of the Standardization of Customs Clearance every year. The Handbook provides relatively inclusive and detailed lists of products on which China imposes import/export prohibitions and restrictions. The Handbook can be bought on amazon.cn, from China Customs Press, etc. (Link 1)

The section "Search by Clearance Parameters" on GACC's website

provides importers and exporters a significant convenience on searching for import/export prohibitions and restrictions by commodity code. (Link 2)

Article 7 of Decree of GACC No.38 Measures of the People's Republic of China on Customs Supervision and Administration of Transit Goods stipulates specific transit prohibitions. (Link 3)

GACC published "What goods have been included in catalogue of prohibited export goods" and other relevant information on its website. (Link 4, 5, 6)

AQSIQ, the Ministry of Commerce and other relevant departments also published relevant information. (Link 7)

General Comment

The implementation is adequate.

Recommendations

Considering various import/export prohibitions and restrictions, we recommend that competent authorities consolidate them into a single catalog and publish the catalog on their websites. Competent authorities should endeavor to provide product codes for products that can be found whether prohibited or restricted by their codes.

Links

1. The Handbook of the Standardization of Customs Clearance:
https://www.amazon.cn/s/ref=nb_sb_noss_1__mk_zh_CN=%E4%BA%9A%E9%A9%AC%E9%80%8A%E7%BD%91%E7%AB%99&url=search-alias%3Daps&field-keywords=%E9%80%9A%E5%85%B3%E6%A0%87%E5%87%86%E5%8C%96%E6%89%8B%E5%86%8C
2. Search by Clearance Parameters on GACC's website: <http://www.customs.gov.cn/customs/302427/302442/tgcs/index.html>
3. Decree of GACC No.38 Measures of the People's Republic of China on Customs Supervision and Administration of Transit Goods: <http://www.customs.gov.cn/publish/portal0/tab38320/info4345.htm>
4. GACC published "What goods have been included in catalogue of prohibited export goods" and other relevant information on its website:

<http://www.customs.gov.cn/publish/portal0/tab3400/info5329.htm>

5. Decree of GACC No.43 List of prohibited and restricted items of entry and exit of People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab517/info10510.htm>

6. Q&A guide on prohibited and restricted items of entry and exit on GACC website: <http://www.customs.gov.cn/publish/portal0/tab3400/>

7. The announcement of AQSIQ on adjusting the inspection and supervision of imported old mechanical and electrical products (No. 145 of 2014) offers the imported old mechanical and electrical products in Table 1 list of management measures in list of the inspection and supervision measures as prohibited goods: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2014/201501/t20150104_429424.htm; Article 2 prohibited imports in Decree No. 7 2008 of the Ministry of Commerce, GACC and AQSIQ the measures of administration of import and export of mechanical and electrical products: <http://www.mofcom.gov.cn/aarticle/b/c/200804/20080405506217.html>; Decree No. 7 of 2007 of the Ministry of Commerce of the People's Republic of China catalogue of prohibited and restricted technologies of entry by the People's Republic of China: <http://www.mofcom.gov.cn/aarticle/b/g/200712/20071205295018.html>

(g) penalty provisions for breaches of import, export, or transit formalities;

Implementation

China Customs has formulated and promulgated complete penalties related to import and export or transit procedures. The basis for all the administrative punishment due to violation of import and export or transit procedure regulations imposed by the customs can be found in the disclosed government laws and regulations; laws, administrative regulations and departmental rules that have not be disclosed should not be used as the basis for administrative penalties posed on the import, export or transit procedures and behavior.

State:

On March 17, 1996, Law of the People's Republic of China on Administrative Penalty was promulgated through Decree of President of

the People's Republic of China No. 63 of 1996. (Link 1)

On July 8, 2000, the Standing Committee of the National People's Congress revised the Customs Law of the People's Republic of China. (Link 2)

Product Quality Law of the People's Republic of China. (Link 3)

On June 29, 2013, Special Equipment Safety Law of the People's Republic of China was promulgated through Decree of President of the People's Republic of China No. 4. (Link 4)

On April 24, 2015, Food Safety Law of the People's Republic of China was promulgated through Decree of President of the People's Republic of China No. 21. (Link 5)

Customs:

Implementation Regulations of the People's Republic of China on Customs Administrative Penalty was promulgated through Decree of the State Council No. 420. (Link 6)

Procedures for the Handling of Administrative Penalty Cases by the Customs of the People's Republic of China was promulgated through Decree of GACC No. 159. (Link 7)

Procedures for the Handling of Simple Administrative Penalty Cases by the Customs of the People's Republic of China was promulgated through Decree of GACC No. 188. (Link 8)

Regulations on the Implementation of the Personal Detention by the Customs of the People's Republic of China was promulgated through Decree of GACC No. 144. (Link 9)

Inspection and Quarantine:

Implementation Regulations of the Law of the People's Republic of China on Import and Export Commodity Inspection was promulgated through Decree of the State Council No. 447 (Link 10);

Implementation Regulations of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine was promulgated through Decree of the State Council No. 206 (Link 11);

Implementation Rules of Law of Frontier Health and Quarantine of the People's Republic of China was promulgated through Decree of the

Ministry of Health No. 2 of 1989 (Link 12);
Measures on Supervision and Administration of Inspection and Quarantine of Imported and Exported Dairy Products (Link 13);
Measures on Inspection, Supervision and Administration of Import Cotton (Link 14);
Regulations of the People's Republic of China on Certification and Accreditation was promulgated through Decree of the State Council No. 390 (Link 15).

General Comment

The implementation is adequate.

Recommendations

China Customs should specify and disclose the penalties given for various illegal acts stipulated by laws and administrative regulations, so as to reduce the discretionary power of the customs administrative penalties and increase the transparency of the customs administrative penalties.

Links

1. Decree of President of the People's Republic of China No. 63 of 1996 Law of the People's Republic of China on Administrative Penalty: http://www.gov.cn/prohibitions/2005-08/21/content_25101.htm
2. On July 8, 2000, the Standing Committee of the National People's Congress of the People's Republic of China revised the Customs Law of the People's Republic of China: http://www.gov.cn/gongbao/content/2000/content_60340.htm
3. Product Quality Law of the People's Republic of China: <http://www.sda.gov.cn/WS01/CL0784/91772.html>
4. On June 29, 2013, Special Equipment Safety Law of the People's Republic of China was promulgated through Decree of President of the People's Republic of China No. 4: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/201307/t20130710_366091.htm
5. On April 24, 2015 Food Safety Law of the People's Republic of China was promulgated through Decree of President of the People's

Republic of China No. 21: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/201510/t20151021_452045.htm

6. Decree of the State Council No. 420 Implementation Regulations of the Law of the People's Republic of China on Import and Export Commodity Inspection: <http://www.customs.gov.cn/publish/portal0/tab399/info3485.htm>

7. Procedures for the Handling of Administrative Penalty Cases by the Customs of the People's Republic of China was promulgated through Decree of GACC No. 159: <http://www.customs.gov.cn/publish/portal0/tab3889/info59326.htm>

8. Procedures for the Handling of Simple Administrative Penalty Cases by the Customs of the People's Republic of China was promulgated through Decree of GACC No. 188: <http://www.customs.gov.cn/publish/portal0/tab49660/info551084.htm>

9. Regulations on the Implementation of the Personal Detention by the Customs of the People's Republic of China was promulgated through Decree of GACC No. 144: <http://www.customs.gov.cn/publish/portal0/tab507/info20299.htm>

10. Decree of the State Council No. 447 Implementation Regulations of the Law of the People's Republic of China on Import and Export Commodity Inspection: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/200711/t20071106_52208.htm

11. Decree of the State Council No. 206 Implementation Regulations of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/200711/t20071106_52202.htm

12. Decree of the Ministry of Health No. 2 of 1989 Implementation Rules of Law of Frontier Health and Quarantine of the People's Republic of China: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/200711/t20071106_52200.htm

13. Measures on Supervision and Administration of Inspection and Quarantine of Imported and Exported Dairy Products: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/201306/t20130613_361189.htm

14. Measures on Inspection, Supervision and Administration of Import Cotton: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/201306/

t20130626_363127.htm

15. Decree of the State Council No. 390 Regulations of the People's Republic of China on Certification and Accreditation:

http://www.aqsiq.gov.cn/xxgk_13386/jgfl/zfdcs/zcfg/201210/t20121017_265705.htm

(h) procedures for appeal or review;

Implementation

When the import, export or transit enterprises are subject to administrative penalties by the customs, the enterprises may appeal for relief through a variety of legal means. The main forms include pleading, hearing, administrative review or administrative litigation. The relevant regulations are issued publicly and easily accessible by the Internet.

State:

Administrative Procedure Law of the People's Republic of China; (Link 1)

Administrative Review Law of the People's Republic of China. (Link 2)

Customs and I&Q:

The following regulations are published and easily accessible by the Internet:

Decree of GACC No. 120 Provisional Regulations of the People's Republic of China on Customs Handling of Appellate Cases (Link 3);

Decree of GACC No. 166 Measures of the People's Republic of China on Customs Administrative Review (Link 4);

Measures for Customs Administrative Penalty Hearing of the People's Republic of China (Decree No. 145 of GACC) (Link 5);

Decree of AQSIQ No. 7 [1999] Measures on Administrative Review of Entry–Exit Inspection and Quarantine (Link 6);

Decree of AQSIQ No. 85 Regulations on Entry–Exit Inspection and Quarantine Administrative Penalty Procedures (Link 7);

Measures for the Implementation of the Administrative License for

Quality Supervision, Inspection and Quarantine (Link 8);

Measures for the Administration of Certificates of Administrative Law Enforcement in Quality Supervision, Inspection and Quarantine (Link 9);

Rules for the Application of Administrative Penalty Discretion in Quality Supervision, Inspection and Quarantine (Link 10).

General Comment

Customs and I&Q:

The implementation is adequate.

Links

1. Administrative Procedure Law of the People's Republic of China: http://www.spp.gov.cn/sscx/201502/t20150217_91466.shtml
2. Administrative Review Law of the People's Republic of China: http://www.gov.cn/banshi/2005-08/21/content_25100.htm
3. Decree of GACC No. 120 Provisional Regulations of the People's Republic of China on Customs Handling of Appellate Cases: <http://www.customs.gov.cn/publish/portal0/tab399/info4301.htm>
4. Decree of GACC No. 166 Measures of the People's Republic of China on Customs Administrative Review: <http://www.customs.gov.cn/publish/portal0/tab399/info83560.htm>
5. Measures for Customs Administrative Penalty Hearing of the People's Republic of China (Decree No. 145 of GACC): <http://www.customs.gov.cn/publish/portal0/tab2746/info18595.htm>
6. Decree of AQSIQ No. 7 [1999] Measures on Administrative Review of Entry-Exit Inspection and Quarantine: http://jyjgs.aqsiq.gov.cn/wjgg/sjwj/200610/t20061024_2339.htm
7. Decree of AQSIQ No. 85 Regulations on Entry-Exit Inspection and Quarantine Administrative Penalty Procedures: http://www.gov.cn/flfg/2006-03/13/content_225816.htm
8. Measures for the Implementation of the Administrative License for Quality Supervision, Inspection and Quarantine: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/201307/t20130705_365385.htm
9. Measures for the Administration of Certificates of Administrative

Law Enforcement in Quality Supervision, Inspection and Quarantine:
http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2016/201612/t20161227_479739.htm

10. Rules for the Application of Administrative Penalty Discretion in Quality Supervision, Inspection and Quarantine: http://www.aqsiq.gov.cn/xxgk_13386/xxgkztl/zcfg/201210/t20121017_285066.htm

(i) agreements or parts thereof with any country or countries relating to importation, exportation, or transit; and

Implementation

Information on free trade agreements with other countries is published in a timely manner.

However, information regarding agreements on mutual recognition of Authorized Economic Operators (AEOs) and mutual aid agreements as well as memorandums of understanding signed with some countries is generally covered by news reports and policy interpretation articles. Some information of mutual recognition of AEOs is accessible at "Customs Enterprise Credit System Construction" under "Information Disclosure" on China Customs' portal site. The relevant departments of GACC have carried out a more detailed and in-depth interpretation of some relevant information through channels such as China Customs magazine, 12360 customs hotline and WeChat public account.

The inspection and quarantine department announced some relevant information. (Link 1 and 2)

General Comment

The implementation is inadequate.

Recommendations

Details of agreements with other countries should be published in a timely manner.

(j) procedures relating to the administration of tariff quotas.

Links

1. Memorandum of Understanding between AQSIQ of the People's Republic of China and quarantine and Standard Metrology Organization of the Republic of the Sudan: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2013/201310/t20131008_380220.htm
2. Protocol on Plant Quarantine requirements for Soybean Exported to China from Kazakhstan: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2017/201701/t20170122_481663.htm

Implementation

Import tariff quotas for agricultural produce, sugar, cotton, wool, wool tops, etc. (Links 1, 2 and 3) are published on the websites of National Development and Reform Commission and Ministry of Commerce. The related information is easily accessible.

The Ministry of Commerce published the catalogue of goods subject to import tariff quota on its official website (Link 4)

General Comment

The implementation is adequate.

Links

Import tariff quotas for agricultural produce and cotton:

1. Decree of National Development and Reform Commission No.14 of 2017: http://jms.ndrc.gov.cn/gzdt/201709/t20170930_862785.html

Import tariff quotas for wools:

2. Decree of Ministry of Commerce and the GACC No. 66 of 2016 Detailed rules for the Implementation of import tariff quota of wool and wool tops in the year of 2017: <http://www.mofcom.gov.cn/article/b/e/201611/20161101687295.shtml>

Import tariff quotas for sugar:

3. Decree of Ministry of Commerce No.53 of 2016 Tariff quota application and allocation rule of sugar in the year of 2017: : <http://www.mofcom.gov.cn/article/b/e/201610/20161001406993.shtml>
4. Catalogue of goods subject to import tariff quota: <http://www.mofcom.gov.cn/article/bh/200301/20030100066079.shtml>

1.2 Nothing in these provisions shall be construed as requiring the publication or provision of information other than in the language of the Member except as stated in paragraph 2.2.

2 Information Available Through Internet

2.1 Each Member shall make available, and update to the extent possible and as appropriate, the following through the internet:

Laws and Regulations

Customs:

Measures of the People's Republic of China on Customs Government Information Disclosure provides:

"Article 13 Customs shall proactively disclose customs government information by such easily accessible means as the Customs' websites, nationwide customs service hotline "12360", press conferences, newspapers, magazines, radio and television broadcasting."

Measures for Comprehensively Promoting the Publicity of Government Affairs has referred a lot to the publicity of Customs government information through channels such as Customs websites.

Inspection and Quarantine:

The AQSIQ Guide on Government Information Disclosure provides:

"IV. Means of access to government information

(1) Proactive disclosure of government information.

Citizens, legal persons and other organizations may access the proactively disclosed information that they need, via the AQSIQ Website Government Information Disclosure Catalog (the "Catalog"), or via the retrieval function of the AQSIQ Government Information Disclosure Catalog. Government information that should be proactively disclosed as per the Catalog shall be disclosed within 20 working days by relevant authorities starting from the day of generation of such information.

(2) Disclosure of government information as applied for.

2. Online Application.

.....

3. E-mail Application.

....."

Implementation

Customs and I&Q:

The Internet has become an important means for China Customs, Inspection and Quarantine, and commerce administration authorities to disclose information on administrative affairs. China Customs, apart from portals, also uses Wechat, Weibo, APPs, etc. to publish information. GACC's portable website was substantially revised in 2017.

General Comment

Customs and I&Q:

The implementation is adequate.

(a) a description¹ of its procedures for importation, exportation, and transit, including procedures for appeal or review, that informs governments, traders, and other interested parties of the practical steps needed for importation, exportation, and transit;

Refer to 1.1 (a).

(b) the forms and documents required for importation into, exportation from, or transit through the territory of that Member;

Refer to 1.1 (a).

(c) contact information on its enquiry point(s).

Laws and Regulations

Customs:

Measures of the People's Republic of China on Customs Government Information Disclosure provides that:

"Article 15 Customs shall compile, publish and update in a timely manner Guide on Customs Government Information Disclosure, and Customs Government Information Disclosure Catalog.

Guide on Customs Government Information Disclosure shall include classifications, compilation systems of and means of access to customs government information, and the name, address, business hours, phone number, fax number, E-mail, etc. of the competent departments in charge of customs government information disclosure."

Inspection and Quarantine:

AQSIQ Guide on Government Information Disclosure provides:

‘III. Means of access to government information

.....

(2) Disclosure of government information as applied for.

1. Application review departments.

The AQSIQ Government Information Disclosure Office is the department that receives and reviews applications. Office hours: 8:00–17:30 (not on holidays);

Phone: 010–82261627;

Address: No. 9 Madiandong Road, Haidian District, Beijing;

Zip Code: 100088;

E-mail: zjxxgk@aqsiq.gov.cn."

Implementation

Customs and I&Q:

Via portal websites of customs and Inspection and Quarantine authorities, the addresses of customs and Inspection and Quarantine offices at each port, and the phone numbers thereof may be obtained.
(Link 1, 2)

General Comment

Customs and I&Q:

The implementation is adequate.

Links

1. The sketch map of Customs distribution on GACC's portal websites (including websites and phone number): <http://www.customs.gov.cn/customs/qghg24/index.html>
2. Consultation points of WTO/TBT-SPS in China: <http://www.strc.org.cn/index.jsp>, <http://www.tbt-sps.gov.cn/page/cwtoz/Indexquery.action>

2.2 Whenever practicable, the description referred to in subparagraph 2.1(a) shall also be made available in one of the official languages of the WTO.

Implementation

Customs:

The WTO designates English, French and Spanish as the three official languages. The official website of GACC is available in English, but offers very little content. The majority of the content of this provision cannot be found on the official website.

Inspection and Quarantine:

The AQSIQ website is available in English, but for nearly all laws and regulations, only a list of the English translations of the names of such laws and regulations is provided, while the links thereof all connect to Chinese texts.

General Comment

Customs and I&Q:

The implementation is inadequate.

Recommendations

Customs and I&Q:

Draw from the experience of Japanese and Korean customs, and offer English translations of laws and regulations.

2.3 Members are encouraged to make available further trade-related information through the internet, including relevant trade-related legislation and other items referred to in paragraph 1.1.

Implementation

Customs and I&Q:

Since China's accession into the WTO in 2001, competent authorities vested with managerial responsibilities for cross-border trade, including the Ministry of Commerce, customs and Inspection and Quarantine authorities, have provided, through the Internet, a vast amount of import and export trade-related information that encompasses legislation, import and export administration, taxation, classification, trade licenses, etc.

The China Customs portal website has attached notes of validity status to all policies and regulations, specifically classifying them into "valid, invalid and partially revised", thereby significantly facilitating the search for and use of information.

The search engine embedded in the AQSIQ website performs badly, and the search results are not properly ranked, and certain important laws and regulations on inspection and quarantine cannot even be found.

General Comment

Customs and I&Q:

The implementation by customs is relatively adequate, whereas there is substantial room for improvement for inspection and quarantine authorities.

3 Enquiry Points

3.1 Each Member shall, within its available resources, establish or maintain one or more enquiry points to answer reasonable enquiries of governments, traders, and other interested parties on matters covered by paragraph 1.1 and to provide the required forms and documents referred to in subparagraph 1.1(a).

Laws and Regulations

Customs:

Measures of the People's Republic of China on Customs Government

Information Disclosure provides:

"Article 15 Customs shall compile, publish and update in a timely manner Guide on Customs Government Information Disclosure, and Customs Government Information Disclosure Catalog.

Guide on Customs Government Information Disclosure shall include the classification, compilation system of and means of access to customs government information, as well as the name, address, office hours, phone number, fax number, E-mail, etc. of the competent customs authority in charge of government information disclosure.

Article 18 Regarding customs government information requested to be disclosed by an applicant, customs shall, according to the following cases, reply in writing (including in electronic texts) respectively:

(9) Where the disclosure application should be processed via other channels including business consultation, complaint and report, petition letter, and statistical consultation, the applicant shall be guided to process the application via such other channels."

Inspection and Quarantine:

AQSIQ Guide on Government Information Disclosure provides:

"III. Means of access to government information

(1) Proactive disclosure of government information.

.....

(2) Disclosure of government information as applied for.

1. Application review department.

The AQSIQ Government Information Disclosure Office is the department that receives and reviews applications. Office hours: 8:00–17:30 (not on holidays);

Phone: 010–82261627;

Address: No. 9 Madiandong Road, Haidian District, Beijing

Zip Code: 100088;

E-mail: zjxxgk@aqsiq.gov.cn.

5. In-person submission of application.

After an applicant fills in Application Form for Government Information Disclosure, he or she may contact the AQSIQ Government Information Disclosure Office, and submit the application in person."

Implementation

Customs and I&Q:

The windows, of China Customs and Inspection and Quarantine authorities, that handle external administrative affairs, are all open to public consultation.

The official websites of customs and Inspection and Quarantine authorities have all put in place online consultation windows.

Both GACC and customs authorities directly under it have opened a free hotline service – "12360".

China Inspection and quarantine issued reports on WTO/TBT–SPS consulting points in China. (Link 1)

But so far, China has not established WTO/TFA consulting points. According to China's plan for implementation of the trade facilitation agreement system, trade facilitation–related work, including consulting points, is undertaken by Committee on Trade Facilitation.

General Comment

Customs and I&Q:

The implementation is adequate, but the information of the establishment of consultation points is inconsistent and there is still room for improvement.

The 12365 system is jointly used for inspection and quarantine and technical supervision; there is still room for the improvement of professional segmentation of inspection and quarantine.

Recommendations

Customs and I&Q:

Customs and Inspection and Quarantine authorities shall consolidate and systematize forms and documents needed to be filled in and used by importers and exporters, and publish downloadable versions online.

In addition, the commodity inspection, animal and plant inspection, health inspection and food safety related to inspection and quarantine require strong technical expertise; it is recommended to enhance the comprehensive professional technical level and ability of the 12365

system operators.

China draws on the experience of existing WTO/TBT consulting points and WTO/SPS consulting points in order to establish WTO/TFA consulting points as soon as possible.

Links

1. China Inspection and quarantine issued reports on WTO/TBT-SPS consulting points in China: <http://www.tbt-sps.gov.cn/zxdbg/getList.action>

3.2 Members of a customs union or involved in regional integration may establish or maintain common enquiry points at the regional level to satisfy the requirement of paragraph 3.1 for common procedures.

No such circumstances exist currently.

3.3 Members are encouraged not to require the payment of a fee for answering enquiries and providing required forms and documents. If any, Members shall limit the amount of their fees and charges to the approximate cost of services rendered.

Laws and Regulations

Customs:

Measures of the People's Republic of China on Customs Government Information Disclosure provides:

"Article 22 Where customs provides customs government information as requested by an applicant, other than fees charged for retrieval, copy, and postal delivery, no other fees may be charged. Customs may not, via other organizations and individuals, provide customs government information for a fee.

The standards that govern the cost fees charged by customs for retrieval, copy, postal delivery, etc. shall follow the standards jointly determined by the competent pricing department and the fiscal department under the State Council.

Article 23 In case of genuine economic difficulties of citizens applying for disclosure of customs government information, relevant fees may be

reduced or exempted via the citizen's own application and the review and approval by a person in charge at the competent customs authority responsible for government information disclosure."

Inspection and Quarantine:

AQSIQ Guide on Government Information Disclosure provides:

"VIII. Means of access to government information

.....

7. Fee standards.

.....

(2) Disclosure of government information as applied for.

In cases where the applicant asks for electronic delivery of government information, such information may be delivered free of charge by the AQSIQ department in charge of government information disclosure; in cases where the application asks for provision of such information via postal delivery, the AQSIQ department may charge postal fees as per the standard jointly set by the competent pricing department and the fiscal department under the State Council."

Implementation

Customs and I&Q:

Generally speaking, the consultation services offered by customs and Inspection and Quarantine authorities do not provide forms or documents. In rare cases where such forms or documents are provided, they are provided free of charge.

General Comment

Customs and I&Q:

The implementation is relatively adequate, but there remains room for improvement.

3.4 The enquiry points shall answer enquiries and provide the forms and documents within a reasonable time period set by each Member, which may vary depending on the nature or complexity of the request.

Laws and Regulations

Customs:

Measures of the People's Republic of China on Customs Government Information Disclosure provides that:

"Article 19 In cases where customs government information disclosure applications are received and customs are able to reply to such applications on site, customs shall do so.

In cases where they are not able to do so, customs shall reply within 15 working days starting from the date of receipt of application; in cases where the reply period needs to be extended, consent needs to be obtained from a person in charge at the competent customs government information disclosure department, and the applicant needs to be notified that the extension period shall be no longer than 15 working days.

In cases where the government information requested by an application to be disclosed involves the rights and interests of a third party, the time required for customs to consult the third party shall not be included in the time frame as provided for in Paragraph 2 of this provision.

Inspection and Quarantine:

AQSIQ Guide on Government Information Disclosure provides:

"III. Means of access to government information

.....

6. Handling of Applications.

After receiving Application Form for Government Information Disclosure, this authority will conduct a preliminary review. In cases where the content of application clearly goes beyond the working scope of disclosing requested government information, as provided for by Regulations of the People's Republic of China on Government Information Disclosure, or this authority is clearly not in a position to disclose the information as requested, telephone (recording) communications shall be conducted with the applicant, requiring him or her to withdraw, correct or re-file the application to relevant departments (where the applicant insists on a written reply from this authority, such reply may be offered).

After a preliminary review, applications that meet the requirements will be registered and numbered, and the following reply shall be given within 15 working days since the date of receipt of application:

.....

In cases where the reply period needs to be extended for reasons including work procedures, the applicant shall be notified via telephone (recording) communications, and the maximum extension period shall be no longer than 15 working days."

Implementation

Customs:

Customs "12360" Hotline provides immediate answers to simple inquiries.

For complicated inquiries, negotiations will be conducted for such inquiries to be addressed by professionals, and no timeframes are set for such purposes.

For online consultations, as of now no reply deadline has been set.

Inspection and Quarantine:

Online consultations are available, but without a prescribed time limit on reply.

General Comment

Customs and I&Q:

The implementation is inadequate.

Recommendations

Customs and I&Q:

Consultations and replies of various types, including the reply time, shall be summarized and published on a periodic basis, thereby facilitating continuous improvements of the effectiveness and quality of consultation services.

4 Notification

Each Member shall notify the Committee on Trade Facilitation

established under paragraph 1.1 of Article 23 (referred to in this Agreement as the "Committee") of:

The Committee on Trade Facilitation (the "Committee") is yet to be officially established, and this provision has not been implemented.

(a) the official place(s) where the items in subparagraphs 1.1(a) to (j) have been published;

(b) the Uniform Resource Locators of website(s) referred to in paragraph 2.1; and

(c) the contact information of the enquiry points referred to in paragraph 3.1.

Links

1. Reply of the State Council on the approval of establishing the inter-ministerial joint conference on trade facilitation (Letter of the State Council [2016]): http://www.gov.cn/zhengce/content/2016-04/06/content_5061542.htm

ARTICLE 2: OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE, AND CONSULTATIONS

1 Opportunity to Comment and Information before Entry into Force

1.1 Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, provide opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit.

Laws and Regulations

State:

The State has put in place a relatively sound legal system.

Article 58 of Legislation Law of the People's Republic of China provides that the drafting process of administrative laws and regulations shall solicit extensively opinions from relevant authorities, organizations and citizens. The solicitation of such comments may be conducted in forms of symposiums, argumentations, hearings, etc. (Link 1)

In November 2001, Decrees of the State Council No. 321 and No. 322 respectively released Regulations on Formulation Procedures of Administrative Laws and Regulations, and Regulations on Formulation Procedures of Rules, detailing the formulation procedures for administrative laws and regulations, and rules, with a view to practicing the principle of legislative democracy as provided for in the Legislation Law. (Links 2 and 3)

Customs and I&Q:

China Customs formulated and released relevant departmental rules and regulations.

In December 2008, Decree of GACC No. 180 revised and promulgated

Administrative Regulations of the People's Republic of China on Customs Legislative Work, clarifying the principle of open and transparent customs legislative work, and encouraging and facilitating the involvement of administrative counterparties and the public in customs legislation; providing that after customs rules and regulations are drafted, comments from administrative counterparties shall be solicited via written forms, symposiums, argumentations, debates, etc., and that in cases where the content of the rules and regulations involves major interests of administrative counterparties, or where major differences exist during comment solicitation, the drafting authority may hold legislative hearings. (Link 4)

Decree of AQSIQ No. 15 promulgated Regulations on Formulation Procedures of Rules and Regulations. Article 24 thereof provides that for important drafts for approval, and for drafts for approval that involve differences of opinion over major issues, the Department of Legislation may convene symposiums, argumentations, hearings, etc., to fully collect opinions for research and argumentation. (Link 5)

Comparatively, the provisions regarding the involvement of administrative counterparties in legislative work, contained within Decree of GACC No. 180, Administrative Regulations on Legislative Work, are more explicit than those in Decree of AQSIQ No. 15 Procedures on Formulation of Rules and Regulations.

Implementation

State:

Soliciting of opinions on the draft laws is available on www.chinalaw.gov.cn and official website of NPC. (Link 6)

Customs:

The implementation needs to be improved.

Special column on collecting public comments is available on GACC's portal site; in 2016 one call for comments and one call for comments on the legislative draft were released on the site. (Link 7)

GACC has carried out the legislative hearing. During the 11 years from the promulgation of Administrative Regulations of the People's Republic

of China on Customs Legislative Work in 2005 to December 2016, only one legislative hearing was held regarding the revision of Measures for the Management of Unit Consumption in Customs Processing Trade of the People's Republic of China.

Inspection and Quarantine:

Special columns were put in place on the AQSIQ official website dedicated to the collection of public comments and online questionnaires; in 2016, altogether 10 calls for comments were released on the official website; by October 31, 2017 a total of 6 calls for comments on department regulations had been released. But no legislative hearing was held. (Link 8)

In accordance with the requirements of TBT agreement, China has notified the member states of its technical regulations before the date when it is planned to put into effect for their appraisal. Link 9)

By October 31, 2017, 4 calls for comments on inspection and quarantine had been released on the official website of Legal Affairs Office of the State Council. (Link 10)

General Comment

Customs:

Institutional arrangements were generally put in place, but it is to be improved.

Inspection and Quarantine:

Institutional arrangements are not as clear as those of customs, but better implemented.

Recommendations

Customs:

Take effective measures to ensure adequate implementation of relevant provisions of Decree of GACC No. 180.

Customs and I&Q:

1. To solicit trade community's opinions in advance on legislation

formulation, management procedures and even detail scripts for system development and take such opinions into account seriously;

2. For comments collected online, open communications and discussions should be allowed and encouraged, and legislative bodies should offer timely replies to the opinions and proposals offered by the public and the business community.

3. It is suggested that experts, scholars, social organizations and administrative counterparts should be invited regularly (for example, every 6 months) to participate in the legislative effect evaluation of the issuing of normative documents involving administrative counterpart.

Links

1. The revised "Legislation Law of the People's Republic of China" after The decision on amending the legislative law of the people's Republic of China on The third session of the Twelfth National People's Congress: http://www.npc.gov.cn/npc/dbdhhhy/12_3/2015-03/18/content_1930713.htm

2. Decrees of the State Council No. 321 Regulations on Formulation Procedures of Administrative Law: http://www.gov.cn/gongbao/content/2002/content_61545.htm

3. Decrees of the State Council No. 321 Regulations on Formulation Procedures of Rules: http://www.gov.cn/gongbao/content/2002/content_61556.htm

4. Decree of GACC No. 180 revised and promulgated Administrative Regulations of the People's Republic of China on Customs Legislative Work: <http://www.customs.gov.cn/publish/portal0/tab38320/info157799.htm>

5. Decree of AQSIQ No. 15 Regulations on Formulation Procedures of Rules and Regulations: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/20012002/200610/t20061027_239114.htm

6. Public comments collection system of lawwww.chinalaw.gov.cn: <http://zqyj.chinalaw.gov.cn/index>; collection of comments on legislative drafts of NPC: http://www.npc.gov.cn/npc/flcazqyj/node_8176.htm

7. Column on GACC's official website dedicated to the collection of public comments: <http://www.customs.gov.cn/default.aspx?tabid=5532>

AQSIQ official website dedicated to the collection of public comments and online questionnaires: <http://www.aqsiq.gov.cn/gzcypt/zjdc/cayjzj/>

9. Mandatory national standards for external notification: <http://www.sac.gov.cn/gzfw/ggcx/wtoth/>; China has notified the WTO member countries of laws, regulations, mandatory national standards and other technical regulations: <http://www.tbt-sps.gov.cn/tbtTbcx/getList.actionpageType=1&tbtsp=1>, <http://www.tbt-sps.gov.cn/tbtTbcx/getList.actionpageType=3&tbtsp=2>

10. Notice of AQSIQ on Soliciting Comments on the Provisions for the Filing Management of Export Food Enterprises (Draft for Comments): http://www.chinalaw.gov.cn/art/2017/6/22/art_33_205489.html; Notice of AQSIQ on Soliciting Comments on the Measures for the Administration of Certification Bodies (Draft for Comments): http://www.chinalaw.gov.cn/art/2017/6/22/art_33_205490.html; Circular of the Legal Affairs Office of the State Council on Soliciting Public Comments on the Publication of the Standardization Law of the People's Republic of China (Draft for Amendment): http://www.chinalaw.gov.cn/art/2016/3/22/art_33_204015.html; Notice of the Legal Affairs Office of the State Council on the Publication of the Regulations on the Implementation of the Food Safety Law of the People's Republic of China (Revised Draft for Review): http://www.chinalaw.gov.cn/art/2016/10/19/art_33_204146.html

1.2 Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, ensure that new or amended laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit, are published or information on them made otherwise publicly available, as early as possible before their entry into force, in order to enable traders and other interested parties to become acquainted with them.

Laws and Regulations

Customs:

Decree of GACC No. 215 Measures of the People's Republic of China on Customs Government Information Disclosure provides:

"Article 8 Customs shall disclose government information in a timely

and accurate manner. In cases where customs finds false or incomplete information that affects or is likely to affect social stability and disrupt social management order, customs shall, within its scope of responsibilities, provide clarifications via disclosing accurate customs government information.

.....

Article 14 Government information within the scope of "proactive disclosure", shall be disclosed within 20 working days from the date on which such information is generated, changed or obtained."

Article 42, Section 5 (Review and Disclosure) of Decree of GACC No. 180 Administrative Regulations of the People's Republic of China on Customs Legislative Work provide, "except for exceptional circumstances, customs rules and regulations shall be implemented 30 days after the publication thereof, at the earliest."

Inspection and Quarantine:

AQSIQ Guide on Government Information Disclosure provides:

"IV. Means of access to government information

(1) Proactive disclosure of government information.

Citizens, legal persons and other organizations may access the proactively disclosed information that they need, via the AQSIQ Website Government Information Disclosure Catalog (the "Catalog"), or via the retrieval function of the AQSIQ Government Information Disclosure Catalog. Government information that should be proactively disclosed as per the Catalog shall be disclosed within 20 working days by relevant authorities starting from the day of generation of such information."

It's stipulated in Article 32 of Regulations of AQSIQ on Rule and Regulation Formulation Procedures (Decree of AQSIQ No. 190), "unless otherwise provided in laws and administrative regulations, rules and regulations shall be implemented 30 days after the publication thereof, at the earliest."(Link 1)

Implementation

Customs:

Article 42, Section 5 (Review and Disclosure) of Decree of GACC No. 180 Administrative Regulations of the People's Republic of China on Customs Legislative Work provides, "customs rules and regulations shall be implemented 30 days after the publication thereof, at the earliest." However, a preliminary statistical analysis on the relevant regulations released by China Customs portal websites reveals that a multitude of regulations failed to meet this requirement. Therefore, it can be seen that in terms of the timeliness of the disclosure of laws and regulations, there is still significant room for improvement.

Release of GACC Decrees from 2010 to 2016

Status	Amount	Days	Proportion against the Total
Decree released and entered into force on the same date	10	0	22.22%
Decree released on a date preceding its date of entry into force	35	26	77.78%
of which, date of release over 30 days in advance of date of entry into force	21	42	46.67%
Date of release 1–30 days in advance of date of entry into force	14	2	31.11%
Decree released on a date succeeding its date of entry into force	0	0	0.00%
Total (No. 186–230)	45		

Inspection and Quarantine:

AQSIQ does not have such time limits. However, taking the above standards into account, the situation is better than that of customs.

Release of AQSIQ Decrees from 2010 to 2015

Status	Amount	Days	Proportion against the Total
Decree released and entered into force on the same date	10	0	15.38%
Decree released on a date preceding its date of entry into force	55	78	84.62%
of which, date of release over 30 days in advance of date of entry into force	53	81	81.54%
Date of release 1–30 days in advance of date of entry into force	2	15	3.08%
Decree released on a date succeeding its date of entry into force	0	0	0.00%
Total (No. 125–186; No. 148 missing and some revised)	65		

General Comment

Customs and I&Q:

The implementation is inadequate.

Recommendations

Customs and I&Q:

Release laws and regulations 30 days before implementation, thereby leaving reasonable time for preparation for businesses to cooperate with the government's implementation efforts of laws and regulations.

Links

1. Regulations of AQSIQ on Rule and Regulation Formulation Procedures (Decree of AQSIQ No. 190): http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2017/201710/t20171018_499847.htm

1.3 Changes to duty rates or tariff rates, measures that have a relieving effect, measures the effectiveness of which would be undermined as a result of compliance with paragraphs 1.1 or 1.2, measures applied in urgent circumstances, or minor changes to domestic law and legal system are each excluded from paragraphs 1.1 and 1.2.

2 Consultations

Each Member shall, as appropriate, provide for regular consultations between its border agencies and traders or other stakeholders located within its territory.

Laws and Regulations

Customs and I&Q:

No specific provisions apply.

Implementation

Customs and I&Q:

China Customs and Inspection and Quarantine authorities are open to consultations and negotiations with industry. Dialogs and consultations with businesses and chambers of commerce are organized on a periodic or an ad hoc basis, depending upon specific work needs.

However, to date, standardized periodic consultation mechanisms are yet to be formed for the consultation arrangements between Inspection and Quarantine authorities and the business community.

General Comment

Customs and I&Q:

Implementation was proactive, but it is yet to be institutionalized and standardized.

Recommendations

Customs and I&Q:

1. China Customs and Inspection and Quarantine authorities should formulate and establish periodic consultation mechanisms with industry, adopt a more flexible and pragmatic approach to the determination of attendees, issues for consultation, etc., and extensively solicit and absorb feedback, complaints and recommendations from a wide range of business representatives;
2. There should be more accessible and effective information feedback channels and resolution mechanisms for issues that are of great importance, urgency, and that may cause extensive impact.

ARTICLE 3: ADVANCE RULINGS

Laws and Regulations

China Customs formulated and promulgated laws and regulations on administrative rulings, including:

Advance ruling: Decree of GACC No. 92 Provisional Administrative Measures of the People's Republic of China on Customs Administrative Rulings; (Link 1)

Advance classification: Decree of GACC No. 158 Regulations of Customs Classification of Import and Export Goods; (Link 2)

Advance price review: Article 10 of Decree of GACC No. 124 Administrative Measures of the People's Republic of China on Tax levied on Import and Export Goods by Customs provides that the tax payer, prior to actual import or export of goods, may apply to customs as per relevant regulations for advance classification, advance price review or advance determination of origin, of such goods. Customs, after review and determination, shall notify the taxpayer in writing, and provide acceptance of such written notification during actual import and export of goods; (Link 3)

Determination of Origin: Article 12 of Decree of the State Council No. 416 Regulations of the People's Republic of China on Place of Origin of Import and Export Goods provides that "prior to the import of goods intended for importation, the consignee of, or other parties directly related to, such goods, with justified cause, may apply to customs via a written application for advance determination of the origin of goods intended for importation; (Link 5)

In addition, in 2011 and 2012 respectively, GACC issued notices that provide for matters related to advance price review and advance determination of origin by customs authorities directly subordinate to GACC:

1. Shu Shui Fa [2011] No. 419 Provisional Regulations on Administration of Advance Price Review of Import Goods set out

provisions for businesses" applications for advance price review; (Link 4)

2. Advance determination of origin: Shu Shui Fa [2012] No. 129 Notice of GACC on Issuing Provisional Regulations on Advance Determination of Origin for Import Goods. (Link 6)

Most customs authorities that are directly subordinate to GACC in Beijing, Shanghai, Guangzhou, Qingdao, etc., have, pursuant to Shu Shui Fa [2011] No. 419, formulated administrative mechanisms for the concrete implementation procedures of advance price review for import goods that apply to their respective customs territories.

Some customs authorities that are directly subordinate to GACC in Shanghai, Haikou, Jiangmen, Fuzhou, etc., have, pursuant to Shu Shui Fa [2012] No. 129, formulated administrative mechanisms for the concrete implementation procedures of advance origin determination that apply to their respective customs territories. (Link 7)

Implementation

Within the 16 years from the release on 24 December, 2001, and the implementation on 1 January, 2002, of Decree of GACC No. 92 Provisional Measures of the People's Republic of China on Administration of Customs Administrative Rulings, to the end of October, 2017, only the following advance ruling cases were found via public channels:

1. On 3 June, 2015, GACC released Decree of GACC No. 28 [2015] Announcement on Publishing Administrative Rulings on Classification of Goods, issuing an administrative ruling on classification of goods named "Polarizing Film"; (Link 8)

2. On 14 September, 2015, GACC released Decree of GACC No. 41 [2015] Announcement on Publishing Administrative Rulings (II) on Classification of Goods, issuing administrative rulings on classifications of three goods respectively named "Intra-Park Tour Cart", "Scanning Frame for Whole-body X-ray Computed Tomography (CT) System", and "Tetrabromobisphenol A"; (Link 9)

3. On 6 May, 2016, GACC released Decree of GACC No. 31 Announcement on Publishing 2016 Administrative Rulings (III) on Classification of Goods, issuing an administrative ruling on classification of the good named "Ranolazine"; (Link 10)

4. On 26 May, 2016, GACC released Decree of GACC No. 33 Announcement on Publishing 2016 Administrative Rulings (IV) on Classification of Goods, issuing administrative rulings on classifications of a few goods including "PDS*II (Polydioxanone) Monofilament Synthetic Absorbable Suture", "iPod nano7" and "Component feeder unit". (Link 11)

5. On December 8, 2016, GACC issued the Announcement on Publishing 2016 Administrative Rulings (V) on Classification of Goods, and made an administrative ruling on the classification of the wearable computers and their accessories. (Link 12)

6. On June 6, 2016, GACC issued No. 21 the Announcement on Publishing 2016 Administrative Rulings (I) on Classification of Goods, and made an administrative ruling on the classification of "elevator rails", "elevator guide brackets" and "elevator pit and bases". (Link 13)

7. On July 20, 2017, GACC issued No. 31 the Announcement on Publishing 2017 Administrative Rulings (II) on Classification of Goods, and made an administrative ruling on the classification of "brake master cylinder". (Link 14)

8. On July 31, 2017, GACC issued No. 35 the Announcement on Publishing 2017 Administrative Rulings (I) on Place of Origin, and made an administrative ruling on the place of origin of "Anchor skimmed milk power" which is first administrative ruling on the place of origin made by China Customs. (Link 15) By the end of October 2017, all the enterprises applying for customs administrative rulings had come from Shanghai. Regarding systems of determination of origin, and of advance price review of import goods, information collected from official websites indicates fragmented implementation at only some local customs authorities, and cases can hardly be found.

In 2016, China Customs began to implement the system of respecting previous cases in classification and operated the pilot "classification previous case auxiliary search system" on November 24, 2016, covering the commodities stipulated in Article 80, 81 and 82 of Export Tariff of the People's Republic of China imported via national ports by sea, land and air; those involving pricing formula, special cases and certificates or statements of the place of origin under the preferential trade agreement that has not been e-networked are not included in the scope of the pilot. (Link 16)

General Comment

In general, regarding matters that importers and exporters are most concerned about, i.e. classification, prices, origin, etc., China Customs have formulated relevant laws and regulations on advance ruling. However, all things considered, the current framework of laws and regulations on advance ruling is yet to be streamlined, and overall coordination is lacking, especially among administrative measures on advance ruling, and rules and regulations on advance classification, advance price review and origin determination, and procedures and requirements are yet to be standardized and rendered consistent.

Laws and regulations have been formulated, but the legal framework per se is not perfect, and implementation thereof is not adequate. Nonetheless, it proves that China Customs has made great efforts in recent years.

Recommendations

1. Systematize the current administrative ruling and "three advances" system, and formulate regulations on advance ruling as per Trade Facilitation Agreement;
2. Take necessary measures to ensure adequate implementation of the advance ruling system.

Links

1. Decree of GACC No. 92 Provisional Administrative Measures of the People's Republic of China on Customs Administrative Rulings: <http://www.customs.gov.cn/publish/portal0/tab514/info4205.htm>
2. Decree of GACC No. 158 Regulations of the People's Republic of China on Customs Classified Administration of Import and Export Goods: <http://www.customs.gov.cn/publish/portal0/tab38320/info59255.htm>
3. Decree of GACC No. 124 Administrative Measures of the People's Republic of China on Tax levied on Import and Export Goods by Customs: <http://www.customs.gov.cn/publish/portal0/tab399/info4487.htm>
4. Shu Shui Fa [2011] No. 419 Provisional Regulations on Administration of Advance Price Review of Import Goods: <http://www.51wf.com/law/1177034.html>

5. Decree of the State Council No. 416 of Regulations of the People's Republic of China on Origin of Import and Export Goods 2004: <http://www.customs.gov.cn/publish/portal0/tab399/info3579.htm>
6. Shu Shui Fa [2012] No. 129 Notice of GACC on Issuing Provisional Regulations on Advance Determination of Origin for Import Goods: <http://www.tzcpa.com/tZGJ/LawsRegulationsDocument.aspxid=21967>
7. No.9 [2011] Notice of Haikou Customs on Price Pre auditon: <http://www.customs.gov.cn/publish/portal128/tab63588/info346289.htm>
8. Decree of GACC No. 28 [2015] Announcement on Publishing Administrative Rulings on Classification of Goods: <http://www.customs.gov.cn/publish/portal0/tab49661/module126388/info750529.htm>
9. Decree of GACC No. 41 [2015] Announcement on Publishing Administrative Rulings (II) on Classification of Goods: <http://www.customs.gov.cn/publish/portal0/tab49659/info773284.htm>
10. Decree of GACC No. 31 Announcement on Publishing 2016 Administrative Rulings (III) on Classification of Good: <http://www.customs.gov.cn/publish/portal0/tab49659/info797860.htm>
11. Decree of GACC No. 33 Announcement on Publishing 2016 Administrative Rulings (IV) on Classification of Goods: <http://www.customs.gov.cn/publish/portal0/tab49659/info801950.htm>
12. Decree of GACC No. 78 Announcement on Publishing 2016 Administrative Rulings (V) on Classification of Goods: <http://www.customs.gov.cn/customs/302249/302266/302267/630747/index.html>
13. Decree of GACC No. 21 Announcement on Publishing 2017 Administrative Rulings (I) on Classification of Goods: <http://www.customs.gov.cn/customs/302249/302266/302267/630791/index.html>
14. Decree of GACC No. 31 Announcement on Publishing 2017 Administrative Rulings (II) on Classification of Goods: <http://www.customs.gov.cn/customs/302249/302266/302267/716922/index.html>
15. Decree of GACC No. 35 Announcement on Publishing 2017 Administrative Rulings (I) on Place of Origin: <http://www.customs.gov.cn/customs/302249/302266/302267/717299/index.html>
16. Decree of GACC No. 66 Announcement on Implementing Pilot "Classification Previous Case Auxiliary Search System": <http://www.customs.gov.cn/customs/302249/302266/302267/630734/index.html>

1. Each Member shall issue an advance ruling in a reasonable, time-bound manner to the applicant that has submitted a written request containing all

necessary information. If a Member declines to issue an advance ruling, it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

Laws and Regulations

Laws and regulations have put in place different time limits for different types of rulings (excluding determination of classification of goods).

	Advance ruling	Advance price review	Advance classification	Advance determination of place of origin
Document Number	Decree of GACC No. 92	Shu Shui Fa [2011] No. 419	Decree of GACC No. 158	Shu Shui Fa [2012] No. 129
Time limit for reply	60 days after official acceptance	10 working days	15 working days for decision on advance classification; no prescribed time limit for decision on classification	150 days

In cases where customs reject to issue advance rulings, some regulations require compulsory provision of grounds for rejection, while other regulations do not.

	Advance ruling	Advance price review	Advance classification	Advance determination of place of origin
Document Number	Decree of GACC No. 92	Shu Shui Fa [2011] No. 419	Decree of GACC No. 158	Shu Shui Fa [2012] No. 129
Rejection	Customs needs to provide grounds for rejection.	Not required by regulations.	Not required by regulations.	Provision of grounds for rejection in writing.

Implementation

The implementation is inadequate.

2. A Member may decline to issue an advance ruling to the applicant where the question raised in the application:

The above scenarios do not apply to China.

(a) is already pending in the applicant's case before any governmental agency, appellate tribunal, or court; or

(b) has already been decided by any appellate tribunal or court.

3. The advance ruling shall be valid for a reasonable period of time after its issuance unless the law, facts, or circumstances supporting that ruling have changed.

Laws and Regulations

China Customs' advance ruling system provides the valid period for some rulings, but not for other rulings.

	Advance ruling	Advance price review	Advance classification	Advance determination of place of origin
Document Number	Decree of GACC No. 92	Shu Shui Fa [2011] No. 419	Decree of GACC No. 158	Shu Shui Fa [2012] No. 129
Conditions for revocation	Changes of laws, facts and circumstances	Changes of laws, facts and circumstances	Changes of laws, facts and circumstances	Changes of laws, facts and circumstances
Validity Period	No applicable provisions. Unless it is revoked, it will be always valid.	90 days (a 30-day extension is allowed under exceptional circumstances)	3 years	No explicit provisions. Validity continues as long as regulations/ conditions do not change.

Implementation

The implementation is inadequate.

4. Where the Member revokes, modifies, or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where a Member revokes, modifies, or invalidates advance rulings with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, false, or misleading information.

Laws and Regulations

Explicit requirements to notify the party of revocation of advance ruling exist in some advance ruling regulations of China Customs, but such explicit requirements do not exist in regulations on advance place of origin determination.

The advance ruling system of China Customs has explicit provisions for cases where advance rulings that have been issued may be revoked.

	Advance ruling	Advance price review	Advance classification	Advance determination of place of origin
Document Number	Decree of GACC No. 92	Shu Shui Fa [2011] No. 419	Decree of GACC No. 158	Shu Shui Fa [2012] No. 129
Whether or not the party should be notified of revocation of advance ruling	Written notification to the party	Timely notification to the enterprise applicant	Notification to the party via a Notification Letter	No applicable provisions
Definition of revocation scenarios for advance ruling	Clear definition	Clear definition	Clear definition	Clear definition

Implementation

The implementation is inadequate.

5. An advance ruling issued by a Member shall be binding on that Member in respect of the applicant that sought it. The Member may provide that the advance ruling is binding on the applicant.

Laws and Regulations

The decisions issued by China Customs as per relevant regulations on advance ruling are binding for customs and advance ruling applicants.

Implementation

The implementation is adequate.

6. Each Member shall publish, at a minimum:

(a) the requirements for the application for an advance ruling, including the information to be provided and the format;

Regulations promulgated include the above content.

(b) the time period by which it will issue an advance ruling; and

Regulations promulgated include the above content.

(c) the length of time for which the advance ruling is valid.

Regulations promulgated include the above content.

7. Each Member shall provide, upon written request of an applicant, a review of the advance ruling or the decision to revoke, modify, or invalidate the advance ruling.

Laws and Regulations

Article 20 of Decree of GACC No. 92 Provisional Administrative Measures of the People's Republic of China on Customs Administrative Ruling provides that in cases where a party to import and export activities does not accept a particular administrative action by customs, and objects to the administrative ruling on which such administrative action is based, then the party, while applying for review of such particular administrative action, may apply for review of the

administrative ruling. After receiving the application for review, the customs authority processing the review shall transfer the application therein for review of administrative ruling to GACC, and GACC shall then issue a review decision.

Paragraph (7), Article 9 of Decree of GACC No. 166 Measures of the People's Republic of China on Customs Administrative Review provides that in cases where the party objects to a particular administrative action in connection with tax levying and collection, including customs determination of customs value, classification of goods, determination of place of origin, etc., may apply for administrative review.

Implementation

The administrative review system is adequately implemented, but regarding the review of administrative rulings, given inadequate implementation thereof, no specific implementation cases have been found up to date.

8. Each Member shall endeavour to make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information.

Laws and Regulations

China's customs had publicized the advanced ruling it made and had provided for the protection of the related confidential commercial information.

9. Definitions and scope:

(a) An advance ruling is a written decision provided by a Member to the applicant prior to the importation of a good covered by the application that sets forth the treatment that the Member shall provide to the good at the time of importation with regard to:

(i) the good's tariff classification; and

(ii) the origin of the good.³

(b) In addition to the advance rulings defined in subparagraph (a), Members are encouraged to provide advance rulings on:

(i) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts;

(ii) the applicability of the Member's requirements for relief or exemption from customs duties;

(iii) the application of the Member's requirements for quotas, including tariff quotas; and

(iv) any additional matters for which a Member considers it appropriate to issue an advance ruling.

(c) An applicant is an exporter, importer or any person with a justifiable cause or a representative thereof.

(d) A Member may require that the applicant have legal representation or registration in its territory. To the extent possible, such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium-sized enterprises. These requirements shall be clear and transparent and not constitute a means of arbitrary or unjustifiable discrimination.

ARTICLE 4: PROCEDURES FOR APPEAL OR REVIEW

Laws and Regulations

State:

China has already established a relatively sound legal system on administrative procedure and administrative review, mainly including: Administrative Procedure Law of the People's Republic of China (Link 1); Administrative Review Law of the People's Republic of China (Link 2).

Customs and I&Q:

As per Administrative Review Law, China Customs formulated and promulgated Measures on Customs Administrative Review (Link 3); As per Administrative Review Law, AQSIQ formulated and promulgated Measures on Administrative Review of Entry–Exit Inspection and Quarantine (Link 4).

Implementation

Customs:

In 2015, customs authorities across China received 143 administrative review applications in total, the types of cases including administrative penalty, tax dispute, administrative mandatory measures, administrative mandatory enforcement, goods ordered to be returned, and customs government information disclosure. 12% of the reviewed cases were corrected.

In 2015, altogether 41 administrative procedure cases occurred involving customs authorities across the country. Of the 18 cases that have been concluded, the plaintiff withdrew the lawsuit in 11 cases, and the remaining 7 cases were won by customs.

In 2016, customs authorities across China received 94 administrative review applications in total: in 65 ones the original ruling was

maintained; one was rejected; 10 ones were withdrawn; in 15 ones the original ruling was cancelled; in 15 ones the original ruling was cancelled and reruling was required; 2 ones were mediated and one was suspended. In 2016, a total of 41 administrative procedure cases occurred involving customs authorities across the country. Of the 30 cases concluded at the first instance; the customs won 14 ones and lost one; the plaintiff withdrew the lawsuit in 15 ones. Of the 4 cases concluded at the second instance, the customs won 4 ones and the plaintiff withdrew the lawsuit in one case.

Inspection and Quarantine:

In 2016, the inspection and quarantine system (as the local quality and technical supervision bureau's review and respondent data are included in the statistics of the local People's government, the statistical data includes only the review and responding cases handled by AQSIQ and the entry-exit inspection and quarantine departments directly under its administration) received 301 review cases, with an aggregate correction ratio of 36.46%, including 177 reporting and complaint cases (58.8%), 73 information disclosure cases (24.3%), 19 administrative licensing cases (6.2%); 12 administrative omission cases (4%); 9 administrative penalty cases (3%); 2 administrative compulsory cases (0.7%); one administrative confirmation case (0.3%); 8 other cases (2.7%).

General Comment

Customs and I&Q:

Administrative procedure and review systems have been adequately implemented.

Links

1. Decree of President of the People's Republic of China No. 16 of 1989 Administrative Procedure Law of the People's Republic of China: http://www.spp.gov.cn/sscx/201502/t20150217_91466.shtml; the law was amended for the second time at the 28th Session of the Standing Committee of the Twelfth National People's Congress on June 27, 2017: http://www.npc.gov.cn/npc/xinwen/2017-06/29/content_2024894.htm

2. Decree of President of the People's Republic of China No. 16 of 1999 Administrative Review Law of the People's Republic of China: http://www.gov.cn/banshi/2005-08/21/content_25100.htm
3. Decree of GACC No. 166 Measures on Customs Administrative Review: <http://www.customs.gov.cn/publish/portal0/tab514/info83560.htm>
4. Decree of AQSIQ No.7 Measures on Administrative Review of Entry-Exit Inspection and Quarantine: <http://www.heciq.gov.cn/cfd/zjl/201512/a7c9cb9986f44997aacd18aced8ea953.shtml>

1. Each Member shall provide that any person to whom customs issues an administrative decision⁴ has the right, within its territory, to:

(a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision;

Laws and Regulations

Customs:

Article 17 of Measures on Customs Administrative Review provides,

"in cases of objections to a particular administrative action by a customs authority, application shall be filed to a higher customs authority for administrative review.

In cases of objections to a particular administrative action of GACC, application shall be filed to GACC for administrative review.'

Inspection and Quarantine:

Article 10 of Measures on Administrative Review of Entry-Exit Inspection and Quarantine provides, "in cases of objections to a particular administrative action by an entry-exit inspection and quarantine authority, application shall be filed to a higher competent authority for review."

Implementation

Customs:

Customs received 143 administrative review applications in total in 2015 and 94 ones in 2016. The channel for administrative

counterparties to apply for customs administrative review is relatively smooth.

In 2016, the inspection and quarantine system received 301 administrative review applications in total, with an aggregate correction ratio of 36.46%.

General Comment

Customs:

The implementation is adequate.

Links

1. Decree of GACC No. 166 Measures on Customs Administrative Review: <http://www.customs.gov.cn/publish/portal0/tab514/info83560.htm>
2. Decree of AQSIQ No.7 Measures on Administrative Review of Entry-Exit Inspection and Quarantine: <http://www.heciq.gov.cn/cfd/zjl/201512/a7c9cb9986f44997aacd18aced8ea953.shtml>

and/or

(b) a judicial appeal or review of the decision.

Laws and Regulations

Customs:

Article 2 of Administrative Procedure Law of the People's Republic of China provides, "in cases where citizens, legal persons or other organizations believe that the administrative actions of administrative authorities and of the staff thereof infringe upon their lawful rights and interests, they may bring lawsuits to the People's Court as per this Law. The administrative actions referred to by the preceding paragraph are those conducted by organizations mandated by laws, regulations, and rules." (Link 1)

Article 7 of Administrative Review Law of the People's Republic of China provides, "in cases where citizens, legal persons or other organizations believe the particular administrative actions of administrative authorities are not based on legitimate regulations, they

may, while applying for administrative review of such administrative actions, apply to administrative review authorities for review of such regulations." (Link 2)

Article 64 of the Customs Law of the People's Republic of China stipulates, "When a dispute over the tax payment arises between the tax payer and the customs, the tax payer shall pay the tax and can apply for administrative review according to law. If the tax payer is still not satisfied with the review decision, he or she can bring a lawsuit to the People's court." (Link 3)

Article 31 of Measures of the People's Republic of China on Customs Administrative Review provides, "in cases where an applicant believes that the particular administrative actions of customs are not based on legitimate regulations, as per provisions of Article 7 of Administrative Review Law, they may, while applying for administrative review of such administrative actions, apply for review of such regulations." (Link 4)

Inspection and Quarantine:

Article 6 of Measures on Administrative Review of Entry–Exit Inspection and Quarantine provides, "in cases where citizens, legal persons, or other organizations believe that the particular administrative actions of entry–exit inspection and quarantine authorities are not based upon legitimate regulatory documents, they may, while applying for administrative review of such administrative actions, apply for review of such documents." (Link 5)

Implementation

Customs:

In 2015, altogether 41 administrative procedure cases occurred involving customs authorities across the country.

In 2016, altogether 44 administrative procedure cases occurred involving customs authorities across the country.

General Comment

Customs:

The implementation is relatively adequate.

Links

1. Decree of President of the People's Republic of China No. 16 of 1989 Administrative Procedure Law of the People's Republic of China: http://www.spp.gov.cn/sscx/201502/t20150217_91466.shtml
2. Decree of President of the People's Republic of China No. 16 of 1999 Administrative Review Law of the People's Republic of China: http://www.gov.cn/banshi/2005-08/21/content_25100.htm
3. Customs Law of the People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab2747/info3420.htm>
4. Decree of GACC No.166 Measures of the People's Republic of China on Customs Administrative Review: <http://www.customs.gov.cn/publish/portal0/tab514/info83560.htm>
5. Decree of AQSIQ No.7 Measures on Administrative Review of Entry-Exit Inspection and Quarantine: <http://www.heciq.gov.cn/cfd/zjl/201512/a7c9cb9986f44997aacd18aced8ea953.shtml>

2. The legislation of a Member may require that an administrative appeal or review be initiated prior to a judicial appeal or review.

Laws and Regulations

Article 64 of Customs Law of the People's Republic of China provides, "in cases of tax disputes between the taxpayer and customs, the tax payer shall pay the due tax, and may apply for administrative review according to law; in cases where objections still stand to the decision of the administrative review, the taxpayer may bring lawsuits to the People's Court according to law.

Apart from the above cases involving tariff disputes in which review preposition is required according to law, for other matters, administrative review may be applied for to customs, or administrative procedure may be directly brought to courts."

General Comment

The regulations are clear, and the implementation is adequate.

Links

1. Customs Law of the People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab2747/info3420.htm>

3. Each Member shall ensure that its procedures for appeal or review are carried out in a nondiscriminatory manner.

General Comment

China has put in place non-discriminatory implementation of its appeal or review procedures.

4. Each Member shall ensure that, in a case where the decision on appeal or review under subparagraph 1(a) is not given either:

(a) within set periods as specified in its laws or regulations; or

(b) without undue delay the petitioner has the right to either further appeal to or further review by the administrative authority or the judicial authority or any other recourse to the judicial authority.

Laws and Regulations

State:

It's stipulated in the Administrative Review Law of the People's Republic of China, "Article 19 It's required by laws and regulations to apply to administrative review authorities for administrative review. If the administrative review authorities decide not to accept the administrative procedure brought the People's court in cases where citizens, legal persons or organizations are not satisfied with the administrative review decision or fail to make any reply within the administrative review period after accepting it, citizens, legal persons or organizations can bring an administrative procedure to the People's court according to law within 15 days after receiving the notification of not accepting the case or the expiration of the administrative review period." (Link 1)

"Article 20 If the administrative review authority refuses to accept

the administrative review applied by citizens, legal persons or other organizations according to law, the superior administrative authority shall order it to accept it; when necessary, the superior administrative authority may also directly accept it."

It's stipulated in the Administrative Procedure Law of the People's Republic of China, "Article 45 If citizen, legal persons or other organizations refuse to accept the review decision, and they may bring a lawsuit to courts within 15 days after the date of receiving the review decision. If the review authority fails to make a decision, the applicant can bring a lawsuit to courts within 15 days after the expiration of the review period. "(Link 2)

Customs:

Article 68 of Measures on Customs Administrative Review provides, "customs administrative review authorities shall issue an administrative review decision within 60 days from the date of accepting the application. However, for any of the following scenarios, with the approval from a person in charge from the customs administrative review authority, an extension of 30 days may be given:

- (1) the administrative review case is of great importance, complex, and difficult to handle;
- (2) an administrative review hearing has been decided to be held;
- (3) consent has been obtained of the applicant;
- (4) a third party participates in the administrative review;
- (5) further investigation is needed for the new facts or evidence submitted by an applicant or a third party.

In cases where the customs administrative review authority extends the review period, a Notification Letter of Extension of Administrative Review shall be made and sent to the applicant, respondent or third party." (Link 3)

Inspection and Quarantine:

Article 23 of Measures on Administrative Review of Entry-Exit Inspection and Quarantine provides, "the review authority shall issue a review decision within 60 days after the date of accepting the

application; except cases where the review period shall be less than 60 days according to law.

In cases of complicated review decisions that cannot be made within the prescribed time limit, a reasonable extension may be given with the consent of the person in charge from the review authority, and notified to the applicant and respondent; but the extension period shall not be longer than 30 days." (Link 4)

General Comment

Customs and I&Q:

The regulations are clear, and the implementation is adequate.

Links

1. Decree of President of the People's Republic of China No. 16 of 1989 Administrative Procedure Law of the People's Republic of China: http://www.gov.cn/banshi/2005-08/21/content_25100.htm
2. Administrative Procedure Law of the People's Republic of China: http://www.npc.gov.cn/wxzl/gongbao/2014-12/23/content_1892467.htm
3. Decree of GACC No.166 Measures of the People's Republic of China on Customs Administrative Review: <http://www.customs.gov.cn/publish/portal0/tab514/info83560.htm>
4. Decree of AQSIQ No.7 Measures on Administrative Review of Entry-Exit Inspection and Quarantine: <http://www.heciq.gov.cn/cfd/zjl/201512/a7c9cb9986f44997aacd18aced8ea953.shtml>

5. Each Member shall ensure that the person referred to in paragraph 1 is provided with the reasons for the administrative decision so as to enable such a person to have recourse to procedures for appeal or review where necessary.

Laws and Regulations

State:

Article 31 of Administrative Penalty Law of the People's Republic of China provides that prior to issuing an administrative penalty decision, the administrative authority shall notify the facts, grounds and basis

of the administrative penalty decision to the party, together with the party's rights according to law. (Link 1)

Customs and I&Q:

It's stipulated in Article 60 of Regulations on Procedures for Handling Customs Administrative Penalty Cases of the People's Republic of China, "Before making an administrative penalty decision, the customs shall inform the party concerned of the facts, grounds and basis for the administrative penalty decision as well as the lawful rights of the party concerned." (Link 2)

Chinese Inspection and Quarantine authorities impose administrative penalties following different regulations (for detailed information refer to 1.1.g).

Implementation

Customs and I&Q:

In cases where customs and Inspection and Quarantine authorities issue administrative decisions on other matters according to laws and regulations, if the party demands the basis of administrative law enforcement, such basis may be provided.

General Comment

Customs and I&Q:

The implementation is relatively adequate.

Links

1. Decree of President of the People's Republic of China No. 36 of 1996 Administrative Penalty Law of the People's Republic of China: http://www.gov.cn/banshi/2005-08/21/content_25101.htm
2. Decree of GACC No. 159 Regulations on Procedures for Handling Customs Administrative Penalty Cases of the People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab38320/info59361.htm>

6. Each Member is encouraged to make the provisions of this Article applicable

to an administrative decision issued by a relevant border agency other than customs.

Implementation

In addition to China Customs, Inspection and Quarantine, other border institutions have also established corresponding appeal or review procedures.

State:

It's stipulated in Article 51 of Regulations on the Foreign Exchange System of the People's Republic of China, "The party concerned refusing to accept a specific administrative act made by the foreign exchange authority may apply for administrative review according to law can bring an administrative lawsuit to the People's court in case of refusing to accept the administrative review decision." (Link 1)

Ministry of Commerce:

It's stipulated in Article 3 of the Measures for the Implementation of Administrative Review of the Ministry of Commerce, "If the party concerned refuses to accept the following administrative acts, he or she can apply to the Ministry of Commerce for administrative review:

- i. Specific administrative acts made by the Ministry of Commerce;
- ii. Specific administrative acts made by agencies dispatched by the Ministry of Commerce in accordance with provisions of laws, rules and regulations on behalf of themselves;
- iii. Specific administrative acts of organizations authorized by laws and regulations and directly managed by the Ministry of Commerce."

(Link 2)

Links:

1. Decree of the State Council of the People's Republic of China No. 532 Regulations on the Foreign Exchange System of the People's Republic of China: http://www.gov.cn/zwggk/2008-08/06/content_1066085.htm
2. Decree of the Ministry of Commerce No. 7 Measures for the Implementation of Administrative Review of the Ministry of Commerce:

<http://www.mofcom.gov.cn/article/b/e/200406/20040600228922.shtml>

Recommendations

Customs and I&Q:

Content of Article 17 of Customs Administrative Review Measures, relating to the administrative procedure and administrative review systems within the scope of trade facilitation, has been well implemented, but it is undeniable that when enterprises are exercising administrative rights, because 1) they are concerned about retaliation by the administrative authority; 2) remedy procedures are complex or inaccessible; 3) exercising the right to administrative remedy may result in barriers to, or postponement of, release of import and export goods, quite a few enterprises gave up the exercise of such rights. Customs and Inspection and Quarantine authorities shall take pragmatic and effective measures to remove the barriers to the importer's application for administrative review.

ARTICLE 5: OTHER MEASURES TO ENHANCE IMPARTIALITY, NON-DISCRIMINATION AND TRANSPARENCY

Laws and Regulations

Customs and I&Q:

China has established a sound quarantine system on public health and on animals and plants, intended for the protection of the health of the country's residents and its animals and plants.

Explicit provisions have been set out by the State regarding the publication and revocation of information on epidemics, and designated ports for import and export.

In cases where China Customs and Inspection and Quarantine authorities decide to detain import goods, there are relevant detention procedures that shall be followed. Inspection and Quarantine authorities explicitly require notification to the party "as soon as possible"; China Customs stipulate that the parties concerned shall be informed on the spot when the goods are detained, and the legal documents shall be signed by the parties or their agents.

China Customs and Inspection and Quarantine authorities explicitly provide that the parties may apply for re-inspection, the result of which may be accepted by the above authorities.

The Chinese government has published a list of laboratories, testing laboratories and certification agencies accredited by relevant authorities.

General Comment

Customs and I&Q:

This provision has been adequately implemented in China.

Where a Member adopts or maintains a system of issuing notifications or guidance to its concerned authorities for enhancing the level of controls or inspections at the border in respect of foods, beverages, or feedstuffs covered under the notification or guidance for protecting human, animal, or plant life or health within its territory, the following disciplines shall apply to the manner of their issuance, termination, or suspension:

(a) the Member may, as appropriate, issue the notification or guidance based on risk;

(b) the Member may issue the notification or guidance so that it applies uniformly only to those points of entry where the sanitary and phytosanitary conditions on which the notification or guidance are based apply;

(c) the Member shall promptly terminate or suspend the notification or guidance when circumstances giving rise to it no longer exist, or if changed circumstances can be addressed in a less trade-restrictive manner; and

(d) when the Member decides to terminate or suspend the notification or guidance, it shall, as appropriate, promptly publish the announcement of its termination or suspension in a non-discriminatory and easily accessible manner, or inform the exporting Member or the importer.

Laws and Regulations

Public health inspection laws and regulations of the Chinese government explicitly provide that in cases of epidemics, specific ports of entry may be designated.

China released Law of the People's Republic of China on Frontier Public Health Quarantine. (Link 1)

Article 9 of Implementation Regulations of the Law of the People's Republic of China on Frontier Public Health Quarantine provides that "at times when epidemics are prevalent at home or abroad, health administrators under the State Council shall immediately report to the State Council for approval of the adoption of some or all of the following quarantine measures:

- (1) order the blockade of relevant areas of the border and rivers within the border;
- (2) specify the goods that have to be sterilized or de-insectized before being transported into or out of China;
- (3) prohibit certain goods from being transported into or out of China;
- (4) designate the port and airport as the first choice for entry. For vessels or aircrafts which come from epidemic areas in foreign countries and regions and did not go through quarantine procedures at the port or airport as the first choice for entry, except for circumstances involving dangers or other exceptional circumstances, may not access other ports or airports." (Link 2)

China's laws and regulations on quarantine of animals and plants intended for entry or exit explicitly provide that the State Council may adopt controls on the relevant border areas, and issue orders to prohibit, when necessary, transport vehicles from the area of animal and plant epidemic from entry, or to blockade relevant ports.

China released Law of the People's Republic of China on Quarantine of Animals and plants Intended for Entry and Exit. (Link 3)

Article 4 of Implementation Regulations of Law of the People's Republic of China on Quarantine of Animals and plants Intended for Entry and Exit provides, "when major animal and plant epidemics break out in areas outside China and are likely to be imported into China, the following emergency preventive measures shall be adopted based upon specific circumstances:

- (1) The State Council may control the relevant border areas, and issue orders, when necessary, to prohibit entry of transport vehicles from the area of animal and plant epidemic, or blockade relevant ports;
- (2) Competent agricultural administrative authorities under the State Council may release the list of animals and plants, animal and plant products and other goods subject to quarantine procedures that come from countries and regions where animal and plant epidemic prevails, and are thus prohibited from entry;
- (3) Animal and plant quarantine authorities of relevant ports may adopt emergency quarantine measures for goods intended for entry as listed in (2) of this provision that may be subject to pollution by diseases and

insects;

(4) The local governments in regions threatened by animal and plant epidemic may immediately convene relevant departments to formulate and implement emergency plans, and report to the superior People's Government and National Animal and Plant Quarantine Bureau." (Link 4) China has formulated an administrative system for food safety including the safety of import and export food. (Links 5 and 6)

In addition, Article 13 of Administrative Regulations on Risk Warning and Speedy Response by Entry-Exit Inspection and Quarantine Authorities provides, "for goods and items that are intended for entry or exit and that are riskless or whose risk has been minimized, AQSIQ shall issue an announcement to revoke the warning." (Link 7)

General Comment

The regulations are clear, and the implementation is adequate.

Links

1. Law of the People's Republic of China on Frontier Public Health Quarantine: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/200806/t20080625_80249.htm
2. Implementation Regulations of the Law of the People's Republic of China on Frontier Public Health Quarantine: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/200711/t20071106_52200.htm
3. Law of the People's Republic of China on Quarantine of Animals and plants Intended for Entry and Exit: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/200711/t20071106_52204.htm
4. Implementation Regulations of Law of the People's Republic of China on Quarantine of Animals and plants Intended for Entry and Exit: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/200711/t20071106_52202.htm
5. Food safety law of the People's Republic of China: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/201306/t20130603_360016.htm
6. Implementation regulations of Food safety law of the People's Republic of China: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/201306/t20130603_360008.htm

7. Administrative Regulations on Risk Warning and Speedy Response by Entry–Exit Inspection and Quarantine Authorities: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/20012002/200610/t20061027_239128.htm

2 Detention

A Member shall promptly inform the carrier or importer in case of detention of goods declared for importation, for inspection by customs or any other competent authority.

Laws and Regulations

Customs:

Customs will send a notification letter of detention of goods to the declarant, if customs detains the goods thereof.

Article 42 of Implementation Regulations of the People's Republic of China on Customs Administrative Penalty provides, "where customs detains, according to law, goods, items, transport vehicles, other property and files including account books or documents, customs shall write and issue a letter of customs detention of goods, which shall be signed or stamped by customs staff, the parties or the agent, custodian and witness thereof, and which may be marked by a customs seal. In cases where such customs seal is used, the parties or the agent and custodian thereof shall take proper of such customs seal." (Link 1)

Inspection and Quarantine:

Article 41 of Implementation Regulations of Law of the People's Republic of China on Inspection of Commodities for Importation or Exportation provides, "for commodities for importation or exportation that are believed by entry–exit inspection and quarantine authorities with proper cause to bear upon safety of life and that of property and health, and have substandard environmental protection projects, with the approval of the person in charge of this authority, such commodities may be sealed or detained, except for goods under customs supervision." (Link 2)

Article 15 of Decree of AQSIQ No. 108 Administrative Regulations on Seal and Detention by Entry–Exit Inspection and Quarantine Authorities provides, "Letter of Decision of Sealing or Detention by Inspection and Quarantine Authorities" shall be sent to the party in a timely manner, and the party shall sign or stamp Confirmation of Receipt, and mark the date of receipt." (Link 3)

General Comment

Customs and I&Q:

The regulations are clear, and the implementation is adequate.

Links

1. Decree of the State Council No.420 Implementation Regulations of the People's Republic of China on Customs Administrative Penalty: <http://www.customs.gov.cn/publish/portal166/tab66206/info674232.htm>
2. Decree of the State Council No.447 Implementation Regulations of Law of the People's Republic of China on Inspection of Commodities for Importation or Exportation: <http://www.chinalaw.gov.cn/article/fgkd/xfg/xzfg/200510/20051000055629.shtml>
3. Decree of AQSIQ No. 108 Administrative Regulations on Seal and Detention by Entry–Exit Inspection and Quarantine Authorities: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/20072008/200807/t20080708_239305.htm

3 Test Procedures

Laws and Regulations

China Customs has a relatively complete set of regulations on test procedures, including Decree of GACC No. 176 Administrative Measures of the People's Republic of China on Customs Testing, Work Regulations on Customs Testing, and Decree of GACC No. 79 [2014] Announcement of the People's Republic of China on Publication of Customs Testing Methodologies. (Links 1, 2 and 3)

Links

1. Decree of GACC No. 176 Administrative Measures of the People's Republic of China on Customs Testing: <http://www.customs.gov.cn/publish/portal128/tab41243/info277212.htm>
2. Work Regulations on Customs Testing: <http://www.customs.gov.cn/tabid/399/ctl/InfoDetail/InfoID/158338/mid/60432/Default.aspxContainerSrc=>
3. Decree of GACC No. 79 [2014] Announcement of the People's Republic of China on Publication of Customs Testing Methodologies: <http://www.customs.gov.cn/publish/portal0/tab49564/info723725.htm>
4. GACC's interpretation (five adjustments) on Customs Testing Methodologies of People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab1/info165509.htm>

3.1 A Member may, upon request, grant an opportunity for a second test in case the first test result of a sample taken upon arrival of goods declared for importation shows an adverse finding.

Laws and Regulations

Customs:

Customs may conduct second tests.

Article 11 of Decree of GACC No. 138 Administrative Measures of the People's Republic of China on Customs Test of Import and Export Goods provides, "for any of the following cases, customs may conduct a re-test of goods that have been tested:

- (1) further confirmation of certain properties of the tested goods is required, for failure to confirm the genuine properties of the goods at issue during the first test;
- (2) the goods are suspected of breaches of regulations on trafficking and thus require a re-test;
- (3) the consignor/consignee of import or export goods objects to the conclusion of a customs test, requests a second test and obtains consent from customs;
- (4) other scenarios deemed necessary by customs.

Re-test shall be processed pursuant to Articles 6 to Articles 10 of

the Measures, and re-test personnel shall mark "Re-test" on the test record." (Link 1)

Article 39, Chapter 8 "Re-test" of Work Regulations on Customs Testing provides, "where a consignor/consignee or the agent thereof has objections to the conclusion of the test, he or she may apply within 15 days starting from the date of publication of the conclusion to customs for a re-test, and explain the reasons thereof. Within 3 days from the date of receiving the application for re-test, the customs authority shall transfer Application Form of the People's Republic of China for Customs Testing of Import and Export Goods (Re-test) (for the format of the text, refer to Attachment 7) to the Customs Testing Center via the "China Customs Laboratory Information Management System". In cases of objections from the customs authority to the conclusion of the test, it may apply to the Customs Testing Center for re-test within 15 days since the date of receiving Letter of Test Result. The consignor/consignee or the agent thereof, and the customs authority may apply only once for re-test of the same good.

Article 40 Within 15 days since the date of receiving the application for re-test, the Customs Testing Center shall conduct re-test of the sample in question, issue Letter of Customs Test Result of the People's Republic of China of Import and Export Goods (Re-test) (for the format of the text, refer to Attachment 8), and publish the conclusion of the test according to provisions of Article 23 and Article 24 of this system. The testing personnel of the first test shall not undertake the re-test.

Article 41 An entrusted testing agency shall not undertake the re-test. In cases where the consignor/consignee or the agent thereof or the customs authority has objections to the conclusion of the entrusted test, application may be filed to the Customs Testing Center for re-test according to provisions of Article 39, and the customs authority shall promptly send the sample that it keeps to the Customs Testing Center." (Link 2)

Inspection and Quarantine:

Article 5 of Measures on Re-test of Commodities for Importation or Exportation provides, "in cases where the inspection applicant has

objections to the test result issued by the inspection and quarantine agency, he or she may apply to this agency or the superior agency thereof for re-test, or may apply to AQSIQ for re-test. The inspection and quarantine agency that handles re-test applications or AQSIQ shall be responsible for the implementation of the re-test." (Link 3)

General Comment

Customs and I&Q:

The regulations are clear, and the implementation is adequate.

Links

1. Decree of GACC No. 138 Administrative Measures of the People's Republic of China on Customs Test of Import and Export Goods: <http://www.customs.gov.cn/publish/portal0/tab399/info265096.htm>
2. Shu Shui Fa No.511 [2008] Work Regulations on Customs Testing:
<http://www.customs.gov.cn/tabid/399/ctl/InfoDetail/InfoID/158338/mid/60432/Default.aspxContainerSrc=>
3. Decree of AQSIQ No.77 Measures on Re-test of Commodities for Importation or Exportation: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/20052006/200610/t20061027_239290.htm

3.2 A Member shall either publish, in a non-discriminatory and easily accessible manner, the name and address of any laboratory where the test can be carried out or provide this information to the importer when it is granted the opportunity provided under paragraph 3.1.

Implementation

State & customs:

The State has published the list of officially accredited laboratories and testing agencies; (Links 1, 2 and 3)

Customs published the list of testing centers under it. (Link 4)

General Comment

State & customs:

The implementation is adequate.

Links

1. The list of officially accredited laboratories: <https://www.cnas.org.cn/rkcx/2013/03/728834.shtml>
2. The list of officially accredited testing agencies: <https://www.cnas.org.cn/rkcx/2013/03/728833.shtml>
3. The list of officially accredited inspection agencies: <https://www.cnas.org.cn/rkcx/2013/03/728835.shtml>
4. Testing information inquiry under GACC's portal website: <http://www3.customs.gov.cn/tabid/7090/Default.aspx>

3.3 A Member shall consider the result of the second test, if any, conducted under paragraph 3.1, for the release and clearance of goods and, if appropriate, may accept the results of such test.

Laws and Regulations

Customs and I&Q:

As per regulations, both customs and Inspection and Quarantine authorities may accept the re-test result.

General Comment

Customs and I&Q:

The regulations are clear, and the implementation is adequate.

ARTICLE 6: DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION AND PENALTIES

General Comment

1. In recent years, customs and Inspection and Quarantine authorities have made efforts and achieved marked progress in terms of reducing the number of fees and charges and the publication of information thereof;
2. The relevant requirements of this provision have been relatively adequately implemented by China Customs;
3. The general feedback from the business community is that the scope of fees and charges of Inspection and Quarantine authorities is narrowed;
4. The charges levied on public institutions by customs and Inspection and Quarantine authorities and the service charges collected via third-party agencies affiliated to the above authorities were reduced.
5. China Inspection and Quarantine has stopped collecting entry-exit inspection and quarantine fees as of April 1, 2017. The entry-exit personnel, goods, transportation vehicles, containers and other statutory inspection and quarantine items accepted before April 1, 2017 will be charged in accordance with the original provisions, especially long-term business, such as the inspection of complete sets imported equipment, inspection and quarantine processing of imported seedlings etc..

1 General Disciplines on Fees and Charges

Imposed on or in Connection with Importation and Exportation

1.1 The provisions of paragraph 1 shall apply to all fees and charges other than import and export duties and other than taxes within the purview of Article III of GATT 1994

imposed by Members on or in connection with the importation or exportation of goods.

1.2 Information on fees and charges shall be published in accordance with Article 1. This information shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made.

Implementation

Customs and I&Q:

Information related to fees and charges including the diversity, standards, bases and reasons thereof is published on the portal websites of China Customs and Inspection and Quarantine authorities. (Links 1, 2, 3, 4, 5, 6, 7)

According to Notice of the Ministry of Finance No. 102 Notice on Cancelling and Suspending the Collection of Some Administrative Charges, the collection of the customs broker qualification examination fee shall be cancelled and the collection of the customs intellectual property rights filing fee shall be suspended. (Link 8)

On March 15, 2017, the Ministry of Finance and National Development and Reform Commission issued the Notice on Cleaning up and Standardizing a Batch of Policies on Administrative Charges (Notice of the Ministry of Finance No. 20 [2017]), the collection of inspection and quarantine fees for entry-exit personnel, goods, transportation vehicles, containers and other statutory inspection and quarantine items accepted will be stopped. (Link 9)

General Comment

Customs and I&Q:

The implementation is adequate.

Links

1. China Customs' current list of administrative charges: <http://www.customs.gov.cn/publish/portal0/tab49588/info719580.htm>
2. Charge information published by Inspection and Quarantine authorities: <http://120.27.27.168/TSJ/ChargePublic/Html/html/yilan.htmlid=78d8f889-f3e8-4d95-b4bd-f245b79909da>

3. Charging measures of Entry-Exit inspection and quarantine: http://www.aqsiq.gov.cn/xxgk_13386/jgfl/tgyws/zcfg/201210/t20121016_250849.htm
4. No administrative charges relating to inspection and quarantine was listed on the list of administrative charges collected by the quality inspection system managed by the central government at "list of quality inspection charges" under "Charges Disclosure" on AQSIQ's portal site: <http://120.27.27.168/TSJ/ChargePublic/Html/html/yilan.htmlid=78d8f889-f3e8-4d95-b4bd-f245b79909da>
5. Fees collected by inspection and detection institutions, charges relating to quarantine processing collected by CCIC and enterprises and institutions under all inspection and quarantine bureaus, the immunization fees collected by the travel health care centers of the inspection and quarantine bureaus, and the fees of the certification and accreditation institutions are still not cancelled: <http://120.27.27.168/TSJ/ChargePublic/Html/html.htmlc>
6. List of Fees and Charging Bodies of AQSIQ: <http://120.27.27.168/TSJ/ChargePublic/Html/html/yilan.htmlid=b7cdf15e-4f71-48f9-acfd-3ea046b6b328>
7. Public comments on Guidelines on Quality Inspection Supervision (Draft for Public Opinions) are solicited: http://www.ndrc.gov.cn/yjzx/yjzx_add.jspSiteId=133
8. Notice of the Ministry of Finance No. 102 [2015] Notice on the Cancellation and Suspension of the Collection of a Number of Administrative Charges: http://www.mof.gov.cn/mofhome/shuizhengsi/bgtZaiXianFuWu_1_1_11/mlqd/201510/t20151009_1493370.html
9. Ministry of Finance and National Development and Reform Commission issued Notice on Cleaning up a Number of Policies on Administrative Charges (Notice of the Ministry of Finance No. 20 [2017]): http://szs.mof.gov.cn/bgtZaiXianFuWu_1_1_11/mlqd/201703/t20170323_2563261.html

1.3 An adequate time period shall be accorded between the publication of new or amended fees and charges and their entry into force, except in urgent circumstances. Such fees and charges shall not be applied until information on them has been published.

Implementation

Customs and I&Q:

The levying of such fees and charges by China's entry-exit administrators usually leaves a gap between the publication and the entry into force of such fees and charges, and information publication also precedes the application of the regulations. (Links 1, 2 and 3)

Links

1. AQSIQ's relevant regulations and notices: <http://jhcws.aqsiq.gov.cn/sfgl/>
2. Decree of AQSIQ No.311 [2014] Notice of AQSIQ on Conducting free of charges on paperless customs clearance form: <http://jhcws.aqsiq.gov.cn/sfgl/sfyj/crjjy/2014/>
3. Notice of GACC No. 86 [2015] Notice of GACC on Cancelling the Charges for Customs Advance Classification Service and Other Two Items: <http://www.customs.gov.cn/publish/portal122/tab64478/info736252.htm>

1.4 Each Member shall periodically review its fees and charges with a view to reducing their number and diversity, where practicable.

Implementation

Customs:

Starting from 2008, Ministry of Finance, National Development and Reform Commission and China Customs canceled and suspended all administrative fees and charges relating to import and export collected by customs, including:

In 2008, Ministry of Finance and National Development and Reform Commission's Notice on Publishing the Cancellation and Termination of Collection of 100 Administrative Fees and Charges canceled the fees and charges levied for the cost of customs certificate and document for import and export of goods;

In 2012, Ministry of Finance and National Development and Reform Commission's Notice on Publishing the Cancellation and Exemption of

Some Administrative Charges canceled the ATA document adjustment fee and goods, luggage and articles care fee levied by customs.

In 2012, Announcement of GACC No. 45 Several Measures of GACC on Promoting the Steady Growth of Foreign Trade provides for the cancellation of printing fee of the proof page of the paper declaration form for import and export goods (used for foreign exchange payment for import, and foreign exchange collection for export), printing fee of the tax drawback page of the export declaration form, declaration form barcode fee and customs regulatory fee; and provides for the acceleration of the cancellation of ATA document adjustment fee and goods, luggage, and articles care fee;

Announcement of GACC No. 45 [2012] referenced Ministry of Finance's Notice on Cancelling and Exempting Relevant Administrative Charges during Import and Export, which cancelled the customs regulatory fee and the inspection and quarantine fee for entry and exit; In April 2015, GACC released Notice on Canceling Three Charges including Customs Advance Classification Service (Shu Cai Fa [2015] No. 86), requiring customs authorities across the country to cancel three operational service charges including customs advance classification service, paper and electronic Letter of Entrustment for Customs Declaration Brokerage, and safe product subsequent service (including re-issuance of card, alteration, extension and unlocking). (Links 1, 2, 3, 4, 5, 6, 7 and 8)

According to Notice of GACC No. 1 [2016] Notice of the General Office of GACC on Forwarding Notice of the Ministry of Finance and National Development and Reform Commission on Regulating the Collection and Management of Fees for Delayed Declaration of Imported Goods, fees for delayed declaration of import goods shall be included in the penalty and confiscatory income. There are no administrative charges collected by customs now.

Inspection and Quarantine:

China's Inspection and Quarantine authorities consolidated a multitude of fees and charges, and canceled all administrative charges. (Link 9)

At the same time, the preferential policies on administrative charges

relating to inspection and quarantine have been implemented. (Link 10)

General Comment

Customs and I&Q:

The implementation is adequate.

Links

1. Ministry of Finance and National Development and Reform Commission's Notice on Publishing the Cancellation and Termination of Collection of 100 Administrative Fees and Charges: http://www.gov.cn/gongbao/content/2013/content_2371600.htm
2. Announcement of GACC No. 45 Several Measures of GACC on Promoting the Steady Growth of Foreign Trade: <http://www.customs.gov.cn/publish/portal0/tab49612/info624480.htm>
3. Ministry of Finance's Notice on Cancelling and Exempting Relevant Administrative Charges during Import and Export: http://zhs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201209/t20120925_684764.html
4. Notice of Rectifying and standardizing operation services and charges in import and export link jointly released by National Reform Commission, GACC and other four ministries (Fa Gai Dian No.198 [2014]): http://www.sdpc.gov.cn/gzdt/201407/t20140730_620592.html
5. Several Measures of GACC on supporting the Steady Growth of Foreign Trade: <http://www.customs.gov.cn/publish/portal0/tab49564/info707366.htm>
6. Notice on Canceling Three Charges including Customs Advance Classification Service (Shu Cai Fa [2015] No. 86): <http://www.customs.gov.cn/publish/portal122/tab64478/info736252.htm>
7. Notice of further clean up and standardize the charges in import/export link jointly issued by National Reform Commission, GACC and other five ministries (Fa Gai Jia Ge No.1963 [2015]): http://jgs.ndrc.gov.cn/zcfg/201509/t20150902_750034.html
8. Fees and Charges cancelled and suspended by China's Inspection and Quarantine authorities: <http://120.27.27.168/TSJ/ChargePublic/Html/html/yilan.htmlid=7b3f60db-3a1b-4cc9-b25f-6fefb5b0350f>
9. According to the Notice of the Ministry of Finance and

National Development and Reform Commission on Cleaning up and Standardizing a Batch of Policies on Administrative Charges (Notice of the Ministry of Finance No. 20 [2017]), as of April 1, 2017, the quality inspection system will cancel the collection of entry-exit inspection and quarantine fees: <http://www.aqsiq.gov.cn/ztlm/2017/2017t/>; Letter on the Supplementary Explanation for Cancelling the Product Quality Supervision and Inspection Fee and Entry-exit Inspection and Quarantine Fee: http://www.aqsiq.gov.cn/ztlm/2017/2017t/xgwj/201703/t20170331_485402.htm

Documents of charge disclosure, catalogue and basis: <http://120.27.27.168/TSJ/ChargePublic/Html/html.html>

10. List of Preferential Policies on Administrative Charges Relating to Inspection and Quarantine Approved by the Central Government for 2016 http://www.cqciq.gov.cn/xxgk/news/2016-11/164_9643.shtml

2 Specific disciplines on Fees and Charges for Customs Processing Imposed on or in Connection with Importation and Exportation

Fees and charges for customs processing:

(i) shall be limited in amount to the approximate cost of the services rendered on or in connection with the specific import or export operation in question; and

(ii) are not required to be linked to a specific import or export operation provided they are levied for services that are closely connected to the customs processing of goods.

Implementation

Customs:

Currently, China Customs only levies charges for delayed declaration and delayed payment; collection of IPR recordation fee has been suspended.

Since March 2016, the pilot program has been carried out to exempt enterprises with no problems found in the inspection have been from the inspection fee which shall be paid by China Customs. (Link 1)

Currently China Customs levies no administrative charges.

Inspection and Quarantine:

China's quality inspection institutions have cancelled the collection of charges and meanwhile have implemented the preferential policies on administrative charges relating to inspection and quarantine.

General Comment

Customs and I&Q:

Customs administrative charges have been largely removed, charges levied by public institutions have also been reduced or canceled. Enterprises do not voice any negative opinions about the charges imposed by customs.

Inspection and Quarantine authorities have made significant headway in reducing fees and charges.

Recommendations

Inspection and Quarantine:

The collection of fees and charges by Inspection and Quarantine authorities needs to be further systematized and regulated.

Links

1. The Ministry of Finance, GACC, AQSIQ, National Development and Reform Commission, Ministry of Transport and Ministry of Commerce Notice on the Pilot Program of Exempting Foreign Trade Enterprises with No Problems from Lifting, Shifting and Warehousing Charges Notice of the Ministry of Finance No. 10 [2016] : <http://www.mofcom.gov.cn/article/h/zongzhi/201607/20160701356218.shtml>

3 Penalty Disciplines

3.1 For the purpose of paragraph 3, the term "penalties" shall mean those imposed by a Member's customs administration for a breach of the Member's customs laws, regulations, or procedural requirements.

3.2 Each Member shall ensure that penalties for a breach of a customs law,

regulation, or procedural requirement are imposed only on the person(s) responsible for the breach under its laws.

General Comment

Customs and I&Q:

The regulations are clear, and the implementation is adequate. (Links 1 and 2)

Recommendations

Customs should stipulate the responsible persons of all kinds of illegal acts through legislation, and establish the system of "whoever violates the rules takes legal responsibility" according to the principle of fault liability.

Links

1. Decree of the State Council No. 420 Implementation Regulations of the People's Republic of China on Customs Administrative Penalty: <http://www.customs.gov.cn/publish/portal0/tab2748/info3485.htm>
2. Decree of AQSIQ No.85 Procedure regulation of administrative penalty on Entry-Exit Inspection and Quarantine: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/20052006/200610/t20061027_239282.htm

3.3 The penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.

General Comment

Customs and I&Q:

The regulations are clear, and the implementation is adequate. (Links 1 and 2)

Recommendations

Customs and I&Q:

1. Customs and Inspection and Quarantine authorities have developed the internal administrative interpretations of administrative laws and regulations (e.g. customs standards for the extent of administrative penalties) for customs officers in law enforcement. It is suggested that these internal explanations related to the extent of penalties should be disclosed to the public to increase the transparency of law enforcement.
2. Publish administrative penalty cases after appropriate treatment measures.

3.4 Each Member shall ensure that it maintains measures to avoid:

(a) conflicts of interest in the assessment and collection of penalties and duties; and

(b) creating an incentive for the assessment or collection of a penalty that is inconsistent with paragraph 3.3.

Rules and Regulations

It's stipulated in Article 63 of Implementation Regulations of the People's Republic of China on Customs Administrative Penalty, "The smuggled goods and articles, illegal income, smuggled transportation tools, special equipment confiscated by the People's court, or the goods, articles, illegal income, smuggled transportation tools, special equipment the customs has decided to confiscate shall all be handled by the customs according to law. The proceeds and the fines confiscated by the customs shall be all turned over to the central treasury."

General Comment

The implementation is adequate.

3.5 Each Member shall ensure that when a penalty is imposed for a breach of customs laws, regulations, or procedural requirements, an explanation in writing is provided to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.

Laws and Regulations

Decree of the State Council No. 420 Implementation Rules of the People's Republic of China on Customs Administrative Penalty has set out explicit provisions regarding penalty procedures. (Link 1)

General Comment

The system is sound, and the implementation is adequate.

Links

1. Decree of the State Council No. 420 Implementation Rules of the People's Republic of China on Customs Administrative Penalty:
<http://www.customs.gov.cn/publish/portal0/tab2748/info3485.htm>

3.6 When a person voluntarily discloses to a Member's customs administration the circumstances of a breach of a customs law, regulation, or procedural requirement prior to the discovery of the breach by the customs administration, the Member is encouraged to, where appropriate, consider this fact as a potential mitigating factor when establishing a penalty for that person.

Laws and Regulations

On 19 June, 2016, Decree of the State Council No. 670 published the revised Regulations of the People's Republic of China on Customs Audit. Article 26 therein provides, "in cases where an enterprise or entity directly connected with goods for importation and exportation reports to customs of its breach of customs regulatory requirements and accepts the treatment of the customs authority, the administrative penalty shall be mitigated or reduced." (Link 1)

Announcement of GACC No. 82 [2014] Notice on Releasing the Standards on Customs Accreditation of Enterprises provides, "in cases where non-brokerage enterprises conduct self-examination, detect breaches and report to customs, the warnings issued by customs and fines below 30,000 RMB shall not be included in the total number of breaches; in cases where brokerages conduct self-examination, detect breaches and report to customs, the warnings issued by customs and fines below 10,000 RMB shall not be included in the total number of

breaches." (Link 2)

On September 22, 2016, GACC issued Decree No. 230 Measures for the Implementation of the Customs Inspection Regulations of the People's Republic of China in Chapter 4 of which the active disclosure system is stipulated in detail. (Link 3)

Starting from July and August 2014, GACC began to roll out enterprise self-discipline management pilots at 10 customs authorities directly under it (each such customs authority then chooses some affiliated customs authorities), and expanded this pilot to Fujian, Tianjin and Guangdong Free Trade Zone. For instance, Notice on Conducting Enterprise Self-discipline Management Pilot, Notice of Shanghai Customs on Releasing Practical Guide on Enterprise Self-Discipline Management, Notice of Shanghai Customs on Implementing Self-Discipline Management for Enterprises within China's (Shanghai) Free Trade Zone, and Several Measures of GACC on Supporting and Promoting the Construction and Development of China's (Fujian) (Tianjin) (Guangdong) Free Trade Zones. (Link 4, 5, 6, 7)

Implementation

China Customs is gradually promoting pilots on voluntary disclosure. Starting from July and August 2014, GACC began to roll out enterprise self-discipline management pilots at 10 customs authorities directly under it (each such customs authority then chooses some affiliated customs authorities), and expanded this pilot to Fujian, Tianjin and Guangdong Free Trade Zone. For instance, Notice on Conducting Enterprise Self-discipline Management Pilot, Notice of Shanghai Customs on Releasing Practical Guide on Enterprise Self-Discipline Management, Notice of Shanghai Customs on Implementing Self-Discipline Management for Enterprises within China's (Shanghai) Free Trade Zone, and Several Measures of GACC on Supporting and Promoting the Construction and Development of China's (Fujian) (Tianjin) (Guangdong) Free Trade Zones. (Links 3, 4, 5 and 6)

General Comment

Pilots have commenced, and are yet to be fully implemented.

Recommendations

Establish and implement voluntary disclosure–related systems as early as possible.

Links

1. Decree of the State Council No. 670 the revised Regulations of the People's Republic of China on Customs Audit: <http://www.customs.gov.cn/publish/portal0/tab49564/info807275.htm>
2. Announcement of GACC No. 82 [2014] Notice on Releasing the Standards on Customs Accreditation of Enterprises: <http://www.customs.gov.cn/publish/portal0/tab49659/info724460.htm>
3. Decree of GACC No. 230 Measures for the Implementation of the Customs Inspection Regulations of the People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab49564/info823478.htm>
4. Notice of Shanghai Customs on Releasing Practical Guide on Enterprise Self–Discipline Management: <http://shanghai.customs.gov.cn/publish/portal27/tab61724/info719656.htm>
5. Notice of Shanghai Customs on Implementing Self–Discipline Management for Enterprises within China's (Shanghai) Free Trade Zone: <http://www.customs.gov.cn/publish/portal27/tab61724/info712287.htm>
6. Several Measures of GACC on Supporting and Promoting the Construction and Development of China's (Fujian) (Tianjin) (Guangdong) Free Trade Zones: <http://www.customs.gov.cn/publish/portal0/tab1/info739938.htm>

3.7 The provisions of this paragraph shall apply to the penalties on traffic in transit referred to in paragraph 3.1.

Implementation

Customs and I&Q:

Implementation rules on customs administrative penalty and regulations on administrative penalty procedures for entry–exit inspection and quarantine also apply to goods in transit. (Links 1 and 2)

General Comment

Customs and I&Q:

The implementation is adequate.

Links

1. Decree of the State Council No. 420 Implementation Rules on Customs Administrative Penalty: <http://www.customs.gov.cn/publish/portal0/tab2748/info3485.htm>
2. Decree of AQSIQ No.85 Procedure regulations of administrative penalty on Entry–Exit Inspection and Quarantine: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/20052006/200610/t20061027_239282.htm

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

1 Pre-arrival Processing

1.1 Each Member shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

Laws and Regulations

China Customs enforced Administrative Measures of the People's Republic of China on Manifests of Inbound and Outbound Means of Transport on 1 January, 2009. Article 9 therein provides, "the manifest transferor shall transfer the original manifest data to customs prior to the arrival of inbound goods and items at the destination port. After customs receives the main data of the original manifest, the consignee and entrusted customs declarant may initiate the declaration procedures to customs for goods and items." (Link 1)

On 22 October 2014, GACC released Announcement No. 74 Announcement on Clarifying the Administrative Requirements on Advance Declaration of Import and Export Goods. Article 1 therein provides, "in cases where the consignor or consignee or the entrusted customs broker declares in advance, he or she shall first obtain data of the bill of lading or the manifest." (Link 2)

Paragraph (2) of Announcement of GACC No. 74 [2014] Announcement on Clarifying the Administrative Requirements on Advance Declaration of Import and Export Goods provides, 'in cases where the consignor or consignee or the entrusted customs broker declares in advance, he or she shall first obtain data of the bill of lading or the manifest.' Advance declaration of import goods to customs shall be conducted after the departure of the inbound transport vehicle

carrying the goods in question and prior to the arrival thereof at the customs regulatory premises; advance declaration of export goods shall be conducted within the three days prior to the arrival of the goods in question at the customs regulatory premises." (Link 3)

Some local customs also began to issue specific details on the operation of advance declaration within their jurisdiction on the basis Announcement of GACC No., for example, Shanghai Customs and Changsha Customs (Link 4 and 5)

Implementation

The system is complete, but according to research, it is not fully implemented. The main obstacles are manifest declaration enterprises' work habits and worries about the possible penalties given by the customs due to errors in the forms and documents related to advance declaration. The premise for advance declaration is the advance transmission of manifest data. It requires the goods owner to strengthen information communication with the customs broker, shipping agent or shipping company (by sea), airliner or ground agent (by air). In addition, the customs should strengthen the publicity to manifest declaration enterprises and fault tolerance mechanism, encourage enterprises to send manifest data in advance to ensure the real implementation of advance declaration. For imported goods, implement Article 6 of Announcement No. 74 "Imported goods of advance declaration should be applicable to the tariff and exchange rate implemented on the date of the entry declaration of the transportation vehicles used to carry the goods." Accordingly, enterprises may face the tariff and exchange rate changes at the time of the entry declaration of the transportation vehicles and go through complex operations of tax refunding according to the actual situation.

Links

1. Decree of GACC No.172 [2009] Administrative Measures of the People's Republic of China on Manifests of Inbound and Outbound Transport Vehicles: <http://www.customs.gov.cn/publish/portal0/tab399/info106314.htm>

2. Decree of GACC No. 74 [2014] Announcement on Clarifying the Administrative Requirements on Advance Declaration of Import and Export Goods: <http://www.customs.gov.cn/publish/portal0/tab49564/info721895.htm>
3. GACC No. 74 [2014] Announcement on Clarifying the Administrative Requirements on Advance Declaration of Import and Export Goods: <http://www.customs.gov.cn/publish/portal0/tab49564/info721895.htm>
4. Announcement of Shanghai Customs No. 1 Announcement on Clarifying Matters Concerning the Clearance Mode of “Advance Declaration and Inspection and Release upon Arrival” :<http://www.customs.gov.cn/publish/portal27/tab61724/info837987.htm>
5. Announcement of Changsha Customs No. 2 Announcement on the Implementation of the Clearance Mode of "Advance Declaration and Inspection and Release upon Arrival":<http://www.customs.gov.cn/publish/portal108/tab64087/info861886.htm>

1.2 Each Member shall, as appropriate, provide for advance lodging of documents in electronic format for pre-arrival processing of such documents.

Implementation

China Customs has put in place a comprehensive automatic customs clearance system. Manifests and declaration documents of import and export goods may all be submitted in electronic format.

General Comment

The implementation is adequate.

2 Electronic Payment

Each Member shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees, and charges collected by customs incurred upon importation and exportation.

Laws and Regulations

In March 2011, China Customs released Announcement No. 17 Announcement on Conducting Electronic Payment Operations for Customs Duties, specifying that a third-party payment system will undertake the payment operation for customs duties at the enterprise end. (Link 1)

On September 19, 2017, GACC issued Announcement No. 44 which simplifies the customs tax electronic payment process, adjusts the tax deduction steps, cancels the Customs' on-spot operation of triggering tax deduction by printing tax payment book which is changed to the customs using the business system to automatically send the tax payment deduction notice following the successful tax withholding. The system will automatically release those with successful tax withholding and whose declaration meeting the release conditions. It further improves the customs clearance efficiency and reduces enterprises' clearance cost. (Link 2)

Implementation

The taxes that are electronicized by customs include: import and export duties, anti-dumping tax, anti-subsidy tax, taxes collected during import on behalf of other authorities, interest on delayed tax, charge on delayed payment, surety, charge on delayed declaration, and fund of disposal of imported waste electric and electronic products.

According to preliminary estimations, electronically paid customs taxes already account for more than 90% against the total amount of tax payment. (Links 3 and 4)

As of now, third-party payment platforms that have been approved include Shanghai Orient Electronic Payment Co., Ltd; Shanghai ChinaPay Electronic Payment Co., Ltd; Tianjin ReaPal Electronic Payment Co., Ltd.; and Clearing Center for City Commercial Banks. On August 1, 2016, the largest tax payment platform www.easipay.net announced to stop charging and tax payment ushered in the free-charge era. (Link 5)

Recommendations

1. Promote paperless customs clearance operation to further improve the efficiency of customs clearance and reduce customs clearance costs;
2. At present, if the consignee and consignor are different from the consumption unit on the entry declaration form and the declaration is commissioned to the customs broker that pays the tariff through the payment platform, only the customs broker and the consumption unit in the "name of the payment unit (payer)" item of the Special Bill of Payment of Import Tariff/VAT can be printed while the names of the consignee and consignor will not be displayed. In this case, when the consignee and consignor handle the VAT business in the tax bureau, the tax bureau will return the bill. The customs should solve this problem as soon as possible so as to avoid the trouble that the taxpayer will continue to explain to the customs and the tax bureau.

Links

The electronic payment operations at each regional customs that have been reported in some public news:

1. Decree of GACC No.17 [2011] Announcement on Conducting Electronic Payment Operations for Customs Duties: <http://www.customs.gov.cn/publish/portal0/tab399/info300880.htm>
2. Announcement of GACC No. 44 [2017] on Simplifying the Electronic Payment Operations for Customs Duties: <http://www.customs.gov.cn/customs/302249/302266/302267/734261/index.html>
3. From Jan to Jun 2015, the electronic payment of taxes (including electric warranty) in Tianjin Customs accounted for 94% of the total tax: <http://www.customs.gov.cn/publish/portal169/tab62564/info766184.htm>
4. Electronic payment ratio in Qingdao Customs has reached 97% in the first half of 2013: <http://www.customs.gov.cn/publish/portal0/tab65602/info622623.htm>
5. Announcement of www.easipay.net on stopping charging fees on electronic payment operations for customs duties starting from August 1, 2016: http://www.easipay.net/notice_20160926_1.htm

3 Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges

General Comment

Fully implemented. With the implementation of national customs integration across the country on July 1, 2017, "one declaration and step-by-step disposal" has been implemented and the vast majority of the operations are in compliance with customs compliance requirements. Import and export goods with the timely tax payment or full guarantee can be automatically released. Other goods relating to collection of customs duties in the system can be picked up in advance after the submission of guarantee to fully realize the release of goods and final determination of customs duties, taxes, fees and charges.

Recommendations

1. Offer guarantee-free inspection for businesses that have been accredited as high-level AEOs, with a view to incentivizing enterprises to implement the AEO system;
2. Allow the implementation of comprehensive guarantees on an enterprise by enterprise basis; cancel applications for guarantee on a consignment by consignment basis;
3. Allow a group company, under a customs authority, to implement comprehensive guarantees for its subordinate enterprises;
4. Allow a financial institution to provide comprehensive guarantees for any enterprise;
5. Specify the operational procedures for guarantee application and approval, and ensure that import and export guarantee applications that meet certain standards may secure approval smoothly.

3.1 Each Member shall adopt or maintain procedures allowing the release of goods prior to the final determination of customs duties, taxes, fees, and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met.

Implementation

Goods may be released prior to tax determination and collection via guarantees. In 2008, guarantee-free inspection was made available to AA enterprises (now known as enterprises accredited as high-level AEOs) in the form of internal documents. However, given that this system does not have corresponding implementation procedures, and implementation levels vary across ports, in general, only a very limited number of enterprises have benefited.

General Comment

Preliminary implementation. (For detailed information, refer to later reviews).

3.2 As a condition for such release, a Member may require:

(a) payment of customs duties, taxes, fees, and charges determined prior to or upon arrival of goods and a guarantee for any amount not yet determined in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations; or

Laws and Regulations

Article 4 of Decree of the State Council No. 581 Regulations of the People's Republic of China on Guarantees for Customs Affairs provides, "for any of the following scenarios, the person may apply to customs for the provision of guarantee prior to completion of customs formalities, requesting advance release of goods:

- (1) Classification of goods, customs value and place of origin of the import and export goods are yet to be determined;
- (2) Valid declaration documentation is yet to be provided;
- (3) Tax has not been paid within the tax payment period;
- (4) Delayed declaration fee is yet to be paid;
- (5) Other customs formalities are yet to be completed." (Link 1)

Article 49 of Decree of GACC No. 213 Measures of the People's Republic of China on Customs Review and Determination of Customs Value of Import and Export Goods, which entered into force in 2014, provides, "while customs review and determination is being conducted

of the customs value of import and export goods, the taxpayer may pick up goods in advance, after providing guarantee to customs according to law."(Link 2)

At the institutional level, via provision of guarantee, customs may release goods prior to determination and payment of tax and charges for the goods at issue.

Implementation

In practice, the current guarantee-based release system is yet to be detailed in terms of guarantee forms, guarantee applications, and approval procedures; differences exist regarding customs implementation and enforcement levels at various ports, and the level of facilitation afforded falls short of expectations of the business community.

Links

1. Decree of the State Council No. 581 Regulations of the People's Republic of China on Guarantees for Customs Affairs: <http://www.customs.gov.cn/publish/portal0/tab399/info239909.htm>
2. Decree of GACC No. 213 Measures of the People's Republic of China on Customs Review and Determination of Customs Value of Import and Export Goods: <http://www.customs.gov.cn/publish/portal0/tab49564/info692855.htm>

(b) a guarantee in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations.

Laws and Regulations

Article 78 of Decree of GACC No. 124 Administrative Measures of the People's Republic of China on Tax Levied on Import and Export Goods provides, "except as otherwise provided, the tax guarantee period usually shall not be longer than six months, and under exceptional circumstances, an extension, as appropriate, may be given after permission is obtained from the director, or the person it authorizes, of the customs authority directly under GACC.

Tax guarantee usually shall be in forms of surety, or letter of guarantee by banks or non-banking financial institutions, except as otherwise provided." (Link 1)

Links

1. Decree of GACC No. 124 Administrative Measures of the People's Republic of China on Tax Levied on Import and Export Goods: <http://www.customs.gov.cn/publish/portal0/tab399/info4487.htm>

3.3 Such guarantee shall not be greater than the amount the Member requires to ensure payment of customs duties, taxes, fees, and charges ultimately due for the goods covered by the guarantee.

Laws and Regulations

Article 14 of Regulations of the People's Republic of China on Guarantee for Customs Affairs provides, "guarantee provided by the party shall be commensurate with his/her due legal obligations, and except for scenarios as provided for in Paragraph 2, Article 7 of the Regulations, the amount of guarantee shall be determined pursuant to the following standards:

(1) the amount of guarantee provided for advance release of goods shall not exceed the maximum tax amount that may be borne;" (Link 1)

General Comment

This provision has been adequately implemented by China Customs.

Links

1. Decree of the State Council No. 581 Regulations of the People's Republic of China on Guarantee for Customs Affairs: <http://www.customs.gov.cn/publish/portal0/tab399/info239909.htm>

3.4 In cases where an offence requiring imposition of monetary penalties or fines has been detected, a guarantee may be required for the penalties and fines that may be imposed.

Laws and Regulations

Article 39 of Implementation Regulations of the People's Republic of China on Customs Administrative Penalty provides, "If the goods, articles or transport vehicles suspected illegal cannot be detained, the party concerned or the person responsible the conveyance shall provide the equivalent guarantee to the customs, and the customs may detain the equivalent property of the party in case of failure to provide equivalent guarantee." (Link 1)

Decree of GACC No. 159 Procedures for the Handling of Administrative Penalty Cases by the Customs of the People's Republic of China, "If the goods, articles or transport vehicles suspected illegal cannot be detained, when the party concerned or the person responsible the conveyance provides the guarantee to the customs, the personnel handling the case shall make the guarantee receipt voucher and send it to the party concerned or the person responsible the conveyance. The personnel handling the case, the party concerned or the person responsible the conveyance shall sign or stamp the seal on the guarantee receipt voucher." (Link 2)

General Comment

The implementation is adequate.

Links

1. Decree of the State Council No. 420 Implementation Regulations of the People's Republic of China on Customs Administrative Penalty: <http://www.customs.gov.cn/publish/portal0/tab2748/info3485.htm>
2. Decree of GACC No. 159 Procedures for the Handling of Administrative Penalty Cases by the Customs of the People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab38320/info59361.htm>

3.5 The guarantee as set out in paragraphs 3.2 and 3.4 shall be discharged when it is no longer required.

Laws and Regulations

Article 20 of Regulations of the People's Republic of China on Guarantee for Customs Affairs provides, "for any of the following cases, customs shall notify the party in writing to complete procedures for the return of guarantee assets and rights:

- (1) the party has fulfilled relevant legal obligations;
 - (2) the party is no longer engaged in a particular customs business;
 - (3) an excess amount exists of the guarantee asset and right after being used to pay the amount due by customs;
 - (4) other scenarios where such assets and rights need to be returned."
- (Link 1)

Article 51 of Procedures for the Handling of Administrative Penalty Cases by the Customs of the People's Republic of China provides, "In releasing the guarantee according to law, the customs shall make the guarantee release notice and send it to the party concerned or the person in charge of transportation." (Link 2)

General Comment

The implementation is adequate.

Links

1. Decree of the State Council No. 581 Regulations of the People's Republic of China on Guarantee for Customs Affairs: <http://www.customs.gov.cn/publish/portal0/tab399/info239909.htm>
2. GACC issued Decree No. 150 Procedures for the Handling of Administrative Penalty Cases by the Customs of the People's Republic of China: <http://www.customs.gov.cn/customs/302249/302266/302267/356367/index.html>

3.6 Nothing in these provisions shall affect the right of a Member to examine, detain, seize or confiscate or deal with the goods in any manner not otherwise inconsistent with the Member's WTO rights and obligations.

Laws and Regulations

Article 18 of Regulations of the People's Republic of China on Guarantee for Customs Affairs provides, "in cases where the guaranteed person fails to fulfill relevant legal obligations in a time-bound manner, customs may use the guarantee asset and right to pay the amount due. In cases where the party provides guarantee in the form of letter of guarantee, customs may directly require the guarantor who assumes joint liability to fulfill guarantee obligations.

Where the guarantor has fulfilled the guarantee responsibility, the guaranteed person is not thus freed of the obligation to complete relevant customs formalities. Customs shall process relevant customs formalities for the guaranteed person in a timely manner." (Link 1)

General Comment

The implementation is adequate.

4 Risk Management

4.1 Each Member shall, to the extent possible, adopt or maintain a risk management system for customs control.

Laws and Regulations

In April 2004, China Customs officially initiated the implementation of Strategic Plan on the Second Step of Development of the Modern Customs System 2004–2010, which puts the establishment and improvement of risk management mechanisms at its core, and aims to build smart customs with "sharp ears and clear eyes". Reforms and developments at various fronts continue to secure new achievements. (Link 1)

Decree of the State Council No. 670 revised Article 9 of Regulations of the People's Republic of China on Customs Audit as "customs shall determine the focus of customs audits as per customs regulatory requirements, and according to the import and export credit and risks of enterprises and entities in direct connection with import and export goods as well as the specific circumstances of the import and export goods." (Link 2 and 3)

On June 28, 2017, It's mentioned in Announcement of GACC No. 25 Announcement on Further Promoting the National Customs Clearance Integration Reform, "the national customs risk prevention and control center and tax collection and management center shall be used". China Customs has also conducted risk management through the three risk prevention and control centers set up in Shanghai, Qingdao and Huangpu and three tax collection and management centers in Shanghai, Guangzhou and Beijing–Tianjin. (Link 3)

Implementation

In the clearance integration mode, the customs implements safe access, tax collection risk comprehensive identification and classification of the customs declaration data of the import and export data through the automatic information system and manual review and takes corresponding management measures based on it.

General Comment

The implementation is adequate, but the risk management ability needs to be further strengthened. After the implementation of clearance integration, the unified risk management organization structure and risk parameter setting will be implemented in China, which will help China Customs to improve and strengthen its own risk management ability.

Links

1. Strategic Plan on the Second Step of Development of the Modern Customs System (Revised in 2006) <http://www.customs.gov.cn/publish/portal0/tab7987/info720133.htm>
2. Decree of the State Council No.209 Regulations of the People's Republic of China on Customs audit: <http://www.customs.gov.cn/publish/portal0/tab2748/info3605.htm>
3. Decree of the State Council No. 670 Regulations of the People's Republic of China on Customs Audit: <http://www.customs.gov.cn/publish/portal0/tab49659/info807275.htm>
4. Announcement of GACC No. 25 on Promoting National Customs Clearance Integration Reform: <http://www.customs.gov.cn/custo>

<ms/302249/302266/302267/711020/index.html>

4.2 Each Member shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.

Implementation

No arbitrary or unreasonable discrimination, or disguised restraints, have been detected.

4.3 Each Member shall concentrate customs control and, to the extent possible other relevant border controls, on high-risk consignments and expedite the release of low-risk consignments. A Member also may select, on a random basis, consignments for such controls as part of its risk management.

Implementation

After the national clearance integration, China Customs employed systematic big data analysis on enterprises, goods, importing countries, tax number, trade regulation, etc., and used the national big data analysis system, differentiated goods of varying risk levels by setting the different risk parameters, adopted different management measures respectively, thus speeding up the release rate of goods.

General Comment

Preliminary implementation.

4.4 Each Member shall base risk management on an assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, inter alia, the Harmonized System code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport.

General Comment

The implementation has been largely completed.

5 Post-clearance Audit

5.1 With a view to expediting the release of goods, each Member shall adopt or maintain postclearance audit to ensure compliance with customs and other related laws and regulations.

Laws and Regulations

On 17 June, 2016, Decree of the State Council No. 670 (Decision on Amending Regulations of the People's Republic of China on Customs Audit)

On 28 August, 2005, GACC released Decree No. 79 Implementation Measures on Regulations of the People's Republic of China on Customs Audit. (Link 1)

On September 26, 2016, Decree of GACC No. 230 issued measures for implementing Regulations of the People's Republic of China on Customs Audit which shall come into force as of November 1, 2016 (Link 2)

With the implementation of the national customs clearance integration, GACC issued Announcement No. 28 on Carrying out the Follow-up Verification Work which makes requirements for the verification after the release of goods. (Link 2)

General Comment

The implementation is adequate.

Links

1. Decree of the State Council No. 670 (Decision on Amending Regulations of the People's Republic of China on Customs Audit): <http://www.customs.gov.cn/publish/portal0/tab49564/info807275.htm>
2. Decree of GACC No. 230 Implementation Measures on Regulations of the People's Republic of China on Customs Audit: <http://www.customs.gov.cn/customs/302249/302266/302267/630722/index.html>
3. Announcement of GACC No. 28: <http://www.customs.gov.cn/customs/302249/302266/302267/715044/index.html>

5.2 Each Member shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Member shall conduct postclearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved the Member shall, without delay, notify the person whose record is audited of the results, the person's rights and obligations, and the reasons for the results.

Laws and Regulations

Customs Audit Regulations and Implementation Measures on Audit Regulations have provided for the relevant procedures of customs audit, including advance notification, subsequent issuance of Customs Audit Conclusion, etc.

Implementation

Certain enterprises respond that customs audit time limits are unpredictable, and a single audit may take, on-and-off, up to several months or even a year, causing difficulties for enterprises to co-operate with customs audit efforts.

General Comment

The implementation is largely completed, and there is still room for improvement.

Recommendations

Formulate procedural requirements regarding the time limits of audits, thereby improving audit efficiency and facilitating the cooperation of enterprises.

5.3 The information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

General Comment

The implementation is adequate.

5.4 Members shall, wherever practicable, use the result of post-clearance audit in

applying risk management.

General Comment

The implementation is adequate.

6 Establishment and Publication of Average Release Times

Laws and Regulations

Article 18 of the State Council's Reform Plan on Promoting the Development of Big Customs Clearance via Implementing Mutual Information Exchange, Mutual Regulatory Recognition and Mutual Law Enforcement Assistance provides, "establish an evaluation system of the import and export ports" release time of goods, uniformly evaluate and publish the average release efficiency of ports across the country." (Link 1)

On November 25, 2016, GACC issued Redefine "integrated clearance time" and "customs clearance time" on its official information platform "Customs Publication" in which It's pointed out, "the Statistics Department of GACC has redefined China's import and export goods release time based on the statistical methods recommended by WTO and China's actual situation. Overall clearance time and customs clearance time are defined and the clearance time is defined in detail. In the future China Customs will release relevant data under the TF topic of WTO and WC to apply it to the evaluation of cooperation results between trade partner countries in trade facilitation more widely." It means China Customs is making efforts towards "publishing average release time". (Link 2)

Implementation

Partially implemented.

Links

1. State Council's Reform Plan No.68 [2014] on Promoting the Development of Big Customs Clearance via Implementing Mutual Information Exchange, Mutual Regulatory Recognition and

Mutual Law Enforcement Assistance: http://www.gov.cn/zhengce/content/2015-02/03/content_9448.htm

2. Redefine "overall clearance time" and "customs clearance time":
<http://mp.weixin.qq.com/s/R8ZUcxgKyLJAtT5Pn-Tt2Q>

6.1 Members are encouraged to measure and publish their average release time of goods periodically and in a consistent manner, using tools such as, inter alia, the Time Release Study of the World Customs Organization (referred to in this Agreement as the "WCO").

General Comment

Partially implemented. GACC published "Redefine overall clearance time and customs clearance time" on its official We-chat information platform "Customs Publication" in which It's pointed out the Statistics Department of GACC developed Study Report on China Customs' Import and Export Goods Clearance Time between 2011 and 2015 in which It's mentioned the import goods clearance time at the ports was reduced from 48.5 hours in 2011 to 28.9 hours in 2015, down by 40.4%; the contribution rate to the integrated clearance efficiency of import goods reached 87.7%; the export goods customs clearance time was reduced from 6.5 hours in 2011 to 2.5 hours in 2015, down 61.5%. In addition, on July 18, 2017, People's Daily published "Clearance Time for Export Goods is Reduced to 1.2 Hours" in which It's mentioned, "The average import clearance time in May was 19.4 hours and the average export clearance time was 1.2 hours." (Link 1)

Although China Customs has not regularly announced the average clearance time of goods, but the above disclosed data has been a big step forward. As China Customs put it, "Due to the large number of ports and complex relations, the overall customs clearance time is still significantly longer than developed countries. In addition, affected by the objective factors, the customs clearance efficiency of the major ports in China varies greatly", and the customs can only affect the customs clearance time. The overall clearance time (i.e., the release time of WCO) depends on the top-level design, and the overall process optimization and integration of the port-related units. (Link 2)

Links

1. Clearance Time for Export Goods is Reduced to 1.2 Hours: <http://finance.people.com.cn/n1/2017/0718/c1004-29411030.html>
2. Notice of AQSIQ No. 244 [2017] on Calculating and Reducing Import and Export Goods Inspection and Quarantine Release Time: http://www.xmciq.gov.cn/xxgk/xxgkml/zcfg/tzgg/201709/t20170911_244432.htm

6.2 Members are encouraged to share with the Committee their experiences in measuring average release times, including methodologies used, bottlenecks identified, and any resulting effects on efficiency.

General Comment

Partially implemented. It is mentioned in "Redefine overall clearance time and customs clearance time".

7 Trade Facilitation Measures for Authorized Operators

Laws and Regulations

In 2014, China Customs announced the implementation of Decree of GACC No. 225 Provisional Measures of the People's Republic of China on Customs Administration of Enterprise Credit and Announcement No. 82 Standards on Customs Accreditation of Enterprises.

General Comment

The implementation is adequate.

Links

1. Decree of GACC No. 225 Provisional Measures of the People's Republic of China on Customs Administration of Enterprise Credit: <http://www.customs.gov.cn/publish/portal127/tab62473/info724709.htm>
2. Notice of GACC No. 82 Standards on Customs Accreditation of Enterprises: <http://www.customs.gov.cn/publish/portal0/tab65598/>

info724300.htm

7.1 Each Member shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 7.3, to operators who meet specified criteria, hereinafter called authorized operators. Alternatively, a Member may offer such trade facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.

Laws and Regulations

Article 16, Decree of GACC No. 225 Provisional Measures of the People's Republic of China on Customs Administration of Enterprise Credit provides, "the following management principles and measures apply to generally accredited enterprises:

- (1) a relatively low rate of inspection of import and export goods;
- (2) simplified documentation review of import and export goods;
- (3) prioritized processing of customs clearance formalities of import and export goods;
- (4) other management principles and measures as provided for by GACC.

Article 17 For enterprises with high-level accreditations, apart from the application of management principles and measures for generally accredited enterprises, the following management measures also apply:

- (1) Handling the inspection and release formalities prior to determination of classification of goods, customs valuation and place of origin regarding import and export goods, or prior to completion of other customs formalities;
- (2) customs appoints a coordinator for an enterprise;
- (3) for enterprises engaged in processing trade, the system of bank surety account is not implemented;
- (4) clearance facilitation measures offered by AEO mutually-recognized countries or local customs."

General Comment

The implementation is relatively adequate.

7.2 The specified criteria to qualify as an authorized operator shall be related to compliance, or the risk of non-compliance, with requirements specified in a Member's laws, regulations or procedures.

(a) Such criteria, which shall be published, may include:

Laws and Regulations

Standards on Customs Accreditation of Enterprises that has been published contains the above content.

General Comment

The implementation is adequate.

(i) an appropriate record of compliance with customs and other related laws and regulations;

Laws and Regulations

Article 3 of Standards on Customs Accreditation of Enterprises sets out clear requirements on the four aspects of "compliance with laws and regulations, regulations on import and export business, compliance with customs administrative requirements, no previous adverse records".

General Comment

The implementation is adequate.

(ii) a system of managing records to allow for necessary internal controls;

Laws and Regulations

Article 1 of Standards on Customs Accreditation of Enterprises specifies requirements of the four aspects of "control of the organization institution, control of the import and export business, internal auditing, and information system control".

General Comment

The implementation is adequate.

(iii) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and

Laws and Regulations

Both the general and high-level enterprise accreditation standards contained within Standards on Customs Accreditation of Enterprises have provided for the solvency capacity and tax payment capacity of enterprises:

Solvency capacity: (1) the quick ratio shall be within a safe or normal range. (2) the asset/liability ratio shall be within a safe or normal range.

Tax payment capacity: for productive consignors/consignees of import and export goods, the net value thereof of fixed assets by the end of the preceding month shall not be lower than the maximum of single tax payment to customs within the last three years. For non-productive consignors/consignees of import and export goods, the net operational cash flows of the preceding year shall not be negative.

General Comment

The implementation is adequate.

(iv) supply chain security.

Laws and Regulations

Article 24 "Safety of Business Partners" and Article 25 "Safety of Goods" of the standards on general enterprise accreditation both contain such requirements. Article 26 "Safety of Personnel", Article 27 "Safety of Business Partners", and Article 28 "Safety of Goods" of the standards on high-level enterprise accreditation all contain similar requirements.

General Comment

The implementation is adequate.

(b) Such criteria shall not:

(i) be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and

General Comment

Enterprises with the same level of creditworthiness are subject to the same customs administrative measures, therefore China Customs is not discriminatory in this regard.

(ii) to the extent possible, restrict the participation of small and medium-sized enterprises.

Laws and Regulations

Provisional Measures of the People's Republic of China on Customs Administration of Enterprise Credit canceled the standards on size, i.e. in the preceding year, total import and export value shall be more than 500,000 USD, total numbers of brokered import and export declaration forms and of entry and exit recordation lists shall be more than 20,000 and 30,000 consignments, and canceled the requirement that the current credit rating of newly-registered enterprises shall have been kept for one year.

General Comment

The implementation is adequate.

7.3 The trade facilitation measures provided pursuant to paragraph 7.1 shall include at least three of the following measures:

Implementation

Regarding facilitations for AEOs, measures as listed in (b), (c), (d), (e) and (g) have been implemented, and the measures as listed in the other items are yet to be implemented.

General Comment

The implementation is relatively adequate.

- (a) low documentary and data requirements, as appropriate;
- (b) low rate of physical inspections and examinations, as appropriate;
- (c) rapid release time, as appropriate;
- (d) deferred payment of duties, taxes, fees, and charges;
- (e) use of comprehensive guarantees or reduced guarantees;
- (f) a single customs declaration for all imports or exports in a given period; and
- (g) clearance of goods at the premises of the authorized operator or another place authorized by customs.

7.4 Members are encouraged to develop authorized operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued.

Laws and Regulations

Provisional Measures of the People's Republic of China on Customs Administration of Enterprise Credit has fully integrated the advanced concepts of the "Authorized Economic Operators (AEO)" system contained within the World Customs Organization's Framework of Standards to Secure and Facilitate Global Trade, and specifies that "authorized enterprises" by China Customs are equivalent to AEOs, and are eligible for the preferential treatment and customs clearance facilitation measures afforded by customs authorities of China and of countries (regions) with which China has entered into mutual recognition agreements.

General Comment

The implementation is adequate.

7.5 In order to enhance the trade facilitation measures provided to operators, Members shall afford to other Members the possibility of negotiating mutual recognition of authorized operator schemes.

Implementation

In March 2013, China and Singapore achieved mutual recognition of AEOs (referred to as STP-Plus in Singapore);

In April 2014, China and Korea achieved mutual recognition of AEOs;

In May 2014, the Chinese Mainland and Hong Kong SAR achieved mutual recognition of AEOs;

In November 2015, China and the European Union achieved mutual recognition of AEOs.

In July 2017, China and New Zealand achieved mutual recognition of AEOs.

In September 2017, China and Switzerland achieved mutual recognition of AEOs.

China Customs is stepping up with the major trading countries such as the United States, Japan, Australia and Russia, Kazakhstan, Malaysia, Israel, South Africa, One Belt and One Road countries customs AEO mutual recognition and cooperation. China Customs' goal is that by 2020 the export value of the countries or regions of mutual recognition of AEOs accounts for more than 80% of the total value.

General Comment

Implementation is still in progress.

7.6 Members shall exchange relevant information within the Committee about authorized operator schemes in force.

Implementation

China Customs actively participates in the annual AEO communications facilitated by the World Customs Organization, and shares its implementation experience regarding AEOs.

General Comment

The implementation is adequate.

8 Expedited Shipments

Laws and Regulations

Regarding expedited shipments, on November 18, 2003 China Customs released Decree of GACC No. 104 Measures of the People's Republic of China on Customs Supervision and Administration of Entry–Exit Expedited Shipments, which provides for the implementation of different types of customs clearance declaration approaches for different types of expedited shipments, and contributes positively to the acceleration of turnover of expedited shipments. (Link 1)

China Customs issued Announcement No. 19 in March 2016 on Using New Expedited Shipment Clearance System. On September 1, the new expedited shipment clearance system will be used; three kinds of expedited shipments are redefined and the format of bill of declaration/release of three kinds of expedited shipments are changed. (Link 2)

AQSIQ issued Measures for Administration of Inspection and Quarantine of Entry–Exit Expedited Shipments. (Link 3)

General Comment

The implementation is adequate.

Links

1. Decree of GACC No.147 [2006] Decision on Amending Measures of the People's Republic of China on Customs Supervision of Entry–Exit Expedited Shipments: <http://www.customs.gov.cn/publish/portal0/tab517/info265077.htm>
2. On March 9, 2016, GACC issued Decree No.147 Decision on Amending Measures of the People's Republic of China on Customs Supervision of Entry–Exit Expedited Shipments: <http://www.customs.gov.cn/customs/302249/302266/302267/356308/index.html>
3. Measures for Administration of Inspection and Quarantine of Entry–Exit Expedited Shipments: http://www.aqsiq.gov.cn/xxgk_13386/xxgkzftl/zcfg/201210/t20121016_250857.htm

8.1 Each Member shall adopt or maintain procedures allowing for the expedited release of at least those goods entered through air cargo facilities to persons who apply for such treatment, while maintaining customs control. If a Member employs criteria limiting who may apply, the Member may, in published criteria, require that the applicant shall, as conditions for qualifying for the application of the treatment described in paragraph 8.2 to its expedited shipments:

(a) provide adequate infrastructure and payment of customs expenses related to processing of expedited shipments in cases where the applicant fulfils the Member's requirements for such processing to be performed at a dedicated facility;

Laws and Regulations

Article 14 of Measures of the People's Republic of China on Customs Supervision and Administration of Entry–Exit Expedited Shipments provides, "customs clearance for expedited shipments intended for entry into or exit out of the border shall be conducted in dedicated regulatory premises approved by customs; where exceptional circumstances warrant such customs clearance outside the aforementioned premises, consent shall be obtained in advance from the customs authority in the relevant jurisdiction. The operator shall set up dedicated premises, warehouses and facilities in accordance with customs regulatory requirements, within the customs regulatory premises dedicated to expedited shipments intended for entry into or exit out of the border."

General Comment

The implementation is adequate.

(b) submit in advance of the arrival of an expedited shipment the information necessary for the release;

It's stipulated in Article 18 of Measures of the People's Republic of China on Customs Supervision and Administration of Entry–Exit Expedited Shipments, the operator requiring advance declaration should inform the customs of the transport and arrival of the entry–exit expedited shipments in advance and transmit or submit to the

customs the manifest or checklist. The customs will accept the advance declaration after verification.

Laws and Regulations

Article 18 of Measures of the People's Republic of China on Customs Supervision and Administration of the Entry and Exit of Expedited Shipments provides that in cases where an operator needs to declare to customs in advance, he or she shall notify customs in writing of the transport and arrival status of expedited shipments intended to enter or exit the country, and transfer or submit to customs the manifest or list. After ascertaining the truthfulness and accuracy of the provided information, customs may accept advance declaration.

General Comment

The implementation is adequate.

(c) be assessed fees limited in amount to the approximate cost of services rendered in providing the treatment described in paragraph 8.2;

Implementation

China Customs does not levy charges on its services for the customs clearance of expedited shipments.

General Comment

The implementation is adequate.

(d) maintain a high degree of control over expedited shipments through the use of internal security, logistics, and tracking technology from pick-up to delivery;

Implementation

International expedited shipment enterprises generally apply advanced tracking and control of expedited shipments during the entire process prior to release.

General Comment

The implementation is adequate.

(e) provide expedited shipment from pick-up to delivery;

General Comment

The implementation is adequate.

(f) assume liability for payment of all customs duties, taxes, fees, and charges to the customs authority for the goods;

Laws and Regulations

Article 20 of Measures of the People's Republic of China on Customs Supervision and Administration of Entry-Exit Expedited Shipments provides, "except as otherwise provided, when an operator goes through the declaration formalities for expedited shipments intended to enter or exit the country, he or she shall, pursuant to the classification requirements of Articles 11, 12 and 13 of the Measures, submit to customs respective declaration documents and completes the required declaration and tax payment formalities."

General Comment

The implementation is adequate.

(g) have a good record of compliance with customs and other related laws and regulations;

Laws and Regulations

For enterprises (including international expedited shipment enterprises) with good credit records, Provisional Measures of the People's Republic of China on Customs Administration of Enterprise Credit offers facilitations for customs clearance.

General Comment

The implementation is adequate.

(h) comply with other conditions directly related to the effective enforcement of the Member's laws, regulations, and procedural requirements, that specifically relate to providing the treatment described in paragraph 8.2.

Implementation

The Chinese government has set a high entry threshold for enterprises undertaking international expedited shipment services, and in general, compliance level is high.

General Comment

The implementation is adequate.

8.2 Subject to paragraphs 8.1 and 8.3, Members shall:

(a) minimize the documentation required for the release of expedited shipments in accordance with paragraph 1 of Article 10 and, to the extent possible, provide for release based on a single submission of information on certain shipments;

Laws and Regulations

According to Announcement on Using New Expedited Shipment Clearance System, the expedited shipment operator shall submit different customs declaration documents to the customs according to the express category (documents, personal goods, goods with a value of 5000 yuan and below) respectively. In terms of customs declaration form:

Expedited shipment of documents: submit Category A customs declaration form/checklist;

Expedited shipment of personal article: submit Category B customs declaration form/checklist;

Expedited shipment of goods with a value of 5,000 yuan and below: submit Category C customs declaration form/checklist.

Implementation

Category A, B and C customs declaration form / checklist are simplified special forms of customs declaration, and used by expedited shipment

enterprises for customs declaration by electronic data interchange mode. So the review and release by the customs is fast.

General Comment

The implementation is relatively adequate. The condition is that needed information has been submitted.

Implementation

If the expedited shipment enterprises submit the declaration forms and documents according to the above-mentioned classification and ensure the accurate of the submitted materials, the customs will release the goods as soon as possible.

(b) provide for expedited shipments to be released under normal circumstances as rapidly as possible after arrival, provided the information required for release has been submitted;

Implementation

Expedited shipment enterprises submit different declaration documentation as per the aforementioned classifications, and provided that the information submitted is accurate, customs will release the shipments as rapidly as possible.

General Comment

The implementation is relatively adequate.

(c) endeavour to apply the treatment in subparagraphs (a) and (b) to shipments of any weight or value recognizing that a Member is permitted to require additional entry procedures, including declarations and supporting documentation and payment of duties and taxes, and to limit such treatment based on the type of good, provided the treatment is not limited to low value goods such as documents; and

Laws and Regulations

The current valid customs system for expedited shipments differentiates shipments as per value and use, but does not have requirements on the

weight of the shipment. But high-value goods (expedited shipments of over 5,000 RMB, as per current regulations) need to be declared via formal declaration formalities.

General Comment

The implementation is relatively adequate.

(d) provide, to the extent possible, for a de minimis shipment value or dutiable amount for which customs duties and taxes will not be collected, aside from certain prescribed goods. Internal taxes, such as value added taxes and excise taxes, applied to imports consistently with Article III of the GATT 1994 are not subject to this provision.

Laws and Regulations

Article 45 of Regulations of the People's Republic of China on Import and Export Tariff provides, "the following import and export goods are exempted from customs duties:

- (1) a consignment of goods whose customs duty is below 50 RMB;
- (2) advertisement articles and samples of goods without commercial value;" (Link 1)

General Comment

The implementation is relatively adequate.

Links

1. Decree of the State Council No.392 Regulations of the People's Republic of China on Import and Export Tariff: <http://www.customs.gov.cn/publish/portal0/tab49659/info3487.htm>

8.3 Nothing in paragraphs 8.1 and 8.2 shall affect the right of a Member to examine, detain, seize, confiscate or refuse entry of goods, or to carry out post-clearance audits, including in connection with the use of risk management systems. Further, nothing in paragraphs 8.1 and 8.2 shall prevent a Member from requiring, as a condition for release, the submission of additional information and the fulfilment of non-automatic licensing requirements.

Laws and Regulations

Article 19 of Measures of the People's Republic of China on Customs Supervision and Administration of Entry–Exit Expedited Shipments provides, "customs may directly open up the inbound or outbound expedited shipment for inspection, re–inspection, or collection of samples, where customs deems such action necessary."

Implementation Rules on Customs Administrative Penalty provides that breaches of regulations involving import and export goods or items for expedited shipment may be penalized according to law.

General Comment

The implementation is adequate.

9 Perishable Goods

Laws and Regulations

Customs:

Article 13 of Decree of GACC No. 138 Administrative Measures of the People's Republic of China on Customs Inspection of Import and Export Goods, provides, "for dangerous articles or goods not fit for long–term storage including those that are fresh and alive, perishable and that easily rot, lose efficacy or go bad, and for goods that require urgent inspection and release due to other exceptional circumstances, after the consignor/consignee or the broker thereof of import and export goods submits an application, customs may prioritize the arrangement of inspection for such goods." (Link 1)

Article 5 of Directive Rules of the People's Republic of China on Customs Inspection of Import and Export Goods provides, "for dangerous articles or goods not fit for long–term storage including those that are fresh and alive, perishable and that easily rot, lose efficacy or go bad, and for goods that require urgent inspection and release due to other exceptional circumstances, after the consignor/consignee or the broker thereof of import and export goods submits an application, customs may prioritize the arrangement of inspection for such goods."

(Link 2)

Implementation

Customs:

In practice, for perishable or fresh and alive goods, China Customs offers 24/7 customs clearance appointment services.

General Comment

Customs and I&Q:

In practice, customs and Inspection and Quarantine authorities provide customs clearance facilitations for perishable or fresh and alive import and export goods, but due to a lack of specific system requirements and operational procedures, such facilitation measures are yet to be standardized.

Recommendations

Customs and I&Q:

Establish a customs clearance system dedicated to import and export goods that have exceedingly strict time requirements including those that are perishable, fresh and alive, dangerous, used for disaster relief purposes, extremely valuable, and intended for first-aid purposes.

Links

1. Decree of GACC No. 138 Administrative Measures of the People's Republic of China on Customs Inspection of Import and Export Goods: <http://www.customs.gov.cn/publish/portal0/tab399/info265096.htm>
2. Directive Rules of the People's Republic of China on Customs Inspection of Import and Export Goods: <http://www.customs.gov.cn/publish/portal166/tab68701/info724251.htm>

9.1 With a view to preventing avoidable loss or deterioration of perishable goods, and provided that all regulatory requirements have been met, each Member shall provide for the release of perishable goods:

(a) under normal circumstances within the shortest possible time; and

Laws and Regulations

Customs:

China Customs is yet to put in place import and export management measures dedicated to perishable goods.

Implementation

Customs:

In practice, if import and export goods are perishable or fresh and alive, customs authorities across localities have facilitation measures to provide protection. For instance, establishment of "green channel" for fresh and alive goods, 24-hour customs clearance appointment, "inspection upon arrival, and release upon inspection", "review first, submission of documentation later, and guarantee-based release", "advance declaration, and appointment for overtime", and other preferential and facilitation measures have provided guarantee for the rapid customs clearance of such goods.

Customs and I&Q:

In addition, China Customs, via the "three together(declaration together, Inspection together, and release together)", enhances cooperation with inspection and quarantine authorities, to increase the customs clearance efficiency of perishable or fresh and alive goods and reduce inspection costs. The "three singles" model of cooperation between customs and inspection and quarantine authorities was first implemented in Nansha, Guangdong Province in 2012, and expanded to seven provinces and municipalities including Tianjin and Shanghai in 2013. In July 2014, GACC and AQSIQ issued a joint document, requiring that the "three singles" cooperation model be rolled out nationwide starting from 1 August. On 17 April, 2015, GACC and AQSIQ jointly released the 2015 Work Plan on Proceeding with the Comprehensive Promotion of the "Three Singles" Model of Cooperation between Customs and Inspection Authorities, launching a multitude of measures to comprehensively implement the "three singles" model to

all of China Customs and inspection and quarantine authorities directly subordinate to GACC and AQSIQ, all customs clearance premises, and all goods and items requiring declaration and inspection according to law; and ensuring that the uniform "single declaration system" will be operated nationwide starting from 30 April; and demanding, in addition, that "single inspection" and "single release"-related work be accelerated. At the end of May 2014, GACC and AQSIQ conducted research and investigations on the possible approaches to implementing "single inspection" and "single release", reviewed information on the inspection premises of the customs clearance site of the "three singles" model of cooperation, specifies the principle of sharing and mutual use of inspection premises, and offers directive opinions. By the end of May, GACC and AQSIQ comprehensively reviewed the operational procedures and specific directive rules on implementation regarding the "three singles" cooperation model, specified the operational requirements and specific standards of each stage of the operation, optimized work processes, and strengthened the coordination and cooperation between the on-site law enforcement personnel from customs and inspection authorities.

General Comment

Customs and I&Q:

The promotion of "Three Togethers" model stopped to some extent between 2016 and 2017. Its real progress was seldom disclosed. With the implementation of customs clearance integration, the customs risk control and inspection has basically been completed by the three risk control centers. There is no specific operation procedure for integrating the control and inspection order of the three risk control centers with the inspection order of AQSIQ to ensure the implementation of one declaration and one release. In addition, at some grass-roots customs, the "three togethers" model is only implemented in form. For example, at Yantian Port in Shenzhen, the joint customs inspection is designated by AQSIQ.

(b) in exceptional circumstances where it would be appropriate to do so, outside the

business hours of customs and other relevant authorities.

General Comment

The implementation is largely completed.

9.2 Each Member shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

Laws and Regulations

Article 13 of Decree of GACC No. 138 Administrative Measures of the People's Republic of China on Customs Inspection of Import and Export Goods, which entered into force on 1 February, 2006, provides, "for dangerous articles or goods not fit for long-term storage including those that are fresh and alive, perishable and that easily rot, lose efficacy or go bad, and for goods that require urgent inspection and release due to other exceptional circumstances, after the consignor/consignee or the broker thereof of import and export goods submits an application, customs may prioritize the arrangement of inspection for such goods."

General Comment

The implementation is adequate.

Links

Reports with regard to the rapid clearance of perishable goods:

1. http://news.xinhuanet.com/local/2014-01/18/c_119027993.htm
2. http://www.shm.com.cn/ytrb/html/2014-07/25/content_3033390.htm
3. <http://roll.sohu.com/20150810/n418583619.shtml>
4. <http://yunnan.mofcom.gov.cn/article/sjdixian/sw/201001/20100106766334.html>

9.3 Each Member shall either arrange or allow an importer to arrange for the proper storage of perishable goods pending their release. The Member may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorizations for the operator moving the goods, may be subject to the approval, where required, of the

relevant authorities. The Member shall, where practicable and consistent with domestic legislation, upon the request of the importer, provide for any procedures necessary for release to take place at those storage facilities.

Implementation

Entry-exit terminal operators (ports, airports, etc.) may establish cold-chain storage facilities within the customs regulatory area, and other enterprises may apply to customs for the establishment of cold-chain bonded warehouses, intended for the storage of fresh and alive, or perishable goods.

General Comment

The implementation is adequate.

9.4 In cases of significant delay in the release of perishable goods, and upon written request, the importing Member shall, to the extent practicable, provide a communication on the reasons for the delay.

Implementation

No cases have been found involving enterprises' grievances due to restricted release of perishable goods.

General Comment

The implementation is adequate.

ARTICLE 8: BORDER AGENCY COOPERATION

1. Each Member shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade.

Laws and Regulations

At the end of 2014, the State Council released the Reform Plan on Promoting the Development of Big Customs Clearance via Mutual Information Exchange, Mutual Inspection Findings Recognition, Mutual Law Enforcement Assistance, setting the objective of further facilitating and securing trade via Mutual Information Exchange, Mutual Inspection Findings Recognition, Mutual Law. (Link 1)

In May 4, 2014, General Office of the State Council issued the Opinions of the General Office of the State Council on Supporting the Steady Growth of Foreign Trade (Decree of the State Council No. 19 [2014]) in which It's proposed “to speed up the construction of electronic ports, implement the "single-window" acceptance of international trade and comprehensively promote "one declaration, one inspection and one release" to achieve the sharing of information between port departments and local governments.” (Link 2)

On July 17, 2014, GACC and AQSIQ signed Memorandum on Deepening Customs Inspection Cooperation and Jointly Promoting the Steady Growth of Foreign Trade in which It's clearly stipulated that the two departments will join hands to “comprehensively promote "one declaration, one inspection and one release" in customs inspection three, speed up "single-window" construction, promote the realization of information exchange, mutual recognition, mutual supervision and law enforcement.” (Link 3)

On February 3, 2015, the State Council issued the Notice of the State Council on Issuing and Implementing "Information Exchange, Mutual

Recognition, Mutual Supervision and Law Enforcement" to Promote the Great Clearance Construction Reform Plan (Decree of the State Council No. 68 [2014]) in which It's clearly proposed to "promote the "single-window" construction", and a clear timetable for the single-window construction is made. (Link 4)

Implementation

Projects in progress include:

1. "Single window";
2. "One-stop operation", i.e. in cases where customs, Inspection and Quarantine, border inspection, transport (land), and maritime agencies need to conduct inspections on the same transport vehicle and the same import and export good, the aforementioned agencies may conduct joint inspections;
3. Promote "One Computer, Two Screens" for customs and inspection agencies;
4. Establish information sharing and mutual use mechanisms;
5. Sharing of premises and facilities.

General Comment

Cooperation among domestic border agencies is being increasingly enhanced.

Recommendations

Conduct research, from the perspective of institutional arrangements, into the respective implementation of independent customs clearance operation systems by customs and Inspection and Quarantine authorities; draw from the experience of relevant institutional reforms of developed countries, and initiate China's institutional reform of border administration agencies.

Links

1. Decree of the State Council No.68 [2014] The Reform Plan on Promoting the Development of Big Customs Clearance via Mutual Information Exchange, Mutual Inspection Findings Recognition,

Mutual Law Enforcement Assistance: http://www.gov.cn/zhengce/content/2015-02/03/content_9448.htm

2. General Office of the State Council issued the Opinions of the General Office of the State Council on Supporting the Steady Growth of Foreign Trade (Decree of the State Council No. 19 [2014]): http://www.gov.cn/zhengce/content/2014-05/15/content_8812.htm

3. GACC and AQSIQ signed Memorandum on Deepening Customs Inspection Cooperation and Jointly Promoting the Steady Growth of Foreign Trade: <http://www.customs.gov.cn/publish/portal0/tab49564/info713442.htm>

4. The State Council issued the Notice of the State Council on Issuing and Implementing "Information Exchange, Mutual Recognition, Mutual Supervision and Law Enforcement" to Promote the Great Clearance Construction Reform Plan (Decree of the State Council No. 68 [2014]): http://www.gov.cn/zhengce/content/2015-02/03/content_9448.htm

2. Each Member shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom it shares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include:

Laws and Regulations

Countries and regions bordering the Chinese Mainland include 14 countries, i.e. North Korea, Russia, Mongolia, Kazakhstan, Kyrgyzstan, Tajikistan, Afghanistan, Pakistan, India, Nepal, Bhutan, Myanmar, Laos and Vietnam; and two Special Administrative Regions, i.e. Hong Kong and Macao.

Implementation

Information on the overall situation of cargo transport routes, and mutual coordination and cooperation between the customs authorities of China and those of its bordering countries cannot be accessed via public channels, therefore no objective evaluation of the implementation

thereof can be conducted.

Recommendations

China Customs and inspection and quarantine authorities shall disclose, when appropriate, the status of cooperation and coordination on relevant provisions of Trade Facilitation Agreement with countries that border on China.

- (a) alignment of working days and hours;
- (b) alignment of procedures and formalities;
- (c) development and sharing of common facilities;
- (d) joint controls;
- (e) establishment of one stop border post control.

ARTICLE 9: MOVEMENT OF GOODS INTENDED FOR IMPORT UNDER CUSTOMS CONTROL

Each Member shall, to the extent practicable, and provided all regulatory requirements are met, allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

Rules and Regulations

State:

It's stipulated in Article 35 of the Customs Law of the People's Republic of China, “The customs procedures for the imported goods shall be carried out by the consignee at the entry port of the goods, and those for the exported goods shall be handled by the consignor at the the exit port of the goods.

When the application of the consignee and consigner is approved by the customs, the consignee of imported goods can handle the customs procedures at the destination with customs and the consignor of the exported goods can handle the customs procedures at the place of departute. The transit of the above-mentioned goods shall meet the customs supervision requirements; when necessary, the customs can send staff to escort the goods.” (Link 1)

Customs:

Decree of GACC No. 89 on Implementing the Regulatory approaches of transit goods in People's Republic of China (Link 2)

Decree of GACC No. 218 Decision of GACC on Revising Some Regulations (Revision of Measures of China Customs for Supervision and Administration of Transit Goods) (Link 3)

Implementation

China Customs allows goods intended for import to be moved within

its territory and under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

Clear clearance processes for transit goods are available. (Link 4)

General Comment

The implementation is adequate.

Links

1. Customs Law of the People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab2747/info3420.htm>
2. Decree of GACC No. 89 on Implementing the Regulatory approaches of transit goods in People's Republic of China: [http://gkml.customs.gov.cn/tabid/106/ctl/InfoDetail/InfoID/2528/mid/445/Default.aspxContainerSrc= \[G \] Containers%2f_default%2fNo+Container](http://gkml.customs.gov.cn/tabid/106/ctl/InfoDetail/InfoID/2528/mid/445/Default.aspxContainerSrc= [G] Containers%2f_default%2fNo+Container)
3. Decree of GACC No. 218 Decision of GACC on Revising Some Regulations: <http://www.customs.gov.cn/publish/portal0/tab49564/info700509.htm>
4. The clearance of transit goods: <http://www.customs.gov.cn/publish/portal151/tab63904/info274399.htm>

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND TRANSIT

1 Formalities and Documentation Requirements

Laws and Regulations

China Customs has relatively complete and clear formalities connected with importation, exportation and transit. (Link 1)

Chapter 2 Declaration Requirements and Chapter 4 Declaration Documentation of Decree of GACC No. 103 Regulations of the People's Republic of China on Customs Administration of Declaration of Import and Export Goods, set out explicit provisions on the declaration formalities and documentation requirements for import and export goods. (Link 2)

Article 24 of Decree of GACC No. 103 Regulations of the People's Republic of China on Customs Administration of Declaration of Import and Export Goods provides, "provisions on declaration of transshipped, through- and transit goods and on expedited shipments shall be formulated separately by GACC." (Link 2)

Article 8 of Decree of GACC No. 38 Measures of the People's Republic of China on Customs Supervision and Administration of Transit Goods provides that transit goods shall be declared upon entry into the border, and specifies the documentation that should be submitted. (Link 3)

Links

1. The Catalogue of Customs administrative authority under Decree of GACC No.24 Notice of GACC on issuing Customs power list has detailed description of it: <http://www.customs.gov.cn/publish/portal106/tab65048/module173081/info705440.htm>

2. Import and Export Goods:

Decree of GACC No. 103 Regulations of the People's Republic of China on Customs Administration of Declaration of Import and Export Goods:

<http://www.customs.gov.cn/publish/portal0/tab399/info265127.htm>

Decree of GACC No. 218 Decision of the GACC on Amending Some Regulations made some modifications to the Decree of GACC No.103:

<http://www.customs.gov.cn/publish/portal0/tab49659/info701048.htm>

Decree of GACC No.19 of 2013 Announcement on promoting paperless clearance operation in reform pilot: <http://www.customs.gov.cn/publish/portal0/tab49576/info428372.htm>

Decree of GACC No.29 of 2013 "Format standard of electronic scanning file of declaration documents in paperless clearance operation" and "Access Standards for Enterprise Certificate of Deposits in Paperless Clearance Operation": <http://www.customs.gov.cn/publish/portal0/tab49659/info623226.htm>

Decree of GACC No.56 of 2010 Announcement on Promoting Reform of Classified Customs Clearance: <http://www.customs.gov.cn/publish/portal0/tab49576/info428578.htm>

3. Transit Goods:

Decree of GACC No. 38 Measures of the People's Republic of China on Customs Supervision and Administration of Transit Goods: <http://www.customs.gov.cn/publish/portal0/tab38320/info4345.htm>

Decree of GACC (84) No.1089 Administrative regulations of China Customs on transshipment of import and export goods of lighterage on Yangtze River: <http://www.customs.gov.cn/publish/portal0/tab399/info4309.htm>

4. Express delivery:

Decree of GACC No.147 on Amending Regulatory approaches for inward and outward express of Customs of People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab399/info265077.htm>

Decree of GACC No.43 of 2010 Announcement on adjust management measures for inward and outward personal postal articles: <http://www.customs.gov.cn/publish/portal0/tab49576/info428591.htm>

Decree of GACC No.41 of 2010 Announcement on adjusting the contents of inward and outward express declaration form of China Customs: <http://www.customs.gov.cn/publish/portal0/tab49576/info428593.htm>

Decree of GACC No.33 of 2010 Announcement on regulations of

import-export samples and advertising articles: <http://www.customs.gov.cn/publish/portal0/tab49576/info428601.htm>

Decree of GACC No.39 of 2009 Announcement on declaration standard of KJ3 import express, the supervision of inward and outward personal articles: <http://www.customs.gov.cn/publish/portal0/tab49576/info428685.htm>

1.1 With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements are:

Implementation

In recent years China Customs has been continuously deepening reform, implemented paperless customs clearance operation, regional customs clearance integration, customs inspection cooperation in "one one declaration, one inspection and one release" and other reforms; in 2017 it implemented the national customs clearance integration, the construction of risk prevention and control center and tax collection and management center. However, there is still room for simplification of documentation and formalities.

In addition, the duplicate inputting of documentation data is not a small problem among port departments of joint inspection, and has received serious attention from relevant departments including China Customs. However, this issue involves multiple departments, thus relying on the National Port Office only for coordination would be unrealistic. With the progress of reforms including the "single-window", "Three Mutuals", especially the going live and promotion of the standard version of "single-window", such issues are likely to be improved gradually. (Link 1, 2)

General Comment

Reform has been commenced, and there is still room for improvement.

Recommendations

1. Implement a paperless customs clearance system that adopts digital format in lieu of scanned copies, thereby decreasing cost of customs clearance;
2. Reduce the number of required documents and files enclosed, e.g. trade contract, bill of lading.
3. Achieve regulatory certificate information sharing between regulatory authorities, such as import and export licenses, as soon as possible.

Links

1. GACC No. 13 [2017] Announcement on Revising Specifications of the Customs of the People's Republic of China on Filling in Declaration Form for Import and Export Goods: <http://www.customs.gov.cn/publish/portal0/tab49659/info842813.htm>
2. GACC No. 8 [2017] Announcement on Enlarging the Application Scope of Paperless Customs Clearance Operation: <http://www.customs.gov.cn/publish/portal0/tab399/info839552.htm>

(a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;

Implementation

China Customs attaches great importance to the rapid release and clearance of goods. (Links 1 and 2)

In recent years, China Customs employed a series of measures to facilitate the rapid release of goods (particularly perishable goods); in 2017 it made requirement that the "goods clearance time should be reduced by 1/3".

Including:

Endeavor to achieve national customs clearance integration;

Promote international trade in a single window across the country;

Further promote the "three mutual" customs clearance reform, the

establishment and implementation of enterprise reputation management system;

Review and use risk management tools, etc..

...

General Comment

Customs clearance efficiency is being increasingly improved via cooperation between departments, business process reengineering, simplification and coordination regarding documentation and formalities.

Links

1. Decree of GACC No. 12 2017 Announcement on Further Enlarging the Scope of Pilot Reform of Tax Collection: <http://www.customs.gov.cn/publish/portal0/tab399/info842811.htm>
2. Decree of GACC No.138 Measures for the administration of inspection of import and export goods: <http://www.customs.gov.cn/publish/portal0/tab399/info265096.htm>

(b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;

Implementation

In recent years, while China Customs has worked towards continuous increase of clearance speed, it has also reduced goods customs clearance costs, canceled, suspended and reduced multiple administrative charges, including:

Information transfer charge. GACC canceled the information transfer charge of the data center, and local customs data sub-centers canceled or reduced the information transfer charge;

Cancellation of charges on regulatory formalities;

Cancellation of charges on examination and certificate costs for customs declarants;

Suspension of Intellectual Property Right recordation charge;

Cancellation of customs inspection charge.

Foreign trade enterprises with no problems found in the inspection should be exempted from the charges for hoisting, shifting, warehousing import and export containers and heavy boxes in the customs inspection process.

Inspection and quarantine authorities significantly reduced the scope of export goods subject to legally-required commodity inspection, and consolidated and canceled some unreasonable charges.

General Comment

Customs and inspection and quarantine authorities have made efforts to reduce the time and cost of customs clearance and achieved fairly positive results, but there is still room for improvement.

(c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and

General Comment

The implementation is adequate.

(d) not maintained, including parts thereof, if no longer required.

General Comment

The implementation is adequate.

1.2 The Committee shall develop procedures for the sharing by Members of relevant information and best practices, as appropriate.

2 Acceptance of Copies

2.1 Each Member shall, where appropriate, endeavour to accept paper or electronic copies of supporting documents required for import, export, or transit formalities.

Implementation

In regulatory practice, China Customs does accept paper or electronic copies.

General Comment

The implementation is adequate.

2.2 Where a government agency of a Member already holds the original of such a document, any other agency of that Member shall accept a paper or electronic copy, where applicable, from the agency holding the original in lieu of the original document.

General Comment

The implementation is adequate.

2.3 A Member shall not require an original or copy of export declarations submitted to the customs authorities of the exporting Member as a requirement for importation.

Implementation

Both in regulations and in practice, China Customs does not require importers to submit an original or copy of an export Member's export declarations.

General Comment

The implementation is adequate.

3 Use of International Standards

General Comment

The Customs of China is eager to keep in tandem with international policies.

3.1 Members are encouraged to use relevant international standards or parts thereof as a basis for their import, export, or transit formalities and procedures, except as otherwise provided for in this Agreement.

Implementation

The Customs of China has already or basically adopted the following international standards:

The Harmonized Commodity Description and Coding System (HS codes);

International Convention on the Simplification and Harmonization of Customs Procedures (The Kyoto Convention);

The WTO Agreement on Customs Valuation;

Authorized Economic Operator (AEO) programs;

The ATA Carnet;

System of respecting previous cases in classification;

Voluntary disclosure system.

In addition, China has absorbed some international standards into national standards. (Link 1)

Links

1. Guidelines for the standardization of international trade documents: http://tradedoc.mofcom.gov.cn/TradeDoc/do/dz/tradedoc~5002_1001~0.html

3.2 Members are encouraged to take part, within the limits of their resources, in the preparation and periodic review of relevant international standards by appropriate international organizations.

Implementation

China is a member of both WTO and WCO, but has seldom participated in the formulation of relevant international standards arranged by in the above-mentioned organizations. On October 26, 2017, Guidelines for the Implementation of Mutual Recognition of World Customs Organization AEO drafted by China Customs was approved at the World Customs Organizations' Global Trade Security and Facilitation Standards Framework working group meeting. It was first time China Customs had taken the lead in formulating international rules in the field of World Customs Organization AEO.

3.3 The Committee shall develop procedures for the sharing by Members of relevant information, and best practices, on the implementation of international standards, as appropriate.

The Committee may also invite relevant international organizations to discuss their work on international standards. As appropriate, the Committee may identify specific standards that are of particular value to Members.

4 Single Window

Laws and Regulations

According to Circular Guo Fa [2014] No. 68 Notice of the State Council on Issuing and Implementing the Reform Plan to Promote the Development of Big Customs Clearance via Mutual Information Exchange, Mutual Regulatory Recognition, and Mutual Law Enforcement Assistance, "single window" will be established at coastal ports from 2014 to 2015. From 2016 to 2017, "single window" will be established at all ports in China. (Link 1)

Paragraph 6 of Circular Guo Fa No. 16 [2015] Several Opinions of the State Council on Improving Port Operations and Supporting the Development of Foreign Trade makes it clear: China will be active in establishing "single window" for international trade; and China aims to establish "single window" at its coastal ports by the end of 2015 and at all its ports by 2017. (Link 2)

Implementation

In June 2014, China Customs started a pilot "single window" program at Shanghai Yangshan Bonded Port. By the end of 2016, "single window" in Tianjin, Fujian, Guangdong, Zhejiang, Jiangsu, Liaoning, and Shandong had already been functioning. Among them, 95% of goods declaration, 100% of the ship declaration at Shanghai port, have been processed through the "single-window" procedures. In 2017 the standard version of "single-window" will be promoted nationwide in a coordinated manner.

The previously built local "single windows" will be upgraded according to the unified standard, gradually changing to the standard version; for those regions where "single windows have not been established, in principle, It's recommended to promote the standard version. (Link 3, 4

and 5)

General Comment

The central government has set a clear aim of establishing "single window" and proposed the standard version;

Some major ports adopt a positive attitude towards single windows and take prompt actions to establish them;

A nationwide single window is in the pipeline.

Recommendations

1. The establishment of a nationwide single window should speed up;
2. The participating authorities and agencies should keep an open mind about single windows built by third parties and provide them with relevant entry points.

Links

1. Circular Guo Fa [2014] No. 68 Notice of the State Council on Issuing and Implementing the Reform Plan to Promote the Development of Big Customs Clearance via Mutual Information Exchange, Mutual Regulatory Recognition, and Mutual Law Enforcement Assistance: http://www.gov.cn/zhengce/content/2015-02/03/content_9448.htm
2. Circular Guo Fa No. 16 [2015] Several Opinions of the State Council on Improving Port Operations and Supporting the Development of Foreign Trade: http://www.gov.cn/zhengce/content/2015-04/17/content_9617.htm
3. How is the implementation of the "double-random" inspection mechanism by China Customs going on How about the progress in and effect of promoting the "three mutual" customs clearance and "single window" construction, as well as the "national customs clearance integration reform": <http://www.customs.gov.cn/publish/portal0/tab71465/module126388/info835646.htm>
4. GACC: promote international trade "single window" standard version;
5. Single Window programs that have already been built:

China international trade single window standard version: <http://www.singlewindow.cn/>

Shanghai international trade single window: <http://www.singlewindow.sh.cn/winxportal/>

Tianjin international trade single window: <http://www.singlewindow.tj.cn/>

Guangzhou international trade single window: <http://www.singlewindow.gz.cn/>

Fujian international trade single window: <http://www.china-fjftz.gov.cn/>

4.1 Members shall endeavour to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner.

Implementation

Some functioning regional single windows have already "enabled traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies".

The examination and permission concerning regulated importation/exportation, the transfer of documents/certificates of the examination and permission and some paper customs declaration documents still cannot be completed by such single windows.

General Comment

The present regional single windows remain substantially different from single windows in a real sense; the "single window" standard version is still being promoted.

4.2 In cases where documentation and/or data requirements have already been received through the single window, the same documentation and/or data requirements

shall not be requested by participating authorities or agencies except in urgent circumstances and other limited exceptions which are made public.

4.3 Members shall notify the Committee of the details of operation of the single window.

4.4 Members shall, to the extent possible and practicable, use information technology to support the single window.

General Comment

China's E-port system has the capability and basic structure of a single window and can be used as the IT support for China's single window system.

Recommendations

China should refer to and learn from the advanced experience of establishing single windows from the customs of developed countries. Based on the present E-port system, China should build a public platform and establish and improve the standard version single windows that enable relevant functions of the participating agencies to interconnect.

5 Preshipment Inspection

5.1 Members shall not require the use of preshipment inspections in relation to tariff classification and customs valuation.

Implementation

There is no "preshipment inspection in relation to tariff classification and customs valuation" at China Customs.

General Comment

The implementation is adequate.

5.2 Without prejudice to the rights of Members to use other types of preshipment

inspection not covered by paragraph 5.1, Members are encouraged not to introduce or apply new requirements regarding their use.

General Comment

The implementation is adequate.

6 Use of Customs Brokers

6.1 Without prejudice to the important policy concerns of some Members that currently maintain a special role for customs brokers, from the entry into force of this Agreement Members shall not introduce the mandatory use of customs brokers.

Implementation

The Customs of China does not "introduce the mandatory use of customs brokers". Consignors and consignees can apply for customs clearance themselves (but they need to register as international traders and customs declaration businesses) or use customs brokers.

General Comment

The implementation is adequate.

6.2 Each Member shall notify the Committee and publish its measures on the use of customs brokers. Any subsequent modifications thereof shall be notified and published promptly.

6.3 With regard to the licensing of customs brokers, Members shall apply rules that are transparent and objective.

Laws and Regulations

The Customs of China has relatively transparent and objective rules on the licensing of customs brokers.

Decree of GACC No. 221 Provisions of the People's Republic of China on Customs Administration of Registration of Customs Declaration Entities stipulates conditions and procedures for the registration of customs declaration entities. (Link 1)

Announcement of GACC No. 26 [2014] Announcement on Publishing the Format for Legal Documents and Statements relevant to the "Provisions of GACC of the People's Republic of China on Administration of Registration of Declaration Entities provides samples of the required documents and statements. (Link 2)

In addition, users can download from GACC's website "the required documents and forms for declaration entities" and the administrative service guide on the "registration of declaration entities". (Link 3)

General Comment

The implementation is adequate.

Links

1. Decree of GACC No. 221 Provisions of the People's Republic of China on Customs Administration of Registration of Customs Declaration Entities: <http://www.customs.gov.cn/publish/portal0/tab49659/info700322.htm>
2. Announcement of GACC No. 26 [2014] Announcement on Publishing the Format for Legal Documents and Statements relevant to the "Provisions of GACC of the People's Republic of China on Administration of Registration of Declaration Entities: <http://www.customs.gov.cn/publish/portal0/tab49661/info702105.htm>
3. GACC's website provides "the required documents and forms for declaration entities": <http://www.customs.gov.cn/publish/portal0/tab49635/>
Administrative service guide on the "registration of declaration entities": <http://www.customs.gov.cn/tabid/2433/InfoID/766146/frtid/70317/settingmoduleid/191384/Default.aspx>

7 Common Border Procedures and Uniform Documentation Requirements

7.1 Each Member shall, subject to paragraph 7.2, apply common customs procedures and uniform documentation requirements for release and clearance of goods throughout its territory.

Implementation

The customs and Inspection and Quarantine authorities of China apply a uniform procedure and document clearance system throughout the country; in 2017 China Customs achieved the national customs clearance integration.

General Comment

The implementation is adequate.

7.2 Nothing in this Article shall prevent a Member from:

- (a) differentiating its procedures and documentation requirements based on the nature and type of goods, or their means of transport;
- (b) differentiating its procedures and documentation requirements for goods based on risk management;
- (c) differentiating its procedures and documentation requirements to provide total or partial exemption from import duties or taxes;
- (d) applying electronic filing or processing; or
- (e) differentiating its procedures and documentation requirements in a manner consistent with the Agreement on the Application of Sanitary and Phytosanitary Measures.

8 Rejected Goods

8.1 Where goods presented for import are rejected by the competent authority of a Member on account of their failure to meet prescribed sanitary or phytosanitary regulations or technical regulations, the Member shall, subject to and consistent with its laws and regulations, allow the importer to re-consign or to return the rejected goods to the exporter or another person designated by the exporter.

Laws and Regulations

Customs:

Article 6 of Decree of GACC No. 217 Measures of the People's Republic of China on Customs Administration of Direct Return of Imported Goods provides, "Under any of the following circumstances which occur after the goods have entered China and before the customs release formalities are completed, the customs office shall order the party (the consignee or consigner of imported goods or the person in charge of the original means of transport or the agent thereof) to return the goods directly abroad:

- (1) The goods are prohibited by the state from being imported and have been handled by the customs according to law;
- (2) There is violation of the state policies and regulations on inspection and quarantine; and the violation has been handled by the state administrations of inspection and quarantine, which produce Letter of Notification of Handling of Violation of Policies and Regulations on Inspection and Quarantine or other documentary evidence;
- (3) Solid waste that is under import restriction is imported without permission and has been handled by customs according to law;
- (4) Other circumstances where there is violation of laws and administrative regulations of the state and the party shall be ordered to directly return the goods." (Link 1, 2)

Links

1. Decree of GACC No. 217 Measures of the People's Republic of China on Customs Administration of Direct Return of Imported Goods: <http://www.customs.gov.cn/publish/portal0/tab49660/info700175.htm>
2. Announcement of GACC No. 82 Announcement on Further Regulating Relevant Issues Concerning Direct Return of Imported Goods: <http://www.customs.gov.cn/publish/portal0/tab49661/info833766.htm>

Inspection and Quarantine:

Regulations on Sanitary and Phytosanitary (SPS): Quarantine of Animals and Plants, Health Quarantine

Article 22, Administrative Measures on Inspection and Quarantine of Imported and Exported Aquatic Products, Decree of the AQSIQ No. 135, provides that: "If any of the following occurs, the said product shall be returned or destroyed:

Failure to have a valid "License for Quarantine of Entry Animals and Plants" where verification for an entry product is required;

Failure to register in China where registration is required of an aquatic product producer;

Failure to have the inspection and quarantine certificate issued by the authority of the exporting country or region;

Failure in inspections related to personal safety, health and environmental protection." (Link 1)

Article 21, Administrative Measures on Inspection and Quarantine of Imported or Exported Meat Products, Decree of the AQSIQ No. 136, provides that: "The inspection and quarantine body of the entry port shall, based on the results of laboratory testing of the imported meat product, handle the product in the following ways:

...

(2) If a product fails inspection and quarantine, issue the "Notice on Inspection and Quarantine Treatment". If any of the following occurs, the said product shall be returned or destroyed:

1. Failure to have a valid "License for Quarantine of Entry Animals and Plants";

2. Failure to have a relevant certificate issued by the authority of the exporting country or region;

3. An imported meat product is produced by an unregistered producer;

4. Failure in inspections related to personal safety, health and environmental protection.

..." (Link 2)

Article 27, Administrative Measures on Inspection and Quarantine of Entry/Exit Non-edible Animal Products, Decree of the AQSIQ No. 159, provides that: "After a non-edible animal product passes the inspection and quarantine, and a "Certification of Inspection and Quarantine of Entry Goods" is issued accordingly by the inspection and quarantine

body, it may be sold, used or be processed at the designated producer.

If a product fails inspection and quarantine, a "Notice on Inspection and Quarantine Treatment" will be issued by the inspection and quarantine body, and the product shall, under the supervision of the inspection and quarantine body, undergo treatment against harmful substances, be returned or destroyed by the consignor or its agent; entry is permitted if a product passes inspection and quarantine after treatment against harmful substances. If claims against a third party is needed, the inspection and quarantine body shall issue relevant certificates.

..." (Link 3)

Article 21, Administrative Provisions on Health and Quarantine of Entry/Exit Special Articles, Decree of the AQSIQ No. 160, provides that: "The port inspection and quarantine body shall discharge an entry/exit special article that complies with the requirements after health quarantine. If any of the following occurs, a "Notice on Inspection and Quarantine Treatment" will be issued by the port inspection and quarantine body, and the said article shall be returned or destroyed:

- (1) One of these factors, including the name, batch number, specification, biologically active ingredient, etc., does not match the information in the verification;
- (2) The quantity exceeds the verified range;
- (3) The packaging does not meet safety requirements for special articles;
- (4) Failure to meet sanitation and quarantine requirements after verification;
- (5) Where the special article being mailed or carried is detained, the "Approval of Special Article Verification" is not submitted within 7 days, or fails in inspection and quarantine after submitting the "Approval of Special Article Verification".

The port inspection and quarantine body shall properly record and file the eventual treatment." (Link 4)

Article 25, Administrative Measures on Quarantine and Supervision

of Imported and Exported Chinese Traditional Medicines, Decree of the AQSIQ No. 169, provides that: "If a product fails the quarantine, a "Notice on Quarantine Treatment" will be issued by the inspection and quarantine body, and the product shall, under the supervision of the inspection and quarantine body, undergo treatment against harmful substances, be returned or destroyed by the consignor or its agent; entry is permitted if a product passes inspection and quarantine after treatment against harmful substances.

If claims against a third party is needed, the inspection and quarantine body shall issue relevant certificates pursuant to regulations." (Link 5)

Article 27, Administrative Measures on Quarantine of Articles Carried by Persons on Entry/Exit, Decree of the AQSIQ No. 146, provides that: "Where the carried article is required to undergo laboratory quarantine or segregated quarantine, and it passes the quarantine conducted by the inspection and quarantine body when detained, its carrier shall collect the article within the specified time limit on the detention certificate; failure to collect shall be deemed as voluntary waiver. Where the article fails in the quarantine when detained and cannot be treated effectively, it shall be returned or destroyed within a specified time limit." (Link 6)

Article 18 of Administrative Measures on Quarantine of Postal Articles on Entry/Exit provides that: "If any of the following occurs, the entry postal article shall be returned or destroyed by the inspection and quarantine body:

- (1) Failure to undergo quarantine verification formalities pursuant to regulations or failure to comply with regulations on quarantine verification;
- (2) Incomplete documents;
- (3) Fails in the quarantine and cannot be treated effectively;
- (4) Other cases where return or destruction is required." (Link 7)

Links

1. Administrative Measures on Inspection and Quarantine of Imported and Exported Aquatic Products, Decree of the AQSIQ No. 135:

http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2011/201210/t20121015_235110.htm

2. Administrative Measures on Inspection and Quarantine of Imported or Exported Meat Products, Decree of the AQSIQ No. 136: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2011/201210/t20121015_235111.htm

3. Administrative Measures on Inspection and Quarantine of Entry/Exit Non-edible Animal Products, Decree of the AQSIQ No. 159: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2014/201412/t20141216_428529.htm

4. Administrative Provisions on Health and Quarantine of Entry/Exit Special Articles, Decree of the AQSIQ No. 160: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2015/201502/t20150203_431143.htm

5. Administrative Measures on Quarantine and Supervision of Imported and Exported Chinese Traditional Medicines, Decree of the AQSIQ No. 169: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2015/201511/t20151113_454314.htm

6. Administrative Measures on Quarantine of Articles Carried by Persons on Entry/Exit, Decree of the AQSIQ No. 146: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2012/201210/t20121015_235107.htm

7. AQSIQ and State Post Bureau Notice of Issuing Administrative Measures on Quarantine of Postal Articles on Entry/Exit, Joint Notice of the AQSIQ No. [2001] 34: http://www.fdi.gov.cn/1800000121_23_67887_0_7.html

Regulations on Technical Barriers to Trade (TBT): Goods (including food)

Implementing Regulations of the Law of the People's Republic of China on Inspection of Imported and Exported Goods provides that: "Article 19 Unless otherwise specified by law or administrative regulation, if any imported goods subject to statutory inspection fail inspection in items concerning safety of persons and property, health and environmental protection, the entry-exit inspection and quarantine body shall order the importer to destroy it, or issue

a "Notice on Return of Goods" and inform the customs office in writing, and the customs office shall return the goods upon the "Notice on Return of Goods"; if the goods fail in other items, technical treatment may be applied under the supervision of the entry–exit inspection and quarantine body, and once they pass re–inspection, the goods may be sold or used. In case an importer applies for a certificate to the entry–exit inspection and quarantine body, the entry–exit inspection and quarantine body shall issue the certificate in a timely manner.

Article 53 If an overseas supplier or domestic consignee fails to register or undergo pre–shipping inspection when it imports solid wastes that may be used as raw material, it shall be ordered to return the goods pursuant to relevant State provisions; where the case is serious, the entry–exit inspection and quarantine body shall also impose upon it a fine ranging from CNY100,000 to CNY1 million.

If an overseas supplier or domestic consignee, whose solid wastes that may be used as raw material are registered, seriously violates relevant State provisions, the entry–exit inspection and quarantine body shall revoke its registration. In case anyone fails to file or undergo pre–shipping inspection when importing an old electromechanical product permitted by the State, the product shall be returned pursuant to relevant State provisions; where the case is serious, the entry–exit inspection and quarantine body shall also impose upon it a fine of less than CNY1 million." (Link 1)

Administrative Measures on Inspection and Supervision of Imported and Exported Toys provides that: "Article 4 Imported toys shall be inspected pursuant to compulsory requirements of the State's technical regulations. "

Article 9 If an imported toy fails inspection, a "Notice on Inspection and Quarantine Treatment" will be issued by the inspection and quarantine body. If the toy fails inspection in items concerning safety of persons and property, health and environmental protection, the inspection and quarantine body shall order the importer to return or destroy it; if it fails in other items, technical treatment may be applied

under the supervision of the inspection and quarantine body, and once it passes re-inspection, it may be sold or used." (Link 2)

Article 18, Administrative Measures on Inspection, Quarantine and Supervision of Entry/Exit Grains, Decree of the AQSIQ No. 177, provides that: "If any of the following occurs, the entry grain shall be returned or destroyed:

- (1) Not included in the entry list issued by the AQSIQ, or Phytosanitary Certificate or other certificates issued by food exporting countries or local competent departments cannot be provided, or there is no Quarantine Permit;
- (2) Test results for toxic and hazardous substances and other safety and sanitation items do not meet the mandatory state requirements for technical specifications, and the intended use cannot be changed or there is no effective dealing method;
- (3) Genetically modified ingredients are detected, no Bio-safety Certificate for Genetically Modified Food or other relevant approval documents, or does not match the provisions in the Certificate and approval documents;
- (4) Soil, quarantine pests and other substances prohibited from import are detected, and there is no effective dealing method for quarantine;
- (5) Decay and deteriorate due to water, mildew, etc. or suffer from chemical and radioactive contamination, and the intended use cannot be changed or there is no effective dealing method;
- (6) Food safety is seriously jeopardized due to other reasons. (Link 3)

It is provided in Article 39 of AQSIQ Decree No. 143 on the Measures for the Inspection, Quarantine, Supervision and Administration of Imported and Exported Cosmetics that "based on the types of risk and severity, AQSIQ may determine and publish the following quick response measures:

- (1) conditionally limit import and export, including close monitoring, stricter inspection and mandatory recall;
- (2) prohibit import and export by destroying on the spot or returning the products;

(3) initiate a contingency plan on the safety of import and export cosmetics.

An inspection and quarantine institution shall be responsible for implementing quick response measures." (Link 4)

It is provided in Article 45 of AQSIQ Decree No. 144 on the Measures on the Administration of Import and Export Food Safety that "AQSIQ and inspection and quarantine institutions directly subordinate to AQSIQ shall issue risk warning based on food safety risk levels, and that AQSIQ may issue risk warning depending on the circumstances and determine the adoption of the following control measures:

- (1) conditionally limit import and export, including close monitoring, stricter inspection and mandatory recall;
- (2) prohibit import and export by destroying on the spot or returning the products;
- (3) initiate a contingency plan on the safety of import and export cosmetics.

An inspection and quarantine institution shall be responsible for risk warning and implementing quick response measures." (Link 5)

It is provided in Article 18 of AQSIQ Decree No. 152 on the Measures for the Inspection, Quarantine, Supervision and Administration of Import and Export Dairy Products that "an inspection and quarantine institution shall issue an unqualified certificate if import and export dairy products prove to be unqualified after inspection and quarantine procedures. If the products fail the safety, health, environmental protection inspection and quarantine, the inspection and quarantine institution shall order the parties concerned to destroy the products, or issue a Notice for Return of Products, and the importer shall handle the formalities concerning the return. Other items that fail the inspection and quarantine may be treated technically under the supervision of the inspection and quarantine institution and products may be sold and used if they prove to be qualified after re-inspection.

Before import and export dairy products are destroyed and returned, the importer shall seal up the unqualified dairy products on their own and store them in a place designated or affirmed by the inspection and quarantine institution. Such products cannot be transferred without permission of the inspection and quarantine institution.

The importer shall finish destroying within three months, and report the result to the inspection and quarantine institution." (Link 6)

It is provided in Article 22 of AQSIQ Decree (2012 No. 200) on Provisions on the Administration of the Import and Export Industrial Products Risk Warning and Quick Response that "to effectively discourage, control and eliminate quality risks, AQSIQ or inspection and quarantine institutions directly subordinate to AQSIQ may, according to legal procedures, take quick response measures including:

(1) conditionally limit, according to law, the import and export of products, seal up, distrain, stop selling and using, return and destroy import and export industrial products that do not conform to legal requirements;

(2) notify relevant departments and institutions;

(3) punish, according to law, production and operation companies that violate laws and administrative regulations, seal up unlawfully used materials, auxiliary materials and additives, tools and equipment that are unlawfully produced and seal up production and operation or storage places for export industrial products;

(4) organize an investigation into the quality of similar products, and the quality of products from relevant industries and associated regions within a specified time of period;

(5) take stricter measures to inspect and supervise relevant production and operation entities;

(6) order the recall of risky products that have already sold out." (Link 7)

It is provided in Article 12 of AQSIQ Decree No.1 on Provisions on the Administration of Import and Export Inspection and Quarantine Risk Warning and Quick Response that "emergency control measures

include the following:

- (1) refer to international practices when a dangerous situation occurs and there is no sufficient scientific basis, take temporary emergency measures on export and import cargo and goods, and proactively collect relevant information for risk assessment;
- (2) take emergency measures according to law on import and export cargo and goods where major risks have been defined and prohibit them from export and import; block ports if necessary." (Link 8)

It is provided in Article 24 of AQSIQ Decree No.3 on Measures for the Inspection, Quarantine, and Administration of Import and Export Express Consignment that "in case of any of the following circumstances, an inspection and quarantine institution shall return or destroy the import express consignments and issue relevant certificates:

- (1) no quarantine approval and failure to obtain quarantine approval when required to do so;
- (2) quarantine certificates or relevant announcements that must be officially issued by the exporting country are not acquired as regulated in laws and regulations, related international treaties or bilateral agreements;
- (3) not qualified after quarantine and there is no effective dealing method;
- (4) import express consignments as stated in this Article 22 cannot be treated technically, or are still unqualified after technical treatment and re-inspection;
- (5) other circumstances where import express consignments have to be returned or destroyed." (Link 9)

It is provided in Article 18 of AQSIQ Decree No.18 on Measures for Inspection, Supervision and Administration of Import Paint that "an inspection and quarantine institution shall issue an inspection and quarantine certificate to unqualified import paint according to Article 15 and 16, and report to AQSIQ, and that for import paint that fails specific tests, a consignee must return or handle the import paint properly as required by relevant departments." (Link 10)

Links

1. State Council Decree No.447 on the Implementing Regulations of the Law of the People's Republic of China on Inspection of Imported and Exported Goods: http://www.aqsiq.gov.cn/xxgk_13386/zvfg/flfg/200711/t20071106_52208.htm
2. AQSIQ Decree No. 111 on the Administrative Measures on Inspection and Supervision of Imported and Exported Toys : http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2016/201605/t20160511_466075.htm
3. AQSIQ Decree No. 177 on the Administrative Measures on Inspection, Quarantine and Supervision of Entry/Exit Grains,: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2016/201602/t20160202_460414.htm
4. AQSIQ Decree No. 143 on the Measures for the Inspection, Quarantine, Supervision and Administration of Imported and Exported Cosmetics: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2011/201210/t20121015_235119.htm
5. AQSIQ Decree No. 144 on the Measures on the Administration of Import and Export Food Safety: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2011/201210/t20121015_235120.htm
6. AQSIQ Decree No. 152 on the Measures for the Inspection, Quarantine, Supervision and Administration of Import and Export Dairy Products: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2013/201302/t20130201_342349.htm
7. AQSIQ Decree (2012 No. 200) on Provisions on the Administration of the Import and Export Industrial Products Risk Warning and Quick Response: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2012/201212/t20121212_333440.htm
8. AQSIQ Decree No.1 on Provisions on the Administration of Import and Export Inspection and Quarantine Risk Warning and Quick Response: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/

[zjl/20012002/200610/t20061027_239128.htm](http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/20012002/200610/t20061027_239128.htm)

9. AQSIQ Decree No.3 on Measures for the Inspection, Quarantine, and Administration of Import and Export Express Consignment: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/20012002/200610/t20061027_239126.htm

10. AQSIQ Decree No.18 on Measures for Inspection, Supervision and Administration of Import Paint: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/20012002/200610/t20061027_239111.htm

General Comment

Customs and I&Q:

Implemented by China Customs and inspection and quarantine institutions.

8.2 When such an option under paragraph 8.1 is given and the importer fails to exercise it within a reasonable period of time, the competent authority may take a different course of action to deal with such non-compliant goods.

Laws and Regulations

China Customs does not stipulate specifically how the goods should be dealt with if the party does not return the goods as ordered. (Links 1, 2 and 3)

Implementation

Basically implemented, but there is still room for improvement.

Recommendation

China Customs establish a set of rules on handling goods that are not returned by order, or those that are prohibited to be imported and retained by the Customs, for example, solid waste and meat that does not conform to the health standards.

Links

1. Decree of GACC No. 217 Measures of the People's Republic of China on Customs Administration of Direct Return of Imported Goods: <http://www.customs.gov.cn/publish/portal0/tab49659/info700273.htm>
2. Decree of president of People's Republic of China No.35 Customs Law of the People's Republic of China: <http://www.customs.gov.cn/publish/portal99/tab62627/info770913.htm>
3. Decree of the State Council No.420 Regulations of the People's Republic of China on the implementation of customs administrative penalty: <http://www.customs.gov.cn/publish/portal0/tab399/info3485.htm>

9 Temporary Admission of Goods and Inward and Outward Processing

9.1 Temporary Admission of Goods

Each Member shall allow, as provided for in its laws and regulations, goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods are brought into its customs territory for a specific purpose, are intended for re-exportation within a specific period, and have not undergone any change except normal depreciation and wastage due to the use made of them.

Laws and Regulations

Administrative Measures of the Customs of the People's Republic of China for Goods Temporarily Imported or Exported has explicit provisions on goods temporarily imported for exhibitions, cultural or sports events, news reports, scientific research, teaching, medical treatment, charity activities, etc. and articles temporarily imported as samples. (Links 1 and 2)

In November 2016, China Customs issued Reminder on Cancellation of the Examination and Approval of Temporary Entry-Exit Goods to cancel the administrative examination and approval of temporary entry-exit goods. The applicant can go through the formalities of

temporary entry–exit goods import and export declaration directly, and submit relevant materials, without handling the approval procedures in advance. (Link 3)

General Comment

The implementation is adequate.

Links

1. Administrative Measures of the Customs of the People's Republic of China for Goods Temporarily Imported or Exported: <http://www.customs.gov.cn/publish/portal0/tab49564/info692820.htm>
2. Customs of People's Republic of China on Administrative examination and acceptance form (Administrative examination and approval for temporarily imported or exported goods): <http://www.customs.gov.cn/publish/portal150/tab64400/info786022.htm>
3. Reminder on Cancellation of the Examination and Approval of Temporary Entry–Exit Goods: <http://www.customs.gov.cn/tabid/2433/InfoID/828555/frtid/49629/settingmoduleid/126763/Default.aspx>

9.2 Inward and Outward Processing

(a) Each Member shall allow, as provided for in its laws and regulations, inward and outward processing of goods. Goods allowed for outward processing may be reimported with total or partial exemption from import duties and taxes in accordance with the Member's laws and regulations.

※Inward Manufacturing and Processing

Laws and Regulations

China has been conducting inward processing for more than three decades and has a relatively sound system of administrative measures on inward processing for which payment of duties and taxes is deferred. These measures include:

Decree of GACC No. 219 Measures of the People's Republic of China

on Customs Supervision and Administration of Goods in Processing Trade; (Link 1)

Decree of GACC No. 155 Measures of the People's Republic of China on Customs Administration of Unit Consumption in Processing Trade; (Link 2)

Announcement of GACC No. 21 [2014] Announcement of the Customs of the People's Republic of China on Issues concerning Implementation of Measures of the Customs of the People's Republic of China on Control of Processing Trade Goods; (Link 3)

Decree of GACC No. 150 Measures of the Customs of the People's Republic of China on Cyber-based Supervision and Administration of Enterprises Engaging in Processing Trade; (Link 4)

Guo Ban Fa [1999] No. 35 Notice of Opinions on Further Improving the System of Bank Surety Account for Processing Trade. (Link 5)

See Link 6 to 12 for other relevant regulations.

General Comment

The system of inward processing is complete.

Recommendations

There are many unreasonable or negotiable contents in China's regulations on inward processing regime including the scope of products permitted for inward processing, lists of products on which China imposes prohibitions and restrictions for processing trade, unit consumption, verification, expendable materials, etc. We recommend that the customs and commerce authorities probe into and solve the problems.

Links

1. Decree of GACC No. 219 Measures of the People's Republic of China on Customs Supervision and Administration of Goods in Processing Trade: <http://www.customs.gov.cn/publish/portal0/tab49659/info700275.htm>
2. Decree of GACC No. 155 Measures of the People's Republic of China on Customs Administration of Unit Consumption in

Processing Trade: <http://www.customs.gov.cn/publish/portal0/tab399/info54811.htm>

3. GACC No. 21 [2014] Announcement of the Customs of the People's Republic of China on Issues concerning Implementation of Measures of the Customs of the People's Republic of China on Control of Processing Trade Goods: <http://www.customs.gov.cn/publish/portal0/tab49661/info701081.htm>

4. Decree of GACC No. 150 Measures of the Customs of the People's Republic of China on Cyber-based Supervision and Administration of Enterprises Engaging in Processing Trade: <http://www.customs.gov.cn/publish/portal0/tab399/info27254.htm>

5. Guo Ban Fa [1999] No. 35 Notice of Opinions on Further Improving the System of Bank Surety Account for Processing Trade: <http://china.trade2cn.com/news/cmnews112940.html>

6. Announcement of GACC No. 29 Announcement on Deepening the Reform of Customs Clearance Integration in the Special Customs Supervision Areas and Bonded Logistics Centers (Type B): <http://www.customs.gov.cn/publish/portal0/tab49661/info796120.htm>

7. Announcement of GACC No. 36 Announcement on Further Promoting and Implementing the Bonded Supervision Mode of Imported Goods in International Service Outsourcing Business: <http://www.customs.gov.cn/publish/portal0/tab49661/info803371.htm>

8. Announcement of GACC No. 56 Announcement on the Implementation of Announcement of the Ministry of Commerce and GACC No. 45 2016: <http://www.customs.gov.cn/publish/portal0/tab49661/info822383.htm>

9. Announcement of GACC No. 67 Announcement on Regulating the Mmanagement of Imported Consumptive Materials under the Processing Trade Item: <http://www.customs.gov.cn/publish/portal0/tab49661/info830514.htm>

10. Announcement of GACC No. 68 Announcement on Carrying out the Commission Processing Business within the Special Supervision Areas of the Customs: <http://www.customs.gov.cn/publish/portal0/tab49661/info830569.htm>

11. Announcement of GACC No. 69 Announcement on Issues Concerning Outbound Processing Business: <http://www.customs.gov.cn/publish/portal0/tab49661/info831619.htm>

12: Announcement of GACC No. 86 Announcement on the Management of Bonded Goods Circulation in the Special Customs Supervision Areas and Bonded Supervision Places: <http://www.customs.gov.cn/publish/portal0/tab49661/info835521.htm>

※Inward Maintenance

Laws and Regulations

So far, China has rather complex regulations on inward maintenance. (Links 1 and 2)

1. Most products made in China are allowed for inward maintenance except for those prohibited from processing trade, such as medical equipment and parts thereof and game consoles.
2. Some products made by enterprises outside China can be maintained in areas under special customs supervision, while enterprises outside such areas cannot engage in inward maintenance.

Recommendations

Considering the trend of economic globalization, the regime for inward maintenance of domestically–or foreign–made common products, electronic products, and medical equipment should be rendered more reasonable after in–depth research.

Links

1. Decree of GACC No.59 of 2015 Announcement of supervision on bonded repair business in special Customs supervision zone: <http://www.customs.gov.cn/publish/portal0/tab49659/info781274.htm>
2. Decree of GACC No.124 Administrative measures of Customs of People's Republic of China on taxation of import and export goods: <http://www.customs.gov.cn/publish/portal0/tab399/info4487.htm>

Outward Processing

Laws and Regulations

Article 29 of Decree of GACC No. 213 provides for duties on the goods that may be temporarily exported for processing and then re-imported. The Article stipulates that "when goods that are transported outside China are declared to the customs at the time of exit and are transported into China within the period as required by the customs, the customs valuation of the goods shall be based on costs of processing, raw materials and parts incurred abroad, costs of inward transportation and other expenses incurred thereof, and premiums." (Link 1)

Implementation

In December, 2012, GACC approved Changchun Customs' application for "outward processing". Since then, China Customs has embarked upon pilot programs of outward processing at some enterprises. (Link 2) In 2015, GACC mentioned that it would encourage pilot programs of outward processing in such free trade zones as in the following measures: Several Measures for Supporting and Promoting the Construction and Development of China (Fujian) Pilot Free Trade Zone, Several Measures for Supporting and Promoting the Construction and Development of China (Tianjin) Pilot Free Trade Zone, and Several Measures for Supporting and Promoting the Construction and Development of China (Guangdong) Pilot Free Trade Zone. (Link 3) Xiamen Customs, Dalian Customs, etc. have also started outward processing.

At the end of 2016, GACC issued Announcement No. 69, which further standardizes the outbound processing business. (Link 4)

General Comment

In general, outward processing is still at an early stage.

Recommendations

Detailed regulations on outward processing should be formulated as soon as possible.

Links

1. Decree of GACC No. 213 Customs of People's Republic of China on examine the dutiable value of import and export goods: <http://www.customs.gov.cn/publish/portal0/tab49564/info692855.htm>
2. China Customs magazine 2013 sixth, the Commissioner of Customs interview column, outward processing: <http://www.ccmag.cn/cusmMaganized!docMaganized.jspaid=4183>
3. Several Measures for Supporting and Promoting the Construction and Development of China (Fujian) (Tianjin) (Guangdong) Pilot Free Trade Zone: <http://www.customs.gov.cn/publish/portal0/tab65602/info739938.htm>
4. Announcement No. 69 of GACC Announcement on Issues Concerning Outbound Processing Business: <http://www.customs.gov.cn/publish/portal0/tab49661/info831619.htm>

※Outward Maintenance

General Comment

The present systems of outward maintenance of imported or domestic products are relatively well-developed. (Links 1 and 2)

Links

1. Decree of GACC No. 59 of 2015 Announcement of supervision on bonded repair business in special Customs supervision zone: <http://www.customs.gov.cn/publish/portal0/tab49659/info781274.htm>
2. Decree of GACC No. 124 Administrative Measures of the People's Republic of China on Tax levied on Import and Export Goods by Customs: <http://www.customs.gov.cn/publish/portal0/tab399/info4487.htm>

(b) For the purposes of this Article, the term "inward processing" means the customs procedure under which certain goods can be brought into a Member's customs territory conditionally relieved, totally or partially, from payment of import duties and taxes, or eligible for duty drawback, on the basis that such goods are intended for manufacturing, processing,

or repair and subsequent exportation.

(c) For the purposes of this Article, the term "outward processing" means the customs procedure under which goods which are in free circulation in a Member's customs territory may be temporarily exported for manufacturing, processing, or repair abroad and then re-imported.

ARTICLE 11: FREEDOM OF TRANSIT

1. Any regulations or formalities in connection with traffic in transit imposed by a Member shall not be:

Laws and Regulations

China has introduced customs and Inspection and Quarantine regulations on traffic in transit and has not imposed any disguised restriction on traffic in transit. (Links 1, 2, 3, 4, 5 and 6)

Based on results of risk analysis, assessment and examination, Inspection and Quarantine agencies negotiate with the participating authorities of exporting countries or regions about the requirements for inspection and quarantine, and about signing bilateral agreements or determine the certificate of inspection and quarantine.

General Comment

The implementation is adequate.

Links

1. Customs Laws of the People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab2747/info3420.htm>
2. Decree of GACC No. 38 Measures for the supervision and administration for transit goods in People's Republic of China: <http://www.customs.gov.cn/publish/portal0/tab38320/info4345.htm>
3. Decree of AQSIQ No.159 Measures for the inspection and supervision for the import-export of nonedible animal products: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjl/2014/201412/t20141216_428529.htm
4. Decree of AQSIQ No.62 Measures for the administration of inspection and quarantine of import-export of genetically modified products: http://www.aqsiq.gov.cn/xxgkml/jlgg/zjl/20032004/200610/t20061027_12236.htm
5. Decree of AQSIQ No.136 Measures for the administration of inspection and quarantine of import-export of Meat products: <http://>

bgt.aqsiq.gov.cn/11715/jlgg/zjl/2011/201101/t20110120_176231.htm

6. Decree of AQSIQ No.118 Measures for the administration of inspection and quarantine of import–export of feedstuff and feed additives: http://www.aqsiq.gov.cn/xxgk_13386/jgfl/dzwjyjgs/zcfg/201508/t20150811_446793.htm

(a) maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a reasonably available less trade–restrictive manner;

(b) applied in a manner that would constitute a disguised restriction on traffic in transit.

2. Traffic in transit shall not be conditioned upon collection of any fees or charges imposed in respect of transit, except the charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

Laws and Regulations

Article 13 of Decree of GACC No. 38 Measures of the People's Republic of China on Customs Supervision and Administration of Goods in Transit provides, "...Based on the actual situation, when the customs needs to dispatch personnel to guard the goods in transit, the operator or the carrier shall provide means of transportation and facilitate the mission of supervision and pay the charges according to regulations."

Implementation

According to Decree of GACC No. 38 Measures of the People's Republic of China on Customs Supervision and Administration of Goods in Transit, administrative expenses may be incurred by the use of customs convoy. But the expenses will not be incurred because they are not included in the lists of administrative charges of national and central government departments, or the current list of administrative

charges of the customs.

Inspection and Quarantine agencies have not levied additional fees or charges on goods in transit.

General Comment

The implementation is adequate.

Links

1. Decree of GACC No. 38 Measures of the People's Republic of China on Customs Supervision and Administration of Goods in Transit: <http://www.customs.gov.cn/publish/portal0/tab38320/info4345.htm>

3. Members shall not seek, take, or maintain any voluntary restraints or any other similar measures on traffic in transit. This is without prejudice to existing and future national regulations, bilateral or multilateral arrangements related to regulating transport, consistent with WTO rules.

Implementation

The Chinese government has not taken any additional voluntary restraints or any other similar measures on traffic in transit.

General Comment

The implementation is adequate.

4. Each Member shall accord to products which will be in transit through the territory of any other Member treatment no less favourable than that which would be accorded to such products if they were being transported from their place of origin to their destination without going through the territory of such other Member.

Implementation

The Chinese government has not imposed restraints on products that are in transit through the territory of any other Member.

General Comment

The implementation is adequate.

5. Members are encouraged to make available, where practicable, physically separate infrastructure (such as lanes, berths and similar) for traffic in transit.

Implementation

At present, some customs in China have opened green channels for goods in transit. (Links 1 and 2)

General Comment

The implementation is relatively adequate.

Links

1. Some customs in China have opened "green channels" for goods in transit: <http://www.customs.gov.cn/publish/portal0/tab65602/info763321.htm>
2. Customs serve The Belt and Road Initiative, promoting the development of transit trade: <http://www.customs.gov.cn/publish/portal0/tab65602/info738362.htm>

6. Formalities, documentation requirements, and customs controls in connection with traffic in transit shall not be more burdensome than necessary to:

Implementation

The present formalities, documentation requirements, and customs controls in connection with traffic in transit have not been more burdensome for enterprises.

General Comment

The implementation is adequate.

- (a) identify the goods; and

(b) ensure fulfilment of transit requirements.

7. Once goods have been put under a transit procedure and have been authorized to proceed from the point of origination in a Member's territory, they will not be subject to any customs charges nor unnecessary delays or restrictions until they conclude their transit at the point of destination within the Member's territory.

Implementation

According to Decree of GACC No. 38 Measures of the People's Republic of China on Customs Supervision and Administration of Goods in Transit, administrative expenses may be incurred by the use of customs convoys. But the expenses will not be incurred because they are not included in the lists of administrative charges of national and central government departments, or the current list of administrative charges of the customs. (Links 1, 2 and 3)

Goods in transit are not subject to any customs charges nor unnecessary delays or restrictions throughout the present process.

General Comment

The Customs of China meets such requirement.

Links

1. List of administrative charges for national institutions, central departments and companies does not include this charge item: <http://www.customs.gov.cn/publish/portal0/tab49588/info783698.htm>
2. The list of current administrative charges of China Customs: <http://www.customs.gov.cn/publish/portal0/tab49588/info719580.htm>
3. Cai Shui No.102 [2015] Notice on Publishing the Cancellation and Exemption of Some Administrative Charges: http://www.bjciq.gov.cn/shoufei/Channel_2303/

8. Members shall not apply technical regulations and conformity assessment procedures within the meaning of the Agreement on Technical Barriers to Trade

to goods in transit.

Implementation

At present, China's authority of transit has not applied technical regulations and conformity assessment procedures within the meaning of the Agreement on Technical Barriers to Trade to goods in transit.

General Comment

The implementation is adequate.

9. Members shall allow and provide for advance filing and processing of transit documentation and data prior to the arrival of goods.

Implementation

The Customs of China allows advance filing and processing of transit documentation and data.

General Comment

The implementation is adequate.

10. Once traffic in transit has reached the customs office where it exits the territory of a Member, that office shall promptly terminate the transit operation if transit requirements have been met.

Implementation

Generally, once traffic in transit has reached the customs office where it exits the territory, the Customs of China will promptly terminate the transit operation if transit requirements have been met.

General Comment

The implementation is adequate.

11. Where a Member requires a guarantee in the form of a surety, deposit or other appropriate monetary or non-monetary instrument for traffic in transit, such guarantee shall be limited to ensuring that requirements arising from such

traffic in transit are fulfilled.

Laws and Regulations

The Customs of China has such regulation. Article 5 of Decree of the State Council No. 581 Regulations of the People's Republic of China on Guarantee for Customs Affairs stipulates that "where a party engages in goods and traffic in transit, he or she shall provide guarantee as required by the customs." (Link 1)

General Comment

The implementation is adequate.

Links

1. Decree of the State Council No. 581 Regulations of the People's Republic of China on Guarantee for Customs Affairs: http://www.gov.cn/zwggk/2010-09/19/content_1705914.htm

12. Once the Member has determined that its transit requirements have been satisfied, the guarantee shall be discharged without delay.

Laws and Regulations

China Customs has such arrangement. Regulations of the People's Republic of China on Guarantee for Customs Affairs provides that "when a party has fulfilled the relevant legal obligations or a party of the customs has ceased handling specific customs affairs, the party shall be notified in writing to complete formalities of the discharge of the guarantee and the restoration of the rights."

General Comment

The implementation is adequate.

Links

1. Decree of the State Council No. 581 Regulations of the People's Republic of China on Guarantee for Customs Affairs: http://www.gov.cn/zwggk/2010-09/19/content_1705914.htm

13. Each Member shall, in a manner consistent with its laws and regulations, allow comprehensive guarantees which include multiple transactions for same operators or renewal of guarantees without discharge for subsequent consignments.

Laws and Regulations

China Customs allows comprehensive guarantees which include multiple transactions for same operators.

Article 5 of Decree of the State Council No. 581 Regulations of the People's Republic of China on Guarantee for Customs Affairs provides that "where a party engages in goods and traffic in transit, he or she shall provide guarantee as required by the customs."

Article 11 reads, "The party that handles the same kind of customs affairs more than once within a specific period may apply to the customs for comprehensive guarantees. Where customs accepts the comprehensive guarantees, the party will no longer provide any separate guarantee when he or she handles the same kind of customs affairs." (Link 1)

General Comment

The implementation is adequate.

Links

1. Decree of the State Council No. 581 Regulations of the People's Republic of China on Guarantee for Customs Affairs: http://www.gov.cn/zwgk/2010-09/19/content_1705914.htm

14. Each Member shall make publicly available the relevant information it uses to set the guarantee, including single transaction and, where applicable, multiple transaction guarantee.

Laws and Regulations

China Customs has such arrangement.

Decree of GACC No. 88 provides, "A transportation enterprise

undertaking goods under customs supervision, according to the provisions of Articles 67 and 68 of Customs Law, shall have the guarantee as provided by any legal person, other organization or citizen that has the ability of performing the guarantee for customs affairs."

General Comment

The implementation is adequate.

Links

1. Decree of GACC No.88 Administrative measures of Customs of People's Republic of China on vehicle (including driver) driving on domestic highway that responsible for the transport of goods, which are controlled by customs: <http://www.customs.gov.cn/publish/portal0/tab399/info4057.htm>

Decree of GACC No.121 The decision on amending GACC No.88: <http://www.customs.gov.cn/publish/portal0/tab49659/info11105.htm>

15. Each Member may require the use of customs convoys or customs escorts for traffic in transit only in circumstances presenting high risks or when compliance with customs laws and regulations cannot be ensured through the use of guarantees. General rules applicable to customs convoys or customs escorts shall be published in accordance with Article 1.

Laws and Regulations

China Customs has such provision.

Article 13 of Decree of GACC No. 38 Measures of the People's Republic of China on Customs Supervision and Administration of Goods in Transit provides, "After the entry of and before the exit of goods in transit, they shall be transported along the route as planned by the authorities of transportation; if the authorities of transportation do not plan the route, customs shall designate a route instead.

Based on the actual situation, when customs needs to dispatch personnel to guard the goods in transit, the operator or the carrier shall provide means of transportation free of charge and facilitate the mission of supervision and pay the charges according to regulations."

Implementation

In practice, it is rare that customs needs to dispatch personnel to guard the goods in transit.

General Comment

The implementation is adequate.

16. Members shall endeavour to cooperate and coordinate with one another with a view to enhancing freedom of transit. Such cooperation and coordination may include, but is not limited to, an understanding on:

Implementation

China has such arrangement. (Link 1) For example, China signed agreement with Russia on goods in transit through the territory of Kazakhstan. China also reinitiated the agreement with Pakistan, Kazakhstan, and Kyrgyzstan on traffic in transit.

Links

1. China and Russia signed an agreement on temporary transit of freight vehicles through the territory of Kazakhstan: http://www.moc.gov.cn/zhuzhan/jiaotongxinwen/xinwenredian/201512xinwen/201512/t20151217_1949322.html

2. Economic Corridor, the reset transit transport protocol signed jointly by China, Pakistan, Kazakhstan, Kyrgyzstan, is expected to speed up:

<http://world.huanqiu.com/hot/2015-09/7449434.html>

(a) charges;

(b) formalities and legal requirements; and

(c) the practical operation of transit regimes.

17. Each Member shall endeavour to appoint a national transit coordinator to which all enquiries and proposals by other Members relating to the good functioning of transit operations can be addressed.

Implementation

Departments of economy and trade and transportation of the state are national transit coordinators.

Article 3 of Decree of GACC No. 38 Measures of the People's Republic of China on Customs Supervision and Administration of Goods in Transit provides, "Transit goods from countries which have entered into agreements on transit goods with China or transit goods shipped from or to countries which have entered into agreements on international railroad through-transportation with China shall be allowed to pass through China pursuant to the provisions of the relevant agreements; and transit goods of countries which have not entered into the aforesaid agreements with China shall be allowed to pass through China upon approval from the economic and trade and the transport administrative departments of the state and recordation with the customs office at the place of entry."

General Comment

The implementation is adequate.

Special Reports on Major Progresses of Trade Facilitation in China

Introduction to the Integration of Nationwide Customs Clearance Systems

Yu Deshui, and Li Zhuo

Definition

One of the core content of the integration of customs clearance is to optimize the customs clearance operation process through "one-time submission, step-by-step treatment" and "self-declaration, self-payment" of customs duties. The other one is to give the choice of the declaration place of the import and export goods to enterprises through the adjustment of the internal organization and the expansion of the system function.

Documents Issued by the State Council

The Notice of the State Council on the Issuance of Implementing the Reform Plan on "Three Mutuality" to Promote the Construction of Integrated Customs Clearance (Guofa [2014] No. 68) put forward the requirement to promote the management of integrated customs clearance, which includes strengthening the cross-department and cross-region coordination in customs clearance, speeding up the management of integrated customs clearance among inland, costal areas and areas along the border, and achieving the target that all customs declaration and inspection procedures can be done either at the port of the import and export goods or by the customs and quarantine and inspection agencies where the declarant locates.^①

Documents Issued by the General Administration of China Customs (GACC)

To promote the reform of customs clearance integration, the GACC has released following documents:

The General Plan of Comprehensive Reform of Customs (2014–2020)

The Plan on Nationwide Reform Framework of Integration of Customs Clearance^②

The Implementation Plan of Customs "On-time submission, Step-by-Step

^① The Notice of the State Council on the Issuance of Implementing the Reform Plan on "Three Mutuality" to Promote the Construction of Integrated Customs Clearance (Guofa No. [2014] 68), http://www.gov.cn/zhengce/content/2015-02/03/content_9448.htm

^② More information about the release of The General Plan of Comprehensive Reform of Customs (2014–2020) and The Plan on Nationwide Reform Framework of Integration of Customs Clearance, please see the 2016 Customs Reform Map I - Reform Pilots of Nationwide Integration of Customs Clearance by the Wechat official account Customs Release, 9th January 2017, https://mp.weixin.qq.com/s?src=3×tamp=1509249738&ver=1&signature=qp1dXuVKJa82JmGLWLVlGE8yscaZ39a1nwbrXI6T2lo0F-gqD8ojwbyDEie0WoAxXz4ScBnPS*fgmx3-kwYlgFVPWwVN0m6uYFY8ZNI*z5SipmSp57avsHAsPKMxxAVqIhcJE3wN5tbZ-mAHtqETHPicWijXIZnksHoAuwKgm1M=

Treatment"^①

The Notice on Promoting the Reform in the Integration of Nationwide Customs Clearance (GACC Notice No. 25 in 2017)^②

Reform in the Customs Clearance Practice

Facilitating customs clearance: to achieve the integration of customs clearance, on 1st July 2017, the GACC launched the National Customs Risk Control Center and the National Tariff Collection and Administration Center. And on 10th September 2017, China introduced the measures that importer and exporter can choose the declaration place by themselves. Until the date of completing this report, which is 31st October 2017, the system of self-determined declaration place of import and export covers all the ports and all import and export goods nationwide except that of railway transportation.

Efficient customs clearance: through the reform in customs clearance practice of "one-time submission, step-by-step treatment", the efficiency of customs clearance has been greatly improved, the procedures of customs clearance at ports have been simplified and the clearance time at ports has been shortened.

Unified law enforcement: After the establishment of the Tariff Collection and Administration Center, the review of tariff criteria such as classification, price and origin of import and export goods is standardized nationwide, so the law enforcement by customs is more unified.

I The Customs' "Two Centers"

In the reform of integration of customs clearance, the GACC has set up the Risk Control Center and the Tariff Collection and Administration Center separately to replace the previously existing reviewing departments at local customs.

The "two centers" are:

1. The GACC Risk Control Center + N1 the GACC Risk Control Center (Shanghai), + N2 the GACC Risk Control Center (Qingdao) is responsible for import and export goods via water transportation, responsible for import and export goods via air transportation + N3 the GACC Risk Control Center (Huangpu), responsible for import and export goods via

① Interpretation of Customs Management of Enterprises'Credit, PPT document, <https://wenku.baidu.com/view/9b772919580102020740be1e650e52ea5518cebe.html>

② Interpretation of Customs Management of Enterprises'Credit, PPT document, <https://wenku.baidu.com/view/9b772919580102020740be1e650e52ea5518cebe.html>

land transportation and the follow up supervision of all import and export goods.^①

2. The GACC Tariff Collection and Administration Center + N1 the GACC Tariff Collection and Administration Center (Shanghai) is responsible for the category of machinery and electrical products (categories of machinery and electrical, instruments and transportation), which covers 2286 code items in all 8 chapters of No. 84–87 and No. 89–92 in the HS Code. +N2 The GACC Tariff Collection and Administration Center (Guangzhou) is responsible for the category of chemical products (chemical raw materials, polymer, energy, mineral products, metals, etc.), which includes 2800 code items in all 30 chapters of No. 25–29, No. 31–40, and No. 68–83 in the HS Code. +N3 The GACC Tariff Collection and Administration Center (Beijing and Tianjin) is responsible for agriculture and forestry, foodstuffs, medicines, light industrial products, miscellaneous, textiles, aircrafts and others, which includes 3461 code items in all 58 chapters of No. 1–24, No. 30, No. 41–67, No. 88 and No.93–97.^②

II One-time Submission, Step-by-Step Treatment

In the integrated customs clearance, all import and export goods follow the new customs clearance model of "one-time submission, step-by-step treatments" and "self-declaration, self-payment" by enterprises. In this model, customs approve the safety and security of the declaration data through automatic information system and manual review, and review and classify the duties risk comprehensively, then base on this, customs take relevant management measures.

The fundamental characteristic of "one-time submission, step-by-step treatment" is that it ensures most import and export goods, which comply with Customs' requirements, of which the tariff is timely paid or is sufficiently guaranteed, be released through green channel automatically and the remaining goods, which are in system and are subject to tariff, can be delivered after submitting guarantees. This complies with the requirement of the 7.3 Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges in Article 7 in the WTO Trade Facilitation Agreement.

III "Self-declaration, self-payment": prior to the reform, the practice is that the customs reviews the tariff criteria, conducts price negotiation and implements inspections

① International Business Daily: the GACC Risk Control Center (Qingdao) is launched, 6th July 2017, <http://www.customs.gov.cn/publish/portal105/tab71519/info857102.htm>

② Integration of Nationwide Customs Clearance System | All About Tariff Collection and Administration Center, 1st July 2017, Wechat official account of 12360 Customs Hotline, https://mp.weixin.qq.com/s?src=11×tamp=1509253061&ver=481&signature=XGBzInT946mfVH7bM1*C39NC5duD8—Sk6Z—fKFBpTcrzshaC3c3186q3sDmPFafvTOB2qR0zDu*cl—F9fF422SYfKD80DpOJSAvl6cXQKVss6OrrAP0YH8uo—H2Z5iK&new=1

after accepting enterprises' submission. The customs allows the release of goods once enterprises finish the payment according to the tariff amount approved by customs. In the system of "self-declaration, self-payment", after customs declaration of most regular import and export goods, import and export enterprises will receive the receipt from the customs system of confirmation of receiving submission in a short time, then they can immediately handle the tariff payment procedures directly and obtain the release order from customs. After the release of goods, customs can conduct sample inspections on tariff criteria such as price, classification and origin of import and export goods. When necessary, customs can conduct review and assessment of tariff criteria prior to release.

The Interim Management Measures of Enterprises Credits Administration of Customs of People's Republic of China and the AEO

Xiong Bin

Requirements in the State Council Documents

In June 2014, the State Council published the Outline of the Plan of the Construction of the Social Credits System (2014–2020) and required all departments and sectors to promote the construction of social credit system, following the principle of "motivating compliance and penalizing non-compliance".

Guiding Opinions of the State Council on Establishing and Improving the System of Motivating Compliance and Penalizing Non-Compliance Coordinately to Speed up the Construction of Social Integrity (Guofa 2016 No. 33)

Opinions on Promoting the Institutionalization of Construction of Integrity (Wenmingwei 2014 No. 7)

Documents Issued by the General Administration of China Customs (GACC)

To integrate the requirements of the AEO system, China's customs focuses on the top-level design and the construction of credit system of the import & export. Based on the Management Measures of the Classified Management of Enterprises of the Customs of People's Republic of China (GACC Order No. 197), including the Interim Management Measures of Enterprises Credits Management of Customs of People's Republic of China (GACC Order No. 225), there are ten standards and codes have been published in the form of ministerial regulations. The original Customs' Management Measures of Enterprises Classification was upgraded to the Customs' Enterprises Credits Management, and a relatively complete credit management system of import and export has been established initially.

Interim Management Measures of Enterprises Credits Management of Customs of People's Republic of China (GACC Order No. 225)

Notice on Publishing Format of Legal Documents Relevant to the Interim Management Measures of Enterprises Credits Administration of Customs of People's Republic of China (GACC Notice 2014 No. 75)

Relevant Items of the Implementation of the Interim Management Measures of

Enterprises Credits Administration of Customs of People's Republic of China (GACC Notice 2014 No. 81)

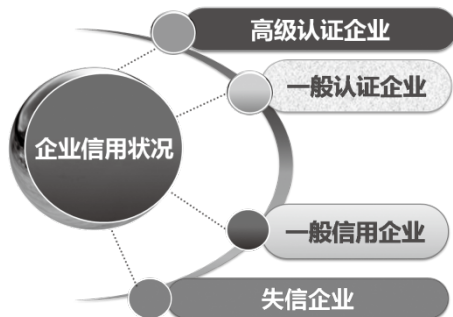
Customs' Standards on Authorized Enterprises (GACC Notice 2014 No. 82)

Joint-Ministerial Documents

To establish and improve the joint motivation mechanism of motivating compliance and to improve the integrity system in the area of import and export, the Cooperation Memorandum on Implementing Joint Motivation Measures on the Advanced Authorized Enterprises by Customs (Fagaicaijin 2016 No. 2190) were jointly signed by the National Development and Reform Commission, the People's Bank, the GACC, the Central Propaganda Department of the Communist Party of China (CPC), the Central Office of Civilization of the CPC, the Ministry of Education, the Ministry of Industry and Information Technology, the Ministry of Public Security, the Ministry of Finance, the Ministry of Human Resource and Social Security, the Ministry of Land and Resource, the Ministry of Environment Protection, the Ministry of Housing and Rural Development, the Ministry of Transportation, the Ministry of Water Resource, the Ministry of Agriculture, the Ministry of Commerce, the Ministry of Culture, the National Health and Family Planning Commission, the State-Owned Assets Supervision and Administration Commission, the State Administration of Taxation, the State Administration of Industry and Commerce, the General Administration of Quality Supervision, Inspection and Quarantine, the General Administration of Safety Supervision, the China Food and Drug Administration, the State Forestry Administration, the State Intellectual Property Office, the National Tourism Administration, the State Council Legislative Affairs Office, the Cyberspace Administration of China, the China Banking Regulatory Commission, the China Security Regulatory Commission, the China Insurance Regulatory Commission, the State Administration of Foreign Exchange, All-China Federation, the Central Committee of the Communist Young League, the National Federation of Women, the National Federation of Industry and Commerce, the China Council for the Promotion of International Trade and the China Railway Corporation

China's AEO Authorized Enterprises Classification

According to the enterprises' credits status, customs classifies enterprises to certified enterprises, general-credit enterprises and discredited enterprises. The certified enterprises, as AEO certified enterprises, are classified as Advanced Certifying Enterprise (ACE) and General Certifying Enterprise (GCE).



The Progress of International Recognition for China AEO

In the recent years, China customs has promoted the AEO international mutual recognition, offering joint motivation measures among international customs to China Advanced Certified Enterprises and provided the most favorite trade facilitation to support them going abroad.

By August 2017, China has reached AEO mutual recognitions with 33 countries and regions including Singapore, South Korea, HKSAR, the European Union, Taiwan, Switzerland, New Zealand etc. . The export value for the mutual recognized AEO is about 40% of China's total export and growing continuously.

Currently, China customs follows the deployment of national "One Belt and One Road Initiative" and promotes the international mutual AEO recognition with key trade partners such as the U.S. as well as Russia and other countries such as Kazakhstan, Israel, India, Turkey and Egypt. This will maximize the domestic and international customs clearance facilitation of Chinese enterprises, strengthen their competitiveness in international markets and promote the stabilization of China's foreign trade.

It is estimated that by 2020, China's customs will try to achieve the results that 80% of the total export are from AEO mutual recognized countries or regions. At that time, AEO enterprises will enjoy more benefits and facilitation in key countries and regions worldwide, which will contribute to the better development of the enterprises.

China-Singapore AEO Mutual Recognition^①

The China-Singapore Free Trade Zone Negotiation started in August 2006. After eight rounds of negotiations, both parties concluded the negotiation in September 2009 and signed the People's Republic of China and Singapore Free Trade Agreement (hereinafter referred to as the Agreement).

The Agreement covers trade in goods, trade in services, movement of persons, customs procedures and other areas. It is a comprehensive free trade agreement.

^① China-Singapore AEO Mutual Recognition Improve Customs Clearance Efficiency, <http://www.customs.gov.cn>.

According to the Agreement, Singapore promised to eliminate tariff on all products imported from China starting from 1st January 2009; China promised to apply zero tariffs to 97.1% of products imported from Singapore by 1st January 2012. Both parties made commitment that is higher than the WTO commitment in service sectors such as healthcare, education and accounting.

The Agreement promulgates that in the cooperation framework of Free Trade Zone; both parties shall deepen the cooperation of customs from both countries in risk management, shall simplify customs procedures and shall improve the customs clearance facilitation of goods and transportation tools.

Based on the China–ASEAN Free Trade Agreement (FTA), both parties have speeded up the trade liberalization and enhanced the scope of bilateral free trade relations as well as the cooperation in economic and trade.

In June 2012, China and Singapore signed the Mutual Recognition Arrangement between the GACC and Singaporean Customs on the Management Measures of Enterprises Classification of the Customs of the People's Republic of China and the Singaporean Safety Trade Partners Plan. This is the first AEO mutual recognition arrangement signed by the GACC.

China–Singapore AEO Mutual Recognition Agreement is an important achievement based on the FTA and it expands the space for further development of trade between both parties forcefully.

Among them, the AEO enterprises of Singaporean customs refer to STP+ enterprises. Singaporean customs STP enterprises are the enterprises that are graded by the Singaporean customs as the highest level of safe trade. STP refers to Secure Trade Partnership, and they enjoy preferential treatment in trade in Singapore.

For more information on the implementation of China–Singapore AEO mutual recognition, please see the Notice of the GACC on the Comprehensive Implementing the Mutual Recognition with Singapore Customs of Authorized Economic Operator (AEO) (GACC Notice 2013 No. 13).^①

China–South Korea AEO Mutual Recognition

On 27th June 2013, China and South Korea signed the AEO mutual recognition arrangement. This is the second AEO mutual recognition arrangement signed by the GACC.

① GACC Notice 2013 No. 13, Notice of the GACC on the Comprehensive Implementing the Mutual Recognition with Singapore Customs of Authorized Economic Operator (AEO), <http://www.customs.gov.cn/publish/portal0/tab3889/module1188/info421594.htm>.

Since China and South Korea implemented the AEO mutual recognition, the average customs clearance speed of products exported by China's AEO enterprises in South Korea has improved at least 30%. In the Qingdao customs area, where the trade volume with South Korea is relatively large, the trade with South Korea has increased y-o-y 16.7% from January to September in 2015.^①

The cooperation between China's customs and South Korean customs includes:

- (1) AEO questionnaires,
- (2) Research on economic benefits from the AEO mutual recognition between China and South Korea,
- (3) Joint introduction to the AEO mutual recognition arrangement between China and South Korean (Seoul and Busan in South Korea, Nanjing and Qingdao in China).

For more information on the implementation of AEO mutual recognition between China and South Korea, please see the Notice on the Official Implementation of Mutual Recognition of Authorized Economic Operator between China's Customs and South Korean Customs (GACC Notice 2014 No. 20).^②

Mainland–Hong Kong AEO Mutual Recognition^③

In 2003, Mainland and the government of Hong Kong Special Administrative Region (HKSAR) signed the Closer Economic Partnership Arrangement (CEPA) between Mainland and Hong Kong. Complementary agreements have been signed afterwards.

CEPA is a free trade agreement signed between Mainland China and Hong Kong SAR and this is the first FTA fully implemented in Mainland.

The AEO mutual recognition agreement between the customs of Mainland and Hong Kong is an important result of cooperation between customs of both parties based on the CEPA. This is the third AEO mutual recognition arrangement by the GACC after the Sino–Singaporean and Sino–South Korean arrangement. For the authorized enterprises that enjoy good reputation, customs clearance facilitation will be given by the customs of Mainland and Hong Kong.

For more information on the implementation of AEO mutual recognition between Mainland and Hong Kong, please see the Notice on Implementing the Mutual Recognition

① Xinhua: The Mutual Recognition Arrangement of Authorized Economic Operator between China–EU Customs Will be Implemented.

② GACC Notice 2014 No. 20, the Notice on the Official Implementation of Mutual Recognition of Authorized Economic Operator between China's Customs and South Korean Customs, <http://www.customs.gov.cn/publish/portal0/tab49564/info697513.htm>.

③ Customs of Mainland and Hong Kong Achieved AEO Mutual Recognition, <http://finance.ifeng.com>.

of Authorized Economic Operator (AEO) Between the Customs of Mainland and Hong Kong at the Land-Way Port (GACC Notice 2014 No. 38) and the Notice on Comprehensive Implementation of the Mutual Recognition of Authorized Economic Operator (AEO) Between the Customs of Mainland and Hong Kong (GACC Notice 2014 No. 64).^①

China-EU AEO Mutual Recognition

In May 2014, the China Customs and the Taxation and Customs Union of the European Commission officially signed the Decision of the China-EU Joint Customs Cooperation Committee on Establishing the Mutual Recognition Arrangements between the Customs of the People's Republic of China and the Taxation and Customs Union of the European Commission on the System for Classified Management of Enterprises and the System for Authorized Economic Operators under the Agreement between the Government Of the People's Republic Of China and the European Community on Cooperation and Mutual Administrative Assistance in Customs Matters (hereinafter referred to as the "MRA Decision").

According to the joint consensus reached in June 2015, both customs revised the MRA Decision and decided to implement the mutual recognition arrangement on 1st November 2015 officially.

After the implementation of mutual recognition agreement, when around 3000 Chinese advanced authorized AEO enterprises export goods to the EU, they will enjoy the same customs clearance facilitation as the European AEO enterprises in the 28 EU member states when going through customs. According to the preliminary estimation, the average inspection rate of custom clearance reduced around 70% and the clearance speed improved 50%. This has reduced the trade costs of enterprises in port, insurance and logistic effectively.

For more information on the implementation arrangement of AEO mutual recognition between China and the EU, please see the Notice on Implementing the Arrangements for the China-EU Mutual Recognition of "Authorized Economic Operators" (GACC Notice 2015 No. 52).^②

① GACC Notice 2014 No. 38, Notice on Implementing the Mutual Recognition of Authorized Economic Operator (AEO) Between the Customs of Mainland and Hong Kong at the Land-Way Port, <http://www.customs.gov.cn/publish/portal0/tab49564/info706422.htm>, GACC Notice 2014 No. 64, the Notice on Comprehensive Implementation of the Mutual Recognition of Authorized Economic Operator (AEO) Between the Customs of Mainland and Hong Kong, <http://www.customs.gov.cn/publish/portal0/tab49564/info717348.htm>.

② GACC Notice 2015 No. 52, Notice on Implementing the Arrangements for the China-EU Mutual Recognition of "Authorized Economic Operators", <http://www.customs.gov.cn/publish/portal0/tab49564/info776764.htm>

Mainland–Taiwan AEO Mutual Recognition

Starting from 1st October 2016, the customs of both sides of the Taiwan Straits has implemented pilot on mutual recognition of authorized economic operator (AEO)

The cooperation between the customs of both sides of the Taiwan Straits includes:

(1) Both sides agreed to recognize the Taiwan Security Authorized Quality Enterprises (AEO enterprises in Taiwan) and Mainland Advanced Authorized Enterprises (AEO enterprises in Mainland China),

(2) the implementation of pilot mutual recognition is planned to start on the 1st October 2016,

(3) The pilots are only planned in the customs of arrival port of Nanjing, Fuzhou and Xiamen in Mainland and in the customs of arrival port of Kaohsiung and Keelung in Taiwan. The pilot only applies to goods via water transportation.

(4) Preferential treatments have been identified and include applying relatively low inspection rate of import goods, simplifying certificates review and priority clearance.

For more information on the Implementation of AEO mutual recognition between Mainland and Taiwan, please see the Notice on the Pilot Mutual Recognition of Authorized Economic Operator (AEO) Between Both Sides of the Taiwan Straits (GACC Notice 2016 No. 49).^①

China–Switzerland AEO Mutual Recognition^②

As the first intergovernmental AEO mutual recognition after the launch of AEO system, the AEO mutual recognition between the China customs and the Swiss Customs has implemented since 1st Sept 2017.

Switzerland is the first continental European country that signed and implemented the FTA with China. After the implementation of the AEO mutual recognition between China and Switzerland, the AEO enterprises of both countries will enjoy multiple facilitation measures such as reduced goods inspection, recognized as secure trade partners, prioritized treatment guarantee and speed clearances. The average inspection rate and clearance time will reduce around 50%. By the end of September 2017, there are around 22300 enterprises involved in import and export business between China and Switzerland, and among them, 1000 enterprises that have advanced authorization will enjoy the trade facilitation at first.

① GACC Notice 2016 No. 49, the Notice on the Pilot Mutual Recognition of Authorized Economic Operator (AEO) Between Both Sides of the Taiwan Straits, <http://www.customs.gov.cn/publish/portal0/tab49661/info817795.htm>.

② China–Switzerland Customs AEO Mutual Recognition Implements on 1st September, China News, <http://news.china.com/news100/11038989/20170810/31070664.html>.

For more about the implementation of the AEO mutual recognition between China and Switzerland, please see the Notice on the Implementing the Mutual Recognition of Authorized Economic Operator (AEO) between China Customs and Swiss Customs (GACC Notice 2017 No. 40).^①

The AEO Authorization Criteria of China Customs

Referred to the WCO SAFE framework, China customs formulated the AEO Certifying Criteria in the GACC Notice 2014 No. 82. It is classified as criteria for Advanced Certifying Enterprises and criteria for General Certifying Enterprises.

The current criteria for Advanced Certifying Enterprises is drafted in a way that they basically follow the criteria for AEO in the WCO SAFE, and they also include contents targeting the features of the administration of China customs and Chinese enterprises.

The criteria for AEO in the WCO SAFE are fully reflected in the China AEO criteria. Through enterprises' AEO authorization, China customs has collected best practice continuously, promoted the further quantization of relevant criteria and revised the criteria targeting industrial features.

China AEO Certifying Criteria

I. About the Classification of Certifying Criteria

The certifying criteria are classified into 32 items in 18 clauses in five categories, including internal control, financial status, compliance, trade security and bonus criteria. The first four categories are basic criteria and the fifth one is bonus criteria.

II. About Scoring rules of Certifying criteria

There are two scoring rules:

(1) The first one is: "meeting the target" or "missing the target", and the correspondent score is "0" or "-2" respectively;

(2) The second one is: "meeting the target", "partially meeting the target" or "missing the target", and the correspondent scores is "0", "-1", or "-2" respectively.

III. The condition for passing certification

If an enterprise meets both the following criteria at the same time and is recognized by customs:

^① GACC Notice 2017 No. 40, the Notice on the Implementing the Mutual Recognition of Authorized Economic Operator (AEO) between China Customs and Swiss Customs, <http://www.customs.gov.cn/customs/302249/302266/302269/729246/index.html>.

(1) There is no "missing the target" (-2) in any of the basic 31 clauses

(2) The total scores of authorization above 95 points (including 95 points)

The total score = 100 + (Sum of Score from Scoring Items)

The Construction and Development of Single-Window in China's International Trade

Guo Guo

Definition

Single window refers to a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfill all import, export, and transit-related regulatory requirements. If information is electronic then individual data elements should only be submitted once.^①

Generally, it is understood that the concept of single window consists of four elements: the first one is one-time submission, which means that enterprises only need to submit relevant information to competent authorities once; the second one is through one single entry point, which has a uniformed platform or unified computer interface; the third is to use unified standards on data; and the fourth is able to fulfill the requirements of government administration agencies and enterprises.

Requirements in the State Council Documents

State Council's Several Opinions on Supporting the Steady Growth of International Trade (Guobanfa [2014] No. 19)^②

The Notice of the State Council on the Issuance of Implementing the Reform Plan on "Three Mutuality" to Promote the Construction of Integrated Customs Clearance (Guofa [2014] No. 68)^③

2016 Report on the Work of the Government^④

The Framework Opinions of the National Port Administration Office on the Construction of International Trade "Single Window" (Shu'an Letter [2016] No. 498)^⑤

① Economic Commission for Europe, UN/CEFACT, Recommendation and Guidelines on establishing a Single Window to enhance the efficient exchange of information between trade and government (Recommendation No. 33), P3, <http://www.unece.org/tradewelcome/un-centre-for-trade-facilitation-and-e-business-uncefact/outputs/cefactrecommendationsrec-index/list-of-trade-facilitation-recommendations-n-31-to-36.html>

② http://www.gov.cn/zhengce/content/2014-05/15/content_8812.htm

③ The Notice of the State Council on the Issuance of Implementing the Reform Plan on "Three Mutuality" to Promote the Construction of Integrated Customs Clearance (Guofa [2014] No. 68), http://www.gov.cn/zhengce/content/2015-02/03/content_9448.htm

④ Report on the Work of the Government, http://news.xinhuanet.com/fortune/2016-03/05/c_128775704.htm

⑤ The State Council Office of Inter-Ministerial Joint Meeting on Port Administration Issued The Framework Opinions of the National Port Administration Office on the Construction of International Trade "Single Window", <http://www.singlewindow.cn/tzgg/1652.jhtml>

Documents by the Customs and Relevant Ministries

Cooperation Memorandum on Deepening Cooperation in Customs and Inspection to Jointly Promote the Stable Growth of International Trade between the General Administration of Customs (GAC) and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ)^①

The Structure of Single Window Construction

The basic structure of the overall layout of single window construction is described as followed: at central level, the China E-Port Platform is used for integration of systems of local ports management and departments relevant to international trade in a "central-to-central" approach to achieve exchange and sharing of information as well as data, and to match international cooperation.^②

China has now launched a standardized version of international trade single window. Those existing local single window will be upgraded according to the unified standards and codes and will change to the standardized version. For those places that don't have a single window system, in principle it is suggested to promote the use of standardized version. Further, those places that don't have an E-port platform, they can rely on the China E-Port Platform and use the standardized version.^③

Reform in the Customs Clearance Practice Procedures

On 31st Dec 2016, the unified portal website "China International Trade Single Window" was officially launched online.^④

In the early pilot period, the standardized version of "single window" achieves seven basic functions including declaration of goods, manifest declaration, declaration of transportation, enterprise qualification, application of certificate of origin and application of licenses (Release Note of Registration Management of Import and Export of Pesticide, Import and Export Certificate of Wildlife and the Release Note of Import and Export of Hazardous Chemical Substance) and search as well as statistics. All these functions will be promoted to all ports nationwide. Besides, in some areas, pilot on application of license of

① GAC and AQSIQ Signed Memorandum to Deepen the Cooperation in Customs and Inspection to Jointly Promote the Stable Growth of International Trade, <http://www.customs.gov.cn/publish/portal0/tab49564/info713442.htm>

② The State Council Office of Inter-Ministerial Joint Meeting on Port Administration Issued The Framework Opinions of the National Port Administration Office on the Construction of International Trade "Single Window", <http://www.singlewindow.cn/tzgg/1652.jhtml>

③ GAC: Promote the Standardized Version of International Trade Single Window, <http://www.customs.gov.cn/publish/portal0/tab44653/info841912.htm>

④ About Us, <http://www.singlewindow.cn/gywm/index.jhtml>

automatic import (machinery and electrical products) will be launched.^①

Development Goals

The standardized version of single windows has now been launched online in more than 20 provinces and cities. According to the requirement, the standardized version of international trade single window shall be launched at all ports nationwide by the end of 2017.^②

① The 6th Meeting of the Leading Small Group of Construction of Single Window Was Held In Beijing, <http://www.singlewindow.cn/xwdt/2600.jhtml>

② Li Keqiang: Speed Up the Construction of International Trade Single Window and All Ports Nationwide Covered by the Standardized Version, <http://www.singlewindow.cn/xwdt/1960.jhtml>

Quantitative Assessment on Trade Facilitation in China

Quantitative Assessment on Trade Facilitation in China

Beijing Re-code Trade Security and Facilitation Research Center

Aiming to conduct a quantitative assessment, which as part of Trade Facilitation Annual Report of China, Beijing Re-code Trade Security and Facilitation Research Center designed a specific questionnaire based on “Trade Facilitation Indicator System” developed by OECD and organized professionals for this assessment. Besides 7 members from the workgroup of this report, another 14 external professionals^① were invited to participate the assessment of version 2017.

By statistics on the questionnaires filled by the professionals, this quantitative report is completed as a sub-report of Trade Facilitation Annual Report of China to give assessment of 17 aspects involving trade facilitation, which will enable readers to understand the current situation of the trade facilitation of China intuitively and provide policy advice in the fields of trade facilitation.

1 Methodology

1.1 Design of Indicator System

The indicator system of this report mainly makes reference to “Trade Facilitation Indicator System” applied in multiple relevant reports of OECD, including 17 first-level indicators, in which 100 sub-indicators are distributed.

These first-level indicators and sub-indicators are divided into 3 categories:

- ① Import/export;
- ② Transit;
- ③ Additional indicators.

In these 100 sub-indicators, calculating number of advance ruling requests (total), Customs revenue, the average cost/collection ratio of the Customs service need Customs internal statistical data, which are not available publicly, so they are not covered in this report.

The distribution of the sub-indicators among the first-level indicators is stated in the part of conclusion.

① The invited professionals list: CHEN Jianwen, DENG Fangxing, JIANG Xiaobao, KANG Wenzheng, LI Shuai, LIN Qiwen, LUO Jihua, QIAN Jin, REN Xiu, WANG Xiaoshen, YU Tao, ZHANG Shifang, ZHANG Yong, ZHENG Songlin.

1.2 Scoring Methods

The workgroup in OECD responsible for trade facilitation assessment mainly applied two methods for scoring:

① Direct Score

Based on the information from one economy's Customs official website, Customs code and related laws and regulations, questionnaire surveys targeting certain items, or related authoritative reports released by international organizations, scores on the indicators of this economy shall be given among 0, 1, and 2 points (0 means relative poor performance, 1 means average performance, and 2 means good performance.).

② Indirect Score

Indirect score means to translate related data or scores from some published international reports, databases or other sources into corresponding scores in the report by some kinds of rules.

After sub-indicators being scored, their upper first-level indicators are scored by taking weighted average of them. One economy's Trade Facilitation Index was formed by taking average of 11 indicators in the category of import/export. The import/export trade facilitation indicators are applicable to a large majority of countries or regions, while the transit trade facilitation indicators only apply to the inland countries (regions). In view of this, the OECD selects only 11 indicators of import and export to calculate the "Trade Facilitation Index" to facilitate the comparison. .

The report adjusts the method of OECD in the following aspects:

① Indirect score would not be applied.

All the 97 sub-indicators were scored by 21 professionals in trade-related fields using the method of direct score.

② Use 0–100 as the score range instead of 0–2.

In the method from OECD, assessors could only score 0, 1 or 2. But if some situation can only be described by a figure in between these three scores, it would be hard to give an exact answer. Using 0–100 as the score range avoids this problem and makes the assessment more accurate. In the final conclusions, the report also transforms the scores into 0–2 to facilitate the comparison with the assessment conclusion from OECD.

Apart from the above-mentioned adjustments, the assessment questionnaire sets a benchmark and corresponding items of Trade Facilitation Agreement (including some items from the discussion draft of TFA) following each indicator assessing question. Details could be found in the questionnaire.

1.3 Score Statistics

① Weight Setting of the Sub-indicators

OECD has set a weight to each sub-indicator, but there are still some points that need to be reconsidered. This report applies the weight distribution proposed by three experts of the project, who are among the most authoritative in trade-related field in China. The specific statistical method is as follows:

The three experts separately evaluates the significance of each sub-indicator among these: average, fairly important, important, or extremely important. These evaluations correspond respectively to significance scores: 1, 2, 3, or 4. Then average significance scores from the three experts are counted. The weight of a sub-indicator is calculated by the percentage of its significance score in the sum of the significance scores of all the sub-indicators under their upper first-level indicator. Table 1 is an example, for the final weight setting please see the part of conclusion.

Table 1 How to set the weights of the sub-indicators

	Sub-indicator A	Sub-indicator B	Sub-indicator C
Significance (evaluated by Expert 1)	Average	Fairly important	Extremely important
Significance Score	1	2	4
Significance (evaluated by Expert 2)	Fairly important	Fairly important	Important
Significance Score	2	2	3
Significance (evaluated by Expert 3)	Average	Important	Extremely important
Significance Score	1	3	4
Average Score	4/3	7/3	11/3
Sum. of Average Scores	22/3		

② Weight Setting of the First-level Indicators

It is considered unreasonable that OECD calculates the final Trade Facilitation Index by simply averaging 11 first-level indicators without weight setting. This report sets the weights of the first-level indicators in the same way of the sub-indicators. (For the final weight setting, please see the part of conclusion.)

③ The Score Calculation of the Sub-indicators

The final score of one sub-indicator is the average of its all scores assessed by the professionals who participate in the questionnaire survey.

④ The Score Calculation of the First-level Indicators

Each first-level indicator will be scored based on the sub-indicators subjected to it by the method of weighted average.

⑤ Trade Facilitation Index Calculation

After setting the weight of the first-level indicators according to the previous statement, Trade Facilitation Index can be calculated from the weighted average of the 11 first-level indicators in the import/export category.

2 Assessment Conclusion

All the scores of the first-level indicators and the sub-indicators are shown below:

2.1 Performance of the Import/Export Indicators

Table 2 Scores on the trade facilitation indicators
& the sub-indicators (Import/export)

	Indicator	Weight	Score (0-100)	Score (0-2)
First-level Indicator	I. Information Availability		74.02	1.48
Sub-indicator	1 Establishment of a national Customs website	0.11	81.00	1.62
	2 Publication of rate of duties	0.11	77.48	1.55
	3 Establishment of enquiry points	0.09	71.38	1.43
	4 Possibility to enquire to Customs	0.09	76.43	1.53
	5 Information on import and export procedures	0.10	70.57	1.41
	6 Procedures of border agencies	0.09	74.11	1.48
	7 Procedures published at least xx days before entry into force	0.09	74.15	1.48
	8 Publication of agreements with third countries relating to the above issues	0.08	68.85	1.38
	9 Publication of rules and examples of Customs classification	0.10	70.81	1.42
	10 Transparency of government policymaking	0.11	73.38	1.47
First-level Indicator	II. Involvement of Trade Community		65.14	1.30

Indicator		Weight	Score (0–100)	Score (0–2)
Sub-indicator	11 Communication of policy objectives	0.22	64.52	1.29
	12 Consultations between traders and government	0.30	68.26	1.37
	13 Targeted stakeholders	0.24	62.25	1.25
	14 Adoption of public comments	0.24	64.75	1.30
First-level Indicator	III. Advance Rulings		61.94	1.24
Sub-indicator	15 Issuance of advance rulings	0.17	60.06	1.20
	16 Publication of necessary information on advance rulings	0.16	61.61	1.23
	17 Length of time for which the advance ruling is valid (duration*)	0.12	69.18	1.38
	18 Publication of average issuance time	0.14	55.89	1.12
Sub-indicator	19 Publication of advance rulings of general interest	0.14	66.11	1.32
	20 Possibility to request a review of an advance ruling or its revocation / modification	0.12	61.00	1.22
	21 Refusal to issue or revocation of advance ruling are motivated	0.16	61.13	1.22
First-level Indicator	IV. Appeal Procedures		70.55	1.41
Sub-indicator	22 Publication of necessary information on procedural rules for appeal	0.14	70.79	1.42
	23 Judicial appeal procedures	0.15	75.16	1.50
	24 Time limit for deciding such appeals	0.11	70.89	1.42
	25 Availability of information on the motives of the administration's decisions	0.12	71.67	1.43
	26 Efficiency of legal framework in challenging regulations	0.12	65.67	1.31
	27 Judicial independence	0.14	69.53	1.39
	28 Equality of treatment between national and foreign actors in commercial disputes	0.11	68.59	1.37
	29 Extent of implementation and speed of court rulings in commercial matters	0.12	71.00	1.42
First-level Indicator	V. Fees and Charges		82.27	1.65
Sub-indicator	30 Publication of fees and charges	0.28	79.61	1.59
	31 Evaluation of fees and charges	0.22	75.89	1.52

Indicator		Weight	Score (0–100)	Score (0–2)
Sub-indicator	32 Total fees and charges collected (number and diversity)	0.25	79.12	1.58
	33 Fees for Customs services during normal working hours	0.25	94.05	1.88
First-level Indicator	VI. Formalities – documents		79.89	1.60
Sub-indicator	34 Use of copies	0.17	80.72	1.61
	35 International standards compliance	0.23	82.61	1.65
	36 Number of documents for import	0.19	76.14	1.52
	37 Number of documents for export	0.17	80.81	1.62
	38 Time to prepare documents for import	0.13	75.45	1.51
	39 Time to prepare documents for export	0.13	82.65	1.65
First-level Indicator	VII. Formalities – automation		77.54	1.55
Sub-indicator	40 Percent of procedures that can be expedited electronically (out of the total number of import/export/transit procedures)	0.22	83.38	1.67
	41 Use of risk management	0.22	80.29	1.61
	42 IT Systems capable of accepting EDI and exchanging data electronically	0.20	76.05	1.52
	43 Availability of full-time (24/7) automated processing for Customs agencies	0.20	75.29	1.51
	44 Quality of telecommunications and IT systems of boarder authorities except Customs	0.17	71.00	1.42
First-level Indicator	VIII. Formalities – procedures		77.52	1.55
Sub-indicator	45 Single Window	0.07	65.95	1.32
	46 Publication of average release time	0.07	63.10	1.26
	47 Clearance time	0.07	79.33	1.59
	48 Implementation of pre-arrival Processing	0.05	71.42	1.43
	49 Percent of physical inspections	0.07	86.05	1.72
	50 Physical inspections – as regards perishable/non-perishable goods	0.07	82.76	1.66

Indicator		Weight	Score (0–100)	Score (0–2)
Sub-indicator	51 Efficiency of customs and delivery of imports	0.06	85.00	1.70
	52 Efficiency of customs and delivery of exports	0.05	84.00	1.68
	53 Percent of Post-Clearance Audits (PCAs) carried out	0.07	71.57	1.43
	54 Separation of release from final determination and payment of Customs duties	0.07	71.80	1.44
	55 Treatment of perishable and non-perishable goods concerning the separation of release from final determination and payment of Customs duties	0.07	78.56	1.57
	56 Elimination of pre-shipment inspection	0.05	79.32	1.59
	57 Authorized Operator (AO) programmes	0.05	81.11	1.62
	58 Simplification of procedures (time)	0.06	84.67	1.69
	59 Simplification of procedures (cost)	0.05	81.57	1.63
	60 Adjustment of working hours of Customs personnel to commercial needs	0.04	70.29	1.41
	61 Requirement for mandatory use of a third-party Customs broker	0.04	90.14	1.80
First-level Indicator	IX. Border Agency Cooperation (internal)		67.84	1.36
Sub-indicator	62 Cooperation among border agencies at the national level	0.35	71.63	1.43
	63 Control delegation at the national level	0.35	63.81	1.28
	64 Regular meetings are held at the national level (including training seminars)	0.30	68.12	1.36
First-level Indicator	X. Border Agency Cooperation (external)		70.25	1.41
Sub-indicator	65 Alignment of working days and hours with other neighboring countries at border crossings	0.25	70.06	1.40
	66 Alignment of procedures and formalities with other neighboring countries at border crossings	0.25	71.76	1.44
	67 Development and sharing of common facilities with other neighboring countries at border crossings	0.25	69.81	1.40

Indicator		Weight	Score (0–100)	Score (0–2)
Sub-indicator	68 Joint controls with other neighboring countries at border crossings	0.25	69.38	1.39
First-level Indicator	XI. Governance and Impartiality		76.60	1.53
Sub-indicator	69 Clearly established and transparent structures and functions	0.19	79.00	1.58
	70 Establishment of a code of conduct	0.12	78.94	1.58
	71 Implementation and transparency of sanctions against misconduct	0.14	72.94	1.46
	72 Ethics policy	0.12	72.83	1.46
	73 Clear provisions for the financing of the Customs administration	0.08	78.63	1.57
	74 Internal systems audit	0.08	84.82	1.70
	75 Publication of an annual Customs report	0.12	72.00	1.44
	76 Irregular payments and bribes	0.15	75.90	1.52

The assessment scores show these conclusions:

① Several aspects of fairly good performance (scored more than 70): Information availability, appeal procedures, fees and charges, formalities–documents, formalities–automation, formalities–procedures, border agency cooperation (external), governance and impartiality.

② Several aspects of average performance (scored from 60 to 70): Trade community involvement, advance ruling, border agency cooperation (internal).

2.2 Performance of the Transit and Additional Indicators

Table 3 Scores on the first-level indicators & the sub-indicators (Transit & Additional indicators)

Indicator		Weight	Score (0–100)	Score (0–2)
First-level Indicator	XII. Consularization		80.46	1.61
Sub-indicator	77 Consular transaction requirements	1.00	80.46	0.93

Indicator		Weight	Score (0–100)	Score (0–2)
First-level Indicator	XIII. Transit Fees and Charges		70.84	1.42
Sub-indicator	78 Information availability on transit fees and charges	0.29	67.13	1.03
	79 Prior publication of transit fees and charges	0.25	69.88	1.07
	80 Periodic review of fees and charges and adaptation to changed circumstances	0.25	74.19	1.14
	81 Evaluation of transit fees and charges	0.21	73.19	1.13
First-level Indicator	XIV. Transit Formalities		75.41	1.51
Sub-indicator	82 Information on transit formalities and documentation	0.17	73.53	1.03
	83 Periodic review and adaptation to changed circumstances	0.15	79.00	1.09
	84 There are physically separate border-crossing facilities/infrastructure for transit	0.13	81.33	1.13
	85 Limited physical inspections of goods and use of risk assessment	0.13	74.50	1.15
Sub-indicator	86 Quality controls or technical standards applied	0.17	72.88	1.12
	87 Pre-arrival processing for transit trade	0.10	73.38	1.13
	88 Establishment of Single Window for transit trade	0.17	74.21	0.96
First-level Indicator	XV. Transit Guarantees		75.77	1.52
Sub-indicator	89 Multiple forms of guarantees accepted (bonds, refund, guarantee)	0.19	74.56	1.11
	90 Guarantees are limited to the value of duties and charges	0.23	76.76	1.23
	91 Guarantees supported by regional or international agreements	0.21	73.25	1.09
	92 Prompt and full release of the guarantee	0.19	80.71	1.30
	93 Use of Customs convoys	0.19	73.65	1.45
First-level Indicator	XVI. Transit Agreements and Cooperation		76.28	1.53

Indicator		Weight	Score (0–100)	Score (0–2)
Sub-indicator	94 Bilateral or regional agreements	0.35	81.44	1.21
	95 Agreements on common simplified documents	0.35	71.94	1.11
	96 Transit cooperation	0.30	75.33	1.03
First-level Indicator	XVII. Additional Indicators		68.12	1.36
Sub-indicator	97 Procedures of the minimum tax-free limit	1.00	68.12	1.11

2.3 Overall Assessment

Based on the scores and weights of the first-level indicators (only involving the import/export category), Trade Facilitation Index in this report is calculated:

Table 4 Scores and weights of the first-level indicators (Import/export)

First-level Indicator	Information Availability	Involvement of Trade Community	Advance Rulings	Appeal Procedures
Score(0–100)	74.02	65.14	61.94	70.55
Score(0–2)	1.48	1.30	1.24	1.41
Weight	0.11	0.11	0.09	0.10
First-level Indicator	Fees and Charges	Formalities – documents	Formalities – automation	Formalities – procedures
Score(0–100)	82.27	79.89	77.54	77.52
Score(0–2)	1.65	1.60	1.55	1.55
Weight	0.09	0.09	0.08	0.09
First-level Indicator	Border Agency Cooperation (internal)	Border Agency Cooperation (external)	Governance and Impartiality	
Score(0–100)	67.84	70.25	76.59919773	
Score(0–2)	1.36	1.41	1.53	
Weight	0.09	0.07	0.08	

With calculation, the overall Trade Facilitation Index of China is figured out: 73.05 (0–100) or 1.46 (0–2).

2.4 Comparison with the Assessment by OECD

Through the radar map, it can be compared with the OECD's assessment scores on the trade facilitation of China in 2017:

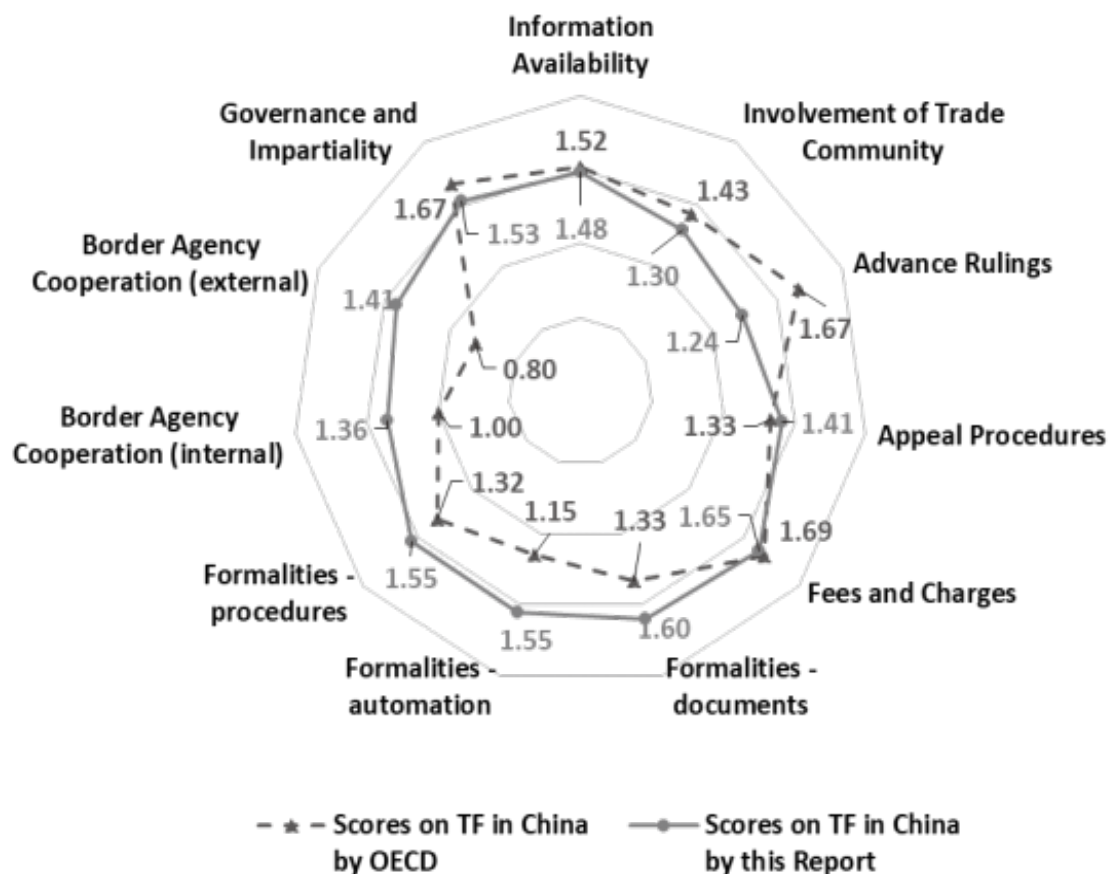


Figure 1: Scores on the trade facilitation in China by OECD & by this report

It can be seen that this report has a large difference with OECD in several respects in the assessment of trade facilitation in China at the present stage. This report scores: lower than OECD in three aspects, including trade community involvement, advance ruling, governance and impartiality; higher than OECD in six aspects, including appeal procedures, formalities–documents, formalities–automation, formalities–procedures, border agency cooperation (internal), border agency cooperation (external). Overall, in 2017, Trade Facilitation Index published by OECD is 1.36, while the index estimated by this report is 1.46, which is fairly higher than the index from OECD.

The assessment conducted by this report can be compared with the Best Practice, which also set by OECD in its Trade Facilitation Indicators Database.



Figure 2: OECD Best Practice and scores on the trade facilitation in China by this report

Setting the Best Practice from OECD as the benchmark, it can be seen that China has approached or even exceeded it in many aspects of trade facilitation through a series of reform measures implemented by various governmental departments especially China Customs in recent years. However, works in at least four aspects need to be improved: trade community involvement, advance ruling, appeal procedures, governance and impartiality.

Attachment : Survey Questionnaire of Online Assessment on Trade Facilitation in China

Online Assessment on Trade Facilitation in China

Beijing Re-code Trade Security and Facilitation Research Center

In order to conduct a quantitative assessment, which as part of Trade Facilitation Annual Report of China (2017), Beijing Re-code Trade Security and Facilitation Research Center designed this online survey questionnaire based on "Trade Facilitation Assessment Indicator System" applied in relevant reports of Organization for Economic Co-operation and Development (OECD).

97 indicators from 17 topics need to be assessed in this survey. As the indicators involve certain items of Trade Facilitation Agreement (including the No.TN/TF/W/165/REV.14 draft), the corresponding items are stated below to help you understand detailed information and make objective evaluations.

Please skip those questions for which you are not clear about the current situations, or you have difficulties in making accurate assessment.

After the online assessment, names of all the invited professionals who participate the assessment will be listed in Trade Facilitation Annual Report of China (2017).

The online assessment will be closed on October 30, 2017. If you encounter any problems, please contact the staff of the research center. (E-mail: ra4@re-code.org, Tel: 086-18800125788)

We sincerely appreciate your participation!

Personal Information

Name:	<input type="checkbox"/> Import/export business <input type="checkbox"/> Customs clearance <input type="checkbox"/> Processing trade <input type="checkbox"/> International logistics <input type="checkbox"/> Compliance <input type="checkbox"/> Other: _____
Your business area (you can choose more than one option):	
Company you are working for:	
Location:	
Tel:	
E-mail:	

Please read the following example before the assessment.

Example: Assessing the indicator "Establishment of a national Customs website".

1 Establishment of a national Customs website [Score: 0~100]

Benchmark:

0: There is no clearly identified Customs' website on the Internet.

60: There is an official website with general information.

100: There is an official website, and detailed information related to import or export procedure could be obtained from the website (in at least one of the official WTO languages: English, French or Spanish).

Corresponding TFA items:

2. Information Available Through Internet

2.1. Each Member shall make available, and update to the extent possible and as appropriate, the following through the internet:

(a) a description of its procedures for importation, exportation, and transit, including procedures for appeal or review, that informs governments, traders, and other interested parties of the practical steps needed for importation, exportation, and transit;

(b) the forms and documents required for importation into, exportation from, or transit through the territory of that Member;

(c) contact information on its enquiry point(s).

2.2. Whenever practicable, the description referred to in subparagraph 2.1(a) shall also be made available in one of the official languages of the WTO.

2.3. Members are encouraged to make available further trade-related information through the internet, including relevant trade-related legislation and other items referred to in paragraph 1.1.

Introduction:

You could give a score (0 to 100) for this indicator based on the benchmark and your knowledge and experiences. For instance, if you think that China Customs has established an official website with enough information and also developed an English website, yet the English website does not include enough information, you could score between 60 and 100 (like 76).

I. Information Availability

1 Establishment of a national Customs website [Score: 0~100]

Benchmark:

0: There is no clearly identified Customs' website on the Internet.

60: There is an official website with general information.

100: There is an official website, and detailed information related to import or export procedure could be obtained from the website (in at least one of the official WTO languages: English, French or Spanish).

Corresponding TFA items:

2. Information Available Through Internet

2.1. Each Member shall make available, and update to the extent possible and as appropriate, the following through the internet:

(a) a description of its procedures for importation, exportation, and transit, including procedures for appeal or review, that informs governments, traders, and other interested parties of the practical steps needed for importation, exportation, and transit;

(b) the forms and documents required for importation into, exportation from, or transit through the territory of that Member;

(c) contact information on its enquiry point(s).

2.2. Whenever practicable, the description referred to in subparagraph 2.1(a) shall also be made available in one of the official languages of the WTO.

2.3. Members are encouraged to make available further trade-related information through the internet, including relevant trade-related legislation and other items referred to in paragraph 1.1.

2 Publication of rate of duties [Score: 0~100]

Benchmark:

0: Information of rate of duties could not be found on the Customs website.

60: Information of rate of duties could be found on the Customs website, but not comprehensive enough.

90: Detailed information of rate of duties and related links could be found on the Customs website.

100: Detailed information of rate of duties and related links could be found on the Customs website, and easy to search. Corresponding TFA items:

1.1.1. Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them:

(a) procedures for importation, exportation, and transit (including port, airport, and other entry point procedures), and required forms and documents;

(b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;

(c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;

(d) rules for the classification or valuation of products for Customs purposes;

(e) laws, regulations, and administrative rulings of general application relating to rules of origin;

(f) import, export or transit restrictions or prohibitions;

(g) penalty provisions for breaches of import, export, or transit formalities;

(h) procedures for appeal or review;

(i) agreements or parts thereof with any country or countries relating to importation, exportation, or transit; and

(j) procedures relating to the administration of tariff quotas.

1.1.2. Nothing in these provisions shall be construed as requiring the publication or provision of information other than in the language of the Member except as stated in paragraph 2.2.

3 Establishment of enquiry points [Score: 0~100]

Benchmark:

0: There are no Enquiry points to answer reasonable enquiries.

50: There are one or more enquiry points, but the services provided are limited.

80: Enquiry points are established in major ports with complete services.

100: Enquiry points are established in every port with complete services.

Corresponding TFA items:

1.3.1 Each Member shall, within its available resources, establish or maintain one or more enquiry points to answer reasonable enquiries of governments, traders, and other interested parties on matters covered by paragraph 1.1 and to provide the required forms and documents referred to in subparagraph 1.1(a).

4 Possibility to enquire to Customs [Score: 0~100]

Benchmark:

0: There is no possibility to enquire to Customs authority on Customs matters

50: Some Customs matters could be enquired to Customs, still many are impossible.

80: Major Customs matters could be enquired to Customs.

100: All Customs matters could be enquired to Customs.

Corresponding TFA items:

1.3.1. Each Member shall, within its available resources, establish or maintain one or more enquiry points to answer reasonable enquiries of governments, traders, and other interested parties on matters covered by paragraph 1.1 and to provide the required forms and documents referred to in subparagraph 1.1(a).

1.3.2. Members of a Customs union or involved in regional integration may establish or maintain common enquiry points at the regional level to satisfy the requirement of paragraph 3.1 for common procedures.

1.3.3. Members are encouraged not to require the payment of a fee for answering enquiries and providing required forms and documents. If any, Members shall limit the amount of their fees and charges to the approximate cost of services rendered.

1.3.4. The enquiry points shall answer enquiries and provide the forms and documents within a reasonable time period set by each Member, which may vary depending on the nature or complexity of the request.

5 Information on import and export procedures [Score: 0~100]

Benchmark:

0: Information on procedures and required forms and documents could not be provided.

50: Relevant information is available but not detailed.

80: Detailed information is available.

100: Detailed information is available and easy to consult.

Corresponding TFA items:

1.1.1(a) Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them:

(a) procedures for importation, exportation, and transit (including port, airport, and other entry point procedures), and required forms and documents;

6 Procedures of border agencies [Score: 0~100]

Benchmark:

0: Required documents and forms could not be downloaded.

50: Only part of the required documents and forms could be downloaded.

80: All the required documents and forms could be downloaded.

100: All the required documents and forms could be downloaded, filling guidance is available.

Corresponding TFA items:

1.2.1(b) Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them: (b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;

7 Procedures published at least xx days before entry into force [Score: 0~100]

Benchmark:

0: There is no interval between the publication of new or amended laws and regulations, and their entry into force.

50: The intervals are provided for some circumstances.

100: There is an appropriate interval between the publication of each new or amended laws or regulations, and its entry into force.

Corresponding TFA items:

2.1.1: Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, provide opportunities and an appropriate time period to traders and other interested parties to comment.

8 Publication of agreements with third countries relating to the above issues [Score: 0~100]

Benchmark:

0: There is no information on the official Customs website about international agreements relating to importation or exportation.

60: International agreements are available on the official Customs website, but the information is limited.

80: Major international agreements could be found on the official Customs website.

100: All international agreements could be found on the official Customs website and updated timely.

Corresponding TFA items:

1.1.1 (i) Each Member shall promptly publish the following information in a non-

discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them: agreements or parts thereof with any country or countries relating to importation, exportation, or transit;

9 Publication of rules and examples of Customs classification [Score: 0~100]

Benchmark:

0: Rules and examples of Customs classification are not published.

60: Rules and examples of Customs classification could be partially obtained publicly.

80: All Rules and examples of Customs classification could be obtained publicly.

100: All Rules and examples of Customs classification could be obtained publicly and updated timely.

Corresponding TFA items:

1.1.1(d) Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them: (d) rules for the classification or valuation of products for Customs purposes;

10 Transparency of government policymaking [Score: 0~100]

Benchmark:

0: Changes on government policies and regulations are not informed.

50: Changes on government policies and regulations are informed, but with difficulties.

80: Changes on government policies and regulations are informed timely and completely.

100: Changes on government policies and regulations are informed in a complete manner, and updated timely. .

II. Involvement of Trade Community

11 Communication of policy objectives [Score: 0~100]

Benchmark:

0: Governmental departments never communicate with business circles on the changes of policy and regulation objectives.

60: Governmental departments make explanations on changes of important policy and regulation objectives .to the business circles.

100: Governmental departments make explanations on changes of all policy and regulation objectives .and seek advice of the business circles.

12 Consultations between traders and government [Score: 0~100]

Benchmark:

0: There are no consultations between traders and governments.

70: There are irregular consultations between traders and governments when introducing or amending trade related laws, regulations and administrative rulings of general application.

90: There are regular consultations between traders and governments when introducing or amending trade related laws, regulations and administrative rulings of general application.

100: Not only when introducing or amending generally applied trade related laws, regulations and administrative rulings but also those applied to specific counterparts, there are regular consultations between traders and governments.

Corresponding TFA items:

2.1.1. Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, provide opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit.

2.2. Each Member shall, as appropriate, provide for regular consultations between its border agencies and traders or other stakeholders located within its territory.

13 Targeted stakeholders [Score: 0~100]

Benchmark:

0: Consultations are always closed.

30: Consultations are only open to those qualified stakeholders.

60: Consultations are open to the public, but limited to a specific number of stakeholders.

100: Consultations are fully open to the public.

14 Adoption of public comments [Score: 0~100]

Benchmark:

0: Public comments have never been taken into account.

60: Public comments have been taken into account to some extent.

90: Public comments have been taken into account and adopted.

100: Public comments have been taken into account, and feedbacks will be given timely. Reasonable comments will be studied and corresponding adjustments will be made.

III. Advance Rulings

15 Issuance of advance rulings [Score: 0~100]

Benchmark:

0: Advance rulings have never been issued.

60: Advance rulings are limitedly issued.

80: Advance rulings are generally issued.

100: Advance rulings are actively promoted and the issuance of advance rulings will be normalized.

Corresponding TFA items:

3.1. Each Member shall issue an advance ruling in a reasonable, time-bound manner to the applicant that has submitted a written request containing all necessary information. If a Member declines to issue an advance ruling, it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

16 Publication of necessary information on advance rulings [Score: 0~100]

Benchmark:

0: Information of advance rulings is not revealed on the Customs website.

50: Only articles of law related to advance rulings is revealed on the Customs website.

80: Besides articles of law related to advance rulings, detailed application procedures are revealed on the Customs website.

100: Articles of law related to advance rulings and detailed application procedures are revealed on the Customs website, and a webpage for online application and result consultation is available.

Corresponding TFA items:

3.6. Each Member shall publish, at a minimum:

(a) the requirements for the application for an advance ruling, including the information to be provided and the format;

(b) the time period by which it will issue an advance ruling; and

(c) the length of time for which the advance ruling is valid.

17 Length of time for which the advance ruling is valid [Score: 0~100]

Benchmark:

10: Valid duration for advance ruling is inappropriate.

60: Valid duration for some advance ruling is inappropriate.

100: Valid duration for all advance ruling is appropriate based on laws or regulations.

Corresponding TFA items:

3.3. The advance ruling shall be valid for a reasonable period of time after its issuance unless the law, facts, or circumstances supporting that ruling have changed.

3.4. Where the Member revokes, modifies, or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis

for its decision. Where a Member revokes, modifies, or invalidates advance rulings with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, false, or misleading information.

18 Publication of average issuance time [Score: 0~100]

Benchmark:

0: The average issuance time is not showed on the Customs website or indicated in articles of related laws.

60: The average issuance time is showed on the Customs website or indicated in articles of related laws, but not detailed enough.

100: The average issuance time is showed on the Customs website or indicated in articles of related laws..

Corresponding TFA items:

3.6. Each Member shall publish, at a minimum:

(a) the requirements for the application for an advance ruling, including the information to be provided and the format;

(b) the time period by which it will issue an advance ruling; and

(c) the length of time for which the advance ruling is valid.

19 Publication of advance rulings of general interest [Score: 0~100]

Benchmark:

0: Advance rulings which are significant to other interested parties are not published.

60: Advance rulings of general interest are partially published.

100: Advance rulings of general interest are fully published.

Corresponding TFA items:

3.8. Each Member shall endeavor to make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information.

20 Possibility to request a review of an advance ruling or its revocation / modification [Score: 0~100]

Benchmark:

0: No possibility.

60: Reasonable applications for review, revocation or modification of advance rulings are partially permitted.

100: Reasonable applications for review, revocation or modification of advance rulings are fully permitted.

Corresponding TFA items:

3.7. Each Member shall provide, upon written request of an applicant, a review of the

advance ruling

or the decision to revoke, modify, or invalidate the advance ruling

21 Refusal to issue or revocation of advance ruling are motivated [Score: 0~100]

Benchmark:

0: No basis for the refusal to issue or revocation of advance rulings.

60: Basis for the refusal to issue or revocation of advance rulings are partially provided.

100: Basis for the refusal to issue or revocation of advance rulings are fully provided.

Corresponding TFA items:

3.1. Each Member shall issue an advance ruling in a reasonable, time-bound manner to the applicant that has submitted a written request containing all necessary information. If a Member declines to issue an advance ruling, it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

IV. Appeal Procedures

22 Publication of necessary information on procedural rules for appeal [Score: 0~100] Benchmark:

0: No appeal mechanism on Customs matters and related laws could not be obtained publicly.

60: An appeal mechanism has been established but it is only explained in articles of related laws.

100: Detailed information and procedures are revealed on the Customs website.

Corresponding TFA items:

4.1 & 1.1.1(h)

4.1. Each Member shall provide that any person to whom Customs issues an administrative decision has the right, within its territory, to:

(a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision;

(b) a judicial appeal or review of the decision.

1.1.1. Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them:

(h) procedures for appeal or review;

23 Judicial appeal procedures [Score: 0~100]

Benchmark:

0: There is no possibility of judicial appeal.

60: Judicial appeal could be lodged but only after the administrative appeal.

100: Judicial appeal could be lodged after the administrative appeal, or judicial appeal could be lodged independently.

Corresponding TFA items:

4.1. Each Member shall provide that any person to whom Customs issues an administrative decision has the right, within its territory, to:

(a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision;

(b) a judicial appeal or review of the decision.

24 A Time limit for deciding such appeals [Score: 0~100]

Benchmark:

0: There is no time limit for handling appeals.

60: Time limit is legislated, but not appropriate.

100: Time limit is legislated and appropriate.

25 Availability of information on the motives of the administration's decisions [Score: 0~100]

Benchmark:

0: There is no information on the purposes

60: Information is partially available.

100: Information is fully available.

Corresponding TFA items: (from TN/TF/W/165/REV.14 draft)

Members shall ensure that, upon request, the persons directly affected by an administrative decision issued by Customs and other border agencies are provided with the reasoning of the decision, including applied laws and regulations, and any applicable appeal procedures available

26 Efficiency of legal framework in challenging regulations [Score: 0~100]

Benchmark:

0: Relevant institutional arrangement has not been established.

60: Relevant institutional arrangement has been established, but not fully implemented

100: Relevant institutional arrangement has been established and fully implemented.

27 Judicial independence [Score: 0~100]

Benchmark:

0: Judicial independence does not exist.

60: Judicial independence is partly achieved.

100: Judicial independence is fully achieved.

28 Equality of treatment between national and foreign actors in commercial disputes [Score: 0~100]

Benchmark:

0: There is no equality.

60: Equality exists in some circumstances.

100: Equality needs not any additional conditions.

29 Extent of implementation and speed of court rulings in commercial matters [Score: 0~100]

Benchmark:

10: Not fully implemented and the efficiency is slow.

60: Implementation and efficiency of court rulings are acceptable but not satisfying.

100: Court rulings are fully implemented with efficiency and fairness.

V. Fees and Charges

30 Publication of fees and charges [Score: 0~100]

Benchmark:

0: Information on fees and charges is rarely published in time.

70: Information is available in paper publications (Official Newspapers, Bulletin, Customs Code).

100: Information could be obtained on the Customs website (on a dedicated page) and easy to consult.

Corresponding TFA items:

6.1.2. Information on fees and charges shall be published in accordance with Article 1. This information shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made.

31 Evaluation of fees and charges [Score: 0~100]

Benchmark:

0: All fees and charges are calculated on an ad-valorem basis.

50: Part of the fees and charges are calculated on an ad-valorem basis.

100: None of the fees and charges are calculated on an ad-valorem basis.

Corresponding TFA items: (from TN/TF/W/165/REV.14 draft)

No fees or charges shall be levied on an ad valorem basis, unless the amount is limited to the approximate cost of the services rendered.

32 Total fees and charges collected (number and diversity) [Score: 0~100]**Benchmark:**

0: Too much numbers and diversities of fees and charges.

60: Number and diversity of fees and charges are acceptable, but not appropriate.

70: Number and diversity of fees and charges are appropriate.

100: Number and diversity of fees and charges are appropriate with periodic review and reduction.

Corresponding TFA items:

6.1.4. Each Member shall periodically review its fees and charges with a view to reducing their number and diversity, where practicable.

33 Fees for Customs services during working hours [Score: 0~100]**Benchmark:**

0: Fees are charged for Customs services during working hours.

80: No fees are charged for Customs services during working hours.

100: No fees are charged for Customs services during working hours, and additional working hours are free of charge.

VI. Formalities – documents**34 Use of copies [Score: 0~100]****Benchmark:**

0: Customs and other border agencies do not accept copies of documents.

70: Copies are accepted with exceptions (depend on types of goods, particular cases or the agencies)

100: Copies are accepted without exceptions.

Corresponding TFA items:

10.2.1. Each Member shall, where appropriate, endeavor to accept paper or electronic copies of supporting documents required for import, export, or transit formalities.

10.2.2. Where a government agency of a Member already holds the original of such a document, any other agency of that Member shall accept a paper or electronic copy, where applicable, from the agency holding the original in lieu of the original document.

10.2.3. A Member shall not require an original or copy of export declarations submitted to the Customs authorities of the exporting Member as a requirement for importation.

35 International standards compliance [Score: 0~100]**Benchmark:**

0: Most requirements of document formats and filling are not in accordance with international standards.

60: Part of the requirements of document formats and filling are in accordance with international standards.

80: Most requirements of document formats and filling are strictly based on international standards.

100: All requirements of document formats and filling are in full accord with international standards.

Corresponding TFA items:

10.3.1. Members are encouraged to use relevant international standards or parts thereof as a basis for their import, export, or transit formalities and procedures, except as otherwise provided for in this Agreement.

36 Required number of documents for import [Score: 0~100]

Benchmark:

0: Too many required documents for import.

60: Number of documents for import is acceptable but not appropriate.

80: Number of documents for import is appropriate.

100: Number of documents for import is appropriate and often adjusted accordingly.

Corresponding TFA items:

10.1.1. With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements are:

(a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;

(b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;

(c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and

(d) not maintained, including parts thereof, if no longer required.

37 Required number of documents for export [Score: 0~100]

Benchmark:

0: Too many required documents for export.

60: Number of documents for export is acceptable but not appropriate.

80: Number of documents for export is appropriate.

100: Number of documents for export is appropriate and often adjusted accordingly.

Corresponding TFA items:

10.1.1. With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements are:

(a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;

(b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;

(c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and

(d) not maintained, including parts thereof, if no longer required.

38 Time to prepare documents for import [Score: 0~100]

Benchmark:

0: Consuming too much time.

60: Time-consumption is acceptable but not appropriate.

80: Time-consumption is appropriate.

100: Time-consumption is appropriate and often adjusted accordingly to save time.

Corresponding TFA items:

10.1.1. With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements are:

(a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;

(b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;

- (c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and
- (d) not maintained, including parts thereof, if no longer required.

39 Time to prepare documents for export [Score: 0~100]

Benchmark:

0: Consuming too much time.

60: Time-consumption is acceptable but not appropriate.

80: Time-consumption is appropriate.

100: Time-consumption is appropriate and often adjusted accordingly to save time.

Corresponding TFA items:

10.1.1. With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements are:

- (a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;
- (b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;
- (c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and
- (d) not maintained, including parts thereof, if no longer required.

VII. Formalities – automation

40 Percent of procedures that can be expedited electronically (out of the total number of import/export/transit procedures) [Score: 0~100]

Benchmark:

0: All procedures must be processed manually rather than automatically.

80: Most procedures can be processed automatically.

100: All procedures can be processed automatically.

41 Use of risk management [Score: 0~100]

Benchmark:

0: No risk management procedures are applied in place.

50: Risk management procedures are being established, not yet fully operational.

100: A fully operational procedure of risk management has been established.

Corresponding TFA items:

7.4.1. Each Member shall, to the extent possible, adopt or maintain a risk management system for Customs control.

42 IT Systems capable of accepting EDI and exchanging data electronically
[Score: 0~100]

Benchmark:

0: EDI could neither be implemented among Customs departments nor between Customs and enterprises,

50: EDI has been partially implemented.

100: EDI has been fully implemented.

43 Availability of full-time (24/7) automated processing for Customs agencies
[Score: 0~100]

Benchmark:

0: There is no full-time automated processing.

60: Full-time automated processing has been achieved at some ports or in some functions.

100: Full-time automated processing has been fully achieved.

44 Quality of telecommunications and IT systems of boarder authorities except Customs [Score: 0~100]

Benchmark:

0: Far from satisfaction, no effective IT system has been established.

60: Acceptable, but there are still too much room for improvement for many departments and transactions.

100: Satisfied, all boarder authorities have been equipped with effective and efficient IT systems.

VIII. Formalities–procedures

45 Single Window [Score: 0~100]

Benchmark:

0: There is no Single Window.

60: A Single Window is planned or in the process of implementation

80: A Single Window has been established but needs improvement.

100: Single Window is a fully functional.

Corresponding TFA items:

10.4.1. Members shall endeavor to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner.

46 Publication of average release time [Score: 0~100]**Benchmark:**

0: Average release time has never been published.

50: Average release time has been published a few times but not continuously or periodically.

80: For most Customs districts, average release time is published in a consistent manner on a periodic basis.

100: For all Customs districts, average release time is published in a consistent manner on a periodic basis.

Corresponding TFA items:

7.6.1. Members are encouraged to measure and publish their average release time of goods periodically and in a consistent manner, using tools such as, inter alia, the Time Release Study of the World Customs Organization (referred to in this Agreement as the "WCO")

47 Clearance time [Score: 0~100]**Benchmark:**

0: Clearance time is too long, not acceptable.

60: Clearance time is acceptable but not efficient.

100: Clearance time is very short with efficient control.

48 Implementation of pre-arrival processing [Score: 0~100]**Benchmark:**

0: Pre-arrival processing is not implemented.

60: Pre-arrival processing is available but not common.

100: Pre-arrival processing is fully implemented.

Corresponding TFA items:

7.1.1. Each Member shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

49 Percent of physical inspections [Score: 0~100]**Benchmark:**

0: Every consignment has to be inspected physically.

60: Percentage of physical inspection is acceptable but not appropriate.

80: Percentage of physical inspection is appropriate.

100: Unnecessary physical inspections are avoided by risk control systems and inspection accuracy is improved while percentage of physical inspection is reduced.

50 Physical inspections – as regards perishable/ non-perishable goods [Score: 0~100] Benchmark:

0: Physical inspection procedures do not allow accelerating the control for perishable goods.

70: Accelerate control can be applied to perishable goods but need complex formalities.

100: Accelerate control can be applied to perishable goods with simplified formalities.

51 Efficiency of Customs and delivery of imports [Score: 0~100]**Benchmark:**

0: Customs clearance is inefficient during delivery of imports.

50: Efficiency of Customs clearance during delivery of imports needs improvement.

80: Customs clearance during delivery of imports shows high efficiency.

100: Customs clearance is of extremely high efficiency during delivery of imports.

52 Efficiency of Customs and delivery of exports [Score: 0~100]**Benchmark:**

0: Customs clearance is inefficient during delivery of exports.

50: Efficiency of Customs clearance during delivery of exports needs improvement...

80: Efficiency of Customs clearance during delivery of exports shows high efficiency...

100: Customs clearance is of extremely high efficiency during delivery of exports.

53 Percent of Post-Clearance Audits (PCAs) carried out [Score: 0~100]**Benchmark:**

0: Post-Clearance Audits has never been implemented.

50: Post-Clearance Audits are implemented in a small scale.

100: Post-Clearance Audits are applied commonly and expediting the release of goods.

Corresponding TFA items:

7.5. Post-clearance Audit

5.1. With a view to expediting the release of goods, each Member shall adopt or maintain post clearance audit to ensure compliance with Customs and other related laws and regulations.

5.2. Each Member shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Member shall conduct post clearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved the Member shall, without delay, notify the person whose record is audited of the results, the person's rights and obligations, and the reasons for the results.

5.3. The information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

5.4. Members shall, wherever practicable, use the result of post-clearance audit in applying risk management.

54 Separation of release from final determination and payment of Customs duties [Score: 0~100]

Benchmark:

0: There is no such mechanism.

70: There is such a mechanism, but only applied to Authorized Economic Operators (AEO) ..

100: There is such a mechanism, without any conditions other than the submission of guarantee.

Corresponding TFA items:

7.3.1. Each Member shall adopt or maintain procedures allowing the release of goods prior to the final determination of Customs duties, taxes, fees, and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met.

7.3.2. As a condition for such release, a Member may require: (a) payment of Customs duties, taxes, fees, and charges determined prior to or upon arrival of goods and a guarantee for any amount not yet determined in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations; or (b) a guarantee in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations.

7.3.3. Such guarantee shall not be greater than the amount the Member requires to ensure payment of Customs duties, taxes, fees, and charges ultimately due for the goods covered by the guarantee.

7.3.4. In cases where an offence requiring imposition of monetary penalties or fines has been detected, a guarantee may be required for the penalties and fines that may be imposed.

55 Treatment of perishable and non-perishable goods concerning the separation of release from final determination and payment of Customs duties [Score: 0~100]

Benchmark:

0: There is no preferential treatment for perishable goods.

60: Preferential treatment provisions for perishable goods has been provided, but not fully implemented.

100: Perishable goods fully enjoy preferential treatment concerning the separation of release and payment of Customs duties.

56 Elimination of pre-shipment Inspection [Score: 0~100]

Benchmark:

0: Pre-shipment inspection is required on Customs matters

70: There is no requirement for pre-shipment inspection, but such requirements exist in some circumstances for certain goods.

100: No pre-shipment inspection is required on Customs matters.

Corresponding TFA items:

10.5.1. Members shall not require the use of pre-shipment inspections in relation to tariff classification and Customs valuation.

57 Authorized Operator (AO) programmes [Score: 0~100]

Benchmark:

0: Such programs have not been conducted.

60: Such programs have been conducted to some extent, but not fully facilitated.

80: Such programs have been extensively conducted and fully facilitated.

100: Such programs have been extensively conducted with high efficiency, improving Customs control and clearance efficiency of authorized operators greatly.

Corresponding TFA items:

7.7.1. Each Member shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 7.3, to operators who meet specified criteria, hereinafter called authorized operators. Alternatively, a Member may offer such trade facilitation measures through Customs procedures generally available to all operators and is not required to establish a separate scheme.

58 Simplification of procedures (time) [Score: 0~100]

Benchmark:

0: Simplification on procedures and required documents has not been implemented in recent 5 years.

70: Time–consumption of Customs process has been reduced due to simplification on procedures and required documents in recent 5 years, but improvement is still needed

100: In recent 5 years, simplification of procedures has been conducted not only by Customs, but also by other authorities to reduce time consumption through simplification on procedures and required documents

Corresponding TFA items:

10.1.1. With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements are:

(a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;

(b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;

(c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and

(d) not maintained, including parts thereof, if no longer required.

59 Simplification of procedures (cost) [Score: 0~100]

Benchmark:

0: Simplification on procedures and required documents has not been implemented in recent 5 years.

70: Cross border cost of Customs process has been reduced due to simplification on procedures and required documents in recent 5 years, but improvement is still needed.

100: In recent 5 years, simplification of procedures has been conducted not only by Customs, but also by other authorities to reduce cost through simplification on procedures and required documents

Corresponding TFA items:

10.1.1. With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such

formalities and documentation requirements are:

- (a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;
- (b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;
- (c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and
- (d) not maintained, including parts thereof, if no longer required.

60 Adjustment of working hours of Customs personnel to commercial needs [Score: 0~100]

Benchmark:

0: Working hours of Customs is not adjusted for business needs.

70: Working hours of Customs is partially adjusted for business needs.

100: Working hours of Customs is completely adjusted for business needs.

61 Requirement for mandatory use of a third-party Customs broker [Score: 0~100]

Benchmark:

0: Mandatory use of a third-party Customs broker is required.

50: Mandatory use of a third-party Customs broker is not required, but monopoly exists in partial market.

100: Mandatory use of a third-party Customs broker is not required, and the market is of complete competition.

Corresponding TFA items:

10.6.1. Without prejudice to the important policy concerns of some Members that currently maintain a special role for Customs brokers, from the entry into force of this Agreement Members shall not introduce the mandatory use of Customs brokers.

IX. Border Agency Cooperation (internal)

62 Cooperation among border agencies at the national level [Score: 0~100]

Benchmark:

0: There is no cooperation among border agencies.

70: Importation, exportation, and transit of goods are facilitated to some extent due to cooperation among border agencies,

100: Border agencies have carried out in-depth cooperation to promote trade facilitation.

Corresponding TFA items:

8.1. Each Member shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade.

63 Control delegation at the national level [Score: 0~100]

Benchmark:

0: Other governmental agencies do not entrust Customs authorities to exercise controls.

60: Part of governmental agencies entrust Customs authorities to exercise controls.

100: All governmental agencies entrust Customs authorities to exercise controls, aiming at promoting trade facilitation.

64 Regular meetings are held at the national level (including training seminars) [Score: 0~100]

Benchmark:

0: There are no meetings or very few meetings among different public agencies on the procedures required for import and export goods.

60: Such meetings are held but not regular.

80: Regular meetings are held to improve cooperation among different public agencies.

100: Private sector is fully evolved in such meetings.

X. Border Agency Cooperation (external)

65 Alignment of working days and hours with other neighboring countries at border crossings [Score: 0~100]

Benchmark:

0: No coordination with neighboring countries is carried out on working hours.

60: Coordination with a few neighboring countries is carried out on working hours.

100: Coordination with all neighboring countries is fully carried out on working hours.

Corresponding TFA items:

8.2(a) Each Member shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom it shares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include: (a) alignment of working days and hours;

66 Alignment of procedures and formalities with other neighboring countries at border crossings [Score: 0~100]

Benchmark:

0: No coordination with neighboring countries is carried out on procedures and formalities.

60: Coordination with a few neighboring countries is carried out on procedures and formalities.

100: Coordination with all neighboring countries is fully carried out on procedures and formalities.

Corresponding TFA items:

8.2(b) Each Member shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom it shares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include: (b) alignment of procedures and formalities;

67 Development and sharing of common facilities with other neighboring countries at border crossings [Score: 0~100]

Benchmark:

0: Common facilities have not been developed and shared with other neighboring countries.

60: Common facilities have been developed and shared with other neighboring countries in a small scale.

100: Plenty of common facilities have been developed and fully shared with other neighboring countries.

Corresponding TFA items:

Each Member shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom it shares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include: (b) alignment of procedures and formalities;

68 Joint controls with other neighboring countries at border crossings [Score: 0~100] Benchmark:

0: There are no joint controls performed with other neighboring countries.

70: Measures of joint controls have been established with other neighboring countries.

100: One stop border posts are shared with neighboring countries.

Corresponding TFA items:

8.3(d) & 8.3(e)

Each Member shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom it shares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include: (d) joint controls; (e) establishment of one stop border post control.

XI. Governance and Impartiality

69 Clearly established and transparent structures and functions [Score: 0~100]

Benchmark:

0: Organizational structure and functions of Customs administration are not published.

60: Organizational structure and functions are published but not detailed.

100: Organizational structure and functions are completely published.

70 Establishment of a code of conduct [Score: 0~100]

Benchmark:

0: There is no code of conduct.

50: Code of conduct is developed based on ethics, but the implementation is far from satisfactory.

80: Code of conduct is developed based on ethics and published; it is applied to all government employees.

100: Code of conduct is developed based on ethics and published; it is applied to all government employees and the performance is satisfying.

71 Implementation and transparency of sanctions against misconduct [Score: 0~100] Benchmark:

0: Information on punishment against misconduct is not open to the public.

60: Information on disciplinary provisions specifying what constitutes misconduct and the corresponding punishment is partially open to the public.

100: Information on disciplinary provisions specifying what constitutes misconduct and the corresponding punishment is fully open to the public.

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72 Ethics policy [Score: 0~100]

Benchmark:

0: There is no policy regarding ethics.

70: The ethics policy observes all the principles of the Revised Arusha Declaration

100: A hot line is established to provide guidance to government employees on ethical issues.

73 Clear provisions for the financing of the Customs administration [Score: 0~100]

Benchmark:

0: The financial information of the Customs administration is not open to the public.

60: Financial provisions are promulgated based on related laws, but partially open to the public

100: Financial provisions are promulgated based on related laws, and fully open to the public.

74 Internal systems audit [Score: 0~100]**Benchmark:**

0: There is no internal audit mechanism.

60: An internal audit department is established, but the performance is not satisfying.

100: An internal audit department is established and fully empowered with effective operation.

75 Publication of an annual Customs report [Score: 0~100]**Benchmark:**

0: Customs annual report is not open to the public.

60: Customs annual report is open to the public, but the information of Customs operation is not sufficient.

100: Customs annual report is open to the public, containing sufficient information of Customs operation

76 Irregular payments and bribes [Score: 0~100]**Benchmark:**

0: Unreasonable charge and bribery occur frequently.

60: Unreasonable charge and bribery rarely occur.

100: Unreasonable charge and bribery never occur, and regular audit is implemented.

XII. Consularization

77 Consular transaction requirements [Score: 0~100]**Benchmark:**

0: Consular transaction requirements are not charged.

70: Consular transaction requirements are not charged, except for production fees and others.

100: Consular transaction requirements are not charged at all.

Corresponding TFA items: (from TN/TF/W/165/REV.14 draft)

8.1.1. A Member shall not require a consular transaction, including any related fee or charge, in connection with the importation of any good. To ensure the authenticity of all

commercial documentation, the Member should strengthen Customs cooperation.

XIII. Transit Fees and Charges

78 Information availability on transit fees and charges [Score: 0~100]

Benchmark:

0: Information on transit fees and charges is not published.

70: Relevant information is available from paper publications.

100: Relevant information could be obtained on the Customs website and easy to consult.

Corresponding TFA items:

1.1.1. Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them: (c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;

6.1.2. Information on fees and charges shall be published in accordance with Article 1. This information shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made.

79 Prior publication of transit fees and charges [Score: 0~100]

Benchmark:

0: There is no prior publication of changes of transit fees and charges.

70: Information on changes is published in advance.

100: Information on changes is published in advance on Customs website and updated in a timely manner, and easy to consult.

Corresponding TFA items:

6.1.3. An adequate time period shall be accorded between the publication of new or amended fees and charges and their entry into force, except in urgent circumstances. Such fees and charges shall not be applied until information on them has been published.

80 Periodic review of fees and charges and adaptation to changed circumstances [Score: 0~100]

Benchmark:

0: There is no periodic review of fees and charges

70: Fees and charges are reviewed periodically.

100: Fees and charges are reviewed periodically and adapted to changed circumstances.

Corresponding TFA items:

6.1.4. Each Member shall periodically review its fees and charges with a view to

reducing their number and diversity, where practicable.

11.3(b) (from TN/TF/W/165/REV.14 draft)

Any charges, regulations or formalities in connection with traffic in transit imposed by a member in accordance with Article V of GATT 1994: shall not be applied in a manner that would constitute a disguised restriction on transit traffic.

81 Evaluation of transit fees and charges [Score: 0~100]

Benchmark:

0: Transit fees and charges are calculated on an ad-valorem basis.

50: Transit fees and charges are partially calculated on an ad-valorem basis.

100: Transit fees and charges are not calculated on an ad-valorem basis.

Corresponding TFA items:

6.1.3 (from TN/TF/W/165/REV.14 draft)

No fees or charges shall should be levied on an ad valorem basis , unless the amount is limited to the approximate cost of the services rendered

11.3(c) (from TN/TF/W/165/REV.14 draft)

Any charges, regulations or formalities in connection with traffic in transit imposed by a member in accordance with Article V of GATT 1994: (c) shall not be applied in a manner that would constitute a disguised restriction on transit traffic.

XIV. Transit Formalities

82 Information on transit formalities and documentation [Score: 0~100]

Benchmark:

0: There is no information on transit formalities and required documents.

80: There is enough information.

100: There is enough information, and general guides and highlights of these items are provided as well.

Corresponding TFA items:

1.1.1(a) Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them procedures for importation, exportation, and transit (including port, airport, and other entry-point procedures), and required forms and document;

83 Periodic review and adaptation to changed circumstances [Score: 0~100]

Benchmark:

0: There are no periodic reviews of documents and procedures.

70: Documents and procedures are reviewed periodically.

100: Documents and procedures are reviewed and adapted to changed circumstances.

Corresponding TFA items:

10.1.1. With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements are:

(a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;

(b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;

(c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and

(d) not maintained, including parts thereof, if no longer required.

11.3(b) (from TN/TF/W/165/REV.14 draft)

Any charges, regulations or formalities in connection with traffic in transit imposed by a member in accordance with Article V of GATT 1994: (b) shall not be maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a less restrictive manner.

84 There are physically separate border-crossing facilities/infrastructure for transit [Score: 0~100]

Benchmark:

0: There is no specially-assigned person or department responsible for cross border matters.

80: There is specially-assigned person or department responsible for cross border matters at major transit entry points.

100: There is specially-assigned person or department responsible for cross border matters at all transit entry points.

Corresponding TFA items:

11.6. Formalities, documentation requirements, and Customs controls in connection with traffic in transit shall not be more burdensome than necessary to:

(a) identify the goods; and

(b) ensure fulfilment of transit requirements.

85 Limited physical inspections of goods and use of risk assessment [Score:

0~100]

Benchmark:

0: For those frequent physical inspections (inspection rate above 10%) on transit goods, risk assessment system has not been established or its performance is not satisfying.

70: Risk assessment is applied to transit goods so as to reduce physical inspections.

100: Transit goods are rarely inspected due to the application of risk assessment model.

Corresponding TFA items:

11.7. Once goods have been put under a transit procedure and have been authorized to proceed from the point of origination in a Member's territory, they will not be subject to any Customs charges nor unnecessary delays or restrictions until they conclude their transit at the point of destination within the Member's territory.

86 Quality controls or technical standards applied [Score: 0~100]**Benchmark:**

0: Quality controls and technical standards are equally applied to both transit goods and import goods.

80: Quality controls and technical standards are applied only to hazardous substance and high risk cargos.

100: Quality controls and technical standards are not applied to transit goods.

Corresponding TFA items:

11.8. Members shall not apply technical regulations and conformity assessment procedures within the meaning of the Agreement on Technical Barriers to Trade to goods in transit.

87 Pre-arrival processing for transit trade [Score: 0~100]**Benchmark:**

0: Pre-arrival processing of documents for transit trade is not applied.

70: Pre-arrival processing for transit is applied only to certain importers\ goods\ entry points\ means of transport.

100: Pre-arrival processing is applied to over 90% of transit goods and entry points.

Corresponding TFA items:

11.9. Members shall allow and provide for advance filing and processing of transit documentation and data prior to the arrival of goods.

88 Establishment of Single Window for transit trade [Score: 0~100]**Benchmark:**

0: There is no single window, or the single window is not applied to transit trade.

70: Single window is established at certain points of entry for transit trade.

100: Documents of all transit trade can be submitted to a single window.

Corresponding TFA items:

10.4.1. Members shall endeavor to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner.

XV. Transit Guarantees

89 Multiple forms of guarantees accepted (bonds, refund, guarantee) [Score: 0~100] Benchmark:

0: Any guarantees or bonds are not accepted (only in the form of surety).

60: At least one form of non-monetary guarantee is accepted.

100: Guarantees of any forms are accepted.

90 Guarantees are limited to the value of duties and charges [Score: 0~100]

Benchmark:

0: Value of guarantees substantially exceeds the amount of duties and charges.

70: Value of guarantees is equal or greater than the amount of duties and charges.

100: Value of guarantees is equal to part or total amount of duties and charges.

Corresponding TFA items:

11.11. Where a Member requires a guarantee in the form of a surety, deposit or other appropriate monetary or non-monetary¹³ instrument for traffic in transit, such guarantee shall be limited to ensuring that requirements arising from such traffic in transit are fulfilled.

91 Guarantees supported by regional or international agreements [Score: 0~100]

Benchmark:

0: Transit guarantees are not supported by regional or international agreements

60: Transit guarantees are partially supported by regional or international agreements.

100: Transit guarantees are fully supported by regional or international agreements.

92 Prompt and full release of the guarantee [Score: 0~100]

Benchmark:

0: Time to refund transit guarantees or delivery to subsequent consignment is very long.

60: Time to refund transit guarantees or delivery to subsequent consignment is acceptable but not short enough.

100: Refund of transit guarantees or delivery to subsequent consignment is prompt and full.

Corresponding TFA items:

11.12. Once the Member has determined that its transit requirements have been satisfied, the guarantee shall be discharged without delay.

11.13. Each Member shall, in a manner consistent with its laws and regulations, allow comprehensive guarantees which include multiple transactions for same operators or renewal of guarantees without discharge for subsequent consignments.

93 Use of Customs convoys [Score: 0~100]

Benchmark:

0: Vehicles supervised by Customs must be used without any exception. 70: High risk goods must be transported by vehicles supervised by Customs.

100: Vehicles supervised by Customs are rarely employed and they are substituted by other effective means.

Corresponding TFA items:

11.15. Each Member may require the use of Customs convoys or Customs escorts for traffic in transit only in circumstances presenting high risks or when compliance with Customs laws and regulations cannot be ensured through the use of guarantees. General rules applicable to Customs convoys or Customs escorts shall be published in accordance with Article 1.

XVI. Transit Agreements and Cooperation

94 Bilateral or regional agreements [Score: 0~100]

Benchmark:

0: No bilateral or regional transit agreements have been signed.

60: One or more bilateral or regional agreements have been signed.

100: More than 80% of transit trade is under bilateral or regional agreements

95 Agreements on common simplified documents [Score: 0~100]

Benchmark:

0: No agreements on common or simplified documents have been signed.

60: Agreements have been signed but not fully implemented.

100: Several agreements have been signed and fully implemented., simplifying required documents.

96 Transit cooperation [Score: 0~100]

Benchmark:

0: There is no cooperation among agencies of different countries involved in transit.

60: Cooperation has been implemented only on formalities and legal regulations.

100: Comprehensive cooperation on transit has been carried out, including formalities, legal regulations and the practical operation, etc.

Corresponding TFA items:

11.16. Members shall endeavor to cooperate and coordinate with one another with a view to enhancing freedom of transit. Such cooperation and coordination may include, but is not limited to, an understanding on:

- (a) charges;
- (b) formalities and legal requirements; and
- (c) the practical operation of transit regimes.

11.17. Each Member shall endeavor to appoint a national transit coordinator to which all enquiries and proposals by other Members relating to the good functioning of transit operations can be addressed.

XVII. Additional Indicators

97 Procedures of the minimum tax-free limit [Score: 0~100]

Benchmark:

0: Procedures of the minimum tax-free limit are not adopted by Customs.

60: There are such procedures exists but not appropriate.

100: There are appropriate procedures...

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