

Decree of the General Administration of Customs of the People's Republic of China No. 158

2009-06-15

The Rules of the General Administration of Customs of the People's Republic of China on the Commodity Classification of Import and Export Goods, which have been deliberated and adopted at the executive meeting of the General Administration of Customs on February 14, 2007, are hereby promulgated and shall come into force as of May 1, 2007. The Interim Rules of the General Administration of Customs of the People's Republic of China on Advance Commodity Classification of Import and Export Goods promulgated in the form of Decree No. 80 of the General Administration of Customs on February 24, 2000 shall be repealed simultaneously.

Mu Xinsheng

Minister

General Administration of Customs

March 2, 2007

Rules of the General Administration of Customs of the People's Republic of China on the Commodity Classification of Import and Export Goods

(Adopted at the Executive Meeting of the General Administration of Customs on February 14, 2007, promulgated in the form of Decree No. 158 of the General Administration of Customs of the People's Republic of China on March 2, 2007, and effective as of May 1, 2007)

Article 1 These Rules are formulated in accordance with the Customs Law of the People's Republic of China (hereinafter referred to as the Customs Law), the Regulations of the People's Republic of China on Import and Export Duties (hereinafter referred to as the Regulations on Duties) and other relevant laws and administrative regulations with a view to standardizing the commodity classification of import and export goods and ensuring the accuracy and uniformity of commodity classification.

Article 2 The term “commodity classification” as referred to in these Rules means the activities of determining the commodity codes of import and export goods, on the basis of the Customs Import and Export Tariff of the People’s Republic of China, the Explanatory Notes to Commodities and Their Headings in the Customs Import and Export Tariff, the Explanatory Notes to the National Subheadings of the Customs Import and Export Tariff of the People’s Republic of China, and the administrative rulings and decisions on commodity classification issued by the General Administration of Customs, under the commodity nomenclature of the International Convention on the Harmonized Commodity Description and Coding System.

Article 3 These Rules apply to the commodity classification by the consignee and the consignor of import and export goods and the agent thereof (hereinafter referred to as the consignee, consignor, or the agent thereof), and to Customs’ examination and verification, in accordance with law, of commodity classification.

Article 4 The commodity classification of import and export goods shall follow the principles of objectiveness, accuracy and uniformity.

Article 5 The commodity classification of import and export goods shall be determined in accordance with the actual conditions of the goods when they are declared by the consignee, consignor or the agent thereof. The commodity classification of import and export goods declared in advance before arrival shall be determined in light of their actual conditions when they arrive at Customs control premises. Where it is otherwise prescribed in the provisions of any law, administrative regulation, or any rule formulated by the General Administration of Customs, those provisions shall prevail.

Article 6 The consignee, consignor or the agent thereof shall, in accordance with the provisions of relevant laws and administrative regulations as well as the requirements by Customs, make a faithful and accurate declaration of the commodity name, specification, model, etc. of its import or export goods, and classify the import or export goods declared by it by giving the goods the corresponding commodity codes.

Article 7 Where multiple import goods that belong to the same consignee and use the same bill of lading are shipped to the same port on the same means of transport at the same time, and the goods should be classified under the same commodity code in accordance with the relevant rules governing commodity classification, the consignee or the agent thereof shall classify all those goods under that single commodity code in declaring to Customs. Where it is otherwise provided for in the provisions of any law, administrative regulation, or any rule formulated by the General Administration of Customs, those provisions shall prevail.

Article 8 Where the materials provided to Customs by the consignee, consignor, or the agent thereof involve any commercial secret, and the consignee, consignor, or the agent thereof requests Customs to keep the confidentiality of the materials, it shall file a written application with Customs in advance by listing in detail the contents that require confidentiality protection. Customs shall fulfill the confidentiality obligation as prescribed by law.

The consignee, consignor, or the agent thereof shall not use commercial secret protection as an excuse to refuse to provide the relevant materials to Customs.

Article 9 Customs shall, in accordance with law, examine the commodity names, specifications, models and commodity codes of import and export goods as declared by the consignee, consignor, or the agent thereof.

Article 10 In examining the items related to commodity classification as declared by a consignee, consignor, or the agent thereof, Customs may exercise the following powers in accordance with the relevant provisions of the Customs Law and the Regulations on Duties, and the consignee, consignor, or the agent thereof shall accord cooperation:

(a) consult and make copies of relevant documents and materials;

(b) ask the consignee, consignor, or the agent thereof to provide necessary samples of and information on related commodities; and

(c) organize testing and inspection of the import or export goods, and determine the commodity classification of the goods according to the testing and inspection results recognized by Customs.

Article 11 Customs may ask the consignee, consignor, or the agent thereof to provide materials that are necessary to determine the commodity classification of the goods, and ask the consignee, consignor, or the agent thereof to make an additional declaration, when necessary.

Where a consignee, a consignor, or the agent thereof conceals any relevant information, or delays providing or refuses to provide any relevant documents or materials, Customs may, in light of the contents declared by the consignee, consignor, or the agent thereof, examine and determine the commodity classification of import or export goods in accordance with law.

Article 12 Where, upon examination, Customs believes that the commodity code as declared by a consignee, a consignor, or the agent thereof is incorrect, it may, in accordance with the relevant provisions of the Rules of the General Administration of Customs of the People's Republic of China on the Levying of Duties and Taxes on Imported and Exported Goods, reclassify the goods in light of the relevant rules and provisions governing commodity classification, and, as prescribed by the Rules of the General Administration of Customs of the People's Republic of China on the Alteration and Cancellation of Declaration Forms of Import and Export Goods and other relevant provisions, notify the consignee, consignor, or the agent thereof to alter or delete the declaration form.

Article 13 Where the commodity code as declared by a consignee, a consignor, or the agent thereof needs to be altered, the consignee, consignor, or the agent thereof shall file an application with Customs in accordance with the Rules of the General Administration of Customs of the People's Republic of China on the Alteration and Cancellation of Declaration Forms of Import and Export Goods and other relevant provisions.

Article 14 Where, before Customs completes the examination of the commodity classification of goods, the consignee, consignor, or the agent thereof requests the release of the goods, it shall provide a security in accordance with the relevant provisions on security for Customs matters.

Customs shall not handle the procedure of “release on bond”, if a license document is required to be provided due to restrictive provisions of the State on the entry or exit of the goods but such document is unable to be provided, or under any other circumstances provided for in the relevant laws and administrative regulations where the provision of security is forbidden.

Article 15 An entity engaging in the trade of import or export goods that is registered with Customs (hereinafter referred to as the applicant) may, 45 days before the actual importation or exportation of the goods, file an application with the competent regional Customs for advance commodity classification of the goods to be imported or exported (hereinafter referred to as advance classification).

Article 16 Where an applicant applies for advance classification, it shall fill out and submit an Application Form for Advance Commodity Classification of the Customs of the People’s Republic of China (see Annex 1 for its format).

The application for advance classification shall be filed with the regional Customs at the place where the goods are to be imported or exported.

Article 17 Where, upon examination, the regional Customs believes that the items of commodity classification contained in the application for advance classification have been explicitly covered in the Customs Import and Export Tariff of the People’s Republic of China, the Explanatory Notes to Commodities and Their Headings in the Customs Import and Export Tariff, the Explanatory Notes to the National Subheadings of the Customs Import and Export Tariff of the People’s Republic of China, or the administrative rulings and decisions on commodity classification issued by the General Administration of Customs, it shall, within 15 working days as from the date of acceptance of the application, issue a Decision of Advance Commodity Classification of the Customs of the People’s Republic of China (hereinafter referred to as the Decision of Advance Classification; see Annex 2 for its format), and inform the applicant.

Article 18 When an applicant imports or exports goods covered in a Decision of Advance Classification in the Customs region within the jurisdiction of the regional Customs that has issued the Decision of Advance Classification, it shall present to Customs the Decision of Advance Classification on its own initiative.

Where an applicant has actually imported or exported goods listed in a Decision of Advance Classification, and has made a declaration in accordance with the Decision of Advance Classification, Customs shall release the goods after conducting verification in light of the classification opinions contained in the Decision of Advance Classification.

Article 19 Where there is any mistake in the contents of a Decision of Advance Classification, the regional Customs that has issued the Decision of Advance Classification shall immediately issue a Notice on Revocation of Advance Commodity Classification Decision of the Customs of the People’s Republic of China (hereinafter referred to as the Notice; see Annex 3 for its format), and notify the applicant to stop using the Decision of Advance Classification.

Where any change occurs to the rules according to which a Decision of Advance Classification

is made, and the Decision of Advance Classification is no longer applicable as a result, the regional Customs that has issued the Decision of Advance Classification shall issue a Notice, or make an announcement, to notify the applicant to stop using the Decision of Advance Classification.

Article 20 Where, upon examination, the regional Customs believes that the items of commodity classification contained in an application for advance classification are not explicitly covered in the Customs Import and Export Tariff of the People's Republic of China, the Explanatory Notes to Commodities and Their Headings in the Customs Import and Export Tariff, the Explanatory Notes to the National Subheadings of the Customs Import and Export Tariff of the People's Republic of China, or any of the administrative rulings and decisions on commodity classification issued by the General Administration of Customs, it shall, within 7 working days as from the date of acceptance of the application, notify the applicant to apply for an administrative ruling in accordance with the relevant provisions.

Article 21 The General Administration of Customs may, in accordance with the provisions of relevant laws and administrative regulations, issue a decision on commodity classification that is generally binding for import and export goods.

Imported and exported identical goods shall apply the same decision of commodity classification.

Article 22 Decisions on commodity classification shall be released to the public by the General Administration of Customs.

Article 23 Where any change occurs to any of the laws, administrative regulations or other relevant provisions according to which a decision of commodity classification is made, the decision of commodity classification shall become invalid simultaneously.

Where a decision of commodity classification has become invalid, the General Administration of Customs shall make an announcement thereon.

Article 24 Where the General Administration of Customs detects any mistake in any decision of commodity classification, it shall revoke the decision in a timely manner.

Where a decision of commodity classification is revoked, the General Administration of Customs shall make an announcement thereon. The decision of commodity classification so revoked shall become invalid as from the date of revocation.

Article 25 Where, due to the reason of commodity classification, any duties and/or taxes are to be refunded or recovered, or any late fine is to be collected, the formalities shall be handled in accordance with the provisions of relevant laws, administrative regulations and rules formulated by the General Administration of Customs.

Article 26 Acts in violation of these Rules that constitute smuggling, breaches of provisions on Customs control or other breaches of the Customs Law, shall be dealt with by Customs in accordance with the relevant provisions of the Customs Law and the Regulations of the People's Republic of China on Implementing Customs Administrative Penalty. Where such an

act constitutes a crime, criminal liability shall be imposed accordingly.

Article 27 The right of interpretation of these Rules shall remain with the General Administration of Customs.

Article 28 These Rules shall come into force as of May 1, 2007. The Interim Rules of the General Administration of Customs of the People's Republic of China on Advance Commodity Classification of Import and Export Goods promulgated in the form of Decree No. 80 of the General Administration of Customs on February 24, 2000 shall be repealed simultaneously.

Annexes:

1. Application Form for Advance Commodity Classification of the Customs of the People's Republic of China
2. Decision of Advance Commodity Classification of the Customs of the People's Republic of China
3. Notice on Revocation of Advance Commodity Classification Decision of the Customs of the People's Republic of China

Annex 1

Application Form for Advance Commodity Classification of the Customs of the People's Republic of China

() Customs Advance Classification Application No.

Applicant:

Enterprise code:

Postal address:

Telephone number:

Commodity name (Chinese and English):

Other name(s):

Commodity description (specification, model, structural fundamentals, performance indicators, functions, applications, ingredients, processing methods, analytical methods, etc.):

Import/Export Plan (date of import/export, port, quantity, etc.):

Checklist of documents and materials attached (please attach them to this form):

If you are already holding a Customs decision of advance commodity classification for previous identical goods, please give the serial number of the decision here:

Applicant (Seal)

Customs (Seal)

Date: dd_mm_yy

Received and signed by:

Received and signed on: dd_mm_yy

Notes:

1. Before filling out this form, please read the *Rules of the General Administration of Customs of the People's Republic of China on the Commodity Classification of Import and Export Goods*.
2. This form is made in duplicate, one copy for the applicant and the other for Customs.
3. This form is invalid unless sealed by the applicant and the Customs.

Annex 2

**Decision of Advance Commodity Classification of the
Customs of the People's Republic of China**

() Customs Advance Classification Decision No.

Applicant:

Enterprise code:

Postal address:

Telephone number:

Commodity name (Chinese and English):

Other name(s):

Application No.:()Customs Advance Classification Application No.

Date of Acceptance: dd_mm_yy

If a Customs decision of advance commodity classification is already held for previous identical goods, please note the serial number of the decision here:

Commodity Description:

Commodity classification code: Customs (Seal)

dd_mm_yy

Notes:

1. This form is made in duplicate, one copy for the applicant and the other for Customs.
2. This form is invalid unless sealed by the Customs.
3. This form is invalid with any erasure.

Annex 3

**Notice on Revocation of Advance Commodity Classification Decision of the
Customs of the People's Republic of China**

_____ (Name of organization or company):

As prescribed by the *Rules of the General Administration of Customs of the People's Republic of China on the Commodity Classification of Import and Export Goods*, this is to inform you that due to the adjustment of _____, the Decision of Advance Classification on _____ is revoked. You are required to stop using the afore-mentioned Decision of Advance Classification in making declarations. You may, in accordance with the relevant provisions of the *Rules of the General Administration of Customs of the People's Republic of China on the Commodity Classification of Import and Export Goods*, file an application with the competent Customs for another advance classification.

Customs (Seal)

Date: dd_____mm_____yy_____

(All information in this document is authentic in Chinese. English is provided for reference only. In case of any discrepancy, the Chinese version shall prevail.)

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<http://english.customs.gov.cn/publish/portal191/tab3972/info174091.htm>