



Client Alert

昊理文法律动态

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[Customs & Tariffs/海关与关税咨询]

Customs Valuation & Classification: New Post-clearance Declaration Obligations Commencing from October 1, 2009

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Under Chinese Customs Law, the importer or the exporter (“**the Company**”) has the obligation to declare to the Customs the HS code, place of origin and value of the import or export goods based on the actual conditions of the goods at the time of import or export. If the Customs challenges the declared items after the import and export clearance, a process of customs investigation or pricing consultation will be triggered. In such process, the Company does not have a further declaration obligation. The obligation of the Company is in general only to

submit further information or documents or explain questions as per request from the Customs. The information provided during this process is not treated as part of the declaration and consequently the improper declaration liabilities will not apply to the information disclosed in this process.

However, on August 10, 2009, the General Administration of Customs of the PRC (“**General Customs**”) announced a new rule concerning the supplementary declaration of

import or export goods 海关总署公告 2009 年第 49 号《关于进出口货物价格、归类、原产地补充申报有关问题公告》 (“**New Rule**”).

The New Rule creates a new obligation called “supplementary declaration”. The New Rule came into effect from October 1, 2009.

I. Supplementary Declaration

Supplementary declaration consists of two instances:

1. Supplementary Declaration Demanded by the Customs

The Customs has the discretion to demand in writing during or after customs clearance of goods the Company make the supplementary declaration. The Company shall submit the Supplementary Declaration Sheet (“**SDS**”) together with the supporting documents within 5 work days upon the receipt of the demand. If the demand is not complied with, the Customs may directly determine HS code or the valuation of the goods based on the information that comes into their knowledge. Normally an unfavourable tariff rate or valuation may result from non-compliance with the customs demand for supplementary declaration.

2. Supplementary Declaration Requested by Companies

The Company may also under the New Rule to make the supplementary declaration by

submitting SDS together with the Customs Declaration Sheet (“**CDS**”) on its own initiative.

II. Exposures

The Company may be exposed to the following new risks and liabilities in the process of making supplementary declaration:

1. Liability for Improper Declaration

The obligation to declare accurately and honestly also applies to the Company in the process of making the supplementary declaration and the Company bears the risk of breaking or even smuggling customs regulations if the declaration turns to be inaccurate.

2. Post-clearance Declaration Liability

The declaration obligation even extends to the post-clearance period if the customs so demands.

3. Changed Nature of Pricing Consultation

The imposition of the supplementary declaration obligation on the Company makes the pricing consultation with the Customs regarding valuation of import or export goods (海关价格磋商) a legally nervous procedure. Any inaccuracy in the information further declared in this process will easily trigger the liabilities for improper declaration.

Should you have any questions about this Client Alert, please contact the partners of HaoLiWen Customs & Tariffs Practice Group:

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