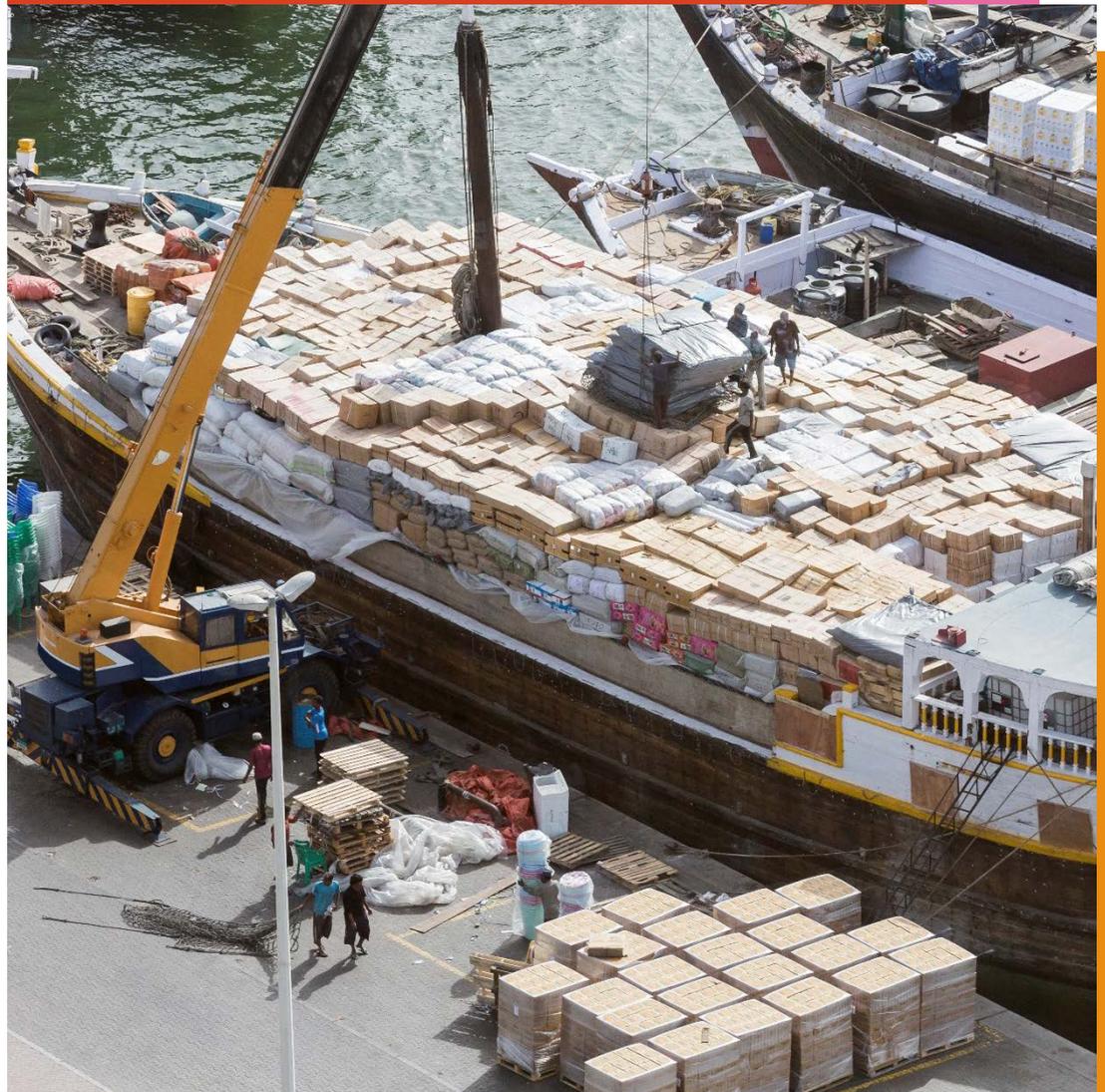


Customs and Trade Alert Interim Administrative Measures for Advance Rulings of Customs

— A pedestal to improving
trade compliance and efficiency

January 2018



Overview

On 26 Dec 2017, GAC published the Interim Administrative Measures for Customs Advance Rulings of the People's Republic of China (GAC Order No. 236), which will come into effect from 1 February 2018. The order indicates that prior to the actual import and export of goods and upon application by companies, Customs could provide advance rulings for customs affairs related to the import and export activities.

The release of GAC Order No.236 is another important milestone for China Customs to implement the WTO Trade Facilitation Agreement and to respond to enterprises' demand for more certainty and predictability on international trade, which will have a positive impact on China's trade security and facilitation.



Highlights

Topics Covered

- Tariff classification
- Country of origin or origin qualification criteria
- Relevant factors for customs valuation or customs valuation methods
- Others as approved by the GAC

Applicants are required to be the Customs registered foreign trade business operators related to the import/export activities.

Application Materials

- Application form for Customs advance rulings
- Other relevant materials as required by Customs (including Chinese translation of any materials in foreign languages)
- Samples as required by Customs
- Supplementary materials as consider relevant by the applicant

Application Process

- Applications with Regional Customs should be made 3 months prior to the scheduled time for import/export
- Customs to review and decide whether to accept the application within 10 days of receipt of complete application materials
- Customs may terminate the ruling application under certain circumstances, e.g. applicant's inability to provide samples or other materials requested
- Customs to issue the Advance Ruling Decision within 60 days from date of acceptance
- The Advance Ruling Decision should be served to the applicant and would take effect as of the date of service.

Validity

- The Advance Ruling Decision would be valid for 3 years
- The Advance Ruling Decision has no retrospective effect on imports or exports prior to the effective date of the Decision
- Any changes to the relevant regulations that the Advance Ruling Decision is based upon would automatically nullify/void the Advance Ruling Decision
- Customs may revoke the Decision of Customs Rulings under certain circumstances (e.g. subsequent discovery of incorrect applications/ruling) and should notify the Applicant of the revocation.

PwC Observations

Trade Facilitation

- Compared to the existing Interim Measures on the Administration of the Administrative Rulings of Customs of the People's Republic of China (GAC Order No.92), the new GAC Order No.236 provides Advance Ruling Decisions that would be effective nationwide, but decentralises the application approval process from the GAC to Regional Customs, which should result in a much speedier applications.
- Based on various informal discussions, as compared to the existing location based customs valuation advance ruling scheme, we got to understand that there is a possibility to explore with Customs a nationwide advance ruling of the relevant customs valuation factors or methods beyond an upcoming individual import/export shipment under the new GAC Order No.236.
- According to the new GAC Order No.236, any foreign trade business operators registered with Customs related to the import/export could apply for advance rulings, and it does not state any extra requirements regarding the qualification of the enterprise.
- Declarations in accordance with an Advance Ruling Decision should reduce or avoid potential disputes Customs that could otherwise arise during different stages of the import process, starting from declaration to post-importation.
- For companies conducting "self-declaration and self-payment", Advance Rulings could significant improve customs compliance.

Preparation for successful advance rulings

- A thorough understanding and citation as appropriate of the relevant customs and import tax collection rules and practices, including tariff classification, valuation and rules of origin.
- Application materials properly organized, especially in cases where a vast number of imported or exported goods are involved, to facilitate review.
- Be aware and meet the application deadline.
- Crucial technical issues should be clearly presented and explained with Customs.
- Closely monitor relevant law and regulations which the Advance Ruling Decision is based.

Areas for further clarification

1. The relevant legal instruments still to be formulated and published by GAC.
2. It is stated an application should only involve one customs matter for ruling. The definition of what is considered as one customs matter for each application would need to be clarified.
3. The scope of the "other Customs matters approved by the GAC" covered under an advance ruling application need to be explored and clarified.
4. Any facilitation granted to companies with higher customs ranking to be explored.

PwC's Value

In view of the potential benefits brought by the advance rulings regime in relation to trade facilitation and compliance, it is advisable to:

- Identify difficult and controversial issues surrounding import and export, and seek for opportunities to apply for advance rulings where applicable.
- Maintain close communications with Regional Customs to understand the practical requirements of an advance ruling.
- After the implementation of the advance ruling program, submit applications for difficult and controversial issues with Customs as soon as possible.
- Submit supplementary documents or samples to Customs within the deadline.

PwC's Worldtrade Management Services could provide assistance in the following aspects:

Assist in determining the potential scope for advance ruling application and identify applicable regulations where available to save time and ensure a smooth application process.

Advise on application materials and supplementary submissions, and facilitate communications between companies and Customs.

Provide analysis and assessment of the topics for advance ruling applications.

Advise on improving internal controls in line with the Advance Ruling Decision, and help keep track of the validity of the Decision to mitigate potential custom compliance risks.

Contacts Us

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PwC's Customs & Worldtrade Practice

Customs and worldtrade in China is complex, but with the right approach is manageable. A planned and structured approach results in cost savings, higher levels of compliance and fewer unwanted surprises during an audit. PricewaterhouseCoopers' specialists within our Greater China customs and international trade practice provide a wide range of advice and services related to creating value, ensuring compliance, and managing risk in relation to the movement of goods into and out of China.

Worldtrade Management Services (WMS) is the global customs and international trade consulting practice of PwC. WMS has been in Asia since 1992 and is a regionally integrated team of full time specialists operating in every major trading location. Our team is a blend of Asian nationals and expatriates with a variety of backgrounds, including ex-senior government officials, customs officers, international trade lawyers, accountants, and specialists from the private sector who have experience in logistics, customs and international trade.

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