

Dear Sir

I wish to draw your readers' attention to new regulations that affect China Customs' Trade Compliance Program.

The aims of the new regulations are to continue China Customs' modernisation efforts, encourage informed trade compliance, improve customs-trade partnership, and implement the WCO Framework of Standards to Secure and Facilitate Global Trade. After consulting with the trade, China Customs Administration recently announced the new regulations concerning customs compliance and trade facilitation, to take effect from 1 April 2008. Briefly, these regulations address:

1. Classification of Importers of Record. In accordance with the regulations, based on the internal control level, business performance, compliance records, and other information, Customs will classify the importers of record (IORs) and customs brokers into categories of AA (AA Program), A, B, C, and D. While the IORs of Class B will be treated normally and the IORs of Classes C and D will receive no benefits but more inspections and audits, the IORs of Classes A and AA will enjoy enormous benefits of trade facilitation.

2. Eligibility, requirements and benefits for IORs of Classes A and AA. To be qualified as a **Class A IOR**, the company shall, (1) submit an application to upgrade its class; (2) be the IOR registered with Customs; (3) be a Class B IOR for more than 12 months; (4) have no smuggling offence and activity, or other activities violating customs laws and regulations in the past 12 months; (5) have no activity of importing or exporting goods that infringe intellectual property rights in the past 12 months; (6) have no delay in payments of revenue to Customs in the past 12 months; (7) have imports and exports volume beyond US\$500,000.00; (8) have customs entry errors lower than 3%; (9) have sound recordkeeping and accounting systems; (10) comply with laws, regulations and customs procedures; (11) submit an annual business management report to customs; (12) have no bad records with other government agencies such as Commerce, Central Bank, Tax, Industry and Business Administration, Commodity Quality Inspection, Foreign Exchange.

The Class A IORs will receive trade facilitation benefits from Customs in: (1) remote filing and goods release at the port of entry; (2) customs inspection at the production site, if necessary; (3) privileged fast inspection and release; (4) advance customs entry before the goods arrive at the port of entry; (5) 24/7 urgent customs clearance; (5) waiver of customs bond or cash deposit requirement for processing a trade operation.

To be qualified as a **Class AA IOR**, in addition to the requirements for the Class A IOR, the company must, (1) submit an application; (2) be a Class A IOR for more than 12 months; (3) have annual import and export volume beyond US\$30 million; (4) pass the customs audit and verification for the program and meet the internal control, trade compliance and security in trade requirements; (5) submit an annual financial audit report, annual business management and internal control report, and biannual import-export business report.

In addition to the benefits for the Class A IOR, the Class AA IOR will receive extra benefits in (1) trusted customs release; (2) a customs account manager coordinating customs and trade questions; (3) direct customs release after the entry passes the electronic review; and (4) waiver of cargo inspection under normal circumstances.

A new IOR needs to start from a Class B IOR, and then apply to upgrade 12 months later.

Since Customs brokers are also classified as AA, A, B, C, and D level, the importer of record must be very careful in selecting its customs broker and avoid hiring a customs broker below Class B.

3. Implementation rules and standards to be deployed. With the announcement of the new regulations, China Customs is working on the implementation rules, standards and systems, such as Importer Compliance Assessment System, and Internal Control Standards. We understand that the AA Program of

China Customs is a good Chinese version of AEO and adopts the best practices from the Importer Self-Assessment Program (ISA). Further inputs from the trade will make the AA Program of China Customs a more cost-effective customs compliance and trade facilitation program.

4. To be an active Importer of Record in China. Importer of Record in China is a legal entity which has permission from Commerce for international trade, is registered with Customs and legally deals directly with Customs and other government agencies. Prior to China's entry into the WTO, international trade was restricted and only a few state-owned and private trading companies were allowed to conduct international trade. Since China joined the WTO, most of the international trade activities are allowed to be conducted by foreign-investor companies and private companies.

With the completion of the registration process, most of the foreign-investor companies obtained the general trading privilege and the Customs ID. However, based on our observation, and to avoid the technical customs and trade questions, and compliance problems, a good number of the foreign-investor companies with trading rights, especially the distributors, in China, still hire the local trading companies as IOR by paying a service fee to the trade agents which employ customs brokers to clear goods from customs, but themselves act only as 'consignees'. This approach may not only raise business cost but increase customs and trade compliance risk that the 'consignees' eventually will have to bear. Moreover, since customs and other government agencies legally only transact with the IORs for international trade, the 'consignees' lose the opportunity of the benefits from the trade compliance and facilitation programs. We advise that the legal entities of the multinational companies in China should be the active IORs and centralise, if necessary and feasible, their trade activities in China for effectively and efficiently dealing with China Customs and other Chinese government agencies.

Yours faithfully

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Dear Sir

I refer to your article on the changing role of Customs which was published in the first issue of the *World Customs Journal*. In that article you discussed the traditional role and functions of customs authorities as well as their new emerging responsibilities. After reading the article, I thought it might be a good opportunity to write to you and inform you and the readers of the Journal of my research in the area of customs relating specifically to regulation of offshore oil and gas installations.

With the increasing number of offshore oil and gas platforms on the continental shelf areas around the world, their regulation is becoming a completely new area of responsibility for some customs authorities. Moreover, customs authorities that already have responsibilities in the regulation of the offshore petroleum industry may find that they have to devote more time and resources to fulfil these responsibilities.

Customs may be involved in the regulation of various activities relating to offshore oil and gas installations including the attachment of installations to the seabed, the movement of people, animals, ships, aircraft, goods and stores to and from offshore platforms, the export and import of platforms, as well as some operational aspects such as the export of oil and gas directly from platforms. More recently, as a result of developments in international maritime security law, many customs authorities have also become responsible for ensuring compliance with certain maritime security requirements applicable to offshore facilities. Customs officers usually have additional enforcement powers available to them under these maritime security provisions.

However, in the international context, my research has shown that, so far, no significant international initiatives have been pursued in this area of law by international organisations or individual countries. There are currently no commonly accepted international principles that specifically address the issue of customs control of offshore resources installations. The Revised Kyoto Convention is silent on the issue of customs regulation of offshore platforms and to the best of my knowledge, the World Customs Organization (WCO) has not issued any recommendations or guidelines with respect to regulation and control of offshore installations by Customs authorities. There is also a general lack of literature on this topic and information is not readily available.

I have previously raised this issue in Australia in a publication on this topic where I examined Australian legislation. Now the new *World Customs Journal* seems to be the most appropriate publication to raise this issue again, but this time on the international scale. The purpose of this letter is to draw the attention of readers and those involved in customs research to this topic, and to generate further discussion and interest in this area of research. It also calls on the industry, researchers and government officials to work towards developing international rules, recommendations or guidelines relating to customs regulation of offshore installations, and the extent of customs control over offshore oil and gas operations.

I thank you in advance for giving me the opportunity to comment on this matter and I also congratulate the Editorial Board on the successful launch of this exciting publication.

Yours faithfully

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