

Brace for impact!

Prepare and consolidate your transfer pricing policies and royalty agreements in view of forthcoming changes in customs declaration formalities

*China Customs and Trade Alert
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Highlights

According to China Customs Announcement 2016/20 released by the General Administration of Customs of the PRC (“GAC”) on March 24, 2016, there will be amendments to the format of the customs declaration forms (“CDF”), and it will result in the collection of additional information of the import transaction. These changes will be effective from March 30, 2016 and based on the Announcement, the updates will encompass the 4 core areas below:

3 new inquiries	2 new data	1 new upper limit	1 new code
<ul style="list-style-type: none">• Existence of special relationships?• Does special relationship impair the import price?• Confirmation on royalty payments	<ul style="list-style-type: none">• Country of origin/ Final destination location• Trade region	<ul style="list-style-type: none">• Maximum items per declaration increased from 20 to 50	<ul style="list-style-type: none">• Additional checkbox for inputting the 18-digit unified social credit code

PwC observation

It is noticeable that there are “3 new inquiries” in the new CDF that indicates Customs’ strengthened supervision on customs valuation at the time of customs clearance. These information/ data will become a mandatory disclosure to Customs.

The changes above are in line with the GAC Order No. 213/ 2015 – *Customs Measures of the PRC Customs on Determination of Dutiable Value for Imported and Exported Goods* – which provides that Customs will consider whether there are special relationships between buyers and sellers associated with import transactions and the corresponding dutiable values of imported goods. In cases of doubt, the dutiable values of imported goods can be re-assessed as deemed necessary by Customs.

In addition to considerations about special relationships between buyers and sellers, Customs request upfront disclosure of royalty and licence fee information. Importers should ensure the below criteria are met in order to that they are exempted for customs duty assessment:

- The royalty and licence fees are not related to the imported goods; and
- The royalty and licence fees do not constitute a condition of sale.

PwC observation

Tightening customs valuation supervision

China Customs' assessments on related party transactions and royalty payments has become robust and intensive in recent times, echoing the World Customs Organization publication of a guideline on resolving conflicts between transfer pricing and customs valuation in June 2015. At present, Customs obtains such information on risk assessment base or through post importation inquiry or audit processes. The upcoming changes will enable Customs to filter companies with potential customs valuation risks quickly and efficiently.

Below are the potential risk and customs exposures from increased scrutiny:

- Delay or disruption in customs clearance due to queries on royalty and special relationship declared;
- Additional duty cost may arise from assessment of dutiable royalty or relationship impairment;
- Penalty and duty clawback depending on the intent and nature of omission of requisite information on the declaration, which may trigger review of shipments in past 3 years.
- If assessed penalty, importer may face enterprise downgrading and more scrutiny on future customs clearance of goods.

Action-plan

Customs valuation review and defence

In view of Customs' new supervision approach, companies shall review if they already have in-house documentation or information to support that the declared prices are compliant with respect to the 3 inquiry disclosure. If not, a quick review is recommended to achieve the following:

- i. Assess compliance with prevailing China customs valuation rules and regulations;
- ii. Ascertain the degree of its current customs valuations risk and historical exposure;
- iii. Carry out rectification work to minimize customs exposure.

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PwC Customs & International Trade Practice

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