

# **Categorized Management of Enterprises and Compliance for Facilitation**

**Sept. 21, 2011**



# 1. Background of the Categorized Management of Enterprises in China Customs

- **1. 1. Five Stages :**
- **1. 1. 1. Initial Attempts:** Rules on Management of Trust-worthy Enterprises
- **1. 1. 2. Theoretical Explorations:** Rolling out Customs audit measures comprehensively
- **1. 1. 3. Institutional Structure Taking Shape:** Rules on Categorized Management of Enterprises
- **1. 1. 4. More In-Depth Explorations:** AEO, SSTL, C-TPAT, 3M.
- **1. 1. 5. Improved and Well-Developed:** Rules on Categorized Management of Enterprises
- **Promulgated by Decree No. 197 of the General Administration of Customs on Nov. 15, 2010, effective as of Jan. 1, 2011.**



## **2. Major Characteristics of the Categorized Management of Enterprises in China Customs**

- **2. 1. Legislation Space Set Aside for Further Evolution in the Future**
  - The Rules cover all enterprises doing business in import and export. Legislation space has been set aside for the categorized management of enterprises which are part of the international trade supply chain but not registered with China Customs.
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## 2. Major Characteristics of the Categorized Management of Enterprises in China Customs

- **2. 2. Five Categories**
- AA, A, B, C, D.
- AA enterprises can be called “Authorized Economic Operators” (AEO) certified by China Customs.



## 2. Major Characteristics of the Categorized Management of Enterprises in China Customs

- 2. 3. Transformation of the AEO system advocated by WCO into domestic legislation
- In June 2005, the 105th/106<sup>th</sup> WCO annual sessions adopted the resolution on Framework of Standards to Secure and Facilitate Global Trade (SAFE), advocating explicitly the system of “Authorized Economic Operators” (AEO). Around 140 member administrations signed a letter of intent to implement SAFE during the sessions. Incorporated into SAFE are the entity requirements for AEO system, trade facilitation measures and certification procedure, which specifies the contents and requirements of trade security and validation audit. China Customs has transformed the AEO system into a domestic system in the form of Article 6 of the Rules on Categorized Management of Enterprises.



## 2. Major Characteristics of the Categorized Management of Enterprises in China Customs

- **2. 3. Transformation of AEO system into domestic legislation**
  - **2. 3. 1. China's AEO Validation Audit**
  - **New means for the management of China's AA enterprises (i.e. AEOs)**
  - **--Apr. 30, 2008: General Administration of Customs (GACC) promulgated the Interim Rules on Validation Audit:**
    - **---Only for applicants for AA category (AEO category)**
    - **---Main contents of the criteria and procedure: satisfaction of the requirements of Customs management, requirements of the status of applicants' operations and management, and trade security requirements.**
    - **---Validation Audit will generally be completed within 45 days.**
    - **---Management model: First, validation; then, adoption of the management measures.**
    - **---There must be an Evaluation Report on the Status of the Applicant's Operations and Management at the end of the validation audit.**



## **2. Major Characteristics of the Categorized Management of Enterprises in China Customs**

- **2.4. Specifies the Partnership between Customs and the Business Community**
- The Rules prescribe that “Customs and enterprises should enhance cooperation and keep regular information exchange and business contact”, explicitly specifying the need to establish partnership between Customs and enterprises. This lays down the legal basis for validation audit in the future. Ref: Article 4.

## **2. Major Characteristics of the Categorized Management of Enterprises in China Customs**

- **2. 5. Differentiated Treatment of Different Categories of Enterprises**
- To ensure self-discipline of the enterprises, the Rules prescribe that “Under the principle of compliance for facilitation, different treatment will be accorded to different categories of enterprises. AA and A enterprises will enjoy preferential clearance treatment, Category B enjoys general treatment, Categories C and D will be strictly supervised.”



## **2. Major Characteristics of the Categorized Management of Enterprises in China Customs**

- **2. 6. Consolidated different measures of “compliance for facilitation”**
- The Rules have absorbed and consolidated the measures of “compliance for facilitation” in different fields of Customs, and through formulating a unified “Catalog of Measures of Categorized Management of Enterprises”, unified those measures to ensure standardized operations of “compliance for facilitation”.



## **2. Major Characteristics of the Categorized Management of Enterprises in China Customs**

- **2.7. Contributing to China's National Credit System**
- The Rules prescribe that to be an AA or A enterprise, the applicant must not have any bad record in the relevant administrative authorities. This measure has been taken to contribute to the gradual development of China's National Credit System".

# **3. Significance of the Categorized Management of Enterprises in China Customs**

- **3. 1. Adapting to the development of the times and promoting trade facilitation**
- **3. 1.1. Adapting to the need of rapid world trade growth**
- With the world trade growing rapidly, China's import and export trade is also surging, there are more and louder voices for trade facilitation. Therefore, adoption of categorized management is an adaptation to the need of the soaring global trade.

# 3. Significance of the Categorized Management of Enterprises in China Customs

- 3. 1. Adapting to the development of the times and promoting trade facilitation
- 3. 1. 2. Adapting to the need of reforming Customs management philosophies and models
- With China Customs more extensively and intensively involved in international affairs, there is an emphasis on the concept of “supervising the goods by supervising the enterprises”, the establishment of a new Customs control model based on enterprises instead of goods and the need to forge ahead with a modern management system. This has become the objective of reform of China Customs management philosophies and management models. Therefore, adoption of the categorized management can not only help strike a balance between effective control and efficient operations, between risking workload and limited hands, but also help meet the needs of the major reform of customs management philosophies and management models.



# 3. Significance of the Categorized Management of Enterprises in China Customs

- 3. 1. Adapting to the development of the times and promoting trade facilitation
- 3. 1. 3. Adapting to the need of unified law enforcement to facilitate trade
- To facilitate trade, China Customs has taken a series of measures of “compliance for facilitation”. Through revising the Rules on Categorized Management, it has unified and standardized such measures to have unified law enforcement across China Customs. This is helpful to the implementation of those measures.

# 3. Significance of the Categorized Management of Enterprises in China Customs

- **3. 2. Overview of the Categorized Management System**
- **3. 2. 1. Structure**
- 《The Rules consist of 5 chapters (the General Provisions, categories of enterprises, applicability and adjustment of the categories, implementation of management measures, and supplementary provisions), totalling 33 articles. In light of the characteristics of business enterprises are dealing with, more detailed categorization provisions are formulated by dividing enterprises into 2 types (consignors and consignees of imports and exports; declarant enterprises).



# 3. Significance of the Categorized Management of Enterprises in China Customs

- **3.2 Overview of the Categorized Management System**
- **3. 2. 2. Categorization criteria**
- The Rules set forth different criteria for the 5 management categories (AA, A, B, C and D) from the perspectives of the level of compliance with laws, regulations, Customs rules and anti-corruption provisions, the status of operations and management of the enterprises, Customs control, statistics, etc. Evaluation will be made on enterprises' applications in accordance with the criteria and the management categories of the enterprises as a result of the evaluation will be made public.



# 3. Significance of the Categorized Management of Enterprises in China Customs

- 3.2 Overview of the Categorized Management System
- 3. 2. 3. Basic Principles
- ---The purpose of enacting the Rules is to encourage enterprises to discipline themselves and comply with law on their own initiative. It reflects the overall requirements of the development of China's national credit system, the management philosophies of the modern Customs system with risk management at the core, and the objectives of increasing efficiency and ensuring security and facilitation of international trade. The most fundamental principle is compliance for facilitation. Other principles are: e.g. enterprises under different categories should enjoy differentiated management measures; the Categoryification criteria, procedure, and management measures should be unified nationwide; cooperation between Customs and compliant enterprises should be enhanced, etc.



# 3. Significance of the Categorized Management of Enterprises in China Customs

- 3.2 Overview of the Categorized Management System
- 3. 2. 4. Details of Major Articles
- 3. 2. 4. 1. To be qualified as a consignor/consignee of imports/exports under Category AA (example):
  - ① Already qualified for Category A and has been managed as Category A for at least 1 year;
  - ② Error rate of declaration for the previous year is below 3%;
  - ③ Have passed Customs validation audit, and met the Customs management requirements, enterprise operations and management requirements and trade security requirements;
  - ④ Have submitted every year a Evaluation Report on Status of Operations and Management and the audit report for the previous year prepared by an accounting firm; have submitted a Report on Status of Import and Export Business every 6 months.

# 3. Significance of the Categorized Management of Enterprises in China Customs

- 3.2 Overview of the Categorized Management System
- 3. 2. 4. Details of Major Articles
- 3. 2. 4. 2. Humanized Management
- Article 8.2 about the eligibility for Category C import/export consignors/consignees: “more than 3 violations of Customs control provisions within 1 year, and the declaration forms and entry/exit registration forms involved in the violations exceed 1‰ of the applicant’s total declaration forms and entry/exit registration forms of the previous year, or the fines imposed on the applicant due to its violation of Customs control provisions amount to more than RMB 1 million.”
- The criterion which says “the declaration forms and entry/exit registration forms involved in the violations exceed 1‰ of the applicant’s total declaration forms and entry/exit registration forms of the previous year” is mainly targeted for enterprises with a big import/export trade volume, allowing for a certain percentage of error rate for them.




# 3. Significance of the Categorized Management of Enterprises in China Customs

- 3.2 Overview of the Categorized Management System
- 3. 2. 4. Details of Major Articles
- 3. 2. 4. 3. Anti-infringement Attitude.
- For each category of enterprises, including customs brokers, if previously their goods were seized by Customs due to infringement of intellectual property rights (IPR), the criteria for their qualifications will be very strict. This fully reflects the attitude of the Chinese government in fighting against IPR infringement, and the unswerving resolution and tough measures of China Customs to enhance supervision over imports/exports to prevent the entry/exit of infringing goods.



# **3. Significance of the Categorized Management of Enterprises in China Customs**

- **3.2 Overview of the Categorized Management System**
  - **3. 2. 4. Details of Major Articles**
  - **3. 2. 4. 4. Raised Efficiency.**
  - **Article 19, Chapter 3 of the Rules formalized the timeliness of Customs law enforcement as an institutional requirement to raise efficiency of customs houses' law-based administration at all levels**
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# 3. Significance of the Categorized Management of Enterprises in China Customs

- 3.2 Overview of the Categorized Management System
- 3. 2. 4. Details of Major Articles
- 3. 2. 4. 5. Strict Law-based Administration
- 3. 2. 4. 5. 1. Ineligibility for Categories AA and A.
- Under any of the following circumstances, the regional Customs receiving the application will reject the application directly to the applicant and decide that the applicant is ineligible:
  - ( 1 ) The applicant does not satisfy the requirements prescribed in the Rules when applying;
  - ( 2 ) The applicant does not satisfy the requirements prescribed in the Rules when its application is being reviewed and checked;
  - ( 3 ) The applicant is suspected of smuggling or violating Customs regulatory provisions or infringing upon intellectual property rights and thus still under investigation when its application is being reviewed and checked.



# 3. Significance of the Categorized Management of Enterprises in China Customs

- 3.2 Overview of the Categorized Management System
- 3. 2. 4. Details of Major Articles
- 3. 2. 4. 5. Strict Law-based Administration
- 3. 2. 4. 5. 2. Under any of the following circumstances where degradation is required, Customs shall re-determine the category granted to the concerned enterprise in accordance with the provisions in Chapter II under the Rules after detecting the case:
  - ( 1 ) No longer up to par with the requirements for the category under which it is originally categorized in the case of an enterprise in Category AA or Category A;
  - ( 2 ) Having any of the circumstances as Category C or Category D enterprises are subjected to, in the case of an enterprise in Category B;
  - ( 3 ) Having any of the circumstances as Category D enterprises are subjected to, in the case of an enterprise in Category C.
  - (4) Category AA or A enterprises under investigation due to suspicions of smuggling shall be suspended from the management measures for that category under which they have been categorized, and shall be managed as Category B enterprises during the suspension period.



# 3. Significance of the Categorized Management of Enterprises in China Customs

- 3.2 Overview of the Categorized Management System
- 3. 2. 4. Details of Major Articles
- 3. 2. 4. 5. Strict Law-based Administration
- 3. 2. 4. 5. 3. Added the following provisions to Article 21 of Chapter 3: “Under any of the circumstances listed in Article 20 of these Rules, the regional Customs receiving the application from a Category C or D enterprise applying to be put under Category B or C will reject the application and decide not to change the applicant’s category.”
- ( 1 ) The applicant does not satisfy the requirements prescribed in the Rules when applying;
- ( 2 ) The applicant does not satisfy the requirements prescribed in the Rules when its application is being reviewed and checked;
- ( 3 ) The applicant is suspected of smuggling or violating Customs regulatory provisions or infringing upon intellectual property rights and thus still under investigation when its application is being reviewed and checked.



# 3. Significance of the Categorized Management of Enterprises in China Customs

- 3. 3. Encourage Enterprises to comply for trade facilitation
- 3. 3. 1 Facilitation measures for consignors and consignees under Category AA ( e.g. )
  - ①Credibility as a guarantee.
  - ②Low-risk consignments cleared quickly.
  - ③No need to have a security account.
  - ④Fast-track clearance.
  - ⑤Prioritized when going through Customs formalities.





# Questions?

