

中华人民共和国海关对加工贸易货物监管办法

PRC Customs Supervision and Administration of Processing Trade

Goods Procedures

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PART ONE GENERAL PROVISIONS

Article 1 These Procedures are formulated in accordance with the PRC, Customs Law and other relevant laws and administrative regulations in order to promote the healthy development of processing trade and to standardize the administration of processing trade goods by customs.

Article 2 These Procedures shall apply to procedures for the record filing, import and export customs declaration, processing, supervision and administration, and record verification and cancellation of processing trade goods.

Paper forms or electronic data shall be used for the record filing, import and export customs declaration, and record verification and cancellation of processing trade goods.

Article 3 For the purposes of these Procedures, the following terms have the meanings ascribed to them below:

“Processing trade” shall refer to the business activity of import of operating enterprises of all or some raw and auxiliary materials, components, parts, mechanical components and packing materials (Materials and Parts) and the re-export thereof as finished products after processing or assembling. It includes processing of supplied materials and processing of purchased materials.

“Processing of supplied materials” shall refer to the business activity of which a foreign enterprise provides the imported Materials and Parts; the operating enterprise is not required to pay foreign exchange for the import, and carries out processing or assembling according to the requirements of the foreign enterprise and only collects a processing fee; and the finished products are sold by the foreign enterprise.

“Processing of purchased materials” shall refer to the business activity of which an operating enterprise uses foreign exchange to import the imported Materials and Parts and then sells abroad and exports the finished products.

“Processing trade goods” shall refer to the Materials and Parts imported for, and finished products of, processing trade, and scraps, damaged or sub-standard goods and by-products produced in the course of processing.

“Processing trade enterprises” shall include operating enterprises and processing enterprises registered with customs.

“Operating enterprises” shall refer to all types of import and export enterprises and foreign-invested enterprises that are responsible for entering into a processing trade import and export contract with foreign parties as well as export processing and assembling service companies that have been approved and have obtained permission to engage in the business of processing of supplied materials.

“Processing enterprises” shall refer to production enterprises with legal person status that accept the commission of an operating enterprise and that are responsible for processing or assembling imported Materials and Parts, as well as factories established by operating enterprises which, although lacking legal person status, keep relatively independent accounts and have obtained a business permit (licence) 。

“Amount of materials consumed per unit” shall refer to the quantity of imported Materials and Parts consumed in the processing and production of a unit of finished products for export under normal production circumstances by a processing trade enterprise, hereinafter referred to as “Unit Consumption” 。

“Carrying over materials for further processing” shall refer to the business activity of which a processing trade enterprise transfers products processed from bonded imported Materials and Parts to another processing trade enterprise for re-export after further processing.

“Contracted enterprises” shall refer to production enterprises that have signed a processing contract with an operating enterprise and undertake processing under contract commissioned by the operating enterprise. A contracted enterprise must register with customs and have the corresponding capacity for processing and production.

“Contract out of processing” shall refer to the act of commissioning of a processing trade enterprise, due to its own limitation in production process and upon the approval of customs and the handling of the relevant procedures, of a contracted enterprise for the processing of a certain process of processing trade goods, and the return of the products after processing to the enterprise for final re-export within the stipulated time limit.

“Verification and inspection” shall refer to the acts, of customs, of inspection and verification of the capacity for processing and production declared by processing trade enterprises, and details such as the import, transport, storage, processing, assembly, assignment, transfer, sale and export of processing trade goods, through methods such as verification of data, examination of documents, verification of physical goods and related account books, etc., to see whether they correspond to the reality and whether they comply with the provisions of the relevant laws, and administrative regulations and rules.

“Record verification and cancellation” shall refer to the act of application to customs by processing trade business enterprises for the removal of supervision and administration on the strength of the stipulated documents after processing and re-export or after the customs procedures such as those for domestic sale have been completed, and the handling of procedures for removal of supervision and administration by customs after examining, verifying and inspecting that the documents are true and comply with the provisions of the relevant laws, and administrative regulations and rules.

Article 4 Unless the State has other stipulations, where the imported Materials and Parts for processing trade are subject to the restrictive provisions on import by the State, an operating enterprise shall be exempt from submission of its import licence to customs. Where the finished products for export of processing trade are subject to the restrictive provisions on export by the State, an operating enterprise shall submit to customs its export licence.

Article 5 Upon the approval of customs, where Material and Parts imported for processing trade are subject to bonded supervision and administration, customs shall carry out record verification and cancellation after the finished processed products are exported in accordance with the verified actual quantity of re-export after processing. In the case of prior levy of duty at the time of import according to provisions, customs shall return the duty collected after the finished processed products are exported in accordance with the verified actual quantity of re-export after processing.

Customs shall, in accordance with the relevant provisions, levy and collect export customs duty of export products of processing trade that are subject to export customs duty.

Article 6 Customs shall implement a guarantee system for processing trade goods in accordance with State provisions.

Article 7 Processing trade goods shall not be placed under security, pledge or lien.

Article 8 Customs may, in accordance with the needs of supervision and administration, verify and inspect processing trade enterprises; and the enterprises shall cooperate. Customs verification and inspection may not affect the normal business activities of enterprises.

Article 9 Processing trade enterprises shall, in accordance with the provisions of the PRC , Accounting Law and the relevant State laws, administrative regulations and rules, prepare account books, statements and other relevant documents that comply with the supervision and administration requirements of customs. They shall record the details of import, storage, assignment, transfer, sale, processing, use, wastage and export, etc. related to the processing trade goods of the enterprise, and shall carry out accounting on the strength of legal and valid vouchers.

Processing trade enterprises shall, in accordance with provisions, submit to customs documents such as the annual statement of the production and business activities of the enterprise in the previous year.

PART TWO RECORD FILING OF PROCESSING TRADE GOODS

Article 10 Operating enterprises shall handle record filing procedures for processing trade goods with the competent customs of the place where the processing enterprise is located.

Where the operating enterprise and the processing enterprise are not within the same jurisdiction of a directly-governed customs, they shall handle the record filing procedures for the goods in accordance with the regulations of customs on administration of cross-jurisdiction processing trade.

Article 11 When handling the record filing procedures for processing trade goods, operating enterprises shall truthfully declare the form of trade, Unit Consumption, port (s) of import and export, as well as the name of merchandise, number of merchandise, specifications and model, price and place of origin of the imported Materials and Parts and the finished products for export.

Article 12 When handling the record filing procedures for processing trade goods, operating enterprises shall submit the following documents:

1. valid approval documents issued by the competent department that consents to the engagement in processing trade;
2. where the operating enterprise has the processing capacity itself, a Production Capacity of Processing Enterprise in Processing Trade Certificate issued by the competent department shall be submitted;
3. where the operating enterprise commissions processing, the processing commission contract signed by the operating enterprise and the processing enterprise, and the Production Capacity of Processing Enterprise in Processing Trade Certificate of the processing enterprise issued by the competent department shall be submitted;

4. contracts signed by the operating enterprise with foreign parties; and
5. other supporting documents and materials deemed necessary by customs.

Article 13 Where, upon examination and verification of customs, the documents are complete and valid and the provisions of Articles 10 to 12 hereof are satisfied, customs shall, within five working days of the date of receipt of the enterprise's application for record filing, grant approval for record filing and verify and issue a processing trade handbook.

Where it is necessary to handle the procedures for a guarantee, customs shall verify and issue a processing trade handbook after the operating enterprise has handled the procedures for guarantee in accordance with provisions.

Article 14 In any of the following circumstances, customs shall not grant approval for record filing, and shall notify the operating enterprise thereof in writing:

1. the import and export of the imported Material and Parts or the finished products for export are prohibited by the State;
2. the processing and production of the processed products in China are prohibited by the State;
3. customs is unable to implement bonded supervision and administration on the imported Materials and Parts;
4. the operating enterprise or the processing enterprise is not permitted to engage in processing trade according to State provisions; or
5. the operating enterprise has failed to submit and verify an expired processing trade handbook to customs within the stipulated time limit, but has applied to customs for record filing.

Article 15 Where the operating enterprise or processing enterprise is in any of the following circumstances, customs may grant approval for record filing after the operating enterprise has provided a security deposit equal to the amount of duty liable or a letter of guarantee from the bank:

1. it is suspected of smuggling or violating regulations and the matter has been placed on file for investigation and is being investigated by customs, and the case has not been concluded ; or
2. it has been ordered to carry out rectification by customs during the period for rectification due to disorganized management.

If the operating enterprise or processing enterprise is in any of the following circumstances and customs has reason to believe that there is a relatively high risk in supervision and administration, it may handle the matter by reference to the preceding paragraph and notify the relevant enterprise in writing:

1. leasing factories or equipment;
2. engaging in processing trade business for the first time;
3. the application for a processing trade handbook has been delayed twice or more than twice; or
4. handling record filing of processing trade in a different region.

Article 16 If customs discovers that the documents submitted by an operating enterprise when handling the record filing procedures for processing trade goods are not in accord with the facts, it shall handle the matter in accordance with the following provisions:

1. if the goods have not yet been imported, customs shall cancel its filed record;
2. if the goods have already been imported, the enterprise may apply to return them, or may continue the performance of contract after providing to customs a security deposit equal to the amount of duty liable or a letter of guarantee from a bank.

Article 17 Operating enterprises that have already handled the procedures for record filing of processing trade goods may apply to customs for a fascicule or an extension of the processing trade handbook.

Article 18 If there are changes to the content of the filed record of processing trade goods, the operating enterprise shall handle the procedures for amendment within the period of validity of the processing trade handbook. Where the approval of the original examination and approval authority is required, it shall also report to the original examination and approval authority for approval.

PART THREE IMPORT, EXPORT AND PROCESSING OF PROCESSING TRADE GOODS

Article 19 When importing processing trade goods, operating enterprises may import from abroad, or from special customs supervision zones or bonded warehouses, and may also transfer them in by way of carrying over materials for further processing.

When exporting processing trade goods, operating enterprises may export them abroad, or to special customs supervision zones or export supervision warehouses, and may also transfer them out by way of carrying over materials for further processing.

Article 20 Operating enterprises shall handle import and export customs declaration procedures for processing trade goods on the strength of the relevant documents such as the processing trade handbook and the special declaration form for import and export goods of processing trade.

Article 21 Goods imported and exported by operating enterprises in the form of processing trade shall be included in customs statistics.

Article 22 Upon approval of the competent department, operating enterprises may engage in the business of carrying over materials for further processing, and shall handle the relevant procedures in accordance with the regulations of customs for the administration of carrying over materials for further processing of processing trade goods.

Article 23 Upon the approval of customs, operating enterprises may engage in the business of contract out of processing. Processing contracted out shall be carried out within the period of validity of the processing trade handbook.

When engaging in the business of contract out of processing, operating enterprises shall not sell the processing trade goods to the contracted enterprise. Contracted enterprises shall not further contract out the processing of processing trade goods to another enterprise.

Article 24 Operating enterprises shall transport the processing trade goods such as finished products, scraps, leftover Materials and Parts, damaged or sub-standard goods and by-products that are contracted out for processing back to the enterprise.

Article 25 Customs shall not approve contract out of processing in any of the following circumstances:

1. the operating enterprise or contracted enterprise is suspected of smuggling or violating regulations and the matter has been placed on file for investigation and is being investigated by customs, and the case has not been concluded;
2. the operating enterprise contracts out the processing of a major process; or
3. the production and business administration of the operating enterprise or contracted enterprise does not comply with the supervision and administration requirements of customs.

Article 26 The operating enterprise and contracted enterprise shall jointly accept supervision and administration of customs. The operating enterprise shall, in accordance with the requirements of customs, truthfully report to customs details such as the dispatch, processing, Unit Consumption and storage of goods that are contracted out for processing.

Article 27 If there is an urgent need for processed products for export, operating enterprises may, upon the approval of customs, interchange bonded and non-bonded Materials and Parts.

The interchange of bonded and non-bonded Materials and Parts shall be confined within the same enterprise, and shall abide by the principles of same type, same specifications, same quantity and non-profit-making.

Bonded imported Materials and Parts for processing of supplied materials shall not be interchanged.

Article 28 Operating enterprises that must use non-bonded Materials and Parts due to the needs of processing techniques shall truthfully report to customs in advance the

proportion, type, specifications, model and quantity of the non-bonded Materials and Parts to be used. Customs shall verify and deduct the quantity from the total consumption amount of the finished products for export when carrying out record verification and cancellation.

Article 29 If an operating enterprise needs to return imported Materials and Parts to the original supplier for replacement due to reasons such as quality problems or inconsistency of the specification and model with the contract, it may handle customs declaration procedures directly with the customs of the port of entry. Bonded imported Materials and Parts that have already been processed may not be returned for replacement.

PART FOUR RECORD VERIFICATION AND CANCELLATION OF PROCESSING TRADE GOODS

Article 30 Operating enterprises shall re-export processed imported Materials and Parts within the stipulated time limit, and shall file to customs thereof for verification within 30 days of the export of the last batch of finished products covered by the processing trade handbook or within 30 days of the expiry date of the processing trade handbook.

If a contract signed by an operating enterprise with a foreign party is terminated prematurely for any reason, it shall be filed to customs for verification within 30 days of the date of termination of the contract.

Article 31 When reporting to customs for verification, an operating enterprise shall truthfully declare the details of imported Materials and Parts, finished products for export, scraps, leftover Materials and Parts, damaged or sub-standard goods, by-products and Unit Consumption, and shall submit to customs the processing trade handbook, special declaration form for import and export goods of processing trade and other documents required to be submitted by customs.

Article 32 If the documents are complete and valid after examination and verification, the filing for verification shall be accepted by customs. If customs does not accept the filing, it shall notify the enterprise in writing of the reasons therefor. The enterprise shall file for verification again in accordance with provisions.

Article 33 Record verification and cancellation of customs may use paper form record verification and cancellation or electronic data record verification and cancellation. If necessary, verification and inspection may be conducted in the factory; and the enterprise shall cooperate.

Customs shall conduct record verification and cancellation within 30 days of the date of acceptance of the filing for verification. If an extension is required due to special circumstances

, the time period may be extended for 30 days by the director of a directly-governed customs or of a subordinate customs authorized by the director of a directly-governed customs.

Article 34 If the bonded imported Materials and Parts or finished products of processing trade are to be sold domestically for any reason, customs shall, on the strength of a valid approval document that approves domestic sale of the competent department, levy duty on the bonded imported Materials and Parts and interest on deferred duty in accordance with the law. In the case of imported Materials and Parts that are subject to restrictive provisions on import by the State, the operating enterprise shall also submit an import licence to customs.

Article 35 If an operating enterprise for any reason transports processing trade goods out of China as return shipment, customs shall carry out record verification and cancellation on the strength of the relevant return shipment documents.

If, upon the approval of customs, an operating enterprise abandons processing trade goods, it shall be handled in accordance with the regulations of customs for the administration of abandonment of imported goods. Customs shall carry out record verification and cancellation on the strength of the relevant documents on the acceptance of abandonment.

Article 36 Scraps, leftover Materials and Parts, damaged or sub-standard goods and by-products produced in the course of production by operating enterprises, and damaged bonded goods, shall be handled in accordance with the regulations of customs for the administration of scraps, leftover Materials and Parts, damaged or sub-standard goods, by-products and damaged bonded goods of processing trade. Customs shall carry out record verification and cancellation on the strength of the relevant documents.

Article 37 If an operating enterprise has lost the processing trade handbook, it shall report to customs in a timely manner.

Customs shall carry out record verification and cancellation of the lost processing trade handbook after handling the matter in accordance with the relevant provisions.

Article 38 In regards to a processing trade handbook that has been granted a conclusion of case upon record verification and cancellation, customs shall issue a Notice of Conclusion of Record Verification and Cancellation to the operating enterprise.

Article 39 If an operating enterprise provides a guarantee, customs shall release the guarantee in accordance with provisions after the conclusion of record verification and cancellation.

Article 40 Documents of record filing and record verification and cancellation of processing trade goods shall be retained for three years from the date of conclusion of record verification and cancellation of the processing trade handbook.

Article 41 If a processing trade enterprise divides, merges or is bankrupt, it shall report to customs in a timely manner, and shall complete customs formalities.

If processing trade goods are sealed by a people's court or the relevant administrative law enforcement authorities, the processing trade enterprise shall report the matter to customs within five working days of the date on which the processing trade goods are sealed.

PART FIVE LEGAL LIABILITY

Article 42 In case of an violation of the provisions hereof, and smuggling or an act in violation of the provisions of customs on supervision and administration is constituted thereby, customs shall handle the matter in accordance with the relevant provisions of the PRC, Customs Law and the PRC, Customs Law Administrative Sanctions Implementing Rules. Where a criminal offence is constituted, criminal liability shall be pursued in accordance with the law.

PART SIX SUPPLEMENTARY PROVISIONS

Article 43 Engagement in processing trade business by bonded factories shall be handled in accordance with the regulations of customs for the administration of bonded factories engaging in processing trade.

Article 44 Processing of purchased materials by bonded groups shall be handled in accordance with the regulations of customs for the administration of supervision and administration of processing of purchased materials by bonded groups.

Article 45 Engagement in processing trade business by processing trade enterprises that implement computer network supervision and administration of processing trade shall be handled in accordance with the regulations of customs for the administration of processing trade enterprises the implement computer network supervision and administration.

Article 46 Engagement in processing trade business by processing trade enterprises in special customs supervision zones such as bonded zones and export processing zones shall be handled in accordance with the regulations of customs for the administration of special customs supervision zones such as bonded zones and export processing zones.

Article 47 The declaration and verification of Unit Consumption shall be handled in accordance with the regulations of customs for the administration of Unit Consumption in processing trade.

Article 48 Customs shall separately formulate the regulations for the administration of prior levy of duty and subsequent refund after export at the time of import of processing trade goods.

Article 49 The General Administration of Customs shall be responsible for the interpretation of these Procedures.

Article 50 These Procedures shall be effective as of 1 April 2004.