

# China Customs & Trade News

September 2007



## Processing Trade “Restricted List” – Implementing Guidelines

The MOC and GAC issued Notice [2007] No.46 regarding implementation of Announcement No.44 effective August 23, 2007. Announcement 44 refers to the “restricted list” for Processing Trade. Processing Trade enterprises importing or exporting “restricted commodities” shall pay a deposit when registering a paper-handbook, e-account book and e-handbook.

The main clarifications on the formula for deposits are summarized as follows:

- Imports: Deposit = total customs duty and import VAT for all restricted commodities x 50% (Note: Restricted materials transferred in for further processing are exempted).

- Exports: Deposit = registered total amount of bonded import materials x (registered amount of restricted export commodities / registered total amount of export commodities of Processing Trade) x comprehensive duty rate x 50% (Note: Finished goods transferred out for further processing are exempted). The “comprehensive duty rate” is temporarily set at 22%.

Registration of restricted materials and export finished goods should be done by commodity name.

A summary regarding e-account registered enterprises /e-handbook management is as follows:

- A “deposit handbook” should be set up for new e-account (or revised e-account) which involves the “restricted list” and a deposit should be paid.

- The filing should include all commodities (including those transferred for further processing)
- E-account registered enterprises that have newly added commodities covered by the “restricted list” should add these item by item per the price and quantity.
- E-account cancellation procedures and periods should remain unchanged.
- E-handbooks examined and approved before August 23, 2007 should be implemented according to original regulation. If MOC has approved, but Customs not yet implemented, newly added restricted items should not be added to the original handbook
- For e-handbook approved after August 23, 2007, the cash deposit should be paid according to these measures.

GAC will adjust the H2000 system and pre-registration system at the e-port and improve the system according to the requirements of the restricted commodity adjustment policy. This will take some time so in the meantime other temporary measures should be followed, as outlined in the rules. Eventually, H2000 will play a key role in the supervision and enforcement of the deposit system.

The deposit should be returned after the verification and cancellation of the handbook.

### **Settlement methods of deposit for Processing Trade**

MOFCOM, GAC and CBRC jointly issued a Notice Regarding the Settlement Methods of Deposit for Processing Trade dated 5 September 2007 (see Announcement [2007] No.71). This Notice also relates to Announcement No. 44 (see above). Enterprises in eastern China should use the “actual transfer” management of Machine Account Guaranty Funds system. Settlement methods may be cash and guarantee letter to pay for the bank deposit.

### **Other Processing Trade changes**

Before 31 December the Prohibited List (Forbidden Catalogue) and Restricted List (cash deposit) may be expanded in terms of HS Code coverage. New prohibition of certain “round-tripping” under Processing Trade may be introduced. New prohibition from Processing Trade if the value of the imported RM is less than 10% of the total export value may also be introduced. Specific timeframe and precise coverage of future changes is difficult to predict.

### **Free Trade Port (FTP) Administrative Measures**

The GAC issued the Provisional Measures for the Administration of Free Trade Ports, which will take effect on 3 October 2007 (see GAC Order [2007] No.164). The purpose of this Order is to formalize the Customs administration of an FTP. An FTP is a customs supervised area established within a port open to overseas and a special customs zone connecting to the port, with the functions of a port, logistics, and processing. A summary of the main points is set out as follows:

- So-called “closed” administration applies (e.g. tollgate, fences, CCTV)
- The following activities are allowed:
  1. storing exported/imported goods that have not completed customs formalities
  2. foreign trade, including international entrepot trade
  3. international procurement, distribution and delivery
  4. international transit
  5. testing and after-sale service
  6. merchandise display
  7. R&D, processing and manufacturing
  8. ports operating
  9. Others as approved by Customs

- Enterprise within an FTP should be a legal person with the liability to pay tax etc. Enterprises outside an FTP can establish branches inside an FTP.
- Customs will enforce network supervision and control.
- Goods restricted from import/export cannot enter/exit an FTP.
- Enterprises should comply with the industry development requirement. Goods listed in the Restricted List cannot be produced inside an FTP.
- The entry-exit of goods should be completed with the in-charge FTP Customs. Customs duties and related non-tariff barriers apply for General Trade movements from an FTP to the domestic market.
- Except where otherwise stated, goods from overseas shall be exempt from customs duties (including machinery, equipment, production plants and storage facilities used for infrastructure construction; machinery, equipment, and spare parts used by enterprises; articles for office self-use).
- Scrap, waste, and packaging material for production, storing, delivery during manufacturing can be disposed of domestically, subject to Customs approval and duty assessment.
- Preferential Free Trade Agreements can still be used, subject to meeting the origin rules.
- Monthly declarations may take place, subject to Customs approval.
- Goods from China entering an FTP should be “deemed export” and eligible for export VAT refund.
- Exhibition activities can take place, subject to Customs approval.
- Goods within FTP can be freely circulated.
- Enterprises who engage in the dangerous chemicals are allowed.
- Goods lost and damaged should be reported to Customs, and relevant procedure followed.
- Enterprises should file with Customs annually if the storage period exceeds 2 years.

## Other Updates

**Temporary Imports/Exports:** The GAC issued Notice [2007] No. 48 dated 31 August 2007 which provides clarifications in relation to Temporary Entry and Exit Goods Management Method (see GAC Order [2007] No.157). This Notice provides clarification in relation to: (i) scope of temporary entry and exit goods; (2) procedure of administrative license for temporary entry and exit goods for ATA and non-ATA; (3) Temporary goods shipped in batches other than what was on the original Customs declaration (ATA and non-ATA); (4) Supervision for Non-ATA entry exhibits; (5) Entry and exit supervision on vehicle for self-driving travelling; (6) Renewing and replacing ATA document; (7) Restrictions to temporary entry and exit goods (automobiles); (8) Guarantee for temporary entry and exit goods (amount is equivalent to tariff).

## 4th CEPA Supplement (Hong Kong & Macau):

Readers will recall that the 4th Supplement focused more on liberalization in trade in services rather than trade in goods. See the <The Fourth Agreement of Mainland and Hong Kong CEPA> and <The Fourth Agreement of Mainland and Macau CEPA>. JianZong [2007] No.207 dated and effective August 23, 2007 clarified certain qualification criteria regarding property management enterprises and construction cleaning service enterprises.

## Contacts

### Main Contact

John Robinson – Partner  
john.p.robinson@cn.pwc.com  
+86 (21) 6123 3599

Colbert Lam - Partner  
colbert.ky.lam@hk.pwc.com

### Beijing

Nancy Zhao - Director  
nancy.zhao@cn.pwc.com

Peter Zhang – Manager  
peter.zhang@cn.pwc.com

### Shanghai

Damon Paling – Director  
damon.ross.paling@cn.pwc.com

David Xu – Senior Manager  
david.xu@cn.pwc.com

Johnson Zhuang – Senior Manager  
johnson.zhuang@cn.pwc.com

Shenzhen/Guangzhou  
Susan Ju – Director  
susan.ju@cn.pwc.com

Authen Xiao – Manager  
authen.xiao@cn.pwc.com

### Hong Kong

John Kwak – Senior Manager  
john.sh.kwak@hk.pwc.com

Derek Lee – Manager  
derek.wc.lee@hk.pwc.com

### Taiwan

Jay Lin – Manager  
Jay.Lin@tw.pwc.com

### Editor

John Robinson  
john.p.robinson@cn.pwc.com

Distribution and address change  
Connie Qian  
connie.qian@cn.pwc.com

**pwccn.com**

© 2007 PricewaterhouseCoopers. All rights reserved. "PricewaterhouseCoopers" refers to the China firm of PricewaterhouseCoopers or, as the context requires, the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.