



[insights@lehmanbrown](mailto:insights@lehmanbrown)

**LEHMANBROWN**  
雷博國際會計  
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## Why Enterprises Need To Perform Customs Health Check [13 Jun. 2008 Issues 13]

The General Administration of Customs has recently issued an updated Administration Measures on Classification of Enterprises. In addition, the Ministry of Commerce and the GAC jointly issued an Order [2007] No. 44 which have a considerable impact on certain labour intensive industries.

### NEW "CLASSIFICATION" OF ENTERPRISES

The General Administration of Customs ("GAC") has recently issued an updated Administration Measure on Classification of Enterprises, Order [2008] No. 170 (hereafter referred to as "No. 170"), which became effective from April 1, 2008. The new measure supersedes previous measures (GAC Order [1999] No. 71 and Order [2001] No. 86).

No. 170 encourages enterprises to have self-discipline in complying with Customs regulations and practice, aims at improving customs administration as well as protects the safety and convenience of import and export trade.

Under No. 170, enterprises will be classified by the local Customs authorities into 5 categories – AA, A, B, C and D, based on their compliance with Customs regulations, results from Customs' examinations, import and export values, non-compliance and penalty records, accuracy and completeness of accounting records as well as business operation etc. The classification will have impacts on the import deposit requirement, customs clearance times, documents required for submission to Customs for examination as well as the level of Customs' examination.

No. 170 applies to consignors and consignees of imported/exported goods and import/export agents who perform customs declarations.

### SCOPE ENLARGEMENT OF RESTRICTED COMMODITIES UNDER PROCESSING TRADE

Apart from No. 170, the enlargement of restricted commodities under processing trade will also be a great challenge to the processing trade enterprises. Currently, most of the processing trade enterprises are located in Guangdong Province.

The Ministry of Commerce and the GAC have jointly issued GAC [2007] No. 44



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("No. 44") which became effective from August 23, 2007. According to No. 44, all Categories A and B processing trade enterprises in Eastern China will have to pay deposits equal to 50% of custom duties and import VAT when they either import or export commodities that fall into the restricted category under processing trade while Category C processing trade enterprises have to pay 100% deposits when they do so. For processing trade enterprises in areas other than Eastern China, only Category C processing trade enterprises have to pay a 100% deposit and Categories A and B processing trade enterprises are required to pay nominal deposits only.

According to No. 44, Eastern China includes Beijing, Tianjin, Shanghai, Liaoning, Hebei, Shandong, Jiangsu, Zhejiang, Fujian and Guangdong.

No. 44 also enlarges the scope of restricted commodities under processing trade, which covers certain textile products, furniture and plastic materials.

Such measures in effect force the majority of processing trade enterprises to pay deposits will be a heavy strain on their cash flows.

As explained by the Ministry of Commerce, No. 44 is consistent with its policies of (a) discouraging industries which are highly polluting to the environment and consuming large amounts of energy and resources; and (b) encouraging enterprises to upgrade their production technologies and products.

#### **HOW SHOULD ENTERPRISES PREPARE**

With the promulgation of No. 170, No. 44 and relevant regulations, enterprises should perform regular customs health check to ensure that their compliance with the prevailing customs regulations. They should also pay attention to more strict customs compliance standards in order to avoid being downgraded to Category C processing enterprises.

Enterprises must consider upgrading their production process and equipment in order to reduce pollution and use more environment-friendly materials in actual manufacturing.

Enterprises should also evaluate their current sales and purchase mix in response to the latest customs and tax regulations. In certain circumstances, enterprises may consider relocating their factories to areas outside Eastern China (as defined in No. 44) in order to avoid paying import deposits for import of bonded materials under processing trade.

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