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Advance customs rulings

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1. Introduction

Many countries use a system of advance customs rulings (ACR), more properly known as *advance rulings on classification, origin and valuation*. The objective is to provide decisions on product classification, origin and valuation prior to their import or export. This offers traders certainty and predictability and allows them to make informed business decisions.¹

Advance rulings are issued on the request of the importer or exporter and are valid for a specific period of time. They are mostly sought by the importers on customs classification of goods, because import tariffs and other levies at the border are determined on the basis of the classification. Occasionally, advance rulings on customs classifications of goods are also sought by foreign exporters.

Advance rulings allow the importer to calculate the customs clearance costs well in advance, enabling negotiations with the exporter and ascertaining whether the price negotiated is competitive in the market. A well-defined and effectively implemented ACR system promotes consistent application of custom rulings and laws, thereby expediting the movement, release and clearance of goods, including goods in transit at the border point. A well-functioning system of ACR is widely recognized as one of the most impactful single trade facilitation measures which could result in substantially reducing transaction costs of trade. In a study by the OECD, it is estimated that approximately 5.4 per cent of trade transaction costs can be reduced by implementing an effective ACR system.

2. How it works

The importer or exporter makes an application in writing, normally using a standardised form, to the competent authority, usually the Customs Service and relates only to one good. In addition to providing a suitable form, the Customs Service will also set out the time period required by them to issue a ruling and the time period for which the ruling is valid.

¹ See World Customs Organisation (www.wcoomd.org/en/topics/origin/instrument-and-tools/advance-rulings.aspx)

An advance ruling, which is supposed to be binding, is then issued by the competent authority, also in writing, and provides the applicant with an assessment of the classification of the goods, the origin and the treatment that will be applied to determine the valuation for customs purposes.

An application for a ruling for classification and origin² needs to include: (a) name and address of the applicant; (b) a detailed description of the goods; (c) in the case of classification, the classification of goods envisaged; (d) in the case of classification, the basis for the classification; (e) in the case of origin, the country of origin envisaged for the goods; (f) in the case of origin, the applicable legal basis, that is, stating whether the advance is for preferential or non-preferential purposes; (g) the composition of the goods and methods of examination used to determine this; (h) samples, photographs, plans, catalogues, technical literature, laboratory analysis results or other documents which describe the composition of the goods and their component materials or origin; (i) in the case of origin, the conditions enabling origin to be determined, the materials used and their origin, tariff classification, corresponding values and a description of the circumstances enabling the conditions to be met; (j) whether the goods in question are the subject of a classification or origin verification process, or any instance of review or appeal; (k) any information to be treated as confidential, whether in relation to the public or the administrations; (l) an indication by the applicant whether advance rulings for goods or materials identical or similar to those for which a ruling is requested have already been applied for or issued.

In the case of valuation, an application needs to include: (a) name and address of the applicant; (b) description of the nature of the transaction(s), (contract, terms of sale, etc.); (c) any relationship between the parties; (d) specific information, depending on the issue in question (for example, if the issue is whether the commission paid by the buyer is a buying or selling commission or whether an agency relationship exists, and documentation confirming the roles of the parties and the payment of the commission); (e) if the question(s) relate to matters set forth in any invoice, contract, agreement, or other document, a copy of the document(s) should be submitted; (f) a statement that there are, to the best of the importer's knowledge, no issues concerning the transaction(s) for which a ruling is sought pending; (g) whether advice has been previously sought from Customs concerning the transaction(s), and if so, from whom and what advice was given.

² This explanation has been summarised from World Customs Organisation (2018) Technical guidelines on advance rulings for classification, origin and valuation

It will by now be clear that considerable information needs to be gathered and presented to secure an advance ruling. In most cases, this will be straightforward, but if you have not done this before, then it would make sense to seek advice and guidance from someone who has.

On receipt of the application for advance ruling, the competent authority shall: (a) notify the applicant that the request has been received; and (b) ask the applicant to supply additional information where the competent authority considers that the application does not contain all the information required to give an informed opinion.

3. Further information

Cambodia: <http://www.customs.gov.kh/pre-clearance-procedures/advanced-ruling/>

India: <https://www.cbic.gov.in/htdocs-cbec/aar/cs-law-idx>

Thailand: http://www.customs.go.th/data_files/f95c29de15a05ea2db2db03fda1bbf23.pdf

Vietnam:

<https://www.customs.gov.vn/Lists/EnglishNews/ViewDetails.aspx?ID=414&Category=News%20and%20Events&language=en-US>

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