

Regulations of the People's Republic of China on Import and Export Duties

(The English version is for reference only and has no legal effect)

(Adopted at the 26th Executive Meeting of the State Council on 29 October 2003, promulgated by Decree No. 392 of the State Council of the People's Republic of China on 23 November 2003, and effective as of 1 January 2004.)

Chapter I General Provisions

Article 1 These Regulations are formulated in accordance with the relevant provisions of the Customs Law of the People's Republic of China (hereinafter referred to as the Customs Law) for the purposes of implementing the policy of opening to the outside world and promoting the development of foreign economic relations and foreign trade and the national economy.

Article 2 Unless otherwise provided for by laws or administrative regulations, the Customs shall, in accordance with these Regulations, collect import or export duties on all goods permitted by the People's Republic of China to be imported into or exported out of the Customs territory and all inward articles.

Article 3 The State Council shall formulate the Customs Import and Export Tariff of the People's Republic of China (hereinafter referred to as the Tariff) and the Flat Duty Rates on Inward Articles of the People's Republic of China (hereinafter referred to as the Flat Duty Rates on Inward Articles), providing for tariff items, tariff headings and duty rates, which constitute component parts of these Regulations.

Article 4 The State Council shall establish the Tariff Commission, which is responsible for making adjustment to and interpretation of tariff items, tariff headings and duty rates in the Tariff and the Flat Duty Rates on Inward Articles and implementing such adjustment and interpretation after they are submitted to and approved by the State Council; determining the goods subject to temporary duty rates and the rates and duration thereof; determining tariff quota rates; determining the imposition of anti-dumping duty, countervailing duty, safeguard duty, retaliatory duty or other tariff measures; determining the application of duty rates under special circumstances; and performing other functions and responsibilities prescribed by the State Council.

Article 5 The consignee of import goods, the consignor of export goods and the owner of inward articles are duty payers.

Article 6 The Customs and staff members thereof shall fulfil the responsibility of duty collection in accordance with the statutory authority and procedure, safeguard State interests, protect lawful rights and interests of duty payers, and receive supervision according to law.

Article 7 A duty payer has the right to request the Customs to keep confidential its commercial secrets, and the Customs shall keep confidential such secrets for the duty payer according to law.

Article 8 The Customs shall, in accordance with the relevant provisions, reward units and individuals that inform against violations of these Regulations or provide assistance in investigating such violations, and be responsible for keeping secrets concerned.

Chapter II Composition and Application of Duty Rates on Import and Export Goods

Article 9 Duty rates on import goods are composed of most-favoured-nation duty rates, conventional duty rates, special preferential duty rates, general duty rates, tariff quota duty rates, etc. Temporary duty rates may apply to import goods within a specific time limit.

Duty rates on export goods are designed to collect export duty. Temporary duty rates may apply to export goods within a specific time limit.

Article 10 The most-favoured-nation duty rates shall apply to import goods originated from members of the World Trade Organization that are subject to the common application of the most-favoured-nation clause, import goods originated from countries or regions with which the People's Republic of China has concluded a bilateral trade agreement for reciprocally granting of most-favoured-nation treatment, and import goods originated from the Customs territory of the People's Republic of China.

The conventional duty rates shall apply to import goods originated from countries or regions with which the People's Republic of China has concluded a regional trade agreement that comprises preferential duty clauses.

The special preferential duty rates shall apply to import goods originated from countries or regions with which the People's Republic of China has concluded a trade agreement that comprises special preferential duty clauses.

The general duty rates shall apply to import goods originated from countries or regions other than those specified

in Paragraphs 1, 2 and 3 of this Article or to the import goods of undetermined origins.

Article 11 Where there are temporary duty rates on import goods to which the most-favoured-nation duty rates are applicable, such temporary duty rates shall apply; where there are temporary duty rates on import goods to which the conventional duty rates or preferential duty rates are applicable, the lower duty rates shall apply; temporary duty rates shall not apply to import goods to which the general duty rates are applicable.

Where there are temporary duty rates on export goods to which the export duty rates are applicable, such temporary duty rates shall apply.

Article 12 Where the quantity of import goods that are subject to tariff quota administration in accordance with the provisions of the State is within the tariff quota, the tariff quota duty rates shall apply; if such quantity exceeds the tariff quota, the application of the duty rates shall be governed by the provisions of Article 10 or 11 of these Regulations.

Article 13 Where anti-dumping, countervailing or safeguard measures are adopted on import goods in accordance with the provisions of the relevant laws or administrative regulations, the application of duty rates of such import goods shall be governed by the relevant provisions of the Regulations of the People's Republic of China on Anti-Dumping, the Regulations of the People's Republic of China on Countervailing Measures, and the Regulations of the People's Republic of China on Safeguards.

Article 14 Where any country or region, in violation of the trade agreements or other relevant agreements that it concludes or accedes to with the People's Republic of China, unilaterally adopts measures affecting normal trade such as imposition of prohibition or restriction or surcharge of duties in the trade with the People's Republic of China, retaliatory duty may be imposed on import goods originated from such country or region and retaliatory duty rates may apply.

The goods and countries subject to retaliatory duty, as well as the rates, duration and collection measures of retaliatory duty shall be determined and published by the Tariff Commission of the State Council.

Article 15 For any import or export goods, the duty rates implemented on the date when the Customs accepts the declaration for import or export of such goods shall apply.

Where, upon verification and approval of the Customs, the declaration is made prior to entry of import goods, the duty rates implemented on the date of declaration of the means of transport carrying such goods for entry shall apply.

The date for application of the duty rates on goods for the transport under Customs transit shall be separately provided for by the General Administration of Customs.

Article 16 Where duty needs to be paid under any of the following circumstances, the duty rates implemented on the date when the Customs accepts the declaration for duty payment shall apply:

- (1) where bonded goods are, with approval, not to be re-transported out of the Customs territory;
- (2) where goods subject to duty reduction or exemption are, with approval, to be transferred or diverted to other purposes;
- (3) where goods permitted to temporarily enter or leave the Customs territory are, with approval, not to be re-transported out of or into the Customs territory;
- (4) where the duty on import goods on lease is to be paid by instalments.

Article 17 In the recovery or refund of duties on import or export goods, the duty rates to apply shall be determined in accordance with the provisions of Article 15 or 16 of these Regulations.

Where there is a need to pursue the payment of duties unpaid due to the duty payer's violation of relevant provisions, the duty rates implemented on the date when such violation occurs shall apply; if it is impossible to ascertain the date when such violation occurs, the duty rates implemented on the date when the Customs finds such violation shall apply.

Chapter III Determination of Customs Value of Import and Export Goods

Article 18 The customs value of import goods shall be determined by the Customs on the basis of the transaction value which complies with the conditions specified in Paragraph 3 of this Article, as well as the costs of transport, charges associated with transport, and the cost of insurance incurred prior to unloading of such goods at the port or place of entry within the Customs territory of the People's Republic of China.

The transaction value of import goods is the price actually paid or payable for the import goods by the buyer when sold by the seller for export to the Customs territory of the People's Republic of China, adjusted in accordance with the provisions of Articles 19 and 20 of these Regulations, including the price paid directly and

indirectly.

The transaction value of import goods shall comply with the following conditions:

- (1) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which are imposed by laws or administrative regulations, restrictions which limit the geographical area in which the goods may be resold, or restrictions which do not substantially affect the value of the goods;
- (2) the transaction value of such goods is not subject to some condition or consideration such as tie-in sale for which a value cannot be determined with respect to the goods being valued;
- (3) no part of the proceeds of any subsequent resale, disposal or use of the import goods by the buyer will accrue directly or indirectly to the seller, or appropriate adjustment can be made to the proceeds, if any, in accordance with the provisions of Articles 19 and 20 of these Regulations;
- (4) the buyer and seller are not related or, although the buyer and seller are related, such relationship does not affect the transaction value.

Article 19 The following costs shall be added to the customs value of import goods:

- (1) commissions and brokerage incurred by the buyer, except buying commissions;
- (2) the cost of containers treated as being one for customs purposes with the goods in question, which is incurred by the buyer;
- (3) the cost of packing incurred by the buyer, whether for labour or materials;
- (4) the value, apportioned as appropriate, of such goods as materials, components, parts, tools, dies, moulds, consumed materials and similar items, and such services as development, design and associated services undertaken elsewhere than in the Customs territory of the People's Republic of China where supplied by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the import goods to the Customs territory of the People's Republic of China;
- (5) royalties and license fees related to the import goods that the buyer must pay, as a condition for sale of such goods to the Customs territory of the People's Republic of China;
- (6) the value of any part of the proceeds of any subsequent resale, disposal or use of the goods that accrues directly or indirectly to the seller.

Article 20 The customs value of import goods shall not include the following taxes and charges that are specified in the price of such import goods at the time of importation:

- (1) charges for construction, erection, assembly, maintenance, or technical assistance, undertaken after importation on import goods such as industrial plant, machinery or equipment;
- (2) the costs of transport, charges associated with transport, and the cost of insurance incurred after unloading of import goods at the port or place of entry within the Customs territory;
- (3) import duty and other internal taxes.

Article 21 Where the transaction value of import goods does not comply with the conditions prescribed in Paragraph 3 of Article 18 of these Regulations, or it is impossible to determine the transaction value, the Customs shall, after acquainting itself with the relevant information and consulting over price with the duty payer, determine the customs value of the import goods in accordance with the following values in their given order:

- (1) the transaction value of identical goods sold for export to the Customs territory of the People's Republic of China and exported at or about the same time as the goods being valued;
- (2) the transaction value of similar goods sold for export to the Customs territory of the People's Republic of China and exported at or about the same time as the goods being valued;
- (3) the unit price at which the import goods or identical or similar import goods are sold in the greatest aggregate quantity, at or about the time of importation of the goods being valued, to an unrelated buyer in the first sale, with all items specified in Article 22 of these Regulations deducted;
- (4) the computed value which consists of the total sum of the following items: the cost or value of materials, components and parts, and fabrication or other processing employed in producing the import goods; an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the import goods being valued to the Customs territory of the People's Republic of China; the costs of transport, charges associated with transport, and the cost of insurance incurred prior to unloading of import goods at the

port or place of entry within the Customs territory;

(5) the value determined on a reasonable basis.

The duty payer may, after providing relevant information or data to the Customs, make a request to reverse the order of the application of items (3) and (4) of the preceding paragraph.

Article 22 In determining the customs value of import goods in accordance with item (3) of Paragraph 1 of Article 21 of these Regulations, the items that shall be deducted are as follows:

(1) either profit and general expenses or commissions usually paid in the first sale of import goods of the same class or kind within the Customs territory of the People's Republic of China;

(2) the costs of transport, charges associated with transport, and the cost of insurance incurred after unloading of import goods at the port or place of entry within the Customs territory;

(3) import duty and internal taxes.

Article 23 The customs value of import goods on lease shall be the rental determined by the Customs.

Where the duty payer requests to pay the duties in a lump sum, it may choose to have the customs value determined in accordance with the provisions of Article 21 of these Regulations or take total rental determined by the Customs as the customs value.

Article 24 The customs value of goods which are transported out of the Customs territory for processing with the declaration thereof made to the Customs at the time of departure and re-transported into the Customs territory within the time limit set by the Customs shall be determined on the basis of the charges on overseas processing, the cost of materials, components and parts, the costs of the re-transport, charges associated with re-transport, and the cost of insurance for the re-transport.

Article 25 The customs value for mechanic appliances, means of transport or any other goods which are transported out of the Customs territory for repairs with the declaration thereof made to the Customs at the time of departure and re-transported into the Customs territory within the time limit set by the Customs shall be determined on the basis of the charges on the repairs and the cost of materials, components and parts used for the repairs.

Article 26 The customs value of export goods shall be determined by the Customs on the basis of the transaction value thereof and the costs of transport, charges associated with transport, and the cost of insurance incurred prior to loading of such goods at the port or place of departure within the Customs territory of the People's Republic of China.

The transaction value of export goods is the total amount of the price that shall be charged by the seller, directly or indirectly, from the buyer for the goods sold for export.

The export duty shall not be added to the customs value of export goods.

Article 27 Where it is impossible to determine the transaction value of export goods, the Customs shall, after acquainting itself with the relevant information and consulting over price with the duty payer, determine the customs value of export goods in accordance with the following values in their given order:

(1) the transaction value of identical goods sold for export to the same country or region of importation and exported at or about the same time as the goods being valued;

(2) the transaction value of similar goods sold for export to the same country or region of importation and exported at or about the same time as the goods being valued;

(3) the computed value which consists of the total sum of the following items: the cost or value of materials, components and parts and fabrication or other processing employed in producing the identical or similar goods within the Customs territory; normal profit and general expenses; the costs of transport, charges associated with transport, and the cost of insurance incurred within the Customs territory;

(4) the value determined on a reasonable basis.

Article 28 The additions or deductions of costs, charges or taxes to or from the customs value in accordance with the provisions of these Regulations shall be made on the basis of objective and quantifiable data.

Chapter IV Duty Collection on Import and Export Goods

Article 29 Declaration of import goods shall be made to the Customs at the port or place of entry by the duty payer within 14 days from the date of declaration of entry of the means of transport; declaration of export goods shall, unless otherwise specially approved by the Customs, be made to the Customs at the port or place of

departure by the duty payer after the arrival of the goods at the Customs Surveillance Zone and 24 hours prior to loading thereof. Import or export goods in transit shall be dealt with in accordance with the provisions of the General Administration of Customs.

An advance declaration may be made by the duty payer with the approval of the Customs before the arrival of import goods. The specific measures therefore shall be separately formulated by the General Administration of Customs.

Article 30 The duty payer shall make a truthful declaration to the Customs in accordance with the law and provide, as required by the Customs, the relevant information or data needed for determination of customs value, classification of goods, determination of origin, or adoption of antidumping, countervailing, or safeguard measures. When necessary, the Customs may require the duty payer to make a supplementary declaration.

Article 31 The duty payer shall classify the declared import or export goods into the corresponding tariff headings in accordance with the terms of the headings, the general rules for the classification, and the notes to sections, chapters or sub-headings as well as other explanatory notes to classification, which are prescribed in the Tariff. The Customs shall verify and determine the goods classification according to law.

Article 32 The Customs may require the duty payer to provide the information or data needed for goods classification and, when necessary, organize laboratory analysis or inspection. The results of the analysis or inspection shall, after being confirmed by the Customs, be taken as the grounds for goods classification.

Article 33 The Customs may, in order to verify the truth and accuracy of the declared value, examine or copy the contracts, invoices, accounts, certificates for foreign exchange payment and settlement, bills, records, documents, business correspondences, audio and visual products related to import and export goods and other materials reflecting the relationship and transaction between the buyer and the seller.

Where the Customs has doubts about the value declared by the duty payer and the duties involved are of a large amount, the Customs may, upon the approval of the director of the Customs office directly under the General Administration of Customs or the director of a Customs office subordinate to and authorized by the former and on the strength of the Notice for Assistance in Account Inquiry with the format unified by the General Administration of Customs and credentials of relevant staff members, inquire about the fund transactions through the unit accounts opened at banks or other financial institutions by the duty payer, and inform the banking regulatory agency of relevant information.

Article 34 Where the Customs has doubts about the value declared by the duty payer, the Customs shall inform the duty payer in writing of the grounds for such doubts and require the duty payer to provide a written explanation and the relevant information and data within a specified time limit.

If the duty payer fails to provide explanation and relevant information and data within the specified time limit or the Customs still has reasonable doubts about the truth or accuracy of the declared value, the Customs may refuse to accept the declared value and determine the customs value in accordance with the provisions of Chapter III of these Regulations.

Article 35 Upon determination of the customs value of import or export goods by the Customs, the duty payer may request the Customs in writing to provide a written explanation as to how the customs value of import or export goods is determined. The Customs shall provide the written explanation to the duty payer accordingly.

Article 36 The duty on import or export goods shall be collected in the form of *ad valorem* duty, specific duty, or other forms prescribed by the State.

The calculation formula for *ad valorem* duty is:

Duty Payable=Customs Value × Duty Rate

The calculation formula for specific duty is:

Duty Payable = Quantity of Goods × Unit Duty

Article 37 The duty payer shall pay the duties at a designated bank within 15 days after the date of issuance of the memorandum of duty payment by the Customs. In case of any payment in arrears, 0.05% of the total amount of the overdue duties shall be charged as a fine for late payment per day from the date when the delayed payment occurs.

The Customs may publish the information about the arrearages on duties by duty payers.

The Customs shall issue a duty-memo for duties collected or receipt for fines for late payment. The format of the duty-memo or receipt shall be prescribed by the General Administration of Customs.

Article 38 The Customs shall collect duties and fines for late payment in terms of RMB.

Where the transaction value of import or export goods and associated costs are computed in a foreign currency, such foreign currency shall be converted into RMB at the basic exchange rate published by the People's Bank of China for the calculation of customs value. Where such basic exchange rate is not available for the foreign currency in question, the customs value shall be converted into RMB in accordance with the relevant provisions of the State. The date when the exchange rate applies shall be prescribed by the General Administration of Customs.

Article 39 Where the duty payer cannot pay duties within the time limit due to force majeure or adjustments to the State's taxation policy, such time limit may be extended upon the approval of the General Administration of Customs, but in any case the extension shall not exceed six months.

Article 40 Where there is an obvious indication that the duty payer of import or export goods is transferring or concealing the dutiable goods or other property in the specified time limit for duty payment, the Customs may order the duty payer to provide a bond; if the duty payer fails to do so, the Customs may take protective measures for duty collection in accordance with the provisions of Article 61 of the Customs Law.

Where the duty payer or the guarantor thereof fails to pay the duties within three months from the date of expiration of the time limit for duty payment, the Customs may take compulsory measures in accordance with the provisions of Article 60 of the Customs Law.

Article 41 Where the materials, components and parts for processing trade are imported in bond in accordance with the provisions of the State, but such import materials, components and parts or the finished products made thereof are not exported within the specified time limit, the Customs shall collect import duties in accordance with the relevant provisions.

Where the import duty has been collected on materials, components and parts for processing trade upon entry in accordance with the provisions of the State and such materials, components and parts or the finished products made thereof are exported within the specified time limit, the Customs shall refund the duties previously collected in accordance with the relevant provisions.

Article 42 Where the following goods are permitted by the Customs to temporarily enter or leave the Customs territory and a cash deposit of an amount equivalent to that of the duties payable or a bond in another form has been provided to the Customs by the duty payer upon entry or departure, the duties of such goods may be temporarily exempted, on the condition that such goods shall be re-transported out of or into the Customs territory within six months from the date of entry or departure. Upon the request of the duty payer, the Customs may extend the time limit for re-transportation out of or into the Customs territory in accordance with the provisions of the General Administration of Customs:

- (1) goods for display or use at exhibitions, fairs, meetings or similar events;
- (2) items for performance or contest in cultural or sports exchange;
- (3) apparatus, equipment or items for press, cinematography or television programs;
- (4) apparatus, equipment or items for scientific research, pedagogical or medical activities;
- (5) means of transport and special purpose motor vehicles for functions specified in Items (1) through (4) of this Paragraph;
- (6) samples;
- (7) apparatus and tools for installation, adjustment or test of equipment;
- (8) containers of goods;
- (9) other goods intended for non-commercial purposes.

Where the goods permitted to temporarily enter or leave the Customs territory in Paragraph 1 are not re-transported out of or into the Customs territory within the specified time limit, the Customs shall collect duties according to law.

Import duty on the goods permitted to temporarily enter the Customs territory other than those that are temporarily exempted from duties as prescribed by Paragraph 1 shall be computed on the basis of the customs value of such goods and the proportion of the time when such goods remain inside the Customs territory to the time of depreciation. The specific measures therefore shall be provided for by the General Administration of Customs.

Article 43 No import duty shall be collected on export goods re-transported into the Customs territory in the

same state within one year from the date of exportation due to problems with quality or specifications.

No export duty shall be collected on import goods re-transported out of the Customs territory in the same state within one year from the date of importation due to problems with quality or specifications.

Article 44 Where, due to damage, shortage, poor quality or unconformity to specifications of import or export goods, the consignor or carrier of such goods or the insurance company provides, free of charge, identical import or export goods as compensation or replacement, no duties shall be collected on such identical goods. Where the original import or export goods that are replaced free of charge are not re-transported out of or into the Customs territory, the Customs shall re-collect duties thereon in accordance with the relevant provisions.

Article 45 The following import and export goods shall be exempted from duties:

- (1) goods of a single consignment on which the duties are estimated to be not more than RMB 50 yuan;
- (2) advertising matter and samples, which are of no commercial value;
- (3) goods and materials, which are rendered gratis by international organizations or foreign governments;
- (4) goods lost prior to Customs release;
- (5) fuels, stores, beverages and provisions for use en route loaded on any means of transport, which is in transit across the frontier.

The duties on goods damaged prior to Customs release may be deducted in accordance with the degree of damage confirmed by the Customs.

The Customs shall, in accordance with the relevant provisions, grant duty reduction or exemption to other goods that are subject to duty reduction or exemption prescribed by law.

Article 46 Duty reduction or exemption granted to import and export goods of special areas or special enterprises or for special uses, as well as temporary duty reduction or exemption, shall be governed by the relevant provisions of the State Council.

Article 47 Any reduction or exemption of taxes collected on import goods by the Customs on behalf of other government departments shall be governed by the provisions of relevant laws and administrative regulations.

Article 48 Where the duty payer is to import or export goods granted duty reduction or exemption, the duty payer shall, unless otherwise prescribed, go through the formalities with the Customs for approval of duty reduction or exemption by presenting relevant documents as required before such goods are imported or exported. The duty reduction or exemption shall be granted if the Customs confirms such goods as qualified through examination.

Article 49 Where the import goods which are granted duty reduction or exemption and the use of which are under the Customs control are diverted to other purposes within the duration of Customs control and therefore the recovery of duties is needed, the import duty shall be recovered by the Customs on the basis of the value of import goods depreciated according to the time after importation.

The duration of the Customs control over import goods granted special duty reduction or exemption shall be prescribed by the General Administration of Customs.

Article 50 Under any of the following circumstances, the duty payer may, within one year from the date of duty payment, apply for a refund of duties by stating the reasons therefore in writing to the Customs and providing the original duty-memo and the relevant information and data:

- (1) where any goods, on which the import duty has been collected, are re-transported out of the Customs territory in the original state due to problems with quality or specifications;
- (2) where any goods, on which the export duty has been collected, are re-transported into the Customs territory in the original state due to problems with quality or specifications and all internal taxes refunded for export have been repaid;
- (3) Where any goods, on which the export duty has been paid, are re-declared to the Customs as shut-out cargo because they are not loaded for export due to certain reasons.

The Customs shall, within 30 days from the date of accepting an application for duty refund, ascertain the relevant facts and notify the duty payer to go through the refund formalities. The duty payer shall go through the refund formalities within three months from the date of receipt of the notification.

Where duties shall be refunded in accordance with the provisions of other relevant laws and administrative regulations, the Customs shall refund duties accordingly.

Article 51 Where the Customs finds that duties are short-collected or not collected on a consignment of import or export goods after the release, the Customs shall recover the duties payable from the duty payer within one year from the date of the duty payment or the release. If the short-collected or non-collected duties are attributable to the duty payer's violation of the provisions, the Customs may pursue the payment of the unpaid duties within three years from the date of the duty payment or the release, and impose a fine for late payment of 0.05% of the short-collected or non-collected duties per day from the date of the duty payment or the release.

Where the Customs finds that the short-collection or non-collection of duties on goods under Customs control is attributable to the duty payer's violation of the provisions, the Customs shall pursue the payment of the unpaid duties within three years from the date of the duty payment or the release, and impose a fine for late payment of 0.05% of the short-collected or non-collected duties per day from the date of the duty payment or the release.

Article 52 Upon finding any over-collection of duties, the Customs shall immediately notify the duty payer to go through the refund formalities.

Upon finding any over-collection of duties, the duty payer may, within one year from the date of duty payment, request in writing the Customs to refund the over-collected duties together with the interest for the corresponding period computed at the current deposit interest rate of the bank. The Customs shall, within 30 days from the date of accepting the application for duty refund, ascertain the relevant facts and notify the duty payer to go through the refund formalities.

The duty payer shall go through the refund formalities within three months from the date of receipt of the notification.

Article 53 Where the refund of duties or interest incurred therefrom under Articles 50 and 52 of these Regulations involves refund from the State treasury, such refund shall be governed by the provisions of the laws and administrative regulations on administration of the State treasury.

Article 54 Where a Customs broker that is commissioned by a duty payer to go through the formalities for declaration and duty payment in the name of the duty payer violates the relevant provisions and thus causes the short-collection or non-collection of duties, the Customs broker shall bear the joint and several liability with the duty payer for payment of the short-collected or non-collected duties and fines for late payment.

Where a Customs broker is commissioned by a duty payer to go through the formalities for declaration and duty payment in the name of the Customs broker, the Customs broker shall bear the joint and several liability with the duty payer for duty payment.

Where, except due to force majeure, goods under Customs control are damaged, destroyed or irrecoverably lost during the period of Customs control, the person who is obliged to keep such goods shall bear the corresponding liability for duty payment.

Article 55 Where a duty payer that is in arrears with duty payment comes under circumstances such as merger or division, the duty payer shall, prior to the merger or division, notify the Customs and pay off the duties. If the duty payer fails to pay off the duties when it is merged, the legal person or other organization that results from the merger shall continue to fulfil the duty payment obligation that has not been fulfilled. If the duty payer fails to pay off the duties when it is divided, the legal person or other organization that results from the division shall bear the joint and several liability for fulfilling the duty payment obligation that has not been fulfilled.

Where a duty payer, during the period of Customs control over goods granted duty reduction or exemption or bonded goods, comes under circumstances such as merger, division or any other form of asset restructuring, the duty payer shall make a report thereon to the Customs. Those that need to pay duties in accordance with the relevant provisions shall pay off the duties according to law. Those that may continue to enjoy duty reduction or exemption or bond treatment in accordance with the relevant provisions shall go through the formalities for change of the duty payer with the Customs.

Where a duty payer is in arrears with the payment of duties or, during the period of Customs control over goods granted duty reduction or exemption or bonded goods, comes under circumstances such as dissolution, disbandment, bankruptcy or any other statutory form of termination, the duty payer shall make a report thereon to the Customs prior to the liquidation. The Customs shall collect all the duties payable from the duty payer according to law.

Chapter V Collection of Flat Duty on Inward Articles

Article 56 The import duty on inward articles and taxes collected by the Customs on behalf of other government departments for importation of such articles are amalgamated into the flat duty, which shall be collected by the

Customs according to law.

Article 57 Inward articles for personal use the aggregate value or quantity of which is within the quota prescribed by the General Administration of Customs shall be exempted from flat duty.

The flat duty on inward articles for personal use that exceed the quota prescribed by the General Administration of Customs but are still within a reasonable quantity shall be paid by the duty payer of such inward articles in accordance with the relevant provisions prior to the release.

Where inward articles exceed the reasonable quantity for personal use, the relevant formalities shall be gone through in accordance with that of import goods.

The duty on inward articles that are deemed as import goods by the Tariff Commission of the State Council for duty collection shall be collected in accordance with the provisions of the Chapters II through IV of these Regulations.

Article 58 The duty payer of inward articles refers to the person who carries articles into the Customs territory, the addressee of inward postal items, or the recipient of articles imported in any other ways.

Article 59 The duty payer of inward articles may go through the formalities for duty payment on its own or commission an agent to go through such formalities. The agent commissioned shall abide by all the provisions of this Chapter on the duty payer.

Article 60 Flat duty shall be collected in terms of *ad valorem* duty.

The calculation formula of flat duty is:

Flat Duty Payable= Customs Value × Flat Duty Rate

Article 61 The Customs shall determine the classification, customs value and applicable duty rate of inward articles in accordance with the Flat Duty Rates on Inward Articles, and the Classification Table of Inward Articles of the People's Republic of China and Customs Value Table of Inward Articles of the People's Republic of China that are formulated by the General Administration of Customs.

Article 62 The flat duty rate and customs value implemented on the date when the Customs issues the memorandum of duty payment shall apply to inward articles.

Article 63 The reduction, exemption, recovery, pursuit and refund of flat duty and the collection of flat duty on inward articles permitted to be temporarily transported into the Customs territory shall be governed by the relevant provisions of these Regulations on collection of import duty on goods.

Chapter VI Supplementary Provisions

Article 64 Where the duty payer or guarantor has objections to the Customs' determination of the duty payer or customs value; goods classification; determination of origin, applicable duty rates or exchange rates; duty reduction, exemption, recovery or refund; collection of fines for late payment; or determination of the manner and place of duty collection; it shall pay the duties and may apply to the Customs at the next higher level for administrative reconsideration according to law; if the duty payer or guarantor refuses to accept the decision of administrative reconsideration, it may lodge a lawsuit to the people's court according to law.

Article 65 Tax collection by the Customs on behalf of other government departments for importation shall be governed in accordance with the provisions on administration of duty collection.

Article 66 The penalty for violation of the provisions of these Regulations shall be imposed in accordance with the provisions of the Customs Law, the Rules for the Implementation of Administrative Penalty under the Customs Law of the People's Republic of China and other relevant laws and administrative regulations.

Article 67 These Regulations shall be effective as of 1 January 2004. The Regulations of the People's Republic of China on Import and Export Duties revised and promulgated by the State Council on March 18, 1992 shall be simultaneously repealed.