

# **Regulation of the People's Republic of China on the Implementation of Customs Administrative Punishment**

## **Full text**

### **Chapter I General Provisions**

Article 1 With the view of regulating the customs administrative punishment, ensuring the wielding power of the customs according to law and protecting the lawful rights and interests of citizens, legal persons or other organizations, the present Implementation Regulation is formulated in accordance with the Customs Law of the People's Republic of China (hereinafter referred to as the Customs Law) and the stipulations of other relevant laws.

Article 2 The present Implementation Regulation shall be applicable to the smuggling acts not subject to criminal liabilities according to law, acts in violation of the supervision stipulation of the customs and the disposal of acts subject to the administrative punishment conducted by the customs according to provisions of laws and administrative regulations.

Article 3 The customs administrative punishment shall be subject to the jurisdiction of the customs that has discovered the illegal act, or may be ruled by the customs where the illegal act occurs. Cases over which two or more customs have jurisdictions shall be subject to the jurisdiction of the customs that first discovers the illegal act. If the jurisdiction to a case is not clear, the jurisdiction shall be determined by relevant customs through negotiation. If they can't reach an agreement through the negotiation, they shall report it to their mutual superior customs for the designation of jurisdiction. For grave and complicated cases, the General Administration of Customs shall designate jurisdiction.

Article 4 In case any customs finds out any illegal act that shall be subject to the disposal of other administrative departments according to law, the customs shall transfer it to relevant administrative departments for disposal; if the illegal act is suspected of committing a crime, it shall be transferred to the public security organ under the customs that detects smuggling crimes or the local public security organ for disposal according to law.

Article 5 Where such administrative punishment as warning or penalty is imposed upon any party in accordance with the present Implementation Regulation, but no entry/exit goods, articles or transportation vehicles are expropriated, the relevant party's obligations for paying taxes according to law, submitting import and export license certificates or going through relevant formalities of customs shall not be exempted.

Article 6 Where any party rejects or hampers public security organs under the customs that detects smuggling crimes from performing their duties according to law, the public security organs under the customs that detects smuggling crimes, established at the customs directly under the General Administration of Customs and at the subsidiary customs authorized by the customs directly under the

General Administration of Customs, shall give punishment in accordance with the relevant provisions on the punishment in the sight of the management of public security. Where any party rejects or hampers any other customs staff from performing their duties according to law, it shall be reported to the local public security organ for disposal according to law.

## **Chapter II Smuggling Acts and Punishment**

Article 7 In case anyone violates the Customs Law or other relevant laws and administrative regulations, evades the customs supervision, escapes taxes payable, or gets out of the relevant prohibitive or restrictive entry/exit administrations and has any of the following circumstances, such acts shall be determined as smuggling acts:

- (1) To transport or carry into or out of the territory goods or articles prohibited or restricted by the state, or goods or articles subject to taxation according to law from places where no customs is established without approval of the State Council or the departments authorized by the State Council;
- (2) To transport carry, or mail goods or articles prohibited or restricted by the state out and in through the territory or goods or articles subject to taxation out and in through the territory according to law by concealing, disguising, disguising the report, or falsely reporting or other ways to evade the customs supervision when passing through places where the customs is established;
- (3) To sell goods, articles under customs supervision or overseas transportation vehicles entering into the territory in the territory without permission by using fabricated or altered handbooks, documentations, seals, account books, electronic data or other means to evade the customs supervision;
- (4) To cause goods or articles under customs supervisions out of the supervision of the customs by using fabricated or altered handbooks, documentation, seals, account books, electronic data or falsely reporting the unit consumption of materials for finished products in processing trade;
- (5) To evade the customs supervision by concealing, disguising, disguising the report, falsely reporting or other ways to ship out of the zones without permission the goods or articles under the customs supervision in the bonded zones, export processing zones and other special customs supervision zones;
- (6) Other acts of evading customs supervision and constituting smuggling act.

Article 8 In case anyone has any of the following acts, he shall be punished for smuggling:

- (1) Knowingly to purchase imported goods or articles through smuggling directly from smugglers in violation of laws;
- (2) Ships and the personnel carried by them transport, purchase, or vend goods or articles prohibited or restricted by the state to enter or exit the territory or goods subject to taxation according to law without legal certificates in inner seas, marginal seas, boundary rivers and boundary lakes.

Article 9 In case anyone has any of the acts enumerated in Articles 7 and 8 of the present Implementation Regulation, he shall be punished according to the following provisions:

- (1) Where anyone smuggles goods prohibited for import and export by the state, the smuggled

goods and the illegal gains shall be confiscated and a fine lower than one million Yuan may be imposed concurrently; where anyone smuggles goods prohibited to enter or exit the territory by the state, the smuggled goods and the illegal gains shall be confiscated and a fine lower than 100,000 Yuan may be imposed concurrently;

- (2) Where anyone, who fails to submit his license certificate that should be submitted but does not evade the tax money, smuggles goods or articles prohibited to enter or exit the territory by the state, the goods or articles and the illegal gains shall be confiscated, and a fine lower than the equivalence of the goods or articles smuggled may be imposed concurrently;
- (3) Where anyone, who evades taxes payable but does not evade the administration of license certificates, smuggles goods or articles subject to taxation according to law, the goods or articles smuggled and the illegal gains shall be confiscated, and a fine lower than three times of the taxable money evaded may also be imposed.

Transportation vehicles specially used for smuggling or goods and articles specially used for cloaking the smuggling act, and transportation vehicles used for smuggling or goods and articles for cloaking the smuggling act for three or more times within two years shall be confiscated. The specially made equipments, interlayers and hidden compartments for concealing goods or articles smuggled shall be confiscated or ordered to be demolished. In case anyone conducts the smuggling act by using specially made equipments, interlayers or hidden compartments, he shall be given a heavier punishment.

Article 10 In case anyone colludes with any smuggler and provides the smuggler with loans, capital, account numbers, invoices, certificates, or customs documentations for, or colludes with any smuggler and helps him pick up, deliver, transport, keep, mail goods or articles smuggled or provides other convenience, he, regarded as an accomplice of the smuggling act, shall be punished in accordance with the provisions of article 9 of the Implementation Regulation and the illegal gains shall be confiscated.

Article 11 In case any customs declaration enterprise or customs clearance agent and any enterprise permitted by the customs house to undertake such businesses as transportation, storage, processing, assembly, consignment sale, exhibition of goods under the customs supervision constitutes a crime of smuggling or engages in smuggling two or more times, the customs may revoke its registration and cancel its qualification of practicing customs declaration.

### **Chapter III Acts in Violation of Provisions of the Customs Supervision and Penalties to Them**

Article 12 Acts, which violate the Customs Law and other relevant laws, administrative regulations and rules but do not constitute a smuggling act shall be acts in violation of customs supervision provisions.

Article 13 Where anyone violates the state provisions on import and export administration and imports and exports goods prohibited to import and export by the state, he shall be ordered to transport the goods back and be imposed a fine lower than 1 million Yuan.

Article 14 Where anyone violates the state provisions on import and export administration, imports or exports goods restricted by the state and the consignee or consignor of the import and export goods cannot submit the license certificate when making declaration to the customs, the import or export goods shall not be discharged and a fine 30% of the value of the goods shall be imposed upon him.

Where anyone violates the state provisions on import and export administration, imports or exports goods falling within the scope of automatic import and export license administration and the consignee or consignor of import and export goods fails to submit its automatic license certificate to the customs when making declaration, the import and export goods shall not be discharged.

Article 15 Where the article name, tariff serial number, quantity, specification, price, way of trading, place of origin, place of shipment, place of arrival, and final place of destination of the import and export goods or other items that should be declared fail to be declared or be declared falsely, punishment shall be given separately in accordance with the following provisions. And the illegal gains shall be confiscated, if any:

- (1) In case it influences the accuracy of the customs statistics, a warning shall be given or a fine of 1000 Yuan to 10,000 Yuan shall be imposed;
- (2) In case it influences the order of the customs supervision, a warning shall be given or a fine of 1000 Yuan to 30,000 Yuan shall be imposed;
- (3) In case it influences the administration of the state license certificates, a fine 5% to 30% of the value of the goods shall be imposed;
- (4) In case it influences the state tax collection, a fine 30% to 2 times of the tax money evaded shall be given;
- (5) In case it influences the administration of the state foreign exchange and export tax refund, a fine 10% to 50% of the declaration price may be imposed.

Article 16 Where any consignee or consignor of import and export goods fails to provide the true instances of the customs declaration matters entrusted by any customs declaration enterprise, which leads to the occurrence of any of the circumstances prescribed in Article 15 of the present Implementation Regulation, the entrusting party shall be punished in accordance with the provisions of Article 15 of the present Implementation Regulation.

Article 17 Where any customs declaration enterprise or customs clearance agent fails to make proper examination on the truthfulness of the conditions provided by a client, or neglects in work, which lead to the occurrence of any of the circumstances prescribed in Article 15 of the present Implementation Regulation, the customs declaration enterprise shall be imposed upon a fine 10% of the value of the goods and be suspended from undertaking customs declaration business or practice within 6 months; if the circumstances are serious, its customs declaration registration shall be revoked and its qualification for practicing customs declaration shall be cancelled.

Article 18 In case anyone has one of the following acts, a fine 5% to 30% of the value of goods may be imposed upon. And the illegal gains shall be confiscated, if any:

- (1) To open, draw, deliver, ship, exchange, refit, mortgage, impawn, remain, transfer, change marks, use for other purposes or make other disposal on goods supervised by the customs without permission of the customs;
- (2) To storage goods under customs supervision outside of the customs supervision zones without permission of the customs;
- (3) Unable to provide justifiable reasons for the loss of relevant goods, the lack in its quantity or the untrue records of it when managing businesses such as transportation, storage, processing,

- assembly, consignment sale and exhibition of goods under customs supervision;
- (4) Unable to go through such formalities as the receiving and keeping, delivery, carrying forward, and canceling after verification as required, or failing to go through the formalities at the customs house as required for suspension, extension, alteration or transfer of relevant contracts when operating such businesses as transportation, storage, processing, consignment sale, exhibition of bonded goods;
  - (5) Failing to declare to the customs house the unit consumption of materials for finished products in processing trade according to the facts;
  - (6) Failing to transport out of the territory the trans-boundary, transferring goods or through cargo within the prescribed time limit and keeping them within the territory without permission;
  - (7) Failing to re-transport out of the territory or into the territory the goods temporarily imported or exported within the prescribed time limit but keeping them within or outside the territory without permission; or
  - (8) Other acts in violation of the customs supervision provisions, which make the customs incapable or being interrupted in conducting supervision over the import or export goods.

Where the goods involved in the preceding provisions fall within those restricted ones by the state to import or export, the license certificates needs to be submitted. If the parties fail to submit their license certificates within the prescribed time limit, a fine 30% of the value of the goods may be imposed; if there is any evasion of tax money, a fine one time of the tax money evaded may be given additionally.

Article 19 In case anyone has one of the following acts, a warning shall be given and a fine 20% of the value of goods may be imposed upon. And the illegal gains may be confiscated, if any:

- (1) To open, deliver, mail, transfer or make other disposal on articles that have not been discharged by customs to enter or exit the territory without the permission of the customs;
- (2) An individual fails to declare to customs the excess of reasonable amount of personal transporting, carrying or posting self-used articles;
- (3) An individual fails to make declaration to customs of the excess of the prescribed amount of personal transporting, carrying, or posting entry/exit self-used articles restricted by the state to enter or exit the territory but do not evade customs' supervision by ways of concealing or disguising;
- (4) To make false declaration when transporting, carrying or mailing articles to enter or exit the territory;
- (5) Failing to re-carry out of or into the territory the articles allowed to enter or exit the territory but exempted from tax temporarily after customs registration; or
- (6) A person who passes through the territory keeps the articles carried by him within the territory without the approval of the customs.

Article 20 Where anyone who fails to make declaration to the customs for his transportation, carriage, posting goods prohibited by the state to enter or exit the territory but does not evade customs' supervision by ways of concealing or disguising, the goods shall be confiscated or ordered to be taken back, or destroyed or made technological disposal under the customs supervision.

Article 21

Where anyone has one of the following acts, he shall be given a warning and be imposed a fine less than 100,000Yuan. And the illegal gains shall be confiscated, if any:

- (1) Any transportation vehicle enters or exits the territory without passing through the places where the customs has been established;
- (2) Any entry/exit transportation vehicle staying in a customs surveillance zone moves away without the permission of the customs;
- (3) Any entry/exit transportation vehicle moves away from one place where the customs has been established another such place without completing the going through of the customs formalities and without approval of the customs, and midway changes to move overseas or places with no customs established within the territory; and
- (4) Any entry/exit transportation vehicle arrives or moves away from the place where the customs has been established without making declaration to the customs and submitting the relevant documentation for checking, or submitting inauthentic documentations.

Article 22 Where anyone has any of the following acts, he shall be given a warning and be imposed a fine less than 50,000 Yuan. And the illegal gains shall be confiscated, if any:

- (1) Any entry/exit transportation vehicle loads or unloads goods or articles carried out of and into the territory, or embarks or disembarks passengers entering or exiting the territory without approval of the customs;
- (2) Any entry/exit transportation vehicle manages concurrently domestic transportation of passengers or articles or is used for any other purposes than entry/exit transportation without approval of the customs;
- (3) Any entry/exit transportation vehicle changes to operate domestic transportation without permission and without going through customs formalities according to regulations;
- (4) Failing to transmit electronic data such as shipping bills to the customs within the prescribed time limit or transmitting inaccurate electronic data or failing to save the relevant electronic data within the prescribed time limit, which influences the customs supervision;
- (5) The entry transportation vehicle, after entering into the territory and before making declaration to the customs, fails to go along the route designated by the competent department in charge of transportation or the customs; the exit transportation vehicle fails to do so after completing the customs formalities and before leaving the territory;
- (6) Any ship or car carrying goods under the customs supervision fails to go along the route designated by the customs;
- (7) Any entry/exit ship or air craft, due to certain force majeure, has to anchor or land at the place where no customs is established, or chucks, loads or unloads goods or articles within the territory without justifiable reasons not to report to the nearest customs house;
- (8) Failing to notify the customs in advance without special reasons the time when any entry/exit ship, train or air craft arrives, the place where it stops, or the time or place changed; or
- (9) Failing to accept the examination or verification on entry/exit transportation vehicles, goods or articles conducted by the customs as required.

Article 23 In case anyone has any of the following acts, he shall be given a warning and be imposed upon a fine less than 30,000 yuan:

- (1) Opening or destroying customs marks of seal without permission;
- (2) Having lost supervision vouchers such as documents and handbooks made and issued by the customs, which has impeded the customs supervision; or
- (3) Having other acts in violation of the customs supervision provisions, which leads to the

incapability or interruption of the customs to make supervision over the transportation vehicles or articles entering or exiting the territory.

Article 24 Where anyone fabricates, alters or markets the customs documentations, a fine of 50 Yuan up to 500,000 yuan shall be imposed upon him; and the illegal gains shall be confiscated, if any; if a crime is constituted, he shall be subject to criminal liabilities according to law.

Article 25 Where anyone imports or exports goods that has infringed upon the intellectual property subject to the protection of the laws and administrative regulations of the People's Republic of China, the infringing right goods shall be confiscated and a fine less than 30% of the value of the goods shall be imposed; where a crime is constituted, he shall be subject to criminal liabilities according to law.

Where it is necessity to declare the status of the intellectual property to the customs, and the consignee and consignor of the import or export goods and its agents fail to declare to the customs according to law the relevant status of intellectual property, or fail to submit the lawfully used certificates of relevant intellectual property, a fine less than 50,000 Yuan may be imposed upon them.

Article 26 In case any customs declaration enterprise, customs clearance agent or enterprise, permitted to undertake such business as the transportation, storage, processing, assembly, consignment sale or exhibition of goods under the customs supervision, has one of the following acts, it/he shall be ordered to make correction, be given warnings and may be suspended to undertake the relevant operation or practice for 6 months:

- (1) Defaulting the payment of taxation or failing to perform the duty of tax payment;
- (2) The customs declaration enterprise remises its name to other people for their disposal of taxpaying matters on import and export goods in customs declaration;
- (3) Failing to provide justifiable reasons for damaging or losing goods under customs supervision;  
or
- (4) Having other illegal acts requiring suspending its/his undertaking of the relevant operation or practice.

Article 27 In case any customs declaration enterprise, customs clearance agent or enterprise, permitted to undertake such business as the transportation, storage, processing, assembly, consignment sale, exhibition of goods under customs supervision, has any of the following circumstances, the customs may revoke its/his registration, cancel its/his qualification for practicing in customs declaration:

- (1) Being suspended from practice by the customs for more than 3 times within one year;
- (2) Being suspended from undertaking the relevant operation or practice by the customs, and reoccurring the circumstances as prescribed in Article 26 of the present Implementation Regulation within one year after being resumed to undertake the relevant operation or practice;  
or
- (3) Having other illegal acts under which it is necessity to revoke its/his registration or cancel its/his qualification of practice in customs declaration.

Article 28 Where any customs declaration enterprise or customs clearance agent illegally acts as an agent for others to make customs declaration or makes customs declaration activities beyond the practice scope as granted by the customs, it/he shall be charged to make correction be imposed upon a

fine less than 50, 000 Yuan and be suspended from undertaking customs declaration operation or practice within 6 months; if the circumstances are serious, its/his customs declaration registration shall be revoked and its/his customs practicing qualification shall be cancelled.

Article 29 Where any consignee and consignor of the import or export goods, customs declaration enterprise, or customs clearance agent bribes the customs functionaries, his/its customs declaration registration shall be revoked, the customs declaration qualification shall be cancelled and a fine less than 10,000 Yuan shall be imposed upon him/it; if a crime is constituted, he/it shall be subject to criminal liabilities according to law and shall not reregister as customs declaration enterprise or obtain qualification of practice in customs declaration.

Article 30 Where anyone undertakes customs declaration business without going through customs registration or fails to obtain the customs declaration practicing qualification, he/it shall be banned, shall be confiscated of the illegal gains and may be imposed upon a fine less than 100,000 Yuan.

Article 31 Where anyone provides false materials to cheat in customs registration and customs declaration practicing qualification, it/he shall be revoked of the registration, be cancelled of the qualification for practice in customs declaration shall and be imposed upon a fine less than 300,000 Yuan.

Article 32 In case any juridical person or other organization has any act in violation of the customs law, the person in charge and the person directly liable shall be given warnings and may be imposed a fine less than 50,000 Yuan apart from punishing the juridical person or organization. And the illegal gains may also be confiscated, if any.

#### **Chapter IV Investigation of Acts in Violation of Customs Law**

Article 33 Where any customs finds out any citizen, juridical person or other organization has any act that shall be subject to the administrative punishment by the customs according to law, the customs shall put it on record and make investigation.

Article 34 After putting a case on record, the customs shall make investigation and collect evidences completely, objectively, fairly and in time. When making investigation and collecting evidences, the customs shall handle it in accordance with laws, administrative regulations and the requirements of other relevant provisions. When making investigation and collecting evidences, the customs functionaries shall not be less than 2 persons and they shall show their certificates to the person being investigated. Where the evidences investigated into and collected by the customs involve the secrets of the state and trade secrets or individual privacy, the customs shall keep secret.

Article 35 In case customs inspects the body of any suspect of smuggling act, it shall conduct it in the hidden place or out of the sight of non-inspectors and the check shall be conducted by 2 or more customs functionaries who have the same sex with the person being inspected. The suspect of smuggling act shall accept inspection and shall not hinder it.

Article 36 When making inspection on transportation vehicles and places and checking goods and



articles according to law, the customs shall make transcripts of inspection and check.

Article 37 When detaining any suspect of smuggling crime according to law, the customs shall make and issue a written decision on detaining the suspect of smuggling crime. The time limit for detaining the suspect of smuggling crime shall not exceed 24 hours and it may be extended to 48 hours under special circumstances. The customs shall make checkup on the person detained within the legal detention period. If the person is cleared off suspicion of a crime or the legal detention period expires, the customs shall release the suspect from detention immediately and issue written decision on unchaining the detention.

Article 38 Customs may seize the following goods, articles, transportation vehicles and the relevant account books, documents and other materials according to law:

- (1) Goods, articles or transportation vehicles that are suspected of being smuggled;
- (2) Goods, articles or transportation vehicles in violation of the Customs Law or other relevant laws and administrative regulations;
- (3) Account books, documents and other materials in relation to the goods, articles, or transportation vehicles that may be detained according to law and administrative regulations; or
- (4) Other materials as goods, articles, transportation vehicles and the relevant account books and documents that may be detained according to law and administrative regulations.

Article 39 Where it is unable or inconvenient to detain the goods, articles or transportation vehicles that are suspected of violating laws, the parties concerned or the person in charge of the transportation vehicle shall provide equivalent guaranty to the customs; if they fail to do so, the customs may seize other property of the same equivalence of the parties concerned.

Article 40 The time limit for the customs to seize the goods, articles, transportation vehicles, account books, documents and other materials shall not exceed one year. The time limit may be extended due to the need of investigation into the case with approval of the director general of the customs directly under the General Administration of Customs or the director general of the subject customs authorized by the customs directly under the General Administration of Customs, but the extended period shall not exceed one year. But the period of reconsideration and litigation shall not be included in it.

Article 41 Where any of the following circumstances occurs, the customs shall release the detention or seizure in time:

- (1) The suspicion of law violation has been cleared off;
- (2) The periods of detention and extension have expired;
- (3) The customs administrative punishment decision has been performed; or
- (4) Other circumstances under which detention or seizure shall be released as prescribed by laws and administrative regulations.

Article 42 Where the customs detain any goods, article, transportation vehicle, other property, account book, document and other materials, it shall make and issue a customs detention voucher with the signatures or seals of the customs functionaries, the parties concerned or their agents, keepers and eyewitnesses, and add the mark of the customs seal. If the mark of customs seal is added, the parties and their agents or keepers shall keep it properly. When the customs releases goods, articles,

transportation vehicles, other property and account books, documents and other materials from seizure, or returns the equivalent guaranty, it shall make and issue a customs notice on releasing from seizure, customs notice on canceling guaranty with the signatures or seals of the customs functionaries, the parties concerned or their agents, keepers and eyewitnesses.

Article 43 When interrogating suspects of law violation or inquiring witnesses, the customs shall do so individually and notify them of their rights and the legal liabilities they shall bear for perjury. The suspect of law violation and the witness shall make statement or provide evidences according to the facts.

The customs shall make notes when interrogating the suspect of law violation or inquiring the witness, and shall have him identify the notes on the spot. If he agrees to it, he shall sign his name for confirmation; if he dissents with it, the notes shall be signed after being corrected for confirmation.

It is strictly prohibited to make inquisition by torture or collect evidences by such illegal means as intimidation, inducing or cheating, etc..

When interrogating the suspect of law violation, the customs may conduct it at the entity or the residence of the suspect, or may require him to go to the customs house or the place designated by the customs.

Article 44 The material evidences and written evidences collected by the customs shall be the original things or the original materials. In case it is really difficult to collect the original things or original materials, the customs may shoot or reproduce them, and may designate or entrust relevant entities or individuals to keep the original things or original materials properly. The customs shall list the material evidences and written evidences collected and give clear indication of the date of collection and shall have them signed or sealed by the relevant entities or individuals after confirmation.

When collecting electronic data or audio-visual materials such as records and videos, the customs shall collect the original carriers of data. Where it is really difficult in collecting the original carriers, the customs may collect the reproductions and give clear indication of the method, time and maker of reproduction, etc., and shall have them signed or sealed by the relevant entities or individuals after confirmation.

Article 45 The customs may take samples of relevant goods or articles for testing and authenticating where the case investigation requires so. When the customs takes samples, the parties concerned or their agents shall be on the scene; if they are not on the scene, the customs shall invite the witnesses to be on the scene. The customs shall enseat the samples picked up with the signature or seal of the customs functionaries, the parties or their agents, or witness after confirmation. The testing and authentication shall be conducted by the testing and authentication institutions under the customs or by entrusting other institutions recognized by the state. After making testing and authentication, the person making the testing and the authenticator shall issue a testing report and the conclusion of appraisal and affix their sign or seal on them.

Article 46 The customs may inquire about the deposit or remittance of any suspected entity or any suspect of a case in the financial institutions or postal enterprises according to the relevant provisions of the Customs Law. When inquiring about the deposit or remittance of any suspected entity or any suspect of a case in financial institutions or postal enterprises, the customs shall show the customs notice of assistance in inquiry.

Article 47 No goods, articles or transportation vehicles seized by the customs according to law may be disposed of before the judgment of the people's court or the administrative punishment of the customs. Such goods or articles that are not suitable for long-time keeping as dangerous articles, fresh ones, perishable ones or easily invalidated ones or easily denaturing ones, etc. and goods, articles or transportation vehicles to which the owner applies for selling off in advance, may be sold off in advance according to law upon the approval of the director general of the customs directly under the General Administration of Customs or his authorized director general of the subsidiary customs of the customs directly under the General Administration of Customs. The money incurred from selling off shall be kept by the customs and the owners shall be notified.

Article 48 The parties shall have the right to require the customs functionaries to evite according to the provisions of the Customs Law.

## **Chapter V Decision on the Customs Administrative Punishment and Its Execution**

Article 49 The customs shall notify the relevant parties of their rights to request for hearing of witnesses before making decision to give such administrative penalties as suspension of undertaking the relevant operations, suspension of customs declaration practice, revocation of customs registration, cancellation of qualification for practicing customs declaration business, giving citizens a fine more than 10,000 Yuan, giving fictitious persons or other organizations a fine more than 100,000 Yuan, confiscating the relevant goods, articles and smuggling transportation vehicles, etc.; if the parties request a hearing, the customs shall organize a hearing. The measures for hearing of witnesses of customs administrative punishment shall be formulated by the General Administration of Customs.

Article 50 At the end of a case investigation, the general director of the customs shall make examination on the investigation results and make a decision to different circumstances according to law. When giving a heavier administrative punishment on cases of complicated circumstances or grave illegal acts, the decision shall be made by the collective discussion of the customs case trial committee.

Article 51 Where the same party conducts smuggling act and another act in violation of the customs supervision provisions and there is causal relationship between the two acts, the smuggling act shall be given a heavier punishment in accordance with the provisions of the present Implementation Regulation on smuggling, and the act in violation of the customs supervision provisions shall not be punished again. Where the same party conducts two or more acts in violation of the customs supervision provisions on the same batch of goods or articles and there is causation relationship between two acts, the most serious act among those shall be chosen to bear corresponding punishment in accordance with the range of penalties prescribed separately by the present Implementation Regulation.

Article 52 In case an illegal act is committed by two or more parties together, these parties shall be punished separately by differentiating the circumstances and liabilities.

Article 53 In case anyone has any of the following circumstances, he shall be given a heavier punishment:

- (1) Committing smuggling acts within 2 years after being given criminal penalties by the court or

- being given an administrative punishment by the customs due to smuggling;
- (2) Conducting the same act in violation of the customs supervision provisions within 1 year after being given an administrative punishment due to violation of the customs supervision provisions;  
or
  - (3) Having other circumstances that shall be subject to a heavier punishment according to law.

Article 54 The customs shall make a written decision of administrative punishment when giving an administrative punishment on acts of parties in violation of the Customs Law. For two or more acts in violation of the Customs Law conducted by the same party, one written decision on administrative punishment may be made. For acts in violation of the Customs Law conducted separately by two or more parties, the written decisions on administrative punishment shall be made separately. For acts in violation of the Customs Law conducted by two or more parties together, one written decision on administrative punishment shall be made and each party shall be punished separately according to different circumstances, unless it is necessary to deal with it as a separate case.

Article 55 The written decision on administrative punishment shall be served to the party according to the relevant legal provisions. In case a written decision is served by public notice according to law, the customs shall post the original of the written decision on administrative punishment in the bulletin board of the customs house and publish the public notice in newspapers.

Article 56 Where the customs makes a decision of administrative punishment on confiscated goods, articles or smuggled transportation vehicles but it is unable or inconvenient to confiscate them, the customs shall recover the equivalent price of the aforesaid goods, articles or smuggled transportation vehicles.

Article 57 Where any juridical person or other organization has mergers, division or other circumstances of assets reorganization after conducting acts in violation of the Customs Law, the customs shall take the former juridical person or organization as a party concerned. Where the former juridical person or organization is punished by a fine, confiscated of illegal gains or recovered of the money equivalent to the goods, articles and smuggled transportation vehicles, the juridical person or organization that undertakes their rights and obligations shall be the party against whom the punishment is to be executed.

Article 58 Fines, illegal gains and the money equivalent to the value of the goods, articles or smuggled transportation vehicles recovered according to law shall be paid off within the time limit as prescribed by the customs decision on administrative punishment. Where the parties execute the decision of administrative punishment and complete the customs formalities on time, the customs shall unchain their guaranty in time.

Article 59 The parties subject to the punishment of the customs or their legal representatives, the major persons-in-charge shall pay off fines, illegal gains and the money equivalent to the value of the goods, articles or smuggled transportation vehicles recovered according to law before leaving the territory. If they fail to pay off the aforesaid money, they shall provide a guaranty equivalent to the aforesaid money to the customs. In case they fail to provide a guaranty and the party is a natural person or other organization, the customs may notify the exit administrative department to prevent the legal

representative or main responsible person from leaving the territory.

Article 60 Where any party fails to execute the decision on administrative punishment beyond the time limit, the customs may take the following measures:

- (1) If the party fails to turn in the fine at term, a fine 3% of the amount of the fine shall be additionally imposed per day;
- (2) Appraising the detained goods, articles or transportation vehicles at the current rate to pay the fine according to the provisions of the Customs Law, or paying the fine by the guaranty provided by the parties; or
- (3) Applying to the people's court for mandatory enforcement.

Article 61 Where the party really has economic difficulty and applies for postponing the payment of fines or paying fines by installments, the fine may be deferred or paid by installments upon the approval of the customs. When the party applies for deferring the payment of fines or paying the fines by installments, the application shall be put forward in written form. After receiving the application, the customs shall make decision within 10 workdays and notify the applicant. If the customs approves the party to defer the payment or pay by installments, it shall notify the organ that collects the fines in time.

Article 62 Under any of the following circumstances, the customs shall take over the payment of relevant goods, articles, illegal gains, transportation vehicles or specially made equipments:

- (1) Carrying or mailing goods or articles prohibited by the state from entering or exiting the territory into or out of the territory, which is not subject to the administrative punishment as prescribed by Articles 25 and 26 of the Administrative Punishment Law of the People's Republic of China;
- (2) Mailing the articles prohibited or restricted by the state to enter or exit the territory for distribution or carrying sporadic articles prohibited by the state to enter or exit the territory, which may not be subject to administrative punishment according to law;
- (3) Before the customs makes an administrative punishment decision on any goods, article, illegal gains, smuggled transportation vehicle or specially made equipment, the natural person as the party concerned dies or the juridical person or other organization as the party concerned terminates, and there is no successors to succeed the rights and obligations;
- (4) The illegal facts of smuggling are basically clear but the party is unable to make them clear within three full months from the date when the customs house makes a public notice; or
- (5) Other circumstances in violation of laws and administrative regulations and needed be taken over.
- (6) When the customs takes over the aforesaid goods, articles, illegal gains, transportation vehicles or specially made equipments, it shall make and issue a checklist which shall be signed or sealed by the person whose things are captured or his agent or witness. Where the person whose things are captured is incapable of being found out and there are no witnesses, a public notice shall be made.

Article 63 The smuggled goods, articles, illegal gains, smuggled transportation vehicles or specially made equipment confiscated by the adjudication of the people's court or confiscated or captured by the customs decision shall be handled uniformly by the customs. Both the money gained and the fine collected by the customs shall be turned over to the Central Treasury entirely.

## Chapter VI Supplementary Provisions

Article 64 The following terms mentioned in the present Implementation Regulation shall have the following meanings:

The term "places where the customs has been established" shall refer to the checkpoints established by the customs in customs supervision districts such as ports, stations, airports, passages in national boundaries or international mail interchange bureaus (interchange stations) and etc., the checkpoints established by the customs in special customs supervision areas such as the bonded zones, export processing zones and etc., and midway supervision stations established by the customs on the sea.

"License certificates" shall refer to the authentication or documents applied for by the parties in advance and issued by the competent state department allowing import or export in accordance with relevant provisions of the state.

"Lawful certificates" shall refer to the commercial documentations, transportation documents and other relevant certificates and documents, which are held by the ship and the personnel it carries in accordance with relevant provisions of the state or international transportation traditions, proving that the goods or articles it transports, carries, purchases or sells are real, lawful and effective.

"Articles" shall refer to the luggage entering or exiting the territory by way of transportation or carrying by individual, or articles mailed into or out of the territory including currency and bullion and etc.. If such articles exceed the reasonable amount for one's own use, they shall be regarded as goods.

"Own use" shall refer to the passengers' or addressees' use for themselves or the present as a gift to their relatives or friends not for sale or tenancy.

"Reasonable amount" shall refer to the normal amount determined by the customs according to the conditions of the passengers or the addressees, the purpose of travel and the time of residence.

"Value of goods" shall refer to the total amount of the duty paid price, tariff and import link tax of the import and export goods collected by the customs on behalf of others.

"Value of articles" shall refer to the total amount of the duty paid price and import tax of the articles entering or exiting the territory.

"Tax payable" shall refer to the total amount of import and export taxes and the import link tax on import and export goods and articles collected by customs on behalf of others.

The term "transportation vehicles specially used for smuggling" shall refer to the transportation vehicles made, reconstructed or purchased specially for smuggling.

The words "aforesaid", "following", "within", and "expiry" shall all be included the number prior or subsequent to the word used.

Article 65 The present Implementation Regulation shall be applicable to the imposition of administrative punishment by customs upon aliens, stateless persons, foreign enterprises and other organizations.

Article 66 The catalogue of goods prohibited or restricted to import or export by the state shall be handled in accordance with the provisions of the Foreign Trade Law of the People's Republic of China by the competent foreign trade department of the State Council. The catalogue of articles prohibited or restricted from entering or exiting by the state shall be promulgated by the General Administration of Customs.

Article 67

Where the administrative punishment is imposed according to the customs regulation, the procedures prescribed by the present Implementation Regulation shall be abided by.

Article 68 The present Implementation Regulation shall go into effect as of November 1st, 2004. The Detailed Rules for the Implementation of Administrative Punishment of the Customs Law of the People's Republic of China, which were revised on February 17, 1993 upon the approval of the State Council and promulgated on April 1st, 1993 by the General Administration of Customs, shall be repealed simultaneously.