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Changes in Chinese Customs Regulations

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Report Highlights:

Effective January 1, 2009, all goods being imported to or exported from China will be required to meet new manifest regulations under Decree No.172: "The Measures for Manifest Administration for Inbound and Outbound Means of Transportation of the People's Republic of China," put forth by the General Admission of Customs. These new measures replace Decree No. 70: "The Administration Methods of the Customs of the People's Republic of China for Transmission of Electronic Manifest Data", which has been in effect since February 1999. The general provisions focus primarily on standardizing the procedures for customs documents required for goods entering and leaving China. An unofficial translation of Decree No. 172 is attached.

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Summary

Effective January 1, 2009, all goods imported to or exported from China will be required to meet new manifest regulations under Decree No.172: "The Measures for Manifest Administration for Inbound and Outbound Means of Transportation of the People's Republic of China," put forth by General Admission of Customs. The decree is separated into five sections that address general provisions, the entry and exit of goods, guidance for amending paperwork, and additional provisions. Simultaneous to the passing of this measure, the old measures governing manifest requirements will be repealed. It is too soon to know if this decree will significantly impact agricultural trade with China.

The general provisions listed in the decree focus on standardizing the procedures for customs documents required for goods entering and leaving China, and there is a specific focus on the use of electronic forms being favored over paper. A total of five documents are required to gain clearance: an application form, samples of bill of lading and shipping order, relevant business stamps, copy of license or certificate of qualifications, and any additional required documents.

The decree sets the minimum amount of time required for the submission of documents for all goods entering the country before the first port of call at:

- Ship: 24 hours
- Plane: 4 hours
- Train: 2 hours
- Vehicle: 1 hour

The decree also sets the minimum amount of time that all passengers aboard inbound transportation must submit their manifest data before the first port of call.

- Ships: 2 hours
- Plane:
 - Flight time <1 hour: 30 minutes
 - Flight time 1-2 hours: 1 hour
 - Flight time >2 hours: 2 hours
- Train: 2 hours
- Vehicle: 1 hour

The minimum amount of time set for the submission of documents before loading is set at:

- Ship:
 - Container: 24 hours
 - Non-container: 2 hours
- Plane: 4 hours
- Train: 2 hours
- Vehicle: 1 hour

The minimum amount of time for passengers on outbound transportation is one hour, for all forms of transport.

Should there a need to alter the manifest documents, it must be made before the final deadline of submission. Exceptions to this rule are uncontrollable events, goods being stowed on different vehicles, or when the amount of bulk cargo is within prescribed limits.

An unofficial translation of Decree No. 172 is attached.

It remains highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

Begin Translation

Decree No. 172 of the General Administration of Customs

"The Measures for Manifest Administration for Inbound and Outbound Means of Transportation of the People's Republic of China" was adopted by the executive meeting of General Administration of Customs on 10 March 2008 and is hereby promulgated. The Measures will become effective on 1 January 2009. The Administration Methods of the Customs of the People's Republic of China for Transmission of Electronic Manifest Data promulgated by Decree No. 70 of General Administration Customs on 1 February 1999 will be repealed simultaneously.

Measures for Manifest Administration for Inbound and Outbound Means of Transportation of
The People's Republic of China

Chapter One: General Provisions

Article 1: To standardize Customs administration of manifest of inbound and outbound means of transportation, facilitate, and safeguard international trade, the Measures have been formulated in accordance with Customs Law of the People's Republic of China (hereinafter referred to as "the Customs Law") and relevant laws and administrative regulations.

Article 2: The manifest of inbound and outbound means of transportation (hereinafter referred to as "manifest") in the Measures is a carrier of information on goods, articles and passengers onboard the inbound and outbound means of transportation. It includes the original manifest pre-stowage manifest and load/boarding manifest.

If there are goods or articles on board the inbound and outbound means of transportation, the manifest should include information of the master bill of lading (MB/L) or waybill and the house bill of lading (HB/L) or waybill under it.

Article 3: The measures are applicable to the Customs administration of manifest of inbound and outbound vessels, aircrafts, trains, and road vehicles.

Article 4: Parties who have the obligation to transmit electronic manifest data (hereinafter referred to as "manifest transmission parties"), including operators of inbound and outbound means of transportation, freight forwarders, shipping agency companies, postal enterprises and express delivery operators, should transmit electronic manifest data to the Customs within the set time limit in accordance with the scope of Customs registration.

Parties, who have the obligation to transmit manifest-related electronic data, including managers of Customs-supervised sites or tallying departments and shippers of export goods, should transmit relevant electronic manifest data to the Customs within the set time limit.

If the manifest and related electronic data are not transmitted in accordance with the Measures the Customs may refuse to go through entry or exit declaration formalities for the means of the transportation concerned.

If failure to transmit the manifest and related electronic data to the Customs is caused by special reasons, like computer failure, relevant documentation may be transmitted to the Customs within the set time limit in paper form with approval of the Customs.

Article 5: The Customs shall regard the time of receipt of transmission of main data of the original manifest as the time of transmission of electronic data of the import manifest; and the Customs shall regard the time of receipt of transmission of data of the pre-stowage manifest as the time of transmission of electronic data of the export manifest.

Article 6: Manifest transmission parties, managers of Customs-supervised site or tallying departments and shippers of export goods should register with the Customs Office directly under the General Administration of Customs or authorized subordinate Customs Office of the place of its business operation.

The following documents should be provided by manifest transmission parties to the Customs for the registration:

- 1) Application Form for Registration
- 2) Samples of bill of lading (waybill) and shipping order
- 3) Impression of the stamp and relevant business stamps of the enterprise
- 4) Copy of license or certificate of qualification issued by competent administrative authorities
- 5) Other document required by Customs

Managers of Customs-supervised sites, tallying departments or shippers of export goods should submit to the Customs the document in paragraphs 1, 4, and 5 above for registration.

When submitting copies, the original documents should also be presented to the Customs for verification.

In case of changes to content registered with the Customs, manifest transmission parties, managers of customs-supervised sites, tallying departments or shippers of export goods should submit a written application and relevant documents to the Customs for changes registration.

Article 7: Manifest transmission parties may submit a written request to the Customs for keeping commercial secrets and indicate in detail the content to be kept confidential.

The Customs should, in accordance with relevant state regulations, undertake the confidentiality obligation and properly store the materials concerning commercial secrets which are provided by manifest transmission parties and related parties.

Chapter Two Entry Manifest Administration

Article 8: Before transmitting the electronic data of the original manifest, operators of inbound and outbound means of transportation should inform the Customs the estimated time of arrival at the port of destination within the Customs boundary.

Before the means of transportation arrives at the port, operators of inbound and outbound means of transportation should inform the Customs the exact time of arrival at the port.

When the means of transportation arrives at a place with a Customs office, the operator of the means of transportation should make arrival declaration to the Customs.

Article 9: If there are goods or articles on board, the manifest transmission parties should submit to the Customs main data of original manifest by the following deadline:

- 1) Twenty-four hours before loading of container ships, and twenty-four hours before arrival at the first port of call within the Customs boundary for non-container vessels;
- 2) By the time of takeoff for aircraft with flight time of no more than four hours; and four hours before arrival at the first port of call within the Customs boundary for aircraft with flight time of more than four hours;
- 3) Two hours before arrival at the first station of call within the Customs boundary for trains; and
- 4) One hour before arrival at the first station of call within the customs boundary for road vehicles.

Manifest transmission parties should submit to the Customs other data of the original manifest before the goods or articles arrive at the port of destination.

Only after the Customs receives the transmission of main data of the original manifest, the consignees and entrust customs declaration makers may make goods or articles declaration to the Customs.

Article 10: If the Customs finds in the original manifest goods or articles prohibited for entry into China, the Customs should notify operators of the means of transportation to not to ship it into the territory.

Article 11: If there are passengers on board an inbound means of transportation, the manifest transmission parties should submit to the Customs the electronic data of the original manifest by the following deadline:

- 1) Two hours before arrival at the first port of call within the Customs boundary for vessels;
- 2) Thirty minutes before arrival at the first port of call within the Customs boundary for aircraft with flight time within one hour; one hour before arrival at the first port of call within the customs boundary for aircraft with flight time between one and two hours; and two hours before arrival at the first port of call within the Customs boundary for aircraft with flight time above two hours.
- 3) Two hours before arrival at the first station of call within the customs bound for trains; and
- 4) One hour before arrival at the first station of call within the Customs boundary for road vehicles.

Article 12: After receiving transmission of main data of the original manifest, if the Customs decides not to allow the discharge of goods or articles or disembarkation of passengers, the Customs should notify the manifest transmission parties in electronic form of the decision and the reasons behind it.

If the Customs cannot make the notification in electronic form, it should send staff to the site to go through the formalities mentioned in the paragraph above.

Article 13: Within six hours of completion of discharge of goods or articles by an inbound means of transportation, the tallying department or the manager of Customs-supervised site should submit a tallying report in electronic form to the Customs.

For goods that require second tallying, the tallying report in electronic form may, with Customs approval, be submitted to the Customs within 24 hours of completion of discharge.

Article 14: The Customs should compare the original manifest and the tallying report. If there are inconsistencies between these two, the Customs should notify the operator of the means of transportation in electronic form. The operator should report to the Customs the reasons for the inconsistencies within 48 hours of discharge of goods or articles.

Article 15: The Customs may order the operator of the original means of transportation to directly ship back the goods or articles not listed in the original manifest.

Article 16: If grouping is needed for inbound goods or articles, the manifest transmission parties should file an application in electronic form to the Customs and get its approval before grouping.

After the grouped goods or articles arrive at a Customs-supervised site, the manager of the site should submit to the Customs an arrival report on the group goods or articles in electronic form.

With two hours of completion of unpacking of grouped goods or articles, the tallying department or the manager of the Customs-supervised site should submit a tallying report in electronic form on the grouped goods or articles to the Customs.

Article 17: When port congestion diversion is needed for goods or articles, the manager of the Customs-supervised site should file a port congestion diversion application to the Customs and get its approval before diversion.

When port congestion diversion is completed, the manager of the Customs-supervised site should submit the arrival report in electronic form on relevant goods or articles to the Customs.

Article 18: The Customs shall carry out inspection and release formalities for the goods or articles after the tallying report has been submitted for imported goods or articles, or grouped good goods or articles, or the arrival report has been submitted for goods or articles in port congestion diversion.

Article 19: If there are passengers on board the inbound means of transportation, the operator of means of transportation or the manager of the Customs-supervised site should submit to the Customs the Customs clearance application for the inbound passengers and their luggage within three hours of disembarking, and provide the actual number of disembarked passengers, claimed check-in luggage and luggage yet to arrive. If the numbers are verified by the Customs, the Customs clearance formalities will proceed, and if there are inconsistencies between the original manifest and the Customs clearance application, the operator of means of transportation or the manager of Customs-supervised site should submit to the Customs the reasons for the inconsistencies within 24 hours of disembarking.

Operator of means of transportation or the manager of Customs supervised site should turn in the unclaimed check-in luggage to the Customs.

Chapter Three Exit Manifest Administration

Article 20: A shipper of export goods should transmit the container loading list in electronic form to the Customs before loading of goods or articles in container transportation.

Article 21: If there are goods or articles on board the outbound means of transportation the manifest transmission parties should submit to the Customs main data of the pre-stowage manifest in electronic form before going through declaration formalities for the goods or articles.

After the Customs receives the transmission of main data of the pre-stowage manifest, the manifest transmission parties should transmit the other data of the pre-stowage manifest to the Customs by the following deadline:

- 1) Twenty-four hours before loading for container-shipping vessels, and two hours before loading of goods or articles to non-container-shipping vessels;
- 2) Four hours before loading for aircraft;
- 3) Two hours before loading of goods or articles to trains; and
- 4) One hour before loading of goods or articles to road vehicles.

If it is estimated that there will be passengers on board the outbound means of transportation manifest transmission parties should transmit the pre-stowage manifest in electronic form to the customs one hour before the outbound passengers go through boarding formalities.

Article 22: When outbound goods or articles arrive at a Customs-supervised site, the manager of the site should submit to the Customs an arrival report in electronic form.

After the arrival report is submitted, the Customs will carry out inspection and release formalities for the goods or articles.

Article 23: Manifest transmission parties should transmit the load manifest to the Customs 30 minutes before loading of goods or articles.

Goods and articles in the load manifest should be those released by the Customs.

Article 24: Manifest transmission parties should transmit the passenger manifest in electronic form to the Customs after the passengers completed the boarding formalities and before the passengers embark on the means of transportation.

Article 25: After receiving transmission of the load (boarding) manifest, if the Customs decides not to allow the loading of goods or articles or boarding of passengers, the Customs should notify the manifest transmission parties in electronic form of the decision and the reason behind it.

If the Customs cannot make the notification in electronic form, it should send staff to the site to go through the formalities mention in the paragraph above.

Article 26: The operator of a means of transportation should inform the Customs the departure time of the means of transportation, two hours before departure from the place with a Customs office.

Operator of outbound means of transportation that are added on short notice should inform the Customs the time of departure from the place with a Customs office before departure.

Article 27: After loading or boarding completed, operator of the means of transportation should submit to the Customs a clearance application. The means of transportation can only leave the country after Customs clearance formalities are completed.

Article 28: Within six hours of departure from port of loading, the manager of Customs - supervised site or the tallying department should submit a tallying report in electronic form to the Customs.

Article 29: The Customs should compare the load manifest and the tallying report. If there are inconsistencies between these two, the Customs should notify the operator of the means of transportation in electronic form. The operator should report to the Customs the reasons for the inconsistencies within 24 hours of completion of Customs clearance for the outbound means of transportation.

Chapter Four Manifest Changes Administration

Article 30: If manifest transmission parties need to change the transmitted electronic manifest data, they may change it directly before the set deadline for transmission of original manifest and pre-stowage manifest, with the exception that of the owners of the goods or articles have already applied for Customs clearance for the goods or articles;

The electronic manifest data transmission time is the time of Customs acceptance of the changes of electronic manifest data.

Article 31: In any of the following cases, after the Customs approves the written application for changes submitted by a manifest transmission party, the manifest can be changed after the set deadline for transmission of original manifest and pre-stowage manifest without any penalty on the transmission party:

- 1) When the electronic manifest data is incorrect due to loss or damage of the good or articles caused by *force majeure*;
- 2) When part of or all export goods or articles in the load manifest are shut out or shipped in a different means of transportation due to loading, stowing, or other reasons;
- 3) When the more-or-less amount of the large bulk cargo or the bulk cargo within a single container is within prescribed limits; or
- 4) When errors in transmitted data are caused by other external reasons.

Article 32: After application of the treatment contained in Article 37 of the measures, if the manifest transmission parties need to change the electronic manifest data, they should make the changes in accordance with requirements of the Customs.

Article 33: The following documents should be submitted by the manifest transmission parties to the Customs when applying for cargo manifest changes:

- 1) Application Form for Manifest Changes;
- 2) Copy of issues B/L or waybill;
- 3) Paper-form manifest that is correct and affixed with the seal of manifest transmission parties; and
- 4) Other documents that can prove the rationality of the manifest changes.

The documents in paragraph 1, 3, 4 above should be submitted by the manifest transmission parties to the Customs when applying for passenger manifest changes.

When submitted the copies the original documents should also be present to the Customs for verification.

Chapter Five Additional Provisions

Article 34: The definitions of the following terms in the Measures are:

“Original Manifest”, is the manifest transmitted by manifest transmission parties to the Customs that reflects the information on the goods, articles or passengers on board an inbound means of transportation.

“Pre-stowage manifest” is the manifest that reflects information on estimated goods, articles or passengers on board the outbound means of transportation.

“Load (boarding) manifest”, is the manifest that reflects information on cargo stowage or passengers on board the outbound means of transportation.

“Bill of lading (waybill)”, is the document to prove that the carrier has accepted the transportation contract and loaded the goods or articles, and the carrier shall deliver the goods or articles according to the document.

“Master bill of lading (waybill)”, is the bill of lading (waybill) issued by operator of the means of transportation or the shipping agent.

“House bill of lading (waybill)” is the bill of lading (waybill) issued by a non-vessel operating common carrier, freight forwarder or express delivery operator, and is under the master bill of lading (waybill).

“Arrival report”, is the record submitted by the manager of a Customs-supervised site to the Customs on the actual arrival of goods or articles at the time of arrival of goods or articles onboard the inbound means of transportation at the Customs-supervised site.

“Tallying report”, is the record of verification and confirmation made by the manager of a Customs-supervised site or the tallying department on the actual loading and discharge of goods or articles onboard ad outbound means of transportation.

“Port congestion diversion”, is the act in accordance with decision of port authorities to prevent congestion in the port and divert relevant goods or articles to other Customs-supervised sites.

“Grouping”, is the process of moving inbound goods or articles from one Customs-supervised site to another by the manager of a Customs-supervised site.

“Packing list” is the Document that reflects the actual loading information on outbound goods or articles in container transport before loading.

“Above”, “below” and “within” all include the number following them.

Article 35: The serial number of B/L (waybill) in the manifest should be non-repetitive within two years.

Manifest transmission parties, managers of Customs-supervised sites and tallying departments should keep the paper-form manifests, tallying reports and arrival reports, as well as relevant account books for Customs inspection for at least three years since the Customs acceptance of the manifest and related electronic data.

Article 36: The format of the following manifests and related electronic data as mentioned in the Measures should be specified by the General Administration of Customs in other regulations:

- 1) original manifest (including main data and other data);
- 2) tallying report;
- 3) goods and article grouping application;
- 4) tallying report for grouped goods and articles;
- 5) port congestion diversion application;
- 6) arrival report for goods or articles of port congestion diversion;
- 7) packing list;
- 8) pre-stowage manifest (including main data and other data);
- 9) arrival report; and
- 10) loading (boarding) manifest.

Article 37: Acts in violation of the Measures that constitutes smuggling, violation of the Customs regulations or other breaches of the Customs Law should be punished by the Customs in accordance with the Customs Law and Regulation of the People's Republic of China on the Implementation of Customs Administrative Punishment. Those constituting crimes should be dealt with in accordance with the Criminal Law.

Article 38: The right of interpretation of the Measures rests with the General Administration of Customs.

Article 39: The Measures shall be implemented since 1 January 2009. The Administration Methods of the Customs of the People's Republic of China for Transmission of Electronic Manifest Data promulgated by Decree No. 70 of General Administration Customs on 1 February 1999 will be repealed simultaneously.