

The Nigeria Customs Service Adopts a New Standard Operating Procedure for the Implementation of Advance Rulings

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Trade Alert



Introduction

The Nigeria Customs Service ('NCS' or 'the Service') recently issued a press release, communicating the adoption of a new Standard Operating Procedure (SOP) for the issuance of advance rulings.

The press release, dated 25 August 2023, was issued pursuant to Section 24 of the Nigeria Customs Service Act, 2023¹ (NCSA) and Article 3 of the World Trade Organisation Trade Facilitation Agreement² (TFA).

Based on the revised SOP for advance rulings, traders would be able to obtain written decisions from the NCS on matters relating to the tariff classification, origin, and valuation of goods before they are imported into Nigeria.

We have provided below highlights of the new SOP for advance rulings.

1 *Interpretation and scope*

The NCS will respond to requests for advance rulings on the following issues;

- a. Tariff classification of goods;
- b. Application of a preferential trade regime on goods;
- c. Application of duty exemption to goods;
- d. Correct application of a customs valuation methodology; and
- e. Duty drawbacks, quotas fees and/or other customs matters.

Traders would be required to provide the NCS with sufficient information on the facts supporting the ruling application. The NCS may also request for additional information where it deems necessary.

2 *Private and general rulings*

Traders may request for private or general rulings from the NCS by following the procedures to be prescribed by the NCS. The differences between private and general rulings are outlined below:

- a. Private rulings apply to specific applicant(s) alone, while general rulings apply to the general public and may be issued where the NCS needs to inform the public of its decision on a customs issue or matter; and
- b. Private rulings can be revoked by the NCS upon reasonable advance notice in writing to the trader(s) concerned, while the NCS may revoke general rulings by issuing publications.

¹ The extant legislation for the administration and management of customs and excise in Nigeria.

² The multilateral trade agreement among members of the World Trade Organization.

When the NCS issues general rulings, the rulings:

- will be published on the NCS website and its online portals;
- may be challenged by traders as provided in the NCSA; and
- will be applied for in consideration for the future. The ruling will become effective 30 days after the publication unless it is deemed as essential to become effective immediately.



Key changes and their implications for businesses

a. Duration of rulings

Advance rulings are expected to be issued not later than 150 days of receipt of application and would only be valid for a particular fiscal year. Prior to now, advance rulings were valid for as long as the facts supporting the rulings did not change.

Consequently, businesses would need to revalidate old/existing rulings as well as revalidate future rulings annually. It is thus expedient for businesses to track the validity of their advance rulings going forward.

b. Cost of obtaining rulings

The NCS may charge a cost-based user fee to applicants for processing ruling applications. Prior to now, rulings were processed by the Service cost-free.

Consequently, businesses planning to obtain rulings or re-validate old rulings may need to make provisions for the additional processing cost of obtaining or re-validating rulings.



Conclusion

The NCS continues to take gradual steps to improve the trading landscape, with the Service only recently announcing the decision to proceed with implementation of the Authorised Economic Operator programme for compliant traders.

Optimal implementation of the revised SOP for advance rulings will further improve the trading environment, as advance rulings enhance predictability and certainty in the treatment of imported goods, and thus, it will optimize the supply chain of businesses.

Business will do well to evaluate their current business models to determine if it would be helpful to obtain advance rulings on contentious customs issues prior to importation of their goods. This way, businesses will avoid supply chain disruptions and penalties upon the arrival of their goods at the port.

Advance rulings are one of the several areas that have been modified by the NCSA. Hence, businesses will do well to review the overall impact of the NCSA on their supply chains.

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