# Supporting Trade through Clearer Guidance: Advance Customs Rulings Policy Position

**07th June 2021**

### Highlights

- **Advance custom rulings can offer importers certainty about the way in which their goods will be classified, thus saving costs and allowing for more effective planning.**
- **Customs currently has considerable latitude in its approach to advance custom rulings.**
- **Providing clear and consistent guidelines will remove some of the doubt that currently pervades the system.**
- **By promoting certainty and predictability, the proposed reforms will help to attract foreign and local investors for new investments and lead to the expansion of existing investments in Sri Lanka.**

## Introduction

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

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

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

However, the prevailing ACR system of the Sri Lanka Customs (SL Customs) Administration falls short of the expectations of traders as, unlike in most other countries, the ruling is not legally binding. Furthermore, the current stipulated guidelines are not transparent. There is also no independent appeals mechanism to seek redress from any arbitrary decisions made by SL Customs.

In the absence of a well-defined, transparent and legally binding ACR with a properly established appeals system, Sri Lankan importers are faced with numerous difficulties in clearance of imported goods at the border, resulting in delays, higher costs, loss of business and ultimately loss of revenue to the government as well.

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

## Current position

### Trade facilitation

Sri Lanka ratified the WTO Trade Facilitation Agreement (TFA) in 2016 and committed to implement various trade facilitation measures embodied in the agreement, including to facilitate advance rulings. The TFA commits member countries to implement ACR to ensure transparency and fairness in the management of custom rulings on the basis of the following principles:

- Rulings should be binding;
- Rulings should be issued within a reasonable time of a request;
- Requirements for rulings must be published;
- Rulings should be valid for a reasonable time period;
- If custom authorities reject, revoke or modify rulings, that should be communicated to the importer in writing; and
- An appeals and review system should be in place to allow importers to seek redress.

Sri Lanka has notified implementation of provisions on advance rulings under the TFA, as a Category C commitment, thus indicating that Sri Lanka requires support/technical assistance to build up a solid framework for advance rulings. This paper aims, inter alia, to summarise key issues in the existing framework governing advance rulings and set out possible recommendations to address these issues.

### Advance Rulings

SL Customs provides advance rulings on HS Code Classification (Harmonized Commodity Description and Coding Systems) at the request of importers or exporters in order to expedite clearance of goods at the border. The system has been in operation since 1989.

Sri Lanka notified the World Customs Organization (WCO), on 27 August 2013, that it accepted the WCO Recommendation on *Pre-entry Classification* ("advance classification rulings"), cf. the WCO website. Sri Lanka's customs tariff is based on the Harmonized System (HS), which is divided into 21 sections, 99 chapters and approximately 5,400 6-digit subheadings. The customs tariff is further subdivided at 8-digit level for national purposes (National Specific Subheadings (NSD)) resulting in nearly 7,300 subheadings in the hierarchical order of division.

In 2017, SL Customs received 629 requests for advance rulings from importers, which is an increase from the 297 requests received in 2016, of which SL Customs has processed and issued 460 ACRs.

The Commodity Classification Division of the Specialized Services Directorate and the Nomenclature Committee of SL Customs are responsible for processing and issuing ACRs. The division works closely with the legal division of SL Customs.

The SL Customs website sets out relevant information in relation to securing an ACR, including details on the role and mandate of the Commodity Classification Division; interpretation of the Sri Lanka HS Codes; and the Application Forms to request for an ACR Ruling, along with details on how the forms should be filled, and the supporting information and evidence required. See Annex 1 to this report for details.

Guidelines issued in relation to ACR are as follows:

- There are two types of rulings:
  - Internal Ruling: The Commodity Classification Division advises all SL Customs officers seeking an opinion on HS classification as and when they have doubt about the correct applicable HS code.
  - External Ruling: On receipt of a written request, together with a duly completed application, the Commodity Division issues an ACR applicable to the goods that the importer intends to import.

- Right of revocation, cancellation and amendment of original ACR by SL Customs:
  - SL Customs has the authority to revoke, cancel or amend the original ACR if the importer has obtained the original ACR by providing wrong, misleading or insufficient information.
  - Similarly, if SL Customs find that the imported goods are not in line with the original ACR (in terms of the character of the goods or the usage or in different technical constitute), SL Customs has the authority to revoke the original ACR.
- Right of appeal against decision of the SL Customs:
  - In the event the importers are not satisfied with the ACR or determination by the SL Customs at the time of clearance, they have the option to appeal against the decision to the Commodity Classification Division followed by the Nomenclature Committee.
  - Appeals Directorate – According to the Sri Lanka Customs Performance Report 2019, it seems that there is an Appeals Directorate in place, although it is not clear as to whether appeals in relation to ACRs are entertained by this division. The function of the Directorate is set out as facilitating trade by considering appeals lodged in writing to the Director General of Customs, and make suitable recommendations upon verifying the facts and undertake follow-up actions.
  - The importer can also appeal to the World Customs Organization (WCO) through the Director General of the Customs (DG Customs), although DG Customs is not bound by such a decision.
  - Finally, importers can, as a last resort, appeal to the judiciary.

  More information about the appeals framework in SL is set out in Annex 2 to this report.

## Implementation of ACR - Challenges

Importers encounter numerous difficulties, bottlenecks and challenges in the implementation of these rulings by SL Customs on different levels:

### 1. Lack of legal force:

- The ACRs issued by SL Customs are legally not binding; and are only an opinion as opposed to a determination. In this connection it should be noted that on SL Customs' website, it is clearly stipulated that "the Commodity Classification Branch issues Advance Classification Ruling for the commodities to be imported or exported"; and "Those who wish to apply for this ruling should complete the specified application form …".
  However, in the section "FOR OFFICIAL USE ONLY" on the application form it appears that the "ruling" is an "opinion", hence there is a lack of clarity in relation to the status of the "decision".
- This situation opens up avenues for SL Customs subsequently to take arbitrary and inconsistent decisions on the customs treatment of imported goods, which, in turn, can result in importers incurring extra costs during the clearance of goods, and may result in loss of customers and markets. Thus, the intention of ensuring predictability and certainty of customs treatment of imported goods is lost.

Such uncertainty does not augur well for attracting foreign and local investors for new investments or for expansion of current investments in the country.

### 2. Lack of finality in rulings:

- The ACR issued by SL Customs on a consignment may be subject to revocation, amendments and changes at many occasions causing serious financial losses to traders. It is recognized that Customs can revoke, cancel and amend an ACR under certain conditions, but these conditions are not clearly stipulated in the legislation or guidelines available to traders in SL and frequent changes of ACR delays the clearance of goods at the customs and additional payment of demurrage and storage charges, in turn, escalates the cost of imported goods.

3. **Lack of clarity and transparency in the functioning of the ACR:**

   - The current communication management system of SL Customs does not provide for effective communication of ACR rulings and its subsequent amendments internally or externally. Additionally, the ACR rulings are not published even without the confidential information. Publication of such information would be of benefit for the trading community at large.
   - The validity period of ACRs is neither expressly published on the website nor notified in the ACR. A departmental internal document indicated that the validity of an ACR was a period of six months. The 2017 Annual Report of SL Customs, however, indicated that the validity period for an ACR is for one year if the same product is imported from the same manufacturer. Such ambiguity results in different interpretations of the ACR, which once again does not bode well for certainty and predictability in the system.

   These issues demonstrate that there is a mismatch between the publicly pronounced policy and procedures of SL Customs and legitimate expectations of the trading community.

4. **Lack of an independent appeals framework:**

   - There is no independent, rules based and well-established dispute settlement system or appeals framework to seek redress for unfair treatment by the customs authorities. The Commodity Classification Division and the Nomenclature Committee referred to above as the first points of appeal, are not independent of SL Customs and only comprise of customs officials.
   - Further, SL Customs (as Member of the WCO) can seek the advice of the WCO Secretariat on the classification of a specific product or the interpretation of an HS text or texts, but the reply by the WCO Secretariat is not binding. As a Contracting Party (signatory) to the HS Convention, the SL Customs can also request the HS Committee to classify a specific product or make an interpretation of an HS text or texts. The decisions of the HS Committee are also not binding, but there is an understanding that HS Committee decisions are accepted, unless an objection to the decision is lodged (normally referred to as a "reservation"). Traders cannot submit requests for classification directly to the WCO.
   - SL Customs is also not obliged to communicate in writing its decision giving reasons for rejection of the appeal.
   - Further, appealing to the judiciary is also an option, although the process can be time consuming and costly, particularly for small scale importers (SMEs), and usually is not worth considering given the cost of the legal proceedings in relation to the value of the consignment.

5. **Limited coverage of rulings**

   - The present rulings are confined only to the HS-classification of goods. There are no rulings issued on origin or valuation of goods According to the WTO TFA, SL will be obliged to issue advance origin rulings and WTO Members are also encouraged to provide advance rulings on the appropriate method or criteria used for the determination of customs value. The current ACR framework is particularly challenging for one-time importers, small scale importers (SMEs) and new importers, in comparison to large scale importers, who have the capacity and the required resources to cope with the red tape of this nature. Continuation of such issues at the border in Sri Lanka for merchandise goods does not augur well for developing a trade-friendly regulatory environment which is an important pre-requisite to attract foreign direct investment in a globally competitive world.

## Recommendations

The Customs Ordinance of Sri Lanka does not contain provisions for processing the issuance of ACRs. However, having realized the importance of ACR for the trading community, customs authorities are entertaining applications for ACRs from traders and implement it as a best practice. It is worth noting that similarly, the Australian Customs Administration does not have a legal basis for processing ACRs. However, having realized the importance of ACRs for the trading community, the Australian Customs and Border Protection Service (ACBPS) issues binding advance ruling as the best practice. According to information on the WCOs website, more than 80 countries and economies have accepted the WCO Recommendation on Pre-Entry Classification and they provide advance classification rulings.

In order to provide legal basis for ACR, the Customs Ordinance has to be amended. The most suitable option, certainly, is to promulgate a new Customs Act on par with modern commerce practices and incorporating all the required amendments to facilitate and enhance trade.

Given that promulgation of a new Act or amending the existing Customs Ordinance would take a considerable time, the following recommendations are proposed to improve the current framework for processing ACR. The implementation of these recommendations will provide certainty for current traders, and also feed into the dialogues on the new legislation:

1. **Improvements to the current organizational structure to deal with ACR:**

- ☐ Set up a separate Advance Rulings Unit – It is advisable to create a separate advance rulings unit, primarily staffed with tariff classification experts (potentially within the Commodity Classification Branch). It is assumed that only few requests for advance origin and customs valuation rulings will be submitted. Hence, such rulings can be issued in the "new" unit with the assistance of origin and valuation experts, respectively, on a case-by-case basis. The classification unit can be assisted by an "Advisory Committee" comprised of senior classification experts from various directorates, legal staff and, preferably, one or more representatives from the private sector having technical knowledge about the actual product/products to be classified.

- ☐ Modification and revocation of decisions subject to clear guidelines - The proposed administrative mechanism should enable the SL Customs authorities to modify or revoke ruling in certain clearly defined circumstances and traders should be notified in writing of any modification or revocation along with the reason(s) for such decision. Article 3.4 of the WTO TFA also stipulates that the applicant must be notified in writing setting out the relevant facts and the basis for the decision to revoke, modify or invalidate the advance ruling.

- ☐ Guidelines for importers using ACR - According to Article 3.5 of the WTO TFA, it is up to the WTO Members to decide that an advance ruling may be binding on the applicant. In order to minimize possible misuse and abuse of the existing ACR system, it is recommended that the advance ruling is binding on the applicant (importer/exporter), in order for both Customs and the trader to benefit from the advance ruling.

- ☐ Internal communications within Customs - Improve the internal communication of the ACR among the officials of the custom administration at all levels, particularly among the officials who process documentation and release the cargo. When an ACR is issued, it should be communicated in a clear and timely manner via online communication systems to all points of SL Customs where the consignment goes through for checking, approval and release. Internal communication of rulings is paramount to ensure uniform and correct classification, and to avoid discussions between traders and customs officials.

- ☐ Training and development - Both the custom officials and members of the trading community should be trained to improve their technical knowledge and capacity on the application of the ACR system.

2. **Improving the transparency of the system:**

☐ Publication of rules, guidelines and procedures - In order to facilitate certainty and predictability of the system, which is instrumental to increase confidence in existing and future traders, it is important to ensure that relevant procedures and decisions are accessible and available for the public. Accordingly, the following steps should be taken:

- Clear, publicly available guidelines should be in place on the (i) time frames for processing and issuing advance ruling, (ii) validity period for the ruling, and (iii) applicability of the ruling.
- The ACR should be published on the website of the SL Customs so that trading communities are well-informed.
- Revocation or amendment of an ACR by SL Customs should be communicated to the importer concerned in writing, with reasons for revoking/amending the original ACR. Similarly, the same information should be communicated preferably via online systems to all points of customs documentation, clearance and release. It must also be clearly stipulated in the guidelines in which cases an advance ruling can be revoked, modified or invalidated.

☐ Reducing scope for discretion – The Sri Lankan Customs Tariff consists of approximately 7,300 subheadings – and given the number of different products traded, it is inevitable that most of the products would fall under the subheading titled 'Other' due to the structure of the customs tariff. While it may be difficult to minimize the use of the term 'Other' - it is still important to ensure that the description of the product is clear and as precise as possible to identify the product at the time of customs clearance.

3. **Effective appeal and review mechanism:**

☐ Setting up an interim appeal body – SL Customs functions under the purview of the Ministry of Finance. In the absence of clear legislation and procedures (functions of the "Nomenclature Committee" and the "Appeals Directorate") in respect of appeals, it seems appropriate to set up and independent appeals body as an interim solution. Accordingly, as an interim measure, until a new Customs Act is in place, an independent and rules-based Appeal Committee with full powers can be set up at the Ministry of Finance for importers to seek redress. The Committee must also include representatives from the private sector with technical knowledge of the product(s) in question. An interim appeals body could be set up in the Ministry of Finance.

☐ Dispute Settlement Body – In the long term, it will be important to establish an independent and rules based Appeal and Dispute Settlement Mechanism with full powers. In this regard, it may be useful to look at the practices by the Australian Border Control Authorities who implement two types of review/appeal mechanisms. First, an internal review mechanism – where the importer can appeal at the first instance to the issuing Unit. The second is an external review – where if the importer is not satisfied with the internal review, an appeal can be submitted to the Australian Administration Appeal Tribunal. Finally, the importer also has the right to make an appeal to the Australian Federal Court of Law on a point of law. Other countries have also set up an independent appeals body. In Denmark, for example, the second review is handled by the National Tax Tribunal, which is independent of customs.

As a last resort, appeals may be submitted to the juridical court system in Sri Lanka. This is normal practice in most countries.

☐ System to provide interim relief for traders during disputes - If there is a dispute between SL Customs and the trader on ACR, imported goods should be released by obtaining a bank guarantee until the matter is settled in order to minimize possible demurrage and storage costs.

4. **Enhancing coverage of ACR – to cover Rule of Origin and Customs Valuation, in addition to HS Code classifications:**

- Sri Lanka is a member of a number of bilateral and regional preferential trading arrangements, and therefore, it is essential for customs authorities to also issue advance rulings to cover origin of goods, particularly in the context of preferential trading arrangements. Granting preferential tariffs on goods imported from preferential trading partners is determined on the basis of rules of origin of the goods. While it may be difficult for the customs administration in the importing country to decide on the origin of products produced in another country without consulting the exporter or customs administration in the exporting country – it is still possible to at least determine the origin of products manufactured in Sri Lanka, which would be useful in relation to exports from Sri Lanka.

  In addition, WTO Members are also encouraged to provide advance rulings on the appropriate method of criteria used for determination of customs value. This should be the case in Sri Lanka, in particular considering the importance of dealing with transfer pricing issues.

5. **Developing trust between Customs and traders:**

Given that the trading community are important stakeholders in the process, it is important to strengthen the relationship between SL Customs and the traders on the basis of mutual respect and trust and partnership, and by adopting a less adversarial approach by both parties. Thus, regular interaction and awareness raising between SL Customs and trade associations is essential in this regard.

For instance, the Danish Customs Agency has established a "Contact Committee" where members are from a number of companies involved in international trade, Customs consultants and various trade organisations. The Committee meets at regular intervals to discuss questions relating to interpretation of the legislation and implementation of new legislation; activities foreseen by the companies, which may have an effect on Customs formalities; and the need for information and training. Cooperation and trust is essential in relation to trade facilitation. Many countries have also introduced the so-called AEO (Authorised Economic Operator) concept, which is a Customs- to-Business partnership, where traders who voluntarily meet a range of criteria and work in close cooperation with the customs authority are entitled to enjoy certain benefits. This relationship must be based on the principles of mutual transparency, correctness, fairness and responsibility. (More AEO information from the WCO can be found here).

Some means of facilitating such a relationship can be by:

- ☐ Setting up a regular consultation mechanism with the trading community - Regular consultations with representatives of the trading community is an important means of understanding and addressing challenges being faced.

- ☐ Consultations/Reviews for legislative reforms - Even in the context of the current amendments to the Customs Ordinance, it may be relevant to seek the views of trade associations through an extensive consultation process, and ensure that the provisions are in line with the WTO TFA Agreement. For instance, the Australian Home Affairs Ministry, under which Australian Customs Authority functions, annually publishes a document on industry engagement strategy for trade and customs stakeholders. According to the 2020 engagement strategy, the Australian Customs Authority engages extensively with importers and exporters, cargo and logistic service providers, custom brokers, cargo carriers, and domestic manufacturers and producers regularly through website portal, newsletters, roadshows, factsheets, conferences, and inviting public submissions on changes to the customs regulations and practices.

## Conclusion

In view of the above considerations, it is advisable that Sri Lanka rework the current system of ACR to be aligned with the provisions of the WTO Trade Facilitation Agreement. Reforming such systems are vital for improving the ease of doing business, facilitating trade and attracting foreign investments to the country. This policy position seeks to demonstrate the relevance of reforming the ACR framework and sets the platform for further discussions in this regard.

The Chambers are prepared to cooperate on this important issue by enhancing the current ACR system and bringing it in conformity with the WTO Trade Facilitation Agreement to the benefit of both Customs and trade circles in Sri Lanka.

## Contact

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## ANNEX 1: Advance Rulings procedure described on Sri Lanka Customs' website

Sri Lanka Customs has introduced an advance rulings system for tariff classification of goods and has provided information in that respect to traders on its public website, as set out below with links to the relevant parts.

Commodity Classification Branch

H.S code -The "Harmonized Commodity Description and Coding System" (known as the Harmonized System or the HS) is one of the most successful instruments developed by the World Customs Organization. It is a multipurpose goods nomenclature used by more than 200 countries as the basis for Customs tariffs and for the compilation of international trade statistics. The HS is a unique way of identifying and coding merchandise/commodities in order to facilitate international trade and Customs regulations and applications. The HS is also used for many other purposes such as trade policy, rules of origin, monitoring of controlled goods, internal taxes, freight tariffs, transport statistics, quota controls, and economic research analysis.

Schedule A - Schedule A of the Customs Ordinance being the "table of duties" is comprised of a list of commodities and groups of commodities, and rates of duties prescribed for each commodity or group of commodities. The said list of Commodities is in accordance with the HS, established by international convention, to which Sri Lanka is a signatory. The classification of the commodities in the nomenclature (determination of the appropriate HS code) shall be governed by the principle set out in the General rules for the interpretation of the Harmonized System.

**Internal Classification Advice** - Commodity Classification Branch determines the appropriate HS codes for commodities Imported to or Exported from Sri Lanka. This Branch provides assistance to the Customs staff at various points in deciding the appropriate classification of commodities in the Table of Duties by applying the governing principles of the Harmonized Commodity Description and Coding System.

**External Classification Advice** - As a measure of facilitation to the trade, the Commodity Classification Branch issues Advance Classification Ruling for the commodities to be imported or exported. Importers/Exporters who desire to have the H.S code of any commodity that they intend to Import/Export, could make an application and obtain ruling from the Commodity Classification Division.

Advance Classification Ruling application form and the instructions

Sri Lanka Customs administration provides facility for the Importers and Exporters to obtain advance ruling of classification (H.S. Code), for commodities in the National Imports/Exports tariff.

The identification of proper tariff heading and subheading of the commodity determines the rates of Customs duty and other fiscal levies to be applied to the commodity. It also helps to find out whether such commodity is subject to any import, export restrictions. Obtaining an advance ruling of classification, can greatly simplify the clearance process and reduce delays.

Therefore, Importers and Exporters are advised to obtain advance ruling for the commodity they import/export, from the **Commodity Classification Division** of Sri Lanka Customs Department, prior to the importation or exportation of the commodity, in order to avoid any inconvenience or delay in clearing or forwarding of the commodities.

Those who wish to apply for this ruling should complete the specified application form as per the instructions and submit it to the **Commodity Classification Division, Sri Lanka Customs, 3rd Floor, No.40, Main Street, Colombo- 11, along with a covering letter, at least three weeks before the date of importation or exportation.**

| APPLICATION FOR CLASSIFICATION RULING | CC /AR / / ................................................ |
|---|---|
| 1.) Name and address of Applicant : | |
| 2.a) Full trade description of the Commodity. | |
| 2.b) If possible, scanned photograph of the Commodity. | |
| 3.) What are their constituent Materials? | |
| 4.) What is it used for : | |
| 5.) In what form is it imported? | |
| 6.) Manufacturer's or supplier's name & address: | |
| 7.) Additional Information or comments: | |
| 8.) H.S No. in applicant's opinion and reasons therefore: | |
| 9.) Has previous classification ruling been obtained for this commodity? If so, indicate the Ref. No.: | |
| T' phone No. | |

| | |
|---|---|
| Mobile:<br><br>**Date:** | **Name, Signature & Stamp** of the Signatory |

| | |
|---|---|
| **FOR OFFICIAL USE ONLY**<br>***CUSTOMS OPINION ( VALID FOR TWELVE (12) MONTHS, UNLESS REVISED )*** | |
| 1.) **Customs payment receipt No.:** | **Date:** |
| 2.) **H. S CODE :** | **H. S.** |
| 3.) **Comments:** | |
| ........................................................<br>**DEPUTY DIRECTOR OF CUSTOMS (C C)** | ................................................................<br>***Sgd.*** **DIRECTOR OF CUSTOMS (S S )**<br>**FOR DIRECTOR GENERAL OF CUSTOMS** |

**A) Instructions:**

1. **For each Commodity/Product and model, a separate application** should be forwarded.
2. **The application** should be **in triplicate**, **duly filled in the computer**, **manually singed and stamped**. (**Not** hand written or type written)
3. **The application should be forwarded with a covering letter**(on letter head)**addressed to,** Deputy Director of Customs, Commodity Classification Branch, Sri Lanka Customs., requesting for a Classification Ruling for the commodity" ",and with a brief description of the Commodity/product .
4. **The following details are required for each Commodity;**

   i. **Sample** of the Commodity.

   ii. **Literature/Catalogue/Mill Report/Chemical composition,** if applicable.

   **iii.Manufacturing process, if applicable.**

   iv. **Photograph and other documents** giving necessary information.

(***All the above (i) to (vi) should bear the date signature & stamp of the applicant.***

5. A fee of Rs.1, 000/= per application, should be paid to the Customs Department.
6. If Sample requires analysis, the applicant should bear the charges.
7. **Application/s should be handed over to: - Deputy Director of Customs, Commodity Classification Branch,3rd Floor, Customs House, No. 40, Main Street, Colombo. 11.**

**(B) Guidance/ Instructions for filling up the application (Cage No. 1 to 9 of the application)**

<u>**Cage No: (2.a)**</u> **– Brief description of the Commodity, including the following information:**

- Make / Brand Name / Trade Name of the Commodity.
- Model No. /Art No, / Part No. of the commodity
- Capacity, Net weight, Thickness, sizes and Percentages (%) of each and every constituent materials/substances
  ... etc, as applicable.
- The form in which the commodity is presented? E.g.: roll/ piece/ packet/ tin/ Shee.etc.

<u>**Cage No: (2.b)**</u> **–** If possible, a photograph of the Commodity may be scanned and printed in this cage.

<u>**Cage No: (3)**</u> The materials/ substances or components…etc. constituting in the commodity. (In weight/thickness/per centum- %, etc., as applicable.)

<u>**Cage No: (5)**</u> Whether the product is imported **as complete/incomplete/ Unassembled / disassembled** form?

Whether the product is in the form of **Roll, Sheets, Bottles, Tins or packets**, etc.

<u>**Cage No: (7)**</u> Other important information about the commodity, or comments.

<u>**Cage No : (8)**</u> **If the applicant has any opinion he may fill this cage.**

***For more information*** **please contact 011-2347882**

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## ANNEX 2: Appeals framework

Sri Lanka Customs has established a “Nomenclature Committee”, which has the function to furnish information, guidance and advice on any matters concerning the classification of goods and to publish its rulings in the Departmental website and circulate the rulings among the customs officers concerned, cf. the Departmental Order reproduced below.

It is assumed that the “Nomenclature Committee” would consider appeals related to tariff classification, despite
that it is not clearly stipulated in the functions of the Committee.

Nomenclature Committee – Sri Lanka

Departmental Order concerning the the composition and functions of the Nomenclature Committee in Sri Lanka.

**DOPL 562**

To: All Officers

**Nomenclature Committee**

1. It has been decided to issue this DOPL with a view to regularize the functions of the Nomenclature Committee, which has been functioning for a long time in the Customs Department.

2. The Nomenclature Committee shall consist of not more than nine members appointed by the Director General of Customs. The Members so appointed shall include the following:

   i. Director of Customs (Policy Planning & Research)
   ii. Director of Customs (Imports & Tariff)
   iii. Deputy Director of Customs (Policy Planning & Research)
   iv. Deputy Director of Customs (Trade Facilitation & Appraisement)
   v. Assistant Director of Customs (Trade Facilitation & Appraisement) in charge of classification
   vi. Assistant Director of Customs (Policy Planning & Research)
   vii. Any other Members appointed by the Director General of Customs.

3. Two of the Members shall be appointed as the Chairman and the Vice - Chairman of the Committee by the Director General of the Customs. If the Chairman is absent, the Vice-Chairman shall preside.

4. The Policy Planning and Research Division shall perform the Secretariat work of meetings of the Committee. Assistant Director of Customs or the Deputy Director of Customs (who should be a member of the Committee) and an Appraiser (non-member) both from the Policy Planning & Research Division should be identified for the Secretariat work by the DC (PP & R).

5. Five of the members of the Committee shall constitute a quorum.

6. The Committee shall normally meet at least twice a month. The Secretary will convene the meetings of the Committee in consultation with the Chairman.

7. The Committee shall seek to reach a consensus on any matter examined. If agreement cannot be reached, the decisions of the Committee shall be taken by a simple majority of the votes cast by members of the committee, including the Chairman.

8. The Nomenclature Committee shall have the following main functions.

i. On its own initiative or on request or on the instruction of the Director General of Customs, to furnish information, guidance and advice on any matters concerning the classification of goods in the Harmonized System as the Committee may consider appropriate.

ii. Propose National Sub-divisions to the Customs Tariff.

iii. Publish Nomenclature Committee Rulings in the Departmental web-site and circulate among officers concerned, inclusive of Appraisers.

iv. Consider the disputes on HS classification matters and make recommendations to the Director General of Customs for settlements.

v. Recommend the names of the nominees for the following Committee meetings of the World Customs Organization to the Director General of Customs.

(a) Harmonized System Committee
(b) HS Review Sub-Committee
(c) Scientific Sub-Committee

G.A.Leslie Gamini
Actg. Deputy Director of Customs
Policy Planning & Research Division
Sri Lanka Customs
Colombo 01
31st August 2006

Sgd.S.A.C.S.W.Jayathilake
Director General of Customs

* * *

Sri Lanka Customs' website provides an overview of the organizational structure (Directorates and Divisions) and one of the Directorates is the "Appeals Directorate", which was established in November 2014 in accordance with the recommendations in the WCO Revised Kyoto Convention (RKC) and in Article 4 of the WTO Trade Facilitation Agreement. The Directorate and its functions are described as set out below. However, it has not been possible to verify whether appeals are handled by the Appeals Directorate as foreseen.

Appeals Directorate

Appeals Directorate is a newly formed directorate, after considering the importance of Appeal Procedure described in Chapter 10 of the Revised Kyoto Convention (RKC) of the World Customs Organization (WCO), and the Article 4 of Trade Facilitation Agreement (TFA) of the World Trade Organization (WTO).

This directorate was established in November, 2014 and functions directly under the Director General of Customs.

Its objective is to facilitate the trade by considering the appeals lodged in writing to the Director General of Customs (DGC).

Appeal: The act by which a person who is directly affected by a decision or omission of the Customs and who considers himself to be aggrieved thereby seeks redress by lodging an appeal in writing to the Director General of Customs.

**Processing of Appeals**

- Any aggrieved trader may lodge an appeal in writing to the Director General of Customs.
- When an appeal is referred to this directorate by the DGC, it is registered and a file is opened.
- Further information and or report are called from the relevant parties and respective directorate.
- The matters are studied in depth and prepare the detail report and submitted to DGC for his approval.
- DGC's order is conveyed to the respective directorate for further action to be taken, as well as the appellant is informed.