



A New Era of Trade Facilitation: Understanding Nigeria's Customs Advance Ruling Programme

Background

On 2 May 2024, the Nigeria Customs Service (“NCS”) launched the Advance Ruling Programme (the “Programme”) and has since embarked on a sensitisation programme to publicise it.

Advance rulings are written decisions provided by the customs authorities to traders (upon request) before the importation of goods. These decisions set out a transparent and formal process for the customs treatment of the goods at the time of importation.

In international law, the legal basis for Advance Rulings is Article 3 of the World Trade Organisation Trade Facilitation Agreement (2017), and standards 9.8 and 9.9 of the Revised Kyoto Convention (2006). In Nigeria, the concept was domesticated through the Nigeria Customs Service Act 2023 (the “Act”).

This publication provides a highlight of the Programme.



Scope of Advance Ruling

1. Tariff Classification

This will determine the Harmonised Systems Code (“HS Code”) of an imported product. The HS Code is used to identify a product and determine the customs duties applicable to it.

2. Customs Valuation

This will determine the customs value of imported goods and the suitability of the valuation methodology applied to compute it.

3. Product origin

This will determine the economic nationality of a good based on certain criteria e.g. where they were produced or manufactured. Establishing an imported product's origin is important because goods from certain regions may enjoy preferential treatment, for example, reduced or zero duty rates.

The NCS may also issue rulings of general application to inform the public of the NCS' decisions on specific matters. Such rulings must:

- be published on the NCS website and online portals;
- make reference to the right of appeal provided under the Act and applicable Regulations;
- apply prospectively only; and
- become effective 30 days after publication (except in circumstances where the NCS deems that an immediate effective date is essential to protect the revenue or safeguard the economic or security interest of Nigeria).

Who can apply for an Advance Ruling?

Any of the following persons can apply for an advance ruling:

- Importer;
- Exporter;
- customs broker; or
- any person with a justifiable cause to import or export.

In order to apply, an applicant must:

- intend to import/export;
- apply for the Ruling prior to the commencement of importation; and
- have a valid Tax Identification Number (“TIN”) issued by the Federal Inland Revenue Service

Mode of Application

An application must be made on the NCS Advance Ruling portal, as prescribed by the NCS. Supporting documents (as applicable to the ruling scope/category) will be required and uploaded on the portal.

Timeline for issuing a Ruling

An advance ruling can be issued immediately (upon submission of satisfactory documentation) but no later than 150 days. Timelines may be impacted by factors like sufficiency of documentation, need for inspections and testing that may be required on the subject matter.

Validity, Enforcement and Revocation of a Ruling

According to section 24(4)(b) of the Act, a ruling is valid only for the fiscal year within which it was issued. For example, if a ruling is obtained from the NCS on 1 September 2024, it will only be valid for four months (i.e. 1 September to 31 December 2024).

In addition, a Ruling can only be enforced by the parties and cannot be relied upon by 3rd parties.

A Ruling may also be revoked by the NCS upon reasonable advance notice in writing to the applicant.



Right of Appeal

S. 269 of the Act provides for a right of appeal against any ruling granted by the NCS. The appeal must be lodged not later than 30 days after the date of the Ruling/decision complained about. Additional time may be allowed for submission of evidence not reasonably available at the time the appeal was lodged.

Takeaway

The Advance Ruling initiative is a welcome development as it will provide traders with an opportunity to obtain certainty on the customs treatment of their goods before the importation process commences. Other potential benefits include a reduction of potential disputes and delays during the customs clearing process, facilitation of trade operations, reduction in unexpected importation costs and streamlined clearance processes.

Nigeria's adoption of the Advance Ruling programme aligns with international best practice. The programme is expected to further the implementation of the Africa Continental Free Trade Area (AfCFTA) Agreement which aims to eliminate barriers to intra-Africa trade.

While the programme has the potential to offer numerous benefits, a lot will depend on the ability of the NCS to build the personnel and technological capacity required to properly implement the programme. It will be necessary for the NCS to put in place systems that will ensure that the rulings are consistent, of high quality, standardised, and respected by all customs officials. The ability to deliver the rulings in a timely manner will also go a long way in actualising the objectives of the programme.

Trade operators are encouraged to utilise the advance ruling system to gain clarity and predictability in their customs procedures.

How PwC can help

PwC's Regulatory Business Solutions team helps businesses navigate the Nigerian Regulatory terrain. Our Customs Helpdesk can provide support in Trade Compliance, Import Duty Exemption, Export Incentives, liaison with the Nigeria Customs Service and Advance Ruling applications.

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