LES BRÈVES - INFORMATIONS JURIDIQUES PROPOSÉES PAR LE GROUPE DS

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MEDICAL & SANITORY PRODUCTS

NEW CHINA EXPORT REQUIREMENTS

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The Ministry of Commerce (**MOFCOM**), the Customs Administration and the Market Regulation Administration (**MRA**) have jointly promulgated **Circular [2020] No.12**, applicable from April 26, 2020.

Key points:

Component I: Strengthening the quality control of masks for non-medical use

> From April 26, exported masks for non-medical use must comply with **quality standards either** from foreign countries or from China.

> **White List regime for products in conformity with foreign quality standards:** MOFCOM confirmed the "*list of companies manufacturing masks for non-medical use certified or registered with foreign countries' quality standards*" and published it on the website of the Chinese Chamber of Commerce for the Import-Export of Medical and Sanitary Products ("CCCMHPIE"). This list is updated daily.

> **Black List regime for defective products:** in parallel, the MRA publishes and updates regularly a list of products and companies sanctioned for manufacturing defective non-medical masks.

> At the time of customs clearance, the exporter must now provide **a joint declaration** by the exporter and the importer, in paper or electronic version, confirming that **i)** the products comply with Chinese **or** foreign quality standards, **ii)** the importer accepts the quality standards of the purchased products and commits not to use them for medical purposes.

> In practice, according to the interpretation of the spokesman of the Customs Administration issued on April 27:

- **For non-medical masks which are declared in compliance with foreign quality standards, customs will release the products according to the MOFCOM White List**.
- For products on the **Black List**, customs will refuse their export.
- For products which do not appear on either of the two Lists and which are **declared to comply with Chinese quality standards**, customs will also "*accept the declaration and release the products*". The practice could vary significantly from one region to another.

> Safeguard clause for contracts concluded before April 26

Circular 12 expressly states that "*for purchase contracts signed before April 26, a joint declaration by the exporter and the importer must be provided*." In other words, it is therefore sufficient to provide the above-mentioned joint declaration for the masks ordered under these contracts.

Component II: Further strengthen the order for the export of medical devices

Since April 26, for medical products (namely test kits, masks for medical use, medical protective clothing, respirators and infrared thermometers) which have obtained or are registered with the qualification of **quality standards of foreign countries**, the export company must provide a declaration in paper or in electronic version, confirming that the products comply with the quality standards and security requirements of the destination country.

As a result, the customs will proceed to the release of the products according to the list of manufacturing companies published on the **CCCMHPIE** website ("**White List II**") .

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DS Customs & Trade team is at your disposal to provide you with any additional information.

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