

## **CHAPTER 4**

### **CUSTOMS ADMINISTRATION AND TRADE FACILITATION**

#### **ARTICLE 4.1: OBJECTIVES**

The objectives of this Chapter are to:

- (a) simplify customs procedures of the Parties;
- (b) ensure predictability, consistency and transparency in the application of customs laws, regulations and administrative procedures of the Parties;
- (c) ensure the efficient and expeditious clearance of goods;
- (d) facilitate trade between the Parties; and
- (e) promote cooperation between the customs administrations, within the scope of this Chapter.

#### **ARTICLE 4.2: TRANSPARENCY**

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent.
2. Further to Article 19.1 (Publication), each Party shall publish on the Internet all customs laws and regulations and any administrative procedures relevant to importation or exportation which it applies or enforces.
3. Each Party shall establish or maintain one or more enquiry points for responding to enquiries from interested persons regarding customs matters covered by this Agreement, and provide details of such enquiry points to the other Party. Information concerning the procedures for making such enquiries shall be easily accessible to the public.

#### **ARTICLE 4.3: HARMONISATION OF DOCUMENTS AND DATA ELEMENTS**

1. Each Party shall endeavour to pursue the harmonisation of documentation used in trade and data elements in accordance with international standards.
2. Each Party shall endeavour to use international standards, including the development of a set of common data elements and processes in accordance with the World Customs Organization (hereinafter referred to as "WCO") Customs Data Model and related WCO recommendations and guidelines.
3. Each Party shall work towards the implementation of initiatives that harmonise the data requirements of its respective agencies associated with the importation, exportation or

transit of goods, and minimise the submission of trade data, with the objective of allowing importers and exporters to present all required data to one agency.

#### ARTICLE 4.4: USE OF AUTOMATED SYSTEMS IN THE PAPERLESS TRADING ENVIRONMENT

1. Each customs administration shall apply information technology to support customs operations where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments in this area within the WCO.
2. Each customs administration shall endeavour to use information technology that expedites procedures for the release of goods, including the submission and processing of information and data before the arrival of the shipment of those goods, as well as electronic or automated systems for risk management and targeting.

#### ARTICLE 4.5: RISK MANAGEMENT

In administering customs procedures, each customs administration shall focus resources on shipments of high-risk goods and facilitate the clearance, including release, of low-risk goods.

#### ARTICLE 4.6: RELEASE OF GOODS

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties.
2. In accordance with paragraph 1, each Party shall ensure that its customs administration and other competent authorities adopt or maintain procedures that:
  - (a) provide for the release of goods within a period no greater than that required to ensure compliance with its laws and regulations;
  - (b) provide for advance electronic submission and processing of information before the physical arrival of goods to enable the release of those goods on arrival;
  - (c) to the extent possible, allow goods to be released at the point of arrival, without temporary transfer to warehouses or other facilities; and
  - (d) under circumstances specified in the importing Party's laws, regulations or administrative procedures, provide that no customs duties or taxes will be assessed on, nor will formal entry documents be required for, shipments of eligible goods valued at or less than a specified amount.
3. Each Party shall endeavour to adopt or maintain a system under which goods in need of urgent clearance can obtain customs clearance 24 hours a day including holidays.

#### ARTICLE 4.7: ADVANCE RULINGS

1. Each Party shall issue, through its customs administration, prior to the importation of a good into its territory, a written advance ruling at the written request of an importer in its territory, or an exporter or producer in the territory of the other Party<sup>5</sup> with regard to:

- (a) tariff classification;
- (b) the application of customs valuation criteria for a particular case, in accordance with the provisions of the Customs Valuation Agreement;
- (c) whether a good is originating in accordance with Chapter 3 (Rules of Origin and Origin Procedures); and
- (d) such other matters as the Parties may agree.

2. Each Party shall adopt or maintain procedures for issuing written advance rulings which:

- (a) include a detailed description of the information required to process a request for an advance ruling;
- (b) allow its customs administration, at any time during the course of an evaluation of an application for an advance ruling, to request that the applicant provide additional information, which may include a sample of the goods, necessary to evaluate the request;
- (c) ensure that an advance ruling be based on the facts and circumstances presented by the applicant and any other relevant information in the possession of the decision-maker;
- (d) provide that an advance ruling be issued to the applicant expeditiously, and within a period specified in its laws, regulations or administrative procedures, after the receipt of all necessary information; and
- (e) provide that its customs administration provide a written explanation of the reasons for the advance ruling.

3. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of administrative or judicial review. A Party that, in accordance with this paragraph, declines to issue an advance ruling, shall promptly notify the requestor in writing, setting forth the relevant facts and the basis for its decision to decline to issue the advance ruling.

4. Each Party shall provide that advance rulings shall be in force from the date they are issued, or another date specified in the ruling, provided that the facts or circumstances on

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<sup>5</sup> For greater certainty, an importer, exporter or producer may submit a request for an advance ruling through an authorised representative.

which the ruling is based remain unchanged. Subject to paragraphs 1 and 5, an advance ruling shall remain in force for no less than five years, or such other period as specified in the laws, regulations or administrative rulings of the issuing Party.

5. The issuing Party may modify or revoke an advance ruling after the Party notifies the requestor, and where, consistent with this Agreement:

- (a) there is a change in its laws and regulations;
- (b) incorrect information was provided or relevant information was withheld;
- (c) there is a change in a material fact; or
- (d) there is a change in the circumstances on which the ruling was based.

6. The issuing Party may modify or revoke an advance ruling retroactively if the requestor, intentionally or negligently, provided incorrect information or withheld relevant information.

7. Each Party shall endeavour to publish its advance rulings, subject to its laws, regulations and administrative procedures.

#### ARTICLE 4.8: APPEAL PROCEDURES

1. Each Party shall ensure that with respect to its determinations on customs matters, importers in its territory have access to:

- (a) at least one level of administrative review independent of the official or authority responsible for the determination under review; and
- (b) judicial review of the determination or decision taken at the final level of administrative review.

2. Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings by its customs administration as it provides to importers in its territory to any person who has:

- (a) completed and signed, or applied for, a Certificate of Origin for a good that has been the subject of a determination of origin; or
- (b) received an advance ruling in accordance with Article 4.7.

3. Each Party shall allow an exporter or producer to provide information directly to the Party conducting the review and to request that Party to treat that information as confidential in accordance with the laws, regulations and rules of that Party.

#### ARTICLE 4.9: CUSTOMS COOPERATION

1. The Parties shall, through their respective customs administrations, enhance their cooperation in customs matters.
2. The Parties affirm their commitment to the facilitation of the legitimate movement of goods and shall exchange expertise on measures to improve customs techniques and procedures, including on risk management, in accordance with the provisions of this Agreement.
3. The Parties shall cooperate in relation to:
  - (a) the implementation and operation of the provisions of this Agreement governing importations or exportations, including claims for preferential tariff treatment, procedures for making claims for preferential tariff treatment, and verification procedures;
  - (b) tariff classification, and the implementation and operation of the Customs Valuation Agreement;
  - (c) restrictions or prohibitions on imports or exports; and
  - (d) other customs matters as the Parties may agree.
4. Each Party shall endeavour to provide the other Party with advance notice of any proposed laws, regulations or policies governing the administration of customs procedures that are likely to substantially affect the operation of this Agreement.
5. To the extent permitted by each Party's laws, regulations and rules, the customs administrations of the Parties shall endeavour to provide each other with information to assist in the investigation and prevention of infringements of customs laws and regulations.
6. The Parties shall exchange the details of contact points for the exchange of information under this Chapter.

#### ARTICLE 4.10: BILATERAL CUSTOMS CONSULTATION

1. Each customs administration may consult with the other customs administration on any matter arising from the operation or implementation of this Chapter and on other trade facilitation issues, including tariff classification, customs valuation and origin determination. A Party should promptly respond to any request for consultation on such matters from the other Party.
2. In the event that consultations requested in accordance with paragraph 1 fail to resolve any such matter, the requesting Party may refer the matter to the Committee on Rules of Origin and Trade Facilitation for consideration.

#### ARTICLE 4.11: CONFIDENTIALITY

1. Further to Articles 22.4 (Disclosure of Information) and 22.5 (Confidentiality), neither Party shall use or disclose information provided by the other Party under this Chapter or Chapter 3 (Rules of Origin and Origin Procedures) except for the purposes for which it was provided, or otherwise as required or authorised by a Party's laws and regulations. The customs administration which supplied that information shall be notified of such other use without delay.

2. Unless otherwise provided in this Agreement, any information received in accordance with this Chapter or Chapter 3 (Rules of Origin and Origin Procedures) shall be subject to the same protection as the same kind of information is subject to in accordance with the laws and regulations of the Party receiving the information.

3. Nothing in this Chapter or Chapter 3 (Rules of Origin and Origin Procedures) shall be construed to require a Party to furnish or allow access to information the disclosure of which would:

- (a) be contrary to the public interest as determined by its laws, regulations and rules;
- (b) be contrary to any of its laws, regulations and rules, including but not limited to those protecting personal privacy or the financial affairs and accounts of individuals; or
- (c) impede law enforcement.

#### ARTICLE 4.12: COMMITTEE ON RULES OF ORIGIN AND TRADE FACILITATION

1. The Committee on Rules of Origin and Trade Facilitation established in accordance with Article 21.4 (Committees and Working Groups) shall comprise officials of each Party responsible for rules of origin and customs matters.

2. The Committee shall consider and, as appropriate, resolve any matter arising under this Chapter or Chapter 3 (Rules of Origin and Origin Procedures) by means of, inter alia, considering common approaches to the interpretation and implementation of those Chapters.

3. The Committee shall meet on request of either Party or the Joint Committee.

#### ARTICLE 4.13: DEFINITIONS

For the purposes of this Chapter:

**customs procedures** means the treatment applied by each customs administration to goods that are subject to customs control; and

**goods** means all goods falling within Chapters 1 to 97 of the Harmonized System, irrespective of the scope of this Agreement.