

CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

ARTICLE 4.1: PUBLICATION

1. Each Party shall publish, including on the Internet, its customs laws, regulations, and general administrative procedures.
2. Each Party shall designate or maintain one or more inquiry points to address inquiries by interested persons concerning customs matters and shall make available on the Internet information concerning the procedures for making such inquiries.
3. To the extent possible, each Party shall publish in advance any regulations of general application governing customs matters that it proposes to adopt and shall provide interested persons the opportunity to comment before adopting them.

ARTICLE 4.2: RELEASE OF GOODS

1. In order to facilitate trade, each Party shall adopt or maintain simplified customs procedures for the efficient release of goods.
2. Pursuant to paragraph 1, each Party shall ensure that its customs authority or other competent authority adopts or maintains procedures that:
 - (a) provide for the release of goods within a period no greater than that required to ensure compliance with its customs laws and, to the extent possible, within 48 hours of the goods' arrival;
 - (b) provide for customs information to be submitted and processed electronically before goods arrive in order for them to be released on their arrival;
 - (c) allow goods to be released at the point of arrival, without temporary transfer to warehouses or other facilities; and
 - (d) allow importers to withdraw goods from customs before, and without prejudice to, its customs authority's final determination of the applicable customs duties, taxes, and fees.¹

ARTICLE 4.3: AUTOMATION

Each Party shall use information technology that expedites procedures for the release of goods and shall:

¹ A Party may require importers to provide guarantees in the form of sureties, deposits, or other appropriate instruments sufficient to cover payment of the customs duties, taxes, and fees its customs authority ultimately applies in connection with the importation of the good.

- (a) make, to the extent possible, electronic systems accessible to customs users;
- (b) endeavor to use international standards;
- (c) endeavor to develop electronic systems that are compatible with the other Party's systems, in order to facilitate exchange of international trade data; and
- (d) endeavor to develop a set of common data elements and processes in accordance with World Customs Organization (hereinafter referred to as the "WCO") Customs Data Model and related WCO recommendations and guidelines.

ARTICLE 4.4: RISK MANAGEMENT

Each Party shall endeavor to adopt or maintain electronic or automated risk management systems for assessment and targeting that enable its customs authority to focus its inspection activities on high-risk goods and that simplify the clearance and movement of low-risk goods.

ARTICLE 4.5: COOPERATION

1. With a view to facilitating the effective operation of this Agreement, each Party shall endeavor to provide the other Party with advance notice of any significant modification of administrative policy or other similar development related to its laws and regulations governing importations that are likely to substantially affect the operation of this Agreement.

2. The Parties shall cooperate in achieving compliance with their laws and regulations pertaining 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, valuation, and determination of origin for the preferential tariff treatment of imported goods under this Agreement; and
- (c) other customs matters as the Parties may agree.

ARTICLE 4.6: AUTHORIZED ECONOMIC OPERATOR

1. The Parties shall promote the implementation of Authorized Economic Operator programs in accordance with the *WCO SAFE Framework of Standards to Secure and*

Facilitate Global Trade.

2. The obligations, requirements, formalities of the programs, as well as the benefits offered to the companies that comply with the requirements shall be established in accordance with the legislation of each Party.

3. The Parties shall promote negotiations for Mutual Recognition Arrangements of the Authorized Economic Operator programs.

ARTICLE 4.7: CONFIDENTIALITY

1. Where a Party that provides information to the other Party in accordance with this Chapter and Chapter 3 (Rules of Origin and Origin Procedures) designates the information as confidential, the other Party shall keep the information confidential. The Party providing the information may require the other Party to furnish written assurance that the information will be held in confidence, will be used only for the purposes the other Party specified in its request for information, and will not be disclosed without the specific permission of the Party that provided the information or the person that provided the information to that Party.

2. If a Party receives information designated as confidential in accordance with paragraph 1, the Party receiving the information may nevertheless use or disclose the information for law enforcement purposes or in the course of judicial proceedings, in accordance with the legislation of the Party.

3. A Party may decline to provide information that the other Party has requested where that Party has failed to act in conformity with paragraph 1.

4. Each Party shall adopt or maintain procedures for protecting confidential information submitted in accordance with the administration of the Party's customs laws from unauthorized disclosure, including information the disclosure of which could prejudice the competitive position of the person providing the information.

ARTICLE 4.8: EXPRESS SHIPMENTS

Each Party shall adopt or maintain expedited customs procedures for express shipments while maintaining appropriate customs control and selection. These procedures shall:

- (a) provide a separate and expedited customs procedure for express shipments;
- (b) provide for information necessary to release an express shipment to be submitted and processed electronically before the shipment arrives;
- (c) allow submission of a single manifest covering all goods contained in an express shipment, through, if possible, electronic means;

- (d) to the extent possible, provide for certain goods to be cleared with a minimum of documentation;
- (e) under normal circumstances, provide for express shipments to be cleared within six hours after the necessary customs documents have been submitted, provided the shipment has arrived;
- (f) apply without regard to an express shipment's weight; and
- (g) under normal circumstances, provide that no customs duties shall be assessed on express shipments valued at 150 US dollars or less. The formal entry documents shall be simplified in accordance with the laws and regulations of each Party².

ARTICLE 4.9: REVIEW AND APPEAL

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

- (a) a level of administrative review independent of the employee or office that issued the determinations; and
- (b) judicial review of the determinations.

2. For greater certainty, 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 Article 4.7.

ARTICLE 4.10: PENALTIES

Each Party shall adopt or maintain measures that allow for the imposition of civil or administrative penalties and, where appropriate, criminal sanctions for violations of its customs laws and regulations, including those governing tariff classification, customs valuation, country of origin, and claims for preferential tariff treatment under this Agreement.

ARTICLE 4.11: ADVANCE RULINGS

1. Each Party shall issue, through its competent authority, before a good is imported 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 Party³ with regard to:

- (a) tariff classification;

² Notwithstanding subparagraph (g), a Party may require the express shipments accompanied by an airway bill or other bill of lading. For restricted goods, a Party may require formal entry documents, duties or taxes.

³ For greater certainty, an importer, exporter or producer may submit a request for an advance ruling through a duly authorized representative.

- (b) the application of customs valuation criteria for a particular case, in accordance with the Customs Valuation Agreement;
- (c) whether a good is originating under this Agreement; and
- (d) such other matters as the Parties may agree.

2. Each Party shall issue an advance ruling within 120 days, or such shorter period as may be established by a Party in its legislation, after its competent authority receives a request provided that the requester has submitted all the information that the Party requires, including, if the Party requests, a sample of the good for which the requester is seeking an advance ruling. In issuing an advance ruling, the Party shall take into account facts and circumstances the requester has provided. For greater certainty, a Party may decline to issue an advance ruling if the facts or circumstances forming the basis of this ruling are subject of administrative or judicial review. A Party that, pursuant to this paragraph, declines to issue an advance ruling shall promptly notify the requester in writing, setting forth the relevant facts and the basis for its decision to decline to issue the advance ruling.

3. Each Party shall provide that advance rulings shall take effect on the date they are issued, or on another date specified in the ruling, provided that the facts or circumstances on which the ruling is based remain unchanged.

4. The issuing Party may modify or revoke an advance ruling after the Party notifies the requester. The issuing Party may modify or revoke a ruling retroactively only if the ruling was based on inaccurate or false information.

5. Subject to any confidentiality requirements in its laws, each Party may publish its advance rulings, including on the Internet.

6. If a requester provides false information, omits relevant facts or circumstances relating to the advance ruling, or does not act in accordance with the ruling's terms and conditions, the importing Party may apply appropriate measures, including civil, criminal, and administrative actions, monetary penalties, or other sanctions.

ARTICLE 4.12: MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

1. The customs authorities of the Parties shall assist each other, within their competence and capacities, to ensure the correct application of customs legislation, in particular by preventing, investigating and combating operations in breach of that legislation.

2. The authority requested to assist, subject to its competence and resources, shall endeavor to take all reasonable measures to execute a request in a reasonable period of time.

ARTICLE 4.13: COMMITTEE ON RULES OF ORIGIN AND ORIGIN PROCEDURES, AND CUSTOMS PROCEDURES AND TRADE FACILITATION

1. The Parties hereby establish a Committee on Rules of Origin and Origin Procedures, and Customs Procedures and Trade Facilitation (hereinafter referred to as the “Committee”), comprising representatives⁴ of each Party. The Committee shall be responsible for addressing rules of origin, origin procedures, trade facilitation and customs matters.

2. The Committee shall ensure the proper functioning of this Chapter and Chapter 3 (Rules of Origin and Origin Procedures).

3. The Committee’s functions shall include:

- (a) ensuring the effective, uniform, and consistent administration of this Chapter and Chapter 3 (Rules of Origin and Origin Procedures);
- (b) revising Annex 3-A (Product Specific Rules of Origin) on the basis of the transposition of the HS;
- (c) advising the Joint Committee of proposed solutions to address issues related to:
 - (i) interpretation, application, and administration of this Chapter and Chapter 3 (Rules of Origin and Origin Procedures) including Annex 3-A (Product Specific Rules of Origin)
 - (ii) tariff classification and customs valuation; and
 - (iii) issues arising from the adoption by a Party of operational practices not in conformity with this Chapter or Chapter 3 (Rules of Origin and Origin Procedures) which may adversely affect the flow of trade among the Parties;
- (d) adopting customs practices and standards which facilitate commercial exchange among the Parties, according to the international standards;
- (e) presenting proposals for the Joint Committee’s approval on modifications of this Chapter and Chapter 3 (Rules of Origin and Origin Procedures), including Annex 3-A (Product Specific Rules of Origin), in the event a consensus is reached among the Parties;
- (f) working on the development of an electronic certification and verification system;
- (g) resolving any issues related to customs matters concerning this Agreement⁵; and

⁴ For Korea, the representative will be Korea’s customs authorities.

⁵ In case of disagreement between the Parties, the matter in dispute will be decided by the Joint Committee.

- (h) carrying out other functions as may be assigned by the Joint Committee or agreed by the Parties.

4. The Committee may formulate resolutions, recommendations or opinions which it considers necessary for the attainment of the common objectives and the functions of the mechanisms established in this Chapter and Chapter 3 (Rules of Origin and Origin Procedures).

5. Unless the Parties otherwise agree, the Committee shall meet every year. Meetings may be conducted in person or by any technological means available to the Parties.

6. The Committee shall report to the Joint Committee on the results of each of its meetings.

ARTICLE 4.14: TECHNICAL CONSULTATION

1. The competent authority of a Party may, at any time, request consultations with the competent authority of the other Party on any matter arising from the operation or implementation of this Chapter and Chapter 3 (Rules of Origin and Origin Procedures), in cases where there are reasonable grounds provided by the requesting Party.

2. For the purposes of paragraph 1, a Party's request for consultations shall be made through the contact points and the requested Party shall confirm the receipt of request without undue delay. The Parties may consult the matter by email or any medium convenient for the Parties and shall endeavor to reach a resolution on the matter.

3. In the event that such consultations fail to resolve any such matter, the requesting Party may refer the matter to the Committee established under Article 4.13 for consideration.