

CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 4.1: Publication

1. Each Party shall publish, including on the internet, laws, regulations, and general administrative procedures related to import and export.
2. Each Party shall designate or maintain one or more inquiry points to address reasonable inquiries by interested persons concerning customs matters and make available on the internet information concerning the procedures for making such inquiries.
3. To the extent possible, each Party shall provide opportunities and reasonable time period to interested persons to comment on the proposed introduction or amendments of general laws, regulations, and general administrative procedures related to import and export.

Article 4.2: Release of Goods

1. In order to facilitate bilateral trade, each Party shall adopt or maintain simplified customs procedures for the efficient release of goods.
2. Pursuant to paragraph 1, each Party shall 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 customs laws and regulations;
 - (b) provide for customs information to be submitted and processed manually or electronically before the 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 with guarantees, before, and without prejudice to, its customs authority's final determination of the applicable customs duties, taxes, and fees.

Article 4.3: Automation

To the extent possible, each Party shall use information technology that expedites procedures for the release of goods and shall:

- (a) make 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 bilateral 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 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 consignments and that simplify the clearance and movement of low-risk consignments.

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 or regulations governing importations and exportations that is likely to substantially affect the operation of this Agreement.

2. The Parties affirm their commitment to facilitate the legitimate movement of goods and shall exchange expertise on measures to improve customs techniques and procedures, and on computerized systems.

3. The Parties shall commit to:

- (a) pursuing the harmonization of documentation and data elements used in trade according to international standards for the purpose of facilitating the flow of trade between them in customs-related matters regarding the importation,

exportation, and transit of goods;

- (b) intensifying cooperation between their customs laboratories and scientific departments and to working towards the harmonization of customs laboratories methods;
- (c) exchanging customs' personnel;
- (d) jointly organizing training programs on customs-related issues, for the officials who participate directly in customs procedures;
- (e) developing effective mechanisms for communicating with the trade and business communities;
- (f) assisting, to the extent practicable, each other in the tariff classification, valuation, and determination of origin;
- (g) promoting strong and efficient intellectual property rights enforcement by customs authorities, regarding imports, exports, re-exports, transit, transshipments, and other customs procedures, and in particular as regards counterfeit goods; and
- (h) improving the security, while facilitating trade, of sea-container and other shipments from all locations that are imported into, transshipped through, or transiting the Parties. The Parties agree that the objectives of the intensified and broadened cooperation include, but are not limited to:
 - (i) working together to reinforce the customs-related aspects for securing the logistics chain of international trade; and
 - (ii) coordinating positions, to the greatest extent practicable, in any multilateral fora where issues related to container security may be appropriately raised and discussed.

Article 4.6: Confidentiality

1. Where a Party that provides information to the other Party in accordance with this Chapter 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 purpose 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, under its domestic law and legal system, use or disclose the information for law enforcement purposes or in the course of judicial proceedings with a written consent from the other 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 from unauthorized disclosure of confidential information submitted in accordance with the administration of the Party's customs laws, including information the disclosure of which could prejudice the competitive position of the person providing the information.

Article 4.7: Express Shipments

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

- (a) provide for a separate and expedited customs procedures for express shipments and, where applicable, use the *WCO Guidelines for the Immediate Release of Consignments*;
- (b) provide for information necessary to process an express shipment to be submitted manually or electronically before the shipment arrives; and
- (c) to the extent possible, provide for certain goods to be cleared with a minimum of documentation.

Article 4.8: Review or Appeal

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

- (a) a level of administrative review or appeal higher than or independent of the employee or office that issued the determinations/decisions; and

- (b) judicial review or appeal of the determinations/decisions.

Article 4.9: 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.

Article 4.10: Advance Rulings

1. Each Party shall issue, through its customs authority, before a good is imported into its territory, a written advance ruling or information at the written request of an importer in its territory, with regard to:
 - (a) ruling on tariff classification;
 - (b) information on the application of customs valuation criteria for a particular case, in accordance with the Article VII of GATT 1994 and Customs Valuation Agreement; or
 - (c) any such other matters as the Parties may agree.
2. An advanced ruling and information issued by a Party shall be binding on that Party in respect of the applicant that had sought it.
3. Each Party shall issue an advance ruling within 90 days after its customs authority receives a request, provided that the requester has submitted all 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 and circumstances forming the basis of the advance ruling are the 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.
4. 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.
5. The issuing Party may modify or revoke an advance ruling and shall promptly provide written notice to the requester.

6. Each Party shall ensure that requesters have access to administrative review of advance rulings.

7. If a requester provides false information or 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 4.11: Consultation

1. Either customs authority at any time may request for consultations with the other customs authority on any matter arising from the operation or implementation of this Chapter and Chapter three (Rules of Origin and Origin Procedures), in cases where there are reasonable grounds or truth provided by the requesting Party. Such consultations shall be conducted through the relevant contact points.

2. In the event that such consultations fail to resolve any such matter, the requesting Party may refer the matter to the Committee on Customs and Trade Facilitation referred to in Article 4.12.

Article 4.12: Committee on Customs and Trade Facilitation

1. The Parties hereby establish Committee on Customs and Trade Facilitation (hereinafter referred to as the "Committee") composed of the customs authorities of the Parties. Other competent authorities of the Parties may join the Committee if the Parties deem it necessary.

2. The Committee shall ensure the proper functioning of this Chapter and Chapter Three (Rules of Origin and Origin Procedures) and examine all the issues arising from the application of these Chapters.

3. The functions of the Committee may include:

- (a) reviewing, discussing, and proposing effective, uniform, and consistent administration of this Chapter and Chapter Three (Rules of Origin and Origin Procedures);
- (b) reviewing, discussing, and proposing uniform regulations for the effective, uniform, and consistent interpretation of this Chapter and Chapter Three (Rules of Origin and Origin Procedures);

- (c) revising Annex 3-A (Product Specific Rules) on the basis of the transposition of the Harmonized System (hereinafter referred to as the “HS”);
- (d) consulting on and endeavoring to resolve any difference that may arise between the Parties on matters related to the classification of goods under the HS;
- (e) reviewing the possibility of revision and reaching agreement on revision of this Chapter and Chapter Three (Rules of Origin and Origin Procedures);

4. The Committee shall meet every year, or as otherwise agreed, alternating between the Parties.