

CHAPTER FIVE
TRADE FACILITATION AND CUSTOMS COOPERATION

ARTICLE 5.1: OBJECTIVES AND PRINCIPLES

With the objectives of facilitating trade under this Agreement and cooperating in pursuing trade facilitation initiatives on a bilateral basis between Korea and India, both Parties agree to administer their import and export processes for goods traded under this Agreement on principles that:

- (a) procedures be simplified and harmonised on the basis of international standards while recognising the importance of balance between compliance and facilitation to ensure the free flow of trade and to meet the needs of governments for revenue and the protection of society;
- (b) entry procedures be consistent and transparent to ensure predictability for importers and exporters;
- (c) a Party includes consultations with the representatives of its trading community before adopting significant modifications to procedures;
- (d) procedures be based on risk assessment principles to focus compliance efforts by promoting effective use of resources; and
- (e) the Parties encourage mutual cooperation, technical assistance and the exchange of information, including information on best practices, for the purposes of promoting the application of and compliance with the trade facilitation measures agreed upon under this Agreement.

ARTICLE 5.2: 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. Pursuant to paragraph 1, each Party shall ensure that its customs authority shall adopt or maintain procedures that:

- (a) provide for the release of goods on completion of all formalities in compliance with its laws and regulations;
- (b) to the extent possible, provide for advance electronic submission and processing of information before physical arrival of goods to enable the release of goods on arrival;
- (c) provide option to importers to obtain release of imported goods, other than prohibited, controlled or regulated goods, at the place of importation, without transfer to bonded warehouses or other similar facilities; and
- (d) in accordance with its laws and regulations, allow importers to temporarily release goods by providing sufficient guarantee in the form of a surety, a deposit, or any other appropriate instrument, covering the ultimate payment of the customs duties, taxes and fees in connection with the importation of the goods.

3. Each Party shall endeavour to adopt and maintain a system under which goods in need of emergency can go through the customs procedures for 24 hours a day including holidays.

4. The Parties recognise that, for certain goods or under certain circumstances, such as goods subject to quota or to health-related or public safety requirements, releasing the goods may require the submission of more extensive information, before or at the time of arrival of the goods so that the customs authority can examine the goods for release.

5. The Parties shall endeavour to ensure that the requirements of their respective agencies related to the import and export of goods are coordinated to facilitate trade, regardless of whether these requirements are administered by an agency or the customs authority on behalf of that agency. In furtherance of this objective, each Party shall endeavour to take steps to harmonise the document filing requirements of its respective agencies with the objective of allowing importers and exporters to present all required documents to one agency.

6. The Parties, through their customs authorities, shall establish means of consultation with their trade and business communities to promote greater cooperation and the exchange of information.

ARTICLE 5.3: AUTOMATION

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

- (a) make electronic systems accessible to customs users; and
- (b) use international standards, including the development of a set of common data elements and processes in accordance with World Customs Organization (hereinafter referred to as “WCO”) Customs Data Model and related WCO recommendations and guidelines.

ARTICLE 5.4: RISK MANAGEMENT

Each Party shall endeavour to adopt or maintain electronic or automated risk management systems for risk analysis 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 5.5: EXPRESS SHIPMENTS

Each Party shall endeavour to adopt or maintain expedited customs procedures for express shipments while maintaining appropriate customs control and selection. These procedures shall, to the extent possible:

- (a) provide a separate and expedited customs procedures for express shipments, and where applicable, use the *World Customs Organization Guidelines for the Immediate Release of Consignments by Customs*;

- (b) provide for advance electronic submission and processing of information before physical arrival of express shipments to enable their release upon arrival; and
- (c) consistent with its laws and regulations, provide simplified documentary requirements for express shipments.

ARTICLE 5.6: TRANSPARENCY

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 provide interested persons with the opportunity to comment prior to their adoption.

ARTICLE 5.7: REVIEW AND APPEAL

1. Each Party shall provide an easily accessible process for administrative and judicial review or appeal of the decisions taken by its customs authority.
2. Subject to each Party's laws and regulations, any affected person shall have the right to appeal against the decisions taken by its customs authority. In case it is required for reasons of confidentiality, each Party shall provide for submission of the information by the producer or exporter on behalf of the importer directly to the Party conducting the administrative review. Without prejudice to the use of such information in the process of review as per each Party's laws and regulations, the exporter or producer providing the information may ask the Party conducting the administrative review to treat that information as confidential in accordance with Article 4.15 (Confidentiality).
3. Application for review or appeal of the decisions taken by the customs authority of a Party shall be made in writing and shall be accompanied by all relevant documents.

ARTICLE 5.8: ADVANCE RULINGS

1. In accordance with its laws and regulations, each Party shall endeavour to provide, through its customs or other competent authorities, for the expeditious issuance of written advance rulings, prior to the importation of a good into its territory, to an importer in its territory or an exporter or a producer in the territory of the other Party, concerning:
 - (a) classification of goods;
 - (b) principles to be adopted for the purpose of determination of value of goods;
 - (c) determination of origin of goods; or
 - (d) such other matters as the Parties may agree.

2. Each Party shall adopt or maintain procedures for the issuance of such advance rulings, including the details of the information required to process an application for a ruling.
3. Subject to any confidentiality requirements in its laws and regulations, each Party shall make available to the public, for example, on the Internet, its advance rulings on tariff classification and any other matter as the Parties may agree.
4. To facilitate trade, the Parties shall include in their bilateral dialogue regular updates on changes in their respective laws and regulations on the matters listed in paragraph 1.

ARTICLE 5.9: CUSTOMS COOPERATION

1. The Parties undertake to adopt international best practices for trade facilitation, which may include the adoption of advanced customs procedures.
2. The Parties affirm their commitments to the facilitation of the legitimate movement of goods and shall exchange expertise on measures to improve customs techniques, automation and procedures in accordance with this Agreement.
3. The Parties shall commit:
 - (a) for the purposes of facilitating the flow of trade between them, in customs-related matters regarding the importation, exportation and transit of goods, to pursuing the harmonisation of documentation used in trade and data elements according to international standards;
 - (b) to intensifying cooperation between their customs laboratories and scientific departments;
 - (c) to the exchange of customs' personnel between the Parties;
 - (d) to jointly organising training programmes on customs-related issues;
 - (e) to the development of effective mechanisms for communicating with the trade and business communities;
 - (f) to developing verification standards and a framework to ensure that both Parties act in a consistent manner in determining that goods imported into their territories meet the requirements set out in Chapter Three (Rules of Origin);
 - (g) to the extent practicable, to assisting each other in the tariff classification, valuation and determination of origin of goods, for the purposes of preferential tariff treatment; and
 - (h) to promoting a strong and efficient regime of intellectual property rights in accordance with their laws and regulations.
4. Each Party, on request, shall notify the other Party, in writing, the classification of a good of the other Party, determined by it. The Parties shall consult to address the discrepancies regarding classification between the Parties.

ARTICLE 5.10: CUSTOMS COMMITTEE

1. The Parties agree to establish a Customs Committee to address any customs-related issues for:
 - (a) the uniform interpretation, application and administration of Chapter Three (Rules of Origin), Chapter Four (Origin Procedures), this Chapter and Uniform Regulations/Rules;
 - (b) addressing issues on tariff classification and valuation relating to determinations of origin;
 - (c) reviewing of rules of origin;
 - (d) developing detailed guidelines for origin verification procedures to ensure uniform interpretation, application and administration of Articles 4.11 through 4.13 ; and
 - (e) considering any other customs-related matter referred to it by the customs authority of the Parties or the Parties or Joint Committee.
2. The Customs Committee will meet within one year from the date of entry into force of this Agreement and shall meet thereafter as required and at least once a year, alternately between Korea and India.
3. The Customs Committee shall comprise representatives of customs and other competent authorities from each Party and shall draw up its own rules of procedure at its first meeting.
4. The Customs Committee may formulate resolutions, recommendations or opinions which it considers necessary and report to the Parties or to the Joint Committee.

ARTICLE 5.11: CUSTOMS CONTACT POINTS

Each Party shall designate official contact points and provide details thereof to the other Party, with a view to facilitating the effective implementation of this Chapter and other related Chapters. If the matter cannot be resolved through the contact points, the matter shall be referred to the Customs Committee set out in Article 5.10.