

## **CHAPTER 4 CUSTOMS PROCEDURES AND TRADE FACILITATION**

### **Article 4.1: Definitions**

For the purposes of this Chapter:

**Authorized Economic Operator(s) (AEO)** means the programme which recognises an operator involved in the international movement of goods in whatever function that has been approved by the national Customs Administration as complying with the World Customs Organization (WCO) or equivalent supply chain security standards;

**Customs Administration** means the Federal Authority of Identity, Citizenship, Customs and Port Security for the UAE, and the General Department of Viet Nam Customs for Viet Nam;

**Customs laws** mean legislations and regulations concerning the importation, exportation, transit of goods, or any other customs procedures whether relating to customs duties, taxes or any other charges collected by the Customs Administrations, or to measures for prohibition, restriction, or control enforced by the Customs Administrations;

**Customs Mutual Assistance Agreement (CMAA)** means the agreement that further enhances customs cooperation and exchange of information between the Parties to secure and facilitate lawful trade.

**Customs procedures** mean the measures applied by the customs authority of a Party to goods and to the means of transport that are subject to its customs laws and regulations;

**Mutual Recognition Arrangement (MRA)** means the arrangement between the Parties that mutually recognise AEO authorizations that have been properly granted by one of the Customs Administrations; and

**Person** means both natural and legal person, unless the context otherwise requires.

### **Article 4.2: Scope**

This Chapter shall apply, in accordance with the Parties' respective national laws, rules and regulations, to customs procedures required for clearance of goods traded between the Parties.

### **Article 4.3: Objectives**

The Parties recognise the importance of customs and trade facilitation matters in the global trading environment, and shall endeavour to strengthen cooperation in this area

with a view to supporting their respective customs legislation and procedures in fulfilling the objectives of promoting trade facilitation while ensuring effective customs control.

#### **Article 4.4: General Provisions**

1. The Parties agree that their customs laws and customs procedures shall be transparent, non-discriminatory, consistent and avoid unnecessary procedural obstacles to trade.
2. Customs procedures of the Parties shall conform, where possible, to the standards and recommended practices of the World Customs Organization.
3. The Customs Administration of each Party shall periodically review its customs procedures with a view to their further simplification and development to facilitate bilateral trade.

#### **Article 4.5: Publication and Availability of Information**

1. Each Party shall ensure that its laws, regulations, guidelines, procedures, and administrative rulings governing customs matters are promptly published, either on the Internet or in print form in the English language, to the extent possible.
2. Each Party shall designate, establish, and maintain one or more inquiry points to address inquiries from interested persons pertaining to customs matters, and shall endeavour to make available publicly through electronic means, information concerning procedures for making such inquiries.
3. Nothing in this Article or in this Agreement shall require any Party to publish law enforcement procedures and internal operational guidelines including those related to conducting risk analysis and targeting methodologies.
4. Each Party shall, to the extent practicable, and in a manner consistent with its domestic law and legal system, ensure that new or amended laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit, are published or information on them made otherwise publicly available, as early as possible before their entry into force, so that interested parties have the opportunity to become acquainted with the new or amended laws and regulations. Such information and publications shall be available in the English language, to the extent possible.

#### **Article 4.6: Risk Management**

The Parties shall adopt a risk management approach in its customs activities, based on its identified risk of goods, in order to facilitate the clearance of low-risk consignments, while focusing its inspection activities on high-risk goods.

#### **Article 4.7: Paperless Communications**

1. For the purposes of facilitating bilateral exchange of international trade data and expediting procedures for the release of goods, the Parties shall endeavour to provide an electronic environment that supports communication and transactions between their respective Customs Administration and their trading entities.
2. The Parties shall exchange views and information on realising and promoting paperless communications between their respective Customs Administration and their trading entities.
3. The respective Customs Administration of the Parties, in implementing initiatives which provide for the use of paperless communications, shall take into account the methodologies agreed at the WCO.

#### **Article 4.8: Advance Rulings**

1. In accordance with its commitments under the WTO Agreement on Trade Facilitation, set out in Annex 1A to the WTO Agreement, the Customs Administration of the Parties upon a request shall issue an advance ruling, in a reasonable time-bound manner, prior to the importation of a good into their territory based on a request containing all the necessary information in relation to:
  - (a) tariff classification;
  - (b) origin of goods; and
  - (c) the application of valuation criteria for a particular case, in accordance with the Customs Valuation Agreement.
2. The importing Party shall apply an advance ruling issued by it under paragraph 1 on the date that the ruling is issued or on a later date specified in the ruling and remain in effect for a reasonable period of time and in accordance with the national procedures on advanced ruling unless the advance ruling is modified or revoked.
3. The advance ruling issued by the Party shall be binding to the person to whom the ruling is issued only.
4. 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 an administrative or judicial review or appeal. A Party that declines to issue an advance ruling shall promptly notify, in writing, the person requesting the ruling, setting out the relevant facts and circumstances and the basis for its decision.
5. The importing Party may modify or revoke an advance ruling:

- (a) if the ruling was based on an error of fact;
  - (b) if there is a change in the material facts or circumstances on which the ruling was based;
  - (c) to conform with a modification of this Chapter; or
  - (d) to conform with a judicial decision or a change in its domestic law.
6. Each Party shall provide written notice to the applicant explaining the Party's decision to revoke or modify the advance ruling issued to the applicant.
  7. Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein. That modification or revocation of an advance ruling shall not be applied to importations of a good that have occurred prior to that date, unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions.
  8. Notwithstanding paragraph 3, the issuing Party may postpone the effective date of the modification or revocation of an advance ruling for a reasonable period of time and in accordance with each Party's national laws or procedures on advance rulings, where the person to whom the advance ruling was issued demonstrates that he has relied in good faith to his detriment on that ruling.

#### **Article 4.9: Penalties**

1. Each Party shall maintain measures applicable in imposing penalties, under its domestic law for violations of the Party's customs laws, regulations or procedural requirements.
2. Each Party shall ensure that penalties issued for a breach of a customs law, regulations or procedural requirements are imposed only on the person responsible for the breach under its laws.
3. Each Party shall ensure that the penalty imposed by its Customs Administration is dependent on the facts and circumstances of the case and is commensurate with the degree and severity of the breach.
4. Each Party shall ensure that it maintains measures to avoid conflicts of interest in the assessment and collection of penalties and duties.
5. Each Party shall ensure that if a penalty is imposed by its Customs Administration for a breach of a customs law, regulation or procedural requirement, an explanation in writing is provided to the person upon whom the penalty is imposed specifying the nature of the breach and the law, regulation or procedure used for determining the penalty amount.

#### **Article 4.10: Release of Goods**

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade.
2. Pursuant to paragraph 1, each Party shall adopt or maintain procedures that:
  - (a) provide for the expedite release of goods upon receipt of the customs declaration and fulfilment of all applicable requirements and procedures;
  - (a) provide for the electronic submission and processing of documentation and data, including manifests, prior to the arrival of the goods in order to expedite the release of goods from customs control upon arrival;
  - (b) allow goods to be released at the point of arrival without requiring temporary transfer to warehouses or other facilities; and
  - (c) inform the importer the reasons why the goods are not released, including, to the extent permitted by its laws, which border agency, if not the Customs Administration, has withheld release of goods.
3. Nothing in this Article requires a Party to release a good if its requirements for release have not been met nor prevents a Party from liquidating a security deposit in accordance with its law.
4. Each Party may allow, to the extent practicable and in accordance with its customs laws, goods intended for import to be moved within its territory under customs control from the point of entry into the Party's territory to another customs office in its territory from where the goods are intended to be released, provided the applicable regulatory requirements are met.

#### **Article 4.11: Authorized Economic Operators**

In order to facilitate trade and enhance compliance and risk management between them, the Parties shall endeavour to mutually conclude an Authorized Economic Operator (AEO) Mutual Recognition Arrangement (MRA).

#### **Article 4.12: Border Agency Cooperation**

Each Party shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade pursuant to this Chapter.

#### **Article 4.13: Expedited Shipments**

Each Party shall adopt or maintain expedited customs procedures for goods entered through air cargo facilities while maintaining appropriate customs control and selection. These procedures shall:

- (a) provide for information necessary to release an express shipment to be submitted and processed before the shipment arrives;
- (b) allow a single submission of information covering all goods contained in an express shipment, such as a manifest through, if possible, electronic means<sup>1</sup>;
- (c) to the extent possible, provide for the release of certain goods with a minimum of documentation;
- (d) under normal circumstances, provide for express shipments to be released as fast as possible after submission of the necessary customs documents, provided the shipment has arrived;
- (e) apply to shipments of any weight or value recognising that a Party may require formal entry procedures as a condition for release, including declaration and supporting documentation and payment of customs duties, based on the good's weight or value; and
- (f) provide that, under normal circumstances, shipments values at or below a fixed amount set under a Party's law shall be exempted from customs duty.<sup>2</sup>

#### **Article 4.14: Review and Appeal**

1. Each Party shall ensure that any person to whom it issues a determination on a customs matter has access to:
  - (a) at least one level of administrative review of determinations by its Customs Administration independent<sup>3</sup> of either the official or office responsible for the decision under review; and
  - (b) judicial review of decisions taken at the final level of administrative review.

---

<sup>1</sup> Additional documents may be required as a condition for release.

<sup>2</sup> Notwithstanding this Article, a Party may assess customs duties, or may require formal entry documents, for restricted or controlled goods, such as goods subject to import licensing or similar requirements.

<sup>3</sup>The level of administrative review for the UAE may include the competent authority supervising the Customs Administration.

2. Each Party shall ensure that its procedures for appeal and review are carried out in a non-discriminatory and timely manner.
3. Each Party shall ensure that an authority conducting a review or appeal under paragraph 1 notifies the person in writing of its determination or decision in the review or appeal, and the reasons for the determination or decision.

#### **Article 4.15: Customs Cooperation**

1. 1. With a view to further enhancing customs cooperation, the Customs Administrations of the Parties will consider to conclude and adopt a Customs Mutual Assistance Agreement whenever possible.
2. The Contracting Parties shall, for the purposes of applying customs legislations and to give effect to the provisions of this Agreement, endeavour to:
  - (a) co-operate and assist each other in the prevention and investigation of offences against customs legislations;
  - (b) upon request, provide each other information to be used in the enforcement of customs legislations; and
  - (c) co-operate in the research, development and application of new customs procedures, in the training and exchange of personnel, sharing of best practices, and in other matters of mutual interest.
3. Assistance under this Chapter shall be provided in accordance with the domestic law of the requested Party and the Party's available resources.
4. The Parties shall exchange official contact points with a view to facilitating the effective implementation of this Chapter.

#### **Article 4.16: Confidentiality**

1. Nothing in this Chapter shall be construed to require a Party to furnish or allow access to confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.
2. Each Party shall maintain, in accordance with its domestic law, the confidentiality of information obtained pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.
3. Any information received under this Chapter shall be treated as confidential and shall not be provided to a third party without written consent of the providing Party.