

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

### **Article 4.1 : Publication**

1. Each Party shall, to the extent possible, publish, including on the internet, its customs laws, regulations, and general administrative procedures in English.
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. Each Party shall, to the extent possible, publish in advance any regulation of general application governing customs matters that it proposes to adopt and shall provide interested persons with the opportunity to comment before adopting them.

### **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 required to ensure compliance with its domestic customs laws and regulations;
  - (b) provide for customs information to be submitted and processed 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 prior to the final determination of customs duties, taxes, and fees by the importing Party's customs authority when these are not determined prior to or promptly upon arrival, provided that all other regulatory requirements have been met.<sup>1</sup>

### **Article 4.3 : Automation**

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

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<sup>1</sup> 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 it ultimately applies in connection with the importation of the good.

- (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 "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 the Party to focus its inspection activities on high-risk goods and that simplify the clearance and movement of low-risk goods.

#### **Article 4.5 : Cooperation**

To the extent possible, the Parties affirm their commitments to facilitate the legitimate movement of goods and shall exchange expertise on measures to improve customs techniques and procedures on computerized systems, and other issues as the Parties mutually determine.

#### **Article 4.6 : Confidentiality**

1. A Party shall maintain the confidentiality of the information provided by the other Party pursuant to this Chapter and Chapter 3 (Rules of Origin and Origin Procedures), and protect it from disclosure that could prejudice the competitive position of the person providing the information. Any violation of the confidentiality shall be treated in accordance with the domestic laws and regulations of each Party.

2. The information referred to in paragraph 1 shall not be disclosed without the specific permission of the person or government providing such information except to the extent that it may be required to be disclosed in administrative proceedings or subsequent appeal proceedings.

#### **Article 4.7 : Express Shipments**

Each Party shall adopt or maintain expedited customs procedures for express shipments, regardless of their weights or customs values, while maintaining appropriate customs control and selection. These procedures shall:

- (a) provide a separate and expedited customs procedures 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; and
- (e) under normal circumstances, provide that no customs duties or taxes will be assessed on, nor will formal entry documents be required for, express shipments that do not exceed certain value established by the domestic laws and regulations of the Party.<sup>2</sup>

#### **Article 4.8 : Review and Appeal**

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 official or office that issued the determinations;<sup>3</sup> and
- (b) judicial review of the determinations.

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 4.6.

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

Each Party shall adopt or maintain measures that allow for the imposition of penalties by a Party's customs authority for violations of its domestic customs laws, regulations, and procedural requirements, including those governing tariff classification, customs valuation, country of origin, and claims for preferential tariff treatment under this Agreement.

#### **Article 4.10 : Advance Rulings**

1. Each Party, through its customs authority, shall issue, before a good is imported into its territory, a written advance ruling at the written request of an importer in its territory, or an

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<sup>2</sup> Notwithstanding this subparagraph, a Party may require express shipments to be accompanied by an airway bill or another bill of lading. For greater certainty, a Party may assess customs duties or taxes, and may require formal entry documents, for restricted goods.

<sup>3</sup> For Korea, administrative review under this subparagraph may include review by Korea's Tax Tribunal.

exporter or producer in the territory of the other Party<sup>4</sup> with regard to:

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

2. Each Party, through its customs authority, shall issue an advance ruling within 90 days after the Party receives a request provided that the applicant has submitted all information that the Party requires, including, if the Party requests, a sample of the good for which the applicant is seeking an advance ruling. In issuing an advance ruling, the Party shall take into account facts and circumstances the applicant 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 applicant 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 circumstance on which the ruling is based remain unchanged.

4. The issuing Party may modify or revoke an advance ruling where:

- (a) the ruling was based on an error of fact or law (including human error);
- (b) the information provided is false or inaccurate;
- (c) there is a change in its domestic laws consistent with this Agreement; or
- (d) there is a change in a material fact or circumstances on which the ruling was based.

5. The issuing Party may modify or revoke a ruling retroactively only if the ruling was based on inaccurate or false information provided by the applicant.

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

7. Subject to any confidentiality requirements in its domestic laws and regulations, each Party shall publish its advance rulings, including on the internet.

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<sup>4</sup> For greater certainty, an importer, exporter, or producer may submit a request for an advance ruling through a duly authorized representative.

#### **Article 4.11 : Consultations**

1. Each customs authority may request consultations with the other customs authority on any matter arising from the operation or implementation of this Chapter and Chapter 3 (Rules of Origin and Origin Procedures). 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 Customs Committee referred to in Article 4.12.

#### **Article 4.12 : Customs Committee**

1. The Parties hereby establish a Customs Committee (hereinafter referred to as the “Committee”) composed of the customs authorities of the Parties. The 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 3 (Rules of Origin and Origin Procedures) and examine all the issues arising from the application of these Chapters.
3. The functions of the Committee shall include:
  - (a) monitoring and implementing of this Chapter and Chapter 3 (Rules of Origin and Origin Procedures)
  - (b) establishing uniform guidelines for the effective, uniform, and consistent interpretation of this Chapter and Chapter 3 (Rules of Origin and Origin Procedures);
  - (c) revising Annex 3-A (Product Specific Rules) on the basis of the transposition of the Harmonized System;
  - (d) where necessary, finding solutions for issues related to tariff classification, customs valuation, calculation of the regional value content and other customs matters which may adversely affect trade facilitation between the Parties in the process of implementation of this Chapter or Chapter 3 (Rules of Origin and Origin Procedures); and
  - (e) reviewing revision, and reaching agreement on revision, of this Chapter and Chapter 3 (Rules of Origin and Origin Procedures).
4. The Committee shall meet every year, or as otherwise agreed, alternating between the Parties.