

CHAPTER 4

CUSTOMS AND TRADE FACILITATION

ARTICLE 4.1

Objectives

1. The Parties recognise the importance of customs and trade facilitation matters in the evolving global trading environment. The Parties shall reinforce cooperation in this area with a view to ensuring that their respective customs legislation and procedures fulfil the objectives of promoting trade facilitation while ensuring effective customs control.

2. The Parties agree that their legislation shall be non-discriminatory and that customs procedures shall be based on the use of modern methods and effective controls to combat fraud and to promote legitimate trade.
3. The Parties recognise that legitimate public policy objectives, including those in relation to security, safety and the fight against fraud, shall not be compromised.

ARTICLE 4.2

Customs Cooperation and Mutual Administrative Assistance

1. The respective authorities of the Parties shall cooperate on customs matters in order to ensure that the objectives set out in Article 4.1 (Objectives) are attained.
2. The Parties shall enhance customs cooperation, *inter alia*, by:
 - (a) exchanging information concerning customs legislation, its implementation, and customs procedures, in particular in the following areas:
 - (i) simplification and modernisation of customs procedures;
 - (ii) border enforcement of intellectual property rights by the customs authorities;

- (iii) facilitation of transit movements and transshipment; and
 - (iv) relations with the business community;
- (b) exploring joint initiatives relating to import, export and other customs procedures, including technical assistance, in order to ensure effective services to the business community;
- (c) strengthening their cooperation in the field of customs in international organisations such as the WTO and the World Customs Organization (hereinafter referred to as "WCO"); and
- (d) establishing, where relevant and appropriate, mutual recognition of trade partnership programmes and customs controls, including equivalent trade facilitation measures.
3. The Parties shall provide each other with mutual administrative assistance in customs matters in accordance with Protocol 2 (Mutual Administrative Assistance in Customs Matters).

ARTICLE 4.3

Customs Legislation and Procedures

1. The Parties shall base their respective customs legislation and procedures on international instruments and standards applicable in the area of customs and trade, including the substantive elements of the *Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures*, done at Brussels on 26 June 1999, the *International Convention on the Harmonized Commodity Description and Coding System* (hereinafter referred to as "HS Convention"), the *Framework of Standards to Secure and Facilitate Global Trade* and the *Customs Data Model* of the WCO.

2. The customs legislation and procedures of the Parties shall:
 - (a) aim at the protection of legitimate trade through effective enforcement and compliance with legislative requirements;

 - (b) avoid unnecessary or discriminatory burdens on economic operators, and provide for further facilitation for operators with high levels of compliance; and

 - (c) ensure safeguards against fraud and illicit or damaging activities.

3. The Parties agree that their respective customs legislation and procedures, including remedies shall be proportionate and non-discriminatory and that their application shall not unduly delay the release of goods.

4. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and accountability of operations, the Parties shall:

- (a) simplify and review requirements and formalities, wherever possible, with respect to the rapid release and clearance of goods; and
- (b) work towards further simplification and standardisation of data and documentation required by customs and other agencies.

ARTICLE 4.4

Release of Goods

1. Each Party shall ensure that its customs authorities apply requirements and procedures that provide for the release of goods within a period no longer than that required to ensure compliance with its customs and other trade-related laws and formalities. Each Party shall work towards further reducing this period and releasing the goods without undue delay.

2. The Parties shall allow, *inter alia*, the release of goods without the payment of customs duties, subject to the provision of a guarantee if required in accordance with their legislation in order to secure the final payment of customs duties.

3. Each Party shall ensure that its customs authorities provide for advance electronic submission and further processing of information before the physical arrival of goods (pre-arrival processing) to enable the release of goods on arrival.

ARTICLE 4.5

Simplified Customs Procedures

1. Each Party shall provide for simplified customs procedures that are transparent and efficient in order to reduce costs and increase predictability for economic operators, including for small and medium-sized enterprises. Easier access to customs simplifications shall also be provided for authorised traders according to objective and non-discriminatory criteria.

2. A single administrative document or electronic equivalent shall be used for the purposes of completing the formalities required for placing the goods under a customs procedure.

3. The Parties shall apply modern customs techniques, including risk assessment and post-clearance audit methods, in order to simplify and facilitate the entry and the release of goods.

4. The Parties shall promote the progressive development and use of systems, including those based on information technology, to facilitate the electronic exchange of data between traders, customs administrations and other related agencies.

ARTICLE 4.6

Transit and Transshipment

1. Each Party shall ensure the facilitation and effective control of transshipment operations and transit movements through its territory.
2. To facilitate traffic in transit each Party shall ensure cooperation and coordination between all authorities and agencies concerned in its territory.

ARTICLE 4.7

Risk Management

1. Each Party shall base its examination and release procedures and its post-clearance audit procedures on risk assessment principles and audits, rather than examining each shipment in a comprehensive manner for compliance with all import requirements.

2. The Parties shall adopt and apply their import, export, transit and transshipment control requirements and procedures for goods on the basis of risk management principles which shall be applied to focus compliance measures on transactions that merit attention.

ARTICLE 4.8

Transparency

1. Each Party shall ensure that its customs and other trade-related laws, regulations and general administrative procedures and other requirements, including fees and charges, are readily available to interested parties and, where feasible and possible, on an official website.

2. Each Party shall designate or maintain one or more inquiry or information points to address, within a reasonable time, inquiries by interested parties concerning customs and other trade-related matters.

ARTICLE 4.9

Advance Rulings

1. Upon written request from traders, the customs authorities of each Party shall issue, in accordance with its laws and regulations, prior to the importation of a good into its territory, written advance rulings on tariff classification or on any other matter as the Parties may agree upon.

2. Subject to any confidentiality requirements in each Party's laws and regulations, each Party shall publish, for example on an official website, its advance rulings on tariff classification and on any matters as the Parties may agree upon.
3. With a view to facilitating trade, the Parties shall include in their bilateral dialogue regular updates on changes in their respective laws and regulations on advance rulings.

ARTICLE 4.10

Fees and Charges

1. Each Party shall publish information on fees and charges via an officially designated medium, and where feasible and possible, on an official website. This information shall include the fees and charges that will be applied, the reason for the fees or charges for the service provided, the responsible authority, and when and how payment is to be made.
2. Each Party shall not impose new or amended fees and charges until the information in accordance with paragraph 1 is published and made readily available.

ARTICLE 4.11

Customs Brokers

The Parties shall not require in their respective customs legislation and procedures the mandatory use of customs brokers. The Parties shall apply transparent, non-discriminatory and proportionate rules if and when licensing customs brokers.

ARTICLE 4.12

Customs Valuation

1. The Parties shall determine the customs value of goods in accordance with Article VII of GATT 1994 and the Customs Valuation Agreement.
2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

ARTICLE 4.13

Preshipment Inspections

The Parties agree that their respective customs legislation and procedures shall not require the mandatory use of preshipment inspections as defined in the Agreement on Preshipment Inspection, or any other inspection activity performed at destination, before customs clearance, by private companies.

ARTICLE 4.14

Review and Appeal

Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against customs and other agency administrative actions, rulings and decisions affecting importation or exportation of goods or goods in transit.

ARTICLE 4.15

Relations with the Business Community

The Parties agree:

- (a) on the need for timely consultations with trade representatives on legislative proposals and general procedures related to customs and trade facilitation matters. To that end, appropriate consultations between administrations and the business community shall be held by each Party;
- (b) to publish or otherwise make available, as far as possible through electronic means, any new legislation and general procedures related to customs and trade facilitation matters prior to the application of any such legislation and procedures, as well as changes to and interpretations of such legislation and procedures. They shall also make publicly available relevant notices of an administrative nature, including agency requirements and entry procedures, hours of operation and operating procedures for customs offices at ports and border crossing points, and contact points for information enquiries;
- (c) on the need for a reasonable time period between the publication of new or amended legislation, procedures and fees or charges and their entry into force; and
- (d) to ensure that their respective customs and related requirements and procedures continue to meet the needs of the business community, follow best practices, and remain as little trade-restrictive as possible.

ARTICLE 4.16

Committee on Customs

1. The Committee on Customs established by Article 17.2 (Specialised Committees) shall be composed of representatives of the Parties.
2. The Committee on Customs shall ensure the proper functioning of this Chapter, the enforcement of intellectual property rights by customs in Sub-Section 4 (Border Enforcement) of Section C (Enforcement of Intellectual Property Rights) of Chapter 12 (Intellectual Property), Protocol 1 (Concerning the Definition of the Concept of "Originating Products" and Methods of Administrative Cooperation), Protocol 2 (Mutual Administrative Assistance in Customs Matters) and any additional provisions relating to customs that the Parties may agree upon.
3. The Committee on Customs shall examine the need for, and adopt, decisions, opinions, proposals or recommendations on all issues arising from the implementation of the provisions referred to in paragraph 2. It shall have the power to adopt decisions on mutual recognition of risk management techniques, risk criteria and standards, security controls and trade partnership programmes, including aspects such as data transmission and mutually agreed benefits.