

CHAPTER 4
CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 4.1
Definitions

For the purposes of this Chapter:

- (a) **“arrival”** means:
 - (i) for India, arrival at a Customs station of clearance and once goods are registered with Customs;
 - (ii) for New Zealand, arrival at a Customs port, Customs airport, or at an alternative place of arrival authorised by Customs;
- (b) **“customs authority”** means:
 - (i) for India, the Central Board of Indirect Taxes and Customs or its successors;
 - (ii) for New Zealand, the New Zealand Customs Service or its successors;
- (c) **“customs laws”** means those laws and regulations administered, applied or enforced by the customs authority of each Party concerning the importation, exportation and transit or transshipment of goods; and
- (d) **“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.

Article 4.2
Scope

This Chapter shall apply to customs laws and customs procedures applied to the importation, exportation and transit or transshipment of goods between the Parties.

Article 4.3
General Objectives and Principles

1. Each Party shall ensure that its customs laws and customs procedures are applied in a manner that is consistent, transparent, non-discriminatory and facilitate trade, including through the expeditious clearance of goods.
2. Customs laws and customs procedures of the Parties shall conform, where possible, to the international standards and recommended practices of the World Customs Organization (the “WCO”) and other relevant international agreements to which the Parties are party.
3. The customs authority of each Party shall, to the extent possible, periodically review its customs procedures with a view to simplifying such procedures to facilitate trade.
4. The Parties shall seek to reinforce their cooperation to promote trade facilitation while ensuring effective customs control.

Article 4.4
WTO Agreement on Trade Facilitation

The Parties reaffirm their rights and obligations under the *WTO Agreement on Trade Facilitation*, set out in Annex 1A to the WTO Agreement (“Agreement on Trade Facilitation”).

Article 4.5
Publication and Availability of Information

1. Each Party shall promptly make available, in a non-discriminatory and easily accessible manner, including on the internet, and as far as practicable in English:
 - (a) customs laws and, to the extent possible, its administrative rulings of general application governing customs matters;
 - (b) customs procedures for importation, exportation and transit of goods, including the required forms and documents, and a description of such procedures;
 - (c) details of its enquiry points including points of contact and modes for making information enquiries;

- (d) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;
 - (e) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;
 - (f) rules for the classification or valuation of goods for customs purposes;
 - (g) restrictions or prohibitions on the importation, exportation or transit of goods;
 - (h) penalty provisions for breaches of import, export or transit formalities;
 - (i) procedures for appeal or review;
 - (j) hours of operation for relevant customs offices, including those at ports and border crossing points;
 - (k) information regarding the use of customs brokers and, if applicable, laws, regulations and procedures for becoming a customs broker and for issuing customs broker licenses; and
 - (l) provisions regarding the correction or amendment of customs transactions and, if applicable, the circumstances when penalties are not imposed.
2. Each Party shall update the information referred to in paragraph 1 as promptly as possible.
 3. Each Party shall, as appropriate, provide for regular consultations between its border agencies and traders or other stakeholders located within its territory.
 4. Nothing in this Article shall require a Party to publish law enforcement procedures and internal operational guidelines, including those related to conducting risk analysis and targeting methodologies.

Article 4.6 Enquiry Points

1. Each Party shall establish or maintain enquiry points for customs matters relevant to trade in goods, which may be contacted in English through the internet. A Party that receives an enquiry in English shall answer that enquiry in English.

2. Each Party shall endeavour not to require the payment of a fee for answering enquiries. If payment of a fee is required, the Party shall limit the amount of its fees and charges to the approximate cost of services rendered.
3. Each Party shall ensure that responses to enquiries are provided within a reasonable period of time, which may vary depending on the nature or complexity of the request.

Article 4.7

Public Consultation and Information before Entry into Force

1. Each Party shall publish in advance, and on the internet, any proposed customs laws relevant to international trade in goods, with a view to affording interested persons an opportunity to comment on them.
2. Each Party shall, in a manner consistent with its law, ensure that new or amended customs laws are published on the internet, or information on them made otherwise publicly available, as early as possible before their entry into force to enable traders and other interested parties to become acquainted with them.
3. Paragraphs 1 and 2 shall not apply to:
 - (a) changes to duty rates or tariff rates;
 - (b) measures that have a relieving effect;
 - (c) measures the effectiveness of which would be undermined as a result of compliance with paragraph 1;
 - (d) measures applied in urgent circumstances; or
 - (e) minor changes to the Party's law.

Article 4.8

Advance Rulings

1. Each Party shall, prior to the importation of a good of the other Party into its territory, issue a written advance ruling to an importer, exporter, or any person with a justifiable cause, or a representative thereof, who has submitted a written request containing all necessary information. An advance ruling shall be issued with regard to:

- (a) tariff classification;
 - (b) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts, in accordance with the Customs Valuation Agreement;
 - (c) whether a good is originating in accordance with Chapter 3 (Rules of Origin); and
 - (d) any other matters the Parties may agree.
2. Each Party shall issue an advance ruling as expeditiously as possible, within 150 days or in such shorter time as prescribed in its customs laws, after it receives a request, provided that the applicant has submitted all the information that the receiving Party requires to make the advance ruling. This may include a sample of the good for which the applicant is seeking an advance ruling, if necessary to evaluate the request.
 3. A Party may request that the applicant provide additional information at any time during the course of an evaluation of an application for an advance ruling, necessary to evaluate the request. In issuing an advance ruling, the Party shall take into account the facts and circumstances that the applicant has provided.
 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 administrative or judicial review, or in circumstances set out in the Party's customs laws.
 5. A Party that intends to decline a ruling shall:
 - (a) provide the applicant an opportunity to be heard; or
 - (b) communicate the potential grounds to decline a ruling and allow the applicant to provide more information to support the application.
 6. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting out the relevant facts and circumstances, and the basis for its decision to decline to issue the advance ruling.
 7. Each Party shall provide that its advance rulings shall take effect on the date that they are issued or on another date specified in the ruling, and remain in effect for at least three years provided that the law, facts and circumstances on which the ruling is based remain unchanged.
 8. The importing Party may, in accordance with that Party's customs laws, modify, revoke or find the advance ruling non-binding:

- (a) if the ruling was in error, or based on incorrect facts or mistake of law;
 - (b) if there is a change in the material facts or circumstances on which the ruling was based;
 - (c) to conform with a judicial decision or a change in its law; or
 - (d) if the ruling was based on incomplete, incorrect, false or misleading information or obtained by fraud or misrepresentation of facts.
9. Where a Party revokes or modifies an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision.
10. Neither Party shall apply a revocation or modification of an advance ruling retroactively to the detriment of the applicant unless the ruling was based on incomplete, incorrect, false, or misleading information provided by the applicant or obtained by fraud or misrepresentation of facts.
11. Each Party shall publish on the internet, at least:
- (a) the requirements for the application for an advance ruling, including the information to be provided and the format;
 - (b) the time period by which it will issue an advance ruling; and
 - (c) the length of time for which the advance ruling is valid.
12. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it, and on the applicant.
13. Each Party shall provide, upon written request of an applicant, an opportunity to review or appeal an advance ruling or the decision to revoke or modify it.
14. Subject to any confidentiality requirements in its law, a Party may publish its advance rulings, including on the internet.

Article 4.9 Review and Appeal

1. Each Party shall ensure that any person to whom it issues an administrative decision on a customs matter has the right to:

- (a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision; and
 - (b) a judicial appeal or review of the decision.
- 2. Each Party shall ensure that its procedures for review and appeal are carried out in a non-discriminatory manner without undue delay.
- 3. Each Party shall ensure that, in a case where the decision on appeal or review under subparagraph 1(a) is not given within the period of time provided for in its laws and regulations or without undue delay, the person has the right to further administrative or judicial appeal or review or any other recourse to a judicial authority in accordance with that Party's laws and regulations.
- 4. Each Party shall provide a person to whom it issues an administrative decision on the basis of a review or appeal referred to in paragraph 1 with the reasons for the administrative decision in writing, so as to enable such a person to have recourse to appeal procedures where necessary.

Article 4.10 Automation

Each Party shall:

- (a) to the extent practicable, make electronic systems accessible to customs users;
- (b) allow a customs declaration to be submitted in electronic format;
- (c) permit the electronic payment of duties, taxes, fees and charges collected by its customs authority and incurred upon importation and exportation, according to its law;
- (d) endeavour to implement common standards and elements for import and export data, in accordance with the WCO Data Model;
- (e) take into account, as applicable, standards, recommendations, models, and methods developed by relevant international organisations, including WCO, and WTO.

Article 4.11
Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of imported goods in order to facilitate trade between the Parties.
2. Pursuant to paragraph 1, each Party shall adopt or maintain customs procedures that:
 - (a) provide, for the release of goods by customs within a period no longer than that required to ensure compliance with its laws and regulations¹, and as rapidly as possible after the arrival of the goods, but in any case, within 48 hours of arrival, provided that:
 - (i) all information and documentation² necessary to release the goods has been submitted on or prior to arrival of the goods; and
 - (ii) the goods are not subject to physical examination or inspection;
 - (b) provide for electronic submission and processing of customs information relating to an import in advance of the arrival of the goods to expedite the release of goods from customs control upon arrival;
 - (c) allow goods to be released at the point of arrival without temporary transfer to warehouses or other facilities, provided that the goods are eligible for release;
 - (d) allow for the release of goods prior to the final determination of customs duties, taxes, fees, and charges when these are not determined prior to or promptly upon arrival, provided that the goods are otherwise eligible for release. Before releasing the goods, a Party may require that an importer provides sufficient guarantee in the form of a surety, a deposit, or some other appropriate instrument; and
 - (e) if applicable and to the extent possible, provide for, in accordance with its laws and regulations, clearance of certain goods with a minimum of documentation.

¹ This may include necessary clearances from other regulatory agencies or payment of any customs duties, taxes, fees and charges.

² This may include information and documentation required by other regulatory agencies.

3. If a Party allows for the release of goods conditioned on the provision of a security, that Party shall adopt or maintain procedures that:
 - (a) ensure that the amount of the security is no greater than that required to ensure that obligations arising from the importation of the goods will be fulfilled;
 - (b) ensure that the security shall be discharged as soon as possible after that Party's customs authority is satisfied that the obligations arising from the importation of the goods have been fulfilled; and
 - (c) allow importers to provide security using a form other than cash, including, in appropriate cases where an importer frequently enters goods, instruments covering multiple entries.
4. Each Party shall, provided the applicable requirements are met, allow goods intended for release in its territory to be moved under customs control from the point of entry into the Party to another customs office or station in its territory where the goods are intended to be released.
5. Nothing in this Article shall require a Party to release a good if the Party's requirements for release of the good have not been met.

Article 4.12 Express Shipments

1. Each Party shall adopt or maintain expedited customs procedures for express shipments, at least for those goods entered through air cargo facilities, while maintaining appropriate customs control and selection. These procedures shall:
 - (a) provide for information and documentation necessary to release an express shipment to be submitted, and where possible processed, before the shipment arrives;
 - (b) minimise the documentation required for the release of expedited shipments, and to the extent possible, provide for release based on a single submission of information on certain shipments through electronic means;
 - (c) provide for these shipments, under normal circumstances, to be released in the shortest possible time after arrival and in any case endeavouring to release these shipments in 24 hours, provided that all necessary information and documentation³ has been

³ This may include information and documentation required by other regulatory agencies.

submitted, the goods are not subject to physical examination or inspection and all requirements have been met; and

- (d) apply to shipments of any weight or value recognising that a Party may require formal entry procedures as a condition for release, including declarations and supporting documentation and payment of customs duties, based on the good's weight or value.
2. If a Party has an existing procedure that provides the treatment in paragraph 1, this provision does not require that Party to introduce separate expedited release procedures.
 3. Nothing in this Article prevents a Party from requiring additional procedures and any necessary information and documentation as a condition for the release of restricted or controlled goods, including declaration and supporting documentation for the assessment and payment of applicable duties, taxes, fees and charges.

Article 4.13 **Perishable goods**

1. For the purposes of this Article, "perishable goods" means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.
2. With a view to preventing avoidable loss or deterioration of perishable goods, each Party shall:
 - (a) provide, in normal circumstances, for perishable goods to be released in the shortest possible time after arrival, endeavouring to release within 24 hours, provided that:
 - (i) the Party has received all information and documentation⁴ required to release all the goods in the import entry on or prior to arrival of the goods;
 - (ii) the goods, or any other goods in the same import entry, are not subject to physical inspection or examination; and
 - (iii) all regulatory checks required for release have been completed; and

⁴ This may include information and documentation required by other regulatory agencies.

- (b) in exceptional circumstances, where it would be appropriate to do so, provide for the release of perishable goods outside the business hours of its customs authority.
3. Each Party shall give appropriate priority to perishable goods when scheduling and conducting any examination or inspection that may be required.
4. Each Party shall either arrange or allow an importer to arrange for the proper storage of perishable goods pending their release. Each Party may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of goods to such storage facilities, including authorisations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. Each Party shall, where practicable and consistent with its laws and regulations, on the request of the importer, provide for any procedures necessary for release to take place at those storage facilities.
5. Nothing in this Article shall require a Party to release a good if the Party's requirements for release of the good have not been met.

Article 4.14 Risk Management

1. Each Party shall adopt or maintain a risk management framework, including electronic data-processing, for customs control that enables its customs authority to focus its examination and inspection activities on high-risk consignments and expedite the release of low-risk consignments.
2. Each Party shall design and apply risk management in a manner so as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions on international trade.
3. Each Party shall base risk management on an assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, *inter alia*, the Harmonized System code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders and type of means of transport.
4. Each Party may also select, on a random basis, consignments for examination and inspection activities referred to in paragraph 1 as part of its risk management.

5. In order to facilitate trade, each Party shall periodically review and update, if considered appropriate, the risk management framework specified in paragraph 1.

Article 4.15
Preshipment Inspection

1. Each Party shall not require the use of preshipment inspections in relation to tariff classification and customs valuation.
2. Without prejudice to the rights of any Party to use other types of preshipment inspection not covered by paragraph 1, each Party is encouraged not to introduce or apply new requirements regarding their use.
3. Paragraph 2 refers to preshipment inspections covered by the *Agreement on Preshipment Inspection*, set out in Annex 1A to the WTO Agreement, and does not preclude preshipment inspections for sanitary and phytosanitary purposes.

Article 4.16
Formalities Related to Importation, Exportation and Transit

1. Each Party shall limit controls, formalities and the number of documents required in the context of trade in goods between the Parties to those necessary and appropriate to ensure compliance with its laws and regulations and thereby simplify to the greatest extent possible the respective procedures.
2. With a view to minimising the incidence and complexity of import, export and transit formalities and to decreasing and simplifying import, export and transit documentation requirements, each Party shall ensure, as appropriate, that such formalities and documentation requirements are:
 - (a) applied with a view to a rapid release and clearance of goods, particularly perishable goods;
 - (b) applied in a manner that aims at reducing the time and cost of compliance; and
 - (c) the least trade restrictive.

Article 4.17
Single Window

1. Each Party shall establish or maintain a single window that enables importers to:
 - (a) electronically submit documentation or data requirements for the importation of goods to the participating authorities or agencies; and
 - (b) check or be informed of the status of the release of their goods.
2. Each Party shall endeavour to:
 - (a) expand or improve the functionality of its single window to enable exporters to submit documentation or data requirements for the exportation of goods to the participating authorities or agencies, if it does not already do so; and
 - (b) enable traders to access, through its single window and in a timely manner, information from participating authorities or agencies conveying where in the clearance process their goods are.
3. In cases where documentation or data requirements have already been received through the single window, the same documentation or data requirements shall not be requested by participating authorities or agencies except in urgent circumstances and other limited exceptions as set out in a Party's laws and procedures.
4. In building and maintaining its single window system, each Party shall take into account, as appropriate, standards, recommendations, models and methods developed by various international organisations such as the WCO, the United Nations Centre for Trade Facilitation and Electronic Business and the WTO.

Article 4.18
Post-Clearance Audit

1. With a view to expediting the release of goods, each Party shall:
 - (a) adopt or maintain post-clearance audit to ensure compliance with its customs laws and customs procedures;
 - (b) conduct post-clearance audits in a risk-based manner, which may include appropriate selectivity criteria;

- (c) conduct post-clearance audits in a transparent manner. Where an audit is conducted and conclusive results have been achieved the Party shall, without delay, notify the person whose record is audited of the results, the reasons for the results and the audited person's rights and obligations; and
 - (d) wherever practicable, use the result of post-clearance audit in applying risk management.
2. Each Party shall, in its laws or regulations, set a minimum period for which relevant records must be kept.
 3. The Parties acknowledge that the information obtained in a post-clearance audit may be used in further administrative or judicial proceedings.

Article 4.19 Penalties

1. Each Party shall maintain measures imposing criminal, civil or administrative penalties, whether solely or in combination, for violations of the Party's customs laws or procedures.
2. Each Party shall ensure that any penalty imposed by its customs authority is dependent on the facts and circumstances of the case and is commensurate with the degree and severity of the breach.
3. Each Party shall ensure that it maintains measures to avoid conflicts of interest in the assessment and collection of penalties and duties. Each Party shall ensure that it maintains measures to avoid creating an incentive for the assessment or collection of a penalty that is inconsistent with paragraph 2.
4. Each Party shall allow the correction or amendment of an error in customs transaction, as permissible under a Party's customs laws, that may be a potential breach of the Party's customs laws or procedures, prior to the discovery of the error by the Party, if the correction or amendment is done in accordance with the Party's customs laws or procedures, and any owed duties, taxes, fees and charges, including interest, is paid.
5. Each Party is encouraged to require its customs authority, when imposing a penalty for a breach of its customs laws or procedures, to consider as a potential mitigating factor the voluntary disclosure of the breach prior to its discovery by the customs authority.
6. Each Party shall, where appropriate, provide in its customs laws or procedures, or shall otherwise give effect to, a limited period within which

its customs authority may initiate proceedings to impose a penalty relating to a breach of its customs laws or procedures.

7. Each Party shall ensure that if a penalty is imposed by its customs authority for a breach of its customs laws or procedures, an explanation in writing is provided to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the customs law or procedure used for determining the penalty amount.
8. Each Party shall ensure that penalties for breaches of its customs laws or procedures are imposed only on the person(s) legally responsible for the breach.

Article 4.20 Customs Brokers

1. The Parties agree not to require the mandatory use of customs brokers.
2. Each Party shall:
 - (a) publish any measures on the use of customs brokers; and
 - (b) apply transparent and objective rules if and when licensing customs brokers.

Article 4.21 Customs Cooperation

1. The Parties shall, in accordance with their laws, regulations and customs procedures and subject to the availability of resources, encourage cooperation and exchange of information with each other on customs matters.
2. The customs authority of each Party shall assist each other, in accordance with its laws, regulations and customs procedures and subject to the availability of resources, in relation to:
 - (a) the implementation and operation of this Chapter;
 - (b) developing and implementing customs best practice and risk management techniques;
 - (c) simplifying and harmonising customs procedures;

- (d) sharing with each other their respective experiences in developing and maintaining their single window systems;
- (e) exchanging information, including information on best practices, relating to customs matters. Such exchanges of information shall be without prejudice to exchanges of information that may take place between the Parties pursuant to the *Cooperative Arrangement between the Central Board of Indirect Taxes & Customs of the Government of the Republic of India and the New Zealand Customs Service in Customs Matters* done at Wellington on 06 August 2024; and
- (f) such other customs issues as may be mutually determined by the Parties.

Article 4.22 **Authorised Economic Operator**

1. Each Party shall establish or maintain a trade facilitation partnership programme for operators who meet specified criteria, hereinafter referred to as the Authorised Economic Operator (“AEO”) programme. Each Party’s Programme shall operate in accordance with internationally recognised standards which the respective Parties have accepted, such as the WCO SAFE Framework and Article 7.7 of the Agreement on Trade Facilitation.
2. Each Party shall publish its specified criteria to qualify as an AEO. The specified criteria shall relate to compliance, or the risk of non-compliance, in accordance with requirements specified in the Party’s customs laws and procedures.
3. The specified criteria to qualify as an AEO shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail. The specified criteria shall be designed or applied so as to allow the participation of small and medium-sized enterprises.
4. The AEO programme shall include specific benefits for operators that meet the specified criteria, taking into account the commitments of each Party under paragraph 7.3 of Article 7 of the Agreement on Trade Facilitation.

Article 4.23
Time Release Studies

1. Each Party is encouraged to measure the average time required for the release of goods by its customs authority periodically, and to publish the findings thereof, using tools such as the Guide to Measure the Time Required for the Release of Goods issued by the World Customs Organization with a view to:
 - (a) assessing the Party's trade facilitation measures; and
 - (b) considering opportunities for further improvement of the time required for the release of goods.
2. Each Party is encouraged to share with the other Party its experiences in the time release studies referred to in paragraph 1, including methodologies used and bottlenecks identified.

Article 4.24
Confidentiality

1. Each Party shall adopt or maintain measures governing the collection, protection, use, disclosure, retention, correction, and disposal of information that relates to a trader and that is collected for the purposes of administering and enforcing its customs laws.
2. Each Party shall maintain, in conformity with its law, the confidentiality of all information collected as part of its customs processes and shall protect that information from use or disclosure that could prejudice the competitive position of the trader to whom the confidential information relates.
3. Each Party shall ensure that the information collected as part of its customs processes shall be used or disclosed solely for the administration and enforcement of customs matters, including in any proceedings before courts or tribunals for failure to comply with customs laws, or as otherwise authorised or required under the Party's law.
4. The Parties shall communicate to each other information on their applicable laws and regulations

Article 4.25
Committee on Customs and Trade Facilitation

1. The Parties hereby establish a Committee on Customs and Trade Facilitation (“Committee”) composed of government representatives of each Party responsible for customs and trade facilitation matters to consider any matters arising under this Chapter.
2. The functions of the Committee shall include:
 - (a) ensuring the appropriate administration, uniform interpretation and implementation of the provisions contained in this Chapter;
 - (b) cooperating in an endeavour to further simplify and implement the customs procedures of this Chapter;
 - (c) sharing information on best practices;
 - (d) where appropriate, exchanging information on matters related to this Chapter;
 - (e) consider and discuss technical issues arising from the implementation of this Agreement, without prejudice to Chapter 19 (Dispute Settlement);
 - (f) considering any matters referred to it by the Committee on Trade in Goods or the Joint Commission; and
 - (g) any other matter as the Committee mutually agrees.
3. The Committee shall meet either in person or virtually within six months of the date of entry into force of this Agreement and thereafter annually unless otherwise agreed by the representatives of the Parties or without undue delay at the request of either Party.
4. The Committee may decide on its own rules of procedure, in the absence of which the rules of procedure of the Joint Commission shall apply *mutatis mutandis*.
5. The Committee shall report to the Joint Commission on the results and conclusions from each of its meetings.