

## **CHAPTER 4**

### **CUSTOMS PROCEDURES AND TRADE FACILITATION**

#### **Article 4.1: Objectives**

The objectives of this Chapter are to:

- (a) ensure predictability, consistency and transparency in the application of customs laws and regulations of the Parties;
- (b) promote efficient administration of customs procedures, and the expeditious clearance of goods;
- (c) simplify customs procedures of the Parties and harmonise them to the extent possible with relevant international standards;
- (d) promote co-operation between the customs authorities of the Parties; and
- (e) facilitate trade between the Parties, including through a strengthened environment for global and regional supply chains.

#### **Article 4.2: Scope**

This Chapter shall apply to customs procedures required for goods traded between the Parties, in accordance with their laws and regulations.

#### **Article 4.3: Customs Procedures and Facilitation**

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, transparent, and facilitate trade, including through the expeditious clearance of goods.
2. Subject to each Party's applicable laws and regulations, each customs administration shall publish all its laws, regulations, and trade-related guidelines, procedures and administrative rulings, either online or in print form.
3. Customs procedures of each Party shall, if possible and to the extent permitted by its customs laws and regulations, conform with the standards and recommended practices of the World Customs Organisation and the WTO.
4. The customs administration of each Party shall review its customs procedures with a view to their simplification, to facilitate trade.

5. Each Party shall, in a manner consistent with its laws and regulations, provide opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit.

#### **Article 4.4: Customs Cooperation**

Each Party shall, in accordance with its laws and regulations, cooperate with the other Party through information sharing and other activities as appropriate, to achieve compliance with their respective laws and regulations that pertain to:

- (a) the implementation and operation of the provisions of this Agreement governing importations or exportations, including claims for preferential tariff treatment, procedures for making claims for preferential tariff treatment and verification procedures;
- (b) the implementation, application and operation of the Customs Valuation Agreement;
- (c) restrictions or prohibitions on imports or exports;
- (d) investigation and prevention of customs offences, including duty evasion and smuggling; and
- (e) other customs matters as the Parties may decide.

#### **Article 4.5: Advance Rulings**

1. Each Party shall issue an advance ruling to any person with respect to:
  - (a) tariff classification of a product;
  - (b) origin of goods; and
  - (c) 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.
2. On receipt of all necessary information, each Party shall issue an advanced ruling:
  - (a) with respect to tariff classification, as expeditiously as possible, and in no case later than 40 days or in such shorter time as specified in its laws and regulations;

- (b) with respect to origin and valuation, as expeditiously as possible, and in no case later than 150 days or in such shorter time as specified in its laws and regulations.
- 3. The customs administration of each Party shall establish a validity period for an advance ruling for three years from the date of its issuance.
- 4. The issuing Party may modify or revoke an advance ruling if:
  - (a) the ruling was based on an error of fact;
  - (b) the information provided is false or inaccurate;
  - (c) there is a change in the material facts or circumstances on which the ruling was based;
  - (d) any of the conditions to which the Customs ruling was made subject cease to be met or complied with; or
  - (e) a change is required to conform with a judicial decision or a change in its laws and regulations.
- 5. 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, and shall not be applied to importations of a good that have occurred prior to that date.
- 6. When each Party revokes, modifies, or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision.

#### **Article 4.6: Single Window and Use of Automated System**

- 1. Each Party shall establish or maintain a single window, enabling traders to submit documentation or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation or data, the results shall be notified to the applicants through the single window in a timely manner.
- 2. 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 which are made public.
- 3. Each Party shall adopt or maintain procedures to determine duties and taxes upon the submission of the customs declaration and to allow collection of payment electronically upon approval of the customs declaration.

#### **Article 4.7: Rapid Release of Goods**

1. Each Party shall adopt or maintain procedures that:
  - (a) provide for the release of goods within a period of time no greater than that required to ensure compliance with its laws and regulations;
  - (b) provide, in normal circumstances, for goods to be released within 24 hours of arrival;
  - (c) provide for advance electronic submission and processing of information before the physical arrival of the goods to enable release of the goods on arrival; and
  - (d) allow the release of imported goods prior to the final determination by its customs administration of the applicable duties and taxes, provided the good is otherwise eligible for release from customs.
2. Notwithstanding paragraph 1(d) above, each Party may require importers to provide security as a condition for the release of goods if such security is required to ensure that obligations arising from the importation of the goods will be fulfilled.
3. If a Party allows for the release of goods conditioned on a security, it shall adopt or maintain procedures that:
  - (a) ensure that the amount of any security is no greater than that required to ensure that obligations arising from the importation of the goods will be fulfilled;
  - (b) ensure that any security shall be discharged as soon as possible after its customs authorities are satisfied that the obligations arising from the importation of the goods have been fulfilled; and
  - (c) allow:
    - (i) importers to provide security such as bank guarantees, bonds, or other non-cash financial instruments covering multiple entries; and
    - (ii) importers to provide security in any other forms specified by its customs administration.

#### **Article 4.8: Expedited Shipments**

Each Party shall adopt or maintain expedited customs procedures for express consignments, while maintaining appropriate control and customs selection. These procedures shall:

- (a) provide for pre-arrival processing of information related to express shipments;
- (b) allow the submission of a single document covering all of the goods in the shipment by an express shipment service, through, if possible, electronic means;
- (c) minimise, to the extent possible, the documentation required for the release of express shipments; and
- (d) provide, in normal circumstances, for an express shipment to be released within four hours of the submission of necessary customs documentation.

#### **Article 4.9: Perishable Goods**

1. With a view to preventing avoidable loss or deterioration of perishable goods, and provided all regulatory requirements have been met, each Party shall:

- (a) provide for the release of perishable goods under normal circumstances in the shortest time possible; and
- (b) provide for the release of perishable goods, in exceptional circumstances if it would be appropriate to do so, outside the business hours of its customs administration.

2. Each Party shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

3. 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 are approved or designated by its relevant authorities.

4. Each Party shall, if practicable and consistent with its laws and regulations, on request of the importer, provide for the release to take place at those storage facilities.

#### **Article 4.10: Risk Management**

1. Each Party shall adopt or maintain a risk management system for assessment and targeting that enables its customs administration to focus its 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 as to avoid arbitrary or unjustifiable discrimination, or a disguised restriction 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.

#### **Article 4.11: 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) administrative review of the determination, independent<sup>1</sup> of the employee or office that issued the determination; and
- (b) judicial review of the determination.

2. Each Party shall ensure that a customs authority that conducts a review under paragraph 1 notifies the parties to the matter in writing of its decision and the reasons for the decision. A Party may require a request as a condition for providing the reasons for a decision in the review.

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<sup>1</sup> The level of administrative review may include any authority supervising the customs administration.