

CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 51: Definitions

For purposes of this Chapter:

customs administration means:

(a) for China, the General Administration of Customs of the People's Republic of China;

and

(b) for Peru, National Superintendence of Tax Administration (*Superintendencia Nacional de Administracion Tributaria* (SUNAT)), or its successor;

customs law means any legislation administered, applied, or enforced by the customs administration of a Party;

customs procedures means the treatment applied by each customs administration to goods and means of transport that are subject to customs control; and

means of transport means various types of vessels, vehicles, aircraft and pack-animals which enter or leave the territory carrying persons, goods or articles.

Article 52: Scope and Objectives

1. This Chapter shall apply, in accordance with the Parties' respective international obligations and domestic customs law, to customs procedures applied to goods traded between the Parties and to the movement of means of transport between the Parties.

2. The objectives of this Chapter are:

(a) to simplify and harmonize customs procedures of the Parties;

(b) to ensure predictability, consistency and transparency in the application of customs laws, including administrative procedures of the Parties;

(c) to ensure the efficient and expeditious clearance of goods and movement of means of transport;

(d) to facilitate trade between the Parties; and

(e) to promote cooperation between the customs administrations, within the scope of this Chapter.

Article 53: Competent Authorities

The competent authorities for the administration of this Chapter are:

(a) for China, the General Administration of Customs of the People's Republic of China; and

(b) for Peru, the Ministry of Foreign Trade and Tourism.

Article 54: Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, transparent and facilitate trade.

2. Customs procedures of each Party shall, where possible and to the extent permitted by their respective customs law, conform with the trade-related instruments of the World Customs Organization (WCO) to which that Party is a contracting party, including those of the *International Convention on the Simplification and Harmonization of Customs Procedures* (as amended), known as the Revised Kyoto Convention.

3. The customs administrations of the Parties shall facilitate the clearance, including release, of goods in administering their procedures.

4. Each Party shall endeavor to provide a focal point, electronic or otherwise, through which its traders may submit all required regulatory information in order to obtain clearance, including release, of goods.

Article 55: Customs Valuation

The Parties shall apply Article VII of GATT 1994 and the Customs Valuation Agreement to goods traded between them.

Article 56: Tariff Classification

The Parties shall apply the *International Convention on the Harmonized Commodity Description and Coding System* to goods traded between them.

Article 57: Committee on Trade Facilitation

The Parties shall establish the Committee on Trade Facilitation that have, among others, the following functions:

(a) to adopt customs practices and standards which facilitate commercial exchange between the Parties, according to the international standards;

(b) to settle any disputes related to the interpretation, application and administration of this Chapter, including tariff classification. If the Committee does not reach a decision on the tariff classification, said Committee shall hold the appropriate consultations at the WCO. The

decision of the WCO shall, to the greatest extent possible, be applied by the Parties; and

(c) to settle other issues as referred to the Committee on Trade Facilitation, including the issues on tariff classification and customs valuation related to the determination of origin under this Agreement.

Article 58: Customs Cooperation

To the extent permitted by their domestic laws, the customs administrations of the Parties shall assist each other, in relation to:

(a) the implementation and operation of this Chapter and the *Agreement Between the Government of the People's Republic of China and the Government of the Republic of Peru Concerning Co-Operation and Mutual Administrative Assistance in Customs Matters*; and

(b) such other issues as the Parties mutually determine.

Article 59: Review and Appeal

Each Party shall ensure that with respect to its administrative acts on customs matters, importers in its territory have access to:

(a) a level of administrative review independent of the employee or office that issued the administrative act; and

(b) judicial review of the administrative acts.

Article 60: Advance Rulings

1. The customs administration of each Party shall issue written advance rulings prior to the

importation of a good into its territory upon written request of an importer in its territory, or an exporter in the territory of the other Party (for China, the applicant of an advance ruling on tariff classification shall be registered with a local customs administration of China), on the basis of the facts and circumstances provided by the requester, including a detailed description of the information required to process a request for an advance ruling, concerning:

(a) tariff classification; or

(b) whether a good qualifies as an originating good under the provision established in this Agreement.

2. The customs administrations shall issue advance rulings after receiving a written request, provided that the requester has submitted all necessary information. The issuance of advance ruling on determination of origin of a good shall be made within 150 days.

3. Each Party shall provide that advance rulings shall be in force from their date of issuance, or such other date specified by the ruling, for at least one year, provided that the facts or circumstances on which the ruling is based remain unchanged.

4. The customs administrations issuing the advance ruling may modify or revoke an advance ruling where facts or circumstances prove that the information on which the advance ruling is based is false or inaccurate.

5. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the customs administrations may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which the advance ruling was based.

6. Each Party shall make its advance rulings publicly available, subject to confidentiality

requirements in its domestic law, for purposes of promoting the consistent application of advance rulings to other goods.

7. If a requester provides false information or omits relevant circumstances or facts in its request for an advance ruling, or does not act in accordance with the ruling's terms and conditions, the importing Party may apply appropriate measures, including civil, criminal, and administrative actions, penalties, or other sanctions in accordance with its domestic laws.

Article 61: Use of Automated Systems in the Paperless Trading Environment

1. The customs administrations shall apply information technology to support customs operations, where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments in this area within the WCO.

2. The customs administrations shall endeavor to use information technology that expedites procedures for the release of goods, including the submission and processing of information and data before arrival of the shipment, as well as electronic or automated systems for risk management and targeting.

Article 62: Risk Management

Each customs administration shall focus resource on high-risk shipments of goods and facilitate the clearance, including release, of low-risk goods in administering customs procedures. Additionally, customs administrations shall exchange information related to applied techniques on risk management, ensuring the confidentiality of the information.

Article 63: Publication and Enquiry Points

1. Each customs administration shall publish all customs laws and any administrative procedures it applies or enforces.
2. Each customs administration shall designate one or more enquiry points to deal with inquiries from interested persons from either Party on customs matters arising from the implementation of this Agreement, and provide details of such enquiry points to the other customs administration. Information concerning the procedures for making such inquiries shall be easily accessed to public.
3. Each customs administration will endeavor to provide the other customs administration with timely notice of any significant modification of customs laws or procedures governing the movement of goods and means of transport that is likely to substantially affect the operation of this Chapter.

Article 64: Express Consignments

Each customs administration shall adopt or maintain separate and expedited customs procedures for express shipments while maintaining appropriate customs control and selection. Said procedures shall, under normal circumstances, provide an express clearance of goods after submission of all the necessary customs documents, and shall not be limited by weight or customs value.

Article 65: Release of Goods

1. Each Party shall adopt or maintain efficient and expeditious procedures which allow goods

to be released within 48 hours of arrival unless:

(a) the importer fails to provide any information required by the importing Party at the time of first entry;

(b) the goods are selected for closer examination by the customs administration of the importing Party through the application of risk management techniques;

(c) the goods are to be examined by any agency, other than the customs administration of the importing Party, acting under powers conferred by the domestic legislation of the importing Party; or

(d) fulfillment of all necessary customs formalities has not been able to be completed or release is otherwise delayed by virtue of force majeure.

2. In accordance with its national legislations and regulations, each Party shall allow importers to withdraw goods from customs before the final determination by its customs administration of the applicable customs duties, taxes, and fees provided that the sufficient guarantee is submitted to customs administrations.

Article 66: Review of Customs Procedures

1. Each customs administration shall periodically review its procedures with a view to their further simplification and the development of mutually beneficial arrangements to facilitate the flow of trade between the Parties.

2. In applying a risk management approach to customs control, each customs administration shall regularly review the performance, effectiveness and efficiency of its systems.

Article 67: Consultation

1. Without prejudice to Article 57 (Committee on Trade Facilitation), each customs administration may at any time request consultations with the other customs administration on any matter arising from the operation or implementation of this Chapter. Such consultations shall be conducted through the relevant contact points, and shall take place within 30 days of the request, unless the customs administrations of the Parties mutually determine otherwise.
2. In the event that such consultations fail to resolve any such matter, the requesting Party may refer the matter to the Committee on Trade in Goods for consideration.
3. Each customs administration shall designate one or more contact points for the purposes of this Chapter and provide details of such contact points to the other Party. The customs administrations of the Parties shall notify each other promptly of any amendments to the details of their contact points.
4. The customs administrations may consult each other on any trade facilitation issues arising from procedures to secure trade and the movement of means of transport between the Parties.

Article 68: Implementation

The obligations of the Parties under this Chapter shall enter into force as follows:

- (a) Article 60 (Advance Rulings) shall enter into force 3 years after the date of entry into force of this Agreement; and
- (b) Article 65 (Release of Goods) shall enter into force one year after the date of entry into force of this Agreement.