

## **Chapter 4**

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

#### ARTICLE 4.1: SCOPE AND OBJECTIVES

1. This Chapter shall apply, without prejudice to each Party's respective international obligations and domestic customs law, customs procedures applied to goods traded and to the movement of means of transport between the Parties.

2. The objectives of this Chapter are to:

- (a) simplify and harmonize customs procedures of the Parties;
- (b) facilitate trade between the Parties; and
- (c) promote cooperation between the customs administrations, within the scope of this Chapter.

#### ARTICLE 4.2: DEFINITIONS

For purposes of this Chapter:

- (a) **customs administration** means:
  - (i) for China, the General Administration of Customs of the People's Republic of China; and
  - (ii) for Georgia, Revenue Service - Legal Entity of Public Law of the Ministry of Finance;
- (b) **customs law** means the statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration or enforcement of which are specifically charged to the customs administration, and any regulations made by the customs administration under its statutory powers;
- (c) **customs procedures** means the treatment applied by the customs administration to goods and means of transport that are subject to customs control;
- (d) **Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the GATT 1994* which is a part of the Annex 1A of the *Marrakesh Agreement Establishing the World Trade Organization*; and
- (e) **means of transport** means various types of vessels, vehicles, and aircrafts

which enter or leave the territory of a Party carrying persons and/or goods.

#### ARTICLE 4.3: FACILITATION

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent to facilitate trade.
2. Each Party shall use efficient customs procedures, based, as appropriate, on international standards, aiming to reduce costs and unnecessary delays in trade between them, in particular the standards and recommended practices of the World Customs Organization, including the principles of the revised *International Convention on the Simplification and Harmonization of Customs Procedures* (Revised Kyoto Convention).
3. 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 legal requirements, thereby simplifying, to the greatest extent possible, the related procedures.
4. The customs administration of each Party shall periodically review its customs procedures with a view to exploring options for the simplification and the enhancement of mutually beneficial arrangements to facilitate international trade.

#### ARTICLE 4.4: TRANSPARENCY

1. Each Party shall promptly publish, including on the Internet, its laws, regulations, and, where applicable, administrative rules or procedures of general application relevant to trade in goods between the Parties.
2. Each Party shall designate one or more enquiry points to address enquiries from interested persons on customs matters, and shall make available on the Internet information concerning procedures for making such enquiries.
3. To the extent practicable and in a manner consistent with its laws and regulations, each Party shall publish, in advance on the Internet, draft laws and regulations of general application relevant to trade between the Parties, with a view to affording the public, especially interested persons, an opportunity to provide comment.
4. Each Party shall ensure, to the extent possible, that a reasonable interval is provided between the publication of new or amended laws and regulations of general application relevant to trade between the Parties and their entry into force.
5. Each Party shall administer, in a uniform, impartial and reasonable manner, its laws and regulations of general application relevant to trade between the Parties.

#### ARTICLE 4.5: CUSTOMS VALUATION

The Parties shall determine the customs value of goods traded between them in accordance with the provisions of Article VII of GATT 1994 and *the Customs Valuation Agreement*.

#### ARTICLE 4.6: TARIFF CLASSIFICATION

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

#### ARTICLE 4.7: COOPERATION

1. To the extent permitted by their laws and regulations, the customs administrations of both Parties shall assist each other, in relation to:

- (a) the implementation and operation of this Chapter;
- (b) the application of the provisions laid down in the *Agreement Between the Customs General Administration of the People's Republic of China and the Customs Committee of the Republic of Georgia on Co-operation and Mutual Assistance*; and
- (c) such other issues as the Parties may mutually agree.

2. Each Party shall endeavour to provide the other Party with timely notice of any significant modification of its customs laws, regulations or procedures that are likely to substantially affect the operation of this Agreement.

#### ARTICLE 4.8: ADVANCE RULINGS

1. Each Party shall provide for written advance rulings in a reasonable, time-bound manner to be issued to a person described in sub-paragraph 2 (a) concerning tariff classification, whether a good is originating under this Agreement.

2. Each Party shall adopt or maintain procedures for issuing written advance rulings, which shall:

- (a) provide that an exporter, importer or any person with a justifiable cause, or a representative thereof, may apply for an advance ruling, before the date of importation of the goods that are the subject of the application. A Party may

require that an applicant have legal representation or registration in its territory;

- (b) include a detailed description of the information required to process a request for an advance ruling;
- (c) allow its customs administration, at any time during the course of an evaluation of an application for an advance ruling, to request that the applicant provide additional information necessary to evaluate the request;
- (d) ensure that an advance ruling be based on the facts and circumstances presented by the applicant and any other relevant information in the possession of the decision-maker; and
- (e) provide that the ruling be issued, in the national language of the issuing customs administration, to the applicant, expeditiously on receipt of all necessary information, within 90 days.

3. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting forth the basis for its decision to decline to issue the advance ruling.

4. A Party may reject requests for an advance ruling where the additional information requested in accordance with paragraph 2 (c) is not provided within the specified period.

5. Each Party shall endeavor to make information on advance rulings which it considers to be of significant interest to other traders, publicly available, taking into account the need to protect confidential information.

6. Subject to paragraph 7, each Party shall apply an advance ruling to importations into its territory through any port of entry, beginning on the date the advance ruling was issued or on any other date specified in the advance ruling. The Party shall ensure the same treatment of all importations of goods subject to the advance ruling during the validity period regardless of the importer or exporter involved, where the facts and circumstances are identical in all material respects.

7. A Party may modify or revoke an advance ruling, consistent with this Agreement, where:

- (a) there is a change in the laws or regulations;
- (b) incorrect information was provided or relevant information is withheld;
- (c) there is a change in a material fact; or

- (d) there is a change in the circumstances on which the ruling was based.

#### ARTICLE 4.9: REVIEW AND APPEAL

Each Party shall, in accordance with its domestic laws and regulations, provide that the importer, exporter or any other person affected by its administrative decisions on a customs matter, have access to:

- (a) a level of administrative review of decisions by its customs administrations independent of the official or office responsible for the decision under review; and
- (b) judicial review of the decisions subject to its laws and regulations.

#### ARTICLE 4.10: APPLICATION OF INFORMATION TECHNOLOGY

Each Party 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 relevant international organizations, including the World Customs Organization.

#### ARTICLE 4.11: RISK MANAGEMENT

1. Each Party shall adopt and maintain a risk management system for customs control and based on it, the Party shall determine which persons, goods or means of transport are to be examined and the extent of the examination.
2. Each Party shall work to further enhance the use of risk management techniques in the administration of its customs procedures so as to facilitate the clearance of low-risk goods and to allow resources to focus on high-risk goods.
3. Risk management shall be applied in such a manner that it does not create arbitrary or unjustifiable discrimination under the same conditions or disguised restriction on international trade.

#### ARTICLE 4.12: RELEASE OF GOODS

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties. For greater certainty, this paragraph shall not require a Party to release goods where its requirements for release have not been met.

2. In accordance with paragraph 1, each Party shall adopt or maintain procedures that:

- (a) provide for the release of goods as rapidly as possible after arrival, provided all other regulatory requirements have been met;
- (b) as appropriate, provide for advance electronic submission and processing of information before the physical arrival of goods with a view to expediting the release of goods; and
- (c) may allow importers to obtain the release of goods prior to meeting all import requirements of that Party if the importer provides sufficient and effective guarantee and where it is decided that neither further examination, physical inspection nor any other submission is required.

3. Each Party shall endeavor to adopt and maintain a system under which goods in need of urgent clearance can obtain prompt customs clearance.

4. Each Party shall ensure that goods are released within a time period no longer than that required to ensure compliance with its customs laws.

#### ARTICLE 4.13: AUTHORIZED ECONOMIC OPERATOR

A Party operating an Authorized Economic Operator System or security measures affecting international trade flows shall:

- (a) afford the other Party the possibility to negotiate mutual recognition of authorization and security measures for the purpose of facilitating international trade while ensuring effective customs control; and
- (b) draw on relevant international standards, in particular the *WCO SAFE Framework of Standards to Secure and Facilitate Global Trade*.

#### ARTICLE 4.14: BORDER AGENCY COOPERATION

1. Each Party shall ensure that its authorities and agencies involved in border controls related to import, export or transit of goods, cooperate and coordinate their procedures in order to facilitate trade.

2. Each Party shall endeavor to establish, as far as practicable, an electronic means for communication of relevant information required by its customs administration and other relevant border agencies to facilitate the international movement of goods and means of transport.

#### ARTICLE 4.15: CONSULTATION

1. The customs administration of each Party may at any time request consultations with the customs administration of the other Party, on any matter arising from the implementation or operation of this Chapter, in cases where there are reasonable grounds or truth provided by the requesting Party. Such consultations shall be conducted through the relevant contact points, and shall take place within 60 days of the request, or any other possible time period that the Parties may mutually determine.
2. In the event that such consultations fail to resolve any such matter, the requesting Party may refer the matter to the FTA Joint Commission referred to in Article 14.1 (FTA Joint Commission) and Article 14.2 (Rules of Procedure of the FTA Joint Commission) of Chapter 14 (Institutional Provisions) for further consideration.
3. Each customs administration shall designate one or more contact points for the purposes of this Chapter. Information on the contact points shall be provided to the other Party and any amendment of the said information shall be notified promptly.