

CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 4.1: Scope and Objectives

1. This Chapter shall apply, in accordance with the international obligations and customs law of the Parties, to customs procedures applied to goods traded between the Parties and to the movement of means of transport between the Parties.
2. For the purposes of this Chapter, the Parties shall:
 - (a) promote the simplification and harmonization of their customs procedures;
 - (b) facilitate trade between them; and
 - (c) promote cooperation between their customs administrations.

Article 4.2: Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, transparent and trade facilitating.
2. Each Party shall, where possible and to the extent permitted by their respective customs law, conform its customs procedures with the standards and recommended practices of the World Customs Organization (WCO) to which that Party is a contracting party, in particular those of the International Convention on the Simplification and Harmonization of Customs Procedures (as amended), known as the Revised Kyoto Convention.
3. Each Party shall provide a focal point, electronic or otherwise, through which its traders may submit, where possible, required regulatory information in order to obtain clearance, including release of goods.

Article 4.3: 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 4.4: Tariff Classification

The Parties shall apply the Harmonized System to goods traded between them.

Article 4.5: Customs Cooperation

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

- (a) the implementation and operation of this Chapter;
- (b) simplifying and harmonising customs procedures;
- (c) developing and implementing customs best practice and risk management techniques; and
- (d) such other issues as the Parties mutually determine.

2. The customs administrations of the Parties shall push forward cooperation based on “Smart Customs, Smart Borders and Smart Connectivity”, in order to enhance mutual trust and promote trade facilitation to achieve a high-level connectivity between the Parties.

Article 4.6: 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 domestic law and legal system, 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 comments.

4. To the extent practicable and in a manner consistent with its domestic law and legal system, each Party shall ensure that a reasonable interval is provided between the publication and the entry into force of new or amended laws and regulations of general application relevant to trade between the Parties.

Article 4.7: Advance Rulings

1. The customs administration of each Party shall issue an advance ruling, prior to the importation of a good into its customs territory, at the written request containing all necessary information, on an application of the exporter, importer or any person with a justifiable cause or a representative thereof² with respect to:

- (a) origin of a good;
- (b) tariff classification of a good; and
- (c) such other matters as the Parties may decide.

2. The customs administration of the importing Party shall issue an advance ruling within 90 days from the receipt of all necessary information, provided that the applicant has submitted all the information required, including a sample of the goods.

3. In issuing an advance ruling, the customs administration of the importing Party shall take into account facts and circumstances the applicant provided. For greater certainty, a Party may decline to issue an advance ruling if the facts or circumstances forming the basis of this advance ruling are the subject of administrative or judicial review. A Party that pursuant to this paragraph, declines to issue an advance ruling shall promptly notify the applicant in writing, setting forth the relevant facts, circumstances, and the basis for its decision to decline to issue the advance ruling.

² An applicant for an advance ruling from China shall be registered with China Customs.

4. Each customs administration of the Party shall provide that an advance ruling shall take effect on the date it is issued, or another date specified in the ruling, provided that the laws, regulations, administrative rules, or facts and circumstances on which the ruling is based remain unchanged.
5. The customs administration of the importing Party may modify or revoke the said advance ruling, with the notification of the decision to the applicant:
 - (a) if the advance ruling was based on an error of fact;
 - (b) if there is a change in the material facts or circumstances on which the advance ruling was based;
 - (c) if information was provided false or relevant information was withheld; or
 - (d) to conform with a change in its domestic laws, a judicial decision or a modification of this Chapter.
6. Each customs administration may publish any information on advance rulings, including on the Internet, subject to confidential requirements in its domestic laws and regulations.
7. If an applicant provides false information, omits relevant facts or circumstances relating to the advance ruling, or does not act in accordance with the terms and conditions of the advance ruling, the issuing customs administration may apply appropriate measures to the applicant, including criminal and administrative actions, penalties, or other sanctions in accordance with its laws and regulations.

Article 4.8: 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 that administrative determinations or decisions, have access to:

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

Article 4.9: Penalties

In accordance with its domestic laws and regulations, each Party shall adopt or maintain measures that allow for the imposition of administrative penalties and where appropriate, criminal sanctions for violations of its customs law, including but not limited to those governing tariff classification, customs valuation, rules of origin, quarantine and inspection, and claims for preferential tariff treatment under this Agreement.

Article 4.10: Application of Information Technology

1. The customs administrations of the Parties shall use information technology to support customs operations, including sharing best practices with each other for the purpose of improving their customs procedures, where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments of WCO in this area.
2. The customs administrations of the Parties are encouraged to focus on the application of new technologies, including the development of hardware facilities and software systems, as to accelerate customs operations and increase the accuracy and impartiality of customs control.

Article 4.11: Risk Management

1. The customs administration of each Party shall focus measures of control on high-risk goods and facilitate the clearance of low-risk goods in administering customs procedures.
2. The customs administration of each Party shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination or disguised restrictions 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. This paragraph shall not require a Party to release a good 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; and
- (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.

Article 4.13: Authorized Economic Operator

1. The customs administrations of the Parties shall establish the program of Authorized Economic Operators (hereinafter referred to as the “AEO”) to promote informed compliance and efficiency of customs control, and to share best practices between the Parties.

2. The customs administrations of the Parties shall endeavour to work towards mutual recognition of AEO.

Article 4.14: 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 operation or implementation of this Chapter, in cases where there are reasonable grounds provided by the requesting Party. Such consultations shall be conducted through the relevant Contact Points, and shall commence within 30 days of the request, except as the customs administrations of both 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 CPTF set forth on Article 4.15 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. Customs administrations of the Parties shall notify each other promptly of any amendments to the details of their Contact Points.

Article 4.15: Committee on Customs Procedures and Trade Facilitation

1. The Parties, with the view to an effective implementation and operation of this Chapter, hereby establish a Committee on Customs Procedures and Trade Facilitation (hereinafter referred to as the “Committee on CPTF”).
2. The Committee on CPTF shall be composed by representatives of customs administrations, and upon mutual agreement relevant government authorities of the Parties.
3. The functions of the Committee on CPTF shall be as follows:
 - (a) ensure the proper functioning of this Chapter and resolve all issues arising from its application;
 - (b) review the operation and implementation of this Chapter, as well revise this Chapter as appropriate;
 - (c) identify areas related to this Chapter to be improved for facilitating trade between the Parties; and
 - (d) make recommendations and report to the FTA Joint Commission.
3. The Committee on CPTF shall meet at such venues and times as agreed by the Parties.

Article 4.16: Definitions

For the purposes of this Chapter:

customs law means the statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to the customs administration, and any regulations made by the customs administration under its statutory powers;

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

means of transport means various types of vessels, vehicles and aircrafts which enter or leave the customs territory carrying persons and/or goods.