

APPENDIX 2

NEW CHAPTER 5 (CUSTOMS PROCEDURES AND TRADE FACILITATION)

CHAPTER 5 CUSTOMS PROCEDURES AND TRADE FACILITATION

ARTICLE 1 Definitions

For the purposes of this Chapter:

- (a) **customs administration** means:
 - (i) in relation to the People's Republic of China, the General Administration of Customs of the People's Republic of China; and
 - (ii) in relation to the Republic of Singapore, the Singapore Customs;
- (b) **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 of a Party, and any regulations made by the customs administration under its statutory powers;
- (c) **customs procedures** means the treatment applied by the customs administration of each Party to goods and the means of transport, which are subject to that Party's customs law;
- (d) **Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, which is part of the WTO Agreement. and;
- (e) **means of transport** means various types of vessels, vehicles and aircrafts which enter or leave the territory carrying persons and/or goods.

ARTICLE 2 Objectives

The objectives of this Chapter are to:

- (a) ensure predictability, consistency and transparency in the application of the customs laws of the Parties;
- (b) promote efficient, economical administration of customs procedures, and the expeditious clearance of goods;

- (c) simplify and promote harmonisation of customs procedures of the Parties; and
- (d) promote cooperation between the customs administrations of the Parties.

ARTICLE 3 Scope

1. This Chapter shall apply to customs procedures applied to goods traded between the Parties and to the movement of means of transport between the Parties.
2. This Chapter shall apply in accordance with the Parties' respective international obligations and domestic laws and regulations, and within the competence and available resources of their respective customs administrations.

ARTICLE 4 Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, transparent and trade facilitating while maintaining appropriate customs controls.
2. Each Party shall use efficient customs procedures with the aim to reduce costs and unnecessary delays in trade between both Parties, based, as appropriate, on international standards, in particular, trade-related instruments, standards and recommended practices of the World Customs Organisation, to which that Party is a contracting Party.
3. The customs administration of each Party shall periodically review its customs procedures with a view to exploring options for their simplification and the enhancement of mutually beneficial arrangements to facilitate international trade.
4. 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 to ensure compliance with legal requirements.
5. Each Party shall administer, in a uniform, impartial and reasonable manner, its customs law relevant to trade between the Parties, and endeavour to ensure consistency across nationwide implementation of its customs law among its regional customs offices.

ARTICLE 5 Use of Automated Systems

1. The customs administrations shall use information technology to support customs operations, including sharing of best practices for the purposes of improving

their customs procedures, where it is cost effective and efficient, particularly in the paperless trading context taking into account development in this area within the World Customs Organization (the "WCO").

2. In using information technology to support customs operations, the customs administration of each Party shall take into account:

- (a) their available infrastructure and capabilities; and
- (b) the relevant standards such as the WCO Data Model and best practices recommended by the WCO.

ARTICLE 6 Single Window

1. Each Party shall establish or maintain a single window, enabling traders to submit documentation and/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 and/or data, the results shall be notified to the applicants through the single window in a timely manner.

2. In cases where documentation and/or data requirements have already been received through the single window, the same documentation and/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, to the extent possible and practicable, use information technology to support its single window.

ARTICLE 7 Customs Valuation

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

ARTICLE 8 Tariff Classification

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

ARTICLE 9
Publication and Enquiry Points

1. Each Party shall 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 and maintain one or more enquiry points to address enquiries from interested persons pertaining to customs matters, and shall make available on the Internet information concerning the procedures for making such inquiries.
3. For greater certainty, nothing in this Article or in any part of this Agreement shall require any Party to publish law enforcement procedures and internal operational guidelines including those related to conducting risk analysis and targeting methodology.

ARTICLE 10
Risk Management

1. The customs administration of each Party shall, based on risk management, determine which persons, goods or means of transport are to be examined and the extent of such examination.
2. The Parties shall adopt a risk management approach in determining the risk profile of goods to facilitate the clearance of low-risk consignments, while focusing its control measures on high-risk goods.
3. The Parties shall exchange best practices on risk management techniques used for customs purposes.

ARTICLE 11
Advance Rulings

1. Each Party shall issue an advance ruling, prior to the importation of a good into its 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 thereof¹, with respect to:
 - (a) origin of goods;
 - (b) tariff classification of a product; 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 provisions of the Customs Valuation Agreement.

¹ An applicant for an advance ruling from China shall be registered with China Customs.

2. The importing Party shall issue an advance ruling within sixty (60) days on receipt of all necessary information.
3. The customs administration of each Party shall establish a validity period for an advance ruling of three (3) years from the date of its issuance.
4. The importing Party may modify or revoke an advance ruling:
 - (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) to conform with a change in its domestic laws, a judicial decision or a modification of this Chapter; or
 - (d) if incorrect information was provided or relevant information was withheld.
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, unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions.

ARTICLE 12 Penalties

Each Party shall adopt or maintain measures that provide for the imposition of civil, criminal or administrative penalties where appropriate, for violations of its laws and regulations relating to this Chapter in accordance with its domestic legislation.

ARTICLE 13 Review and Appeal

1. Each Party shall, in accordance with its domestic laws and regulations, provide that the importer, exporter or any other person affected by its administrative determinations or decisions on a customs matter, have access to:
 - (a) a level of administrative review² by its customs administration independent of the official or office responsible for the administrative determinations or decisions under review; and
 - (b) judicial appeal or review of the determinations or decisions, subject to its laws and regulations.

² For Singapore, the level of administrative review may include the Ministry supervising the customs administration.

2. The decision on review and/or appeal shall be given to the applicant and/or appellant and, subject to the Party's domestic laws and regulations the reasons for such decision shall be provided in writing.

ARTICLE 14

Pre-Arrival Processing

1. Each Party shall adopt or maintain procedures allowing for the submission of import documentation and other required information in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

2. Each Party shall, as appropriate, provide for advance lodging of documents in electronic format for pre-arrival processing of such documents.

ARTICLE 15

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 a good if 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 within a period of time no greater than that required to ensure compliance with its customs law, and to the extent possible, within forty-eight (48) hours of goods' arrival, provided all necessary regulatory and examination requirements have been met; and
- (b) allow importers who have complied with that Party's procedures relating to the determination of value and payment of duty to withdraw goods from customs, provided that all necessary regulatory and examination requirements have been met. As a condition for such release, a Party may require an importer to provide a guarantee, when such guarantee is required to ensure that obligations arising from the entry of the goods will be fulfilled. A Party may require a guarantee in accordance with its domestic laws and regulations that does not exceed the amount the Party requires to ensure payment of customs duties, taxes, fees and charges ultimately due for the goods covered by the guarantee.

3. If any goods are selected for further examination, such an examination shall be limited to what is necessary and shall be completed without undue delay.

ARTICLE 16
Express Shipments

Each Party shall adopt or maintain separate and expedited customs procedures for express shipments while maintaining appropriate control and customs selection. Such procedures shall:

- (a) permit, as a condition for release, the submission of a single document in the form that the Party considers appropriate, such as a manifest or a declaration, covering all of the goods in an express shipment, through, if possible, electronic means;
- (b) minimise, to the extent possible, the documentation required for the release of express shipments; and
- (c) allow express shipments to be released under normal circumstances as rapidly as possible after goods' arrival, provided all necessary customs documentation required for release have been submitted, and when possible within six (6) hours.

ARTICLE 17
Post-Clearance Audit

1. With a view to expediting the release of goods and enhancing customs control, each Party shall adopt or maintain post clearance audit to ensure compliance with customs law and other related laws and regulations.

2. Each Party shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Party shall conduct post clearance audits in a transparent manner. Where the person is involved in the audit process and a conclusive result has been achieved, the Party shall, without delay, notify the person concerned of the result of the case, the rights and obligations it has, audit findings and the reasons for the result.

3. Parties shall, wherever practicable, use the result of post-clearance audit in applying risk management and in assessing the customs compliance records of traders.

ARTICLE 18
Temporary Admission of Goods

Each Party shall allow, as provided for in its laws and regulations, goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods are brought into its customs territory for a specific purpose, are intended for re-exportation within a specific period,

and have not undergone any change except normal depreciation and wastage due to the use made of them.

ARTICLE 19 Customs Cooperation

1. Subject to its domestic laws and regulations, the customs administration of each Party may, as deemed appropriate, assist each other in relation to:

- (a) the implementation and operation of this Chapter; and
- (b) such other issues as the Parties mutually determine.

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

ARTICLE 20 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, where there are reasonable grounds provided by the requesting Party. Such consultations shall be conducted through the relevant contact points, and shall take place within sixty (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 Committee on Customs Procedures and Trade Facilitation for further consideration.

3. The customs administration of each Party 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.

ARTICLE 21 Committee on Customs Procedures and Trade Facilitation

1. With the view to the effective implementation and operation of this Chapter, a Committee on Customs Procedures and Trade Facilitation (Committee on CPTF) is hereby established, under the FTA Joint Committee.

2. The functions of the Committee on CPTF shall be as follows:

- (a) ensure the proper function of this Chapter and resolve all issues arising from its application;
- (b) review the interpretation and implementation of this Chapter, as well as revise this Chapter as appropriate;
- (c) ensure the effective, uniform and consistent administration of this Chapter, and enhance the cooperation in this regard;
- (d) identify areas related to this Chapter to be improved for facilitating trade between the Parties;
- (e) exchange information on customs strategic development of each Party to strengthen cooperation between the two Parties; and
- (f) make recommendations and report to the FTA Joint Committee.

3. The Committee on CPTF shall consist of representatives from customs administrations of both Parties. When both Parties deem necessary and appropriate, representatives from other relevant government agencies or relevant non-government organisations may be invited to the meetings of the Committee on CPTF. One or more contact points shall be designated for this purpose.

4. The Committee on CPTF shall meet at such venues and times as the Parties may mutually agree.