

CHAPTER 5

CUSTOMS PROCEDURES AND COOPERATION

Article 5.1

Definitions

For the purposes of this Chapter:

customs law means any domestic laws and regulations administered, applied or enforced by the customs authority of a Party;

customs procedures means the treatment applied by the customs authority to goods that are subject to customs control;

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

express consignments means all goods imported by an enterprise operating a consignment service for the expeditious international movement of goods that assumes liability to the customs authority for those goods.

Article 5.2

Objectives and Scope

1. The objectives of this Chapter are to:
 - (a) simplify and harmonise customs procedures of the Parties;
 - (b) ensure predictability, consistency and transparency in the application of customs laws and administrative procedures of the Parties;
 - (c) ensure the efficient and expeditious clearance of goods and means of transport;
 - (d) facilitate trade between the Parties; and

- (e) promote cooperation between the customs authorities, within the scope of this Chapter.

2. This Chapter shall apply, in accordance with the Parties' respective international obligations and customs laws, to customs procedures applied to goods traded between the Parties.

Article 5.3

Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, transparent and facilitate trade, in accordance with this Chapter.

2. Customs procedures of each Party shall, where possible, conform to the standards and recommended practices of the World Customs Organization, including those of the *International Convention on the Simplification and Harmonization of Customs Procedures* (as amended), known as the *Revised Kyoto Convention*.

3. Customs authorities of the Parties shall facilitate the clearance of goods in administering their customs procedures in accordance with this Chapter.

4. Each customs authority shall provide one or more focal points, electronic or otherwise, through which its traders may submit all information as may be required by the customs authority in respect of the importation of goods.

Article 5.4

Customs Valuation

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

Article 5.5

Tariff Classification

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

Article 5.6

Advance Rulings

1. Each customs authority shall, subject to its customs law, provide, in writing, advance rulings in respect of the tariff classification and origin of goods (“advance rulings”) to an exporter, importer or any person making an application (“applicant”) as described in paragraph 2.
2. Subject to its customs law, each Party shall endeavour to develop procedures for advance rulings, which shall provide that an applicant with a justifiable cause may apply for an advance ruling in accordance with this Agreement before the importation of the goods in question.
3. Notwithstanding paragraph 1, a Party may reject an application for an advance ruling by promptly notifying the applicant in writing, setting forth the basis for its decision to decline to issue the advance ruling.
4. Each Party shall provide that advance rulings take effect on the date they are issued, or on another date specified in the ruling. A Party may limit the validity of advance rulings to a period determined by its customs law.
5. A Party may modify or revoke an advance ruling:
 - (a) upon a determination that the advance ruling was based on an error of fact or of law, or the information provided is false or inaccurate;
 - (b) if there is a change in customs law which is consistent with this Agreement; or
 - (c) if there is a change in a material fact, or circumstances on which the ruling is based.

Article 5.7

Use of Automated Systems

The customs authority of each Party shall apply information technology to support customs operations where it is practicable, cost-effective and efficient, particularly in the paperless trading context, taking into account developments on this issue within the World Customs Organization.

Article 5.8

Express Consignments

Each customs authority shall adopt procedures to expedite the clearance of express consignments while maintaining appropriate control, including:

- (a) to provide for pre-arrival processing of information related to express consignments;
- (b) to permit the submission of a single document covering all goods contained in an express consignment, through electronic means if possible; and
- (c) to minimise, to the extent possible, the documentation required for the release of express consignments.

Article 5.9

Release of Goods

Each Party shall adopt or maintain procedures which allow goods to be released within 48 hours of arrival, and at the point of arrival without temporary transfer to warehouses or other locations, 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 authority of the importing Party through the application of risk management techniques;
- (c) the goods are to be examined by an agency, other than the customs authority of the importing Party, acting under powers conferred by the domestic laws and regulations of the importing Party; or
- (d) the fulfilment of all necessary customs formalities has not been able to be completed or the release is otherwise delayed by virtue of force majeure.

Article 5.10

Risk Management

1. The Parties shall administer customs procedures so as to facilitate the clearance of low-risk goods and focus on high-risk goods.
2. To enhance the flow of goods across their borders, the customs authority of each Party shall regularly review its customs procedures.

Article 5.11

Review and Appeal

Each Party shall ensure that exporters, importers, and persons affected by customs administrative rulings, determinations or decisions have the right to at least one level of administrative or judicial review or appeal in accordance with its domestic law.

Article 5.12

Customs Cooperation

1. To the extent permitted by their domestic laws and regulations, the customs authorities of the Parties shall assist each other by providing information in relation to:
 - (a) the implementation and operation of this Chapter and, as appropriate, Chapter 4 (Rules of Origin);
 - (b) security of trade between the Parties; and
 - (c) such other issues as the Parties mutually determine.
2. Each customs authority shall provide the other customs authority with timely notice of any modification of its customs law or procedures that is likely to substantially affect the operation of this Chapter.

Article 5.13

Publication and Enquiry Points

1. Each customs authority shall publish, on the internet or in print form, its customs law and any administrative procedures it applies or enforces.
2. Each customs authority shall designate one or more enquiry points to deal with enquiries 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 authority. Customs authorities of the Parties shall notify each other promptly of any amendments to the details of their enquiry points.