

Chapter 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 1

Definitions

For the purposes of this Chapter:

- (a) **Customs**, for the purpose of the definition of customs law, means the Government service which is responsible for the administration of laws and regulations relating to customs and the collection of duties and taxes and which also has the responsibility for the application of other laws and regulations relating to the importation, exportation, movement or storage of goods;
- (b) **Customs Administration** means:
 - (i) for Hong Kong, China, the Customs and Excise Department of Hong Kong, China; and
 - (ii) for Georgia, Revenue Service - Legal Entity of Public Law of the Ministry of Finance of Georgia;
- (c) **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, and any regulation made by the Customs under their statutory powers;
- (d) **customs procedures** means the treatment applied by the Customs Administration of a Party to goods and means of transport that are subject to customs control;

and

- (e) **means of transport** means various types of vessels, vehicles and aircraft which enter or leave the Area of a Party carrying persons or goods.

Article 2

Scope and Objectives

1. This Chapter shall apply, without prejudice to the Parties' respective international obligations and 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 to:
 - (a) simplify and harmonise customs procedures of the Parties;
 - (b) facilitate trade between the Parties; and
 - (c) promote cooperation between the Customs Administrations of the Parties, within the scope of this Chapter.

Article 3

Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent, and facilitate trade, in accordance with this Chapter.
2. The Parties shall use 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 *International Convention on the Simplification and Harmonization of Customs Procedures* (as amended), known as the *Revised Kyoto Convention*.

3. The Parties shall limit controls, formalities and the number of documents required in the context of trade in goods between them to those necessary and appropriate to ensure compliance with legal requirements, thereby simplifying, to the greatest extent possible, the related customs procedures.

4. 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.

Article 4

Transparency

1. Each Party shall promptly publish, including through the internet, its laws and regulations of general application relevant to trade in goods between the Parties. To the extent practicable and where applicable, each Party shall promptly publish its administrative decisions 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, through 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 endeavour to publish, in advance, through 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. 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.

6. Each Party shall make available, and update to the extent possible and as appropriate, the following through the internet:

- (a) a description of its procedures for importation, exportation, and transit, including procedures for appeal or review, that informs the other Party, traders and other interested parties of the practical steps needed for importation, exportation, and transit; and
- (b) the forms and documents required for importation into, exportation from, or transit through its Area.

7. Whenever practicable, each Party shall also make available the description referred to in subparagraph 6(a) in one of the official languages of the WTO.

Article 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 6

Tariff Classification

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

Article 7

Cooperation

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

- (a) the implementation and operation of this Chapter;
and
- (b) 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 law or customs procedures that are likely to substantially affect the operation of this Agreement.

Article 8

Advance Rulings

1. Subject to its customs law, each Party shall provide for written advance rulings in a reasonable and time-bound manner to be issued to a person described in subparagraph 2(a) concerning tariff classification and whether goods are originating under this Agreement.

2. Subject to its customs law, 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, and a Party may require that an applicant to have legal representation or registration in its Area;
- (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 evaluation of an application for an advance ruling, to request that the applicant provides 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 advance ruling be issued, in the official language of the issuing Customs Administration, to the applicant expeditiously on receipt of all necessary information within 90 days.

3. Notwithstanding paragraph 1, a Party may decline to issue 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. Notwithstanding paragraph 1, a Party may reject a request for an advance ruling where the additional information requested in accordance with subparagraph 2(c) is not provided within a specified period.

5. Each Party shall endeavour to make the 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 its customs law and paragraph 7, each Party shall apply an advance ruling to importations into its Area 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 there is a change in the relevant laws or regulations; where incorrect information was provided or relevant information was withheld; where there is a change in a material fact; or where there is a change in the circumstances on which the ruling was based.

Article 9

Review and Appeal

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

- (a) a level of administrative review of decisions by its Customs Administration, 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 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 organisations, including the World Customs Organization.

Article 11

Risk Management

1. Each Party shall adopt and maintain a risk management system 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 allow resources to be focused on high-risk goods.
3. Each Party shall apply risk management in a manner that does not create arbitrary or unjustifiable discrimination under the same conditions or a disguised restriction on international trade.

Article 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 that 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.

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

Article 13

Perishable Goods

1. With a view to preventing avoidable loss or deterioration of perishable goods, and provided that all regulatory requirements have been met, each Party shall provide for the release of perishable goods:

- (a) under normal circumstances within the shortest possible time; and
- (b) in exceptional circumstances where it would be appropriate to do so, outside the business hours of customs and other relevant authorities.

2. Each Party shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

3. Each Party shall either arrange, or allow an importer to arrange, for the proper storage of perishable goods pending their release. The Party may require that any storage facilities

arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorisations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. The Party shall, where practicable and consistent with its laws and regulations, upon the request of the importer, provide for any procedure necessary for release to take place at those storage facilities.

4. In cases of significant delay in the release of perishable goods, and upon written request, the importing Party shall, to the extent practicable, provide a communication on the reasons for the delay.

Article 14

Authorised Economic Operator

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

- (a) afford the other Party the possibility of negotiating mutual recognition of authorisation 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 *SAFE Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization*.

Article 15

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 with one another and coordinate their procedures in order to facilitate trade.

2. Each Party shall endeavour 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 16

Consultations

1. The Customs Administration of a 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 provided by the requesting Party. The Customs Administrations of the Parties shall conduct such consultations through their contact points, and such consultations shall take place within 60 days of the request, or any other possible time period that the Customs Administrations of the Parties may mutually determine.

2. In the event that the consultations under paragraph 1 fail to resolve the matter, the requesting Party may refer the matter to the FTA Joint Commission for further consideration.

3. The Customs Administration of each Party shall designate one or more contact points for the purposes of this Chapter. The Customs Administration of each Party shall provide information on its contact points to the Customs Administration of the other Party and promptly notify any amendment of the said information to the Customs Administration of the other Party.