

**CHAPTER 4 : CUSTOMS ADMINISTRATION****ARTICLE 4.1 : PUBLICATION AND NOTIFICATION**

1. Each Party shall ensure that its laws, regulations, guidelines, procedures, and administrative rulings governing customs matters are promptly published, either on the Internet or in print form.
2. Each Party shall designate, establish, and maintain one or more inquiry points to address inquiries from interested persons pertaining to customs matters, and shall make available on the Internet information concerning procedures for making such inquiries.
3. To the extent possible, each Party shall:
  - (a) publish in advance any regulation governing customs matters that it proposes to adopt; and
  - (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed regulations.
4. Nothing in this Article shall require a Party to publish law enforcement procedures and internal operational guidelines including those related to conducting risk analysis and targeting technologies, if the Party considers that publication would impede law enforcement.

**ARTICLE 4.2 : ADMINISTRATION**

1. Each Party shall administer in a uniform, impartial, and reasonable manner all its laws, regulations, decisions, and rulings governing customs matters.
2. Each Party shall ensure that its laws and regulations governing customs matters are not prepared, adopted, or applied with a view to or with the effect of creating arbitrary or unwarranted procedural obstacles to international trade.

**ARTICLE 4.3 : ADVANCE RULINGS**

1. Each Party shall provide for the issuance of written advance rulings to a person described in subparagraph 2(a) concerning tariff classification, questions arising from the application of the Customs Valuation Agreement, country of origin, and the qualification of a good as an originating good under this Agreement.
2. Each Party shall adopt or maintain procedures for the issuance of advance rulings that:
  - (a) provide that an importer in its territory or an exporter or producer in the territory of the other Party may request such a ruling prior to the importation in question;
  - (b) include a detailed description of the information required to process a request for an advance ruling; and

- (c) provide that the advance ruling be based on the facts and circumstances presented by the person requesting the ruling.
3. Each Party shall provide that its customs authorities:
- (a) may request, at any time during the course of evaluating a request for an advance ruling, additional information necessary to evaluate the request;
  - (b) shall issue the advance ruling expeditiously, and within 120 days after obtaining all necessary information; and
  - (c) shall provide, upon request of the person who requested the advance ruling, a full explanation of the reasons for the ruling.
4. Subject to paragraph 5, each Party shall apply an advance ruling to importations into its territory beginning on the date of issuance of the ruling or such date as may be specified in the ruling. The treatment provided by the advance ruling shall be applied to importations without regard to the identity of the importer, exporter, or producer, provided that the facts and circumstances are identical in all material respects.
5. A Party may modify or revoke an advance ruling upon a determination that the ruling was based on an error of fact or law, or if there is a change in law consistent with this Agreement, a material fact, or circumstances on which the ruling is based. The issuing Party shall postpone the effective date of such modification or revocation for a period of not less than 60 days where the person to whom the ruling was issued has relied in good faith on that ruling.

#### ARTICLE 4.4 : REVIEW AND APPEAL

1. With respect to determinations relating to customs matters, each Party shall provide that importers in its territory have access to:
- (a) at least one level of administrative review of determinations by its customs authorities independent of the official or office responsible for the decision under review;<sup>4-1</sup> and
  - (b) judicial review of decisions taken at the final level of administrative review.

#### ARTICLE 4.5 : COOPERATION

1. Each Party shall endeavor to provide the other Party with advance notice of any significant modification of administrative policy or other similar development related to its laws

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<sup>4-1</sup> For Singapore, this level of administrative review may include the Ministry supervising the Customs authority.

or regulations governing importations that is likely to substantially affect the operation of this Agreement.

2. The Parties shall through their competent authorities and in accordance with this Chapter, cooperate in achieving compliance with their respective laws or regulations pertaining to:

- (a) implementation and operation of this Agreement;
- (b) restrictions and prohibitions on imports or exports; and
- (c) other issues that the Parties may agree.

3. Where a Party has a reasonable suspicion of unlawful activity related to its laws or regulations governing importations, it may request the other Party to provide the following types of information pertaining to trade transactions relevant to that activity that took place no more than five years before the date of the request, or from the date of discovery of the apparent offense in cases of fraud and in other cases on which the Parties may agree:

- (a) the name and address of the importer, exporter, manufacturer, buyer, vendor, broker, or transporter;
- (b) shipping information relating to container number, size, port of loading before arrival, destination port after departure, name of vessel and carrier, the country of origin, place of export, mode of transportation, port of entry of the goods, and cargo description; and
- (c) classification number, quantity, unit of measure, declared value, and tariff treatment.

The requesting Party shall make its request in writing; shall specify the grounds for reasonable suspicion and the purposes for which the information is sought; and shall identify the requested information with sufficient specificity for the other party to locate and provide the information. For example, the requesting Party may identify the importer, exporter, country of origin, the time period, port or ports of entry, cargo description, or Harmonized System number applicable to the importation or exportation in question.

4. For purposes of paragraph 3, a reasonable suspicion of unlawful activity means a suspicion based on one or more of the following types of relevant factual information obtained from public or private sources:

- (a) historical evidence that a specific importer, exporter, manufacturer, producer, or other company involved in the movement of goods from the territory of one Party to the territory of the other Party has not complied with a Party's laws or regulations governing importations;

- (b) historical evidence that some or all of the enterprises involved in the movement from the territory of one Party to the territory of the other Party of goods within a specific product sector where goods are moving from the territory of one Party to the territory of the other Party has not complied with a Party's laws or regulations governing importations; or
- (c) other information that the Parties agree is sufficient in the context of a particular request.

5. The other Party shall respond by providing available information that is material to the request.

6. Each Party shall also endeavor to provide the other Party with any other information that would assist in determining whether imports from or exports to the other Party are in compliance with applicable domestic laws or regulations governing importations, including those related to the prevention or investigation of unlawful shipments.

7. The Parties shall endeavor to provide each other technical advice and assistance for the purpose of improving risk assessment techniques, simplifying and expediting customs procedures, advancing the technical skill of personnel, and enhancing the use of technologies that can lead to improved compliance with laws or regulations governing importations.

8. The Parties shall use their best efforts to explore additional avenues of cooperation for the purpose of enhancing each Party's ability to enforce its laws or regulations governing importations, including by examining the establishment and maintenance of other channels of communication to facilitate the secure and rapid exchange of information, and considering efforts to improve effective coordination on importation issues, building upon the mechanisms established in this Article and the cooperation established under any other relevant agreements.

#### ARTICLE 4.6 : CONFIDENTIALITY

1. Where a Party providing information to the other Party in accordance with this Chapter designates the information as confidential, the other Party shall maintain the confidentiality of the information. The Party providing the information may require written assurances from the other Party prior to forwarding information that such information will be held in confidence, used only for the purposes requested, and not disclosed without specific permission of the Party providing the information, in accordance with its laws and regulations, except where the Parties agree that the information may be used or disclosed for law enforcement purposes or in the context of judicial proceedings.

2. A Party may decline to provide information requested by the other Party where the other Party has failed to act in conformity with the assurances referred to in paragraph 1.

3. Each Party shall maintain procedures to ensure that confidential information, including information the disclosure of which could prejudice the competitive position of the person

providing the information, submitted in connection with the Party's administration of its import and export laws is entitled to treatment as confidential information and protected from unauthorized disclosure.

#### ARTICLE 4.7 : PENALTIES

Each Party shall adopt or maintain measures that provide for the imposition of civil or administrative penalties and, where appropriate, criminal penalties, for violations of its customs laws and regulations governing classification, valuation, country of origin, and eligibility for preferential treatment under this Agreement.

#### ARTICLE 4.8 : RELEASE AND SECURITY

1. Each Party shall adopt or maintain procedures:
  - (a) providing for the release of goods within a period of time no greater than that required to ensure compliance with its customs laws;
  - (b) allowing, to the extent possible, goods to be released within 48 hours of arrival;
  - (c) allowing, to the extent possible, goods to be released at the point of arrival, without interim transfer to customs warehouses or other locations; and
  - (d) allowing importers who have complied with the procedures that the Party may have relating to the determination of value and payment of duty to withdraw goods from customs, but may require importers to provide security as a condition to the release of goods, when such security is required to ensure that obligations arising from the entry of the goods will be fulfilled.
2. Each Party shall:
  - (a) ensure that the amount of any security is no greater than that required to ensure that obligations arising from the importation of the goods will be fulfilled, and, where applicable, not in excess of the amount chargeable, based on tariff rates under domestic and international law, including this Agreement, and on valuation in accordance with the Customs Valuation Agreement;
  - (b) ensure that any security shall be discharged as soon as possible after its customs authorities are satisfied that the obligations arising from the importation of the goods have been fulfilled; and
  - (c) shall adopt procedures allowing:
    - (i) importers to provide security such as bank guarantees, bonds, or other non-cash financial instruments;

- (ii) importers that regularly enter goods to provide security such as standing bank guarantees, continuous bonds or other non-cash financial instruments covering multiple entries; and
- (iii) importers to provide security in any other forms specified by its customs authorities.

#### ARTICLE 4.9 : RISK ASSESSMENT

Each Party shall employ risk management systems that enable its customs authorities to concentrate inspection activities on high-risk goods and that facilitate the movement of low-risk goods, including systems which allow for the processing of information regarding an importation prior to the arrival of the imported goods.

#### ARTICLE 4.10 : EXPRESS SHIPMENTS

Each Party shall ensure efficient clearance of all shipments, while maintaining appropriate control and customs selection. In the event that a Party's existing system does not ensure efficient clearance, it should adopt procedures to expedite express shipments. Such procedures shall:

- (a) provide for pre-arrival processing of information related to express shipments;
- (b) permit, as a condition for release, the submission of a single document in the form that the Party considers appropriate, such as a single manifest or a single declaration, covering all of the goods in the shipment by an express service company, through, if possible, electronic means;
- (c) provide, where possible, for deferred payment of duties, taxes, and fees with appropriate guarantees;
- (d) minimize, to the extent possible, the documentation required for the release of express shipments; and
- (e) allow, in normal circumstances, for an express shipment to be released within six hours of the submission of necessary customs documentation.

#### ARTICLE 4.11 : DEFINITIONS

For purposes of this Chapter, **customs matters** means matters pertaining to the classification and valuation of goods for customs duty purposes, rates of duty, country of origin, and eligibility for preferential treatment under this Agreement, and all other procedural and substantive requirements, restrictions, and prohibitions on imports or exports, including such matters pertaining to goods imported or exported by or on behalf of travelers. Customs matters do not include matters pertaining to antidumping or countervailing duties.

